

# **2019-2022 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 2022**



## 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 four years and discuss priority issues and recommendations for the State's oil spill program for 2019-2022.

The statute requires TAC to provide this report on a biennial basis. However, due to the limitation caused by the pandemic, two reports covering 2019-2020 and 2021-2022 have been combined into one report.

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 issues critical to our state oil spill preparedness, prevention, and response. The California Oil Spill Program encompasses programs administered by:

- Department of Fish and Wildlife's Office of Spill Prevention and Response (OSPR)
- California State Lands Commission (CSLC)
- California Coastal Commission (CCC)
- San Francisco Bay Conservation and Development Commission (BCDC)

Additionally, the Oil Spill Program works in partnership with the National Oceanic and Atmospheric Administration (NOAA), the California Department of Forestry and Fire Protection (CAL Fire), and the U.S. Coast Guard.

As in previous years, the TAC is impressed with the professionalism of the dedicated staffs of these agencies in meeting their mandate of providing the best achievable protection of the State's valuable natural resources from oil spills.

Each year, OSPR responds to nearly 1500 incidents with more than one-third requiring in-person response by the field response team while the rest are handled by phone.

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. In the 2019-2022 Issues and Accomplishments section of this report, we highlight topics the TAC monitored over the past four years, including:

- Monitoring of state oil spill funds
- Regulatory development and implementation
- Submerged cables and pipelines
- Abandoned and derelict vessels
- Monitoring of oil spill-related legislation
- Renewable fuels production and impacts
- Petroleum product transportation by rail and pipelines
- Funding challenges for non-petroleum spills
- Non-floating petroleum products

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 2023-2024.

These issues include:

- Submerged cables and pipelines
- Abandoned and derelict vessels
- Renewable fuels manufacturing, transportation, and related fees
- Petroleum product transportation by rail and pipelines
- Monitoring of oil spill-related legislation
- Regulation development and implementation
- Funding challenges for non-petroleum spills
- Non-floating petroleum products

## **Recommendations**

The issues above form the basis for the following recommendations from the TAC to the Governor and Legislature.

- Address the lack of a dedicated funding source for responding to non-petroleum-based spills in state waters.
- Address the impacts associated with abandoned and derelict vessels, including possibly developing dedicated funding.
- Address the need for adequate warning, and protective maintenance of navigational hazards related to Submerged cables and pipelines.
- Continue monitoring transportation of petroleum products by rail, and address any gaps in regulation or legislation as required.
- Ensure that OSPR has the spending authority to meet mandated operational needs.
- Make appointments by the Governor to fill the two vacant TAC member positions and by the Senate Rules Committee to fill one vacant TAC member position.
- Develop forecasting of future changes in the consumption of petroleum-based and renewable products in California and how that might impact OSPR's fiscal viability.

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## Background

### 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 (DFW). They coordinate and directly respond to marine and inland oil spills and work with public and private entities to prepare for and prevent spills. Some notable federal partners include the United States Coast Guard (USCG); United States 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 chaired by the USCG and DFW.

In addition, to address marine spills, five Harbor Safety Committees develop harbor safety plans for the following:

- Port of San Diego
- Port of Los Angeles/Long Beach
- Port Hueneme
- San Francisco Bay Area
- Humboldt Bay

Similarly, Geographic Response Plans (GRPs) are developed for priority inland waters of the state with higher risk of an oil spill. GRPs are coordinated by OSPR and vetted through the regional Local Emergency Planning Committees (LEPCs) comprised of industry representatives, federal, State, and local government agencies, public health agencies, tribal representatives, and other stakeholders.

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 membership of the TAC to include Fourteen (14) members, as follows:

- Eight (8) members appointed by the Governor
- Three (3) members by the Speaker of the Assembly
- Three (3) by the Senate Rules Committee

The members 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 public.

Pursuant to its by-laws, TAC members serve until being replaced by the appointing authority, resigning, or being asked to resign 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 Administrator, the California State Lands Commission (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. As of the 2017-2018 biennial report and moving forward, assessment of inland spill prevention and response has also been included. The TAC may prepare and send any additional reports it determines to be appropriate to the Governor and the Legislature.

The TAC meets at least twice a year and sometimes more often, if necessary, to advise and monitor the agencies' program activities, successes, and gaps. 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 2019-2022

During the period of this report, the TAC monitored the following issues and accomplishments.

### Status of Oil Spill and Recovery Funds – Funds 320, 321, and 322

At each TAC meeting, OSPR provides reports and briefings on oil spill fund balances and activity. In the period covered by this report, the TAC finds any questions regarding the funds have been adequately explained. The following discussion covers fund status and the TAC's observations.

In fall of 2019, the TAC requested additional financial reporting to gain deeper insight. This request was honored, and the TAC deems subsequent OSPR-provided financial reports provided at TAC meetings to be sufficient for evaluation of financial status.

### Fund 320 – Oil Spill Prevention and Administration Fund

The Oil Spill Prevention and Administration Fund (OSPAF) finances OSPR's operating budget and the State oil spill programs. The Budget Act of 2014 and the enactment of SB 861 established 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. Previously this fee structure only covered crude oil and petroleum products imported into the state via marine transport or via pipelines off the coast of California. This action resulted in the OSPAFA budget being restored to an appropriate level after several years of insufficient funding 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, addressing chronic shortfalls to that program's funding.

One of the key 2019-2020 TAC Priority Issues from our previous report highlighted the recommendation for a fee increase due to inflation and the declining use of oil across California, as the projected balance of Fund 320 had experienced a steady decline and there was risk of insufficient funding for OSPR if not rectified. A new \$0.085 per barrel fee (additional 2 cents per barrel) was approved and went into effect February 1, 2022.

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 and makes recommendations accordingly.

**Fund 320 Covid Impacts:** The COVID-19 Pandemic started during the middle part of this report's coverage. Though the long-term impacts were largely unknown at the time, and continue to develop, Fund 320 saw an average 22% decline in monthly per-barrel fee revenue from decreased oil usage, resulting in an overall decrease in revenues for 2020 of 7%. The TAC closely monitored the ongoing pandemic impact to OSPR.

## **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 OSPR Administrator has seen no need to reinstate the fee since the fund's inception.

Legislation in 2011 created a \$40 million loan from the OSRTF to the General Fund, with a repayment with interest date planned in 2019. Though the loan was not repaid on time, it was eventually repaid, and subsequently \$30 million was loaned again. This loan is scheduled to be paid back starting fiscal year 2023, in payments of \$10MM annually.

## **Fund 322 - Environmental Enhancement Fund**

Penalties collected under the act are deposited into Fund 322, the Environmental Enhancement Fund (EEF). This fund pays 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 limit on supporting deserving projects. Enactment of SB 861 provided the authority required for a temporary increase in annual expenditures, but that increase ended in 2018. Recently, OSPR has requested and received higher spending caps to fulfil grant requests.

## **Statewide Oil Spill Program in Full Effect**

In 2014, the Legislature enacted SB 861 and provisions in the bill expanded the OSPR Administrator's responsibilities to include oil spills impacting any surface water in the state. All key provisions covering Inland spills were implemented by 2018. The 2019-2022 period covered by this report is the first with the statewide program in full effect.

## **Tracking Oil Spill-Related Legislation and Implementation**

The TAC monitors all oil spill related legislation and implementation as a matter of course. Bills introduced in the 2019/2020 legislative session and signed into law, or prior years' legislation enacted in 2019/2020 are discussed here.

### **AB 864 (Williams)**

This bill, passed in 2015, established a requirement 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 a spill to protect state waters and wildlife. The bill required operators of existing pipelines in these sensitive areas to retrofit pipelines by January 1, 2020. The TAC monitored the implementation of AB 864 via ongoing reports from the State Fire Marshal and confirmed on schedule completion of pipe retrofitting.



## **AB 255 (Limón) – Tribes Eligible for Equipment Grants**

This bill, signed by the Governor on July 12, 2019, clarified that Native American tribes, with jurisdiction over or directly adjacent to waters of the state, are eligible to receive grants for oil spill response equipment. Existing law provided such grants for local government, and other public entities. Response equipment is deployed by a certified local spill response manager.

## **AB 936 (Rivas) – Non-floating Oils**

Signed by the Governor on October 12, 2019, AB936 amended the Lempert-Keene Act with further preparedness measures for the cleanup of sunken oils. The bill defined “non-floating oil” and requires OSPR to:

- Convene a technology workshop, on or before January 1, 2022, devoted solely to technology addressing non-floating oil spills (COMPLETED February 2021).
- Conduct a literature review of response technology to non-floating oil spills, in addition to the technology workshops, to develop a set of findings defining the elements of state-of-the art response capability to non-floating oil spills. These findings are to be updated biannually.
- Establish an oil spill response organization rating for response to non-floating oils.
- Include non-floating oil response strategies in the California Oil Spill Contingency Plan by January 1, 2023. The TAC will continue to monitor progress on non-floating oil spill response and inclusion in the California Contingency Plan.

## **AB 3214 (Limón) – Oil Spill Criminal Penalties & Financial Responsibility**

This bill, signed by Governor Newsom on September 24, 2020, amended Section 8670.64 of the Government Code to increase oil spill and related activity fines. It:

- Doubled criminal penalties for a spill, or other violations such as failing to cleanup, failing to follow directives, or failing to report a disabled vessel, to between \$10,000 to \$1M.
- Doubled criminal penalties to between \$5,000 to \$500,000 for failing to notify the Office of Emergency Services in the case of a spill, making a false or misleading spill report, performing operations without an approved spill contingency plan in place, or not following the provisions of an approved contingency plan in the case of a spill. These fines double upon a second offense.
- Authorized fines of up to \$1,000 per gallon spilled in excess of 1,000 gallons of oil.

## **AB 148 (Assembly Committee on Budget)**

On July 22, 2021, Governor Newsom signed Assembly Bill 148 (Stats. 2021, Ch. 115), which made changes to the Oil Spill Prevention and Administration (OSPA) Fee Program, and several other changes requiring OSPR implementation of regulatory

actions. The fee provision increased the per-barrel fee on crude oil and petroleum products from \$0.065 to \$0.085, starting October 1, 2021. The collection of the fee on renewable products went into effect on January 1, 2022.

AB 148 also requires the Department of Fish and Wildlife to adjust the per barrel fee annually based on changes in the California Consumer Price Index – starting July 1, 2023.

## **OSPR Regulations Development and Implementation**

### **Inland Regulations Implemented**

Inland regulations resulting from the expansion of OSPR's mandate to include all state waters went into effect January 1, 2019. These regulations include Certificates of Financial Responsibility (COFR) for inland producers and transportation; Contingency Plans for Inland Facilities; Ratings of Oil Spill Response Organizations; Drills and Exercises for Inland Regulations; and Definitions.

Since inland regulation enactment, OSPR has been working towards harmonizing the marine and inland regulations, so far resulting in updated regulations for statewide Drills and Exercises, currently in the public comment phase. Additional improvements, based on findings from a recent spill response cost study by Catalyst Environmental Solutions Corporation, are planned to include adjustments to Certificates of Financial Responsibility (COFR) levels and Reasonable Worst-Case Spill (RWCS) volume levels.

### **Harmonization of Marine and Inland Drills and Exercises Regulation into One section**

This rulemaking will harmonize the separate regulations for marine drills and exercises, and those for inland locations. It was delayed due to other priorities for OSPR. OSPR is now working on finalizing the documents for an additional 15-day comment period.

### **Non-Tank Vessels Regulations**

OSPR finalized its regulations for the non-tank vessel fee and the certificate of financial responsibility for non-tank vessels over 300 Gross Registered Tons.

TAC will continue to monitor changes to other regulations.

## **Additional Accomplishments**

In addition to these rulemaking accomplishments, OSPR has many other activities and achievements in their pursuit of providing the best achievable protection of waters of the state. The details of some of these activities are summarized in Appendix C of this report.

## Priority Issues for TAC in 2023-2024

For the period of the next two years, the TAC will focus on the following issues. While priorities can change based on events and issues that may develop, the following issues will require the TAC's continued attention.

### Submerged Cables and Pipelines

Submerged cables and pipelines continue to be a major concern due to navigational safety and potential spills. The latest incident in Huntington Beach highlights the importance of this issue. Hopefully, the investigation on this latest spill highlights some recommendation to improve safety. Meanwhile, AB 1611 – *Submerged Oil Pipelines*, Introduced by Assembly Member Davies addresses some of the issues in relations to pipelines such as:

- Requiring a vessel operator to immediately report to OES any potential casualty in an anchorage designated as proximate to a submerged pipeline zone
- And requiring OES to make specific notifications to the pipeline operator and specific state and federal agencies.
- Unfortunately, the bill does not address other TAC concerns with maintenance and protection of submerged cables and pipelines. The TAC will continue to monitor the issue.

### Abandoned and Derelict Vessels

The TAC has been concerned about the large number of abandoned and derelict vessels in State waters as they pose navigation and spill hazards. There are various pots of grant funding available, but those are insufficient to adequately address the problem. In addition, a broad analysis of potential strategies to address the issue should be pursued. SB 1065 – Abandoned and Derelict Commercial Vessel (ADCV) Program Introduced by Senator Eggman appears to address some of TAC's concerns.

As introduced, this bill establishes, within the Natural Resources Agency, the California Abandoned and Derelict Commercial Vessel Program Coordinating Council responsible for:

- Overseeing and providing policy direction for the program
- It also Requires State Lands Commission (SLC,) in coordination with the Council, to develop a plan to provide a strategic framework to facilitate and track actions to prevent or reduce ADCVs and provide specific enforcement authorities to peace officers
- TAC will continue to monitor the progress of this bill as it moves through the legislative process.

### Spill Management Team Regulation

Addressing industry comments and concerns, the Spill Management Team (SMT) regulations has gone through several revisions with a focus to create the best workable rule for the regulated community (i.e., responsible parties or their agents), while

maintaining the best achievable protection of state waters. In addition, the pandemic highlighted the need to provide for contingencies in the regulations. The regulation went into effect April 1, 2022, pursuant to AB 1197 (statutes of 2017).

The TAC is interested in incremental improvement in management of spill response teams as the result of this regulation.

### **Non- Floating Petroleum products regulation (AB 936)**

AB 936, approved by the legislature in October 2019, requires OSPR to finalize regulation for non-floating petroleum products by January 1, 2023. OSPR has submitted formal rulemaking to OAL for formal public comment in the Summer of 2022. OSPR anticipates the rulemaking to be completed by end 2022. The TAC will be monitoring the progress.

## **Other Regulatory / Legislative Issues**

### **Renewable Fuels Facilities Regulations**

AB 148, signed by the Governor into law on July 22, 2021, among other provisions includes the renewable fuels in the definition of oil for the purposes of Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, applying the requirements of the act to renewable fuels facilities. The TAC will continue monitoring OSPR 's progress in implementation of the regulatory requirements of AB148, which include requirements on oil spill contingency plans, certificates of financial responsibility, drills, and exercises for renewable fuel facilities (which currently do not meet the requirements), as well as other aspects of the law.

OSPR has convened Internal and external regulated community workgroups which are actively engaged in discussions on incorporating renewable fuels into OSPR's mandate, also pursuant to the statutory changes brought about by AB 148.

### **AB 1658 (Nguyen) - Local Government Oil Spill Contingency Plans**

This bill requires that each oil spill element prepared under this section shall be consistent with *the local government's local coastal program as certified under Section 30500 of the Public Resources Code, the California oil spill contingency plan, the National Contingency Plan, and the area contingency plan.*

## **Conclusions**

The TAC is a forum to provide public input and independent oversight of the OSPR Administrator and the oil spill programs of California. During 2020, the emergence of COVID—19 created new sets of challenges for OSPR in terms of responding to spills, conducting drills and exercises, communications, and meeting OSPR's day to day operations. These challenges, however, created new opportunities in terms of using technology in OSPR's staff communications and finding new way of communicating and sharing of information during response and drills.

During 2019-2022, OSPR also faced continued challenges because of COVID -19 implementing amended regulations and developing new regulations and policies, to

address the requirements of newly enacted legislation that required rule makings, in addition to challenges to continuing their primary mission of administering the prevention, preparedness, and response programs of the state.

Despite all efforts, the state experienced some significant incidents. The Huntington Beach spill demonstrated the need for continued care to protect the waters 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 pertinent provisions of the Act including the promulgation of all rules, regulations, guidelines, and policies.

## **Recommendations**

- Address the lack of a dedicated funding source for responding to non-petroleum-based spills in state waters.
- Address gaps in policy to deal with abandoned and derelict vessels.
- Address the need for identifying and requiring adequate warning signs for navigational hazards related to submerged cables and pipelines in state waters to improve navigational safety and reduce the risk of spills.
- Continue monitoring the transportation of petroleum products by rail.
- Considering that OSPR now has adequate funding, ensure that the agency has the spending authority to meet mandated operational needs.
- Make appointments by the Governor to fill the two vacant TAC member positions and by the Senate Rules Committee to fill one vacant TAC member position.
- Develop forecasting of future changes in the consumption of petroleum-based and renewable products in California and how that might impact OSPR's fiscal viability.

## APPENDICES

Appendix A

Appendix B

Appendix C

# 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)

**Mr. Matt Rezvani (Chairman)**

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2386 Fair Oaks Boulevard, Suite 100  
Sacramento, CA 95825  
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Appointed: May 11, 2001  
By: Governor Davis  
As: Petroleum Representative

**Ms. Janell Myhre (Vice Chair)**

The Bay Area Urban Areas Security Initiative-UASI  
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Appointed: February 21, 2018  
By: Governor Brown  
As: Local Government Representative

**Mr. John Berge**

168 Birch Avenue  
Corte Madera, CA 94925  
Tel: (510) 987-5000  
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Appointed: July 29, 2008  
By: Governor Schwarzenegger  
As: Dry Cargo Industry Representative

**Ms. Lynn Korwatch**

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Appointed: February 21, 2018  
By: Governor Brown  
As: Marine Transportation Representative

**Mr. Joseph Cobb**

GE Aviation

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Appointed: February 21, 2018

By: Governor Brown

As: Oil Production Industry Representative

**Mr. James Farner**

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Appointed: February 21, 2018

By: Governor Brown

As: Railroad Industry Representative

**Vacancy**

Appointed:

By: Governor

As: State Government Representative

**Vacancy**

Appointed:

By: Governor

As: Oil Spill Response Representative

**Ms. Sejal Choksi-Chugh**

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Appointed: January 24, 2018

By: Kevin de León, Chair

Senate Rules Committee

As: Environment/Ecosystems Representative

**Vacancy**

Appointed:

By: Senate Rules Committee

As: Public Representative

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Appointed: April 2, 2018  
By: Speaker of the Assembly  
Anthony Rendon  
As: Environment /Ecosystems Representative

**Ms. Katherine Cole**  
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Appointed: December 14, 2018  
By: Speaker of the Assembly  
Anthony Rendon  
As: Environment/Ecosystems Representative

**Mr. Peter Santillan**  
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Email: [psantillan@local1309.com](mailto:psantillan@local1309.com)

Appointed: July 3, 2018  
By: Speaker of the Assembly  
As: Public Representative

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By: Senate Rules Committee  
Toni Atkins, President pro Tempore  
As: Environment/Ecosystems Representative

## Appendix C

### OSPR Accomplishments 2019-2022

#### Oil Spill Response Summary

Between Jan 1<sup>st</sup> 2019 through June 30<sup>th</sup>, 2022, OSPR responded to **5326 spills**, which consisted of:

- 1246 physical responses, 4041 telephone responses, 39 remote assessments
- 2799 Inland spills and 2527 Marine spills

These spills came from the following sources:

- Unknown – 1632
- Vessel – 1419
- Vehicle – 1169
- Other – 358
- Facility – 313
- Pipeline – 181
- Private Property – 163
- Oil Production Facility – 27
- Commercial Property – 21
- Offshore Platform – 12
- Individual – 12
- Marina/Small Craft Harbor – 9
- Oil Terminal – 4
- Public Lands – 3
- Stormwater Facility – 2
- Dam/Hydroelectric Plant - 1

#### Major Responses:

##### ***Smith River Incident***

April 28, 2022 - A tanker truck carrying asphalt binder overturned and spilled an estimated 3,000 gallons along the roadway of Highway 199 near Gasquet, some of which flowed into the adjacent Smith River. Asphalt binder is a heavy semi-solid petroleum product at room temperature used as a glue to hold a road together. OSPR, Caltrans, U.S. Forest Service and other agencies responded to facilitate cleanup. Although earthen dams were constructed to impede flow to the river, some material flowed into the water, solidified due to the cold temperature, and washed downstream along the banks and bottom of the riverbed making the response challenging during the high flow conditions. As of the time of this report, cleanup is complete at the immediate site of the accident and downstream ten miles. The response is ongoing for targeted sites downstream.

##### ***Pine Incident***

January 21, 2022 - A truck carrying approximately 7,700 gallons of petroleum product released an undetermined amount into storm drains leading to the Sacramento River. The Unified Command for the Pine Incident spent months on the subsequent response,

approving attainment of cleanup endpoints and concluding emergency response activities on May 19, 2022. The Regional Water Quality Control Board continues long-term soil and sediment remediation. The Natural Resource Damage Assessment (NRDA) is ongoing, and the NRDA team will continue to examine the natural resource injuries from this oil spill with the intent to restore the injured resources and compensate the public for the lost interim ecological benefits and uses of those resources.

### ***Pipeline P00547 Incident***

October 2, 2021 - CDFW-OSPR responded to reports of a crude oil discharge from an offshore pipeline near Huntington Beach. The Oiled Wildlife Care Network was activated and provided capture and care of oiled wildlife, including the successful cleaning and release of seven endangered western snowy plovers. A Public Health Hazard Assessment Unit (discussed below) was established in coordination with federal, state, and local public health agencies. CDFW, in coordination with the State Office of Environmental Health Hazard Assessment (OEHHA), closed the local fisheries. Affiliated, pre-trained, and public volunteers were also utilized during the response. A total of 25,646 gallons of crude oil were calculated to have been released and reached shorelines from Orange County to the Mexican border, resulting in the activation of the MEXUS Plan in coordination with the USCG and the Mexican Navy. In February 2022, response efforts concluded while NRDA activities continue.

As a result of the spill, California became the first state in the nation to implement a Public Health Assessment Unit (PHAU) for oil spill response. The Pipeline P00547 response was an ideal test case for implementing the PHAU, as the public and local agencies expressed concerns regarding exposures to contaminants in air, water, and sand at beaches, and in seafood. The PHAU was formed to coordinate sampling efforts and public health messaging amongst local, state, and federal agencies. OSPR staff are coordinating with the Regional Response Team to formally incorporate this unit into state and regional contingency plans.

### ***Dunsmuir Historical Oil Spill***

October 1, 2021 - A Unified Command consisting of federal and state agencies, and the Union Pacific Railroad (UPRR) continues to oversee cleanup and restoration at the Dunsmuir railyard, where historic petroleum seepage has impacted soil, groundwater, and the Upper Sacramento River. Fuel from the tanks has been seeping into the Upper Sacramento River since the early 1900s and the current plan is geared toward removing the threat of further seepage. There have been no observed impacts to wildlife or threats to public health. Operations have included the use of an excavator to remove oiled sediment from the river bottom and to place an innovative layered barrier of absorbent materials on the river bottom, secured by mesh bags of rocks to prevent oil and sheen in the river. Construction operations are expected to continue through 2023. While the cleanup effort, led by the US EPA and the Central Regional Water Quality Control Board, is expected to last over a year, OSPR is engaged to mitigate product that enters or could potentially enter the Sacramento River.

### ***Cuyama River Truck Spill***

March 2020 - A tanker truck accident in rural Santa Maria resulted in the release of 4,500 gallons of crude oil into and along the Cuyama River, injuring birds and small animals along a two-mile stretch. OSPR participated in a Unified Command to direct cleanup operations that included crews working both on-scene and remotely. This

was the first major response during the pandemic and required adaptively managing COVID risks while running efficient and effective cleanup and wildlife operations. Despite the limitations required to avoid exposure to COVID, a rapid response helped contain the oil upstream from Twitchell Dam and Reservoir.

### **Cymric Surface Expression, Kern County**

May 10, 2019 - A large release of crude oil and produced water into a dry streambed was caused by steam-induced surface expressions in the Cymric oil field (north of the McKittrick community) operated by Chevron in Kern County. OSPR participated in the prolonged cleanup operations within a Unified Command that included Chevron and the Department of Conservation's Geothermal Energy Management Division. Between May 2019 and October 2020, an estimated 31,903 barrels (1,339,926 gallons) of fluid (oil and water) was recovered from the site.

### **Drills and Exercises**

OSPR conducted the following industry Drills and Exercises in the 2019-2022 timeframe.  
*January 2019 - June 2019*

Total drills and exercises statewide = 70

- Total Tabletop Exercises = 31
- Total California Triannual Vessel Exercise (CalTriVEX) = 2
- Total Equipment Deployment Drills = 39

#### **FY 2019-2020**

Total drills and exercises statewide = 138

- Total Tabletop Exercises = 132
- Total in-person = 107
- Total remote/virtual = 1
- Total Notification Only Drill (NOD) = 23
- Total California Triannual Vessel Exercise (CalTriVEX) = 1
- Total Equipment Deployment Drills = 6
- Total in-person = 6
- Total remote/virtual = 0

#### **FY 2020-2021**

Total drills and exercises statewide = 191

- Total Tabletop Exercises = 127
- Total in-person = 1
- Total remote/virtual = 103
- Total Notification Only Drill (NOD) = 23
- Total California Triannual Vessel Exercise (CalTriVEX) = 0
- Total Equipment Deployment Drills = 64
- Total in-person = 10
- Total remote/virtual = 54

## **FY 2021-2022**

Total drills and exercises statewide = 173

- Total Tabletop Exercises = 139
- Total in-person = 43
- Total remote/virtual = 77
- Total hybrid = 6
- Total self-certification (due to P00547 Incident) = 13
- Total California Triannual Vessel Exercise (CalTriVEX) = 4
- Total Equipment Deployment Drills = 34
  - Total in-person = 31
  - Total remote/virtual = 3

In addition to mandated industry drills, OSPR also hosts and participates in focused functional drills for response issues not typically led by industry representatives. These include exercises to test wildlife operations, fisheries closures, and other functions. Between 2019 and 2021, OSPR hosted multiple table-top and full-scale field deployment drills with the Oiled Wildlife Care Network (OWCN) including a drill for sea otter care response and sea otter floating holding pen deployment. OSPR also conducted a two-day drill with representatives of OEHHA, during which the team exercised initial closure activities, sampling plan development, and analytical data analysis for re-opening.

## **Workshops and Studies**

### ***Spill Response Cost Study***

In 2019, OSPR contracted with Catalyst Environmental Solutions Corporation to conduct a spill response cost study, evaluating spill volume, cleanup costs and damages from past spills. This was the first such study initiated by OSPR since 1990. This study looked at large and small, as well as marine and inland spills. The results will serve as a guide in determining more realistic Certificate of Financial Responsibility levels and Reasonable Worst Case Spill volume estimates.

### ***Eight and Ninth Response Technology Workshops for Oil Spills in California***

In February 2019 and in February 2021, OSPR and Chevron co-hosted regular bi-annual technical workshops on innovative technologies and strategies for oil spill response, including non-floating oil. Each workshop included more than 55 presentations over four days covering the latest agency, industry, and NGO research updates, applied response technologies, mechanical response technologies, and remote sensing. The presenters came from 16 states across the U.S., and internationally from Norway, Canada, and Israel. The participants represented the breadth of the response community including federal, state, and local agencies (e.g., USCG, US DOI, BSEE, US EPA, NOAA, CDFW OSPR, OWCN, Cal OES, CA Coastal Commission, BCDC, WA DOE, Contra Costa County, Marin County, Norwegian Coastal Administration); energy industry (e.g., Chevron, ConocoPhillips, Kinder Morgan, Crimson Pipeline, Marathon, Phillips 66); Oil Spill Response Organizations (e.g., MSRC, Global Diving, TRG, Patriot, Clean Harbors, T&T Marine, ACTI), NGOs and academia (e.g., Spill Control Association, API, IPIECA, UC Davis, Univ. of Buffalo, Penn State, Univ. of Alaska, Woods Hole Oceanographic Inst.); and an outstanding group of technology developers. OSPR is currently planning the 10<sup>th</sup> Bi-Annual Workshop for February 2023 and will include non-floating oils as well as renewable fuels.

## **Recovering Oil at Night Workshop**

In February 2022, OSPR hosted a national workshop addressing best practices to detect and recover oil at night. The workshop attracted 200 registered attendees representing approximately 70 entities: four non-US sovereign nations were represented (Canada, Cherokee, Wiyot, and Yurok nations); representatives from multiple states and provinces; numerous industry representatives including oil production, refining, and distribution; service providers and consultants; Class I railroad; and numerous local, state, and federal government agencies and NGOs were represented.

## **Renewable Fuels Workshops**

In 2021 and 2022, in coordination with NOAA and with the British Columbia/Pacific States Oil Spill Task Force, OSPR participated in the development and presentation of two national workshops addressing spill response, fate and transport, and environmental impacts of renewable fuel spills.

## **Remote Sensing**

OSPR has continued to invest in remote sensing technologies such as Unoccupied Aerial Systems (UAS) to facilitate detection and mapping of oil, wildlife, potential safety hazard, vessel inspection, and other issues. OSPR maintains fully-trained, Department Certified, and licensed UAS pilots with UASs spread throughout the state available for use. These tools often allow for high quality assessment of sites that pose unacceptable safety risks for staff to enter.

## **Incident Command training**

OSPR supported CA On-Scene Coordinator Section 106 Training (June 21, 2022) and Historic Properties Specialist (HPS) for Oil Spills Workshop (June 22-24, 2022) in San Francisco.

## **Response Planning**

### **Marine Area Contingency Plans (ACPs) and Regional Contingency Plan (RCP)**

OSPR field staff regularly update and optimize designated environmental sensitive sites via the Sensitive Site Strategy Evaluation Program (SSSEP) for ACPs, and those sites are posted online by June 1 of every year. OSPR recently updated the Sector San Francisco ACPs 1-3, and the final version was posted online in July 2022. As part of the work, OSPR updated the San Francisco Bay/Delta shoreline maps for the Environmental Sensitivity Index. OSPR is currently contributing to the Sector San Diego ACP 6 2023 revision, due next spring. An internal OSPR Workgroup updated the socioeconomic sensitive sites language to be included in that revision. OSPR also reviews and updates other ACP-related content, including the shoreline protection tables. OSPR attends Area Committee meetings for all areas as well as Regional Response Team (RRT) meetings and workshops. Information for these meetings are posted on OSPR's webpage.

### **Inland Response Plans**

All of the inland contingency plan holders have submitted their 5-year revisions, and most have been approved. Preparedness staff are reviewing and approving those on a rolling basis.



## **California State Oil Spill Contingency Plan (SOSCP)**

California's State Oil Spill Contingency Plan is revised every three years. The next revision is due January 2023. OSPR is currently reviewing and updating the 2019 version.

### **Geographic Response Plans**

OSPR has completed Geographic Response Plans (GRPs) for the North Fork American River, Russian River, Upper Sacramento River, Lower Santa Ana River and Santa Margarita River. GRPs for the Lower Sacramento River and Lower American River should be completed by the end of 2022. The GRPs are focused spill response plans developed by OSPR in conjunction with federal, state, and local government, industry, and other partners for priority inland waters of the state with elevated risk of an oil spill. Unlike ACP sensitive sites that are driven largely by the sensitivity of the natural resources, GRP response strategy sites are often driven by access to sites along river systems where response activities are feasible and effective.

OSPR recommends that GRPs are vetted through the regional Local Emergency Planning Committees (LEPCs) comprised of industry representatives, federal, State, and local government agencies, public health agencies, tribal representatives, and other stakeholders, and may utilize local subcommittees to the LEPCs to provide further input and review.

### **Wildlife Response**

In addition to focused drills and exercises for wildlife response, OSPR coordinates closely with OWCN to maintain and expand the training programs and equipment resources for response. Investments in vessels, hazing tools, and reconnaissance equipment facilitate best achievable capture and care during spill response. OWCN has grown to more than 45 member organizations throughout the state. OSPR has developed new or revised job aids and other supporting documents addressing live and dead oiled wildlife.

### **Natural Resource Damages**

On May 19, 2015, an underground pipeline owned by Plains All American Pipeline, L.P., and Plains Pipeline, L.P. (jointly, Plains), running parallel to Highway 101, ruptured near Refugio State Beach, spilling over 123,000 gallons of crude oil, much of which ran down a ravine under the freeway and entered the ocean. In June of 2021, the Natural Resource Trustees including OSPR; the California Department of Parks and Recreation; California State Lands Commission; University of California; National Oceanic and Atmospheric Administration; and the Department of Interior through the U.S. Fish and Wildlife Service, the National Park Service, and the Bureau of Land Management settled natural resource damages in the amount of \$22 million to compensate for resource injuries caused by the spill. In June 2021, the Trustees also published a final Damage Assessment and Restoration Plan (DARP) that includes \$2.2 million for bird restoration, \$2.3 million for marine mammal restoration, \$5.5 million for shoreline habitat restoration, \$6.1 million for subtidal and fish habitat restoration, \$3.9 million for human use and recreational improvements, and \$2 million for administration and oversight. Since publishing the final DARP, OSPR and other Trustees have been actively planning and funding the implementation of several habitat restoration and human use projects.

### **Laboratory Sample Analysis 2019-2022**

Petroleum fingerprinting analysis was performed to support oil spill response and investigative efforts. The following table details the number of fingerprinting analyses performed for the calendar years 2019, 2020, 2021, and 2022 (2022 through June 30<sup>th</sup>). The number of samples fingerprinted for the P00547 spill response is also included in the table below.

| <b>Year</b> | <b># Samples Analyzed</b> |
|-------------|---------------------------|
| 2019        | 151                       |
| 2020        | 66                        |
| 2021        | 185                       |
| 2022        | 95                        |
| P00547      | 91                        |

## **Prevention Activities**

### ***Field Operations***

- Vessel bunkering and monitoring operations continue with enhanced safety precautions to ensure both employee and customer safety due to COVID. Inspections continue to be performed as required.
- Harbor Safety Patrols continue in Oakland, Stockton, Sacramento, Port Hueneme, Port of Long Beach, and Port of Los Angeles. These patrols, which include inspection of fueling transfers, are performed daily at the ports to ensure all safety protocols and measures are being implemented.
- Prevention staff continue inspections at exempt facility sites, documenting whether all preventative requirements stipulated in their application are met to maintain their exempt status. These preventative measures often include inspecting various containments around wells and tank batteries, automated spill detection systems, and automated spill prevention valving.
- Staff continue to conduct facility site visits to identify any new spill prevention equipment or technology not previously identified in contingency plans and document all personnel changes.

### ***Unoccupied Aerial Systems***

The Central Oil Spill Prevention and Response field office (Bakersfield, CA) Unoccupied Aerial Systems (UAS) program started in early 2021. The goal of the UAS program is to help prevent or minimize the environmental impact of an oil spill. The UAS are utilized to perform overflights of oil facilities allowing for the collection of data for the sole purpose of preventative measures. The aerial photography gathered is processed through a Site Scan ArcGIS platform which can generate slope and elevation maps, 3D models and orthomosaics imagery. The Central Oil Spill Prevention Specialist can use this data to predict the most likely path of travel of an oil spill and recommend preventative measures that would minimize the impact of a worst-case scenario.