Policies and Procedures for the Use of Oil Spill Cleanup Agents (OSCAs) during Oil Spill Response

The purpose of this policy is to clearly outline the process for use of any OSCA during an oil spill response. Although the use of OSCAs are regulated at both the State and Federal levels, this policy will only address the procedures for obtaining State approval for the use of an OSCA. Some background information will be given on the Regional Response Team (RRT) and the National Contingency Plan (NCP) list; but the specific process for obtaining approval by the Federal Agencies will not be addressed.

Definitions:

Administrator means the administrator for oil spill response appointed by the Governor pursuant to Government Code Section 8670.4.

Oil Spill Cleanup Agent (OSCA) is defined as any chemical, or any other substance, used for removing, dispersing, or otherwise cleaning up oil or any residual products of petroleum in, or on, any of the waters of the state. The federal Environmental Protection Agency (USEPA) utilizes a similar definition.

Regional Response Team (RRT), for purposes of oil spill response operations, is the federal coordinating committee comprised of the U.S. Department of the Interior, National Oceanic and Atmospheric Administration, federal trustee agencies, the U.S. Coast Guard, the USEPA, the Federal Emergency Management Administration, and a California State representative (the OSPR is the current state designee). The Coast Guard and the Environmental Protection Agency are co-chairs of this group.

Background Information:

State of California Licensing Procedures

As of January 1, 1996, the primary authority for licensing OSCAs was transferred from the State Water Resources Control Board (the Board) to the OSPR pursuant to Government Code Section 8670.13.1. The intent of the licensing process is to give the OSPR the opportunity to review product information, including toxicity, efficacy & degradation characteristics in a non-emergency situation, to determine if use of such a product would be beneficial. This provides the Incident Command/Unified Command (IC/UC) with as much flexibility as possible at the time of a spill without necessitating a thorough review of product literature. Although it is possible to use an unlicensed product during a spill incident, this can only be done on an experimental use basis, with approval by the State. Additionally, the use of an unlicensed product should only be considered if such use provides a result that can not be obtained any

other way, including the use of a licensed product. Otherwise, there is no incentive for products to complete the review and licensing procedures and the Unified Command will need to conduct complex product review use determinations during an emergency response.

Government Code Section 8670.13.1(b) states that sorbents and other cleanup devices that do not employ the use of active chemical cleanup agents, or otherwise determined not to cause aquatic toxicity for purposes of oil spill response, are not subject to the licensing provisions. The OSPR has developed a screening process for such products, which should facilitate their evaluation and licensing determination. If a product is determined to fall under this subsection, an exemption letter will be issued attesting to this fact. Unless it is apparent on its face (i.e., polypropylene) that a product is inert, it must be reviewed by the OSPR prior to its use. Although it may seem obvious at first, such as a product composed of reconstituted cardboard may be viewed as inert, but this sorbent must be treated with chemicals in order for it to float, since paper products sink in water. Therefore, this product is not inert and must receive specific approval from the OSPR. Any questions should be directed to the OSCA Technical Specialist, staffed in the Planning Section of the IC/UC.

All OSCAs are licensed for use on a case-by-case basis. This means that although a product can be used, it does not necessary have to be used to address all circumstances. It is up to the discretion of the Incident Commander/Unified Command to determine the appropriateness of any particular OSCA to address any particular situation. Any questions regarding product information can be directed to either Ms. Yvonne Addassi or Mr. Michael Sowby, Response Technology Development Unit. Finally, the use of any Chemical Cleanup Countermeasure must be approved by the Regional Response Team, as outlined below.

Federal NCP Product Schedule Listing Process

The federal EPA has primary responsibility for the listing of products on the NCP Product Schedule. Federal regulations for OSCAs specifically deal with chemical and biological countermeasures. Federal regulations do not address sorbent products as they consider sorbents inert and thus do not require their registration. Under federal regulations, an OSCA must occur on the Subchapter J Product Schedule of the NCP before it may be utilized at a spill. To be included on the NCP Product Schedule, an OSCA must be submitted to the EPA with information including the toxicity, efficacy, chemical composition, safety considerations, and application procedures. The information is "checked" and the product is added to the NCP list. Inclusion to the Product Schedule means only that the product information has been reviewed.

Regional Response Team (RRT) Approval for Use

At the time of an oil spill incident, the Incident Command/Unified Command can request the use of an OSCA. This is done through a formal request of the RRT. All Alternative Cleanup and Chemical Countermeasures must be approved in advance of use by the RRT. This includes dispersants, in-situ burning and chemical OSCAs. Once the RRT grants approval, a product can be used. If a product is listed on the NCP Product Schedule but not licensed for use in California, it will require approval from the Administrator of the OSPR and the RRT.

Policies and Procedures

State Licensed

If a product is licensed by the State, specific information regarding the proposed use of the product needs to be submitted for review. The proposal for use of the product must be reviewed and approved by the Administrator of the OSPR. A sample Proposal for ART Product Use Form #1969 can be attached to this document. Once a product is approved for use, a summary of the findings must be prepared and submitted to the Administrator.

Unlicensed by the State

If a product is not licensed by the State, additional information will need to be submitted and reviewed by the Administrator prior to approval. This product information includes appropriate toxicity tests, material classification and analytical data, hazards to operators, degradation data or any other information that is necessary for the Administrator to make a determination of the hazardous posed by the use of the product. An ART Product Application Form #1968 is attached to this document.. In addition to filling out this form, a Proposal for ART Product Use Form #1969 will also have to be submitted to and approved by the Administrator of the OSPR. As a part of the use proposal, the applicants must provide the reasoning behind the use of this product in leu of products that are currently licensed by the State. Once a product is approved for use, a summary of findings must be prepared and submitted to the Administrator.

Licensed by the State and not on the NCP List

If a product is licensed by the State but is not found on the NCP Product list, an OSCA will need to complete any federal policies regarding the use of non-listed OSCAs. The proposal for use of the product must be reviewed and approved by the Administrator of the OSPR. A sample Proposal for ART Product Use Form #1969 is attached to this document. Once a product is approved for use, a summary of the findings must be prepared and submitted to the Administrator.

Unlicensed by the State and not on the NCP List

If a product is not licensed by the State and is not on the NCP list, an OSCA will need to complete any federal policies regarding the use of non-listed OSCAs. In addition, information will need to be submitted and reviewed by the Administrator prior to approval. This product information includes appropriate toxicity tests, material classification and analytical data, hazards to operators, degradation data or any other information that is necessary for the Administrator to make a determination of the hazardous posed by the use of the product. An ART Product Application Form #1968 is attached to this document. In addition to filling out this form, a Proposal for ART Product Use Form #1969 will also have to be submitted to and approved by the Administrator of the OSPR. As a part of the use proposal, the applicants must provide the reasoning behind the use of this product in leau of products that are currently licensed by the State. Once a product is approved for use, a summary of findings must be prepared and submitted to the Administrator.

FORM #1968

OFFICE OF SPILL PREVENTION AND RESPONSE
THE RESOURCES AGENCY
STATE OF CALIFORNIA
P.O. Box 944209, Sacramento California, 94244-2090

Alternative Response Technology Product Application

Date of Request:_____

1. **PRODUCT TRADE NAME**:_____

Name of Manufacturer:_____
Address:_____

Technical Representative:_____
Address:_____
Telephone: Area Code:_____ Number:_____
FAX: Area Code:_____ Number:_____

2. **MATERIAL CLASSIFICATION AND ANALYTICAL DATA**

Chemical name and percentage of each component. This information will be treated as confidential by the Department and its agents.

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Physical Properties

Solubility of 15°C in Water of:
Less than 0.5 parts per thousand salinity:_____
30 parts per thousand salinity:_____

Color (visual)_____ Viscosity_____ in _____ units
Conductivity_____ Flash Point_____ pH_____
Freezing Point_____Specific gravity _____

3. **HAZARDS TO OPERATORS** (Please attach an Material Safety Data Sheet or any other pertinent background data).

Inhalation (acute LC_{50}): _____
Skin irritation or sensitivity concentration:_____
Eye irritation:_____
Sensory threshold properties:_____
Hazardous gases produced on combustion:_____
Chronic hazards:_____
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4. **AQUATIC TOXICITY**: Please provide the background data and/or information which details the aquatic toxicity posed by the use of this product. A complete laboratory report, detailing the methods, materials, test species, reference toxicant and results [No Observable Effects Concentration (NOEC) and Lowest Observation Effects Concentration (LOEC); LC_{50} or LD_{50}] must accompany this form. This information can be provided in the space below or as attachments to this application.

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5. **PERFORMANCE EFFICACY**: Please provide the background data and/or information which details the performance efficacy of this product. A complete laboratory report, detailing the materials and methods used must accompany this form. This information can be provided in the space below or as attachments to this application.

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6. **TREATMENT CONCENTRATIONS**: Please provide the recommended treatment concentration of the product for the use requested.

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I, the signatory, do swear that the information provided in this application is true, under penalty of law. I understand that the Unified Command will rely upon this information in determining whether the aboveforementioned product poses any aquatic toxicity that could damage the resources of California. I understand that if any information is determined to be fraudulent, that I could face civil and criminal penalties under Federal and State law.

_____
Signatory

_____
Title

_____
Date

FORM #1969

OFFICE OF OIL SPILL PREVENTION AND RESPONSE
THE RESOURCES AGENCY
STATE OF CALIFORNIA
P.O. Box 944209, Sacramento California, 94244-2090

Proposal for Alternative Response Technology Product Use

Date of Request:_____

Person Submitting Request:_____

Issue Statement: Please described the issue being addressed by the proposal and the recommended solution for addressing this issue. For example, "This proposal requests the use of the OSCA OIL-U-SION to clean up 15 miles of rip-rap oiled as a result of the ground of the Vessel Harrington at Hugo Bar. We believe that the use of this OSCA is the only way to remove this oil prior to the "Beach Wiggin" breeding season.

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Problem Statement: Please described the specific problem being addressed by this proposal. For Example: "Previous experience suggests that if this oil is not removed in a timely fashion, the oil will continue sheening with each high-tide cycle and continue to fowl resources. The weathering characteristics of this oil causes the residue to become quite sticky, making it very difficult to remove mechanically and a danger to the "Beach Wiggin," an endangered species that nests in the area. The use of the OSCA OIL-U-SION will dissolved the oil into a solution where it can be picked up by skimming operations as well as sorbent pads and booms."

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Background Information: Please provide sufficient background information to provide a context for this proposal. This should include any site-specific, spill-specific or resource-specific information as well as any product information that is pertinent.

Possible Alternatives for Addressing the Problem: Please identify the possible alternatives for addressing the problem. This may include a "do nothing" alternative. Please provide the pros and cons for each alternative.

Recommendation: Please specify the recommended alternative. Include any additional information you feel is necessary to make your case.

Procedures and Methodologies for Implementation: Please outline the specific experimental design & methodologies as well as the procedures for implementation of the recommended alternative.