

November 19, 2001

To the Governor of the State of California
and Members of the California State Legislature

Report on Oil Spill Response and Preparedness Programs

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act) established the Oil Spill Technical Advisory Committee (TAC), to provide for public input and independent judgment of the actions of the Administrator of the Office of Oil Spill Prevention and Response (Administrator), and the State Interagency Oil Spill Committee (SIOSC). The TAC consists of nine members, five of whom are appointed by the Governor, two by the Speaker of the Assembly, and two by the Senate Rules Committee. (see Gov. C. §8670.54 *et seq.*)

It is the responsibility of the TAC to provide public input and independent judgment of the actions of the Administrator and the SIOSC. They may also provide recommendations to the Administrator, the State Lands Commission, the California Coastal Commission, and the SIOSC, on any provision of the Act including the promulgation of all rules, regulations, guidelines, and policies.

The TAC is required to report annually to the Governor and the Legislature on their evaluation of marine oil spill response and preparedness programs within the State. This report covers calendar year 2001. In addition, the TAC may also prepare and send to the Governor and the Legislature any additional reports it determines to be appropriate.

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On behalf of the other TAC members, I invite you to review this report and share with us your thoughts and comments. Through our mutual efforts, California will experience fewer marine oil spills and better mitigate the harm associated with oil spills that do occur. The collective efforts of State agencies involved with marine oil spill prevention and response programs, coupled with a unique working partnership of local and Federal agencies, the regulated industry and environmental interests, make the California marine oil spill programs a model for other states to follow. These collective efforts serve to ensure greater protection of our unique coastal and marine resources.

Sincerely,

Chairman

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.*

November 19, 2001

Highlights

Governor Gray Davis appointed Harlan Henderson Administrator of the Department of Fish and Game's Office of Spill Prevention and Response (OSPR), effective July 1, 2001. The new Administrator has more than 26 years of experience in marine environmental protection. He recently retired as a Captain from the U.S. Coast Guard where he was Commander of the National Strike Force, where he was in charge of the Coast Guard's spill preparedness programs.

Governor Davis signed into law Assembly Bill 715 (Wayne) (Stats. 2001, ch. 748), clarifying OSPR authority to regulate California oil spill responders. The bill calls for the establishment of performance standards in response resource evaluation.

The fourth and fifth in a series of Oiled Wildlife Care Network centers opened at Cordelia and Los Angeles. The centers, which cost about \$2.7 million each, are funded from interest on the Oil Spill Response Trust Fund.

Hawaii joined California, Oregon, Washington and Alaska as states participating in the Pacific States/British Columbia Oil Spill Task Force. The task force. The States/British Columbia Oil Spill Task Force was created in 1989 to address oil spill prevention and response issues on a regional level.

The per-barrel fee, which funds OSPR and other related programs, has been set at four cents per barrel since the inception of OSPR in 1991. Senate Bill 849 (Torlakson), which passed the California Senate in 2001 and is awaiting action in the Assembly, would increase the authorization to restore program activities to original levels.

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I. BACKGROUND

A. 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 damaged 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.¹ The Administrator of the Office of Spill Prevention and Response, and the State Lands Commission, are vested with the primary responsibility for implementing the Act.

B. Oil Spill Technical Advisory Committee

One component of the Act was the creation the Oil Spill Technical Advisory Committee (TAC).² The TAC provides public input and independent judgment of the actions of the Administrator of the Office of Spill Prevention and Response (OSPR) and the State Interagency Oil Spill Committee (SIOSC). The TAC consists of nine members, five of whom are appointed by the Governor, two by the Speaker of the Assembly, and two by the Senate Rules Committee. The members are to have backgrounds in marine transportation, local government, oil spill response and prevention programs, the petroleum industry, State government, environmental protection and ecosystems, and represent the public. There have been several recent personnel changes on the TAC. Appendix B lists the current TAC roster and the positions each member occupies. Future activities of TAC are discussed at the end of this Report.

The TAC is responsible for providing recommendations to the Administrator, the State Lands Commission (SLC), the California Coastal Commission (CCC), and the SIOSC, on any provision of the Act including the promulgation of all rules, regulations, guidelines, and policies. All TAC meetings are open to the public, and portions of each meeting are devoted to public input on any issue affecting California's marine oil spill programs.

At its own discretion the TAC may study, comment on, or evaluate, any aspect of marine 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

¹ See Gov. C. §8670.2 for the specific findings.

² See Gov. C. §§8670.54 through 8670.56.1.

Federal government, the Administrator, the SLC, the State Water Resources Control Board (SWRCB), and other appropriate State and international entities.

Annually the TAC is required to report to the Governor and the Legislature on its evaluation of marine oil spill prevention and response within the State.³ The TAC may also prepare and send any additional reports they determine to be appropriate to the Governor and the Legislature.

II. OFFICE OF OIL SPILL PREVENTION AND RESPONSE

A. Roles and Responsibilities

The Act establishes an Administrator for the prevention of and response to oil spills in California's marine waters.⁴ The Administrator is in charge of the Office of Spill Prevention and Response (OSPR). The Administrator, subject to and acting at the direction of the Governor, has the primary authority to direct prevention, removal, abatement, response, containment, cleanup, and restoration efforts with regard to all aspects of any oil spill in the marine waters of the State. The Administrator is a Chief Deputy Director of the Department of Fish and Game (DFG), and in this capacity the Administrator carries out the DFG's public trustee responsibility for protecting California's wildlife and habitat from marine oil spills. In 2001, a new Administrator was appointed by the Governor -- former U.S. Coast Guard Captain Harlan Henderson. The Senate must confirm the appointment of Mr. Henderson.

The Administrator is mandated to provide the best achievable protection of the State's marine resources from oil spills. This mandate dictates the highest level of protection which can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods which provide the greatest degree of protection achievable.

Although the OSPR is the lead State agency for marine oil spill prevention and response, under the Act the SLC is mandated with establishing a comprehensive pollution prevention program for marine terminals and offshore oil

³ In 2001 S.B. 1191 (Speier)(Stats. 2001, ch. 745) would have changed the reporting frequency from annual to biennial, however due to an oversight this provision was superceded when A.B. 715 (Wayne) (Stats. 2001, ch. 748) was signed later in 2001. Thus, a report is still due annually.

⁴ See Government Code §§8670.1 *et seq.*; and specifically sections 8670.4 through 8670.9.

production facilities located in State waters. The Administrator also chairs SIOSC and is responsible for keeping the twenty SIOSC agencies informed of relevant issues.

Contingency Plans

OSPR requires all marine facilities, all tank vessels (oil tankers and tank barges) and non-tank vessels (i.e. ships over 300 gross tons carrying oil or petroleum, such as cruise ships, container ships, large ferries, etc.) to prepare spill response contingency plans. The contingency plans must address the prevention of and response to marine oil spills through specific risk assessments for each facility or vessel. OSPR's contingency plan requirements cover over 223 marine facilities, more than 60 of which are marine terminals used primarily to transfer oil or refined products to or from tank vessels. Over 6,000 tank vessels and non-tank vessels are covered.

Oiled Wildlife Care Network

State law requires the Administrator to bring together a statewide network of facilities for oiled wildlife rescue, rehabilitation and research. Thus, the Oiled Wildlife Care Network has been established to address urgent oiled wildlife care needs regionally. As statutorily authorized, the Administrator has requested that the Wildlife Health Center at the University of California, Davis to help administer the OWCN on behalf of the Administrator. The most recent OWCN facilities were established in Los Angeles and in the San Francisco Bay Area to support the 25 participating organizations of the network.

Monitoring, Inspections, Enforcement and Dispatch

The staff of the OSPR Enforcement Program responded to and investigated approximately 695 marine spills in 2001. This unit is staffed by both Fish and Game Wardens, who are peace officers, and by Oil Spill Prevention Specialists, who are technical specialists. Staff monitored approximately 200 oil transfer operations.

The OSPR maintains and staffs a 24-hour Dispatch Center. Dispatch receives over 5,000 spill reports annually. While most of these reports are for very small spills, the notice allows for rapid response to major spill incidents. The Dispatch Center is located at the OSPR Headquarters in Sacramento, and services most Department of Fish and Game regions in California.

The TAC believes this type of information should be easily accessible to the public, not only for the number of spills but also the location, cause, type of spill, type of oil, and damage caused. The TAC recommends that the OSPR maintain a database of this information and send a complete report to the TAC at least each year.

Natural Resource Damage Assessment

This program was established to assess damages to natural resources that are injured by releases of oil or other hazardous substances, and to restore these

resources using settlement funds, damage awards, or other authorized funds for these purposes. The assessment of ecological injuries involves documentation of the impacted area, including impacts to fish, wildlife and their habitats, and human recreational uses. Damages include the cost of restoring resources, compensation for interim losses, and the cost of assessments. The type and amount of restoration needed following a spill or release are based on the damage assessment and, for larger cases, on the decisions of a Trustee Council (State and federal agency representatives who plan and implement restoration projects), and any relevant legal documents. This program is mandated by both State and federal statutes. To date, total NRDA settlements for past spills and other releases exceed \$106 million. There are several ongoing large NRDA cases.

Applied Response Technologies

Government Code Section 8670.12 of the Act requires the Administrator to conduct studies on the use and effects of dispersants, incineration, bioremediation, and any other methods used to respond to a spill. In addition to conducting studies on the use of alternative cleanup technologies.

OSPR staff, as members of the federal Regional Response Team's (RRT) Applied Response Technologies (ART) subcommittee, have for the past two years been working with the committee to develop a new dispersant use policy for federal waters 3 to 200 miles off the California Coast. The final policy identifies three potential dispersant use zones in federal water: preapproval; preapproval with consultation (consultation of a local resource expert); and RRT approval. The actual dispersant use zones will be designated by the state's six Area Committees with each Area Committee being responsible for designating zones within the federal waters of their boundaries. OSPR staff have been assisting the Area Committees by conducting Ecological Risk Assessments and providing requested information on dispersants, assisting with the presentation of dispersant related workshops, and conducting information presentations to other State Agencies.

Government Code Section 8670.7(g), requires the Administrator of the OSPR to develop a decision-making document for the use of in-situ burning to address oil spills within marine waters of the State. In furtherance of these requirements, the OSPR established an in-situ burning workgroup April of 1995 responsible for the development of a statewide in-situ burning policy. Workgroup members represented the Federal, State, and local agencies and California. After almost two years of work, the workgroup forwarded a policy for the use of in-situ burning in two specific geographic areas; quick approval zones and case-by-case zones. After a series of public meetings, the case-by-case zones as identified by the workgroup were adopted by the Administrator as well as the Coast Guard and were incorporated into the State Plan and the federal areas plans in 1998. Given concerns raised regarding the quick approval process, a programmatic environmental impact report was prepared by the OSPR as outlined within CEQA. This document was complete in September 2000 and is currently under review by

the Coastal Commission. The OSPR will be filing the CEQA documents with the Office of Planning and Research as soon as possible.

Financial Responsibility

There are approximately 1,300 tank vessels, 4,000 non-tank vessels, and 800 facilities holding California certificates of financial responsibility. The non-tank vessels will come up for renewal in February 2002.

B. Specific Issues from 2001

(1) Offshore Lightering Near San Diego

Three oil companies (ChevronTexaco, and Skaugen Petrotrans for British Petroleum) regularly conduct "lightering" operations within the Exclusive Economic Zone, off of San Diego. A lightering operation is the transfer of oil at sea from a crude carrier vessel (e.g. capacity up to three million barrels) to a smaller "lightering vessel" (e.g. capacity of one million barrels), which transports the oil to shore facilities and ultimately to refineries.

The oil companies provide advance notice to the U.S. Coast Guard that the lightering operations are scheduled to be begin on a particular day, within 20 nautical miles (40 mi. diameter) of a particular location. Between December 2000 and August 2001, approximately 37 lightering operations were conducted. Prior to February 2001, operations were conducted 90 miles offshore. Now operations are conducted as close as 20 miles from the shore.

Oil company representatives have asserted that double hull tankers can have stability problems in adverse weather conditions, and have noted that the potential for very high waves and strong wind conditions 90 miles from shore can be a safety concern for double hull vessels. Thus, to take advantage of favorable wave and weather conditions at the near-shore location, and to optimize the operation, the lightering operations have been moved closer to shore.

The OSPR has concerns about the lightering operations at the near-shore location. OSPR's apprehension is that if there is a large spill 20 miles off-shore many important Southern California beaches and natural resources could be impacted by the oil. Naval exercises take place in areas near the lightering operations.

Another concern is that the operations are now occurring very close to the entry of the inbound/outbound Vessel Traffic Lane for Los Angeles and Long Beach Harbors, two of the highest volume ports in the nation. The large amount of vessel traffic in the area increases the probability of a collision with the lightering vessels.

A working group of State and Federal agencies is working through these issues with industry representatives. The OSPR, the Coast Guard, and the National Oceanic and Atmospheric Administration (NOAA) will be assessing the risks at this location and evaluating potential spill trajectories.

Possible solutions may include a Coast Guard-designated lightering zone similar to the designated lightering zone in the Gulf of Mexico or an industry self-governing procedure may be agreed upon. Also, the Coast Guard is considering developing "standards of care" using industry's own "Underway Ocean Lightering Guidelines."

The TAC is very interested in this lightering issue. The TAC encourages OSPR to continue evaluating this issue with the Federal agencies and the oil companies.

(2) Legislation

In 2001, the Governor signed a bill that made substantive changes to the Act -- Assembly Bill 715 (Wayne) (Stats. 2001, ch. 748).⁵

AB 715

Assembly Bill 715 made significant changes, the main points being:

- 1) Requires vessel and marine facility plan holders to contract with approved OSROs for oil spill response.
- 2) Clarifies the Administrator's authority to rate and approve an OSRO for marine oil spill cleanup services.
- 3) Clarifies the authority of the Administrator to conduct announced and unannounced drills to test readiness to respond to marine oil spills.
- 4) Requires rated OSROs to participate in announced and unannounced drills to test OSRO readiness to respond to marine oil spills.
- 5) Requires each rated OSRO to complete at least one unannounced drill every three years.
- 6) Requires the Administrator, by June 30, 2002, to set performance standards that operators and OSRO's must meet during unannounced drills.

⁵ Also, Assembly Bill 1123 (Corbett *et al.*) and Senate Bill 1185 (Scott *et al.*) made minor changes to Part 24 of the Revenue & Taxation Code regarding Board of Equalization implementation of oil spill response, prevention, and administration fees. There were no relevant changes to the Public Resources Code.

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- 7) Requires drill standards and contingency plan provisions to specifically address protecting environmentally sensitive areas.
- 8) Requires the operator to be responsible for the costs of carrying out drills.
- 9) Authorizes a Harbor Safety Committee to petition the Administrator for appointment of up to five at-large members.
- 10) Adds the San Francisco Bay Conservation and Development Commission (BCDC) to the State Interagency Oil Spill Committee (SIOSC) and to the SIOSC Review Subcommittee.
 - a) Authorizes BCDC to provide assistance to the Administrator regarding prevention and response studies.
 - b) Requires that BCDC be consulted regarding the construction of certain oiled wildlife facilities.
 - c) BCDC's authority regarding these issues is limited to BCDC's jurisdiction only, and not statewide.
- 11) Authorizes the Administrator to apply for a judgment to collect administrative civil penalties after the expiration of the time for review of a violation of the Act or the ballast water control regulation.

The TAC encourages the Administrator to promptly implement the provisions of AB 715 and promulgate any necessary regulations.

Other 2001 Legislation

Another relevant bill signed by the Governor was Senate Bill 1191 (Speier)(Stats. 2001, ch. 745). It attempted change the frequency the TAC must report to the Governor and the Legislature, from annually to biennially. However, AB 715 was enacted later in the session, so its provisions "chaptered out" that portion of SB 1191. This was likely an oversight and unintentional. So, the reporting frequency is still annual.

2002 Legislative Session

For Legislative year 2002 the TAC intends to closely monitor Senate Bill 849 (Torlakson), which passed the Senate in 2001 and is currently awaiting action in the Assembly. This bill is an effort to better fund the mandates of the Act. Existing law requires the State Board of Equalization to collect an oil spill prevention and administration fee which is imposed upon every person owning crude oil at the time that the crude oil is received at a marine terminal, in an amount determined by the Administrator for oil spill response, not to exceed 4¢ per barrel of crude oil or petroleum products. This amount has remained the same since the Act was implemented 1991. SB 849 would provide the Administrator the authority to increase the per barrel charge by up to 2¢ per barrel.

The revenues from the fee are deposited in the Oil Spill Prevention and Administration Fund in the State Treasury. The Fund is only to be used for purposes enumerated in the Act. The TAC is aware of a decline in the Fund reserves. In fiscal year 1999-2000 reserves were about \$10 million; in fiscal year 2000-2001 reserves were estimated at \$6.5 million, and at \$2.7 million for fiscal year 2001-2002.

SB 849 would increase the amount of the fee that the Administrator is authorized to collect for calendar year 2002 to 6¢ for each barrel of crude oil or petroleum products. The bill would authorize the Administrator, on and after January 1, 2003, to adjust the amount of the annual assessment based upon changes in the California Consumer Price Index, pursuant to a specified procedure.

The TAC is willing to support SB 849 if a reasonable justification is shown for increasing the fee.

(3) Oil Spill Response Organizations

Vessels and facilities generally rely on oil spill response organizations (OSROs) as contractors to perform response and cleanup services, and to meet their contingency plan requirements. The Act did not expressly address the role of OSROs in spill response or drills. However, since the Act was passed OSROs have developed into a niche industry to assist marine facilities and vessels with oil spill response. Currently, nine OSPR-approved OSROs serve approximately 10,000 vessels and facilities who may need responder services.

Originally, OSPR created a voluntary system for evaluating the OSROs listed in vessel and facility oil spill contingency plans. This facilitated the preparation and review of vessel and facility oil spill contingency plans. However, OSROs did not need to be rated in order to be included in a plan holder's contingency plan. Also, currently an OSRO that voluntarily submits to the OSRO approval process agrees to submit to inspections and verifications, and agrees to participate in drills as a condition of receiving and retaining a "Letter of Approval". This year, with the enactment of AB 715, this system will be clarified and formalized.

The OSRO Rating process is designed to ensure OSROs can meet plan holder needs. An individual or entity may apply for consideration as a rated OSRO for oil spill response operations, and may be given a rating for each service and area requested in their application. OSPR will only grant ratings for: booming, on-water recovery and storage, and shoreline protection. If a plan holder will be relying on OSRO approval to meet contingency planning requirements, the OSRO must submit an application at least 60 days prior to plan approval.

In December 2000, OSPR was sued for revoking the rating of an OSRO that had been dissolved. As the parent corporation, NRC claimed that the Administrator

did not have the authority to revoke the OSPR approval of NRC's subsidiary company Clean Pacific Alliance. The claims were dropped and the suit was settled with an understanding regarding the promulgation of future regulations.

AB 715 was enacted to ensure evaluation of companies who perform marine oil spill response services. AB 715 clarifies the Administrator's authority to approve and rate the various capabilities of OSROs. A key provision of the bill is that all vessels and facilities who will rely on OSROs for cleanup services must use OSROs which have been approved by the Administrator. The bill also requires performance standards for OSROs, and identifies procedures and requirements for the rating of OSROs.

The TAC recommends that OSPR contact all plan holders in writing early in 2002 to explain the changes in the oil spill program pursuant to AB 715, including development of the OSRO rating system, the testing requirements for shoreline protection, and announcement of extensive plan holder Qualified Individual notification drills.

(4) Drills and Exercises

The Administrator is authorized to periodically carry out announced and unannounced drills to assess the preparedness of facilities and vessels, and the oil spill response contractors they rely upon. Also, vessels and facilities ("plan holders") are required to exercise their oil spill contingency plans entirely once every three years. Drills are dynamic, evolving, and lessons are learned from every drill. The function of a drill is to verify and improve response readiness in California. All drills are coordinated with OSPR, the U.S. Coast Guard and other federal, state, and local government entities.

Announced drills are generally lead by plan holders and are coordinated with OSPR.

Unannounced drills are initiated by OSPR. By the end of the year OSPR is expected to have called over 25 unannounced drills on plan holders and OSROs. OSPR's first OSRO unannounced drill was conducted in 1999. OSPR has conducted eighteen plan holder unannounced drills since May 2001 and will continue the present series of drills through April 2002.

The objective of OSPR plan holder unannounced drills is to demonstrate the ability of plan holders to carry out their spill responsibilities during the first three hours of a simulated spill.

OSRO unannounced drills verify and evaluate the ability of an OSRO to respond in accordance with the applications they have submitted to the OSPR. In addition, these unannounced drills enable OSPR to evaluate the credibility of the OSRO approval process and the overall state of preparedness in California.

Objectives and guidelines for the OSRO unannounced drill program were jointly developed by OSPR, industry representatives, and other interested parties. This program ran from March 3, 2000 until November 17, 2000. The results were that eight OSROs were drilled, 35,300 feet of boom deployed, 122,625 bbl/day on water recovery deployed, and 231,546 barrels of storage and 257 trained people were mobilized.

Some lessons learned from this program were that OSROs were not training with their subcontractors. Trained subcontractors performed well and untrained ones performed poorly. It was also observed that dedicated/company owned equipment arrived on time and that non-dedicated equipment often did not. Some OSROs did not have adequate numbers of people to safely operate equipment.

In light of OSPR's unannounced drill program, it appears that some OSROs are more prepared than others. A few have been unwilling to undergo the scrutiny that would enable OSPR to determine their ability to respond to an oil spill. In one OSPR unannounced drill, an OSRO refused to participate in a drill due to their concerns about the costs associated in performing a drill.

The subsequent series of unannounced drills called on plan holders shows that some non-tank vessel operators are unfamiliar with their contingency plans and pollution response equipment.

AB 715 expressly refines the Administrator's duty to test the readiness of OSROs. The bill requires OSROs and operators to meet performance standards in unannounced drills. All rated OSROs must participate in OSPR drills and demonstrate their preparedness to OSPR, to the vessels and facilities that have contracted for their services, and to the general public. The TAC encourages the Administrator to promptly implement AB 715 and to promulgate necessary regulations.

At TAC meetings, OSPR staff presented information, and opportunities were provided to hear from the public. The TAC supported the drills, yet feels that some elements of the unannounced drill program still need development.

In Fall 2000, an Unannounced Drill Subcommittee was formed to monitor actions and executions of drills. A report was completed and submitted to the full TAC in the Fall of 2001. The report looked at the scope and appropriateness of drills and exercises. The Report concluded that the TAC encourages and supports OSPR's drill program.

A follow-up Subcommittee was formed in January 2001 to work with OSPR on new elements of unannounced drills. The Subcommittee is still active and will continue to monitor the progress of the drill program.

(5) On-Water Recovery

Plan holders must be prepared to recover specific amounts of spilled oil in a 24-hour period. This past year OSPR increased the required amounts by 25%.

Plan holders who are engaged in transporting, storing, and handling oil as cargo are required to ensure the availability of mechanical recovery equipment (e.g. skimmers, vacuum trucks, etc.) necessary to respond to oil spills up to the Reasonable Worst Case Spill, as defined in regulation. This is characterized in terms of daily oil recovery rates ("Caps"). Response Planning Volumes are used to determine the amount of equipment and personnel that the plan holder must ensure are available. The prescribed quantities of equipment varies depending on the size and location of a possible spill from the plan holder. On July 1, 2001 OSPR's regulations raised the daily on-water recovery rates by 25%.

Several years back OSPR presumed that equipment capability and availability would improve after establishing the initial Cap levels for six hours response and beyond, and for the 2,500 barrels level for the first 2 hours of a spill. Thus, OSPR's regulations provide that the on-water recovery rates should be raised by 25% on July 1, 1997, by another 25% on July 1, 2001, and raised by another 25% on July 1, 2005.

(6) Sensitive Site Protection

OSPR has begun assessing capabilities to protect environmentally sensitive sites. The evaluation of sensitive site protection is an elementary building block of OSPR's response resource assessment program. Exercises to protect sensitive sites will validate protection strategies and will test the ability responders to carry out the strategies. However, this sensitive site protection program implicates the California Environmental Quality Act (CEQA). Late in the year OSPR and Department of Fish and Game staff identified specific measures to meet CEQA requirements. It is expected that this process will be completed in early 2002, clearing the way for the implementation of this vital program. Currently, OSROs are not required to test sensitive site protection strategies. But, plan holders do have a requirement to test sensitive sites which they could impact.

The TAC notes the need for shoreline protection OSRO rating standards. The TAC would like OSPR increase assessment of the successfulness of plan holder's sensitive site drills.

(7) Coordination with Other States and Countries

The Administrator is required to enter into discussions on behalf of the State for the purpose of developing a compact regarding the transport of oil by tank ship or tank barge.⁶ In 2001 the state of Hawaii was added as a member of the Pacific

⁶ See Gov. C. §8670.9

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States/British Columbia Oil Spill Task Force. The Task Force already includes British Columbia, Alaska, Washington, and Oregon. The addition of Mexico was considered this year but has been tabled while questions regarding Mexican federal representation are addressed.

IV. CALIFORNIA STATE LANDS COMMISSION

A. Roles and Responsibilities

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, as it relates to the California State Lands Commission (SLC), is codified in the Public Resources Code.⁷ The SLC is directed to “adopt rules, regulations, guidelines, and commission leasing policies for reviewing the location, type, character, performance standards, size, and operation of all existing and proposed marine terminals within the state, whether or not on lands leased from the commission, and all other marine facilities on lands under lease from the commission to minimize the possibilities of a discharge of oil.” The SLC is mandated to “ensure that all operators of marine terminals within the state and marine facilities under the commission’s jurisdiction always provide the best achievable protection of the public health and safety, and the environment.”

The Act defines marine facilities, essentially, as any facility from which a discharge of oil could impact marine waters. Marine terminals, a subset of marine facilities, are those facilities used for transferring oil to or from tank ships and barges. Other facilities “under the jurisdiction” of the SLC include all offshore state oil and gas leases, and the associated onshore processing facilities.

Operations Manuals

The SLC requires marine facilities to have operation manuals describing equipment and procedures employed to protect human health and safety, and the environment and to prevent oil spills.

Inspections

The SLC performs inspections at marine facilities. There are currently 78 marine terminals in the State at which a reported 27 billion gallons of petroleum was transferred in 2001. This includes 65 fixed commercial terminals, four terminals operated by the Department of Defense and U. S. Navy, and nine mobile marine terminal operators. Presently, the SLC has identified 62 marine facilities for inspection. In 2001, inspectors monitored more than 3,000 marine terminal transfer operations statewide.

SLC has conducted safety and pollution prevention inspection and monitoring programs on drilling and production platforms in state waters since the platforms

⁷ See Public Resources Code §§8750 through 8760.

were constructed. In 1990, these responsibilities were extended to other marine facilities by the Act. In fiscal year 2000-2001, the SLC's "System Safety Analysis Program" was rejuvenated and augmented by the establishment of a "Safety Audit Program" to conduct comprehensive engineering and technical analyses of the operational safety of oil and gas producing facilities impacting State tidelands.

The SLC also monitors construction, operations, maintenance, and oil spill prevention contingency planning on all offshore oil and gas operations on State offshore oil and gas leases.

Engineering

The SLC performs engineering inspections; mooring analysis, structural analysis, review of pipeline maintenance and testing, and an engineering review of facilities proposed in various permits and environmental documents. Additionally, the SLC is developing a new engineering regulatory standard for design, construction, maintenance and repair of marine oil terminals.

In addition, engineering standards for new and existing marine oil terminals are being developed. The goal of the project is to develop standards to mitigate the risk of damage or potential oil spills from earthquakes and/or mooring incidents.

The TAC will monitor this program and the standards being developed.

Human Factors

The SLC co-sponsored development, then introduced a no-cost, voluntary "Safety Assessment of Management Systems" (SAMS) for the marine industry. This assessment is conducted by SLC staff who interview a cross-section of an organization, from upper-level managers to line-supervisors, administrative staff, operators and contractors. Findings from the assessment are presented to the company in a non-regulatory, informal manner. SAMS have been conducted at 12 facilities to date.

B. Specific Issues in 2001

(1) Safety Audit Program

In fiscal year 2000-2001, the SLC's "System Safety Analysis Program" for inspection and monitoring of drilling and production platforms was rejuvenated and augmented by the establishment of a "Safety Audit Program" (SAP). The purpose of SAP is to conduct comprehensive engineering and technical analyses of the operational safety of oil and gas producing facilities impacting State tidelands.

(2) Safety Assessment of Management Systems

The Pacific States/ British Columbia Oil Spill Task Force awarded the SLC its prestigious 2001 Legacy Award for the "Safety Assessment of Management Systems" (SAMS) program.

Also in 2001, the SLC began expanding its efforts to identify human and organizational factors underlying oil spills and other violations through systematic inquiry and analysis of these adverse events.

V. CALIFORNIA COASTAL COMMISSION

California Coastal Commission (CCC) generally receives its authority from the California Coastal Act of 1976. The CCC reviews coastal development projects (including those conducted during emergency responses) to assure that they comply with the Coastal Act provisions for protection of coastal resources. In 1978, the CCC was delegated additional responsibilities under the Coastal Zone Management Act (CZMA)⁸ to review federal activities, and federally permitted and funded activities, for their consistency with the California Coastal Management Program (CCMP). To do this, the CCC provides its federal consistency reviews using the California Coastal Act as its benchmark.

In 1992, the CCC received additional responsibilities under the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act. CCC responsibilities under the Act and through a companion Interagency Agreement include, but are not limited to:

- Serves as a member of the State Interagency Oil Spill Committee (SIOSC), and as a member of the SIOSC Review Subcommittee.
- Review regulations for oil spill prevention and response, and provide input on these regulations consistency with Coastal Act policies and Coastal Commission regulations.
- Review oil spill contingency plans for marine facilities located in the coastal zone.
- Attend all Harbor Safety Committee (HSC) meetings for the ports of Humboldt Bay, Port Hueneme, Los Angeles/Long Beach and San Diego, and attend all appropriate HSC subcommittee meetings as feasible.
- As feasible, attend all statewide and regional Area Committee and subcommittee meetings (e.g., dispersants, sensitive sites, trajectories, ACP update, oiled wildlife operations, wildlife volunteer coordination, GRP), and chair subcommittees as appropriate.
- As appropriate, participate in studies and workgroups conducted under the Act that will improve spill prevention response and habitat restoration.
- Participate in the development of planning materials for oiled wildlife rehabilitation facilities located in the coastal zone.
- Participation in drills called by the OSPR, and coordination with state and federal agencies regarding drills called pursuant to CCC permit requirements.
- As appropriate, consult with and assist the OSPR during spill response operations, including those involving shoreline cleanup and assessment,

⁸ Administration of the CZMA is through the National Oceanographic and Atmospheric Administration Office of Coastal Resource Management.

wildlife operations, alternative response technologies and natural resource damage assessment. CCC oil spill program staff monitor, via faxed notice and 24-hr pager, all reports by the state Office of Emergency Services of spills in the coastal zone.

The CCC staff also go to spill sites to determine whether clean up activities are considered "development" and therefore require an emergency coastal development permit pursuant to the California Coastal Act. For emergency permit purposes, the CCC would determine whether clean up activities could adversely affect coastal resources. The types of spill response activities that may require a coastal development permit include but are not limited to:

- ⌘ Grading or construction within the coastal zone for temporary storage (e.g., storage tank for oil), access roads or staging areas;
- ⌘ Grading or clearing vegetation in sensitive resource areas;
- ⌘ Berming a river mouth or a lagoon;
- ⌘ Repair of pipelines and facilities under water or near sensitive habitats;
- ⌘ Construction or retaining walls as oil spill containment barriers.

Issuance of an emergency permit can be accomplished with a verbal approval (on scene or via telephone) by the CCC Executive Director or his/her designate. The emergency permit is issued to the party responsible for the spill, and does not impede response activities. Acceptance of the emergency permit requires the responsible party to submit (generally within 60 days) an application for a follow-up regular coastal development permit. The coastal development permit will evaluate impacts to the site specifically related to the permitted clean-up or repair and maintenance activities; it does not evaluate the impacts from the oil spill itself, or interfere with the Natural Resource Damage Assessment process.

VI. SAN FRANCISCO BAY AREA CONSERVATION AND DEVELOPMENT COMMISSION

The San Francisco Bay Conservation and Development Commission (BCDC) serves on the Harbor Safety Committee (HSC) of the San Francisco Bay Region, and the various subcommittees or work groups. BCDC is currently involved in the Prevention Through People Workgroup (and taking the lead on preparation of a map of the Bay's marine radio geography), the Underwater Rocks Subcommittee, and is chairing the Tug Escort Subcommittee. Additionally, there is a newly formed Ferry Operations Workgroup.

BCDC unanimously approved the proposed *San Francisco Bay Plan*. Bay Plan addresses navigational safety and oil spill prevention. BCDC now officially recognizes the benefits of safe navigation and oil spill prevention in its coastal zone management program.

BCDC oil spill staff attend the San Francisco Bay/Delta Area Committee, regarding Federal Area Contingency Planning. BCDC is chair of the Volunteer Subcommittee. BCDC is also participating in the dispersants meetings and working with OSPR staff to try and use digital aerial photos in the response strategy sections of the Area Plan.

BCDC has been preparing a report that addresses issues such as: (1) the importance of navigation in the Bay Area and the hazards mariners face; (2) the vulnerability of Bay resources to spills; (3) navigational and spill risk issues that BCDC could address; (4) the legal and institutional framework, and (5) BCDC's role in navigational safety and oil spill prevention.

BCDC recently completed the *BCDC Oil Spill Permitting and Response Handbook* which sets forth an internal protocol for oil spill notification, details the oil spill response activities that are most likely to require BCDC authorization, addresses appropriate permitting options and special conditions for oil spill cleanup activities, and the roles and responsibilities of BCDC during a spill.

AB 715 adds BCDC to the State Interagency Oil Spill Committee (SIOSC) and to the SIOSC Review Subcommittee. The bill: a) Authorizes BCDC to provide assistance to the Administrator regarding prevention and response studies, b) requires that BCDC be consulted regarding the construction of certain oiled wildlife facilities, and c) provides that BCDC's authority regarding these issues is limited to BCDC's jurisdiction only, and is not statewide.

VII. FUTURE TECHNICAL ADVISORY COMMITTEE ISSUES

As stated previously, the Act established the Technical Advisory Committee (TAC) to provide a forum for public input and independent judgment of the actions of the Administrator and other California oil spill programs.

Although in the last year the OSPR Administrator and the Chairman of the TAC have taken steps to increase the TAC's engagement in issues, the TAC can and should take more responsibility for guiding the process and being part of the solution. This has been discussed with the Administrator and other representatives, and we will make efforts to implement increased communication in the future. As a group, the TAC intends to address the follow issues in the upcoming year:

- Procedurally, the TAC will identify specific goals for the year. A By-laws Subcommittee was established to formalize TAC operations and procedures. The TAC seeks earlier notice of issues to facilitate meaningful input and judgement. The TAC meets quarterly.
- More communication is needed with other TAC-like organizations, such as the regional Citizen Advisory Councils in Alaska, to increase information exchange.
- OSPR's implementation of AB 715 and the promulgation of regulations will be a main issue. The TAC should stay apprised of the plan holder and OSRO drill programs, including the shoreline protection program.
- The TAC is interested in reviewing the justification for increasing the Oil Spill Prevention and Administration Fund. OSPR has been tasked with duties relating to non-tank vessels, yet these entities are not assessed a fee for spill prevention and response, unlike tank vessels and marine facilities. Current funding mechanisms should be reviewed to determine needs, funding sources, and appropriate funding levels. These issues are currently being discussed concomitant to consideration of SB 849.
- The TAC requests a detailed discussion on tar ball spills. The TAC has requested information in 2001 on facility capabilities for vessels to discharge tank waste, and how that may relate to the "mystery" occurrence of winter tar ball incidents. We are looking forward to addressing this issue in 2002 and we plan to make this a high priority.
- The TAC has considered the use of dispersants and how the State is moving forward with approval of dispersant use. There is a concern that a mechanism needs to exist between the State and the Federal Trustee agencies, such as sanctuary managers, in the implementation of dispersal use policies. We will continue to look at this issue in 2002.

- The TAC is also interested in looking at the costs of cleaning up a spill. This assessment should include spills from tank vessels, non-tank vessels, facilities, and other covered parties. The TAC created a subcommittee to address spill costs.
- The TAC is concerned with crude oil lightering operations off of San Diego and will be monitoring operations and assessing means by which to reduce the threat of pollution.

VIII. CONCLUSION

The past year or so has been a time of change. The TAC has been rejuvenated with new Committee Members and a new Chairman. And after two years with two interim Administrators, the Governor has appointed a new Administrator to lead OSPR.

TAC meetings have been very fruitful this past year, and the increased communication with the various agencies is very encouraging. Several important issues have been identified by the TAC. The TAC looks forward to a greater involvement in working on these issues, and looks forward to the support from the agencies in working through these issues in the up coming year.

APPENDIX A

**California Government Code
[Selected Sections]**

§8670.54. 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 and the State Interagency Oil Spill Committee. The committee shall consist of nine members, of whom five shall be appointed by the Governor, two by the Speaker of the Assembly, and two by the Senate Rules Committee. The appointments shall be made in the following manner:

(1) The Speaker of the Assembly, and Senate Rules Committee shall each appoint members who shall be representatives 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 Rules Committee shall each appoint a member who has 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.

(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 chairman and vice chairman shall be elected by a majority vote of the committee.

§8670.55. Recommendations from committee; studies

(a) The committee shall provide recommendations to the administrator, the State Lands Commission, the California Coastal Commission, and the State Interagency Oil Spill Committee, on any provision of this chapter including the promulgation of all rules, regulations, guidelines, and policies.

(b) The committee may, at its own discretion, study, comment on, or evaluate, 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 8601.10 or any oil spills, if practicable.

(d) The committee shall report annually to the Governor and the Legislature on their evaluation of oil spill response and preparedness programs within the state annually and may prepare and send any additional reports they determine 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.

APPENDIX B

Members of the Oil Spill Technical Advisory Committee

TAC MEMBER	TAC ALTERNATE
<p>Ms. Joan Lundstrom Mayor of the City of Larkspur 48 Frances Avenue Larkspur, CA 94939 Work: (415) 461-4566 Fax: (415) 927-5098 Email: JLundstrom@Cl.Larkspur.CA.US Appointed by Governor Davis <i>Local Government Representative</i></p>	
<p>Ms. Carrie Bowen Chief, Central CA Environment Project Management Branch Dept. of Transportation 930 West Norwich Ave Fresno, CA 93705 Work: (559) 243-8150 Fax: (559) 243-8155 Email: CBOWEN@AOL.COM Appointed by the Speaker of the Assembly (Cruz M. Bustamente) <i>Environmental Protection Representative</i></p>	
<p>Mr. Marvin Braude University of California, Los Angeles Senior Fellows, UCLA School of Public Administration 801 Hanley Avenue Los Angeles, CA 90049 Work: (213) 740-1532 Fax: (310) 472-9966 Email: mbraude@aol.com Appointed by the Speaker of the Assembly (Antonio R. Villaraigosa) <i>Public Representative</i></p>	

TAC MEMBER	TAC ALTERNATE
<p>Mr. Matt Rezvani British Petroleum 333 South Hope Street Los Angeles, CA 90071 Work: (213) 486-0221 Fax: (213) 486-0191 Email: e-rezvams@BP.com Appointed by Governor Davis <i>Petroleum Industry Representative</i></p>	
<p>Mr. Tom Moore Recently Retired from Chevron 2613 Camino Ramon, 4th Floor San Ramon, CA 94583 <u>Mailing Address:</u> P.O. Box 6027 San Ramon, CA 94583-6027 Work: (415) 456-9838 / (415) 894-3232 / (925) 973-4101 Fax: (414) 460-0711. Email: tmoo@chevron.com Reappointed by Governor Davis <i>Marine Transportation Representative</i></p>	<p>Mr. W. C. (Bill) Rogers Chevron Shipping Company LLC 2613 Camino Ramon, 4th Floor San Ramon, CA 94583 <u>Mailing Address:</u> P.O. Box 6027 San Ramon, CA 94583-6027 Work: (925) 973-4227 Fax: (925) 973-4140 Email: wrog@chevron.com</p>
<p>Ms. Vicki Nichols Save Our Shores 2222 East Cliff Drive, No. 5A Santa Cruz, CA 95062 Work: (831) 421-0331 Fax: (831) 462-6070 vnichols@cruzio.com Appointed by Sen. John L. Burton, Senate Rules Committee <i>Environmental Protection Representative</i> and serves as the TAC Chairperson</p>	<p>Mr. Warner Chabot The Center for Marine Conservation 580 Market Street, Suite 550 San Francisco, California 94104 Work: (415) 391-6204 Fax: (415) 956-7441</p>
<p>Senator Thomas Rees Former California Senator 2165 Sunny Acres Drive Santa Cruz, CA 95060 Work: (831) 438-3020</p>	

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TAC MEMBER	TAC ALTERNATE
Fax: (831) 438-8896 E-mail: n/a Reappointed by Sen. John L. Burton, Senate Rules Committee <i>Public Representative</i>	
Mr. Stephen Ricks Clean Bay 2070 Commerce Avenue Concord, California 94520 Work: (925) 685-2800 Fax: (925) 825-2203 Email: cleanbay1@aol.com Reappointed by Governor Davis <i>Spill Response Representative</i>	
Dr. Jonna Mazet Wildlife Health Center School of Veterinary Medicine University of California One Shields Avenue Davis, CA 95616 Work: (530) 754-9035 Fax: (530) 752-3318 Email: jkmazet@ucdavis.edu Appointed by Governor Davis <i>State Government Representative</i>	