

May 4, 2007

Governor Arnold Schwarzenegger
Speaker Fabian Núñez
Members of the California State Legislature

**2005-2006 Biennial Report
Regarding California Oil Spill Response and Preparedness**

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act) established the Oil Spill Technical Advisory Committee (TAC). The TAC originally consisted of nine (9) members, five (5) of whom are appointed by the Governor, two (2) by the Speaker of the Assembly, and two (2) by the Senate Rules Committee. (*See*, Govt. Code §8670.54, *et seq.*). An additional member of the TAC was added pursuant to the enactment of Senate Bill 849 under Government Code 8670.54 (effective January 1, 2003) to represent the dry cargo vessel industry. This member is appointed by the Governor.

The TAC is mandated with providing public input and independent oversight of the actions of the Administrator of the Office of Spill Prevention and Response, and the State Interagency Oil Spill Committee (SIOSC). The TAC may also provide recommendations to the Administrator, the California State Lands Commission, the California Coastal Commission, the San Francisco Bay Conservation and Development 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 provide the Governor and the Legislature with a biennial report on their evaluation of marine oil spill response and preparedness programs within the State. This report covers calendar years 2005 and 2006. In addition, the TAC may also prepare and send to the Governor and the Legislature any additional reports it determines to be appropriate.

California continues to be a nationwide leader and model for oil spill prevention and response thanks in part to your support. On behalf of the TAC, we are proud to present this report for your consideration and we welcome any thoughts and comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Ricks", written over a horizontal line.

Stephen Ricks
Chair
California Oil Spill Technical Advisory Committee

**2005-2006
BIENNIAL REPORT**

**BY THE
CALIFORNIA OIL SPILL TECHNICAL ADVISORY COMMITTEE
TO THE
CALIFORNIA GOVERNOR AND THE LEGISLATURE**

**PURSUANT TO THE
LEMPERT-KEENE-SEASTRAND OIL SPILL PREVENTION AND RESPONSE ACT
GOVERNMENT CODE SECTION 8670.1, *ET SEQ.***

APRIL 2007

Executive Summary

The California Oil Spill Prevention and Response Technical Advisory Committee (TAC) presents this report as an opportunity to review the successes and challenges of the last two years and intends to work with the Governor and Legislature to implement needed changes that will continue to protect California's precious and irreplaceable natural resources. To this end, TAC commends the hard work of the dedicated personnel within the Office of Spill Prevention and Response (OSPR).

Government Code section 8670.55(b) charges the TAC with powers and responsibilities relevant to oil spill response in the State of California. The TAC has spent the last two years examining all aspects of OSPR in an attempt to identify and eliminate areas of weakness. Three issue areas rose to prominence as a result of this: the disappearance of funds from the Oil Spill Response Trust Fund, the redirection of a significant percentage of critical personnel from OSPR to the Department of Fish and Game, and the increasing threats posed by inland oil spills. The last issue area was highlighted in the Department of Finance's comprehensive January 2005 audit of the Office of Spill Prevention and Response, conducted in accordance with Government Code section 8670.42.

As this report highlights, OSPR is an extremely busy and productive State agency that in many ways serves as a national example of oil spill prevention and response. However, despite the potentially devastating impacts of oil spills and the need for a strong OSPR, the agency unfortunately has been the subject of bureaucratic cannibalism and hobbling from within the California State government. OSPR eventually recovered some of the funds that had been misappropriated by Department of Fish and Game, but only through the diligent oversight of the TAC, the cooperation of the Department of Fish and Game and the hard work of the OSPR financial analysts. Personnel redirection, including redirection of needed enforcement staff, continues to plague OSPR.

Inland oil spills have traditionally not been the purview of OSPR response and therefore do not have the funding mechanism that marine waters enjoy. It has become clear from the TAC perspective that this is a problem which needs our attention. Based on its authority in Government Code section 8670.55(b), the TAC intends to recommend that needed funds be used and legislative clarifications be developed to support a robust inland oil spill response and prevention program.

Within the purview of TAC comes the ability to recommend reports and tasks that will better enable OSPR to better prevent spills and serve the State in the event of any oil spill. The challenges facing OSPR will continue to be alleviated through TAC advice and intervention. In particular, the January 2005 Department of Finance audit recommended that the healthy balance of funds collected in the Oil Spill Prevention and Administration Fund (OSPAF) be spent in order to "provide opportunities for OSPR to strengthen its prevention, readiness, and response activities." In response, the TAC chose not to reduce per barrel oil fees funding the OSPAFA, and instead to pursue needed spending opportunities as recommended by the Department of Finance. The audit concluded that a stakeholder group should form to create a joint strategy for the use of the projected OSPAFA funds. The TAC will work in 2007-08 to develop and implement this strategy, to improve the state's ability to prevent and respond to oil spills even further.

Although significant advances in oil spill response have been made since the inception of OSPR, the TAC continues to challenge the status quo and improve OSPR as a result. TAC looks forward to the future of OSPR and welcomes any and all assistance from the Governor and Legislature.

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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 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.¹ The Administrator of the OSPR, and the California State Lands Commission (CSLC) are vested with the primary responsibility for implementing the Act.

B. Oil Spill Technical Advisory Committee (TAC)

One component of the Act was the creation of the TAC.² The TAC provides public input and independent judgment of the actions of the Administrator of OSPR and the State Interagency Oil Spill Committee (SIOSC). The TAC consists of ten (10) members, six (6) of whom are appointed by the Governor, two (2) by the Speaker of the Assembly, and two (2) by the Senate Rules Committee. The membership must have background in marine transportation, local government, oil spill response and prevention programs, the petroleum industry, State government, environmental protection and ecosystems, the dry cargo vessel industry, and represent the public. Pursuant to its by-laws, TAC members serve until they are either replaced by the appointing authority, a member resigns, or a member is asked for their resignation after a vote of at least two thirds of the appointed TAC members. *(See, Appendix B for current TAC member information.)* Future activities of the TAC are discussed at the end of this Report.

The TAC makes recommendations to the Administrator, the CSLC, the California Coastal Commission (CCC), the San Francisco Bay Conservation and Development Commission (BCDC), and the SIOSC 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 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 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.³ The TAC may also prepare and send any additional reports it determines to be appropriate to the Governor and the Legislature.

The TAC meets on a quarterly basis throughout the year. All TAC meetings are open to the public pursuant to the Bagley-Keene Open Meeting Act and portions of each meeting are devoted to public input on any issue affecting California's marine oil spill programs.

¹ See, Govt. Code §8670.2 for the specific findings.

² See, Govt. Code §§8670.54 through 8670.56.1.

³ The reporting frequency was annually from 1991-2002: it changed in 2003 to biennial. S.B. 849 (Torlakson)

II. TAC ISSUES AND ACCOMPLISHMENTS FOR CALENDAR YEARS 2005-2006

A. Department of Finance Audit of OSPR's Oil Spill Prevention and Administration Fund (OSPAF)

The TAC performed a detailed review of the "2005 Department of Finance's (DOF) Report on the Department of Fish and Game (DFG), Office of Spill Prevention and Response (OSPR), Review of Fiscal and Program Activities" completed pursuant to Government Code section 8670.42.

The TAC's excellent working relationship with OSPR and other state agencies that operate with support from the Oil Spill Prevention Administration Fund (OSPAF) allowed an informed evaluation of issues raised by the DOF audit, as well as access to appropriate individuals for further inquiries pertinent to the fiscal operations of the State's oil spill response agencies. The TAC was able to identify specific questions relating to revenues and operational expenditures, potentially unfulfilled mandates, and appropriateness of OSPAFA fees.

After investigation of the issues raised by the audit, the TAC identified for the Governor the following items for further action:

- Need for full disclosure on perceived inequities between indirect costs charged to the OSPAFA and those charged to other DFG funds.
- Development of a multi-agency strategy to prioritize program activities to be funded by a temporary OSPAFA surplus.
- Recommendation that the OPAFA-supported agencies be given appropriate spending authority, through the Department of Finance's Budget Change Proposal process, to fulfill their oil spill prevention mandates in order to avoid future OSPAFA surpluses.
- Proposal that if a surplus remains after the full mandates of the oil spill agencies are implemented, the Administrator of OSPR review the fee assessed on the oil industry to ensure that the level of assessment meets the needs of the program in accordance with Section 8670.40 of the Government Code that states; "The State Board of Equalization shall collect a fee in the amount determined by the administrator to be sufficient to carry out the purposes set forth in subdivision (e) [eligible programs], and a reasonable reserve for contingencies. The annual assessment may not exceed five cents (\$0.05) per barrel of crude oil or petroleum products."
- Reduction of small feepayer erroneous submissions through clarification of regulations.
- Development of an oil spill prevention and response technical task force to assist OSPR in creating an electronic system that will streamline spill data collection and analysis, as well as contingency plan development and submission.
- Need for an analysis of the current planning and response system for inland oil spills, as there is currently no single agency with Incident Command authority, dedicated funding, adequate staffing, or clear jurisdiction over the response and prevention activities needed to address inland spills.
- Identification of the inaccurate and inefficient system of reporting on OSPAFA and Oil Spill Response Trust Fund financial activity.

Subsequent to our review and investigation of the issues identified through the DOF audit, TAC has been tracking the implementation of new procedures to remedy the identified deficiencies.

B. Oil Spill Response Trust Fund (OSRTF or Fund 321) Discrepancy

In October 2005, TAC formed a subcommittee in response to a depletion of Fund 321.

The OSRTF was funded by twenty-five (\$.25) cents per barrel fee. The TAC was appropriately concerned with the depletion of Fund 321 as it was discovered that DFG had inappropriately appropriated 321 funds and without informing OSPR. Specifically, in June 2004, Fund 321 had an approximate balance of \$52 million. As of July 2005, the balance was approximately \$43 million. Transfers were made by DFG through Planned Financial Adjustments (PFA) to other unknown DFG funds. Various members of OSPR and the and a TAC subcommittee met with the Department to discuss the full return of funds and future information sharing regarding fund borrowing by Department of Fish and Game. Michele Owens, OSPR Financial Analyst, reconciled OSPR funds back to 2002/2003 and ensures that the Department has been informed about keeping OSPR in the loop regarding their accounting practices. At the November 2006 meeting, Ms. Owens reported that all payment issues have been resolved back to 2002/2003, and all monies have been paid back. At that same meeting, the new Administrative Officer for OSPR reported that he had been meeting with DFG accounting staff to ensure that proper procedures are being followed. Finally, at the direction of TAC members, OSPR continued to audit Fund 321 and update the TAC regarding the Fund status.

In the unfortunate circumstance of a major oil spill, a fully funded OSRTF will be priceless. It is of utmost importance for the Administrator to retain full control of Fund 321, and in addition, not to allow for its use by other State agencies. In times of fiscal difficulties, it is tempting to “borrow” from state funds that are not being currently used, however, it is the mandate of OSPR to remain ready to respond to any and all emergencies, and a healthy trust fund permits this to happen.

C. Personnel Redirection

In January of 2007, TAC was informed that the California Department of Fish and Game has redirected a number of positions within the enforcement, technology and legal sections of the Office of Spill Prevention of Response into the Department of Fish and Game. Specifically, 35 positions from Enforcement, ten positions from Legal, approximately ten positions from the IT Unit and two positions from the PIO unit. These positions are funded by the Oil Spill Prevention and Administration Fund, and the law is specific in use of the funds and the type of programs these funds can support. To ensure the integrity of the program the Legislature assigned the responsibility of the entire program to the Administrator.⁴ These responsibilities include the oversight of the positions that have instead been redirected to the Department of Fish and Game.

The TAC has been aware of these changes and has significant concerns with the redirection of these positions. The TAC believes the redirection of these positions have been inappropriate, and believes that these positions should be transferred back to OSPR and the Sections should report directly to the Administrator, as was intended by the law.⁵

Government Code Sections 8670.4 through 8670.14 clearly describes the duties of the Administrator of the Office of the Oil Spill Prevention and Response. In addition, sections 8670.38 through 8670.50 of the Government Code clearly explain the roles and responsibilities of the Administrator and the Administrator's oversight of the Oil Spill Prevention and Administration Fund; and the Uniform Oil Spill Response Trust Fund. The law is clear on the Administrator's fiduciary responsibilities. These responsibilities include the ability of the Administrator to assign resources when needed to provide for the “best achievable protection” of California “Marine Waters”, and the Administrator's responsibility to oversee the use of all the resources for legitimate programs specified under the Act. For that reason, the law holds the Administrator responsible for the fiduciary oversight of all the resources provided for under the Act.

⁴ See, Govt. Code §§8670.6

⁵ See, Govt. Code §§8670.7

TAC believes that redirection of these positions diminishes the ability of the Administrator to reasonably discharge and maintain his/her fiduciary responsibility and authority over resources that are not under her supervision, but paid for by OSPR funds.

Continued re-assigning of resources to other programs jeopardizes the integrity of the Office of Spill Prevention and Response. For these reasons the TAC is recommending that all positions be immediately transferred back into the direct purview of the Office of Spill Prevention and Response.

D. Physical Ocean Real Time System (PORTS)

The TAC has been following the reported benefits of Physical Ocean Real Time Systems (PORTS) to California's harbors. A decade ago, PORTS was established in San Francisco Bay, which is monitored by NOAA to provide real-time water, current and meteorological data to the maritime community. Accurate tidal and current information is essential to prevent vessel accidents that might result in oil spill pollution, which can damage significant natural resources. Published tide/current tables do not account for extreme storms, snow runoff or Microsystems within a harbor.

However, San Francisco PORTS almost shut down at the end of 2005, lacking a dedicated source of funds. TAC supported OSPR funding to keep the system from shutting down and to provide additional capitol costs for more effective senior placement. State legislation, which will be monitored by TAC, is currently proposed to fund PORTS in California's five commercial vessel harbors.

E. Inland Spills Program and Fund 207

The Department of Finance Audit showed that physical responses to inland spills exhibited a general downward trend from 200 in 1998 to 100 in 2004, which fluctuates between only two percent (2%) and four percent (4%) of spills. The inland telephone response rate is higher, but didn't approach even fifteen percent (15%) until 2003. The Audit concluded that "just as the American Trader spill garnered support for the Lempert-Keane Seastrand Oil Spill Prevention and Response Act, the Suisun Marsh [2004 diesel fuel] spill may be the catalyst for inland spill legislation that clearly delineates OSPR's role in future inland spills. The Marsh encompasses more than ten percent (10%) of California's remaining natural wetlands and serves as the resting and feeding ground for thousands of waterfowl migrating on the Pacific Flyway. In addition, Suisun Marsh supports 80% of the state's commercial salmon fishery by providing important tidal rearing areas for juvenile fish.

OSPR's inland role, as of the writing of this report, is established through an email directive from the DFG Director transferring authority for the program to OSPR, which was included in the DFG Department Operations Guide. There was no funding stream or agreement established to support these directives. There is currently no single agency with Incident Command authority, dedicated funding, adequate staffing, or clear jurisdiction over, the response and prevention activities needed to address inland spills." The Audit also reported that "[o]ne industry stakeholder . . . indicat[ed] that the oil industry wasn't concerned about OSPR using marine response funds to address inland spills."

The Department of Finance then specifically recommended that the Resources Agency promulgate inland oil spill legislation "clearly delineating OSPR's role in the prevention, response, and mitigation of inland spills." Finance also recommended that "[a] clear funding stream, legal authority, use of Incident Command, and related aspects should be identified." Currently, as the Audit notes, Fund 0207, the Fish and Wildlife Pollution Account (Fish and Game Code Section 12017), which is within the Fish and Game Preservation Fund, is the fund

used to reimburse or pay the cost of specified cleanup, removal, or abatement actions under specified conditions. Fund 207 only receives monies from costs recovered from cleanup, removal, or abatement actions, from penalties collected by prosecutors, or by settlements, which makes its revenue flow unpredictable and generally far below what is needed for adequate responses to spills.

In February 2006, the TAC received a briefing from Captain Paul Hamilton on the Inland Pollution Program and the financial crisis in the 207 Fund. He indicated that the future vision for Inland Pollution Program is to create Statewide Pollution Units (active and reactive), improve spill prevention program coordination with allied agencies (e.g., pipelines and railroads), improve symbiotic relationship with laboratories, investigate all pollution incidents impacting state waters, improve response skills on inland oil and hazardous materials incidents, continue focus on cost recovery, fines, penalties, and NRDA with legislative support (stalled admin program), develop strong working relationships with the district wardens and marine OSPR units, partner with regions to change culture to "our role as Fish & Wildlife trustee," and finally, obtain a permanent funding base.

In April 2006, the TAC was informed that there was an effort to obtain permanent funding through legislation and a request to move the funding source to an OSPR funding source, to minimize the drain on the Inland Program's funding base. In July, Ms. Curtis and Mr. Leland presented an Inland Spill Concept Paper to the TAC, which was followed up on in the November 2006 meeting, at which time potential short-term solutions were discussed (such as more effort on collecting penalties and improving cleanup and abatement authority).

F. Additional Issues

In addition to the above issues, the TAC spent time and energy on other items of statewide significance. During calendar years 2005-2006, TAC was briefed and advised on MOTEMS, OSPR's Liquefied Natural Gas (LNG) authority, an inland spills program, and the creation of an OSPR spill database.

Finally, since a tenth position was legislatively added to the TAC, the TAC currently has two (2) vacant positions. The TAC looks forward to future appointments and a full complement to best represent the community in all facets of oil spill prevention and response.

III. FUTURE TAC ISSUES

As a group, the TAC intends to address the following issues during the 2007/2008 period:

1. Continued Implementation of DOF Audit Recommendation and Findings;
2. Development of Inland Spills Program;
3. Continued Monitoring and Update on Oil Spill Programs Including the Emerging Issue of Biofuels;
4. Monitoring the Spill Database;
5. Monitor MOTEMS Audits and Resulting Terminal Upgrades;
6. Remedy Staff Redirection Issues;
7. OSPR Strategic Plan;
8. OSPR Budget; and
9. PORTS Statewide Implementation.

IV. OFFICE OF SPILL PREVENTION AND RESPONSE

Governor Arnold Schwarzenegger appointed Ms. Lisa Curtis as the Administrator of the Office of Spill Prevention and Response (OSPR) on July 10, 2006. Prior to Ms. Curtis' appointment as Administrator, she was appointed as Deputy Administrator on November 9, 2004 and served as "Acting" Administrator from September 22, 2005 until her appointment as Administrator.

A. Roles and Responsibilities

The Act establishes an Administrator responsible for the prevention of and response to oil spills in California marine waters.⁶ The Administrator is in charge of 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 also chairs SIOSC and is responsible for keeping the twenty (20) SIOSC agencies informed of relevant issues. Additionally, the Administrator is also a Chief Deputy Director of the Department of Fish and Game (DFG), and in this capacity, the Administrator carries out the DFG public trustee responsibility for protecting California wildlife and habitat from marine oil spills.

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 achievable protection.

Although OSPR is the lead State agency for marine oil spill prevention and response, under the Act the CSLC is mandated with establishing a comprehensive pollution prevention program for marine terminals and offshore oil production facilities located in State waters.

B. Marine Safety

(1) Contingency Plans

OSPR requires all marine facilities, tank vessels and non-tank vessels to prepare marine oil spill response contingency plans. The contingency plans must address the prevention of and response to oil spills through specific risk assessments for each facility or vessel.

Over 7,426 vessels are covered by these contingency plans. OSPR's contingency plan requirements cover 125 marine facilities, detailed as follows:

Marine Terminals = 49
Marine Facilities = 14
Leased = 6
Marine Transfer Unit = 5
Offshore = 2
Pipelines = 18
Small Marine Fueling Facility = 21
Platform = 3
OSRO = 7

⁶ See, Govt. Code §§8670.1 *et seq.*; and specifically §§8670.4 through 8670.9

(2) Oil Spill Response Organizations – Evaluations

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 originally 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.

In 2002, OSPR was given the authority to establish and test defined performance standards for OSRO and issue Ratings, OSPR promulgated regulations to implement this authority.⁷

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.

A first-time applicant is required to agree to an unannounced drill, as a means of verifying the information in their application.

(3) 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 OSROs upon which they rely. Also, vessels and facilities (Plan holders) are required to exercise their oil spill contingency plans entirely once every three (3) 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.

Plan Holder Unannounced Drills

The OSPR Readiness Unit will assess, based on a certain criteria, which vessels, facilities, etc. will warrant conducting an unannounced drill. The Plan Holder Objective and Guidelines document is posted on OSPR's website at <http://www.dfg.ca.gov/ospr/organizational/msb/readiness/unannounced.pdf>.

In analyzing the data between the time period of the previous TAC Report (calendar years 2003-2004) and this TAC report (calendar years 2005-2006), the industry has made significant improvements to ensure increased compliance during unannounced drills. In this time period, OSPR conducted sixty-three (63) non-tank vessel, twenty-six (26) tank vessel, twenty-five (25) facility, two (2) Small Marine Fueling Facility and eleven (11) equipment deployment unannounced drills. The results are as follows:

Unannounced Drill Type	Credit		Non-Credit		Total	
	2005	2006	2005	2006	2005	2006
Non-Tank Vessels	33	20	6	4	39	24
Tank Vessels	12	7	4	3	16	10
Marine Transfer Units	0	0	0	0	0	0
Facilities	12	2	6	1	18	7
Small Marine Fueling Facilities	1	0	1	0	2	0

⁷ Govt. Code § 8670.30; CCR, Title 14, §§819.01-819.07

Unannounced Drill Type	Credit		Non-Credit		Total	
	2005	2006	2005	2006	2005	2006
Equipment Deployment	4	3	4	0	8	3
Total	62	32	21	8	83	44

OSRO Rating Drills

An OSRO shall be subject to one (1) unannounced drill per year in each Area Contingency Plan region in which a Rating has been issued to the OSRO. These rating drills may be held in conjunction with plan holder notification/equipment deployment unannounced drills.

On December 31, 2005, six (6) OSRO ratings expired. Of these six (6), four (4) re-applied and were granted ratings and two (2) did not re-apply. Additionally, Clean Harbors applied for an OSRO rating in 2006, but was denied. Here is a summary of the rated OSROs:

Rated Oil Spill Response Organizations	General Capabilities (Caps)/Services
Advanced Cleanup Technologies, Inc Ruben Garcia (310) 763-1423	Med spills in S. California Shoreline protection limited to specific plan holders in San Diego
Ancon Marine Services Don Couch (310)952-8140	Small spills in S. California Two hour containment (2,500 ft. of boom –only
Cal Bay Industrial Services Mike Johnson (707) 649-1660	Immediate booming in SF Bay area only. <i>[In-effect in this time period from 1/1/05-12/31/05 only]</i>
Clean Seas Ike Ikerd (805) 684-3838	Large oil spill in Los Angeles/Long Beach north area only Rated to Caps - All services
Marine Express Randy Esch (510) 523-8900	Immediate booming in SF Bay area only
Marine Spill Response Corporation (MSRC) Steve Ricks (925) 685-2800	Large spills in California Rated to Caps - All services
National Response Corporation (NRC) Todd Roloff (510) 749-4121	Large spills in California Rated to Caps - All services
Patriot Environmental Services Walt Dorn (562) 436-2614	Small spills in Los Angeles/Long Beach south area only Services limited.
So Cal Ships Services Mark Wrobel (310) 613-2566	Large spills in S. California Rated to Caps – All services
Trac-Tide Marine Corp Jon BelChere (805) 984-8062	Small spills in Port Hueneme Rated to 3125bbbls – no shoreline protection <i>[In-effect in this time period from 1/1/05-12/31/05 only]</i>
Onyx Special Services, Inc. Chad Kramer (206) 512-8028	Small spills at BP Carson refinery only. No shoreline protection.

C. Scientific

(1) Sensitive Site Strategy Evaluation Program (SSSEP)

The evaluation of sensitive site protection strategies is an elementary building block of OSPR's response resource assessment program. The SSSEP enables OSPR to conduct strategy deployment exercises that test the site-specific response strategies ability to protect sensitive sites. The exercises validate protection strategies and improve on them where

necessary. Two (2) OSROs (MSRC and NRC) voluntarily work with OSPR to validate and test existing strategies. OSROs and contingency plan holders receive credit under the Drills and Exercise Program for participation in the SSEP.

The SSSEP is in its third year of operation. The program has been focused on testing strategies in San Francisco Bay. During the first two (2) years, nineteen (19) response strategies were tested. In calendar years 2005-2006, an additional eight (8) strategies were tested in the Bay together with the strategy for the mouth of the Eel River south of Eureka. Among the Bay strategies tested in calendar years 2005-2006, two (2) were new sites located at the Hayward and Cargill marshes. No major modifications were made to the strategies tested in calendar years 2005-2006.

Beginning in late 2004, OSPR initiated an evaluation of the SSSEP to determine if sensitive site strategies outside of San Francisco Bay would benefit from an evaluation/validation program. The review completed in early 2005, found that many areas of the California coast have strategies that have already been tested or are restrictive in regard to sensitive species regulations. The review found that San Diego, Los Angeles, Monterey, and the north coast have sites that would benefit from the SSSEP. Testing of the identified Los Angeles regional sites will begin in the summer of 2007.

(2) Natural Resource Damage Assessment

OSPR's Natural Resource Damage Assessment (NRDA) Unit was established to ensure that natural resources injured by releases of oil into marine waters are appropriately and fully restored. These activities are required by the Act (see, Govt. Code §§ 8670.7(h) & 8670.61.5) as well as the Federal Oil Pollution Act. The Unit also conducts "non-marine oil spill" NRDAs pursuant to the Department of Fish and Game's natural resource trustee authority. Such cases include incidents involving inland oil spills, stream sedimentation, acid mine drainage, wastewater releases, and any other type of pollution event impacting waters of the State. The NRDA and restoration process of OSPR consists of: 1) assessing natural resource injuries resulting from a spill and quantifying the monetary damages that the responsible party must contribute to a restoration project(s); 2) obtaining a settlement with the responsible party; and 3) using the compensatory dollars for restoring the injured resources. This process is often conducted in cooperation with State and Federal co-trustee agencies, which collectively form Trustee Councils responsible for restoration after cases are settled. During this reporting period, one (1) large oil spill case (M/V Stuyvesant/Humboldt Bay) was settled for approximately \$7.7 million in damages. Additionally, seven (7) inland NRDA cases were settled for a total of approximately \$190,245. Settlement efforts are ongoing for four (4) marine and 23 inland cases. Over sixty-five (65) NRDA restoration projects, including habitat acquisition, wetland restoration and wildlife enhancement, continued through calendar years 2005-2006 associated with a number of oil spill Trustee Councils.

(3) Scientific Study and Evaluation Program (SSEP)

The SSEP is mandated by the Act (see, Govt. Code §8670.12) and provides funds to investigate and evaluate new oil spill response and cleanup methods, adverse ecological effects of oil spills, and natural resource damage assessment tools. Under current SSEP guidelines, project proposals are sponsored by OSPR technical staff to address specific oil spill-related needs, and often involve collaborators from the research community, private companies or other government agencies. Products of the SSEP will support OSPR's ongoing mission to conduct best achievable cleanups, minimize environmental impacts, and fully restore fish, wildlife and their habitats. In 2005 and 2006, nineteen (19) SSEP projects were funded for a total dollar commitment of approximately \$770,000.

(4) Applied Response Technologies

The Administrator is required to conduct studies on the use and effects of dispersants, incineration, bioremediation, and any other methods used to respond to an oil spill.⁸

There is a dispersant use decision-making process. The Regional Response Team (RRT), working through the six (6) California Area Committees, adopted a new Draft Dispersant Use Plan (Plan) for Federal waters off the coast of California (those waters more than three miles offshore) in January 2005. The Plan identifies all Federal waters outside of National Marine Sanctuaries and three (3) miles of the California/Oregon and California/Mexico borders as pre-approved by the RRT for dispersant use. Dispersant use in all Federal waters within the National Marine Sanctuaries within State waters, and within three (3) miles of the California/Oregon and California/Mexico borders, will still require RRT approval at the time of a spill. The Plan was used extensively during the Spill of National Significance (SONS) exercise and modifications are being made addressing the needs identified. Once modifications are completed and the Plan is finalized, the RRT will publish its findings in the Federal Register. Two (2) scientific papers detailing the development of the California Dispersant Use were presented at the 2006 International Oil Spill Conference.

The Plan has also been used extensively at OSPR internal and external drills and exercises including the NOAA sponsored Safe Seas Exercise in 2006.

Regarding dispersant research, OSPR has funded several studies evaluating the effects of dispersants, as detailed below. Supplemental funds were provided by the Coastal Research and Response Center. All of this research has or will be presented at national and internal scientific conferences and published in peer-reviewed scientific journals.

- *Tracking, Trajectory, and Sampling Dispersed Oil and Its Effect in the Sea:* The purpose of this study is to determine oil dispersant efficiency and environmental impacts. Research will evaluate the dispersal of simulated oil plumes (in space and time) using a non-toxic dye, in lieu of oil, to evaluate the environmental trade-offs when making decisions whether or not to use dispersants in a spill.
- *Monitoring Dispersant Applications:* The objective of this work is to develop an approach to monitor and evaluate impacts to aquatic organisms after a spill where dispersants are used or contemplated.
- *Acute & Chronic Effects of Crude vs. Dispersed Oil on Pre-smolt Salmon:* To evaluate the health effects of chemically and physically dispersed oil on pre-smolt salmon, laboratory toxicity testing will be conducted on pre-smolt salmon using various concentrations of dispersed crude. This project will be conducted in two (2) phases.
- *Net Environmentat Benefit Analyses:* A workshop consisting of two (2) three-day workshops was conducted in 2006 as part of the MEXUS Pact with participants from several State and Federal agencies, the Mexican Navy, and Mexican scientists and consultants. The results were published in a report are available on compact disc.

Finally, a staff member of OSPR was appointed to a National Academy of Sciences panel evaluating dispersants. Specifically, the panel was tasked with reviewing and evaluating the existing and ongoing research, and to make recommendations on the information needed to support risk-based decision-making. The report "Dispersed Oil: Efficacy and Effects" was released in 2005.

⁸ Govt. Code §8670.12

Regarding in-situ burns, the Administrator developed a decision-making document for the use of in-situ burning to address oil spills within marine waters of the State.⁹ This document was finalized in 1998 and identified the case-by-case process for the use of in-situ burning. This document has been incorporated and updated in the State Oil Spill Response Plan, the Federal Regional Contingency Plans, as well as in the Federal Area Plans.

(5) Oiled Wildlife Care Network (OWCN)

The Act required the Administrator to establish rescue and rehabilitation stations for seabirds, sea otters and other marine mammals. The OWCN, a statewide collective of wildlife care providers and regional facilities interested in working with oil-affected wildlife, was established by OSPR in 1994. Its mission is to strive to ensure that wildlife exposed to petroleum products in the environment receive the best achievable treatment by providing access to permanent wildlife rehabilitation facilities and trained personnel that are maintained in a constant state of preparedness for oil spill response within California. The OWCN is currently funded by interest generated by the Oil Spill Response Trust Fund and, through an MOU with the Administrator, is administered by the Wildlife Health Center at the School of Veterinary Medicine at the University of California, Davis.

Through focused research and development of animal care protocols, the OWCN has streamlined the response to oil spills and greatly increased the chances of survival for oiled wildlife. During response, the OWCN receives assistance from its 25 participating organizations and uses one or more of 12 regional facilities either built specifically for, or modified to accommodate, oiled wildlife. When not in use for emergency oil spill response, these facilities operate additional year-round programs that benefit and educate the community through working with the local participating organizations. The facilities are maintained in a constant state of preparedness, are stocked with emergency equipment and supplies, and are staffed by local volunteers specifically trained in the care of oiled birds and marine mammals. In addition to establishing oiled wildlife care stations, the Act mandates both applied and basic research into the effects of oil on wildlife and technology development for optimizing treatment of oiled wildlife. In 1995, research and technology development was added to the tasks to be accomplished by the OWCN. Since 1996, more than 70 research projects funded by the competitive grants program have increased the knowledge of the consequences of oil exposure to wildlife and improved the quality of response technology for oil spills in California and globally.

D. Monitoring, Inspections, and Enforcement

OSPR received 14,705 incident reports from the Office of Emergency Services (OES) for this reporting period. In addition to petroleum-based spills, the OES reports spills of drug lab waste, unknown substances (with no water involved), train derailments, train v. vehicle/pedestrian, etc. There were 7,299 petroleum spills, 1,290 chemical spills, 972 railroad incidents, 2,502 sewage spills, 1,243 vapor incidents, 831 "Other" substance reports, 568 "Unspecified" substance incidents, and various other (biomedical, radiological, etc.) substance reports for this reporting period. While most of the spill reports are for very small spills, the OES notice allows for rapid response to major spill incidents. The following table shows 2005 and 2006 spill data by category:

Incident Type	2005	2006	Total
Petroleum	3,690	3,609	7,299
Chemical	674	616	1,290
Railroad	471	501	972
Sewage	1,215	1,287	2,502

⁹ Govt. Code §8670.7(g)

Incident Type	2005	2006	Total
Vapor	622	621	1,243
"Other"	417	414	831
Unspecified	228	340	568
Total	7,317	7,388	14,705

OSPR Enforcement Branch primarily consists of Department of Fish and Game wardens, who are peace officers. Other specialized staff (including Oil Spill Prevention Specialists, Water Quality Biologists, and Environmental Scientists) makeup OSPR's first responder team and respond to spills as necessary.

OSPR Marine Safety Branch staff monitored 172 oil transfer operations in calendar year 2005 and 74 in 2006.

During this reporting period, OSPR completed thirteen (13) marine spill settlements totaling \$1,757,589.27 (costs, penalties, and damages). This does not include settlement for damages for the Stuyvesant case. In addition, OSPR completed two (2) marine spill Administrative Civil Penalty settlements totaling \$11,288.65 (costs and penalties), ninety (90) marine transfer violation Administrative Civil Penalty claims totaling \$76,505 (penalties) and thirteen (13) tug escort violation Administrative Civil Penalty claims totaling \$76,692.72 (penalties and costs).

E. Financial Responsibility

Certain vessels and facilities are required to demonstrate that they have the financial ability to pay for oil spills in marine waters. OSPR will issue a Certificate of Financial Responsibility (COFR) once sufficient insurance coverage or other assets are provided.

Type		2005	2006
Tank	New	446	426
	Renewals	628	705
Total Tank		1,074	1,131
Non-Tank	New	894	853
	Renewals	1,072	1148
	Owner/Operator Change	119	68
Total Non-Tank		2,085	2,069
Facilities	Applicant	103	105
Total Facilities		103	105
Miscellaneous	MTU	478	611
	Marine Refueling Docks	2	10
	Marine Terminals	8	40
	Offshore Platforms	2	5
	Pipelines	130	224
	Others	5	37
Total Miscellaneous		625	927
Grand Total		3,887	4,232

F. Specific Issues from Calendar Years 2005-2006

(1) Plan Holder Announced Drills

In response to the findings of a report issued by the Department of Finance, OSPR's Drills and Exercises Redesign Team proposed the creation of a new Drills and Exercises Unit within OSPR's Executive Branch. On May 1, 2006, two (2) staff members were transferred from the Marine Safety Branch to the Executive Branch in a move to initiate the new Unit. The purpose of the Unit is to improve OSPR's overall effectiveness in planning, attending, evaluating, and implementing lessons learned on all exercises and drills conducted by contingency plan holders. Specific goals include increasing drill attendance to fifty percent (50%) of the required spill management team exercises and twenty percent (20%) of the equipment deployment drills. Unit staff will evaluate each facility plan holder approximately once a year and each vessel plan holder once every three (3) years, on a continuing basis.

Milestones accomplished during 2006:

- Drills and Exercises Unit Budget change proposal for a total of seven (7) members completed;
- Project management timeline for establishing the Unit created;
- Regulatory changes proposed, effective date May 1, 2007;
- Draft Unit procedures and protocols completed;
- Drill and Exercise database requirements drafted;
- Continued planning and designing of major plan holder drills; and
- In coordination with the Legal Unit, drill non-compliance letters requesting information for drill/exercise credits, and compliance were sent to:
 - 20 tank vessel owner/operators
 - 55 non-tank vessel owner/operators
 - 31 facility owner/operators

G. Regulations

(1) 2005 Calendar Year

Non-Tank Vessel Contingency Plans Regulations (non-substantive amendments)

The regulatory amendments implement the provisions of SB 1742 (Chapter 796, Statutes of 2004) which, among other things, removed reference to allowing "...evidence of a contract with The Pacific Merchant Shipping Association, a nonprofit corporation, or other nonprofit maritime association, to provide a statewide oil spill response plan..." The Non-tank Vessel Contingency Plan regulations were amended to remove references to "nonprofit maritime associations" and "Maritime Association Response Plan" (MARF, which is the statewide oil spill response plan that was offered by the Pacific Merchant Shipping Association).

Because the statutory authority for these plans was removed, the regulation amendments were considered "non-substantive" and were completed through an expedited process. The changes were approved by OAL and went into effect on March 30, 2005.

Tank Vessel Escort Program for Los Angeles/Long Beach Harbor (amendments)

The regulatory amendments allow up to a one-year extension, for showing of good cause, to the date of the recertification of the tug's bollard pull. The only location in the Los Angeles/Long Beach area that allows the bollard pull test to be conducted closed at the end of

March 2005. A one-year extension should be adequate to give the tug industry enough time to deal with the practical difficulties of complying with the requirement for a bollard-pull retest, including finding a new site to conduct the test.

The Notice of Proposed Rulemaking was mailed in February 2005, with the end of the public comment period on April 11, 2005. OAL approved the amendments and they went into effect on April 25, 2005.

Escort Tug Regulations for San Diego Harbor (amendments)

The regulatory amendments to the Escort Tug regulations for San Diego Harbor made non-regulatory clarifying changes, removed old date references, reiterated compliance with the International Convention of Standards of Training, Certification, and Watchkeeping for Seafarers requirements in territorial waters, and allowed a building certificate to be used to document the tug vessel's bollard pull.

The Notice of Proposed Rulemaking was mailed in December 2004, with the end of the public comment period on January 31, 2005. OAL approved the amendments and they went into effect on April 29, 2005.

(2) 2006 Calendar Year

Certificates of Financial Responsibility (COFR) Regulations (amendments)

The amendments made minor, clarifying changes to the COFR regulation language. Also the Applications were amended by specifying an unacceptable type of e-mail file transmission, by adding more options for submitting the COFR application and fee, and by making the format of all the applications consistent. The California Endorsements have also been amended so that the forms now include all damages that are to be covered by the owner/operator's insurance, and lists which defenses are allowed and prohibited.

The Notice of Proposed Rulemaking was mailed in December 2005, with the end of the comment period on January 31, 2006. The regulation amendments were approved and became effective in May 2006.

Bollard Pull Recertification for Escort Tugs

The regulations for all escort tugs throughout the State have been amended to allow compliance with a new Escort Tug Inspection Program in lieu of recertification of the escort tug's bollard pull (i.e., breaking force). In addition to inspections, the Escort Tug Inspection Program includes audits of maintenance documentation, surveyor's reports, and other records. An initial bollard pull certificate will still be required before a tug can enter escort service.

The Notice of Proposed Rulemaking was mailed in May 2006, with the end of the comment period on June 22, 2006. The regulation amendments were approved and went into effect in October 2006.

(3) Future Regulation Amendments

Proposed Amendments to the Contingency Plan Regulations

Work has been ongoing on a major review and proposed amendments to the contingency plan regulations. The significant changes include the addition of tables outlining

Shoreline Protection requirements to replace the required Navigational Hazard Analysis and accompanying oil spill trajectories. Other changes, primarily clarifying in nature, have also been proposed.

Workshops were held in July and December 2005. The formal rulemaking process began in the fall of 2006.

Proposed Amendments to Implement Automated Contingency Plan Submission

A Contingency plan application was developed for use by OSPR's Marine Safety Branch (MSB) to track vessel and facility contingency plans. This system collects data pertinent to the review, approval and status of oil spill contingency plans submitted to OSPR.

This database system is currently being redeveloped into an integrated enterprise database system that will contain more comprehensive data. The new system will be the consolidation of the Certificate of Financial Responsibility (COFR) information system, the oil spill contingency plan (C-Plan) system and the drills and exercises (D&E) program system designed to track and evaluate drills required by contingency planning regulations, as well as, grant credits to contingency plan holders.

Work on the project was initiated in February 2007 with the upsizing of the COFR information system to Sequel Server, the enterprise database platform selected by OSPR. The integration of C-Plan and D&E data will continue throughout 2007 and into early 2008. When the new system is tested, deployed and complete, it will be ready for the Web enablement process to begin, allowing greater accessibility and visibility to the data. Regulation amendments will be drafted and processed concurrently with the Web enablement process, to allow Internet-based submission of the C-Plans.

H. Legislation

The following is a summary of some 2005 and 2006 California legislation relevant to marine water pollution and the jurisdiction of TAC.

(1) 2005 Calendar Year

AB 752 (Karnette) - Chaptered

Non-tank vessels have been required to provide to the Administrator evidence of financial responsibility that demonstrates, to the Administrator's satisfaction, the ability to pay at least \$300,000,000 to cover damages caused by a marine oil spill. The Administrator had authority to reduce the required amount of financial responsibility for certain vessels, however, this authority was scheduled to sunset.

AB 752 removed the sunset clause and thus extends indefinitely the authority of the Administrator to establish a lower standard of financial responsibility for the specified non-tank vessels. Had the sunset provision remained in law, the requirement of every non-tank vessel regardless of capacity or risk to obtain and demonstrate the same high level of financial responsibility would produce a patently unfair burden on smaller or less risk-posing non-tank vessels.

SB 771 (Simitian) - Chaptered

The provisions of this bill relevant to marine water pollution regulate the release of gray water, sewage, sewage sludge, oily bilge water, hazardous waste, or other waste by cruise ships and other "oceangoing ships" into the marine waters of the state and marine sanctuaries. The bill requires the master, owner, operator, agent, or person in charge of a cruise ship or oceangoing ship operated in marine waters during 2006 to provide certain information relating to ports of call and sewage, gray water, and black water discharge, in electronic or written form to the State Lands Commission upon the vessel's departure from its first port or place of call in California beginning in 2006. The State Lands Commission must then submit the reported information to the State Water Resources Control Board on or before February 1, 2007. The State Water Resources Control Board must then submit the reported information to the Legislature on or before October 1, 2007.

SB 796 (Figueroa) – Chaptered

Among other things, this bill requires, until January 1, 2012, that applicable bulletins and notices of public meetings and agendas required pursuant to the Bagley-Keene Open Meeting Act to be posted on the internet no later than January 1, 2007. The bill would require, to the extent practicable, that hearings on proposed regulations be televised over the Internet via a Web cast or other technology.

This applies to TAC, as a public body. TAC will monitor this bill as it applies to the websites of the State relevant agencies.

(2) 2006 Calendar Year

AB 2274 (Karnette) – Chaptered

This bill requires any local, regional, or statewide agency responsible for emergency preparation and response activity to work with all harbor agencies within its jurisdiction to ensure integration of the harbor agencies' emergency preparation, response, and evacuation procedures with the agency's activities and plans for response to conditions constituting a local or state emergency.

SB 497 (Simitian) – Chaptered

Regarding marine invasive species, vessels carrying or capable of carrying ballast water, must take specified actions to minimize the uptake and release of non-indigenous species. The State Lands Commission, on or before January 31, 2006, was to submit to the Legislature and make available to the public, a report that recommends specific performance standards for the discharge of ballast water into the waters of the state. This bill further requires the State Lands Commission, on or before January 1, 2008, to adopt regulations that require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to implement certain interim and final performance standards for the discharge of ballast water. Among other provisions, the Commission must also disseminate to the Legislature and the public information on the efficacy, availability, and environmental impacts of currently available and experimental technologies for ballast water treatment systems.

AB 1940 (Koretz) – Expired in Senate Committee

This bill would have required the Coastal Commission to convene a multi-agency task force for the purpose of implementing a statewide marine debris reduction effort.

V. CALIFORNIA STATE LANDS COMMISSION (CSLC)

A. Roles and Responsibilities

The Act, as it relates to the CSLC, is codified in the Public Resources Code.¹⁰ The CSLC 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 CSLC and all other marine facilities on lands under lease from the CSLC to minimize the possibilities of a discharge of oil. The CSLC is mandated to ensure that all operators of marine terminals within the state and marine facilities under the CSLC 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 CSLC include all offshore state oil and gas leases, and the associated onshore processing facilities.

B. Marine Facilities Division (MFD)

(1) Operations Manuals

The CSLC 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. These manuals are reviewed and approved by the CSLC.

(2) Inspections

The CSLC performs inspections at marine facilities, and regulates and inspects marine terminals. There are currently 67 marine terminals in the State at which a reported 871,287,041 barrels of petroleum was transferred in 2006. This includes sixty (52) fixed commercial terminals, five (5) terminals operated by the Department of Defense and U. S. Navy, and ten (10) mobile marine terminal operators. In 2006, inspectors monitored more than 3,300 marine oil terminal transfer operations statewide and conducted 137 inspections. In addition, CLSC staff inspected 53 marine facilities.

(3) Security

The CSLC is the only state agency with direct regulatory authority for security in California's seaports. Under this authority, and working in conjunction with the U.S. Coast Guard Captains of the port, the CSLC adopted emergency regulations governing physical security at marine terminals. The emergency regulations, which established a minimum level of physical security of these terminals, became effective on March 7, 2002. The emergency regulations were extended for a further period of 120 days while CSLC staff worked on permanent comprehensive security regulations that would provide a higher degree of protection against terrorist activity. The permanent security regulations became effective on February 24, 2003. All marine terminals have completed and have had their required security plans approved by CSLC. The CSLC continuously monitors physical security conditions at marine oil terminals and performs annual inspections to ensure physical security arrangements are meeting the goals of the regulations. The CSLC continues to work closely with the U.S. Coast Guard to ensure the security of our marine oil terminals. MFD staff members serve as members of all of

¹⁰ See, Public Resources Code §§8750-8760

the Area Maritime Security Committees established by the U.S. Coast Guard Captains of the Port of California.

(4) Engineering

The Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) is now Chapter 31F of the 2001 California Building Code, (2001 Title 24, Part 2), and became enforceable on February 6, 2006. Initial audits are due in August 2008 for "high risk" terminals.

The audit includes an evaluation of the structure, subject to seismic, mooring/berthing loads, mooring/berthing analyses for the largest vessel calling at the facility, an evaluation of the geotechnical characteristics of the terminal, including liquefaction, and an assessment of piping, fire detection/suppression and mechanical/electrical systems. We are already entered into discussions with a few terminals that have done some preliminary audit work, and have found they do not meet the MOTEMS standards. Upgrades and rehabilitation are already being planned. And we have informed operators that there may not be any benefit to perform an analysis or assessment on an existing structure/component if the operator already knows that the structure or component is seriously deficient. And as the MOTEMS requires, if serious deficiencies are found, the operator must submit a rehabilitation plan and schedule, mutually agreeable to MFD and the operator.

The Liquefied Natural Gas Engineering and Maintenance Standards (LNGTEMS) project is moving forward. We have almost completed an initial draft of the offshore platform re-use as an LNG reprocessing facility. We are working with our consultant and their sub-contractors on the other critical areas of this project that are in many ways parallel to the MOTEMS effort. We expect an initial draft to be ready for a workshop/review by mid-2008.

Pipeline testing at marine oil terminals is being more closely monitored. We have published a procedure, and have available a spreadsheet to assist the operator/consultant in the execution and resulting calculations for static liquid pressure testing. More companies are starting to use the procedure, and it appears that compliance and successful testing is moving in the right direction.

In terms of continuing research projects, we have completed our passing vessel study with Professor David Kriebel at the U.S. Naval Academy. This effort was very timely, as it has become a controlling issue for one operator in the Port of Los Angeles. We used this methodology to check the operator's consultant and found the work deficient. Another study is currently in progress, to develop a simplified methodology to evaluate the structural capacity of pier/wharf pile supported structures. Professor Rakesh Goel at the California State Polytechnic University, San Luis Obispo is performing this work. We expect it to be completed by the first quarter of 2008.

(5) Human Factors

A 2006 review of transfer related incidents revealed that 16.8% of factors contributing to spill incidents are linked to preparations for transfer activity (pre-arrival information exchanges and pre-transfer conferences). These preparatory activities are not emphasized in current monitoring program practice. Most factors identified as contributing to spills (68.9%) were associated with practices and conditions established well prior to a spill event. As a result, the human and organizational factors section is exploring ways of encouraging more timely risk identification and assessment among transfer operators.

(6) Liquefied Natural Gas

As previously noted, there are several proposed LNG projects both onshore and offshore. CSLC staff has determined that LNG facilities fall under the definition of "oil" under the

provisions of the Public Resources Code. As such, the Marine Facilities Division is working to develop a regulatory model for LNG facilities. Operations standards will be developed as well as the previously discussed LNG Terminal Engineering and Maintenance Standards.

C. Mineral Resources Management Division (MRMD) - Offshore Operations

(1) Operations Manuals

The CSLC requires offshore platforms, pipeline, and associated onshore facilities to have operation manuals describing equipment and procedures employed to protect human health and safety, and the environment and to prevent oil spills. These manuals are reviewed by Mineral Resources staff.

(2) Platform Inspections

Mineral Resources Inspectors in the Huntington Beach, Goleta, and Sacramento field offices continued the Division's monthly inspection program of offshore platforms and onshore drilling and production facilities. These inspections involve testing of facility pollution prevention and safety alarm and control devices to ensure functionality, accuracy and reliability. Fiscal year (FY) 2005/2006 was another year with no oil spills from state lease oil platforms or islands.

CSLC has been conducting safety and pollution prevention inspections and operational monitoring on drilling and production platforms in state waters since the platforms were constructed. In 1990, these responsibilities were extended to other onshore related marine facilities by the Act.

(3) Safety Audits

In fiscal year 2000/2001, CSLC's established 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 Safety Audit Program complements the monthly inspection program to ensure longer term design and maintenance issues are addressed.

Through the end of FY 2005/2006, these Safety and Spill Prevention Audits completed audits at twenty (20) State lease and other State revenue facilities. In conjunction, over 6,500 action items have been identified with over \$6 million being spent on needed upgrades and maintenance. The first repeat Audits in the cycle are nearing completion. Common problems encountered stem from the age of the facility, improper maintenance, physical changes, and changes to the codes, standards and regulations that apply. Identification of common problems and their apparent cause has helped operators screen their operations for similar conditions and avert potential accidents and spills. Monthly MRMD inspection results commonly show improvement for years following a Safety Audit. This translates into reduced risk to the public, personnel, and the environment.

(4) Evaluation of New Equipment and Facilities

Minerals Resources staff review Piping & Instrumentation Diagrams and Safe Charts to ensure that the proper safety devices are included for all new equipment installed on offshore and associated onshore facilities and verifies that the new equipment is installed properly.

D. Mineral Resources Management Division (MRMD) - Engineering

(1) Offshore Structures

Mineral Resources engineers review and approve all plans and designs which alter the offshore platforms including structural modifications and/or the addition or removal of facilities and equipment to ensure that the platforms meet current code and industry standards. Work plans and spill contingency plans are required prior to construction or installation. Engineers conduct onsite inspections to ensure that the work is being conducted according to the approved plans. Mineral Resources engineers require operators to “re-qualify” the platforms to current code and industry standards due to changes in use or loads. Platform Holly is the final State Platform to have the re-qualification procedure conducted.

(2) Wells and Equipment

Mineral Resources engineers review and approve all drilling plans and programs, well modifications, changes to surface facilities. The plans must contain all safety and pollution prevention equipment requirements as well as detailed work plans and procedures. Engineers or inspectors conduct onsite verification of the operations. No drilling or well work-over related spills occurred during calendar years 2005-2006.

(3) Pipeline Inspections and Repairs

The CSLC has the strictest offshore pipeline inspection regulations in the world. Offshore pipelines from State platforms must be internally and externally inspected annually while those pipelines originating from Federal platforms must be inspected internally and externally every other year. Mineral Resources engineers are onsite for inspections and hydro-test and review the data to verify that the pipeline remains in sound condition. If problems are discovered, then the operators are notified to de-rate (reduce operating pressures) and prepare a repair plans for review and approval. Mineral Resources engineers also review and approve any designs and plans for new pipelines or pipeline repairs or modifications. The Mineral Resources staff also monitors all pipelines and facilities for any oil spill incidents.

VI. CALIFORNIA COASTAL COMMISSION (CCC)

The CCC generally receives its authority from the California Coastal Act of 1976 (Coastal Act). 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) ¹¹ 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 Coastal Act as its benchmark.

In 1992, the CCC received additional responsibilities under the Act. CCC responsibilities under the Act and through a companion Interagency Agreement include, but are not limited to:

- Serves as a member of the SIOSC and SIOSC Review Subcommittee.

¹¹ Administration of the CZMA is through the National Oceanographic and Atmospheric Administration, Office of Coastal Resource Management

- 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 OSPR, and coordination with State and Federal agencies regarding drills called pursuant to CCC permit requirements.
- As appropriate, consult with and assist OSPR during spill response operations, including those involving shoreline cleanup and assessment, wildlife operations, alternative response technologies and natural resource damage assessment. CCC's oil spill program staff, monitor all reports (via faxed notice and 24-hr pager) by OES of spills in the coastal zone.

CCC's staff respond at spill sites to determine whether cleanup 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 cleanup 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 of 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 cleanup 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.

VII. SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION (BCDC)

BCDC operates under the authority of the McAteer-Petris Act (Govt. Code §§ 66600, et seq.), the Federal Coastal Zone Management Act and the provisions of the Commission's *San Francisco Bay Plan*, *Suisun Marsh Protection Plan* and special area plans developed to more specifically apply BCDC policies as needed. The Commission has jurisdiction over San Francisco Bay generally from the Golden Gate to the south end of the Bay and to the Sacramento River line; a shoreline band of territory extending inland 100 feet from the Bay shoreline; certain tributary waterways; salt ponds; and areas diked from the Bay and managed as wildlife refuges and duck clubs. Within the Commission's jurisdiction, any person or governmental agency wishing to place fill, to extract materials, or make any substantial change in use of any water, land or structure must first secure a permit from the Commission. In the case of Federal activity or federally permitted or funded activities, BCDC reviews a project's consistency with BCDC's Coastal Management Program for the Estuary.

The Commission's *San Francisco Bay Plan* contains policies on Bay resources, such as fish, other aquatic organisms and wildlife, and water quality; as well as policies on uses of the Bay and shoreline, including fill for water-related development and public access. To avoid potential filling of the Bay to accommodate water-related uses where the waterfront has been developed for uses not necessary to be at the water's edge, the Commission further designates certain shoreline areas for uses that must be located on the waterfront, such as ports and other water-related industrial uses.

BCDC's representative to the Harbor Safety Committee of the San Francisco Bay Region currently chairs the Committee. BCDC oil spill staff participates in the HSC work groups and the San Francisco Bay/Delta Area Committee, drills and other planning activities to further prevention of and planning for response to a spill into the Estuary. When required, BCDC exercises its regulatory authority in the form of an emergency permit for certain spill response actions.

VII. CONCLUSION

The TAC is a forum to provide public input and independent oversight of the Administrator and oil spill programs throughout California. The past two years have been replete with TAC oversight and action intended to keep OSPR ready and fully funded for the worst case scenario. In this post Katrina and 911 regulatory world, it is more critical than ever to have a fully independent Administrator with duties and responsibilities that are uncompromised and balanced. The TAC will continue to lend its expertise in an effort to fully prepare California for marine and inland spills of any and all magnitude.

APPENDIX A
California Government Code
[Selected Sections]

Article 8. Oil Spill Technical Advisory Committee

§ 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 ten members, of whom six 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.

(8) The Governor shall appoint a member who has demonstrable knowledge of the dry cargo vessel 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 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, the San Francisco Bay Conservation and Development 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 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 to be appropriate to the Governor and the Legislature.

(e) On or before August 1, 2005, the committee shall review the Department of Finance report required under Section 8670.42 and prepare and submit to the Governor and the Legislature comments on the report, including, but not limited to, recommendations for improving the state's oil spill prevention, response, and preparedness program.

§ 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
Office of Spill Prevention and Response
TECHNICAL ADVISORY COMMITTEE (TAC) - 2007

Member	Alternate
Mr. Stephen Ricks (Chair) Marine Spill Response Corporation 2070 Commerce Avenue Concord, California 94520 Tel: (925) 405-0511 Fax: (925) 825-2203 Email: ricks@msrc.org Reappointed: May 11, 2001 By: Governor Davis As: Oil Spill Response Representative	Mr. Raymond C. Nottingham Marine Spill Response Corporation 330 E. Spring Street Long Beach, California 90806 Tel: (562) 981-7610 Fax: (562) 981-7601 Email: nottingham@msrc.org
Dr. Jonna Mazet (Vice Chair) Wildlife Health Center School of Veterinary Medicine University of California – Davis One Shields Avenue Davis, California 95616 Tel: (530) 754-9035 Fax: (530) 752-3318 Email: jkmazet@ucdavis.edu Appointed: May 11, 2001 By: Governor Davis As: State Government Representative	Dr. Michael Ziccardi Wildlife Health Center School of Veterinary Medicine University of California – Davis One Shields Avenue Davis, California 95616 Tel: (530) 752-4167 Fax: (530) 752-3318 Email: mhziccardi@ucdavis.edu
Ms. Sejal P. Choksi San Francisco Baykeeper 785 Market Street, Suite 850 San Francisco, California 94103 Tel: (415) 856-0444, ext. 107 Fax: (415) 856-0443 Email: sejal@baykeeper.org Appointed: August 4, 2004 By: John L. Burton, Chairman Senate Rules Committee As: Environmental Representative	Mr. Joseph Geever Southern California Regional Manger Surfrider Foundation 8117 W. Manchester Avenue, #297 Playa del Rey, California 90293 Tel: (310) 410-2890 Email: jgeever@surfrider.org
Ms. Tracy Egoscue Executive Director Santa Monica Baykeeper P.O. Box 10096 Marina del Rey, California 90295 Tel: (310) 305-9645 Fax: (310) 305-7985 Email: baykeeper@smbaykeeper.org Appointed: December 15, 2005 By: Fabian Nunez, Speaker California State Assembly As: Environmental Representative	

Member	Alternate
Mr. R. Mitchel Beauchamp Pacific Southwest Biological Services 1434 East 24th Street National City, California 91950-6010 Tel: (619) 477-5333 (619) 477-0295 (home) Fax: (619) 477-5380 Email: mitch@PSBS.com Appointed: August 13, 2002 By: Herb J. Wesson, Jr. Speaker of the Assembly As: Public Representative	
Mr. Matt Rezvani BP America, Inc. 6 Center Pointe Drive La Palma, California 90623 Tel: (714) 670-5462 (909) 861-8968 (home) Fax: (714) 670-5480 Email: matt.rezvani@BP.com Appointed: May 11, 2001 By: Governor Davis As: Petroleum Representative	Ms. Laura Kovary BP Shipping 1300 Pier B Street Long Beach, California 90813 Tel: (562) 499-2332 Fax: (562) 499-2300 Email: laura.kovary@BP.com
VACANT New appointment pending Appointed: By: Governor Schwarzenegger As: Marine Transportation Representative	
Ms. Joan Lundstrom 48 Frances Avenue Larkspur, California 94939 Tel: (415) 461-4566 (home) Fax: (415) 927-5098 (home) Email: jlundstrom@larkspurcityhall.org Appointed: May 11, 2001 By: Governor Davis As: Local Government Representative	Ms. Rosemary M. Corbin 114 Crest Avenue Richmond, California 94801 Tel: (510) 235-5779 Email: rdcorbin@sbcglobal.net
Ms. Linda Sheehan Executive Director California Coastkeeper Alliance P.O. Box 3156 Fremont, California 94539 Tel: (510) 770-9764 Email: lsheehan@cacoastkeeper.org Appointed: January 14, 2003 By: John L. Burton Senate Rules Committee As: Public Representative	Ms. Angela Haren Program Manager California Coastkeeper Alliance 2419 42nd Avenue San Francisco, California 94116 Tel: (415) 753-1481 Email: aharen@cacoastkeeper.org
VACANT New appointment pending Appointed: By: Governor Schwarzenegger As: Dry Cargo Industry Representative	