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INFORMATIONAL UPDATE ON THE CALIFORNIA OIL SPILL PREVENTION, RESPONSE, AND PREPAREDNESS PROGRAM PERFORMANCE AUDIT

BACKGROUND

In 1990, the Legislature enacted the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act). The Act covers all aspects of marine oil spill prevention and response in California waters and established an Administrator to implement the provisions of the Act. In 1991, the Office of Spill Prevention and Response (OSPR) was created within the California Department of Fish and Wildlife (CDFW) as the Administrator to implement the Act. OSPR's jurisdiction for oil spills was expanded in 2014 (SB 861) to include inland waterways at risk of oil spills from any source, including pipelines, production facilities, and railroads.

The Act also gave the Commission regulatory jurisdiction over offshore oil production facilities within three nautical miles of the coast, the state's marine oil terminals, oil producing islands, and offshore oil platforms within state waters. The Commission is responsible for the prevention aspect of the Program while OSPR is responsible for oil spill response. The Commission's prevention responsibilities are handled by its Marine Environmental Protection Division (MEPD) and its Mineral Resources Management Division (MRMD). MEPD performs various activities, including inspections of marine oil terminals, while MRMD performs safety spill prevention audits of drilling, production, and processing facilities on a five-year cycle.

CDFW is also the administrator of the Oil Spill Prevention and Administration Fund (OSPAF). The OSPAF on average funds 35% of the Commission's total budget and approximately 40% of the Commission's regular authorized positions.

Government Code 8670.42 requires that an audit of the Oil Spill Prevention, Response, and Preparedness Program be performed at least every 4 years by the Department of Finance, Office of State Audits and Evaluation and be submitted on or before January 1, to the Governor and the Legislature on the financial basis

and programmatic effectiveness of the program. The first audit was completed in January 2013.

2016 AUDIT FINDINGS AND RECOMMENDATIONS

The most recent audit began in July 2016 and concluded in December 2016. Specifically, the audit's goal was to assess whether:

- Program revenues collected were expended for Program objectives and the fund balances are adequate to support the Program.
- Program activities were established in accordance with regulations and are adequate to meet the Program goals.
- OSPR's inland expansion activities comply with legislation and the implementation status of those activities.

The audit reviewed financial and program data from July 2012 through June 2016 and interviewed staff persons associated with the Program. A draft audit was released to the Commission on December 2, 2016. Commission staff provided responses to the draft audit's findings. The final audit, incorporating staff's responses, was released on December 29, 2016. The audit provided a total of four findings as well as recommendations related to the findings. Two of the findings, Nos. 2 and 3, are related to the Commission. The two findings and their related recommendations are summarized below.

Finding 2: OSPR and Commission Databases Lack Information for Management Decision Making.

The information contained in the Commission's Oil Spill Prevention Database (OSPD) is either out of date or did not contain data for 29 of 41 pipelines sampled. The total number of pipelines is not maintained in OSPD and the database does not have a mechanism to notify the Commission's Marine Environmental Protection Division (MEPD) when a pipeline test is due.

Recommendations:

1. OSPR and Commission management should ensure database systems are designed to allow for reporting of key information and staff is instructed to properly capture all necessary information for effective operations and oversight of the Program.

2. OSPR and Commission management should utilize this information in decision making and monitoring Program compliance requirements.

Finding 3: Commission's Prevention Activities Need Improvement.

The audit found that the Commission did not perform safety audits on 6 of 9 oil producing facilities within a five-year audit cycle. It also found that the Commission's northern California field office did not monitor 2 of 9 oil transfers sampled that were designated as high risk transfers in its Oil Spill Prevention Database.

Recommendations:

1. MRMD should allocate sufficient resources to ensure all production facilities are audited in compliance with their five-year policy and action items are addressed within the established timeframes.

2. Ensure that all priority one oil transfers are monitored by MEPD staff.

OSPR and the Commission must develop a corrective action plan to address the findings and recommendations noted in this report.

AUDIT RESPONSE

Staff provided the following two sets of responses to the audit findings. The first set was incorporated into the December 29, 2016 final audit (Exhibit A) and the second set was a 60-day response that provided a Corrective Plan of Action (Exhibit B) The responses are summarized below.

Finding 2: OSPR and Commission Databases Lack Information for Management Decision Making.

Commission staff acknowledged that the pipeline database is missing information. Commission staff were aware of and have been working to correct pipeline database deficiencies, and proactively made DOF audit staff aware of the problems within the database at the beginning of the audit. In the short term, staff are working with external contractors to fix database anomalies that are hampering data entry. In the longer term, staff will prioritize resources to enhance pipeline database capabilities. Staff appreciates DOF staff's recommendations to enable database tracking of the total number of pipelines and to alert staff when pipeline tests are due; staff will work to incorporate these features into the next database upgrade.

Staff expressed concern that the findings about the database eclipse the fact that staff regularly monitor pipeline testing at California's marine oil terminals. MEPD staff track pipeline testing through several means including: notifications from the marine oil terminals 72 hours in advance of testing, as required by regulation; reviews of pipeline test information during annual inspections and spot checks at

marine oil terminals; and during the review of the Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) audits which are conducted every four years.

Staff reiterated that monitoring and review of pipeline tests are a priority for the Commission and that staff will work expeditiously to resolve the database performance issues. Further, Executive and Management staff will conduct additional training to ensure that our written practices and procedures regarding pipeline testing and maintenance are followed.

Finding 3: Commission's Prevention Activities Need Improvement.

Commission staff generally agreed with the findings that staff did not meet the 5-year safety audit schedule (as measured by DOF using a 60-month cycle) and that lessees did not fully meet deadlines to correct action items found by the Commission's facility audit staff. It is important to acknowledge that hiring and retaining skilled safety audit staff inspectors has been challenging for the Commission for a variety of reasons. Staff agrees that sufficient resources should be allocated to the Commission to ensure that all production facilities under its jurisdiction are audited in a timely manner.

The DOF audit reported that the Commission did not perform timely safety audits on six of the nine oil producing facilities. However, the Rincon Island and Platform Holly facilities, and their connecting onshore processing facilities, are idle and not actively producing. Therefore, staff has not maintained the 5-year safety audit cycle for these facilities because there is no benefit to expend the required significant resources to conduct such an audit when it is not in operation. These facilities will be audited if and when they return to operation. The audit of Platform Emmy was delayed when a new operator took assignment of the lease and needed time for replacement operating staff to come up-to-speed.

The Commission response went on to note that at the time the safety audit program was created, the Long Beach Unit was not included in the safety audit program cycle. The Commission does not have any leasing or regulatory authority over the Long Beach Unit facilities due to specific state legislation. Through various legislative enactments, the state, through the Commission, is the beneficiary of the net profits generated at these facilities. In 2011, when reviewing the Long Beach Unit's annual and program plans, the Commission under very narrow and specific legislative authority, directed staff to include the Long Beach Unit in the safety audit program. Staff informed the Commission, at that time, that the inclusion of the Unit in the safety audit program (comprising four islands, each larger than multiple offshore platforms)

would make it difficult to maintain the 5-year audit cycle because of existing staffing levels. When the Commission directed staff to conduct a safety audit of the Long Beach Unit, it also expressly modified its practice of conducting safety audits within a 5 calendar year cycle (see http://archives.slc.ca.gov/Meeting_Summaries/2011_Documents/06-23-11/ITEMS_AND_EXHIBITS/136.pdf).

The audit found that operators did not complete certain action items resulting from safety audits within the required time frames. These time frames are 30 days for Priority 1 items, 120 days for Priority 2 items, and 180 days for Priority 3 items. The DOF report found that a small percentage (14 percent) of the lowest risk items (Priority 3) were found to exceed the 180-day correction deadline. It was not noted in the findings that staff carefully vets each lessee's/operator's explanation when a corrective action falls outside the prescribed deadline. If a delayed correction may cause an elevated safety or pollution risk, staff does not allow that system to remain in service until the correction is completed. The action items noted in the audit report that fell outside the deadline requirement posed no observable increased level of risk. Over the course of the safety audit program, over 9,000 action items have been completed in a timely fashion. With that said, Commission staff agree with the recommendation to ensure that all action items are addressed within the established timeframes.

Additionally, the safety and pollution prevention responsibilities of MRMD are not limited to safety audits of the facilities under the Commission's jurisdiction, including platforms and islands. Staff has conducted monthly inspections of all offshore facilities under lease since those facilities were built. The inspections cover all aspects of oil production, treatment, and transportation at these offshore facilities within the Commission's jurisdiction. The inspection program provides intensive oversight to ensure these facilities are operating per regulations. This inspection program was not mentioned in the audit report, and staff believes this omission creates a misrepresentation of the extent of the Commission's pollution prevention work.

The Commission's response noted that oil spill prevention has long been central to the Commission's mission and that at no time has there been an elevated risk of an oil spill as a result of missing certain timing expectations. Staff acknowledges the findings highlight the need for Commission staff to: 1) clarify the requirements and timelines for completion of action items by operators; and 2) document any timing variances, including the circumstances that lead to the delay, the risk of the delay, and efforts that will be taken to shorten the delay if possible. Additionally, Commission staff will institute a practice of ensuring that any waiver of a due date for any level of corrective action item is reviewed and approved by the MRMD Division Chief.

Commission staff accepted the findings that the Northern California Field Office did not monitor two transfers that were designated high risk transfers in the OSPD. Although Commission staff informed the auditors that the two vessels in question had been misprioritized in the OSPD, staff should have either: 1) communicated with the field office supervisor immediately to correct the database error; or 2) conducted the inspection based on the high-risk prioritization and later discussed the problem with the field office supervisor.

Commission staff have updated and distributed the Practices and Procedures Memo (P&P 12201.2) to include a supervisor review and approval component if changes to the database must be made due to input error. Management staff plans to conduct additional training with staff to ensure that MEPD's written practices and procedures regarding the marine oil terminal monitoring prioritization system are followed.

CORRECTIVE ACTION PLAN

On February 24, 2017, staff provided a Corrective Action Plan (Exhibit B) to the Department of Finance, Office of State Audits and Evaluations. With respect to Finding 2, MEPD leadership conducted training sessions with both the Northern and Southern California field offices and reviewed the practices and procedures regarding pipeline testing and maintenance. Staff also worked with an outside contractor to identify the anomaly that was causing errors in the OSPD. Repairs were made and the issue has been resolved. Staff are now entering the backlogged pipeline testing information in the database and reviewing the data for completeness. Staff plans to complete the data entry by the beginning of the second quarter of 2017. A quality control review will then be conducted by the Field Office Supervisors to ensure all pertinent information was recorded accurately.

With respect to the safety audit portion of Finding 3, staff noted that meeting the 5-year audit cycle has been difficult due to low staffing levels of safety audit inspectors and the addition of the Long Beach Unit (consisting of four islands each larger than multiple offshore platforms) to the audit cycle. To address this, staff plans to continue to fill existing vacancies in the safety audit program as well as utilize field inspectors to help oversee compliance by the operators of identified deficiencies. Additionally, staff developed a plan to ensure that action items resulting from the safety audits are completed within the established time frames. Regarding the priority 1 oil transfers, MEPD staff updated and distributed the practices and procedures memo (P&P 12201.2) that covers transfer monitoring prioritization. The memo will be reviewed on an annual basis and updated as needed. MEPD leadership also conducted trainings with the Northern and Southern California Field Offices to review the marine oil terminal monitoring prioritization system and its proper use for prioritizing daily work load activities.

EXHIBITS:

A. Final Report – California Oil Spill Prevention, Response, and Preparedness Program Performance Audit
B. Corrective Action Plan

CONCLUSION:

The prevention of oil spills into California's waterways is a top priority of the Commission. The Commission is proud of its stellar record of preventing oil spills at the facilities under its jurisdiction. Accordingly, staff appreciates the efforts of the Department of Finance for its valuable review and analyses of the financial basis and programmatic effectiveness of the Program. Staff agrees with the recommendations outlined in the report and are implementing or plan to implement them as soon as possible to the extent feasible.

EXHIBIT A

DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. ▪ GOVERNOR
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Transmitted via e-mail

December 29, 2016

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Final Report—California Oil Spill Prevention, Response, and Preparedness Program Performance Audit

The Department of Finance, Office of State Audits and Evaluations, has completed its audit of the financial basis and programmatic effectiveness of the California Oil Spill Prevention, Response, and Preparedness Program for the period July 1, 2012 through June 30, 2016.

The enclosed report is for your information and use. The California Department of Fish and Wildlife, Office of Spill Prevention and Response and the California State Lands Commission responses to the report findings and our evaluation of the responses are incorporated into this final report. This report will be placed on our website.

A detailed Corrective Action Plan (CAP) addressing the findings and recommendations is due within 60 days from receipt of this letter. The CAP should include milestones and target dates to correct all deficiencies. The CAP should be sent to OSAEReports@dof.ca.gov. After the initial CAP is submitted, it should be updated every six months thereafter, until all planned actions have been implemented.

We appreciate the assistance and cooperation of the California Department of Fish and Wildlife and the California State Lands Commission. If you have any questions regarding this report, please contact Chikako Takagi-Galamba, Manager, or Sherry Ma, Supervisor, at (916) 322-2985.

Sincerely,

Jennifer Whitaker, Chief
Office of State Audits and Evaluations

Enclosure

cc: On following page

cc: Honorable Jerry Brown, Governor of California
Mr. Michael Cohen, Director, California Department of Finance
Mr. Charlton H. Bonham, Director, California Department of Fish and Wildlife
Ms. Jennifer Lucchesi, Executive Officer, California State Lands Commission
Mr. Thomas Cullen, Administrator, Office of Spill Prevention and Response, California Department of Fish and Wildlife
Mr. Colin Connor, Assistant Executive Officer, California State Lands Commission
Mr. Gabe Tiffany, Deputy Director, Administrative Division, California Department of Fish and Wildlife
Ms. Julie Yamamoto, Assistant Deputy Administrator, Office of Spill Prevention and Response, California Department of Fish and Wildlife
Ms. Bernadette Fees, Branch Chief, Office of Spill Prevention and Response, California Department of Fish and Wildlife

AUDIT REPORT

California Oil Spill Prevention, Response, and Preparedness Program

Cargo Vessel – Port of Oakland

Prepared By:
Office of State Audits and Evaluations
Department of Finance

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December 2016

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Final reports are available on our website at http://www.dof.ca.gov

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EXECUTIVE SUMMARY

The Department of Finance, Office of State Audits and Evaluations, conducted a performance audit of the California Oil Spill Prevention, Response, and Preparedness Program (Program). The 1990 Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act) not only created the California Department of Fish and Wildlife (CDFW), Office of Spill Prevention and Response (OSPR) as the state lead agency, but gave the State Lands Commission (Commission) certain authority over marine prevention activities. The audit's objective was to assess the Program's financial basis and programmatic effectiveness in accordance with Government Code section 8670.42. To accomplish our objective, we assessed whether:

- Program revenues collected were expended for Program objectives and the fund balances are adequate to support the Program.

- Program activities were established in accordance with regulations and are adequate to meet the Program goals.

- OSPR's inland expansion activities comply with legislation and the implementation status of those activities.

Program revenues collected are expended for Program objectives and the fund balances are adequate to support the Program. OSPR and the Commission have established policies and procedures to prepare, prevent, and respond to an oil spill. With the adoption of Senate Bill 861 in 2014, OSPR's jurisdiction for oil spills expanded to include all waters of the state, commonly referred to as inland expansion activities. OSPR has melded its processes related to this legislation with their existing practices for marine activities. However, OSPR does not have a comprehensive management strategy established and documented to identify mission critical activities with an alignment of workload and available resources to these priorities. Consequently, some Program activities were not executed as intended due to a lack of established priorities. Additionally, key databases are not complete or accurate and do not allow for appropriate reporting functionalities. As a result of these weaknesses, OSPR and the Commission are limited in ensuring the Program is effectively operating.

To strengthen the Program's effectiveness, OSPR and the Commission must implement and strengthen its practices to ensure the best achievable protection of California's natural resources. OSPR and the Commission must develop a corrective action plan to address the findings and recommendations noted in this report.

BACKGROUND, SCOPE AND METHODOLOGY

BACKGROUND

In 1990, the California Legislature enacted the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act). The Act covers all aspects of marine oil spill prevention and response in California and established an Administrator who has broad powers to implement the provisions of the Act. In 1991, the Office of Spill Prevention and Response (OSPR) was created within the California Department of Fish and Wildlife (CDFW) to implement the Act.

In 2014, Governor Brown signed Senate Bill 861 (SB 861), expanding the Oil Spill Prevention, Response, and Preparedness Program (Program) to include all state surface waters at risk of oil spills from any inland source, including pipelines, production facilities, and the increasing shipments of oil transported by railroads, commonly referred to as inland facilities expansion. See *Inland Expansion Summary* section for additional information.

OSPR's mission is to provide the best achievable protection of California's natural resources by preventing, preparing for, and responding to spills of oil and other deleterious materials, and through restoring and enhancing affected resources.[1] OSPR is the lead state agency charged with oil spill prevention, preparedness, response, and natural resource restoration in California's marine environment. OSPR is also the lead state agency for off-highway inland spills.

The Act also gave the State Lands Commission (Commission) jurisdiction over offshore oil production facilities within three nautical miles of the coast, the state's fixed marine oil terminals, oil producing islands, and offshore oil platforms within state waters.[2] The Commission is responsible for the prevention aspect of the Program; Commission staff does not respond to oil spills.

Oversight Authority of Oil Transfers

Commission

- Fixed Marine Terminals
  - Vessels
- Production Facilities
  - Offshore Platform
  - Oil Producing Islands
- Pipelines

OSPR

- Non-Fixed Marine Terminals
  - Non-tank vessels
  - Barge
  - Ship-to-ship
- Marine Facilities
- Inland facilities
  - Pipeline
  - Railroad
  - Mobile Transfer Unit

To reduce the likelihood and magnitude of oil spills, both OSPR and the Commission participate in prevention activities as noted in the text box. The Commission's prevention activities focus on fixed marine oil terminals, oil producing islands, offshore oil platforms, and their related pipelines within state waters. OSPR's prevention activities include oil transfers at non-fixed marine oil terminals. Additional prevention

[1] www.wildlife.ca.gov/ospr
[2] www.slc.ca.gov/program/oil_spill_prev.html

activities, which both OSPR and the Commission perform, include outreach to companies in the oil industry and investigations into the root cause of spills over their respective areas. OSPR and the Commission's Program responsibilities are described below. See Appendix A for OSPR's and the Commission's Program activities.

OSPR's Program Responsibilities

OSPR's Prevention, Preparedness, Environmental Response, and Enforcement Branches are responsible for spill prevention, preparedness, and response. OSPR's Program consists of the following four primary areas and general responsibilities. See Appendix A for detailed Program activities. Related terms are defined in the text box.

- **Prevention** – Focus on activities related to reducing oil spill threats.
- **Preparedness** – Focus on activities to ensure vessels and facilities are able to effectively respond to an oil spill, which includes review of response plans, financial capability, and third-party response organizations (i.e., Contingency Plans, Certificate of Financial Responsibility (COFR), and Oil Spill Response Organizations (OSROs)).
- **Response** – Focus on the collaboration of entities working together to respond and communicate effectively and efficiently, commonly referred to as the Unified Command System (UCS). As a member of UCS, OSPR plays an integral part in developing strategies for response to the spill.
- **Restoration and Remediation** – Focus on activities to examine natural resource injuries from oil spills or other pollution events, quantify injuries, and restore injured resources; and compensate the public for loss of ecological benefits and uses of those resources.

Commission's Program Responsibilities

The Commission's Marine Environmental Protection Division (MEPD) and the Mineral Resources Management Division (MRMD) are two divisions responsible for spill prevention. The MEPD performs various activities, including inspections of marine oil terminals. The MRMD performs safety spill prevention audits of drilling, production, and processing facilities on a five-year cycle.

Definition of Terms

A Contingency Plan identifies actions in which vessel and facility owner/operator plans to implement in the event of an oil spill and specifies specific equipment and personnel to be used. Each marine vessel, marine facility, and inland facility owner/operator must have an OSPR approved contingency plan per Government Code section 8670.28, unless exempt due to geographical location or production factor.

An Oil Spill Response Organization (OSRO) is a contracted oil spill response organization and has the dedicated equipment and personnel to respond to oil incidents. If an OSRO has been evaluated and granted a rating by OSPR, the contingency plan may identify the rated OSRO and does not have to present detailed lists of response equipment and personnel.

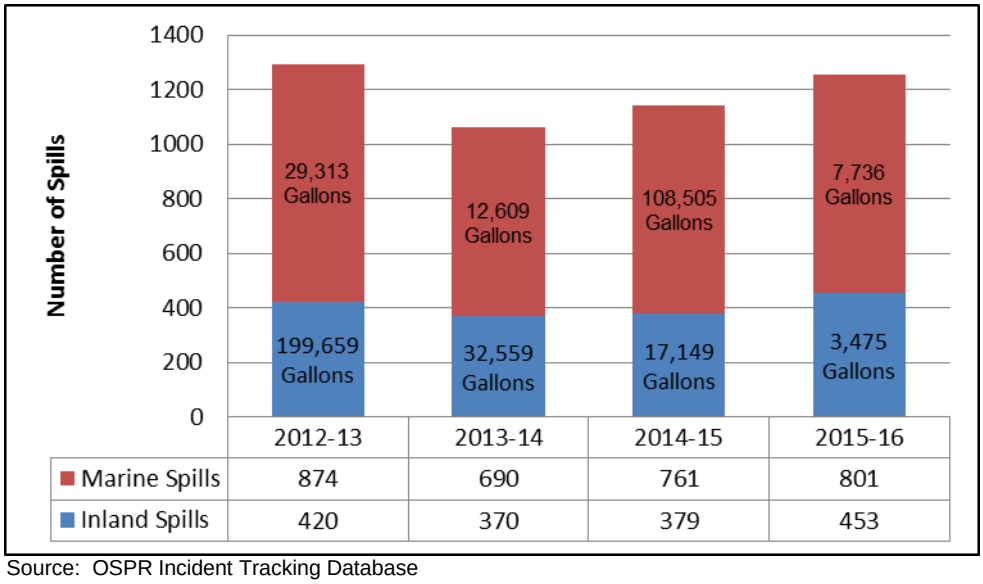
A Certificate of Financial Responsibility (COFR) ensures that vessel and facility owners/operators have adequate financial resources to pay cleanup and damage costs arising from an oil spill. Each owner/operator must have a COFR and non-tank vessels must pay a fee when applying for a COFR.

A Unified Command System (UCS) is established as a decision-making body for an oil spill incident. The UCS generally includes OSPR personnel, a federal agency (e.g., United States Coast Guard or the United States Environmental Protection Agency, a local agency (e.g., fire marshal), and the responsible party (e.g., spiller). The UCS is responsible for overall management of the incident, including development of a common set of incident objectives and strategies.

Oil Spill Incidents

Oil spills are tracked by OSPR through their Incident Tracking Database. An entry is created for each incident communicated to them by the Office of Emergency Services (OES). Reported oil spills from fiscal year 2012-13 through 2015-16 identified a total of 4,748 spills, of which 3,126 spills were related to marine activities and 1,622 spills were related to inland activities. See Figure 1 below for the number and quantity of oil spilled by fiscal year.

Figure 1: Number and Quantity of Oil Spilled[3]
FY 2012-13 through 2015-16



	2012-13	2013-14	2014-15	2015-16
Marine Spills	874	690	761	801
Inland Spills	420	370	379	453

Source: OSPR Incident Tracking Database

Program Funding

The Program is supported by four funds:

- Fund 0207 – Fish and Wildlife Pollution Account
- Fund 0320 – Oil Spill Prevention Administration Fund (OSPAF)
- Fund 0321 – Oil Spill Response Trust Fund (OSRTF)
- Fund 0322 – Environmental Enhancement Fund

Although the Program has four funds, the primary sources of funding are Fund 0320 and Fund 0321.

Fund 0320 is used for prevention and preparedness activities. Revenues are primarily crude oil barrel regulatory fees or petroleum product transfers and fees on biennial applications of COFR for non-tank vessels (non-tank vessel fee). The non-tank vessel fees provide evidence that COFR's have adequate financial resources to pay cleanup and damage costs in the event a spill occurs. Regulatory fees should not be used for oil spill response.

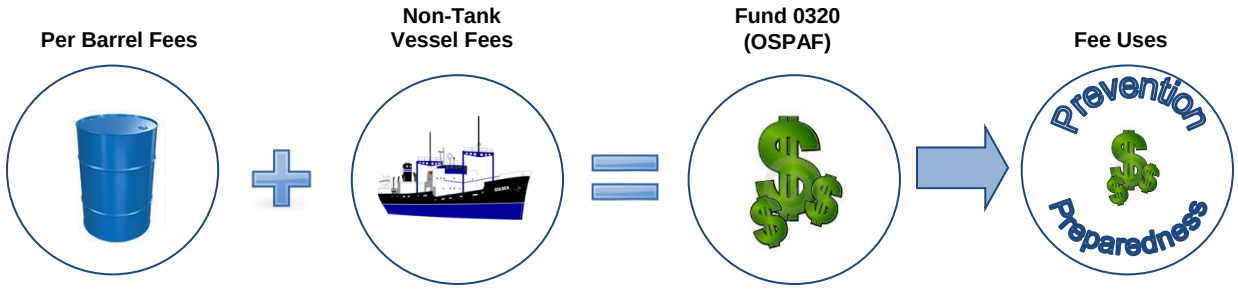
In accordance with Government Code section 8670.40 (a), the California State Board of Equalization (BOE) is responsible for collecting a fee determined by the Administrator (i.e., OSPR) to be 6.5 cents per crude oil barrel and petroleum products received at marine terminals and refineries within California; BOE deposits these monies into Fund 0320. In 2014,

[3] Number and quantity of oil spilled based on spills impacting water, regardless of oil spill size (i.e., quantity).

SB 861 expanded the fee Program to be statewide, including all oil produced within California, or imported into California. OSPR collects a fee from owners/operators of non-tank vessels.

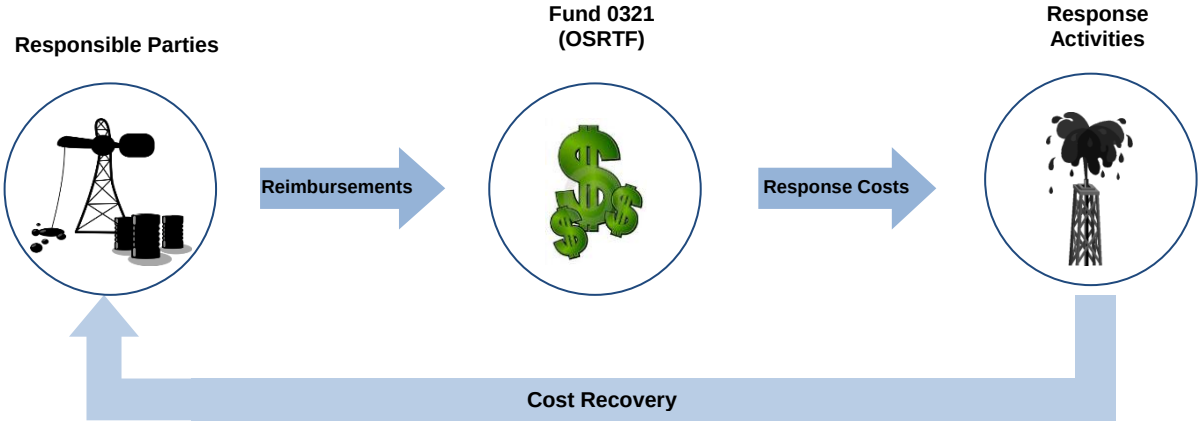
During 2012-13 through 2015-16, fees collected averaged approximately $43.5 million. See Figure 2 below for fee collection and usage.

Figure 2: Fund 0320 Regulatory Fee Collection and Usage



Fund 0321 is used for response activities and receives reimbursements via cost recovery from parties deemed responsible for the spill. OSPR is required to recover all costs incurred in responding to spill incidents from responsible parties and deposit reimbursements into Fund 0321. Cost recovery methods include submitting: 1) costs along with legal actions, 2) costs directly to the spillers, and 3) a claim to the Federal Oil Spill Liability Trust Fund if no responsible party exists or is unable to pay. During 2012-13 through 2015-16, costs recovered ranged between $600,000 and $4.8 million. See Figure 3 below for cost recovery of spill response costs.

Figure 3: Fund 0321 Cost Recovery of Spill Response Costs

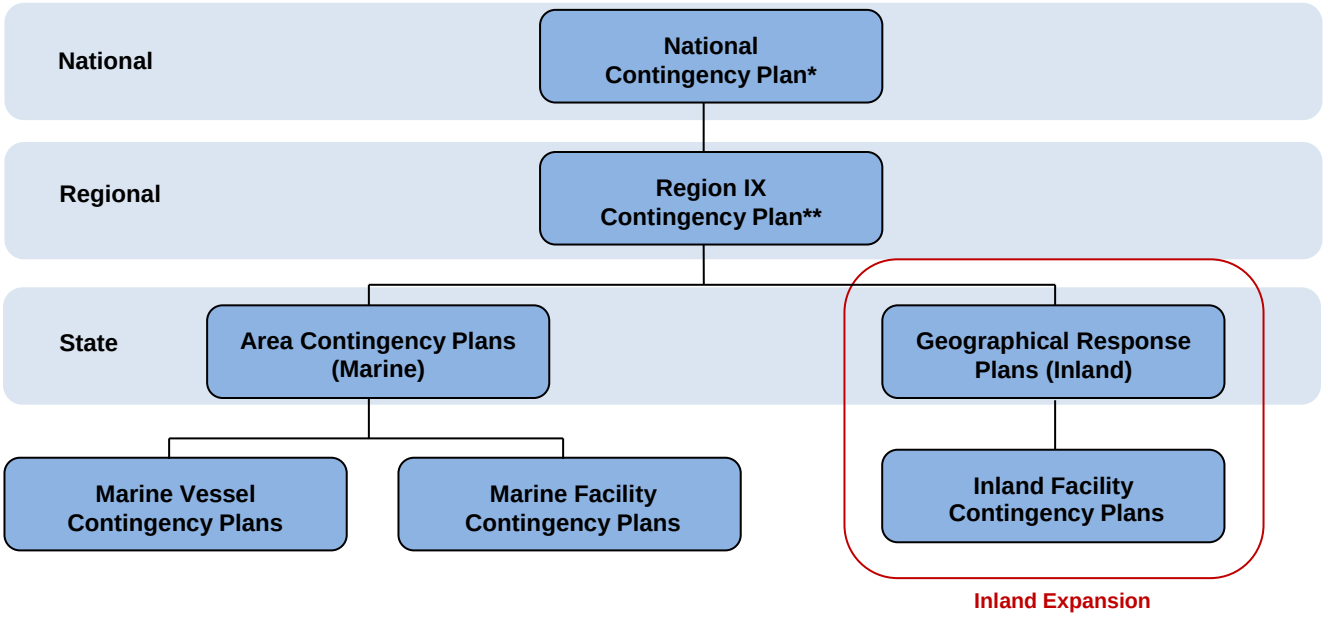


Inland Expansion Summary

As mentioned above, in 2014 SB 861 expanded the Program to include statewide regulations, (i.e., inland activities). As a result of this legislation, OSPR received authorization for an additional 38 positions and $10.5 million to assist with the development, implementation, and execution of their additional responsibilities. Going forward, OSPR is budgeted to receive $4.3 million annually. OSPR was able to modify existing processes and documents such as contingency plan approvals, ratings of OSROs, and performance of drills and exercises to cover their new jurisdiction.

In conjunction with other federal, state, local governments, and other partners, OSPR also developed six Response Planning Areas (RPAs), which are specifically used in the development of inland facility contingency plans for the rating of OSROs and development of Geographical Responsible Plans (GRPs). OSPR will start developing GRPs beginning in 2017 in conjunction with the United States Environmental Protection Agency and other local governments. See Figure 4 below for relationships among contingency plans and increased inland expansion responsibilities.

Figure 4: Relationships among Contingency Plans and Inland Expansion Responsibilities



* National Contingency Plan provides the federal government's blueprint for responding to oil spills.
** Region IX Contingency Plan provides a mechanism for coordinating responses to oil spills within the States of Arizona, California, and Nevada.

SCOPE AND METHODOLOGY

Pursuant to Government Code section 8670.42, the CDFW Administrator and the Commission, independently, shall contract with the Department of Finance (Finance) for the preparation of a detailed report that shall be submitted on or before January 1, 2017, to the Governor and the Legislature on the financial basis and programmatic effectiveness of the Program. To accomplish our objective, we assessed whether:

- Revenues collected are expended for Program objectives and the fund balances are adequate to support the Program.
- Program activities were established in accordance with regulations and are adequate to meet the Program goals.
- OSPR's inland expansion activities comply with legislation and the implementation status of those activities.

Our audit focused on areas considered to be significant to the Program's objective of "best achievable protection of California Natural Resources," which includes assessing programmatic effectiveness of prevention, preparedness, and response activities. Because the Restoration and Remediation Branch activities are performed subsequent to oil spill prevention and response, this branch was not considered significant within our scope to verify the Program's best achievable protection efforts; therefore, those activities were not included in this audit. The audit period was July 1, 2012 through June 30, 2016.

See Appendix D for the audit methods performed. OSPR and Commission management are responsible for the establishment of oversight, evaluation, and accountability measures to achieve financial and programmatic effectiveness.

Except as discussed in the following paragraph, we conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Finance, CDFW, and the Commission are all part of the State of California's Executive Branch. As required by various statutes within the California Government Code, Finance performs certain management and accounting functions. Under generally accepted government auditing standards, performance of these activities creates an organizational impairment with respect to independence. However, Finance has developed and implemented sufficient safeguards to mitigate the organizational impairment so reliance can be placed on the work performed.

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act) created the Office of Spill Prevention and Response (OSPR) within the California Department of Fish and Wildlife (CDFW) to oversee California's prevention, response, and preparedness of oil spills into marine waters. The Act also authorized the State Lands Commission (Commission) to perform prevention and enforcement activities of offshore production facilities and marine oil facilities. In 2014, Senate Bill 861 (SB 861) expanded the Oil Spill Prevention, Response, and Preparedness Program (Program) to include inland activities.

Program revenues are collected and expended for Program objectives and the fund balances are adequate to support the Program. OSPR and the Commission perform a full range of activities to prepare, prevent, and respond to oil spills. OSPR has made significant progress toward implementing the inland expansion activities. However, OSPR does not have a comprehensive management strategy established and documented to identify mission critical activities with an alignment of workload and resources to priorities. As a result, some Program activities were not executed as intended due to a lack of established priorities. Additionally, OSPR and the Commission's key databases are not complete or accurate and do not allow for appropriate reporting for management decision-making. Therefore, more efforts are needed to ensure the Program is effectively operating.

The following Financial Basis and Programmatic Effectiveness section highlights results in brief and the Findings and Recommendations section discusses each significant issue identified.

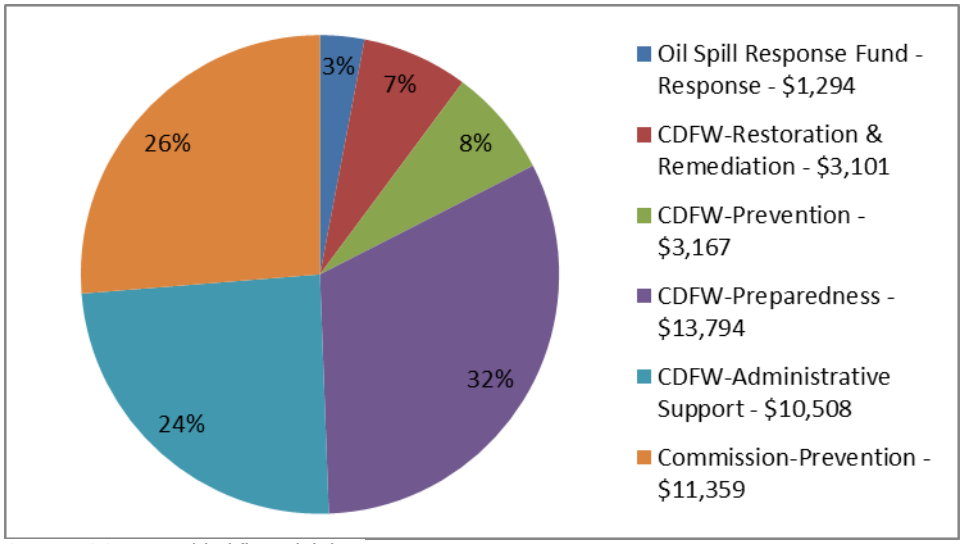
FINANCIAL BASIS AND PROGRAMMATIC EFFECTIVENESS

Fiscal Conditions

Per barrel fees and non-vessel fees are collected and deposited in the Oil Spill Prevention Administration Fund (Fund 0320) and used to fund prevention and preparedness activities. Costs incurred for response activities are recovered from responsible parties and deposited in the Oil Spill Response Trust Fund (Fund 0321).

Figure 5 illustrates Program expenditures by key activity for 2015-16 in which the Program incurred approximately $43 million of expenditures from Funds 0320 and 0321, with the majority of activities related to prevention and preparedness. Expenditures incurred were primarily for staff salary and benefits. The Program also incurred expenditures related to services provided by the State Board of Equalization, Office of Environmental Health Hazard, University of California, Davis, and Department of Finance; however, they are not depicted due to its overall insignificance to Program objectives.

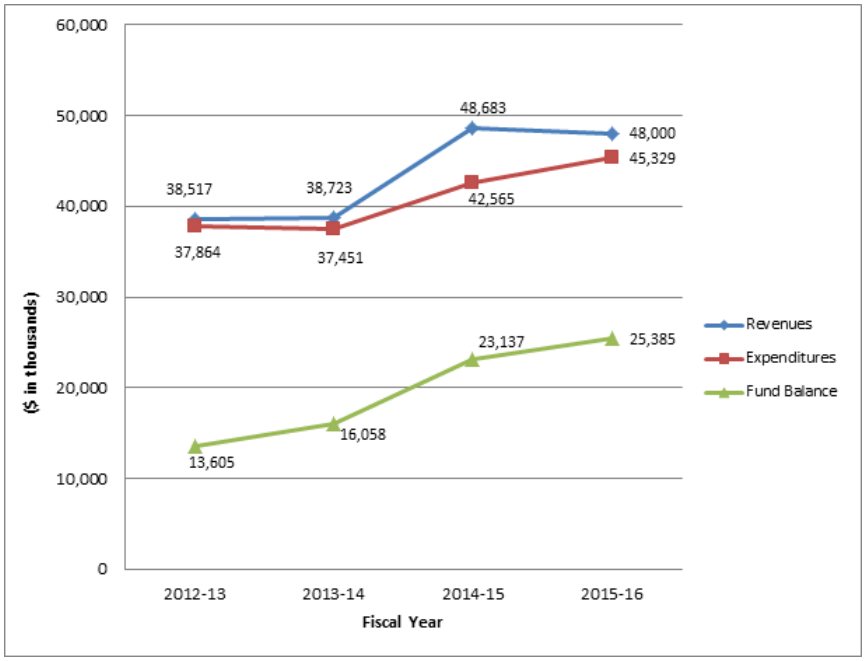
Figure 5: Funds 0320 and 0321
Oil Spill Prevention and Response Program
FY 2015-16 Expenditures by Activity (in thousands)



Source: OSPR provided financial data

The fund balance for Fund 0320 has been steadily increasing since 2012 with a significant increase in 2014-15 with the inland facility expansion. The increase in revenues is primarily from the additional moneys collected from inland facilities. Expenditures lagged due to the additional time needed to fill the 38 positions authorized for this activity. With a fund balance of over $25 million as of June 30, 2016, and the consistent revenue base, the fund is determined to be adequately funded. See Figure 6 for expenditures, revenues, and fund balance for Fund 0320.

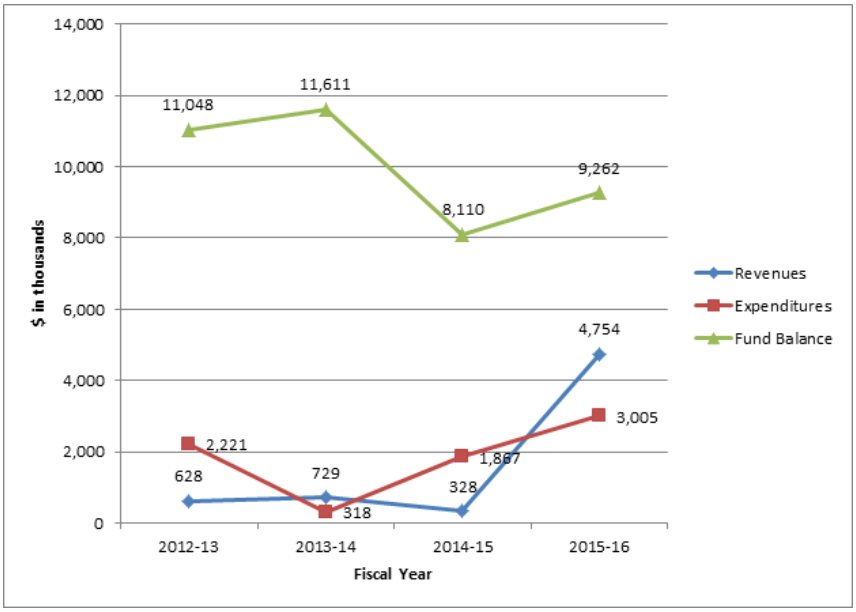
Figure 6: Fund 0320 Expenditures, Revenues, and Fund Balance
FY 2012-13 through 2015-16



Source: OSPR Fund Condition Statement

Fund 0321 had a significant decrease in 2014-15 due to the Refugio oil spill. The funds spent on the response of the oil spill will be recovered in subsequent fiscal years as evidenced by the increase in revenues beginning in 2015-16. With a fund balance of $9 million as of June 30, 2016, and increased revenues from the costs recovered from the most recent oil spill, the fund is determined to be adequately funded. See Figure 7 below for expenditures, revenues, and fund balance for Fund 0321.

Figure 7: Fund 0321 Expenditures, Revenues, and Fund Balance FY 2012-13 through 2015-16



Source: OSPR Fund Condition Statement

Based on our analysis, revenues are collected and expended for Program activities and the fund balances are adequate to support the Program. However, during our analysis, we identified instances where OSPR's management should ensure revenues and expenditures are accurately recorded in its accounting records for proper decision-making as noted in Finding 4 in the Findings and Recommendations section below.

Program Activities

To effectively and efficiently provide the best achievable protection of California's natural resources by preventing, preparing for, and responding to spills, both OSPR and the Commission coordinate Program activities with various entities and utilize several databases to manage the Program. As summarized in Appendix A, there is a full range of Program activities designed to meet Program goals and monitor Program compliance with established regulations.

In conducting research and comparisons with other coastal states (Alaska, Florida, Texas, and Washington), we noted all States have adopted state-specific regulations and developed oil spill management programs. Further, California has one of the more robust and comprehensive oil spill programs in the United States and dedicated staff and budget to perform oil spill prevention, preparedness, and response activities. We also noted California is responsible for overseeing larger volumes of oil transfers. However, due to limitations within the other state's information, adequate comparisons for the usage of resources with California could not be derived. Appendix B summarizes the results of our research of other coastal states within the United States.

While extensive Program activities are designed and generally implemented by OSPR and the Commission, we identified instances where those activities were not executed as intended. Additionally, as detailed in Findings 1, 2, and 3 in the Findings and Recommendations section, OSPR's and the Commission's overall lack of comprehensive management strategy and oversight, and inaccuracies within their databases make it difficult to ensure the Program is efficient and effective, which is imperative given that California has such a robust and comprehensive Program.

Inland Expansion

OSPR has developed the Statewide Oil Spill Implementation Plan, which outlined steps to implement inland activities. These activities are designed to comply with legislative requirements. OSPR has taken and is in the process of completing steps toward implementing inland expansion activities. See Appendix C for further details for SB 861 Key Requirements and Status, including:

- By October 2015, OSPR had developed and adopted guidance for inland activities related to shoreline protection, drills and exercises, Contingency Plans, Certificate of Financial Responsibilities (COFRs), and Oil Spill Response Organizations (OSROs).

- A key component of the legislation was the ability for inland facilities to apply for a contingency plan exemption, provided it met certain geographic and production justifications. OSPR established an exemption process to implement this new requirement.

- All 192 inland facilities were required to submit a contingency plan or a request for exemption by January 1, 2016. As of October 2016, 44 submitted plans have been approved and 148 facilities applied for exemptions.

However, we observed instances where some inland activities have not been executed as intended as detailed in Finding 1 of the Findings and Recommendations section.

FINDINGS AND RECOMMENDATIONS

To strengthen the effectiveness of the Program's financial basis and programmatic activities, we provide the following findings and recommendations related to Program governance, administration and fiscal operations.

Finding 1: Lack of Comprehensive Strategic Planning and Programmatic Oversight by OSPR's Management

OSPR does not have a current documented strategic plan. OSPR's latest plan was for years 2007 to 2010. Strategic planning is important to an organization because it provides a sense of strategic direction and outlines measurable goals. Having a strategic plan assists in the communication of organizational goals, establishes priorities, focuses energy and resources, and is a tool to evaluate progress. Because OSPR has expanded their oil spill responsibility with oversight of inland activities, the need for a documented, comprehensive strategic plan for the organization is critical to ensure an effective and efficient program, as defined in the text box. However, OSPR has not fully developed and documented its management strategy to prioritize its key activities and align its available resources with these priorities. Specifically, we identified the following issues:

Program Effectiveness vs. Efficiency

Program effectiveness relates the extent to which a program is achieving its goals and objectives. It is the responsibility of the management to ensure the program activities are effectively designed, implemented, and achieving strategic goals and other intended results.

Program efficiency relates to the costs and resources used to achieve program results. It is the responsibility of the management to achieve the optimal relationship between output of services/products and the resources used to produce them in terms of quantity and process time.

Contingency Plan Approval and Exemption Processes Not Conducted Timely

Inland facility contingency plans submitted were not approved or denied within the required 30 days for 9 of 10 plans sampled. The average time lapse was 33 days past due. Further, 3 of the 10 sampled inland facilities, which were initially determined to be deficient, have not provided OSPR an updated contingency plan as of October 2016. Deficiencies may include a lack of contract with an OSRO, specifying qualified individuals for spill management, specifying a spill management team, or a list of personnel receiving training. These 3 inland facilities were notified of their deficient contingency plans in February 2016 and June 2016, respectively. Per California Code of Regulations (CCR) section 817.04 (e), OSPR has 30 days to approve or deny a contingency plan and if a plan is deficient, a revised plan must be resubmitted within another 30 days. OSPR has not prioritized the need to review and communicate contingency plan results timely or follow up with non-compliant facilities. Without timely review and approval of contingency plans, there is increased risk that inland facility contingency plan holders may not be able to coordinate response efforts and consult with other appropriate federal, state, and local agencies and OSROs.

Further, OSPR did not provide written notification of results for 25 of 26 sampled inland facility exemption requests within 30 days of submittal as required. The average time lapse was 40 days past due. Additionally, 2 of the 26 inland facilities that submitted their exemption requests by January 2016 had not received written notifications as of October 2016. CCR section 817.04 (c) (2) states that written notifications are required to be sent within 30 days of an exemption request. Per OSPR, due to competing priorities, written notifications of

exemption request results for inland facilities were delayed and difficulties were encountered while coordinating with requesting parties. Untimely review of exemption requests may lead to increased risk that inland facilities are not eligible for an exemption request, resulting in inland facilities not having a plan to respond to an oil spill incident.

Unsupported Ratings of Undrilled Oil Spill Response Organizations (OSRO)

OSPR inappropriately granted ratings (i.e., approvals) for five OSROs that applied to be primary responders for inland facilities. See text box for the role of an OSRO. Each OSRO applied to be primary responders for three to six Response Planning Areas and all ratings were granted prior to having any drills performed. Of the 24 approved inland facilities, all 24 are contracted with one of these five OSROs. Per CCR section 819.03 (a) (2), ratings will not be issued to an applicant OSRO until a successful unannounced drill has been completed to verify information on the OSROs application. As of October 2016, these five OSROs have not had unannounced drills performed. OSPR indicated that ratings were provided without unannounced drills performed due to legislative requirements for having OSROs rated prior to January 2016, or all associated plan holders would be non-compliant. Additionally, discussions indicated that competing Program responsibilities did not warrant unannounced drills as a priority. The rating of undrilled OSROs may lead to an increased risk that plan holders have contracted with an OSRO incapable of sufficiently meeting its spill response needs.

Role of an OSRO

An OSRO is a contracted oil spill response organization. Marine vessel, marine facility, and inland facility operators who are required to submit a contingency plan must identify the personnel and equipment necessary to respond to an oil spill incident. If an OSRO has been evaluated and granted a rating by OSPR, the contingency plan may identify the rated OSRO and does not have to present detailed lists of response equipment and personnel in the contingency plan.

Vessels and Facilities are Not Inspected Timely

Four of 29 vessels sampled were not inspected within the last three years as required. Further, 1 of 15 facilities sampled had not been inspected since 2014. CCR section 845.2 (a) (1) states vessels must be inspected every three years. OSPR polices, which are more stringent than the CCR requirement, require all facility plan holders to be inspected yearly and also state that if inspections did not occur within three years, the inspections must occur within one year prior to the last scheduled oil transfer. During inspection of the vessel or facility, OSPR reviews the operator's contingency plans simultaneously to ensure they comply with the current approved contingency plans. Inspections were not performed timely as a result of management not prioritizing these activities. Untimely inspections increases the risk that plan holders are not aware of the requirements of their plan in case of an oil spill and may not have adequate equipment and staff to respond.

Recommendations:

- OSPR should develop, document, and implement a strategic plan that includes:
    - Setting clear and measurable goals
    - Identifying key priorities
    - Aligning workload priorities with available resources
    - Developing methods to monitor and measure Program performance.

- OSPR should emphasize the need to comply with all regulations and time requirements, and communicate with facilities and vessels that have deficient contingency plans.

- OSPR should allocate sufficient resources to develop and perform unannounced drills of OSROs timely.

- OSPR management should emphasize the need for staff to perform inspections as required by legislation and its internal policies.

Finding 2: OSPR and Commission Databases Lack Information for Management Decision-Making

OSPR and the Commission rely on various databases to manage its Program and operations as shown in the text box. Specifically, OSPR utilizes the Readiness Database to track prevention and preparedness activities while the Incident Tracking Database is used to maintain oil spill and responder information. The Commission utilizes the Oil Spill Prevention Database (OSPD) to monitor their prevention activities. The information contained in these systems is relied upon to ensure regulatory compliance as well as conduct management decisions and perform daily operational tasks. Review of these databases identified inaccurate, incomplete, and limited capabilities that hinder both OSPR's and the Commission's ability to effectively monitor the Program, assess operational needs, and comply with regulations. Specifically, we identified the following issues with the databases:

Key Databases and Information Tracked

OSPR Readiness Database:
- Vessel and facility contingency plans
- Plan holder inspections
- Plan holder drills and exercises

OSPR Incident Tracking Database:
- Oil spill information
- Spill responder information

Commission Oil Spill Prevention Database:
- Upcoming oil transfers and risk rating
- Monitoring of oil transfers at marine oil terminals
- Inspections of marine oil terminals
- Vessel and facility information
- Pipeline tests

OSPR Readiness Database

OSPR's Readiness Database is unable to generate reports identifying the number of vessels that came into California or the number of high risk vessel inspections conducted. When high risk vessels have been identified for monitoring, OSPR's process is to communicate to staff via email that those particular inspections are required. OSPR's email system automatically deletes emails after 90 days. Due to these limitations, we could not perform adequate review and assessment of OSPR's inspections of high risk vessels. The lack of reporting functions within the database or storage of documentation limits the ability of OSPR management or other entities from reviewing this information. Without sufficient information regarding vessel entries and high risk inspections performed, management is not able to make the most effective decisions with its use of resources in order to manage employee workload.

Also, 3 of 15 facility contingency plans sampled contained outdated plan expiration dates on the Readiness Database. Database information is not reviewed or reconciled after being input to identify and correct errors or omissions. Inaccurate data within the database may lead to incorrect management decisions and inspections not being performed timely.

Further, while conducting vessel contingency plan inspection testing, we identified 3 additional inspections that were not input into the Readiness Database, rendering the database incomplete. Without complete data, staff is unable to plan future inspections and ensure regulatory compliance.

OSPR Incident Tracking Database

Based on our review of information obtained from OSPR's Incident Tracking Database, OSPR took response actions when oil spill incidents were notified. However, the Incident Tracking Database lacked an entry in the response time field for 6 of 25 incidents sampled. In addition, 1 of 25 incidents sampled reflected a response time of one day prior to OSPR being notified of the oil spill by the California Office of Emergency Services. Without complete data, management cannot make informed decisions regarding the deployment of staff and resources for timely and efficient spill response. Discussions with OSPR indicated that response time is not considered a key indicator to assess their efficiency or effectiveness, whereas other information such as type of spill, location of spill, media attention, or affected wildlife are considered more relevant. Due to various staff and multiple departments being involved with spill response, OSPR management has not prioritized the need to track response time for staff involved in response activities.

Commission OSPD Database

While pipeline testing information is maintained in OSPD, the information in the system is either out of date or did not contain data for 29 of 41 pipelines sampled. The total number of pipelines is not maintained in OSPD. Further, OSPD does not have a mechanism to notify the Commission's Marine Environmental Protection Division (MEPD) when a pipeline test is due. According to MEPD, pipeline testing is reviewed during the annual inspection of the Marine Oil Terminal and the Marine Oil Terminal Engineering and Maintenance Standards Audit, which is conducted every four years. MEPD stated monitoring of pipeline testing is not a high priority. Per CCR section 2564, all pipelines must undergo testing before use and, depending on type of pipeline, testing must occur every one, three, or five years. Without accurate and complete pipeline information, MEPD cannot actively monitor pipeline testing at marine oil terminals and confirm whether pipelines are currently operating according to regulations, leading to an increased risk of pipeline oil spills.

Recommendations:

- OSPR and Commission management should ensure database systems are designed to allow for reporting of key information and staff is instructed to properly capture all necessary information for effective operations and oversight of the Program.

- OSPR and Commission management should utilize this information in decision making and monitoring Program compliance requirements.

Finding 3: Commission's Prevention Activities Need Improvement

The Commission is tasked with overseeing prevention activities related to fixed marine oil terminals, including monitoring oil transfers, as well as auditing oil production facilities. Improvements needed that relate to those activities are as follows:

Audits of Production Oil Facilities Not Performed As Intended

The Commission did not perform safety audits on 6 of 9 oil producing facilities within a five-year audit cycle. Audits of these 6 oil producing facilities occurred 1 to 18 months after the Commission's internal five-year audit policy. Additionally, not all corrective action items from 7 safety audits conducted were addressed within the Commission's Mineral Resources Management Division's (MRMD) internal timeframes. Per MRMD management, resources have not been dedicated to maintain the performance of audits for a five-year cycle. Additionally, MRMD states it is at the discretion of first-level management to enforce due dates of corrective action items. Safety audits are designed to ensure facilities are operating in accordance with CCR article 3.3 Oil and Gas Production Regulations, providing for the best achievable protection of public health and safety, and the environment. If the safety audits are not performed timely and corrective actions are not completed, there is no oversight to ensure oil producing facilities are operating according to regulations. If oil production facilities are not operating according to regulations, there is an increased risk of an oil spill at marine oil production facilities.

High Risk Oil Transfers Not Consistently Monitored

The Commission's northern California field office did not monitor 2 of 9 oil transfers sampled that were designated as high risk transfers by OSPD (i.e., priority one). Priority one transfers are transfers that have been assessed to have an increased risk of an oil spill due to prior violations noted for the vessel or terminal, or new vessels unfamiliar with California regulations. MEPD policies state that all priority one transfers must be monitored by staff due to the higher risk of an oil spill occurring during the transfer. Although MEPD management stated these transfers were ultimately improperly classified, no rationale was provided regarding the cause of the incorrect classification or why it was not originally monitored when designated as a priority one transfer. If MEPD staff is not present to monitor priority one oil transfers to ensure they are performed according to regulations, there is an increased risk of an oil spill occurring during oil transfers.

Recommendations:

- MRMD should allocate sufficient resources to ensure all production facilities are audited in compliance with their five-year policy and action items are addressed within the established timeframes.

- Ensure that all priority one oil transfers are monitored by MEPD staff.

Finding 4: OSPR's Fiscal Operations Need Improvement

OSPR's Financial and Administrative Services Branch is responsible for ensuring that revenues and expenditures are accurate and accounted for properly. Inaccuracies in timesheet reporting and unclear identification of Certificate of Financial Responsibility (COFR) revenues received exist.

Misreporting of On-Call Overtime Hours on Timesheets

On-call overtime hours were erroneously reported as regular hours for 17 of 43 employee timesheets sampled. Of the 17 erroneously reported timesheets, 6 contained hours that affected reported expenditures totaling $7,464. Although staff that is on-call may not technically be on overtime status (i.e., work hours exceeding 40 hours per week) their hours worked while on-call must be reported on the timesheet as "on-call overtime" in order for OSPR's accounting system, California State Accounting & Reporting System (CALSTARS), to properly account for these hours. Discussions with OSPR indicate that staff and first-level management were not familiar with the procedures for recording on-call overtime hours; however, OSPR personnel are currently being trained on the proper procedures to record on-call overtime hours. Currently, there are 67 OSPR positions involved with on-call overtime activities and total potential misstatement could not be quantified at the time of our audit. OSPR plans to review timesheets starting from 2011 through current to determine total amount misstated. State Administrative Manual (SAM) section 7110 *Character and Purpose of a System of Accounting* states the purpose of an accounting system is "presenting currently and accurately the financial condition of each and all of the agencies and funds of government." Without accurate expenditure information, OSPR management is not aware of actual Program costs or able to make sound decisions regarding Program operations.

Recording of Non-Tank Vessel COFR Revenues Cannot be Verified

A fee for a new or renewal COFR application is submitted by non-tank vessel plan holders. Three of 20 COFR receivable transactions sampled could not be verified to the CALSTARS accounting system. Revenues received daily are recorded in batches therefore individual transactions are difficult to distinguish. Prior to April 2016, OSPR did not perform monthly reconciliations of COFR revenues. SAM section 6401 *Responsibilities and Authority of Fund Administrators and Fund Users* states the fund administrator shall verify the accuracy of departmental accounting records by performing monthly reconciliations with source documents. Without verification that revenues received were recorded accurately in the accounting system, OSPR cannot ensure their accounting records are complete and accurate and fiscal reporting cannot be relied upon for management decision-making.

Recommendations:

- Strengthen communication and oversight of proper timesheet coding procedures.
- Ensure all COFR revenues are reconciled and correctly recorded in the CALSTARS accounting system.

Office of Spill Prevention and Response (OSPR) and State Lands Commission (Commission) Key Activities

Program Areas	OSPR	Commission
Prevention	• Perform risk analysis of incoming vessels and inspect them • Provide citations to vessels and facilities not in compliance • Inspect exempt inland facilities • Monitor fuel transfers to/from vessels • Administer five harbor safety committees and attend regular meetings • Perform annual inspections of vessels and marine and inland facilities • Oversee navigation and safety concerns of vessels • Administer the Tug Escort Program • Investigate root causes of spills to improve prevention measures • Collect oil and soil samples • Perform product quantifications • Conduct outreach/education • Attend technical, operational, and general trainings	• Regulate the marine oil terminals engineering and maintenance standards • Monitor marine oil transfer operations daily based on risk analysis • Perform monthly inspections of California's oil producing islands and offshore platforms • Perform annual inspections at fixed marine oil terminals • Regulate well drilling on state leases • Assess operational procedures, personnel training, terminal structures, and piping • Perform safety and spill prevention audits for drilling, production, and processing • Present Prevention First (prevention symposium) every two years
Preparedness	• Review and approve vessel and marine and inland facility contingency plans • Ensure Certificate of Financial Responsibility are approved • Attend and evaluate drills and exercises of contingency plan holders • Attend drill design meetings with plan holders • Perform unannounced drills and rate Oil Spill Response Organizations • Update OSPRs six Area Contingency Plan areas every three years • Develop six inland Geographic Response Planning areas	
Response	• Test sensitive site strategies • Attend regular area committee meetings • Provide and attend spill response trainings • Work with Oiled Wildlife Care Network • Manage Spill Dispatch Center • Coordinate/work with Unified Command System during oil spill response • Identify resources at risk from exposure to the spilled oil and response activities • Perform shoreline cleanup and assessment technique analysis • Develop and meet spill cleanup end points during spill response • Perform investigations to build court cases for restoration and remediation	

Source: Discussions and documents from OSPR and the Commission
Note: Restoration and Remediation program area is not included in our review as noted in the Scope and Methodology section.

APPENDIX B

U.S. Coastal States' Comparisons of Oil Spill Prevention, Response, and Preparedness Programs

	California	Alaska	Florida	Texas	Washington
Statute	Public Resources Code 8670.38 - 8670.42	Alaska Statutes, 46.03.010	Florida Statutes Chapter 376, 376.07	Texas Natural Resources Code §40.001	Revised Code of Washington, Chapter 90.56
Lead Agency – Program	Department of Fish and Wildlife - Oil Spill Prevention and Response	Department of Environmental Conservation - Division of Spill Prevention and Response	Department of Environmental Protection (DEP) - *No dedicated Program*	General Land Office (GLO) - Oil Spill Prevention and Response Program	Department of Ecology - Spill Prevention, Preparedness and Response Program
Fees Collected	6.5 cents per barrel of crude oil or petroleum products.	5 cents per barrel of crude oil 1 cent per gallon of refined fuel	2 cents per barrel of pollutant, or equivalent measure as established by the department	1 1/3 cents per barrel of crude oil	5 cents per barrel of crude oil or petroleum products
Activities	• Monitor oil transfers • Approve contingency plans • Yearly inspections of contingency plans • Drills of contingency plan holders • Audit and inspect marine terminals and production facilities • Monitor pipeline inspections • Review Certificate of Financial Responsibility • Unannounced drills and rating of Oil Spill Response Organizations • Spills Dispatch Center • Develop Response Plans • Provide Response Trainings	• Oversee oil terminals, tank farms, oil exploration, production and refinery facilities, Trans-Alaska Pipeline System, and vessels • Evaluate oil discharge prevention and contingency plans, facility inspections, and announced and unannounced oil discharge exercises • Inspect response equipment • Review proof of financial responsibility.	• Issue registration and discharge prevention and response certificates • Operation and inspection requirements for discharge prevention and cleanup capabilities of terminal facilities, pipelines, and vessels • Develop procedures for reporting discharges and removal of pollutants • Creation state response team for creating and maintain response contingency plans, • Reviews evidence of financial responsibility	• Audit and inspect deep draft cargo vessels, pipeline and shore-based oil handling facilities • Certify oil industry facilities to ensure compliance with state laws • Remove derelict vessels and structures • Certify private response contractors and organizations	• Drills of contingency plan holders • Inspections of vessels, facilities, and pipelines • Drills of response contractors • Participate in tabletop drills, worse-case drills, and drill deployments
Staff & Budget	FY 2015-16 Staff = 314 Budget = $59,593,000	FY 2015 Staff = 73 Budget = $23,329,167	FY 2014-15 DEP(1) Staff = 3,095 Budget = $1,564,691,548	FY ending 8/31/15(2) Staff = 658 Budget = $9,977,203	FY 2015-17(3) Staff = 89 Budget = $31,500,000
2012-2015 Average Crude Oil Production (in thousand barrels)	200,530	184,43	2,186	1,016,830	None
Coastline Miles (approx.)	840	6,640	1,350	367	157
Oil Transferred in 2014	603,346,280 barrels	197,089,000 barrels	Information Not Available	Information Not Available	201,290,978 barrels
Spills over 10,000 Gallons (7/1/12 – 12/31/15)	27 Spills, 983,418 Gallons(4)	1 Spill, 30,847 Gallons	Information Not Available	Information Not Available	7 Spills, 398,575 Gallons

Sources: California Department of Fish and Wildlife, California State Lands Commission, Washington Department of Ecology, Alaska Department of Environmental Conservation, Florida Department of Environmental Protection, Texas General Land Office, Pacific States British Columbia Oil Spill Task Force, U.S. Energy Information Administration, U.S. Department of Commerce National Oceanic and Atmospheric Administration; respective state's regulations

Notes:

(1) Since Florida does not have a dedicated oil spill program, the staff and budget is for the entire lead agency, DEP.
(2) Staff is not all dedicated to the GLO. Figure includes Veteran's Land Board staff.
(3) Washington figures are based on biennium budget.
(4) Amounts include total oil spilled over 10,000 gallons.

APPENDIX C

Office of Spill Prevention and Response Status of Inland Facility Expansion

SB 861 Key Requirements	Status	Steps Taken
Amended California oil spill contingency plan that addresses marine and inland oil spills to be submitted January 1, 2017.	▲	OSPR management is currently reviewing the draft of the contingency plan. Per OSPR, it is on schedule to be completed by January 1, 2017.
Adopt emergency regulations pursuant to the amendments made by SB 861.	✓	Implemented in October 2015.
All inland facilities with average daily production exceeding 10 barrels per day were required to submit a contingency plan or apply for exemption by January 1, 2016.	◆	Of the 192 inland facilities identified, 44 submitted contingency plans for review and 148 applied for exemption. As of October 12, 2016, 24 of the 44 submitted plans have been approved, and 102 of 148 requested exemptions have been approved.
Contingency plan shall identify a rated Oil Spill Response Organization (OSRO).	▲	While all OSROs have been rated, OSPR did not rate them according to California Code of Regulations (CCR) 819.03(a)(2), which requires the OSROs to have successfully completed an unannounced drill.
Provide training in response, containment, cleanup operations and equipment, equipment deployment, and the planning and management of these programs.	◆	Field Response Team has developed a training program. As of October 3, 2016, OSPR staff has had a total of 1,521 hours of inland related training.
Increase Oil Spill Technical Advisory Committee (TAC) members from 10 to 14.	✓	The TAC currently consists of 14 members.
Establish additional stations or facilities in the interior of the state for the rescue and rehabilitation of wildlife affected by inland spills.	◆	OSPR has established offices in Fresno and Bakersfield.
Every person who operates a refinery, a marine terminal in waters of the state, or a pipeline shall register with the California State Board of Equalization (BOE).	▲	BOE plans to perform audits to ensure compliance and complete collection of fees once their standard three-year audit period is available to audit.
Impose a fee on pipeline operators transporting petroleum products across, under, or through the waters of the state.	✓	BOE has modified their monthly fee returns to include petroleum products transported into the state by means of a pipeline across, through, or under state waters.

Source: SB 861 and documents and discussions with OSPR management.

Legend:

✓ = Fully implemented

◆ = Partially implemented

▲ = In progress

APPENDIX D

METHODOLOGY

To plan the audit, we identified areas significant to the Oil Spill Prevention, Response, and Preparedness Program's (Program) goals for the best achievable protection of California's natural resources. We gained an understanding of the Office of Spill Prevention and Response's (OSPR) and State Lands Commission's (Commission) fiscal and programmatic operations.

We evaluated whether key internal controls relevant to our audit objectives, such as review and approvals, reconciliations, and separation of duties, were properly designed and effectively implemented.

We assessed the reliability of OSPR's Readiness Database and Incident Tracking Database and the Commission's Oil Spill Prevention Database (OSPD) information systems by performing the following:

- Interviewed staff regarding use and access of the information systems;
- Completed walkthroughs of data entry and report generation for critical databases;
- Tested access levels of staff and management for elements of each database;
- Validated the data to contingency plans, contracts, inspection reports, monitoring reports, and field response reports to verify completeness and accuracy.

We determined all three databases to be partially reliable, depending on the data required. Deficiencies significant to the reliability of data to perform our audit objectives are detailed in Finding 2.

Based on the results of our planning, evaluation of internal controls, and data reliability assessment, we developed the methods used to address the specific audit objectives in the table below.

Program effectiveness was determined through analysis of OSPR and Commission practices as well as practices performed by other large coastal states. We also identified the Program's financial basis and gained and understanding of the California State Board of Equalization's (BOE) revenue collection and audit practices related to the Program.

Audit Objectives and Methods

Audit Objectives	Methods
To assess the financial basis	
Program revenues collected are expended for Program objectives and the fund balances are adequate to support the Program.	1. Identified revenue, expenditure, and fund balance levels in the Governor's Budget. 2. Determined how fees and fines were collected and remitted by interviewing OSPR and BOE key management and staff to gain an understanding of the fee collection process. 3. Selected a sample of revenues for review to ensure they are adequately supported, properly coded, and reported. 4. Interviewed BOE audit staff to gain understanding of their audit selection methodology and audit program procedures. Conducted walkthrough of an audit. 5. Selected a sample of BOE audits to verify audit steps were sufficient to ensure fees and fines collected are complete and accurate. Reviewed BOE oil spill revenue audit plan, audit work papers, billing summaries, audit deficiency summaries, payments for deficiencies identified, and oil transfer volumes reported by the Commission, U.S. Customs, and Energy Information Administration for adequacy and sufficiency of documentation of audit. 6. Verified Certificate of Financial Responsibility (COFR) fee revenues for non-tank vessels are properly supported and coded correctly by reviewing COFR applications, checks received, and monthly reconciliations. 7. Determined cost recovery revenues are properly supported and coded correctly by reviewing billing summaries, checks paid, timesheets, invoices, and California State Accounting & Reporting system (CALSTARS) reports. 8. Verified OSPR and Commission salary expenditures are properly supported and recorded correctly by reviewing timesheets and CALSTARS reports. 9. Verified equipment expenditures are properly authorized, allowable, and recorded correctly by reviewing purchase requests, invoices, copies of checks paid, and CALSTARS reports. 10. Reviewed the cost allocation methodology of OSPR and Commission allocated expenditures for reasonableness and support.
To assess programmatic effectiveness	
Program activities are established in accordance with regulations and are adequate to meet the Program goals.	General 1. Researched outside entities and other coastal states to identify industry standards and determine if OSPR and the Commission are meeting standards identified. 2. Identified OSPR and Commission goals and objectives and their plans to achieve them for inland and marine areas. 3. Identified authorized positions and filled positions for OSPR and the Commission. 4. Reviewed OSPR and Commission communication with all relevant parties to determine if sufficient documentation exists to achieve Program goals.

Audit Objectives	Methods
Program activities are established in accordance with regulations and are adequate to meet the Program goals (continued).	OSPR 1. Identified and reviewed OSPR planning documents to determine oil spill prevention and response goals. 2. Reviewed current use of department equipment to determine if equipment is significant for performing program operations. 3. Selected a sample of spills responded to as recorded in the OSPR Incident Tracking Database to determine if adequate responses have been taken to achieve Program goals. 4. Reviewed OSPR training programs, including Hazardous Waste Operations and Emergency Response requirements, to ensure staff is adequately trained for prevention and response activities. 5. Determined whether high-risk vessels were inspected in accordance with OSPR policy by reviewing high-risk email notices, information on the OSPR Readiness database, and the approved vessel contingency plan list. 6. Determined whether facility and vessel contingency plans are inspected in accordance with OSPR policy by reviewing daily transfer activity logs, information in the Readiness Database, Department of Homeland Security ship arrival notification system reports, and field report checklists. 7. Determined whether contingency plan holder drills and exercises are performed in accordance with California Code of Regulations (CCR) by reviewing drill approval letters, drill evaluation reports, requests for credit, information in the Readiness Database, inland drill evaluation reports, and sign-in sheets. 8. Determined whether Oil Spill Response Organizations (OSROs) are drilled and rated in accordance with CCRs by reviewing a list of OSRO drills performed, OSRO rating matrices, OSRO applications, drill notes, and drill reports. 9. Determined whether contingency plans are approved in accordance with CCR by reviewing the list of contingency plans, approval checklists, information in the Readiness Database, contingency plans, and approval letters. 10. Determined whether OSPR responded adequately to inland and marine oil spills in accordance with CCR by reviewing information in the OSPR Incident Tracking Database, pollution incident cost recovery reports, daily activity reports, after action report, and initial spill reports.

Audit Objectives	Methods
Program activities are established in accordance with regulations and are adequate to meet the Program goals (continued).	Commission 1. Determined if annual inspections of Marine Oil Terminals (MOT) are performed in accordance with CCR by reviewing Commission's OSPD and inspection checklists. 2. Determined if monitoring of high risk oil transfers at MOTs are performed in accordance with CCR by reviewing OSPD data, field data collection forms, and monitoring checklists. 3. Determined if monitoring of MOT pipelines are performed in accordance with CCR by reviewing OSPD data and pipeline test results. 4. Determined if reviews of third-party audits of MOTs are performed in accordance with CCR by reviewing audit tracking spreadsheets, risk assessments of MOTs, scope of work documents, and audit response letters. 5. Determined if safety audits of oil producing islands and offshore oil platforms are in accordance with CCR by reviewing audit tracking lists, audit reports, and action items. 6. Determined if monthly inspections of oil producing islands and offshore oil platforms are in accordance with CCR by reviewing facility inspection spreadsheets, inspection reports, and deficiency tracking spreadsheets. 7. Determined if pipelines of oil producing islands and offshore oil platforms are monitored in accordance with CCR by reviewing pipeline inspection tracking spreadsheets, inspection reports, hydro test approval letters, and repair/replacement summaries.
OSPR's inland expansion activities comply with legislation and the implementation status of those activities.	1. Determined whether OSPR management has developed a plan for the inland expansion in accordance with CCR by reviewing inland implementation timeline, rule-making timetable, Technical Advisory Committee minutes, and branch chief meeting notes. 2. Identified total hours trained specific to inland operations by reviewing inland trainings offered and taken by OSPR staff. 3. Determined whether inland contingency plans and plan exemptions were approved and communicated timely to facilities by reviewing the list of inland facilities, the Readiness Database, contingency plan and exemption request tracking spreadsheets, response letters to facility owner/operators, and exemption checklists. 4. Determined whether OSROs are rated for coverage of inland response planning areas in accordance with CCR by reviewing OSRO rating matrix and interviews with OSPR staff and management.

RESPONSE

The California Department of Fish and Wildlife, Office of Spill Prevention and Response and the California State Lands Commission responses are included herein. Exhibits referenced in the California State Lands Commission response have been omitted in the interest of brevity.

State of California – Natural Resources Agency
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Director's Office
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EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director

December 16, 2016

Jennifer Whitaker, Chief
Office of State Audits and Evaluations
Department of Finance
915 L Street
Sacramento, CA 95814-3706

Dear Ms. Whitaker:

Subj: California Oil Spill Prevention, Response, and Preparedness Program Performance Audit

Thank you for the opportunity to respond to the California Department of Finance's December 2016 audit of the financial basis and programmatic effectiveness of the State's oil spill prevention, response, and preparedness program (Audit), which involved the review of the Department of Fish and Wildlife's Office of Spill Prevention and Response (OSPR). We appreciate the efforts of your audit team and acknowledge their professionalism and courteous interaction with our staff. While the audit and request for response is addressed to me as Director of the Department, the enclosed responses to the audit findings were developed jointly with the OSPR Administrator, Thomas Cullen, and his senior staff.

I intend to personally monitor our performance on your recommendations. I have informed Administrator Cullen that I expect him and his senior staff to act promptly and expeditiously on these recommendations. If you have any questions, please contact me or Kevin Hunting, Chief Deputy Director, at (916) 653-7667.

Sincerely,

Charlton H. Bonham
Director

Enclosure

ec: California Department of Fish and Wildlife

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ATTACHMENT

California Department of Fish and Wildlife
Office of Spill Prevention and Response

Responses to California Department of Finance Audit Report on the California Oil Spill Prevention, Response, and Preparedness Program

December 2016

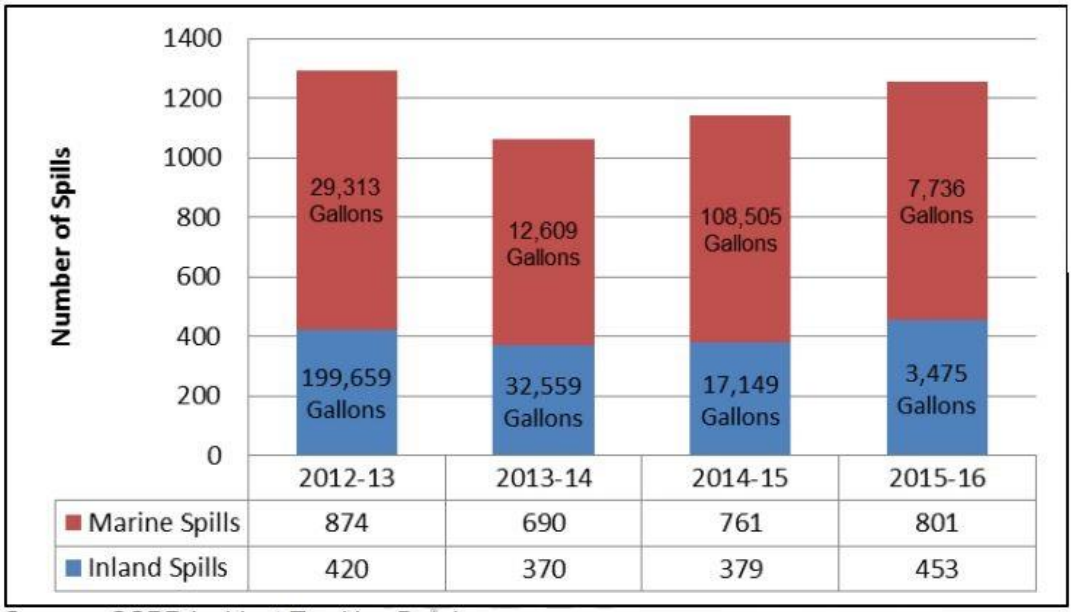
RESPONSES TO AUDIT REPORT

As provided for in the California Department of Finance (DOF) California *Oil Spill Prevention, Response, and Preparedness Program Performance Audit* of December 2016, OSPR submits the following responses to specific findings and recommendations. OSPR recognizes the importance and value of periodic, independent examinations and is eager to improve its oil spill prevention, preparedness, and response programs based on this audit. We appreciate the professionalism and thoroughness of the audit team in examining and assessing our complex programs.

OSPR Overview of Spill Data

In the Background section of the audit report, DOF discussed oil spill data provided to them from OSPR's Spill Tracking Database. Figure 1 of the Audit (below) graphs the number of oil spills per year in both inland and marine environments that impacted waters of the state. It also includes, in text, the aggregate volume of oil spilled, although that was not graphed.

Figure 1: Number and Quantity of Oil Spilled
FY 2012-13 through 2015-16

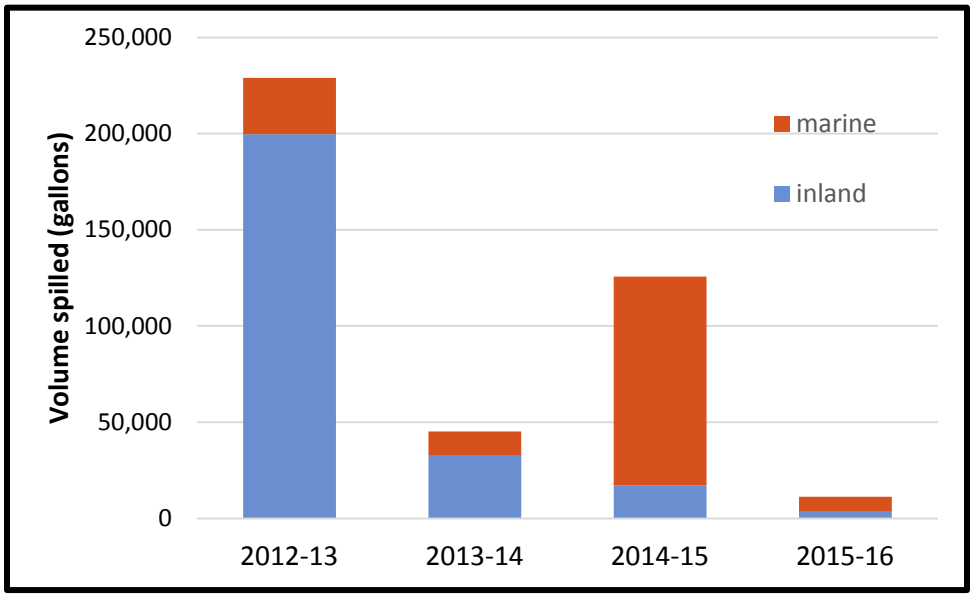


	2012-13	2013-14	2014-15	2015-16
Marine Spills	874	690	761	801
Inland Spills	420	370	379	453

Source: OSPR Incident Tracking Database

Because these data include all spills (and all spills must be reported regardless of volume), the number of spills includes vehicle accidents and thousands of very small spills. 88% of the spills in this dataset are 10 gallons or less. Thus, the volume spilled is an alternative and likely better measure of prevention and preparedness effectiveness. Potentially large spills are often times kept small because the spiller is prepared and takes quick, preventative actions. A revised Figure 1 below is based on the same data, but instead graphs the volume spilled rather than the number of incidences.

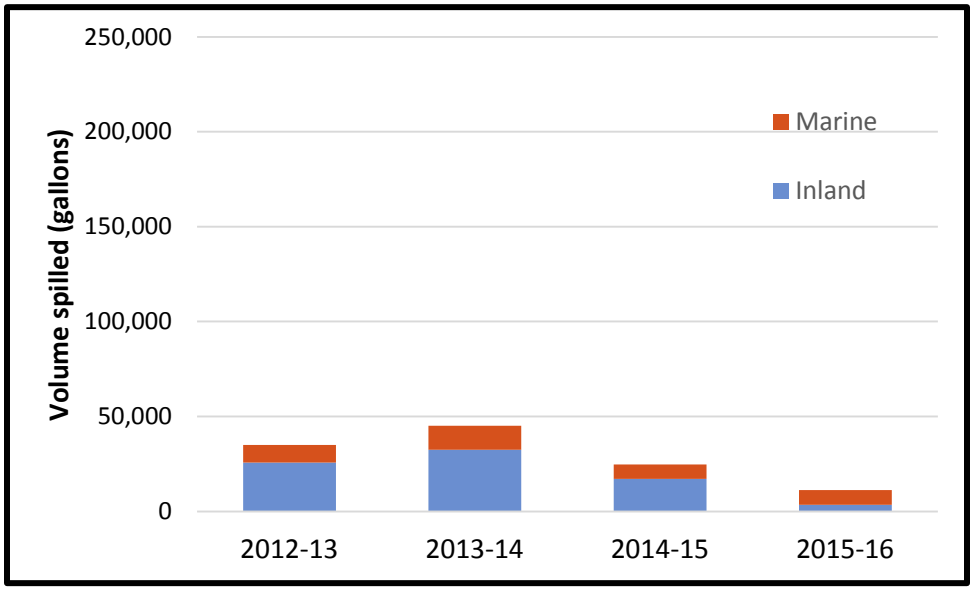
Figure 1 Revision A: Quantity of Oil Spilled to Water
FY 2012-13 through 2015-16



The data are strongly affected by just six of the 4,748 spills. These six spills (over 20,000 gallons each, the largest of which is the Refugio spill in 2014-15) account for 72% of the total volume spilled over the four-year period, and largely explain the big blue bar in the first year and the big red bar in the third year. While minimizing large incidences like these is an important goal, they are rare enough that care must be taken in analyzing the data. In a short time frame like the four-year period here, a single large event can have a dramatic effect on the data.

Further revising the graph above by removing the six large incidences would look like this:

Figure 1 Revision B: Quantity of Oil Spilled to Water (removing six largest spills)
FY 2012-13 through 2015-16



This provides a good measure of trends in small spills (all 8,500 gallons or less), which can be useful in assessing program effectiveness over a short time frame with regard to preparedness and response capabilities. Small spills are often kept small by the very measures required of industry "planholders" by OSPR. This new graph suggests the promise of OSPR's new inland expansion with a dramatic reduction in the volume spilled in inland areas since OSPR implemented its emergency regulations early in the Fiscal Year 2015-16 (September 2015), even though OSPR was only at the initial stages of staffing its inland program. Focusing on just moderate to large spills (over 1,000 gallons) to water, 2015-16 marked the first year on record for which there were no incidences in inland areas. In comparison, there were three to nine spills of this size in each of the previous eight years.

Specific Audit Recommendations and OSPR Responses

Finding 1: Lack of Comprehensive Strategic Planning and Programmatic Oversight by OSPR's Management

"OSPR does not have a current documented strategic plan. OSPR's latest plan was for years 2007 to 2010. Strategic planning is important to an organization because it provides a sense of strategic direction and outlines measurable goals. Having a strategic plan assists in the communication of organizational goals, establishes priorities, focuses energy and resources, and is a tool to evaluate progress. Because OSPR has expanded their oil spill responsibility with oversight of inland activities, the need for a documented, comprehensive strategic plan for the organization is critical to ensure an effective and efficient program."

Recommendation

"OSPR should develop, document, and implement a strategic plan that includes:

- *Setting clear and measurable goals*
- *Identifying key priorities*
- *Aligning workload priorities with available resources*
- *Developing methods to monitor and measure Program performance."*

OSPR Response

Through its history since 1991, OSPR's executive team has regularly embarked in strategic planning sessions, oftentimes annually or semi-annually. It was during the 2013 session that OSPR identified the likelihood that the oil industry would begin transporting large amounts of crude oil from production facilities in North Dakota to California's refineries by rail, dramatically increasing the threat to inland waters and habitats and decreasing OSPR's primary revenue base by as much as a third. This proposal also addressed the long-standing gap in OSPR's ability to regulate the third of California's total oil risk exposure that emanates from inland production areas and is then transported by pipeline, rail, or truck, throughout the state. The proposal also permanently secured more stable funding for the Oiled Wildlife Care Network (OWCN) that rehabilitates affected birds and mammals following an oil spill.

OSPR's inland expansion, codified in SB 861, is the result of extensive and visionary strategic planning. This expansion modestly increased OSPR by 38 new PY's and four new inland office locations. This effort required detailed planning across all branches of OSPR, involving all

managers and supervisors, and necessitated a detailed review of OSPR's capabilities and needs as OSPR moved forward with developing new regulations. This planning and implementation for inland expansion was subject to greater review and required greater specificity than previous strategic plans, as SB 861 required extensive discussions with stakeholders, other federal and state agencies, the legislature, and the Governor's Office in its preparation.

Looking forward, OSPR envisions a comprehensive review of its programs, especially its new operations in inland areas, in 2017. OSPR leadership met in early December of 2016 to update their two-year strategic plan; the FY2017-19 plan will consider the remaining outstanding operational objectives to finish implementing the new inland program expansion as well as other initiatives to improve OSPR's ability to best fulfill its missions. OSPR will prepare a "Strategic Plan" that identifies its mission statement, specifies its vision, and describes key mission objectives and goals that are "SMART", i.e. Specific, Measurable, Achievable, Relevant, and Time-Bound; they will complete this plan by April 2017. OSPR's executive team is also in the process of developing Measures of Effectiveness to track OSPR's progress toward meeting these goals.

Finding 1, Issue 1: Contingency Plan Approval and Exemption Processes Not Conducted Timely

"Inland facility contingency plans submitted were not approved or denied within the required 30 days for 9 of 10 plans sampled. The average time lapse was 33 days past due. Further, 3 of the 10 sampled inland facilities, which were initially determined to be deficient, have not provided OSPR an updated contingency plan as of October 2016. Deficiencies may include a lack of contract with an OSRO, specifying qualified individuals for spill management, specifying a spill management team, or a list of personnel receiving training. These 3 inland facilities were notified of their deficient contingency plans in February 2016 and June 2016, respectively. Per California Code of Regulations (CCR) section 817.04 (e), OSPR has 30 days to approve or deny a contingency plan and if a plan is deficient, a revised plan must be resubmitted within another 30 days. OSPR has not prioritized the need to review and communicate contingency plan results timely or follow up with non-compliant facilities. Without timely review and approval of contingency plans, there is increased risk that inland facility contingency plan holders may not be able to coordinate response efforts and consult other appropriate federal, state, and local agencies and OSROs.

Further, OSPR did not provide written notification of results for 25 of 26 sampled inland facility exemption requests within 30 days of submittal as required. The average time lapse was 40 days past due. Additionally, 2 of the 26 inland facilities that submitted their exemption requests by January 2016 had not received written notifications as of October 2016. CCR section 817.04 (c) (2) states that written notifications are required to be sent within 30 days of an exemption request. Per OSPR, due to competing priorities, written notifications of exemption request results for inland facilities were delayed and difficulties were encountered while coordinating with requesting parties. Untimely review of exemption requests may lead to increased risk that inland facilities are not eligible for an exemption request, resulting in inland facilities not having a plan to respond to an oil spill incident."

Recommendation

"OSPR should emphasize the need to comply with all regulations and time requirements, and communicate with facilities and vessels that have deficient contingency plans."

OSPR Response

OSPR acknowledges that, going forward, it is important to adhere strictly to the regulatory timelines.

The delays noted above occurred for two primary reasons. First, while the emergency regulations were adopted quickly, it has taken more time to fill the staff positions necessary to implement the program as implemented in the regulations. During the initial review of new contingency plans (c-plans), OSPR was limited to a single new environmental scientist who focused only on the environmental sensitivity portion of the c-plans. Since that time, OSPR has been able to fill more of the positions necessary to review the c-plans. Second, OSPR is currently cultivating a working relationship with an industry to adhere to new regulations where previously none existed. As such, OSPR has found it more productive, in this initial phase, to work with plan holders after our first review and to correct deficiencies, even if that process exceeds regulatory time limits.

The increased risks associated with these delays have been minor. This is evidenced, first and foremost, in the data above which show that the first year of the emergency regulations was the first year for which there were no inland spills over 1,000 gallons to waters of the state. This strongly suggests that just the act of preparing a contingency plan, irrespective of OSPR's review, instills a heightened awareness of spill risk and has prompted planholders to implement better preventative and preparedness measures to reduce the risk of spills, especially larger spills.

Regarding exemption requests, facilities must describe natural environmental conditions or engineering or operational controls that would make them qualify for an exemption. Facilities generally have a clear understanding of what qualifies for an exemption, as demonstrated by the fact that, of 153 facilities requesting an exemption, only four have been denied. This suggests that untimely review is unlikely to create increased risk, as facilities are not likely to request an exemption if they do not qualify for one. However, OSPR understands the importance of adhering to applicable timelines.

Finding 1, Issue 2: Unsupported Ratings of Undrilled Oil Spill Response Organizations (OSRO)

"OSPR inappropriately granted ratings (i.e., approvals) for five OSROs that applied to be primary responders for inland facilities. See text box for the role of an OSRO. Each OSRO applied to be primary responders for three to six Response Planning Areas and all ratings were granted prior to having any drills performed. Of the 24 approved inland facilities, all 24 are contracted with one of these five OSROs. Per CCR section 819.03 (a) (2), ratings will not be issued to an applicant OSRO until a successful unannounced drill has been completed to verify information on the OSROs application. As of October 2016, these five OSROs have not had unannounced drills performed. OSPR indicated that ratings were provided without unannounced drills performed due to legislative requirements for having OSROs rated prior to January 2016, or all associated plan holders would be non-compliant. Additionally, discussions indicated that competing Program responsibilities did not warrant unannounced drills as a priority. The rating of undrilled OSROs may lead to an increased risk that plan holders have contracted with an OSRO incapable of sufficiently meeting its spill response needs."

Recommendation

"OSPR should allocate sufficient resources to develop and perform unannounced drills of OSROs timely."

OSPR Response

OSPR acknowledges most of these deficits and has already addressed the issue.

To clarify, there were four OSRO ratings provided, not five. The four OSROs were the Marine Spill Response Corporation (MSRC), Patriot Environmental Services, Clean Harbors, and the National Response Corporation (NRC). The fifth OSRO, Ponder Environmental Services, received an Inland Terrestrial rating following an inspection on May 6, 2016. As per 14 CCR §819.03(a)(4), a terrestrial service rating does not require any equipment or personnel to be mobilized. Ponder did not receive their requested On-Water rating until an unannounced drill was performed on December 6, 2016.

The emergency regulations governing industry contingency planning requirements were promulgated in late 2015, with a very tight timeframe for plan submission by January 1, 2016. This included the requirement to use a rated OSRO. OSROs could not put in a "rating application" in advance of the final regulations, as they could not be certain of the industry requirement they would be contracted for.

In order to ensure that inland plan holders were able to comply with 14 CCR §815.07(a), and contract with an OSPR-rated OSRO by January 1, 2016, four OSROs (MSRC, Patriot, Clean Harbors and NRC) were granted inland on-water ratings for the following reasons:

1) All four OSROs had current marine ratings which had been drilled and verified;
2) All four had had marine response ratings for many years;

3) OSPR had recently been able to observe and evaluate the capabilities of these OSROs during the Refugio oil spill, during which all four provided response services; and,
4) These ratings would be granted on a preliminary basis, for purposes of initial plan submission, and these OSROs would be tested via an unannounced drill promptly thereafter. This, however, was not stated clearly in the rating approval letters.

While it was originally intended that the unannounced drills would be conducted in a timely manner in the first half of 2016, a combination of staff turnover and a significant oil spill response (the Grove pipeline spill in Ventura from June through October) caused delays. All the required unannounced drills are now scheduled to be completed by the end of 2016.

Finding 1, Issue 3: Contingency Plans are Not Inspected Timely

"Vessel contingency plans for 4 of 29 sampled were not inspected within the last three years as required. Further, 1 of 15 facility contingency plans sampled had not been inspected since 2014. CCR section 845.2 (a) (1) states vessels must be inspected every three years. OSPR polices, which are more stringent than the CCR requirement, require all facility contingency plan holders to be inspected yearly and also state that if inspections did not occur within three years, the inspections must occur within one year prior to the last scheduled oil transfer. Plans were not inspected timely as a result of management not prioritizing these activities. Inspections not being performed timely increases the risk that plan holders are not aware of the requirements of their plan in case of an oil spill and may not have adequate equipment and staff to respond."

Recommendation

"OSPR management should emphasize the need for staff to perform inspections of contingency plans each year as required by its internal policies."

OSPR Response

To clarify, the regulation cited in the Audit, 14 CCR §845.2(a)(1), is in the bunkering and lightering section and has no nexus to contingency plans. It is the vessel and not the vessel contingency plan that is to be inspected every three years. Further, it is a safety system inspection with regard to bunkering and lightering, and a not spill response inspection, that is conducted on the vessels.

This section does not apply if the vessel does not bunker or lighter in California State waters, and not all vessels coming to California bunker. Those bunkering in California for the first time are identified as a Category 4 risk and are boarded and inspected. After that, vessels coming into California are boarded once a year or at their next California port call if more than a year has passed since their last California port call. This practice ensures that vessels bunkering in California are boarded and inspected in compliance with 14 CCR §845.2(a)(1).

For facilities, there is no physical inspection requirement or authority given to OSPR with regards to production or transfer infrastructure. OSPR does have oversight with regard to spill containment infrastructure and does have requirements for response equipment at the marine facilities.

Regarding facility contingency plans, it is a goal of OSPR's Prevention Branch to verify them once a year to ensure that the facility's copy of their oil spill contingency plan matches OSPR's copy of the plan. In verifying the contingency plan, OSPR Oil Spill Prevention Specialists (OSPS) ensure the facility is still operating and the ownership has not changed. This is not a regulatory requirement or formal OSPR policy, nor was it intended as a high-priority assignment (relative to meeting statutory and regulatory requirements).

Finding 2: OSPR and Commission Databases Lack Information for Management Decision-Making

"OSPR and the Commission rely on various databases to manage its Program and operations. Specifically, OSPR utilizes the Readiness Database to track prevention and preparedness activities while the Incident Tracking Database is used to maintain oil spill and responder information. The information contained in these systems is relied upon to ensure regulatory compliance as well as conduct management decisions and perform daily operational tasks. Review of these databases identified inaccurate, incomplete, and limited capabilities that hinder . . . the ability to effectively monitor the Program, assess operational needs, and comply with regulations."

Recommendation

"*OSPR and Commission management should ensure database systems are designed to allow for reporting of key information and staff is instructed to properly capture all necessary information for effective operations and oversight of the Program. OSPR and Commission management should utilize this information in decision making and monitoring Program compliance requirements."*

<u>Finding 2, Issue 1: OSPR Readiness Database</u>

"OSPR's Readiness Database is unable to generate reports identifying the number of vessels that came into California or the number of high risk vessel inspections conducted. When high risk vessels have been identified for monitoring, OSPR's process is to communicate to staff via email that those particular inspections are required. OSPR's email system automatically deletes emails after 90 days. Due to these limitations, we could not perform adequate review and assessment of OSPR's inspections of high risk vessels. The lack of reporting functions within the database or storage of documentation limits the ability of OSPR management or other entities from reviewing this information. Without sufficient information regarding vessel entries and high risk inspections performed, management is not able to make the most effective decisions with its use of resources in order to manage employee workload.

Also, 3 of 15 facility contingency plans sampled contained outdated plan expiration dates on the Readiness Database. Database information is not reviewed or reconciled after being input to identify and correct errors or omissions. Inaccurate data within the database may lead to incorrect management decisions and inspections not being performed timely.

Further, while conducting vessel contingency plan inspection testing, we identified 3 additional inspections that were not input into the Readiness Database, rendering the database incomplete. Without complete data, staff is unable to plan future inspections and ensure regulatory compliance."

OSPR Response

The OSPR Readiness Database was established to track vessel and facility contingency planning information, including plan submittal, renewals, revisions, and withdrawals. This database also provides a mechanism for field staff in remote office locations to access and update information. The database was not designed to track vessel movements along the California coast or to generate reports detailing total number of vessel calls each year. In conducting daily threat assessment of OSPR-regulated vessels arriving in California, OSPR does not need to track or tally the number of vessels that come into California; this information is readily available from other sources. The US Coast Guard tracks all vessels arriving to the United States and passing through US waters from north to south. The Marine Exchanges of Los Angeles / Long Beach and the San Francisco Exchange also provide vessel tallies upon request; these are included in the Harbor Safety Plans that are submitted in July each year.

In addition, the Readiness Database was not designed to specifically identify the number of high-risk vessels that are inspected by OSPR. OSPR acknowledges that this statistic may be useful to track over time and is looking at possible mechanisms for managing these data.

Regarding completeness of the Readiness Database, as indicated above, OSPR is committed to having complete and accurate databases that enable timely and appropriate decision-making and optimal allocation of resources. OSPR management will be reviewing procedures with staff responsible for entering contingency plan information and providing supplemental training and protocol development as appropriate.

Finding 2, Issue 2: OSPR Incident Tracking Database

Based on our review of information obtained from OSPR's Incident Tracking Database, OSPR took response actions when oil spill incidents were notified. However, the Incident Tracking Database lacked an entry in the response time field for 6 of 25 incidents sampled. In addition, 1 of 25 incidents sampled reflected a response time of one day prior to OSPR being notified of the oil spill by the California Office of Emergency Services. Without complete data, management cannot make informed decisions regarding the deployment of staff and resources for timely and efficient spill response. Discussions with OSPR indicated that response time is not considered a key indicator to assess their efficiency or effectiveness, whereas other information such as type of spill, location of spill, media attention, or affected wildlife are considered more relevant. Due to various staff and multiple departments being involved with spill response, OSPR management has not prioritized the need to track response time for staff involved in response activities.

OSPR Response

The current Incident Tracking Database was created to address inquiries and statistical needs within OSPR and to fulfill procedural recommendations identified in the 2004 Department of Finance Audit. The database was not designed to collect real-time incident response times and investigative information. Rather it is used to collect information to statistically evaluate spill cause, source, substance types, and volume spilled.

OSPR does not specifically track the time it takes for its staff to travel to a response nor does it implement a "standard" response latency. Response times vary by necessity based on the nature of each individual spill, such as access to the spill site, safety of field responders, impacts to natural resources, and, primarily, the response of other first-responder agencies (e.g. local fire departments or OSRO's). Often, OSPR personnel are on the phone with local responders before they personally arrive on scene. In addition, the cleanup companies responsible for physical mitigation of the spill are often activated and on-site commencing spill containment and cleanup operations independent of OSPR's presence at the scene.

The above notwithstanding, OSPR strives to ensure that its databases are up to date and complete. Prior to the audit, OSPR was aware of some incomplete database entries in the Spill Tracking Database. This has been addressed in part by the addition of spill desk staffing as well as additional training measures to ensure that data is entered in a complete and timely manner.

Finding 3: Commission's Prevention Activities Need Improvement

OSPR Response

No OSPR Response. The section addresses activities by the State Lands Commission.

Finding 4: OSPR's Fiscal Operations Need Improvement

"OSPR's Financial and Administrative Services Branch is responsible for ensuring that revenues and expenditures are accurate and accounted for properly. Inaccuracies in timesheet reporting and unclear identification of Certificate of Financial Responsibility (COFR) revenues received exist."

OSPR Response

OSPR acknowledges the time reporting and COFR revenue tracking issues, and has already taken the necessary steps to address them. More detailed responses are provided below.

Finding 4, Issue 1: Misreporting of On-Call Overtime Hours on Timesheets

"On-call overtime hours were erroneously reported as regular hours for 17 of 43 employee timesheets sampled." Of the 17 erroneously reported timesheets, 6 contained hours that affected reported expenditures totaling $7,464. Although staff that is on-call may not technically be on overtime status (i.e., work hours exceeding 40 hours per week) their hours worked while on-call must be reported on the timesheet as "on-call overtime" in order for OSPR's accounting system, California State Accounting & Reporting System (CALSTARS), to properly account for these hours. Discussions with OSPR indicate that staff and first-level management were not familiar with the procedures for recording on-call overtime hours; however, OSPR personnel are currently being trained on the proper procedures to record on-call overtime hours. Currently, there are 67 OSPR positions involved with on-call overtime activities and total potential misstatement could not be quantified at the time of our audit. OSPR plans to review timesheets starting from 2011 through current to determine total amount misstated."

Recommendation

"Strengthen communication and oversight of proper timesheet coding procedures."

OSPR Response

As noted in the audit, OSPR's Financial and Administrative Services Branch (FASB) is currently training field staff on the proper procedures for recording on-call overtime, and has initiated a review of timesheets from 2011 through current to identify and correct recording errors.

Finding 4, Issue2: Recording of Non-Tank Vessel COFR Revenues Cannot be Verified

"A fee for a new or renewal COFR application is submitted by non-tank vessel plan holders. Three of 20 COFR receivable transactions sampled could not be verified to the CALSTARS accounting system. Revenues received daily are recorded in batches therefore individual transactions are difficult to distinguish. Prior to April 2016, OSPR did not perform monthly reconciliations of COFR revenues. SAM section 6401 Responsibilities and Authority of Fund Administrators and Fund Users states the fund administrator shall verify the accuracy of departmental accounting records by performing monthly reconciliations with source documents. Without verification that revenues received were recorded accurately in the accounting system, OSPR cannot ensure their accounting records are complete and accurate and fiscal reporting cannot be relied upon for management decision-making.

Recommendation

"Ensure all COFR revenues are reconciled and correctly recorded in the CALSTARS accounting system."

OSPR Response

While COFR fee receivables regularly had been reconciled to the fund balance, reconciliation of COFR records to individual accounting transactions was not conducted. As noted in the Audit, OSPR's FASB is now performing a monthly reconciliation of COFR revenue transactions, batched revenue receivables, and CALSTARS records and will continue to do so.

Additional Corrections and Clarifications

On page 1, the audit states that OSPR's mission includes "responding to spills of oil and other deleterious materials." While OSPR does have the expertise and some ability to respond to a wide variety of contaminant releases, OSPR does not have a dedicated funding source for non-petroleum responses. Funding for such responses must come from the responsible party or other sources on a case-by-case basis.

On page 2, the term "Unified Command System" and the acronym "UCS" are not recognized. The National Incident Management System (NIMS) was developed at the federal level and is used by OSPR. The Incident Command System (ICS) is one element of it. An incident response may be led by either an Incident Commander (IC) or a Unified Command (UC). In large oil spills in California, there is typically a UC that includes a federal representative (the Federal On-Scene Coordinator, or FOSC), a state representative (SOSC), and a member of the responsible party (RP). OSPR continues to work with local governments to include their trained representatives in a UC.

On page 8, the audit states, "The increase in revenues is primarily from the additional moneys collected from inland facilities." As the fee is collected at the refinery door on all arriving oil (via vessel, pipeline, or rail), it would be more accurate to say that the increase is from additional funds associated with oil that moves to California from inland sources, primarily pipelines and rail.

On page 13 of the audit, DOF states that "OSPR's email system automatically deletes emails after 90 days". This is a requirement of the California Natural Resources Agency (CNRA Information and Security Policy 11-02) and beyond OSPR's control. Regardless, emails archived or moved to a folder within an Inbox are not deleted.

In Appendix A, the list of key response activities should also include:

- Applied Response Technologies
- Fishery Closure
- GIS Support
- Laboratory Services
- Health & Safety

In Appendix B, the audit lists the number of large spills (over 10,000 gallons) and volume spilled. These numbers are significantly larger than those presented in Table 1 of the audit. While the audit does not provide an explanation for this apparent discrepancy, OSPR believes the difference is likely because Appendix B is including spills that did not go to water, but were contained, usually inside containment berms at facilities. Because these containment measures are part of OSPR's program, it is more useful to focus on spills that enter waters of the state.

STATE OF CALIFORNIA
EDMUND G. BROWN JR., *Governor*

CALIFORNIA STATE LANDS COMMISSION

Established in 1938

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December 16, 2016

Ms. Jennifer Whitaker
Chief, Office of State Audits and Evaluations
Department of Finance
915 L Street
Sacramento, CA 95814

RE: California Oil Spill Prevention, Response, and Preparedness Program Performance Audit

Dear Ms. Whitaker,

Staff of the California State Lands Commission appreciate the efforts of the Department of Finance's Office of State Audits and Evaluations in providing constructive criticism and analyses of the California Oil Spill Prevention, Response, and Preparedness Program's effectiveness, as well as the recommendations outlined in the report. The prevention of oil spills into California's waterways is a top priority of the Commission. In fact, the Commission has a stellar record of preventing oil spills at the facilities under its jurisdiction. For example, from January through October of 2016, Commission staff monitored 52 percent (2,508) of all oil transfers (4,864) conducted in the State of California. This represents an improvement over 2015, during which 47 percent of every oil transfer was monitored. During this same period, 589,375,840 barrels of product were transferred at marine oil terminals in California. Spills directly resulting from oil transfers during this time were 55.1 barrels – approximately 0.00000009349 percent. However, no amount of oil spilled into California waters is acceptable and there is always room to improve and enhance the Program's effectiveness.

We thank the Department of Finance for its valuable review and analyses of the financial basis and programmatic effectiveness of the Program. We agree with the recommendations outlined in the report and, in fact, are implementing or plan to implement them to the extent feasible. While the Commission is the ultimate decision maker on proposed actions, it is the staff that has the day-to-day responsibility to make recommendations to the Commission and carry out the Commission's policies and directives. The enclosed response to the subject report is the staff's response and has not been approved by the Commission.

Sincerely,

JENNIFER LUCCHESI
Executive Officer

Enclosure

cc: Honorable Gavin Newsom, Lieutenant Governor and Member, CSLC
Honorable Betty Yee, State Controller and Chair, CSLC
Michael Cohen, Director of Finance and Member, CSLC
John Laird, Secretary, Natural Resources Agency

COMMISSION STAFF RESPONSE TO THE DEPARTMENT OF FINANCE'S AUDIT FINDINGS AND RECOMMENDATIONS

Finding 2: OSPR and Commission Databases Lack Information for Management Decision-Making

Commission staff response:

Commission staff accepts the findings of the Department of Finance (DOF) audit team that the pipeline database is missing information. Commission staff were aware of and have been working to correct pipeline database deficiencies, and proactively made DOF audit staff aware of the problems within the database at the beginning of the audit. In the short term, Marine Environmental Protection Division (MEPD) staff are working with Commission Information Services Division staff and with external contractors to fix database anomalies that are hampering data entry. In the longer term, staff will work with the Commission's Information Technology Steering Committee to prioritize resources to enhance pipeline database capabilities. Commission staff appreciates DOF staff's recommendations to enable database tracking of the total number of pipelines and to alert staff when pipeline tests are due; staff will work to incorporate these features into the next database upgrade.

From a broader perspective though, we are concerned that the DOF audit findings about the pipeline database eclipse the fact that staff regularly monitor pipeline testing at California's marine oil terminals. MEPD staff track pipeline testing through several means including: notifications from the marine oil terminals 72 hours in advance of testing, as required by regulation; reviews of pipeline test information during annual inspections and spot checks at marine oil terminals; and during the review of the Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) audits which are conducted every four years.

Monitoring and review of pipeline tests are a priority for the Commission in order to prevent oil spills. Therefore, staff will work expeditiously to resolve our database performance issues, and Executive and Management staff will conduct additional training to ensure that our written practices and procedures (as outlined in P&P 12215; attached as Exhibit A) regarding pipeline testing and maintenance are followed.

Finding 3: Commission's Prevention Activities Need Improvement

Commission staff response:

<u>Audits of Production Oil Facilities Not Performed as Intended</u>

Commission staff generally agree with the DOF audit findings that Commission staff did not meet the 5-year safety audit schedule (as measured by DOF using a 60-month cycle) and that lessees did not fully meet deadlines to correct action items found by the Commission's facility audit staff. However, staff believe that underlying circumstances were not taken into consideration in the formulation of the audit findings. Please see Exhibit B for a matrix of the status of current facility safety audits. Also, it is important to acknowledge that hiring and retaining skilled safety audit staff inspectors has been

challenging for the Commission due to salary discrepancies between the government and private sectors, attrition and retirements. Therefore, Commission staff agrees with DOF that sufficient resources should be allocated to the Commission to ensure that all production facilities under its jurisdiction are audited in a timely manner.

The DOF audit reports that the Commission did not perform timely safety audits on six of the nine oil producing facilities. Rincon Island and Platform Holly facilities, and their connecting onshore processing facilities, are idle and not actively producing. Therefore, staff has not maintained the 5-year safety audit cycle for these facilities because there is no benefit to expending the required significant resources to conduct such an audit when it is not in operation. These facilities will be audited if and when they return to operation. The audit of Platform Emmy was delayed when a new operator took assignment of the lease and needed time for replacement operating staff to come up-to-speed.

At the time the safety audit program was created, the Long Beach Unit was not included in the safety audit program cycle. The Commission does not have any leasing or regulatory authority over the Long Beach Unit facilities due to specific state legislation. Through various legislative enactments, the state, through the Commission, is the beneficiary of the net profits generated at these facilities. In 2011, when reviewing the Long Beach Unit's annual and program plans, the Commission under very narrow and specific legislative authority, directed staff to include the Long Beach Unit in the safety audit program. Staff informed the Commission, at that time, that the inclusion of the Unit in the safety audit program (comprising four islands, each larger than multiple offshore platforms) would make it difficult to maintain the 5-year audit cycle because of existing staffing levels. When the Commission directed staff to conduct a safety audit of the Long Beach Unit, it also expressly modified its practice of conducting safety audits within a 5 calendar year cycle (see http://archives.slc.ca.gov/Meeting_Summaries/2011_Documents/06-23-11/ITEMS_AND_EXHIBITS/136.pdf).

The DOF report found that operators did not complete certain action items resulting from safety audits within the required time frames. These time frames are 30 days for Priority 1 items, 120 days for Priority 2 items, and 180 days for Priority 3 items. The DOF report found that a small percentage (14 percent) of the lowest risk items (Priority 3) were found to exceed the 180-day correction deadline. It was not noted in the DOF findings that Commission staff carefully vets each lessee's/operator's explanation when a corrective action falls outside the prescribed deadline. If a delayed correction may cause an elevated safety or pollution risk, staff does not allow that system to remain in service until the correction is completed. The action items noted in the audit report that fell outside the deadline requirement posed no observable increased level of risk. Over the course of the safety audit program, over 9,000 action items have been completed in a timely fashion. With that said, Commission staff agree with DOF's recommendation to ensure that all action items are addressed within the established timeframes.

Additionally, the safety and pollution prevention responsibilities of the Commission's Mineral Resources Management Division are not limited to safety audits of the facilities under the Commission's jurisdiction, including platforms and islands. Staff has conducted monthly inspections of all offshore facilities under lease since those facilities were built. The inspections cover all aspects of oil production, treatment, and transportation at these offshore facilities within the Commission's jurisdiction. The inspection program provides intensive oversight to ensure these facilities are operating according to regulations. This inspection program was not mentioned in the audit report, and staff believes this omission creates a misrepresentation of the extent of the Commission's pollution prevention work. A report from a monthly inspection of an offshore platform is attached as Exhibit C to provide context on the Commission's overall inspection program.

To summarize, oil spill prevention has long been central to the Commission's mission. Commission staff believes that at no time has there been an elevated risk of an oil spill as a result of missing certain timing expectations. Staff also believes, however, that the DOF's audit findings highlight the need for Commission staff to: 1) clarify the requirements and timelines for completion of action items by operators; and 2) document any timing variances, including the circumstances that lead to the delay, the risk of the delay, and efforts that will be taken to shorten the delay if possible. Additionally, Commission staff will institute a practice of ensuring that any waiver of a due date for any level of corrective action item is reviewed and approved by the Division Chief of the Mineral Resources Management Division.

High Risk Oil Transfers Not Consistently Monitored

Commission staff accepts the findings of the DOF report that the Northern California Field Office did not monitor two transfers that were designated high risk transfers in the Oil Spill Prevention Database (OSPD). Although Commission staff informed the auditors that the two vessels in question had been misprioritized in the OSPD, staff should have either: 1) communicated with the field office supervisor immediately to correct the database error; or 2) conducted the inspection based on the high risk prioritization and later discussed the problem with the field office supervisor.

Commission staff have updated and distributed the Practices and Procedures Memo (P&P 12201.2, attached as Exhibit D) to include a supervisor review and approval component if changes to the database must be made due to input error. Management staff plans to conduct additional training with staff to ensure that MEPD's written practices and procedures regarding the marine oil terminal monitoring prioritization system are followed.

The California Department of Fish and Wildlife, Office of Spill Prevention and Response (OSPR) and the California State Lands Commission (Commission) responses to the draft report have been reviewed and incorporated into the final report. We acknowledge OSPR and the Commission's willingness to implement our recommendations. In evaluating OSPR and the Commission's response, we note OSPR and the Commission generally agreed with Findings 2, 3, and 4. For Finding 1, we provide the following comments:

Finding 1: Lack of Comprehensive Strategic Planning and Programmatic Oversight by OSPR's Management

Unsupported Ratings of Undrilled Oil Spill Response Organizations (OSRO)

OSPR contends that four OSROs, not five, were provided ratings prior to performing unannounced drills to cover inland spills to water. However, additional discussions with OSPR on December 19, 2016 identified no new evidence to support the OSRO in question, Ponder Environmental Services, having had an unannounced drill performed prior to its approval. Therefore, our finding and recommendation will remain unchanged.

Contingency Plans are Not Inspected Timely

OSPR notes that California Code of Regulations (CCR) section 845.2(a)(1) relate to vessel inspections for bunkering and lightering and no legislation exists requiring facility inspections. Our finding identified vessels and facilities that were not inspected within three years per legislation or OSPR policies and practices. Further, upon inspection of the vessel or facility, OSPR reviews the operator's contingency plan simultaneously. However, to provide additional clarity, the report was modified to reference the vessels and facility's non-compliance of an inspection versus the contingency plan.

Additionally, we added a footnote to Figure 1, Number and Quantity of Oil Spilled, and Appendix B, Spills over 10,000 Gallons, to clarify the basis of amounts depicted. No other revisions to the final report were made.

EXHIBIT B

STATE OF CALIFORNIA

EDMUND G. BROWN JR., *Governor*

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February 24, 2017

Ms. Jennifer Whitaker
Chief, Office of State Audits and Evaluations
Department of Finance
915 L Street
Sacramento, CA 95814

RE: California Oil Spill Prevention, Response, and Preparedness Program Performance Audit – Corrective Action Plan

Dear Ms. Whitaker,

Please find enclosed the State Lands Commission staff's Corrective Action Plan pursuant to the subject audit. Please do not hesitate to contact me with any questions.

Sincerely,

JENNIFER LUCCHESI
Executive Officer

Enclosure

cc: Honorable Gavin Newsom, Lieutenant Governor and Chair, CSLC
Honorable Betty Yee, State Controller and Member, CSLC
Michael Cohen, Director of Finance and Member, CSLC
John Laird, Secretary, Natural Resources Agency

State Lands Commission Staff's Corrective Action Plan Pursuant to the Department of Finance's California Oil Spill Prevention, Response, and Preparedness Program Performance Audit

Finding 2: OSPR and Commission Databases Lack Information for Management Decision-Making

Upon completion of the audit, the Commission's Marine Environmental Protection Division (MEPD) leadership conducted training sessions with both the Northern and Southern California field offices and reviewed the practices and procedures outlined in Practice and Procedure (P&P) memo 12215 (attached) regarding pipeline testing and maintenance. Staff also worked with the Commission's Information Services Division and an outside contractor to identify the anomaly that was causing the database errors. Repairs were made and the issue has been resolved. Staff are now working diligently to enter the backlogged pipeline testing information and review the data for completeness. Staff plans to complete the data entry by the beginning of the second quarter of 2017. Upon completion of data entry, a quality control review will be conducted by the Field Office Supervisors to ensure all pertinent information was recorded accurately.

Finding 3: Commission's Prevention Activities Need Improvement

Audits of Production of Oil Facilities Not Performed as Intended

As outlined in Commission staff's response to the audit report, hiring and retaining skilled safety audit staff inspectors has been challenging for the Commission due to salary discrepancies between government and private sectors, and attrition and retirements. When these hiring and retention challenges are coupled with the addition of the Long Beach Unit facilities, which includes four islands each larger than multiple offshore platforms, to the audit cycle, meeting a five-year audit cycle has been difficult. With two facilities currently shut down, and addressing the ongoing systemic challenges associated with hiring and retaining staff, staff should be able to achieve meeting the five-year cycle. Commission staff plan to do the following to address this finding:

1. Continue to fill existing vacancies that will help support the safety audit program;
2. Utilize field inspectors to help oversee compliance by the operators of identified deficiencies. This will allow the Commission's audit staff to move more quickly on to the next safety audit.

The audit report also found that operators did not complete certain action items resulting from safety audits within the required time frames. In order to ensure that action items are completed within the established time frames, staff offers the following plan:

1. Having finally filled the vacancies in the Commission's Goleta office (3/2017), the field inspectors will help ensure all priority action items are addressed in a timely manner.
2. By July 2017, a Practices & Procedures memo will be developed establishing a) the process by which staff communicates the requirements and timelines for completion of action items by operators; b) how and when to document any timing variances, including circumstances that lead to the delay, the risk of the delay, and efforts that will be taken to shorten the delay if possible; and c) require that any waiver of a due date for any level of correction action item is reviewed and approved by the Division Chief of the Mineral Resources Management Division.
3. Redirect existing clerical staff to aid in the record keeping and data input for the audit group.
4. By September 2017, conduct staff training on the procedures detailed in the above described P&P memo.

<u>High Risk Oil Transfers Not Consistently Monitored</u>

As outlined in Commission staff's response to the audit report, MEPD staff updated and distributed P&P 12201.2 (attached) which covers transfer monitoring prioritization. MEPD leadership also conducted trainings with the Northern and Southern California Field Offices to review the marine oil terminal monitoring prioritization system and its proper use for prioritizing daily work load activities. The P&P memo will be reviewed on an annual basis and updated as needed. Staff believes that no further action is required at this time.

State of California California State Lands Commission

MEMORANDUM

TO: Standard Distribution

Date: November 4, 2008
File: W9777.32
Proc. No. 12215

FROM: Division Chief

SUBJECT: STATIC LIQUID PRESSURE TEST (SLPT) AND PIPELINE PREVENTIVE MAINTENANCE PROCEDURES

Background/Purpose: There is a need for clear understanding of who does what with respect to the administration of marine oil terminal SLPTs and pipeline preventive maintenance programs. This Practice and Procedure provides guidance for Division personnel.

Action: The following outlines Division staff responsibilities.

FO = Field Offices
E = Engineering
D = Division Action (Chief or Assistant Chief)

1.0 Although not required in current regulations, FO will notify marine oil terminal operators that all **SLPT** results are to be submitted to MFD for review. When notified an SLPT is scheduled, FO will remind the operator that the requirements of Article 5.5, Sections 2565 and 2567 must be followed during and after the test.

1.1 FO will obtain SLPT results from the operator within 30 days of the test. If the following information is not included in the SLPT results, FO will request it from the operator:

- Evidence that the deadweight gage is accurate to 1 psi and calibrated not less than once every 2 years.
- Deadweight pressure readings taken hourly during the test.
- Pressure recording device was calibrated prior to the test and continuously recorded the pipeline pressure versus time during the test.
- Temperature recording device was accurate to 0.1 F for water and 0.01 F for hydrocarbon test media.

- Temperature recording device continuously recorded the internal test media temperature versus time during the test and the device was calibrated prior to the test. Where different sections of a pipeline are located in considerably different environments, the temperature of each segment in each environment shall be monitored separately and shall be considered in calculating equivalent temperatures.

- Ambient air temperatures, wind speeds, precipitation, cloud cover, and pipe wall temperatures were recorded at the same interval that deadweight pressure readings were taken.

- In circumstances where test temperature data cannot be recorded as specified above, temperature measuring devices shall be placed so as to provide representative sample temperatures of test media, ambient air, and pipe walls. In the case of pipe wall temperature measurements, instruments shall be so placed and insulated so as to minimize influence from ambient temperatures and solar radiation.

- Where different sections of a pipeline or pipeline system are located in considerably different environments, the temperature of each segment in each environment shall be monitored separately. For the purposes of pressure compensation calculations due to temperature variations, each segment's temperature in its respective environment shall be used. The total pipeline or pipeline system temperature change shall be determined by adding the temperature change of each segment and prorating the segment's length to the total pipeline length or pipeline system length. Alternatively, each segment in its respective environment may be treated as a separate pipeline under test and the compensated pressure variations due to each segment's temperature variations may be added to arrive at the system pressure variation.

- SLPT witness qualifications and test result certification are satisfactory.

- A description of the pipeline or pipeline segment tested including, but not limited to, a map of suitable scale showing the route of the pipeline and the location of the pressure monitoring instruments and temperature probes used during the test.

1.2 Test Results/Reports will be reviewed by Division Engineers **(E).**

1.3 SLPT results will either be SUCCESSFUL or UNSUCCESSFUL as determined by Division Engineers **(E).**

1.4 If graphical output shows the actual pressure within acceptable bandwidth limits, then the test is SUCCESSFUL.

1.5 If the graphical output shows the actual test pressure partially within or near acceptable bandwidth limits, and documented conditions correlate to the observed test pressure, temperature, and the test medium and spreadsheet input/output are consistent and reasonable, then the test is SUCCESSFUL.

1.6 If the graphical output shows that the actual test pressure is only partially within the acceptable bandwidth and there is a gross unexplainable drop in test pressure, then the test is UNSUCCESSFUL. In this case, there may be gross errors in temperature, medium properties, lengths of pipeline, or a high probability of air in the pipeline.

1.7 If the tested pipeline is entirely observable during the test (i.e. daylight hours only) and witness and certifying individuals have documented that the pipeline was observed and no leaks occurred, and that the pipeline is NOT insulated, then engineering may or may not determine the test to be SUCCESSFUL. This situation will be evaluated on a case-by-case basis requiring agreement between the engineer and engineering supervisor.

1.8 In the case of an UNSUCCESSFUL SLPT as determined from the MFD SLPT Evaluation Spreadsheet, engineering staff will consider test conditions, documented observations and correct possible computational errors, in an effort to decide if the test may be SUCCESSFUL. This situation will be evaluated on a case-by-case basis requiring agreement between the engineer and engineering supervisor.

1.9 Action Items will be accomplished by those identified below:

Operator failure to conduct SLPTs as scheduled **(FO)**
Operator failure to meet SLPT regulatory requirements **(FO)**
Letter to operator stating that the SLPT is UNSUCCESSFUL and must be repeated **(E).** The letter will request operator response within 30 days.
SUCCESSFUL test results reviewed by engineering communicated to FO via e-mail. Copies of the e-mail will be entered into appropriate WO files **(E)** & **(FO)**.

1.10 Other Issues Associated with SLPTs **(FO and E)**

Transfer pipeline systems include valves. See definition in Section 2561, (n). Two methods of inclusion are: (1) Valve is within the pipeline length being tested (valve open), or (2) Valve is at the end of a pipeline being tested (valve closed), and the test includes the shut-in valve. Isolating or blanking-off the valve from the test negates the "component" portion of the pipeline system described in Section 2565 (a). In this case, the SLPT is not complete.

1.11 The following data for each pipeline will be collected and maintained **(FO)**:

P&ID's
Length
Thickness (initial if known, or baseline for current)
MAWP and working temperature
Test pressure
Due dates for SLPT testing
Pipeline class
Product
Coating & insulation
Leak detection (2 CCR 2368 and 2369)
API 570 due dates - wall thickness and visual corrosion survey
SLPT results
Company performing SLPT
Comments
Annual testing dates and test pressure of certain components (33 CFR 156.170(c)(4) and 2 CCR 2385).
Repair and re-rating details (2 CCR 2570(d)(5))
Ratings for API 570 and Preventative Maintenance

2.0 Preventative Maintenance Program

Questions for measuring compliance with API 570 – Usually during annual inspections on 3 year cycle as a minimum **(E)**.

API 570 Inspector's Role and Qualifications **(FO)**

2.1 Was a certified API 570 inspector directly involved in the inspection activities?(API 570, Section 4.3.4)

2.2 Was the report reviewed or prepared by a certified API 570 inspector? (API 570, Section 4.3.4)

2.3 Was the API 570 inspector's certification valid at time of inspection (must be recertified every three years)? (API 570, Appendix A)

Aboveground Pipelines **(E)**

2.4 Was a visual inspection of the aboveground pipelines performed within the last five years? Date? (API 570, Sections 5.3, 6.4, Table 6.1, Appendix D)

2.5 Does the documentation show isometric drawings with wall thickness measurement locations identified? (API 570, Sections 5.5.2, 7.6)

2.6 Was a pipeline wall thickness survey performed within the last three years? Date? (2CCR, Art. 5.5, Section 2570(b))

2.8 Did the wall thickness survey include a representative sampling of the entire pipeline? (API 570, Section 5.5.3)

2.9 Is all of the collected pipeline thickness data included in the reviewed documentation? (API 570, Section 7.6)

2.10 Was a minimum required thickness and maximum allowable working pressure calculated for every size pipeline surveyed? (API 570, Sections 7.2, 7.3, 7.6)

2.11 Was a corrosion rate and remaining life calculated for every measurement location? (API 570, Sections 7.1.1, 7.6)

2.12 Are there wall thickness measurement locations that have a remaining life of less than six years? If so, is the noted re-inspection date for these locations scheduled at no more than half of the remaining life? (API 570, Section 7.6 & 2CCR, Art. 5.5, Section 2570(d))

2.13 Are there any insulated lines? Is inspection under insulation performed? Is thickness measurement performed for insulated lines? (API 570, Section 5.3.3)

2.14 Whenever any pipeline is removed for repairs, is actual thickness measurement made to verify ultrasonic results? (API 570, Section 5.4.2)

2.15 Does the pipeline thickness survey include locations particularly susceptible to corrosion such as dead legs, pipeline hangers, valves and fittings, bolted pipe shoes, damaged or missing insulation, or any specific operator observed spots etc.? (API 570, Section 5.3.3.2)

2.16 Do the thickness measurements include all four quadrants of the pipe? (API 570, Section 5.5.2)

2.17 Are the thickness measurement locations marked on the drawings and physically marked on the pipelines? (API 570, Section 5.5.2)

2.18 Is there a greater number of thickness measurement locations selected in areas of high consequence, higher expected corrosion rates and complexity? (API 570, Section 5.5.3)

2.19 Are ultrasonic instruments used for thickness measurements calibrated? Is the calibration current and certified? (API 570, Section 5.6)

2.20 Are critical check valves internally inspected? (API 570, Section 5.9)

2.21 Are records of ultrasonic inspection maintained? Does this include inspection intervals, name of individual performing tests, results of thickness measurements, any repairs, alterations or rerating? Are design information and drawings included? (API 570, Section 7.6)

2.22 Was there any repair or rerating of pipelines since last inspection? Was it approved by CSLC? (API 570, Section 8 & MOTEMS)

Buried Pipelines **(E)**

2.23 Was the route of each buried pipeline examined by an API 570 inspection within the last five years? Date? (API 570, Section 9)

2.24 Are all cathodically protected pipelines maintained in accordance with either NACE-RP0169 or API 651? Date of most recent maintenance? (API 570, Section 9.1.5 & MOTEMS Section 3111F.10.2 requires monthly rectifier readings).

2.25 Was buried pipeline coating repaired? (API 570, Section 9.3)

All Pipelines **(E)**

2.26 Have any pipelines been repaired, or replaced in section or entirety, due to corrosion? (API 570, Section 7.6)

2.27 Were noted areas of concern or inspector's recommended actions addressed? Dates? If not, is there a schedule to address these? Dates?

FOLLOW-UP

FO will do a cursory review at annual inspections of API 570 compliance if an engineer is not available. If the cursory review or the lack of information looks suspect, Engineering will review. At a minimum, Engineering will review every 3 years.

API 570 Compliance Ratings **(E)**

GOOD - satisfactory compliance

FAIR – Needs some work here, no urgent action (correlates to a P3 in the MOTEMS). At this rating, facility should be written up for violation of 2 CCR 2570, and may be restricted in terms of continuing pipeline(s) usage.

POOR – Not acceptable compliance with API 570 (Correlates to a P2 in the MOTEMS), and requires investigation, evaluation and urgent action. At this performance level, the berthing system is not fit-for-purpose.

3.0 Verification.

Verification that the PMP is being effectively carried out and is documented (2 CCR, Article 5.5, Section 2570 (c & d) **(E).**

Must also include procedures to review changes in operations, different hydrocarbons, and to evaluate the effect on pipeline integrity (different hydrocarbons may be more corrosive, higher flow rates could induce more cavitation, etc.) **(FO + E).** (See 2 CCR, Article 5.5, Section 2570 (c)).

PMP Compliance Ratings **(E)**

GOOD
FAIR
POOR

Ratings for PMP and API 570 compliance must be maintained by **FO**, along with the dates and justification. Notes/comments/text should be used to explain "FAIR" or "POOR" ratings.

Review: The Operations Supervisor will review this procedure annually during the month of November.

State of California California State Lands Commission

MEMORANDUM

TO: Standard Distribution

December 15, 2016
File: W9777.32
Proc. No.:12201.2

FROM: Chris Beckwith

SUBJECT: MARINE TERMINAL MONITORING PRIORITY SYSTEM

Background/Purpose: In order to optimize personnel utilization in the Field Offices, a monitoring priority system has been devised. This system ensures that the most critical or important transfers are monitored, while conserving MFD's limited personnel resources.

Action: The monitoring priority system utilizes a risk assessment methodology. The Terminal/Vessel Risk Matrix enables MFD to rationally and systematically determine the probable risk posed by vessels conducting oil transfers at marine oil terminals in California. The Matrix is used to decide which transfers pose the highest risk on any given day, in any given port. Points are assessed in each of the following five areas: age, spills, transfers monitored, violations and total transfers of the vessel. The points are then summed for a total score. This numerical risk score, along with other performance-based factors, determines a ship's boarding priority.

Every quarter a priority number will be established for each marine terminal, tank ship and tank barge that operates in the marine waters of the State of California. These priority numbers will be made in accordance with enclosures 1-3. The results will be posted in the bullpen areas of both Field Offices. The priority number assigned to a vessel may be changed by the Field Office Supervisor before the end of the quarter if: the vessel passes the transfers conducted threshold; the vessel has a spill or class 3 violation; or the resulting boarding indicates a stellar performer. If the assigned priority number is changed, the Supervisor making the adjustment must contact the other Field Office to make sure the priority numbers are consistent. For each transfer, Field Office personnel will feed the resultant Vessel and Terminal priority numbers into the matrix shown in enclosure 4, and the transfer monitoring **PRIORITY** will be established.

If a vessel has not been monitored in the past 12 months, it will automatically be assigned a Priority 1. A vessel that has been monitored in the past 12 months, but has conducted less than 6 transfers, will be assigned a Priority 2, unless prior history indicates it to be a high risk; if so it will be given a Priority 1 status. All other vessels will be assigned priority according to the matrix score. Terminals that have conducted less than 12 transfers in the past 12 months will be assigned a Priority 1 rating.

All Priority 1 vessels will be boarded upon arrival at the terminal and monitored until a steady flow is reached. If possible, an Inspector will return for the topping off and disconnect. All Priority 2 vessels should be monitored at some point during the transfer operation. The Field Office Supervisor must be notified when a Priority 1 or Priority 2 vessel cannot be monitored. All Priority 1 and 2 vessels not monitored must have a notation in the remarks section of the Monitoring Data Collection Sheet indicating why, e.g., holiday, weekend, workload, or high H2S.

If a transfer priority number was entered into the OSPD scheduler and then found to be in error based on the terminal/vessel priority numbers, the supervisor should be consulted. Upon consultation, the supervisor will determine whether the transfer will remain as a high

priority monitoring (priority 1 or 2), or if the database should be corrected to reflect the actual priority based on the previous criteria.

Review: The Operations Supervisor shall review this procedure on an annual basis every December.