

November 30, 2007

# The Office of Spill Prevention and Response: Funding and Responsibilities

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LEGISLATIVE ANALYST'S OFFICE

Presented To:

Senate Committee on Natural Resources and Water  
Hon. Darrell Steinberg, Chair

Senate Committee on Governmental Organization  
Hon. Dean Florez, Chair





## Office of Spill Prevention and Response (OSPR): Statutory Authority

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### Statutory Creation:

- Created by Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Chapter 1248, Statutes of 1990 [AB 2040, Lempert], Government Code Sections 8574.1 et seq and 8670.1 et seq)
- The OSPR (under the Department of Fish and Game) is the lead state agency for responding to oil spills in the marine waters of the state.
- The OSPR has the primary authority in California to direct prevention, removal, abatement, response, containment, and cleanup efforts with regard to all aspects of any oil spill in marine waters of the state.



### Key Activities:

- *Prevention*—Ensuring that marine facilities and vessels have oil spill contingency plans, rating oil spill responders.
- *Readiness*—Coordinating oil spill response training, conducting drills for responders, establishing the Oiled Wildlife Care Network, requiring Certificates of Financial Responsibility from operators.
- *Response*—Coordinating response efforts (with either US Coast Guard or U.S. EPA), monitoring cleanup efforts by responsible parties, managing cleanup where there is no identified responsible party, coordinating oiled animal rescue, conducting incident investigations, performing natural resource damage assessments, pursuing cleanup cost reimbursement, and any civil or criminal penalties.



## OSPR Budget Information

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### 2007-08 Enacted Budget:

- Total program budget of \$35 million.
- 252 authorized positions (including 2 new positions for readiness and prevention and 7 new positions for spill response drills.)
- 18 vacancies as of November 14, 2007.



### Funding Sources for Enacted Budget:

<b>OSPR Budget: Sources of Funds</b>	
<i>2007-08 Enacted Budget (In Thousands)</i>	
Oil Spill Prevention and Administration Fund	\$25,469
Fish and Wildlife Pollution Account	2,629
Reimbursements	3,877
Marine Invasive Species Control Fund	1,299
Other Funds	1,792
<b>Total</b>	<b>\$35,066</b>



## OSPR Budget Information

*(Continued)*



### **Oil Spill Response Trust Fund:**

- Funded with a \$0.25 per barrel surcharge on imported oil.
- The surcharge is only in effect when the cash balance of the trust fund is less than 95 percent of the statutory target balance of \$54.875 million (not subject to inflation adjustments).
- The State Treasurer also has the authority to borrow up to \$54.875 million to cover cleanup costs that exceed the trust fund cash balance. Any loan would be paid back with future trust fund revenues.
- The trust fund is used to pay for oil spills where: (1) there is no identified responsible party or the responsible party is unable to pay for cleanup and (2) the federal oil spill trust fund (available to pay for "orphan" spill cleanups) will not pay the cleanup costs.
- According to OSPR, the trust fund has not been used to pay for any significant cleanup costs since at least 2000.
- The current fund balance is \$58 million.



### **Oil Spill Prevention and Administration Fund:**

- Funded with a \$0.05 per barrel surcharge on imported oil.
- Projected 2007-08 revenues of \$35.6 million.
- Used to pay for OSPR's operational and administrative costs.
- The projected fund balance at the end of 2007-08 is \$17.7 million.



## Oil Spill Readiness and Response

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### Preparing for a Potential Spill:

- For all ships entering California waters, OSPR designates a responsible party—either the owner, the operator, or both.
- Responsible parties are required to file a contingency plan to be used in the event of a spill, including having in place contracts with oil spill cleanup providers.
- Responsible parties are required to demonstrate financial responsibility to cover all response, cleanup, and restoration costs connected with an oil spill, including public costs. Operators of oil tankers are required to carry at least \$1 billion in oil spill insurance. Operators of nontanker ships are required to carry at least \$300 million in oil spill insurance.
- Under current state law, the responsible parties are legally required to fully reimburse injured parties, including the state, for all costs in connection with an oil spill. In other words, the required demonstration of financial responsibility (such as insurance coverage) is not a ceiling for the responsible party's financial responsibility.



### Responding to a Spill in Marine Waters:

- The OSPR and the US Coast Guard set up a unified command to monitor the spill, with the Coast Guard in command.
- Oil spill response organizations, under contract with the responsible party, begin the cleanup.
- The OSPR and the Coast Guard investigate the incident. The OSPR conducts a resource assessment study, to determine the impacts to natural resources and to quantify the costs to restore these resources.
- State costs for monitoring, oversight, and any response are charged to the responsible party. (The OSPR uses the trust fund to cover expenses in the short term, before reimbursements are received.)



## **Oil Spill Readiness and Response *(Continued)***

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- If there is no responsible party and if the Federal Oil Spill Liability Trust Fund does not cover cleanup costs, the state Oil Spill Response Trust Fund can be used to cover cleanup costs.