

Administrative Funding for Marine Oil Spill Prevention & Response

After the *Exxon Valdez* in Alaska 1989 and the *American Trader* off Huntington Beach in 1990, the Legislature enacted the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act in 1990. The Act creates an Administrator, appointed by the governor, who also shall be a chief deputy director of the Department of Fish and Game (DFG). By statute, the Administrator is expressly mandated to implement the Act and in 1991 the Office of Spill Prevention and Response (OSPR) opened its doors. The Administrator has the primary authority to direct prevention, removal, abatement, response, containment and cleanup efforts with regard to all aspects of any oil spill of 42 gallons or more in the marine waters of the state. To assist with this authority, 20 DFG game wardens are assigned on a full time basis to OSPR.

The two main components of the Act are to require large vessels and facilities (e.g. tankers, container ships, refineries) that pose a risk of oil spill into marine waters to have an oil spill contingency plan that identifies equipment and personnel for responding to marine oil spills and to demonstrate the financial ability to pay for large spills. Other key elements of the Act are periodic drills on these vessels and facilities, unannounced drills on the cleanup companies that perform marine oil spill response work, the closure of commercial and sport fishing activities in spill areas, and coordination and funding of the Oiled Wildlife Care Network, among others.

The Act established the Oil Spill Prevention and Administration Fund (OSPAP) to pay for the daily administrative functions of OSPR. The OSPAP has two funding components which are a five-cent per-barrel fee collected on barrels of oil received at marine terminals and a fee up to \$2,500, good for two years, from non-tank vessels coming to California, which pays for OSPR mandates related to non-tank vessel oversight, which began in 1999.

The OSPAP is currently facing a significant fiscal crisis. Causes include reduced revenues due to decreasing shipment/use of oil, continuing unfunded mandates and increased statutory obligations. On average, OSPAP expenditures have been approximately \$2 million more than revenue for the past three years. At the end of FY 10/11, the difference between OSPAP revenues and expenditures is projected to be slightly more than \$8 million. The current reserve in the OSPAP is only sufficient to cover its financial obligations through the FY 10/11. Revenue collected at existing levels will present the OSPAP with a zero balance at the end of FY 11/12.

The OSPAP fees were last increased 2002. If adjusted for inflation since 1990, the five-cent per barrel fee would be at 7.5 cents in 2010. An additional 1 cent per barrel fee would generate approximately \$5,213,000 in additional revenue per year. A non-tank vessel fee increase of \$500 would generate approximately \$1,039,000 in additional revenue. The total additional OSPAP revenue would be approximately \$6,252,000.