

A rather large number of existing federal, state, and local laws, regulations and ordinances affect the LA/LB Harbor area. The Committee does not have the resources to systematically review them, but has summarized those in this appendix, and tries to review any proposed new laws or regulations that may affect the harbor area. We also, try to review all existing laws and regulations pertinent to any marine casualty or marine pollution incident brought to our attention. The Coast Guard principally regulates vessel movements via the authority vested with the COTP. In addition, California and the ports themselves have enforcement authority to assure compliance with state laws and regulations, and port tariffs or other port-related rules and regulations.

UNITED STATES COAST GUARD

Summary of Statute and Regulations: Pursuant to 33 CFR 6, Protection and Security of Vessels, Harbors, and Waterfront Facilities (Espionage Act), the COTP enforces the rules and regulations of the relevant legislation, under the supervision and general direction of the District Commander, the Area Commander, and the Commandant. The COTP may supervise and control the movement of any vessel or access to any facility or vessel. The Espionage Act addresses security, not safety, and has only criminal penalties.

The Ports and Waterways Safety Act of 1972, as amended by the Port and Tanker Safety Act of 1978, (33 USC 1221 et seq.) provides the strongest authority for the Coast Guard's program to increase vessel safety and protect the marine environment in ports, harbors, waterfront areas and navigable waters. It authorizes VTS, controls vessel movement, establishes requirements for vessel operation, and other related port safety controls. Violations carry civil and criminal penalties.

The law which governs the pollution caused by foreign ships is the International Convention for the Prevention of Marine Pollution by Ships ("MARPOL"). The annexes to MARPOL regulate pollution by ships relating to oil, noxious liquid substances carried in bulk, harmful substances carried in package form, sewage, garbage, and air pollution. Within the United States, MARPOL requirements are codified in the Act to Prevent Pollution by Ships ("APPS"), which is enforced by the Coast Guard.

The Federal Water Pollution Control Act is the main law used by the United States Coast Guard for oil pollution in navigable waters of the United States. The Act delegates enforcement authority and responsibility to the Coast Guard in cases where oil is discharged, or a hazardous substance is released into U.S. waters in harmful quantities. In addition, other laws call for Coast Guard enforcement. The Act to Prevent Pollution from Ships (33 USC 1901 et seq.) limits the operational discharges of oil from ships and requires reception facilities to receive waste that cannot be discharged at sea. The Marine Protection, Research and Sanctuaries Act of 1972 (33 USC 1401 et seq.) requires Coast Guard surveillance of ocean dumping activities. The Oil Pollution Act of 1990 (33 USC 2701 et seq.) requires increased Coast Guard involvement with vessel traffic service systems, vessel and facility monitoring, oil spill prevention and cleanup, in addition to amending the Federal Water Pollution Control Act.

COTP Orders (33 CFR 160.111) are directed at individual vessels and address short-term hazards. Any long-term directive would require following Federal rulemaking procedures. COTP orders may involve establishing a vessel traffic routing scheme or vessel size, speed and draft limitations; restricting traffic movement to one direction and certain times or requiring tug assists.

Summary of Coast Guard Field Presence: The Coast Guard Sector Los Angeles - Long Beach, handles marine safety issues including inspections of U.S. and foreign vessels, maritime security, vessel traffic management, search and rescue, response to and planning for pollution incidents, response to vessel or port emergencies and natural disasters, inspections of waterfront facilities and hazardous materials containers, monitoring of oil transfers and explosive loads, licensing of mariners, investigation of marine casualties and enforcement of fisheries, drug and other maritime laws.

The Sector Commander is the COTP, Officer in Charge of Marine Inspection, Search and Rescue Mission Coordinator, Federal Maritime Security Coordinator, and pre-designated Federal On-Scene Coordinator for oil spills and hazardous substance releases.

The area of responsibility encompasses 300 miles of California coast from the Monterey County line to Dana Point and out to 200 miles. The command uses 430 people to perform missions including operation of four HH-65 helicopters, four 87' patrol boats, three 47' boats, four 41' boats, and nine rigid hull inflatable boats.

Coast Guard field presence in the Ports of LA/LB fluctuates daily depending on port operations and incidents, but typically involves between 30 to 50 people in the field who manage vessel traffic and conduct boating safety checks, harbor patrols, commercial vessel inspections, waterfront facility inspections and container inspections, and investigate reports of hazardous material and oil spills in addition to daily search and rescue efforts.

STATE OF CALIFORNIA

Summary of Statutes and Regulations: In addition to the provisions contained in the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (see Appendix A of this Plan), the California Fish and Wildlife Code provides at Sections 5650 et seq. general law regarding water pollution prohibitions and both criminal and civil penalties on discharges of petroleum and other deleterious materials entering California waters. State Fish and Wildlife wardens enforce these sections.

Further, California Water Code Section 13272 requires any person responsible for any oil or petroleum product discharge into California waters to notify the Office of Emergency Services. Failure to comply is a misdemeanor.

All OSPR regulations are found in Title 14, California Code of Regulations. Regulations promulgated by the SLC are found in Titles 2 and 24, California Code of Regulations (see Appendix A of this Plan).

Summary of OSPR and SLC Field Presence: OSPR, within the California Department of Fish and Wildlife, carries out its mission by land, sea, and air. The Southern California Regional Office in Los Alamitos performs two complimentary enforcement functions; marine patrol, and oil spill response. Staff consists of ten oil spill response game wardens, seven oil spill prevention specialists, and eight environmental scientists. Additional support, when needed, comes from twelve Marine Region game wardens. Oil spill prevention specialists monitor vessel bunkering, lightering, inspect tugboats, conduct oil spill investigations, ensure vessel and marine facility compliance with contingency plan requirements, quantify spilled oil, participate in oil spill drills and respond to oil spills. For oil spill response in the LA/LB area, the Long Beach office has one 19' trailer-able, rigid-hull inflatable skiff (RHIB) and one 27' RHIB fast response boat.

In accordance with the Lempert-Keene-Seastrand Oil Spill Prevention Act, SLC is responsible for providing the best achievable protection of the public health, safety and the environment, and ensuring that the best available technology is being used at marine terminals in order to prevent oil spills to marine waters. To complete this mission, the Marine Environmental Protection Division (MEPD) employees Operations and Engineering staff that work with industry and other public agencies, including 365-days-per-year field presence for monitoring and inspection purposes out of the MEPD Southern California Regional Office in Long Beach. To regulate marine oil terminal operations, MEPD staff are involved in reviewing marine terminal operations manuals and contingency plans, monitoring oil transfer operations, reviewing terminal work hours and training programs, and observing pipeline pressure and integrity tests. As part of these efforts, MEPD Operations staff monitor transfer operations on a continuous basis and conduct detailed inspections at least once a year (i.e., to determine whether all parts of the terminal are being maintained and operated in such a protective manner and in accordance with the operations manual) of each terminal. To regulate the built aspect of marine oil terminals, MEPD staff are involved in reviewing comprehensive MOTEMS Audits, inspections, analyses, evaluations, and designs¹, including but not limited to, to determine structural integrity and that oil transfer operations system and safety equipment are designed and maintained in safe working condition, ensure resistance to earthquakes and reduce the potential of oil spills. MEPD staff may participate in any MOTEMS audit or inspection as observers or conduct independent on-site inspections and investigations at any time. MOTEMS also requires post-event notification, inspection, and action following a significant, potentially damage-causing event, such as an earthquake, storm, vessel impact, passing

¹ MOTEMS establishes minimum engineering, inspection, and maintenance criteria for all existing and new marine oil terminals to protect public health, safety, and the environment. These standards require comprehensive assessment of the structural, mechanical, and electrical systems at marine oil terminals, including audits and inspections, structural evaluations, seismic analyses, berthing and mooring/breasting, geotechnical assessments, fire protection, piping/pipelines, mechanical and electrical equipment, and electrical systems. Each terminal operator is required to complete audits and inspections of their marine oil terminal on a prescribed periodic basis (typically every four years) to assess the facility's fitness-for-purpose, and where deficiencies are identified, MEPD staff works closely with operators to prioritize and ensure implementation of repairs and upgrades in a timely manner. New marine oil terminals and berthing systems are required to have MOTEMS compliant evaluations prior to construction, and to complete a MOTEMS initial audit prior to commencement of operations. For existing marine oil terminals, all proposed new, substantially modified or re-designed structural, berthing and mooring, fire, pipeline, mechanical or electrical systems or components are subject to MEPD review and shall be MOTEMS compliant prior to use or reuse.

vessel, fire, explosion, or tsunami incident. MEPD staff may carry out or cause to be carried out such inspection.

In addition to the Lempert-Keene-Seastrand Oil Spill Prevention Act responsibilities, the SLC Division of Environmental Science Planning and Management staff monitors vessel compliance with the California Marine Invasive Species Act. Staff meets the arrivals of qualifying vessels to review records and to provide instructions for compliance with ballast water management requirements.

REGIONAL WATER QUALITY BOARDS

The Los Angeles Regional Water Quality Control Board, through its “Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties” (June 13, 1994), has identified the following beneficial uses for the Los Angeles/Long Beach Harbor areas:

1. Inner & Outer Harbor; Beaches, Marinas: Existing Uses: Industrial service, navigation, contact and non-contact recreation, commercial and sport fishing, marine habitat, wildlife habitat, preservation of rare and endangered species, shellfish harvesting. Potential: spawning.
2. Los Angeles River Estuary: Existing Uses: preservation endangered species, estuarine habitat, wetland habitat, marine habitat, wildlife habitat, migration of aquatic organisms, spawning, reproduction and/or early development of fish, navigation, commercial and sport fishing, industrial service supply, and contact and non-contact water recreation. Potential uses: shellfish harvesting.
3. Dominguez Channel Estuary: Existing Uses: preservation of rare and endangered species, estuarine habitat, marine habitat, wildlife habitat, migration of aquatic organisms, spawning, reproduction and/or early development of fish, commercial and sport fishing, and contact and noncontact water recreation. Potential uses: navigation.

The Los Angeles Regional Water Quality Control Board (“RWQCB”) has also recognized that most of the harbor area waters presently do not achieve the water quality objectives of the Federal Water Pollution Control Act (“Clean Water Act”) and are therefore identified as impaired water bodies in the “2008 CWA Section 303(d) List of Water Quality Limited Sections” (approved by RWQCB July 16, 2009). Pollutants causing impairment include, among others, DDT, PAHs, PCBs, Bensopyrene, Chlordane, Chromium, Lead, Zinc, Copper, Mercury, sediment toxicity, and bacteria. The 303(d) List of water quality impairments in the LA/LB Harbor area, by specific waterway, is available through the RWQCB. Overall water quality varies within the harbor areas with contaminant concentrations often localized in back channels, along wharf faces, and near storm water outfalls.

Once a water body becomes section 303(d) listed for a specific pollutant, TMDL numeric targets for effluents are set at a level that will ensure the water body will meet the water quality necessary

to support its beneficial uses. To date, the Los Angeles Harbor Bacteria TMDLs (Inner Cabrillo Beach and Main Ship Channel), Los Angeles River Metals TMDLs, and Machado Lake Nutrients TMDLs have been completed and approved by the EPA. The Los Angeles River Bacteria TMDLs, Dominguez Channel and greater Los Angeles/Long Beach Harbor Toxics TMDLs are still in development. Over the next ten years, TMDLs for the other harbor 303(d) listings will be established by the RWQCB and the EPA.

PORT OF LONG BEACH

Summary of Port of Long Beach Tariff No. 4: The Port has a series of navigation regulations for the harbor which include rights-of-way, routes within the harbor, requirements for sounding horns, conditions for tows, lighting, and speed limits. The Port has contract for piloting services to vessels entering, leaving, or shifting within the Port. Such services are “voluntarily requested and voluntarily rendered.” The master, or captain, has full command of the vessel, whether a pilot is aboard or not. By agreement between the Coast Guard and the Jacobsen Pilot Service, the pilots manage the available anchorages within the Port of Long Beach (B Anchorages) and Commercial Anchorages C, D and E. Anchorages inside the breakwater have time limits of up to ten days, except Anchorages B-7, B-9, B-11, D-5, D-6 and D-7 that have a time limit of two days, subject to Coast Guard permit. No time limits exist for anchorages outside the breakwater. Speed limits are set for various conditions and areas of the Port.

Except in those cases where the duty is specifically imposed upon some other officer or employee of the City of Long Beach, the Executive Director of the Port must enforce Tariff No. 4 rules and regulations. Anyone violating any of the provisions of the rules and regulations as set forth in Item 904 of the Tariff is guilty of a misdemeanor, punishable by a fine not exceeding \$500, or by imprisonment not exceeding six months, or both. Other rules and regulations (set forth in Items 906 and 908) are punishable by fines ranging from \$50 to \$250.

The Harbor Patrol has been designated as the authority to enforce specific sections of the California Penal and Vehicle Codes, the Long Beach Municipal Code, and the Harbors and Navigational Codes.

Summary of Field Presence: The Port of Long Beach Harbor Patrol consists of unarmed Harbor Patrol Traffic Officers, armed Harbor Patrol Officers, and Harbor Patrol Sergeants. The officers have the authority to enforce specified sections of the California Penal and Vehicle Codes, the Long Beach Municipal Code, and the Port of Long Beach Tariff No. 4. The Long Beach Harbor Patrol operates small vessels used for waterborne security patrols.

The Long Beach Police Department has police officers and sergeants supporting Port enforcement. The officers have the authority to enforce all sections of the California Penal and Vehicle Codes, the Long Beach Municipal Code, the California Harbors and Navigation Code, and the Port of Long Beach Tariff No. 4. The Long Beach Police Department operates small vessels used for waterborne law enforcement.

The Marine Safety Officers of the Long Beach Fire Department Marine Safety Division can cite violators in accordance with Item 902 of Tariff No. 4. These sections deal with anchorage grounds and mooring facilities, speed of vessels and prohibition of recreational water activity in parts of the Los Angeles River channel.

PORT OF LOS ANGELES

Summary of Port of Los Angeles Tariff No. 4: Tariff No. 4 states that anchorage, lighting and the handling of dangerous cargo and explosives must conform to federal regulations. Several types of cargo must be handled subject to the approval of the Chief Engineer of the Los Angeles Fire Department, including any inflammable liquid.

The Port of Los Angeles maintains a force of municipal pilots duly licensed to perform the service of piloting vessels in and out of the Port. As in the case of Long Beach, the pilotage services are “voluntarily requested and voluntarily rendered.” The master remains in full command of the vessel, and the presence of a municipal pilot on the bridge in no way relieves the master of her or his duties.

Every commercial vessel must always have someone aboard with the authority to take emergency action, including moving the vessel, as the Executive Director may direct. Speed limits are set for various areas and conditions in the Port.

In the Port of Los Angeles, every member of the Board, the Executive Director, and her or his duly authorized agent, can enter and inspect any vessel. The Executive Director must enforce all orders and all rules and regulations adopted by the Board and may delegate to the Port Warden the duty of enforcing or seeing to the enforcement of such rules and regulations. For that purpose, the Port Warden shall have the power and authority of a regular police officer of the City of Los Angeles, including the power to arrest violators. The Port Warden, subject to the approval of the Executive Director, must report to the proper federal, state, or municipal officer the violation of any law, rule or regulation respecting the operation or control of Los Angeles Harbor in any case where he or she is not empowered to act.

Anyone failing to comply with any of the provisions of the rules and regulations of Tariff No. 4 is guilty of a misdemeanor. Conviction carries a fine of not more than \$500, or six months in jail, or both.

The Port, in addition to Tariff No. 4, enforces numerous federal, state, and local codes through the Port Police.

Summary of Field Presence: The Los Angeles Port Police have four boats, with one in the water at all times. The Port Police comprises 56 members, 50 of whom are sworn police officers. All Port Police officers are trained in police academies including those operated by the Los Angeles Police Department or the County Sheriff.