

FACT SHEET: SB 1319

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CRUDE OIL TRANSPORT BY RAIL: UPDATING SPILL PREPARATION AND RESPONSE

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THE PROBLEM

Significant shifts in the mode of transportation of crude oil into and within California are expected to occur in the near future. Previously, most crude oil imported into California arrived by marine vessel. According to the Brown Administration, the volume of oil transported by rail is anticipated to increase to up to 150 million barrels per year by 2016. This would be 25% of all the crude oil refined in California. This shift in transportation mode – with an accompanying shift in the source of the oil being refined in the state – means that the nature of the risks associated with oil spills as well as the likely locations of spills is also changing. It is time to update California's oil spill preparation, prevention and response.

THE SOLUTION

SB 1319 incorporates and revises the Brown Administration's proposal through the budget process to update the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act) to specifically include all modes of crude oil transport. It also revises provisions of the Public Utilities Code related to rail safety. Specifically, SB 1319:

- allows the per barrel fee to be set annually to cover the costs of the program
- defines an oil spill as any amount of oil into, or that threatens, the waters of the state
- requires that rail-related facilities obtain Certificates of Financial Responsibility
- requires that the Office of Oil Spill Prevention and Response (OSPR) provide training and equipment grants to first responders
- adds new members with expertise in oil production and rail to the Technical Advisory Committee (TAC) which advises OSPR
- updates existing requirements to ensure that a revised oil spill contingency plan reflecting these newly-recognized risks be prepared by January 1,

2017 (and retains the existing provision that it be reviewed every 3 years)

- requires that the contingency plan take public health and safety into consideration
- provides up to \$2,500,000 annually for the Oiled Wildlife Care Network (OWCN) through the budget process
- requires that OSPR perform a study addressing inland areas of the state that includes response requirements for different crudes and the identification of the specific response needs of urban, rural and sensitive environments
- requires that OSPR keep track of the properties of transported oil and modes of oil transportation in order to identify any subsequent necessary changes in spill response
- requires public dissemination of oil transport data to local communities to the extent possible
- requires a comprehensive risk assessment be performed of non-marine forms of oil transport
- clarifies that OSPR can obtain confidential information
- requires the California Public Utilities Commission (CPUC) perform expanded risk-based inspections of rail bridges, grade crossings and loading/unloading facilities
- re-affirms the CPUC's authority over essential local safety hazards
- requires the CPUC report more detailed information about defects and violations observed during its rail inspections

and other provisions including a savings clause and technical clean-up.

BACKGROUND

Recent development of large oil fields in North Dakota, Texas and other North American locations has led to a surge in rail transport of crude oil. So-called "unit trains" – consisting of up to 100 or more tank cars are employed to transport the crude oil to where it can be

refined. Pipelines, in many instances, are not available. Crude oil from at least some of these new fields has considerably different chemical and physical properties than “typical” crude oil – it may be more volatile, flammable and corrosive.

Additionally, imports of oil derived from the Canadian tar sands are also expected to increase and this crude has much different properties that present different difficulties for spill response. For example, see the on-going clean-up of the 2010 Kalamazoo River oil spill from a ruptured pipeline.

There have been several recent rail derailments involving trains, including unit trains, carrying crude oil. While some derailments resulted in minimal damage, others resulted in massive – and unexpected – explosions, extensive fires, billions of dollars in property damage and loss of life. More oil has been spilled in the last year from rail than in the previous 40 years combined.

The Federal Railway Administration and the Pipeline and Hazardous Materials Safety Administration have stepped up efforts to ensure that the risks to the public from rail transport of crude oil are minimized and that the crude oil is properly identified. Federal preemption of state efforts to regulate oil transport is strong as the litigation that followed the 1991 Cantarra loop (Dunsmuir) proved. It remains important at the state level in the event of a spill that responders know what to be prepared for.

In 1990, the Legislature passed the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act)(Government Code §8670.1 *et seq.*). The Act provides a comprehensive framework for the state’s oil spill prevention and response activities, as specified. The Act’s current focus is primarily upon oil spill prevention and response in marine waters and on the transport of oil that passes through the state’s marine terminals. The Act established the OSPR within the Department of Fish and Wildlife and OSPR is led by the OSPR Administrator who has the authority to implement the Act.

The Act has numerous components related to oil spill prevention, preparedness and response including:

- oil spill contingency planning, regulation and review,
- spill response training,
- marine safety,

- the establishment of the Oiled Wildlife Care Network to assist wildlife in an oil spill,
- the establishment of penalties for oil spill damage,
- the establishment of funding mechanisms for oil spill prevention and response,
- the requirement that Certificates of Financial Responsibility be obtained by certain marine facilities and vessels to ensure that there are funds available to pay certain oil spill-related costs, and
- enforcement provisions, among others.

OSPR gained the responsibility for inland crude oil spills in 2008 (AB 2911, Wolk and co-authors, c. 565, Stats. 2008), although no dedicated funding mechanism for inland spills was established.

Governor Brown’s FY 2014-15 budget includes a Budget Change Proposal addressing the shift in crude oil transportation into and within the state to rail. It includes both additional personnel for OSPR and proposed trailer bill language modifying the Act.

The CPUC is the state agency that oversees rail safety in California. The CPUC employs federally certified inspectors to ensure that railroads comply with both federal and state railroad safety regulations.

LEGISLATIVE HISTORY

- voted off the Senate Floor (23 -11)
- passed Senate Appropriations Committee Suspense file (6 – 1)
- passed Senate Environmental Quality Committee (5 – 1)
- passed Senate Natural Resources & Water Committee (7 – 1)

SUPPORT

California League of Conservation Voters
Clean Water Action
Environment California
Environmental Working Group
Natural Resources Defense Council
SF Baykeeper
Surfrider Foundation

OPPOSITION

California Chamber of Commerce
California Independent Petroleum Association
California Manufacturers & Technology Association
Veterans Caucus of the California Democratic Party (unless amended)
Western States Petroleum Association