

Marine Safety and Pollution Prevention Laws and Enforcement Authorities

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.

A. UNITED STATES COAST GUARD

1. 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 and the Commandant. The COTP may supervise and control the movement of any 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.

In addition, a number of other laws call for Coast Guard enforcement. These include the Federal Water Pollution Control Act, which delegates enforcement authority and responsibility to the Coast Guard in cases where oil and hazardous substances are discharged into U.S. waters in harmful quantities. 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.

2. 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 and hazardous chemical spills. 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.

B. STATE OF CALIFORNIA

1. 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 Game 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 Game wardens enforce these sections.

Further, California Water Code Section 13272 requires any person responsible for any oil or petroleum product discharge into California waters 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 State Lands Commission are found in Title 2 and 24, California Code of Regulations (see Appendix A of this Plan).

2. Summary of OSPR and California State Lands Commission Field Presence: OSPR, within the California Department of Fish and Game, 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 bunkerings, lighterings, 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.

The California State Lands Commission 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. To complete this mission, the Marine Facilities Division (MFD) Southern California Field Office (SCFO) Marine Safety personnel and MFD's staff engineers work in the field with industry and other public agencies. Staff is involved in reviewing marine terminal operations manuals and contingency plans, monitoring oil transfer operations seven days a week, reviewing terminal work hours and training programs, and observing static liquid pressure tests. Marine Safety staff and MFD engineers inspect marine oil terminals and facilities annually, and whenever events occur which might have caused facility damage, such as earthquakes, fires or oil spills. Terminals are required to conduct periodic engineering audits to determine fitness for purpose, and submit plans for the correction of deficiencies found. MFD engineers review plans for new construction or modifications to terminals to ensure compliance with Marine Oil Terminal Engineering and Maintenance Standards, as adopted by the California Building Standards Commission. Data from all field activities are collected and analyzed, and provided back to the public in an array of outreach forums, including quarterly customer service meetings, workshops, letters and website information. Oil spills and near misses are analyzed using the Human Factors Analysis and Classification system. In addition to the Lempert-Keene-Seastrand Oil Spill Prevention Act responsibilities, SCFO 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 the compliance with ballast water management requirements.

C. PORT OF LONG BEACH:

1. 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 or not a pilot is aboard. By agreement between the Coast Guard and the Jacobsen Pilot Service, the pilots manage the available anchorages within the Port of Long Beach and Commercial Anchorage F. Anchorages inside the breakwater have time limits of up to ten 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.

2. Summary of Field Presence: The Port of Long Beach Harbor Patrol has 36 security officers and nine supervisory and management personnel. The Long Beach Harbor Patrol has one vessel, used for dive team inspection activities.

The Long Beach Police Department has 16 police officers, two sergeants, and one lieutenant assigned to the Port Security Unit. 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 has two vessels which are used to provide 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.

D. PORT OF LOS ANGELES

1. 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.

By agreement between the Coast Guard and the Los Angeles Pilots, the pilots manage the available anchorages within the Port of Los Angeles. Anchorages inside the breakwater have time limits of up to ten days, subject to Coast Guard permit. No time limits exist for anchorages outside the breakwater. Every commercial vessel must, at all times, 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.

2. 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.