



State of Washington
Joint Legislative Audit and
Review Committee

Office of Marine Safety

Report 96-4

November 7, 1996

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OFFICE OF MARINE SAFETY

Summary

The Washington State Office of Marine Safety (OMS) was created in 1991 for the purpose of preventing oil spills from tank, cargo, or passenger vessels operating in state waters.¹ The statute includes a provision for the *Office* to terminate as of June 30, 1997. The *program and its functions*, however, are transferred in full to the Department of Ecology (DOE).

The statute also includes a mandate for the Joint Legislative Audit and Review Committee (JLARC)² to report to the legislature by November 15, 1996, on the transfer of OMS functions to DOE. The scope of this study was expanded by the committee to fulfill the mandate but also to explore other options for reorganizing OMS. This was done due to the significant amount of debate in the 1995 session over whether or not the program should transfer.

SUMMARY OF CONCLUSIONS

The report concludes that there is no compelling need to make a major organizational change since there is little evidence that the organizational structure is currently a problem. As for advantages under the specific scenario of a transfer of OMS to DOE, we found that a transfer will not generate much, if any, savings due to the overhead rate in DOE. Expectations that a transfer would improve operations could not be confirmed.

¹ Office created in Chapter 43.211 RCW. Responsibilities for vessel oil spill prevention are under Chapter 88.46 RCW.

² Formerly known as the Legislative Budget Committee (LBC).

Overview

Change not
recommended
except . . .

... for contingency planning

The one exception to these conclusions was the contingency planning responsibility in OMS. This function relies significantly on DOE. Therefore, recommendations are made to eliminate the statutory language requiring termination of OMS and to transfer only vessel contingency planning to DOE.

Intent needs clarification

The last chapter of the report discusses an issue separate from the structural evaluation, namely, the need to clarify legislative intent for the state program in light of the federal Coast Guard (USCG) program. A recommendation is made for the legislature to clarify the intent in statute. This recommendation also requires the program to report back to the legislature in a few years on how the state will continue to supplement and coordinate with the USCG which is implementing new initiatives.

EVALUATION OF STRUCTURAL PROBLEMS WITH OMS

The office is an independent agency with an administrator appointed by the Governor. The appropriation for the 1995-97 Biennia is roughly \$4 million which supports 16 FTEs at headquarters and 8 FTEs in two field offices.

To identify the problems that are driving the need for a reorganization, we interviewed various stakeholder groups (i.e., legislative members and staff, industry, state government, environmental representatives, USCG, OMS) and reviewed pertinent documents including transcripts of 1995 committee hearings.

Structure not the problem

We found few problems that are directly the result of organizational structure or that would require resolution through structural change. Stakeholder concerns with OMS are related more to managerial concerns or fundamental policy issues such as whether the state should even regulate the industry. These issues were outside the scope of this review. In some cases, we also found that alleged problems could not be confirmed, e.g., problems with inconsistency in state policy which stemmed from having two agencies involved.

We did confirm that one OMS function, vessel contingency planning, relies significantly on DOE's contingency planning and response

section in order to test vessel contingency plans. This reliance on DOE generates a need for close coordination.

Absent a major problem with organizational structure, we had no criteria for proposing other organizational structures for consideration. The one exception to this conclusion is the vessel contingency planning function in OMS. In this case, we found that the function would be more appropriately housed in DOE in order to better coordinate functions.

TRANSFER TO ECOLOGY

We also explored whether the transfer of OMS to DOE would realize efficiencies or improve effectiveness/program performance. Our conclusion is that there would be little if any savings to be gained from a transfer and the impact on effectiveness is unknown.

We found there are complicating factors which negate the potential savings of consolidating the two operations. The overhead rate for indirect services in DOE is the primary factor that reduces any potential savings resulting from staff consolidations. Once OMS functions are within DOE, OFM estimates the program will pay \$200,000 per biennium more for indirect services than it currently spends as an independent agency.

As for drawing conclusions about the increase or decrease in effectiveness of OMS if merged with DOE, we found that these questions can not be resolved in this evaluation of organizational structure.

We also conducted a review of other states' programs, as well as a review of other types of transportation safety programs. We found there is no best practices model for organizing prevention, response, and investigation activities since activities varied significantly.

RELATIONSHIP WITH COAST GUARD

In 1991, partially due to a perception of insufficient USCG resources, the legislature created OMS and gave it responsibilities parallel to, although less broad than, those of the USCG.

Savings
unlikely

Impact on
effectiveness
unknown

We found that some statutory requirements regarding how OMS interfaces with the federal program may be inconsistent with the *overall* legislative intent for the state program to supplement the federal program. Specifically, we found that language requiring OMS to oversee the USCG tank vessel inspection program is impractical.

Statute inconsistent with intent

Due to current and anticipated changes in the federal program, we found that the federal and state programs may further resemble each other in the near future. Therefore, revisiting how the state program continues to be positioned in order to supplement the federal program will be necessary. Minimizing overlap and supplementing federal activities is important in terms of efficiently targeting limited state resources.

We conclude that coordination between the state and federal program should be enhanced, and that legislative intent regarding the state's relationship to the federal program be clarified. We also conclude that an assessment of state program activities in relation to the federal program should be conducted after federal program changes are implemented in 1998. A recommendation is made to address these issues.

Roles need defining

AGENCY RESPONSE

Governor Lowry responded to this report for the Executive Branch and indicated full concurrence with the recommendations. In regard to Recommendation 3, the Governor concurs with the need to clarify in the state's working relationship with the U.S. Coast Guard in statute, but notes that the state's legal right to protect its waterways should be reiterated.

ACKNOWLEDGMENTS

This report was prepared by Beth Keating and Valerie Whitener of the JLARC staff. Ron Perry served as the project supervisor.

We appreciate the assistance provided by the Office of Marine Safety; the Central Programs Division in the Department of Ecology; the Office of Financial Management; the Seattle District Office and

the Portland and Seattle Marine Safety Offices of the United States Coast Guard; and numerous representatives of the marine transportation industry and the environmental community.

Cheryle A. Broom
Legislative Auditor

On November 7, 1996, the Joint Legislative Audit and Review Committee approved a motion to accept and distribute this report. The committee took no action on the recommendations.

Senator Al Bauer
Chair

RECOMMENDATIONS

Summary

Recommendation 1

The legislature should remove the termination language in Chapter 88.46 RCW which states that the Office of Marine Safety is terminated effective July 1, 1997.

Legislation Required:	Yes
Fiscal Impact:	None
Completion Date:	1997 Legislative Session

Recommendation 2

The legislature should amend the transfer language in Chapter 88.46 RCW to reflect only a transfer of the vessel contingency planning function in the Office of Marine Safety to the Department of Ecology.

Legislation Required:	Yes
Fiscal Impact:	None
Completion Date:	1997 Legislative Session

Recommendation 3

We recommend the legislature clarify in statute the relationship of the state's oil spill prevention program to the USCG by doing the following:

- A. Clarify the supplemental role that OMS should have in relation to the USCG.
- B. Remove reference in RCW 88.46.030(2) directing the state program to "adopt rules providing for random review of individual tank vessel inspections conducted by federal agencies."
- C. Remove reference in RCW 88.46.030(3) directing that "to the maximum extent feasible, the state program shall consist of the monitoring of existing tank vessel inspection programs conducted by the federal government."

- D. Require the program to report back to the legislature by December 1, 1998, regarding: 1) the status of USCG implementation of international standards and federal program initiatives; and 2) how the state program supplements and coordinates with the federal program.

Legislation Required:	Yes
Fiscal Impact:	None
Completion Date:	1997 Legislative Session for statute amendment. December 1, 1998 for the program to report back to the legislature.

OVERVIEW AND COMPLIANCE

Chapter One

The Washington State Office of Marine Safety (OMS) was created in 1991 to promote safe marine transportation in Washington State for the purpose of preventing oil spills from vessels operating in state waters.¹ The 1991 bill included a provision for the Office of Marine Safety to terminate as of June 30, 1997. It was the intent of the legislation, however, for the program to transfer in full to the Department of Ecology (DOE).

The Legislative Budget Committee (LBC),² was mandated in the enabling legislation to conduct a study addressing the transfer of OMS to DOE. However, there was a significant amount of legislative debate in the 1995 session about whether a transfer should occur. Because of these issues, the committee approved a scope and objectives for this study which fulfills the mandate, but also addresses broader issues—specifically, whether OMS should remain an independent agency or be combined with other programs (the spill program in DOE in particular). The approach of this study was to focus on evaluating the need to make a change in organizational structure. To that end, the report tries to objectively present the information available to support or oppose the different viewpoints.

The report concludes that there is no compelling need to make a major organizational change since there is little evidence that the organizational structure is currently a problem. We also found that

Overview

Study scope broadened

¹ Office created in Chapter 43.211 RCW. Responsibilities for vessel oil spill prevention are under Chapter 88.46 RCW.

² As a result of action in the 1996 Legislative Session, the name of the LBC was changed to the Joint Legislative Audit and Review Committee (JLARC) in June.

a transfer will not generate much savings. Expectations that a transfer will generally improve operations could not be confirmed.

Recommendations are made to maintain the independent office with the exception of one function, vessel contingency planning, which should transfer to DOE. Another recommendation asks the legislature to consider clarifying its intent regarding the role of the state program and the relationship of OMS to the United States Coast Guard (USCG) program.

REPORT OUTLINE

The first chapter outlines the relevant legislative history of OMS and includes findings that the program has complied with legislative intent. The second chapter reports on the status of the current organization and the opportunities that are perceived with a transfer to DOE. The final chapter describes the Washington State and the United States Coast Guard programs, and our conclusion that the legislature should clarify their intent that the state program supplement the federal program.

LEGISLATIVE HISTORY: CREATION OF THE OFFICE

In 1991, the state legislature declared that Washington waters have irreplaceable value, and because of the potential hazard posed by the transportation of oil in state waters, created a Washington State Office of Marine Safety.³ The legislation assigned oil spill prevention responsibilities for vessels to the new OMS and oil spill prevention responsibilities for oil handling facilities⁴ to DOE.

In 1993, the legislature gave OMS the authority to establish two field offices for the purpose of boarding vessels in Puget Sound and on the Columbia River in order to monitor for compliance with state regulations.

Purpose is prevention

³ Historically, regulation of the maritime industry in this country has been the domain of the United States Coast Guard (USCG) which is a party to the International Maritime Organization (IMO). But the Oil and Pollution Act of 1990, enacted by Congress in the aftermath of the Exxon Valdez spill, increased and clarified the authority of states to regulate maritime traffic in their waters.

⁴ As defined by DOE, oil handling facilities are those operations that receive oil in bulk via water or by transmission pipelines. Examples include refineries and terminals.

Transfer Provision

The final version of the 1991 bill included a provision for OMS to terminate after June 30, 1997. Unlike a sunset clause where the entire program is terminated, it is just the *Office* of Marine Safety which is to be terminated. The *program* for oil spill prevention is to continue. The difference is that after June 30, 1997, there will be no separate office, and its powers, duties, and functions will be given to DOE to administer. A review of legislative history identifies that the provision was added as a compromise between those desiring a new agency and those wanting DOE to handle the new responsibilities.

What is unclear about the 1991 legislation is how absolute the legislature was about requiring the termination of OMS and the transfer of its functions without further consideration. The statute requires an LBC (JLARC) study of “the means for future implementation of the provisions in the Act.”

Due to the imprecise study language and different legislative understandings of the compromise, this provision to the 1991 bill was the subject of considerable debate in the 1995 session. The question was whether the intent of this language: 1) reflects that the legislature was not definitive about transferring the program to DOE after five years, or 2) that the only desire in 1991 was some detail on how the program would operate in DOE.

LEGISLATIVE ACTIONS IN 1995

During the 1995 Legislative Session, hearings were held by the House Committee on Transportation and the Senate Ecology and Parks Committee on a bill to transfer OMS to DOE in January 1996, 18 months ahead of schedule.

While the bill did not pass, the transfer language was included in the 1995-97 Transportation Budget Bill. Several environmental organizations filed a lawsuit claiming that the transfer constituted policy language and was therefore inappropriate for a budget bill. In October 1995, the Superior Court ruled that the transfer provision was unconstitutional, voiding the early transfer.

Program will transfer to DOE in 1997

Transfer debated in 1995

OVERVIEW OF OMS

The mission of OMS is to reduce the risk of oil spills in Washington waters by promoting safe marine transportation. OMS headquarters is in Olympia. The program maintains two field offices, one to cover Puget Sound traffic and the other to cover Columbia River traffic.

The office is an independent agency with an administrator appointed by and accountable to the Governor. The appropriation for the 1995-97 Biennia was just over \$3.8 million. The program has 23.8 FTEs, 16 at headquarters and 8 in two field offices.

Single-
purpose
agency

The primary source of funding for this program is the Oil Spill Administration Account, the source of which is a tax on oil off-loaded at marine terminals in the state. Due to shortfalls in projected revenue, many programs supported by this fund have been eliminated. Others, such as OMS, have had to scale back operations. Funding issues are not addressed by this study.⁵

The office’s primary responsibility is to regulate: 1) tank vessels - ships that transport oil in bulk as cargo, 2) large cargo and fishing vessels - ships that transport various commodities such as bulk grain or automobiles, and 3) large passenger vessels, such as the state ferry system.⁶ In 1995, the number of vessels covered by OMS’s authority entering Washington waters included: 195 oil tankers, 3,361 cargo and passenger vessels, and 214 large fishing vessels.

Statutory Responsibilities

The oil spill prevention and response chapter (Chapter 88.46 RCW) provides specific direction to the new office on setting up the state’s oil spill prevention program. Below is a summary of the major expectations for the office detailed in statute and the status of OMS implementation.

⁵ OFM examined the shortfall in the Oil Spill Administration Account and released a report in September 1996, “Funding Oil Spill Prevention, Response and Restoration in Washington State.”

⁶ Specifically, OMS regulates covered vessels 300 gross tons or larger.

Tank Vessel Program Requirements

- Determine if federal programs provide “best achievable protection” for state waters; if not, adopt rules for a state tank vessel inspection program. Vessels are to be inspected annually.
- Establish standards, by rule, for oil spill prevention plans and contingency plans to be completed by tank vessel operators. These plans are to be approved by the office and updated every five years.

Standards have been developed and rules adopted. The first round of prevention / contingency plans will be approved by January 1997. Vessels will be inspected annually once the plans are approved.

There are two other statutory cites addressed in Chapter 3 that provide direction to OMS on monitoring the federal Tank Vessel Program. The program has not fulfilled these requirements, in part, due to the conflicting nature of the statutory language in relation to overall legislative intent. These statutory requirements have the state program overseeing the federal program which is contradictory to the intent of establishing a partnership with the federal government.

Cargo Vessel and Passenger Vessel Program Requirements

- Establish standards, by rule, for preparation of contingency plans that will be submitted by vessel operators and approved by OMS. (Contingency plans detail how a vessel has prepared for a spill, e.g., training of personnel and type and amount of equipment available to assist with clean up.) These plans are to be updated every five years.
- Adopt rules for determining whether a cargo vessel or passenger vessel entering state waters poses a “substantial risk” to the environment.
- Inspect vessels that pose a substantial risk to determine whether the vessel complies with applicable state or federal laws.

Tank Vessel
Program
and . . .

. . . Cargo and
Passenger
Vessel
Programs
implemented

Standards have been developed and rules adopted. The first round of contingency plans has been approved. A computer program to review incoming cargo and passenger vessels was created and is in use. A field inspection program for Puget Sound began operations in 1993 and for the Columbia River in 1994.

Bunker (“Refueling”) Monitoring

- Adopt rules to ensure that persons or facilities refueling ships (this is done both using oil handling facilities or off shore by barge) have containment and recovery equipment readily available and personnel trained to conduct the bunkering.

Rules were adopted and bunkerings are randomly monitored by the field personnel for compliance. Providing education about good bunkering practices is also part of OMS’s interactions with vessels during inspections.

Other activities and responsibilities include spill investigations, policy studies, and educational outreach, e.g., providing materials in various languages, organizing conferences, newsletters on prevention topics.

Overall, we found that representatives of industry, and the state and federal government, agree that the program has pursued these requirements. While we reviewed whether OMS carried out the requirements, we did not analyze how effectively or efficiently they have done so.

Conclusions About Program Compliance

**OMS
generally in
compliance
with laws**

Our review of the program’s activities shows that for the most part, statutory requirements have been met by OMS. One aspect, monitoring of the federal government’s tank inspection program, has not been pursued. This compliance issue is discussed, along with additional information regarding the relationship of the state program to the federal coast guard program, in the last chapter of this report. Issues are raised about how the state program will be positioned in the future in order to maximize state resources in light of changes in the USCG program.

REVIEW OF ORGANIZATIONAL STRUCTURE

Chapter Two

The purpose of this study was to evaluate alternative organizational structures for Washington's oil spill program, including a transfer to DOE as one possibility. Other scenarios or organizational alternatives were not specified by the legislature at the outset.

Assuming that the goal of reorganization is to improve the state's program in some manner, we determined that any alternatives considered had to meet a basic threshold. Specifically, that any alternative structure should solve problems with the existing organization or improve the program.

Therefore, the first step of this study was to identify the problems with the current organization that are driving the need for change. A finding that relevant problems exist would need to meet audit standards, namely, that their existence could be documented and that the effect of the problem could be determined.

PROBLEMS WITH CURRENT PROGRAM

To identify the problems driving the need for a reorganization, we interviewed various stakeholder groups (i.e., legislative members and staff, industry, state government, environmental representatives, USCG, OMS) and reviewed pertinent documents including transcripts of the 1995 hearings.

Overview

Reasons for
change
examined

Perceived problems not about structure

We found that problems related to OMS were generally not caused by or related to the organizational structure of the program. Below are the areas of concern that were identified by stakeholders and our findings.

Fundamental Policy Issues. Some stakeholders expressed concern about whether Washington State should regulate this industry to any extent, and if so, what standards would apply. These issues are not addressed in this report because of the assumption that legislative intent continues to be for Washington to maintain an oil spill prevention program.

Managerial Issues. In our interviews, we heard about mistakes made early in program implementation. The evidence confirms that there were start-up problems, but there is also evidence that lessons were learned and errors not repeated. Concerns were also expressed by some about OMS overstepping its statutory authority. We found that there were areas where the program had taken action (e.g., international negotiations) that led others to question the program's authority to do so. However, we did not find this to be an organizational structure problem. OMS is accountable to the Governor and has been strongly supported by the Governor's office in such instances.

Finally, many expressed frustration with the aggressive style of the program and staff. We did not find issues related to management style to be appropriate for this review which is addressing the question of organizational structure and legislative compliance.

Need for Streamlining. Vessel owners and operators must comply with many international, federal, and state regulations. Their agents in Washington expressed to us their frustration about the need to interface with so many entities. We found that any additional burden results from the existence of the regulatory program, not from its structure as an independent agency. We found no evidence that having one agency involved in oil spill prevention and another one for response was confusing to industry members. Instead, we found that they were aware of OMS and clearly understood its requirements and authority.

We observed that the Washington program may be more burdensome than programs in other states. It is unique in having prevention

requirements and a vessel inspection program. However, for the purposes of this study, legislative intent is clear that these are required features of this state's program.

Consistent Policy. Another reason given to support the apparent need to change the current structure was the desire to have one agency responsible for state policy related to oil spill prevention and response. However, we could not find examples of times when DOE and OMS were in conflict over state policy or examples of their agencies having inconsistent policies. The programs appear to defer to each other depending on which area of expertise is needed.

Duplication/Overlap Issues Between OMS and DOE. This was a commonly mentioned area of concern in our interviews since the legislature gave parallel responsibilities to DOE for oil handling facilities and to OMS for vessels. However, we did not find significant duplication or overlap between the programs.

Many functions in DOE's facility program and OMS's vessel programs are parallel. Both agencies write rules for standards, approve prevention and contingency plans, and monitor for compliance. But each program is targeted at a different industry (facilities versus vessels) with different technical and operational problems to address. This is evident in the expertise of program staff, e.g., environmental planners in DOE versus maritime specialists in OMS.

Overlap between OMS and DOE occurs in isolated activities within each agency in the sense that both agencies may send investigators to the same spill, both publish newsletters for the industry, and both sit on interstate taskforces. However, the "overlap" is not necessarily needless duplication. In the example of spill investigations, DOE will send someone to enforce environmental regulations and to look for negligence. OMS will board the vessel to look for violations of state law regarding vessel operations. For some minor spills, one investigator with the responsibility to enforce both sets of regulations might be sufficient, but this does not appear to be the case for all investigations.

Other potential areas for confusion or conflict, such as who is responsible for communicating with the media during a spill, were resolved through interagency agreement between DOE and OMS in 1993.

Minimal
program
overlap

CONTINGENCY PLANNING DIFFERENT

The one exception to our findings above is the contingency planning function in OMS. Vessels are required to have contingency plans that identify what they will do in the event of a spill or whether they are members of a cooperative that take care of spill response activities as needed. These plans are currently being reviewed by OMS. Once initial plans are approved this fall, the contingency plans must be tested by OMS participating in DOE response drills. The contingency planning program in OMS must work closely with DOE's spill management division which is responsible for response and clean-up activities. In the case of contingency planning, it is apparent that the current structure is undesirable.

Separation
a problem
in one area

While we found that there is an undesirable separation between contingency planning in OMS and activities in DOE, this function is not a major piece of the OMS budget. OMS has two FTEs assigned to this function, and the funding for contingency planning is from a different source than for the rest of the office.¹

CONCLUSIONS ABOUT EXISTING PROBLEMS

We found few problems that are directly the result of organizational structure or that require resolution through structural change. Without a structural problem to address, we have no basis for proposing other organizational structures for consideration. The one exception to this conclusion is the vessel contingency planning function in OMS. In this case, it appears that the function would be more appropriately housed in DOE in order to better coordinate functions.

Contingency
planning
should
transfer

TRANSFER TO DOE - ARE THERE OPPORTUNITIES?

Statutory language requires the functions currently carried out by OMS to transfer to DOE as of July 1, 1997. However, as discussed in the previous section, we have concluded that there are no major problems to resolve between the two agencies which would compel

¹ Contingency planning is funded out of the State Toxics Control Account. The remainder of OMS is funded out of the Oil Spill Administration Account.

a change in structure. So is there something else to be gained by the transfer? Specifically, would the transfer realize efficiencies or improve effectiveness/program performance?

This next section addresses those questions and concludes that if the current level of program activities is maintained, cost-savings are not going to be a compelling reason to transfer the program. The question of whether effectiveness would increase is more difficult to assess than whether existing practices are flawed or if money can be saved. Our discussion below concludes that much of it is theoretical at this point. There is no compelling evidence to suggest that a transfer would necessarily benefit or harm the effectiveness of the existing program aside from the expected disruption of the transfer in the short term.

Description of DOE Program

The same bill that created OMS (and gave it responsibilities to carry out a prevention program for vessels) also gave DOE responsibilities for developing a prevention and preparedness program for shoreline oil storage facilities. There are approximately 43 such facilities in the state.

Like vessels under OMS authority, oil handling facilities must prepare prevention and contingency plans to be approved by DOE every five years. DOE must also set standards for training and certifying facility employees and develop a facility operations manual. The statute also requires DOE to provide for a facility inspection program. The facility program, part of DOE's Spill Management Program, is funded primarily by the same source as OMS, the Oil Spill Administration Account. For the 1995-1997 Biennia, the appropriation for this program was almost \$3 million and supported 21 FTEs.

In addition to oil facility prevention and preparedness, the DOE Spill Management Program is responsible for statewide hazardous waste contingency planning, response, and restoration. This would include situations such as truck accidents or railroad derailments where oil or hazardous substances are involved. Petroleum and gas pipeline ruptures or leaks are also the responsibility of the Spill Program.

DOE does prevention at oil facilities . . .

. . . and responds to oil spills

ANALYSIS OF COST-SAVINGS

Intuitively, merging two programs suggest there will likely be one-time increases in costs associated with the merger, and then some ongoing cost-savings realized due to economies of scale. However, in this case, there are factors which serve to negate the potential savings.

Net Fiscal Impact of Transfer

The Office of Financial Management (OFM), OMS, and DOE were asked to prepare a fiscal estimate of the transfer and ongoing costs of a combined program for the purposes of this study.² Their estimate proposes that one-time costs will be \$68,170 to cover moving and training expenses, and ongoing costs will increase by \$5,803 per year over current costs of the independent programs.³

**OFM finds
no savings**

According to OFM, the direct program cost-savings that could be achieved in a merger would be more than offset by the additional overhead costs in DOE. The table below includes the estimates we received from OFM and illustrates how the program transfer would change the ratio of direct to indirect support.

Exhibit 1

**Comparison of Annual Operating Costs Currently
and if the Programs Were Combined**
(Assuming No Reduction in Program Level)

	<i>Sum of Current OMS & DOE Budgets</i>	<i>Estimate if Combined</i>	<i>Difference</i>
Direct Program Costs	\$4,134,289	\$4,039,448	(\$94,841)
Indirect Program Costs*	\$766,930	\$867,574	\$100,644
Total	\$4,901,219	\$4,907,022	\$5,803

*DOE definition of indirect costs was used.

² The estimate does not reflect the Governor’s position on the future of this program. The estimate was prepared solely for our report.

³ This does not include an estimate of \$500,000 to integrate the information systems. The estimate provided by OFM had this item as a future policy decision separate from the transfer.

In reviewing OFM’s estimate, we found there was a plausible explanation of why sizable cost savings will not occur from a transfer. These reasons are discussed below.

Ecology Overhead. The difference between what OMS currently spends on indirect costs and what the program will be assessed for indirect services in DOE is almost eight percent of the program’s salaries and benefits. This means that if the program were transferred, indirect expenditures (e.g., rent, personnel, AG services) would cost the oil spill prevention program \$200,000 more per biennium than is currently spent for the same items.

Location of Program in DOE. The fiscal estimate assumes that a new division within DOE would be created to house the newly integrated program for spill prevention, preparedness, and response. The reason for this assumption is to maintain some of the visibility and access to the Governor’s office that exists under the current structure. This is viewed to be necessary, for example, in negotiations with other countries.

Additional savings could be achieved by transferring the program into the existing organizational structure of DOE. However, this option is estimated to only save an additional \$11,000 per year.⁴

Consolidation of FTEs. Overall, the estimate assumes 1.95 FTE positions could be eliminated without impacting the current program level. One of the assumptions included in the fiscal estimate (which was also consistent with positions taken by all sides in the 1995 legislative debate) is that no reduction of direct program effort will result from the merger. As discussed earlier, there is little duplication between the two programs. This means that management and support functions are the only likely sources for a savings through consolidation.

In the area of managerial/support positions, this is not a situation where there is a one-for-one duplication of top management and associated secretarial support. The program manager in DOE who oversees the spill program has other programs to manage. Only 23 percent of that program manager and associated secretarial FTE are allocated to the spill program. This means that just 0.46 of the

⁴ The savings results from hiring a new program manager instead of hiring a new assistant director.

DOE overhead rate higher . . .

. . . so negates personnel savings

combined managerial and secretarial FTEs are cut in a merger rather than 2 FTEs.⁵ The other FTE consolidations are areas of responsibility that are common to all programs, e.g., budgeting and computer assistance.

EFFECTIVENESS ISSUES

Whether structural problems exist, or whether a transfer would result in cost-savings, are fairly tangible questions. Whether the effectiveness, e.g., the success or impact, of OMS and DOE programs would improve with a combined program is a less tangible question. Plus, the issue is difficult to resolve through an independent review which seeks verifiable evidence to support findings. Therefore, this is addressed here to the extent we found it possible. (i.e., What are the foundations of each position? What supporting evidence is there on each side of the debate?)

Survey of states conducted . . .

Is effectiveness reduced by separating the three disciplines of prevention, preparedness and response? Some view the three disciplines as a continuum, or loop, where knowledge from one discipline can refine the work of the other. For example, knowledge learned from actual spills can be used to determine how to avoid future spills and how to be better prepared for the next one. Presumably, if the three disciplines are within one program, knowledge can be maximized. Unfortunately, the effectiveness of organizationally integrated programs in other states is unknown.

. . . impact of integrated programs unknown

Cross training employees between disciplines is one example often cited as a way to increase effectiveness in an integrated program. Some states we surveyed cross train among all three disciplines. However, we found reasons to question whether it has been effective for prevention programs.

Most states we surveyed have the same employees carrying out prevention, preparedness, and response activities. However, the prevention programs in states with cross-trained staff appear to be more limited than Washington’s prevention program. Of the two states we surveyed that appear to maintain sizable prevention programs, both had specialized staff who did not work across three disciplines.

⁵ The 0.46 FTE is reached by combining the 2 OMS FTEs for an administrator and secretary with 0.23 of a program manager and 0.23 of a secretary at DOE and then subtracting out 2 new FTEs to head the new division—one for managing, one for secretarial support.

Integrated programs are considered effective by some because of the opportunity for shared technical knowledge. However, effective sharing of technical knowledge could result under scenarios that do not include a full scale merger. For example, programs could be collocated.

We also found that some methods for coordination are already in place between OMS and DOE. An interagency agreement exists to formally establish relations and delineate responsibilities where there could be disagreement. We also understand that field personnel work cooperatively during investigations and spill practice drills.

Is effectiveness enhanced by separating the discipline of prevention from preparedness and response? Some believe effectiveness is increased by separating prevention from the other functions in order to give it visibility and singleness of purpose. In this scenario, the primary emphasis is on awareness and education as the key to reducing oil spills. There is also a belief that prevention will eventually be absorbed into response work due to the “crisis” nature of oil spill response work and the infancy of prevention work.

Proponents of this viewpoint support their position by citing the Alaskan Oil Spill Commission report on the Exxon Valdez oil spill which found there had been a decline in vigilance in state and federal programs for overseeing the safety of oil transportation. The report notes that prevention activities were inadequate and agencies had grown complacent. However, the report does not conclude that an independent agency is the only option to maintain a focused program. Alaska continues to have an integrated program for oil spill response and prevention, but maintains prevention as a priority through the use of regional citizen advisory groups. These advisory groups were established by Congress in 1990 and are funded by the oil industry.

Avoiding the competition for resources that are inevitable within a larger agency is the other concern of proponents of an independent agency. There is a belief that without the status of an independent agency, the oil spill prevention program may not get the attention that it currently receives in budget considerations and within the

Single
agency
gives
visibility
but . . .

executive branch. The potential of an oil spill and the significant impact it would have on Washington’s environment and economy is the reason proponents give for why an oil spill prevention program should be given this separate agency status.

... so could the alternatives

Maintaining an independent agency is not the only way for the legislature to assure that oil spill prevention remains a priority program if OMS functions transfer to DOE. In the event the legislature wants some assurance, the legislature could: 1) provide direction to DOE by statute, 2) restrict the use of funds to prevention activities by budget proviso or line item, and 3) establish an advisory board to monitor the program as is done by other states.⁶

REVIEW OF PREVENTION MODELS

No best model

We conducted a review of other states’ oil spill prevention and response programs, as well as a review of other types of transportation regulatory, prevention, and response entities. We found there is no best practices model for organizing prevention, response, and investigation activities. Organization of these activities varied between state programs and among other types of transportation regulatory entities. Washington’s oil spill prevention program is unique in its scope and orientation of activities as compared to other state oil spill prevention and response programs. Therefore, direct comparison of other state organizational structures is not feasible.

CONCLUSIONS ON ORGANIZATIONAL STRUCTURE

No major structural problems

We found that there are no major problems with the organizational structure of Washington’s oil spill prevention and response programs. The one exception is vessel contingency planning in OMS. This function requires more integration with DOE contingency planning than with OMS prevention programs. It would be more appropriately housed with the contingency and response program in DOE.

⁶ Until 1993, the Marine Oversight Board existed in Washington and provided oversight of programs funded by the Oil Administration Account. The board was terminated, in part, to save funds in the Oil Spill Administration Account. (The Board’s 1993-1995 biennial appropriation was just below \$340,000.)

The information we reviewed also suggests that there is no compelling need to make a major organizational change for the purpose of saving money (given the assumption that the program level will not be reduced.) Instead, a transfer to DOE will require additional expenditures in the short run, and the cost savings in direct program expenses generated by a merger would be more than offset by a higher overhead rate.

As for concerns about the effectiveness of the state's current structure, these may or may not have merit. There exists differing theoretical viewpoints as to the potential benefits and risks to the effectiveness as a result of merging OMS into DOE. The issue can not be resolved in this study.

The conclusion above, combined with our conclusion that the program has generally met legislative intent, leads us to recommend that only one portion of OMS be transferred. Implementation of the recommendations below would require legislative action in the 1997 session.

Recommendation 1

The legislature should remove the termination language in Chapter 88.46 RCW which states that the Office of Marine Safety is terminated effective July 1, 1997.

Recommendation 2

The legislature should amend the transfer language in Chapter 88.46 RCW to reflect only a transfer of the vessel contingency planning function in the Office of Marine Safety to the Department of Ecology.

**Remove
termination
and transfer
one function**

STATE-FEDERAL PROGRAM COORDINATION

Chapter Three

The review summarized in this chapter was conducted as part of our compliance review and is not related to organizational structure. This chapter describes our review of the OMS and USCG oil spill prevention programs and the legislative intent for the state to supplement the federal program.

We found that some statutory requirements regarding how OMS interfaces with the federal program may be inconsistent with the *overall* legislative intent for the state program. We also found that the federal and state programs share similar mandates and have parallel activities that may converge over the next few years.

We conclude that coordination between the state and federal program should be enhanced, and that legislative intent regarding the state's relationship to the federal program be clarified. We also conclude that an assessment of state program activities in relation to the federal program should be conducted after federal program changes are implemented in 1998. A recommendation is made to address these issues.

LEGISLATIVE INTENT AND OMS COMPLIANCE

Statutory language regarding how the state program should interface with the federal program is minimal. In our compliance review, we found that OMS has complied with most of the statutory requirements relating to the USCG. The agency has implemented its program in a manner consistent with federal law, has established appropriate operating procedures, and is coordinating its field

Overview

Intent
language
minimal

Some statutory duties not feasible

operations and vessel boarding results with the USCG. Two statutory requirements have not been fulfilled. This is due, in part, to conflicting legislative direction and because OMS considers the requirements impractical for the state to implement. This section identifies what OMS has not done and potential problems with existing language.

The office has not complied with the requirements in the following statutes:

- “The office shall adopt rules providing for random review of individual tank vessel inspections conducted by federal agencies.” (RCW 88.46.030(2))
- “To the maximum extent feasible, the state program shall consist of monitoring of existing tank vessel inspection programs conducted by the federal government. The office shall consult with the USCG regarding the tank vessel inspection program.” (RCW 88.46.030(3))

OMS has not adopted rules providing for a random review of individual federal tank vessel inspections. Current monitoring of the existing federal tank vessel inspection program is limited. Agency management indicates they presently do not have plans to issue federal program monitoring rules. OMS management raises questions about the benefit and feasibility of the state establishing “extensive oversight” of the federal program and being put in an adversarial role with the USCG.

Comments on Noncompliance and Legislative Intent

Legislative intent is to supplement

The adversarial nature of the statutory requirements appears contradictory to the need for the state program to work cooperatively with the USCG. Legislators we spoke to recalled that their general intent in 1991 was to have the state supplement and act in partnership with the federal program. Specific statutory language to monitor the federal tank vessel program and individual federal tank vessel inspections, appears to be inconsistent with the general intent for the state program to coordinate with and supplement the federal program. The language is also considered impractical because it

would require that the USCG consent to state oversight. Based on our discussions with the USCG, this is unlikely. Therefore, we conclude that these requirements for extensive oversight should be removed.

A description of the parallel nature of the state and federal programs along with a discussion of why good cooperation is necessary is provided in the remainder of this chapter.

USCG AND OMS PROGRAM COMPARISON

In 1991, partially due to a perception of insufficient USCG resources, the legislature created OMS and gave it responsibilities parallel to, although less broad than, those of the USCG. The USCG, the federal agency with maritime authority, enforces U.S. laws and international agreements and recommendations relating to a broad range of marine safety and environmental protection issues. These responsibilities include: port security, crew safety and licensing, marine pollution prevention and response, and vessel inspection and documentation. OMS has a focus to promote safe marine transportation in Washington State for the purpose of preventing oil spills from vessels operating in state waters.

The USCG and OMS employ a variety of techniques to monitor, educate, and enforce regulations. Both entities track vessels entering Washington waters, use similar methodologies to screen cargo and passenger vessels for potential risk, and board vessels to review for vessel compliance with applicable international and federal law relating to marine pollution.

Although the programs share a similar mandate, there are differences in the approaches used for regulating and inspecting vessels. State and federal regulations differ in level of specificity. Because OMS was directed by the legislature to verify compliance with federal regulations and carry out a similar mandate, some of its activities overlap or are nearly the same as the USCG. We found that overlap is consistent with statutory direction and was viewed in 1991 as supplemental to USCG resources.

Programs
have similar
mandates
but
different
approaches

Differences in Specificity of Regulation

State rules more specific

The state program differs from the federal program in areas where state regulations are more specific than international and federal standards. For example, the state's best achievable protection standards (BAPS) for tankers,¹ and the accepted industry standards (AIS) for cargo and passenger vessels, require that particular elements of vessel management and operation be addressed in vessel owners' management policies and procedures, and incorporated into crew practices. The state's BAPS and AIS include elements that encompass a range of activities identified by OMS and its industry advisory groups as being linked to safe vessel operation. These are not contained in federal rules to the same level of specificity, and could be considered supplemental to the federal program.

Differences in Operational Approaches

Two ways to assess human element

OMS differentiates its program from that of the USCG by explaining that the state focuses on the human factors that result in oil spills. Examples of addressing "human factors" in state regulations include: crew training and work hours, drug and alcohol assessment, vessel maintenance tracking, bridge management, and procedural checklists.

We found that human factors are also reviewed by the USCG under its current inspection programs. This is done by a different method and with limited emphasis and specificity as compared to the state's program. The following example illustrates the differing approaches: The USCG may review operation of the emergency generators on a vessel by observing the crew operate the emergency generator system. Crew competence of an operation and the mechanical condition are verified at the same time.

A review of an emergency generator system done by OMS would include verification that the company has policies and procedures in place to train all crew members on proper procedures for the emergency operation, and verification that records and logbook entries record maintenance and testing of the system. Management oversight, crew preparedness, training, and ongoing system maintenance are verified by OMS.

¹A legal challenge to the state's BAPs is currently in district court. Implications of the lawsuit are substantial.

The initial approach by the USCG which relies on putting vessels through actual drills is reportedly time-consuming and staff intensive. Vessels which do not meet the initial inspection standards are also subject to an expanded inspection which includes an additional, more specific assessment of “human factors.” Expanded inspections are only conducted when there is a reason to believe the ship has a problem and are not part of the routine inspection. This, according to the USCG, is supposed to change within the next few years with implementation of the USCG Prevention Through People Program (see Appendix 5).

Consistent with legislative intent from 1991, OMS parallels the USCG in some respects although it has a different approach for inspections and in specificity of regulations. However, a reorganized USCG inspection program which began in 1994, and a proposed USCG prevention initiative to be implemented over the next two years, will target some of the same inspection areas as OMS. As explained below, it appears that over the next few years some federal activities may converge with the state’s program.

Program Coordination and Federal Program Changes

The state program was created to supplement the federal program as it existed in 1991. Changing international standards and evolving federal program initiatives over the past five years heightens the need for coordination between the state and federal programs. Appendix 5 provides a review of changing international standards and the USCG foreign vessel boarding and Prevention Through People programs. Although not identical, upon implementation these standards and initiatives will provide for activities even more similar to some of those conducted by OMS.

Because of the likely convergence of some state and federal program activities, coordination with the USCG will become more essential for effectively targeting resources. Our review found discrepancies between OMS’s understanding of the federal program and the description of the federal program as provided by a variety of USCG sources. This appears to be due to communication factors attributable to both OMS and the USCG. It also appears that the state should reassess its own program in light of the federal changes to avoid any unnecessary duplication and to be sure the state program adds value.

Programs likely to converge in future

Future coordination is essential

CONCLUSIONS ABOUT PROGRAM DIRECTION

Legislative intent: to maximize resources

Upon implementation of international standards and federal program initiatives, new since 1991, the OMS and USCG programs will become more similar. Legislative intent appears to be that the Washington program is to supplement the federal program in order to maximize state resources. We conclude this will require improved communication to ensure supplementing and not duplication occurs. Improved communications and coordination between the state and federal program could promote future program effectiveness in ways such as:

- Allowing the state to avoid unnecessary overlap of functions provided by the federal program, and
- Enhancing the state’s efforts to prevent oil spill incidents by benefiting from potentially effective prevention initiatives employed by the USCG.

We also conclude that statutory language and legislative intent regarding the relationship of state and federal programs are not consistent with each other. Language to monitor specific federal activities is impractical to implement, and appears to be inconsistent with the general intent for the state program to coordinate with and supplement the federal program. To the extent that it contributes to poor communication or unclear expectations for the state’s role in relation to the USCG, the statutory language may not be in the best interests of the state.

Future program review necessary

Finally, we conclude that an assessment of the state program in regards to the federal program would be appropriate after recent federal changes are completely implemented in 1998.

Recommendation 3

We recommend the legislature clarify in statute the relationship of the state’s oil spill prevention program to the USCG by doing the following:

- A. Clarify the supplemental role that OMS should have in relation to the USCG.
- B. Remove reference in RCW 88.46.030(2) directing the state program to “adopt rules providing for random review of individual tank vessel inspections conducted by federal agencies.”
- C. Remove reference in RCW 88.46.030(3) directing that “to the maximum extent feasible, the state program shall consist of the monitoring of existing tank vessel inspection programs conducted by the federal government.”
- D. Require the program to report back to the legislature by December 1, 1998, regarding: 1) the status of USCG implementation of international standards and federal program initiatives; and 2) how the state program supplements and coordinates with the federal program.

SCOPE AND OBJECTIVES

Appendix 1

SCOPE

This review examines the future of the Office of Marine Safety (Chapter 43.211 RCW) which administers the provisions under Chapter 88.46 RCW, Vessel Oil Spill Prevention and Response. The office was established in 1991. Absent legislative action, the office is scheduled to terminate, effective July 1, 1997, and its powers, functions, and duties transferred to the Department of Ecology (DOE). A study by the Joint Legislative Audit and Review Committee (formerly the Legislative Budget Committee) was mandated in the enabling legislation.

OBJECTIVES

1. Determine whether the Office of Marine Safety has met legislative intent.
2. Evaluate alternative organizational structures for administration of a marine transportation oil spill prevention program including transfer of the functions to DOE. Where possible, identify prospective:
 - Cost impacts and/or savings
 - Operational efficiencies and/or inefficiencies
 - Organizational considerations
 - Other advantages or disadvantages
3. Provide a comparison of marine transportation oil spill prevention programs and activities in other states.

AGENCY RESPONSE

Appendix 2

- **Office of the Governor**



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

10001 • Olympia, Washington 98504-0001 • (360) 352-3000 • FAX (360) 352-7777 • TDD (360) 352-7777

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JLARC

October 25, 1996

The Honorable Al Bauer
Chair, Joint Legislative Audit and Review Committee
Post Office Box 40910
Olympia, Washington 98504-0910

Dear Senator Bauer:

This letter is to indicate my strong support for recommendations in the preliminary report of the Joint Legislative Audit and Review Committee (JLARC) regarding the Office of Marine Safety (OMS). I appreciate the thorough work of the Committee and the work of your excellent staff on this issue.

The Office of Marine Safety has done an outstanding job of creating the nation's first comprehensive program dedicated to oil spill prevention. The program should remain independent so that it can continue to focus on reducing the risk of oil spills for the citizens of this state. Implementation of these recommendations ensures that OMS will continue its vigorous and vigilant protection of Washington's marine waters.

I concur with JLARC findings that the current organizational structure of OMS does not pose a problem for the delivery of oil spill prevention services. After evaluating OMS programs, the Office of Financial Management (OFM) found that arguments in support of merger lacked merit from the standpoint of cost effectiveness and service delivery. An exception to this is contingency planning, which JLARC's report addressed. I agree that transferring contingency planning authority from OMS to the Department of Ecology will eliminate the one minimal area of overlap in service between the two agencies, leaving an efficient and coordinated approach to oil spill prevention, contingency planning, and response.

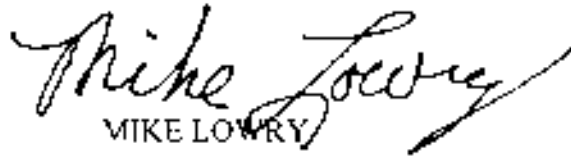
In regard to the final recommendation, I also believe there is opportunity to better define the relationship between the state and federal oil spill prevention programs. To this end, statutory changes should clarify Washington's working relationship with the Coast Guard while reiterating the state's legal right to protect its waterways.

October 25, 1996

Page Two

Attached is an earlier letter to you that describes my supporting views in some detail. On behalf of the Office of Financial Management, the Office of Marine Safety and the Department of Ecology, I encourage the committee to endorse the preliminary JLARC report recommendations in their entirety.

Sincerely,

A handwritten signature in black ink that reads "Mike Lowry". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

MIKE LOWRY
Governor

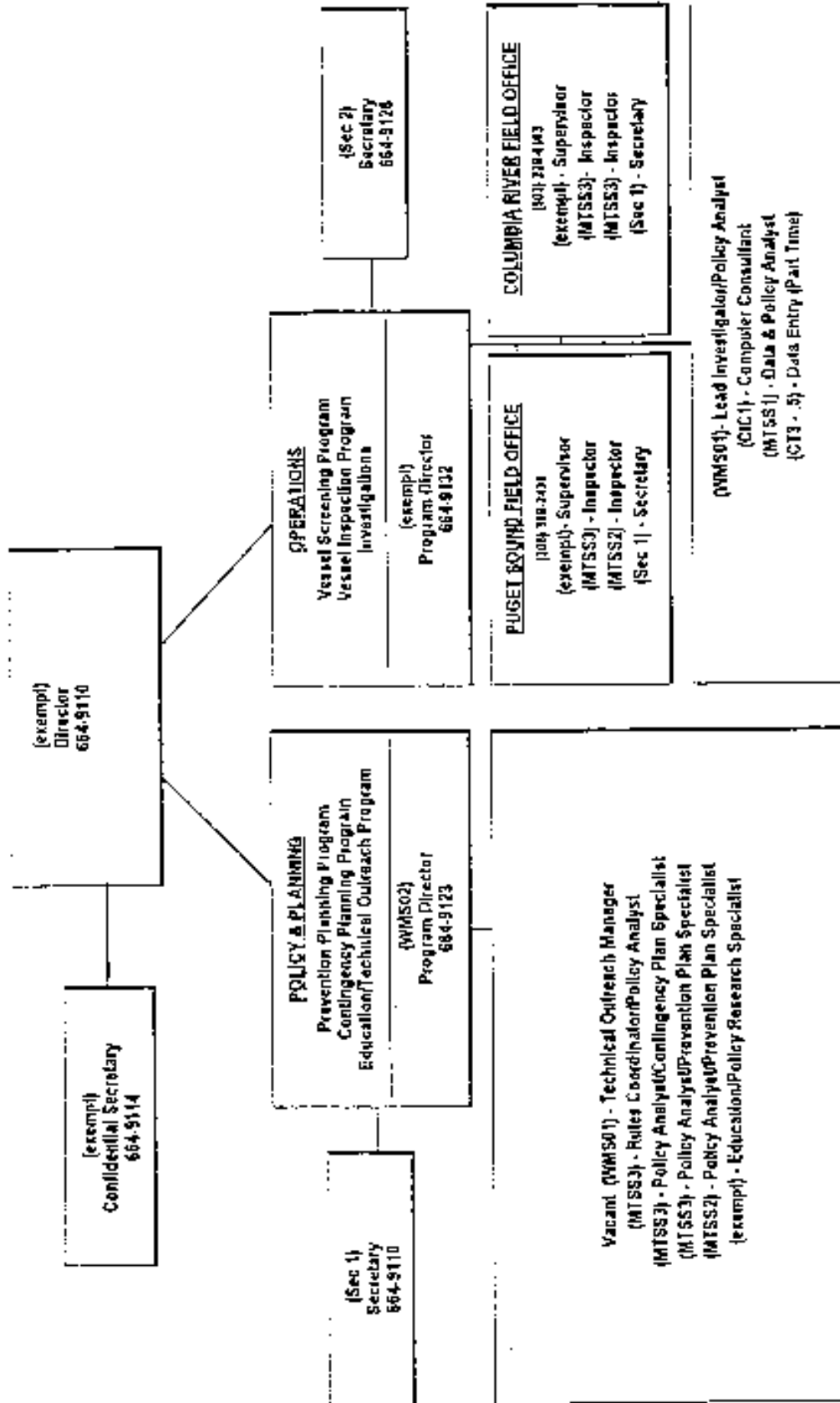
Attachment

cc: Members, JLARC
Cheryle A. Broom, Legislative Auditor
Gary Robinson, Office of Financial Management
Barbara Herman, Office of Marine Safety

WASHINGTON STATE OFFICE OF MARINE SAFETY

Appendix 3

Washington State Office of Marine Safety



STATE SURVEY ON ORGANIZATIONAL STRUCTURE

Appendix 4

The following is a summary of our comparison of the organizational structures of eight other states' marine oil spill contingency, response, and prevention functions. We selected eight coastal states for this survey: Alaska, California, Louisiana, Maryland, Oregon, Rhode Island, Texas, and Virginia. The purpose of the survey was to determine the basic structure of each state's program and the extent to which they conduct prevention activities. We found that no structures or activities were identical to Washington's. The following organizational structures were found:

Single Agency/Single Division: *Marine oil spill contingency planning, response, and prevention activities primarily housed within one state agency and managed by one unit/division within that state agency.*

Maryland*, Oregon*, Rhode Island*, Virginia**

Single Agency/Multiple Divisions: *Marine oil spill contingency planning, response, and prevention activities housed and managed within one state agency. The activities are separated within the agency by multiple units/divisions.*

Alaska** and Texas*

Multiple Agencies: *Marine oil spill contingency planning, response, and prevention activities housed and managed in more than one state agency.*

California** Responsibilities and activities separated based on origin (onshore and offshore marine oil terminal facilities or vessels).

The California Department of Fish and Game, Office of Oil Spill Prevention and Response (OSPR) is the primary state authority that directs prevention, removal, abatement, response, containment and cleanup efforts for all spills that impact or could impact state marine waters or the marine environment. Prevention activities include generating regulations that address marine safety and spill prevention measures, enforcement of regulatory requirements, submission of

spill prevention and response plans for regulated vessels, facilities, small marine refueling facilities, moveable transfer units, offshore oil production platforms and pipelines. The OSPR also has programs that evaluate oil spill contingency plans, response contractors; issuance of Certificates of Financial Responsibility; monitors oil transfers during lightering and bunkering operations and has established a wildlife rescue and rehabilitation network. OSPR in conjunction with other state, local, and federal agencies has developed the State, Local, and Federal Spill contingency plans that provide guidance and direction in all aspects of a response. Last of all, OSPR is the marine oil response agency for California. *[Description provided by the State of California, Office of Oil Spill Prevention and Response.]*

The California State Lands Commission (CSLC) has oil spill prevention and safety oversight responsibilities at onshore and offshore marine oil terminal facilities. CSLC adopts rules, regulations, and guidelines for reviewing the location, type, character, performance standards, and operations of all existing and proposed marine terminals within the state. CSLC inspects, on a regular basis, all marine facilities, along with associated equipment, and monitors their operations and the effects on public health, safety, and the environment. CSLC maintains a record of these activities for each marine facility. CSLC approves marine facility operations manuals, and all vessels docked at any marine facility in the state shall comply with the terms of the operations manual of the marine facility. CSLC consults with other state agencies in the development of all regulations and guidelines for oil spill contingency plans and reviews plans for facilities or local governments within the coastal zone. CSLC assists in determining the cause and amount of oil discharged in spills. *[Description provided by the California State Lands Commission.]*

Louisiana* Responsibilities separated based on spill size and scope.

The Louisiana Department of Environmental Quality (LDEQ) is responsible for marine oil spill prevention and contingency planning for vessels and facilities. This office acts as the state's on scene (response) coordinator for small spills (as delegated by the governor's Oil Spill Coordination Office).

The Louisiana Governor's Office of Oil Spill Coordination is responsible for marine oil spill prevention, state contingency planning, and

response activities. This office acts as the oil spill on scene coordinator for large spills, and delegates this responsibility for small spills to the LDEQ.

Washington* Responsibilities and activities separated based on origin (onshore marine oil terminal facilities or vessels).

Office of Marine Safety (OMS) Conducts prevention activities relating to vessels through regulation and inspection of vessels. Responsible for vessel contingency and prevention planning, bunkering regulation and monitoring, and spill investigation activities.

Department of Ecology (DOE) Conducts prevention activities relating to facilities through regulation and inspection of facilities. Responsible for facility contingency and prevention planning. Also responsible for all marine oil spill response activities (vessel or facility). DOE is the state's on scene (response) coordinator for marine oil spills, and conducts spill investigation activities.

* States with adhoc advisory groups (membership includes representatives of industry, government, the environmental community, general citizens). These states establish advisory groups as issues arise.

** States with formally established and funded advisory groups (membership includes representatives of industry, government, the environmental community, general citizens). Authority limited to advisory, with the exception of Virginia which has specific authorities.

SUMMARY OF EVOLUTION OF USCG PROGRAMS AND INTERNATIONAL STANDARDS

Appendix 5

Changes to International Standards

The International Maritime Organization (IMO), which is part of the United Nations, and to which the U.S. is a party, is the main body for establishing international maritime law and practice standards. The Coast Guard is the U.S. representative to the IMO, and responsible for managing the implementation of IMO agreements and practice standards in this country. International conventions must be adopted by congress prior to their implementation.

Changes to international agreements, their adoption, and implementation is a lengthy process. Provisions adopted by the IMO in its International Safety Management (ISM) code in 1993 will become effective in the U.S. and elsewhere in 1998. The new ISM code provides an international standard for the safe management and operation of ships and for pollution prevention. The new ISM standards focus on company management practices relating to safety management systems, environmental protection, ship maintenance, and other areas relating to vessel operations. These are similar categories to those addressed by the Washington State program.

USCG Port-State Control Boarding Program

In 1994 the USCG reorganized its inspection program, targeting foreign vessels that pose risk to the environment. This initiative is called the Port-State Control Boarding Program and is similar to the OMS cargo/passenger inspection program. Port-state boardings include a standard examination and, if serious deficiencies in equipment or crew competence are found, the vessel may be detained for an expanded examination which includes review of human and other factors.

USCG Prevention Through People Program

Under development by the USCG is the Prevention Through People Program (PTP). The principles of this program employ many of the elements regarding "human factors" engineering which are the foundation of the OMS program. Implementation of the PTP program is expected over the next two years. The USCG is currently conducting assessments of its inspection programs to determine how assessment of human factors will be woven into existing inspection programs. New regulations are not anticipated, instead compliance will likely be verified through existing inspections or audit of vessel practices.