

Senate Bill No. 1056

Passed the Senate August 29, 2008

Secretary of the Senate

Passed the Assembly August 25, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 8589.7, 8670.7, 8670.12, and 8670.28 of, and to add Section 8670.25.6 to, the Government Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

SB 1056, Migden. Oil spill prevention and response.

(1) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government.

Existing law requires, without regard to intent or negligence, a party responsible for the discharge or threatened discharge of oil in marine waters to report the discharge immediately to the Office of Emergency Services, which then is required to notify the administrator, the State Lands Commission, the California Coastal Commission, and the California regional water quality control board having jurisdiction over the location of the discharged oil. If the spill has occurred within the jurisdiction of the San Francisco Bay Conservation and Development Commission, the Office of Emergency Services is required to notify that commission. Existing law requires each public agency receiving notice to adopt an internal protocol over communications regarding the discharge of oil and file the internal protocol with the Office of Emergency Services.

The McAteer-Petris Act, among other things, authorizes the San Francisco Bay Conservation and Development Commission to issue or deny a permit, after public hearings, for a proposed project that involves placing fill, extracting materials, or making a substantial change in the use of any water, land, or structure within the area of the commission's jurisdiction.

This bill would require the Office of Emergency Services, if the oil spill has occurred within the jurisdiction of the McAteer-Petris Act, to also notify the Counties of Alameda, Contra Costa, Marin,

Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco. By requiring these local entities that receive notice to adopt and file an internal protocol over communications regarding the discharge of oil, the bill would create a state-mandated local program.

(2) Existing law requires the administrator to adopt and implement regulations and guidelines governing the adequacy of oil spill contingency plans. The regulations shall, at a minimum, among other things, ensure that standards set for response, containment, and cleanup equipment and operations are maintained and regularly improved to protect the resources of the state.

This bill would also require that, if the spill has occurred within the jurisdiction of the McAteer-Petris Act, the standards set for response at the scene of the oil spill shall not exceed 2 hours.

(3) Existing law requires the administrator, throughout the response and cleanup process, to apprise specified entities, including the local governmental entities that are affected by the spill.

This bill would instead require the administrator, throughout the response and cleanup process, to apprise the local governmental entities that are or may be affected by the spill.

(4) Existing law requires the administrator to conduct studies and evaluations necessary for improving oil spill response, containment, and cleanup and oil spill wildlife rehabilitation in marine waters and marine oil transportation systems.

This bill would additionally require the administrator to reassess whether certain regulations constitute the best achievable protection of coastal and marine resources and to submit this assessment, including any recommendations, to the Legislature by March 30, 2009.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(6) This bill incorporates amendments to Section 8589.7 of the Government Code proposed by both this bill and AB 38, which

would only become operative if both bills are enacted and become effective on or before January 1, 2009, each bill amends Section 8589.7 of the Government Code, and this bill is enacted after AB 38.

(7) This bill incorporates amendments to Section 8670.28 of the Government Code proposed by both this bill and AB 2547, which would only become operative if both bills are enacted and become effective on or before January 1, 2009, each bill amends Section 8670.28 of the Government Code, and this bill is enacted after AB 2547.

The people of the State of California do enact as follows:

SECTION 1. Section 8589.7 of the Government Code is amended to read:

8589.7. (a) In carrying out its responsibilities pursuant to subdivision (b) of Section 8574.17, the Office of Emergency Services shall serve as the central point in state government for the emergency reporting of spills, unauthorized releases, or other accidental releases of hazardous materials and shall coordinate the notification of the appropriate state and local administering agencies that may be required to respond to those spills, unauthorized releases, or other accidental releases. The Office of Emergency Services is the only state agency required to make the notification required by subdivision (b).

(b) Upon receipt of a report concerning a spill, unauthorized release, or other accidental release involving hazardous materials, as defined in Section 25501 of the Health and Safety Code, or concerning a rupture of, or an explosion or fire involving, a pipeline reportable pursuant to Section 51018, the Office of Emergency Services shall immediately inform the following agencies of the incident:

(1) For an oil spill reportable pursuant to Section 8670.25.5, the Office of Emergency Services shall inform the administrator for oil spill response, the State Lands Commission, the California Coastal Commission, and the California regional water quality control board having jurisdiction over the location of the discharged oil. If the spill has occurred within the jurisdiction of the San Francisco Bay Conservation and Development Commission, the

Office of Emergency Services shall notify that commission and the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco if the spill is within the jurisdiction of the McAteer-Petris Act (Chapter 1 (commencing with Section 66600) of Title 7.2).

(2) For a rupture, explosion, or fire involving a pipeline reportable pursuant to Section 51018, the Office of Emergency Services shall inform the State Fire Marshal.

(3) For a discharge in or on any waters of the state of a hazardous substance or sewage reportable pursuant to Section 13271 of the Water Code, the Office of Emergency Services shall inform the appropriate California regional water quality control board.

(4) For a spill or other release of petroleum reportable pursuant to Section 25270.8 of the Health and Safety Code, the Office of Emergency Services shall inform the local administering agency that has jurisdiction over the spill or release.

(5) For a crude oil spill reportable pursuant to Section 3233 of the Public Resources Code, the Office of Emergency Services shall inform the Division of Oil, Gas, and Geothermal Resources and the appropriate California regional water quality control board.

(c) This section does not relieve a person who is responsible for an incident specified in subdivision (b) from the duty to make an emergency notification to a local agency, or the 911 emergency system, under any other law.

(d) A person who is subject to Section 25507 of the Health and Safety Code shall immediately report all releases or threatened releases pursuant to that section to the appropriate local administering agency and each local administering agency shall notify the Office of Emergency Services and businesses in their jurisdiction of the appropriate emergency telephone number that can be used for emergency notification to the administering agency on a 24-hour basis. The administering agency shall notify other local agencies of releases or threatened releases within their jurisdiction, as appropriate.

(e) A facility, owner, operator, or other person required to report an incident specified in subdivision (b) to the Office of Emergency Services shall not be liable for any failure of the Office of Emergency Services to make a notification required by this section or to accurately transmit the information reported.

SEC. 1.5. Section 8589.7 of the Government Code is amended to read:

8589.7. (a) In carrying out its responsibilities pursuant to subdivision (b) of Section 8574.17, the California Emergency Management Agency shall serve as the central point in state government for the emergency reporting of spills, unauthorized releases, or other accidental releases of hazardous materials and shall coordinate the notification of the appropriate state and local administering agencies that may be required to respond to those spills, unauthorized releases, or other accidental releases. The California Emergency Management Agency is the only state agency required to make the notification required by subdivision (b).

(b) Upon receipt of a report concerning a spill, unauthorized release, or other accidental release involving hazardous materials, as defined in Section 25501 of the Health and Safety Code, or concerning a rupture of, or an explosion or fire involving, a pipeline reportable pursuant to Section 51018, the California Emergency Management Agency shall immediately inform the following agencies of the incident:

(1) For an oil spill reportable pursuant to Section 8670.25.5, the California Emergency Management Agency shall inform the administrator for oil spill response, the State Lands Commission, the California Coastal Commission, and the California regional water quality control board having jurisdiction over the location of the discharged oil. If the spill has occurred within the jurisdiction of the San Francisco Bay Conservation and Development Commission, the California Emergency Management Agency shall notify that commission and the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco if the spill is within the jurisdiction of the McAteer-Petris Act (Chapter 1 (commencing with Section 66600) of Title 7.2).

(2) For a rupture, explosion, or fire involving a pipeline reportable pursuant to Section 51018, the California Emergency Management Agency shall inform the State Fire Marshal.

(3) For a discharge in or on any waters of the state of a hazardous substance or sewage reportable pursuant to Section 13271 of the Water Code, the California Emergency Management Agency shall inform the appropriate California regional water quality control board.

(4) For a spill or other release of petroleum reportable pursuant to Section 25270.8 of the Health and Safety Code, the California Emergency Management Agency shall inform the local administering agency that has jurisdiction over the spill or release.

(5) For a crude oil spill reportable pursuant to Section 3233 of the Public Resources Code, the California Emergency Management Agency shall inform the Division of Oil, Gas, and Geothermal Resources and the appropriate California regional water quality control board.

(c) This section does not relieve a person who is responsible for an incident specified in subdivision (b) from the duty to make an emergency notification to a local agency, or the 911 emergency system, under any other law.

(d) A person who is subject to Section 25507 of the Health and Safety Code shall immediately report all releases or threatened releases pursuant to that section to the appropriate local administering agency and each local administering agency shall notify the California Emergency Management Agency and businesses in their jurisdiction of the appropriate emergency telephone number that can be used for emergency notification to the administering agency on a 24-hour basis. The administering agency shall notify other local agencies of releases or threatened releases within their jurisdiction, as appropriate.

(e) A facility, owner, operator, or other person required to report an incident specified in subdivision (b) to the California Emergency Management Agency shall not be liable for any failure of the California Emergency Management Agency to make a notification required by this section or to accurately transmit the information reported.

SEC. 2. Section 8670.7 of the Government Code is amended to read:

8670.7. (a) The administrator, subject to the Governor, has the primary authority to direct prevention, removal, abatement, response, containment, and cleanup efforts with regard to all aspects of any oil spill in the marine waters of the state, in accordance with any applicable marine facility or vessel contingency plan and the California oil spill contingency plan. The administrator shall cooperate with any federal on-scene coordinator, as specified in the National Contingency Plan.

(b) The administrator shall implement the California oil spill contingency plan, required pursuant to Section 8574.1, to the fullest extent possible.

(c) The administrator shall do both of the following:

(1) Be present at the location of any oil spill of more than 100,000 gallons in marine waters, as soon as possible after notice of the discharge.

(2) Ensure that persons trained in oil spill response and cleanup, whether employed by the responsible party, the state, or another private or public person or entity, are onsite to respond to, contain, and clean up any oil spill in marine waters, as soon as possible after notice of the discharge.

(d) Throughout the response and cleanup process, the administrator shall apprise the members of the State Interagency Oil Spill Committee, and the air quality management district or air pollution control district having jurisdiction over the area in which the oil spill occurred. The administrator shall also apprise any local governmental entities that are or may be affected by the spill.

(e) The administrator, with the assistance of the State Fire Marshal, the State Lands Commission, and the federal on-scene coordinator, shall determine the cause and amount of the discharge.

(f) The administrator shall have the state authority over the use of all response methods, including, but not limited to, in situ burning, dispersants, and any oil spill cleanup agents in connection with an oil discharge. The administrator shall consult with the federal on-scene coordinator prior to exercising authority under this subdivision.

(g) (1) The administrator shall conduct workshops, consistent with the intent of this chapter, with the participation of appropriate local, state, and federal agencies, including the State Air Resources Board, air pollution control districts, and air quality management districts, and affected private organizations, on the subject of oil spill response technologies, including in situ burning. The workshops shall review the latest research and findings regarding the efficacy and toxicity of oil spill cleanup agents and other technologies, their potential public health and safety and environmental impacts, and any other relevant factors concerning their use in oil spill response. In conducting these workshops, the administrator shall solicit the views of all participating parties

concerning the use of these technologies, with particular attention to any special considerations that apply to coastal areas and marine waters of the state.

(2) The administrator shall publish guidelines and conduct periodic reviews of the policies, procedures, and parameters for the use of in situ burning, which may be implemented in the event of an oil spill.

(h) (1) The administrator shall ensure that, as part of the response to any significant spill, biologists or other personnel are present and provided any support and funding necessary and appropriate for the assessment of damages to natural resources and for the collection of data and other evidence that may help in determining and recovering damages.

(2) (A) The administrator shall coordinate all actions required by state or local agencies to assess injury to, and provide full mitigation for injury to, or to restore, rehabilitate, or replace, natural resources, including wildlife, fisheries, wildlife or fisheries habitat, and beaches and other coastal areas, that are damaged by an oil spill. For purposes of this subparagraph, “actions required by state or local agencies” include, but are not limited to, actions required by state trustees under Section 1006 of the Oil Pollution Act of 1990 (33 U.S.C. Sec. 2706) and actions required pursuant to Section 8670.61.5.

(B) The responsible party shall be liable for all coordination costs incurred by the administrator.

(3) This subdivision does not give the administrator authority to administer state or local laws or to limit the authority of another state or local agency to implement and enforce state or local laws under its jurisdiction, nor does this subdivision limit the authority or duties of the administrator under this chapter or limit the authority of an agency to enforce existing permits or permit conditions.

(i) (1) The administrator shall enter into a memorandum of understanding with the executive director of the State Water Resources Control Board, acting for the State Water Resources Control Board and the California regional water quality control boards, and with the approval of the State Water Resources Control Board, to address discharges, other than dispersants, that are incidental to, or directly associated with, the response, containment,

and cleanup of an existing or threatened oil spill conducted pursuant to this chapter.

(2) The memorandum of understanding entered into pursuant to paragraph (1) shall address any permits, requirements, or authorizations that are required for the specified discharges. The memorandum of understanding shall be consistent with requirements that protect state water quality and beneficial uses and with any applicable provisions of the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) or the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), and shall expedite efficient oil spill response.

SEC. 3. Section 8670.12 of the Government Code is amended to read:

8670.12. (a) (1) The administrator shall conduct studies and evaluations necessary for improving oil spill response, containment, and cleanup and oil spill wildlife rehabilitation in marine waters and marine oil transportation systems. The administrator may expend moneys from the Oil Spill Prevention and Administration Fund created pursuant to Section 8670.38, enter into consultation agreements, and acquire necessary equipment and services for the purpose of carrying out these studies and evaluations.

(2) The administrator shall reassess whether the best achievable protection, as defined in subdivision (b) of Section 8670.3, of coastal and marine resources is provided by the regulations adopted pursuant to this chapter that govern on-water recovery capability and oil spill containment that apply to tank and nontank vessels in high-volume ports, as defined in Section 790 of Title 14 of the California Code of Regulations, and in marine or coastal areas with strong tides, environmentally sensitive habitat, vulnerable fisheries, or other factors, as determined by the administrator. On or before March 30, 2009, the administrator shall submit this assessment, including any recommendations, to the Legislature.

(b) The administrator shall study the use and effects of dispersants, incineration, bioremediation, and any other methods used to respond to a spill. The study shall periodically be updated to ensure the best achievable protection from the use of those methods. Based upon substantial evidence in the record, the administrator may determine in individual cases that best achievable protection is provided by establishing requirements which provide the greatest degree of protection achievable without

imposing costs which significantly outweigh the incremental protection that would otherwise be provided. The studies shall do all of the following:

(1) Evaluate the effectiveness of dispersants and other chemical agents in oil spill response under varying environmental conditions.

(2) Evaluate potential adverse impacts on the environment and public health including, but not limited to, adverse toxic impacts on water quality, fisheries, and wildlife with consideration to bioaccumulation and synergistic impacts, and the potential for human exposure, including skin contact and consumption of contaminated seafood.

(3) Recommend appropriate uses and limitations on the use of dispersants and other chemical agents to ensure they are used only in situations where the administrator determines they are effective and safe.

(c) The administrator shall evaluate the feasibility of using commercial fishermen and other mariners for oil spill containment and cleanup. The study shall examine the following:

(1) Equipment and technology needs.

(2) Coordination with private response personnel.

(3) Liability and insurance.

(4) Compensation.

(d) The studies shall be performed in conjunction with any studies performed by federal, state, and international entities. The administrator may enter into contracts for the studies.

SEC. 4. Section 8670.25.6 is added to the Government Code, to read:

8670.25.6. Immediately upon receiving notification pursuant to subdivision (a) of Section 8670.25.5, the Office of Emergency Services shall notify the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco if the spill is within the jurisdiction of the McAteer-Petris Act (Chapter 1 (commencing with Section 66600) of Title 7.2).

SEC. 5. Section 8670.28 of the Government Code is amended to read:

8670.28. (a) The administrator, taking into consideration the marine facility or vessel contingency plan requirements of the national and California contingency plans, the State Lands Commission, the State Fire Marshal, and the California Coastal

Commission shall adopt and implement regulations governing the adequacy of oil spill contingency plans to be prepared and implemented under this article. All regulations shall be developed in consultation with the State Interagency Oil Spill Committee, and the Oil Spill Technical Advisory Committee, and shall be consistent with the California oil spill contingency plan and not in conflict with the National Contingency Plan. The regulations shall provide for the best achievable protection of coastal and marine resources. The regulations shall permit the development, application, and use of an oil spill contingency plan for similar vessels, pipelines, terminals, and facilities within a single company or organization, and across companies and organizations. The regulations shall, at a minimum, ensure all of the following:

(1) All areas of the marine waters of the state are at all times protected by prevention, response, containment, and cleanup equipment and operations. For the purposes of this section, “marine waters” includes the waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento.

(2) Standards set for response, containment, and cleanup equipment and operations are maintained and regularly improved to protect the resources of the state. If the spill has occurred within the jurisdiction of the McAteer-Petris Act (Chapter 1 (commencing with Section 66600) of Title 7.2), the standards set for response at the scene of the oil spill shall not exceed two hours.

(3) All appropriate personnel employed by operators required to have a contingency plan receive training in oil spill response and cleanup equipment usage and operations.

(4) Each oil spill contingency plan provides for appropriate financial or contractual arrangements for all necessary equipment and services, for the response, containment, and cleanup of a reasonable worst case oil spill scenario for each part of the coast the plan addresses.

(5) Each oil spill contingency plan demonstrates that all protection measures are being taken to reduce the possibility of an oil spill occurring as a result of the operation of the marine facility or vessel. The protection measures shall include, but not be limited to, response to disabled vessels and an identification of those measures taken to comply with the requirements of Division 7.8 (commencing with Section 8750) of the Public Resources Code.

(6) Each oil spill contingency plan identifies the types of equipment that can be used, the location of the equipment, and the time taken to deliver the equipment.

(7) Each marine facility conducts a hazard and operability study to identify the hazards associated with the operation of the facility, including the use of the facility by vessels, due to operating error, equipment failure, and external events. For the hazards identified in the hazard and operability studies, the facility shall conduct an offsite consequence analysis which, for the most likely hazards, assumes pessimistic water and air dispersion and other adverse environmental conditions.

(8) Each oil spill contingency plan contains a list of contacts to call in the event of a drill, threatened discharge of oil, or discharge of oil.

(9) Each oil spill contingency plan identifies the measures to be taken to protect the recreational and environmentally sensitive areas that would be threatened by a reasonable worst case oil spill scenario.

(10) Standards for determining a reasonable worst case oil spill.

(11) Each oil spill contingency plan includes a timetable for implementing the plan.

(12) Each oil spill contingency plan specifies an agent for service of process. The agent shall be located in this state.

(b) The regulations and guidelines adopted pursuant to this section shall also include provisions to provide public review and comment on submitted oil spill contingency plans prior to approval.

(c) The regulations adopted pursuant to this section shall specifically address the types of equipment that will be necessary, the maximum time that will be allowed for deployment, the maximum distance to cooperating response entities, the amounts of dispersant, and the maximum time required for application, should the use of dispersants be approved. Upon a determination by the administrator that booming is appropriate at the site and necessary to provide best achievable protection, the regulations shall require that vessels engaged in lightering operations be boomed prior to the commencement of operations.

(d) The administrator shall adopt regulations and guidelines for oil spill contingency plans with regard to mobile transfer units, small marine fueling facilities, and vessels carrying oil as secondary cargo that acknowledge the reduced risk of damage from oil spills

from those units, facilities, and vessels while maintaining the best achievable protection for the public health and safety and the environment.

(e) The regulations adopted pursuant to subdivision (d) shall be exempt from review by the Office of Administrative Law. Subsequent amendments and changes to the regulations shall not be exempt from Office of Administrative Law review.

SEC. 5.5. Section 8670.28 of the Government Code is amended to read:

8670.28. (a) The administrator, taking into consideration the marine facility or vessel contingency plan requirements of the national and California contingency plans, the State Lands Commission, the State Fire Marshal, and the California Coastal Commission shall adopt and implement regulations governing the adequacy of oil spill contingency plans to be prepared and implemented under this article. All regulations shall be developed in consultation with the State Interagency Oil Spill Committee, and the Oil Spill Technical Advisory Committee and shall be consistent with the California oil spill contingency plan and not in conflict with the National Contingency Plan. The regulations shall provide for the best achievable protection of coastal and marine resources. The regulations shall permit the development, application, and use of an oil spill contingency plan for similar vessels, pipelines, terminals, and facilities within a single company or organization, and across companies and organizations. The regulations shall, at a minimum, ensure all of the following:

(1) All areas of the marine waters of the state are at all times protected by prevention, response, containment, and cleanup equipment and operations. For the purposes of this section, “marine waters” includes the waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento.

(2) Standards set for response, containment, and cleanup equipment and operations are maintained and regularly improved to protect the resources of the state. If the spill has occurred within the jurisdiction of the McAteer-Petris Act (Chapter 1 (commencing with Section 66600) of Title 7.2), the standards set for response at the scene of the oil spill shall not exceed two hours.

(3) (A) A minimum containment response, based on factors such as resources dispatched, is required for all oil spills or discharges that occur during low visibility conditions where the

area impacted by the spill or the spill trajectory cannot be determined by visual observation.

(B) Notwithstanding subparagraph (A), the regulations shall authorize the administrator to waive the minimum containment response required by subparagraph (A) during low visibility conditions if the conditions at the site of the oil spill are determined by administrator to be beyond reasonable safety limits for response personnel.

(4) (A) A minimum containment response, based on factors such as resources dispatched, is required for all marine groundings, collisions, and allisions that involve a tank vessel or nontank vessel, and that result in the threat of a discharge of oil. For purposes of this paragraph, the threat of a discharge of oil includes, but is not limited to, an incident in which any of the following occurs:

(i) The integrity of any tank on the vessel that contains oil is adversely affected or appears to have been adversely affected.

(ii) The integrity of the vessel's hull in the vicinity of any tank on the vessel that contains oil is adversely affected or appears to have been adversely affected.

(iii) The vessel could capsize, founder, or sink.

(iv) The incident creates or has the potential to create an oil spill hazard to the environment.

(B) Notwithstanding subparagraph (A), the regulations shall authorize the administrator to waive the minimum containment response required by subparagraph (A) if the conditions at the site of the grounding, collision, or allision are determined by the administrator to be beyond reasonable safety limits for response personnel.

(5) All appropriate personnel employed by operators required to have a contingency plan are to receive training in oil spill response and cleanup equipment usage and operations.

(6) Each oil spill contingency plan provides for appropriate financial or contractual arrangements for all necessary equipment and services, for the response, containment, and cleanup of a reasonable worst case oil spill scenario for each part of the coast the plan addresses.

(7) Each oil spill contingency plan demonstrates that all protection measures are being taken to reduce the possibility of an oil spill occurring as a result of the operation of the marine facility or vessel. The protection measures shall include, but not

be limited to, response to disabled vessels and an identification of those measures taken to comply with requirements of Division 7.8 (commencing with Section 8750) of the Public Resources Code.

(8) Each oil spill contingency plan identifies the types of equipment that can be used, the location of the equipment, and the time taken to deliver the equipment.

(9) Each marine facility conducts a hazard and operability study to identify the hazards associated with the operation of the facility, including the use of the facility by vessels, due to operating error, equipment failure, and external events. For the hazards identified in the hazard and operability studies, the facility shall conduct an offsite consequence analysis that, for the most likely hazards, assumes pessimistic water and air dispersion and other adverse environmental conditions.

(10) Each oil spill contingency plan contains a list of contacts to call in the event of a drill, threatened discharge of oil, or discharge of oil.

(11) Each oil spill contingency plan identifies the measures to be taken to protect the recreational and environmentally sensitive areas that would be threatened by a reasonable worst case oil spill scenario.

(12) Standards for determining a reasonable worst case oil spill.

(13) Each oil spill contingency plan includes a timetable for implementing the plan.

(14) Each oil spill contingency plan specifies an agent for service of process. The agent shall be located in this state.

(b) The regulations and guidelines adopted pursuant to this section shall also include provisions to provide public review and comment on submitted oil spill contingency plans prior to approval.

(c) The regulations adopted pursuant to this section shall specifically address the types of equipment that will be necessary, the maximum time that will be allowed for deployment, the maximum distance to cooperating response entities, the amounts of dispersant, and the maximum time required for application, should the use of dispersants be approved. Upon a determination by the administrator that booming is appropriate at the site and necessary to provide best achievable protection, the regulations shall require that vessels engaged in lightering operations be boomed prior to the commencement of operations.

(d) The administrator shall adopt regulations and guidelines for oil spill contingency plans with regard to mobile transfer units, small marine fueling facilities, and vessels carrying oil as secondary cargo that acknowledge the reduced risk of damage from oil spills from those units, facilities, and vessels while maintaining the best achievable protection for the public health and safety and the environment.

(e) The regulations adopted pursuant to subdivision (d) shall be exempt from review by the Office of Administrative Law. Subsequent amendments and changes to the regulations shall not be exempt from Office of Administrative Law review.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 7. Section 1.5 of this bill incorporates amendments to Section 8589.7 of the Government Code proposed by both this bill and AB 38. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 8589.7 of the Government Code, and (3) this bill is enacted after AB 38, in which case Section 1 of this bill shall not become operative.

SEC. 8. Section 5.5 of this bill incorporates amendments to Section 8670.28 of the Government Code proposed by both this bill and AB 2547. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 8670.28 of the Government Code, and (3) this bill is enacted after AB 2547, in which case Section 5 of this bill shall not become operative.

Approved _____, 2008

Governor