Assembly Bill No. 120

Passed the Assembly June 15, 2011

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Chief Clerk of the Assembly

Passed the Senate June 10, 2011

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Secretary of the Senate

This bill was received by the Governor this _____ day of _____, 2011, at _____ o'clock ___M.

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Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 12212, 12240, and 12500.9 of, and to add Sections 12241 and 19620.2 to, the Business and Professions Code, to amend Section 5653.1 of, and to amend and add Section 8051.4 of, the Fish and Game Code, to amend Sections 9185, 9186, 9187, 9188, 18932.1, 18932.2, 18947, 19032, 19033.1, 19445, 19447, 24563, and 52356 of, to amend and repeal Sections 18980, 18981, 19010, 19011, 24744, 25053, and 25055 of, to add Sections 18947.2, 18955, 24752, and 25063 to, to add and repeal Section 9184 of, to repeal Sections 486 and 7274 of, to repeal and add Sections 19040, 24746, and 24748 of, and to repeal and add Sections 24745 and 25056 of, the Food and Agricultural Code, to amend and repeal Sections 8574.9 and 8574.10 of, and to amend, repeal, and add Sections 8574.7, 8670.3, 8670.7, 8670.28, 8670.29, 8670.35, 8670.36, 8670.40, 8670.54, and 8670.55 of, the Government Code, to amend Sections 3401 and 5007 of, and to amend, repeal, and add Section 8755 of the Public Resources Code, to amend and repeal Section 46026 of the Revenue and Taxation Code, and to amend Section 13628.5 of the Water Code, relating to public resources, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 120, Committee on Budget. Public Resources.

(1) Existing law governs weights and measures in this state, and authorizes the Secretary of Food and Agriculture to enforce those provisions, as specified. Existing law requires the secretary to adopt all necessary regulations governing the inspection frequency of all commercially used weights, measures, and weighing and measuring apparatus. Existing law provides that fees collected pursuant to this provision shall be credited to the General Fund.

This bill would provide that the fees described above shall be credited to the Department of Food and Agriculture Fund, rather than the General Fund. The bill would make related technical changes.

(2) Existing law governing weights and measures also provides that there is in each county the office of county sealer, as defined,

of weights and measures to administer those provisions, as specified. Existing law requires each sealer, within his or her county, to try and test all weights, scales, beams, measures, instruments or mechanical devices for weighing or measurements, and other devices, as specified, to calibrate, test, weigh, and measure, and certify to the accuracy of, noncommercial weights and measures and weighing and measuring devices, and instruments, tools, and accessories connected therewith. Existing law also requires each sealer to, from time to time, weigh or measure packages, containers, or amounts of commodities sold, or in the process of delivery, in order to determine whether they contain the quantity or amount represented and to determine whether they are being sold in accordance with existing law. Existing law authorizes, only until January 1, 2013, the board of supervisors of a county to charge an annual registration fee, not to exceed the county's total cost of actually inspecting or testing the devices to recover the costs of inspecting or testing the weighing and measuring devices required of the county sealer, as specified.

This bill would require, only until January 1, 2013, the secretary to establish by regulation an annual administrative fee to recover reasonable administrative and enforcement costs incurred by the department for the duties performed by sealers, as described above. The fee would be collected and paid beginning January 1, 2012.

(3) Existing law requires the secretary to provide by rules and regulations for the submission for approval of types or designs of weights, measures, or weighing, measuring, or counting instruments or devices, used for commercial purposes, and to issue certificates of approval of such types or designs as the secretary finds meet the requirements of state law, as specified. Existing law requires the secretary to charge and collect fees from persons submitting weighing and measuring devices for approval. Existing law provides that these fees shall be credited to the General Fund.

This bill would instead require the secretary to charge and collect an application fee and reasonable deposit from those persons. The bill would provide that costs incurred by the department that exceed the deposit shall be charged and collected. The bill would authorize the secretary to charge an annual administrative fee for the maintenance of type approval certificates in hard copy and electronic formats. The bill would also provide that these fees shall

be deposited into the Department of Food and Agriculture Fund, rather than the General Fund.

(4) Existing law provides for an annual appropriation to the department, from the total revenue received by the department, except as specified, those sums as the Legislature deems necessary for the oversight of the network of California fairs, as specified, and for the auditing of all district agricultural association fairs, county fairs, and citrus fruit fairs.

This bill would provide that any unallocated balance from that provision would be appropriated without regard to fiscal years for allocation by the secretary for specified projects relating to the operation of fairs, thereby making an appropriation. The bill would also provide that a portion of the funds may be allocated to the California fairs for general operational support.

(5) Existing law, now obsolete, prohibits the Secretary of Food and Agriculture from entering into a cooperative agreement with the County of Los Angeles for agricultural inspection services if the agreement requires that year-round services be provided, unless specified percentages of agricultural inspector aides not afforded protections as permanent employees employed under the agreement are afforded county civil service protections, as specified, for the 2004–05, 2005–06, and 2006–07 fiscal years.

(6) Existing law designates the Department of Food and Agriculture as the lead department in noxious weed management. An obsolete provision of existing law requires the department to submit to the Legislature an annual report on or before April 1 of each year through 2005.

This bill would delete the obsolete provisions of existing law described above.

(7) Existing law governs the reporting, transportation, handling, and disposal, as specified, of animals that are infected with a contagious disease. Existing law provides for the quarantine or destruction of diseased animals, and the vaccination of certain animals. Existing law requires the secretary to license biologic establishments, which are engaged in the production of products used to diagnose and detect or prevent or treat disease in animals other than man, if those establishments meet certain requirements. Existing law authorizes the secretary to make any necessary investigations relative to the reporting violations of these provisions. Existing law provides for the collection of fees and

penalties and for the imposition of a lien in connection with these provisions.

This bill would authorize, only until January 1, 2017, the department to establish, by regulation, a fee schedule not to exceed the reasonable costs associated with carrying out these provisions, up to a maximum fee of $500 for each license, permit, registration, product, or service, as specified. The bill would also make related technical changes.

(8) Existing law, the California Meat and Poultry Inspection Act, requires the secretary to provide for the inspection and regulation of livestock and poultry products. The act provides that any person that violates these provisions is subject to civil penalties, as specified. Existing law requires that any money received pursuant to the provision providing for civil penalties, less associated investigative and legal costs incurred by the department, be deposited in the General Fund.

This bill would instead provide that the moneys received as civil penalties pursuant to the provision described above be deposited into the Department of Food and Agriculture Fund and upon appropriation by the Legislature shall be used for specified purposes. The bill would delete the provision excluding associated investigative and legal costs incurred by the department from the moneys deposited pursuant to that provision. The bill would make related technical changes.

(9) Existing law, the California Meat and Poultry Supplemental Inspection Act, authorizes the secretary to adopt, by regulation, standards and requirements relating to inspection, sanitation, facilities, equipment, reinspection, preparation, processing, buying, selling, and transporting, among other acts, of livestock and poultry. A violation of the act is a misdemeanor.

The California Meat and Poultry Supplemental Inspection Act also requires each person to be licensed prior to operating a meat processing establishment or a custom livestock slaughterhouse, and establishes application fees for initial and renewal of licenses for livestock meat inspectors and processing inspectors, and licensing fees for the operation of slaughterhouses. Existing law defines a meat processing establishment for purposes of the act to include, among other places, an establishment where livestock products of swine are cooked. Existing law requires the secretary to report to the Controller at least once each month the total amount

of money collected pursuant to these provisions and to pay into the State Treasury the entire amount of the receipts that shall be credited to the General Fund.

This bill would delete establishments where livestock products of swine are cooked from the definition of a meat processing establishment for purposes of the act. The bill would set forth a specified definition for "smoking" for purposes of the act. The bill would increase the fees for licenses and renewal of licenses, impose specified penalties for the failure to pay the fee for renewal of a license prior to the expiration date of the license, and establish criteria for the fee for a license application submitted upon change of ownership of a custom slaughterhouse, as specified. The bill would repeal, on January 1, 2017, the provisions establishing application fees for initial and renewal of licenses for livestock meat inspectors and processing inspectors, and other fees, as specified, for the operation of slaughterhouses. The bill would set forth a specified standard for fees, charges, and collections made pursuant to these provisions and would provide that these amounts be deposited into the Department of Food and Agriculture Fund, including penalties that would be made available for use upon appropriation by the Legislature. The bill would make other similar changes. The bill would also delete the requirement that the secretary report to the Controller the total amount of money collected at least once each month.

The bill would also prohibit a person from operating an establishment performing any of the functions listed in the act, unless the establishment is licensed and meets building and sanitation standards. Because a violation of the act is a crime, the bill would impose a state-mandated local program.

(10) Existing law provides for the regulation, inspection, and licensing of poultry plants and poultry meat inspectors.

This bill would revise the licensing scheme and increase the fees for the licensing and renewal of licenses in connection with poultry plant operations and poultry meat inspections, and would repeal the licensing provisions, as specified, on January 1, 2017. The bill would make other related changes.

(11) Existing law, the California Seed Law, requires certain persons involved in selling agricultural or vegetable seeds to register with the secretary and pay assessments, as specified. Existing law requires that total expenditures from funds derived

from registration fees and assessments, as specified, not exceed the department's cost of carrying out these provisions, except as specified.

This bill would delete the specified exception.

(12) Existing law designates the issuance by the Department of Fish and Game of permits to operate vacuum or suction dredge equipment to be a project under the California Environmental Quality Act (CEQA), and suspends the issuance of permits, and mining pursuant to a permit, until the department has completed an environmental impact report for the project as ordered by the court in a specified court action. Existing law prohibits the use of any vacuum or suction dredge equipment in any river, stream, or lake, for instream mining purposes, until the Director of Fish and Game certifies to the Secretary of State that (a) the department has completed the environmental review of its existing vacuum or suction dredge equipment regulations as ordered by the court, (b) the department has transmitted for filing with the Secretary of State a certified copy of new regulations, as necessary, and (c) the new regulations are operative.

This bill would modify that moratorium to prohibit the use of vacuum or suction dredge equipment until June 30, 2016, or until the director's certification to the secretary as described above, whichever is earlier. The bill would additionally require the director to certify that the new regulations fully mitigate all identified significant environmental impacts and that a fee structure is in place that will fully cover all costs to the department related to the administration of the program.

(13) Existing law provides for the accounting and expenditure of funds collected pursuant to a former law relating to abalone. Existing law provides for the appointment of a 6-member Commercial Abalone Advisory Committee to make recommendations to the director for activities to be conducted with funds collected under that former law. The latter provision is repealed as of January 1, 2013.

This bill would, on January 1, 2012, abolish the committee and extend the operation of the accounting and expenditure provisions indefinitely.

(14) Existing law establishes the State Interagency Oil Spill Committee and specifies its membership. Existing law also provides for a review subcommittee in that committee.

This bill would, on January 1, 2012, repeal the committee and review committee. The bill would also make conforming changes.

(15) Existing law generally regulates the drilling, operation, maintenance, and abandonment of oil and gas wells. Existing law provides that the proceeds of charges levied, assessed, and collected upon the property of a person operating or owning an interest in the production of a well shall be used exclusively for the support and maintenance of the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation.

This bill instead would provide that the proceeds of those charges shall be used exclusively for the support and maintenance costs of the Department of Conservation incurred in the supervision of oil and gas operations.

(16) Under existing law, a public entity or public employee is not liable for injury or damage caused by a condition of public property located in, or injury or damage otherwise occurring in, or arising out of an activity in, a unit of the state park system that is designated as closed, partially closed, or subject to service reduction by the Department of Parks and Recreation for purposes of achieving budget reductions, among other things.

This bill would delete these provisions and would instead limit a public entity or public employee from liability, as provided in the existing Tort Claims Act, for injury or damage caused by a condition of public property located in, or injury or damage otherwise occurring in, or arising out of an activity in, a unit of the state park system that is designated as closed, partially closed, or subject to service reduction by the department.

(17) Under existing law, the State Water Resources Control Board operates a wastewater treatment plant classification and operator certification program pursuant to which supervisors and operators of wastewater treatment plants are required to possess certificates of the appropriate grade. Existing law authorizes the board to impose fees to cover the costs of the program, and requires the fees to be deposited in the Wastewater Operator Certification Fund. The board is authorized to expend the moneys in the fund, upon appropriation by the Legislature, for purposes of administering the program.

This bill would additionally require other moneys appropriated by the Legislature for deposit in the fund, and interest earned upon moneys in the fund, to be deposited into the fund.

(18) This bill would appropriate $1,000 from the Wastewater Operator Certification Fund to the State Water Resources Control Board for administrative costs.

(19) 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 no reimbursement is required by this act for a specified reason.

(20) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Section 12212 of the Business and Professions Code is amended to read:

12212. (a) The secretary shall adopt necessary regulations governing the inspection frequency of all commercially used weights, measures and weighing and measuring apparatus in the state.

(b) The sealer of each county shall perform such inspections as may be required by the secretary. Nothing in this section shall be construed to prohibit the sealer from inspecting a device more frequently than required if he or she deems those tests to be necessary.

(c) Any such regulation shall be adopted by the director in conformity with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) In counties where the secretary finds that the sealer, because of lack of equipment, is unable or fails to perform the tests as required herein, the secretary may enter into a contract with the board of supervisors of each of those counties to perform the tests. Those contracts shall provide that the county shall pay the cost of those services based upon a uniform schedule of fees developed by the secretary. The fee schedule shall be based on the approximate cost of performing those services. The contracts shall also provide that the secretary shall periodically render a bill to each county so served for the cost of services rendered, and the

auditor of the county so billed shall pay the charge in the same manner in which other claims against the county are paid.

(e) All fees collected under the provisions of this section shall be credited to the Department of Food and Agriculture Fund.

SEC. 2. Section 12240 of the Business and Professions Code is amended to read:

12240. (a) Except as otherwise provided in this section, the board of supervisors, by ordinance, may charge an annual registration fee, not to exceed the county's total cost of actually inspecting or testing the devices as required by law, to recover the costs of inspecting or testing weighing and measuring devices required of the county sealer pursuant to Section 12210, and to recover the cost of carrying out Section 12211.

(b) Except as otherwise provided in this section, the annual registration fee shall not exceed the amount set forth in subdivisions (f) to (n), inclusive.

(c) The county may collect the fees biennially, in which case they shall not exceed twice the amount of an annual registration fee. The ordinance shall be adopted pursuant to Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 2 of the Government Code.

(d) Retail gasoline pump meters, for which the above-fees are assessed, shall be inspected as frequently as required by regulation, but not less than once every two years.

(e) Livestock scales, animal scales and scales used primarily for weighing feed and seed, for which the above fees are assessed, shall be inspected as frequently as required by regulation.

(f) For purposes of this section, the annual registration fee for a business that uses a commercial weighing or measuring device or devices shall consist of a business location fee, a Department of Food and Agriculture administrative fee, as specified in Section 12241, and a device fee, as specified in subdivisions (g) to (n), inclusive. The business location fee and device fee shall not exceed the following:

(1) Beginning January 1, 2006, sixty dollars ($60) per business location, plus 60 percent of the maximum applicable device fee listed in subdivisions (h) to (n), inclusive.

(2) Beginning January 1, 2007, eighty dollars ($80) per business location, plus 80 percent of the maximum applicable device fee listed in subdivisions (h) to (n), inclusive.

(3) Beginning January 1, 2008, and thereafter, one hundred dollars ($100) per business location, plus 100 percent of the maximum applicable device fee listed in subdivisions (h) to (n), inclusive.

(g) For marinas, mobilehome parks, recreational vehicle parks, and apartment complexes, where the owner of the marina, park, or complex owns and is responsible for the utility meters, the device fee shall not exceed two dollars ($2) per device per space or apartment. Marinas, mobilehome parks, recreational vehicle parks, and apartment complexes for which the above fees are assessed shall be inspected and tested as frequently as required by regulation.

(h) For weighing devices, other than livestock, with capacities of 10,000 pounds or greater, the device fee shall not exceed two hundred fifty dollars ($250) per device; for weighing devices, other than livestock scales, with capacities of at least 2,000 pounds but less than 10,000 pounds, the device fee shall not exceed one hundred fifty dollars ($150) per device.

(i) This section does not apply to farm milk tanks.

(j) A scale or device used in a certified farmers' market, as defined by Section 113745 of the Health and Safety Code, is not required to be registered in the county where the market is conducted, if the scale or device has an unexpired seal for the current year, issued by a licensed California county sealer.

(k) For livestock scales with capacities of 10,000 pounds or greater, the device fee shall not exceed one hundred fifty dollars ($150) per device; for livestock scales with capacities of at least 2,000 pounds but less than 10,000 pounds, the device fee shall not exceed one hundred dollars ($100) per device.

(*l*) For liquified petroleum gas (LPG) meters, truck mounted or stationary, the device fee shall not exceed one hundred seventy-five dollars ($175) per device.

(m) For wholesale and vehicle meters, the device fee shall not exceed twenty-five dollars ($25) per device.

(n) For all other commercial weighing or measuring devices not listed in subdivisions (g) to (m), inclusive, the device fee shall not exceed twenty dollars ($20) per device. For the purposes of this subdivision, the total annual registration fee shall not exceed the sum of one thousand dollars ($1,000), for each business location.

(o) For the purposes of this section, a single business location is defined as:

(1) Each vehicle containing one or more commercial devices.

(2) Each business location that uses different categories or types of commercial devices that require the use of specialized testing equipment and that necessitates not more than one inspection trip by a weights and measures official.

SEC. 3. Section 12241 is added to the Business and Professions Code, to read:

12241. On or before January 1, 2012, the secretary shall establish by regulation an annual administrative fee to recover reasonable administrative and enforcement costs incurred by the department for exercising supervision over and preforming investigations in connection with the activities performed pursuant to Sections 12210 and 12211. This administrative fee shall be collected for every device registered with each county office of weights and measures, and paid to the Department of Food and Agriculture Fund beginning January 1, 2012, and annually thereafter.

SEC. 4. Section 12500.9 of the Business and Professions Code is amended to read:

12500.9. The secretary shall charge and collect an application fee and reasonable deposit from persons submitting devices for approval as required by Section 12500.5. Costs incurred by the department that exceed the deposit shall be charged and collected upon completion of all prototype-approval testing. The fees shall be based upon the following criteria:

(a) The moneys collected are intended to compensate the secretary for the costs of time, mileage, equipment, and administrative services expended in providing prototype-approval service.

(b) The secretary may compensate county sealers of weights and measures, other weights and measures jurisdictions, or private laboratories for furnishing equipment and assisting the department in conducting prototype-approval activities.

(c) The amount of compensation provided for in subdivision (b) shall be based upon actual time, mileage, and equipment costs, as determined by the secretary.

(d) The secretary may charge an annual administrative fee not to exceed reasonable costs incurred for the maintenance of type approval certificates in hard copy and electronic formats.

(e) The secretary may adopt rules and regulations necessary to implement the provisions of this section.

(f) All fees collected under the provisions of this section shall be deposited in the Department of Food and Agriculture Fund.

SEC. 5. Section 19620.2 is added to the Business and Professions Code, to read:

19620.2. (a) Any unallocated balance from Section 19620.1 is hereby appropriated without regard to fiscal years for allocation by the Secretary of Food and Agriculture for capital outlay to California fairs for fair projects involving public health and safety, for fair projects involving major and deferred maintenance, for fair projects necessary due to any emergency, for projects that are required by physical changes to the fair site, for projects that are required to protect the fair property or installation, such as fencing and flood protection, and for the acquisition or improvement of any property or facility that will serve to enhance the operation of the fair.

(b) A portion of the funds subject to allocation pursuant to subdivision (a) may be allocated to California fairs for general operational support. It is the intent of the Legislature that these moneys be used primarily for those fairs whose sources of revenue may be limited for purposes specified in this section.

SEC. 6. Section 5653.1 of the Fish and Game Code is amended to read:

5653.1. (a) The issuance of permits to operate vacuum or suction dredge equipment is a project pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and permits may only be issued, and vacuum or suction dredge mining may only occur as authorized by any existing permit, if the department has caused to be prepared, and certified the completion of, an environmental impact report for the project pursuant to the court order and consent judgment entered in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG 05211597.

(b) Notwithstanding Section 5653, the use of any vacuum or suction dredge equipment in any river, stream, or lake of this state

is prohibited until June 30, 2016, or until the director certifies to the Secretary of State that all of the following have occurred, whichever is earlier:

(1) The department has completed the environmental review of its existing suction dredge mining regulations, as ordered by the court in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG 05211597.

(2) The department has transmitted for filing with the Secretary of State pursuant to Section 11343 of the Government Code, a certified copy of new regulations adopted, as necessary, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) The new regulations described in paragraph (2) are operative.

(4) The new regulations described in paragraph (2) fully mitigate all identified significant environmental impacts.

(5) A fee structure is in place that will fully cover all costs to the department related to the administration of the program.

(c) The Legislature finds and declares that this section, as added during the 2009–10 Regular Session, applies solely to vacuum and suction dredging activities conducted for instream mining purposes. This section does not expand or provide new authority for the department to close or regulate suction dredging conducted for regular maintenance of energy or water supply management infrastructure, flood control, or navigational purposes governed by other state or federal law.

(d) This section does not prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

SEC. 7. Section 8051.4 of the Fish and Game Code is amended to read:

8051.4. (a) The landing tax collected pursuant to former Section 8051.3 shall be deposited in the Fish and Game Preservation Fund and shall be used only for the Abalone Resources Restoration and Enhancement Program. The department shall maintain internal accounts necessary to ensure that the funds are disbursed for the purposes in this subdivision. No more of the landing tax collected pursuant to former Section 8051.3 than an amount equal to the regularly approved department indirect overhead rate may be used for administration by the department. Any interest on the revenues from the landing tax collected

pursuant to former Section 8051.3 shall be deposited in the fund and used for the purposes in this subdivision.

(b) A Commercial Abalone Advisory Committee shall be appointed by the director, consisting of six members who shall serve without compensation or reimbursement of expenses. One of the members shall be a person who was required to pay landing taxes pursuant to Section 8051.3 during the 1996–97 permit year. Each of the five remaining members shall have held a commercial abalone diving permit during the 1996–97 permit year, and represent the following groups and organizations:

(1) One member shall be selected from divers with a place of residence north of Point Sur.

(2) One member shall be selected from divers with a place of residence south of Point Dume.

(3) One member shall be selected from divers with a place of residence south of Point Sur and north of Point Dume.

(4) Two members shall be selected from the membership of the California Abalone Association without regard to place of residence. This subdivision does not prohibit persons selected pursuant to paragraph (1), (2), or (3) from also being members of the California Abalone Association.

(c) The advisory committee shall make recommendations to the director and the director shall use his or her best efforts to implement those recommendations for activities to be conducted with funds collected pursuant to Section 8051.3, and those funds collected from any previous calendar year shall be available for use for those activities.

(d) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2012, deletes or extends that date.

SEC. 8. Section 8051.4 is added to the Fish and Game Code, to read:

8051.4. (a) The landing tax collected pursuant to former Section 8051.3 shall be deposited in the Fish and Game Preservation Fund and shall be used only for the Abalone Resources Restoration and Enhancement Program. The department shall maintain internal accounts necessary to ensure that the funds are disbursed for the purposes in this section. The department may use for administration no more of the landing tax collected pursuant to former Section 8051.3 than an amount equal to the regularly

approved department indirect overhead rate. Any interest on the revenues from the landing tax collected pursuant to former Section 8051.3 shall be deposited in the fund and used for the purposes in this subdivision.

(b) This section shall become operative on January 1, 2012.

SEC. 9. Section 486 of the Food and Agricultural Code is repealed.

SEC. 10. Section 7274 of the Food and Agricultural Code is repealed.

SEC. 11. Section 9184 is added to the Food and Agricultural Code, to read:

9184. (a) The department may establish by regulation a fee schedule not to exceed the reasonable costs associated with carrying out the provisions of this division with a maximum fee not to exceed five hundred dollars ($500) for a particular license, permit, registration, product, or service. These fees shall only be established when a specific benefit or service is conferred directly to the payer and such benefit or service is not provided to those not charged.

(b) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 12. Section 9185 of the Food and Agricultural Code is amended to read:

9185. Any fees that are provided for by any provision of this division and regulations promulgated pursuant to it shall be due and payable upon receipt of a statement from the department itemizing the kind and amount of those fees. The fees shall be paid to the secretary within 30 days of the receipt of the statement.

SEC. 13. Section 9186 of the Food and Agricultural Code is amended to read:

9186. Any fees that are due and payable pursuant to Section 9185 which are not paid may be recovered by the secretary in accordance with the provisions of Section 281.

SEC. 14. Section 9187 of the Food and Agricultural Code is amended to read:

9187. A penalty assessment of 5 percent per month of the amount of any unpaid fees, not to exceed 25 percent, shall be collected by the secretary when fees are not paid in accordance with Section 9185.

SEC. 15. Section 9188 of the Food and Agricultural Code is amended to read:

9188. The secretary shall have a lien upon any livestock and real property owned by the person owing any fees due under any provision of this division that are not paid pursuant to Section 9185.

SEC. 16. Section 18932.1 of the Food and Agricultural Code is amended to read:

18932.1. Any person that violates any provision of this chapter, or any regulation that is issued pursuant to it, is liable civilly for a penalty not to exceed five hundred dollars ($500) for each such violation. If the court finds that a violation of this chapter was a serious violation, or that the violation is a second or subsequent violation, the person is civilly liable for a penalty not to exceed fifteen thousand dollars ($15,000) for each violation. Any money that is received pursuant to this section shall be deposited in the Department of Food and Agriculture Fund, and upon appropriation by the Legislature, shall be used for the purposes described in Section 221.

SEC. 17. Section 18932.2 of the Food and Agricultural Code is amended to read:

18932.2. (a) In lieu of any civil action brought pursuant to Section 18932.1 and in lieu of seeking prosecution pursuant to Section 18932, the secretary may levy an administrative penalty not to exceed five thousand dollars ($5,000) upon any person for each violation of this chapter.

(b) Before an administrative penalty is levied, the person charged with the violation shall be given a written notice of the proposed action, including the nature of the violation and the amount of the proposed penalty, and that person shall have the right to request a hearing. The request shall be made within 20 days after the person receives notice of the proposed action. A notice of the proposed action, which shall be sent by certified mail to the last-known address of the person charged, shall be considered received even if delivery is refused or if the notice is not accepted at that address. At the hearing, the person shall be given an opportunity to review the secretary's evidence and to present evidence on his or her own behalf.

(c) Any person upon whom an administrative penalty is levied may appeal to the department, within 20 days of the date of receiving notification of the penalty, as follows:

(1) The appeal shall be in writing and signed by the appellant or his or her authorized agent and shall state the grounds for the appeal.

(2) Any party, at the time of filing the appeal or within 10 days thereafter, may present written evidence and a written argument to the secretary.

(3) The secretary may grant oral arguments upon application made at the time written arguments are made.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given at least 10 days prior to the date set therefor. This time requirement may be changed upon agreement between the department and the person appealing the penalty.

(5) The secretary shall decide the appeal based on any oral or written arguments, briefs, and evidence received.

(6) The secretary shall render a written decision within 45 days of the date of the appeal, or within 15 days of the date of oral arguments. A copy of the department's decision shall be delivered or mailed to the appellant.

(7) The secretary may sustain the decision, modify the decision by reducing the amount of the penalty levied, or reverse the decision.

(8) A review of the secretary's decision may be sought by the person against whom the penalty was levied pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) After completion of the review procedure provided in this section, the secretary may file a certified copy of the secretary's final decision that directs payment of an administrative penalty and, if applicable, any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered by the clerk in conformity with the decision or order. No fees shall be charged by the clerk of the superior court for the performance of any official service required in connection with the entry of a judgment pursuant to this section.

(e) Any money that is received pursuant to this section, shall be deposited in the Department of Food and Agriculture Fund.

SEC. 18. Section 18947 of the Food and Agricultural Code is amended to read:

18947. "Meat processing establishment" means a licensed establishment required to be inspected pursuant to Chapter 4 (commencing with Section 18650) where livestock or poultry products are prepared by curing, drying, smoking, or rendering and the products are sold on the premises to household consumers, and a licensed establishment where fallow deer products may be prepared for transportation or sale, or transportation and sale.

SEC. 19. Section 18947.2 is added to the Food and Agricultural Code, to read:

18947.2. "Smoking" means exposing meat or poultry products, for the purpose of food preservation, rather than as a method of flavor enhancement, to an environment of smoke generated from hardwood, hardwood sawdust, corn cobs, or natural or artificial liquid smoke that has been transformed into a true gaseous state by application of direct heat.

SEC. 20. Section 18955 is added to the Food and Agricultural Code, to read:

18955. No person shall operate an establishment performing any of the functions stated in this chapter unless the establishment is licensed and continues to meet building and sanitation standards required by this chapter and the regulations thereunder.

SEC. 21. Section 18980 of the Food and Agricultural Code is amended to read:

18980. (a) The application fee for a livestock meat inspector's license or a processing inspector's license is one hundred dollars ($100). If an applicant for a license does not take the examination within one year after the date of the receipt of the application by the secretary, the application expires. Reexamination requires the payment of an additional application fee.

(b) Each license shall expire on the last day of the calendar year for which it is issued. The fee shall not be prorated.

(c) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 22. Section 18981 of the Food and Agricultural Code is amended to read:

18981. (a) Application for renewal of a license accompanied by a fee of one hundred dollars ($100) shall be made on or before

its expiration. Applicants for renewal of a license who have not paid the renewal fee by the expiration date of the license shall be assessed a twenty-five dollar ($25) penalty. Failure to pay the renewal fee plus the penalty within 90 days of expiration shall cause a revocation of a license.

(b) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 23. Section 19010 of the Food and Agricultural Code is amended to read:

19010. (a) Each person shall, before operating a meat processing establishment or a custom livestock slaughterhouse, file an application accompanied with an application fee, with the secretary for a license to operate the establishment. The application shall be in such form as the secretary may prescribe.

(b) The application fee for a meat processing establishment or a new, previously unlicensed custom livestock slaughterhouse is five hundred dollars ($500) for a license for one year for each establishment which the applicant desires to operate. Each license shall expire on the last day of the calendar year for which it was issued. The fee shall not be prorated.

(c) The fee for a license application submitted upon a change of ownership of an existing, previously licensed custom livestock slaughterhouse shall be based on the number of head of livestock slaughtered by the custom livestock slaughterhouse during the preceding October through September time period as described in subdivision (a) of Section 19011.

(d) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 24. Section 19011 of the Food and Agricultural Code is amended to read:

19011. (a) Application for renewal of a license accompanied by a renewal fee shall be made on or before its expiration.

(1) The annual renewal fee for a custom livestock slaughterhouse is:

(A) Five hundred dollars ($500) if the plant slaughtered 1,000 or fewer head of livestock during the preceding October through September time period.

(B) Seven hundred fifty dollars ($750) if the plant slaughtered between 1,000 and 5,000 head of livestock during the preceding October through September time period.

(C) One thousand two hundred dollars ($1,200) if the plant slaughtered over 5,000 head of livestock during the preceding October through September time period.

(2) The annual renewal fee for a meat reprocessing establishment is five hundred dollars ($500).

(b) Applicants for renewal who have not paid the renewal fee by the expiration date of the license shall be assessed a penalty of 10 percent of the unpaid balance. Failure to pay the renewal fee plus the penalty within 90 days of expiration shall cause a revocation of a license.

(c) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 25. Section 19032 of the Food and Agricultural Code is amended to read:

19032. Any person that violates any provision of this chapter, or any regulation that is issued pursuant to it, is liable civilly for a penalty in an amount not to exceed five hundred dollars ($500) for each such violation. If the court finds that the violation of this chapter was a serious violation, or that the violation is a second or subsequent violation, the person is liable civilly for a penalty not to exceed fifteen thousand dollars ($15,000) for each such violation.

SEC. 26. Section 19033.1 of the Food and Agricultural Code is amended to read:

19033.1. (a) In lieu of any civil action brought pursuant to Section 19032 and in lieu of seeking prosecution pursuant to Section 19031, the secretary may levy an administrative penalty not to exceed five thousand dollars ($5,000) upon any person for each violation of this chapter.

(b) Before an administrative penalty is levied, the person charged with the violation shall be given a written notice of the proposed action, including the nature of the violation and the amount of the proposed penalty, and that person shall have the right to request a hearing. The request shall be made within 20 days after the person receives notice of the proposed action. A notice of the proposed action, which shall be sent by certified mail to the last-known

address of the person charged, shall be considered received even if delivery is refused or if the notice is not accepted at that address. At the hearing, the person shall be given an opportunity to review the department's evidence and to present evidence on his or her own behalf.

(c) Any person upon whom an administrative penalty is levied may appeal to the secretary, within 20 days of the date of receiving notification of the penalty, as follows:

(1) The appeal shall be in writing and signed by the appellant or his or her authorized agent and shall state the grounds for the appeal.

(2) Any party, at the time of filing the appeal or within 10 days thereafter, may present written evidence and a written argument to the secretary.

(3) The secretary may grant oral arguments upon application made at the time written arguments are made.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given at least 10 days prior to the date set therefor. This time requirement may be changed upon agreement between the secretary and the person appealing the penalty.

(5) The secretary shall decide the appeal based on any oral or written arguments, briefs, and evidence received.

(6) The secretary shall render a written decision within 45 days of the date of the appeal, or within 15 days of the date of oral arguments. A copy of the secretary's decision shall be delivered or mailed to the appellant.

(7) The secretary may sustain the decision, modify the decision by reducing the amount of the penalty levied, or reverse the decision.

(8) A review of the secretary's decision may be sought by the person against whom the penalty was levied pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) After completion of the review procedure provided in this section, the secretary may file a certified copy of the department's final decision that directs payment of an administrative penalty and, if applicable, any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered by the clerk in conformity with the decision or order. No fees shall be charged by the clerk

of the superior court for the performance of any official service required in connection with the entry of a judgment pursuant to this section.

(e) Any money that is received pursuant to this section shall be deposited in the Department of Food and Agriculture Fund.

SEC. 27. Section 19040 of the Food and Agricultural Code is repealed.

SEC. 28. Section 19040 is added to the Food and Agricultural Code, to read:

19040. (a) All fees, charges, and collections collected pursuant to this chapter shall be deposited in the Department of Food and Agriculture Fund.

(b) All fees, charges, and collections collected pursuant to this chapter shall be used for the enforcement of this chapter and shall be for a specific benefit or privilege conferred directly to the payer and such benefit or privilege shall not be provided to those not charged.

(c) Fees shall not exceed the reasonable costs associated with issuing the license or permit, performing investigations, inspections, and audits, enforcing provisions pursuant to the license or permit, and administrative enforcement and adjudication thereof.

SEC. 29. Section 19445 of the Food and Agricultural Code is amended to read:

19445. (a) In lieu of levying a civil penalty pursuant to Section 19447, and in lieu of seeking prosecution, upon complaint of the secretary, the Attorney General may bring an action for civil penalties in any court of competent jurisdiction in this state against any person who violates Article 6 (commencing with Section 19300), Article 6.5 (commencing with Section 19310), or any regulation adopted pursuant to those articles. The civil penalty imposed shall not exceed ten thousand dollars ($10,000) for each violation.

(b) Any funds recovered by the secretary pursuant to this section shall be deposited in the Department of Food and Agriculture Fund, and upon appropriation by the Legislature, shall be used for the purposes described in Section 221.

SEC. 30. Section 19447 of the Food and Agricultural Code is amended to read:

19447. (a) In lieu of any civil action pursuant to Section 19445, and in lieu of seeking prosecution, the secretary may levy a civil

penalty against a person who violates Article 6 (commencing with Section 19300), Article 6.5 (commencing with Section 19310), or any regulation adopted pursuant to those articles, in an amount not to exceed one thousand dollars ($1,000) for each violation.

(b) Before a civil penalty is levied, the person charged with the violation shall receive notice of the nature of the violation and shall be granted the opportunity to review the secretary's evidence and, for up to 30 days following the issuance of the notice, the opportunity to present written argument and evidence to the secretary as to why the civil penalty should not be imposed or should be reduced from the amount specified in the penalty notice. Notwithstanding Chapter 4.5 (commencing with Section 11400) of, and Chapter 5 (commencing with Section 11500) of, Part 1 of Division 3 of Title 2 of the Government Code or any other provision of law, this section does not require the department to conduct either a formal or informal hearing. The secretary instead may dispose of the matter upon review of the documentation presented.

(c) Any person upon whom a civil penalty is levied may appeal to the secretary within 10 days of the date of receiving notification of the penalty, as follows:

(1) The appeal shall be in writing and signed by the appellant or his or her authorized agent and shall state the grounds for the appeal.

(2) Any party, at the time of filing the appeal, or within 10 days thereafter, may present written evidence and a written argument to the secretary.

(3) The secretary may grant oral arguments upon application made at the time written arguments are made.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given at least 10 days prior to the date set therefor. This time requirement may be altered by an agreement between the secretary and the person appealing the penalty.

(5) The secretary shall decide the appeal on any oral or written arguments, briefs, and evidence that he or she has received.

(6) The secretary shall render a written decision within 45 days of the date of appeal, or within 15 days of the date of oral arguments. A copy of the secretary's decision shall be delivered or mailed to the appellant.

(7) The secretary may sustain the decision, modify the decision by reducing the amount of the penalty levied, or reverse the decision.

(8) A review of the decision of the secretary may be sought by the appellant pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) Any penalties levied by the secretary pursuant to this section shall be deposited in the Department of Food and Agriculture Fund, and upon appropriation by the Legislature, shall be used for the purposes described in Section 221.

SEC. 31. Section 24563 of the Food and Agricultural Code is amended to read:

24563. (a) If slaughtering or carcass preparation or processing of poultry meats and poultry meat products is conducted in an establishment where state inspection is maintained at hours considered overtime for state employees or on legal holidays, the owner or operator of the establishment shall, by contract or agreement with the department, make arrangement to defray the additional cost for salaries and expenses for persons employed by the department to conduct the necessary poultry meat inspection work during the overtime periods.

(b) Moneys collected pursuant to this section shall be deposited in the Department of Food and Agriculture Fund.

SEC. 32. Section 24744 of the Food and Agricultural Code is amended to read:

24744. (a) The application fee for a new, previously unlicensed poultry plant is five hundred dollars ($500) for a license for one year for each poultry plant which the applicant desires to operate.

(b) The fee for a license application submitted upon change of ownership of an existing, previously licensed poultry plant shall be based on the number of poultry slaughtered by the poultry plant during the preceding October through September time period as described in subdivision (b) of Section 24745.

(c) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 33. Section 24745 of the Food and Agricultural Code is repealed.

SEC. 34. Section 24745 is added to the Food and Agricultural Code, to read:

24745. (a) Application for renewal of a license accompanied by a renewal fee shall be made on or before its expiration.

(b) The annual license renewal fee for a poultry plant is:

(1) Five hundred dollars ($500) if the plant slaughtered 10,000 or fewer poultry during the preceding October through September time period.

(2) Seven hundred fifty dollars ($750) if the plant slaughtered between 10,000 and 100,000 poultry during the preceding October through September time period.

(3) One thousand two hundred dollars ($1,200) if the plant slaughtered over 100,000 poultry during the preceding October through September time period.

(c) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 35. Section 24746 of the Food and Agricultural Code is repealed.

SEC. 36. Section 24746 is added to the Food and Agricultural Code, to read:

24746. Each license shall expire on the last day of the calendar year for which it is issued. The fee shall not be prorated.

SEC. 37. Section 24748 of the Food and Agricultural Code is repealed.

SEC. 38. Section 24748 is added to the Food and Agricultural Code, to read:

24748. Applicants for renewal who have not paid the renewal fee by the expiration date of the license shall be assessed a penalty of 10 percent of the unpaid balance. Failure to pay the renewal fee plus the penalty within 90 days of expiration shall cause a revocation of a license.

SEC. 39. Section 24752 is added to the Food and Agricultural Code, to read:

24752. (a) All fees, charges, and collections collected pursuant to Sections 24744, 24745, and 24748 shall be deposited in the Department of Food and Agriculture Fund.

(b) All fees, charges, and collections collected pursuant to Sections 24744, 24745, and 24748 shall be used for the enforcement of this division and shall be for a specific benefit or privilege conferred directly to the payer and such benefit or privilege shall not be provided to those not charged.

(c) Fees shall not exceed the reasonable costs associated with issuing a license or permit, performing investigations, inspections, and audits, enforcing provisions pursuant to the license or permit, and administrative enforcement and adjudication thereof.

SEC. 40. Section 25053 of the Food and Agricultural Code is amended to read:

25053. (a) The application fee for a license is one hundred dollars ($100).

(b) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 41. Section 25055 of the Food and Agricultural Code is amended to read:

25055. (a) Application for renewal of a license accompanied by a fee of one hundred dollars ($100) shall be made on or before the last day of the calendar year for which the license was issued.

(b) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 42. Section 25056 of the Food and Agricultural Code is repealed.

SEC. 43. Section 25056 is added to the Food and Agricultural Code, to read:

25056. (a) Applicants for renewal who have not paid the renewal fee by the expiration date of the license shall be assessed a twenty-five dollar ($25) penalty. Failure to pay the renewal fee plus the penalty within 90 days of expiration shall cause a revocation of a license.

(b) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 44. Section 25063 is added to the Food and Agricultural Code, to read:

25063. (a) All fees, charges, and collections collected pursuant to Sections 25053, 25055, and 25056 shall be deposited in the Department of Food and Agriculture Fund.

(b) All fees, charges, and collections collected pursuant to Sections 25053, 25055, and 25056 shall be used for the enforcement of this division and shall be for a specific benefit or

privilege conferred directly to the payer and such benefit or privilege shall not be provided to those not charged.

(c) Fees shall not exceed the reasonable costs associated with issuing a license or permit, performing investigations, inspections, and audits, enforcing provisions pursuant to the license or permit, and administrative enforcement and adjudication thereof.

SEC. 45. Section 52356 of the Food and Agricultural Code is amended to read:

52356. Total expenditures from funds derived from registration fees and dollar volume assessments under this chapter shall not exceed the department's cost of carrying out this chapter.

SEC. 46. Section 8574.7 of the Government Code is amended to read:

8574.7. The Governor shall require the administrator, in consultation with the State Interagency Oil Spill Committee and not in conflict with the National Contingency Plan, to amend the California oil spill contingency plan by adding a marine oil spill contingency planning section that provides for the best achievable protection of the coast and marine waters. "Administrator" for purposes of this section means the administrator appointed by the Governor pursuant to Section 8670.4. The marine oil spill contingency planning section shall consist of all of the following elements:

(a) A state marine response element that specifies the hierarchy for state and local agency response to an oil spill. The element shall define the necessary tasks for oversight and control of cleanup and removal activities associated with a marine oil spill and shall specify each agency's particular responsibility in carrying out these tasks. The element shall also include an organizational chart of the state marine oil spill response organization and a definition of the resources, capabilities, and response assignments of each agency involved in cleanup and removal actions in a marine oil spill.

(b) A regional and local planning element that shall provide the framework for the involvement of regional and local agencies in the state effort to respond to a marine oil spill, and shall ensure the effective and efficient use of regional and local resources in all of the following:

(1) Traffic and crowd control.

(2) Firefighting.

(3) Boating traffic control.

(4) Radio and communications control and provision of access to equipment.

(5) Identification and use of available local and regional equipment or other resources suitable for use in cleanup and removal actions.

(6) Identification of private and volunteer resources or personnel with special or unique capabilities relating to marine oil spill cleanup and removal actions.

(7) Provision of medical emergency services.

(8) Consideration of the identification and use of private working craft and mariners, including commercial fishing vessels and licensed commercial fishing men and women, in containment, cleanup, and removal actions.

(c) A coastal protection element that establishes the state standards for coastline protection. The administrator, in consultation with the State Interagency Oil Spill Committee, the Coast Guard and Navy, and the shipping industry, shall develop criteria for coastline protection. If appropriate, the administrator shall consult with representatives from the States of Alaska, Washington, and Oregon, the Province of British Columbia in Canada, and the Republic of Mexico. The criteria shall designate at least all of the following:

(1) Appropriate shipping lanes and navigational aids for tankers, barges, and other commercial vessels to reduce the likelihood of collisions between tankers, barges, and other commercial vessels. Designated shipping lanes shall be located off the coastline at a distance sufficient to significantly reduce the likelihood that disabled vessels will run aground along the coast of the state.

(2) Ship position reporting and communications requirements.

(3) Required predeployment of protective equipment for sensitive environmental areas along the coastline.

(4) Required emergency response vessels that are capable of preventing disabled tankers from running aground.

(5) Required emergency response vessels that are capable of commencing oil cleanup operations before spilled oil can reach the shoreline.

(6) An expedited decisionmaking process for dispersant use in coastal waters. Prior to adoption of the process, the administrator shall ensure that a comprehensive testing program is carried out

for any dispersant proposed for use in California marine waters. The testing program shall evaluate toxicity and effectiveness of the dispersants.

(7) Required rehabilitation facilities for wildlife injured by spilled oil.

(8) An assessment of how activities that usually require a permit from a state or local agency may be expedited or issued by the administrator in the event of an oil spill.

(d) An environmentally and ecologically sensitive areas element that shall provide the framework for prioritizing and ensuring the protection of environmentally and ecologically sensitive areas. The environmentally and ecologically sensitive areas element shall be developed by the administrator, in conjunction with appropriate local agencies, and shall include all of the following:

(1) Identification and prioritization of environmentally and ecologically sensitive areas in marine waters and along the coast. Identification and prioritization of environmentally and ecologically sensitive areas shall not prevent or excuse the use of all reasonably available containment and cleanup resources from being used to protect every environmentally and ecologically sensitive area possible. Environmentally and ecologically sensitive areas shall be prioritized through the evaluation of criteria, including, but not limited to, all of the following:

(A) Risk of contamination by oil after a spill.

(B) Environmental, ecological, recreational, and economic importance.

(C) Risk of public exposure should the area be contaminated.

(2) Regional maps depicting environmentally and ecologically sensitive areas in marine waters or along the coast that shall be distributed to facilities and local and state agencies. The maps shall designate those areas that have particularly high priority for protection against oil spills.

(3) A plan for protection actions required to be taken in the event of an oil spill for each of the environmentally and ecologically sensitive areas and protection priorities for the first 24 to 48 hours after an oil spill shall be specified.

(4) The location of available response equipment and the availability of trained personnel to deploy the equipment to protect the priority environmentally and ecologically sensitive areas.

(5) A program for systemically testing and revising, if necessary, protection strategies for each of the priority environmentally and ecologically sensitive areas.

(6) Any recommendations for action that cannot be financed or implemented pursuant to existing authority of the administrator, which shall also be reported to the Legislature along with recommendations for financing those actions.

(e) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 47. Section 8574.7 is added to the Government Code, to read:

8574.7. The Governor shall require the administrator, not in conflict with the National Contingency Plan, to amend the California oil spill contingency plan by adding a marine oil spill contingency planning section that provides for the best achievable protection of the coast and marine waters. "Administrator" for purposes of this section means the administrator appointed by the Governor pursuant to Section 8670.4. The marine oil spill contingency planning section shall consist of all of the following elements:

(a) A state marine response element that specifies the hierarchy for state and local agency response to an oil spill. The element shall define the necessary tasks for oversight and control of cleanup and removal activities associated with a marine oil spill and shall specify each agency's particular responsibility in carrying out these tasks. The element shall also include an organizational chart of the state marine oil spill response organization and a definition of the resources, capabilities, and response assignments of each agency involved in cleanup and removal actions in a marine oil spill.

(b) A regional and local planning element that shall provide the framework for the involvement of regional and local agencies in the state effort to respond to a marine oil spill, and shall ensure the effective and efficient use of regional and local resources in all of the following:

(1) Traffic and crowd control.

(2) Firefighting.

(3) Boating traffic control.

(4) Radio and communications control and provision of access to equipment.

(5) Identification and use of available local and regional equipment or other resources suitable for use in cleanup and removal actions.

(6) Identification of private and volunteer resources or personnel with special or unique capabilities relating to marine oil spill cleanup and removal actions.

(7) Provision of medical emergency services.

(8) Consideration of the identification and use of private working craft and mariners, including commercial fishing vessels and licensed commercial fishing men and women, in containment, cleanup, and removal actions.

(c) A coastal protection element that establishes the state standards for coastline protection. The administrator, in consultation with the Coast Guard and Navy and the shipping industry, shall develop criteria for coastline protection. If appropriate, the administrator shall consult with representatives from the States of Alaska, Washington, and Oregon, the Province of British Columbia in Canada, and the Republic of Mexico. The criteria shall designate at least all of the following:

(1) Appropriate shipping lanes and navigational aids for tankers, barges, and other commercial vessels to reduce the likelihood of collisions between tankers, barges, and other commercial vessels. Designated shipping lanes shall be located off the coastline at a distance sufficient to significantly reduce the likelihood that disabled vessels will run aground along the coast of the state.

(2) Ship position reporting and communications requirements.

(3) Required predeployment of protective equipment for sensitive environmental areas along the coastline.

(4) Required emergency response vessels that are capable of preventing disabled tankers from running aground.

(5) Required emergency response vessels that are capable of commencing oil cleanup operations before spilled oil can reach the shoreline.

(6) An expedited decisionmaking process for dispersant use in coastal waters. Prior to adoption of the process, the administrator shall ensure that a comprehensive testing program is carried out for any dispersant proposed for use in California marine waters.

The testing program shall evaluate toxicity and effectiveness of the dispersants.

(7) Required rehabilitation facilities for wildlife injured by spilled oil.

(8) An assessment of how activities that usually require a permit from a state or local agency may be expedited or issued by the administrator in the event of an oil spill.

(d) An environmentally and ecologically sensitive areas element that shall provide the framework for prioritizing and ensuring the protection of environmentally and ecologically sensitive areas. The environmentally and ecologically sensitive areas element shall be developed by the administrator, in conjunction with appropriate local agencies, and shall include all of the following:

(1) Identification and prioritization of environmentally and ecologically sensitive areas in marine waters and along the coast. Identification and prioritization of environmentally and ecologically sensitive areas shall not prevent or excuse the use of all reasonably available containment and cleanup resources from being used to protect every environmentally and ecologically sensitive area possible. Environmentally and ecologically sensitive areas shall be prioritized through the evaluation of criteria, including, but not limited to, all of the following:

(A) Risk of contamination by oil after a spill.

(B) Environmental, ecological, recreational, and economic importance.

(C) Risk of public exposure should the area be contaminated.

(2) Regional maps depicting environmentally and ecologically sensitive areas in marine waters or along the coast that shall be distributed to facilities and local and state agencies. The maps shall designate those areas that have particularly high priority for protection against oil spills.

(3) A plan for protection actions required to be taken in the event of an oil spill for each of the environmentally and ecologically sensitive areas and protection priorities for the first 24 to 48 hours after an oil spill shall be specified.

(4) The location of available response equipment and the availability of trained personnel to deploy the equipment to protect the priority environmentally and ecologically sensitive areas.

(5) A program for systemically testing and revising, if necessary, protection strategies for each of the priority environmentally and ecologically sensitive areas.

(6) Any recommendations for action that cannot be financed or implemented pursuant to existing authority of the administrator, which shall also be reported to the Legislature along with recommendations for financing those actions.

(e) This section shall become operative on January 1, 2012.

SEC. 48. Section 8574.9 of the Government Code is amended to read:

8574.9. (a) The State Interagency Oil Spill Committee shall consist of all of the following persons:

(1) The administrator named by the Governor pursuant to Section 8670.4.

(2) The Chairperson of the State Lands Commission, or his or her designee.

(3) The Chairperson of the California Coastal Commission, or his or her designee.

(4) The Chairperson of the San Francisco Bay Conservation and Development Commission, or his or her designee. The chairperson of the commission shall only have voting and decisionmaking authority regarding matters under the jurisdiction of the commission.

(5) A designated representative from all of the following agencies:

(A) The California Emergency Management Agency.

(B) The State Water Resources Control Board.

(C) The Department of Justice.

(D) The California Highway Patrol.

(E) The California National Guard.

(F) The Division of Oil and Gas in the Department of Conservation.

(G) The Department of Toxic Substances Control.

(H) The Department of Transportation.

(I) The Department of Parks and Recreation.

(J) The Department of Water Resources.

(K) The Department of Forestry and Fire Protection.

(L) The State Fire Marshal.

(M) The California regional water quality control boards (one representative).

(N) The Resources Agency.

(O) The California Environmental Protection Agency.

(P) The California Conservation Corps.

(Q) The Office of Environmental Health Hazard Assessment.

(R) The Division of Occupational Safety and Health in the Department of Industrial Relations.

(b) The administrator shall be the chairperson of the committee. The administrator shall ensure that personnel serve as staff to the committee.

(c) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 49. Section 8574.10 of the Government Code is amended to read:

8574.10. (a) The Review Subcommittee of the State Interagency Oil Spill Committee is hereby established. As used in this chapter, "review subcommittee" means the Review Subcommittee of the State Interagency Oil Spill Committee. The Director of Fish and Game, who shall serve as chair of the review subcommittee, the Executive Officer of the State Lands Commission, the Executive Director of the California Coastal Commission, the State Fire Marshal, the State Oil and Gas Supervisor, the Executive Director of the State Water Resources Control Board, and the Executive Director of the San Francisco Bay Conservation and Development Commission, or their designees, shall constitute the members of the review subcommittee. The representative of the San Francisco Bay Conservation and Development Commission only shall have voting and decisionmaking authority regarding matters under the jurisdiction of the commission. The administrator may serve as the designee of the Director of Fish and Game.

(b) All regulations and guidelines adopted pursuant to Chapter 7.4 (commencing with Section 8670.1) and Division 7.8 (commencing with Section 8750) of the Public Resources Code, and amendments to the California oil spill contingency plan, shall, prior to adoption, be submitted to the review subcommittee for review and comment.

(c) Within 60 days from the date of receipt of regulations, guidelines, or amendments pursuant to subdivision (a), the review subcommittee shall review and submit comments to the submitting

agency. Any recommendation of the review subcommittee shall be based on the standards of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, consisting of the provisions specified in Section 8670.1. This comment period may overlap any other comment periods required by law or allowed by the administrator.

(d) The comments and recommendations of the review subcommittee shall not be binding on the submitting agency. Prior to adoption, and within 30 days from the date of receipt of a response from the review subcommittee, the submitting agency shall respond in writing to the review subcommittee concerning all of the findings and recommendations of the review subcommittee. The submitting agency may reject the recommendations of the review subcommittee only if the submitting agency determines that the action it chooses more effectively furthers the purposes of, and more effectively complies with, the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act. Whenever the submitting agency departs from a finding or recommendation of the review subcommittee, the written response of the submitting agency shall state its rationale for concluding that its action more effectively furthers the purposes of, and more effectively complies with, that act. Any public hearing that is required by this chapter or any other statute shall be held after the submitting agency has filed a response to the review subcommittee.

(e) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 50. Section 8670.3 of the Government Code is amended to read:

8670.3. Unless the context requires otherwise, the following definitions shall govern the construction of this chapter:

(a) "Administrator" means the administrator for oil spill response appointed by the Governor pursuant to Section 8670.4.

(b) (1) "Best achievable protection" means the highest level of protection that can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The administrator's determination of which measures provide the best achievable protection shall be

guided by the critical need to protect valuable coastal resources and marine waters, while also considering all of the following:

(A) The protection provided by the measure.

(B) The technological achievability of the measure.

(C) The cost of the measure.

(2) The administrator shall not use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures provide the best achievable protection. The administrator shall instead, when determining which measures provide best achievable protection, give reasonable consideration to the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for coastal and marine resources.

(c) (1) "Best achievable technology" means that technology that provides the greatest degree of protection, taking into consideration both of the following:

(A) Processes that are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development.

(B) Processes that are currently in use anywhere in the world.

(2) In determining what is the best achievable technology pursuant to this chapter, the administrator shall consider the effectiveness and engineering feasibility of the technology.

(d) "Dedicated response resources" means equipment and personnel committed solely to oil spill response, containment, and cleanup that are not used for any other activity that would adversely affect the ability of that equipment and personnel to provide oil spill response services in the timeframes for which the equipment and personnel are rated.

(e) "Director" means the Director of Fish and Game.

(f) "Environmentally sensitive area" means an area defined pursuant to the applicable area contingency plans, as created and revised by the Coast Guard and the administrator.

(g) "Inland spill" means a release of at least one barrel (42 gallons) of oil into inland waters that is not authorized by any federal, state, or local governmental entity.

(h) "Inland waters" means waters of the state other than marine waters, but not including groundwater.

(i) "Local government" means a chartered or general law city, a chartered or general law county, or a city and county.

(j) (1) "Marine facility" means any facility of any kind, other than a tank ship or tank barge, that is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility is either of the following:

(A) Subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.

(B) Placed on a farm, nursery, logging site, or construction site and does not exceed 20,000 gallons in a single storage tank.

(2) For the purposes of this chapter, "marine facility" includes a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform.

(3) For the purposes of this chapter, "marine facility" does not include a small craft refueling dock.

(k) (1) "Marine terminal" means any marine facility used for transferring oil to or from a tank ship or tank barge.

(2) "Marine terminal" includes, for purposes of this chapter, all piping not integrally connected to a tank facility, as defined in subdivision (m) of Section 25270.2 of the Health and Safety Code.

(*l*) "Marine waters" means those waters subject to tidal influence, and includes the waterways used for waterborne commercial vessel traffic to the Port of Sacramento and the Port of Stockton.

(m) "Mobile transfer unit" means a small marine fueling facility that is a vehicle, truck, or trailer, including all connecting hoses and piping, used for the transferring of oil at a location where a discharge could impact marine waters.

(n) "Nondedicated response resources" means those response resources identified by an Oil Spill Response Organization for oil spill response activities that are not dedicated response resources.

(o) "Nonpersistent oil" means a petroleum-based oil, such as gasoline or jet fuel, that evaporates relatively quickly and is an oil with hydrocarbon fractions, at least 50 percent of which, by volume, distills at a temperature of 645 degrees Fahrenheit, and at least 95 percent of which, by volume, distills at a temperature of 700 degrees Fahrenheit.

(p) "Nontank vessel" means a vessel of 300 gross tons or greater that carries oil, but does not carry that oil as cargo.

(q) "Oil" means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(r) "Oil spill cleanup agent" means a chemical, or any other substance, used for removing, dispersing, or otherwise cleaning up oil or any residual products of petroleum in, or on, any of the waters of the state.

(s) "Oil spill contingency plan" or "contingency plan" means the oil spill contingency plan required pursuant to Article 5 (commencing with Section 8670.28).

(t) (1) "Oil Spill Response Organization" or "OSRO" means an individual, organization, association, cooperative, or other entity that provides, or intends to provide, equipment, personnel, supplies, or other services directly related to oil spill containment, cleanup, or removal activities.

(2) A "rated OSRO" means an OSRO that has received a satisfactory rating from the administrator for a particular rating level established pursuant to Section 8670.30.

(3) "OSRO" does not include an owner or operator with an oil spill contingency plan approved by the administrator or an entity that only provides spill management services, or who provides services or equipment that are only ancillary to containment, cleanup, or removal activities.

(u) "Onshore facility" means a facility of any kind that is located entirely on lands not covered by marine waters.

(v) (1) "Owner" or "operator" means any of the following:

(A) In the case of a vessel, a person who owns, has an ownership interest in, operates, charters by demise, or leases, the vessel.

(B) In the case of a marine facility, a person who owns, has an ownership interest in, or operates the marine facility.

(C) Except as provided in subparagraph (D), in the case of a vessel or marine facility, where title or control was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to an entity of state or local government, a person who owned, held an ownership interest in, operated, or otherwise

controlled activities concerning the vessel or marine facility immediately beforehand.

(D) An entity of the state or local government that acquired ownership or control of a vessel or marine facility, when the entity of the state or local government has caused or contributed to a spill or discharge of oil into marine waters.

(2) "Owner" or "operator" does not include a person who, without participating in the management of a vessel or marine facility, holds indicia of ownership primarily to protect the person's security interest in the vessel or marine facility.

(3) "Operator" does not include a person who owns the land underlying a marine facility or the facility itself if the person is not involved in the operations of the facility.

(w) "Person" means an individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. "Person" also includes a city, county, city and county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law.

(x) "Pipeline" means a pipeline used at any time to transport oil.

(y) "Reasonable worst case spill" means, for the purposes of preparing contingency plans for a nontank vessel, the total volume of the largest fuel tank on the nontank vessel.

(z) "Responsible party" or "party responsible" means any of the following:

(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.

(2) The owner, operator, or lessee of, or a person that charters by demise, a vessel or marine facility, or a person or entity accepting responsibility for the vessel or marine facility.

(aa) "Small craft" means a vessel, other than a tank ship or tank barge, that is less than 20 meters in length.

(ab) "Small craft refueling dock" means a waterside operation that dispenses only nonpersistent oil in bulk and small amounts of persistent lubrication oil in containers primarily to small craft and meets both of the following criteria:

(1) Has tank storage capacity not exceeding 20,000 gallons in any single storage tank or tank compartment.

(2) Has total usable tank storage capacity not exceeding 75,000 gallons.

(ac) "Small marine fueling facility" means either of the following:

(1) A mobile transfer unit.

(2) A fixed facility that is not a marine terminal, that dispenses primarily nonpersistent oil, that may dispense small amounts of persistent oil, primarily to small craft, and that meets all of the following criteria:

(A) Has tank storage capacity greater than 20,000 gallons but not more than 40,000 gallons in any single storage tank or storage tank compartment.

(B) Has total usable tank storage capacity not exceeding 75,000 gallons.

(C) Had an annual throughput volume of over-the-water transfers of oil that did not exceed 3,000,000 gallons during the most recent preceding 12-month period.

(ad) "Spill" or "discharge" means a release of at least one barrel (42 gallons) of oil into marine waters that is not authorized by a federal, state, or local government entity.

(ae) "California oil spill contingency plan" means the California oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(af) "Tank barge" means a vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

(ag) "Tank ship" means a self-propelled vessel that is constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(ah) "Tank vessel" means a tank ship or tank barge.

(ai) "Vessel" means a watercraft or ship of any kind, including every structure adapted to be navigated from place to place for the transportation of merchandise or persons.

(aj) "Vessel carrying oil as secondary cargo" means a vessel that does not carry oil as a primary cargo, but does carry oil in bulk as cargo or cargo residue.

This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 51. Section 8670.3 is added to the Government Code, to read:

8670.3. Unless the context requires otherwise, the following definitions shall govern the construction of this chapter:

(a) "Administrator" means the administrator for oil spill response appointed by the Governor pursuant to Section 8670.4.

(b) (1) "Best achievable protection" means the highest level of protection that can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The administrator's determination of which measures provide the best achievable protection shall be guided by the critical need to protect valuable coastal resources and marine waters, while also considering all of the following:

(A) The protection provided by the measure.

(B) The technological achievability of the measure.

(C) The cost of the measure.

(2) The administrator shall not use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures provide the best achievable protection. The administrator shall instead, when determining which measures provide best achievable protection, give reasonable consideration to the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for coastal and marine resources.

(c) (1) "Best achievable technology" means that technology that provides the greatest degree of protection, taking into consideration both of the following:

(A) Processes that are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development.

(B) Processes that are currently in use anywhere in the world.

(2) In determining what is the best achievable technology pursuant to this chapter, the administrator shall consider the effectiveness and engineering feasibility of the technology.

(d) "Dedicated response resources" means equipment and personnel committed solely to oil spill response, containment, and cleanup that are not used for any other activity that would adversely affect the ability of that equipment and personnel to provide oil

spill response services in the timeframes for which the equipment and personnel are rated.

(e) "Director" means the Director of Fish and Game.

(f) "Environmentally sensitive area" means an area defined pursuant to the applicable area contingency plans, as created and revised by the Coast Guard and the administrator.

(g) "Inland spill" means a release of at least one barrel (42 gallons) of oil into inland waters that is not authorized by any federal, state, or local governmental entity.

(h) "Inland waters" means waters of the state other than marine waters, but not including groundwater.

(i) "Local government" means a chartered or general law city, a chartered or general law county, or a city and county.

(j) (1) "Marine facility" means any facility of any kind, other than a tank ship or tank barge, that is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility is either of the following:

(A) Subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.

(B) Placed on a farm, nursery, logging site, or construction site and does not exceed 20,000 gallons in a single storage tank.

(2) For the purposes of this chapter, "marine facility" includes a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform.

(3) For the purposes of this chapter, "marine facility" does not include a small craft refueling dock.

(k) (1) "Marine terminal" means any marine facility used for transferring oil to or from a tank ship or tank barge.

(2) "Marine terminal" includes, for purposes of this chapter, all piping not integrally connected to a tank facility, as defined in subdivision (m) of Section 25270.2 of the Health and Safety Code.

(*l*) "Marine waters" means those waters subject to tidal influence, and includes the waterways used for waterborne commercial vessel traffic to the Port of Sacramento and the Port of Stockton.

(m) "Mobile transfer unit" means a small marine fueling facility that is a vehicle, truck, or trailer, including all connecting hoses

and piping, used for the transferring of oil at a location where a discharge could impact marine waters.

(n) "Nondedicated response resources" means those response resources identified by an Oil Spill Response Organization for oil spill response activities that are not dedicated response resources.

(o) "Nonpersistent oil" means a petroleum-based oil, such as gasoline or jet fuel, that evaporates relatively quickly and is an oil with hydrocarbon fractions, at least 50 percent of which, by volume, distills at a temperature of 645 degrees Fahrenheit, and at least 95 percent of which, by volume, distills at a temperature of 700 degrees Fahrenheit.

(p) "Nontank vessel" means a vessel of 300 gross tons or greater that carries oil, but does not carry that oil as cargo.

(q) "Oil" means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(r) "Oil spill cleanup agent" means a chemical, or any other substance, used for removing, dispersing, or otherwise cleaning up oil or any residual products of petroleum in, or on, any of the waters of the state.

(s) "Oil spill contingency plan" or "contingency plan" means the oil spill contingency plan required pursuant to Article 5 (commencing with Section 8670.28).

(t) (1) "Oil Spill Response Organization" or "OSRO" means an individual, organization, association, cooperative, or other entity that provides, or intends to provide, equipment, personnel, supplies, or other services directly related to oil spill containment, cleanup, or removal activities.

(2) A "rated OSRO" means an OSRO that has received a satisfactory rating from the administrator for a particular rating level established pursuant to Section 8670.30.

(3) "OSRO" does not include an owner or operator with an oil spill contingency plan approved by the administrator or an entity that only provides spill management services, or who provides services or equipment that are only ancillary to containment, cleanup, or removal activities.

(u) "Onshore facility" means a facility of any kind that is located entirely on lands not covered by marine waters.

(v) (1) "Owner" or "operator" means any of the following:

(A) In the case of a vessel, a person who owns, has an ownership interest in, operates, charters by demise, or leases, the vessel.

(B) In the case of a marine facility, a person who owns, has an ownership interest in, or operates the marine facility.

(C) Except as provided in subparagraph (D), in the case of a vessel or marine facility, where title or control was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to an entity of state or local government, a person who owned, held an ownership interest in, operated, or otherwise controlled activities concerning the vessel or marine facility immediately beforehand.

(D) An entity of the state or local government that acquired ownership or control of a vessel or marine facility, when the entity of the state or local government has caused or contributed to a spill or discharge of oil into marine waters.

(2) "Owner" or "operator" does not include a person who, without participating in the management of a vessel or marine facility, holds indicia of ownership primarily to protect the person's security interest in the vessel or marine facility.

(3) "Operator" does not include a person who owns the land underlying a marine facility or the facility itself if the person is not involved in the operations of the facility.

(w) "Person" means an individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. "Person" also includes a city, county, city and county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law.

(x) "Pipeline" means a pipeline used at any time to transport oil.

(y) "Reasonable worst case spill" means, for the purposes of preparing contingency plans for a nontank vessel, the total volume of the largest fuel tank on the nontank vessel.

(z) "Responsible party" or "party responsible" means any of the following:

(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.

(2) The owner, operator, or lessee of, or a person that charters by demise, a vessel or marine facility, or a person or entity accepting responsibility for the vessel or marine facility.

(aa) "Small craft" means a vessel, other than a tank ship or tank barge, that is less than 20 meters in length.

(ab) "Small craft refueling dock" means a waterside operation that dispenses only nonpersistent oil in bulk and small amounts of persistent lubrication oil in containers primarily to small craft and meets both of the following criteria:

(1) Has tank storage capacity not exceeding 20,000 gallons in any single storage tank or tank compartment.

(2) Has total usable tank storage capacity not exceeding 75,000 gallons.

(ac) "Small marine fueling facility" means either of the following:

(1) A mobile transfer unit.

(2) A fixed facility that is not a marine terminal, that dispenses primarily nonpersistent oil, that may dispense small amounts of persistent oil, primarily to small craft, and that meets all of the following criteria:

(A) Has tank storage capacity greater than 20,000 gallons but not more than 40,000 gallons in any single storage tank or storage tank compartment.

(B) Has total usable tank storage capacity not exceeding 75,000 gallons.

(C) Had an annual throughput volume of over-the-water transfers of oil that did not exceed 3,000,000 gallons during the most recent preceding 12-month period.

(ad) "Spill" or "discharge" means a release of at least one barrel (42 gallons) of oil into marine waters that is not authorized by a federal, state, or local government entity.

(ae) "California oil spill contingency plan" means the California oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(af) "Tank barge" means a vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

(ag) "Tank ship" means a self-propelled vessel that is constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(ah) "Tank vessel" means a tank ship or tank barge.

(ai) "Vessel" means a watercraft or ship of any kind, including every structure adapted to be navigated from place to place for the transportation of merchandise or persons.

(aj) "Vessel carrying oil as secondary cargo" means a vessel that does not carry oil as a primary cargo, but does carry oil in bulk as cargo or cargo residue.

This section shall become operative on January 1, 2012.

SEC. 52. 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, the air quality management district or air pollution control district having jurisdiction over the area in which the oil spill occurred, and the local government entities that are 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 onscene 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) Nothing in this subdivision shall be construed to give the administrator any 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.

(j) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 53. Section 8670.7 is added to the Government Code, 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 air quality management district or air pollution control district having jurisdiction over the area in which the oil spill occurred and the local government entities that are 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 any 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.

(j) This section shall become effective on January 1, 2012.

SEC. 54. 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.

(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 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.

(f) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 55. Section 8670.28 is added to the Government Code, 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 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.

(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 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.

(f) This section shall become effective on January 1, 2012.

SEC. 56. Section 8670.29 of the Government Code is amended to read:

8670.29. (a) In accordance with the rules, regulations, and policies established by the administrator pursuant to Section 8670.28, an owner or operator of a marine facility, small marine fueling facility, or mobile transfer unit, prior to operating in the marine waters of the state or where an oil spill could impact marine waters; and an owner or operator of a tank vessel, nontank vessel, or vessel carrying oil as secondary cargo, before operating in the marine waters of the state, shall prepare and implement an oil spill contingency plan that has been submitted to, and approved by, the administrator pursuant to Section 8670.31. An oil spill contingency plan shall ensure the undertaking of prompt and adequate response and removal action in case of an oil spill, shall be consistent with the California oil spill contingency plan, and shall not conflict with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

(b) An oil spill contingency plan shall, at a minimum, meet all of the following requirements:

(1) Be a written document, reviewed for feasibility and executability, and signed by the owner or operator, or their designee.

(2) Provide for the use of an incident command system to be used during a spill.

(3) Provide procedures for reporting oil spills to local, state, and federal agencies, and include a list of contacts to call in the event of a drill, threatened spill, or spill.

(4) Describe the communication plans to be used during a spill.

(5) Describe the strategies for the protection of environmentally sensitive areas.

(6) Identify at least one rated OSRO for each rating level established pursuant to Section 8670.30. Each identified rated OSRO shall be directly responsible by contract, agreement, or other approved means to provide oil spill response activities pursuant to the oil spill contingency plan. A rated OSRO may provide oil spill response activities individually, or in combination with another rated OSRO, for a particular owner or operator.

(7) Identify a qualified individual.

(8) Provide the name, address, and telephone and facsimile numbers for an agent for service of process, located within the state and designated to receive legal documents on behalf of the owner or operator.

(9) Provide for training and drills on elements of the plan at least annually, with all elements of the plan subject to a drill at least once every three years.

(c) An oil spill contingency plan for a vessel shall also include, but is not limited to, all of the following requirements:

(1) The plan shall be submitted to the administrator at least seven days prior to the vessel entering waters of the state.

(2) The plan shall provide evidence of compliance with the International Safety Management Code, established by the International Maritime Organization, as applicable.

(3) If the oil spill contingency plan is for a tank vessel, the plan shall include both of the following:

(A) The plan shall specify oil and petroleum cargo capacity.

(B) The plan shall specify the types of oil and petroleum cargo carried.

(4) If the oil spill contingency plan is for a nontank vessel, the plan shall include both of the following:

(A) The plan shall specify the type and total amount of fuel carried.

(B) The plan shall specify the capacity of the largest fuel tank.

(d) An oil spill contingency plan for a marine facility shall also include, but is not limited to, all of the following provisions:

(1) Provisions for site security and control.

(2) Provisions for emergency medical treatment and first aid.

(3) Provisions for safety training, as required by state and federal safety laws for all personnel likely to be engaged in oil spill response.

(4) Provisions detailing site layout and locations of environmentally sensitive areas requiring special protection.

(5) Provisions for vessels that are in the operational control of the facility for loading and unloading.

(e) The oil spill contingency plan shall be available to response personnel and to relevant state and federal agencies for inspection and review.

(f) The oil spill contingency plan shall be reviewed periodically and updated as necessary. All updates shall be submitted to the administrator pursuant to this article.

(g) In addition to the regulations adopted pursuant to Section 8670.28, the administrator shall adopt regulations and guidelines to implement this section. The regulations and guidelines shall

provide for the best achievable protection of coastal and marine resources. The administrator may establish additional oil spill contingency plan requirements, including, but not limited to, requirements based on the different geographic regions of the state. All regulations and guidelines shall be developed in consultation with the State Interagency Oil Spill Committee and the Oil Spill Technical Advisory Committee.

(h) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 57. Section 8670.29 is added to the Government Code, to read:

8670.29. (a) In accordance with the rules, regulations, and policies established by the administrator pursuant to Section 8670.28, an owner or operator of a marine facility, small marine fueling facility, or mobile transfer unit, prior to operating in the marine waters of the state or where an oil spill could impact marine waters; and an owner or operator of a tank vessel, nontank vessel, or vessel carrying oil as secondary cargo, before operating in the marine waters of the state, shall prepare and implement an oil spill contingency plan that has been submitted to, and approved by, the administrator pursuant to Section 8670.31. An oil spill contingency plan shall ensure the undertaking of prompt and adequate response and removal action in case of an oil spill, shall be consistent with the California oil spill contingency plan, and shall not conflict with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

(b) An oil spill contingency plan shall, at a minimum, meet all of the following requirements:

(1) Be a written document, reviewed for feasibility and executability, and signed by the owner or operator, or their designee.

(2) Provide for the use of an incident command system to be used during a spill.

(3) Provide procedures for reporting oil spills to local, state, and federal agencies, and include a list of contacts to call in the event of a drill, threatened spill, or spill.

(4) Describe the communication plans to be used during a spill.

(5) Describe the strategies for the protection of environmentally sensitive areas.

(6) Identify at least one rated OSRO for each rating level established pursuant to Section 8670.30. Each identified rated OSRO shall be directly responsible by contract, agreement, or other approved means to provide oil spill response activities pursuant to the oil spill contingency plan. A rated OSRO may provide oil spill response activities individually, or in combination with another rated OSRO, for a particular owner or operator.

(7) Identify a qualified individual.

(8) Provide the name, address, and telephone and facsimile numbers for an agent for service of process, located within the state and designated to receive legal documents on behalf of the owner or operator.

(9) Provide for training and drills on elements of the plan at least annually, with all elements of the plan subject to a drill at least once every three years.

(c) An oil spill contingency plan for a vessel shall also include, but is not limited to, all of the following requirements:

(1) The plan shall be submitted to the administrator at least seven days prior to the vessel entering waters of the state.

(2) The plan shall provide evidence of compliance with the International Safety Management Code, established by the International Maritime Organization, as applicable.

(3) If the oil spill contingency plan is for a tank vessel, the plan shall include both of the following:

(A) The plan shall specify oil and petroleum cargo capacity.

(B) The plan shall specify the types of oil and petroleum cargo carried.

(4) If the oil spill contingency plan is for a nontank vessel, the plan shall include both of the following:

(A) The plan shall specify the type and total amount of fuel carried.

(B) The plan shall specify the capacity of the largest fuel tank.

(d) An oil spill contingency plan for a marine facility shall also include, but is not limited to, all of the following provisions:

(1) Provisions for site security and control.

(2) Provisions for emergency medical treatment and first aid.

(3) Provisions for safety training, as required by state and federal safety laws for all personnel likely to be engaged in oil spill response.

(4) Provisions detailing site layout and locations of environmentally sensitive areas requiring special protection.

(5) Provisions for vessels that are in the operational control of the facility for loading and unloading.

(e) The oil spill contingency plan shall be available to response personnel and to relevant state and federal agencies for inspection and review.

(f) The oil spill contingency plan shall be reviewed periodically and updated as necessary. All updates shall be submitted to the administrator pursuant to this article.

(g) In addition to the regulations adopted pursuant to Section 8670.28, the administrator shall adopt regulations and guidelines to implement this section. The regulations and guidelines shall provide for the best achievable protection of coastal and marine resources. The administrator may establish additional oil spill contingency plan requirements, including, but not limited to, requirements based on the different geographic regions of the state. All regulations and guidelines shall be developed in consultation with the Oil Spill Technical Advisory Committee.

(h) This section shall become operative on January 1, 2012.

SEC. 58. Section 8670.35 of the Government Code is amended to read:

8670.35. (a) The administrator, taking into consideration the California oil spill contingency plan, shall promulgate regulations regarding the adequacy of oil spill contingency plan elements of business and hazardous materials area plans required pursuant to Section 25503 of the Health and Safety Code. In developing the guidelines, the administrator shall consult with the State Interagency Oil Spill Committee and the Oil Spill Technical Advisory Committee.

(b) Any local government with jurisdiction over or directly adjacent to marine waters may apply for a grant to complete, update, or revise an oil spill contingency plan element.

(c) Each contingency plan element established under this section shall include provisions for training fire and police personnel in oil spill response and cleanup equipment use and operations.

(d) Each contingency plan element prepared under this section shall be consistent with the local government's local coastal program as certified under Section 30500 of the Public Resources

Code, the California oil spill contingency plan, and the National Contingency Plan.

(e) The administrator shall review and approve each contingency plan element established pursuant to this section. If, upon review, the administrator determines that the contingency plan element is inadequate, the administrator shall return it to the agency that prepared it, specifying the nature and extent of the inadequacies, and, if practicable, suggesting modifications. The local government agency shall submit a new or modified plan within 90 days after the plan was returned, responding to the findings and incorporating any suggested modifications.

(f) The administrator shall review the preparedness of local governments to determine whether a program of grants for completing oil spill contingency plan elements is desirable and should be continued. If the administrator determines that local government preparedness should be improved, the administrator shall request the Legislature to appropriate funds from the Oil Spill Prevention and Administration Fund for the purposes of this section.

(g) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 59. Section 8670.35 is added to the Government Code, to read:

8670.35. (a) The administrator, taking into consideration the California oil spill contingency plan, shall promulgate regulations regarding the adequacy of oil spill contingency plan elements of business and hazardous materials area plans required pursuant to Section 25503 of the Health and Safety Code. In developing the guidelines, the administrator shall consult with the Oil Spill Technical Advisory Committee.

(b) Any local government with jurisdiction over or directly adjacent to marine waters may apply for a grant to complete, update, or revise an oil spill contingency plan element.

(c) Each contingency plan element established under this section shall include provisions for training fire and police personnel in oil spill response and cleanup equipment use and operations.

(d) Each contingency plan element prepared under this section shall be consistent with the local government's local coastal program as certified under Section 30500 of the Public Resources

Code, the California oil spill contingency plan, and the National Contingency Plan.

(e) The administrator shall review and approve each contingency plan element established pursuant to this section. If, upon review, the administrator determines that the contingency plan element is inadequate, the administrator shall return it to the agency that prepared it, specifying the nature and extent of the inadequacies, and, if practicable, suggesting modifications. The local government agency shall submit a new or modified plan within 90 days after the plan was returned, responding to the findings and incorporating any suggested modifications.

(f) The administrator shall review the preparedness of local governments to determine whether a program of grants for completing oil spill contingency plan elements is desirable and should be continued. If the administrator determines that local government preparedness should be improved, the administrator shall request the Legislature to appropriate funds from the Oil Spill Prevention and Administration Fund for the purposes of this section.

(g) This section shall become operative on January 1, 2012.

SEC. 60. Section 8670.36 of the Government Code is amended to read:

8670.36. (a) The administrator shall, within five working days after receipt of a contingency plan prepared pursuant to Section 8670.28 or 8670.35, send a notice that the plan is available for review to the state agencies that comprise the membership of the State Interagency Oil Spill Committee and the Oil Spill Technical Advisory Committee. The administrator shall send a copy of the plan within two working days after receiving a request from either committee. The State Lands Commission and the California Coastal Commission shall review the plans for facilities or local governments within the coastal zone. The San Francisco Bay Conservation and Development Commission shall review the plans for marine facilities or local governments within the area described in Sections 66610 and 29101 of the Public Resources Code. Any state agency or committee that comments shall submit its comments to the administrator within 60 days of receipt of the plan. The administrator shall consider all comments in approving or disapproving the plan.

(b) The State Interagency Oil Spill Committee may be reimbursed from the Oil Spill Prevention and Administration Fund for reasonable costs incurred in reviewing contingency plans and participating in public hearings on marine and vessel facility contingency plans.

(c) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 61. Section 8670.36 is added to the Government Code, to read:

8670.36. (a) The administrator shall, within five working days after receipt of a contingency plan prepared pursuant to Section 8670.28 or 8670.35, send a notice that the plan is available for review to the Oil Spill Technical Advisory Committee. The administrator shall send a copy of the plan within two working days after receiving a request from the Oil Spill Technical Advisory Committee. The State Lands Commission and the California Coastal Commission shall review the plans for facilities or local governments within the coastal zone. The San Francisco Bay Conservation and Development Commission shall review the plans for marine facilities or local governments within the area described in Sections 66610 and 29101 of the Public Resources Code. Any state agency or committee that comments shall submit its comments to the administrator within 60 days of receipt of the plan. The administrator shall consider all comments in approving or disapproving the plan.

(b) This section shall become operative on January 1, 2012.

SEC. 62. Section 8670.40 of the Government Code is amended to read:

8670.40. (a) The State Board of Equalization shall collect a fee in an amount determined by the administrator to be sufficient to carry out the purposes set forth in subdivision (e), and a reasonable reserve for contingencies. The annual assessment may not exceed five cents ($0.05) per barrel of crude oil or petroleum products.

(b) (1) The oil spill prevention and administration fee shall be imposed upon a person owning crude oil at the time that crude oil is received at a marine terminal from within or outside the state, and upon a person who owns petroleum products at the time that those petroleum products are received at a marine terminal from

outside this state. The fee shall be collected by the marine terminal operator from the owner of the crude oil or petroleum products based on each barrel of crude oil or petroleum products so received by means of a vessel operating in, through, or across the marine waters of the state. In addition, an operator of a pipeline shall pay the oil spill prevention and administration fee for each barrel of crude oil originating from a production facility in marine waters and transported in the state by means of a pipeline operating across, under, or through the marine waters of the state. The fees shall be remitted to the board by the terminal or pipeline operator on the 25th day of the month based upon the number of barrels of crude oil or petroleum products received at a marine terminal or transported by pipeline during the preceding month. A fee shall not be imposed pursuant to this section with respect to crude oil or petroleum products if the person who would be liable for that fee, or responsible for its collection, establishes that the fee has been collected by a terminal operator registered under this chapter or paid to the board with respect to the crude oil or petroleum product.

(2) An owner of crude oil or petroleum products is liable for the fee until it has been paid to the board, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(3) On or before January 20, the administrator shall annually prepare a plan that projects revenues and expenses over three fiscal years, including the current year. Based on the plan, the administrator shall set the fee so that projected revenues, including any interest, are equivalent to expenses as reflected in the current Budget Act and in the proposed budget submitted by the Governor. In setting the fee, the administrator may allow for a surplus if the administrator finds that revenues will be exhausted during the period covered by the plan or that the surplus is necessary to cover possible contingencies.

(c) The moneys collected pursuant to subdivision (a) shall be deposited into the fund.

(d) The board shall collect the fee and adopt regulations for implementing the fee collection program.

(e) The fee described in this section shall be collected solely for all of the following purposes:

(1) To implement oil spill prevention programs through rules, regulations, leasing policies, guidelines, and inspections and to implement research into prevention and control technology.

(2) To carry out studies that may lead to improved oil spill prevention and response.

(3) To finance environmental and economic studies relating to the effects of oil spills.

(4) To reimburse the member agencies of the State Interagency Oil Spill Committee for costs arising from implementation of this chapter, Article 3.5 (commencing with Section 8574.1) of Chapter 7 of this code, and Division 7.8 (commencing with Section 8750) of the Public Resources Code.

(5) To implement, install, and maintain emergency programs, equipment, and facilities to respond to, contain, and clean up oil spills and to ensure that those operations will be carried out as intended.

(6) To respond to an imminent threat of a spill in accordance with the provisions of Section 8670.62 pertaining to threatened discharges. The cumulative amount of an expenditure for this purpose shall not exceed the amount of one hundred thousand dollars ($100,000) in a fiscal year unless the administrator receives the approval of the Director of Finance and notification is given to the Joint Legislative Budget Committee. Commencing with the 1993–94 fiscal year, and each fiscal year thereafter, it is the intent of the Legislature that the annual Budget Act contain an appropriation of one hundred thousand dollars ($100,000) from the fund for the purpose of allowing the administrator to respond to threatened oil spills.

(7) To reimburse the board for costs incurred to implement this chapter and to carry out Part 24 (commencing with Section 46001) of Division 2 of the Revenue and Taxation Code.

(8) To reimburse the costs incurred by the State Lands Commission in implementing the Oil Transfer and Transportation Emission and Risk Reduction Act of 2002 (Division 7.9 (commencing with Section 8780) of the Public Resources Code).

(9) To cover costs incurred by the Oiled Wildlife Care Network established by Section 8670.37.5 for training and field collection, and search and rescue activities, pursuant to subdivision (g) of Section 8670.37.5.

(f) The moneys deposited in the fund shall not be used for responding to an oil spill.

(g) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 63. Section 8670.40 is added to the Government Code, to read:

8670.40. (a) The State Board of Equalization shall collect a fee in an amount determined by the administrator to be sufficient to carry out the purposes set forth in subdivision (e), and a reasonable reserve for contingencies. The annual assessment may not exceed five cents ($0.05) per barrel of crude oil or petroleum products.

(b) (1) The oil spill prevention and administration fee shall be imposed upon a person owning crude oil at the time that crude oil is received at a marine terminal from within or outside the state, and upon a person who owns petroleum products at the time that those petroleum products are received at a marine terminal from outside this state. The fee shall be collected by the marine terminal operator from the owner of the crude oil or petroleum products based on each barrel of crude oil or petroleum products so received by means of a vessel operating in, through, or across the marine waters of the state. In addition, an operator of a pipeline shall pay the oil spill prevention and administration fee for each barrel of crude oil originating from a production facility in marine waters and transported in the state by means of a pipeline operating across, under, or through the marine waters of the state. The fees shall be remitted to the board by the terminal or pipeline operator on the 25th day of the month based upon the number of barrels of crude oil or petroleum products received at a marine terminal or transported by pipeline during the preceding month. A fee shall not be imposed pursuant to this section with respect to crude oil or petroleum products if the person who would be liable for that fee, or responsible for its collection, establishes that the fee has been collected by a terminal operator registered under this chapter or paid to the board with respect to the crude oil or petroleum product.

(2) An owner of crude oil or petroleum products is liable for the fee until it has been paid to the board, except that payment to

a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(3) On or before January 20, the administrator shall annually prepare a plan that projects revenues and expenses over three fiscal years, including the current year. Based on the plan, the administrator shall set the fee so that projected revenues, including any interest, are equivalent to expenses as reflected in the current Budget Act and in the proposed budget submitted by the Governor. In setting the fee, the administrator may allow for a surplus if the administrator finds that revenues will be exhausted during the period covered by the plan or that the surplus is necessary to cover possible contingencies.

(c) The moneys collected pursuant to subdivision (a) shall be deposited into the fund.

(d) The board shall collect the fee and adopt regulations for implementing the fee collection program.

(e) The fee described in this section shall be collected solely for all of the following purposes:

(1) To implement oil spill prevention programs through rules, regulations, leasing policies, guidelines, and inspections and to implement research into prevention and control technology.

(2) To carry out studies that may lead to improved oil spill prevention and response.

(3) To finance environmental and economic studies relating to the effects of oil spills.

(4) To implement, install, and maintain emergency programs, equipment, and facilities to respond to, contain, and clean up oil spills and to ensure that those operations will be carried out as intended.

(5) To respond to an imminent threat of a spill in accordance with the provisions of Section 8670.62 pertaining to threatened discharges. The cumulative amount of an expenditure for this purpose shall not exceed the amount of one hundred thousand dollars ($100,000) in a fiscal year unless the administrator receives the approval of the Director of Finance and notification is given to the Joint Legislative Budget Committee. Commencing with the 1993–94 fiscal year, and each fiscal year thereafter, it is the intent of the Legislature that the annual Budget Act contain an appropriation of one hundred thousand dollars ($100,000) from

the fund for the purpose of allowing the administrator to respond to threatened oil spills.

(6) To reimburse the board for costs incurred to implement this chapter and to carry out Part 24 (commencing with Section 46001) of Division 2 of the Revenue and Taxation Code.

(7) To reimburse the costs incurred by the State Lands Commission in implementing the Oil Transfer and Transportation Emission and Risk Reduction Act of 2002 (Division 7.9 (commencing with Section 8780) of the Public Resources Code).

(8) To cover costs incurred by the Oiled Wildlife Care Network established by Section 8670.37.5 for training and field collection, and search and rescue activities, pursuant to subdivision (g) of Section 8670.37.5.

(f) The moneys deposited in the fund shall not be used for responding to an oil spill.

(g) This section shall become operative on January 1, 2012.

SEC. 64. Section 8670.54 of the Government Code is amended to read:

8670.54. (a) The Oil Spill Technical Advisory Committee, hereafter in this article the committee, is hereby established to provide public input and independent judgment of the actions of the administrator and the State Interagency Oil Spill Committee. The committee shall consist of 10 members, of whom six shall be appointed by the Governor, two by the Speaker of the Assembly, and two by the Senate Rules Committee. The appointments shall be made in the following manner:

(1) The Speaker of the Assembly, and Senate Rules Committee shall each appoint members who shall be representatives of the public.

(2) The Governor shall appoint a member who has a demonstrable knowledge of marine transportation.

(3) The Speaker of the Assembly and the Senate Rules Committee shall each appoint a member who has demonstrable knowledge of environmental protection and the study of ecosystems.

(4) The Governor shall appoint a member who has served as a local government elected official or who has worked for a local government.

(5) The Governor shall appoint a member who has experience in oil spill response and prevention programs.

(6) The Governor shall appoint a member who has been employed in the petroleum industry.

(7) The Governor shall appoint a member who has worked in state government.

(8) The Governor shall appoint a member who has demonstrable knowledge of the dry cargo vessel industry.

(b) The committee shall meet as often as required, but at least twice per year. Members shall be paid one hundred dollars ($100) per day for each meeting and all necessary travel expenses at state per diem rates.

(c) The administrator and any personnel the administrator determines to be appropriate shall serve as staff to the committee.

(d) A chairman and vice chairman shall be elected by a majority vote of the committee.

(e) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 65. Section 8670.54 is added to the Government Code, to read:

8670.54. (a) The Oil Spill Technical Advisory Committee, hereafter in this article the committee, is hereby established to provide public input and independent judgment of the actions of the administrator. The committee shall consist of 10 members, of whom six shall be appointed by the Governor, two by the Speaker of the Assembly, and two by the Senate Rules Committee. The appointments shall be made in the following manner:

(1) The Speaker of the Assembly, and Senate Rules Committee shall each appoint members who shall be representatives of the public.

(2) The Governor shall appoint a member who has a demonstrable knowledge of marine transportation.

(3) The Speaker of the Assembly and the Senate Rules Committee shall each appoint a member who has demonstrable knowledge of environmental protection and the study of ecosystems.

(4) The Governor shall appoint a member who has served as a local government elected official or who has worked for a local government.

(5) The Governor shall appoint a member who has experience in oil spill response and prevention programs.

(6) The Governor shall appoint a member who has been employed in the petroleum industry.

(7) The Governor shall appoint a member who has worked in state government.

(8) The Governor shall appoint a member who has demonstrable knowledge of the dry cargo vessel industry.

(b) The committee shall meet as often as required, but at least twice per year. Members shall be paid one hundred dollars ($100) per day for each meeting and all necessary travel expenses at state per diem rates.

(c) The administrator and any personnel the administrator determines to be appropriate shall serve as staff to the committee.

(d) A chairman and vice chairman shall be elected by a majority vote of the committee.

(e) This section shall become operative on January 1, 2012.

SEC. 66. Section 8670.55 of the Government Code is amended to read:

8670.55. (a) The committee shall provide recommendations to the administrator, the State Lands Commission, the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, and the State Interagency Oil Spill Committee on any provision of this chapter including the promulgation of all rules, regulations, guidelines, and policies.

(b) The committee may, at its own discretion, study, comment on, or evaluate, any aspect of oil spill prevention and response in the state. To the greatest extent possible, these studies shall be coordinated with studies being done by the federal government, the administrator, the State Lands Commission, the State Water Resources Control Board, and other appropriate state and international entities. Duplication with the efforts of other entities shall be minimized.

(c) The committee may attend any drills called pursuant to Section 8601.10 or any oil spills, if practicable.

(d) The committee shall report biennially to the Governor and the Legislature on its evaluation of oil spill response and preparedness programs within the state and may prepare and send any additional reports it determines to be appropriate to the Governor and the Legislature.

(e) On or before August 1, 2005, the committee shall review the Department of Finance report required under Section 8670.42

and prepare and submit to the Governor and the Legislature comments on the report, including, but not limited to, recommendations for improving the state's oil spill prevention, response, and preparedness program.

(f) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 67. Section 8670.55 is added to the Government Code, to read:

8670.55. (a) The committee shall provide recommendations to the administrator, the State Lands Commission, the California Coastal Commission, and the San Francisco Bay Conservation and Development Commission on any provision of this chapter including the promulgation of all rules, regulations, guidelines, and policies.

(b) The committee may, at its own discretion, study, comment on, or evaluate, any aspect of oil spill prevention and response in the state. To the greatest extent possible, these studies shall be coordinated with studies being done by the federal government, the administrator, the State Lands Commission, the State Water Resources Control Board, and other appropriate state and international entities. Duplication with the efforts of other entities shall be minimized.

(c) The committee may attend any drills called pursuant to Section 8601.10 or any oil spills, if practicable.

(d) The committee shall report biennially to the Governor and the Legislature on its evaluation of oil spill response and preparedness programs within the state and may prepare and send any additional reports it determines to be appropriate to the Governor and the Legislature.

(e) On or before August 1, 2005, the committee shall review the Department of Finance report required under Section 8670.42 and prepare and submit to the Governor and the Legislature comments on the report, including, but not limited to, recommendations for improving the state's oil spill prevention, response, and preparedness program.

(f) This section shall become operative on January 1, 2012.

SEC. 68. Section 3401 of the Public Resources Code is amended to read:

3401. The proceeds of charges levied, assessed, and collected pursuant to this article upon the property of a person operating or owning an interest in the production of a well shall be used exclusively for the support and maintenance costs of the department incurred in the supervision of oil and gas operations.

SEC. 69. Section 5007 of the Public Resources Code is amended to read:

5007. (a) The department shall achieve any required budget reductions by closing, partially closing, and reducing services at selected units of the state park system. For purposes of this section, "required budget reductions" means the amount of funds appropriated in the annual Budget Act to the department that is less than the amount necessary to fully operate the 2010 level of 278 units of the state park system. The department shall select the units to be closed based solely on all of the following factors:

(1) The relative statewide significance of each park unit, preserving to the extent possible, parks identified in the department's documents including "Outstanding and Representative Parks," the "California State History Plan," and the "California State Parks Survey of 1928."

(2) The rate of visitation to each unit, to minimize impacts to visitation in the state park system.

(3) (A) The estimated net savings from closing each unit, to maximize savings to the state park system.

(B) For purposes of this subdivision, "net savings" means the estimated costs of operation for the unit less the unit's projected revenues and less the costs of maintaining the unit after it is closed.

(4) The feasibility of physically closing each unit.

(5) The existence of, or potential for, partnerships that can help support each unit, including concessions and both for-profit and nonprofit partners.

(6) Significant operational efficiencies to be gained from closing a unit based on its proximity to other closed units where the units typically share staff and other operating resources.

(7) Significant and costly infrastructure deficiencies affecting key systems at each unit so that continued operation of the unit is less cost effective relative to other units.

(8) Recent or funded infrastructure investments at a unit.

(9) Necessary but unfunded capital investments at a unit.

(10) Deed restrictions and grant requirements applicable to each unit.

(11) The extent to which there are substantial dedicated funds for the support of the unit that are not appropriated from the General Fund.

(b) A public entity or a public employee shall be limited from liability as provided in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code for injury or damage caused by a condition of public property located in, or injury or damage otherwise occurring in, or arising out of an activity in, a unit of the state park system that is designated as closed, partially closed, or subject to service reduction by the department pursuant to subdivision (a).

SEC. 70. Section 8755 of the Public Resources Code is amended to read:

8755. (a) The administrator and the executive officer of the commission shall confer and propose, and the commission shall adopt, rules, regulations, guidelines, and commission leasing policies for reviewing the location, type, character, performance standards, size, and operation of all existing and proposed marine terminals within the state, whether or not on lands leased from the commission, and all other marine facilities on lands under lease from the commission to minimize the possibilities of a discharge of oil. Rules, regulations, and guidelines adopted by the commission shall not conflict with regulations of the administrator or the Coast Guard. The commission shall ensure that the rules, regulations, guidelines, and commission lease covenants provide the best achievable protection of public health and safety and the environment. Any rules, regulations, and guidelines governing the location of a marine terminal on lands under lease from a local government or port district shall not include provisions for review by the commission of any specific location, provided the location chosen or approved by the local government meets standards specified in the rules, regulations, and guidelines.

(b) This section shall not apply to any aboveground oil storage tank located entirely onshore which is subject to inspection programs and regulation under Chapter 6.67 (commencing with Section 25270) of Division 20 of the Health and Safety Code. This section shall include pipelines that are within or part of marine terminals. This section shall not apply to pipelines that are used

exclusively to transport petroleum products and are subject to the jurisdiction of the State Fire Marshal under either state or federal law.

(c) The commission shall consult with the administrator, the State Interagency Oil Spill Committee, and other affected local and federal agencies with respect to the rules, regulations, and guidelines. The consultation with the administrator shall ensure, at a minimum, consistency with the requirements for vessels that the administrator adopts under Section 8670.17 of the Government Code.

(d) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 71. Section 8755 is added to the Public Resources Code, to read:

8755. (a) The administrator and the executive officer of the commission shall confer and propose, and the commission shall adopt, rules, regulations, guidelines, and commission leasing policies for reviewing the location, type, character, performance standards, size, and operation of all existing and proposed marine terminals within the state, whether or not on lands leased from the commission, and all other marine facilities on lands under lease from the commission to minimize the possibilities of a discharge of oil. Rules, regulations, and guidelines adopted by the commission shall not conflict with regulations of the administrator or the Coast Guard. The commission shall ensure that the rules, regulations, guidelines, and commission lease covenants provide the best achievable protection of public health and safety and the environment. Any rules, regulations, and guidelines governing the location of a marine terminal on lands under lease from a local government or port district shall not include provisions for review by the commission of any specific location, provided the location chosen or approved by the local government meets standards specified in the rules, regulations, and guidelines.

(b) This section shall not apply to any aboveground oil storage tank located entirely onshore which is subject to inspection programs and regulation under Chapter 6.67 (commencing with Section 25270) of Division 20 of the Health and Safety Code. This section shall include pipelines that are within or part of marine terminals. This section shall not apply to pipelines that are used

exclusively to transport petroleum products and are subject to the jurisdiction of the State Fire Marshal under either state or federal law.

(c) The commission shall consult with the administrator and other affected local and federal agencies with respect to the rules, regulations, and guidelines. The consultation with the administrator shall ensure, at a minimum, consistency with the requirements for vessels that the administrator adopts under Section 8670.17 of the Government Code.

(d) This section shall become operative on January 1, 2012.

SEC. 72. Section 46026 of the Revenue and Taxation Code is amended to read:

46026. (a) "State Interagency Oil Spill Committee" means the committee established pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7 of Division 1 of Title 2 of the Government Code.

(b) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 73. Section 13628.5 of the Water Code is amended to read:

13628.5. (a) The Wastewater Operator Certification Fund is hereby created in the State Treasury.

(b) All of the following moneys shall be deposited in the Wastewater Operator Certification Fund:

(1) Money appropriated by the Legislature for deposit in the fund.

(2) Fees collected pursuant to this chapter.

(3) Notwithstanding Section 16305.7 of the Government Code, all interest earned upon moneys that are deposited in the fund.

(c) The state board may expend the moneys in the Wastewater Operator Certification Fund, upon appropriation by the Legislature, for purposes of administering this chapter.

SEC. 74. There is hereby appropriated one thousand dollars ($1,000) from the Wastewater Operation Certification Fund to the State Water Resources Control Board for administrative cost.

SEC. 75. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 76. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

Approved _____, 2011

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Governor