

AMENDED IN SENATE MAY 6, 2014
AMENDED IN SENATE APRIL 21, 2014
AMENDED IN SENATE APRIL 2, 2014

SENATE BILL

No. 1319

**Introduced by Senator Pavley
(Coauthors: Senators Lara and Wolk)**

February 21, 2014

An act to amend Sections 8574.4, 8574.7, 8574.8, 8670.2, 8670.3, 8670.5, 8670.7, 8670.8, 8670.8.3, 8670.8.5, 8670.9, 8670.12, 8670.14, 8670.19, 8670.25, 8670.25.5, 8670.26, 8670.28, 8670.29, 8670.30.5, 8670.31, 8670.32, 8670.33, 8670.34, 8670.35, 8670.36, 8670.37, 8670.37.5, 8670.37.51, 8670.37.52, 8670.37.53, 8670.37.55, 8670.37.58, 8670.40, 8670.42, 8670.47.5, 8670.48, 8670.48.3, 8670.49, 8670.50, 8670.51, 8670.53, 8670.54, 8670.55, 8670.56.5, 8670.56.6, 8670.61.5, 8670.62, 8670.64, 8670.66, 8670.67, 8670.67.5, 8670.69.4, and 8670.71 of, to add Sections 8670.32.5, 8670.40.5, 8670.90, and 8670.95 to, and to repeal Section 8670.69.7 of, the Government Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

SB 1319, as amended, Pavley. Oil spills: oil spill prevention and response.

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

directs the Governor to require the administrator to amend, not in conflict with the National Contingency Plan, the California oil spill contingency plan to add a marine oil spill contingency planning section containing specified elements, including an environmentally and ecologically sensitive areas element. Existing law also requires the administrator to adopt and implement regulations governing the adequacy of oil spill contingency plans to be prepared and implemented and requires the regulations to provide for the best achievable protection, as defined, of coastal and marine waters.

This bill would generally expand the act and the administrator's responsibilities relating to oil spills to cover all waters of the state. By expanding the scope of crimes within the act, the bill would impose a state-mandated local program. The bill would direct the Governor to require the administrator to amend the California oil spill contingency plan to provide for the best achievable protection of all state waters, not solely coastal and marine waters, and to submit the plan to the Governor and the Legislature on or before January 1, 2017. The bill would require the regulations to provide for the best achievable protection of all waters and natural resources of the state. The bill would also revise various definitions within that act, and would make other conforming and technical changes.

(2) Existing law, until January 1, 2015, requires the administrator to develop and implement a screening mechanism and a comprehensive risk-based monitoring program for inspecting the bunkering and lightering operations of vessels at anchor and alongside a ~~dock~~, *dock* to ensure that bunkering and lightering operations that pose the highest risk of a pollution incident are identified and are routinely monitored and inspected.

This bill would delete the January 1, 2015, repeal date for these requirements. The bill would require the administrator to develop and implement a screening mechanism and comprehensive risk-based monitoring program for inspecting nonvessel handling and transport of ~~oil~~, *oil* to ensure that those operations that pose the highest risk of a pollution incident are identified and are routinely monitored and inspected.

(3) Existing law requires the administrator to offer grants to a local government with jurisdiction over or directly adjacent to marine waters to provide oil spill response equipment to be deployed.

This bill would instead require the administrator to offer the grants to a local government with jurisdiction over or directly adjacent to state waters.

(4) Existing law requires the administrator, within 5 working days after receipt of a contingency plan, prepared as specified, to send a notice that the plan is available for review to the Oil Spill Technical Advisory Committee.

This bill would instead require the administrator, within 5 working days after receipt of a contingency plan, to post a notice that the plan is available for review. *The bill would require the California Environmental Protection Agency and the Office of Emergency Services to review the plans for facilities and local governments located outside of the coastal zone.*

(5) Existing law requires the administrator to establish a network of rescue and rehabilitation stations for sea birds, sea otters, and marine mammals affected by an oil spill in marine waters.

This bill would instead require the administrator to establish a network of rescue and rehabilitation stations for wildlife injured by oil spills in waters of the state, including sea otters and other marine mammals. The bill would authorize the administrator to establish additional stations or facilities in the interior of the state primarily for the rescue and rehabilitation of wildlife affected by inland spills.

(6) Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to be sufficient to implement specified oil spill prevention activities, but not to exceed \$0.065 per barrel of crude oil or petroleum products and, beginning January 1, 2015, to an amount not to exceed \$0.05, on persons owning crude oil or petroleum products at a marine terminal. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, moneys in the fund are available for specified purposes.

This bill would require the administrator to annually determine the fee in an amount sufficient to pay the reasonable regulatory costs of specified oil spill prevention activities, would delete the provision that reduces the fee beginning on January 1, 2015, and would prohibit the fee from exceeding \$0.065 per barrel of crude oil or petroleum products for the year beginning January 1, 2015, and ending December 31, 2015. The bill would additionally impose this fee on a person owning crude oil at the time the crude oil is received at a refinery, as specified, and

would require every person who operates an oil refinery, marine terminal, or a pipeline to register with the State Board of Equalization.

(7) Existing law imposes a uniform oil spill response fee on specified persons, except specified independent crude oil producers, owning petroleum products during any period that the Oil Spill Response Trust Fund contains less than a designated amount. The money in the fund is continuously appropriated for specified purposes, including, to pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife, as specified.

The bill would delete the fee exception for independent crude oil producers, and would delete the provision authorizing the moneys in the fund to be used to pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife. The bill would authorize moneys in the fund to be used to respond to an imminent threat of a spill. By expanding the purposes of a continuously appropriated fund, the bill would make an appropriation.

(8) Existing law, until June 30, 2014, provides that if a loan or other transfer of money from the Oil Spill Response Trust Fund to the General Fund pursuant to the Budget Act reduces the balance of the fund to less than or equal to 95% of the designated amount, the administrator is not required to collect oil spill response fees if the annual Budget Act requires the transfer or loan to be repaid (A) to the fund with interest calculated at a rate earned by the Pooled Money Investment Account and (B) on or before June 30, 2014.

This bill would extend that date to June 30, 2017, and would provide that these provisions would be repealed on July, 1, 2017.

(9) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act prohibits a person from operating a marine facility, as defined, unless the owner or operator of the marine facility has obtained a certificate of financial responsibility. To receive a certificate of financial responsibility from the administrator for oil spill response, the act requires the owner or operator of a marine facility to make a specified showing of financial resources to the satisfaction of the administrator. The act authorizes the administrator to issue a certificate of financial responsibility on a lesser showing of financial resources for a period of not longer than 3 years if the administrator makes specified findings.

This bill would delete the authorization granted to the administrator to issue a certificate of financial responsibility on a lesser showing of financial resources and would require the administrator to adopt regulations to implement the certification requirements.

(10) Existing law establishes the Oil Spill Technical Advisory Committee to provide public input and independent judgment of the actions of the administrator and requires the committee to provide recommendations to the administrator and other specified state entities. The committee is composed of 10 members.

This bill would increase the number of members from 10 to ~~14~~ 15 and would require the Speaker of the Assembly and the Senate Committee on Rules to each appoint one additional member who has knowledge of environmental protection and the study of ecosystems, and would also require the Governor to appoint one additional member who has knowledge of the railroad ~~industry~~ industry, another with knowledge of the truck transportation industry, and another with knowledge of the oil production industry. The bill would require the committee to monitor and evaluate the modes of transportation of oil into and within the state and the properties of the oil to identify necessary changes in oil spill response and preparedness programs.

(11) This bill would require each railroad intending to transport crude oil into or within the state on at least an annual basis to provide to the administrator with specified information.

(12) 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. The Legislature finds and declares both of the
- 2 following:
- 3 (a) Shifts in how oil is transported to and within the state change
- 4 the accompanying risks and potential locations of oil spills.
- 5 (b) Properties of crude oil transported to and within the state
- 6 prior to refining may change over time and alter the risks posed
- 7 by an oil spill to human and environmental health and safety and
- 8 in responding to an oil spill.
- 9 SEC. 2. Section 8574.4 of the Government Code is amended
- 10 to read:

1 8574.4. State agencies designated to implement the contingency
2 plan shall account for all state expenditures made under the plan
3 with respect to each oil spill. Expenditures accounted for under
4 this section from an oil spill in waters of the state shall be paid
5 from the Oil Spill Response Trust Fund created pursuant to Section
6 8670.46. All other expenditures accounted for under this section
7 shall be paid from the State Water Pollution Cleanup and
8 Abatement Account in the State Water Quality Control Fund
9 provided for in Article 3 (commencing with Section 13440) of
10 Chapter 6 of Division 7 of the Water Code. If the party responsible
11 for the spill is identified, that party shall be liable for the
12 expenditures accounted for under this section, in addition to any
13 other liability that may be provided for by law, in an action brought
14 by the Attorney General. The proceeds from any action for a spill
15 in marine waters shall be paid into the Oil Spill Response Trust
16 Fund.

17 SEC. 3. Section 8574.7 of the Government Code is amended
18 to read:

19 8574.7. The Governor shall require the administrator, not in
20 conflict with the National Contingency Plan, to amend the
21 California oil spill contingency plan to provide for the best
22 achievable protection of waters of the state. "Administrator" for
23 purposes of this section means the administrator appointed by the
24 Governor pursuant to Section 8670.4. The plan shall consist of all
25 of the following elements:

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

35 (b) A regional and local planning element that shall provide the
36 framework for the involvement of regional and local agencies in
37 the state effort to respond to an oil spill, and shall ensure the
38 effective and efficient use of regional and local resources, as
39 appropriate, in all of the following:

40 (1) Traffic and crowd control.

- 1 (2) Firefighting.
- 2 (3) Boating traffic control.
- 3 (4) Radio and communications control and provision of access
- 4 to equipment.

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

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

11 (7) Provision of medical emergency services.

12 (8) Identification, care, and evaluation of public health impacts.

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

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

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

31 (2) Ship position reporting and communications requirements.

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

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

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

39 (6) An expedited decisionmaking process for dispersant use in
40 coastal waters. Prior to adoption of the process, the administrator

1 shall ensure that a comprehensive testing program is carried out
2 for any dispersant proposed for use in California marine waters.
3 The testing program shall evaluate toxicity and effectiveness of
4 the dispersants.

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

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

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

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

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

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

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

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

34 (3) A plan for protection actions required to be taken in the
35 event of an oil spill for each of the environmentally and
36 ecologically sensitive areas and protection priorities for the first
37 24 to 48 hours after an oil spill shall be specified.

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

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

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

8 (e) A reporting element that addresses the requirements for the
9 reporting of oil spills. Spills of any amount of oil to state waters
10 shall be reported.

11 SEC. 4. Section 8574.8 of the Government Code is amended
12 to read:

13 8574.8. (a) The administrator shall submit to the Governor
14 and the Legislature an amended California oil spill contingency
15 plan required, pursuant to Section 8574.7, by January 1, 1993. The
16 administrator shall thereafter submit revised plans every three
17 years, until the amended plan required pursuant to subdivision (b)
18 is submitted.

19 (b) The administrator shall submit to the Governor and the
20 Legislature an amended California oil spill contingency plan
21 required pursuant to Section 8574.7, on or before January 1, 2017,
22 that addresses marine and inland oil spills. The administrator shall
23 thereafter submit revised plans every three years.

24 SEC. 5. Section 8670.2 of the Government Code is amended
25 to read:

26 8670.2. The Legislature finds and declares as follows:

27 (a) Each year, billions of gallons of crude oil and petroleum
28 products are transported by vessel, railroad, truck, or pipeline
29 across and through the waters of this state.

30 (b) Recent accidents in southern California, Alaska, other parts
31 of the nation, and Canada, have shown that transportation of oil
32 can be a significant threat to the environment of sensitive areas
33 and to the public health.

34 (c) Existing prevention programs are not able to reduce
35 sufficiently the risk of significant discharge of petroleum into state
36 waters.

37 (d) Response and cleanup capabilities and technology are unable
38 to remove consistently the majority of spilled oil when major oil
39 spills occur in state waters.

1 (e) California's lakes, rivers, other inland waters, coastal waters,
2 estuaries, bays, and beaches are treasured environmental and
3 economic resources that the state cannot afford to place at undue
4 risk from an oil spill.

5 (f) Because of the inadequacy of existing cleanup and response
6 measures and technology, the emphasis must be put on prevention,
7 if the risk and consequences of oil spills are to be minimized.

8 (g) Improvements in the design, construction, and operation of
9 rail tank cars, tank trucks, tank ships, terminals, and pipelines;
10 improvements in marine safety; maintenance of emergency
11 response stations and personnel; and stronger inspection and
12 enforcement efforts are necessary to reduce the risks of and from
13 a major oil spill.

14 (h) A major oil spill in state waters is extremely expensive
15 because of the need to clean up discharged oil, protect sensitive
16 environmental areas, and restore ecosystem damage.

17 (i) Immediate action must be taken to improve control and
18 cleanup technology in order to strengthen the capabilities and
19 capacities of cleanup operations.

20 (j) California government should improve its response and
21 management of oil spills that occur in state waters.

22 (k) Those who transport oil through or near the waters of the
23 state must meet minimum safety standards and demonstrate
24 financial responsibility.

25 (l) The federal government plays an important role in preventing
26 and responding to petroleum spills and it is in the interests of the
27 state to coordinate with agencies of the federal government,
28 including the Coast Guard, to the greatest degree possible.

29 (m) California has approximately 1,100 miles of coast, including
30 four marine sanctuaries that occupy 88,767 square miles. The
31 weather, topography, and tidal currents in and around California's
32 coastal ports and waterways make vessel navigation challenging.
33 The state's major ports are among the busiest in the world.
34 Approximately 700 million barrels of oil are consumed annually
35 by California, with over 500 million barrels being transported by
36 vessel. The peculiarities of California's maritime coast require
37 special precautionary measures regarding oil pollution.

38 (n) California has approximately 158,500 square miles of interior
39 area where there are approximately 6,800 miles of pipeline used

1 for oil distribution, 5,800 miles of Class I railroad track, and
2 172,100 miles of maintained roads.

3 SEC. 6. Section 8670.3 of the Government Code is amended
4 to read:

5 8670.3. Unless the context requires otherwise, the following
6 definitions shall govern the construction of this chapter:

7 (a) “Administrator” means the administrator for oil spill response
8 appointed by the Governor pursuant to Section 8670.4.

9 (b) (1) “Best achievable protection” means the highest level of
10 protection that can be achieved through both the use of the best
11 achievable technology and those manpower levels, training
12 procedures, and operational methods that provide the greatest
13 degree of protection achievable. The administrator’s determination
14 of which measures provide the best achievable protection shall be
15 guided by the critical need to protect valuable natural resources
16 and state waters, while also considering all of the following:

17 (A) The protection provided by the measure.

18 (B) The technological achievability of the measure.

19 (C) The cost of the measure.

20 (2) The administrator shall not use a cost-benefit or
21 cost-effectiveness analysis or any particular method of analysis in
22 determining which measures provide the best achievable protection.
23 The administrator shall instead, when determining which measures
24 provide best achievable protection, give reasonable consideration
25 to the protection provided by the measures, the technological
26 achievability of the measures, and the cost of the measures when
27 establishing the requirements to provide the best achievable
28 protection for the natural resources of the state.

29 (c) (1) “Best achievable technology” means that technology
30 that provides the greatest degree of protection, taking into
31 consideration both of the following:

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

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

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

- 1 (d) “California oil spill contingency plan” means the California
2 oil spill contingency plan prepared pursuant to Article 3.5
3 (commencing with Section 8574.1) of Chapter 7.
- 4 (e) “Dedicated response resources” means equipment and
5 personnel committed solely to oil spill response, containment, and
6 cleanup that are not used for any other activity that would adversely
7 affect the ability of that equipment and personnel to provide oil
8 spill response services in the timeframes for which the equipment
9 and personnel are rated.
- 10 (f) “Environmentally sensitive area” means an area defined
11 pursuant to the applicable area contingency plans or geographic
12 response plans, as created and revised by the Coast Guard, the
13 United States Environmental Protection Agency, and the
14 administrator.
- 15 (g) (1) “Facility” means any of the following located in state
16 waters or located where an oil spill may impact state waters:
- 17 (A) A building, structure, installation, or equipment used in oil
18 exploration, oil well drilling operations, oil production, oil refining,
19 oil storage, oil gathering, oil processing, oil transfer, oil
20 distribution, or oil transportation.
- 21 (B) A marine terminal.
- 22 (C) A pipeline that transports oil.
- 23 (D) A railroad that transports oil as cargo.
- 24 (E) A drill ship, semisubmersible drilling platform, jack-up type
25 drilling rig, or any other floating or temporary drilling platform.
- 26 (2) “Facility” does not include any of the following:
- 27 (A) A vessel, except a vessel located and used for any purpose
28 described in subparagraph (E) of paragraph (1).
- 29 (B) An owner or operator subject to Chapter 6.67 (commencing
30 with Section 25270) or Chapter 6.75 (commencing with Section
31 25299.10) of Division 20 of the Health and Safety Code.
- 32 (C) Operations on a farm, nursery, logging site, or construction
33 site, not exceeding 20,000 gallons in a single storage tank.
- 34 (D) A small craft refueling dock.
- 35 (h) “Local government” means a chartered or general law city,
36 a chartered or general law county, or a city and county.
- 37 (i) (1) “Marine terminal” means any marine facility used for
38 transferring oil to or from a tank ship or tank barge.

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

4 (j) “Mobile transfer unit” means a vehicle, truck, or trailer,
5 including all connecting hoses and piping, used for the transferring
6 of oil at a location where a discharge could impact waters of the
7 state.

8 (k) “Nondedicated response resources” means those response
9 resources identified by an Oil Spill Response Organization for oil
10 spill response activities that are not dedicated response resources.

11 (l) “Nonpersistent oil” means a petroleum-based oil, such as
12 gasoline or jet fuel, that evaporates relatively quickly and is an oil
13 with hydrocarbon fractions, at least 50 percent of which, by
14 volume, distills at a temperature of 645 degrees Fahrenheit, and
15 at least 95 percent of which, by volume, distills at a temperature
16 of 700 degrees Fahrenheit.

17 (m) “Nontank vessel” means a vessel of 300 *gross* tons or
18 greater that carries oil, but does not carry that oil as cargo.

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

24 (o) “Oil spill cleanup agent” means a chemical, or any other
25 substance, used for removing, dispersing, or otherwise cleaning
26 up oil or any residual products of petroleum in, or on, any of the
27 waters of the state.

28 (p) “Oil spill contingency plan” or “contingency plan” means
29 the oil spill contingency plan required pursuant to Article 5
30 (commencing with Section 8670.28).

31 (q) (1) “Oil Spill Response Organization” or “OSRO” means
32 an individual, organization, association, cooperative, or other entity
33 that provides, or intends to provide, equipment, personnel, supplies,
34 or other services directly related to oil spill containment, cleanup,
35 or removal activities.

36 (2) “OSRO” does not include an owner or operator with an oil
37 spill contingency plan approved by the administrator or an entity
38 that only provides spill management services, or who provides
39 services or equipment that are only ancillary to containment,
40 cleanup, or removal activities.

1 (r) (1) “Owner” or “operator” means any of the following:

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

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

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

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

17 (2) “Owner” or “operator” does not include a person who,
18 without participating in the management of a vessel or facility,
19 holds indicia of ownership primarily to protect the person’s security
20 interest in the vessel or facility.

21 (3) “Operator” does not include a person who owns the land
22 underlying a facility or the facility itself if the person is not
23 involved in the operations of the facility.

24 (s) “Person” means an individual, trust, firm, joint stock
25 company, or corporation, including, but not limited to, a
26 government corporation, partnership, and association. “Person”
27 also includes a city, county, city and county, district, and the state
28 or any department or agency thereof, and the federal government,
29 or any department or agency thereof, to the extent permitted by
30 law.

31 (t) “Pipeline” means a pipeline used at any time to transport oil.

32 (u) “Railroad” means a railroad, railway, rail car, rolling stock,
33 or train.

34 (v) “Rated OSRO” means an OSRO that has received a
35 satisfactory rating from the administrator for a particular rating
36 level established pursuant to Section 8670.30.

37 (w) “Responsible party” or “party responsible” means any of
38 the following:

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

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

4 (x) “Small craft” means a vessel, other than a tank ship or tank
5 barge, that is less than 20 meters in length.

6 (y) “Small craft refueling dock” means a waterside operation
7 that dispenses only nonpersistent oil in bulk and small amounts of
8 persistent lubrication oil in containers primarily to small craft and
9 meets both of the following criteria:

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

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

14 (z) “Small marine fueling facility” means either of the following:

15 (1) A mobile transfer unit.

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

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

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

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

28 (aa) “Spill,” ~~“discharge,”~~ “*discharge*,” or “oil spill” means a
29 release of any amount of oil into waters of the state that is not
30 authorized by a federal, state, or local government entity.

31 (ab) “Tank barge” means a vessel that carries oil in commercial
32 quantities as cargo but is not equipped with a means of
33 self-propulsion.

34 (ac) “Tank ship” means a self-propelled vessel that is
35 constructed or adapted for the carriage of oil in bulk or in
36 commercial quantities as cargo.

37 (ad) “Tank vessel” means a tank ship or tank barge.

38 (ae) “Vessel” means a watercraft or ship of any kind, including
39 every structure adapted to be navigated from place to place for the
40 transportation of merchandise or persons.

1 (af) “Vessel carrying oil as secondary cargo” means a vessel
2 that does not carry oil as a primary cargo, but does carry oil as
3 cargo. The administrator may establish minimum oil volume
4 amounts or other criteria by regulations.

5 (ag) “Waters of the state” or “state waters” means any surface
6 water, including saline waters and marine waters, within the
7 boundaries of the state, but does not include groundwater.

8 SEC. 7. Section 8670.5 of the Government Code is amended
9 to read:

10 8670.5. The Governor shall ensure that the state fully and
11 adequately responds to all oil spills in waters of the state. The
12 administrator, acting at the direction of the Governor, shall
13 implement activities relating to oil spill response, including drills
14 and preparedness and oil spill containment and cleanup. The
15 administrator shall also represent the state in any coordinated
16 response efforts with the federal government.

17 SEC. 8. Section 8670.7 of the Government Code is amended
18 to read:

19 8670.7. (a) The administrator, subject to the Governor, has
20 the primary authority to direct prevention, removal, abatement,
21 response, containment, and cleanup efforts with regard to all
22 aspects of any oil spill in waters of the state, in accordance with
23 any applicable facility or vessel contingency plan and the California
24 oil spill contingency plan. The administrator shall cooperate with
25 any federal on-scene coordinator, as specified in the National
26 Contingency Plan.

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

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

31 (1) Be present at the location of any oil spill of more than
32 100,000 gallons in waters of the state, as soon as possible after
33 notice of the discharge.

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

39 (d) Throughout the response and cleanup process, the
40 administrator shall apprise the air quality management district or

1 air pollution control district having jurisdiction over the area in
2 which the oil spill occurred and the local government entities that
3 are affected by the spill.

4 (e) The administrator, with the assistance, as needed, of the
5 Office of the State Fire Marshal, the State Lands Commission, or
6 other state agency, and the federal on-scene coordinator, shall
7 determine the cause and amount of the discharge.

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

14 (g) (1) The administrator shall conduct workshops, consistent
15 with the intent of this chapter, with the participation of appropriate
16 local, state, and federal agencies, including the State Air Resources
17 Board, air pollution control districts, and air quality management
18 districts, and affected private organizations, on the subject of oil
19 spill response technologies, including in situ burning. The
20 workshops shall review the latest research and findings regarding
21 the efficacy and toxicity of oil spill cleanup agents and other
22 technologies, their potential public health and safety and
23 environmental impacts, and any other relevant factors concerning
24 their use in oil spill response. In conducting these workshops, the
25 administrator shall solicit the views of all participating parties
26 concerning the use of these technologies, with particular attention
27 to any special considerations that apply to coastal areas and waters
28 of the state.

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

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

39 (2) (A) The administrator shall coordinate all actions required
40 by state or local agencies to assess injury to, and provide full

1 mitigation for injury to, or to restore, rehabilitate, or replace, natural
2 resources, including wildlife, fisheries, wildlife or fisheries habitat,
3 beaches, and coastal areas, that are damaged by an oil spill. For
4 purposes of this subparagraph, “actions required by state or local
5 agencies” include, but are not limited to, actions required by state
6 trustees under Section 1006 of the Oil Pollution Act of 1990 (33
7 U.S.C. Sec. 2706) and actions required pursuant to Section
8 8670.61.5.

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

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

18 (i) (1) The administrator shall enter into a memorandum of
19 understanding with the executive director of the State Water
20 Resources Control Board, acting for the State Water Resources
21 Control Board and the California regional water quality control
22 boards, and with the approval of the State Water Resources Control
23 Board, to address discharges, other than dispersants, that are
24 incidental to, or directly associated with, the response, containment,
25 and cleanup of an existing or threatened oil spill conducted
26 pursuant to this chapter.

27 (2) The memorandum of understanding entered into pursuant
28 to paragraph (1) shall address any permits, requirements, or
29 authorizations that are required for the specified discharges. The
30 memorandum of understanding shall be consistent with
31 requirements that protect state water quality and beneficial uses
32 and with any applicable provisions of the Porter-Cologne Water
33 Quality Control Act (Division 7 (commencing with Section 13000)
34 of the Water Code) or the federal Clean Water Act (33 U.S.C. Sec.
35 1251 et seq.), and shall expedite efficient oil spill response.

36 SEC. 9. Section 8670.8 of the Government Code is amended
37 to read:

38 8670.8. (a) The administrator shall carry out programs to
39 provide training for individuals in response, containment, and
40 cleanup operations and equipment, equipment deployment, and

1 the planning and management of these programs. These programs
2 may include training for members of the California Conservation
3 Corps, other response personnel employed by the state, personnel
4 employed by other public entities, personnel from marine facilities,
5 commercial fishermen and other mariners, and interested members
6 of the public. Training may be offered for volunteers.

7 (b) The administrator may offer training to anyone who is
8 required to take part in response and cleanup efforts under the
9 California oil spill contingency plan or under local government
10 contingency plans prepared and approved under this chapter.

11 (c) Upon request by a local government, the administrator shall
12 provide a program for training and certification of a local
13 emergency responder designated as a local spill response manager
14 by a local government with jurisdiction over or directly adjacent
15 to waters of the state.

16 (d) Trained and certified local spill response managers shall
17 participate in all drills upon request of the administrator.

18 (e) As part of the training and certification program, the
19 administrator shall authorize a local spill response manager to train
20 and certify volunteers.

21 (f) In the event of an oil spill, local spill response managers
22 trained and certified pursuant to subdivision (c) shall provide the
23 state onscene coordinator with timely information on activities
24 and resources deployed by local government in response to the oil
25 spill. The local spill response manager shall cooperate with the
26 administrator and respond in a manner consistent with the area
27 contingency plan to the extent possible.

28 (g) Funding for activities undertaken pursuant to subdivisions
29 (a) to (c), inclusive, shall be from the Oil Spill Prevention and
30 Administration Fund created pursuant to Section 8670.38.

31 (h) All training provided by the administrator shall follow the
32 requirements of applicable federal and state occupational safety
33 and health standards adopted by the Occupational Safety and
34 Health Administration of the Department of Labor and the
35 Occupational Safety and Health Standards Board.

36 SEC. 10. Section 8670.8.3 of the Government Code is amended
37 to read:

38 8670.8.3. The administrator shall offer grants to a local
39 government with jurisdiction over or directly adjacent to waters
40 of the state to provide oil spill response equipment to be deployed

1 by a local spill response manager certified pursuant to Section
2 8670.8. The administrator shall request the Legislature to
3 appropriate funds from the Oil Spill Prevention and Administration
4 Fund created pursuant to Section 8670.38 for the purposes of this
5 section.

6 SEC. 11. Section 8670.8.5 of the Government Code is amended
7 to read:

8 8670.8.5. The administrator may use volunteer workers in
9 response, containment, restoration, wildlife rehabilitation, and
10 cleanup efforts for oil spills in waters of the state. The volunteers
11 shall be deemed employees of the state for the purpose of workers'
12 compensation under Article 2 (commencing with Section 3350)
13 of Chapter 2 of Part 1 of Division 4 of the Labor Code. Any
14 payments for workers' compensation pursuant to this section shall
15 be made from the Oil Spill Response Trust Fund created pursuant
16 to Section 8670.46.

17 SEC. 12. Section 8670.9 of the Government Code is amended
18 to read:

19 8670.9. (a) The administrator shall enter into discussions on
20 behalf of the state with the States of Alaska, Hawaii, Oregon, and
21 Washington, for the purpose of developing interstate agreements
22 regarding oil spill prevention and response. The agreements shall
23 address, including, but not limited to, all of the following:

- 24 (1) Coordination of vessel safety and traffic.
- 25 (2) Spill prevention equipment and response required on vessels
26 and at facilities.
- 27 (3) The availability of oil spill response and cleanup equipment
28 and personnel.
- 29 (4) Other matters that may relate to the transport of oil and oil
30 spill prevention, response, and cleanup.

31 (b) The administrator shall coordinate the development of these
32 agreements with the Coast Guard, the Province of British Columbia
33 in Canada, and the Republic of Mexico.

34 SEC. 13. Section 8670.12 of the Government Code is amended
35 to read:

36 8670.12. (a) The administrator shall conduct studies and
37 evaluations necessary for improving oil spill response, containment,
38 and cleanup and oil spill wildlife rehabilitation in waters of the
39 state and oil transportation systems. The administrator may expend
40 moneys from the Oil Spill Prevention and Administration Fund

1 created pursuant to Section 8670.38, enter into consultation
2 agreements, and acquire necessary equipment and services for the
3 purpose of carrying out these studies and evaluations.

4 (b) The administrator shall study the use and effects of
5 dispersants, incineration, bioremediation, and any other methods
6 used to respond to a spill. The study shall periodically be updated
7 to ensure the best achievable protection from the use of those
8 methods. Based upon substantial evidence in the record, the
9 administrator may determine in individual cases that best
10 achievable protection is provided by establishing requirements
11 that provide the greatest degree of protection achievable without
12 imposing costs that significantly outweigh the incremental
13 protection that would otherwise be provided. The studies shall do
14 all of the following:

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

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

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

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

30 (1) Equipment and technology needs.

31 (2) Coordination with private response personnel.

32 (3) Liability and insurance.

33 (4) Compensation.

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

37 SEC. 14. Section 8670.14 of the Government Code is amended
38 to read:

39 8670.14. The administrator shall coordinate the oil spill
40 prevention and response programs and facility, tank vessel, and

1 nontank vessel safety standards of the state with federal programs
2 as appropriate and to the maximum extent possible.

3 SEC. 15. Section 8670.19 of the Government Code is amended
4 to read:

5 8670.19. (a) The administrator shall periodically conduct a
6 comprehensive review of all oil spill contingency plans. The
7 administrator shall do both of the following:

- 8 (1) Segment the coast into appropriate areas as necessary.
- 9 (2) Evaluate the oil spill contingency plans for each area to
10 determine if deficiencies exist in equipment, personnel, training,
11 and any other area determined to be necessary, including those
12 response resources properly authorized for cascading into the area,
13 to ensure the best achievable protection of state waters from oil
14 spills.

15 (b) If the administrator finds that deficiencies exist, the
16 administrator shall, by the process set forth in Section 8670.31,
17 remand any oil spill contingency plans to the originating party
18 with recommendations for amendments necessary to ensure that
19 the waters of the state are protected.

20 SEC. 16. Section 8670.25 of the Government Code is amended
21 to read:

22 8670.25. (a) A person who, without regard to intent or
23 negligence, causes or permits any oil to be discharged in or on the
24 waters of the state shall immediately contain, clean up, and remove
25 the oil in the most effective manner that minimizes environmental
26 damage and in accordance with the applicable contingency plans,
27 unless ordered otherwise by the Coast Guard or the administrator.

28 (b) If there is a spill, an owner or operator shall comply with
29 the applicable oil spill contingency plan approved by the
30 administrator.

31 SEC. 17. Section 8670.25.5 of the Government Code is
32 amended to read:

33 8670.25.5. (a) (1) Without regard to intent or negligence, any
34 party responsible for the discharge or threatened discharge of oil
35 in waters of the state shall report the discharge immediately to the
36 Office of Emergency Services pursuant to Section 25510 of the
37 Health and Safety Code.

38 (2) If the information initially reported pursuant to paragraph
39 (1) was inaccurate or incomplete, or if the quantity of oil discharged
40 has changed, any party responsible for the discharge or threatened

1 discharge of oil in waters of the state shall report the updated
2 information immediately to the Office of Emergency Services
3 pursuant to paragraph (1). The report shall contain the accurate or
4 complete information, or the revised quantity of oil discharged.

5 (b) Immediately upon receiving notification pursuant to
6 subdivision (a), the Office of Emergency Services shall notify the
7 administrator, the State Lands Commission, the California Coastal
8 Commission, the California regional water quality control board
9 having jurisdiction over the location of the discharged oil, and the
10 appropriate local governmental agencies in the area surrounding
11 the discharged oil, and take the actions required by subdivision
12 (d) of Section 8589.7. If the spill has occurred within the
13 jurisdiction of the San Francisco Bay Conservation and
14 Development Commission, the Office of Emergency Services shall
15 notify that commission. Each public agency specified in this
16 subdivision shall adopt an internal protocol over communications
17 regarding the discharge of oil and file the internal protocol with
18 the Office of Emergency Services.

19 (c) The 24-hour emergency telephone number of the Office of
20 Emergency Services shall be posted at every railroad dispatch,
21 pipeline operator control center, marine terminal, at the area of
22 control of every marine facility, and on the bridge of every tankship
23 in marine waters.

24 (d) Except as otherwise provided in this section and Section
25 8589.7, a notification made pursuant to this section shall satisfy
26 any immediate notification requirement contained in any permit
27 issued by a permitting agency.

28 SEC. 18. Section 8670.26 of the Government Code is amended
29 to read:

30 8670.26. Any local or state agency responding to an oil spill
31 shall notify the Office of Emergency Services, if notification is
32 required under Section 8670.25.5, Section 13272 of the Water
33 Code, or any other notification procedure adopted in the California
34 oil spill contingency plan has not occurred.

35 SEC. 19. Section 8670.28 of the Government Code is amended
36 to read:

37 8670.28. (a) The administrator, taking into consideration the
38 facility or vessel contingency plan requirements of the State Lands
39 Commission, *the Office of* the State Fire Marshal, the California
40 Coastal Commission, and other state and federal agencies, shall

1 adopt and implement regulations governing the adequacy of oil
2 spill contingency plans to be prepared and implemented under this
3 article. All regulations shall be developed in consultation with the
4 Oil Spill Technical Advisory Committee, and shall be consistent
5 with the California oil spill contingency plan and not in conflict
6 with the National Contingency Plan. The regulations shall provide
7 for the best achievable protection of waters and natural resources
8 of the state. The regulations shall permit the development,
9 application, and use of an oil spill contingency plan for similar
10 vessels, pipelines, terminals, and facilities within a single company
11 or organization, and across companies and organizations. The
12 regulations shall, at a minimum, ensure all of the following:

13 (1) All areas of state waters are, at all times, protected by
14 prevention, response, containment, and cleanup equipment and
15 operations.

16 (2) Standards set for response, containment, and cleanup
17 equipment and operations are maintained and regularly improved
18 to protect the resources of the state.

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

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

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

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

37 (7) Each facility, as determined by the administrator, conducts
38 a hazard and operability study to identify the hazards associated
39 with the operation of the facility, including the use of the facility
40 by vessels, due to operating error, equipment failure, and external

1 events. For the hazards identified in the hazard and operability
2 studies, the facility shall conduct an offsite consequence analysis
3 ~~which~~ *that*, for the most likely hazards, assumes pessimistic water
4 and air dispersion and other adverse environmental conditions.

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

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

12 (10) Standards for determining a reasonable worst case oil spill.
13 However, for a nontank vessel, the reasonable worst case is a spill
14 of the total volume of the largest fuel tank on the nontank vessel.

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

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

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

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

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

1 SEC. 20. Section 8670.29 of the Government Code is amended
2 to read:

3 8670.29. (a) In accordance with the rules, regulations, and
4 policies established by the administrator pursuant to Section
5 8670.28, an owner or operator of a facility, small marine fueling
6 facility, or mobile transfer unit, or an owner or operator of a tank
7 vessel, nontank vessel, or vessel carrying oil as secondary cargo,
8 while operating in the waters of the state or where a spill could
9 impact waters of the state, shall have an oil spill contingency plan
10 that has been submitted to, and approved by, the administrator
11 pursuant to Section 8670.31. An oil spill contingency plan shall
12 ensure the undertaking of prompt and adequate response and
13 removal action in case of a spill, shall be consistent with the
14 California oil spill contingency plan, and shall not conflict with
15 the National Oil and Hazardous Substances Pollution Contingency
16 Plan (NCP), *Part 300 of Title 40 of the Code of Federal*
17 *Regulations*.

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

20 (1) Be a written document, reviewed for feasibility and
21 executability, and signed by the owner or operator, or ~~their~~ *his or*
22 *her* designee.

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

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

28 (4) Describe the communication plans to be used during a spill,
29 if different from those used by a recognized incident command
30 system.

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

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

40 (7) Identify a qualified individual.

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

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

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

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

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

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

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

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

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

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

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

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

27 (1) Provisions for site security and control.

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

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

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

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

36 (e) Unless in conflict with federal law or regulations, an oil spill
37 contingency plan for a railroad shall also include, but is not limited
38 to, all of the following:

39 (1) A list of the types of train cars that may make up the consist.

1 (2) A list of the types of oil and petroleum products that may
2 be transported.

3 (3) A map of track routes and facilities.

4 (4) A list, description, and map of any prestaged spill response
5 equipment and personnel for deployment of the equipment.

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

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

12 (h) In addition to the regulations adopted pursuant to Section
13 8670.28, the administrator shall adopt regulations and guidelines
14 to implement this section. The regulations and guidelines shall
15 provide for the best achievable protection of waters and natural
16 resources of the state. The administrator may establish additional
17 oil spill contingency plan requirements, including, but not limited
18 to, requirements based on the different geographic regions of the
19 state. All regulations and guidelines shall be developed in
20 consultation with the Oil Spill Technical Advisory Committee.

21 (i) Notwithstanding subdivision (a) and paragraph (6) of
22 subdivision (b), a vessel or facility operating where a spill could
23 impact state waters that are not tidally influenced does not have
24 to identify a rated OSRO in the contingency plan until January 1,
25 2016.

26 SEC. 21. Section 8670.30.5 of the Government Code is
27 amended to read:

28 8670.30.5. (a) The administrator may review each oil spill
29 contingency plan that has been approved pursuant to Section
30 8670.29 to determine whether it complies with Sections 8670.28
31 and 8670.29.

32 (b) If the administrator finds the approved oil spill contingency
33 plan is deficient, the plan shall be returned to the operator with
34 written reasons why the approved plan was found inadequate and,
35 if practicable, suggested modifications or alternatives. The operator
36 shall submit a new or modified plan within 30 days that responds
37 to the deficiencies identified by the administrator.

38 SEC. 22. Section 8670.31 of the Government Code is amended
39 to read:

1 8670.31. (a) Each oil spill contingency plan required under
2 this article shall be submitted to the administrator for review and
3 approval.

4 (b) The administrator shall review each submitted contingency
5 plan to determine whether it complies with the administrator's
6 rules, policies, and regulations adopted pursuant to Section 8670.28
7 and 8670.29. The administrator may issue a preliminary approval
8 pending final approval or disapproval.

9 (c) Each contingency plan submitted shall be approved or
10 disapproved within 30 days after receipt by the administrator. The
11 administrator may approve or disapprove portions of a plan. A
12 plan is not deemed approved until all portions are approved
13 pursuant to this section. The disapproved portion shall be subject
14 to the procedures contained in subdivision (d).

15 (d) If the administrator finds the submitted contingency plan is
16 inadequate under the rules, policies, and regulations of the
17 administrator, the plan shall be returned to the submitter with
18 written reasons why the plan was found inadequate and, if
19 practicable, suggested modifications or alternatives, if appropriate.
20 The submitter shall submit a new or modified plan within 30 days
21 after the earlier plan was returned, responding to the findings and
22 incorporating any suggested modifications. The resubmittal shall
23 be treated as a new submittal and processed according to the
24 provisions of this section, except that the resubmitted plan shall
25 be deemed approved unless the administrator acts pursuant to
26 subdivision (c).

27 (e) The administrator may make inspections and require drills
28 of any oil spill contingency plan that is submitted.

29 (f) After the plan has been approved, it shall be resubmitted
30 every five years thereafter. The administrator may require earlier
31 or more frequent resubmission, if warranted. Circumstances that
32 would require an earlier resubmission include, but are not limited
33 to, changes in regulations, new oil spill response technologies,
34 deficiencies identified in the evaluation conducted pursuant to
35 Section 8670.19, or a need for a different oil spill response because
36 of increased need to protect endangered species habitat. The
37 administrator may deny approval of the resubmitted plan if it is
38 no longer considered adequate according to the adopted rules,
39 regulations, and policies of the administrator at the time of
40 resubmission.

1 (g) Each owner or operator of a tank vessel, nontank vessel
2 carrying oil as a secondary cargo, or facility who is required to
3 file an oil spill response plan or update pursuant to provisions of
4 federal law regulating oil spill response plans shall, upon request
5 of the administrator, for informational purposes only, submit a
6 copy of that plan or update to the administrator at the time that it
7 is approved by the relevant federal agency.

8 SEC. 23. Section 8670.32 of the Government Code is amended
9 to read:

10 8670.32. (a) To reduce the risk of an oil spill as a result of
11 fuel, cargo, and lube oil transfers, the administrator shall develop
12 and implement a screening mechanism and a comprehensive
13 risk-based monitoring program for inspecting the bunkering and
14 lightering operations of vessels at anchor and alongside a dock.
15 This program shall identify those bunkering and lightering
16 operations that pose the highest risk of a pollution incident.

17 (b) The administrator shall ensure that all bunkering and
18 lightering operations that, pursuant to subdivision (a), pose the
19 highest risk of a pollution incident are routinely monitored and
20 inspected. The administrator shall coordinate the monitoring and
21 inspection program with the United States Coast Guard.

22 (c) The administrator shall establish regulations to provide for
23 the best achievable protection during bunkering and lightering
24 operations.

25 SEC. 24. Section 8670.32.5 is added to the Government Code,
26 to read:

27 8670.32.5. (a) To reduce the risk of an oil spill as a result of
28 fuel, cargo, and lube oil transfers during nonvessel transport, the
29 administrator shall develop and implement a screening mechanism
30 and comprehensive risk-based monitoring program for inspecting
31 nonvessel handling and transport of oil. This program shall identify
32 those operations that pose the highest risk of a pollution incident.

33 (b) Pursuant to subdivision (a), the administrator shall ensure
34 that those operations that pose the highest risk of a pollution
35 incident are routinely monitored and inspected. The administrator
36 shall coordinate the monitoring and inspection program with the
37 appropriate regulators, and shall establish regulations to provide
38 the best achievable protection for spills associated with these
39 operations.

1 SEC. 25. Section 8670.33 of the Government Code is amended
2 to read:

3 8670.33. (a) If the operator of a tank ship or tank barge for
4 which a contingency plan has not been approved desires to have
5 the tank ship or tank barge enter waters of the state, the
6 administrator may give approval by telephone or facsimile machine
7 for the entry of the tank ship or tank barge into waters of the state
8 under an approved contingency plan applicable to a terminal or
9 tank ship, if all of the following are met:

10 (1) The terminal or tank ship is the destination of the tank ship
11 or tank barge.

12 (2) The operator of the terminal or the tank ship provides the
13 administrator advance written assurance that the operator assumes
14 all responsibility for the operations of the tank ship or tank barge
15 while it is in waters of the state traveling to or from the terminal.
16 The assurance may be delivered by hand or by mail or may be sent
17 by facsimile machine, followed by delivery of the original.

18 (3) The approved terminal or tank ship contingency plan
19 includes all conditions the administrator requires for the operations
20 of tank ship or tank barges traveling to and from the terminal.

21 (4) The tank ship or tank barge and its operations meet all
22 requirements of the contingency plan for the tank ship or terminal
23 that is the destination of the tank ship or tank barge.

24 (5) The tank ship or tank barge without an approved contingency
25 plan has not entered waters of the state more than once in the
26 12-month period preceding the request made under this section.

27 (b) At all times that a tank ship or tank barge is in waters of the
28 state pursuant to subdivision (a), its operators and all their agents
29 and employees shall operate the vessel in accordance with the
30 applicable operations manual or, if there is an oil spill, in
31 accordance with the directions of the administrator and the
32 applicable contingency plan.

33 SEC. 26. Section 8670.34 of the Government Code is amended
34 to read:

35 8670.34. This article shall not apply to any tank vessel, nontank
36 vessel, or vessel carrying oil as a secondary cargo that enters waters
37 of the state because of imminent danger to the lives of crew
38 members or if entering waters of the state will substantially aid in
39 preventing an oil spill or other harm to public safety or the
40 environment, if the operators of the tank vessel, nontank vessel,

1 or vessel carrying oil as a secondary cargo comply with all of the
2 following:

3 (a) The operators or crew of the tank vessel, nontank vessel, or
4 vessel carrying oil as a secondary cargo comply at all times with
5 all orders and directions given by the administrator, or his or her
6 designee, while the tank vessel, nontank vessel, or vessel carrying
7 oil as a secondary cargo is in waters of the state, unless the orders
8 or directions are contradicted by orders or directions of the Coast
9 Guard.

10 (b) Except for fuel, oil may be transferred to or from the tank
11 vessel, nontank vessel, or vessel carrying oil as a secondary cargo
12 while it is in waters of the state only if permission is obtained for
13 the transfer of oil and one of the following conditions is met:

14 (1) The transfer is necessary for the safety of the crew.

15 (2) The transfer is necessary to prevent harm to public safety
16 or the environment.

17 (3) An oil spill contingency plan is approved or made applicable
18 to the tank vessel, nontank vessel, or vessel carrying oil as a
19 secondary cargo, under subdivision (c).

20 (c) The tank vessel, nontank vessel, or vessel carrying oil as a
21 secondary cargo shall leave the waters of the state as soon as it
22 may do so without imminent risk of harm to the crew, public safety,
23 or the environment, unless an oil spill contingency plan is approved
24 or made applicable to it under this article.

25 SEC. 27. Section 8670.35 of the Government Code is amended
26 to read:

27 8670.35. (a) The administrator, taking into consideration the
28 California oil spill contingency plan, shall promulgate regulations
29 regarding the adequacy of oil spill elements of area plans required
30 pursuant to Section 25503 of the Health and Safety Code. In
31 developing the regulations, the administrator shall consult with
32 the Oil Spill Technical Advisory Committee.

33 (b) The administrator may offer, to a unified program agency
34 with jurisdiction over or directly adjacent to waters of the state, a
35 grant to complete, update, or revise an oil spill element of the area
36 plan.

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

1 (d) Each oil spill element prepared under this section shall be
2 consistent with the local government’s local coastal program as
3 certified under Section 30500 of the Public Resources Code, the
4 California oil spill contingency plan, and the National Contingency
5 Plan.

6 (e) If a grant is awarded, the administrator shall review and
7 approve each oil spill element established pursuant to this section.
8 If, upon review, the administrator determines that the oil spill
9 element is inadequate, the administrator shall return it to the agency
10 that prepared it, specifying the nature and extent of the
11 inadequacies, and, if practicable, suggesting modifications. The
12 unified program agency shall submit a new or modified element
13 within 90 days after the element was returned, responding to the
14 findings and incorporating any suggested modifications.

15 (f) The administrator shall periodically review the preparedness
16 of unified program agencies to determine whether a program of
17 grants for completing oil spill elements is desirable and should be
18 continued. If the administrator determines that local government
19 preparedness should be improved, the administrator shall request
20 the Legislature to appropriate funds from the Oil Spill Prevention
21 and Administration Fund for the purposes of this section. Beginning
22 January 1, 2015, the administrator shall perform this review no
23 less often than every five years and the administrator’s
24 determination shall be reported to the Legislature, consistent with
25 Section 9795, and made public.

26 SEC. 28. Section 8670.36 of the Government Code is amended
27 to read:

28 8670.36. The administrator shall, within five working days
29 after receipt of a contingency plan prepared pursuant to Section
30 8670.28 or 8670.35, post a notice that the plan is available for
31 review. The administrator shall send a copy of the plan within two
32 working days after receiving a request from the Oil Spill Technical
33 Advisory Committee. The State Lands Commission and the
34 California Coastal Commission shall review the plans for facilities
35 or local governments within the coastal zone. The San Francisco
36 Bay Conservation and Development Commission shall review the
37 plans for facilities or local governments within the area described
38 in Sections 66610 and 29101 of the Public Resources Code. *The*
39 *California Environmental Protection Agency and the Office of*
40 *Emergency Services shall review the plans for facilities or local*

1 *governments located outside of the coastal zone.* Any state agency
2 or committee that comments shall submit its comments to the
3 administrator within 15 days of receipt of the plan. The
4 administrator shall consider all comments.

5 SEC. 29. Section 8670.37 of the Government Code is amended
6 to read:

7 8670.37. (a) The administrator, with the assistance of the State
8 Lands Commission, the California Coastal Commission, the
9 Executive Director of the San Francisco Bay Conservation and
10 Development Commission, or other appropriate agency, shall carry
11 out studies with regard to improvements to contingency planning
12 and oil spill response equipment and operations.

13 (b) To the greatest extent possible, these studies shall be
14 coordinated with studies being done by the federal government,
15 and other appropriate state and international entities, and
16 duplication with the efforts of other entities shall be minimized.

17 (c) The administrator, the State Lands Commission, the
18 California Coastal Commission, and the ~~Executive Director~~
19 *executive director* of the San Francisco Bay Conservation and
20 Development Commission, or other appropriate agency, may be
21 reimbursed for all costs incurred in carrying out the studies under
22 this section from the Oil Spill Prevention and Administration Fund.

23 SEC. 30. Section 8670.37.5 of the Government Code is
24 amended to read:

25 8670.37.5. (a) The administrator shall establish a network of
26 rescue and rehabilitation stations for wildlife injured by oil spills,
27 including sea otters and other marine mammals. In addition to
28 rehabilitative care, the primary focus of the Oiled Wildlife Care
29 Network shall include proactive oiled wildlife search and collection
30 rescue efforts. These facilities shall be established and maintained
31 in a state of preparedness to provide the best achievable treatment
32 for wildlife, ~~mammals~~ *mammals*, and birds affected by an oil spill
33 in waters of the state. The administrator shall consider all feasible
34 management alternatives for operation of the network.

35 (b) (1) The first rescue and rehabilitation station established
36 pursuant to this section shall be located within the sea otter range
37 on the central coast. The administrator shall establish regional
38 oiled wildlife rescue and rehabilitation facilities in the Los Angeles
39 Harbor area, the San Francisco Bay area, the San Diego area, the
40 Monterey Bay area, the Humboldt County area, and the Santa

1 Barbara area, and may establish those facilities in other areas of
2 the state as the administrator determines to be necessary. One or
3 more of the oiled wildlife rescue and rehabilitation stations shall
4 be open to the public for educational purposes and shall be
5 available for marine wildlife health research. Wherever possible
6 in the establishment of these facilities, the administrator shall
7 improve existing authorized mammal rehabilitation facilities and
8 may expand or take advantage of existing educational or scientific
9 programs and institutions for oiled wildlife rehabilitation purposes.
10 Expenditures shall be reviewed by the agencies and organizations
11 specified in subdivision (c).

12 (2) The administrator may also establish additional stations or
13 facilities in the interior of the state primarily for the rescue and
14 rehabilitation of wildlife affected by inland spills.

15 (c) The administrator shall consult with the United States Fish
16 and Wildlife Service, the National Marine Fisheries Service, the
17 California Coastal Commission, the ~~Executive Director~~ *executive*
18 *director* of the San Francisco Bay Conservation and Development
19 Commission, the Marine Mammal Center, and ~~the~~ International
20 Bird Rescue ~~Center~~ in the design, planning, construction, and
21 operation of the rescue and rehabilitation stations. All proposals
22 for the rescue and rehabilitation stations shall be presented before
23 a public hearing prior to the construction and operation of any
24 rehabilitation station, and, upon completion of the coastal
25 protection element of the California oil spill contingency plan,
26 shall be consistent with the coastal protection element.

27 (d) The administrator may enter into agreements with nonprofit
28 organizations to establish and equip wildlife rescue and
29 rehabilitation stations and to ensure that they are operated in a
30 professional manner in keeping with the pertinent guidance
31 documents issued by the administrator. The implementation of the
32 agreement shall not constitute a California public works project.
33 The agreement shall be deemed a contract for wildlife rehabilitation
34 as authorized by Section 8670.61.5.

35 (e) In the event of a spill, the responsible party may request that
36 the administrator perform the rescue and rehabilitation of oiled
37 wildlife required of the responsible party pursuant to this chapter
38 if the responsible party and the administrator enter into an
39 agreement for the reimbursement of the administrator's costs
40 incurred in taking the requested action. If the administrator

1 performs the rescue and rehabilitation of oiled wildlife, the
2 administrator shall primarily utilize the network of rescue and
3 rehabilitation stations established pursuant to subdivision (a),
4 unless more immediate care is required. Any of those activities
5 conducted pursuant to this section or Section 8670.56.5 or
6 8670.61.5 shall be performed under the direction of the
7 administrator. This subdivision does not remove the responsible
8 party from liability for the costs of, ~~nor~~ or the responsibility for,
9 the rescue and rehabilitation of oiled wildlife, as established by
10 this chapter. This subdivision does not prohibit an owner or
11 operator from retaining, in a contingency plan prepared pursuant
12 to this article, wildlife rescue and rehabilitation services different
13 from the rescue and rehabilitation stations established pursuant to
14 this section.

15 (f) (1) The administrator shall appoint a rescue and
16 rehabilitation advisory board to advise the administrator regarding
17 operation of the network of rescue and rehabilitation stations
18 established pursuant to subdivision (a), including the economic
19 operation and maintenance of the network. For the purpose of
20 assisting the administrator in determining what constitutes the best
21 achievable treatment for oiled wildlife, the advisory board shall
22 provide recommendations to the administrator on the care achieved
23 by current standard treatment methods, new or alternative treatment
24 methods, the costs of treatment methods, and any other information
25 that the advisory board believes that the administrator might find
26 useful in making that determination. The administrator shall consult
27 with the advisory board in preparing the administrator's submission
28 to the Legislature pursuant to subdivision (a) of Section 8670.40.5.
29 The administrator shall present the recommendations of the
30 advisory board to the Oil Spill Technical Advisory Committee
31 created pursuant to Article 8 (commencing with Section 8670.54),
32 upon the request of the committee.

33 (2) The advisory board shall consist of a balance between
34 representatives of the oil industry, wildlife rehabilitation
35 organizations, and academia. One academic representative shall
36 be from a veterinary school within this state. The United States
37 Fish and Wildlife Service and the National Marine Fisheries
38 Service shall be requested to participate as ex officio members.

39 (3) (A) The Legislature hereby finds and declares that since
40 the administrator may rely on the expertise provided by the

1 volunteer members of the advisory board and may be guided by
2 their recommendations in making decisions that relate to the
3 operation of the network of rescue and rehabilitation stations, those
4 members should be entitled to the same immunity from liability
5 that is provided other public employees.

6 (B) Members of the advisory board, while performing functions
7 within the scope of advisory board duties, shall be entitled to the
8 same rights and immunities granted public employees by Article
9 3 (commencing with Section 820) of Chapter 1 of Part 2 of
10 Division 3.6 of Title 1. Those rights and immunities are deemed
11 to have attached, and shall attach, as of the date of appointment
12 of the member to the advisory board.

13 (g) The administrator shall ensure the state's ability to prevent
14 the contamination of wildlife and to identify, collect, rescue, and
15 treat oiled wildlife through all of the following:

16 (1) Providing for the recruitment and training of an adequate
17 network of wildlife specialists and volunteers from Oiled Wildlife
18 Care Network participant organizations who can be called into
19 immediate action in the event of an oil spill to assist in the field
20 with collection of live oiled wildlife. The training shall include a
21 process for certification of trained volunteers and renewal of
22 certifications. The initial wildlife rescue training shall include field
23 experience in species identification and appropriate field collection
24 techniques for species at risk in different spills. In addition to
25 training in wildlife rescue, the administrator shall provide for
26 appropriate hazardous materials training for new volunteers and
27 contract personnel, with refresher courses offered as necessary to
28 allow for continual readiness of search and collection teams.
29 Moneys in the Oil Spill Prevention and Administration Fund shall
30 not be used to reimburse volunteers for time or travel associated
31 with required training.

32 (2) Developing and implementing a plan for the provision of
33 emergency equipment for wildlife rescue in strategic locations to
34 facilitate ready deployment in the case of an oil spill. The
35 administrator shall ensure that the equipment identified as
36 necessary in his or her wildlife response plan is available and
37 deployed in a timely manner to assist in providing the best
38 achievable protection and collection efforts.

39 (3) Developing the capacity of the Oiled Wildlife Care Network
40 to recruit and train an adequate field team for collection of live

1 oiled wildlife, as specified in paragraph (1), by providing staffing
 2 for field operations, coordination, and volunteer outreach for the
 3 Oiled Wildlife Care Network. The duties of the field operations
 4 and volunteer outreach staff shall include recruitment and
 5 coordination of additional participation in the Oiled Wildlife Care
 6 Network by other existing organizations with experience and
 7 expertise in wildlife rescue and handling, including scientific
 8 organizations, educational institutions, public agencies, and
 9 nonprofit organizations dedicated to wildlife conservation, and
 10 recruitment, training, and supervision of volunteers from Oiled
 11 Wildlife Care Network participating organizations.

12 (4) Ensuring that qualified persons with experience and expertise
 13 in wildlife rescue are assigned to oversee and supervise wildlife
 14 recovery search and collection efforts, as specified in the
 15 administrator’s wildlife response plan. The administrator shall
 16 provide for and ensure that all persons involved in field collection
 17 of oiled wildlife receive training in search and capture techniques
 18 and hazardous materials certification, as appropriate.

19 SEC. 31. Section 8670.37.51 of the Government Code is
 20 amended to read:

21 8670.37.51. (a) A tank vessel or vessel carrying oil as a
 22 secondary cargo shall not be used to transport oil across waters of
 23 the state unless the owner or operator has applied for and obtained
 24 a certificate of financial responsibility issued by the administrator
 25 for that vessel or for the owner of all of the oil contained in and
 26 to be transferred to or from that vessel.

27 (b) An operator of a marine terminal within the state shall not
 28 transfer oil to or from a tank vessel or vessel carrying oil as a
 29 secondary cargo unless the operator of the marine terminal has
 30 received a copy of a certificate of financial responsibility issued
 31 by the administrator for the operator of that vessel or for all of the
 32 oil contained in and to be transferred to or from that vessel.

33 (c) An operator of a marine terminal within the state shall not
 34 transfer oil to or from any vessel that is or is intended to be used
 35 for transporting oil as cargo to or from a second vessel unless the
 36 operator of the marine terminal has first received a copy of a
 37 certificate of financial responsibility issued by the administrator
 38 for the person responsible for both the first and second vessels or
 39 all of the oil contained in both vessels, as well as all the oil to be
 40 transferred to or from both vessels.

1 (d) A person shall not operate a facility unless the owner or
2 operator of the facility has first obtained a certificate of financial
3 responsibility from the administrator for the facility.

4 SEC. 32. Section 8670.37.52 of the Government Code is
5 amended to read:

6 8670.37.52. The certificate of financial responsibility shall be
7 conclusive evidence that the person or entity holding the certificate
8 is the party responsible for the specified vessel, facility, or oil for
9 purposes of determining liability pursuant to this chapter.

10 SEC. 33. Section 8670.37.53 of the Government Code is
11 amended to read:

12 8670.37.53. (a) To receive a certificate of financial
13 responsibility for a tank vessel or for all of the oil contained within
14 the tank vessel, the applicant shall demonstrate to the satisfaction
15 of the administrator the financial ability to pay at least one billion
16 dollars (\$1,000,000,000) for any damages that may arise during
17 the term of the certificate.

18 (b) The administrator may establish a lower standard of financial
19 responsibility for small tank barges, vessels carrying oil as a
20 secondary cargo, and small marine fueling facilities. The standard
21 shall be based on the quantity of oil that can be carried or stored
22 and the risk of spill into waters of the state. The administrator shall
23 not set a standard that is less than the expected costs from a
24 reasonable worst case oil spill into waters of the state.

25 (c) (1) To receive a certificate of financial responsibility for a
26 facility, the applicant shall demonstrate to the satisfaction of the
27 administrator the financial ability to pay for any damages that
28 might arise during a reasonable worst case oil spill into waters of
29 the state that results from the operations of the facility. The
30 administrator shall consider criteria including, but not necessarily
31 limited to, the amount of oil that could be spilled into waters of
32 the state from the facility, the cost of cleaning up spilled oil, the
33 frequency of operations at the facility, and the damages that could
34 result from a spill.

35 (2) The administrator shall adopt regulations to implement this
36 section.

37 SEC. 34. Section 8670.37.55 of the Government Code is
38 amended to read:

39 8670.37.55. (a) An owner or operator of more than one tank
40 vessel, vessel carrying oil as a secondary cargo, nontank vessel,

1 or facility shall only be required to obtain one certificate of
2 financial responsibility for all of those vessels and facilities owned
3 or operated.

4 (b) If a person holds a certificate for more than one tank vessel,
5 vessel carrying oil as a secondary cargo, nontank vessel, or facility
6 and a spill or spills occurs from one or more of those vessels or
7 facilities for which the owner or operator may be liable for damages
8 in an amount exceeding 5 percent of the financial resources
9 reflected by the certificate, as determined by the administrator, the
10 certificate shall immediately be considered inapplicable to any
11 vessel or facility not associated with the spill. In that event, the
12 owner or operator shall demonstrate to the satisfaction of the
13 administrator the amount of financial ability required pursuant to
14 this article, as well as the financial ability to pay all damages that
15 arise or have arisen from the spill or spills that have occurred.

16 SEC. 35. Section 8670.37.58 of the Government Code is
17 amended to read:

18 8670.37.58. (a) A nontank vessel shall not enter waters of the
19 state unless the nontank vessel owner or operator has provided to
20 the administrator evidence of financial responsibility that
21 demonstrates, to the administrator's satisfaction, the ability to pay
22 at least three hundred million dollars (\$300,000,000) to cover
23 damages caused by a spill, and the owner or operator of the nontank
24 vessel has obtained a certificate of financial responsibility from
25 the administrator for the nontank vessel.

26 (b) Notwithstanding subdivision (a), the administrator may
27 establish a lower standard of financial responsibility for a nontank
28 vessel that has a carrying capacity of 6,500 barrels of oil or less,
29 or for a nontank vessel that is owned and operated by California
30 or a federal agency and has a carrying capacity of 7,500 barrels of
31 oil or less. The standard shall be based upon the quantity of oil
32 that can be carried by the nontank vessel and the risk of an oil spill
33 into waters of the state. The administrator shall not set a standard
34 that is less than the expected cleanup costs and damages from an
35 oil spill into waters of the state.

36 (c) The administrator may adopt regulations to implement this
37 section.

38 SEC. 36. Section 8670.40 of the Government Code is amended
39 to read:

1 8670.40. (a) The State Board of Equalization shall collect a
2 fee in an amount annually determined by the administrator to be
3 sufficient to pay the reasonable regulatory costs to carry out the
4 purposes set forth in subdivision (e), and a reasonable reserve for
5 contingencies. The annual assessment for the year beginning
6 January 1, 2015, and ending December 1, 2015, shall not exceed
7 six and one-half cents (\$0.065) per barrel of crude oil or petroleum
8 products.

9 (b) (1) The oil spill prevention and administration fee shall be
10 based on each barrel of crude oil or petroleum products received
11 at a marine terminal, and shall be imposed upon a person owning
12 crude oil at the time that *the* crude oil is received at a marine
13 terminal by any mode of delivery, from within or outside the state,
14 and upon a person who owns petroleum products at the time that
15 those petroleum products are received at a marine terminal, by any
16 mode of delivery, from outside this state. The fee shall be collected
17 by the marine terminal operator from the owner of the crude oil
18 or petroleum products.

19 (2) An operator of a pipeline shall pay the oil spill prevention
20 and administration fee for each barrel of crude oil originating from
21 a production facility in waters of the state and transported in the
22 state by means of a pipeline operating across, under, or through
23 the waters of the state.

24 (3) The oil spill prevention and administration fee shall be
25 imposed upon a person owning crude oil at the time the crude oil
26 is received at a refinery within the state by any method of transport,
27 whether from within or outside the state. The refinery shall collect
28 the fee from the owner of the crude oil, for each barrel received.

29 (4) The fees shall be remitted to the ~~board~~ *State Board of*
30 *Equalization* by the owner of the oil, the refinery, the terminal, or
31 pipeline operator on the 25th day of the month based upon the
32 number of barrels of crude oil or petroleum products received at
33 a refinery or marine terminal, or transported by pipeline, during
34 the preceding month. A fee shall not be imposed pursuant to this
35 section with respect to crude oil or petroleum products if the person
36 who would be liable for that fee, or responsible for its collection,
37 establishes that the fee has been collected by a refinery or terminal
38 operator registered under this chapter or paid to the ~~board~~ *State*
39 *Board of Equalization* with respect to the crude oil or petroleum
40 product.

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

6 (6) On or before January 20, the administrator shall annually
7 prepare a plan that projects revenues and expenses over three fiscal
8 years, including the current year. Based on the plan, the
9 administrator shall set the fee so that projected revenues, including
10 any interest, are equivalent to expenses as reflected in the current
11 Budget Act and in the proposed budget submitted by the Governor.
12 In setting the fee, the administrator may allow for a surplus if the
13 administrator finds that revenues will be exhausted during the
14 period covered by the plan or that the surplus is necessary to cover
15 possible contingencies. The administrator shall notify the ~~board~~
16 *State Board of Equalization* of the adjusted fee rate, which shall
17 be rounded to no more than four decimal places, to be effective
18 the first day of the month beginning not less than 30 days from
19 the date of the notification.

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

22 (d) The ~~board~~ *State Board of Equalization* shall collect the fee
23 and adopt regulations for implementing the fee collection program.

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

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

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

31 (3) To finance public health, environmental, and economic
32 studies relating to the effects of oil spills.

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

37 (5) To reimburse the ~~board~~ *State Board of Equalization* for costs
38 incurred to implement this chapter and to carry out Part 24
39 (commencing with Section 46001) of Division 2 of the Revenue
40 and Taxation Code.

1 (6) To fund the Oiled Wildlife Care Network pursuant to Section
2 8670.40.5.

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

5 (g) The moneys deposited in the fund shall not be used to
6 provide a loan to any other fund.

7 (h) Every person who operates an oil refinery, marine terminal,
8 or a pipeline, shall register with the State Board of Equalization,
9 pursuant to Section 46101 of the Revenue and Taxation Code.

10 SEC. 37. Section 8670.40.5 is added to the Government Code,
11 to read:

12 8670.40.5. (a) For each fiscal year, consistent with this article,
13 the administrator shall submit, as a proposed appropriation in the
14 Governor's Budget, an amount up to two million five hundred
15 thousand dollars (\$2,500,000) for the purpose of equipping,
16 operating, and maintaining the network of oiled wildlife rescue
17 and rehabilitation stations and proactive oiled wildlife search and
18 collection rescue efforts established pursuant to Section 8670.37.5
19 and for *the* support of technology development and research related
20 to oiled wildlife care.

21 (b) The administrator shall report to the Legislature upon
22 request, on the progress and effectiveness of the network of oiled
23 wildlife rescue and rehabilitation stations established pursuant to
24 Section ~~8670.37.5~~, 8670.37.5 and the adequacy of the Oil Spill
25 Prevention and Administration Fund to meet the purposes for
26 which the network was established.

27 (c) At the administrator's request, the funds made available
28 pursuant to this section may be directly appropriated to a suitable
29 program for wildlife health and rehabilitation within a school of
30 veterinary medicine within this state, if an agreement exists,
31 consistent with this chapter, between the administrator and an
32 appropriate representative of the program for carrying out that
33 purpose. The administrator shall attempt to have an agreement in
34 place at all times. The agreement shall ensure that the training of,
35 and the care provided by, the program staff are at levels that are
36 consistent with those standards generally accepted within the
37 veterinary profession.

38 (d) The funds made available pursuant to this section shall not
39 be considered an offset to any other state funds appropriated to
40 the program, the program's associated school of veterinary

1 medicine, or the program's associated college or university, and
2 the funds shall not be used for any other purpose. If an offset does
3 occur or the funds are used for an unintended purpose, the
4 administrator may terminate expenditure of any funds appropriated
5 pursuant to this section and the administrator may request a
6 reappropriation to accomplish the intended purpose. The
7 administrator shall annually review and approve the proposed uses
8 of any funds made available pursuant to this section.

9 SEC. 38. Section 8670.42 of the Government Code is amended
10 to read:

11 8670.42. (a) The administrator and the State Lands
12 Commission, independently, shall contract with the Department
13 of Finance for the preparation of a detailed report that shall be
14 submitted on or before January 1, 2013, and no less than once
15 every four years thereafter, to the Governor and the Legislature
16 on the financial basis and programmatic effectiveness of the state's
17 oil spill prevention, response, and preparedness program. This
18 report shall include an analysis of all of the oil spill prevention,
19 response, and preparedness program's major expenditures, fees
20 and fines collected, staffing and equipment levels, spills responded
21 to, and other relevant issues. The report shall recommend measures
22 to improve the efficiency and effectiveness of the state's oil spill
23 prevention, response, and preparedness program, including, but
24 not limited to, measures to modify existing contingency plan
25 requirements, to improve protection of sensitive shoreline sites,
26 and to ensure adequate and equitable funding for the state's oil
27 spill prevention, response, and preparedness program.

28 (b) A report to be submitted pursuant to subdivision (a) shall
29 be submitted in compliance with Section 9795.

30 SEC. 39. Section 8670.47.5 of the Government Code is
31 amended to read:

32 8670.47.5. The following shall be deposited into the fund:

33 (a) The fee required pursuant to Section 8670.48.

34 (b) Any federal funds received to pay for response, containment,
35 abatement, and rehabilitation costs from an oil spill in waters of
36 the state.

37 (c) Any money borrowed by the Treasurer pursuant to Article
38 7.5 (commencing with Section 8670.53.1) or any draw on the
39 financial security obtained by the Treasurer pursuant to subdivision
40 (o) of Section 8670.48.

1 (d) Any interest earned on the moneys in the fund.

2 (e) Any costs recovered from responsible parties pursuant to
3 Section 8670.53 and subdivision (e) of Section 8670.53.1.

4 SEC. 40. Section 8670.48 of the Government Code is amended
5 to read:

6 8670.48. (a) (1) A uniform oil spill response fee in an amount
7 not exceeding twenty-five cents (\$0.25) for each barrel of
8 petroleum products, as set by the administrator pursuant to
9 subdivision (f), shall be imposed upon a person who owns
10 petroleum products at the time the petroleum products are received
11 at a marine terminal within this state by means of a vessel from a
12 point of origin outside this state. The fee shall be collected by the
13 marine terminal and remitted to the State Board of Equalization
14 by the terminal operator on the 25th day of each month based upon
15 the number of barrels of petroleum products received during the
16 preceding month.

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

21 (b) An operator of a pipeline shall also pay a uniform oil spill
22 response fee in an amount not exceeding twenty-five cents (\$0.25)
23 for each barrel of petroleum products, as set by the administrator
24 pursuant to subdivision (f), transported into the state by means of
25 a pipeline operating across, under, or through the waters of the
26 state. The fee shall be paid on the 25th day of each month based
27 upon the number of barrels of petroleum products so transported
28 into the state during the preceding month.

29 (c) An operator of a refinery shall pay a uniform oil spill
30 response fee in an amount not exceeding twenty-five cents (\$0.25)
31 for each barrel of crude oil, as set by the administrator pursuant
32 to subdivision (f), received at a refinery within the state by any
33 method of transport. The fee shall be paid on the 25th day of each
34 month based upon the number of barrels of crude oil so received
35 during the preceding month.

36 (d) A marine terminal operator shall pay a uniform oil spill
37 response fee in an amount not exceeding twenty-five cents (\$0.25),
38 in accordance with subdivision (g), for each barrel of crude oil, as
39 set by the administrator pursuant to subdivision (f), that is

1 transported from within this state by means of a vessel to a
2 destination outside this state.

3 (e) An operator of a pipeline shall pay a uniform oil spill
4 response fee in an amount not exceeding twenty-five cents (\$0.25),
5 in accordance with subdivision (g), for each barrel of crude oil, as
6 set by the administrator pursuant to subdivision (f), transported
7 out of the state by pipeline.

8 (f) (1) The fees required pursuant to this section shall be
9 collected during any period for which the administrator determines
10 that collection is necessary for any of the following reasons:

11 (A) The amount in the fund is less than or equal to 95 percent
12 of the designated amount specified in subdivision (a) of Section
13 46012 of the Revenue and Taxation Code.

14 (B) Additional money is required to pay for the purposes
15 specified in subdivision (k).

16 (C) The revenue is necessary to repay a draw on a financial
17 security obtained by the Treasurer pursuant to subdivision (o) or
18 borrowing by the Treasurer pursuant to Article 7.5 (commencing
19 with Section 8670.53.1) including any principal, interest, premium,
20 fees, charges, or costs of any kind incurred in connection with
21 those borrowings or financial security.

22 (2) The administrator, in consultation with the State Board of
23 Equalization, and with the approval of the Treasurer, may direct
24 the State Board of Equalization to cease collecting the fee when
25 the administrator determines that further collection of the fee is
26 not necessary for the purposes specified in paragraph (1).

27 (3) The administrator, in consultation with the State Board of
28 Equalization, shall set the amount of the oil spill response fees.
29 The oil spill response fees shall be imposed on all feepayers in the
30 same amount. The administrator shall not set the amount of the
31 fee at less than twenty-five cents (\$0.25) for each barrel of
32 petroleum products or crude oil, unless the administrator finds that
33 the assessment of a lesser fee will cause the fund to reach the
34 designated amount specified in subdivision (a) of Section 46012
35 of the Revenue and Taxation Code within four months. The fee
36 shall not be less than twenty-five cents (\$0.25) for each barrel of
37 petroleum products or crude oil if the administrator has drawn
38 upon the financial security obtained by the Treasurer pursuant to
39 subdivision (o) or if the Treasurer has borrowed money pursuant
40 to Article 7.5 (commencing with Section 8670.53.1) and principal,

1 interest, premium, fees, charges, or costs of any kind incurred in
2 connection with those borrowings remain outstanding or unpaid,
3 unless the Treasurer has certified to the administrator that the
4 money in the fund is not necessary for the purposes specified in
5 paragraph (1).

6 (g) The fees imposed by subdivisions (d) and (e) shall be
7 imposed in any calendar year beginning the month following the
8 month when the total cumulative year-to-date barrels of crude oil
9 transported outside the state by all feepayers by means of vessel
10 or pipeline exceed 6 percent by volume of the total barrels of crude
11 oil and petroleum products subject to oil spill response fees under
12 subdivisions (a), (b), and (c) for the prior calendar year.

13 (h) For purposes of this chapter, “designated amount” means
14 the amounts specified in Section 46012 of the Revenue and
15 Taxation Code.

16 (i) The administrator, in consultation with the State Board of
17 Equalization and with the approval of the Treasurer, shall authorize
18 refunds of any money collected that is not necessary for the
19 purposes specified in paragraph (1) of subdivision (f). The State
20 Board of Equalization, as directed by the administrator, and in
21 accordance with Section 46653 of the Revenue and Taxation Code,
22 shall refund the excess amount of fees collected to each feepayer
23 who paid the fee to the state, in proportion to the amount that each
24 feepayer paid into the fund during the preceding 12 monthly
25 reporting periods in which there was a fee due, including the month
26 in which the fund exceeded the specified amount. If the total
27 amount of money in the fund exceeds the amount specified in this
28 subdivision by 10 percent or less, refunds need not be ordered by
29 the administrator. This section does not require the refund of excess
30 fees as provided in this subdivision more frequently than once
31 each year.

32 (j) The State Board of Equalization shall collect the fee and
33 adopt regulations implementing the fee collection program. All
34 fees collected pursuant to this section shall be deposited in the Oil
35 Spill Response Trust Fund.

36 (k) The fee described in this section shall be collected solely
37 for any of the following purposes:

38 (1) To provide funds to cover promptly the costs of response,
39 containment, and cleanup of oil spills into waters of the state,

1 including damage assessment costs, and wildlife rehabilitation as
2 provided in Section 8670.61.5.

3 (2) To cover response and cleanup costs and other damages
4 suffered by the state or other persons or entities from oil spills into
5 waters of the state, ~~which~~ *that* cannot otherwise be compensated
6 by responsible parties or the federal government.

7 (3) To pay claims for damages pursuant to Section 8670.51.

8 (4) To pay claims for damages, except for damages described
9 in paragraph (7) of subdivision (h) of Section 8670.56.5, pursuant
10 to Section 8670.51.1.

11 (5) To pay for the cost of obtaining financial security in the
12 amount specified in subdivision (b) of Section 46012 of the
13 Revenue and Taxation Code, as authorized by subdivision (o).

14 (6) To pay indemnity and related costs and expenses as
15 authorized by Section 8670.56.6.

16 (7) To pay principal, interest, premium, if any, and fees, charges,
17 and costs of any kind incurred in connection with moneys drawn
18 by the administrator on the financial security obtained by the
19 Treasurer pursuant to subdivision (o) or borrowed by the Treasurer
20 pursuant to Article 7.5 (commencing with Section 8670.53.1).

21 (8) [Reserved]

22 (l) The interest that the state earns on the funds deposited into
23 the Oil Spill Response Trust Fund shall be deposited in the fund
24 and shall be used to maintain the fund at the designated amount
25 specified in subdivision (a) of Section 46012 of the Revenue and
26 Taxation Code. If the amount in the fund exceeds that designated
27 amount, the interest shall be deposited into the Oil Spill Prevention
28 and Administration Fund, and shall be available for the purposes
29 authorized by Article 6 (commencing with Section 8670.38).

30 (m) The Legislature finds and declares that effective response
31 to oil spills requires that the state have available sufficient funds
32 in a response fund. The Legislature further finds and declares that
33 maintenance of that fund is of utmost importance to the state and
34 that the money in the fund shall be used solely for the purposes
35 specified in subdivision (k).

36 (n) [Reserved]

37 (o) The Treasurer shall obtain financial security, in the
38 designated amount specified in subdivision (b) of Section 46012
39 of the Revenue and Taxation Code, in a form ~~which~~ *that*, in the
40 event of an oil spill, may be drawn upon immediately by the

1 administrator upon making the determinations required by
2 paragraph (2) of subdivision (a) of Section 8670.49. The financial
3 security may be obtained in any of the forms described in
4 subdivision (b) of Section 8670.53.3, as determined by the
5 Treasurer.

6 (p) This section does not limit the authority of the administrator
7 to raise oil spill response fees pursuant to Section 8670.48.5.

8 (q) Moneys in the fund may be used to respond to an imminent
9 threat of a spill in accordance with the provisions of Section
10 8670.62 pertaining to threatened discharges.

11 SEC. 41. Section 8670.48.3 of the Government Code is
12 amended to read:

13 8670.48.3. (a) Notwithstanding subparagraph (A) of paragraph
14 (1) of subdivision (f) of Section 8670.48, a loan or other transfer
15 of money from the fund to the General Fund pursuant to the Budget
16 Act that reduces the balance of the Oil Spill Response Trust Fund
17 to less than or equal to 95 percent of the designated amount
18 specified in subdivision (a) of Section 46012 of the Revenue and
19 Taxation Code shall not obligate the administrator to resume
20 collection of the oil spill response fee otherwise required by this
21 article if both of the following conditions are met:

22 (1) The annual Budget Act requires a transfer or loan from the
23 fund to be repaid to the fund with interest calculated at a rate earned
24 by the Pooled Money Investment Account as if the money had
25 remained in the fund.

26 (2) The annual Budget Act requires all transfers or loans to be
27 repaid to the fund on or before June 30, 2017.

28 (b) A transfer or loan described in subdivision (a) shall be repaid
29 as soon as possible if a spill occurs and the administrator
30 determines that response funds are needed immediately.

31 (c) If there is a conflict between this section and any other law
32 or enactment, this section shall control.

33 (d) This section shall remain in effect until July 1, 2017, and as
34 of that date is repealed.

35 SEC. 42. Section 8670.49 of the Government Code is amended
36 to read:

37 8670.49. (a) (1) The administrator may only expend money
38 from the fund to pay for any of the following, subject to the lien
39 established in Section 8670.53.2:

1 (A) To pay the cost of obtaining financial security as authorized
2 by paragraph (5) of subdivision (k) and subdivision (o) of Section
3 8670.48.

4 (B) To pay the principal, interest, premium, if any, and fees,
5 charges, and costs of any kind incurred in connection with moneys
6 drawn by the administrator on the financial security obtained by
7 the Treasurer, or the moneys borrowed by the Treasurer, as
8 authorized by paragraph (7) of subdivision (k) of Section 8670.48.

9 (C) To pay for the expansion, in the VTS area, pursuant to
10 Section 445 of the Harbors and Navigation Code, of the vessel
11 traffic service system (VTS system) authorized pursuant to
12 subdivision (f) of Section 8670.21.

13 (2) If a spill has occurred, the administrator may expend the
14 money in the fund for the purposes identified in paragraphs (1),
15 (2), (3), (4), and (6) of subdivision (k) of Section 8670.48 only
16 upon making the following determinations:

17 (A) Except as authorized by Section 8670.51.1, a responsible
18 party does not exist or the responsible party is unable or unwilling
19 to provide adequate and timely cleanup and to pay for the damages
20 resulting from the spill. The administrator shall make a reasonable
21 effort to have the party responsible remove the oil or agree to pay
22 for any actions resulting from the spill that may be required by
23 law, provided that the efforts are not detrimental to fish, plant,
24 animal, or bird life in the affected waters. The reasonable effort
25 of the administrator shall include attempting to access the
26 responsible parties' insurance or other proof of financial
27 responsibility.

28 (B) Sufficient federal oil spill funds are not available or will
29 not be available in an adequate period of time.

30 (3) Notwithstanding any other provision of this subdivision, the
31 administrator may expend money from the fund for authorized
32 expenditures when a reimbursement procedure is in place to receive
33 reimbursements for those expenditures from federal oil spill funds.

34 (b) Upon making the determinations specified in paragraph (2)
35 of subdivision (a), the administrator shall immediately make
36 whatever payments are necessary for responding to, containing,
37 or cleaning up, the spill, including any wildlife rehabilitation
38 required by law and payment of claims pursuant to Sections
39 8670.51 and 8670.51.1, subject to the lien established by Section
40 8670.53.2.

1 SEC. 43. Section 8670.50 of the Government Code is amended
2 to read:

3 8670.50. (a) Money from the fund may only be expended to
4 cover the costs incurred by the state and local governments and
5 agencies for any of the following:

6 (1) Responding promptly to, containing, and cleaning up the
7 discharge, if those efforts are any of the following:

8 (A) Undertaken pursuant to the state and local oil spill
9 contingency plans established under this chapter, and the California
10 oil spill contingency plan established under Article 3.5
11 (commencing with Section 8574.1) of Chapter 7.

12 (B) Undertaken consistent with the standardized emergency
13 management system established pursuant to Section 8607.

14 (C) Undertaken at the direction of the administrator.

15 (2) Meeting the requirements of Section ~~8670.61.5~~, 8670.61.5
16 relating to wildlife rehabilitation.

17 (3) Making the payments authorized by subdivision (k) of
18 Section 8670.48.

19 (b) In the event of an oil spill, the administrator shall make
20 whatever expenditures are necessary and appropriate from the fund
21 to cover the costs described in subdivision (a), subject to the lien
22 established pursuant to Section 8670.53.2.

23 SEC. 44. Section 8670.51 of the Government Code is amended
24 to read:

25 8670.51. (a) When a person has obtained a final judgment for
26 damages resulting from an oil spill in waters of the state, but is
27 unable, within one year after the date of its entry, to enforce the
28 judgment pursuant to Title 9 (commencing with Section 680.010)
29 of the Code of Civil Procedure, or is unable to obtain satisfaction
30 of the judgment from the federal government within 90 additional
31 days, the administrator shall pay an amount not to exceed those
32 amounts that cannot be recovered from a responsible party and the
33 fund shall be subrogated to all rights, claims, and causes of action
34 that the claimant has under this chapter, Article 3.5 (commencing
35 with Section 8574.1) of Chapter 7, Section 8670.61.5, and Division
36 7.8 (commencing with Section 8750) of the Public Resources
37 Code.

38 (b) Any person may apply to the fund for compensation for
39 damages and losses suffered as a result of an oil spill in waters of
40 the state under any of the following conditions:

- 1 (1) The responsible party or parties cannot be ascertained.
- 2 (2) A responsible party is not liable for noneconomic damages
3 caused by another.
- 4 (3) Subdivision (i) of Section 8670.56.6 is applicable to the
5 claim.
- 6 (c) The administrator shall not approve any claim in an amount
7 that exceeds the amount to which the person would otherwise be
8 entitled pursuant to Section 8670.56.5, and shall pay claims from
9 the fund ~~which~~ *that* are approved pursuant to this section.
- 10 SEC. 45. Section 8670.53 of the Government Code is amended
11 to read:
- 12 8670.53. The Attorney General, in consultation with the
13 administrator, shall undertake actions to recover all costs to the
14 funds from any responsible party for an oil spill into waters of the
15 state for which expenditures are made from the fund. The recovery
16 of costs pursuant to this section shall not foreclose the Attorney
17 General from any other actions allowed by law.
- 18 SEC. 46. Section 8670.54 of the Government Code is amended
19 to read:
- 20 8670.54. (a) The Oil Spill Technical Advisory Committee,
21 hereafter in this article, the committee, is hereby established to
22 provide public input and independent judgment of the actions of
23 the administrator. The committee shall consist of ~~14~~ 15 members,
24 of whom ~~eight~~ *nine* shall be appointed by the Governor, three by
25 the Speaker of the Assembly, and three by the Senate Committee
26 on Rules. The appointments shall be made in the following manner:
- 27 (1) The Speaker of the Assembly and Senate Committee on
28 Rules shall each appoint a member who shall be a representative
29 of the public.
- 30 (2) The Governor shall appoint a member who has a
31 demonstrable knowledge of marine transportation.
- 32 (3) The Speaker of the Assembly and the Senate ~~Rules~~
33 Committee *on Rules* shall each appoint two members who have
34 demonstrable knowledge of environmental protection and the study
35 of ecosystems.
- 36 (4) The Governor shall appoint a member who has served as a
37 local government elected official or who has worked for a local
38 government.
- 39 (5) The Governor shall appoint a member who has experience
40 in oil spill response and prevention programs.

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

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

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

7 (9) The Governor shall appoint a member who has demonstrable
8 knowledge of the railroad industry.

9 (10) The Governor shall appoint a member who has
10 demonstrable knowledge of the oil production industry.

11 *(11) The Governor shall appoint a member who has a*
12 *demonstrable knowledge of the truck transportation industry.*

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

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

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

21 SEC. 47. Section 8670.55 of the Government Code is amended
22 to read:

23 8670.55. (a) (1) The committee shall provide
24 recommendations to the administrator, the State Lands
25 Commission, the California Coastal Commission, the San Francisco
26 Bay Conservation and Development Commission, *the* Division of
27 Oil, Gas, and Geothermal Resources, the Office of the State Fire
28 ~~Marshall~~ *Marshal*, and the Public Utilities Commission on any
29 provision of this chapter including the promulgation of all rules,
30 regulations, guidelines, and policies.

31 (2) Pursuant to paragraph (1), the committee shall monitor and
32 evaluate the modes of transportation of oil into and within the state
33 and the properties of the oil to identify any necessary changes in
34 oil spill response and preparedness programs to meet the goals of
35 this chapter.

36 (b) The committee may, at its own discretion, study, comment
37 on, or evaluate, any aspect of oil spill prevention and response in
38 the state. To the greatest extent possible, these studies shall be
39 coordinated with studies being done by the federal government,
40 the administrator, the State Lands Commission, the State Water

1 Resources Control Board, and other appropriate state and
2 international entities. Duplication with the efforts of other entities
3 shall be minimized.

4 (c) The committee may attend any drills called pursuant to
5 Section 8670.10 or any oil spills, if practicable.

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

11 SEC. 48. Section 8670.56.5 of the Government Code is
12 amended to read:

13 8670.56.5. (a) A responsible party, as defined in Section
14 8670.3, shall be absolutely liable without regard to fault for any
15 damages incurred by any injured party that arise out of, or are
16 caused by a spill.

17 (b) A responsible person is not liable to an injured party under
18 this section for any of the following:

19 (1) Damages, other than costs of removal incurred by the state
20 or a local government, caused solely by any act of war, hostilities,
21 civil war, or insurrection or by an unanticipated grave natural
22 disaster or other act of God of an exceptional, inevitable, and
23 irresistible character, ~~which~~ *that* could not have been prevented
24 or avoided by the exercise of due care or foresight.

25 (2) Damages caused solely by the negligence or intentional
26 malfeasance of that injured party.

27 (3) Damages caused solely by the criminal act of a third party
28 other than the defendant or an agent or employee of the defendant.

29 (4) Natural seepage not caused by a responsible party.

30 (5) Discharge or leaking of oil or natural gas from a private
31 pleasure boat or vessel.

32 (6) Damages that arise out of, or are caused by, a discharge that
33 is authorized by a state or federal permit.

34 (c) The defenses provided in subdivision (b) shall not be
35 available to a responsible person who fails to comply with Sections
36 8670.25, 8670.25.5, 8670.27, and 8670.62.

37 (d) Upon motion and sufficient showing by a party deemed to
38 be responsible under this section, the court shall join to the action
39 any other party who may be responsible under this section.

1 (e) In determining whether a party is a responsible party under
2 this section, the court shall consider the results of chemical or other
3 scientific tests conducted to determine whether oil or other
4 substances produced, discharged, or controlled by the defendant
5 matches the oil or other substance that caused the damage to the
6 injured party. The defendant shall have the burden of producing
7 the results of tests of samples of the substance that caused the
8 injury and of substances for which the defendant is responsible,
9 unless it is not possible to conduct the tests because of
10 unavailability of samples to test or because the substance is not
11 one for which reliable tests have been developed. At the request
12 of a party, any other party shall provide samples of oil or other
13 substances within its possession or control for testing.

14 (f) The court may award reasonable costs of the suit, ~~attorneys'~~
15 *attorney's* fees, and the costs of necessary expert witnesses to a
16 prevailing plaintiff. The court may award reasonable costs of the
17 suit and ~~attorneys'~~ *attorney's* fees to a prevailing defendant if the
18 court finds that the plaintiff commenced or prosecuted the suit
19 ~~under~~ *pursuant to* this section in bad faith or solely for purposes
20 of harassing the defendant.

21 (g) This section does not prohibit a person from bringing an
22 action for damages caused by oil or by exploration, under any
23 other provision or principle of law, including, but not limited to,
24 common law. However, damages shall not be awarded pursuant
25 to this section to an injured party for loss or injury for which the
26 party is or has been awarded damages under any other provision
27 or principle of law. Subdivision (b) does not create a defense not
28 otherwise available regarding an action brought under any other
29 provision or principle of law, including, but not limited to, common
30 law.

31 (h) Damages for which responsible parties are liable under this
32 section include the following:

33 (1) All costs of response, containment, cleanup, removal, and
34 treatment, including, but not limited to, monitoring and
35 administration costs incurred pursuant to the California oil spill
36 contingency plan or actions taken pursuant to directions by the
37 administrator.

38 (2) Injury to, or economic losses resulting from destruction of
39 or injury to, real or personal property, which shall be recoverable

1 by any claimant who has an ownership or leasehold interest in
2 property.

3 (3) Injury to, destruction of or loss of, natural resources,
4 including, but not limited to, the reasonable costs of rehabilitating
5 wildlife, habitat, and other resources and the reasonable costs of
6 assessing that injury, destruction, or loss, in an action brought by
7 the state, a county, city, or district. Damages for the loss of natural
8 resources may be determined by any reasonable method, including,
9 but not limited to, determination according to the costs of restoring
10 the lost resource.

11 (4) Loss of subsistence use of natural resources, which shall be
12 recoverable by a claimant who so uses natural resources that have
13 been injured, destroyed, or lost.

14 (5) Loss of taxes, royalties, rents, or net profit shares caused by
15 the injury, destruction, loss, or impairment of use of real property,
16 personal property, or natural resources.

17 (6) Loss of profits or impairment of earning capacity due to the
18 injury, destruction, or loss of real property, personal property, or
19 natural resources, which shall be recoverable by any claimant who
20 derives at least 25 percent of his or her earnings from the activities
21 that utilize the property or natural resources, or, if those activities
22 are seasonal in nature, 25 percent of his or her earnings during the
23 applicable season.

24 (7) Loss of use and enjoyment of natural resources, public
25 beaches, and other public resources or facilities, in an action
26 brought by the state, a county, city, or district.

27 (i) Except as provided in Section 1431.2 of the Civil Code,
28 liability under this section shall be joint and several. However, this
29 section does not bar a cause of action that a responsible party has
30 or would have, by reason of subrogation or otherwise, against a
31 person.

32 (j) This section does not apply to claims for damages for
33 personal injury or wrongful death, and does not limit the right of
34 a person to bring an action for personal injury or wrongful death
35 ~~under pursuant to~~ any provision or principle of law.

36 (k) Payments made by a responsible party to cover liabilities
37 arising from a discharge of oil, whether ~~under pursuant to~~ this
38 division or any other provision of federal, state, or local law, shall
39 not be charged against royalties, rents, or net profits owed to the
40 United States, the state, or any other public entity.

1 (l) An action that a private or public individual or entity may
2 have against a responsible party under this section may be brought
3 directly by the individual or entity or by the state on behalf of the
4 individual or entity. However, the state shall not pursue an action
5 on behalf of a private individual or entity that requests the state
6 not to pursue that action.

7 (m) For the purposes of this section, “vessels” means vessels
8 as defined in Section 21 of the Harbors and Navigation Code.

9 SEC. 49. Section 8670.56.6 of the Government Code is
10 amended to read:

11 8670.56.6. (a) (1) Except as provided in subdivisions (b) and
12 (d), and subject to subdivision (c), a person, including, but not
13 limited to, an oil spill cooperative, its agents, subcontractors, or
14 employees, shall not be liable under this chapter or the laws of the
15 state to any person for costs, damages, or other claims or expenses
16 as a result of actions taken or omitted in good faith in the course
17 of rendering care, assistance, or advice in accordance with the
18 National Contingency Plan, the California oil spill contingency
19 plan, or at the direction of the administrator, onsite coordinator,
20 or the Coast Guard in response to a spill or threatened spill.

21 (2) The qualified immunity under this section shall not apply
22 to any oil spill response action that is inconsistent with the
23 following:

24 (A) The directions of the unified command, consisting of at
25 least the Coast Guard and the administrator.

26 (B) In the absence of a unified command, the directions of the
27 administrator pursuant to Section 8670.27.

28 (C) In the absence of directions pursuant to subparagraph (A)
29 or (B), applicable oil spill contingency plans implemented under
30 this division.

31 (3) Nothing in this section shall, in any manner or respect, affect
32 or impair any cause of action against or any liability of any person
33 or persons responsible for the spill, for the discharged oil, or for
34 the vessel, terminal, pipeline, or facility from which the oil was
35 discharged. The responsible person or persons shall remain liable
36 for any and all damages arising from the discharge, including
37 damages arising from improperly carried out response efforts, as
38 otherwise provided by law.

39 (b) Nothing in this section shall, in any manner or respect, affect
40 or impair any cause of action against or any liability of any party

1 or parties responsible for the spill, or the responsible party's agents,
2 employees, or subcontractors, except persons immunized under
3 subdivision (a) for response efforts, for the discharged oil, or for
4 the vessel, *truck*, terminal, pipeline, or facility from which the oil
5 was discharged.

6 (c) The responsible party or parties shall be subject to both of
7 the following:

8 (1) Notwithstanding subdivision (b) or (i) of Section 8670.56.5,
9 or any other ~~provision of~~ law, be strictly and jointly and severally
10 liable for all damages arising pursuant to subdivision (h) of Section
11 8670.56.5 from the response efforts of its agents, employees,
12 subcontractors, or an oil spill cooperative of which it is a member
13 or with which it has a contract or other arrangement for cleanup
14 of its oil spills, unless it would have a defense to the original spill.

15 (2) Remain strictly liable for any and all damages arising from
16 the response efforts of a person other than a person specified in
17 paragraph (1).

18 (d) Nothing in this section shall immunize a cooperative or any
19 other person from liability for acts of gross negligence or willful
20 misconduct in connection with the cleanup of a spill.

21 (e) This section does not apply to any action for personal injury
22 or wrongful death.

23 (f) As used in this section, a "cooperative" means an
24 organization of private persons ~~which~~ *that* is established for the
25 primary purpose and activity of preventing or rendering care,
26 assistance, or advice in response to a spill or threatened spill.

27 (g) Except for the responsible party, membership in a
28 cooperative shall not *be grounds*, in and of itself, ~~be grounds~~ for
29 liability resulting from cleanup activities of the cooperative.

30 (h) For purposes of this section, there shall be a rebuttable
31 presumption that an act or omission described in subdivision (a)
32 was taken in good faith.

33 (i) In any situation in which immunity is granted pursuant to
34 subdivision (a) and a responsible party is not liable, is not liable
35 for noneconomic damages caused by another, or is partially or
36 totally insolvent, the fund provided for in Article 7 (commencing
37 with Section 8670.46) shall *reimburse*, in accordance with its
38 terms, ~~reimburse~~ claims of any injured party for which a person
39 who is granted immunity pursuant to this section would otherwise
40 be liable.

1 (j) (1) The immunity granted by this section shall only apply
2 to response efforts that are undertaken after the administrator
3 certifies that contracts with qualified and responsible persons are
4 in place to ensure an adequate and expeditious response to any
5 foreseeable oil spill that may occur in waters of the state for which
6 the responsible party (A) cannot be identified or (B) is unable or
7 unwilling to respond, contain, and clean up the oil spill in an
8 adequate and timely manner. In negotiating these contracts, the
9 administrator shall *procure*, to the maximum extent practicable,
10 ~~procure~~ the services of persons who are willing to respond to oil
11 spills with no, or lesser, immunity than that conferred by this
12 section, but, in no event, a greater immunity. The administrator
13 shall make the certification required by this subdivision on an
14 annual basis. Upon certification, the immunity conferred by this
15 section shall apply to all response efforts undertaken during the
16 calendar year to which the certification applies. In the absence of
17 the certification required by this subdivision, the immunity
18 conferred by this section shall not attach to any response efforts
19 undertaken by any person in waters of the state.

20 (2) In addition to the authority to negotiate contracts described
21 in paragraph (1), the administrator may also negotiate and enter
22 into indemnification agreements with qualified and financially
23 responsible persons to respond to oil spills that may occur in waters
24 of the state for which the responsible party (A) cannot be identified
25 or (B) is unable or unwilling to respond, contain, and clean up the
26 oil spill in an adequate and timely manner.

27 (3) The administrator may indemnify response contractors for
28 (A) all damages payable by means of settlement or judgment that
29 arise from response efforts to which the immunity conferred by
30 this section would otherwise apply, and (B) reasonably related
31 legal costs and expenses incurred by the responder, provided that
32 indemnification shall only apply to response efforts undertaken
33 after the expiration of any immunity that may exist as the result
34 of the contract negotiations authorized in this subdivision. In
35 negotiating these contracts, the administrator shall *procure*, to the
36 maximum extent practicable, ~~procure~~ the services of persons who
37 are willing to respond to oil spills with no, or as little, right to
38 indemnification as possible. All indemnification shall be paid by
39 the administrator from the Oil Spill Response Trust Fund.

1 (4) (A) The contracts required by this section, and any other
2 contracts entered into by the administrator for response,
3 containment, or cleanup of an existing spill, or for response of an
4 imminent threat of a spill, the payment of which is to be made
5 from the Oil Spill Response Trust Fund created pursuant to Section
6 8670.46, shall be exempt from Part 2 (commencing with Section
7 10100) of Division 2 of the Public Contract Code and Article 6
8 (commencing with Section 999) of Chapter 6 of Division 4 of the
9 Military and Veterans Code.

10 (B) The exemption specified in subparagraph (A) applies only
11 to contracts for which the services are used for a period of less
12 than 90 days, cumulatively, per year.

13 (C) This paragraph shall not be construed as limiting the
14 administrator's authority to exercise the emergency powers granted
15 pursuant to subdivision (c) of Section 8670.62, including the
16 authority to enter into emergency contracts that are exempt from
17 approval by the Department of General Services.

18 (k) (1) With regard to a person who is regularly engaged in the
19 business of responding to oil spills, the immunity conferred by
20 this section shall not apply to any response efforts by that person
21 that occur later than 60 days after the first day the person's response
22 efforts commence.

23 (2) Notwithstanding the limitation contained in paragraph (1),
24 the administrator may *extend*, upon making all the following
25 findings, ~~extend~~ the period of time, not to exceed 30 days, during
26 which the immunity conferred by this section applies to response
27 efforts:

28 (A) Due to inadequate or incomplete containment and
29 stabilization, there exists a substantial probability that the size of
30 the spill will significantly expand and (i) threaten previously
31 uncontaminated resources, (ii) threaten already contaminated
32 resources with substantial additional contamination, or (iii)
33 otherwise endanger the public health and safety or harm the
34 environment.

35 (B) The remaining work is of a difficult or perilous nature that
36 extension of the immunity is clearly in the public interest.

37 (C) No other qualified and financially responsible contractor is
38 prepared and willing to complete the response effort in the absence
39 of the immunity, or a lesser immunity, as negotiated by contract.

1 (3) The administrator shall provide five days' notice of his or
2 her proposed decision to either extend, or not extend, the immunity
3 conferred by this section. Interested parties shall be given an
4 opportunity to present oral and written evidence at an informal
5 hearing. In making his or her proposed decision, the administrator
6 shall specifically seek and consider the advice of the relevant Coast
7 Guard representative. The administrator's decision to not extend
8 the immunity shall be announced at least 10 working days before
9 the expiration of the immunity to provide persons an opportunity
10 to terminate their response efforts as contemplated by paragraph
11 (4).

12 (4) ~~No~~A person or their agents, subcontractors, or employees
13 shall *not* incur any liability under this chapter or any other
14 provision of law solely as a result of that person's decision to
15 terminate their response efforts because of the expiration of the
16 immunity conferred by this section. A person's decision to
17 terminate response efforts because of the expiration of the
18 immunity conferred by this section shall not in any manner impair,
19 curtail, limit, or otherwise affect the immunity conferred on the
20 person with regard to the person's response efforts undertaken
21 during the period of time the immunity applied to those response
22 efforts.

23 (5) The immunity granted under this section shall attach, without
24 the limitation contained in this subdivision, to the response efforts
25 of any person who is not regularly engaged in the business of
26 responding to oil spills. A person who is not regularly engaged in
27 the business of responding to oil spills includes, but is not limited
28 to, (A) a person who is primarily dedicated to the preservation and
29 rehabilitation of wildlife and (B) a person who derives his or her
30 livelihood primarily from fishing.

31 (l) As used in this section, "response efforts" means rendering
32 care, assistance, or advice in accordance with the National
33 Contingency Plan, the California oil spill contingency plan, or at
34 the direction of the administrator, United States Environmental
35 Protection Agency, or the Coast Guard in response to a spill or
36 threatened spill into waters of the state.

37 SEC. 50. Section 8670.61.5 of the Government Code is
38 amended to read:

39 8670.61.5. (a) For purposes of this chapter, "wildlife
40 rehabilitation" means those actions that are necessary to fully

1 mitigate for the damage caused to wildlife, fisheries, wildlife
2 habitat, and fisheries habitat, including beaches, from a spill.

3 (b) Responsible parties shall fully mitigate adverse impacts to
4 wildlife, fisheries, wildlife habitat, and fisheries habitat. Full
5 mitigation shall be provided by successfully carrying out
6 environmental projects or funding restoration activities required
7 by the administrator in carrying out projects complying with the
8 requirements of this section. Responsible parties are also liable
9 for the costs incurred by the administrator or other government
10 agencies in carrying out this section.

11 (c) If any significant wildlife rehabilitation is necessary, the
12 administrator may require the responsible party to prepare and
13 submit to the administrator, and to implement, a wildlife
14 rehabilitation plan. The plan shall describe the actions that will be
15 implemented to fully meet the requirements of subdivision (b),
16 describe contingency measures that will be carried out in the event
17 that any of the plan actions are not fully successful, provide a
18 reasonable implementation schedule, describe the monitoring and
19 compliance program, and provide a financing plan. The
20 administrator shall review and determine whether to approve the
21 plan within 60 days of submittal. Before approving a plan, the
22 administrator shall first find that the implementation of the plan
23 will fully mitigate the adverse impacts to wildlife, fisheries, wildlife
24 habitat, and fisheries habitat. If the habitat contains beaches that
25 are or were used for recreational purposes, the Department of Parks
26 and Recreation shall review the plan and provide comments to the
27 administrator.

28 (d) The plan shall place first priority on avoiding and minimizing
29 any adverse impacts. For impacts that do occur, the plan shall
30 provide for full onsite restoration of the damaged resource to the
31 extent feasible. To the extent that full onsite restoration is not
32 feasible, the plan shall provide for offsite in-kind mitigation to the
33 extent feasible. To the extent that adverse impacts still have not
34 been fully mitigated, the plan shall provide for the enhancement
35 of other similar resources to the extent necessary to meet the
36 requirements of subdivision (b). In evaluating whether a wildlife
37 rehabilitation plan is adequate, the administrator may use the
38 habitat evaluation methods or procedures established by the United
39 States Fish and Wildlife Service or any other reasonable methods
40 as determined by the Department of Fish and Wildlife.

1 (e) The administrator shall prepare regulations to implement
2 this section. The regulations shall include deadlines for the
3 submittal of plans. In establishing the deadlines, the administrator
4 shall consider circumstances such as the size of the spill and the
5 time needed to assess damage and mitigation.

6 SEC. 51. Section 8670.62 of the Government Code is amended
7 to read:

8 8670.62. (a) Any person who discharges oil into waters of the
9 state, upon order of the administrator, shall do all of the following:

10 (1) Clean up the oil.

11 (2) Abate the effects of the discharge.

12 (3) In the case of a threatened discharge, take other necessary
13 remedial action.

14 (b) Upon failure of any person to comply with a cleanup or
15 abatement order, the Attorney General or a district attorney, at the
16 request of the administrator, shall petition the superior court for
17 that county for the issuance of an injunction requiring the person
18 to comply with the order. In any ~~such~~ suit, the court shall have
19 jurisdiction to grant a prohibitory or mandatory injunction, either
20 preliminary or permanent, as the facts may warrant.

21 (c) Consistent with the state contingency plan, the administrator
22 may expend available money to perform any response; containment;
23 cleanup; wildlife rehabilitation, which includes assessment of resource
24 injuries and damages, or remedial work required pursuant to subdivision
25 (a) ~~which~~ *that*, in the administrator's judgment, is required by the
26 circumstances or the urgency of prompt action required to prevent
27 pollution, nuisance, or injury to the environment of the state. The
28 action may be taken in default of, or in addition to, remedial work
29 by the responsible party or other persons, and regardless of whether
30 injunctive relief is sought. The administrator may perform the work
31 in cooperation with any other governmental agency, and may use
32 rented tools or equipment, either with or without operators furnished.
33 Notwithstanding any other ~~provisions of~~ law, the administrator
34 may enter into oral contracts for the work, and the contracts, whether
35 written or oral, may include provisions for equipment rental and the
36 furnishing of labor and materials necessary to accomplish the work.
37 The contracts shall be exempt from Part 2 (commencing with Section
38 10100) of Division 2 of the Public
39

1 Contract Code and Article 6 (commencing with Section 999) of
2 Chapter 6 of Division 4 of the Military and Veterans Code.

3 (d) If the discharge is cleaned up, or attempted to be cleaned
4 up, the effects thereof abated, or, in the case of threatened pollution
5 or nuisance, other necessary remedial action is taken by any
6 governmental agency, the person or persons who discharged the
7 waste, discharged the oil, or threatened to cause or permit the
8 discharge of the oil within the meaning of subdivision (a), shall
9 be liable to that governmental agency for the reasonable costs
10 actually incurred in cleaning up that waste, abating the effects
11 thereof, or taking other remedial action. The amount of the costs
12 shall be recoverable in a civil action by, and paid to, the applicable
13 governmental agency and the administrator, to the extent the
14 administrator contributed to the cleanup costs from the Oil Spill
15 Response Trust Fund or other available funds.

16 (e) If, despite reasonable effort by the administrator to identify
17 the party responsible for the discharge of oil or the condition of
18 pollution or nuisance, the person is not identified at the time
19 cleanup, abatement, or remedial work must be performed, the
20 administrator shall not be required to issue an order under this
21 section. The absence of a responsible party shall not in any way
22 limit the powers of the administrator under this section.

23 (f) ~~“Threaten,”~~ ~~for~~ *For* purposes of this section, *“threaten”*
24 means a condition creating a substantial probability of harm, when
25 the probability and potential extent of harm makes it reasonably
26 necessary to take immediate action to prevent, reduce, or mitigate
27 damages to persons, property, or natural resources.

28 SEC. 52. Section 8670.64 of the Government Code is amended
29 to read:

30 8670.64. (a) A person who commits any of the following acts,
31 shall, upon conviction, be punished by imprisonment in a county
32 jail for not more than one year or by imprisonment pursuant to
33 subdivision (h) of Section 1170 of the Penal Code:

34 (1) Except as provided in Section 8670.27, knowingly fails to
35 follow the direction or orders of the administrator in connection
36 with an oil spill.

37 (2) Knowingly fails to notify the Coast Guard that a vessel is
38 disabled within one hour of the disability and the vessel, while
39 disabled, causes a discharge of oil ~~which~~ *that* enters marine waters.
40 For ~~the~~ purposes of this paragraph, “vessel” means a vessel, as

1 defined in Section 21 of the Harbors and Navigation Code, of 300
2 gross registered tons or more.

3 (3) Knowingly engages in or causes the discharge or spill of oil
4 into waters of the state, or a person who reasonably should have
5 known that he or she was engaging in or causing the discharge or
6 spill of oil into waters of the state, unless the discharge is
7 authorized by the United States, the state, or another agency with
8 appropriate jurisdiction.

9 (4) Knowingly fails to begin cleanup, abatement, or removal of
10 spilled oil as required in Section 8670.25.

11 (b) The court shall also impose upon a person convicted of
12 violating subdivision (a), a fine of not less than five thousand
13 dollars (\$5,000) or more than five hundred thousand dollars
14 (\$500,000) for each violation. For purposes of this subdivision,
15 each day or partial day that a violation occurs is a separate
16 violation.

17 (c) (1) A person who knowingly does any of the acts specified
18 in paragraph (2) shall, upon conviction, be punished by a fine of
19 not less than two thousand five hundred dollars (\$2,500) or more
20 than two hundred fifty thousand dollars (\$250,000), or by
21 imprisonment in a county jail for not more than one year, or by
22 both the fine and imprisonment. Each day or partial day that a
23 violation occurs is a separate violation. If the conviction is for a
24 second or subsequent violation of this subdivision, the person shall
25 be punished by imprisonment pursuant to subdivision (h) of Section
26 1170 of the Penal Code, or in a county jail for not more than one
27 year, or by a fine of not less than five thousand dollars (\$5,000)
28 or more than five hundred thousand dollars (\$500,000), or by both
29 that fine and imprisonment:

30 (2) The acts subject to this subdivision are all of the following:

31 (A) Failing to notify the Office of Emergency Services in
32 violation of Section 8670.25.5.

33 (B) Knowingly making a false or misleading oil spill report to
34 the Office of Emergency Services.

35 (C) Continuing operations for which an oil spill contingency
36 plan is required without an oil spill contingency plan approved
37 pursuant to Article 5 (commencing with Section 8670.28).

38 (D) Except as provided in Section 8670.27, knowingly failing
39 to follow the material provisions of an applicable oil spill
40 contingency plan.

1 SEC. 53. Section 8670.66 of the Government Code is amended
2 to read:

3 8670.66. (a) A person who intentionally or negligently does
4 any of the following acts shall be subject to a civil penalty for a
5 spill of not less than fifty thousand dollars (\$50,000) or more than
6 one million dollars (\$1,000,000), for each violation, and each day
7 or partial day that a violation occurs is a separate violation:

8 (1) Except as provided in Section 8670.27, fails to follow the
9 direction or orders of the administrator in connection with a spill
10 or inland spill.

11 (2) Fails to notify the Coast Guard that a vessel is disabled
12 within one hour of the disability and the vessel, while disabled,
13 causes a spill that enters marine waters. For the purposes of this
14 paragraph, “vessel” means a vessel, as defined in Section 21 of
15 the Harbors and Navigation Code, of 300 gross registered tons or
16 more.

17 (3) Is responsible for a spill, unless the discharge is authorized
18 by the United States, the state, or other agency with appropriate
19 jurisdiction.

20 (4) Fails to begin cleanup, abatement, or removal of oil as
21 required in Section 8670.25.

22 (b) Except as provided in subdivision (a), any person who
23 intentionally or negligently violates any provision of this chapter,
24 or Division 7.8 (commencing with Section 8750) of the Public
25 Resources Code, or any permit, rule, regulation, standard, or
26 requirement issued or adopted pursuant to those provisions, shall
27 be liable for a civil penalty not to exceed two hundred fifty
28 thousand dollars (\$250,000) for each violation of a separate
29 provision, or, for continuing violations, for each day that violation
30 continues.

31 (c) A person shall not be liable for a civil penalty imposed under
32 this section and for a civil penalty imposed pursuant to Section
33 8670.67 for the same act or failure to act.

34 SEC. 54. Section 8670.67 of the Government Code is amended
35 to read:

36 8670.67. (a) Any person who intentionally or negligently does
37 any of the following acts shall be subject to an administrative civil
38 penalty for a spill not to exceed two hundred thousand dollars
39 (\$200,000), for each violation as imposed by the administrator

1 pursuant to Section 8670.68, and each day or partial day that a
2 violation occurs is a separate violation:

3 (1) Except as provided in Section 8670.27, fails to follow the
4 applicable contingency plans or the direction or orders of the
5 administrator in connection with a spill or inland spill.

6 (2) Fails to notify the Coast Guard that a vessel is disabled
7 within one hour of the disability and the vessel, while disabled,
8 causes a discharge that enters marine waters or inland waters. For
9 the purposes of this paragraph, “vessel” means a vessel, as defined
10 in Section 21 of the Harbors and Navigation Code, of 300 gross
11 registered tons or more.

12 (3) Is responsible for a spill, unless the discharge is authorized
13 by the United States, the state, or other agency with appropriate
14 jurisdiction.

15 (4) Fails to begin cleanup, abatement, or removal of spilled oil
16 as required by Section 8670.25.

17 (b) Except as provided in subdivision (a), any person who
18 intentionally or negligently violates any provision of this chapter,
19 or Division 7.8 (commencing with Section 8750) of the Public
20 Resources Code, or any permit, rule, regulation, standard, cease
21 and desist order, or requirement issued or adopted pursuant to
22 those provisions, shall be liable for an administrative civil penalty
23 as imposed by the administrator pursuant to Section 8670.68, not
24 to exceed one hundred thousand dollars (\$100,000) for each
25 violation of a separate provision, or, for continuing violations, for
26 each day that violation continues.

27 (c) ~~No~~A person shall *not* be liable for a civil penalty imposed
28 under this section and for a civil penalty imposed pursuant to
29 Section 8670.66 for the same act or failure to act.

30 SEC. 55. Section 8670.67.5 of the Government Code is
31 amended to read:

32 8670.67.5. (a) Any person who without regard to intent or
33 negligence causes or permits a spill shall be strictly liable civilly
34 in accordance with subdivision (b) or (c).

35 (b) A penalty may be administratively imposed by the
36 administrator in accordance with Section 8670.68 in an amount
37 not to exceed twenty dollars (\$20) per gallon for a spill. The
38 amount of the penalty shall be reduced for every gallon of released
39 oil that is recovered and properly disposed of in accordance with
40 applicable law.

1 (c) Whenever the release of oil resulted from gross negligence
2 or reckless conduct, the administrator shall, in accordance with
3 Section 8670.68, impose a penalty in an amount not to exceed
4 sixty dollars (\$60) for a spill. The amount of the penalty shall be
5 reduced for every gallon of released oil that is recovered and
6 properly disposed of in accordance with applicable law.

7 (d) The administrator shall adopt regulations governing the
8 method for determining the amount of oil that is cleaned up.

9 SEC. 56. Section 8670.69.4 of the Government Code is
10 amended to read:

11 8670.69.4. (a) When the administrator determines that any
12 person has undertaken, or is threatening to undertake, any activity
13 or procedure that (1) requires a permit, certificate, approval, or
14 authorization under this chapter, without securing a permit,
15 *certificate, approval, or authorization*, or (2) is inconsistent with
16 any of the permits, certificates, rules, regulations, guidelines, or
17 authorizations, previously issued or adopted by the administrator,
18 or (3) threatens to cause or substantially increases the risk of
19 unauthorized discharge of oil into the waters of the state, the
20 administrator may issue an order requiring that person to cease
21 and desist.

22 (b) Any cease and desist order issued by the administrator may
23 be subject to terms and conditions as the administrator may
24 determine are necessary to ensure compliance with this division.

25 (c) Any cease and desist order issued by the administrator shall
26 become null and void 90 days after issuance.

27 (d) A cease and desist order issued by the administrator shall
28 be effective upon the issuance thereof, and copies shall be served
29 immediately by certified mail upon the person or governmental
30 agency being charged with the actual or threatened violation.

31 (e) Any cease and desist order issued by the administrator shall
32 be consistent with subdivision (a) of Section 8670.27.

33 SEC. 57. Section 8670.69.7 of the Government Code is
34 repealed.

35 SEC. 58. Section 8670.71 of the Government Code is amended
36 to read:

37 8670.71. (a) The administrator shall fund only those projects
38 approved by the Environmental Enhancement Committee.

39 (b) For the purposes of this article, an enhancement project is
40 a project that acquires habitat for preservation, or improves habitat

1 quality and ecosystem function above baseline conditions, and that
2 meets all of the following requirements:

3 (1) Is located within or immediately adjacent to waters of the
4 state, as defined in Section 8670.3.

5 (2) Has measurable outcomes within a predetermined timeframe.

6 (3) Is designed to acquire, restore, or improve habitat or restore
7 ecosystem function, or both, to benefit fish and wildlife.

8 SEC. 59. Section 8670.90 is added to the Government Code,
9 to read:

10 8670.90. (a) To the extent possible under federal law, and in
11 order to provide public transparency, it is the policy of the state
12 that local communities that face significant risks associated with
13 the transport or planned transport of significant quantities of crude
14 oil through or near them be notified of the quantities and properties
15 of the crude oil in a timely manner. *For purposes of this section,*
16 *“transport or planned transport” includes transport by vessel,*
17 *truck, railroad, or pipeline.*

18 (b) Each railroad intending to transport crude oil into or within
19 the state shall provide to the administrator on at least an annual
20 basis the following information:

21 (1) A list of the type and quantity of crude oil transported during
22 the previous 12-month period.

23 (2) A description of the method of properly handling each type
24 of crude oil in case of an incident.

25 (3) The name, address, and telephone number of the railroad’s
26 person in charge of education and training related to handling of
27 crude oil.

28 (4) The approximate normal operating schedules for trains
29 carrying crude oil.

30 (5) Normal procedures for placement of cars carrying crude oil
31 in trains.

32 (6) Means to obtain information from the railroad, including
33 the railroad’s 24-hour emergency telephone number, in case of an
34 incident.

35 SEC. 60. Section 8670.95 is added to the Government Code,
36 to read:

37 8670.95. If any provision of this chapter or the application
38 thereof to any person or circumstances is held invalid, that
39 invalidity shall not affect other provisions or applications of the
40 chapter that can be given effect without the invalid provision or

1 application, and to this end the provisions of this chapter are
2 severable.

3 SEC. 61. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

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