

AMENDED IN ASSEMBLY JUNE 9, 2014

AMENDED IN SENATE MAY 27, 2014

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 Hill~~, *Lara, Leno, and Wolk*)

February 21, 2014

An act to amend Section 5654 of the Fish and Game Code, 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, 8670.27, 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 8670.6.5, 8670.15, 8670.29.5, 8670.32.5, 8670.40.5, and 8670.95 to, and to repeal Section 8670.69.7 of, the Government Code, to amend Section 449 of the Harbors and Navigation Code, *to amend Sections 765.5 and 7711 of the Public Utilities Code*, to amend Sections 46002, 46006, 46007, 46010, 46013, 46017, 46023, 46028, and 46101 of, to repeal Sections 46008, 46014, 46015, 46016, 46019, 46024, and 46025 of, and to repeal and add Sections 46011, 46018, and 46027 of, the Revenue and Taxation Code, and to amend Section 13272 of the Water Code, relating to oil spills, and making an appropriation therefor.

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 of coastal and marine waters. Existing law imposes various administrative civil penalties on a person that violates specified provisions of the act based on whether it was an oil spill or an inland oil spill.

This bill would generally expand the act and the administrator's responsibilities relating to oil spills to cover all waters of the state, as defined. 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~~

The bill would expand the regional and local planning element of the California oil spill contingency plan to include the identification and mitigation of public health and safety impacts from an oil spill in waters of the state. The bill would authorize the administrator to obtain confidential and other information from the Office of Emergency Services, the State Energy Resources Conservation and Development Commission, and other regulators, as necessary, in order for the administrator to carry out his or her duties, and would require the

administrator to develop procedures in handling the obtained information. The bill would require the administrator, no later than January 1, 2016, to conduct a study and evaluation for inland areas of the state and would require the administrator to obtain annually, at a minimum, information on the modes of transportation of oil into and within the state and the properties of the oil and to provide this information to the Oil Spill Technical Advisory Committee. The bill would also require the administrator, in consultation with the appropriate local, state, and federal regulators, to conduct a comprehensive risk assessment of nonvessel modes of transportation oil and to identify those operations that pose the highest risk of a pollution incident in state waters, as specified, and would require the administrator to obtain and make publicly available, as specified, previously filed information related to the transport of oil through, near, or into communities, as specified. The bill, for purposes of administrative civil penalties, would no longer distinguish between an oil spill and an inland oil spill, subjecting all persons to the oil spill provisions. The bill also would revise various definitions within that act, and would make other conforming and technical changes.

~~(2) Existing law requires the administrator, upon request by a local government, to provide a program for training and certification of a local emergency responder designated as a local spill response manager by a local government with jurisdiction over or directly adjacent to waters of the state.~~

~~This bill would make the program optional at the discretion of the administrator.~~

~~(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 authorize the administrator to offer the grants to a local government with jurisdiction over or directly adjacent to state waters:~~

~~(4)~~

~~(2) 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 instead would require the administrator, within 5 working days after receipt of a contingency plan, to post a notice that the plan is available for review.~~

~~(5)~~

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

~~(6)~~

(4) Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to be sufficient to implement 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 instead 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. The bill would delete the provision that reduces the fee beginning on January 1, 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, by any mode of delivery that passed over, across, under, or through waters of the state, whether from within or outside the state. The bill would authorize the Director of Finance to augment a specified appropriation in the Budget Act of 2014 for the reasonable costs incurred by the State Board of Equalization related to the collection of the oil spill prevention and administration fee, as specified, thereby making an appropriation.

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

~~(7)~~

(5) Existing law imposes a uniform oil spill response fee on specified persons, except specified independent crude oil producers, owning petroleum products *and on pipeline operators transporting petroleum products into the state by means of a pipeline operating across, under,*

or through the marine waters of the state, 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. Existing law authorizes a person to apply to the fund for compensation for damages and losses suffered as a result of an oil spill in the marine waters of the state under specified conditions.

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 additionally impose the fee on pipeline operators transporting petroleum products into the state by means of a pipeline operating across, under, or through waters of the state, thereby making an appropriation by increasing the amount of moneys deposited into a continuously appropriated fund.* The bill would authorize moneys in the fund to be used to respond to an imminent threat of a spill, *and would authorize a person to apply to the fund for compensation for damages and losses suffered as a result of an oil spill in any waters of the state.* By expanding the purposes of a continuously appropriated fund, the bill would make an appropriation.

(8)

(6) 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 (1) to the fund with interest calculated at a rate earned by the Pooled Money Investment Account and (2) 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)

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

This bill would increase the number of members from 10 to 14 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 also would require the Governor to appoint two additional members, with one having knowledge of the railroad industry and another having knowledge of the oil production industry.

(8) *Existing law requires the Public Utilities Commission to establish, by regulation, the inspection of railroad locomotives, equipment, and facilities occur not less frequently than every 120 days, and, in addition to those minimum inspections, that the commission conduct focused inspections of railroad yards and track, either in coordination with the Federal Railroad Administration or as the commission determines to be necessary.*

This bill would expand those inspections to include bridges and grade crossings over which oil is being transported and oil unloading facilities, as specified. The bill also would authorize the commission to regulate essential local safety hazards for the transport of oil more stringently than federal regulation, as specified.

Existing law requires the commission to report to the Legislature, on or before July 1 each year, on sites on railroad lines in the state it finds to be hazardous, as specified.

This bill would expand that annual report to the Legislature to include the timing, nature, and status of the remediation of defects or violations of federal and state law related to the transport and unloading of oil detected by the commission through its inspections.

~~(10)~~

(9) 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: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 5654 of the Fish and Game Code is
2 amended to read:
3 5654. (a) (1) Notwithstanding Section 7715 and except as
4 provided in paragraph (2), the director, within 24 hours of
5 notification of a spill or discharge, as those terms are defined in
6 Section 8670.3 of the Government Code, where any fishing,

1 including all commercial, recreational, and nonlicensed subsistence
2 fishing, may take place, or where aquaculture operations are taking
3 place, shall close to the take of all fish and shellfish all waters in
4 the vicinity of the spill or discharge or where the spilled or
5 discharged material has spread, or is likely to spread. In
6 determining where a spill or discharge is likely to spread, the
7 director shall consult with the Administrator of the Office of Spill
8 Prevention and Response. At the time of closure, the department
9 shall make all reasonable efforts to notify the public of the closure,
10 including notification to commercial and recreational fishing
11 organizations, and posting of warnings on public piers and other
12 locations where subsistence fishing is known to occur. The
13 department shall coordinate, when possible, with local and regional
14 agencies and organizations to expedite public notification.

15 (2) Closure pursuant to paragraph (1) is not required if, within
16 24 hours of notification of a spill or discharge, the Office of
17 Environmental Health Hazard Assessment finds that a public health
18 threat does not or is unlikely to exist.

19 (b) Within 48 hours of notification of a spill or discharge subject
20 to subdivision (a), the director, in consultation with the Office of
21 Environmental Health Hazard Assessment, shall make an
22 assessment and determine all of the following:

23 (1) The danger posed to the public from fishing in the area where
24 the spill or discharge occurred or spread, and the danger of
25 consuming fish taken in the area where the spill or discharge
26 occurred or spread.

27 (2) Whether the areas closed for the take of fish or shellfish
28 should be expanded to prevent any potential take or consumption
29 of any fish or shellfish that may have been contaminated by the
30 spill or discharge.

31 (3) The likely period for maintaining a closure on the take of
32 fish and shellfish in order to prevent any possible contaminated
33 fish or shellfish from being taken or consumed or other threats to
34 human health.

35 (c) Within 48 hours after receiving notification of a spill or
36 discharge subject to subdivision (a), or as soon as is feasible, the
37 director, in consultation with the Office of Environmental Health
38 Hazard Assessment, shall assess and determine the potential danger
39 from consuming fish that have been contained in a recirculating
40 seawater tank onboard a vessel that may become contaminated by

1 the vessel's movement through an area where the spill or discharge
2 occurred or spread.

3 (d) If the director finds in his or her assessment pursuant to
4 subdivision (b) that there is no significant risk to the public or to
5 the fisheries, the director may immediately reopen the closed area
6 and waive the testing requirements of subdivisions (e) and (f).

7 (e) Except under the conditions specified in subdivision (d),
8 after complying with subdivisions (a) and (b), the director, in
9 consultation with the Office of Environmental Health Hazard
10 Assessment, but in no event more than seven days from the
11 notification of the spill or discharge, shall order expedited tests of
12 fish and shellfish that would have been open for take for
13 commercial, recreational, or subsistence purposes in the closed
14 area if not for the closure, to determine the levels of contamination,
15 if any, and whether the fish or shellfish is safe for human
16 consumption.

17 (f) (1) Within 24 hours of receiving a notification from the
18 Office of Environmental Health Hazard Assessment that no threat
19 to human health exists from the spill or discharge or that no
20 contaminant from the spill or discharge is present that could
21 contaminate fish or shellfish, the director shall reopen the areas
22 closed pursuant to this section. The director may maintain a closure
23 in any remaining portion of the closed area where the Office of
24 Environmental Health Hazard Assessment finds contamination
25 from the spill or discharge persists that may adversely affect human
26 health.

27 (2) The director, in consultation with the commission, may also
28 maintain a closure in any remaining portion of the closed area
29 where commercial fishing or aquaculture occurs and where the
30 department determines, pursuant to this paragraph, that
31 contamination from the spill or discharge persists that may cause
32 the waste of commercial fish or shellfish as regulated by Section
33 7701.

34 (g) To the extent feasible, the director shall consult with
35 representatives of commercial and recreational fishing associations
36 and subsistence fishing communities regarding the extent and
37 duration of a closure, testing protocols, and findings. If a spill or
38 discharge occurs within the lands governed by a Native American
39 tribe or affects waters flowing through tribal lands, or tribal

1 fisheries, the director shall consult with the affected tribal
2 governments.

3 (h) The director shall seek full reimbursement from the
4 responsible party or parties for the spill or discharge for all
5 reasonable costs incurred by the department in carrying out this
6 section, including, but not limited to, all testing.

7 SEC. 2. Section 8574.4 of the Government Code is amended
8 to read:

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

25 SEC. 3. Section 8574.7 of the Government Code is amended
26 to read:

27 8574.7. The Governor shall require the administrator, not in
28 conflict with the National Contingency Plan, to amend the
29 California oil spill contingency plan to provide for the best
30 achievable protection of waters of the state. "Administrator" for
31 purposes of this section means the administrator appointed by the
32 Governor pursuant to Section 8670.4. The plan shall consist of all
33 of the following elements:

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

1 capabilities, and response assignments of each agency involved
2 in cleanup and removal actions in an oil spill.

3 (b) A regional and local planning element that shall provide the
4 framework for the involvement of regional and local agencies in
5 the state effort to respond to an oil spill, and shall ensure the
6 effective and efficient use of regional and local resources, as
7 appropriate, in all of the following:

8 (1) Traffic and crowd control.

9 (2) Firefighting.

10 (3) Boating traffic control.

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

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

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

19 (7) Provision of medical emergency services.

20 (8) *Identification and mitigation of public health and safety*
21 *impacts.*

22 ~~(8)~~

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

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

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

1 (2) Ship position reporting and communications requirements.

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

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

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

9 (6) An expedited decisionmaking process for dispersant use in
10 coastal waters. Prior to adoption of the process, the administrator
11 shall ensure that a comprehensive testing program is carried out
12 for any dispersant proposed for use in California marine waters.
13 The testing program shall evaluate toxicity and effectiveness of
14 the dispersants.

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

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

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

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

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

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

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

39 (2) Regional maps depicting environmentally and ecologically
40 sensitive areas in state waters or along the coast that shall be

1 distributed to facilities and local and state agencies. The maps shall
2 designate those areas that have particularly high priority for
3 protection against oil spills.

4 (3) A plan for protection actions required to be taken in the
5 event of an oil spill for each of the environmentally and
6 ecologically sensitive areas and protection priorities for the first
7 24 to 48 hours after an oil spill shall be specified.

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

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

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

18 (e) A reporting element that requires the reporting of oil spills
19 of any amount of oil ~~to~~ into state waters.

20 SEC. 4. Section 8574.8 of the Government Code is amended
21 to read:

22 8574.8. (a) The administrator shall submit to the Governor
23 and the Legislature an amended California oil spill contingency
24 plan required, pursuant to Section 8574.7, by January 1, 1993. The
25 administrator shall thereafter submit revised plans every three
26 years, until the amended plan required pursuant to subdivision (b)
27 is submitted.

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

33 SEC. 5. Section 8670.2 of the Government Code is amended
34 to read:

35 8670.2. The Legislature finds and declares as follows:

36 (a) Each year, billions of gallons of crude oil and petroleum
37 products are transported by vessel, railroad, truck, or pipeline over,
38 across, under, and through the waters of this state.

39 (b) Recent accidents in southern California, Alaska, other parts
40 of the nation, and Canada, have shown that transportation of oil

1 can be a significant threat to the environment of sensitive
2 ~~environmental~~ areas *and to public health and safety*.

3 (c) Existing prevention programs are not able to reduce
4 sufficiently the risk of significant discharge of petroleum into state
5 waters.

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

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

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

16 (g) Improvements in the design, construction, and operation of
17 rail tank cars, tank trucks, tank ships, terminals, and pipelines;
18 improvements in marine safety; maintenance of emergency
19 response stations and personnel; and stronger inspection and
20 enforcement efforts are necessary to reduce the risks of and from
21 a major oil spill.

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

25 (i) Immediate action must be taken to improve control and
26 cleanup technology in order to strengthen the capabilities and
27 capacities of cleanup operations.

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

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

33 (l) The federal government plays an important role in preventing
34 and responding to petroleum spills and it is in the interests of the
35 state to coordinate with agencies of the federal government,
36 including the Coast Guard and the United States Environmental
37 Protection Agency, to the greatest degree possible.

38 (m) California has approximately 1,100 miles of coast, including
39 four marine sanctuaries that occupy 88,767 square miles. The
40 weather, topography, and tidal currents in and around California's

1 coastal ports and waterways make vessel navigation challenging.
2 The state's major ports are among the busiest in the world.
3 Approximately 700 million barrels of oil are consumed annually
4 by California, with over 500 million barrels being transported by
5 vessel. The peculiarities of California's maritime coast require
6 special precautionary measures regarding oil pollution.

7 (n) California has approximately 158,500 square miles of interior
8 area where there are approximately 6,800 miles of pipeline used
9 for oil distribution, 5,800 miles of Class I railroad track, and
10 172,100 miles of maintained roads.

11 SEC. 6. Section 8670.3 of the Government Code is amended
12 to read:

13 8670.3. Unless the context requires otherwise, the following
14 definitions shall govern the construction of this chapter:

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

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

25 (A) The protection provided by the measure.

26 (B) The technological achievability of the measure.

27 (C) The cost of the measure.

28 (2) The administrator shall not use a cost-benefit or
29 cost-effectiveness analysis or any particular method of analysis in
30 determining which measures provide the best achievable protection.
31 The administrator shall instead, when determining which measures
32 provide best achievable protection, give reasonable consideration
33 to the protection provided by the measures, the technological
34 achievability of the measures, and the cost of the measures when
35 establishing the requirements to provide the best achievable
36 protection for the natural resources of the state.

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

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

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

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

8 (d) “California oil spill contingency plan” means the California
9 oil spill contingency plan prepared pursuant to Article 3.5
10 (commencing with Section 8574.1) of Chapter 7.

11 (e) “Dedicated response resources” means equipment and
12 personnel committed solely to oil spill response, containment, and
13 cleanup that are not used for any other activity that would adversely
14 affect the ability of that equipment and personnel to provide oil
15 spill response services in the timeframes for which the equipment
16 and personnel are rated.

17 (f) “Environmentally sensitive area” means an area defined
18 pursuant to the applicable area contingency plans or geographic
19 response plans, as created and revised by the Coast Guard, the
20 United States Environmental Protection Agency, and the
21 administrator.

22 (g) (1) “Facility” means any of the following located in state
23 waters or located where an oil spill may impact state waters:

24 (A) A building, structure, installation, or equipment used in oil
25 exploration, oil well drilling operations, oil production, oil refining,
26 oil storage, oil gathering, oil processing, oil transfer, oil
27 distribution, or oil transportation.

28 (B) A marine terminal.

29 (C) A pipeline that transports oil.

30 (D) A railroad that transports oil as cargo.

31 (E) A drill ship, semisubmersible drilling platform, jack-up type
32 drilling rig, or any other floating or temporary drilling platform.

33 (2) “Facility” does not include any of the following:

34 (A) A vessel, except a vessel located and used for any purpose
35 described in subparagraph (E) of paragraph (1).

36 (B) An owner or operator subject to Chapter 6.67 (commencing
37 with Section 25270) or Chapter 6.75 (commencing with Section
38 25299.10) of Division 20 of the Health and Safety Code.

39 (C) Operations on a farm, nursery, logging site, or construction
40 site that are either of the following:

- 1 (i) Do not exceed 20,000 gallons in a single storage tank.
2 (ii) Have a useable tank storage capacity not exceeding 75,000
3 gallons.
- 4 (D) A small craft refueling dock.
- 5 (h) “Local government” means a chartered or general law city,
6 a chartered or general law county, or a city and county.
- 7 (i) (1) “Marine terminal” means any facility used for
8 transferring oil to or from a tank ship or tank barge.
- 9 (2) “Marine terminal” includes, for purposes of this chapter, all
10 piping not integrally connected to a tank facility, as defined in
11 subdivision (n) of Section 25270.2 of the Health and Safety Code.
- 12 (j) “Mobile transfer unit” means a vehicle, truck, or trailer,
13 including all connecting hoses and piping, used for the transferring
14 of oil at a location where a discharge could impact waters of the
15 state.
- 16 (k) “Nondedicated response resources” means those response
17 resources identified by an Oil Spill Response Organization for oil
18 spill response activities that are not dedicated response resources.
- 19 (l) “Nonpersistent oil” means a petroleum-based oil, such as
20 gasoline or jet fuel, that evaporates relatively quickly and is an oil
21 with hydrocarbon fractions, at least 50 percent of which, by
22 volume, distills at a temperature of 645 degrees Fahrenheit, and
23 at least 95 percent of which, by volume, distills at a temperature
24 of 700 degrees Fahrenheit.
- 25 (m) “Nontank vessel” means a vessel of 300 gross tons or greater
26 that carries oil, but does not carry that oil as cargo.
- 27 (n) “Oil” means any kind of petroleum, liquid hydrocarbons,
28 or petroleum products or any fraction or residues therefrom,
29 including, but not limited to, crude oil, bunker fuel, gasoline, diesel
30 fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and
31 liquid distillates from unprocessed natural gas.
- 32 (o) “Oil spill cleanup agent” means a chemical, or any other
33 substance, used for removing, dispersing, or otherwise cleaning
34 up oil or any residual products of petroleum in, or on, any of the
35 waters of the state.
- 36 (p) “Oil spill contingency plan” or “contingency plan” means
37 the oil spill contingency plan required pursuant to Article 5
38 (commencing with Section 8670.28).
- 39 (q) (1) “Oil Spill Response Organization” or “OSRO” means
40 an individual, organization, association, cooperative, or other entity

1 that provides, or intends to provide, equipment, personnel, supplies,
2 or other services directly related to oil spill containment, cleanup,
3 or removal activities.

4 (2) “OSRO” does not include an owner or operator with an oil
5 spill contingency plan approved by the administrator or an entity
6 that only provides spill management services, or who provides
7 services or equipment that are only ancillary to containment,
8 cleanup, or removal activities.

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

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

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

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

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

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

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

32 (s) “Person” means an individual, trust, firm, joint stock
33 company, or corporation, including, but not limited to, a
34 government corporation, partnership, and association. “Person”
35 also includes a city, county, city and county, district, and the state
36 or any department or agency thereof, and the federal government,
37 or any department or agency thereof, to the extent permitted by
38 law.

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

- 1 (u) “Railroad” means a railroad, railway, rail car, rolling stock,
2 or train.
- 3 (v) “Rated OSRO” means an OSRO that has received a
4 satisfactory rating from the administrator for a particular rating
5 level established pursuant to Section 8670.30.
- 6 (w) “Responsible party” or “party responsible” means any of
7 the following:
- 8 (1) The owner or transporter of oil or a person or entity accepting
9 responsibility for the oil.
- 10 (2) The owner, operator, or lessee of, or a person that charters
11 by demise, a vessel or facility, or a person or entity accepting
12 responsibility for the vessel or facility.
- 13 (x) “Small craft” means a vessel, other than a tank ship or tank
14 barge, that is less than 20 meters in length.
- 15 (y) “Small craft refueling dock” means a waterside operation
16 that dispenses only nonpersistent oil in bulk and small amounts of
17 persistent lubrication oil in containers primarily to small craft and
18 meets both of the following criteria:
- 19 (1) Has tank storage capacity not exceeding 20,000 gallons in
20 any single storage tank or tank compartment.
- 21 (2) Has total usable tank storage capacity not exceeding 75,000
22 gallons.
- 23 (z) “Small marine fueling facility” means either of the following:
- 24 (1) A mobile transfer unit.
- 25 (2) A fixed facility that is not a marine terminal, that dispenses
26 primarily nonpersistent oil, that may dispense small amounts of
27 persistent oil, primarily to small craft, and that meets all of the
28 following criteria:
- 29 (A) Has tank storage capacity greater than 20,000 gallons but
30 not more than 40,000 gallons in any single storage tank or storage
31 tank compartment.
- 32 (B) Has total usable tank storage capacity not exceeding 75,000
33 gallons.
- 34 (C) Had an annual throughput volume of over-the-water transfers
35 of oil that did not exceed 3,000,000 gallons during the most recent
36 preceding 12-month period.
- 37 (aa) “Spill,” “discharge,” or “oil spill” means a release of any
38 amount of oil into waters of the state that is not authorized by a
39 federal, state, or local government entity.

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

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

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

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

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

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

18 SEC. 7. Section 8670.5 of the Government Code is amended
19 to read:

20 8670.5. The Governor shall ensure that the state fully and
21 adequately responds to all oil spills in waters of the state. The
22 administrator, acting at the direction of the Governor, shall
23 implement activities relating to oil spill response, including drills
24 and preparedness and oil spill containment and cleanup. The
25 administrator shall also represent the state in any coordinated
26 response efforts with the federal government.

27 SEC. 8. Section 8670.6.5 is added to the Government Code, to
28 read:

29 8670.6.5. *The administrator may obtain confidential and other*
30 *information protected from public disclosure from the Office of*
31 *Emergency Services, the State Energy Resources Conservation*
32 *and Development Commission, and other regulators, as necessary,*
33 *in order for the administrator to carry out his or her duties. The*
34 *administrator shall develop procedures for handling the obtained*
35 *information consistent with the California Public Records Act*
36 *(Chapter 3.5 (commencing with Section 6250) of Division 7 of*
37 *Title 1) and federal law.*

38 ~~SEC. 8.~~

39 SEC. 9. Section 8670.7 of the Government Code is amended
40 to read:

1 8670.7. (a) The administrator, subject to the Governor, has
2 the primary authority to direct prevention, removal, abatement,
3 response, containment, and cleanup efforts with regard to all
4 aspects of any oil spill in waters of the state, in accordance with
5 any applicable facility or vessel contingency plan and the California
6 oil spill contingency plan. The administrator shall cooperate with
7 any federal on-scene coordinator, as specified in the National
8 Contingency Plan.

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

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

13 (1) Be present at the location of any oil spill of more than
14 100,000 gallons in waters of the state, as soon as possible after
15 notice of the discharge.

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

21 (d) Throughout the response and cleanup process, the
22 administrator shall apprise the air quality management district or
23 air pollution control district having jurisdiction over the area in
24 which the oil spill occurred and the local government agencies
25 that are affected by the spill.

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

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

36 (g) (1) The administrator shall conduct workshops, consistent
37 with the intent of this chapter, with the participation of appropriate
38 local, state, and federal agencies, including the State Air Resources
39 Board, air pollution control and air quality management districts,
40 and affected private organizations, on the subject of oil spill

1 response technologies, including in situ burning. The workshops
2 shall review the latest research and findings regarding the efficacy
3 and toxicity of oil spill cleanup agents and other technologies, their
4 potential public health and safety and environmental impacts, and
5 any other relevant factors concerning their use in oil spill response.
6 In conducting these workshops, the administrator shall solicit the
7 views of all participating parties concerning the use of these
8 technologies, with particular attention to any special considerations
9 that apply to coastal areas and waters of the state.

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

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

20 (2) (A) The administrator shall coordinate all actions required
21 by state or local agencies to assess injury to, and provide full
22 mitigation for injury to, or to restore, rehabilitate, or replace, natural
23 resources, including wildlife, fisheries, wildlife or fisheries habitat,
24 beaches, and coastal areas, that are damaged by an oil spill. For
25 purposes of this subparagraph, “actions required by state or local
26 agencies” include, but are not limited to, actions required by state
27 trustees under Section 1006 of the Oil Pollution Act of 1990 (33
28 U.S.C. Sec. 2706) and actions required pursuant to Section
29 8670.61.5.

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

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

39 (i) (1) The administrator shall enter into a memorandum of
40 understanding with the executive director of the State Water

1 Resources Control Board, acting for the State Water Resources
2 Control Board and the California regional water quality control
3 boards, and with the approval of the State Water Resources Control
4 Board, to address discharges, other than dispersants, that are
5 incidental to, or directly associated with, the response, containment,
6 and cleanup of an existing or threatened oil spill conducted
7 pursuant to this chapter.

8 (2) The memorandum of understanding entered into pursuant
9 to paragraph (1) shall address any permits, requirements, or
10 authorizations that are required for the specified discharges. The
11 memorandum of understanding shall be consistent with
12 requirements that protect state water quality and beneficial uses
13 and with any applicable provisions of the Porter-Cologne Water
14 Quality Control Act (Division 7 (commencing with Section 13000)
15 of the Water Code) or the federal Clean Water Act (33 U.S.C. Sec.
16 1251 et seq.), and shall expedite efficient oil spill response.

17 ~~SEC. 9.~~

18 *SEC. 10.* Section 8670.8 of the Government Code is amended
19 to read:

20 8670.8. (a) The administrator shall carry out programs to
21 provide training for individuals in response, containment, and
22 cleanup operations and equipment, equipment deployment, and
23 the planning and management of these programs. These programs
24 may include training for members of the California Conservation
25 Corps, other response personnel employed by the state, personnel
26 employed by other public entities, personnel from marine facilities,
27 commercial fishermen and other mariners, and interested members
28 of the public. Training may be offered for volunteers.

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

33 (c) Upon request by a local government, the administrator ~~may~~
34 *shall* provide a program for training and certification of a local
35 emergency responder designated as a local spill response manager
36 by a local government with jurisdiction over or directly adjacent
37 to waters of the state.

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

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

4 (f) In the event of an oil spill, local spill response managers
5 trained and certified pursuant to subdivision (c) shall provide the
6 state onscene coordinator with timely information on activities
7 and resources deployed by local government in response to the oil
8 spill. The local spill response manager shall cooperate with the
9 administrator and respond in a manner consistent with the area
10 contingency plan to the extent possible.

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

14 (h) All training provided by the administrator shall follow the
15 requirements of applicable federal and state occupational safety
16 and health standards adopted by the Occupational Safety and
17 Health Administration of the Department of Labor and the
18 Occupational Safety and Health Standards Board.

19 ~~SEC. 10.~~

20 *SEC. 11.* Section 8670.8.3 of the Government Code is amended
21 to read:

22 8670.8.3. The administrator ~~may~~ *shall* offer grants to a local
23 government with jurisdiction over or directly adjacent to waters
24 of the state to provide oil spill response equipment to be deployed
25 by a local spill response manager certified pursuant to Section
26 8670.8. The administrator ~~may~~ *shall* request the Legislature to
27 appropriate funds from the Oil Spill Prevention and Administration
28 Fund created pursuant to Section 8670.38 for the purposes of this
29 section.

30 ~~SEC. 11.~~

31 *SEC. 12.* Section 8670.8.5 of the Government Code is amended
32 to read:

33 8670.8.5. The administrator may use volunteer workers in
34 response, containment, restoration, wildlife rehabilitation, and
35 cleanup efforts for oil spills in waters of the state. The volunteers
36 shall be deemed employees of the state for the purpose of workers'
37 compensation under Article 2 (commencing with Section 3350)
38 of Chapter 2 of Part 1 of Division 4 of the Labor Code. Any
39 payments for workers' compensation pursuant to this section shall

1 be made from the Oil Spill Response Trust Fund created pursuant
2 to Section 8670.46.

3 ~~SEC. 12.~~

4 *SEC. 13.* Section 8670.9 of the Government Code is amended
5 to read:

6 8670.9. (a) The administrator shall enter into discussions on
7 behalf of the state with the States of Alaska, Hawaii, Oregon, and
8 Washington, for the purpose of developing interstate agreements
9 regarding oil spill prevention and response. The agreements shall
10 address, including, but not limited to, all of the following:

- 11 (1) Coordination of vessel safety and traffic.
- 12 (2) Spill prevention equipment and response required on vessels
13 and at facilities.
- 14 (3) The availability of oil spill response and cleanup equipment
15 and personnel.
- 16 (4) Other matters that may relate to the transport of oil and oil
17 spill prevention, response, and cleanup.

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

21 ~~SEC. 13.~~

22 *SEC. 14.* Section 8670.12 of the Government Code is amended
23 to read:

24 8670.12. (a) (1) The administrator shall conduct studies and
25 evaluations necessary for improving oil spill response, containment,
26 and cleanup and oil spill wildlife rehabilitation in waters of the
27 state and oil transportation systems. The administrator may expend
28 moneys from the Oil Spill Prevention and Administration Fund
29 created pursuant to Section 8670.38, enter into consultation
30 agreements, and acquire necessary equipment and services for the
31 purpose of carrying out these studies and evaluations.

32 (2) *On or before January 1, 2016, the administrator shall*
33 *conduct a study and evaluation pursuant to paragraph (1) for*
34 *inland areas of the state. The study and evaluation shall include,*
35 *but shall not be limited to, an analysis of likely spill scenarios,*
36 *response requirements for oil of varying properties and urban,*
37 *rural, and sensitive environments, and spill response equipment*
38 *and resources.*

39 (b) The administrator shall study the use and effects of
40 dispersants, incineration, bioremediation, and any other methods

1 used to respond to a spill. The study shall periodically be updated
2 to ensure the best achievable protection from the use of those
3 methods. Based upon substantial evidence in the record, the
4 administrator may determine in individual cases that best
5 achievable protection is provided by establishing requirements
6 that provide the greatest degree of protection achievable without
7 imposing costs that significantly outweigh the incremental
8 protection that would otherwise be provided. The studies shall do
9 all of the following:

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

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

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

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

25 (1) Equipment and technology needs.

26 (2) Coordination with private response personnel.

27 (3) Liability and insurance.

28 (4) Compensation.

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

32 ~~SEC. 14.~~

33 *SEC. 15.* Section 8670.14 of the Government Code is amended
34 to read:

35 8670.14. The administrator shall coordinate the oil spill
36 prevention and response programs and facility, tank vessel, and
37 nontank vessel safety standards of the state with federal programs
38 as appropriate and to the maximum extent possible.

39 *SEC. 16.* *Section 8670.15 is added to the Government Code,*
40 *to read:*

1 8670.15. (a) *To the extent allowed by federal and state law*
 2 *and to provide public transparency, the Legislature declares it is*
 3 *the policy of the state that communities that face significant risks*
 4 *associated with the transport or planned transport of significant*
 5 *quantities of oil through or near those communities be notified of*
 6 *the quantities and properties of the oil in a timely manner.*

7 (b) *The administrator shall obtain and make publicly available,*
 8 *as allowed pursuant to the California Public Records Act (Chapter*
 9 *3.5 (commencing with Section 6250) of Division 7 of Title 1) and*
 10 *federal law, previously filed information related to the transport*
 11 *of oil through, near, or into communities. The previously filed*
 12 *information shall include the type and quantity of oil and its mode*
 13 *of transport. The previously filed information shall be obtained*
 14 *annually, at a minimum, and shall cover the immediately preceding*
 15 *12-month period.*

16 (c) *For purposes of this section, “transport” includes transport*
 17 *by vessel, truck, railroad, or pipeline.*

18 ~~SEC. 15.~~

19 SEC. 17. Section 8670.19 of the Government Code is amended
 20 to read:

21 8670.19. (a) The administrator shall periodically conduct a
 22 comprehensive review of all oil spill contingency plans. The
 23 administrator shall do both of the following:

- 24 (1) Segment the coast into appropriate areas as necessary.
 25 (2) Evaluate the oil spill contingency plans for each area to
 26 determine if deficiencies exist in equipment, personnel, training,
 27 and any other area determined to be necessary, including those
 28 response resources properly authorized for cascading into the area,
 29 to ensure the best achievable protection of state waters from oil
 30 spills.

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

36 ~~SEC. 16.~~

37 SEC. 18. Section 8670.25 of the Government Code is amended
 38 to read:

39 8670.25. (a) A person who, without regard to intent or
 40 negligence, causes or permits any oil to be discharged in or on the

1 waters of the state shall immediately contain, clean up, and remove
2 the oil in the most effective manner that minimizes environmental
3 damage and in accordance with the applicable contingency plans,
4 unless ordered otherwise by the Coast Guard or the administrator.

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

8 ~~SEC. 17:~~

9 *SEC. 19.* Section 8670.25.5 of the Government Code is
10 amended to read:

11 8670.25.5. (a) (1) Without regard to intent or negligence, any
12 party responsible for the discharge or threatened discharge of oil
13 in waters of the state shall report the discharge immediately to the
14 Office of Emergency Services pursuant to Section 25510 of the
15 Health and Safety Code.

16 (2) If the information initially reported pursuant to paragraph
17 (1) was inaccurate or incomplete, or if the quantity of oil discharged
18 has changed, any party responsible for the discharge or threatened
19 discharge of oil in waters of the state shall report the updated
20 information immediately to the Office of Emergency Services
21 pursuant to paragraph (1). The report shall contain the accurate or
22 complete information, or the revised quantity of oil discharged.

23 (b) Immediately upon receiving notification pursuant to
24 subdivision (a), the Office of Emergency Services shall notify the
25 administrator, the State Lands Commission, the California Coastal
26 Commission, the California regional water quality control board
27 having jurisdiction over the location of the discharged oil, and the
28 appropriate local governmental agencies in the area surrounding
29 the discharged oil, and take the actions required by subdivision
30 (d) of Section 8589.7. If the spill has occurred within the
31 jurisdiction of the San Francisco Bay Conservation and
32 Development Commission, the Office of Emergency Services shall
33 notify that commission. Each public agency specified in this
34 subdivision shall adopt an internal protocol over communications
35 regarding the discharge of oil and file the internal protocol with
36 the Office of Emergency Services.

37 (c) The 24-hour emergency telephone number of the Office of
38 Emergency Services shall be posted at every railroad dispatch,
39 pipeline operator control center, marine terminal, at the area of

1 control of every marine facility, and on the bridge of every tankship
2 in marine waters.

3 (d) Except as otherwise provided in this section and Section
4 8589.7, a notification made pursuant to this section shall satisfy
5 any immediate notification requirement contained in any permit
6 issued by a permitting agency.

7 ~~SEC. 18.~~

8 *SEC. 20.* Section 8670.26 of the Government Code is amended
9 to read:

10 8670.26. Any local or state agency responding to an oil spill
11 shall notify the Office of Emergency Services, if notification is
12 required under Section 8670.25.5, Section 13272 of the Water
13 Code, or any other notification procedure adopted in the California
14 oil spill contingency plan has not occurred.

15 ~~SEC. 19.~~

16 *SEC. 21.* Section 8670.27 of the Government Code is amended
17 to read:

18 8670.27. (a) (1) All potentially responsible parties for an oil
19 spill and all of their agents and employees and all state and local
20 agencies shall carry out response and cleanup operations in
21 accordance with the applicable contingency plan, unless directed
22 otherwise by the administrator or the Coast Guard.

23 (2) Except as provided in subdivision (b), the responsible party,
24 potentially responsible parties, their agents and employees, the
25 operators of all vessels docked at a marine facility that is the source
26 of a discharge, and all state and local agencies shall carry out spill
27 response consistent with the California oil spill contingency plan
28 or other applicable federal, state, or local spill response plans, and
29 owners and operators shall carry out spill response consistent with
30 their applicable response contingency plans, unless directed
31 otherwise by the administrator or the Coast Guard.

32 (b) If a responsible party or potentially responsible party
33 reasonably, and in good faith, believes that the directions or orders
34 given by the administrator pursuant to subdivision (a) will
35 substantially endanger the public safety or the environment, the
36 party may refuse to act in compliance with the orders or directions
37 of the administrator. The responsible party or potentially
38 responsible party shall state, at the time of the refusal, the reasons
39 why the party refuses to follow the orders or directions of the
40 administrator. The responsible party or potentially responsible

1 party shall give the administrator written notice of the reasons for
2 the refusal within 48 hours of refusing to follow the orders or
3 directions of the administrator. In any civil or criminal proceeding
4 commenced pursuant to this section, the burden of proof shall be
5 on the responsible party or potentially responsible party to
6 demonstrate, by clear and convincing evidence, why the refusal
7 to follow the orders or directions of the administrator was justified
8 under the circumstances.

9 ~~SEC. 20.~~

10 *SEC. 22.* Section 8670.28 of the Government Code is amended
11 to read:

12 8670.28. (a) The administrator, taking into consideration the
13 facility or vessel contingency plan requirements of the State Lands
14 Commission, the Office of the State Fire Marshal, the California
15 Coastal Commission, and other state and federal agencies, shall
16 adopt and implement regulations governing the adequacy of oil
17 spill contingency plans to be prepared and implemented under this
18 article. All regulations shall be developed in consultation with the
19 Oil Spill Technical Advisory Committee, and shall be consistent
20 with the California oil spill contingency plan and not in conflict
21 with the National Contingency Plan. The regulations shall provide
22 for the best achievable protection of waters and natural resources
23 of the state. The regulations shall permit the development,
24 application, and use of an oil spill contingency plan for similar
25 vessels, pipelines, terminals, and facilities within a single company
26 or organization, and across companies and organizations. The
27 regulations shall, at a minimum, ensure all of the following:

28 (1) All areas of state waters are at all times protected by
29 prevention, response, containment, and cleanup equipment and
30 operations.

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

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

37 (4) Each oil spill contingency plan provides for appropriate
38 financial or contractual arrangements for all necessary equipment
39 and services for the response, containment, and cleanup of a

1 reasonable worst case oil spill scenario for each area the plan
2 addresses.

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

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

13 (7) Each facility, as determined by the administrator, conducts
14 a hazard and operability study to identify the hazards associated
15 with the operation of the facility, including the use of the facility
16 by vessels, due to operating error, equipment failure, and external
17 events. For the hazards identified in the hazard and operability
18 studies, the facility shall conduct an offsite consequence analysis
19 that, for the most likely hazards, assumes pessimistic water and
20 air dispersion and other adverse environmental conditions.

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

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

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

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

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

36 (c) The regulations adopted pursuant to this section shall
37 specifically address the types of equipment that will be necessary,
38 the maximum time that will be allowed for deployment, the
39 maximum distance to cooperating response entities, the amounts
40 of dispersant, and the maximum time required for application,

1 should the use of dispersants be approved. Upon a determination
2 by the administrator that booming is appropriate at the site and
3 necessary to provide best achievable protection, the regulations
4 shall require that vessels engaged in lightering operations be
5 boomed prior to the commencement of operations.

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

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

17 ~~SEC. 21.~~

18 *SEC. 23.* Section 8670.29 of the Government Code is amended
19 to read:

20 8670.29. (a) In accordance with the rules, regulations, and
21 policies established by the administrator pursuant to Section
22 8670.28, an owner or operator of a facility, small marine fueling
23 facility, or mobile transfer unit, or an owner or operator of a tank
24 vessel, nontank vessel, or vessel carrying oil as secondary cargo,
25 while operating in the waters of the state or where a spill could
26 impact waters of the state, shall have an oil spill contingency plan
27 that has been submitted to, and approved by, the administrator
28 pursuant to Section 8670.31. An oil spill contingency plan shall
29 ensure the undertaking of prompt and adequate response and
30 removal action in case of a spill, shall be consistent with the
31 California oil spill contingency plan, and shall not conflict with
32 the National Oil and Hazardous Substances Pollution Contingency
33 Plan (NCP), Part 300 of Title 40 of the Code of Federal
34 Regulations.

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

37 (1) Be a written document, reviewed for feasibility and
38 executability, and signed by the owner or operator, or his or her
39 designee.

- 1 (2) Provide for the use of an incident command system to be
2 used during a spill.
- 3 (3) Provide procedures for reporting oil spills to local, state,
4 and federal agencies, and include a list of contacts to call in the
5 event of a drill, threatened spill, or spill.
- 6 (4) Describe the communication plans to be used during a spill,
7 if different from those used by a recognized incident command
8 system.
- 9 (5) Describe the strategies for the protection of environmentally
10 sensitive areas.
- 11 (6) Identify at least one rated OSRO for each rating level
12 established pursuant to Section 8670.30. Each identified rated
13 OSRO shall be directly responsible by contract, agreement, or
14 other approved means to provide oil spill response activities
15 pursuant to the oil spill contingency plan. A rated OSRO may
16 provide oil spill response activities individually, or in combination
17 with another rated OSRO, for a particular owner or operator.
- 18 (7) Identify a qualified individual.
- 19 (8) Provide the name, address, and telephone and facsimile
20 numbers for an agent for service of process, located within the
21 state and designated to receive legal documents on behalf of the
22 owner or operator.
- 23 (9) Provide for training and drills on elements of the plan at
24 least annually, with all elements of the plan subject to a drill at
25 least once every three years.
- 26 (c) An oil spill contingency plan for a vessel shall also include,
27 but is not limited to, all of the following requirements:
- 28 (1) The plan shall be submitted to the administrator at least
29 seven days prior to the vessel entering waters of the state.
- 30 (2) The plan shall provide evidence of compliance with the
31 International Safety Management Code, established by the
32 International Maritime Organization, as applicable.
- 33 (3) If the oil spill contingency plan is for a tank vessel, the plan
34 shall include both of the following:
- 35 (A) The plan shall specify oil and petroleum cargo capacity.
36 (B) The plan shall specify the types of oil and petroleum cargo
37 carried.
- 38 (4) If the oil spill contingency plan is for a nontank vessel, the
39 plan shall include both of the following:

- 1 (A) The plan shall specify the type and total amount of fuel
2 carried.
- 3 (B) The plan shall specify the capacity of the largest fuel tank.
- 4 (d) An oil spill contingency plan for a facility shall also include,
5 but is not limited to, all of the following provisions, as appropriate:
6 (1) Provisions for site security and control.
7 (2) Provisions for emergency medical treatment and first aid.
8 (3) Provisions for safety training, as required by state and federal
9 safety laws for all personnel likely to be engaged in oil spill
10 response.
- 11 (4) Provisions detailing site layout and locations of
12 environmentally sensitive areas requiring special protection.
- 13 (5) Provisions for vessels that are in the operational control of
14 the facility for loading and unloading.
- 15 (e) Unless preempted by federal law or regulations, an oil spill
16 contingency plan for a railroad also shall include, but is not limited
17 to, all of the following:
18 (1) A list of the types of train cars that may make up the consist.
19 (2) A list of the types of oil and petroleum products that may
20 be transported.
21 (3) A map of track routes and facilities.
22 (4) A list, description, and map of any prestaged spill response
23 equipment and personnel for deployment of the equipment.
- 24 (f) The oil spill contingency plan shall be available to response
25 personnel and to relevant state and federal agencies for inspection
26 and review.
- 27 (g) The oil spill contingency plan shall be reviewed periodically
28 and updated as necessary. All updates shall be submitted to the
29 administrator pursuant to this article.
- 30 (h) In addition to the regulations adopted pursuant to Section
31 8670.28, the administrator shall adopt regulations and guidelines
32 to implement this section. The regulations and guidelines shall
33 provide for the best achievable protection of waters and natural
34 resources of the state. The administrator may establish additional
35 oil spill contingency plan requirements, including, but not limited
36 to, requirements based on the different geographic regions of the
37 state. All regulations and guidelines shall be developed in
38 consultation with the Oil Spill Technical Advisory Committee.
- 39 (i) Notwithstanding subdivision (a) and paragraph (6) of
40 subdivision (b), a vessel or facility operating where a spill could

1 impact state waters that are not tidally influenced does not have
2 to identify a rated OSRO in the contingency plan until January 1,
3 2016.

4 *SEC. 24. Section 8670.29.5 is added to the Government Code,*
5 *to read:*

6 8670.29.5. (a) *The administrator shall obtain annually, at a*
7 *minimum, information on the modes of transportation of oil into*
8 *and within the state and the properties of the oil in order to*
9 *evaluate and identify any necessary changes in oil spill response*
10 *and preparedness programs to meet the goals of this chapter.*

11 (b) *The administrator shall provide this information to the Oil*
12 *Spill Technical Advisory Committee, established pursuant to*
13 *Section 8670.54.*

14 ~~SEC. 22.~~

15 *SEC. 25. Section 8670.30.5 of the Government Code is*
16 *amended to read:*

17 8670.30.5. (a) *The administrator may review each oil spill*
18 *contingency plan that has been approved pursuant to Section*
19 *8670.29 to determine whether it complies with Sections 8670.28*
20 *and 8670.29.*

21 (b) *If the administrator finds the approved oil spill contingency*
22 *plan is deficient, the plan shall be returned to the operator with*
23 *written reasons why the approved plan was found inadequate and,*
24 *if practicable, suggested modifications or alternatives. The operator*
25 *shall submit a new or modified plan within 30 days that responds*
26 *to the deficiencies identified by the administrator.*

27 ~~SEC. 23.~~

28 *SEC. 26. Section 8670.31 of the Government Code is amended*
29 *to read:*

30 8670.31. (a) *Each oil spill contingency plan required under*
31 *this article shall be submitted to the administrator for review and*
32 *approval.*

33 (b) *The administrator shall review each submitted contingency*
34 *plan to determine whether it complies with the administrator's*
35 *rules, policies, and regulations adopted pursuant to Section 8670.28*
36 *and 8670.29. The administrator may issue a preliminary approval*
37 *pending final approval or disapproval.*

38 (c) *Each contingency plan submitted shall be approved or*
39 *disapproved within 30 days after receipt by the administrator. The*
40 *administrator may approve or disapprove portions of a plan. A*

1 plan is not deemed approved until all portions are approved
2 pursuant to this section. The disapproved portion shall be subject
3 to the procedures contained in subdivision (d).

4 (d) If the administrator finds the submitted contingency plan is
5 inadequate under the rules, policies, and regulations of the
6 administrator, the plan shall be returned to the submitter with
7 written reasons why the plan was found inadequate and, if
8 practicable, suggested modifications or alternatives, if appropriate.
9 The submitter shall submit a new or modified plan within 30 days
10 after the earlier plan was returned, responding to the findings and
11 incorporating any suggested modifications. The resubmittal shall
12 be treated as a new submittal and processed according to the
13 provisions of this section, except that the resubmitted plan shall
14 be deemed approved unless the administrator acts pursuant to
15 subdivision (c).

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

18 (f) After the plan has been approved, it shall be resubmitted
19 every five years thereafter. The administrator may require earlier
20 or more frequent resubmission, if warranted. Circumstances that
21 would require an earlier resubmission include, but are not limited
22 to, changes in regulations, new oil spill response technologies,
23 deficiencies identified in the evaluation conducted pursuant to
24 Section 8670.19, or a need for a different oil spill response because
25 of increased need to protect endangered species habitat. The
26 administrator may deny approval of the resubmitted plan if it is
27 no longer considered adequate according to the adopted rules,
28 regulations, and policies of the administrator at the time of
29 resubmission.

30 (g) Each owner or operator of a tank vessel, nontank vessel
31 carrying oil as a secondary cargo, or facility who is required to
32 file an oil spill response plan or update pursuant to provisions of
33 federal law regulating oil spill response plans shall submit, for
34 informational purposes only and upon request of the administrator,
35 a copy of that plan or update to the administrator at the time that
36 it is approved by the relevant federal agency.

37 ~~SEC. 24.~~

38 *SEC. 27.* Section 8670.32 of the Government Code is amended
39 to read:

1 8670.32. (a) To reduce the risk of an oil spill as a result of
 2 fuel, cargo, and lube oil transfers, the administrator shall develop
 3 and implement a screening mechanism and a comprehensive
 4 risk-based monitoring program for inspecting the bunkering and
 5 lightering operations of vessels at anchor and alongside a dock.
 6 This program shall identify those bunkering and lightering
 7 operations that pose the highest risk of a pollution incident.

8 (b) The administrator shall ensure that all bunkering and
 9 lightering operations that, pursuant to subdivision (a), pose the
 10 highest risk of a pollution incident are routinely monitored and
 11 inspected. The administrator shall coordinate the monitoring and
 12 inspection program with the Coast Guard.

13 (c) The administrator shall establish regulations to provide for
 14 the best achievable protection during bunkering and lightering
 15 operations.

16 (d) This section shall remain in effect only until January 1, 2015,
 17 and as of that date is repealed, unless a later enacted statute, that
 18 is enacted before January 1, 2015, deletes or extends that date.

19 *SEC. 28. Section 8670.32.5 is added to the Government Code,*
 20 *to read:*

21 *8670.32.5. The administrator, in consultation with the*
 22 *appropriate local, state, and federal regulators, shall conduct a*
 23 *comprehensive risk assessment of nonvessel modes of*
 24 *transportation of oil and shall identify those operations that pose*
 25 *the highest risk of a pollution incident in state waters. The*
 26 *assessment shall include a consideration of the likely range in*
 27 *properties of the oil.*

28 ~~SEC. 25.~~

29 *SEC. 29. Section 8670.33 of the Government Code is amended*
 30 *to read:*

31 8670.33. (a) If the operator of a tank ship or tank barge for
 32 which a contingency plan has not been approved desires to have
 33 the tank ship or tank barge enter waters of the state, the
 34 administrator may give approval by telephone or facsimile machine
 35 for the entry of the tank ship or tank barge into waters of the state
 36 under an approved contingency plan applicable to a terminal or
 37 tank ship, if all of the following are met:

38 (1) The terminal or tank ship is the destination of the tank ship
 39 or tank barge.

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

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

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

13 (5) The tank ship or tank barge without an approved contingency
14 plan has not entered waters of the state more than once in the
15 12-month period preceding the request made under this section.

16 (b) At all times that a tank ship or tank barge is in waters of the
17 state pursuant to subdivision (a), its operators and all their agents
18 and employees shall operate the vessel in accordance with the
19 applicable operations manual or, if there is an oil spill, in
20 accordance with the directions of the administrator and the
21 applicable contingency plan.

22 ~~SEC. 26.~~

23 *SEC. 30.* Section 8670.34 of the Government Code is amended
24 to read:

25 8670.34. This article shall not apply to any tank vessel, nontank
26 vessel, or vessel carrying oil as a secondary cargo that enters waters
27 of the state because of imminent danger to the lives of crew
28 members or if entering waters of the state will substantially aid in
29 preventing an oil spill or other harm to public safety or the
30 environment, if the operators of the tank vessel, nontank vessel,
31 or vessel carrying oil as a secondary cargo comply with all of the
32 following:

33 (a) The operators or crew of the tank vessel, nontank vessel, or
34 vessel carrying oil as a secondary cargo comply at all times with
35 all orders and directions given by the administrator, or his or her
36 designee, while the tank vessel, nontank vessel, or vessel carrying
37 oil as a secondary cargo is in waters of the state, unless the orders
38 or directions are contradicted by orders or directions of the Coast
39 Guard.

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

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

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

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

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

16 ~~SEC. 27.~~

17 *SEC. 31.* Section 8670.35 of the Government Code is amended
18 to read:

19 8670.35. (a) The administrator, taking into consideration the
20 California oil spill contingency plan, shall promulgate regulations
21 regarding the adequacy of oil spill elements of area plans required
22 pursuant to Section 25503 of the Health and Safety Code. In
23 developing the regulations, the administrator shall consult with
24 the Oil Spill Technical Advisory Committee.

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

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

32 (d) Each oil spill element prepared under this section shall be
33 consistent with the local government's local coastal program as
34 certified under Section 30500 of the Public Resources Code, the
35 California oil spill contingency plan, and the National Contingency
36 Plan.

37 (e) If a grant is awarded, the administrator shall review and
38 approve each oil spill element established pursuant to this section.
39 If, upon review, the administrator determines that the oil spill
40 element is inadequate, the administrator shall return it to the agency

1 that prepared it, specifying the nature and extent of the
2 inadequacies, and, if practicable, suggesting modifications. The
3 unified program agency shall submit a new or modified element
4 within 90 days after the element was returned, responding to the
5 findings and incorporating any suggested modifications.

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

13 ~~SEC. 28.~~

14 *SEC. 32.* Section 8670.36 of the Government Code is amended
15 to read:

16 8670.36. The administrator shall, within five working days
17 after receipt of a contingency plan prepared pursuant to Section
18 8670.28 or 8670.35, post a notice that the plan is available for
19 review. The administrator shall send a copy of the plan within two
20 working days after receiving a request from the Oil Spill Technical
21 Advisory Committee. The State Lands Commission and the
22 California Coastal Commission shall review the plans for facilities
23 or local governments within the coastal zone. The San Francisco
24 Bay Conservation and Development Commission shall review the
25 plans for facilities or local governments within the area described
26 in Sections 66610 and 29101 of the Public Resources Code. Any
27 state agency or committee that comments shall submit its comments
28 to the administrator within 15 days of receipt of the plan. The
29 administrator shall consider all comments.

30 ~~SEC. 29.~~

31 *SEC. 33.* Section 8670.37 of the Government Code is amended
32 to read:

33 8670.37. (a) The administrator, with the assistance of the State
34 Lands Commission, the California Coastal Commission, the
35 executive director of the San Francisco Bay Conservation and
36 Development Commission, or other appropriate agency, shall carry
37 out studies with regard to improvements to contingency planning
38 and oil spill response equipment and operations.

39 (b) To the greatest extent possible, these studies shall be
40 coordinated with studies being done by the federal government,

1 and other appropriate state and international entities, and
2 duplication with the efforts of other entities shall be minimized.

3 (c) The administrator, the State Lands Commission, the
4 California Coastal Commission, the executive director of the San
5 Francisco Bay Conservation and Development Commission, or
6 other appropriate agency may be reimbursed for all costs incurred
7 in carrying out the studies under this section from the Oil Spill
8 Prevention and Administration Fund.

9 ~~SEC. 30.~~

10 *SEC. 34.* Section 8670.37.5 of the Government Code is
11 amended to read:

12 8670.37.5. (a) The administrator shall establish a network of
13 rescue and rehabilitation stations for wildlife injured by oil spills,
14 including sea otters and other marine mammals. In addition to
15 rehabilitative care, the primary focus of the Oiled Wildlife Care
16 Network shall include proactive oiled wildlife search and collection
17 rescue efforts. These facilities shall be established and maintained
18 in a state of preparedness to provide the best achievable treatment
19 for wildlife, mammals, and birds affected by an oil spill in waters
20 of the state. The administrator shall consider all feasible
21 management alternatives for operation of the network.

22 (b) (1) The first rescue and rehabilitation station established
23 pursuant to this section shall be located within the sea otter range
24 on the central coast. The administrator initially shall establish
25 regional oiled wildlife rescue and rehabilitation facilities in the
26 Los Angeles Harbor area, the San Francisco Bay area, the San
27 Diego area, the Monterey Bay area, the Humboldt County area,
28 and the Santa Barbara area. The administrator also may establish
29 facilities in other areas of the state as the administrator determines
30 to be necessary.

31 (2) One or more of the oiled wildlife rescue and rehabilitation
32 stations shall be open to the public for educational purposes and
33 shall be available for wildlife health research. Wherever possible
34 in the establishment of these facilities, the administrator shall
35 improve existing authorized rehabilitation facilities and may
36 expand or take advantage of existing educational or scientific
37 programs and institutions for oiled wildlife rehabilitation purposes.
38 Expenditures shall be reviewed by the agencies and organizations
39 specified in subdivision (c).

1 (c) The administrator shall consult with the United States Fish
2 and Wildlife Service, the National Marine Fisheries Service, the
3 California Coastal Commission, the executive director of the San
4 Francisco Bay Conservation and Development Commission, the
5 Marine Mammal Center, and International Bird Rescue in the
6 design, planning, construction, and operation of the rescue and
7 rehabilitation stations. All proposals for the rescue and
8 rehabilitation stations shall be presented before a public hearing
9 prior to the construction and operation of any rehabilitation station,
10 and, upon completion of the coastal protection element of the
11 California oil spill contingency plan, shall be consistent with the
12 coastal protection element.

13 (d) The administrator may enter into agreements with nonprofit
14 organizations to establish and equip wildlife rescue and
15 rehabilitation stations and to ensure that they are operated in a
16 professional manner in keeping with the pertinent guidance
17 documents issued by the administrator. The implementation of the
18 agreement shall not constitute a California public works project.
19 The agreement shall be deemed a contract for wildlife rehabilitation
20 as authorized by Section 8670.61.5.

21 (e) In the event of a spill, the responsible party may request that
22 the administrator perform the rescue and rehabilitation of oiled
23 wildlife required of the responsible party pursuant to this chapter
24 if the responsible party and the administrator enter into an
25 agreement for the reimbursement of the administrator's costs
26 incurred in taking the requested action. If the administrator
27 performs the rescue and rehabilitation of oiled wildlife, the
28 administrator shall primarily utilize the network of rescue and
29 rehabilitation stations established pursuant to subdivision (a),
30 unless more immediate care is required. Any of those activities
31 conducted pursuant to this section or Section 8670.56.5 or
32 8670.61.5 shall be performed under the direction of the
33 administrator. This subdivision does not remove the responsible
34 party from liability for the costs of, or the responsibility for, the
35 rescue and rehabilitation of oiled wildlife, as established by this
36 chapter. This subdivision does not prohibit an owner or operator
37 from retaining, in a contingency plan prepared pursuant to this
38 article, wildlife rescue and rehabilitation services different from
39 the rescue and rehabilitation stations established pursuant to this
40 section.

1 (f) (1) The administrator shall appoint a rescue and
2 rehabilitation advisory board to advise the administrator regarding
3 operation of the network of rescue and rehabilitation stations
4 established pursuant to subdivision (a), including the economic
5 operation and maintenance of the network. For the purpose of
6 assisting the administrator in determining what constitutes the best
7 achievable treatment for oiled wildlife, the advisory board shall
8 provide recommendations to the administrator on the care achieved
9 by current standard treatment methods, new or alternative treatment
10 methods, the costs of treatment methods, and any other information
11 that the advisory board believes that the administrator might find
12 useful in making that determination. The administrator shall consult
13 with the advisory board in preparing the administrator's submission
14 to the Legislature pursuant to subdivision (a) of Section 8670.40.5.
15 The administrator shall present the recommendations of the
16 advisory board to the Oil Spill Technical Advisory Committee
17 created pursuant to Article 8 (commencing with Section 8670.54),
18 upon the request of the committee.

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

25 (3) (A) The Legislature hereby finds and declares that since
26 the administrator may rely on the expertise provided by the
27 volunteer members of the advisory board and may be guided by
28 their recommendations in making decisions that relate to the
29 operation of the network of rescue and rehabilitation stations, those
30 members should be entitled to the same immunity from liability
31 that is provided other public employees.

32 (B) Members of the advisory board, while performing functions
33 within the scope of advisory board duties, shall be entitled to the
34 same rights and immunities granted public employees by Article
35 3 (commencing with Section 820) of Chapter 1 of Part 2 of
36 Division 3.6 of Title 1. Those rights and immunities are deemed
37 to have attached, and shall attach, as of the date of appointment
38 of the member to the advisory board.

1 (g) The administrator shall ensure the state’s ability to prevent
2 the contamination of wildlife and to identify, collect, rescue, and
3 treat oiled wildlife through all of the following:

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

20 (2) Developing and implementing a plan for the provision of
21 emergency equipment for wildlife rescue in strategic locations to
22 facilitate ready deployment in the case of an oil spill. The
23 administrator shall ensure that the equipment identified as
24 necessary in his or her wildlife response plan is available and
25 deployed in a timely manner to assist in providing the best
26 achievable protection and collection efforts.

27 (3) Developing the capacity of the Oiled Wildlife Care Network
28 to recruit and train an adequate field team for collection of live
29 oiled wildlife, as specified in paragraph (1), by providing staffing
30 for field operations, coordination, and volunteer outreach for the
31 Oiled Wildlife Care Network. The duties of the field operations
32 and volunteer outreach staff shall include recruitment and
33 coordination of additional participation in the Oiled Wildlife Care
34 Network by other existing organizations with experience and
35 expertise in wildlife rescue and handling, including scientific
36 organizations, educational institutions, public agencies, and
37 nonprofit organizations dedicated to wildlife conservation, and
38 recruitment, training, and supervision of volunteers from Oiled
39 Wildlife Care Network participating organizations.

1 (4) Ensuring that qualified persons with experience and expertise
 2 in wildlife rescue are assigned to oversee and supervise wildlife
 3 recovery search and collection efforts, as specified in the
 4 administrator’s wildlife response plan. The administrator shall
 5 provide for and ensure that all persons involved in field collection
 6 of oiled wildlife receive training in search and capture techniques
 7 and hazardous materials certification, as appropriate.

8 ~~SEC. 31.~~

9 *SEC. 35.* Section 8670.37.51 of the Government Code is
 10 amended to read:

11 8670.37.51. (a) A tank vessel or vessel carrying oil as a
 12 secondary cargo shall not be used to transport oil across waters of
 13 the state unless the owner or operator has applied for and obtained
 14 a certificate of financial responsibility issued by the administrator
 15 for that vessel or for the owner of all of the oil contained in and
 16 to be transferred to or from that vessel.

17 (b) An operator of a marine terminal within the state shall not
 18 transfer oil to or from a tank vessel or vessel carrying oil as a
 19 secondary cargo unless the operator of the marine terminal has
 20 received a copy of a certificate of financial responsibility issued
 21 by the administrator for the operator of that vessel or for all of the
 22 oil contained in and to be transferred to or from that vessel.

23 (c) An operator of a marine terminal within the state shall not
 24 transfer oil to or from any vessel that is or is intended to be used
 25 for transporting oil as cargo to or from a second vessel unless the
 26 operator of the marine terminal has first received a copy of a
 27 certificate of financial responsibility issued by the administrator
 28 for the person responsible for both the first and second vessels or
 29 all of the oil contained in both vessels, as well as all the oil to be
 30 transferred to or from both vessels.

31 (d) An owner or operator of a facility where a spill could impact
 32 waters of the state shall apply for and obtain a certificate of
 33 financial responsibility issued by the administrator for the facility
 34 or the oil to be handled, stored, or transported by the facility.

35 (e) Pursuant to Section 8670.37.58, nontank vessels shall obtain
 36 a certificate of financial responsibility.

37 ~~SEC. 32.~~

38 *SEC. 36.* Section 8670.37.52 of the Government Code is
 39 amended to read:

1 8670.37.52. The certificate of financial responsibility shall be
2 conclusive evidence that the person or entity holding the certificate
3 is the party responsible for the specified vessel, facility, or oil for
4 purposes of determining liability pursuant to this chapter.

5 ~~SEC. 33.~~

6 *SEC. 37.* Section 8670.37.53 of the Government Code is
7 amended to read:

8 8670.37.53. (a) To receive a certificate of financial
9 responsibility for a tank vessel or for all of the oil contained within
10 that vessel, the applicant shall demonstrate to the satisfaction of
11 the administrator the financial ability to pay at least one billion
12 dollars (\$1,000,000,000) for any damages that may arise during
13 the term of the certificate.

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

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

31 (2) The administrator shall adopt regulations to implement this
32 section.

33 ~~SEC. 34.~~

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

36 8670.37.55. (a) An owner or operator of more than one tank
37 vessel, vessel carrying oil as a secondary cargo, nontank vessel,
38 or facility shall only be required to obtain one certificate of
39 financial responsibility for all of those vessels and facilities owned
40 or operated.

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

13 ~~SEC. 35.~~

14 *SEC. 39.* Section 8670.37.58 of the Government Code is
15 amended to read:

16 8670.37.58. (a) A nontank vessel shall not enter waters of the
17 state unless the nontank vessel owner or operator has provided to
18 the administrator evidence of financial responsibility that
19 demonstrates, to the administrator's satisfaction, the ability to pay
20 at least three hundred million dollars (\$300,000,000) to cover
21 damages caused by a spill, and the owner or operator of the nontank
22 vessel has obtained a certificate of financial responsibility from
23 the administrator for the nontank vessel.

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

34 (c) The administrator may adopt regulations to implement this
35 section.

36 ~~SEC. 36.~~

37 *SEC. 40.* Section 8670.40 of the Government Code is amended
38 to read:

39 8670.40. (a) The State Board of Equalization shall collect a
40 fee in an amount annually determined by the administrator to be

1 sufficient to pay the reasonable regulatory costs to carry out the
2 purposes set forth in subdivision (e), and a reasonable reserve for
3 contingencies. The oil spill prevention and administration fee shall
4 be based on each barrel of crude oil or petroleum products, as
5 described in subdivision (b).

6 (b) (1) The oil spill prevention and administration fee shall be
7 imposed upon a person owning crude oil at the time that the crude
8 oil is received at a marine terminal, by any mode of delivery that
9 passed over, across, under, or through waters of the state, from
10 within or outside the state, and upon a person who owns petroleum
11 products at the time that those petroleum products are received at
12 a marine terminal, by any mode of delivery that passed over, across,
13 under, or through waters of the state, from outside this state. The
14 fee shall be collected by the marine terminal operator from the
15 owner of the crude oil or petroleum products for each barrel of
16 crude oil or petroleum products received.

17 (2) The oil spill prevention and administration fee shall be
18 imposed upon a person owning crude oil at the time the crude oil
19 is received at a refinery within the state by any mode of delivery
20 that passed over, across, under, or through waters of the state,
21 whether from within or outside the state. The refinery shall collect
22 the fee from the owner of the crude oil for each barrel of crude oil
23 or petroleum products received.

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

36 (4) The oil spill prevention and administration fee shall not be
37 collected by a marine terminal operator or refinery operator or
38 imposed on the owner of crude oil or petroleum products if the fee
39 has been previously collected or paid on the crude oil or petroleum
40 products at another marine terminal or refinery. It shall be the

1 obligation of the marine terminal operator, refinery operator, or
2 owner of crude oil or petroleum products to show that the fee has
3 already been paid on the same crude oil or petroleum products.

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

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

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

25 (d) The State Board of Equalization shall collect the fee and
26 adopt regulations for implementing the fee collection program.

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

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

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

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

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

1 (5) To reimburse the State Board of Equalization for its
2 reasonable costs incurred to implement this chapter and to carry
3 out Part 24 (commencing with Section 46001) of Division 2 of the
4 Revenue and Taxation Code.

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

7 (f) The moneys deposited in the fund shall not be used for
8 responding to a spill.

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

11 (h) Every person who operates a refinery, a marine terminal in
12 waters of the state, or a pipeline shall register with the State Board
13 of Equalization, pursuant to Section 46101 of the Revenue and
14 Taxation Code.

15 ~~SEC. 37.~~

16 *SEC. 41.* Section 8670.40.5 is added to the Government Code,
17 to read:

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

27 (b) The administrator shall report to the Legislature, upon
28 request, on the progress and effectiveness of the network of oiled
29 wildlife rescue and rehabilitation stations established pursuant to
30 Section 8670.37.5 and the adequacy of the Oil Spill Prevention
31 and Administration Fund to meet the purposes for which the
32 network was established.

33 (c) At the administrator's request, the funds made available
34 pursuant to this section may be directly appropriated to a suitable
35 program for wildlife health and rehabilitation within a school of
36 veterinary medicine within this state, if an agreement exists,
37 consistent with this chapter, between the administrator and an
38 appropriate representative of the program for carrying out that
39 purpose. The administrator shall attempt to have an agreement in
40 place at all times. The agreement shall ensure that the training of,

1 and the care provided by, the program staff are at levels that are
2 consistent with those standards generally accepted within the
3 veterinary profession.

4 (d) The funds made available pursuant to this section shall not
5 be considered an offset to any other state funds appropriated to
6 the program, the program’s associated school of veterinary
7 medicine, or the program’s associated college or university. The
8 funds shall not be used for any other purpose. If an offset does
9 occur or the funds are used for an unintended purpose, the
10 administrator may terminate expenditure of any funds appropriated
11 pursuant to this section and the administrator may request a
12 reappropriation to accomplish the intended purpose. The
13 administrator shall annually review and approve the proposed uses
14 of any funds made available pursuant to this section.

15 ~~SEC. 38.~~

16 *SEC. 42.* Section 8670.42 of the Government Code is amended
17 to read:

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

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

37 ~~SEC. 39.~~

38 *SEC. 43.* Section 8670.47.5 of the Government Code is
39 amended to read:

40 8670.47.5. The following shall be deposited into the fund:

- 1 (a) The fee required pursuant to Section 8670.48.
- 2 (b) Any federal funds received to pay for response, containment,
- 3 abatement, and rehabilitation costs from an oil spill in waters of
- 4 the state.
- 5 (c) Any money borrowed by the Treasurer pursuant to Article
- 6 7.5 (commencing with Section 8670.53.1) or any draw on the
- 7 financial security obtained by the Treasurer pursuant to subdivision
- 8 (o) of Section 8670.48.
- 9 (d) Any interest earned on the moneys in the fund.
- 10 (e) Any costs recovered from responsible parties pursuant to
- 11 Section 8670.53 and subdivision (e) of Section 8670.53.1.

12 ~~SEC. 40.~~

13 *SEC. 44.* Section 8670.48 of the Government Code is amended

14 to read:

15 8670.48. (a) (1) A uniform oil spill response fee in an amount

16 not exceeding twenty-five cents (\$0.25) for each barrel of

17 petroleum products, as set by the administrator pursuant to

18 subdivision (f), shall be imposed upon a person who owns

19 petroleum products at the time the petroleum products are received

20 at a marine terminal within this state by means of a vessel from a

21 point of origin outside this state. The fee shall be collected by the

22 marine terminal and remitted to the State Board of Equalization

23 by the terminal operator on the 25th day of each month based upon

24 the number of barrels of petroleum products received during the

25 preceding month.

26 (2) An owner of petroleum products is liable for the fee until it

27 has been paid to the state, except that payment to a marine terminal

28 operator registered under this chapter is sufficient to relieve the

29 owner from further liability for the fee.

30 (b) An operator of a pipeline shall also pay a uniform oil spill

31 response fee in an amount not exceeding twenty-five cents (\$0.25)

32 for each barrel of petroleum products, as set by the administrator

33 pursuant to subdivision (f), transported into the state by means of

34 a pipeline operating across, under, or through the waters of the

35 state. The fee shall be paid on the 25th day of each month based

36 upon the number of barrels of petroleum products so transported

37 into the state during the preceding month.

38 (c) An operator of a refinery shall pay a uniform oil spill

39 response fee in an amount not exceeding twenty-five cents (\$0.25)

40 for each barrel of crude oil, as set by the administrator pursuant

1 to subdivision (f), received at a refinery within the state by any
2 method of transport. The fee shall be paid on the 25th day of each
3 month based upon the number of barrels of crude oil so received
4 during the preceding month.

5 (d) A marine terminal operator shall pay a uniform oil spill
6 response fee in an amount not exceeding twenty-five cents (\$0.25),
7 in accordance with subdivision (g), for each barrel of crude oil, as
8 set by the administrator pursuant to subdivision (f), that is
9 transported from within this state by means of a vessel to a
10 destination outside this state.

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

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

19 (A) The amount in the fund is less than or equal to 95 percent
20 of the designated amount specified in subdivision (a) of Section
21 46012 of the Revenue and Taxation Code.

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

24 (C) The revenue is necessary to repay a draw on a financial
25 security obtained by the Treasurer pursuant to subdivision (o) or
26 borrowing by the Treasurer pursuant to Article 7.5 (commencing
27 with Section 8670.53.1), including any principal, interest, premium,
28 fees, charges, or costs of any kind incurred in connection with
29 those borrowings or financial security.

30 (2) The administrator, in consultation with the State Board of
31 Equalization, and with the approval of the Treasurer, may direct
32 the State Board of Equalization to cease collecting the fee when
33 the administrator determines that further collection of the fee is
34 not necessary for the purposes specified in paragraph (1).

35 (3) The administrator, in consultation with the State Board of
36 Equalization, shall set the amount of the oil spill response fees.
37 The oil spill response fees shall be imposed on all fee payers in the
38 same amount. The administrator shall not set the amount of the
39 fee at less than twenty-five cents (\$0.25) for each barrel of
40 petroleum products or crude oil, unless the administrator finds that

1 the assessment of a lesser fee will cause the fund to reach the
2 designated amount specified in subdivision (a) of Section 46012
3 of the Revenue and Taxation Code within four months. The fee
4 shall not be less than twenty-five cents (\$0.25) for each barrel of
5 petroleum products or crude oil if the administrator has drawn
6 upon the financial security obtained by the Treasurer pursuant to
7 subdivision (o) or if the Treasurer has borrowed money pursuant
8 to Article 7.5 (commencing with Section 8670.53.1) and principal,
9 interest, premium, fees, charges, or costs of any kind incurred in
10 connection with those borrowings remain outstanding or unpaid,
11 unless the Treasurer has certified to the administrator that the
12 money in the fund is not necessary for the purposes specified in
13 paragraph (1).

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

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

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

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

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

7 (1) To provide funds to cover promptly the costs of response,
8 containment, and cleanup of oil spills into waters of the state,
9 including damage assessment costs and wildlife rehabilitation as
10 provided in Section 8670.61.5.

11 (2) To cover response and cleanup costs and other damages
12 suffered by the state or other persons or entities from oil spills into
13 waters of the state that cannot otherwise be compensated by
14 responsible parties or the federal government.

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

16 (4) To pay claims for damages, except for damages described
17 in paragraph (7) of subdivision (h) of Section 8670.56.5, pursuant
18 to Section 8670.51.1.

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

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

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

29 (8) [Reserved]

30 (9) To respond to an imminent threat of a spill in accordance
31 with the provisions of Section 8670.62 pertaining to threatened
32 discharges.

33 (l) The interest that the state earns on the funds deposited into
34 the Oil Spill Response Trust Fund shall be deposited in the fund
35 and shall be used to maintain the fund at the designated amount
36 specified in subdivision (a) of Section 46012 of the Revenue and
37 Taxation Code. If the amount in the fund exceeds that designated
38 amount, the interest shall be deposited into the Oil Spill Prevention
39 and Administration Fund, and shall be available for the purposes
40 authorized by Article 6 (commencing with Section 8670.38).

1 (m) The Legislature finds and declares that effective response
2 to oil spills requires that the state have available sufficient funds
3 in a response fund. The Legislature further finds and declares that
4 maintenance of that fund is of utmost importance to the state and
5 that the money in the fund shall be used solely for the purposes
6 specified in subdivision (k).

7 (n) [Reserved]

8 (o) The Treasurer shall obtain financial security, in the
9 designated amount specified in subdivision (b) of Section 46012
10 of the Revenue and Taxation Code, in a form that, in the event of
11 an oil spill, may be drawn upon immediately by the administrator
12 upon making the determinations required by paragraph (2) of
13 subdivision (a) of Section 8670.49. The financial security may be
14 obtained in any of the forms described in subdivision (b) of Section
15 8670.53.3, as determined by the Treasurer.

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

18 ~~SEC. 41.~~

19 *SEC. 45.* Section 8670.48.3 of the Government Code is
20 amended to read:

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

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

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

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

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

1 (d) This section shall become inoperative on July 1, 2017, and,
2 as of January 1, 2018, is repealed, unless a later enacted statute,
3 that becomes operative on or before January 1, 2018, deletes or
4 extends the dates on which it becomes inoperative and is repealed.

5 ~~SEC. 42.~~

6 *SEC. 46.* Section 8670.49 of the Government Code is amended
7 to read:

8 8670.49. (a) (1) The administrator may only expend money
9 from the fund to pay for any of the following, subject to the lien
10 established in Section 8670.53.2:

11 (A) To pay the cost of obtaining financial security as authorized
12 by paragraph (5) of subdivision (k) and subdivision (o) of Section
13 8670.48.

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

19 (C) To pay for the expansion, in the VTS area, pursuant to
20 Section 445 of the Harbors and Navigation Code, of the vessel
21 traffic service system (VTS system) authorized pursuant to
22 subdivision (f) of Section 8670.21.

23 (2) If a spill has occurred, the administrator may expend the
24 money in the fund for the purposes identified in paragraphs (1),
25 (2), (3), (4), and (6) of subdivision (k) of Section 8670.48 only
26 upon making the following determinations:

27 (A) Except as authorized by Section 8670.51.1, a responsible
28 party does not exist or the responsible party is unable or unwilling
29 to provide adequate and timely cleanup and to pay for the damages
30 resulting from the spill. The administrator shall make a reasonable
31 effort to have the party responsible remove the oil or agree to pay
32 for any actions resulting from the spill that may be required by
33 law, provided that the efforts are not detrimental to fish, plant,
34 animal, or bird life in the affected waters. The reasonable effort
35 of the administrator shall include attempting to access the
36 responsible parties' insurance or other proof of financial
37 responsibility.

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

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

5 (b) Upon making the determinations specified in paragraph (2)
6 of subdivision (a), the administrator shall immediately make
7 whatever payments are necessary for responding to, containing,
8 or cleaning up the spill, including any wildlife rehabilitation
9 required by law and payment of claims pursuant to Sections
10 8670.51 and 8670.51.1, subject to the lien established by Section
11 8670.53.2.

12 ~~SEC. 43.~~

13 *SEC. 47.* Section 8670.50 of the Government Code is amended
14 to read:

15 8670.50. (a) Money from the fund may only be expended to
16 cover the costs incurred by the state and local governments and
17 agencies for any of the following:

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

20 (A) Undertaken pursuant to the state and local oil spill
21 contingency plans established under this chapter, and the California
22 oil spill contingency plan established under Article 3.5
23 (commencing with Section 8574.1) of Chapter 7.

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

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

27 (2) Meeting the requirements of Section 8670.61.5 relating to
28 wildlife rehabilitation.

29 (3) Making the payments authorized by subdivision (k) of
30 Section 8670.48.

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

35 ~~SEC. 44.~~

36 *SEC. 48.* Section 8670.51 of the Government Code is amended
37 to read:

38 8670.51. (a) When a person has obtained a final judgment for
39 damages resulting from an oil spill in waters of the state, but is
40 unable, within one year after the date of its entry, to enforce the

1 judgment pursuant to Title 9 (commencing with Section 680.010)
2 of the Code of Civil Procedure, or is unable to obtain satisfaction
3 of the judgment from the federal government within 90 additional
4 days, the administrator shall pay an amount not to exceed those
5 amounts that cannot be recovered from a responsible party and the
6 fund shall be subrogated to all rights, claims, and causes of action
7 that the claimant has under this chapter, Article 3. 5 (commencing
8 with Section 8574.1) of Chapter 7, Section 8670.61.5, and Division
9 7.8 (commencing with Section 8750) of the Public Resources
10 Code.

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

14 (1) The responsible party or parties cannot be ascertained.

15 (2) A responsible party is not liable for noneconomic damages
16 caused by another.

17 (3) Subdivision (i) of Section 8670.56.6 is applicable to the
18 claim.

19 (c) The administrator shall not approve any claim in an amount
20 that exceeds the amount to which the person would otherwise be
21 entitled pursuant to Section 8670.56.5, and shall pay claims from
22 the fund that are approved pursuant to this section.

23 ~~SEC. 45.~~

24 *SEC. 49.* Section 8670.53 of the Government Code is amended
25 to read:

26 8670.53. The Attorney General, in consultation with the
27 administrator, shall undertake actions to recover all costs to the
28 funds from any responsible party for an oil spill into waters of the
29 state for which expenditures are made from the fund. The recovery
30 of costs pursuant to this section shall not foreclose the Attorney
31 General from any other actions allowed by law.

32 ~~SEC. 46.~~

33 *SEC. 50.* Section 8670.54 of the Government Code is amended
34 to read:

35 8670.54. (a) The Oil Spill Technical Advisory Committee,
36 hereafter in this article, the committee, is hereby established to
37 provide public input and independent judgment of the actions of
38 the administrator. The committee shall consist of 14 members, of
39 whom eight shall be appointed by the Governor, three by the
40 Speaker of the Assembly, and three by the Senate Rules

1 Committee. The appointments shall be made in the following
2 manner:

3 (1) The Speaker of the Assembly and Senate Committee on
4 Rules shall each appoint a member who shall be a representative
5 of the public.

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

8 (3) The Speaker of the Assembly and the Senate Committee on
9 Rules shall each appoint two members who have demonstrable
10 knowledge of environmental protection and the study of
11 ecosystems.

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

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

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

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

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

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

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

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

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

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

35 ~~SEC. 47.~~

36 *SEC. 51.* Section 8670.55 of the Government Code is amended
37 to read:

38 8670.55. (a) The committee shall provide recommendations
39 to the administrator, the State Lands Commission, the California
40 Coastal Commission, the San Francisco Bay Conservation and

1 Development Commission, the Division of Oil, Gas, and
2 Geothermal Resources, the Office of the State Fire Marshal, and
3 the Public Utilities Commission, on any provision of this chapter,
4 including the promulgation of all rules, regulations, guidelines,
5 and policies.

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

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

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

21 ~~SEC. 48.~~

22 *SEC. 52.* Section 8670.56.5 of the Government Code is
23 amended to read:

24 8670.56.5. (a) A responsible party, as defined in Section
25 8670.3, shall be absolutely liable without regard to fault for any
26 damages incurred by any injured party that arise out of, or are
27 caused by a spill.

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

30 (1) Damages, other than costs of removal incurred by the state
31 or a local government, caused solely by any act of war, hostilities,
32 civil war, or insurrection or by an unanticipated grave natural
33 disaster or other act of God of an exceptional, inevitable, and
34 irresistible character, that could not have been prevented or avoided
35 by the exercise of due care or foresight.

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

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

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

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

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

5 (c) The defenses provided in subdivision (b) shall not be
6 available to a responsible person who fails to comply with Sections
7 8670.25, 8670.25.5, 8670.27, and 8670.62.

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

11 (e) In determining whether a party is a responsible party under
12 this section, the court shall consider the results of chemical or other
13 scientific tests conducted to determine whether oil or other
14 substances produced, discharged, or controlled by the defendant
15 matches the oil or other substance that caused the damage to the
16 injured party. The defendant shall have the burden of producing
17 the results of tests of samples of the substance that caused the
18 injury and of substances for which the defendant is responsible,
19 unless it is not possible to conduct the tests because of
20 unavailability of samples to test or because the substance is not
21 one for which reliable tests have been developed. At the request
22 of a party, any other party shall provide samples of oil or other
23 substances within its possession or control for testing.

24 (f) The court may award reasonable costs of the suit, attorney's
25 fees, and the costs of necessary expert witnesses to a prevailing
26 plaintiff. The court may award reasonable costs of the suit and
27 attorney's fees to a prevailing defendant if the court finds that the
28 plaintiff commenced or prosecuted the suit pursuant to this section
29 in bad faith or solely for purposes of harassing the defendant.

30 (g) This section does not prohibit a person from bringing an
31 action for damages caused by oil or by exploration, under any
32 other provision or principle of law, including, but not limited to,
33 common law. However, damages shall not be awarded pursuant
34 to this section to an injured party for loss or injury for which the
35 party is or has been awarded damages under any other provision
36 or principle of law. Subdivision (b) does not create a defense not
37 otherwise available regarding an action brought under any other
38 provision or principle of law, including, but not limited to, common
39 law.

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

3 (1) All costs of response, containment, cleanup, removal, and
4 treatment, including, but not limited to, monitoring and
5 administration costs incurred pursuant to the California oil spill
6 contingency plan or actions taken pursuant to directions by the
7 administrator.

8 (2) Injury to, or economic losses resulting from destruction of
9 or injury to, real or personal property, which shall be recoverable
10 by any claimant who has an ownership or leasehold interest in
11 property.

12 (3) Injury to, destruction of or loss of, natural resources,
13 including, but not limited to, the reasonable costs of rehabilitating
14 wildlife, habitat, and other resources and the reasonable costs of
15 assessing that injury, destruction, or loss, in an action brought by
16 the state, a county, city, or district. Damages for the loss of natural
17 resources may be determined by any reasonable method, including,
18 but not limited to, determination according to the costs of restoring
19 the lost resource.

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

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

26 (6) Loss of profits or impairment of earning capacity due to the
27 injury, destruction, or loss of real property, personal property, or
28 natural resources, which shall be recoverable by any claimant who
29 derives at least 25 percent of his or her earnings from the activities
30 that utilize the property or natural resources, or, if those activities
31 are seasonal in nature, 25 percent of his or her earnings during the
32 applicable season.

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

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

1 (j) This section does not apply to claims for damages for
2 personal injury or wrongful death, and does not limit the right of
3 a person to bring an action for personal injury or wrongful death
4 pursuant to any provision or principle of law.

5 (k) Payments made by a responsible party to cover liabilities
6 arising from a discharge of oil, whether under this division or any
7 other provision of federal, state, or local law, shall not be charged
8 against royalties, rents, or net profits owed to the United States,
9 the state, or any other public entity.

10 (l) An action that a private or public individual or entity may
11 have against a responsible party under this section may be brought
12 directly by the individual or entity or by the state on behalf of the
13 individual or entity. However, the state shall not pursue an action
14 on behalf of a private individual or entity that requests the state
15 not to pursue that action.

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

18 ~~SEC. 49.~~

19 *SEC. 53.* Section 8670.56.6 of the Government Code is
20 amended to read:

21 8670.56.6. (a) (1) Except as provided in subdivisions (b) and
22 (d), and subject to subdivision (c), a person, including, but not
23 limited to, an oil spill cooperative, its agents, subcontractors, or
24 employees, shall not be liable under this chapter or the laws of the
25 state to any person for costs, damages, or other claims or expenses
26 as a result of actions taken or omitted in good faith in the course
27 of rendering care, assistance, or advice in accordance with the
28 National Contingency Plan, the California oil spill contingency
29 plan, or at the direction of the administrator, onsite coordinator,
30 or the Coast Guard in response to a spill or threatened spill.

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

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

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

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

1 (3) Nothing in this section shall, in any manner or respect, affect
2 or impair any cause of action against or any liability of any person
3 or persons responsible for the spill, for the discharged oil, or for
4 the vessel, terminal, pipeline, or facility from which the oil was
5 discharged. The responsible person or persons shall remain liable
6 for any and all damages arising from the discharge, including
7 damages arising from improperly carried out response efforts, as
8 otherwise provided by law.

9 (b) Nothing in this section shall, in any manner or respect, affect
10 or impair any cause of action against or any liability of any party
11 or parties responsible for the spill, or the responsible party’s agents,
12 employees, or subcontractors, except persons immunized under
13 subdivision (a) for response efforts, for the discharged oil, or for
14 the vessel, terminal, pipeline, or facility from which the oil was
15 discharged.

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

18 (1) Notwithstanding subdivision (b) or (i) of Section 8670.56.5,
19 or any other law, be strictly and jointly and severally liable for all
20 damages arising pursuant to subdivision (h) of Section 8670.56.5
21 from the response efforts of its agents, employees, subcontractors,
22 or an oil spill cooperative of which it is a member or with which
23 it has a contract or other arrangement for cleanup of its oil spills,
24 unless it would have a defense to the original spill.

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

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

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

33 (f) As used in this section, a “cooperative” means an
34 organization of private persons that is established for the primary
35 purpose and activity of preventing or rendering care, assistance,
36 or advice in response to a spill or threatened spill.

37 (g) Except for the responsible party, membership in a
38 cooperative shall not be grounds, in and of itself, for liability
39 resulting from cleanup activities of the cooperative.

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

4 (i) In any situation in which immunity is granted pursuant to
5 subdivision (a) and a responsible party is not liable, is not liable
6 for noneconomic damages caused by another, or is partially or
7 totally insolvent, the fund provided for in Article 7 (commencing
8 with Section 8670.46) shall reimburse, in accordance with its terms,
9 claims of any injured party for which a person who is granted
10 immunity pursuant to this section would otherwise be liable.

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

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

37 (3) The administrator may indemnify response contractors for
38 (A) all damages payable by means of settlement or judgment that
39 arise from response efforts to which the immunity conferred by
40 this section would otherwise apply, and (B) reasonably related

1 legal costs and expenses incurred by the responder, provided that
2 indemnification shall only apply to response efforts undertaken
3 after the expiration of any immunity that may exist as the result
4 of the contract negotiations authorized in this subdivision. In
5 negotiating these contracts, the administrator shall procure, to the
6 maximum extent practicable, the services of persons who are
7 willing to respond to oil spills with no, or as little, right to
8 indemnification as possible. All indemnification shall be paid by
9 the administrator from the Oil Spill Response Trust Fund.

10 (4) (A) The contracts required by this section, and any other
11 contracts entered into by the administrator for response,
12 containment, or cleanup of an existing spill, or for response of an
13 imminent threat of a spill, the payment of which is to be made
14 from the Oil Spill Response Trust Fund created pursuant to Section
15 8670.46, shall be exempt from Part 2 (commencing with Section
16 10100) of Division 2 of the Public Contract Code and Article 6
17 (commencing with Section 999) of Chapter 6 of Division 4 of the
18 Military and Veterans Code.

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

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

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

32 (2) Notwithstanding the limitation contained in paragraph (1),
33 the administrator may extend, upon making all the following
34 findings, the period of time, not to exceed 30 days, during which
35 the immunity conferred by this section applies to response efforts:

36 (A) Due to inadequate or incomplete containment and
37 stabilization, there exists a substantial probability that the size of
38 the spill will significantly expand and (i) threaten previously
39 uncontaminated resources, (ii) threaten already contaminated
40 resources with substantial additional contamination, or (iii)

1 otherwise endanger the public health and safety or harm the
2 environment.

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

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

8 (3) The administrator shall provide five days' notice of his or
9 her proposed decision to either extend, or not extend, the immunity
10 conferred by this section. Interested parties shall be given an
11 opportunity to present oral and written evidence at an informal
12 hearing. In making his or her proposed decision, the administrator
13 shall specifically seek and consider the advice of the relevant Coast
14 Guard representative. The administrator's decision to not extend
15 the immunity shall be announced at least 10 working days before
16 the expiration of the immunity to provide persons an opportunity
17 to terminate their response efforts as contemplated by paragraph
18 (4).

19 (4) A person or their agents, subcontractors, or employees shall
20 not incur any liability under this chapter or any other provision of
21 law solely as a result of that person's decision to terminate their
22 response efforts because of the expiration of the immunity
23 conferred by this section. A person's decision to terminate response
24 efforts because of the expiration of the immunity conferred by this
25 section shall not in any manner impair, curtail, limit, or otherwise
26 affect the immunity conferred on the person with regard to the
27 person's response efforts undertaken during the period of time the
28 immunity applied to those response efforts.

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

37 (l) As used in this section, "response efforts" means rendering
38 care, assistance, or advice in accordance with the National
39 Contingency Plan, the California oil spill contingency plan, or at
40 the direction of the administrator, United States Environmental

1 Protection Agency, or the Coast Guard in response to a spill or
2 threatened spill into waters of the state.

3 ~~SEC. 50.~~

4 *SEC. 54.* Section 8670.61.5 of the Government Code is
5 amended to read:

6 8670.61.5. (a) For purposes of this chapter, “wildlife
7 rehabilitation” means those actions that are necessary to fully
8 mitigate for the damage from a spill caused to wildlife, fisheries,
9 wildlife habitat, and fisheries habitat.

10 (b) Responsible parties shall fully mitigate adverse impacts to
11 wildlife, fisheries, wildlife habitat, and fisheries habitat. Full
12 mitigation shall be provided by successfully carrying out
13 environmental projects or funding restoration activities required
14 by the administrator in carrying out projects complying with the
15 requirements of this section. Responsible parties are also liable
16 for the costs incurred by the administrator or other government
17 agencies in carrying out this section.

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

35 (d) The plan shall place first priority on avoiding and minimizing
36 any adverse impacts. For impacts that do occur, the plan shall
37 provide for full onsite restoration of the damaged resource to the
38 extent feasible. To the extent that full onsite restoration is not
39 feasible, the plan shall provide for offsite in-kind mitigation to the
40 extent feasible. To the extent that adverse impacts still have not

1 been fully mitigated, the plan shall provide for the enhancement
2 of other similar resources to the extent necessary to meet the
3 requirements of subdivision (b). In evaluating whether a wildlife
4 rehabilitation plan is adequate, the administrator may use the
5 habitat evaluation methods or procedures established by the United
6 States Fish and Wildlife Service or any other reasonable methods
7 as determined by the Department of Fish and Wildlife.

8 (e) The administrator shall prepare regulations to implement
9 this section. The regulations shall include deadlines for the
10 submittal of plans. In establishing the deadlines, the administrator
11 shall consider circumstances such as the size of the spill and the
12 time needed to assess damage and mitigation.

13 ~~SEC. 51.~~

14 *SEC. 55.* Section 8670.62 of the Government Code is amended
15 to read:

16 8670.62. (a) Any person who discharges oil into waters of the
17 state, upon order of the administrator, shall do all of the following:

- 18 (1) Clean up the oil.
- 19 (2) Abate the effects of the discharge.
- 20 (3) In the case of a threatened discharge, take other necessary
21 remedial action.

22 (b) Upon failure of any person to comply with a cleanup or
23 abatement order, the Attorney General or a district attorney, at the
24 request of the administrator, shall petition the superior court for
25 that county for the issuance of an injunction requiring the person
26 to comply with the order. In any suit, the court shall have
27 jurisdiction to grant a prohibitory or mandatory injunction, either
28 preliminary or permanent, as the facts may warrant.

29 (c) Consistent with the state contingency plan, the administrator
30 may expend available money to perform any response;
31 containment; cleanup; wildlife rehabilitation, which includes
32 assessment of resource injuries and damages, or remedial work
33 required pursuant to subdivision (a) that, in the administrator's
34 judgment, is required by the circumstances or the urgency of
35 prompt action required to prevent pollution, nuisance, or injury to
36 the environment of the state. The action may be taken in default
37 of, or in addition to, remedial work by the responsible party or
38 other persons, and regardless of whether injunctive relief is sought.
39 The administrator may perform the work in cooperation with any
40 other governmental agency, and may use rented tools or equipment,

1 either with or without operators furnished. Notwithstanding any
2 other law, the administrator may enter into oral contracts for the
3 work, and the contracts, whether written or oral, may include
4 provisions for equipment rental and the furnishing of labor and
5 materials necessary to accomplish the work. The contracts shall
6 be exempt from Part 2 (commencing with Section 10100) of
7 Division 2 of the Public Contract Code and Article 6 (commencing
8 with Section 999) of Chapter 6 of Division 4 of the Military and
9 Veterans Code.

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

23 (e) If, despite reasonable effort by the administrator to identify
24 the party responsible for the discharge of oil or the condition of
25 pollution or nuisance, the person is not identified at the time
26 cleanup, abatement, or remedial work must be performed, the
27 administrator shall not be required to issue an order under this
28 section. The absence of a responsible party shall not in any way
29 limit the powers of the administrator under this section.

30 (f) For purposes of this section, “threaten” means a condition
31 creating a substantial probability of harm, when the probability
32 and potential extent of harm makes it reasonably necessary to take
33 immediate action to prevent, reduce, or mitigate damages to
34 persons, property, or natural resources.

35 ~~SEC. 52.~~

36 *SEC. 56.* Section 8670.64 of the Government Code is amended
37 to read:

38 8670.64. (a) A person who commits any of the following acts
39 shall, upon conviction, be punished by imprisonment in a county

1 jail for not more than one year or by imprisonment pursuant to
2 subdivision (h) of Section 1170 of the Penal Code:

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

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

12 (3) Knowingly engages in or causes the discharge or spill of oil
13 into waters of the state, or a person who reasonably should have
14 known that he or she was engaging in or causing the discharge or
15 spill of oil into waters of the state, unless the discharge is
16 authorized by the United States, the state, or another agency with
17 appropriate jurisdiction.

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

20 (b) The court shall also impose upon a person convicted of
21 violating subdivision (a), a fine of not less than five thousand
22 dollars (\$5,000) or more than five hundred thousand dollars
23 (\$500,000) for each violation. For purposes of this subdivision,
24 each day or partial day that a violation occurs is a separate
25 violation.

26 (c) (1) A person who knowingly does any of the acts specified
27 in paragraph (2) shall, upon conviction, be punished by a fine of
28 not less than two thousand five hundred dollars (\$2,500) or more
29 than two hundred fifty thousand dollars (\$250,000), or by
30 imprisonment in a county jail for not more than one year, or by
31 both the fine and imprisonment. Each day or partial day that a
32 violation occurs is a separate violation. If the conviction is for a
33 second or subsequent violation of this subdivision, the person shall
34 be punished by imprisonment pursuant to subdivision (h) of Section
35 1170 of the Penal Code, or in a county jail for not more than one
36 year, or by a fine of not less than five thousand dollars (\$5,000)
37 or more than five hundred thousand dollars (\$500,000), or by both
38 that fine and imprisonment:

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

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

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

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

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

11 ~~SEC. 53.~~

12 *SEC. 57.* Section 8670.66 of the Government Code is amended
13 to read:

14 8670.66. (a) Any person who intentionally or negligently does
15 any of the following acts shall be subject to a civil penalty for a
16 spill of not less than fifty thousand dollars (\$50,000) or more than
17 one million dollars (\$1,000,000), for each violation, and each day
18 or partial day that a violation occurs is a separate violation:

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

22 (2) Fails to notify the Coast Guard that a vessel is disabled
23 within one hour of the disability and the vessel, while disabled,
24 causes a spill that enters waters of the state. For purposes of this
25 paragraph, "vessel" means a vessel, as defined in Section 21 of
26 the Harbors and Navigation Code, of 300 gross tons or more.

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

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

32 (b) Except as provided in subdivision (a), any person who
33 intentionally or negligently violates any provision of this chapter,
34 or Division 7.8 (commencing with Section 8750) of the Public
35 Resources Code, or any permit, rule, regulation, standard, or
36 requirement issued or adopted pursuant to those provisions, shall
37 be liable for a civil penalty not to exceed two hundred fifty
38 thousand dollars (\$250,000) for each violation of a separate
39 provision, or, for continuing violations, for each day that violation
40 continues.

1 (c) A person shall not be liable for a civil penalty imposed under
2 this section and for a civil penalty imposed pursuant to Section
3 8670.67 for the same act or failure to act.

4 ~~SEC. 54.~~

5 *SEC. 58.* Section 8670.67 of the Government Code is amended
6 to read:

7 8670.67. (a) Any person who intentionally or negligently does
8 any of the following acts shall be subject to an administrative civil
9 penalty for a spill not to exceed two hundred thousand dollars
10 (\$200,000), for each violation as imposed by the administrator
11 pursuant to Section 8670.68, and each day or partial day that a
12 violation occurs is a separate violation:

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

16 (2) Fails to notify the Coast Guard that a vessel is disabled
17 within one hour of the disability and the vessel, while disabled,
18 causes a discharge that enters waters of the state or inland waters.
19 For purposes of this paragraph, “vessel” means a vessel, as defined
20 in Section 21 of the Harbors and Navigation Code, of 300 gross
21 tons or more.

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

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

27 (b) Except as provided in subdivision (a), any person who
28 intentionally or negligently violates any provision of this chapter,
29 or Division 7.8 (commencing with Section 8750) of the Public
30 Resources Code, or any permit, rule, regulation, standard, cease
31 and desist order, or requirement issued or adopted pursuant to
32 those provisions, shall be liable for an administrative civil penalty
33 as imposed by the administrator pursuant to Section 8670.68, not
34 to exceed one hundred thousand dollars (\$100,000) for each
35 violation of a separate provision, or, for continuing violations, for
36 each day that violation continues.

37 (c) A person shall not be liable for a civil penalty imposed
38 under this section and for a civil penalty imposed pursuant to
39 Section 8670.66 for the same act or failure to act.

1 ~~SEC. 55.~~

2 *SEC. 59.* Section 8670.67.5 of the Government Code is
3 amended to read:

4 8670.67.5. (a) Any person who without regard to intent or
5 negligence causes or permits a spill shall be strictly liable civilly
6 in accordance with subdivision (b) or (c).

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

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

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

21 ~~SEC. 56.~~

22 *SEC. 60.* Section 8670.69.4 of the Government Code is
23 amended to read:

24 8670.69.4. (a) When the administrator determines that any
25 person has undertaken, or is threatening to undertake, any activity
26 or procedure that (1) requires a permit, certificate, approval, or
27 authorization under this chapter, without securing a permit,
28 certificate, approval, or authorization, or (2) is inconsistent with
29 any of the permits, certificates, rules, regulations, guidelines, or
30 authorizations previously issued or adopted by the administrator,
31 or (3) threatens to cause or substantially increases the risk of
32 unauthorized discharge of oil into the waters of the state, the
33 administrator may issue an order requiring that person to cease
34 and desist.

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

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

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

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

7 ~~SEC. 57.~~

8 *SEC. 61.* Section 8670.69.7 of the Government Code is
9 repealed.

10 ~~SEC. 58.~~

11 *SEC. 62.* Section 8670.71 of the Government Code is amended
12 to read:

13 8670.71. (a) The administrator shall fund only those projects
14 approved by the Environmental Enhancement Committee.

15 (b) For purposes of this article, an enhancement project is a
16 project that acquires habitat for preservation, or improves habitat
17 quality and ecosystem function above baseline conditions, and that
18 meets all of the following requirements:

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

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

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

24 ~~SEC. 59.~~

25 *SEC. 63.* Section 8670.95 is added to the Government Code,
26 to read:

27 8670.95. If any provision of this chapter or the application
28 thereof to any person or circumstances is held invalid, that
29 invalidity shall not affect other provisions or applications of the
30 chapter that can be given effect without the invalid provision or
31 application, and to this end the provisions of this chapter are
32 severable.

33 ~~SEC. 60.~~

34 *SEC. 64.* Section 449 of the Harbors and Navigation Code is
35 amended to read:

36 449. (a) The marine exchange and its officers and directors
37 are subject to Section 5047.5 of the Corporations Code to the extent
38 that the marine exchange meets the criteria specified in that section.

39 (b) Nothing in this section shall be deemed to include the marine
40 exchange or its officers, directors, employees, or representatives

1 within the meaning of “responsible party” as defined in Section
2 8670.3 of the Government Code and subdivision (p) of Section
3 8750 of the Public Resources Code for the purposes of the
4 Lempert-Keene-Seastrand Oil Spill Prevention and Response Act
5 (Article 3.5 (commencing with Section 8574.1) of Chapter 7 and
6 Chapter 7.4 (commencing with Section 8670.1) of Division 1 of
7 Title 2 of the Government Code and Division 7.8 (commencing
8 with Section 8750) of the Public Resources Code).

9 *SEC. 65. Section 765.5 of the Public Utilities Code is amended*
10 *to read:*

11 765.5. (a) The purpose of this section is to provide that the
12 commission takes all appropriate action necessary to ensure the
13 safe operation of railroads in this state.

14 (b) The commission shall dedicate sufficient resources necessary
15 to adequately carry out the State Participation Program for the
16 regulation of rail transportation of hazardous materials as
17 authorized by the Hazardous Material Transportation Uniform
18 Safety Act of 1990 (P.L. 101-615).

19 (c) On or before July 1, 1992, the commission shall hire a
20 minimum of six additional rail inspectors who are or shall become
21 federally certified, consisting of three additional motive power
22 and equipment inspectors, two signal inspectors, and one operating
23 practices inspector, for the purpose of enforcing compliance by
24 railroads operating in this state with state and federal safety
25 regulations.

26 (d) On or before July 1, 1992, the commission shall establish,
27 by regulation, a minimum inspection standard to ensure, at the
28 time of inspection, that railroad locomotives, equipment, and
29 facilities located in class I railroad yards in California will be
30 inspected not less frequently than every 120 days, and inspection
31 of all branch and main line track not less frequently than every 12
32 months.

33 (e) Commencing July 1, 2008, in addition to the minimum
34 inspections undertaken pursuant to subdivision (d), the commission
35 shall conduct focused inspections of railroad yards and track, either
36 in coordination with the Federal Railroad ~~Administration,~~
37 *Administration* or as the commission determines to be necessary.
38 The focused inspection program shall target railroad yards and
39 track that pose the greatest safety risk, based on inspection data,
40 accident history, and rail traffic density.

1 (f) Commencing January 1, 2015, in addition to the inspections
2 undertaken pursuant to subdivisions (d) and (e), the commission
3 shall conduct expanded focused inspections, either in coordination
4 with the Federal Railroad Administration or as the commission
5 determines to be necessary, of bridges and grade crossings over
6 which oil is being transported and oil unloading facilities,
7 including movement within these facilities and onside storage. The
8 expanded focused inspection program shall target bridges, grade
9 crossings, and oil unloading facilities that pose the greatest safety
10 risk, based on inspection data, accident history, and rail traffic
11 density.

12 (g) The commission may regulate essential local safety hazards
13 for the transport of oil more stringently than federal regulation,
14 pursuant to Section 20106 of Title 49 of the United States Code.

15 SEC. 66. Section 7711 of the Public Utilities Code is amended
16 to read:

17 7711. The commission shall annually report to the Legislature,
18 on or before July 1, on sites on railroad lines in the state it finds
19 to be hazardous. The report shall include, but not be limited to,
20 information on all of the following:

21 (a) A list of all railroad derailment accident sites in the state on
22 which accidents have occurred within at least the previous five
23 years. The list shall describe the nature and probable causes of the
24 accidents, if known, and shall indicate whether the accidents
25 occurred at or near sites that the commission has determined,
26 pursuant to subdivision (b), pose a local safety hazard.

27 (b) A list of all railroad sites in the state that the commission
28 determines, pursuant to Section 20106 of Title 49 of the United
29 States Code, pose a local safety hazard. The commission may
30 submit in the annual report the list of railroad sites submitted in
31 the immediate prior year annual report, and may amend or revise
32 that list from the immediate prior year as necessary. Factors that
33 the commission shall consider in determining a local safety hazard
34 may include, but need not be limited to, all of the following:

- 35 (1) The severity of grade and curve of track.
36 (2) The value of special skills of train operators in negotiating
37 the particular segment of railroad line.
38 (3) The value of special railroad equipment in negotiating the
39 particular segment of railroad line.

1 (4) The types of commodities transported on or near the
2 particular segment of railroad line.

3 (5) The hazard posed by the release of the commodity into the
4 environment.

5 (6) The value of special railroad equipment in the process of
6 safely loading, transporting, storing, or unloading potentially
7 hazardous commodities.

8 (7) The proximity of railroad activity to human activity or
9 sensitive environmental areas.

10 (8) A list of the root causes and significant contributing factors
11 of all train accidents or derailments investigated.

12 (c) In determining which railroad sites pose a local safety hazard
13 pursuant to subdivision (b), the commission shall consider the
14 history of accidents at or near the sites. The commission shall not
15 limit its determination to sites at which accidents have already
16 occurred, but shall identify potentially hazardous sites based on
17 the criteria enumerated in subdivision (b) and all other criteria that
18 the commission determines influence railroad safety. The
19 commission shall also consider whether any local safety hazards
20 at railroad sites have been eliminated or sufficiently remediated
21 to warrant removal of the site from the list required under
22 subdivision (b).

23 (d) *The timing, nature, and status of the remediation of defects*
24 *and violations of federal and state law related to the transport and*
25 *delivery of oil detected by the commission through its inspections.*

26 ~~SEC. 61.~~

27 *SEC. 67.* Section 46002 of the Revenue and Taxation Code is
28 amended to read:

29 46002. The collection and administration of the fees referred
30 to in Sections 46051 and 46052 shall be governed by the definitions
31 contained in Chapter 7.4 (commencing with Section 8670.1) of
32 Division 1 of Title 2 of the Government Code and this part.

33 ~~SEC. 62.~~

34 *SEC. 68.* Section 46006 of the Revenue and Taxation Code is
35 amended to read:

36 46006. “Administrator” means the person appointed by the
37 Governor pursuant to Section 8670.4 of the Government Code to
38 implement the Lempert-Keene-Seastrand Oil Spill Prevention and
39 Response Act (Chapter 7.4 (commencing with Section 8670.1) of
40 Division 1 of Title 2 of the Government Code).

1 ~~SEC. 63.~~

2 *SEC. 69.* Section 46007 of the Revenue and Taxation Code is
3 amended to read:

4 46007. “Barges” means vessels that carry oil in commercial
5 quantities as cargo but are not equipped with a means of
6 self-propulsion.

7 ~~SEC. 64.~~

8 *SEC. 70.* Section 46008 of the Revenue and Taxation Code is
9 repealed.

10 ~~SEC. 65.~~

11 *SEC. 71.* Section 46010 of the Revenue and Taxation Code is
12 amended to read:

13 46010. “Crude oil” means petroleum in an unrefined or natural
14 state, including condensate and natural gasoline, and including
15 substances that enhance, cut, thin, or reduce viscosity.

16 ~~SEC. 66.~~

17 *SEC. 72.* Section 46011 of the Revenue and Taxation Code is
18 repealed.

19 ~~SEC. 67.~~

20 *SEC. 73.* Section 46011 is added to the Revenue and Taxation
21 Code, to read:

22 46011. (a) “Facility” means any of the following located in
23 state waters or located where an oil spill may impact state waters:

24 (1) A building, structure, installation, or equipment used in oil
25 exploration, oil well drilling operations, oil production, oil refining,
26 oil storage, oil gathering, oil processing, oil transfer, oil
27 distribution, or oil transportation.

28 (2) A marine terminal.

29 (3) A pipeline that transports oil.

30 (4) A railroad that transports oil as cargo.

31 (5) A drill ship, semisubmersible drilling platform, jack-up type
32 drilling rig, or any other floating or temporary drilling platform.

33 (b) “Facility” does not include any of the following:

34 (1) A vessel, except a vessel located and used for any purpose
35 described in paragraph (5) of subdivision (a).

36 (2) An owner or operator subject to Chapter 6.67 (commencing
37 with Section 25270) of or Chapter 6.75 (commencing with Section
38 25299.10) of Division 20 of the Health and Safety Code.

39 (3) Operations on a farm, nursery, logging site, or construction
40 site that are either of the following:

1 (A) Do not exceed 20,000 gallons in a single storage tank.
2 (B) Have a useable tank storage capacity not exceeding 75,000
3 gallons.
4 (4) A small craft refueling dock.
5 ~~SEC. 68.~~
6 *SEC. 74.* Section 46013 of the Revenue and Taxation Code is
7 amended to read:
8 46013. “Feepayer” means any person liable for the payment
9 of a fee imposed by either Section 8670.40 or 8670.48 of the
10 Government Code.
11 ~~SEC. 69.~~
12 *SEC. 75.* Section 46014 of the Revenue and Taxation Code is
13 repealed.
14 ~~SEC. 70.~~
15 *SEC. 76.* Section 46015 of the Revenue and Taxation Code is
16 repealed.
17 ~~SEC. 71.~~
18 *SEC. 77.* Section 46016 of the Revenue and Taxation Code is
19 repealed.
20 ~~SEC. 72.~~
21 *SEC. 78.* Section 46017 of the Revenue and Taxation Code is
22 amended to read:
23 46017. “Marine terminal” means any facility used for
24 transferring crude oil or petroleum products to or from tankers or
25 barges. For purposes of this part, a marine terminal includes all
26 piping not integrally connected to a tank facility as defined in
27 subdivision (n) of Section 25270.2 of the Health and Safety Code.
28 ~~SEC. 73.~~
29 *SEC. 79.* Section 46018 of the Revenue and Taxation Code is
30 repealed.
31 ~~SEC. 74.~~
32 *SEC. 80.* Section 46018 is added to the Revenue and Taxation
33 Code, to read:
34 46018. “Oil” means any kind of petroleum, liquid
35 hydrocarbons, or petroleum products or any fraction or residues
36 therefrom, including, but not limited to, crude oil, bunker fuel,
37 gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed
38 with waste, and liquid distillates from unprocessed natural gas.

1 ~~SEC. 75.~~

2 ~~SEC. 81.~~ Section 46019 of the Revenue and Taxation Code is
3 repealed.

4 ~~SEC. 76.~~

5 ~~SEC. 82.~~ Section 46023 of the Revenue and Taxation Code is
6 amended to read:

7 46023. “Refinery” means a facility that refines crude oil,
8 including condensate and natural gasoline, into petroleum products,
9 lubricating oils, coke, or asphalt.

10 ~~SEC. 77.~~

11 ~~SEC. 83.~~ Section 46024 of the Revenue and Taxation Code is
12 repealed.

13 ~~SEC. 78.~~

14 ~~SEC. 84.~~ Section 46025 of the Revenue and Taxation Code is
15 repealed.

16 ~~SEC. 79.~~

17 ~~SEC. 85.~~ Section 46027 of the Revenue and Taxation Code is
18 repealed.

19 ~~SEC. 80.~~

20 ~~SEC. 86.~~ Section 46027 is added to the Revenue and Taxation
21 Code, to read:

22 46027. “State waters” or “waters of the state” means any
23 surface water, including saline waters, marine waters, and
24 freshwaters, within the boundaries of the state but does not include
25 groundwater.

26 ~~SEC. 81.~~

27 ~~SEC. 87.~~ Section 46028 of the Revenue and Taxation Code is
28 amended to read:

29 46028. “Tanker” means a self-propelled vessel that is
30 constructed or adapted for the carriage of oil in bulk or in
31 commercial quantities as cargo.

32 ~~SEC. 82.~~

33 ~~SEC. 88.~~ Section 46101 of the Revenue and Taxation Code is
34 amended to read:

35 46101. Every person who operates a refinery in this state, a
36 marine terminal in waters of the state, or operates a pipeline to
37 transport crude oil or petroleum products out of the state shall
38 register with the board.

39 ~~SEC. 83.~~

40 ~~SEC. 89.~~ Section 13272 of the Water Code is amended to read:

1 13272. (a) Except as provided by subdivision (b), any person
2 who, without regard to intent or negligence, causes or permits any
3 oil or petroleum product to be discharged in or on any waters of
4 the state, or discharged or deposited where it is, or probably will
5 be, discharged in or on any waters of the state, shall, as soon as
6 (1) that person has knowledge of the discharge, (2) notification is
7 possible, and (3) notification can be provided without substantially
8 impeding cleanup or other emergency measures, immediately
9 notify the Office of Emergency Services of the discharge in
10 accordance with the spill reporting provision of the California oil
11 spill contingency plan adopted pursuant to Article 3.5 (commencing
12 with Section 8574.1) of Chapter 7 of Division 1 of Title 2 of the
13 Government Code.

14 (b) The notification required by this section shall not apply to
15 a discharge in compliance with waste discharge requirements or
16 other provisions of this division.

17 (c) Any person who fails to provide the notice required by this
18 section is guilty of a misdemeanor and shall be punished by a fine
19 of not less than five hundred dollars (\$500) or more than five
20 thousand dollars (\$5,000) per day for each day of failure to notify,
21 or imprisonment of not more than one year, or both. Except where
22 a discharge to the waters of this state would have occurred but for
23 cleanup or emergency response by a public agency, this subdivision
24 shall not apply to any discharge to land that does not result in a
25 discharge to the waters of this state. This subdivision shall not
26 apply to any person who is fined by the federal government for a
27 failure to report a discharge of oil.

28 (d) Notification received pursuant to this section or information
29 obtained by use of that notification shall not be used against any
30 person providing the notification in any criminal case, except in
31 a prosecution for perjury or giving a false statement.

32 (e) Immediate notification to the appropriate regional board of
33 the discharge, in accordance with reporting requirements set under
34 Section 13267 or 13383, shall constitute compliance with the
35 requirements of subdivision (a).

36 (f) The reportable quantity for oil or petroleum products shall
37 be one barrel (42 gallons) or more, by direct discharge to the
38 receiving waters, unless a more restrictive reporting standard for
39 a particular body of water is adopted.

1 *SEC. 90. Nothing in this act is intended to limit the police*
2 *power or other authority of a local government or government*
3 *regulator to enforce any other state or federal environmental law*
4 *or regulation.*

5 ~~SEC. 84.~~

6 *SEC. 91.* (a) The Director of Finance may make available for
7 expenditure in the 2014–15 fiscal year from the Oil Spill Prevention
8 and Administration Fund, established pursuant to Section 8670.38
9 of the Government Code, an augmentation of Item 0860-001-0320
10 of the Budget Act of 2014 in an amount equal to the reasonable
11 costs incurred by the State Board of Equalization associated with
12 amendments made to Section 8670.40 of the Government Code
13 in the 2013–14 Regular Session.

14 (b) Any augmentation shall be authorized no sooner than 30
15 days following the transmittal of the approval to the Chairperson
16 of the Joint Legislative Budget Committee.

17 ~~SEC. 85.~~

18 *SEC. 92.* No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.

O