AMENDED IN SENATE JUNE 16, 2010

AMENDED IN SENATE JUNE 9, 2010

AMENDED IN SENATE JUNE 1, 2010

AMENDED IN SENATE DECEMBER 16, 2009

AMENDED IN SENATE JULY 16, 2009

AMENDED IN SENATE JUNE 9, 2009

AMENDED IN ASSEMBLY MAY 18, 2009

AMENDED IN ASSEMBLY MAY 6, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 234

Introduced by Assembly Member Huffman

February 5, 2009

An act to add Section 8670.17.3 to the Government Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

AB 234, as amended, Huffman. Oil spill prevention and response: transfer of oil.

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 drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. Existing law requires the administrator to adopt and implement regulations regarding the equipment, personnel, and operation of vessels to and from marine terminals that are used to transfer oil.

This bill would require a transfer unit, as defined, or an oil transfer operation, as defined, to provide at the point of transfer of oil appropriate equipment and supplies for the containment and removal of oil spills in water adjacent to a transfer site.*The bill would specify requirements to preboom an oil transfer and alternative measures, if it is determined not to be safe or effective to preboom.* The bill would also require the transfer unit or oil transfer operation to have, among other things, equipment compatible with a vessel traffic advisory control system and a high level alarm and tank ~~overflow~~ *overfill* alarm to alert crew.

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

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

SECTION 1. Section 8670.17.3 is added to the Government Code, to read:

8670.17.3. (a) For purposes of this section, the following definitions apply:

(1) "#1 and #2 grade oils" have the same meaning as defined in Section 841(a) of Title 14 of the California Code of Regulations.

~~(2) "Boom" has the same meaning as defined in Section 841(b) of Title 14 of the California Code of Regulations.~~

(2) "Boom" means flotation boom or other effective barrier containment material suitable for containment of oil that is discharged onto the surface of water.

(3) "Marine terminal" means a facility, including a mobile transfer unit, other than a vessel, located on or adjacent to marine waters in California, used for transferring oil to or from a tank vessel or barge. The term includes all parts of the facility, including, but not limited to, structures, equipment, and appurtenances thereto used or capable of being used to transfer oil to or from a tank vessel or barge. A marine terminal includes all piping not integrally connected to a tank facility.

(4) "Oil transfer operation" means any of the following:

(A) An oil transfer, other than an internal vessel transfer, regardless of the quantity of oil being transferred, conducted within California marine waters, or a shore-based transfer where a spill could impact California marine waters.

(B) A drydock-associated oil transfer including, but not limited to, an oil transfer to or from a tank vessel or nontank vessel in drydock.

(C) An oil transfer to or from a portable or fixed tank within a drydock.

(D) An oil transfer to or from a drydock.

(E) A vessel engaged in an oil transfer operation.

(5) "Tank facility" means any one or combination of aboveground storage tanks, including piping that is integral to the tank, that contains crude oil or its fraction and that is used by a single business entity at a single location or site. A pipe is integrally related to an aboveground storage tank if the pipe is connected to the tank and meets any of the following:

(A) The pipe is within the dike or containment area.

(B) The pipe is connected to the first flange or valve after the piping exits the containment area.

(C) The pipe is connected to the first flange or valve on the exterior of the tank, if state or federal law does not require a containment area.

(6) "Transfer unit" means a tank vessel, nontank vessel, or marine facility from which oil is transferred to another vessel or marine facility that is not a marine terminal during an oil transfer operation. "Transfer unit" does not include any of the following:

(A) An oil transfer to or from a marine terminal.

(B) An onshore facility as defined in subdivision (*l*) of Section 8750 of the Public Resources Code.

(C) A nontank vessel with a carrying capacity of less than 250 barrels.

(D) A public vessel as defined in Section 2701 of Title 33 of the United States Code.

(E) A small craft refueling dock as defined in subdivision (ab) of Section 8670.3.

(b) (1) A transfer unit or an oil transfer operation shall provide at the point of transfer of oil appropriate equipment and supplies for the containment and removal of spills of both persistent oil and #1 and #2 grade oils in water adjacent to the transfer site. Prior to

beginning the oil transfer operation, *if it is determined to be safe and effective,* the transfer unit or oil transfer operation shall preboom each oil transfer for the duration of the entire transfer operation.

(2) In order to preboom transfers, the transfer unit or oil transfer operation shall have, prior to the transfer, access to a boom four times the length of the largest vessel involved in the transfer or 2,000 feet in length, whichever is less.

(3) The transfer unit shall deploy the boom so that it completely surrounds the vessel ~~and~~*, the point of transfer, and the* facility or terminal dock area directly involved in the oil transfer operation, or the transfer unit or oil transfer operation may preboom the portion of the vessel and transfer area that will provide for maximum containment of any oil spilled into the water.

(4) The boom shall be deployed with a minimum stand-off of ~~five~~ *four* feet away from the sides of a vessel measured at the waterline. This stand-off may be modified for short durations needed to meet the operational needs of a vessel, facility, or terminal.

(5) The transfer unit or oil transfer operation shall periodically check the boom positioning and adjust it as necessary throughout the duration of the transfer, and specifically during tidal changes and significant wind or wave events*, to maintain maximum containment of any oil spilled into the water*.

(6) Within one hour of an oil spill, the transfer unit or oil transfer operation shall be able to complete deployment of the remaining boom, should it be necessary for containment, protection, or recovery purposes.

(c) If it is determined not to be safe or effective to preboom pursuant to subdivision (b), a transfer unit or oil transfer operation may use the following alternative measures:

(1) To meet the alternative measures requirements, the deliverer shall have access to boom two times the length of the largest vessel involved in the transfer, or 2,000 feet, whichever is less.

(2) The deliverer shall have the ability to safely track the spill in low visibility conditions. The tracking system shall be onsite within 30 minutes of being made aware of a spill.

(3) Within 30 minutes of being made aware of a spill, the deliverer shall be able to deploy boom to enclose the water surface area adjacent to the receiving unit to provide a common

containment area for either the entire receiving unit and the point of transfer or those portions of the receiving unit or seawall from which oil may spill into the water, and where the hull of the transfer unit or seawall is capable of acting as an effective barrier on the side of the receiving unit.

(4) Within one hour of being made aware of a spill, the deliverer shall have both of the following:

(A) Additional boom two times the length of the largest vessel involved in the transfer, or 2,000 feet, whichever is less, available for containment, protection, or recovery.

(B) A skimming system onsite. The skimming system shall be in standby status and be capable of 50 barrels of recovery and 100 barrels of storage.

(d) By July 1, 2011, a transfer unit or transfer operation shall develop and submit for approval to the Office of Oil Spill Prevention and Response a safe and effective threshold determination report that describes the environmental factors that will be used to determine thresholds for when it is safe and effective to preboom at each location at which it conducts oil transfers. These threshold values shall be used by a deliverer to determine whether or not it is safe and effective to preboom each transfer, on a case-by-case basis. A transfer unit or transfer operation shall submit a report for review and approval for each location at which an oil transfer operation is conducted. The report shall include all of the following information:

(1) Name of company submitting the report and point of contact.

(2) Summary of safe and effective threshold values.

(3) The body of the report shall include information used to support the values which shall be based upon onsite environmental monitoring data recorded at specific times, dates, and locations. The values and the supporting data shall address, at a minimum, all of the following site-specific information:

(A) Personnel safety.

(B) Sea state values in feet, including typical wave periods.

(C) Water current velocity such as peak currents, sustained currents in hourly increments, and direction of flow, during typical oil transfer operations.

(D) Wind speed in knots, and prevailing directions.

(E) Other conditions such as vessel traffic, fishing activities, and other factors that influence oil transfer operations.

(4) A transfer unit or oil transfer operation shall provide a detailed analysis of the proposed threshold values for a transfer location including all of the following:

(A) Methodology of the analysis.

(B) Equipment used to measure data collected.

(C) Supporting data, references, graphs, tables, pictures, and other relevant information.

(e) (1) The Office of Oil Spill Prevention and Response shall develop a process for reviewing and responding to a safe and effective threshold determination report. That process shall take into consideration, but not be limited to, all of the following:

(A) Personnel safety.

(B) Operating environment of the oil transfer location such as site-specific meteorological, water current velocity, and other monitoring data to support the threshold values determination.

(C) Accepted industry standards regarding the performance of boom and associated response equipment in various operating environments.

(D) Types of oil transfer operations including bunkering, cargo operations, transfer rates, and other factors that influence oil transfer operations.

(2) The office shall respond to the filer of the report, within 100 days, with a letter approving, conditionally approving, or disapproving the report.

(3) The office may require a new review and approval process for the report after a spill by the facility.

(4) The office shall establish a standardized mechanism for a transfer unit or oil transfer operation to communicate back to the office after each operation in the event it uses the alternative booming measures pursuant to subdivision (c).

~~(e)~~

(f) The transfer unit or oil transfer operation shall have functional equipment that is compatible with any vessel traffic advisory control system that is established along the California coast.

~~(d)~~

(g) A transfer unit engaged in an oil transfer operation shall be equipped with a properly functioning high level alarm and tank ~~overflow~~ *overfill* alarm to alert crew *pursuant to Section 39.20-7 of Title 46 of the Code of Federal Regulations*. The high level alarm and tank ~~overflow~~ *overfill* alarm shall do all of the following:

(1) Be independent of each other.

(2) Alarm in the event of loss of power to the alarm system or failure of electrical circuitry to the tank level sensor.

(3) Be able to be checked at the tank for proper operation prior to each transfer or contain an electronic self-testing feature that monitors the condition of the alarm circuitry and sensor.

(4) Have audible and visible alarm indicators that can be seen and heard on the vessel where the oil transfer operation is controlled.

(5) Alarm early enough to allow the person in charge of the oil transfer operation to stop the transfer operation before an overflow occurs.

~~(e) The transfer unit or oil transfer operation, while in marine waters, shall at all times have at least one person on the bridge who is able to communicate fluently and effectively both in English and in the language of the master of the vessel.~~

O