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, 8670.49, 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, 8670.6.5, 8670.6.5, 8670.6.5, 8670.6.5, 8670.6.5, 8670.6.5, 8670.6.5, 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 771 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.
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 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.
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.

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.

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 oilied 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 oilied 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.

(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.

(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.

(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.


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

1 SECTION 1. Section 5654 of the Fish and Game Code is amended to read:
2 5654. (a) (1) Notwithstanding Section 7715 and except as provided in paragraph (2), the director, within 24 hours of notification of a spill or discharge, as those terms are defined in Section 8670.3 of the Government Code, where any fishing,
including all commercial, recreational, and nonlicensed subsistence fishing, may take place, or where aquaculture operations are taking place, shall close to the take of all fish and shellfish all waters in the vicinity of the spill or discharge or where the spilled or discharged material has spread, or is likely to spread. In determining where a spill or discharge is likely to spread, the director shall consult with the Administrator of the Office of Spill Prevention and Response. At the time of closure, the department shall make all reasonable efforts to notify the public of the closure, including notification to commercial and recreational fishing organizations, and posting of warnings on public piers and other locations where subsistence fishing is known to occur. The department shall coordinate, when possible, with local and regional agencies and organizations to expedite public notification.

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

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

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

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

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

(c) Within 48 hours after receiving notification of a spill or discharge subject to subdivision (a), or as soon as is feasible, the director, in consultation with the Office of Environmental Health Hazard Assessment, shall assess and determine the potential danger from consuming fish that have been contained in a recirculating seawater tank onboard a vessel that may become contaminated by
the vessel’s movement through an area where the spill or discharge occurred or spread.

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

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

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

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

(g) To the extent feasible, the director shall consult with representatives of commercial and recreational fishing associations and subsistence fishing communities regarding the extent and duration of a closure, testing protocols, and findings. If a spill or discharge occurs within the lands governed by a Native American tribe or affects waters flowing through tribal lands, or tribal
fisheries, the director shall consult with the affected tribal
governments.
(h) The director shall seek full reimbursement from the
responsible party or parties for the spill or discharge for all
reasonable costs incurred by the department in carrying out this
section, including, but not limited to, all testing.
SEC. 2.  Section 8574.4 of the Government Code is amended
to read:
8574.4.  State agencies designated to implement the contingency
plan shall account for all state expenditures made under the plan
with respect to each oil spill. Expenditures accounted for under
this section from an oil spill in waters of the state shall be paid
from the Oil Spill Response Trust Fund created pursuant to Section
8670.46. All other expenditures accounted for under this section
shall be paid from the State Water Pollution Cleanup and
Abatement Account in the State Water Quality Control Fund
provided for in Article 3 (commencing with Section 13440) of
Chapter 6 of Division 7 of the Water Code. If the party responsible
for the spill is identified, that party shall be liable for the
expenditures accounted for under this section, in addition to any
other liability that may be provided for by law, in an action brought
by the Attorney General. The proceeds from any action for a spill
in marine waters shall be paid into the Oil Spill Response Trust
Fund.
SEC. 3.  Section 8574.7 of the Government Code is amended
to read:
8574.7.  The Governor shall require the administrator, not in
conflict with the National Contingency Plan, to amend the
California oil spill contingency plan to provide for the best
achievable protection of waters of the state. “Administrator” for
purposes of this section means the administrator appointed by the
Governor pursuant to Section 8670.4. The plan shall consist of all
of the following elements:
(a) A state response element that specifies the hierarchy for state
and local agency response to an oil spill. The element shall define
the necessary tasks for oversight and control of cleanup and
removal activities associated with an oil spill and shall specify
each agency’s particular responsibility in carrying out these tasks.
The element shall also include an organizational chart of the state
oil spill response organization and a definition of the resources,
(b) A regional and local planning element that shall provide the framework for the involvement of regional and local agencies in the state effort to respond to an oil spill, and shall ensure the effective and efficient use of regional and local resources, as appropriate, in all of the following:

(1) Traffic and crowd control.
(2) Firefighting.
(3) Boating traffic control.
(4) Radio and communications control and provision of access to equipment.
(5) Identification and use of available local and regional equipment or other resources suitable for use in cleanup and removal actions.
(6) Identification of private and volunteer resources or personnel with special or unique capabilities relating to oil spill cleanup and removal actions.
(7) Provision of medical emergency services.
(8) Identification and mitigation of public health and safety impacts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8670.2. The Legislature finds and declares as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) The protection provided by the measure.

(B) The technological achievability of the measure.

(C) The cost of the measure.

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

(c) (1) “Best achievable technology” means that technology that provides the greatest degree of protection, taking into consideration both of the following:
(A) Processes that are being developed, or could feasibly be
developed anywhere in the world, given overall reasonable
expenditures on research and development.

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

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

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

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

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

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

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

(B) A marine terminal.

(C) A pipeline that transports oil.

(D) A railroad that transports oil as cargo.

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

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

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

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

(C) Operations on a farm, nursery, logging site, or construction
site that are either of the following:
(i) Do not exceed 20,000 gallons in a single storage tank.
(ii) Have a useable tank storage capacity not exceeding 75,000 gallons.
(D) A small craft refueling dock.
(h) “Local government” means a chartered or general law city, a chartered or general law county, or a city and county.
(i) (1) “Marine terminal” means any facility used for transferring oil to or from a tank ship or tank barge.
(2) “Marine terminal” includes, for purposes of this chapter, all piping not integrally connected to a tank facility, as defined in subdivision (n) of Section 25270.2 of the Health and Safety Code.
(j) “Mobile transfer unit” means a vehicle, truck, or trailer, including all connecting hoses and piping, used for the transferring of oil at a location where a discharge could impact waters of the state.
(k) “Nondedicated response resources” means those response resources identified by an Oil Spill Response Organization for oil spill response activities that are not dedicated response resources.
(l) “Nonpersistent oil” means a petroleum-based oil, such as gasoline or jet fuel, that evaporates relatively quickly and is an oil with hydrocarbon fractions, at least 50 percent of which, by volume, distills at a temperature of 645 degrees Fahrenheit, and at least 95 percent of which, by volume, distills at a temperature of 700 degrees Fahrenheit.
(m) “Nontank vessel” means a vessel of 300 gross tons or greater that carries oil, but does not carry that oil as cargo.
(n) “Oil” means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.
(o) “Oil spill cleanup agent” means a chemical, or any other substance, used for removing, dispersing, or otherwise cleaning up oil or any residual products of petroleum in, or on, any of the waters of the state.
(p) “Oil spill contingency plan” or “contingency plan” means the oil spill contingency plan required pursuant to Article 5 (commencing with Section 8670.28).
(q) (1) “Oil Spill Response Organization” or “OSRO” means an individual, organization, association, cooperative, or other entity
that provides, or intends to provide, equipment, personnel, supplies, or other services directly related to oil spill containment, cleanup, or removal activities.

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

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

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

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

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

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

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

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

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

(t) “Pipeline” means a pipeline used at any time to transport oil.
(u) “Railroad” means a railroad, railway, rail car, rolling stock, or train.
(v) “Rated OSRO” means an OSRO that has received a satisfactory rating from the administrator for a particular rating level established pursuant to Section 8670.30.
(w) “Responsible party” or “party responsible” means any of the following:
(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.
(2) The owner, operator, or lessee of, or a person that charters by demise, a vessel or facility, or a person or entity accepting responsibility for the vessel or facility.
(x) “Small craft” means a vessel, other than a tank ship or tank barge, that is less than 20 meters in length.
(y) “Small craft refueling dock” means a waterside operation that dispenses only nonpersistent oil in bulk and small amounts of persistent lubrication oil in containers primarily to small craft and meets both of the following criteria:
(1) Has tank storage capacity not exceeding 20,000 gallons in any single storage tank or tank compartment.
(2) Has total usable tank storage capacity not exceeding 75,000 gallons.
(z) “Small marine fueling facility” means either of the following:
(1) A mobile transfer unit.
(2) A fixed facility that is not a marine terminal, that dispenses primarily nonpersistent oil, that may dispense small amounts of persistent oil, primarily to small craft, and that meets all of the following criteria:
(A) Has tank storage capacity greater than 20,000 gallons but not more than 40,000 gallons in any single storage tank or storage tank compartment.
(B) Has total usable tank storage capacity not exceeding 75,000 gallons.
(C) Had an annual throughput volume of over-the-water transfers of oil that did not exceed 3,000,000 gallons during the most recent preceding 12-month period.
(aa) “Spill,” “discharge,” or “oil spill” means a release of any amount of oil into waters of the state that is not authorized by a federal, state, or local government entity.
(ab) “Tank barge” means a vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

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

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

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

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

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

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

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

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

8670.6.5. The administrator may obtain confidential and other information protected from public disclosure 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. The administrator shall develop procedures for handling the obtained information consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and federal law.

SEC. 9. Section 8670.7 of the Government Code is amended to read:
8670.7. (a) The administrator, subject to the Governor, has
the primary authority to direct prevention, removal, abatement,
response, containment, and cleanup efforts with regard to all
aspects of any oil spill in waters of the state, in accordance with
any applicable facility or vessel contingency plan and the California
oil spill contingency plan. The administrator shall cooperate with
any federal on-scene coordinator, as specified in the National
Contingency Plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 9.

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

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

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

(c) Upon request by a local government, the administrator may 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.

(d) Trained and certified local spill response managers shall participate in all drills upon request of the administrator.
(e) As part of the training and certification program, the administrator shall authorize a local spill response manager to train and certify volunteers.

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

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

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

SEC. 10.

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

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

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

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

SEC. 12.

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

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

1. Coordination of vessel safety and traffic.
2. Spill prevention equipment and response required on vessels
and at facilities.
3. The availability of oil spill response and cleanup equipment
and personnel.
4. Other matters that may relate to the transport of oil and oil
spill prevention, response, and cleanup.

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

SEC. 14.

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

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

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

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

1. Evaluate the effectiveness of dispersants and other chemical
agents in oil spill response under varying environmental conditions.
2. Evaluate potential adverse impacts on the environment and
public health including, but not limited to, adverse toxic impacts
on water quality, fisheries, and wildlife with consideration to
bioaccumulation and synergistic impacts, and the potential for
human exposure, including skin contact and consumption of
contaminated seafood.
3. Recommend appropriate uses and limitations on the use of
dispersants and other chemical agents to ensure they are used only
in situations where the administrator determines they are effective
and safe.

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

1. Equipment and technology needs.
2. Coordination with private response personnel.
3. Liability and insurance.

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

SEC. 14.

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

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

SEC. 16. Section 8670.15 is added to the Government Code,
to read:
8670.15. (a) To the extent allowed by federal and state law and to provide public transparency, the Legislature declares it is the policy of the state that communities that face significant risks associated with the transport or planned transport of significant quantities of oil through or near those communities be notified of the quantities and properties of the oil in a timely manner.

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

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

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

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

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

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

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

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

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

SEC. 17.
SEC. 19. Section 8670.25.5 of the Government Code is amended to read:

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

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

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

(c) The 24-hour emergency telephone number of the Office of Emergency Services shall be posted at every railroad dispatch, pipeline operator control center, marine terminal, at the area of
control of every marine facility, and on the bridge of every tankship
in marine waters.
(d) Except as otherwise provided in this section and Section
8589.7, a notification made pursuant to this section shall satisfy
any immediate notification requirement contained in any permit
issued by a permitting agency.
SEC. 18.
SEC. 20. Section 8670.26 of the Government Code is amended
to read:
8670.26. Any local or state agency responding to an oil spill
shall notify the Office of Emergency Services, if notification is
required under Section 8670.25.5, Section 13272 of the Water
Code, or any other notification procedure adopted in the California
oil spill contingency plan has not occurred.
SEC. 19.
SEC. 21. Section 8670.27 of the Government Code is amended
to read:
8670.27. (a) (1) All potentially responsible parties for an oil
spill and all of their agents and employees and all state and local
agencies shall carry out response and cleanup operations in
accordance with the applicable contingency plan, unless directed
otherwise by the administrator or the Coast Guard.
(2) Except as provided in subdivision (b), the responsible party,
potentially responsible parties, their agents and employees, the
operators of all vessels docked at a marine facility that is the source
of a discharge, and all state and local agencies shall carry out spill
response consistent with the California oil spill contingency plan
or other applicable federal, state, or local spill response plans, and
owners and operators shall carry out spill response consistent with
their applicable response contingency plans, unless directed
otherwise by the administrator or the Coast Guard.
(b) If a responsible party or potentially responsible party
reasonably, and in good faith, believes that the directions or orders
given by the administrator pursuant to subdivision (a) will
substantially endanger the public safety or the environment, the
party may refuse to act in compliance with the orders or directions
of the administrator. The responsible party or potentially
responsible party shall state, at the time of the refusal, the reasons
why the party refuses to follow the orders or directions of the
administrator. The responsible party or potentially responsible
party shall give the administrator written notice of the reasons for
the refusal within 48 hours of refusing to follow the orders or
directions of the administrator. In any civil or criminal proceeding
commenced pursuant to this section, the burden of proof shall be
on the responsible party or potentially responsible party to
demonstrate, by clear and convincing evidence, why the refusal
to follow the orders or directions of the administrator was justified
under the circumstances.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Be a written document, reviewed for feasibility and
executability, and signed by the owner or operator, or his or her
designee.
(2) Provide for the use of an incident command system to be used during a spill.
(3) Provide procedures for reporting oil spills to local, state, and federal agencies, and include a list of contacts to call in the event of a drill, threatened spill, or spill.
(4) Describe the communication plans to be used during a spill, if different from those used by a recognized incident command system.
(5) Describe the strategies for the protection of environmentally sensitive areas.
(6) Identify at least one rated OSRO for each rating level established pursuant to Section 8670.30. Each identified rated OSRO shall be directly responsible by contract, agreement, or other approved means to provide oil spill response activities pursuant to the oil spill contingency plan. A rated OSRO may provide oil spill response activities individually, or in combination with another rated OSRO, for a particular owner or operator.
(7) Identify a qualified individual.
(8) Provide the name, address, and telephone and facsimile numbers for an agent for service of process, located within the state and designated to receive legal documents on behalf of the owner or operator.
(9) Provide for training and drills on elements of the plan at least annually, with all elements of the plan subject to a drill at least once every three years.
(c) An oil spill contingency plan for a vessel shall also include, but is not limited to, all of the following requirements:
(1) The plan shall be submitted to the administrator at least seven days prior to the vessel entering waters of the state.
(2) The plan shall provide evidence of compliance with the International Safety Management Code, established by the International Maritime Organization, as applicable.
(3) If the oil spill contingency plan is for a tank vessel, the plan shall include both of the following:
(A) The plan shall specify oil and petroleum cargo capacity.
(B) The plan shall specify the types of oil and petroleum cargo carried.
(4) If the oil spill contingency plan is for a nontank vessel, the plan shall include both of the following:
(A) The plan shall specify the type and total amount of fuel carried.
(B) The plan shall specify the capacity of the largest fuel tank.
(d) An oil spill contingency plan for a facility shall also include, but is not limited to, all of the following provisions, as appropriate:
(1) Provisions for site security and control.
(2) Provisions for emergency medical treatment and first aid.
(3) Provisions for safety training, as required by state and federal safety laws for all personnel likely to be engaged in oil spill response.
(4) Provisions detailing site layout and locations of environmentally sensitive areas requiring special protection.
(5) Provisions for vessels that are in the operational control of the facility for loading and unloading.
(e) Unless preempted by federal law or regulations, an oil spill contingency plan for a railroad also shall include, but is not limited to, all of the following:
(1) A list of the types of train cars that may make up the consist.
(2) A list of the types of oil and petroleum products that may be transported.
(3) A map of track routes and facilities.
(4) A list, description, and map of any prestaged spill response equipment and personnel for deployment of the equipment.
(f) The oil spill contingency plan shall be available to response personnel and to relevant state and federal agencies for inspection and review.
(g) The oil spill contingency plan shall be reviewed periodically and updated as necessary. All updates shall be submitted to the administrator pursuant to this article.
(h) In addition to the regulations adopted pursuant to Section 8670.28, the administrator shall adopt regulations and guidelines to implement this section. The regulations and guidelines shall provide for the best achievable protection of waters and natural resources of the state. The administrator may establish additional oil spill contingency plan requirements, including, but not limited to, requirements based on the different geographic regions of the state. All regulations and guidelines shall be developed in consultation with the Oil Spill Technical Advisory Committee.
(i) Notwithstanding subdivision (a) and paragraph (6) of subdivision (b), a vessel or facility operating where a spill could
impact state waters that are not tidally influenced does not have
to identify a rated OSRO in the contingency plan until January 1,
2016.
SEC. 24. Section 8670.29.5 is added to the Government Code,
to read:
8670.29.5. (a) The administrator shall obtain annually, at a
minimum, information on the modes of transportation of oil into
and within the state and the properties of the oil in order to
evaluate and identify any necessary changes in oil spill response
and preparedness programs to meet the goals of this chapter.

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

SEC. 25. Section 8670.30.5 of the Government Code is
amended to read:
8670.30.5. (a) The administrator may review each oil spill
contingency plan that has been approved pursuant to Section
8670.29 to determine whether it complies with Sections 8670.28
and 8670.29.

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

SEC. 26. Section 8670.31 of the Government Code is amended
to read:
8670.31. (a) Each oil spill contingency plan required under
this article shall be submitted to the administrator for review and
approval.

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

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

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

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

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

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

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

SEC. 24.
8670.32. (a) To reduce the risk of an oil spill as a result of
fuel, cargo, and lube oil transfers, the administrator shall develop
and implement a screening mechanism and a comprehensive
risk-based monitoring program for inspecting the bunkering and
lightering operations of vessels at anchor and alongside a dock.
This program shall identify those bunkering and lightering
operations that pose the highest risk of a pollution incident.
(b) The administrator shall ensure that all bunkering and
lightering operations that, pursuant to subdivision (a), pose the
highest risk of a pollution incident are routinely monitored and
inspected. The administrator shall coordinate the monitoring and
inspection program with the Coast Guard.
(c) The administrator shall establish regulations to provide for
the best achievable protection during bunkering and lightering
operations.
(d) This section shall remain in effect only until January 1, 2015,
and as of that date is repealed, unless a later enacted statute, that
is enacted before January 1, 2015, deletes or extends that date.

SEC. 28. Section 8670.32.5 is added to the Government Code,
to read:
8670.32.5. The administrator, in consultation with the
appropriate local, state, and federal regulators, shall conduct a
comprehensive risk assessment of nonvessel modes of
transportation of oil and shall identify those operations that pose
the highest risk of a pollution incident in state waters. The
assessment shall include a consideration of the likely range in
properties of the oil.

SEC. 29. Section 8670.33 of the Government Code is amended
to read:
8670.33. (a) If the operator of a tank ship or tank barge for
which a contingency plan has not been approved desires to have
the tank ship or tank barge enter waters of the state, the
administrator may give approval by telephone or facsimile machine
for the entry of the tank ship or tank barge into waters of the state
under an approved contingency plan applicable to a terminal or
tank ship, if all of the following are met:
(1) The terminal or tank ship is the destination of the tank ship
or tank barge.
(2) The operator of the terminal or the tank ship provides the administrator advance written assurance that the operator assumes all responsibility for the operations of the tank ship or tank barge while it is in waters of the state traveling to or from the terminal. The assurance may be delivered by hand or by mail or may be sent by facsimile machine, followed by delivery of the original.

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

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

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

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

SEC. 26.

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

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

(a) The operators or crew of the tank vessel, nontank vessel, or vessel carrying oil as a secondary cargo comply at all times with all orders and directions given by the administrator, or his or her designee, while the tank vessel, nontank vessel, or vessel carrying oil as a secondary cargo is in waters of the state, unless the orders or directions are contradicted by orders or directions of the Coast Guard.
(b) Except for fuel, oil may be transferred to or from the tank vessel, nontank vessel, or vessel carrying oil as a secondary cargo while it is in waters of the state only if permission is obtained for the transfer of oil and one of the following conditions is met:

1. The transfer is necessary for the safety of the crew.
2. The transfer is necessary to prevent harm to public safety or the environment.
3. An oil spill contingency plan is approved or made applicable to the tank vessel, nontank vessel, or vessel carrying oil as a secondary cargo, under subdivision (c).

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

SEC. 27. SEC. 31. Section 8670.35 of the Government Code is amended to read:

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

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

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

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

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

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

SEC. 28.

SEC. 32. Section 8670.36 of the Government Code is amended
to read:
8670.36. The administrator shall, within five working days
after receipt of a contingency plan prepared pursuant to Section
8670.28 or 8670.35, post a notice that the plan is available for
review. The administrator shall send a copy of the plan within two
working days after receiving a request from the Oil Spill Technical
Advisory Committee. The State Lands Commission and the
California Coastal Commission shall review the plans for facilities
or local governments within the coastal zone. The San Francisco
Bay Conservation and Development Commission shall review the
plans for facilities or local governments within the area described
in Sections 66610 and 29101 of the Public Resources Code. Any
state agency or committee that comments shall submit its comments
to the administrator within 15 days of receipt of the plan. The
administrator shall consider all comments.

SEC. 29.
SEC. 33. Section 8670.37 of the Government Code is amended
to read:
8670.37. (a) The administrator, with the assistance of the State
Lands Commission, the California Coastal Commission, the
executive director of the San Francisco Bay Conservation and
Development Commission, or other appropriate agency, shall carry
out studies with regard to improvements to contingency planning
and oil spill response equipment and operations.
(b) To the greatest extent possible, these studies shall be
coordinated with studies being done by the federal government,
and other appropriate state and international entities, and
duplication with the efforts of other entities shall be minimized.
(c) The administrator, the State Lands Commission, the
California Coastal Commission, the executive director of the San
Francisco Bay Conservation and Development Commission, or
other appropriate agency may be reimbursed for all costs incurred
in carrying out the studies under this section from the Oil Spill
Prevention and Administration Fund.

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

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

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

(2) One or more of the oiled wildlife rescue and rehabilitation
stations shall be open to the public for educational purposes and
shall be available for wildlife health research. Wherever possible
in the establishment of these facilities, the administrator shall
improve existing authorized rehabilitation facilities and may
expand or take advantage of existing educational or scientific
programs and institutions for oiled wildlife rehabilitation purposes.
Expenditures shall be reviewed by the agencies and organizations
specified in subdivision (c).
(c) The administrator shall consult with the United States Fish and Wildlife Service, the National Marine Fisheries Service, the California Coastal Commission, the executive director of the San Francisco Bay Conservation and Development Commission, the Marine Mammal Center, and International Bird Rescue in the design, planning, construction, and operation of the rescue and rehabilitation stations. All proposals for the rescue and rehabilitation stations shall be presented before a public hearing prior to the construction and operation of any rehabilitation station, and, upon completion of the coastal protection element of the California oil spill contingency plan, shall be consistent with the coastal protection element.

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

(e) In the event of a spill, the responsible party may request that the administrator perform the rescue and rehabilitation of oiled wildlife required of the responsible party pursuant to this chapter if the responsible party and the administrator enter into an agreement for the reimbursement of the administrator’s costs incurred in taking the requested action. If the administrator performs the rescue and rehabilitation of oiled wildlife, the administrator shall primarily utilize the network of rescue and rehabilitation stations established pursuant to subdivision (a), unless more immediate care is required. Any of those activities conducted pursuant to this section or Section 8670.56.5 or 8670.61.5 shall be performed under the direction of the administrator. This subdivision does not remove the responsible party from liability for the costs of, or the responsibility for, the rescue and rehabilitation of oiled wildlife, as established by this chapter. This subdivision does not prohibit an owner or operator from retaining, in a contingency plan prepared pursuant to this article, wildlife rescue and rehabilitation services different from the rescue and rehabilitation stations established pursuant to this section.
(f) (1) The administrator shall appoint a rescue and rehabilitation advisory board to advise the administrator regarding operation of the network of rescue and rehabilitation stations established pursuant to subdivision (a), including the economic operation and maintenance of the network. For the purpose of assisting the administrator in determining what constitutes the best achievable treatment for oiled wildlife, the advisory board shall provide recommendations to the administrator on the care achieved by current standard treatment methods, new or alternative treatment methods, the costs of treatment methods, and any other information that the advisory board believes that the administrator might find useful in making that determination. The administrator shall consult with the advisory board in preparing the administrator’s submission to the Legislature pursuant to subdivision (a) of Section 8670.40.5. The administrator shall present the recommendations of the advisory board to the Oil Spill Technical Advisory Committee created pursuant to Article 8 (commencing with Section 8670.54), upon the request of the committee.

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

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

(B) Members of the advisory board, while performing functions within the scope of advisory board duties, shall be entitled to the same rights and immunities granted public employees by Article 3 (commencing with Section 820) of Chapter 1 of Part 2 of Division 3.6 of Title 1. Those rights and immunities are deemed to have attached, and shall attach, as of the date of appointment of the member to the advisory board.
(g) The administrator shall ensure the state’s ability to prevent the contamination of wildlife and to identify, collect, rescue, and treat oiled wildlife through all of the following:

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

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

3. Developing the capacity of the Oiled Wildlife Care Network to recruit and train an adequate field team for collection of live oiled wildlife, as specified in paragraph (1), by providing staffing for field operations, coordination, and volunteer outreach for the Oiled Wildlife Care Network. The duties of the field operations and volunteer outreach staff shall include recruitment and coordination of additional participation in the Oiled Wildlife Care Network by other existing organizations with experience and expertise in wildlife rescue and handling, including scientific organizations, educational institutions, public agencies, and nonprofit organizations dedicated to wildlife conservation, and recruitment, training, and supervision of volunteers from Oiled Wildlife Care Network participating organizations.
Ensuring that qualified persons with experience and expertise in wildlife rescue are assigned to oversee and supervise wildlife recovery search and collection efforts, as specified in the administrator’s wildlife response plan. The administrator shall provide for and ensure that all persons involved in field collection of oiled wildlife receive training in search and capture techniques and hazardous materials certification, as appropriate.

SEC. 31.

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

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

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

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

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

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

SEC. 32.

SEC. 36. Section 8670.37.52 of the Government Code is amended to read:
8670.37.52. The certificate of financial responsibility shall be conclusive evidence that the person or entity holding the certificate is the party responsible for the specified vessel, facility, or oil for purposes of determining liability pursuant to this chapter.

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

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

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

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

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

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

8670.37.55. (a) An owner or operator of more than one tank vessel, vessel carrying oil as a secondary cargo, nontank vessel, or facility shall only be required to obtain one certificate of financial responsibility for all of those vessels and facilities owned or operated.
(b) If a person holds a certificate for more than one tank vessel, vessel carrying oil as a secondary cargo, nontank vessel, or facility and a spill or spills occurs from one or more of those vessels or facilities for which the owner or operator may be liable for damages in an amount exceeding 5 percent of the financial resources reflected by the certificate, as determined by the administrator, the certificate shall immediately be considered inapplicable to any vessel or facility not associated with the spill. In that event, the owner or operator shall demonstrate to the satisfaction of the administrator the amount of financial ability required pursuant to this article, as well as the financial ability to pay all damages that arise or have arisen from the spill or spills that have occurred.

SEC. 35.

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

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

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

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

SEC. 36.

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

8670.40. (a) The State Board of Equalization shall collect a fee in an amount annually determined by the administrator to be
sufficient to pay the reasonable regulatory costs to carry out the
purposes set forth in subdivision (e), and a reasonable reserve for
contingencies. The oil spill prevention and administration fee shall
be based on each barrel of crude oil or petroleum products, as
described in subdivision (b).

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

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

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

(4) The oil spill prevention and administration fee shall not be
collected by a marine terminal operator or refinery operator or
imposed on the owner of crude oil or petroleum products if the fee
has been previously collected or paid on the crude oil or petroleum
products at another marine terminal or refinery. It shall be the
obligation of the marine terminal operator, refinery operator, or
owner of crude oil or petroleum products to show that the fee has
already been paid on the same crude oil or petroleum products.
(5) An owner of crude oil or petroleum products is liable for
the fee until it has been paid to the State Board of Equalization,
except that payment to a refinery operator or marine terminal
operator registered under this chapter is sufficient to relieve the
owner from further liability for the fee.
(6) On or before January 20, the administrator shall annually
prepare a plan that projects revenues and expenses over three fiscal
years, including the current year. Based on the plan, the
administrator shall set the fee so that projected revenues, including
any interest, are equivalent to expenses as reflected in the current
Budget Act and in the proposed budget submitted by the Governor.
In setting the fee, the administrator may allow for a surplus if the
administrator finds that revenues will be exhausted during the
period covered by the plan or that the surplus is necessary to cover
possible contingencies. The administrator shall notify the State
Board of Equalization of the adjusted fee rate, which shall be
rounded to no more than four decimal places, to be effective the
first day of the month beginning not less than 30 days from the
date of the notification.
(c) The moneys collected pursuant to subdivision (a) shall be
deposited into the fund.
(d) The State Board of Equalization shall collect the fee and
adopt regulations for implementing the fee collection program.
(e) The fee described in this section shall be collected solely
for all of the following purposes:
(1) To implement oil spill prevention programs through rules,
regulations, leasing policies, guidelines, and inspections and to
implement research into prevention and control technology.
(2) To carry out studies that may lead to improved oil spill
prevention and response.
(3) To finance environmental and economic studies relating to
the effects of oil spills.
(4) To implement, install, and maintain emergency programs,
equipment, and facilities to respond to, contain, and clean up oil
spills and to ensure that those operations will be carried out as
intended.
(5) To reimburse the State Board of Equalization for its reasonable costs incurred to implement this chapter and to carry out Part 24 (commencing with Section 46001) of Division 2 of the Revenue and Taxation Code.

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

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

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

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

**SEC. 37.**

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

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

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

(c) At the administrator’s request, the funds made available pursuant to this section may be directly appropriated to a suitable program for wildlife health and rehabilitation within a school of veterinary medicine within this state, if an agreement exists, consistent with this chapter, between the administrator and an appropriate representative of the program for carrying out that purpose. The administrator shall attempt to have an agreement in place at all times. The agreement shall ensure that the training of,
and the care provided by, the program staff are at levels that are
consistent with those standards generally accepted within the
veterinary profession.
(d) The funds made available pursuant to this section shall not
be considered an offset to any other state funds appropriated to
the program, the program’s associated school of veterinary
medicine, or the program’s associated college or university. The
funds shall not be used for any other purpose. If an offset does
occur or the funds are used for an unintended purpose, the
administrator may terminate expenditure of any funds appropriated
pursuant to this section and the administrator may request a
reappropriation to accomplish the intended purpose. The
administrator shall annually review and approve the proposed uses
of any funds made available pursuant to this section.
SEC. 38.
SEC. 42. Section 8670.42 of the Government Code is amended
to read:
8670.42. (a) The administrator and the State Lands
Commission, independently, shall contract with the Department
of Finance for the preparation of a detailed report that shall be
submitted on or before January 1, 2013, and no less than once
every four years thereafter, to the Governor and the Legislature
on the financial basis and programmatic effectiveness of the state’s
oil spill prevention, response, and preparedness program. This
report shall include an analysis of all of the oil spill prevention,
response, and preparedness program’s major expenditures, fees
and fines collected, staffing and equipment levels, spills responded
to, and other relevant issues. The report shall recommend measures
to improve the efficiency and effectiveness of the state’s oil spill
prevention, response, and preparedness program, including, but
not limited to, measures to modify existing contingency plan
requirements, to improve protection of sensitive shoreline sites,
and to ensure adequate and equitable funding for the state’s oil
spill prevention, response, and preparedness program.
(b) A report to be submitted pursuant to subdivision (a) shall
be submitted in compliance with Section 9795.
SEC. 39.
SEC. 43. Section 8670.47.5 of the Government Code is
amended to read:
8670.47.5. The following shall be deposited into the fund:
(a) The fee required pursuant to Section 8670.48.
(b) Any federal funds received to pay for response, containment, abatement, and rehabilitation costs from an oil spill in waters of the state.
(c) Any money borrowed by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1) or any draw on the financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48.
(d) Any interest earned on the moneys in the fund.
(e) Any costs recovered from responsible parties pursuant to Section 8670.53 and subdivision (e) of Section 8670.53.1.

SEC. 40.
SEC. 44. Section 8670.48 of the Government Code is amended to read:
8670.48. (a) (1) A uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), shall be imposed upon a person who owns petroleum products at the time the petroleum products are received at a marine terminal within this state by means of a vessel from a point of origin outside this state. The fee shall be collected by the marine terminal and remitted to the State Board of Equalization by the terminal operator on the 25th day of each month based upon the number of barrels of petroleum products received during the preceding month.
(2) An owner of petroleum products is liable for the fee until it has been paid to the state, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.
(b) An operator of a pipeline shall also pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), transported into the state by means of a pipeline operating across, under, or through the waters of the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of petroleum products so transported into the state during the preceding month.
(c) An operator of a refinery shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of crude oil, as set by the administrator pursuant
to subdivision (f), received at a refinery within the state by any
method of transport. The fee shall be paid on the 25th day of each
month based upon the number of barrels of crude oil so received
during the preceding month.
(d) A marine terminal operator shall pay a uniform oil spill
response fee in an amount not exceeding twenty-five cents ($0.25),
in accordance with subdivision (g), for each barrel of crude oil, as
set by the administrator pursuant to subdivision (f), that is
transported from within this state by means of a vessel to a
destination outside this state.
(e) An operator of a pipeline shall pay a uniform oil spill
response fee in an amount not exceeding twenty-five cents ($0.25),
in accordance with subdivision (g), for each barrel of crude oil, as
set by the administrator pursuant to subdivision (f), transported
out of the state by pipeline.
(f) (1) The fees required pursuant to this section shall be
collected during any period for which the administrator determines
that collection is necessary for any of the following reasons:
(A) The amount in the fund is less than or equal to 95 percent
of the designated amount specified in subdivision (a) of Section
46012 of the Revenue and Taxation Code.
(B) Additional money is required to pay for the purposes
specified in subdivision (k).
(C) The revenue is necessary to repay a draw on a financial
security obtained by the Treasurer pursuant to subdivision (o) or
borrowing by the Treasurer pursuant to Article 7.5 (commencing
with Section 8670.53.1), including any principal, interest, premium,
fees, charges, or costs of any kind incurred in connection with
those borrowings or financial security.
(2) The administrator, in consultation with the State Board of
Equalization, and with the approval of the Treasurer, may direct
the State Board of Equalization to cease collecting the fee when
the administrator determines that further collection of the fee is
not necessary for the purposes specified in paragraph (1).
(3) The administrator, in consultation with the State Board of
Equalization, shall set the amount of the oil spill response fees.
The oil spill response fees shall be imposed on all feepayers in the
same amount. The administrator shall not set the amount of the
fee at less than twenty-five cents ($0.25) for each barrel of
petroleum products or crude oil, unless the administrator finds that
the assessment of a lesser fee will cause the fund to reach the
specified amount in subdivision (a) of Section 46012
of the Revenue and Taxation Code within four months. The fee
shall not be less than twenty-five cents ($0.25) for each barrel of
petroleum products or crude oil if the administrator has drawn
upon the financial security obtained by the Treasurer pursuant to
subdivision (o) or if the Treasurer has borrowed money pursuant
to Article 7.5 (commencing with Section 8670.53.1) and principal,
interest, premium, fees, charges, or costs of any kind incurred in
connection with those borrowings remain outstanding or unpaid,
unless the Treasurer has certified to the administrator that the
money in the fund is not necessary for the purposes specified in
paragraph (1).

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

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

(i) The administrator, in consultation with the State Board of
Equalization and with the approval of the Treasurer, shall authorize
refunds of any money collected that is not necessary for the
purposes specified in paragraph (1) of subdivision (f). The State
Board of Equalization, as directed by the administrator, and in
accordance with Section 46653 of the Revenue and Taxation Code,
shall refund the excess amount of fees collected to each feepayer
who paid the fee to the state, in proportion to the amount that each
feepayer paid into the fund during the preceding 12 monthly
reporting periods in which there was a fee due, including the month
in which the fund exceeded the specified amount. If the total
amount of money in the fund exceeds the amount specified in this
subdivision by 10 percent or less, refunds need not be ordered by
the administrator. This section does not require the refund of excess
fees as provided in this subdivision more frequently than once
each year.
(j) The State Board of Equalization shall collect the fee and adopt regulations implementing the fee collection program. All fees collected pursuant to this section shall be deposited in the Oil Spill Response Trust Fund.

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

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

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

3. To pay claims for damages pursuant to Section 8670.51.

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

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

6. To pay indemnity and related costs and expenses as authorized by Section 8670.56.6.

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

8. [Reserved]

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

(I) The interest that the state earns on the funds deposited into the Oil Spill Response Trust Fund shall be deposited in the fund and shall be used to maintain the fund at the designated amount specified in subdivision (a) of Section 46012 of the Revenue and Taxation Code. If the amount in the fund exceeds that designated amount, the interest shall be deposited into the Oil Spill Prevention and Administration Fund, and shall be available for the purposes authorized by Article 6 (commencing with Section 8670.38).
(m) The Legislature finds and declares that effective response to oil spills requires that the state have available sufficient funds in a response fund. The Legislature further finds and declares that maintenance of that fund is of utmost importance to the state and that the money in the fund shall be used solely for the purposes specified in subdivision (k).

(n) [Reserved]

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

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

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

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

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

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

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

(c) If there is a conflict between this section and any other law or enactment, this section shall control.
(d) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 42.
SEC. 46. Section 8670.49 of the Government Code is amended to read:
8670.49. (a) (1) The administrator may only expend money from the fund to pay for any of the following, subject to the lien established in Section 8670.53.2:
(A) To pay the cost of obtaining financial security as authorized by paragraph (5) of subdivision (k) and subdivision (o) of Section 8670.48.
(B) To pay the principal, interest, premium, if any, and fees, charges, and costs of any kind incurred in connection with moneys drawn by the administrator on the financial security obtained by the Treasurer, or the moneys borrowed by the Treasurer, as authorized by paragraph (7) of subdivision (k) of Section 8670.48.
(C) To pay for the expansion, in the VTS area, pursuant to Section 445 of the Harbors and Navigation Code, of the vessel traffic service system (VTS system) authorized pursuant to subdivision (f) of Section 8670.21.
(2) If a spill has occurred, the administrator may expend the money in the fund for the purposes identified in paragraphs (1), (2), (3), (4), and (6) of subdivision (k) of Section 8670.48 only upon making the following determinations:
(A) Except as authorized by Section 8670.51.1, a responsible party does not exist or the responsible party is unable or unwilling to provide adequate and timely cleanup and to pay for the damages resulting from the spill. The administrator shall make a reasonable effort to have the party responsible remove the oil or agree to pay for any actions resulting from the spill that may be required by law, provided that the efforts are not detrimental to fish, plant, animal, or bird life in the affected waters. The reasonable effort of the administrator shall include attempting to access the responsible parties’ insurance or other proof of financial responsibility.
(B) Sufficient federal oil spill funds are not available or will not be available in an adequate period of time.
(3) Notwithstanding any other provision of this subdivision, the administrator may expend money from the fund for authorized expenditures when a reimbursement procedure is in place to receive reimbursements for those expenditures from federal oil spill funds.

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

SEC. 43.

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

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

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

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

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

(C) Undertaken at the direction of the administrator.

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

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

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

SEC. 44.

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

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

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

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

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

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

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

SEC. 45.

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

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

SEC. 46.

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

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

1. The Speaker of the Assembly and Senate Committee on Rules shall each appoint a member who shall be a representative of the public.
2. The Governor shall appoint a member who has demonstrable knowledge of marine transportation.
3. The Speaker of the Assembly and the Senate Committee on Rules shall each appoint two members who have demonstrable knowledge of environmental protection and the study of ecosystems.
4. The Governor shall appoint a member who has served as a local government elected official or who has worked for a local government.
5. The Governor shall appoint a member who has experience in oil spill response and prevention programs.
6. The Governor shall appoint a member who has been employed in the petroleum industry.
7. The Governor shall appoint a member who has worked in state government.
8. The Governor shall appoint a member who has demonstrable knowledge of the dry cargo vessel industry.
9. The Governor shall appoint a member who has demonstrable knowledge of the railroad industry.
10. The Governor shall appoint a member who has demonstrable knowledge of the oil production industry.

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

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

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

SEC. 47. SEC. 51. Section 8670.55 of the Government Code is amended to read:

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

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

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

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

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

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

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

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

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

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

(4) Natural seepage not caused by a responsible party.
(5) Discharge or leaking of oil or natural gas from a private
pleasure boat or vessel.

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

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

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

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

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

(g) This section does not prohibit a person from bringing an
action for damages caused by oil or by exploration, under any
other provision or principle of law, including, but not limited to,
common law. However, damages shall not be awarded pursuant
to this section to an injured party for loss or injury for which the
party is or has been awarded damages under any other provision
or principle of law. Subdivision (b) does not create a defense not
otherwise available regarding an action brought under any other
provision or principle of law, including, but not limited to, common
law.
(h) Damages for which responsible parties are liable under this section include the following:

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

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

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

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

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

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

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

(i) Except as provided in Section 1431.2 of the Civil Code, liability under this section shall be joint and several. However, this section does not bar a cause of action that a responsible party has or would have, by reason of subrogation or otherwise, against a person.
(j) This section does not apply to claims for damages for personal injury or wrongful death, and does not limit the right of a person to bring an action for personal injury or wrongful death pursuant to any provision or principle of law.

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

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

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

SEC. 49. SECTION 8670.56.6 of the Government Code is amended to read:

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

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

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

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

(C) In the absence of directions pursuant to subparagraph (A) or (B), applicable oil spill contingency plans implemented under this division.
(3) Nothing in this section shall, in any manner or respect, affect
or impair any cause of action against or any liability of any person
or persons responsible for the spill, for the discharged oil, or for
the vessel, terminal, pipeline, or facility from which the oil was
discharged. The responsible person or persons shall remain liable
for any and all damages arising from the discharge, including
damages arising from improperly carried out response efforts, as
otherwise provided by law.

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

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

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

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

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

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

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

(g) Except for the responsible party, membership in a
cooperative shall not be grounds, in and of itself, for liability
resulting from cleanup activities of the cooperative.
(h) For purposes of this section, there shall be a rebuttable presumption that an act or omission described in subdivision (a) was taken in good faith.

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

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

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

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

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

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

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

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

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

(A) Due to inadequate or incomplete containment and
stabilization, there exists a substantial probability that the size of
the spill will significantly expand and (i) threaten previously
uncontaminated resources, (ii) threaten already contaminated
resources with substantial additional contamination, or (iii)
otherwise endanger the public health and safety or harm the environment.
(B) The remaining work is of a difficult or perilous nature that extension of the immunity is clearly in the public interest.
(C) No other qualified and financially responsible contractor is prepared and willing to complete the response effort in the absence of the immunity, or a lesser immunity, as negotiated by contract.
(3) The administrator shall provide five days’ notice of his or her proposed decision to either extend, or not extend, the immunity conferred by this section. Interested parties shall be given an opportunity to present oral and written evidence at an informal hearing. In making his or her proposed decision, the administrator shall specifically seek and consider the advice of the relevant Coast Guard representative. The administrator’s decision to not extend the immunity shall be announced at least 10 working days before the expiration of the immunity to provide persons an opportunity to terminate their response efforts as contemplated by paragraph (4).
(4) A person or their agents, subcontractors, or employees shall not incur any liability under this chapter or any other provision of law solely as a result of that person’s decision to terminate their response efforts because of the expiration of the immunity conferred by this section. A person’s decision to terminate response efforts because of the expiration of the immunity conferred by this section shall not in any manner impair, curtail, limit, or otherwise affect the immunity conferred on the person with regard to the person’s response efforts undertaken during the period of time the immunity applied to those response efforts.
(5) The immunity granted under this section shall attach, without the limitation contained in this subdivision, to the response efforts of any person who is not regularly engaged in the business of responding to oil spills. A person who is not regularly engaged in the business of responding to oil spills includes, but is not limited to, (A) a person who is primarily dedicated to the preservation and rehabilitation of wildlife and (B) a person who derives his or her livelihood primarily from fishing.
(l) As used in this section, “response efforts” means rendering care, assistance, or advice in accordance with the National Contingency Plan, the California oil spill contingency plan, or at the direction of the administrator, United States Environmental
Protection Agency, or the Coast Guard in response to a spill or threatened spill into waters of the state.

SEC. 50.

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

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

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

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

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

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

SEC. 51.

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

8670.62. (a) Any person who discharges oil into waters of the
state, upon order of the administrator, shall do all of the following:
(1) Clean up the oil.
(2) Abate the effects of the discharge.
(3) In the case of a threatened discharge, take other necessary
remedial action.

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

(c) Consistent with the state contingency plan, the administrator
may expend available money to perform any response;
containment; cleanup; wildlife rehabilitation, which includes
assessment of resource injuries and damages, or remedial work
required pursuant to subdivision (a) that, in the administrator’s
judgment, is required by the circumstances or the urgency of
prompt action required to prevent pollution, nuisance, or injury to
the environment of the state. The action may be taken in default
of, or in addition to, remedial work by the responsible party or
other persons, and regardless of whether injunctive relief is sought.

The administrator may perform the work in cooperation with any
other governmental agency, and may use rented tools or equipment,
either with or without operators furnished. Notwithstanding any
other law, the administrator may enter into oral contracts for the
work, and the contracts, whether written or oral, may include
provisions for equipment rental and the furnishing of labor and
materials necessary to accomplish the work. The contracts shall
be exempt from Part 2 (commencing with Section 10100) of
Division 2 of the Public Contract Code and Article 6 (commencing
with Section 999) of Chapter 6 of Division 4 of the Military and
Veterans Code.
(d) If the discharge is cleaned up, or attempted to be cleaned
up, the effects thereof abated, or, in the case of threatened pollution
or nuisance, other necessary remedial action is taken by any
governmental agency, the person or persons who discharged the
waste, discharged the oil, or threatened to cause or permit the
discharge of the oil within the meaning of subdivision (a) shall be
liable to that governmental agency for the reasonable costs actually
incurred in cleaning up that waste, abating the effects thereof, or
taking other remedial action. The amount of the costs shall be
recoverable in a civil action by, and paid to, the applicable
governmental agency and the administrator, to the extent the
administrator contributed to the cleanup costs from the Oil Spill
Response Trust Fund or other available funds.
(e) If, despite reasonable effort by the administrator to identify
the party responsible for the discharge of oil or the condition of
pollution or nuisance, the person is not identified at the time
cleanup, abatement, or remedial work must be performed, the
administrator shall not be required to issue an order under this
section. The absence of a responsible party shall not in any way
limit the powers of the administrator under this section.
(f) For purposes of this section, “threaten” means a condition
creating a substantial probability of harm, when the probability
and potential extent of harm makes it reasonably necessary to take
immediate action to prevent, reduce, or mitigate damages to
persons, property, or natural resources.
SEC. 52.
SEC. 56. Section 8670.64 of the Government Code is amended
to read:
8670.64. (a) A person who commits any of the following acts
shall, upon conviction, be punished by imprisonment in a county
jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code:

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

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

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

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

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

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

(2) The acts subject to this subdivision are all of the following:
(A) Failing to notify the Office of Emergency Services in violation of Section 8670.25.5.

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

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

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

SEC. 53.

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

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

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

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

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

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

(b) Except as provided in subdivision (a), any person who intentionally or negligently violates any provision of this chapter, or Division 7.8 (commencing with Section 8750) of the Public Resources Code, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to those provisions, shall be liable for a civil penalty not to exceed two hundred fifty thousand dollars ($250,000) for each violation of a separate provision, or, for continuing violations, for each day that violation continues.
(c) A person shall not be liable for a civil penalty imposed under this section and for a civil penalty imposed pursuant to Section 8670.67 for the same act or failure to act.

SEC. 54.

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

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

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

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

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

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

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

(c) A person shall not be liable for a civil penalty imposed under this section and for a civil penalty imposed pursuant to Section 8670.66 for the same act or failure to act.
SEC. 55.  
SEC. 59. Section 8670.67.5 of the Government Code is amended to read:  
8670.67.5. (a) Any person who without regard to intent or negligence causes or permits a spill shall be strictly liable civilly in accordance with subdivision (b) or (c).  
(b) A penalty may be administratively imposed by the administrator in accordance with Section 8670.68 in an amount not to exceed twenty dollars ($20) per gallon for a spill. The amount of the penalty shall be reduced for every gallon of released oil that is recovered and properly disposed of in accordance with applicable law.  
(c) Whenever the release of oil resulted from gross negligence or reckless conduct, the administrator shall, in accordance with Section 8670.68, impose a penalty in an amount not to exceed sixty dollars ($60) per gallon for a spill. The amount of the penalty shall be reduced for every gallon of released oil that is recovered and properly disposed of in accordance with applicable law.  
(d) The administrator shall adopt regulations governing the method for determining the amount of oil that is cleaned up.

SEC. 56.  
SEC. 60. Section 8670.69.4 of the Government Code is amended to read:  
8670.69.4. (a) When the administrator determines that any person has undertaken, or is threatening to undertake, any activity or procedure that (1) requires a permit, certificate, approval, or authorization under this chapter, without securing a permit, certificate, approval, or authorization, or (2) is inconsistent with any of the permits, certificates, rules, regulations, guidelines, or authorizations previously issued or adopted by the administrator, or (3) threatens to cause or substantially increases the risk of unauthorized discharge of oil into the waters of the state, the administrator may issue an order requiring that person to cease and desist.  
(b) Any cease and desist order issued by the administrator may be subject to terms and conditions as the administrator may determine are necessary to ensure compliance with this division.  
(c) Any cease and desist order issued by the administrator shall become null and void 90 days after issuance.
(d) A cease and desist order issued by the administrator shall be effective upon the issuance thereof, and copies shall be served immediately by certified mail upon the person or governmental agency being charged with the actual or threatened violation.

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

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

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

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

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

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

(2) Has measurable outcomes within a predetermined timeframe.

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

SEC. 59.
Section 8670.95 is added to the Government Code, to read:

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

SEC. 60.
Section 449 of the Harbors and Navigation Code is amended to read:

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

(b) Nothing in this section shall be deemed to include the marine exchange or its officers, directors, employees, or representatives
within the meaning of “responsible party” as defined in Section 8670.3 of the Government Code and subdivision (p) of Section 8750 of the Public Resources Code for the purposes of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Article 3.5 (commencing with Section 8574.1) of Chapter 7 and Chapter 7.4 (commencing with Section 8670.1) of Division 1 of Title 2 of the Government Code and Division 7.8 (commencing with Section 8750) of the Public Resources Code).

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

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

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

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

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

(e) Commencing July 1, 2008, in addition to the minimum inspections undertaken pursuant to subdivision (d), the commission shall conduct focused inspections of railroad yards and track, either in coordination with the Federal Railroad Administration or as the commission determines to be necessary. The focused inspection program shall target railroad yards and track that pose the greatest safety risk, based on inspection data, accident history, and rail traffic density.
(f) Commencing January 1, 2015, in addition to the inspections undertaken pursuant to subdivisions (d) and (e), the commission shall conduct expanded focused inspections, either in coordination with the Federal Railroad Administration or as the commission determines to be necessary, of bridges and grade crossings over which oil is being transported and oil unloading facilities, including movement within these facilities and onsite storage. The expanded focused inspection program shall target bridges, grade crossings, and oil unloading facilities that pose the greatest safety risk, based on inspection data, accident history, and rail traffic density.

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

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

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

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

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

(1) The severity of grade and curve of track.

(2) The value of special skills of train operators in negotiating the particular segment of railroad line.

(3) The value of special railroad equipment in negotiating the particular segment of railroad line.
(4) The types of commodities transported on or near the particular segment of railroad line.

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

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

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

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

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

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

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

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

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

46006. “Administrator” means the person appointed by the Governor pursuant to Section 8670.4 of the Government Code to implement the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Chapter 7.4 (commencing with Section 8670.1) of Division 1 of Title 2 of the Government Code).
SEC. 63.
SEC. 69. Section 46007 of the Revenue and Taxation Code is amended to read:
46007. “Barges” means vessels that carry oil in commercial quantities as cargo but are not equipped with a means of self-propulsion.
SEC. 64.
SEC. 70. Section 46008 of the Revenue and Taxation Code is repealed.
SEC. 65.
SEC. 71. Section 46010 of the Revenue and Taxation Code is amended to read:
46010. “Crude oil” means petroleum in an unrefined or natural state, including condensate and natural gasoline, and including substances that enhance, cut, thin, or reduce viscosity.
SEC. 66.
SEC. 72. Section 46011 of the Revenue and Taxation Code is repealed.
SEC. 67.
SEC. 73. Section 46011 is added to the Revenue and Taxation Code, to read:
46011. (a) “Facility” means any of the following located in state waters or located where an oil spill may impact state waters:
(1) A building, structure, installation, or equipment used in oil exploration, oil well drilling operations, oil production, oil refining, oil storage, oil gathering, oil processing, oil transfer, oil distribution, or oil transportation.
(2) A marine terminal.
(3) A pipeline that transports oil.
(4) A railroad that transports oil as cargo.
(5) A drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform.
(b) “Facility” does not include any of the following:
(1) A vessel, except a vessel located and used for any purpose described in paragraph (5) of subdivision (a).
(2) An owner or operator subject to Chapter 6.67 (commencing with Section 25270) of or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.
(3) Operations on a farm, nursery, logging site, or construction site that are either of the following:
(A) Do not exceed 20,000 gallons in a single storage tank.
(B) Have a useable tank storage capacity not exceeding 75,000 gallons.
(4) A small craft refueling dock.

SEC. 68. Section 46013 of the Revenue and Taxation Code is amended to read:
46013. “Feepayer” means any person liable for the payment of a fee imposed by either Section 8670.40 or 8670.48 of the Government Code.

SEC. 69. Section 46014 of the Revenue and Taxation Code is repealed.

SEC. 70. Section 46015 of the Revenue and Taxation Code is repealed.

SEC. 71. Section 46016 of the Revenue and Taxation Code is repealed.

SEC. 72. Section 46017 of the Revenue and Taxation Code is amended to read:
46017. “Marine terminal” means any facility used for transferring crude oil or petroleum products to or from tankers or barges. For purposes of this part, a marine terminal includes all piping not integrally connected to a tank facility as defined in subdivision (n) of Section 25270.2 of the Health and Safety Code.

SEC. 73. Section 46018 of the Revenue and Taxation Code is repealed.

SEC. 74. Section 46018 is added to the Revenue and Taxation Code, to read:
46018. “Oil” means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.
SEC. 75. SEC. 81. Section 46019 of the Revenue and Taxation Code is repealed.

SEC. 76. SEC. 82. Section 46023 of the Revenue and Taxation Code is amended to read:

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

SEC. 77. SEC. 83. Section 46024 of the Revenue and Taxation Code is repealed.

SEC. 78. SEC. 84. Section 46025 of the Revenue and Taxation Code is repealed.

SEC. 79. SEC. 85. Section 46027 of the Revenue and Taxation Code is repealed.

SEC. 80. SEC. 86. Section 46027 is added to the Revenue and Taxation Code, to read:

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

SEC. 81. SEC. 87. Section 46028 of the Revenue and Taxation Code is amended to read:

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

SEC. 82. SEC. 88. Section 46101 of the Revenue and Taxation Code is amended to read:

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

SEC. 83. SEC. 89. Section 13272 of the Water Code is amended to read:
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.
SEC. 90. Nothing in this act is intended to limit the police power or other authority of a local government or government regulator to enforce any other state or federal environmental law or regulation.

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

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

SEC. 92. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIIIB of the California Constitution.