

AMENDED IN SENATE JUNE 26, 2019
AMENDED IN SENATE JUNE 14, 2019
AMENDED IN ASSEMBLY MAY 16, 2019
AMENDED IN ASSEMBLY MAY 6, 2019
AMENDED IN ASSEMBLY APRIL 11, 2019
AMENDED IN ASSEMBLY APRIL 1, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 936

**Introduced by Assembly Member Robert Rivas
(Coauthors: Assembly Members Chiu and Limón)**

February 20, 2019

An act to amend Sections 8574.8, 8670.3, 8670.29, 8670.30, and 8670.35 of, and to add Sections 8670.8.4 and 8670.12.1 to, the Government Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

AB 936, as amended, Robert Rivas. Oil spills: response and contingency planning.

(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 requires the Governor to establish a California oil spill contingency plan that provides for an integrated and effective state procedure to

combat the results of major oil spills within the state and that specifies state agencies to implement the plan. Existing law requires the administrator to submit to the Governor and the Legislature an amended California oil spill contingency plan that addresses marine oil spills, by January 1, 1993, and to submit revised plans every 3 years thereafter. Beginning January 1, 2017, and every 3 years thereafter, the administrator is required to submit an amended California oil spill contingency plan that addresses both marine and inland oil spills.

This bill would define “nonfloating oil” for purposes of the act. The bill would require the administrator to hold, on or before January 1, 2022, a technology workshop devoted solely to the topic of technology for addressing nonfloating oil spills, to conduct and publish a review of scientific and technical literature concerning that technology, to make a set of findings defining the elements of state-of-the-art response capability to nonfloating oil spills and identifying the best ~~available~~ *achievable* technology and best practices for responding to those spills, and to update those findings at least biennially thereafter. The bill would require the administrator to include in the revision to the California oil spill contingency plan due on or before January 1, 2023, provisions addressing nonfloating oil reflecting findings made following the technology workshop and review of scientific and technical literature. The bill, upon appropriation by the Legislature, would require the administrator to conduct testing of new products for use in nonfloating oil spill cleanup, and to provide grants or conduct technology competitions to facilitate the development of those products.

(2) Existing law authorizes an oil spill response organization (OSRO) to apply to the administrator for a rating of that OSRO’s response capabilities. Upon receiving a completed application for rating, the administrator is required to review the application and rate the OSRO based on the OSRO’s satisfactory compliance with criteria established by the administrator, including specified elements.

This bill would require that those elements include the type of oil, including nonfloating oil, the OSRO is capable of recovering and containing. The bill would require the administrator, on or before January 1, 2021, to establish criteria for a separate rating level for OSROs capable of addressing nonfloating oil that is consistent with the nonfloating oil classification in the United States Coast Guard’s OSRO Guidelines, except as provided. The bill would require that certain regulations adopted by the administrator be consistent with the 2016 United States Coast Guard OSRO classification program and the criteria

developed for a separate rating level for OSROs capable of addressing nonfloating oil. The bill would require the administrator to adopt and revise regulatory requirements, on or before January 1, 2024, and biannually thereafter, pertaining to nonfloating oil, including the criteria developed for a separate rating level for OSROs capable of addressing nonfloating oil, to incorporate the findings described in paragraph (1) above.

(3) Existing law requires 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, to have an oil spill contingency plan that complies with the rules, regulations, and policies established by the administrator, that meets specified minimum requirements, and that has been submitted to, and approved by, the administrator. Under existing law, a person who continues operations for which a contingency plan is required without an approved oil contingency plan or who knowingly fails to follow the material provisions of the applicable contingency plan is guilty of a misdemeanor.

Commencing January 1, 2022, the bill would, if nonfloating oil is present, require that the oil spill contingency plan that is filed with and approved by the administrator identify one OSRO rated capable of oil spill response activities related to that nonfloating oil. By expanding the scope of a crime under existing law, the bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California cannot afford to place its unique and treasured
- 4 hydrologic resources at undue risk from an oil spill. Because of
- 5 California's unique and treasured hydrologic features, including

1 its coast, any oil spill in state waters would be extremely expensive
2 to clean up, and much of the damage from an oil spill could be
3 practically irreparable.

4 (b) Certain types of oils, defined in this act as “nonfloating oil,”
5 when spilled onto water are more likely to include components
6 that either do not float on the surface of the water or become
7 nonfloating over time. Immediate action must be taken to improve
8 control and cleanup technology for nonfloating oil spills in order
9 to strengthen the capabilities and capacities of cleanup operations
10 for nonfloating oils.

11 (c) Nonfloating oil poses heightened risks and costs in the event
12 of an oil spill. It sinks much more quickly than lighter oils, such
13 that immediate response is essential. Once nonfloating oil sinks
14 into the water column, it is significantly more costly and difficult
15 to clean up.

16 (d) One way that nonfloating oil is currently transported to
17 California refineries is by oil tanker. There is a significant
18 possibility that the volume of that kind of tanker transport will
19 increase in the near-term future. California must address the
20 heightened risk to its waters associated with current and anticipated
21 increased transportation of nonfloating oil. Unless action is taken
22 to plan and prepare for the risks of that transport and the possibility
23 of an oil spill, the state’s coast and the San Francisco Bay are at a
24 heightened risk of costly, and possibly irreparable, damage from
25 nonfloating oil.

26 (e) Nonfloating oil can pose heightened risks to safety and public
27 health. While all oil spills create a health risk to first responders
28 and the public, a spill of nonfloating oil may create heightened
29 and novel risks, different and greater than those associated with
30 conventional oil spills. Of particular concern are impacts on
31 seafood safety from crude dispersed in the water column, and the
32 toxicity and combustion hazards of diluents added to nonfloating
33 oils. Diluents can rapidly volatilize into the atmosphere when a
34 spill occurs, exposing those nearby to toxic air contaminants such
35 as benzene, toluene, and other harmful volatile hydrocarbons.
36 Accordingly, it is essential that communities and first responders
37 be fully informed regarding transport of oil, and in particular
38 nonfloating oil, in their vicinity.

39 (f) The optimal methods of addressing a spill of nonfloating oil
40 are in development and are not fully understood. California must

1 take steps to further its agencies' understanding of existing
2 methods, to develop more effective methods, and to consistently
3 implement the best methods available.

4 SEC. 2. Section 8574.8 of the Government Code is amended
5 to read:

6 8574.8. (a) The administrator shall submit to the Governor
7 and the Legislature an amended California oil spill contingency
8 plan required, pursuant to Section 8574.7, by January 1, 1993. The
9 administrator shall thereafter submit revised plans every three
10 years, until the amended plan required pursuant to subdivision (b)
11 is submitted.

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

17 (2) The administrator shall include in the revised plan due on
18 or before January 1, 2023, provisions addressing nonfloating oil
19 reflecting findings made following the technology workshop and
20 review of scientific and technical literature conducted pursuant to
21 Section 8670.12.1.

22 SEC. 3. Section 8670.3 of the Government Code is amended
23 to read:

24 8670.3. Unless the context requires otherwise, the following
25 definitions shall govern the construction of this chapter:

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

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

36 (A) The protection provided by the measure.

37 (B) The technological achievability of the measure.

38 (C) The cost of the measure.

39 (2) The administrator shall not use a cost-benefit or
40 cost-effectiveness analysis or any particular method of analysis in

1 determining which measures provide the best achievable protection.
2 The administrator shall instead, when determining which measures
3 provide best achievable protection, give reasonable consideration
4 to the protection provided by the measures, the technological
5 achievability of the measures, and the cost of the measures when
6 establishing the requirements to provide the best achievable
7 protection for the natural resources of the state.

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

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

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

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

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

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

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

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

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

38 (B) A marine terminal.

39 (C) A pipeline that transports oil.

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

- 1 (E) A drill ship, semisubmersible drilling platform, jack-up type
2 drilling rig, or any other floating or temporary drilling platform.
- 3 (2) "Facility" does not include any of the following:
- 4 (A) A vessel, except a vessel located and used for any purpose
5 described in subparagraph (E) of paragraph (1).
- 6 (B) An owner or operator subject to Chapter 6.67 (commencing
7 with Section 25270) or Chapter 6.75 (commencing with Section
8 25299.10) of Division 20 of the Health and Safety Code.
- 9 (C) Operations on a farm, nursery, logging site, or construction
10 site that are either of the following:
- 11 (i) Do not exceed 20,000 gallons in a single storage tank.
- 12 (ii) Have a useable tank storage capacity not exceeding 75,000
13 gallons.
- 14 (D) A small craft refueling dock.
- 15 (h) "Local government" means a chartered or general law city,
16 a chartered or general law county, or a city and county.
- 17 (i) (1) "Marine terminal" means any facility used for
18 transferring oil to or from a tank ship or tank barge.
- 19 (2) "Marine terminal" includes, for purposes of this chapter, all
20 piping not integrally connected to a tank facility, as defined in
21 subdivision (n) of Section 25270.2 of the Health and Safety Code.
- 22 (j) "Marine waters" means those waters subject to tidal
23 influence, and includes the waterways used for waterborne
24 commercial vessel traffic to the Port of Sacramento and the Port
25 of Stockton.
- 26 (k) "Mobile transfer unit" means a vehicle, truck, or trailer,
27 including all connecting hoses and piping, used for the transferring
28 of oil at a location where a discharge could impact waters of the
29 state.
- 30 (l) "Nondedicated response resources" means those response
31 resources identified by an Oil Spill Response Organization for oil
32 spill response activities that are not dedicated response resources.
- 33 (m) "Nonfloating oil" means either (1) a refined petroleum
34 product that is sold commercially and sinks in distilled water when
35 both the water and the petroleum product are at a temperature of
36 15 degrees Celsius, or (2) an unrefined form of petroleum product
37 that sinks in distilled water when both the water and the petroleum
38 product are at a temperature of 15 degrees Celsius, including an
39 unrefined form of petroleum product that would satisfy the sinking
40 criteria before dilution with a hydrocarbon mixture having a density

1 of 770 kilograms per cubic meter or less at a temperature of 15
2 degrees Celsius.

3 (n) “Nonpersistent oil” means a petroleum-based oil, such as
4 gasoline or jet fuel, that evaporates relatively quickly and is an oil
5 with hydrocarbon fractions, at least 50 percent of which, by
6 volume, distills at a temperature of 645 degrees Fahrenheit, and
7 at least 95 percent of which, by volume, distills at a temperature
8 of 700 degrees Fahrenheit.

9 (o) “Nontank vessel” means a vessel of 300 gross tons or greater
10 that carries oil, but does not carry that oil as cargo.

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

16 (q) “Oil spill cleanup agent” means a chemical, or any other
17 substance, used for removing, dispersing, or otherwise cleaning
18 up oil or any residual products of petroleum in, or on, any of the
19 waters of the state.

20 (r) “Oil spill contingency plan” or “contingency plan” means
21 the oil spill contingency plan required pursuant to Article 5
22 (commencing with Section 8670.28).

23 (s) (1) “Oil spill response organization” or “OSRO” means an
24 individual, organization, association, cooperative, or other entity
25 that provides, or intends to provide, equipment, personnel, supplies,
26 or other services directly related to oil spill containment, cleanup,
27 or removal activities.

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

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

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

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

38 (C) Except as provided in subparagraph (D), in the case of a
39 vessel or facility, where title or control was conveyed due to
40 bankruptcy, foreclosure, tax delinquency, abandonment, or similar

1 means to an entity of state or local government, a person who
2 owned, held an ownership interest in, operated, or otherwise
3 controlled activities concerning the vessel or facility immediately
4 beforehand.

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

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

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

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

23 (v) “Pipeline” means a pipeline used at any time to transport
24 oil.

25 (w) “Railroad” means a railroad, railway, rail car, rolling stock,
26 or train.

27 (x) “Rated OSRO” means an OSRO that has received a
28 satisfactory rating from the administrator pursuant to Section
29 8670.30.

30 (y) “Response efforts” means rendering care, assistance, or
31 advice in accordance with the National Contingency Plan, the
32 California oil spill contingency plan, or at the direction of the
33 administrator, the United States Environmental Protection Agency,
34 or the United States Coast Guard in response to a spill or a
35 threatened spill into waters of the state.

36 (z) “Responsible party” or “party responsible” means any of
37 the following:

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

- 1 (2) The owner, operator, or lessee of, or a person that charters
2 by demise, a vessel or facility, or a person or entity accepting
3 responsibility for the vessel or facility.
- 4 (aa) “Small craft” means a vessel, other than a tank ship or tank
5 barge, that is less than 20 meters in length.
- 6 (ab) “Small craft refueling dock” means a waterside operation
7 that dispenses only nonpersistent oil in bulk and small amounts of
8 persistent lubrication oil in containers primarily to small craft and
9 meets both of the following criteria:
- 10 (1) Has tank storage capacity not exceeding 20,000 gallons in
11 any single storage tank or tank compartment.
- 12 (2) Has total usable tank storage capacity not exceeding 75,000
13 gallons.
- 14 (ac) “Small marine fueling facility” means either of the
15 following:
- 16 (1) A mobile transfer unit.
- 17 (2) A fixed facility that is not a marine terminal, that dispenses
18 primarily nonpersistent oil, that may dispense small amounts of
19 persistent oil, primarily to small craft, and that meets all of the
20 following criteria:
- 21 (A) Has tank storage capacity greater than 20,000 gallons but
22 not more than 40,000 gallons in any single storage tank or storage
23 tank compartment.
- 24 (B) Has total usable tank storage capacity not exceeding 75,000
25 gallons.
- 26 (C) Had an annual throughput volume of over-the-water transfers
27 of oil that did not exceed 3,000,000 gallons during the most recent
28 preceding 12-month period.
- 29 (ad) “Spill,” “discharge,” or “oil spill” means a release of any
30 amount of oil into waters of the state that is not authorized by a
31 federal, state, or local government entity.
- 32 (ae) “Spill management team” means personnel and associated
33 equipment that staff the organizational structure for managing
34 some or all aspects of response, containment, and cleanup of a
35 spill, utilizing an incident command or unified command structure.
- 36 (af) “Tank barge” means a vessel that carries oil in commercial
37 quantities as cargo but is not equipped with a means of
38 self-propulsion.

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

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

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

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

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

15 SEC. 4. Section 8670.8.4 is added to the Government Code,
16 to read:

17 8670.8.4. Contingent upon an appropriation by the Legislature
18 for purposes of this section in the annual Budget Act or another
19 enacted statute, the administrator shall conduct testing of new
20 products for use in nonfloating oil spill cleanup, and to provide
21 grants or conduct technology competitions to facilitate the
22 development of those products.

23 SEC. 5. Section 8670.12.1 is added to the Government Code,
24 to read:

25 8670.12.1. (a) On or before January 1, 2022, the administrator
26 shall hold a technology workshop devoted solely to the topic of
27 technology for addressing nonfloating oil spills, and shall conduct
28 and publish a review of scientific and technical literature
29 concerning that technology. The administrator shall make a set of
30 findings following the technology workshop and the review of
31 scientific and technical literature defining the elements of
32 state-of-the-art response capability to nonfloating oil spills and
33 identifying the best-~~available~~ *achievable* technology and best
34 practices for responding to those spills, and shall update those
35 findings at least biennially thereafter.

36 (b) On or before January 1, 2024, and biennially thereafter, the
37 administrator shall adopt and revise regulatory requirements
38 pertaining to nonfloating oil, including the criteria developed
39 pursuant to paragraph (2) of subdivision (b) of Section 8670.30,
40 to incorporate the findings completed pursuant to subdivision (a).

1 SEC. 6. Section 8670.29 of the Government Code is amended
2 to read:

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

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

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

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

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

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

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

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

39 (B) Commencing January 1, 2022, if nonfloating oil is present
40 the contingency plan shall identify at least one OSRO capable of

1 oil spill response activities related to that nonfloating oil rated
2 pursuant to Section 8670.30.

3 (C) For purposes of this paragraph, “other approved means”
4 includes the owner or operator relying on its own response
5 equipment and personnel if the response equipment and personnel
6 have been rated by the administrator consistent with the
7 requirements of Section 8670.30.

8 (7) Identify a qualified individual.

9 (8) (A) Identify at least one certified spill management team,
10 certified pursuant to Section 8670.32, that is capable of managing
11 a spill of the reasonable worst case spill volume identified in the
12 plan. An owner or operator may demonstrate incident management
13 capabilities with one or more spill management teams. Each
14 identified certified spill management team shall be directly
15 responsible by contract, agreement, or other approved means to
16 provide spill response activities pursuant to the oil spill contingency
17 plan.

18 (B) For purposes of this paragraph, “other approved means”
19 includes the owner or operator relying on its own spill management
20 team if that spill management team has been certified by the
21 administrator consistent with the requirements of Section 8670.32.

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

26 (10) Provide for training, drills, and exercises on elements of
27 the plan at least annually, with all elements of the plan subject to
28 a drill or exercise at least once every three years.

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

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

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

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

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

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

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

1 (i) Notwithstanding subdivision (a) and paragraph (6) of
2 subdivision (b), a vessel or facility operating where a spill could
3 impact state waters that are not tidally influenced shall identify a
4 rated OSRO in the contingency plan no later than January 1, 2016.

5 SEC. 7. Section 8670.30 of the Government Code is amended
6 to read:

7 8670.30. (a) An oil spill response organization may apply to
8 the administrator for a rating of that OSRO's response capabilities.
9 The administrator shall establish rating levels for classifying
10 OSROs pursuant to subdivision (b).

11 (b) (1) Upon receiving a completed application for rating, the
12 administrator shall review the application and rate the OSRO based
13 on the OSRO's satisfactory compliance with criteria established
14 by the administrator, which shall include, but is not limited to, all
15 of the following elements:

16 (A) The geographic region or regions of the state where the
17 OSRO intends to operate.

18 (B) Timeframes for having response resources on-scene and
19 deployed.

20 (C) The type of equipment that the OSRO will use and the
21 location of the stored equipment.

22 (D) The volume of oil that the OSRO is capable of recovering
23 and containing.

24 (E) The type of oil, including nonfloating oil, the OSRO is
25 capable of recovering and containing.

26 (2) (A) On or before January 1, 2021, the administrator shall
27 establish a separate rating level for OSROs capable of addressing
28 nonfloating oil using criteria consistent with the nonfloating oil
29 classification in the United States Coast Guard's OSRO Guidelines,
30 as those guidelines read on January 1, 2019, except as provided
31 in subparagraph (B), and shall update those criteria as necessary
32 to reflect the technologies and best practices identified pursuant
33 to Section 8670.12.1.

34 (B) In order to obtain an OSRO rating for nonfloating oil
35 established pursuant to subparagraph (A), the OSRO shall
36 demonstrate that it can provide its equipment on the scene of an
37 oil spill within no more than 12 hours of spill notification.

38 (c) The administrator shall not issue a rating until the applicant
39 OSRO completes an unannounced drill. The administrator may
40 call a drill for every distinct geographic area in which the OSRO

1 requests a rating. The drill shall test the resources and response
2 capabilities of the OSRO, including, but not limited to, on water
3 containment and recovery, environmentally sensitive habitat
4 protection, and storage. If an OSRO fails to successfully complete
5 a drill, the administrator shall not issue the requested rating, but
6 the administrator may rate the OSRO at a rating lesser than the
7 rating sought with the application. If an OSRO is denied a
8 requested rating, the OSRO may reapply for rating.

9 (d) A rating issued pursuant to this section shall be valid for
10 three years unless modified, suspended, or revoked. The
11 administrator shall review the rating of each rated OSRO at least
12 once every three years. The administrator shall not renew a rating
13 unless the OSRO meets criteria established by the administrator,
14 including, at a minimum, that the rated OSRO periodically tests
15 and drills itself, including testing protection of environmentally
16 sensitive sites, during the three-year period. Commencing January
17 1, 2024, the administrator shall not renew a nonfloating oil rating
18 unless the OSRO's capability reflects the technologies and best
19 practices identified pursuant to Section 8670.12.1, as updated
20 pursuant to that section.

21 (e) The administrator shall require a rated OSRO to demonstrate
22 that the rated OSRO can deploy the response resources required
23 to meet the applicable provisions of an oil spill contingency plan
24 in which the OSRO is listed. These demonstrations may be
25 achieved through inspections, announced and unannounced drills,
26 or by any other means.

27 (f) (1) Except as provided in paragraph (6), each rated OSRO
28 shall satisfactorily complete at least one unannounced drill every
29 three years after receiving its rating.

30 (2) The administrator may modify, suspend, or revoke an
31 OSRO's rating if a rated OSRO fails to satisfactorily complete a
32 drill.

33 (3) The administrator may require the satisfactory completion
34 of one unannounced drill of each rated OSRO prior to being
35 granted a modified rating, and shall require satisfactory completion
36 of one unannounced drill for each rated OSRO prior to being
37 granted a renewal or prior to reinstatement of a revoked or
38 suspended rating.

39 (4) A drill for the protection of environmentally sensitive areas
40 shall conform as close as possible to the response that would occur

1 during a spill but sensitive sites shall not be damaged during the
2 drill.

3 (5) The response resources to be deployed by a rated OSRO
4 within the first six hours of a spill or drill shall be dedicated
5 response resources or be owned and controlled by a rated OSRO
6 that are sufficient to meet the spill response planning requirements
7 of the OSRO's client owner or operator. This requirement does
8 not preclude a rated OSRO from bringing in additional response
9 resources. The administrator may, by regulation, permit a lesser
10 requirement for dedicated or OSRO owned and controlled response
11 resources for shoreline protection.

12 (6) The administrator may determine that actual satisfactory
13 spill response performance during the previous three years may
14 be substituted in lieu of a drill.

15 (7) The administrator shall issue a written report evaluating the
16 performance of the OSRO after every unannounced drill called by
17 the administrator.

18 (8) The administrator shall determine whether an unannounced
19 drill called upon an OSRO by a federal agency during the previous
20 three years qualifies as an unannounced drill for the purposes of
21 this subdivision.

22 (g) Each rated OSRO shall provide reasonable notice to the
23 administrator about each future drill, and the administrator, or the
24 administrator's designee, may attend the drill.

25 (h) The costs incurred by an OSRO to comply with this section
26 and the regulations adopted pursuant to this section, including
27 drills called by the administrator, shall be the responsibility of the
28 OSRO. All local, state, and federal agency costs incurred in
29 conjunction with participation in a drill shall be borne by each
30 respective agency.

31 (i) (1) A rating awarded pursuant to this section is personal and
32 applies only to the OSRO that receives that rating and the rating
33 is not transferable, assignable, or assumable. A rating does not
34 constitute a possessory interest in real or personal property.

35 (2) If there is a change in ownership or control of the OSRO,
36 the rating of that OSRO is null and void and the OSRO shall file
37 a new application for a rating pursuant to this section.

38 (3) For purposes of this subdivision, a "change in ownership or
39 control" includes, but is not limited to, a change in corporate status,

1 or a transfer of ownership that changes the majority control of
2 voting within the entity.

3 (j) The administrator may charge a reasonable fee to process an
4 application for, or renewal of, a rating.

5 (k) The administrator shall adopt regulations to implement this
6 section as appropriate. At a minimum, the regulations shall
7 appropriately address all of the following:

8 (1) Criteria for successful completion of a drill.

9 (2) The amount and type of response resources that are required
10 to be available to respond to a particular volume and type of spilled
11 oil during specific timeframes within a particular region.

12 (3) Regional requirements.

13 (4) Training.

14 (5) The process for applying for a rating, and for suspension,
15 revocation, appeal, or other modification of a rating.

16 (6) Ownership and employment of response resources.

17 (7) Conditions for canceling a drill due to hazardous or other
18 operational circumstances.

19 (l) Any letter of approval issued from the administrator before
20 January 1, 2002, that rates an OSRO shall be deemed to meet the
21 requirements of this section for three years from the date of the
22 letter's issuance or until January 1, 2003, whichever date occurs
23 later.

24 SEC. 8. Section 8670.35 of the Government Code is amended
25 to read:

26 8670.35. (a) The administrator, taking into consideration the
27 California oil spill contingency plan, shall promulgate regulations
28 regarding the adequacy of oil spill elements of area plans required
29 pursuant to Section 25503 of the Health and Safety Code. In
30 developing the regulations, the administrator shall consult with
31 the Oil Spill Technical Advisory Committee.

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

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

39 (d) Each oil spill element prepared under this section shall be
40 consistent with the local government's local coastal program as

1 certified under Section 30500 of the Public Resources Code, the
2 California oil spill contingency plan, the National Contingency
3 Plan, and the 2016 United States Coast Guard OSRO classification
4 program, to the extent this program is consistent with the criteria
5 developed pursuant to paragraph (2) of subdivision (b) of Section
6 8670.30.

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

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

23 SEC. 9. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

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