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**GOVERNMENT CODE - GOV**

**TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980]** ( Title 2 enacted by Stats. 1943, Ch. 134. )

**DIVISION 1. GENERAL [8000 - 8899.95]** ( Division 1 enacted by Stats. 1943, Ch. 134. )

**CHAPTER 7.4. Oil Spill Response and Contingency Planning [8670.1 - 8670.73]** ( Chapter 7.4 added by Stats. 1990, Ch. 1248, Sec. 17. )

**ARTICLE 2. Duties of the Administrator [8670.6 - 8670.14]** ( Article 2 added by Stats. 1990, Ch. 1248, Sec. 17. )

**8670.6.** (a) The administrator shall ensure that he or she has available for support, either under direct employment, elsewhere in state government, or through contract for private or governmental services, personnel who are fully trained and familiar with oil spill response, containment, and cleanup technologies, procedures, and operations, risk evaluation and management, and emergency systems safety.

(b) The administrator shall appoint a deputy administrator and an assistant deputy administrator to whom the administrator may delegate all or some responsibilities under this article.

(c) The administrator, consistent with applicable civil service laws, shall appoint and discharge any officer, house staff counsel, or employee of the administrator, as determined to be necessary, to carry out this article.

(d) The administrator, including staff and the costs of training and equipping the staff, shall be funded by the Oil Spill Prevention and Administration Fund created pursuant to Section 8670.38.

(Added by Stats. 1990, Ch. 1248, Sec. 17. Effective September 24, 1990.)

**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 Public Utilities Commission, 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) For spills affecting coastal resources, the administrator shall invite the California Coastal Commission or the San Francisco Bay Conservation and Development Commission, as applicable according to jurisdiction, to participate in the natural resource damage assessment process regarding injuries to coastal resources and potential restoration and mitigation measures for inclusion in the damage assessment and restoration plan.

(C) 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.

*(Amended by Stats. 2018, Ch. 311, Sec. 1. (AB 2864) Effective January 1, 2019.)*

**8670.7.5.** (a) The administrator may adopt regulations to implement this chapter pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3).

(b) (1) An emergency regulation adopted pursuant to amendments made to this chapter by Senate Bill 861 of the 2013–14 Regular Session shall be deemed an emergency and necessary to avoid serious harm to the public peace, health, safety, or general welfare for the purposes of Sections 11346.1 and 11349.6, and the administrator is hereby exempt from the requirement that he or she describe facts showing the need for immediate action and from review by the Office of Administrative Law.

(2) Notwithstanding Section 11346.1, an emergency regulation adopted pursuant to paragraph (1) shall remain in effect for 12 months or until readopted by the administrator, whichever is earlier.

*(Added by Stats. 2014, Ch. 35, Sec. 9. (SB 861) Effective June 20, 2014.)*

**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.

*(Amended by Stats. 2014, Ch. 35, Sec. 10. (SB 861) Effective June 20, 2014.)*

**8670.8.3.** The administrator may offer grants to a local government, Native American tribe, or other public entity 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 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.

*(Amended by Stats. 2019, Ch. 84, Sec. 1. (AB 255) Effective January 1, 2020.)*

**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.

*(Amended by Stats. 2014, Ch. 35, Sec. 12. (SB 861) Effective June 20, 2014.)*

**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.

*(Amended by Stats. 2014, Ch. 35, Sec. 13. (SB 861) Effective June 20, 2014.)*

**8670.10.** (a) (1) Except as provided in subdivision (b), in coordination with all appropriate federal, state, and local government entities, the administrator shall periodically carry out announced and unannounced drills to test response and cleanup operations, equipment, contingency plans, and procedures implemented under this chapter. If practical, the administrator shall coordinate drills with drills carried out by the State Lands Commission and the California Coastal Commission to test prevention operations, equipment, and procedures. In carrying out announced drills, the administrator shall coordinate with the private entities involved in

the drill. Each state and local entity, each rated OSRO, and each operator shall cooperate with the administrator in carrying out these drills.

(2) The administrator shall establish performance standards that each operator and rated OSRO shall meet during the drills carried out pursuant to this subdivision. The standards shall include, but are not limited to, a standard for the time allowable for adequate response, and shall also specify conditions for canceling a drill because of hazardous or other operational circumstances that may exist. The standards shall specify the protections that the administrator determines are necessary for any environmentally sensitive area, as defined by the administrator.

(3) The costs incurred by an operator to comply with this section and regulations adopted pursuant to this section are the responsibility of the operator. All costs incurred by a local, state, or federal agency in conjunction with participation in a drill pursuant to this chapter shall be borne by each respective agency.

(4) After every drill attended by the administrator or his or her representative, that person shall issue a report that evaluates the performance of the participants.

(b) (1) If the administrator, the United States Coast Guard, or any other qualified public agency, as determined by the administrator, is unable to attend a drill of an oil spill contingency plan held outside the state, the administrator may require the owner or operator to provide for an independent drill monitor to evaluate the drill consistent with the requirements of this chapter. The administrator shall adopt regulations to implement this section on or before January 1, 2010.

(2) Within 14 days after the date that the drill specified in paragraph (1) is conducted, the independent drill monitor shall submit the evaluation specified in paragraph (1) to the administrator and owner or operator.

(3) Based on the evaluation submitted pursuant to paragraph (2) and any other applicable requirements of this chapter, the administrator shall determine whether the drill conducted pursuant to this subdivision satisfies the requirements of this chapter.

*(Amended by Stats. 2008, Ch. 566, Sec. 1. Effective January 1, 2009.)*

**8670.11.** In addition to Section 8670.10, the administrator, in cooperation with the United States Coast Guard, shall establish a schedule of drills and exercises required pursuant to Section 155.4052 of Title 33 of the Code of Federal Regulations. The administrator shall make publicly available the established schedule.

*(Added by Stats. 2015, Ch. 609, Sec. 1. (SB 414) Effective January 1, 2016.)*

**8670.12.** (a) 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.

(b) The administrator shall, consulting current peer-reviewed published scientific literature, study the use and effects of dispersants, incineration, bioremediation, and any other methods used to respond to a spill and, by May 1, 2016, request that the federal California Dispersant Plan be updated pursuant to subdivision (d). The study shall periodically be updated by the administrator, consulting current peer-reviewed published scientific literature, 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, bioremediation, and biological 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, bioremediation, and biological agents to ensure they are used only in situations where the administrator determines they are effective and safe.

(c) The studies shall be performed with consideration of current peer-reviewed published scientific literature and any studies performed by federal, state, and international entities. The administrator may enter into contracts for the studies.

(d) The administrator shall support the federal Regional Response Team, as described in Section 300.115 of Title 40 of the Code of Federal Regulations, in the development, and shall request regular updates, of plans and procedures for use of dispersants and other chemical agents in California. The administrator's assistance may include, but is not limited to, providing the federal Regional Response Team with current peer-reviewed published scientific literature, and risk and consequence analysis.

*(Amended by Stats. 2015, Ch. 609, Sec. 2. (SB 414) Effective January 1, 2016.)*

**8670.12.1.** On or before January 1, 2022, the administrator shall hold a technology workshop that shall include the topic of technology for addressing nonfloating oil spills. The administrator shall consider information gained from technology workshops, as well as available scientific and technical literature concerning nonfloating oil spill response technology, in determining best achievable protection and in fulfilling the administrator's duties under paragraph (2) of subdivision (b) of Section 8670.30.

*(Added by Stats. 2019, Ch. 770, Sec. 4. (AB 936) Effective January 1, 2020.)*

**8670.13.** (a) The administrator shall periodically evaluate the feasibility of requiring new technologies to aid in prevention, response, containment, cleanup, and wildlife rehabilitation.

(b) (1) On or before January 1, 2017, the administrator shall submit a report to the Legislature, pursuant to Section 9795, assessing the best achievable technology of equipment for oil spill prevention, preparedness, and response.

(2) The report shall evaluate studies of estimated recovery system potential as a methodology for rating equipment in comparison to effective daily recovery capacity.

(3) Pursuant to Section 10231.5, this subdivision is inoperative on July 1, 2020.

(c) (1) Considering, among other things, the report prepared pursuant to subdivision (b), the administrator shall update regulations governing the adequacy of oil spill contingency plans for best achievable technologies for oil spill prevention and response no later than July 1, 2018.

(2) The updated regulations shall enhance the capabilities for prevention, response, containment, cleanup, and wildlife rehabilitation.

(d) (1) The administrator shall direct the Harbor Safety Committees, established pursuant to Section 8670.23, to assess the presence and capability of tugs within their respective geographic areas of responsibility to provide emergency towing of tank vessels and nontank vessels to arrest their drift or otherwise guide emergency transit.

(2) The assessments for harbors in the San Francisco Bay area and in the Los Angeles-Long Beach area shall be initiated by May 1, 2016. The assessments for the other harbors shall be initiated by January 1, 2020.

(3) The assessment shall consider, among other things, data from available United States Coast Guard Vessel Traffic Systems, relevant incident and accident data, any relevant simulation models, and identification of any transit areas where risks are higher.

(4) The assessment shall consider the condition of tank and nontank vessels calling on harbors, including the United States Coast Guard's marine inspection program and port state control program regarding risks due to a vessel's hull or engineering material deficiencies, or inadequate crew training and professionalism.

*(Amended by Stats. 2016, Ch. 86, Sec. 154. (SB 1171) Effective January 1, 2017.)*

**8670.13.1.** (a) The administrator shall license all oil spill cleanup agents, and shall adopt regulations governing the expedited testing, licensing, and use of oil spill cleanup agents. The administrator shall utilize toxicity and efficacy tests and other information from government and private agencies developed for each specific category of chemical countermeasure in determining the acceptability of an oil spill cleanup agent for license and use.

(b) Sorbents and other cleanup devices that do not employ the use of active chemical cleanup agents, or otherwise determined by the administrator not to cause aquatic toxicity for purposes of oil spill response, are not subject to subdivision (a).

(c) The administrator may charge applicants a fee for the costs of processing an application for a license for an oil spill cleanup agent, not to exceed one thousand dollars (\$1,000). The administrator may require renewal of a license every five years, and may charge a fee for the cost of processing the renewal of the license for an oil spill cleanup agent, not to exceed one hundred dollars (\$100). Only one license per cleanup agent shall be required statewide.

*(Amended by Stats. 1996, Ch. 390, Sec. 1. Effective August 19, 1996.)*

**8670.13.2.** The administrator shall prepare and periodically revise regulations regarding licensing of oil spill cleanup agents. The authority of the administrator shall be substituted for the authority of the State Water Resources Control Board and cross references shall be corrected. The administrator shall submit these regulations to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations. These regulations are exempt from the Administrative Procedure Act. The regulations shall become effective upon filing.

*(Amended by Stats. 2004, Ch. 796, Sec. 13. Effective January 1, 2005.)*

**8670.13.3.** If dispersants are used in response to an oil spill in state waters, the administrator shall provide written notification of their use to the Legislature within three days of the use. The administrator shall provide the Legislature with written justification of that use, including copies of key supporting documentation used by the federal on-scene coordinator and the federal Regional Response Team as soon as those materials are released. Within two months of the use of dispersants in state waters, the administrator shall also provide a report to the Legislature on the effectiveness of the dispersants used, including, but not limited to, results of any available monitoring data to determine whether the dispersant use resulted in overall environmental benefit or harm. The written notification, justification, and report shall be submitted pursuant to Section 9795.

*(Amended by Stats. 2016, Ch. 86, Sec. 155. (SB 1171) Effective January 1, 2017.)*

**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.

*(Amended by Stats. 2014, Ch. 35, Sec. 15. (SB 861) Effective June 20, 2014.)*