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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 6. The Oil Spill Prevention and Administration Fund [8670.38 - 8670.42] (Article 6 added by Stats. 1990, Ch. 1248, Sec. 17.)

8670.38. (a) The Oil Spill Prevention and Administration Fund is hereby created in the State Treasury. The money in the fund is available for appropriation by the Legislature and may only be used for the purposes of this chapter, Article 3.5 (commencing with Section 8574.1) of Chapter 7, and Division 7.8 (commencing with Section 8750) of the Public Resources Code.

(b) For the purposes of this article, "fund" refers to the Oil Spill Prevention and Administration Fund.

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

8670.39. (a) The administrator shall administer the fund in accordance with this article.

(b) The administrator may develop and adopt any rules, regulations, and guidelines determined to be necessary to carry out and enforce this article.

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

8670.40. (a) The California Department of Tax and Fee Administration shall collect an oil spill prevention and administration fee on crude oil, petroleum products, and renewable fuel, as described in subdivision (b), in an amount 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, in accordance with the following:

(1) Until September 30, 2021, the fee shall not exceed six and one-half cents (\$0.065) per barrel of crude oil or petroleum products.

(2) Beginning October 1, 2021, the fee shall be eight and one-half cents (\$0.085) per barrel of crude oil or petroleum products.

(3) Beginning January 1, 2022, the fee shall be eight and one-half cents (\$0.085) per barrel of crude oil, petroleum products, or renewable fuel. The fee shall be adjusted on an annual basis pursuant to paragraph (9) of 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 within the state, 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 within the state, 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 or petroleum products at the time that the crude oil or petroleum products are 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 operator shall collect the fee from the owner of the crude oil or petroleum products for each barrel received.

(3) The oil spill prevention and administration fee shall be imposed upon a person owning renewable fuel at the following times:

(A) When it is received at a marine terminal within the state, by any mode of delivery that passed over, across, under, or through waters of the state, from whether within or outside the state. The marine terminal operator shall collect the fee from the owner of the renewable fuel for each barrel of renewable fuel received.

(B) When it 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 operator shall collect the fee from the owner of the renewable fuel for each barrel of renewable fuel received.

(C) When it is received at a renewable fuel receiving facility within the state, by any mode of delivery that passed over, across, under, or through waters of the state, from outside the state. The renewable fuel receiving facility operator shall collect the fee from the owner of the renewable fuel for each barrel of renewable fuel received.

(D) When it is shipped from a renewable fuel production facility within the state, by any mode of transport that passes over, across, under, or through waters of the state. The renewable fuel production facility operator shall collect the fee from the owner of the renewable fuel for each barrel of renewable fuel shipped.

(4) (A) There is a rebuttable presumption that crude oil, petroleum products, or renewable fuel received at a marine terminal, refinery, or renewable fuel receiving facility, or shipments of a renewable fuel from a renewable fuel production facility have passed over, across, under, or through waters of the state. This presumption may be overcome by a marine terminal operator, refinery operator, renewable fuel receiving facility operator, renewable fuel production facility operator, or owner of the crude oil, petroleum products, or renewable fuel by showing that the crude oil, petroleum products, or renewable fuel did not pass over, across, under, or through waters of the state. Evidence to rebut the presumption may include, but shall not be limited to, documentation, including shipping documents, bills of lading, highway maps, rail maps, transportation maps, related transportation receipts, or another medium, that shows the crude oil, petroleum products, or renewable fuel did not pass over, across, under, or through waters of the state.

(B) Notwithstanding the petition for redetermination and claim for refund provisions of the Oil Spill Response, Prevention, and Administration Fees Law (Part 24 (commencing with Section 46001) of Division 2 of the Revenue and Taxation Code), the California Department of Tax and Fee Administration shall not do either of the following:

(i) Accept or consider a petition for redetermination of fees determined pursuant to this section if the petition is founded upon the grounds that the crude oil, petroleum products, or renewable fuel did or did not pass over, across, under, or through waters of the state.

(ii) Accept or consider a claim for a refund of fees paid pursuant to this section if the claim is founded upon the grounds that the crude oil, petroleum products, or renewable fuel did or did not pass over, across, under, or through waters of the state.

(C) The California Department of Tax and Fee Administration shall forward to the administrator an appeal of a redetermination or a claim for a refund of fees that is based on the grounds that the crude oil, petroleum products, or renewable fuel did or did not pass over, across, under, or through waters of the state.

(5) (A) The fees shall be remitted to the California Department of Tax and Fee Administration by the refinery operator, the marine terminal operator, or the renewable fuel receiving facility operator on the 25th day of the month based upon the number of barrels of crude oil, petroleum products, or renewable fuel received at a refinery, marine terminal, or renewable fuel receiving facility during the preceding month.

(B) The fees shall be remitted to the California Department of Tax and Fee Administration by the renewable fuel production facility operator on the 25th day of the month based upon the number of barrels of renewable fuel shipments from the renewable fuel production facility during the preceding month.

(6) The fee shall not be imposed pursuant to this section with respect to crude oil, petroleum products, or renewable fuel 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 operator, marine terminal operator, or the renewable fuel receiving facility operator, or renewable fuel production facility operator registered pursuant to Section 46101 of the Revenue and Taxation Code or paid to the California Department of Tax and Fee Administration.

(7) The oil spill prevention and administration fee shall not be collected by a marine terminal operator, refinery operator, renewable fuel receiving facility operator, or renewable fuel production facility operator, or imposed on the owner of crude oil, petroleum products, or renewable fuel if the fee has been previously collected or paid on the crude oil, petroleum products, or renewable fuel at another marine terminal, refinery, renewable fuel receiving facility, or renewable fuel production facility in this state. A marine terminal operator, refinery operator, or renewable fuel production facility receiving petroleum products derived from crude oil refined in the state, or receiving renewable fuel produced in the state, may presume the fee has been previously collected.

(8) An owner of crude oil, petroleum products, or renewable fuel is liable for the fee until it has been paid to the California Department of Tax and Fee Administration, except that payment to a refinery operator, marine terminal operator, renewable fuel receiving facility operator, or renewable fuel production facility operator registered pursuant to Section 46101 of the Revenue and Taxation Code is sufficient to relieve the owner from further liability for the fee.

(9) (A) 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 and inflation, 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.

(B) (i) On July 1, 2023, and every July 1 thereafter, the administrator shall adjust the fee specified in subdivision (a) annually by a percentage amount equal to the increase or decrease in the California Consumer Price Index (CCPI) issued by the Department of Industrial Relations or by a successor agency. The resulting fee shall be rounded to the nearest one-tenth of one cent (\$0.001). The first adjustment shall be by the percentage increase or decrease in the CCPI from October 2021 to October 2022. Subsequent annual adjustments shall be made relative to subsequent 12-month periods. For example, for the July 1, 2024, adjustment computation, the CCPI for October 2022 will be compared with the CCPI for October 2023. The incremental change shall be added to the associated fee for that year.

(ii) By March 1 of each year, the administrator shall notify the California Department of Tax and Fee Administration of the adjusted oil spill prevention and administration fee that will be in effect beginning the next fiscal year.

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

(d) The California Department of Tax and Fee Administration 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 and renewable fuel spill prevention and response.

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

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

(5) To reimburse the California Department of Tax and Fee Administration 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.

(Amended by Stats. 2021, Ch. 115, Sec. 13. (AB 148) Effective July 22, 2021.)

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 three million two hundred fifty thousand dollars (\$3,250,000) 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, any funds made available for purposes of 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) Any funds made available for purposes of 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 for purposes of 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 for purposes of this section.

(Amended by Stats. 2024, Ch. 72, Sec. 11. (SB 156) Effective July 2, 2024.)

8670.41. (a) The administrator shall charge a nontank vessel owner or operator a reasonable fee, to be collected with each application to obtain a certificate of financial responsibility, in an amount that is based upon the administrator's costs in implementing this chapter relating to nontank vessels. Before January 1, 2005, the fee shall be two thousand five hundred dollars (\$2,500), or less per vessel.

(b) The administrator may charge a reduced fee under this section for nontank vessels determined by the administrator to pose a reduced risk of pollution, including, but not limited to, vessels used for research or training and vessels that are moored permanently or rarely move.

(c) The administrator shall deposit all revenue derived from the fees imposed under this section in the Oil Spill Prevention and Administration Fund established in the State Treasury under Section 8670.38.

(d) Revenue derived from the fees imposed under this section may be spent for the purposes listed in subdivision (e) of Section 8670.40, and may not be used for responding to an oil spill.

(Amended by Stats. 2004, Ch. 796, Sec. 31. Effective January 1, 2005.)

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 environmentally sensitive 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.

(Amended by Stats. 2014, Ch. 35, Sec. 39. (SB 861) Effective June 20, 2014.)