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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 9. Enforcement [8670.57 - 8670.69.6]** ( Article 9 added by Stats. 1990, Ch. 1248, Sec. 17. )

**8670.57.** (a) When the administrator determines that any person has engaged in, is engaged in, or threatens to engage in, any acts or practices which constitute a violation of any provision of this chapter, Division 7.8 (commencing with Section 8750) of the Public Resources Code, or any rule, regulation, permit, or order issued, promulgated, or executed thereunder, and when requested by the administrator, the district attorney of the county in which those acts occur or occurred, or the Attorney General, may make application to the superior court for an order enjoining the acts or practices, or for an order directing compliance. Upon a showing by the administrator that the person has engaged in, is engaged in, or threatens to engage in any violation of the act, a permanent or preliminary injunction, restraining order, or other order may be granted.

(b) For the purposes of this section, "threaten" means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or natural resources.

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

**8670.58.** Every civil action commenced pursuant to this chapter or Division 7.8 (commencing with Section 8750) of the Public Resources Code at the request of the administrator shall be brought by the city attorney, the district attorney, or the Attorney General in the name of the people of the State of California, and any actions relating to the same event, transaction, or occurrence may be joined or consolidated.

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

**8670.59.** (a) Any civil action brought pursuant to this chapter, or pursuant to Division 7.8 (commencing with Section 8750) of the Public Resources Code, shall be brought in the county in which the spill, discharge, or violation occurred, the county in which the principal place of business of the defendant is located, or the county in which the defendant is doing business in this state.

(b) (1) Notwithstanding any other provision of law, all criminal actions for the prosecution of misdemeanor violations of this chapter or Division 7.8 (commencing with Section 8750) of the Public Resources Code shall be commenced within one year from the date of the discovery of the facts or circumstances that constitute the violation.

(2) Notwithstanding any other provision of law, all criminal actions for the prosecution of felony violations of this chapter or Division 7.8 (commencing with Section 8750) of the Public Resources Code shall be commenced within three years from the date of the discovery of the facts or circumstances that constitute the violation.

(c) Notwithstanding any other provision of law, except as provided in subdivision (d), any action to recover civil damages or penalties shall be commenced within three years from the date of discovery of the facts or circumstances that constitute a violation of this chapter or Division 7.8 (commencing with Section 8750) of the Public Resources Code.

(d) Any action to recover civil damages or penalties pursuant to paragraph (3), (4), (5), (6), or (7) of subdivision (h) of Section 8670.56.5 because of effects on natural resources shall be commenced within five years from the date of the discovery of the facts or circumstances that are the basis for the cause of action.

(e) Any action to compel the removal of oil or the restoration and rehabilitation of wildlife and wildlife habitat shall be commenced within five years from the date of discovery of the facts or circumstances that constitute a violation of this chapter or Division 7.8 (commencing with Section 8750) of the Public Resources Code.

(f) For purposes of subdivisions (b), (c), (d), and (e), "date of discovery" means the actual date that facts sufficient to establish that a violation of this chapter or Division 7.8 (commencing with Section 8750) of the Public Resources Code has occurred are discovered by a peace officer appointed pursuant to Section 851 of the Fish and Game Code.

(g) The administrator may adopt regulations prescribing procedures for the implementation of this section.

*(Amended by Stats. 2016, Ch. 209, Sec. 11. (AB 2912) Effective January 1, 2017.)*

**8670.61.** The civil and criminal penalties provided in this chapter and Division 7.8 (commencing with Section 8750) of the Public Resources Code shall be separate from, and in addition to, and do not supersede or limit, any and all other remedies, civil or criminal, except as provided in subdivision (j) of Section 5650.1 of the Fish and Game Code.

*(Amended by Stats. 2016, Ch. 349, Sec. 2. (AB 1842) Effective January 1, 2017.)*

**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.

*(Amended by Stats. 2014, Ch. 35, Sec. 51. (SB 861) Effective June 20, 2014.)*

**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 such 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.

*(Amended by Stats. 2014, Ch. 35, Sec. 52. (SB 861) Effective June 20, 2014.)*

**8670.63.** (a) No provision of this chapter, or of Division 7.8 (commencing with Section 8750) of the Public Resources Code, or any ruling of the administrator, shall be construed to limit, abridge, or supersede the power of the Attorney General, at the request of the administrator, or upon his or her own motion, to bring an action in the name of the people of the State of California to enjoin any violation of this act, seek necessary remedial action by any person who violates any of the provisions of this act, or seek civil and criminal penalties against any person who violates any of the provisions of this act.

(b) The Attorney General, at the request of the administrator, shall undertake actions to enforce this chapter and to recover from an owner, operator, or responsible party for a release of oil into state waters all expenditures made from a particular fund. The resolution of any recovery actions pursuant to this subdivision shall be approved by the administrator.

*(Amended by Stats. 2008, Ch. 565, Sec. 11. Effective January 1, 2009.)*

**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 the person 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) (1) The court shall also impose upon a person convicted of violating subdivision (a), a fine of not less than ten thousand dollars (\$10,000) and not more than one million dollars (\$1,000,000) for each violation. For purposes of this subdivision, each day or partial day that a violation occurs is a separate violation.

(2) The court may also impose upon a person convicted of violating subdivision (a), a fine of up to one thousand dollars (\$1,000) per gallon spilled in excess of 1,000 gallons of oil.

(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 five thousand dollars (\$5,000) and not more than five hundred thousand dollars (\$500,000) 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 ten thousand dollars (\$10,000) and no more than one million dollars (\$1,000,000), 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.

*(Amended by Stats. 2020, Ch. 119, Sec. 1. (AB 3214) Effective January 1, 2021.)*

**8670.65.** Except as otherwise provided in Section 8670.64, any person who knowingly 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 this act is, upon conviction, guilty of a misdemeanor, punishable by a fine of not more than fifty thousand dollars (\$50,000) or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

*(Amended by Stats. 1992, Ch. 1313, Sec. 8. Effective September 30, 1992.)*

**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.

*(Amended by Stats. 2014, Ch. 35, Sec. 54. (SB 861) Effective June 20, 2014.)*

**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. 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.

*(Amended by Stats. 2014, Ch. 35, Sec. 55. (SB 861) Effective June 20, 2014.)*

**8670.67.5.** (a) Regardless of intent or negligence, any person who 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.

(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.

*(Amended by Stats. 2015, Ch. 609, Sec. 7. (SB 414) Effective January 1, 2016.)*

**8670.68.** (a) The administrator may issue a complaint to any person on whom civil liability may be imposed pursuant to Section 8670.67 or 8670.67.5. The complaint shall allege the facts or failures to act that constitute a basis for liability and the amount of the proposed civil liability. The complaint shall be served by personal service or certified mail and shall inform the party so served of the right to a hearing. Any person served with a complaint pursuant to this subdivision may, within 10 days after service of the complaint, request a hearing by filing with the administrator a notice of defense. A notice of defense is deemed to be filed within the 10-day period if it is postmarked within the 10-day period. If a hearing is requested by the respondent, it shall be conducted within 90 days after receipt of the notice of defense by the administrator. If no notice of defense is filed within 10 days after service of the complaint, the administrator shall issue an order setting liability in the amount proposed in the complaint unless the administrator and the party have entered into a settlement agreement, in which case the administrator shall issue an order setting liability in the amount specified in the settlement agreement. If the party has not filed a notice of defense or if the administrator and the party have entered into a settlement agreement, the order shall not be subject to review by any court or agency.

(b) Any hearing required under this section shall be conducted by an independent hearing officer according to the procedures specified in Sections 11507 to 11517, inclusive, except as otherwise specified in this section. In making a determination, the hearing officer shall take into consideration the nature, circumstances, extent and gravity of the violation, the violator's past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health and safety of the environment, and the violator's ability to pay the proposed civil penalty. After conducting any hearing required under this section, the hearing officer shall, within 30 days after the case is submitted, issue a decision, including an order setting the amount of civil penalty to be imposed.

(c) Orders setting civil liability issued pursuant to this section shall become effective and final upon issuance, and payment shall be made within 30 days of issuance. Copies of the orders shall be served by personal service or by certified mail upon the party served with the complaint and upon other persons who appeared at the hearing and requested a copy.

(d) Within 30 days after service of a copy of a decision issued by the hearing officer, any person so served may file with a court of appeal a petition for writ of mandate for review of the decision. Any person who fails to file the petition within the 30-day period may not challenge the reasonableness or validity of a decision or order of the hearing officer in any judicial proceedings brought to enforce the decision or order or for other remedies. Except as otherwise provided in this section, Section 1094.5 of the Code of Civil Procedure shall govern any proceedings conducted pursuant to this subdivision. In all proceedings pursuant to this subdivision, the court shall uphold the decision of the hearing officer if the decision is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any corrective action required pursuant to this act or the accrual of any penalties assessed pursuant to this act. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(e) Any order for administrative penalties entered pursuant to this section shall be subject to interest at the legal rate from the filing of the complaint as specified in subdivision (a). The prevailing party shall be entitled to reasonable attorney's fees and costs.

*(Amended by Stats. 1992, Ch. 1313, Sec. 11. Effective September 30, 1992.)*

**8670.68.1.** After the time for review has expired for a violation under this chapter or Division 36 (commencing with Section 71200) of the Public Resources Code, the administrator may apply to the clerk of the appropriate court for a judgment to collect the administrative civil liability imposed in accordance with Section 8670.68. The application, which shall include a certified copy of the administrator's order setting liability, a hearing officer's decision if any, or a settlement agreement if any, shall constitute a sufficient showing to warrant issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

*(Added by Stats. 2001, Ch. 748, Sec. 42. Effective January 1, 2002.)*

**8670.68.4.** Any operator of a small craft refueling dock who fails to register in compliance with subdivision (c) of Section 8670.36.1 shall be subject to a civil penalty in the amount of one hundred dollars (\$100). The administrator may levy the penalty administratively.

*(Added by Stats. 1992, Ch. 1313, Sec. 9. Effective September 30, 1992.)*

**8670.68.5.** Twenty-five percent of any penalty collected under this article shall be paid to the agency or office prosecuting the action.

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

**8670.69.** Actions on behalf of the state or any other public entity to enforce Section 8670.61.5 through injunctive relief, declaratory relief, and all costs of the action, may be brought by any person in the public interest if both of the following occur:

(a) The action is commenced more than 60 days after the person has given notice of the violation which is the subject of the action to the Attorney General and the district attorney and city attorney in whose jurisdiction the violation is alleged to occur and to the alleged violator.

(b) No action has been commenced against the violation, or if commenced, is not being diligently prosecuted by the Attorney General, or any district attorney, city attorney or other prosecutor.

(c) This section applies to any actions brought with respect to any violations which have occurred, continue to occur or threaten to occur.

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

**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, 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 those 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.

*(Amended by Stats. 2014, Ch. 35, Sec. 57. (SB 861) Effective June 20, 2014.)*

**8670.69.6.** Within 30 days after service of a copy of a cease and desist order issued by the administrator under Section 8670.69.4, any aggrieved party may file with the superior court a petition for writ of mandate for review thereof pursuant to Section 1094.5 of the Code of Civil Procedure. Failure to file such an action shall not preclude a party from challenging the reasonableness and validity of an order of the administrator in any judicial proceeding brought to enforce the order or for other civil remedies.

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