

AMENDED IN SENATE JUNE 9, 2015

AMENDED IN ASSEMBLY APRIL 30, 2015

AMENDED IN ASSEMBLY APRIL 15, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 864

Introduced by Assembly Member Williams
(Principal coauthor: Senator Jackson)

February 26, 2015

~~An act to add and repeal Section 44002.1 of the Public Resources Code, relating to solid waste. An act to amend Sections 8670.28.5 and 8670.29 of the Government Code, relating to oil spill response.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 864, as amended, Williams. ~~Solid waste facilities: temporary permits. Oil spill response: environmentally and ecologically sensitive areas.~~

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act requires owners or operators of various facilities, including pipelines, while operating in the waters of the state or where a spill from the pipelines could impact state waters, to have an oil spill contingency plan submitted to, and approved by, the administrator for oil spill response to ensure prompt and adequate response and removal action in case of a spill. The act requires the operator to maintain a level of readiness that will allow effective implementation of the applicable contingency plan.

This bill would require the operators of pipelines in environmentally and ecologically sensitive areas of state waters or along the coasts of those areas to use the best available technologies to reduce the amount

of oil released in an oil spill to protect the state waters and wildlife, and to include a description of the use of those technologies in their oil spill contingency plans.

~~(1) The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, prohibits a person from operating a solid waste facility without a solid waste facilities permit if that facility is required to have a permit pursuant to the act. The enforcement agency is required to immediately issue a cease and desist order ordering a solid waste facility that is operating without a permit to immediately cease operations and to direct the owner or operator of the facility to obtain a permit.~~

~~This bill would require, until January 1, 2025, the department to adopt regulations to authorize an enforcement agency, upon the department's approval, to issue a temporary solid waste facilities permit to a person carrying out solid waste operations at a facility that is required under the act to have a solid waste facilities permit, but for which a permit has not been obtained. The bill would require the regulations to direct any person desiring to obtain a temporary solid waste facilities permit to submit an application to the enforcement agency no later than 60 days from the date it is determined by the enforcement agency that a permit is required. The bill would require the owner or operator of a facility covered under a temporary permit to agree to inspections, at least monthly, by the enforcement agency.~~

~~The bill would require a local enforcement agency to notify the operators of all facilities within its jurisdiction of the availability of temporary solid waste facilities permits, thereby imposing a state-mandated local program by imposing new duties upon local enforcement agencies. The bill would also require the department to review and act on a proposed temporary solid waste facilities permit submitted by an enforcement agency within 30 days of that submission.~~

~~(2) 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-no.~~

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

1 *SECTION 1. Section 8670.28.5 of the Government Code is*
2 *amended to read:*

3 8670.28.5. (a) An operator shall maintain a level of readiness
4 that will allow effective implementation of the applicable
5 contingency plans.

6 (b) *An operator of a pipeline in environmentally and*
7 *ecologically sensitive areas of state waters and along the coasts*
8 *of those areas shall use best available technology, including, but*
9 *not limited to, the installation of automatic shutoff valves or remote*
10 *controlled sectionalized block valves, or both of those types of*
11 *valves, to reduce the amount of oil released in an oil spill to protect*
12 *state waters and wildlife.*

13 *SEC. 2. Section 8670.29 of the Government Code is amended*
14 *to read:*

15 8670.29. (a) In accordance with the rules, regulations, and
16 policies established by the administrator pursuant to Section
17 8670.28, an owner or operator of a facility, small marine fueling
18 facility, or mobile transfer unit, or an owner or operator of a tank
19 vessel, nontank vessel, or vessel carrying oil as secondary cargo,
20 while operating in the waters of the state or where a spill could
21 impact waters of the state, shall have an oil spill contingency plan
22 that has been submitted to, and approved by, the administrator
23 pursuant to Section 8670.31. An oil spill contingency plan shall
24 ensure the undertaking of prompt and adequate response and
25 removal action in case of a spill, shall be consistent with the
26 California oil spill contingency plan, and shall not conflict with
27 the National Oil and Hazardous Substances Pollution Contingency
28 Plan (NCP).

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

31 (1) Be a written document, reviewed for feasibility and
32 executability, and signed by the owner or operator, or his or her
33 designee.

34 (2) Provide for the use of an incident command system to be
35 used during a spill.

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

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

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

6 (6) Identify at least one rated OSRO for each rating level
7 established pursuant to Section 8670.30. Each identified rated
8 OSRO shall be directly responsible by contract, agreement, or
9 other approved means to provide oil spill response activities
10 pursuant to the oil spill contingency plan. A rated OSRO may
11 provide oil spill response activities individually, or in combination
12 with another rated OSRO, for a particular owner or operator.

13 (7) Identify a qualified individual.

14 (8) Provide the name, address, and telephone and facsimile
15 numbers for an agent for service of process, located within the
16 state and designated to receive legal documents on behalf of the
17 owner or operator.

18 (9) Provide for training and drills on elements of the plan at
19 least annually, with all elements of the plan subject to a drill at
20 least once every three years.

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

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

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

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

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

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

33 (4) If the oil spill contingency plan is for a nontank vessel, the
34 plan shall include both of the following:

35 (A) The plan shall specify the type and total amount of fuel
36 carried.

37 (B) The plan shall specify the capacity of the largest fuel tank.

38 (d) An oil spill contingency plan for a facility shall also include,
39 but is not limited to, all of the following provisions, as appropriate:

40 (1) Provisions for site security and control.

1 (2) Provisions for emergency medical treatment and first aid.

2 (3) Provisions for safety training, as required by state and federal
3 safety laws for all personnel likely to be engaged in oil spill
4 response.

5 (4) Provisions detailing site layout and locations of
6 environmentally sensitive areas requiring special protection.

7 (5) Provisions for vessels that are in the operational control of
8 the facility for loading and unloading.

9 (e) Unless preempted by federal law or regulations, an oil spill
10 contingency plan for a railroad also shall include, but is not limited
11 to, all of the following:

12 (1) A list of the types of train cars that may make up the consist.

13 (2) A list of the types of oil and petroleum products that may
14 be transported.

15 (3) A map of track routes and facilities.

16 (4) A list, description, and map of any prestaged spill response
17 equipment and personnel for deployment of the equipment.

18 *(f) An oil spill contingency plan for a pipeline in environmentally*
19 *and ecologically sensitive areas of state waters or along the coasts*
20 *of those areas shall include a description of how the operators are*
21 *using the best available technology, including, but not limited to,*
22 *installation of automatic shutoff valves or remote controlled*
23 *sectionalized block valves, or both of those types of valves, to*
24 *reduce the amount of oil released in an oil spill to protect state*
25 *waters and wildlife.*

26 ~~(f)~~

27 (g) The oil spill contingency plan shall be available to response
28 personnel and to relevant state and federal agencies for inspection
29 and review.

30 ~~(g)~~

31 (h) The oil spill contingency plan shall be reviewed periodically
32 and updated as necessary. All updates shall be submitted to the
33 administrator pursuant to this article.

34 ~~(h)~~

35 (i) In addition to the regulations adopted pursuant to Section
36 8670.28, the administrator shall adopt regulations and guidelines
37 to implement this section. The regulations and guidelines shall
38 provide for the best achievable protection of waters and natural
39 resources of the state. The administrator may establish additional
40 oil spill contingency plan requirements, including, but not limited

1 to, requirements based on the different geographic regions of the
 2 state. All regulations and guidelines shall be developed in
 3 consultation with the Oil Spill Technical Advisory Committee.

4 (i)

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

9 ~~SECTION 1. Section 44002.1 is added to the Public Resources~~
 10 ~~Code, to read:~~

11 ~~44002.1. (a) The Legislature finds and declares all of the~~
 12 ~~following:~~

13 ~~(1) The swift advance of new trends in solid waste handling and~~
 14 ~~collection practices, such as single-stream collection of recyclable~~
 15 ~~materials, including, but not limited to, carpet, mattresses, and~~
 16 ~~other materials, has resulted in the regulations adopted by the~~
 17 ~~department that govern solid waste facilities not keeping pace with~~
 18 ~~those trends, leading to the failure to comply with existing law by~~
 19 ~~a substantial number of persons carrying out solid waste handling~~
 20 ~~activities.~~

21 ~~(2) As cities and counties make greater efforts to increase the~~
 22 ~~diversion of solid waste from landfills, the department anticipates~~
 23 ~~that many new recycling and solid waste handling activities will~~
 24 ~~commence in California in the next decades.~~

25 ~~(3) To address these trends, it is necessary to provide a~~
 26 ~~temporary permitting scheme to enable the operators of existing~~
 27 ~~solid waste facilities to obtain temporary permits more quickly~~
 28 ~~than is possible under existing law, in order to protect the public~~
 29 ~~health and safety, and the environment.~~

30 ~~(b) The department shall adopt regulations pursuant to~~
 31 ~~subdivision (d) to authorize an enforcement agency, upon the~~
 32 ~~department's approval, to issue a temporary solid waste facilities~~
 33 ~~permit to a person operating a solid waste facility that is required~~
 34 ~~under this division and the regulations adopted by the department~~
 35 ~~pursuant to this division to obtain a solid waste facilities permit,~~
 36 ~~but for which a permit has not been obtained. The regulations~~
 37 ~~adopted by the department shall specify all of the following:~~

38 ~~(1) A requirement that a person desiring to obtain a temporary~~
 39 ~~solid waste facilities permit submit a complete and correct~~
 40 ~~application for the permit to the enforcement agency having~~

1 jurisdiction no later than 60 days from the date the enforcement
2 agency determines a solid waste facility permit is required.

3 ~~(2) The period of time during which a temporary solid waste
4 facility permit shall remain effective.~~

5 ~~(3) The types and operational status of solid waste facilities that
6 are eligible to obtain a temporary solid waste facilities permit.~~

7 ~~(4) A requirement that the owner or operator of a facility covered
8 under a temporary solid waste facilities permit agree to allow the
9 facility to be inspected, at least monthly, by the enforcement
10 agency.~~

11 ~~(e) (1) An enforcement agency shall notify the operators of all
12 solid waste facilities within its jurisdiction of the availability of
13 temporary solid waste facilities permits under the regulations
14 adopted pursuant to this section.~~

15 ~~(2) The department shall review and act on a proposed temporary
16 solid waste facilities permit submitted to it by an enforcement
17 agency for approval within 30 days of that submission. Upon the
18 request of an enforcement agency, the department shall provide
19 assistance to the enforcement agency to expeditiously process
20 applications for temporary solid waste facilities permits.~~

21 ~~(d) The regulations adopted by the department pursuant to this
22 section may be adopted as emergency regulations and shall be
23 considered by the Office of Administrative Law as necessary for
24 the immediate preservation of the public peace, health and safety,
25 or general welfare. The department shall file the emergency
26 regulations with the Office of Administrative Law at the earliest
27 feasible date.~~

28 ~~(e) This section shall remain in effect only until January 1, 2025,
29 and as of that date is repealed, unless a later enacted statute, that
30 is enacted before January 1, 2025, deletes or extends that date.~~

31 ~~SEC. 2. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 a local agency or school district has the authority to levy service
34 charges, fees, or assessments sufficient to pay for the program or
35 level of service mandated by this act, within the meaning of Section
36 17556 of the Government Code.~~

AB 864 (Williams) Oil Spill Prevention

SUMMARY

AB 864 will require an operator of an oil pipeline along environmentally and ecologically sensitive areas near the coast to use the best available technology to reduce the amount of oil released in an oil spill in order to protect state waters and wildlife. This includes automatic shut off technology, and requires a pipeline operator to document the best available technology used in their oil spill contingency plan.

BACKGROUND

A recent oil spill at Refugio Beach, in Santa Barbara County, has devastated the local environment due to lack of detection and slow response times.

The release was from a 24-inch pipeline which extends from Las Flores to Gaviota in Santa Barbara County, about 10.6 miles. Unfortunately, it appears the pipeline was not properly equipped with automatic shut off technology, and there were delays in communication with first responders.

After a period of time, the operator shut down the flow of oil in the pipeline and initiated their emergency response plan; but the spill went undetected until way too late. Over 100,000 gallons of crude oil had been released which ultimately impacted over 25 miles of the coast line and ocean water.

In addition to the environmental and economic impacts to southern Santa Barbara County, the spill closed two state beaches, including Refugio State Park which was evacuated immediately. Additionally, an offshore fishing area measuring 23 miles by 6 miles has been closed.

The impacts, while still being assessed, are huge. Wildlife rescue teams have reported dozens of dead birds and mammals. After the spill, more than 200 birds have been affected, as well as over 130 marine animals. At this time 14 dolphins and 63 sea lions have died.

Had the oil pipeline been equipped with automatic shut off valves or remote controlled sectionalized block valves, the impact of the oil spill would have been controlled and limited. Instead, we're left cataloguing the negative effects to our environment and economy.

California's coast and ocean are among our most treasured resources. The productivity, wildness and

beauty found here is central to California's identity, heritage and economy. California leads the nation and the world in coastal and wildlife protection. Early oil spill detection technology and automatic shutoff controls are critical tools in preserving California's ocean waters, coast line, and wildlife.

NEED FOR THE BILL

AB 864 requires pipelines in environmentally sensitive areas along the coast to use the best available technology to reduce the amount of oil released in a spill for the purpose of protecting state waters and wildlife. This includes either or both automatic shut off technology and remote controlled sectionalized block valves.

AB 864 will additionally require a pipeline operator to provide the State with a description of the best available technology used to reduce the amount of oil released in a spill in the oil spill contingency plan they are required to submit to the Office of Spill Protection and Response.

This spill is a reminder that there is always tremendous risk to areas surrounding offshore drilling, many of which are sensitive habitats. The Gaviota Coast is a perfect example of our precious resources. The law should reflect this truth by requiring operators to take every precaution available.

SUPPORT

- None on file

OPPOSITION

- None on file

FOR MORE INFORMATION

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