

File No. 170245

Committee Item No. \_\_\_\_\_

Board Item No. 31

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: \_\_\_\_\_  
Board of Supervisors Meeting

Date: \_\_\_\_\_

Date: March 14, 2017

### Cmte Board

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|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/> | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/> | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/> | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/> | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Budget                                 |
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### OTHER

- |                          |                                     |   |
|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>California Senate Bill 709 - February 17, 2017</u> |
| <input type="checkbox"/> | <input type="checkbox"/>            | _____   |
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Prepared by: Brent Jalipa

Date: March 9, 2017

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

1 [Supporting California State Senate Bill 709 (Wiener) - Oil Spill Response and Contingency  
2 Planning]

3 **Resolution supporting California State Senate Bill 709, authored by Senator Wiener,**  
4 **and co-authored by Senators Allen, Beall, Hill, McGuire, Skinner, and Stern, to**  
5 **establish oil spill contingency plans and revising requirements for Oil Spill Response**  
6 **Organizations to recover and contain non-floating oils, such as tar sands, in the event**  
7 **of an oil spill.**

8  
9 WHEREAS, The Lempert-Keen-Seastrand Oil Spill Prevention and Response Act was  
10 enacted in 1990 following recent accidents in southern California, Alaska, other parts of the  
11 nation, and Canada, which demonstrated that transportation of oil could be a significant threat  
12 to the environment of sensitive areas, and that existing prevention programs were not able to  
13 sufficiently reduce the risk of significant discharge of petroleum into state waters; and

14 WHEREAS, The Oil Spill Prevention and Response Act currently requires the  
15 Administrator for Oil Spill Response, appointed by and acting at the direction of the Governor,  
16 to implement activities relating to oil spill response, including emergency drills and  
17 preparedness, and oil spill containment and cleanup, and to represent the state in any  
18 coordinated response efforts with the federal government; and

19 WHEREAS, The Oil Spill Prevention and Response Act also requires the Administrator  
20 to adopt and implement regulations governing the adequacy of oil spill contingency plans and  
21 to provide for the best achievable protection of coastal and marine waters; and

22 WHEREAS, California State Senate Bill 709 (SB 709) would require, if non-floating oil  
23 such as tar sand is present, that the oil spill contingency plan filed with and approved by the  
24 Administrator identify one Oil Spill Response Organization (OSRO) capable of oil spill  
25 response activities related to that non-floating oil; and

1           WHEREAS, SB 709 would also require the oil spill contingency plan to describe  
2 procedures, techniques, and demonstrated technologies effective for responding to a spill of  
3 the non-floating oil; and

4           WHEREAS, Existing law authorizes an OSRO to apply to the Administrator for a rating  
5 of that OSRO's response capabilities, and, upon receiving a completed application for that  
6 rating, require the Administrator to review the application and rate the OSRO based on the  
7 OSRO's satisfactory compliance with criteria established by the Administrator; and

8           WHEREAS, SB 709 would require that those elements include the type of oil, including  
9 non-floating oils, such as tar sands, the OSRO is capable of recovering and containing, and  
10 require that certain regulations adopted by the Administrator be consistent with the 2016  
11 United States Coast Guard OSRO classification program; and

12           WHEREAS, Non-floating oils that sink to the bottom or remain suspended in the water  
13 column pose risks to certain resources that are not normally affected by floating oils, including  
14 risks to fish, shellfish, seagrasses, and other benthic (seabed) and water-column biota, and  
15 episodic re-oiling of shorelines; now, therefore, be it

16           RESOLVED, That the San Francisco Board of Supervisors states their support for  
17 SB 709 and urges California Governor Jerry Brown to sign SB 709 into law; and, be it

18           FURTHER RESOLVED, That a copy of this Resolution be delivered to the Offices of  
19 California Governor Jerry Brown and Senator Wiener.

**Introduced by Senator Wiener  
(Coauthors: Senators Allen, Beall, Hill, McGuire, Skinner, and  
Stern)**

February 17, 2017

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An act to amend Sections 8670.29, 8670.30, and 8670.35 of the Government Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

SB 709, as introduced, Wiener. Oil spill response and contingency planning.

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. Existing law requires the administrator to adopt and implement regulations governing the adequacy of oil spill contingency plans to be prepared and implemented and requires the regulations to provide for the best achievable protection of coastal and marine waters. Existing law requires an owner or operator of a facility, small marine fueling facility, or mobile transfer unit, or an owner or operator of a tank vessel, nontank vessel, or vessel carrying oil as secondary cargo, while operating in the waters of the state or where a spill could impact waters of the state, to have an oil spill contingency plan that complies with the rules, regulations, and policies established by the administrator, that meets specified minimum requirements, and that has been submitted to, and approved by, the administrator.

This bill would, if nonfloating oil, such as tar sand, is present, require that the oil spill contingency plan that is filed with and approved by the administrator identifies one oil spill response organization (OSRO) capable of oil spill response activities related to that nonfloating oil. The bill would additionally require the oil spill contingency plan to describe procedures, techniques, and demonstrated technologies effective for responding to a spill of the nonfloating oil.

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

This bill would require that those elements include the type of oil, including nonfloating oils, such as tar sands, the OSRO is capable of recovering and containing. The bill would require that certain regulations adopted by the administrator be consistent with the 2016 United States Coast Guard OSRO classification program.

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

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

1 SECTION 1. Section 8670.29 of the Government Code is  
2 amended to read:  
3 8670.29. (a) In accordance with the rules, regulations, and  
4 policies established by the administrator pursuant to Section  
5 8670.28, an owner or operator of a facility, small marine fueling  
6 facility, or mobile transfer unit, or an owner or operator of a tank  
7 vessel, nontank vessel, or vessel carrying oil as secondary cargo,  
8 while operating in the waters of the state or where a spill could  
9 impact waters of the state, shall have an oil spill contingency plan  
10 that has been submitted to, and approved by, the administrator  
11 pursuant to Section 8670.31. An oil spill contingency plan shall  
12 ensure the undertaking of prompt and adequate response and  
13 removal action in case of a spill, shall be consistent with the  
14 California oil spill contingency plan, and shall not conflict with  
15 the National Oil and Hazardous Substances Pollution Contingency  
16 Plan (NCP).

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

3 (1) Be a written document, reviewed for feasibility and  
4 executability, and signed by the owner or operator, or his or her  
5 designee.

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

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

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

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

16 (6) Identify at least one rated OSRO for each rating level  
17 established pursuant to Section 8670.30. Each identified rated  
18 OSRO shall be directly responsible by contract, agreement, or  
19 other approved means to provide oil spill response activities  
20 pursuant to the oil spill contingency plan. A rated OSRO may  
21 provide oil spill response activities individually, or in combination  
22 with another rated OSRO, for a particular owner or operator. *If*  
23 *nonfloating oil, such as tar sand, is present, the contingency plan*  
24 *shall identify at least one OSRO capable of oil spill response*  
25 *activities related to that nonfloating oil.*

26 (7) Identify a qualified individual.

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

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

34 (10) *If nonfloating oil, such as tar sand, is present, describe*  
35 *procedures, techniques, and demonstrated technologies effective*  
36 *for responding to a spill of the nonfloating oil, including a*  
37 *description of any limitations of those procedures, techniques, and*  
38 *technologies and alternative procedures, techniques and*  
39 *demonstrated technologies that can overcome these limitations.*

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

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

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

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

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

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

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

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

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

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

20 (1) Provisions for site security and control.

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

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

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

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

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

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

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

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

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

38 (f) The oil spill contingency plan shall be available to response  
39 personnel and to relevant state and federal agencies for inspection  
40 and review.

1 (g) The oil spill contingency plan shall be reviewed periodically  
2 and updated as necessary. All updates shall be submitted to the  
3 administrator pursuant to this article.

4 (h) In addition to the regulations adopted pursuant to Section  
5 8670.28, the administrator shall adopt regulations and guidelines  
6 to implement this section. The regulations and guidelines shall  
7 provide for the best achievable protection of waters and natural  
8 resources of the state. The administrator may establish additional  
9 oil spill contingency plan requirements, including, but not limited  
10 to, requirements based on the different geographic regions of the  
11 state. All regulations and guidelines shall be developed in  
12 consultation with the Oil Spill Technical Advisory Committee.

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

17 SEC. 2. Section 8670.30 of the Government Code is amended  
18 to read:

19 8670.30. (a) An oil spill response organization may apply to  
20 the administrator for a rating of that OSRO's response capabilities.  
21 The administrator shall establish rating levels for classifying  
22 OSROs pursuant to subdivision (b).

23 (b) Upon receiving a completed application for rating, the  
24 administrator shall review the application and rate the OSRO based  
25 on the OSRO's satisfactory compliance with criteria established  
26 by the administrator, which shall include, but is not limited to, all  
27 of the following elements:

28 (1) The geographic region or regions of the state where the  
29 OSRO intends to operate.

30 (2) Timeframes for having response resources on-scene and  
31 deployed.

32 (3) The type of equipment that the OSRO will use and the  
33 location of the stored equipment.

34 (4) The volume of oil that the OSRO is capable of recovering  
35 and containing.

36 (5) *The type of oil, including nonfloating oils, such as tar sands,*  
37 *the OSRO is capable of recovering and containing.*

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



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

9 (d) A rating issued pursuant to this section shall be valid for  
10 three years unless modified, suspended, or revoked. The  
11 administrator shall review the rating of each rated OSRO at least  
12 once every three years. The administrator shall not renew a rating  
13 unless the OSRO meets criteria established by the administrator,  
14 including, at a minimum, that the rated OSRO periodically tests  
15 and drills itself, including testing protection of environmentally  
16 sensitive sites, during the three-year period.

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

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

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

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

35 (4) A drill for the protection of environmentally sensitive areas  
36 shall conform as close as possible to the response that would occur  
37 during a spill but sensitive sites shall not be damaged during the  
38 drill.

39 (5) The response resources to be deployed by a rated OSRO  
40 within the first six hours of a spill or drill shall be dedicated

1 response resources or be owned and controlled by a rated OSRO  
2 that are sufficient to meet the spill response planning requirements  
3 of the OSRO's client owner or operator. This requirement does  
4 not preclude a rated OSRO from bringing in additional response  
5 resources. The administrator may, by regulation, permit a lesser  
6 requirement for dedicated or OSRO owned and controlled response  
7 resources for shoreline protection.

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

11 (7) The administrator shall issue a written report evaluating the  
12 performance of the OSRO after every unannounced drill called by  
13 the administrator.

14 (8) The administrator shall determine whether an unannounced  
15 drill called upon an OSRO by a federal agency during the previous  
16 three years qualifies as an unannounced drill for the purposes of  
17 this subdivision.

18 (g) Each rated OSRO shall provide reasonable notice to the  
19 administrator about each future drill, and the administrator, or his  
20 or her designee, may attend the drill.

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

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

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

34 (3) For purposes of this subdivision, a "change in ownership or  
35 control" includes, but is not limited to, a change in corporate status,  
36 or a transfer of ownership that changes the majority control of  
37 voting within the entity.

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

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

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

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

8 (3) Regional requirements.

9 (4) Training.

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

12 (6) Ownership and employment of response resources.

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

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

20 SEC. 3. Section 8670.35 of the Government Code is amended  
21 to read:

22 8670.35. (a) The administrator, taking into consideration the  
23 California oil spill contingency plan, shall promulgate regulations  
24 regarding the adequacy of oil spill elements of area plans required  
25 pursuant to Section 25503 of the Health and Safety Code. In  
26 developing the regulations, the administrator shall consult with  
27 the Oil Spill Technical Advisory Committee.

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

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

35 (d) Each oil spill element prepared under this section shall be  
36 consistent with the local government's local coastal program as  
37 certified under Section 30500 of the Public Resources Code, the  
38 California oil spill contingency plan, ~~and the National Contingency~~  
39 ~~Plan. Plan, and the 2016 United States Coast Guard OSRO~~  
40 ~~classification program.~~

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

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

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

2017 MAR -7 PM 4:13

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission     Youth Commission     Ethics Commission
- Planning Commission     Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Peskin

Subject:

Supporting California State Senate Bill 709 (Wiener) - Oil spill response and contingency planning

The text is listed below or attached:

Resolution supporting California State Senate Bill 709, authored by Senator Wiener, co-authored by Senators Allen, Beall, Hill, McGuire, Skinner, and Stern, establishing oil spill contingency plans and revising requirements for Oil Spill Response Organizations to recover and contain non-floating oils, such as tar sands, in the event of an oil spill.

Signature of Sponsoring Supervisor:

For Clerk's Use Only:

