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**SENATE COMMITTEE ON ENVIRONMENTAL QUALITY**

**Senator Allen, Chair**

**2021 - 2022 Regular**

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**Bill No:** AB 1658  
**Author:** Nguyen  
**Version:** 4/28/2022  
**Urgency:** No  
**Consultant:** Evan Goldberg  
**Hearing Date:** 6/29/2022  
**Fiscal:** Yes

**SUBJECT:** Oil spill response and contingency planning: oil spill elements: area plans

**DIGEST:** Requires local certified unified program agency (CUPA) plans with an oil spill element to be consistent with the U.S. Coast Guard Area Contingency Plan (ACP).

**ANALYSIS:**

Existing law:

- 1) Requires the Governor to establish a California oil spill contingency plan. (Government Code (GOV) § 8574.1)
- 2) Requires the California oil spill contingency plan to provide for the best achievable protection of waters of the state. The plan must, among other things, include:
  - a) A state response element specifying the hierarchy for state and local agency response to an oil spill.
  - b) A regional and local planning element to provide the framework to involve regional and local agencies in the state effort to respond to an oil spill. (GOV § 8574.7)
- 3) Requires the administrator (Administrator) for the Office of Spill Prevention and Response (OSPR), while taking into consideration the California oil spill contingency plan, to promulgate regulations regarding the adequacy of oil spill elements of plans that CUPAs must adopt under Health & Safety Code § 25503. The Administrator can offer grants to qualifying agencies to complete, update, or revise an oil spill element of the area plan. (GOV § 8670.35)

- 4) Requires the oil spill elements of each CUPA plan to be consistent with the local government's local coastal program (LCP) as certified under Section 30500 of the Public Resources Code, the California oil spill contingency plan, and the National Contingency Plan (NCP). (GOV § 8670.35)
- 5) Requires all agencies, including local agencies, to follow incident command system principles and the standardized emergency management system. (GOV § 8607)
- 6) Authorizes the Administrator to provide grants to a local government, Native American tribe, or other public entities with jurisdiction over or directly adjacent to waters of the state to provide oil spill response equipment to be deployed by a certified local spill response manager. (GOV § 8670.8.3)
- 7) Establishes minimum planning requirements for local area oil spill contingency plans. (California Code of Regulations (CCR) § 852.25.2)

This bill:

- 1) Requires that each oil spill element of each CUPA plan – in addition to being consistent with a local government's LCP, the California oil spill contingency plan, and the NCP – to also be consistent with the U.S. Coast Guard's Area Contingency Plan (ACP).

## **Background**

- 1) *State Oil Spill Response Planning.* OSPR was created in the California Department of Fish and Wildlife to help meet the state's responsibilities for oil spill prevention and response established at the federal level. The Administrator is required to submit to the Governor and the Legislature a revised state oil spill contingency plan (State Plan) every three years. The State Plan is an independent document regarding discharges of oil to all marine or inland surface waterways of California and to land. All state and local agencies are required to carry out spill response activities consistent with the State Plan and other applicable federal, state, or local spill response plans. The most recent State Plan was published in July 2019. The Administrator must adopt and implement regulations governing the adequacy of oil spill contingency plans, and requires the regulations to provide for the best achievable protection of coastal and marine waters.

- 2) *Local Oil Spill Response Plans.* OSPR partners with leaders from California's numerous sovereign tribal governments, 58 counties, more than 400 cities and towns, and numerous port, harbor, and special districts to outline its mission to provide the best achievable protection of California's natural resources. OSPR maintains the State Plan for oil discharges to all marine or inland surface waterways of California and to land. All state and local agencies must carry out spill response activities consistent with the State Plan and other applicable federal, state, or local spill response plans. OSPR also manages a grant program to help CUPAs – local agencies that oversee hazardous waste management, such as oil spills – at the local level to develop the oil spill element of their local area plans. Under the grant program, the Administrator can provide funding to a CUPA with jurisdiction over or directly adjacent to waters of the state to complete, update, or revise an oil spill element of the area plan. The objective of the local government grant program is to encourage local governments adjacent to marine waters to update their local plans and to assist in a coordinated response and cleanup effort between local governments, state and federal officials. The corresponding regulations for the grant program include a very thorough provision (CCR § 852.62.2) that is functionally the “best practices” for a local area oil spill contingency plan. On top of the aforementioned resources, OSPR provides grants to local government entities, special districts, and Native American tribes to provide oil spill response equipment (i.e., booms) that can be pre-positioned (pre-staged) adjacent to waters of the state to contain a spill and/or to protect local resources.

## Comments

- 1) *Purpose of Bill.* According to the author, “On October 1st, 2021, an oil-related incident, resulting from an anchor-damaged pipeline, which caused 25,000 gallon of crude oil to leak into the coastal waters near the City of Huntington Beach. During this time, it was clear that the different beach cities, county, state and federal authorities either had no plans or different plans to respond.

“AB 1658 would encourage local authorities to develop an oil spill response plan that is consistent with both state and federal oil spill contingency plans. With assistance through a grant program, coastal cities would have access to resources to help them plan, be prepared in case of an incident and have similar efforts in place to respond. Having such plans in place when responding to oil spill incidents would help coordinate emergency resources and directly respond to a situation in a timelier manner.”

2) *Area Contingency Plan (ACP) vs. National Contingency Plan (NCP).*

U.S. Coast Guard's ACP is prepared for all agencies engaged in responding to environmental emergencies, such as an oil spill, within a defined geographic area. It's designed to ensure all responders have access to essential area-specific information and promotes inter-agency coordination to improve the effectiveness of responses. The U.S. Coast Guard is designated the lead agency for planning and response in coastal zones and certain major inland water bodies, while the US EPA is the designated the lead for inland zones.

An NCP is activated for oil spills requiring a national response. It is the federal government's blueprint for responding to both oil spills and hazardous substance releases, bringing together 16 federal agencies to contain and clean up the release or spill.

3) *"Check It Again Against Your List N' See, Consistency."* Current law requires each oil spill element of a CUPA plan to be consistent with a local government's LCP, the California oil spill contingency plan, and the NCP.

This bill requires the CUPA plan oil spill elements also be consistent with the U.S. Coast Guard's ACP.

### **DOUBLE REFERRAL:**

This measure passed the Senate Natural Resources & Water Committee on a 5-0 vote on June 14, 2022.

### **Related/Prior Legislation**

AB 1611 (Davis) requires a person to notify specified state and federal entities within 24 hours in cases where a vessel hit or likely hit a pipeline in waters of the state. This bill is pending in the Senate Judiciary Committee.

AB 1657 (Nguyen) requires responsible parties to report a spill or potential spill in either federal or state waters to CalOES. This bill is pending in the Senate Natural Resources & Water Committee.

SB 953 (Min) sought to require the State Lands Commission to terminate all remaining oil and gas leases under its jurisdiction in tidelands and submerged lands within state waters by December 31, 2023. This bill was held in the Senate Appropriations Committee.

AJR 24 (Nguyen) asks the United States government to locate unified command centers based on proximity and access to oil spills so they can be easily accessible to local agencies and local governments directly affected by the oil spill. This resolution is pending in the Assembly Emergency Management Committee.

AJR 25 (Nguyen) asks the United States Congress and the President of the United States to act immediately to increase resources to enforce rules related to vessel anchorages to deal with the backlog of cargo ships and prevent future oil spills stemming from anchor strikes. This resolution is pending in the Assembly Transportation Committee.

**SOURCE:****SUPPORT:**

Coastal Conservation Association of California

**OPPOSITION:**

None received

**ARGUMENTS IN SUPPORT:** The Coastal Conservation Association of California (CCA CAL) writes, "... CCA CAL was created in 2015 when recreational anglers and outdoor enthusiasts grouped together to work for the conservation and enhancement of our marine resources and coastal environments. Today, we are working to protect not only the health, habitat and sustainability of our marine resources, but also the interests of recreational saltwater anglers and their access to the resources they cherish and use on a daily basis. CCA CAL has an objective to conserve, promote and enhance the present and future availability of coastal resources for the benefit and enjoyment of the general public.

"The oil spill last year resulted in significant environmental harm, including port closures and limitations on where recreational angling activities and charter boats could operate. As one of the many communities negatively impacted by this spill, including economic, recreational, and environmental impacts, we appreciate your attention to working towards preventing them or reducing their severity in the future."

**-- END --**