

Spills or discharges; closure or restriction of waters; consultation with Office of Environmental Health Hazard Assessment; assessments and determinations; testing; reopening; reimbursement; violations

(a)(1) The director, after a notification of a spill or discharge, as those terms are defined in Section 8670.3 of the Government Code, where any fishing, including all commercial, recreational, and nonlicensed subsistence fishing, may take place, or where aquaculture operations are taking place, may close all waters in the vicinity of the spill or discharge or where the spilled or discharged material has spread, or is likely to spread, to the take of all fish or shellfish, or may restrict the take or possession of all fish or shellfish, in those waters. In determining where a spill or discharge is likely to spread, the director shall consult with the Administrator of the Office of Spill Prevention and Response. At the time of closure, the department shall make all reasonable efforts to notify the public of the closure, including notification to commercial and recreational fishing organizations, and posting of warnings on public piers and other locations where subsistence fishing is known to occur. The department shall coordinate, when possible, with local and regional agencies and organizations to expedite public notification.

(2) Closure pursuant to paragraph (1) shall be required if the Office of Environmental Health Hazard Assessment finds that a public health threat exists or is likely to exist. In determining the need for a closure, the director shall initiate consultation with the Office of Environmental Health Hazard Assessment no later than 24 hours after a notification of a spill or discharge regarding the likelihood of a public health threat, if any of the following conditions are met:

(A) There is a reported volume of one or more barrels of oil spilled or discharged in inland or estuarine waters or enclosed bays.

(B) There is a reported volume of one or more barrels of oil spilled or discharged and the oil is impacting coastal shorelines.

(C) There is a reported volume of five or more barrels of oil spilled or discharged in open ocean waters.

(3) If none of the conditions in paragraph (2) are met, the director may consult with the Office of Environmental Health Hazard Assessment regarding the likelihood of a public health threat.

(b) Within 48 hours after a closure pursuant to subdivision (a), both of the following shall occur:

(1) The Office of Environmental Health Hazard Assessment shall assess the danger posed to the public from fishing in the area where the spill or discharge occurred or spread, and the danger of consuming fish or shellfish taken in the area where the spill or discharge occurred or spread.

(2) The director shall, in consultation with the Office of Environmental Health Hazard Assessment, determine whether the areas closed to the take of fish or shellfish should be revised to prevent any potential take or consumption of any fish or shellfish that may have been contaminated by the spill or discharge, as determined pursuant to paragraph (1).

(c) Within 48 hours after a closure pursuant to subdivision (a), or as soon as is feasible, the director, in consultation with the Office of Environmental Health Hazard Assessment, shall assess and determine the potential danger from consuming fish or shellfish that have been contained in a recirculating seawater tank onboard a vessel that may become contaminated by the vessel's movement through an area where the spill or discharge occurred or spread.

(d) If the Office of Environmental Health Hazard Assessment finds in the assessment pursuant to subdivision (b) that there is no significant risk to the public or to the fisheries, the director may immediately reopen a closed area and waive the testing requirements of subdivision (e).

(e) Except under the conditions specified in subdivision (d), after complying with subdivisions (a) and (b), the director, in consultation with the Office of Environmental Health Hazard Assessment, within seven days after a closure, shall order expedited tests of fish or shellfish that would have been open for take for commercial, recreational, or subsistence purposes in the closed area if not for the closure, to determine the levels of contamination, if any, and whether the fish or shellfish is safe for human consumption.

(f)(1) As soon as possible after receiving a notification from the Office of Environmental Health Hazard Assessment that no threat to human health exists from the spill or discharge or that no contaminant from the spill or discharge is present that could contaminate fish or shellfish, the director shall reopen the areas closed pursuant to this section in a manner that promotes fair and orderly fisheries. The director shall maintain a closure in any remaining portion of the closed area where the Office of Environmental Health Hazard Assessment finds contamination from the spill or discharge persists that may adversely affect human health.

(2) The director, in consultation with the commission, may also maintain a closure in any remaining portion of the closed area where commercial fishing or aquaculture occurs and where the department determines, pursuant to this paragraph, that contamination from the spill or discharge persists that may cause the waste of commercial fish or shellfish as regulated by Section 7701.

(g) To the extent feasible, the director shall consult with representatives of commercial and recreational fishing associations and subsistence fishing communities regarding the extent and duration of a closure, testing protocols, and findings. If a spill or discharge occurs within the lands governed by a Native American tribe or affects waters flowing through tribal lands, or tribal fisheries, the director shall consult with the affected tribal governments.

(h) The director shall, and the Office of Environmental Health Hazard Assessment may, seek full reimbursement from the responsible party or parties for the spill or discharge for all reasonable costs incurred by the department or the Office of Environmental Health Hazard Assessment, respectively, in carrying out this section, including, but not limited to, all testing.

(i) It is unlawful to take any fish or shellfish from any waters closed pursuant to this section or to otherwise violate any restriction imposed pursuant to this section.