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By Representatives Phillips, Horn, Rust, Basich, Jacobsen, D. Sommers, Brekke, Van Luven, Valle, Sprenkle, G. Fisher, R. King and Wang.

Read first time January 31, 1991. Referred to Committee on Natural Resources & Parks\Appropriations. Referred 2\5\91 to Committee on Environmental Affairs.

1 AN ACT Relating to Pacific Ocean Resources Compact; adding a new
2 chapter to Title 90 RCW; and making an appropriation.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** (1) The legislature hereby ratifies the
5 Pacific Ocean Resources Compact as set forth in section 2 of this act.
6 This compact shall take effect after one or more of the states of
7 Alaska, California, Hawaii, or Oregon ratify the compact and consent is
8 granted by Congress as required by section 10, Article I of the
9 Constitution of the United States.

10 (2) In addition to the states of Alaska, California, Hawaii, and
11 Oregon, the Province of British Columbia may become an associate party
12 to the compact, without voting power. Upon request of the Province of
13 British Columbia and approval of Congress, the Province of British

1 Columbia may become a full party to this compact with the same rights
2 and powers as the party states.

3 NEW SECTION. **Sec. 2.** The provisions of the Pacific Ocean
4 Resources Compact are as follows:

5 ARTICLE I

6 FINDINGS AND PURPOSE

7 A. The parties recognize:

8 (1) The states of Alaska, California, Hawaii, Oregon, and
9 Washington and the Province of British Columbia have a common interest
10 in the protection of marine and coastal resources. This common
11 interest results from:

12 (a) The fluid, dynamic ocean currents and atmospheric winds that
13 carry pollutants beyond one party's coastal area to another;

14 (b) The migratory nature of many important living marine resources
15 that depend upon the marine habitat of various parties for different
16 parts of their lifecycle;

17 (c) The economic reliance of each party upon renewable resources of
18 the ocean;

19 (d) The use of the ocean for transport of oil and other hazardous
20 substances between ports in the various parties and other nations;

21 (e) A regional interest in providing a stable environment for those
22 communities dependent upon ocean resources and ocean trade for a
23 livelihood.

24 (2) Some marine resource activities, such as fisheries, are
25 currently highly managed with regard for their regional or
26 transboundary nature through existing state programs, regional
27 fisheries councils, interstate compacts, and international treaties.

1 Because there are existing formal mechanisms for interstate cooperation
2 and coordination for these marine resource activities, this compact is
3 not intended to encompass these activities.

4 (3) A formal interstate agreement does not exist to address and
5 resolve issues of mutual concern or to coordinate individual programs
6 of the parties that affect regional interests in the areas of:

7 (a) Prevention of oil and hazardous substance spills;

8 (b) Transportation of oil and other hazardous substances;

9 (c) Oil and hazardous substance spill response planning; and

10 (d) Environmental monitoring and research.

11 (4) Each party has jurisdiction over the submerged and submersible
12 lands within its territorial sea and responsibility for management of
13 many marine resources and ocean uses. Each party has unique natural
14 resource, social, economic, and political conditions for which local
15 management by the individual party is the most appropriate.

16 (5) Parties now do not have an effective means to address mutual
17 concerns related to transport of oil and hazardous substances in waters
18 within and beyond the party's jurisdiction that may jeopardize ocean
19 resources and uses important to one or more coastal parties.

20 (6) The 1983 Presidential Proclamation of the two hundred-mile
21 United States Exclusive Economic Zone has created the opportunity for
22 all coastal states to more fully exercise and assert their
23 responsibilities pertaining to the protection, conservation, and
24 development of ocean resources under United States jurisdiction.

25 (7) Citizens of the Pacific states and the Province of British
26 Columbia are increasingly concerned with the environmental integrity of
27 the ocean and protection of all ocean resources.

28 (8) Recent studies conducted in the wake of major accidental
29 releases of oil and other hazardous substances have concluded that the

1 existing system of response to spills fails to provide adequate
2 protection to ocean resources in the following ways:

- 3 (a) Inadequate personnel training and qualifications;
- 4 (b) Weaknesses in vessel design and integrity;
- 5 (c) Insufficient traffic management;
- 6 (d) Gaps in regulatory oversight;
- 7 (e) Incomplete cost recovery by the states or provinces; and
- 8 (f) A lack of information about the marine and coastal
9 environments.

10 (9) A spill or discharge of oil or hazardous substance from an
11 ocean-going vessel has the potential of causing major regional impacts.

12 B. Therefore the purpose of this compact shall be:

13 (1) To assist in the promotion of interstate commerce by providing
14 uniform regulation of the transportation of oil or hazardous substance
15 within the compact zone;

16 (2) To provide a legal mechanism to regulate certain ocean
17 activities within the United States Exclusive Economic Zone that the
18 parties cannot now individually regulate;

19 (3) To enhance regional sovereignty over issues of critical
20 importance;

21 (4) To direct federal agencies to act in the best interest of the
22 region;

23 (5) To foster regional cooperation and pooling of resources to
24 reduce costs and increase effective use of scarce resources;

25 (6) To enhance the oversight and supervision of activities of
26 concern to the parties;

27 (7) To address issues of mutual concern to the Pacific states and
28 the Province of British Columbia and enhance the parties' influence
29 over activities of concern that are not now addressed through existing
30 compacts, including:

1 (a) Spill prevention;

2 (b) Transportation of oil and other hazardous substances;

3 (c) Spill response planning; and

4 (d) Environmental monitoring and research;

5 (8) To foster cooperation and coordination among the parties in

6 order to increase the effectiveness of the individual party's ocean

7 laws and programs;

8 (9) To provide technical assistance to parties for ocean activities

9 covered by this compact;

10 (10) To provide for formal participation by the Province of British

11 Columbia with the compact to more fully address issues of regional

12 concern;

13 (11) To ensure that the citizens of the region have opportunities

14 to participate in discussions and deliberations of regional ocean

15 resources issues;

16 (12) To establish an innovative system under which the parties can

17 represent their shared interests within the compact zone, including:

18 (a) The maintenance and protection of common ocean resources; and

19 (b) The vessel transportation of oil and other hazardous

20 substances;

21 (13) To establish uniform safety standards for routes, crews, and

22 equipment for vessels transporting oil and hazardous substances within

23 the compact zone and to provide oversight for the implementation of

24 these standards and regulations by federal agencies, states, or

25 provinces and private industry;

26 (14) To promote more coordinated management of ocean resources that

27 are of mutual concern;

28 (15) To provide a forum for the regional coordination of the

29 individual parties' plans for the management and protection of those

30 areas of the Pacific Ocean and adjacent waters over which the

1 compacting parties jointly or separately now have or may acquire
2 jurisdiction.

3 ARTICLE II

4 DEFINITIONS

5 Unless the context clearly requires otherwise, the definitions in this
6 section apply throughout this compact.

7 (1) "Compact" means the representative body created by Article IV
8 of this compact.

9 (2) "Compact zone" means the portion of the oceans bordering the
10 parties within the two hundred-mile exclusive economic zone.

11 (3) "Hazardous substance" or "hazardous substances" means any
12 element or compound that, when it enters in or upon the water, presents
13 an imminent and substantial danger to the public health or welfare or
14 the environment, including but not limited to fish, animals,
15 vegetation, or any part of the natural habitat in which they are found.
16 "Hazardous substance" includes but is not limited to a substance
17 designated under 33 U.S.C. Sec. 1321(b)(2)(A), any element, compound,
18 mixture, solution or substance designated under 42 U.S.C. Sec. 9602,
19 any hazardous waste having characteristics identified under or listed
20 under 42 U.S.C. Sec. 6921, any toxic pollutant listed under 33 U.S.C.
21 Sec. 1317(a), and any imminently hazardous chemical substance or
22 mixture with respect to which the Administrator of the United States
23 Environmental Protection Agency has taken action under 15 U.S.C. Sec.
24 2606.

25 (4) "Navigable waters" means the waters of the United States,
26 including the territorial sea.

27 (5) "Oil" means crude petroleum oil and any other hydrocarbons
28 regardless of gravity, which are produced at the well in liquid form by

1 ordinary production methods, and any petroleum products or
2 petrochemicals of any kind and in any form whether crude, refined, or
3 a petroleum by-product, including petroleum, fuel oil, gasoline,
4 lubricating oils, oily sludge, oily refuse, or mixed with other wastes,
5 liquefied natural gas, or propane.

6 (6) "Party" means a state or province that joins the compact as
7 provided in Article III of this compact.

8 (7) "Representative" means an individual appointed as provided in
9 Article IV of this compact to represent a party to the compact.

10 (8) "Vessel" means a watercraft or other artificial contrivance
11 that is constructed or adapted to carry, or that carries oil or
12 hazardous substance in bulk as cargo or cargo residue, and that:

13 (a) Operates on the navigable waters of the compact zone; or

14 (b) Transfers oil or hazardous substance in a place subject to the
15 jurisdiction of the United States.

16 ARTICLE III

17 OPERATIVE DATES

18 (1) Except as provided in paragraph (2) of this Article, this
19 compact shall become effective when one or more of the states of
20 Alaska, California, Hawaii, or Oregon ratify the compact and consent is
21 granted by Congress as required by section 10, Article I of the
22 Constitution of the United States.

23 (2) This agreement shall become operative as to the Province of
24 British Columbia as a full party upon request of the Province of
25 British Columbia and the approval of the Congress.

26 ARTICLE IV

27 PACIFIC OCEAN RESOURCES COMPACT

1 (1) The Pacific Ocean Resources Compact is authorized to:

2 (a) Facilitate the prevention of oil and hazardous substance spills
3 through the establishment of uniform safety standards for routes,
4 crews, and equipment for vessels transporting oil and hazardous
5 substances to the extent that the parties and the federal government
6 have such authority within the compact zone;

7 (b) Ensure a coordinated network of oil and hazardous substance
8 spill response plans and programs of the parties, federal agencies, and
9 private organizations;

10 (c) By regulation, establish the requirements for submission of and
11 approval by the compact of a contingency plan by any vessel
12 transporting oil or hazardous substances in the compact zone. Such
13 requirements shall be at least as stringent as the requirements for
14 spill response plans under section 4202 of the federal oil pollution
15 act of 1990, P.L. 101-380. A plan developed in accordance with the
16 regulations adopted by the compact and approved by the compact shall
17 satisfy the requirements of section 4202 of the oil pollution act and
18 any requirements of an individual party for submitting a vessel
19 contingency or spill response plan. In establishing regulations under
20 this paragraph, the compact shall work closely with officials of the
21 parties to assure that the vessel contingency plans required under this
22 compact are at least as comprehensive as similar plans required by the
23 parties and to integrate, to the fullest extent possible, any
24 requirements for vessel contingency plans in effect at the time the
25 compact initiates its requirements under this paragraph;

26 (d) Establish and maintain an informational clearinghouse related
27 to spill response, including a directory of personnel, equipment,
28 technical expertise, organizations, and other resources available to
29 assist as part of a regional oil or hazardous substance spill response;

1 (e) Provide a forum for discussion and recommendation to resolve
2 conflicts among member parties or the federal government regarding
3 various ocean resources programs that have been or may be established
4 by each party;

5 (f) Provide opportunities for public participation in compact
6 activities by holding meetings of the compact in various locations
7 within the territorial limits of the parties, providing opportunities
8 for public comment at meetings, and developing a public outreach
9 program;

10 (g) Designate state or provincial agency officials to act on behalf
11 of the compact as liaisons with federal agencies;

12 (h) Identify the regional data needs related to ocean resources and
13 recommend a method for compiling the data in a format that can be
14 shared by all parties;

15 (i) Consult with and advise any pertinent party or federal agency
16 with regard to problems connected with ocean resources management and
17 recommend the adoption of any rules or regulations the compact
18 considers advisable that are within the jurisdiction of the agency;

19 (j) Establish a schedule of civil penalties for violations of the
20 rules or regulations of the compact adopted in accordance with 5 U.S.C.
21 Secs. 551 to 559 and 701 to 706; and

22 (k) Request the United States Coast Guard to enforce or assist in
23 the enforcement of any regulations adopted by the compact related to
24 the prevention of and response to oil or hazardous substance spills in
25 the compact zone.

26 (2) In addition to the authority granted under paragraph (1) of
27 this Article, the compact may:

28 (a) Accept grants and gifts;

29 (b) Enter into contracts for whose performance the compact shall be
30 solely responsible in order to support its operations;

1 (c) Conduct and prepare, independently or in cooperation with
2 others, studies, investigations, research, and programs relating to the
3 purposes of this compact;

4 (d) Conduct public hearings on matters pertaining to the purposes
5 of this compact;

6 (e) Issue subpoenas;

7 (f) In accordance with the provisions of 5 U.S.C. Secs. 551 to 559
8 and 701 to 706, enforce the rules and regulations adopted by the
9 compact to carry out the authority of the compact as set forth in this
10 Article;

11 (g) Appoint technical and advisory committees for the purpose of
12 advising the compact on regional ocean resources issues, data needs,
13 and format and other purposes related to the compact's activities. A
14 technical or advisory committee appointed by the compact shall not be
15 subject to the provisions of the Federal Advisory Committee Act, P.L.
16 92-463, as amended;

17 (h) Allow a variance from the provisions of this compact or rules
18 or regulations adopted by the compact pursuant to this Article. A
19 variance shall be based on a showing by the person or entity seeking
20 the variance that the activity allowed under the variance will have no
21 regional impact and that the variance is economically necessary. Under
22 no circumstances may a variance result in the regulation of the
23 transportation of oil or hazardous substance according to standards
24 less stringent than standards imposed under federal law.

25 (3) The compact shall adopt all regulations necessary to carry out
26 its duties and exercise its authority under this Article. The compact
27 shall adopt such regulations in accordance with the provisions of 5
28 U.S.C. Secs. 500 to 559.

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The compact shall select a chairperson and a vice-chairperson. After the initial chairperson and vice-chairperson are selected, the compact shall establish a rotation for the selection of the chairperson and vice-chairperson so the office rotates through the parties to the compact. The compact shall appoint and at its pleasure remove or discharge such officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications, and compensation. The compact shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place within the territorial limits of the signatory parties but must meet at least once a year.

ARTICLE VII
VOTING AND QUORUM

(1) A majority of the representatives shall constitute a quorum.
(2) Each party shall be entitled to one vote. No action or decision of the compact shall be approved unless the action or decision receives a majority of the votes of the parties.

ARTICLE VIII
SUPPORT AGENCIES

The compact may contract for the staff support necessary to carry out the purposes of this compact or request appropriate agencies of the signatory parties to act as the research agencies of the compact.

1 ARTICLE IX

2 PARTIES' POWERS UNDER COMPACT

3 Except as specifically provided in Article V of this compact,
4 nothing in this compact shall be construed to limit the powers of any
5 party or to repeal or prevent the enactment of any legislation or the
6 enforcement of any requirement imposing additional conditions and
7 restrictions to conserve ocean resources.

8 ARTICLE X

9 ABSENCE

10 Continued absence of representation or of any compact
11 representative from any party shall be brought to the attention of the
12 appointing authority of the party not represented.

13 ARTICLE XI

14 FUNDING

15 (1) Each party shall contribute to the support of the compact
16 according to the party's relative proportion of the party's gross state
17 product, but each party must contribute at least ten percent of the
18 total annual budget for the compact and shall not be required to
19 contribute more than fifty percent of the total annual budget for the
20 compact.

21 (2) The annual contribution of each party shall be figured to the
22 nearest one hundred dollars.

23 (3) The compact shall prepare an annual budget which shall be
24 approved by vote of the compact. After approval, the proposed budget

1 shall be presented to the chief executive and legislative body of the
2 signatory parties.

3 (4) Each party shall be responsible for the expenses of its own
4 representatives.

5 ARTICLE XII

6 WITHDRAWAL FROM COMPACT

7 This compact shall continue in force and remain binding upon each
8 party until renounced by it. Renunciation of this compact must be
9 preceded by sending six months' notice in writing of intention to
10 withdraw from the compact to the other parties to the compact.

11 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act shall
12 constitute a new chapter in Title 90 RCW.

13 NEW SECTION. **Sec. 4.** The sum of dollars, or as
14 much thereof as may be necessary, is appropriated for the biennium
15 ending June 30, 1993, from the general fund to the Pacific Ocean
16 Resources Compact for the purposes of carrying out the provisions of
17 the Pacific Ocean Resources Compact.