

SHB 1136 - H AMD 140
By Representative Dye

ADOPTED 03/01/2017

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 90.56.210 and 2015 c 274 s 5 are each amended to
4 read as follows:

5 (1) Each onshore and offshore facility shall have a contingency
6 plan for the containment and cleanup of oil spills from the facility
7 into the waters of the state and for the protection of fisheries and
8 wildlife, shellfish beds, natural resources, and public and private
9 property from such spills. The department shall by rule adopt and
10 periodically revise standards for the preparation of contingency
11 plans. The department shall require contingency plans, at a minimum,
12 to meet the following standards:

13 (a) Include full details of the method of response to spills of
14 various sizes from any facility which is covered by the plan;

15 (b) Be designed to be capable in terms of personnel, materials,
16 and equipment, of promptly and properly, to the maximum extent
17 practicable, as defined by the department removing oil and minimizing
18 any damage to the environment resulting from a worst case spill;

19 (c) Provide a clear, precise, and detailed description of how the
20 plan relates to and is integrated into relevant contingency plans
21 which have been prepared by cooperatives, ports, regional entities,
22 the state, and the federal government;

23 (d) Provide procedures for early detection of oil spills and
24 timely notification of such spills to appropriate federal, state, and
25 local authorities under applicable state and federal law;

26 (e) State the number, training preparedness, and fitness of all
27 dedicated, prepositioned personnel assigned to direct and implement
28 the plan;

29 (f) Incorporate periodic training and drill programs to evaluate
30 whether personnel and equipment provided under the plan are in a
31 state of operational readiness at all times;

1 (g) Describe important features of the surrounding environment,
2 including fish and wildlife habitat, shellfish beds, environmentally
3 and archaeologically sensitive areas, and public facilities. The
4 departments of ecology, fish and wildlife, and natural resources, and
5 the department of archaeology and historic preservation, upon
6 request, shall provide information that they have available to assist
7 in preparing this description. The description of archaeologically
8 sensitive areas shall not be required to be included in a contingency
9 plan until it is reviewed and updated pursuant to subsection (9) of
10 this section;

11 (h) State the means of protecting and mitigating effects on the
12 environment, including fish, shellfish, marine mammals, and other
13 wildlife, and ensure that implementation of the plan does not pose
14 unacceptable risks to the public or the environment;

15 (i) Provide arrangements for the repositioning of oil spill
16 containment and cleanup equipment and trained personnel at strategic
17 locations from which they can be deployed to the spill site to
18 promptly and properly remove the spilled oil;

19 (j) Provide arrangements for enlisting the use of qualified and
20 trained cleanup personnel to implement the plan;

21 (k) Provide for disposal of recovered spilled oil in accordance
22 with local, state, and federal laws;

23 (l) Until a spill prevention plan has been submitted pursuant to
24 RCW 90.56.200, state the measures that have been taken to reduce the
25 likelihood that a spill will occur, including but not limited to,
26 design and operation of a facility, training of personnel, number of
27 personnel, and backup systems designed to prevent a spill;

28 (m) State the amount and type of equipment available to respond
29 to a spill, where the equipment is located, and the extent to which
30 other contingency plans rely on the same equipment; and

31 (n) If the department has adopted rules permitting the use of
32 dispersants, the circumstances, if any, and the manner for the
33 application of the dispersants in conformance with the department's
34 rules.

35 (2)(a) The following shall submit contingency plans to the
36 department within six months after the department adopts rules
37 establishing standards for contingency plans under subsection (1) of
38 this section:

39 (i) Onshore facilities capable of storing one million gallons or
40 more of oil; and

1 (ii) Offshore facilities.

2 (b) Contingency plans for all other onshore and offshore
3 facilities shall be submitted to the department within eighteen
4 months after the department has adopted rules under subsection (1) of
5 this section. The department may adopt a schedule for submission of
6 plans within the eighteen-month period.

7 (3)(a) The department by rule shall determine the contingency
8 plan requirements for railroads transporting oil in bulk.

9 (b) Rules adopted under this subsection may not require the
10 following to be included as components of the contingency plans of
11 class III railroads transporting oil in bulk that is not crude oil in
12 an amount greater than twenty-four tank car loads per year:

13 (i) Contracted access to oil spill response equipment; or

14 (ii) The completion of more than a total of one drill of any type
15 every three years to test the contingency plans.

16 (c) For class III railroads transporting oil in bulk that is not
17 crude oil in an amount less than twenty-four tank car loads per year,
18 rules adopted under this subsection may only require railroads to
19 submit a basic contingency plan to the department. A basic
20 contingency plan filed under this subsection (3)(c) must be limited
21 to requiring the class III railroads to:

22 (i) Keep documentation of the basic contingency plan on file with
23 the department at the plan holder's principal place of business and
24 at dispatcher field offices of the railroad;

25 (ii) Identify and include contact information for the chain of
26 command and other personnel, including employees or spill response
27 contractors, who will be involved in the railroad's response in the
28 event of a spill;

29 (iii) Include information related to the accident and pollution
30 insurance carried by the railroad;

31 (iv) Develop a field document for use by personnel involved in
32 oil handling operations that includes time-critical information
33 regarding procedures to be used in the initial response to a spill or
34 a threatened spill; and

35 (v) Annually review the plan for accuracy.

36 (d) Federal oil spill response plans created pursuant to 33
37 U.S.C. Sec. 1321 may be submitted in lieu of contingency plans
38 ((until state rules are adopted)) by a class III railroad
39 transporting oil in bulk that is not crude oil.

1 (e) For the purposes of this section, "class III railroad" has
2 the same meaning as defined by the United States surface
3 transportation board as of the effective date of this section.

4 (4)(a) The owner or operator of a facility shall submit the
5 contingency plan for the facility.

6 (b) A person who has contracted with a facility to provide
7 containment and cleanup services and who meets the standards
8 established pursuant to RCW 90.56.240, may submit the plan for any
9 facility for which the person is contractually obligated to provide
10 services. Subject to conditions imposed by the department, the person
11 may submit a single plan for more than one facility.

12 (5) A contingency plan prepared for an agency of the federal
13 government or another state that satisfies the requirements of this
14 section and rules adopted by the department may be accepted by the
15 department as a contingency plan under this section. The department
16 shall ensure that to the greatest extent possible, requirements for
17 contingency plans under this section are consistent with the
18 requirements for contingency plans under federal law.

19 (6) In reviewing the contingency plans required by this section,
20 the department shall consider at least the following factors:

21 (a) The adequacy of containment and cleanup equipment, personnel,
22 communications equipment, notification procedures and call down
23 lists, response time, and logistical arrangements for coordination
24 and implementation of response efforts to remove oil spills promptly
25 and properly and to protect the environment;

26 (b) The nature and amount of vessel traffic within the area
27 covered by the plan;

28 (c) The volume and type of oil being transported within the area
29 covered by the plan;

30 (d) The existence of navigational hazards within the area covered
31 by the plan;

32 (e) The history and circumstances surrounding prior spills of oil
33 within the area covered by the plan;

34 (f) The sensitivity of fisheries, shellfish beds, and wildlife
35 and other natural resources within the area covered by the plan;

36 (g) Relevant information on previous spills contained in on-scene
37 coordinator reports prepared by the department; and

38 (h) The extent to which reasonable, cost-effective measures to
39 prevent a likelihood that a spill will occur have been incorporated
40 into the plan.

1 (7) The department shall approve a contingency plan only if it
2 determines that the plan meets the requirements of this section and
3 that, if implemented, the plan is capable, in terms of personnel,
4 materials, and equipment, of removing oil promptly and properly and
5 minimizing any damage to the environment.

6 (8) The approval of the contingency plan shall be valid for five
7 years. Upon approval of a contingency plan, the department shall
8 provide to the person submitting the plan a statement indicating that
9 the plan has been approved, the facilities or vessels covered by the
10 plan, and other information the department determines should be
11 included.

12 (9) An owner or operator of a facility shall notify the
13 department in writing immediately of any significant change of which
14 it is aware affecting its contingency plan, including changes in any
15 factor set forth in this section or in rules adopted by the
16 department. The department may require the owner or operator to
17 update a contingency plan as a result of these changes.

18 (10) The department by rule shall require contingency plans to be
19 reviewed, updated, if necessary, and resubmitted to the department at
20 least once every five years.

21 (11) Approval of a contingency plan by the department does not
22 constitute an express assurance regarding the adequacy of the plan
23 nor constitute a defense to liability imposed under this chapter or
24 other state law."

25 Correct the title.

EFFECT: Authorizes class III railroads hauling oil other than
crude oil to submit a federal oil spill response plan in lieu of a
state oil spill contingency plan. Prohibits oil spill contingency
plan rules adopted by the department of ecology from requiring
contracted access to oil spill response equipment, or the completion
of more than one drill of any type every three years, if the railroad
is a class III railroad hauling oil other than crude oil in an amount
greater than 24 tank cars per year. Limits contingency plan
requirements for class III railroads hauling noncrude oil in an
amount less than 24 tank cars per year to the submission of a basic
contingency plan that includes: Contact information for personnel
involved in spill response operations; the development of a spill
response field document; railroad insurance information; and
contingency plan document filing and update requirements.

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