
SENATE BILL 6641

State of Washington

58th Legislature

2004 Regular Session

By Senators B. Sheldon, Oke, Spanel, Carlson, Fraser, Shin, Regala, Winsley, Kohl-Welles, Poulsen, Kline, Fairley, Jacobsen, Prentice, Haugen, Berkey, Brown, McAuliffe, Franklin, Rasmussen and Keiser

Read first time 01/27/2004. Referred to Committee on Natural Resources, Energy & Water.

1 AN ACT Relating to oil spill management; amending RCW 90.56.005,
2 90.71.050, 88.40.025, 88.46.010, 90.56.010, 88.46.160, and 90.56.210;
3 and creating a new section.

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

5 **Sec. 1.** RCW 90.56.005 and 1991 c 200 s 101 are each amended to
6 read as follows:

7 (1) The legislature declares that the increasing reliance on water
8 borne transportation as a source of supply for oil and hazardous
9 substances poses special concern for the state of Washington. Each
10 year billions of gallons of crude oil and refined petroleum products
11 are transported by vessel on the navigable waters of the state. These
12 shipments are expected to increase in the coming years. Vessels
13 transporting oil into Washington travel on some of the most unique and
14 special marine environments in the United States. These marine
15 environments are a source of natural beauty, recreation, and economic
16 livelihood for many residents of this state. As a result, the state
17 has an obligation to assure the citizens of the state that the waters
18 of the state will be protected from oil spills.

1 (2) The legislature finds that prevention is the best method to
2 protect the unique and special marine environments in this state. The
3 technology for containing and cleaning up a spill of oil or hazardous
4 substances is in the early stages of development. Preventing spills is
5 more protective of the environment and more cost-effective when all the
6 costs associated with responding to a spill are considered. Therefore,
7 the legislature finds that the primary objective of the state is to
8 adopt a zero spills strategy to prevent any oil or hazardous substances
9 from entering marine waters.

10 (3) The legislature also finds that:

11 (a) Recent accidents in Washington, Alaska, southern California,
12 Texas, and other parts of the nation have shown that the
13 transportation, transfer, and storage of oil have caused significant
14 damage to the marine environment;

15 (b) Even with the best efforts, it is nearly impossible to remove
16 all oil that is spilled into the water;

17 (c) Washington's navigable waters are treasured environmental and
18 economic resources that the state cannot afford to place at undue risk
19 from an oil spill; and

20 (d) The state has a fundamental responsibility, as the trustee of
21 the state's natural resources and the protector of public health and
22 the environment to prevent the spill of oil.

23 (4) In order to establish a comprehensive prevention and response
24 program to protect Washington's waters and natural resources from
25 spills of oil, it is the purpose of this chapter:

26 (a) To establish state agency expertise in marine safety and to
27 centralize state activities in spill prevention and response
28 activities;

29 (b) To prevent spills of oil and to promote programs that reduce
30 the risk of both catastrophic and small chronic spills;

31 (c) To ensure that responsible parties are liable, and have the
32 resources and ability, to respond to spills and provide compensation
33 for all costs and damages;

34 (d) To provide for state spill response and wildlife rescue
35 planning and implementation;

36 (e) To support and complement the federal oil pollution act of 1990
37 and other federal law, especially those provisions relating to the
38 national contingency plan for cleanup of oil spills and discharges,

1 including provisions relating to the responsibilities of state agencies
2 designated as natural resource trustees. The legislature intends this
3 chapter to be interpreted and implemented in a manner consistent with
4 federal law;

5 (f) To provide broad powers of regulation to the department of
6 ecology relating to spill prevention and response;

7 (g) To provide for an independent oversight board to review the
8 adequacy of spill prevention and response activities in this state; and

9 (h) To provide an adequate funding source for state response and
10 prevention programs.

11 NEW SECTION. **Sec. 2.** (1) The legislature recognizes that while
12 the prevention of oil and hazardous substances spills and the goal of
13 zero spills are the primary objectives of the oil spill program, the
14 best available technologies for contingency planning and response must
15 also be in place in the event that a spill does occur. To ensure that
16 the state oil spill program is utilizing the most effective and up-to-
17 date methods and technologies, the department of ecology shall initiate
18 a review of current oil spill prevention and contingency plan
19 requirements to determine their effectiveness in preventing and
20 responding to oil and other hazardous substances spills.

21 (2) The department of ecology shall create an oil spill review
22 committee to implement this section. The committee shall include, but
23 is not limited to, representatives from the following entities: The
24 United States coast guard; treaty Indian tribes; regulated facilities;
25 regulated vessels; marine fueling facilities; the Puget Sound harbor
26 safety committee; the Puget Sound action team; the department of fish
27 and wildlife; environmental stakeholders; labor organizations; local
28 government; and ports.

29 (3) The oil spill review committee shall research and recommend:

30 (a) Methods to best achieve a zero spill strategy;

31 (b) Best management practices and regulations on oil spill
32 prevention during oil transfers including the use of automatic shutoff
33 devices, the number and training requirements of personnel, daylight-
34 only fuel transfers, illumination standards, and other oil transfer
35 prevention strategies; and

36 (c) Methods and data requirements for monitoring the effectiveness
37 of oil spill prevention strategies.

1 (4) The oil spill review committee shall report recommendations to
2 the appropriate committees of the legislature by December 1, 2004.

3 **Sec. 3.** RCW 90.71.050 and 1998 c 246 s 15 are each amended to read
4 as follows:

5 (1)(a) Each biennium, the action team shall prepare a Puget Sound
6 work plan and budget for inclusion in the governor's biennial budget.
7 The work plan shall prescribe the necessary federal, state, and local
8 actions to maintain and enhance Puget Sound water quality, including
9 but not limited to, enhancement of recreational opportunities, and
10 restoration of a balanced population of indigenous shellfish, fish, and
11 wildlife. The work plan and budget shall include specific actions and
12 projects pertaining to salmon recovery plans and the effectiveness of
13 strategies for preventing and responding to oil and other hazardous
14 substances spills.

15 (b) In developing a work plan, the action team shall meet the
16 following objectives:

17 (i) Use the plan elements of the Puget Sound management plan to
18 prioritize local and state actions necessary to restore and protect the
19 biological health and diversity of Puget Sound;

20 (ii) Consider the problems and priorities identified in local
21 plans; and

22 (iii) Coordinate the work plan activities with other relevant
23 activities, including but not limited to, agencies' activities that
24 have not been funded through the plan, local plans, and governmental
25 and nongovernmental watershed restoration activities.

26 (c) In developing a budget, the action team shall identify:

27 (i) The total funds to implement local projects originating from
28 the planning process developed for nonpoint pollution; and

29 (ii) The total funds to implement any other projects designed
30 primarily to restore salmon habitat.

31 (2) In addition to the requirements identified under RCW
32 90.71.020(2)(a), the work plan and budget shall:

33 (a) Identify and prioritize the local and state actions necessary
34 to address the water quality problems in the following locations:

35 (i) Area 1: Island and San Juan counties;

36 (ii) Area 2: Skagit and Whatcom counties;

37 (iii) Area 3: Clallam and Jefferson counties;

1 (iv) Area 4: Snohomish, King, and Pierce counties; and

2 (v) Area 5: Kitsap, Mason, and Thurston counties;

3 (b) Provide sufficient funding to characterize local watersheds,
4 provide technical assistance, and implement state responsibilities
5 identified in the work plan. The number and qualifications of staff
6 assigned to each region shall be determined by the types of problems
7 identified pursuant to (a) of this subsection;

8 (c) Provide sufficient funding to implement and coordinate the
9 Puget Sound ambient monitoring plan pursuant to RCW 90.71.060;

10 (d) Provide funds to assist local jurisdictions to implement
11 elements of the work plan assigned to local governments and to develop
12 and implement local plans;

13 (e) Provide sufficient funding to provide support staff for the
14 action team; and

15 (f) Describe any proposed amendments to the Puget Sound management
16 plan.

17 (3) The work plan shall be submitted to the appropriate policy and
18 fiscal committees of the legislature by December 20th of each even-
19 numbered year.

20 (4) The work plan shall be implemented consistent with the
21 legislative provisos of the biennial appropriation acts.

22 **Sec. 4.** RCW 88.40.025 and 1991 c 200 s 704 are each amended to
23 read as follows:

24 An onshore or offshore facility shall demonstrate financial
25 responsibility in an amount determined by the department as necessary
26 to compensate the state and affected counties and cities for damages
27 that might occur during a reasonable worst case spill of oil from that
28 facility into the navigable waters of the state. The department shall
29 consider such matters as the amount of oil that could be spilled into
30 the navigable waters from the facility, the cost of cleaning up the
31 spilled oil, the frequency of operations at the facility, the damages
32 that could result from the spill and the commercial availability and
33 affordability of financial responsibility. This section shall not
34 apply to an onshore or offshore facility owned or operated by the
35 federal government or by the state or local government. The department
36 shall adopt rules to implement this section by January 1, 2007.

1 **Sec. 5.** RCW 88.46.010 and 2000 c 69 s 1 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Best achievable protection" means the highest level of
6 protection that can be achieved through the use of the best achievable
7 technology and those staffing levels, training procedures, and
8 operational methods that provide the greatest degree of protection
9 achievable. The director's determination of best achievable protection
10 shall be guided by the critical need to protect the state's natural
11 resources and waters, while considering (a) the additional protection
12 provided by the measures; (b) the technological achievability of the
13 measures; and (c) the cost of the measures.

14 (2) "Best achievable technology" means the technology that provides
15 the greatest degree of protection taking into consideration (a)
16 processes that are being developed, or could feasibly be developed,
17 given overall reasonable expenditures on research and development, and
18 (b) processes that are currently in use. In determining what is best
19 achievable technology, the director shall consider the effectiveness,
20 engineering feasibility, and commercial availability of the technology.

21 (3) "Cargo vessel" means a self-propelled ship in commerce, other
22 than a tank vessel or a passenger vessel, of three hundred or more
23 gross tons, including but not limited to, commercial fish processing
24 vessels and freighters.

25 (4) "Bulk" means material that is stored or transported in a loose,
26 unpackaged liquid, powder, or granular form capable of being conveyed
27 by a pipe, bucket, chute, or belt system.

28 (5) "Covered vessel" means a tank vessel, cargo vessel, or
29 passenger vessel.

30 (6) "Department" means the department of ecology.

31 (7) "Director" means the director of the department of ecology.

32 (8) "Discharge" means any spilling, leaking, pumping, pouring,
33 emitting, emptying, or dumping.

34 (9)(a) "Facility" means any structure, group of structures, motor
35 vehicle, equipment, pipeline, or device, other than a vessel, located
36 on or near the navigable waters of the state that transfers oil in bulk
37 to or from (~~a tank~~) any vessel with an oil carrying capacity over two

1 hundred fifty barrels or pipeline, that is used for producing, storing,
2 handling, transferring, processing, or transporting oil in bulk.

3 (b) A facility does not include any: (i) Railroad car, motor
4 vehicle, or other rolling stock while transporting oil over the
5 highways or rail lines of this state; (ii) retail motor vehicle motor
6 fuel outlet; (iii) facility that is operated as part of an exempt
7 agricultural activity as provided in RCW 82.04.330; (iv) underground
8 storage tank regulated by the department or a local government under
9 chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense
10 more than three thousand gallons of fuel to a ship that is not a
11 covered vessel, in a single transaction.

12 (10) "Marine facility" means any facility used for tank vessel
13 wharfage or anchorage, including any equipment used for the purpose of
14 handling or transferring oil in bulk to or from a tank vessel.

15 (11) "Navigable waters of the state" means those waters of the
16 state, and their adjoining shorelines, that are subject to the ebb and
17 flow of the tide and/or are presently used, have been used in the past,
18 or may be susceptible for use to transport intrastate, interstate, or
19 foreign commerce.

20 (12) "Oil" or "oils" means any naturally occurring liquid
21 hydrocarbons at atmospheric temperature and pressure coming from the
22 earth, including condensate and natural gasoline, and any fractionation
23 thereof, including, but not limited to, crude oil, petroleum, gasoline,
24 fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes
25 other than dredged spoil. Oil does not include any substance listed in
26 Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under
27 section 101(14) of the federal comprehensive environmental response,
28 compensation, and liability act of 1980, as amended by P.L. 99-499.

29 (13) "Offshore facility" means any facility located in, on, or
30 under any of the navigable waters of the state, but does not include a
31 facility any part of which is located in, on, or under any land of the
32 state, other than submerged land. "Offshore facility" does not include
33 a marine facility.

34 (14) "Onshore facility" means any facility any part of which is
35 located in, on, or under any land of the state, other than submerged
36 land, that because of its location, could reasonably be expected to
37 cause substantial harm to the environment by discharging oil into or on
38 the navigable waters of the state or the adjoining shorelines.

1 (15)(a) "Owner or operator" means (i) in the case of a vessel, any
2 person owning, operating, or chartering by demise, the vessel; (ii) in
3 the case of an onshore or offshore facility, any person owning or
4 operating the facility; and (iii) in the case of an abandoned vessel or
5 onshore or offshore facility, the person who owned or operated the
6 vessel or facility immediately before its abandonment.

7 (b) "Operator" does not include any person who owns the land
8 underlying a facility if the person is not involved in the operations
9 of the facility.

10 (16) "Passenger vessel" means a ship of three hundred or more gross
11 tons with a fuel capacity of at least six thousand gallons carrying
12 passengers for compensation.

13 (17) "Person" means any political subdivision, government agency,
14 municipality, industry, public or private corporation, copartnership,
15 association, firm, individual, or any other entity whatsoever.

16 (18) "Ship" means any boat, ship, vessel, barge, or other floating
17 craft of any kind.

18 (19) "Spill" means an unauthorized discharge of oil into the waters
19 of the state.

20 (20) "Tank vessel" means a ship that is constructed or adapted to
21 carry, or that carries, oil in bulk as cargo or cargo residue, and
22 that:

23 (a) Operates on the waters of the state; or

24 (b) Transfers oil in a port or place subject to the jurisdiction of
25 this state.

26 (21) "Waters of the state" includes lakes, rivers, ponds, streams,
27 inland waters, underground water, salt waters, estuaries, tidal flats,
28 beaches and lands adjoining the seacoast of the state, sewers, and all
29 other surface waters and watercourses within the jurisdiction of the
30 state of Washington.

31 (22) "Worst case spill" means: (a) In the case of a vessel, a
32 spill of the entire cargo and fuel of the vessel complicated by adverse
33 weather conditions; and (b) in the case of an onshore or offshore
34 facility, the largest foreseeable spill in adverse weather conditions.

35 **Sec. 6.** RCW 90.56.010 and 2000 c 69 s 15 are each amended to read
36 as follows:

1 For purposes of this chapter, the following definitions shall apply
2 unless the context indicates otherwise:

3 (1) "Best achievable protection" means the highest level of
4 protection that can be achieved through the use of the best achievable
5 technology and those staffing levels, training procedures, and
6 operational methods that provide the greatest degree of protection
7 achievable. The director's determination of best achievable protection
8 shall be guided by the critical need to protect the state's natural
9 resources and waters, while considering (a) the additional protection
10 provided by the measures; (b) the technological achievability of the
11 measures; and (c) the cost of the measures.

12 (2) "Best achievable technology" means the technology that provides
13 the greatest degree of protection taking into consideration (a)
14 processes that are being developed, or could feasibly be developed,
15 given overall reasonable expenditures on research and development, and
16 (b) processes that are currently in use. In determining what is best
17 achievable technology, the director shall consider the effectiveness,
18 engineering feasibility, and commercial availability of the technology.

19 (3) "Board" means the pollution control hearings board.

20 (4) "Cargo vessel" means a self-propelled ship in commerce, other
21 than a tank vessel or a passenger vessel, three hundred or more gross
22 tons, including but not limited to, commercial fish processing vessels
23 and freighters.

24 (5) "Bulk" means material that is stored or transported in a loose,
25 unpackaged liquid, powder, or granular form capable of being conveyed
26 by a pipe, bucket, chute, or belt system.

27 (6) "Committee" means the preassessment screening committee
28 established under RCW 90.48.368.

29 (7) "Covered vessel" means a tank vessel, cargo vessel, or
30 passenger vessel.

31 (8) "Department" means the department of ecology.

32 (9) "Director" means the director of the department of ecology.

33 (10) "Discharge" means any spilling, leaking, pumping, pouring,
34 emitting, emptying, or dumping.

35 (11)(a) "Facility" means any structure, group of structures, motor
36 vehicle, equipment, pipeline, or device, other than a vessel, located
37 on or near the navigable waters of the state that transfers oil in bulk

1 to or from (~~a tank~~) any vessel with an oil carrying capacity over two
2 hundred fifty barrels or pipeline, that is used for producing, storing,
3 handling, transferring, processing, or transporting oil in bulk.

4 (b) A facility does not include any: (i) Railroad car, motor
5 vehicle, or other rolling stock while transporting oil over the
6 highways or rail lines of this state; (ii) underground storage tank
7 regulated by the department or a local government under chapter 90.76
8 RCW; (iii) motor vehicle motor fuel outlet; (iv) facility that is
9 operated as part of an exempt agricultural activity as provided in RCW
10 82.04.330; or (v) marine fuel outlet that does not dispense more than
11 three thousand gallons of fuel to a ship that is not a covered vessel,
12 in a single transaction.

13 (12) "Fund" means the state coastal protection fund as provided in
14 RCW 90.48.390 and 90.48.400.

15 (13) "Having control over oil" shall include but not be limited to
16 any person using, storing, or transporting oil immediately prior to
17 entry of such oil into the waters of the state, and shall specifically
18 include carriers and bailees of such oil.

19 (14) "Marine facility" means any facility used for tank vessel
20 wharfage or anchorage, including any equipment used for the purpose of
21 handling or transferring oil in bulk to or from a tank vessel.

22 (15) "Navigable waters of the state" means those waters of the
23 state, and their adjoining shorelines, that are subject to the ebb and
24 flow of the tide and/or are presently used, have been used in the past,
25 or may be susceptible for use to transport intrastate, interstate, or
26 foreign commerce.

27 (16) "Necessary expenses" means the expenses incurred by the
28 department and assisting state agencies for (a) investigating the
29 source of the discharge; (b) investigating the extent of the
30 environmental damage caused by the discharge; (c) conducting actions
31 necessary to clean up the discharge; (d) conducting predamage and
32 damage assessment studies; and (e) enforcing the provisions of this
33 chapter and collecting for damages caused by a discharge.

34 (17) "Oil" or "oils" means naturally occurring liquid hydrocarbons
35 at atmospheric temperature and pressure coming from the earth,
36 including condensate and natural gasoline, and any fractionation
37 thereof, including, but not limited to, crude oil, petroleum, gasoline,
38 fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes

1 other than dredged spoil. Oil does not include any substance listed in
2 Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under
3 section 101(14) of the federal comprehensive environmental response,
4 compensation, and liability act of 1980, as amended by P.L. 99-499.

5 (18) "Offshore facility" means any facility located in, on, or
6 under any of the navigable waters of the state, but does not include a
7 facility any part of which is located in, on, or under any land of the
8 state, other than submerged land.

9 (19) "Onshore facility" means any facility any part of which is
10 located in, on, or under any land of the state, other than submerged
11 land, that because of its location, could reasonably be expected to
12 cause substantial harm to the environment by discharging oil into or on
13 the navigable waters of the state or the adjoining shorelines.

14 (20)(a) "Owner or operator" means (i) in the case of a vessel, any
15 person owning, operating, or chartering by demise, the vessel; (ii) in
16 the case of an onshore or offshore facility, any person owning or
17 operating the facility; and (iii) in the case of an abandoned vessel or
18 onshore or offshore facility, the person who owned or operated the
19 vessel or facility immediately before its abandonment.

20 (b) "Operator" does not include any person who owns the land
21 underlying a facility if the person is not involved in the operations
22 of the facility.

23 (21) "Passenger vessel" means a ship of three hundred or more gross
24 tons with a fuel capacity of at least six thousand gallons carrying
25 passengers for compensation.

26 (22) "Person" means any political subdivision, government agency,
27 municipality, industry, public or private corporation, copartnership,
28 association, firm, individual, or any other entity whatsoever.

29 (23) "Ship" means any boat, ship, vessel, barge, or other floating
30 craft of any kind.

31 (24) "Spill" means an unauthorized discharge of oil or hazardous
32 substances into the waters of the state.

33 (25) "Tank vessel" means a ship that is constructed or adapted to
34 carry, or that carries, oil in bulk as cargo or cargo residue, and
35 that:

36 (a) Operates on the waters of the state; or

37 (b) Transfers oil in a port or place subject to the jurisdiction of
38 this state.

1 (26) "Waters of the state" includes lakes, rivers, ponds, streams,
2 inland waters, underground water, salt waters, estuaries, tidal flats,
3 beaches and lands adjoining the seacoast of the state, sewers, and all
4 other surface waters and watercourses within the jurisdiction of the
5 state of Washington.

6 (27) "Worst case spill" means: (a) In the case of a vessel, a
7 spill of the entire cargo and fuel of the vessel complicated by adverse
8 weather conditions; and (b) in the case of an onshore or offshore
9 facility, the largest foreseeable spill in adverse weather conditions.

10 **Sec. 7.** RCW 88.46.160 and 2000 c 69 s 12 are each amended to read
11 as follows:

12 (1) Any person or facility conducting ship refueling and bunkering
13 operations, or the lightering of petroleum products, and any person or
14 facility transferring oil between an onshore or offshore facility and
15 a (~~tank~~) covered vessel shall:

16 (a) Deploy a boom prior to and during a transfer of oil to a
17 covered vessel or other vessel with an oil capacity over two hundred
18 fifty barrels when required by rules adopted under subsection (6) of
19 this section;

20 (b) Ensure that sufficient personnel are present during the
21 transfer, including compliance with standards for dual watch adopted by
22 rule under subsection (6) of this section; and

23 (c) Have containment and recovery equipment readily available for
24 deployment in the event of the discharge of oil into the waters of the
25 state and shall deploy the containment and recovery equipment in
26 accordance with standards adopted by the department.

27 (2) All persons conducting refueling, bunkering, or lightering
28 operations, or oil transfer operations shall be trained in the use and
29 deployment of oil spill containment and recovery equipment.

30 (3) The department shall adopt rules as necessary to carry out the
31 provisions of this section. The rules shall include standards for the
32 circumstances under which containment equipment should be deployed.

33 (4) An onshore or offshore facility shall include the procedures
34 used to contain and recover discharges in the facility's contingency
35 plan. It is the responsibility of the person providing bunkering,
36 refueling, or lightering services to provide any containment or
37 recovery equipment required under this section.

1 (5) This section does not apply to a person operating a ship for
2 personal pleasure or for recreational purposes.

3 (6) The department shall adopt by rule standards for the conditions
4 and circumstances under which: (a) An oil containment boom must be
5 deployed during an oil transfer subject to this section; and (b) dual
6 watch or additional personnel are required during the oil transfer.
7 The rules required by this subsection must be adopted by September 30,
8 2005.

9 **Sec. 8.** RCW 90.56.210 and 2000 c 69 s 20 are each amended to read
10 as follows:

11 (1) Each onshore and offshore facility shall have a contingency
12 plan for the containment and cleanup of oil spills from the facility
13 into the waters of the state and for the protection of fisheries and
14 wildlife, natural resources, and public and private property from such
15 spills. The department shall by rule adopt and periodically revise
16 standards for the preparation of contingency plans. The department
17 shall require contingency plans, at a minimum, to meet the following
18 standards:

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

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

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

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

32 (e) State the number, training preparedness, and fitness of all
33 dedicated, prepositioned personnel assigned to direct and implement the
34 plan;

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

1 (g) Describe important features of the surrounding environment,
2 including fish and wildlife habitat, environmentally and
3 archaeologically sensitive areas, and public facilities. The
4 departments of ecology, fish and wildlife, and natural resources, and
5 the office of archaeology and historic preservation, upon request,
6 shall provide information that they have available to assist in
7 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, marine mammals, and other wildlife, and
13 ensure that implementation of the plan does not pose unacceptable risks
14 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 promptly
18 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 during the transfer of oil,
26 including but not limited to, design and operation of a facility,
27 training of personnel, number of personnel, the use of spill prevention
28 and detection equipment, the time of the day, weather and current
29 conditions, vessel type and safety record, the amount of oil or
30 hazardous substances being transferred, and backup systems designed to
31 prevent a spill;

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

35 (n) If the department has adopted rules permitting the use of
36 dispersants, the circumstances, if any, and the manner for the
37 application of the dispersants in conformance with the department's
38 rules.

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

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

7 (ii) Offshore facilities.

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

13 (3)(a) The owner or operator of a facility shall submit the
14 contingency plan for the facility.

15 (b) A person who has contracted with a facility to provide
16 containment and cleanup services and who meets the standards
17 established pursuant to RCW 90.56.240, may submit the plan for any
18 facility for which the person is contractually obligated to provide
19 services. Subject to conditions imposed by the department, the person
20 may submit a single plan for more than one facility.

21 (4) A contingency plan prepared for an agency of the federal
22 government or another state that satisfies the requirements of this
23 section and rules adopted by the department may be accepted by the
24 department as a contingency plan under this section. The department
25 shall assure that to the greatest extent possible, requirements for
26 contingency plans under this section are consistent with the
27 requirements for contingency plans under federal law.

28 (5) In reviewing the contingency plans required by this section,
29 the department shall consider at least the following factors:

30 (a) The adequacy of containment and cleanup equipment, personnel,
31 communications equipment, notification procedures and call down lists,
32 response time, and logistical arrangements for coordination and
33 implementation of response efforts to remove oil spills promptly and
34 properly and to protect the environment;

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

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

1 (d) The existence of navigational hazards within the area covered
2 by the plan;

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

5 (f) The sensitivity of fisheries and wildlife and other natural
6 resources within the area covered by the plan;

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

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

12 (6) The department shall approve a contingency plan only if it
13 determines that the plan meets the requirements of this section and
14 that, if implemented, the plan is capable, in terms of personnel,
15 materials, and equipment, of removing oil promptly and properly and
16 minimizing any damage to the environment.

17 (7) The approval of the contingency plan shall be valid for five
18 years. Upon approval of a contingency plan, the department shall
19 provide to the person submitting the plan a statement indicating that
20 the plan has been approved, the facilities or vessels covered by the
21 plan, and other information the department determines should be
22 included.

23 (8) An owner or operator of a facility shall notify the department
24 in writing immediately of any significant change of which it is aware
25 affecting its contingency plan, including changes in any factor set
26 forth in this section or in rules adopted by the department. The
27 department may require the owner or operator to update a contingency
28 plan as a result of these changes.

29 (9) An owner or operator of a mobile transfer unit that transfers
30 oil exclusively by a motor vehicle or trailer may comply with this
31 section by demonstrating that the approved contingency plan of each
32 onshore facility at which the person transfers oil covers the
33 operations of the mobile transfer unit. The department may develop
34 reduced plan requirements for mobile transfer units that do not exceed
35 twenty thousand gallons in a single storage tank or compartment and
36 that do not transfer more than forty thousand gallons in a single
37 transfer. The reduced plan requirements must be commensurate with the

1 degree of spill risk posed by such transfers when compared with
2 transfers by other facilities subject to the planning requirements of
3 this section.

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

7 ~~((+10+))~~ (11) Approval of a contingency plan by the department does
8 not constitute an express assurance regarding the adequacy of the plan
9 nor constitute a defense to liability imposed under this chapter or
10 other state law.

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