

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5676

Chapter 78, Laws of 2005

59th Legislature
2005 Regular Session

OIL SPILL MANAGEMENT--SHELLFISH BEDS

EFFECTIVE DATE: 7/24/05

Passed by the Senate March 8, 2005
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 5, 2005
YEAS 93 NAYS 1

FRANK CHOPP

Speaker of the House of Representatives

Approved April 18, 2005.

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5676** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 18, 2005 - 2:02 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5676

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Poulsen, Kline, Shin, Spanel, Fraser and Kohl-Welles)

READ FIRST TIME 02/17/05.

1 AN ACT Relating to oil spill management; and amending RCW 90.56.210
2 and 88.46.060.

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

4 **Sec. 1.** RCW 90.56.210 and 2000 c 69 s 20 are each amended to read
5 as follows:

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

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

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

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

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

8 (e) State the number, training preparedness, and fitness of all
9 dedicated, prepositioned personnel assigned to direct and implement the
10 plan;

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

14 (g) Describe important features of the surrounding environment,
15 including fish and wildlife habitat, shellfish beds, environmentally
16 and archaeologically sensitive areas, and public facilities. The
17 departments of ecology, fish and wildlife, and natural resources, and
18 the office of archaeology and historic preservation, upon request,
19 shall provide information that they have available to assist in
20 preparing this description. The description of archaeologically
21 sensitive areas shall not be required to be included in a contingency
22 plan until it is reviewed and updated pursuant to subsection (9) of
23 this section;

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

28 (i) Provide arrangements for the prepositioning of oil spill
29 containment and cleanup equipment and trained personnel at strategic
30 locations from which they can be deployed to the spill site to promptly
31 and properly remove the spilled oil;

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

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

36 (l) Until a spill prevention plan has been submitted pursuant to
37 RCW 90.56.200, state the measures that have been taken to reduce the

1 likelihood that a spill will occur, including but not limited to,
2 design and operation of a facility, training of personnel, number of
3 personnel, and backup systems designed to prevent a spill;

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

7 (n) If the department has adopted rules permitting the use of
8 dispersants, the circumstances, if any, and the manner for the
9 application of the dispersants in conformance with the department's
10 rules.

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

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

17 (ii) Offshore facilities.

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

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

25 (b) A person who has contracted with a facility to provide
26 containment and cleanup services and who meets the standards
27 established pursuant to RCW 90.56.240, may submit the plan for any
28 facility for which the person is contractually obligated to provide
29 services. Subject to conditions imposed by the department, the person
30 may submit a single plan for more than one facility.

31 (4) A contingency plan prepared for an agency of the federal
32 government or another state that satisfies the requirements of this
33 section and rules adopted by the department may be accepted by the
34 department as a contingency plan under this section. The department
35 shall ((~~assure~~)) ensure that to the greatest extent possible,
36 requirements for contingency plans under this section are consistent
37 with the requirements for contingency plans under federal law.

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

3 (a) The adequacy of containment and cleanup equipment, personnel,
4 communications equipment, notification procedures and call down lists,
5 response time, and logistical arrangements for coordination and
6 implementation of response efforts to remove oil spills promptly and
7 properly and to protect the environment;

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

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

12 (d) The existence of navigational hazards within the area covered
13 by the plan;

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

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

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

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

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

28 (7) The approval of the contingency plan shall be valid for five
29 years. Upon approval of a contingency plan, the department shall
30 provide to the person submitting the plan a statement indicating that
31 the plan has been approved, the facilities or vessels covered by the
32 plan, and other information the department determines should be
33 included.

34 (8) An owner or operator of a facility shall notify the department
35 in writing immediately of any significant change of which it is aware
36 affecting its contingency plan, including changes in any factor set
37 forth in this section or in rules adopted by the department. The

1 department may require the owner or operator to update a contingency
2 plan as a result of these changes.

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

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

10 **Sec. 2.** RCW 88.46.060 and 2000 c 69 s 6 are each amended to read
11 as follows:

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

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

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

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

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

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

36 (f) Incorporate periodic training and drill programs to evaluate

1 whether personnel and equipment provided under the plan are in a state
2 of operational readiness at all times;

3 (g) Describe important features of the surrounding environment,
4 including fish and wildlife habitat, shellfish beds, environmentally
5 and archaeologically sensitive areas, and public facilities. The
6 departments of ecology, fish and wildlife, and natural resources, and
7 the office of archaeology and historic preservation, upon request,
8 shall provide information that they have available to assist in
9 preparing this description. (~~(If the office of marine safety adopted~~
10 ~~rules for contingency plans prior to July 1, 1992, the description of~~
11 ~~archaeologically sensitive areas shall only be required when the~~
12 ~~department revises the rules for contingency plans after July 1,~~
13 ~~1992.)) The description of archaeologically sensitive areas shall not
14 be required to be included in a contingency plan until it is reviewed
15 and updated pursuant to subsection (9) of this section;~~

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

20 (i) Establish guidelines for the use of equipment by the crew of a
21 vessel to minimize vessel damage, stop or reduce any spilling from the
22 vessel, and, only when appropriate and only when vessel safety is
23 assured, contain and clean up the spilled oil;

24 (j) Provide arrangements for the repositioning of spill
25 containment and cleanup equipment and trained personnel at strategic
26 locations from which they can be deployed to the spill site to promptly
27 and properly remove the spilled oil;

28 (k) Provide arrangements for enlisting the use of qualified and
29 trained cleanup personnel to implement the plan;

30 (l) Provide for disposal of recovered spilled oil in accordance
31 with local, state, and federal laws;

32 (m) Until a spill prevention plan has been submitted pursuant to
33 RCW 88.46.040, state the measures that have been taken to reduce the
34 likelihood that a spill will occur, including but not limited to,
35 design and operation of a vessel, training of personnel, number of
36 personnel, and backup systems designed to prevent a spill;

37 (n) State the amount and type of equipment available to respond to

1 a spill, where the equipment is located, and the extent to which other
2 contingency plans rely on the same equipment; and

3 (o) If the department has adopted rules permitting the use of
4 dispersants, the circumstances, if any, and the manner for the
5 application of the dispersants in conformance with the department's
6 rules.

7 (2)(a) The owner or operator of a tank vessel of three thousand
8 gross tons or more shall submit a contingency plan to the department
9 within six months after the department adopts rules establishing
10 standards for contingency plans under subsection (1) of this section.

11 (b) Contingency plans for all other covered vessels shall be
12 submitted to the department within eighteen months after the department
13 has adopted rules under subsection (1) of this section. The department
14 may adopt a schedule for submission of plans within the eighteen-month
15 period.

16 (3)(a) The owner or operator of a tank vessel or of the facilities
17 at which the vessel will be unloading its cargo, or a Washington state
18 nonprofit corporation established for the purpose of oil spill response
19 and contingency plan coverage and of which the owner or operator is a
20 member, shall submit the contingency plan for the tank vessel. Subject
21 to conditions imposed by the department, the owner or operator of a
22 facility may submit a single contingency plan for tank vessels of a
23 particular class that will be unloading cargo at the facility.

24 (b) The contingency plan for a cargo vessel or passenger vessel may
25 be submitted by the owner or operator of the cargo vessel or passenger
26 vessel, by the agent for the vessel resident in this state, or by a
27 Washington state nonprofit corporation established for the purpose of
28 oil spill response and contingency plan coverage and of which the owner
29 or operator is a member. Subject to conditions imposed by the
30 department, the owner, operator, or agent may submit a single
31 contingency plan for cargo vessels or passenger vessels of a particular
32 class.

33 (c) A person who has contracted with a covered vessel to provide
34 containment and cleanup services and who meets the standards
35 established pursuant to RCW 90.56.240, may submit the plan for any
36 covered vessel for which the person is contractually obligated to
37 provide services. Subject to conditions imposed by the department, the
38 person may submit a single plan for more than one covered vessel.

1 (4) A contingency plan prepared for an agency of the federal
2 government or another state that satisfies the requirements of this
3 section and rules adopted by the department may be accepted by the
4 department as a contingency plan under this section. The department
5 shall ((~~assure~~)) ensure that to the greatest extent possible,
6 requirements for contingency plans under this section are consistent
7 with the requirements for contingency plans under federal law.

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

10 (a) The adequacy of containment and cleanup equipment, personnel,
11 communications equipment, notification procedures and call down lists,
12 response time, and logistical arrangements for coordination and
13 implementation of response efforts to remove oil spills promptly and
14 properly and to protect the environment;

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

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

19 (d) The existence of navigational hazards within the area covered
20 by the plan;

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

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

25 (g) Relevant information on previous spills contained in on-scene
26 coordinator reports prepared by the director; and

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

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

35 (7) The approval of the contingency plan shall be valid for five
36 years. Upon approval of a contingency plan, the department shall
37 provide to the person submitting the plan a statement indicating that

1 the plan has been approved, the vessels covered by the plan, and other
2 information the department determines should be included.

3 (8) An owner or operator of a covered vessel shall notify the
4 department in writing immediately of any significant change of which it
5 is aware affecting its contingency plan, including changes in any
6 factor set forth in this section or in rules adopted by the department.
7 The department may require the owner or operator to update a
8 contingency plan as a result of these changes.

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

12 (10) Approval of a contingency plan by the department does not
13 constitute an express assurance regarding the adequacy of the plan nor
14 constitute a defense to liability imposed under this chapter or other
15 state law.

Passed by the Senate March 8, 2005.
Passed by the House April 5, 2005.
Approved by the Governor April 18, 2005.
Filed in Office of Secretary of State April 18, 2005.