

FINAL BILL REPORT

ESSB 5344

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Synopsis as Enacted

Brief Description: Concerning emergency response towing vessels.

Sponsors: Senate Committee on Environment, Water & Energy (originally sponsored by Senators Ranker, Swecker, Rockefeller, Marr, Hargrove, Pridemore, Fraser, Shin, McDermott and Kilmer).

Senate Committee on Environment, Water & Energy
House Committee on Ecology & Parks

Background: Certain "covered" vessels – oil tankers and large cargo and passenger vessels – must file contingency plans with the Department of Ecology (DOE) describing how they will contain and remediate potential oil spills. DOE may penalize covered vessels if they operate without an approved contingency plan or violate a plan's provisions.

The state has funded an emergency response tug at Neah Bay since 1999 to protect the Strait of Juan de Fuca and Washington's western coast from oil spills. The tug has assisted more than 40 vessels in distress.

Summary: By July 1, 2010, covered vessels transiting to or from a Washington port through the Strait of Juan de Fuca (Strait) must establish and fund an emergency response tug stationed at Neah Bay. The tug must be available to serve vessels in distress, including noncovered vessels, in the Strait and off of the state's western coast. It must also meet certain operating standards.

Covered vessels transiting no further west in the Strait than Victoria, British Columbia, are excluded from the requirement.

The requirement is met if covered vessels provide a requisite tug or the U.S. government implements protective measures that DOE determines to be substantially equivalent.

Contingency Plans. Covered vessels subject to the requirement must provide for a tug in their contingency plans by December 1, 2009. An initial contingency plan submitted after that date must demonstrate compliance.

Operating Standards. An emergency response tug must be:

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- able to be underway within 20 minutes of a decision to deploy;
- able to deploy at any time and safely manned to remain underway for at least 48 hours;
- capable, in severe weather conditions (i.e., sustained winds of 40 knots and waves of 12 to 18 feet), of making up to, stopping, holding, and towing a vessel of 180,000 metric dead weight tons, and holding position within 100 feet of a vessel;
- equipped with and maneuverable enough to use a ship anchor chain recovery hook and line throwing gun;
- capable of a bollard pull of at least 70 short tons; and
- equipped with damage control patching, vessel dewatering, air safety monitoring, and digital photography equipment.

Practice Drills. DOE may test tug adequacy through practice drills, which it may conduct without prior notice. Drills must emphasize ability to respond to a potentially worst-case vessel emergency scenario. "Vessel emergency" means a substantial threat of pollution originating from a covered vessel, including loss or serious degradation of propulsion, steering, means of navigation, primary electrical generating capability, and seakeeping capability.

DOE Contracting. DOE may contract with an emergency response tug to respond to a potential emergency or as a precautionary measure during severe storms. All DOE use must be paid from the State Oil Spill Response Account, subject to existing requirements that monies be spent only after appropriation and that DOE must make reasonable efforts to obtain response costs from responsible parties.

Deployment Reports. Covered vessels must submit reports to DOE regarding tug deployments, including photos, detailed incident descriptions, and actions taken to render assistance.

Umbrella Coverage Organizations: Legislative Intent; Notice to DOE. The tug requirement may be fulfilled by one or more private organizations or nonprofit cooperatives providing umbrella coverage to covered vessels. The Legislature encourages the maritime industry to identify or form a single organization allowing all covered vessels to equitably share costs. The Legislature finds that, given the broad variety of covered vessels, equitable cost sharing will likely mean that not all covered vessels will provide uniform funding. Any organization should consider multiple factors. Any operator believing that an organization does not equitably share costs may either contract directly with a tug or form or join an organization representing the appropriate maritime industry segment.

If an operator chooses not to join an umbrella organization, or finds that negotiations are not progressing adequately, the Legislature requests that the operator contact DOE and provide notice of their concern regarding the organization's failure to establish equitable cost-sharing. DOE will collect and maintain the notices, summarize reports received, and report summaries to the Legislature, upon request.

Umbrella Coverage Organizations: Cost Apportionment. Covered vessels (including oil tankers, tank barges, tug and oil barge combinations, cargo vessels, and passenger vessels) will negotiate equitable cost apportionment. Participants will provide progress reports to the

Legislature by October 31 and December 1, 2009, with available information regarding anticipated average annual cost, methodology for determining costs for each class of covered vessel, and any impediment to equitable cost apportionment. Factors for determining annual cost include crediting enhanced navigational or structural characteristics, appropriate limits for vessels frequently transiting the Strait, and current economic conditions. If covered vessels fail to achieve these goals or choose not to report outcomes, by December 1, 2009, DOE must deliver summaries to the Legislature of any operator reports regarding an umbrella organization's failure to establish equitable cost sharing.

DOE Discussions with British Columbia. DOE must initiate discussions with British Columbia to explore options for Washington and British Columbia to share marine response assets required under the act. DOE must report progress or outcomes to the Legislature by January 1, 2011.

Votes on Final Passage:

Senate	44	4	
House	74	23	(House amended)
Senate	39	4	(Senate concurred)

Effective: July 26, 2009.