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1997 Survey of Rhode Island Law: Legislation: Environmental Law. An Act Relating to Oil Pollution Control and Tank Vessel Safety

Jennifer L. Brooks

Roger Williams University School of Law

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Environmental Law. *An Act Relating to Oil Pollution Control and Tank Vessel Safety.* Provides that oil cannot be discharged into the waters, or upon the land in Rhode Island, except by a regulation or permit from the Director of the Department of Environmental Management. Provides also for the timely reporting of any event, including, but not limited to a spill or loss of cargo, which has occurred in the Rhode Island waters, and the establishment of a waterway safety committee on, or before, January 1, 1998. Requires specific towing-vessel equipment, and tank barge equipment, such as a double hull, or an escort towing vessel. Effective, January 1, 2001. 1997 R.I. Pub. Laws ch. 32.

This legislation (the Act) prohibits oil pollution and requires the use of double hull tank barges on all towing vessels that have tank vessels with a capacity of 7500 or more barrels.¹ The first portion of the Act, entitled Oil Pollution Control, recognizes that oil is an important energy source to the citizens of Rhode Island. However, the Act aims to prevent any negative impact that the discharge of oil may have on the public health, environment and economy of Rhode Island and its citizens.² In order to carry out these objectives, the Act empowers the Director of the Department of Environmental Management to promulgate rules and regulations for the transportation of oil on the waters and over the land in Rhode Island. The Act also requires that prior to the transfer of oil to or from a tank vessel, or oil barge, an oil discharge contingency plan is filed.³ In addition to preventing oil pollution, the Act prohibits the discharge of contaminated ballast water from a vessel into

1. R.I. Gen. Laws §§ 46-12.5.1-3, -12.6-10 (Supp. 1997). The Act amends title 46—Waters and Navigation—of the Rhode Island General Laws and adds chapters 12.5.1 and 12.6. 1997 R.I. Pub. Laws ch. 032, § 2. The Act defines “oil” as “crude, refined, or a petroleum by product . . . petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oil refuse.” R.I. Gen. Laws § 46-12.5.1-1(f). The Act defines “oil pollution” as “discharging, causing to be discharged, or permitting the discharge of oil into or upon the waters of this state . . . or to undertake any development which may result in the discharge of oil into the waters of the state.” *Id.* The Act defines “tank vessel” as “a vessel whose primary purpose is to carry oil or hazardous material and in the instance of a tank vessel under tow includes the towing vessel.” *Id.* § 46-12.6-3(8). The Act defines “tank barge” as “any tank vessel not equipped with the means of self propulsion.” *Id.*

2. *Id.* § 46-12.5.1-6(1).

3. *Id.* § 46-12.5.1-2(b), (c)(1).

Rhode Island waters unless it is for the safety of the vessel and no other alternative exists to ensure this safety.⁴

In the event that a discharge does occur, the Act requires the person in charge of the vessel to make a timely report to the Department of Environmental Management.⁵ The Act also imposes substantial civil penalties as an incentive for safely handling oil and preventing its discharge into the waters or onto the land.⁶

The second portion of the Act, entitled the Tank Vessel Safety Act, regulates the operation of the vessels that transport oil on Rhode Island's waters in order to prevent the release of this oil into the environment.⁷ Similar to the Oil Pollution Control chapter, the Tank Vessel Safety Chapter requires the master, owner, operator or agent of a tank vessel, or a tug boat that tows the tank vessel, to notify immediately the director of a spill or loss of cargo, or the threat of one.⁸ In order to promote waterway safety, the Act requires that the director set up the Rhode Island Port and Waterway Safety Committee. The role of the committee is to review all aspects of navigation and marine operation, and to make recommendations for safety improvements.⁹

Most importantly, the Act provides that by January 1, 2001, all tank barges which transport oil or hazardous materials on Rhode Island waters and have a capacity greater than 7,500 barrels, must have a double hull. Without satisfying these require-

4. *Id.* § 46-12.5.1-4(a), (b). The Act defines "contaminated ballast water" as "ballast water carried in uncleaned cargo tanks or mixed with oil in some other manner such that the discharge of such water would produce a visible sheen." *Id.* § 46-12.5.1-1(b).

5. *Id.* § 46-12.5.1-5.

6. *Id.* § 46-12.5.1-6(3). The director is responsible for establishing administrative penalties for the discharge of oil. *Id.* Factors that the director will consider are (1) "[t]he type of environment . . . (2) [t]he amount of oil spilled; (3) [t]he type of oil spilled; (4) [t]he toxicity . . . characteristics of the oil spilled and (5) [a]ny mitigating action that the vessel master . . . may have taken to stop or to control the discharge of oil." *Id.*

7. R.I. Gen. Laws § 46-12.6-2 (Supp. 1997).

8. *Id.* § 46-12.6-4(1), (2). A report should consist of "[t]he estimated amount of oil spilled; [t]he date, time and location of the event; [t]he weather conditions during the event; [t]he vessel operations at the time of the event; [t]he identity of any facilities and/or vessels involved in the event; [and a] description of any measures taken to prevent a recurrence of the event." *Id.*

9. *See id.* § 46-12.6-7. The committee will take into consideration elements such as the "placement and effectiveness of aids to navigation . . . small vessel congestion in shipping lanes . . . vessel to vessel communications." *Id.* § 46-12.6-7(1)(a)-(g).

ments, they must be accompanied by an escort towing vessel.¹⁰ Until that time, all single-hulled manned tank barges must have an operable anchor and either an emergency tow line or a barge retrieval device with a pick up capability on the towing vessel.¹¹ Finally, the Act provides that towing vessels which tow single hulled barges at a capacity of greater than 7500 barrels must be equipped with twin engines and twin screws. Otherwise, the towing vessels must be accompanied by an escort towing vessel of sufficient capacity.¹²

Jennifer L. Brooks

10. *Id.* § 46-12.6-10(1), (2).

11. *Id.* § 46-12.6-9(a)(1)-(3).

12. *Id.* § 46-12.6-8(a)(3). Other requirements include navigation equipment, a Differential Global Positioning Satellite system, security calls with other vessels in designated areas and a voyage plan consisting of "the type and volume of cargo transported; current charts for the route[;] . . . tide and current data . . . speed and estimated time of arrival." *Id.* § 46-12.6-8(c)(1)-(8).