

OIL RESPONDER ACT

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20.1801 Legislative findings.

Rapid response and immediate and decisive action are critical to oil spill removal or containment, just as with response to a natural disaster such as fire, cyclone or earthquake. In any of these circumstances responders must take immediate action based on very limited information, attacking the problem quickly if there is to be any realistic chance of mitigating the worst harm. Limited immunity for fire fighters has long been recognized because of these circumstances, and this bill extends similar protection to oil spill responders. Without similar immunity, the enormous financial risks and liability exposures associated with oil spill response will deter those persons who are not responsible for the initial spill, such as cleanup contractors, fishermen and barge owners from prompt aggressive cleanup, or from any response at all. The liability for damages resulting from the oil spill cleanup efforts falls on the party responsible for the discharge, not on the persons trying to help clean up or mitigate the damage.

History: 1993, PL 23-7.

20.1802 Legislative intent.

It is the intention of the Legislature of American Samoa to make American Samoa law consistent with new Federal oil spill legislation that provides limited immunity from liability for removal costs and damages for those persons responding to an oil spill or threat of an oil spill. The immunity applies if those activities are performed in a manner consistent with the Federal National Contingency Plan or at the direction of an on-site coordinator, Federal on-scene coordinator, appropriate Territorial official, or the Coast Guard. Since prompt and incisive action is often critical to the success of an oil spill cleanup or the prevention of an oil spill, actions which are substantially consistent with established plan or on-site or on-scene coordinator direction are deemed to fall within the scope of this act. It is further the intention of the Legislature that victims of oil damage will have a means of compensation. They may recover from the person responsible for the initial discharge or, where the responsible party is unidentified or unable to pay, from the Federal Oil Pollution Fund and any other applicable laws of American Samoa. In addition, immunity for responders is limited. It does not extend to actions for personal injury or wrongful death, or for actions that rise to the level of gross negligence or willful misconduct.

History: 1993, PL 23-7.

20.1803 Title.

This Act shall be known as the American Samoa Oil Spill Responder Act.

History: 1993, PL 23-7.

20.1804 Definitions.

As used in this chapter, unless the context clearly requires otherwise:

(1) "Damages" means damages of any kind for which liability may exist under the laws of American Samoa or the common law resulting from, arising out of, or related to the discharge or threatened of oil.

(2) "Discharge" means any emission (other than natural see page), intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping.

(3) "Federal on scene coordinator" means the federal official predesignated by the U.S. Environmental Protection Agency or the U.S. Coast Guard to coordinate and direct federal responses under Subpart D, or the official designated by the lead agency to coordinate and direct removal under Subpart E, of the National Contingency Plan.

(4) "National contingency plan" means the National Contingency Plan prepared and published under section 311(d) of the Federal Water Pollution Control Act (33 U.S.C. 1321(d), as amended by the Oil Pollution Act of 1990 (33 U.S.C. 2701), Pub. L. No. 101-380, 104 Stat. 484 (1990).

(5) "Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredged spoil.

(6) "Oil spill response organization" means an organization established for the primary purpose and activity of preventing or rendering care, assistance, equipment or advice in response to a discharge or threatened discharge of oil.

(7) "Person" means an individual, corporation, partnership, association, state, territory, municipality, commission, or political subdivision of a state or territory, or any interstate body.

(8) "Removal costs" means the costs of removal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident.

(9) "Responsible party" means a responsible party as defined under Section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701 (32), Pub. L. No. 101-380, 104 Stat. 484 (1990).

History: 1993, PL 23-7.

20.1805 Liability for persons responding to discharges of oil.

(a) Notwithstanding any other provision of law, a person (including but not limited to an oil spill response organization) is not liable under the laws of American Samoa or the common law to any person for removal costs, or damages and other claims and expenses which result from actions taken or omitted to be taken in the course of rendering care, assistance or advice consistent with the National Contingency Plan or as otherwise directed by the Federal on-scene coordinator or by the Territorial official with responsibility for oil spill response.

(b) Subsection (a) of 20.1805 does not apply:

(1) to a responsible party;

(2) with respect to personal injury or wrongful death; or

(3) if the person is grossly negligent or engages in willful misconduct in connection with the cleanup of a discharge of oil.

(c) A responsible party is liable for any removal costs and damages that another person (or oil spill response organization) is relieved of under Subsection (a) of Section 20.1805.

(d) Nothing in this section affects the liability of a responsible party for oil spill response under the laws of American Samoa.

History: 1993, PL 23-7.