

1 A bill to be entitled
 2 An act relating to removal of prohibited discharges;
 3 amending s. 376.09, F.S.; providing requirements for the
 4 removal of certain pollutant discharges; authorizing the
 5 use of dispersants and other spill-mitigating substances
 6 under specified conditions; requiring the Department of
 7 Environmental Protection to monitor certain concentrations
 8 and to make certain information available to the public;
 9 providing criteria for the adoption of specified rules by
 10 the department; requiring the department to submit a
 11 report to the Legislature; providing an effective date.

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 13 Be It Enacted by the Legislature of the State of Florida:

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 15 Section 1. Subsection (9) is added to section 376.09,
 16 Florida Statutes, to read:

17 376.09 Removal of prohibited discharges.—

18 (9) (a) The department shall require the use of a skimmer
 19 to remove discharges of oil that have entered the waters of the
 20 state. If the result of such use fails to meet the standards
 21 established by rule of the department for minimum acceptable
 22 effectiveness, the department may authorize the use of a
 23 dispersant or other spill-mitigating substance that meets the
 24 standards established by rule of the department for minimum
 25 acceptable effectiveness and maximum allowable toxicity if the
 26 department determines the adverse effect from the use of the
 27 dispersant or other spill-mitigating substance is less than the
 28 adverse effect from allowing the discharged oil to degrade by

29 natural processes.

30 (b) If a dispersant or other spill-mitigating substance is
 31 used, the department shall monitor the concentrations of the
 32 dispersant or substance pursuant to the Toxic Substance Control
 33 Act and the Clean Water Act, as appropriate. Information
 34 regarding concentrations of the dispersant or substance shall be
 35 made available to the public via the department's Internet
 36 website within 24 hours after each monitoring activity.

37 Section 2. (1) In adopting rules to establish standards
 38 for minimum acceptable effectiveness and maximum allowable
 39 toxicity of a dispersant or other spill-mitigating substance
 40 pursuant to s. 376.09(9), Florida Statutes, the Department of
 41 Environmental Protection shall, at a minimum, evaluate:

42 (a) The potential for the dispersant or substance, any
 43 individual component of the dispersant or substance, or any
 44 product resulting from degradation of the dispersant or
 45 substance to persist or accumulate in, or create or contribute
 46 to any short-term or long-term adverse effect on, any:

47 1. Marine, estuarine, or freshwater environment or
 48 ecosystem, including its surface, subsurface, and benthic
 49 communities.

50 2. Representative form of marine, coastal estuarine, or
 51 freshwater life, including aquatic and terrestrial species and
 52 birds.

53 3. Worker, volunteer, or other individual who is involved
 54 in handling, storing, transporting, applying, treating, or
 55 disposing of the dispersant or substance or waste containing the
 56 dispersant or substance or who may otherwise come into direct

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57 contact with the dispersant or substance or waste containing the
58 dispersant or substance before, during, or after the application
59 of the dispersant or substance.

60 4. Individual who is in or near an area in which the
61 dispersant or substance is being handled, stored, transported,
62 applied, treated, or disposed of or who may otherwise reasonably
63 be expected to be exposed to the dispersant or substance.

64 (b) The combination of the dispersant or substance and the
65 type of oil with which the dispersant or substance may
66 reasonably be expected to be combined.

67 (c) The efficacy and optimal condition for use of the
68 dispersant or substance under different conditions, including
69 the type of oil involved, the temperature and salinity of the
70 water over time, and the type of environment or ecosystem
71 affected, including, but not limited to, any benthic community,
72 beach, tidal flat, coral, seagrass, mangrove forest, rookery,
73 nursery, or other coastal habitat.

74 (d) The efficacy of the dispersant or substance at
75 different concentrations and the most effective application
76 rate.

77 (e) Whether the combination of the dispersant or substance
78 with a particular type of oil increases or decreases the
79 persistence, bioaccumulation potential, or toxicity relative to
80 the effect from the dispersant or substance or the type of oil
81 alone.

82 (f) The potential for components of the dispersant or
83 substance to persist or accumulate in the environment or create

84 or contribute to short-term and long-term adverse effects under
 85 any scale or manner of application.

86 (g) Whether and under what circumstances the use of the
 87 dispersant or substance would cause less harm to human health
 88 and the environment than responding to a discharge of oil
 89 without use of the dispersant or substance.

90 (h) The additive or synergistic effects of the dispersant
 91 or substance in combination with oil and other environmental
 92 factors and components.

93 (2) The department shall adopt rules for:

94 (a) Use of the most efficient physical removal technology
 95 and equipment, including skimming and suction vessels, based on
 96 the number of gallons of oil removed for every gallon of oil
 97 released.

98 (b) Timeframes for reporting an oil spill and for removal
 99 or remediation to begin following the report of an oil spill.

100 (c) Revising, waiving, or creating emergency exemptions to
 101 allow the state to accept clean-up assistance from other
 102 countries following an oil spill.

103 (3) The department shall submit a report that describes
 104 the evaluation of the data listed in this section and the
 105 proposed rules for implementing the provisions of s. 376.09(9),
 106 Florida Statutes, to the President of the Senate and the Speaker
 107 of the House of Representatives no later than January 1, 2012.

108 Section 3. This act shall take effect July 1, 2011.