
HOUSE BILL 2120

State of Washington

58th Legislature

2003 Regular Session

By Representative Cooper

Read first time 02/26/2003. Referred to Committee on Fisheries,
Ecology & Parks.

1 AN ACT Relating to the definition of a covered vessel; and amending
2 RCW 88.40.011 and 88.46.010.

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

4 **Sec. 1.** RCW 88.40.011 and 2000 c 69 s 30 are each amended to read
5 as follows:

6 (~~Unless the context clearly requires otherwise,~~) The definitions
7 in this section apply throughout this chapter unless the context
8 clearly requires otherwise.

9 (1) "Cargo vessel" means a self-propelled ship in commerce, other
10 than a tank vessel or a passenger vessel, of three hundred or more
11 gross tons, including but not limited to, commercial fish processing
12 vessels and freighters.

13 (2) "Bulk" means material that is stored or transported in a loose,
14 unpackaged liquid, powder, or granular form capable of being conveyed
15 by a pipe, bucket, chute, or belt system.

16 (3) "Covered vessel" means a tank vessel, cargo vessel, or
17 passenger vessel with a capacity of over two hundred fifty barrels of
18 fuel.

19 (4) "Department" means the department of ecology.

1 (5) "Director" means the director of the department of ecology.

2 (6)(a) "Facility" means any structure, group of structures,
3 equipment, pipeline, or device, other than a vessel, located on or near
4 the navigable waters of the state that transfers oil in bulk to or from
5 a (~~(tank)~~) covered vessel or pipeline, that is used for producing,
6 storing, handling, transferring, processing, or transporting oil in
7 bulk.

8 (b) A facility does not include any: (i) Railroad car, motor
9 vehicle, or other rolling stock while transporting oil over the
10 highways or rail lines of this state; (ii) retail motor vehicle motor
11 fuel outlet; (iii) facility that is operated as part of an exempt
12 agricultural activity as provided in RCW 82.04.330; (iv) underground
13 storage tank regulated by the department or a local government under
14 chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense
15 more than three thousand gallons of fuel to a ship that is not a
16 covered vessel, in a single transaction.

17 (7) "Hazardous substances" means any substance listed in Table
18 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section
19 101(14) of the federal comprehensive environmental response,
20 compensation, and liability act of 1980, as amended by P.L. 99-499.
21 The following are not hazardous substances for purposes of this
22 chapter:

23 (a) Wastes listed as F001 through F028 in Table 302.4; and

24 (b) Wastes listed as K001 through K136 in Table 302.4.

25 (8) "Inland barge" means any barge operating on the waters of the
26 state and certified by the coast guard as an inland barge.

27 (9) "Navigable waters of the state" means those waters of the
28 state, and their adjoining shorelines, that are subject to the ebb and
29 flow of the tide and/or are presently used, have been used in the past,
30 or may be susceptible for use to transport intrastate, interstate, or
31 foreign commerce.

32 (10) "Oil" or "oils" means any naturally occurring liquid
33 hydrocarbons at atmospheric temperature and pressure coming from the
34 earth, including condensate and natural gasoline, and any fractionation
35 thereof, including, but not limited to, crude oil, petroleum, gasoline,
36 fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes
37 other than dredged spoil. Oil does not include any substance listed in

1 Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under
2 section 101(14) of the federal comprehensive environmental response,
3 compensation, and liability act of 1980, as amended by P.L. 99-499.

4 (11) "Offshore facility" means any facility located in, on, or
5 under any of the navigable waters of the state, but does not include a
6 facility any part of which is located in, on, or under any land of the
7 state, other than submerged land.

8 (12) "Onshore facility" means any facility any part of which is
9 located in, on, or under any land of the state, other than submerged
10 land, that because of its location, could reasonably be expected to
11 cause substantial harm to the environment by discharging oil into or on
12 the navigable waters of the state or the adjoining shorelines.

13 (13)(a) "Owner or operator" means (i) in the case of a vessel, any
14 person owning, operating, or chartering by demise, the vessel; (ii) in
15 the case of an onshore or offshore facility, any person owning or
16 operating the facility; and (iii) in the case of an abandoned vessel or
17 onshore or offshore facility, the person who owned or operated the
18 vessel or facility immediately before its abandonment.

19 (b) "Operator" does not include any person who owns the land
20 underlying a facility if the person is not involved in the operations
21 of the facility.

22 (14) "Passenger vessel" means a ship of three hundred or more gross
23 tons with a fuel capacity of at least six thousand gallons carrying
24 passengers for compensation.

25 (15) "Ship" means any boat, ship, vessel, barge, or other floating
26 craft of any kind.

27 (16) "Spill" means an unauthorized discharge of oil into the waters
28 of the state.

29 (17) "Tank vessel" means a ship that is constructed or adapted to
30 carry, or that carries, oil in bulk as cargo or cargo residue, and
31 that:

32 (a) Operates on the waters of the state; or

33 (b) Transfers oil in a port or place subject to the jurisdiction of
34 this state.

35 (18) "Waters of the state" includes lakes, rivers, ponds, streams,
36 inland waters, underground water, salt waters, estuaries, tidal flats,
37 beaches and lands adjoining the seacoast of the state, sewers, and all

1 other surface waters and watercourses within the jurisdiction of the
2 state of Washington.

3 **Sec. 2.** RCW 88.46.010 and 2000 c 69 s 1 are each amended to read
4 as follows:

5 (~~Unless the context clearly requires otherwise,~~) The definitions
6 in this section apply throughout this chapter unless the context
7 clearly requires otherwise.

8 (1) "Best achievable protection" means the highest level of
9 protection that can be achieved through the use of the best achievable
10 technology and those staffing levels, training procedures, and
11 operational methods that provide the greatest degree of protection
12 achievable. The director's determination of best achievable protection
13 shall be guided by the critical need to protect the state's natural
14 resources and waters, while considering (a) the additional protection
15 provided by the measures; (b) the technological achievability of the
16 measures; and (c) the cost of the measures.

17 (2) "Best achievable technology" means the technology that provides
18 the greatest degree of protection taking into consideration (a)
19 processes that are being developed, or could feasibly be developed,
20 given overall reasonable expenditures on research and development, and
21 (b) processes that are currently in use. In determining what is best
22 achievable technology, the director shall consider the effectiveness,
23 engineering feasibility, and commercial availability of the technology.

24 (3) "Cargo vessel" means a self-propelled ship in commerce, other
25 than a tank vessel or a passenger vessel, of three hundred or more
26 gross tons, including but not limited to, commercial fish processing
27 vessels and freighters.

28 (4) "Bulk" means material that is stored or transported in a loose,
29 unpackaged liquid, powder, or granular form capable of being conveyed
30 by a pipe, bucket, chute, or belt system.

31 (5) "Covered vessel" means a tank vessel, cargo vessel, or
32 passenger vessel with a capacity of over two hundred fifty barrels of
33 fuel.

34 (6) "Department" means the department of ecology.

35 (7) "Director" means the director of the department of ecology.

36 (8) "Discharge" means any spilling, leaking, pumping, pouring,
37 emitting, emptying, or dumping.

1 (9)(a) "Facility" means any structure, group of structures,
2 equipment, pipeline, or device, other than a vessel, located on or near
3 the navigable waters of the state that transfers oil in bulk to or from
4 a (~~tank~~) covered vessel or pipeline, that is used for producing,
5 storing, handling, transferring, processing, or transporting oil in
6 bulk.

7 (b) A facility does not include any: (i) Railroad car, motor
8 vehicle, or other rolling stock while transporting oil over the
9 highways or rail lines of this state; (ii) retail motor vehicle motor
10 fuel outlet; (iii) facility that is operated as part of an exempt
11 agricultural activity as provided in RCW 82.04.330; (iv) underground
12 storage tank regulated by the department or a local government under
13 chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense
14 more than three thousand gallons of fuel to a ship that is not a
15 covered vessel, in a single transaction.

16 (10) "Marine facility" means any facility used for tank vessel
17 wharfage or anchorage, including any equipment used for the purpose of
18 handling or transferring oil in bulk to or from a tank vessel.

19 (11) "Navigable waters of the state" means those waters of the
20 state, and their adjoining shorelines, that are subject to the ebb and
21 flow of the tide and/or are presently used, have been used in the past,
22 or may be susceptible for use to transport intrastate, interstate, or
23 foreign commerce.

24 (12) "Oil" or "oils" means any naturally occurring liquid
25 hydrocarbons at atmospheric temperature and pressure coming from the
26 earth, including condensate and natural gasoline, and any fractionation
27 thereof, including, but not limited to, crude oil, petroleum, gasoline,
28 fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes
29 other than dredged spoil. Oil does not include any substance listed in
30 Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under
31 section 101(14) of the federal comprehensive environmental response,
32 compensation, and liability act of 1980, as amended by P.L. 99-499.

33 (13) "Offshore facility" means any facility located in, on, or
34 under any of the navigable waters of the state, but does not include a
35 facility any part of which is located in, on, or under any land of the
36 state, other than submerged land. "Offshore facility" does not include
37 a marine facility.

1 (14) "Onshore facility" means any facility any part of which is
2 located in, on, or under any land of the state, other than submerged
3 land, that because of its location, could reasonably be expected to
4 cause substantial harm to the environment by discharging oil into or on
5 the navigable waters of the state or the adjoining shorelines.

6 (15)(a) "Owner or operator" means (i) in the case of a vessel, any
7 person owning, operating, or chartering by demise, the vessel; (ii) in
8 the case of an onshore or offshore facility, any person owning or
9 operating the facility; and (iii) in the case of an abandoned vessel or
10 onshore or offshore facility, the person who owned or operated the
11 vessel or facility immediately before its abandonment.

12 (b) "Operator" does not include any person who owns the land
13 underlying a facility if the person is not involved in the operations
14 of the facility.

15 (16) "Passenger vessel" means a ship of three hundred or more gross
16 tons with a fuel capacity of at least six thousand gallons carrying
17 passengers for compensation.

18 (17) "Person" means any political subdivision, government agency,
19 municipality, industry, public or private corporation, copartnership,
20 association, firm, individual, or any other entity whatsoever.

21 (18) "Ship" means any boat, ship, vessel, barge, or other floating
22 craft of any kind.

23 (19) "Spill" means an unauthorized discharge of oil into the waters
24 of the state.

25 (20) "Tank vessel" means a ship that is constructed or adapted to
26 carry, or that carries, oil in bulk as cargo or cargo residue, and
27 that:

28 (a) Operates on the waters of the state; or

29 (b) Transfers oil in a port or place subject to the jurisdiction of
30 this state.

31 (21) "Waters of the state" includes lakes, rivers, ponds, streams,
32 inland waters, underground water, salt waters, estuaries, tidal flats,
33 beaches and lands adjoining the seacoast of the state, sewers, and all
34 other surface waters and watercourses within the jurisdiction of the
35 state of Washington.

36 (22) "Worst case spill" means: (a) In the case of a vessel, a
37 spill of the entire cargo and fuel of the vessel complicated by adverse

1 weather conditions; and (b) in the case of an onshore or offshore
2 facility, the largest foreseeable spill in adverse weather conditions.

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