

SENATE BILL REPORT

SB 6576

As of March 5, 2014

Title: An act relating to oil spill prevention and response.

Brief Description: Concerning oil spill prevention and response.

Sponsors: Senators McCoy, Rolfes, Chase, Billig and Kline.

Brief History:

Committee Activity: Energy, Environment & Telecommunications:

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Staff: Jan Odano (786-7486)

Background: The Legislature enacted oil spill prevention and response measures in 1990 to promote the safety of marine transportation and protect state waters from oil spills. The Director of the Department of Ecology (Ecology) has the primary authority to oversee prevention, abatement, response, containment, and clean-up efforts for oil spills in state waters. The oil spill program requires oil spill prevention plans, contingency response plans, and documentation of financial responsibility for vessels and facilities that may discharge oil into navigable waters.

Owners and operators of onshore and offshore facilities must prepare and submit oil spill contingency and prevention plans. The contingency plan must meet standards identified by Ecology and provide for the containment and cleanup of oil spills into the waters of the state. The plans are valid for five years and may be combined into a single document. A facility is, with a few exceptions, a structure, a pipeline, a device, or equipment located on or near state waters that transfers oil to or from a vessel or pipeline. All covered vessels and facilities must have an oil spill contingency plan on file with Ecology. The contingency plan is a legally binding agreement on the party submitting the plan. A covered vessel is a tank vessel, cargo vessel weighing over 30 gross tons, or passenger vessel weighing over 300 gross tons. A tank vessel is a ship that is constructed to carry bulk oil as cargo.

As part of certain contingency plans, geographic response plans (GRPs) must be developed. GRPs are site-specific strategies to respond to a spill of oil or oil product on water. GRPs address the risk of spills from ships, refineries and facilities, pipelines, rail, dams, highways, and other transportation-related sources. The purpose of a GRP is to provide guidance to a

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responder in the event of a spill, to ensure the response is fast and effective, and to protect sensitive resources. GRPs are developed in partnership with Ecology, the Oregon Department of Environmental Quality, the U.S. Coast Guard, and the U.S. Environmental Protection Agency (EPA). Currently there are 34 GRPs that cover all coastal and some inland water areas.

The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) contains the federal government's framework and operative requirements for responding to an oil spill and releases of hazardous substances. The NCP regulations are enforceable through the Clean Water Act; the Comprehensive Environmental Response, Compensation, and Liability Act; and the Oil Pollution Act.

Federal jurisdiction for oil spill prevention and preparedness is determined by the potential sources of oil spills, e.g., vessels, facilities, and pipelines. For example, the EPA has jurisdiction over onshore, non-transportation facilities, whereas the United States Coast Guard and Department of Transportation (USDOT) have jurisdiction over onshore transportation facilities and deepwater ports. For offshore pipelines, transmission lines, and inland pipelines, the Pipeline and Materials Hazardous Safety Administration within USDOT has jurisdiction.

Current law provides for an oil spill administration tax and an oil spill response tax. These taxes are imposed when marine terminals in Washington receive crude oil or petroleum products from waterborne vessels or barges operating in the state's waters.

The oil spill administration tax is \$0.04 tax on each 42 gallon barrel with the receipts funding oil spill prevention, response, and restoration programs as well as administrative costs and collection costs.

The oil spill response tax is \$0.01 per barrel tax which funds the state response to those oil spills involving clean-up costs in excess of \$50,000. The oil spill response tax is deposited into the oil spill prevention account and the tax is suspended when that account's balance reaches \$9 million.

The two oil spill taxes currently do not apply when crude oil is received at an oil terminal from a railroad tank car.

Summary of Bill: Ecology must post a quarterly report on the terrestrial and maritime transportation of oil on its website. The report must include information currently collected by Ecology under existing programs related to oil transportation and spills, as well as information collected by federal agencies. In addition, Ecology's report must include information to be submitted by oil refineries and certain oil storage, handling, and transfer facilities about their weekly arrivals and departures of oil. The information submitted to Ecology by oil refineries and other facilities must include the following:

- the number of tank vessels and rail cars that transferred or delivered oil at the facility each week;
- the volume and type of oil that arrived at the facility and its mode of arrival and departure; and
- the route taken by oil arriving at the facility by rail car.

Facilities must submit this information to Ecology by February 1, May 1, August 1, and November 1 of each year, beginning November 1, 2014. Prior to posting the oil transportation report online, Ecology must aggregate information if such a disclosure would result in unfair competitive disadvantage to facility owners or operators. Ecology is prohibited from making public certain facility-specific, unaggregated information.

Washington State University (WSU), in consultation with Ecology and the Military Department, must conduct a study of the state's preparedness and capacity to recover from an accident involving railcars transporting oil. The study must contain several components, including the following:

- an examination of projected future volumes of oil transportation by rail;
- a preliminary identification of communities at greatest risk of an oil train accident; and
- the potential impacts to transportation networks and critical infrastructure from an oil train accident.

WSU must report its findings to the Legislature by December 1, 2014.

Ecology must provide to the Legislature by December 1, 2014, a review of all state and federal GRPs as needed in required contingency spill prevention and response plans. Beginning December 31, 2015, through December 31, 2021, Ecology must provide annual updates on the progress made toward completing the GRPs. Ecology must contract with eligible third parties when practicable, to ensure at least 50 percent of the GRPs are completed by December 1, 2016.

Ecology must make available on its website descriptions of spill prevention and contingency programs, responses to public concerns regarding spills, and information and updates on efforts to clean up a spill. Ecology may not put specific plan elements or confidential information on its website.

Ecology and the Utilities and Transportation Commission must hold a symposium on emergency spill prevention and response activities for oil and hazardous materials transported in the Pacific Northwest region. The symposium must address cooperative emergency spill prevention and response activities between shared borders, expected risks posed by increased transport within the next three to five years of Canadian crude oil or hazardous materials, changes in transportation methods, and consideration of new or emerging technologies to make transport safer.

Ecology must provide an analysis of transporting bulk crude oil on the waters of the state. The analysis must include the following:

- the capacity to address risks posed by increased water-borne traffic shipping crude oil in bulk as freight;
- weaknesses and gaps in hazardous spill prevention and response programs, including identification of incomplete or weak programs, with a focus on Grays Harbor and the Columbia River;

- an assessment of the costs and benefits of adopting tug escort requirements for oil laden tankers on the waters of Grays Harbor and the lower Columbia River, and of modifying tug escort requirements for oil laden tankers on Puget Sound; and
- a status report of federal, state, and local waterborne bulk crude oil spill prevention and preparedness.

Ecology must develop a grant program for emergency first responders to meet the needs for oil and hazardous materials spill prevention and response plans. The grants must be reviewed in consultation with emergency first responders, and representatives from the oil, rail, and bulk hazardous materials industry. Grants must be prioritized for applicants from areas where oil or other hazardous materials are transferred from one mode of transportation to another. In addition, grants must be coordinated to maximize currently existing equipment and resources.

The oil spill response tax and the oil spill administration tax are imposed on the privilege of receiving crude oil at a bulk oil terminal within this state from a rail tank car. A bulk oil terminal is defined in the bill as any kind of facility, other than a waterborne vessel, that is used to transfer crude oil to or from a rail tank car. A tank car is defined to mean a rail car with a body consisting of a tank for transporting liquids.

Appropriation: None.

Fiscal Note: Requested on February 26, 2014.
[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.