

CERTIFICATION OF ENROLLMENT

SENATE BILL 5552

Chapter 347, Laws of 2007

60th Legislature
2007 Regular Session

DISCHARGES OF OIL

EFFECTIVE DATE: 07/22/07

Passed by the Senate April 17, 2007
YEAS 35 NAYS 12

BRAD OWEN

President of the Senate

Passed by the House April 5, 2007
YEAS 69 NAYS 28

FRANK CHOPP

Speaker of the House of Representatives

Approved May 7, 2007, 10:00 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5552** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 8, 2007

**Secretary of State
State of Washington**

SENATE BILL 5552

AS AMENDED BY THE HOUSE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senators Rockefeller, Spanel, Regala, Kohl-Welles, Kline and Oemig

Read first time 01/24/2007. Referred to Committee on Water, Energy & Telecommunications.

1 AN ACT Relating to discharges of oil; amending RCW 90.48.366,
2 90.48.368, 90.56.330, 88.40.011, 88.46.010, and 90.56.010; and
3 prescribing penalties.

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

5 **Sec. 1.** RCW 90.48.366 and 1994 sp.s. c 9 s 855 are each amended to
6 read as follows:

7 ((By July 1, 1991,)) The department, in consultation with the
8 departments of ((fisheries,)) fish and wildlife((,)) and natural
9 resources, and the parks and recreation commission, shall adopt rules
10 establishing a compensation schedule for the discharge of oil in
11 violation of this chapter and chapter 90.56 RCW. The amount of
12 compensation assessed under this schedule shall be no less than one
13 dollar per gallon of oil spilled and no greater than ((fifty)) one
14 hundred dollars per gallon of oil spilled. The compensation schedule
15 shall reflect adequate compensation for unquantifiable damages or for
16 damages not quantifiable at reasonable cost for any adverse
17 environmental, recreational, aesthetic, or other effects caused by the
18 spill and shall take into account:

1 (1) Characteristics of any oil spilled, such as toxicity,
2 dispersibility, solubility, and persistence, that may affect the
3 severity of the effects on the receiving environment, living organisms,
4 and recreational and aesthetic resources;

5 (2) The sensitivity of the affected area as determined by such
6 factors as: (a) The location of the spill; (b) habitat and living
7 resource sensitivity; (c) seasonal distribution or sensitivity of
8 living resources; (d) areas of recreational use or aesthetic
9 importance; (e) the proximity of the spill to important habitats for
10 birds, aquatic mammals, fish, or to species listed as threatened or
11 endangered under state or federal law; (f) significant archaeological
12 resources as determined by the ((office)) department of archaeology and
13 historic preservation; and (g) other areas of special ecological or
14 recreational importance, as determined by the department((. —If the
15 department has adopted rules for a compensation table prior to July 1,
16 1992, the sensitivity of significant archaeological resources shall
17 only be included among factors to be used in the compensation table
18 when the department revises the rules for the compensation table after
19 July 1, 1992)); and

20 (3) Actions taken by the party who spilled oil or any party liable
21 for the spill that: (a) Demonstrate a recognition and affirmative
22 acceptance of responsibility for the spill, such as the immediate
23 removal of oil and the amount of oil removed from the environment; or
24 (b) enhance or impede the detection of the spill, the determination of
25 the quantity of oil spilled, or the extent of damage, including the
26 unauthorized removal of evidence such as injured fish or wildlife.

27 **Sec. 2.** RCW 90.48.368 and 1994 c 264 s 92 are each amended to read
28 as follows:

29 (1) The department shall adopt rules establishing a formal process
30 for preassessment screening of damages resulting from spills to the
31 waters of the state causing the death of, or injury to, fish, animals,
32 vegetation, or other resources of the state. The rules shall specify
33 the conditions under which the department shall convene a preassessment
34 screening committee. The preassessment screening process shall occur
35 concurrently with reconnaissance activities. The committee shall use
36 information obtained from reconnaissance activities as well as any
37 other relevant resource and resource use information. For each

1 incident, the committee shall determine whether a damage assessment
2 investigation should be conducted, or, whether the compensation
3 schedule authorized under RCW 90.48.366 and 90.48.367 should be used to
4 assess damages. The committee may accept restoration or enhancement
5 projects or studies proposed by the liable parties in lieu of some or
6 all of: (a) The compensation schedule authorized under RCW 90.48.366
7 and 90.48.367; or (b) the claims from damage assessment studies
8 authorized under RCW 90.48.142.

9 (2) A preassessment screening committee may consist of
10 representatives of the departments of ecology, archaeology and historic
11 preservation, fish and wildlife, health, and natural resources,
12 (~~social and health services, and emergency management,~~) and the parks
13 and recreation commission, (~~the office of archaeology and historic~~
14 ~~preservation,~~) as well as other federal, state, and local agencies,
15 and tribal and local governments whose presence would enhance the
16 reconnaissance or damage assessment aspects of spill response. The
17 department shall chair the committee and determine which
18 representatives will be needed on a spill-by-spill basis.

19 (3) The committee shall consider the following factors when
20 determining whether a damage assessment study authorized under RCW
21 90.48.367 should be conducted: (a) Whether evidence from
22 reconnaissance investigations suggests that injury has occurred or is
23 likely to occur to publicly owned resources; (b) the potential loss in
24 services provided by resources injured or likely to be injured and the
25 expected value of the potential loss; (c) whether a restoration project
26 to return lost services is technically feasible; (d) the accuracy of
27 damage quantification methods that could be used and the anticipated
28 cost-effectiveness of applying each method; (e) the extent to which
29 likely injury to resources can be verified with available
30 quantification methods; and (f) whether the injury, once quantified,
31 can be translated into monetary values with sufficient precision or
32 accuracy.

33 (4) When a resource damage assessment is required for an oil spill
34 in the (~~navigable~~) waters of the state, as defined in RCW 90.56.010,
35 the state trustee agency responsible for the resource and habitat
36 damaged shall conduct the damage assessment and pursue all appropriate
37 remedies with the responsible party.

1 (5) Oil spill damage assessment studies authorized under RCW
2 90.48.367 may only be conducted if the committee, after considering the
3 factors enumerated in subsection (3) of this section, determines that
4 the damages to be investigated are quantifiable at a reasonable cost
5 and that proposed assessment studies are clearly linked to
6 quantification of the damages incurred.

7 (6) As new information becomes available, the committee may
8 reevaluate the scope of damage assessment using the factors listed in
9 subsection (3) of this section and may reduce or expand the scope of
10 damage assessment as appropriate.

11 (7) The preassessment screening process shall provide for the
12 ongoing involvement of persons who may be liable for damages resulting
13 from an oil spill. The department may negotiate with a potentially
14 liable party to perform restoration and enhancement projects or studies
15 which may substitute for all or part of the compensation authorized
16 under RCW 90.48.366 and 90.48.367 or the damage assessment studies
17 authorized under RCW 90.48.367.

18 (8) For the purposes of this section and RCW 90.48.367, the cost of
19 a damage assessment shall be considered "reasonable" when the
20 anticipated cost of the damage assessment is expected to be less than
21 the anticipated damage that may have occurred or may occur.

22 **Sec. 3.** RCW 90.56.330 and 1992 c 73 s 36 are each amended to read
23 as follows:

24 Except as otherwise provided in RCW 90.56.390, any person who
25 negligently discharges oil, or causes or permits the entry of the same,
26 shall incur, in addition to any other penalty as provided by law, a
27 penalty in an amount of up to (~~twenty~~) one hundred thousand dollars
28 for every such violation, and for each day the spill poses risks to the
29 environment as determined by the director. Any person who
30 intentionally or recklessly discharges or causes or permits the entry
31 of oil into the waters of the state shall incur, in addition to any
32 other penalty authorized by law, a penalty of up to (~~one~~) five
33 hundred thousand dollars for every such violation and for each day the
34 spill poses risks to the environment as determined by the director.
35 The amount of the penalty shall be determined by the director after
36 taking into consideration the size of the business of the violator, the
37 gravity of the violation, the previous record of the violator in

1 complying, or failing to comply, with the provisions of chapter 90.48
2 RCW, the speed and thoroughness of the collection and removal of the
3 oil, and such other considerations as the director deems appropriate.
4 Every act of commission or omission which procures, aids or abets in
5 the violation shall be considered a violation under the provisions of
6 this section and subject to the penalty herein provided for. The
7 penalty (~~herein~~) provided for in this section shall be imposed
8 pursuant to RCW 43.21B.300.

9 **Sec. 4.** RCW 88.40.011 and 2003 c 56 s 2 are each amended to read
10 as follows:

11 The definitions in this section apply throughout this chapter
12 unless the context clearly requires otherwise.

13 (1) "Barge" means a vessel that is not self-propelled.

14 (2) "Cargo vessel" means a self-propelled ship in commerce, other
15 than a tank vessel, fishing vessel, or a passenger vessel, of three
16 hundred or more gross tons.

17 (3) "Bulk" means material that is stored or transported in a loose,
18 unpackaged liquid, powder, or granular form capable of being conveyed
19 by a pipe, bucket, chute, or belt system.

20 (4) "Covered vessel" means a tank vessel, cargo vessel, or
21 passenger vessel.

22 (5) "Department" means the department of ecology.

23 (6) "Director" means the director of the department of ecology.

24 (7)(a) "Facility" means any structure, group of structures,
25 equipment, pipeline, or device, other than a vessel, located on or near
26 the navigable waters of the state that transfers oil in bulk to or from
27 any vessel with an oil carrying capacity over two hundred fifty barrels
28 or pipeline, that is used for producing, storing, handling,
29 transferring, processing, or transporting oil in bulk.

30 (b) A facility does not include any: (i) Railroad car, motor
31 vehicle, or other rolling stock while transporting oil over the
32 highways or rail lines of this state; (ii) retail motor vehicle motor
33 fuel outlet; (iii) facility that is operated as part of an exempt
34 agricultural activity as provided in RCW 82.04.330; (iv) underground
35 storage tank regulated by the department or a local government under
36 chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense

1 more than three thousand gallons of fuel to a ship that is not a
2 covered vessel, in a single transaction.

3 (8) "Fishing vessel" means a self-propelled commercial vessel of
4 three hundred or more gross tons that is used for catching or
5 processing fish.

6 (9) "Gross tons" means tonnage as determined by the United States
7 coast guard under 33 C.F.R. section 138.30.

8 (10) "Hazardous substances" means any substance listed as of March
9 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under section
10 101(14) of the federal comprehensive environmental response,
11 compensation, and liability act of 1980, as amended by P.L. 99-499.
12 The following are not hazardous substances for purposes of this
13 chapter:

- 14 (a) Wastes listed as F001 through F028 in Table 302.4; and
- 15 (b) Wastes listed as K001 through K136 in Table 302.4.

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

21 (12) "Oil" or "oils" means oil of any ((naturally occurring)) kind
22 that is liquid ((hydrocarbons)) at atmospheric temperature ((and
23 pressure coming from the earth, including condensate and natural
24 gasoline,)) and any fractionation thereof, including, but not limited
25 to, crude oil, petroleum, gasoline, fuel oil, diesel oil, biological
26 oils and blends, oil sludge, oil refuse, and oil mixed with wastes
27 other than dredged spoil. Oil does not include any substance listed as
28 of March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under
29 section 101(14) of the federal comprehensive environmental response,
30 compensation, and liability act of 1980, as amended by P.L. 99-499.

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

35 (14) "Onshore facility" means any facility any part of which is
36 located in, on, or under any land of the state, other than submerged
37 land, that because of its location, could reasonably be expected to

1 cause substantial harm to the environment by discharging oil into or on
2 the navigable waters of the state or the adjoining shorelines.

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

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

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

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

17 (18) "Spill" means an unauthorized discharge of oil into the waters
18 of the state.

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

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

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

25 (20) "Waters of the state" includes lakes, rivers, ponds, streams,
26 inland waters, underground water, salt waters, estuaries, tidal flats,
27 beaches and lands adjoining the seacoast of the state, sewers, and all
28 other surface waters and watercourses within the jurisdiction of the
29 state of Washington.

30 **Sec. 5.** RCW 88.46.010 and 2000 c 69 s 1 are each amended to read
31 as follows:

32 (~~Unless the context clearly requires otherwise,~~) The definitions
33 in this section apply throughout this chapter unless the context
34 clearly requires otherwise.

35 (1) "Best achievable protection" means the highest level of
36 protection that can be achieved through the use of the best achievable
37 technology and those staffing levels, training procedures, and

1 operational methods that provide the greatest degree of protection
2 achievable. The director's determination of best achievable protection
3 shall be guided by the critical need to protect the state's natural
4 resources and waters, while considering (a) the additional protection
5 provided by the measures; (b) the technological achievability of the
6 measures; and (c) the cost of the measures.

7 (2) "Best achievable technology" means the technology that provides
8 the greatest degree of protection taking into consideration (a)
9 processes that are being developed, or could feasibly be developed,
10 given overall reasonable expenditures on research and development, and
11 (b) processes that are currently in use. In determining what is best
12 achievable technology, the director shall consider the effectiveness,
13 engineering feasibility, and commercial availability of the technology.

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

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

21 (5) "Covered vessel" means a tank vessel, cargo vessel, or
22 passenger vessel.

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

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

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

27 (9)(a) "Facility" means any structure, group of structures,
28 equipment, pipeline, or device, other than a vessel, located on or near
29 the navigable waters of the state that transfers oil in bulk to or from
30 a tank vessel or pipeline, that is used for producing, storing,
31 handling, transferring, processing, or transporting oil in bulk.

32 (b) A facility does not include any: (i) Railroad car, motor
33 vehicle, or other rolling stock while transporting oil over the
34 highways or rail lines of this state; (ii) retail motor vehicle motor
35 fuel outlet; (iii) facility that is operated as part of an exempt
36 agricultural activity as provided in RCW 82.04.330; (iv) underground
37 storage tank regulated by the department or a local government under

1 chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense
2 more than three thousand gallons of fuel to a ship that is not a
3 covered vessel, in a single transaction.

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

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

12 (12) "Oil" or "oils" means oil of any (~~naturally occurring~~) kind
13 that is liquid (~~hydrocarbons~~) at atmospheric temperature (~~and~~
14 ~~pressure coming from the earth, including condensate and natural~~
15 ~~gasoline,~~) and any fractionation thereof, including, but not limited
16 to, crude oil, petroleum, gasoline, fuel oil, diesel oil, biological
17 oils and blends, oil sludge, oil refuse, and oil mixed with wastes
18 other than dredged spoil. Oil does not include any substance listed in
19 Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under
20 section 101(14) of the federal comprehensive environmental response,
21 compensation, and liability act of 1980, as amended by P.L. 99-499.

22 (13) "Offshore facility" means any facility located in, on, or
23 under any of the navigable waters of the state, but does not include a
24 facility any part of which is located in, on, or under any land of the
25 state, other than submerged land. "Offshore facility" does not include
26 a marine facility.

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

32 (15)(a) "Owner or operator" means (i) in the case of a vessel, any
33 person owning, operating, or chartering by demise, the vessel; (ii) in
34 the case of an onshore or offshore facility, any person owning or
35 operating the facility; and (iii) in the case of an abandoned vessel or
36 onshore or offshore facility, the person who owned or operated the
37 vessel or facility immediately before its abandonment.

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

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

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

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

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

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

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

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

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

25 (22) "Worst case spill" means: (a) In the case of a vessel, a
26 spill of the entire cargo and fuel of the vessel complicated by adverse
27 weather conditions; and (b) in the case of an onshore or offshore
28 facility, the largest foreseeable spill in adverse weather conditions.

29 **Sec. 6.** RCW 90.56.010 and 2000 c 69 s 15 are each amended to read
30 as follows:

31 ~~((For purposes of this chapter, the following definitions shall
32 apply unless the context indicates otherwise:))~~ The definitions in this
33 section apply throughout this chapter unless the context clearly
34 requires otherwise.

35 (1) "Best achievable protection" means the highest level of
36 protection that can be achieved through the use of the best achievable
37 technology and those staffing levels, training procedures, and

1 operational methods that provide the greatest degree of protection
2 achievable. The director's determination of best achievable protection
3 shall be guided by the critical need to protect the state's natural
4 resources and waters, while considering (a) the additional protection
5 provided by the measures; (b) the technological achievability of the
6 measures; and (c) the cost of the measures.

7 (2) "Best achievable technology" means the technology that provides
8 the greatest degree of protection taking into consideration (a)
9 processes that are being developed, or could feasibly be developed,
10 given overall reasonable expenditures on research and development, and
11 (b) processes that are currently in use. In determining what is best
12 achievable technology, the director shall consider the effectiveness,
13 engineering feasibility, and commercial availability of the technology.

14 (3) "Board" means the pollution control hearings board.

15 (4) "Cargo vessel" means a self-propelled ship in commerce, other
16 than a tank vessel or a passenger vessel, three hundred or more gross
17 tons, including but not limited to, commercial fish processing vessels
18 and freighters.

19 (5) "Bulk" means material that is stored or transported in a loose,
20 unpackaged liquid, powder, or granular form capable of being conveyed
21 by a pipe, bucket, chute, or belt system.

22 (6) "Committee" means the preassessment screening committee
23 established under RCW 90.48.368.

24 (7) "Covered vessel" means a tank vessel, cargo vessel, or
25 passenger vessel.

26 (8) "Department" means the department of ecology.

27 (9) "Director" means the director of the department of ecology.

28 (10) "Discharge" means any spilling, leaking, pumping, pouring,
29 emitting, emptying, or dumping.

30 (11)(a) "Facility" means any structure, group of structures,
31 equipment, pipeline, or device, other than a vessel, located on or near
32 the navigable waters of the state that transfers oil in bulk to or from
33 a tank vessel or pipeline, that is used for producing, storing,
34 handling, transferring, processing, or transporting oil in bulk.

35 (b) A facility does not include any: (i) Railroad car, motor
36 vehicle, or other rolling stock while transporting oil over the
37 highways or rail lines of this state; (ii) underground storage tank
38 regulated by the department or a local government under chapter 90.76

1 RCW; (iii) motor vehicle motor fuel outlet; (iv) facility that is
2 operated as part of an exempt agricultural activity as provided in RCW
3 82.04.330; or (v) marine fuel outlet that does not dispense more than
4 three thousand gallons of fuel to a ship that is not a covered vessel,
5 in a single transaction.

6 (12) "Fund" means the state coastal protection fund as provided in
7 RCW 90.48.390 and 90.48.400.

8 (13) "Having control over oil" shall include but not be limited to
9 any person using, storing, or transporting oil immediately prior to
10 entry of such oil into the waters of the state, and shall specifically
11 include carriers and bailees of such oil.

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

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

20 (16) "Necessary expenses" means the expenses incurred by the
21 department and assisting state agencies for (a) investigating the
22 source of the discharge; (b) investigating the extent of the
23 environmental damage caused by the discharge; (c) conducting actions
24 necessary to clean up the discharge; (d) conducting predamage and
25 damage assessment studies; and (e) enforcing the provisions of this
26 chapter and collecting for damages caused by a discharge.

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

37 (18) "Offshore facility" means any facility located in, on, or

1 under any of the navigable waters of the state, but does not include a
2 facility any part of which is located in, on, or under any land of the
3 state, other than submerged land.

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

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

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

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

21 (22) "Person" means any political subdivision, government agency,
22 municipality, industry, public or private corporation, copartnership,
23 association, firm, individual, or any other entity whatsoever.

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

26 (24) "Spill" means an unauthorized discharge of oil or hazardous
27 substances into the waters of the state.

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

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

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

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

1 (27) "Worst case spill" means: (a) In the case of a vessel, a
2 spill of the entire cargo and fuel of the vessel complicated by adverse
3 weather conditions; and (b) in the case of an onshore or offshore
4 facility, the largest foreseeable spill in adverse weather conditions.

Passed by the Senate April 17, 2007.

Passed by the House April 5, 2007.

Approved by the Governor May 7, 2007.

Filed in Office of Secretary of State May 8, 2007.