
Environment Committee

HB 1136

Brief Description: Exempting short-line railroads that haul nonfuel oils from oil spill contingency planning requirements.

Sponsors: Representatives Dye, Blake, Haler, Shea, Taylor, Farrell, Dent, Nealey, Manweller, Short, Muri, Schmick, Ormsby, Fey, Young and Buys.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Exempts Class III railroads that do not haul crude oil or refined petroleum products from oil spill contingency planning requirements.
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Hearing Date: 2/6/17

Staff: Jacob Lipson (786-7196).

Background:

Contingency Planning.

The Department of Ecology (ECY) administers an oil spill preparedness, prevention, and response program. State law directs oil refineries, terminals, pipelines, other facilities, and vessel operators involved in the bulk transfer of oil to put in place oil spill contingency plans that outline containment and remediation responses to potential oil spills. Contingency plans approved by the ECY must identify personnel, materials, and equipment capable of promptly and properly removing oil with minimal environmental damage. In 2015, the Legislature added railroads to the categories of facilities that must complete contingency plans.

In August 2016, the ECY finalized contingency planning rules for railroads hauling oil in bulk based on the 2015 statutory change. Under the rule, contingency planning requirements were phased in to first apply to railroads hauling crude oil; railroads hauling other types of oil have until February 2017 to submit a contingency plan, plus extended timelines to secure a contract with an oil spill primary response contractor and to secure adequate equipment. Railroads must

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rely on their contingency plans in the event of a spill, unless state and federal on-scene coordinators allow for a deviation from the plan.

Railroads hauling oil in bulk must annually update their contingency plans for accuracy, or must submit a letter to the ECY noting that the previously submitted plan remains accurate. Plans must also be re-submitted every five years to the ECY for approval. In addition, when significant aspects of a railroad's contingency plan change, such as loss or movement of equipment or staff, or if the railroad begins handling new types of oil, the railroad must notify the ECY within one day.

Railroad contingency plans must include the following components:

- a statement guaranteeing the railroad's safe and immediate response to spills and threatened spills using the contingency plan;
- lists and maps of rail routes and operations, including fueling locations and types of oil transported;
- information regarding the worst case spill volume that the railroad anticipates could occur on a rail route;
- information regarding the chain of command available to respond in the event of a spill, including the primary response contractor and other personnel;
- procedures for responding to the oil spill, including accounting for oil volumes, site-specific conditions, evaluations of impact to groundwater;
- plans for identifying and protecting sensitive areas, including environmental, cultural, and economic resources;
- a field document that includes time-critical information included in the response plan for use by personnel involved in oil handling operations;
- a demonstration of the ability to access specified types and quantities of oil spill response equipment within 6, 12, 24, and 48 hours of a spill event; and
- specific plans for crude oil spills, on-site burning of oil, shoreline cleanup, air monitoring, wildlife rescue, and public and first responder notification.

Railroad contingency plan holders are also required to participate in a drill and equipment verification process. Railroads must participate in different types of drills, including unannounced drills, at prescribed intervals over the five-year period. The ECY may grant waivers from drill requirements upon request.

The ECY evaluates submitted contingency plans for accuracy. After public comment, ECY may approve or disapprove of a plan, or grant a temporary conditional approval that requires that certain changes be made within 18 months. After a spill or a drill, the ECY may require additional changes.

The ECY may revoke or condition plan approval if a railroad's contingency plan or associated drill requirements do not meet required standards. The ECY may issue civil penalties of up to \$100,000 per day for violations of contingency plan requirements, plus criminal penalties for willful violations.

Oil Definition.

For purposes of contingency planning requirements, "oil" is defined as any kind or distillate of oil that is liquid at atmospheric pressure and temperature of 25 degrees Celsius. A variety of specific types of oil are explicitly included within this definition, including crude oil, gasoline, biological oils and blends, diesel oil, and oil sludge.

Class III Railroads.

The United States Department of Transportation's Surface Transportation Board (STB) is responsible for a variety of aspects of federal railroad regulatory oversight, including railroad rates, service issues, mergers, sales, construction, and abandonment of rail lines. The STB also classifies types of railroads by annual carrier operating revenue:

- Class I - \$250 million or more;
- Class II - \$20 million or more; and
- Class III - \$0 to \$20 million.

These amounts were adopted in 1991 and the STB uses a formula to adjust them for inflation. As of 2016, pursuant to this inflationary adjustment, the maximum operating revenue for Class III railroads was set at \$36.6 million.

Summary of Bill:

Short-line railroads, as defined by the STB, are not required to develop contingency plans if they do not haul bulk crude oil or bulk refined petroleum products used for fuel. However, a class III railroad must have a contingency plan in place in order to haul bulk crude oil or bulk refined petroleum products used for fuel.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.