

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET TR-150284
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	
)	COMPLAINT
v.)	
)	
BNSF RAILWAY COMPANY,)	
)	
Respondent.)	
.....)	

1 The Washington Utilities and Transportation Commission (Commission), on its own motion, and through its Staff, alleges as follows:

I. OVERVIEW

2 WAC 480-62-310 requires railroad companies to make detailed telephone reports to the Commission’s designee, the Washington state emergency operations center (EOC), within 30 minutes after learning of an event connected to railroad operations that results in the release of any hazardous material.

3 Between November 1, 2014, and February 24, 2015, BNSF Railway Company (BNSF) failed to report 14 hazardous material releases in the manner required by WAC 480-32-310. For all such events, RCW 81.04.380 provides that each day’s continuance of a violation constitutes a separate and distinct violation. Pursuant to this rule, Staff alleges that BNSF committed 700 violations of WAC 480-62-310.

4 As set forth below, Staff requests an order requiring BNSF to pay to the Commission penalties of up to \$1,000 per violation.

II. JURISDICTION

5 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 81.01.010, RCW 81.04.110, and RCW 81.04.380.

III. PARTIES

- 6 The Commission is an agency of the state of Washington.
- 7 BNSF is a “public service company” within the meaning of RCW 81.04.380.
- 8 BNSF is a “railroad company” within the meaning of WAC 480-62-310.

IV. FIRST CAUSE OF ACTION (Failure to report November 5, 2014 hazardous material release)

- 9 On November 5, 2014, at 11:10 a.m., BNSF learned that railroad equipment under its ownership or control released a hazardous material in or near Blaine, WA.
- 10 BNSF made no telephone report of the event to the Washington state EOC.
- 11 Between November 5, 2014, and February 24, 2015, BNSF committed 111 violations of WAC 480-62-310.

V. SECOND CAUSE OF ACTION (Failure to report November 17, 2014 hazardous material release)

- 12 On November 17, 2014, at 3:00 p.m., BNSF learned that railroad equipment under its ownership or control released a hazardous material in or near Pasco, WA.
- 13 BNSF made no telephone report of the event to the Washington state EOC.
- 14 Between November 17, 2014, and February 24, 2015, BNSF committed 99 violations of WAC 480-62-310.

VI. THIRD CAUSE OF ACTION (Failure to report December 7, 2014 hazardous material release)

- 15 On December 7, 2014, at 9:00 a.m., BNSF learned that railroad equipment under its ownership or control released a hazardous material in or near Wenatchee, WA.
- 16 BNSF made no telephone report of the event to the Washington state EOC.

17 Between December 7, 2014, and February 24, 2015, BNSF committed 79 violations of WAC 480-62-310.

**VII. FOURTH CAUSE OF ACTION
(Failure to report December 8, 2014 hazardous material release)**

18 On December 8, 2014, at 9:30 a.m., BNSF learned that railroad equipment under its ownership or control released a hazardous material in or near Spokane Valley, WA.

19 BNSF made no telephone report of the event to the Washington state EOC.

20 Between December 8, 2014, and February 24, 2015, BNSF committed 78 violations of WAC 480-62-310.

**VIII. FIFTH CAUSE OF ACTION
(Failure to report December 9, 2014, 8:55 a.m. hazardous material release)**

21 On December 9, 2014, at 8:55 a.m., BNSF learned that railroad equipment under its ownership or control released a hazardous material in or near Seattle, WA.

22 BNSF made no telephone report of the event to the Washington state EOC.

23 Between December 9, 2014, and February 24, 2015, BNSF committed 77 violations of WAC 480-62-310.

**IX. SIXTH CAUSE OF ACTION
(Failure to report December 9, 2014, 9:00 a.m. hazardous material release)**

24 On December 9, 2014, at 9:00 a.m., BNSF learned that railroad equipment under its ownership or control released a hazardous material in or near Everett, WA.

25 BNSF made no telephone report of the event to the Washington state EOC.

26 Between December 9, 2014, and February 24, 2015, BNSF committed 77 violations of WAC 480-62-310.

X. SEVENTH CAUSE OF ACTION**(Failure to report December 9, 2014, 10:05 a.m. hazardous material release)**

- 27 On December 9, 2014, at 10:05 a.m., BNSF learned that railroad equipment under its ownership or control released a hazardous material in or near Everett, WA.
- 28 BNSF made no telephone report to the Washington state EOC.
- 29 Between December 9, 2014, and February 24, 2015, BNSF committed 77 violations of WAC 480-62-310.

XI. EIGHTH CAUSE OF ACTION**(Failure to report December 9, 2014 hazardous material release)**

- 30 On December 9, 2014, at 2:00 p.m., BNSF learned that railroad equipment under its ownership or control released a hazardous material in or near Vancouver, WA.
- 31 BNSF made no telephone report of the event to the Washington state EOC.
- 32 Between December 9, 2014, and February 24, 2015, BNSF committed 77 violations of WAC 480-62-310.

XII. NINTH CAUSE OF ACTION**(Failure to report December 10, 2014 hazardous material release)**

- 33 On December 10, 2014, at 10:25 a.m., BNSF learned that railroad equipment under its ownership or control released a hazardous material in or near Everett, WA.
- 34 BNSF made a telephone report of the event to the Washington state EOC more than 30 minutes after learning of the event.
- 35 BNSF committed 1 violation of WAC 480-62-310.

XIII. TENTH CAUSE OF ACTION**(Failure to report December 13, 2014 hazardous material release)**

- 36 On December 13, 2014, at 10:10 a.m., BNSF learned that railroad equipment under its ownership or control released a hazardous material in or near Quincy, WA.

37 BNSF made a telephone report of the event to the Washington state EOC more than
30 minutes after learning of the event.

38 BNSF committed 1 violation of WAC 480-62-310.

XIV. ELEVENTH CAUSE OF ACTION
(Failure to report January 12, 2015 hazardous material release)

39 On January 12, 2015, at 1:00 p.m., BNSF learned that railroad equipment under its
ownership or control released a hazardous material in or near Vancouver, WA.

40 BNSF made a telephone report of the event to the Washington state EOC more than
30 minutes after learning of the event.

41 Between January 12, 2015, and January 23, 2015, BNSF committed 11 violations of
WAC 480-62-310.

XV. TWELTH CAUSE OF ACTION
(Failure to report January 13, 2015 hazardous material release)

42 On January 13, 2015, at 3:00 p.m., BNSF learned that railroad equipment under its
ownership or control released a hazardous material in or near Auburn, WA.

43 BNSF made a telephone report of the event to the Washington state EOC more than
30 minutes after learning of the event.

44 Between January 13, 2015, and January 23, 2015, BNSF committed 10 violations of
WAC 480-62-310.

XVI. THIRTEENTH CAUSE OF ACTION
(Failure to report January 25, 2015 hazardous material release)

45 On January 25, 2015, at 10:24 a.m., BNSF learned that railroad equipment under its
ownership or control released a hazardous material in or near Seattle, WA.

46 BNSF made a telephone report of the event to the Washington state EOC more than
30 minutes after learning of the event.

47 BNSF committed 1 violation of WAC 480-62-310.

XVII. FOURTEENTH CAUSE OF ACTION
(Failure to report February 12, 2015 hazardous material release)

- 48 On February 12, 2015, at 1:59 p.m., BNSF learned that railroad equipment under its ownership or control released a hazardous material in or near Seattle, WA.
- 49 BNSF made a telephone report of the event to the Washington state EOC more than 30 minutes after learning of the event.
- 50 BNSF committed 1 violation of WAC 480-62-310.

XVIII. REQUEST FOR RELIEF

- 51 Staff requests that the Commission impose a penalty of up to \$1,000 for each of the 700 violations of WAC 480-62-310 alleged above.
- 52 Staff further requests that the Commission order such other or further relief as is appropriate under the circumstances.

XIX. PROBABLE CAUSE

- 53 Based on a review of Staff's investigation report and all supporting documents, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this complaint.

DATED at Olympia, Washington, and effective March 19, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER
Administrative Law Judge

NOTICE

PLEASE NOTE: Hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Steven V. King, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION.)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes)_____ (No)_____

Do you need a certified sign language interpreter?

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____)_____