
ENGROSSED SUBSTITUTE HOUSE BILL 1449

State of Washington

64th Legislature

2015 Regular Session

By House Environment (originally sponsored by Representatives Farrell, Carlyle, Fitzgibbon, Ortiz-Self, Peterson, Walkinshaw, Gregerson, Senn, McBride, Robinson, Tarleton, Pollet, Cody, Ormsby, Riccelli, Kagi, Blake, Fey, Hudgins, Lytton, Bergquist, Sells, Takko, Tharinger, Jinkins, Wylie, S. Hunt, Stanford, Reykdal, Sawyer, Appleton, Van De Wege, Clibborn, Ryu, Goodman, and Kilduff; by request of Governor Inslee)

READ FIRST TIME 02/19/15.

1 AN ACT Relating to oil transportation safety; amending RCW
2 90.56.005, 90.56.010, 90.56.200, 90.56.210, 90.56.500, 90.56.510,
3 88.40.011, 88.40.025, 88.40.030, 88.40.040, 88.16.170, 88.16.190,
4 82.23B.010, 82.23B.020, 82.23B.030, 82.23B.040, 81.24.010, 81.53.010,
5 81.53.240, and 88.46.180; reenacting and amending RCW 88.46.010,
6 88.40.020, 38.52.040, and 42.56.270; adding new sections to chapter
7 90.56 RCW; adding a new section to chapter 81.44 RCW; adding a new
8 section to chapter 81.53 RCW; and providing an effective date.

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

10 **Sec. 1.** RCW 88.46.010 and 2011 c 122 s 1 are each reenacted and
11 amended to read as follows:

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

14 (1) "Best achievable protection" means the highest level of
15 protection that can be achieved through the use of the best
16 achievable technology and those staffing levels, training procedures,
17 and operational methods that provide the greatest degree of
18 protection achievable. The director's determination of best
19 achievable protection shall be guided by the critical need to protect
20 the state's natural resources and waters, while considering:

21 (a) The additional protection provided by the measures;

1 (b) The technological achievability of the measures; and

2 (c) The cost of the measures.

3 (2)(a) "Best achievable technology" means the technology that
4 provides the greatest degree of protection taking into consideration:

5 (i) Processes that are being developed, or could feasibly be
6 developed, given overall reasonable expenditures on research and
7 development; and

8 (ii) Processes that are currently in use.

9 (b) In determining what is best achievable technology, the
10 director shall consider the effectiveness, engineering feasibility,
11 and commercial availability of the technology.

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

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

19 (5) "Covered vessel" means a tank vessel, cargo vessel, or
20 passenger vessel.

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

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

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

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

31 (b) For the purposes of oil spill contingency planning in RCW
32 90.56.210, advanced notice of oil transfers in section 8 of this act,
33 and financial responsibility in RCW 88.40.025, facility also means a
34 railroad that is not owned by the state that transports oil as bulk
35 cargo.

36 (c) A facility does not include any: (i) (~~Railroad-car,~~) Motor
37 vehicle(~~(, or other rolling stock)~~) while transporting oil over the
38 highways (~~(or rail lines)~~) of this state; (ii) retail motor vehicle
39 motor fuel outlet; (iii) facility that is operated as part of an
40 exempt agricultural activity as provided in RCW 82.04.330; (iv)

1 underground storage tank regulated by the department or a local
2 government under chapter 90.76 RCW; or (v) marine fuel outlet that
3 does not dispense more than three thousand gallons of fuel to a ship
4 that is not a covered vessel, in a single transaction.

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

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

13 (12) "Offshore facility" means any facility located in, on, or
14 under any of the navigable waters of the state, but does not include
15 a facility any part of which is located in, on, or under any land of
16 the state, other than submerged land. "Offshore facility" does not
17 include a marine facility.

18 (13) "Oil" or "oils" means oil of any kind that is liquid at
19 (~~(atmospheric temperature)~~) twenty-five degrees Celsius and one
20 atmosphere of pressure and any fractionation thereof, including, but
21 not limited to, crude oil, bitumen, synthetic crude oil, natural gas
22 well condensate, petroleum, gasoline, fuel oil, diesel oil,
23 biological oils and blends, oil sludge, oil refuse, and oil mixed
24 with wastes other than dredged spoil. Oil does not include any
25 substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August
26 14, 1989, under section (~~(101(14))~~) 102(a) of the federal
27 comprehensive environmental response, compensation, and liability act
28 of 1980, as amended by P.L. 99-499.

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

34 (15)(a) "Owner or operator" means (i) in the case of a vessel,
35 any person owning, operating, or chartering by demise, the vessel;
36 (ii) in the case of an onshore or offshore facility, any person
37 owning or operating the facility; and (iii) in the case of an
38 abandoned vessel or onshore or offshore facility, the person who
39 owned or operated the vessel or facility immediately before its
40 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
5 gross tons with a fuel capacity of at least six thousand gallons
6 carrying 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) "Race Rocks light" means the nautical landmark located
11 southwest of the city of Victoria, British Columbia.

12 (19) "Regional vessels of opportunity response group" means a
13 group of nondedicated vessels participating in a vessels of
14 opportunity response system to respond when needed and available to
15 spills in a defined geographic area.

16 (20) "Severe weather conditions" means observed nautical
17 conditions with sustained winds measured at forty knots and wave
18 heights measured between twelve and eighteen feet.

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

21 (22) "Spill" means an unauthorized discharge of oil into the
22 waters of the state.

23 (23) "Strait of Juan de Fuca" means waters off the northern coast
24 of the Olympic Peninsula seaward of a line drawn from New Dungeness
25 light in Clallam county to Discovery Island light on Vancouver
26 Island, British Columbia, Canada.

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

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

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

33 (25) "Umbrella plan holder" means a nonprofit corporation
34 established consistent with this chapter for the purposes of
35 providing oil spill response and contingency plan coverage.

36 (26) "Vessel emergency" means a substantial threat of pollution
37 originating from a covered vessel, including loss or serious
38 degradation of propulsion, steering, means of navigation, primary
39 electrical generating capability, and seakeeping capability.

1 (27) "Vessels of opportunity response system" means nondedicated
2 boats and operators, including fishing and other vessels, that are
3 under contract with and equipped by contingency plan holders to
4 assist with oil spill response activities, including on-water oil
5 recovery in the near shore environment and the placement of oil spill
6 containment booms to protect sensitive habitats.

7 (28) "Volunteer coordination system" means an oil spill response
8 system that, before a spill occurs, prepares for the coordination of
9 volunteers to assist with appropriate oil spill response activities,
10 which may include shoreline protection and cleanup, wildlife
11 recovery, field observation, light construction, facility
12 maintenance, donations management, clerical support, and other
13 aspects of a spill response.

14 (29) "Waters of the state" includes lakes, rivers, ponds,
15 streams, inland waters, underground water, salt waters, estuaries,
16 tidal flats, beaches and lands adjoining the seacoast of the state,
17 sewers, and all other surface waters and watercourses within the
18 jurisdiction of the state of Washington.

19 (30) "Worst case spill" means: (a) In the case of a vessel, a
20 spill of the entire cargo and fuel of the vessel complicated by
21 adverse weather conditions; and (b) in the case of an onshore or
22 offshore facility, the largest foreseeable spill in adverse weather
23 conditions.

24 **Sec. 2.** RCW 90.56.005 and 2010 1st sp.s. c 7 s 72 are each
25 amended to read as follows:

26 (1) The legislature declares that waterborne transportation as a
27 source of supply for oil and hazardous substances poses special
28 concern for the state of Washington. Each year billions of gallons of
29 crude oil and refined petroleum products are transported as cargo and
30 fuel by vessels on the navigable waters of the state. The movement of
31 crude oil through rail corridors and over Washington waters creates
32 safety and environmental risks. The sources and transport of crude
33 oil bring risks to our communities along rail lines and to the
34 Columbia river, Grays Harbor, and Puget Sound waters. These shipments
35 are expected to increase in the coming years. Vessels and trains
36 transporting oil into Washington travel on some of the most unique
37 and special marine environments in the United States. These marine
38 environments are a source of natural beauty, recreation, and economic
39 livelihood for many residents of this state. As a result, the state

1 has an obligation to ensure the citizens of the state that the waters
2 of the state will be protected from oil spills.

3 (2) The legislature finds that prevention is the best method to
4 protect the unique and special marine environments in this state. The
5 technology for containing and cleaning up a spill of oil or hazardous
6 substances is at best only partially effective. Preventing spills is
7 more protective of the environment and more cost-effective when all
8 the response and damage costs associated with responding to a spill
9 are considered. Therefore, the legislature finds that the primary
10 objective of the state is to achieve a zero spills strategy to
11 prevent any oil or hazardous substances from entering waters of the
12 state.

13 (3) The legislature also finds that:

14 (a) Recent accidents in Washington, Alaska, southern California,
15 Texas, Pennsylvania, and other parts of the nation have shown that
16 the transportation, transfer, and storage of oil have caused
17 significant damage to the marine environment;

18 (b) Even with the best efforts, it is nearly impossible to remove
19 all oil that is spilled into the water, and average removal rates are
20 only fourteen percent;

21 (c) Washington's navigable waters are treasured environmental and
22 economic resources that the state cannot afford to place at undue
23 risk from an oil spill;

24 (d) The state has a fundamental responsibility, as the trustee of
25 the state's natural resources and the protector of public health and
26 the environment to prevent the spill of oil; and

27 (e) In section 5002 of the federal oil pollution act of 1990, the
28 United States congress found that many people believed that
29 complacency on the part of industry and government was one of the
30 contributing factors to the Exxon Valdez spill and, further, that one
31 method to combat this complacency is to involve local citizens in the
32 monitoring and oversight of oil spill plans. Congress also found that
33 a mechanism should be established that fosters the long-term
34 partnership of industry, government, and local communities in
35 overseeing compliance with environmental concerns in the operation of
36 crude oil terminals. Moreover, congress concluded that, in addition
37 to Alaska, a program of citizen monitoring and oversight should be
38 established in other major crude oil terminals in the United States
39 because recent oil spills indicate that the safe transportation of
40 oil is a national problem.

1 (4) In order to establish a comprehensive prevention and response
2 program to protect Washington's waters and natural resources from
3 spills of oil, it is the purpose of this chapter:

4 (a) To establish state agency expertise in marine safety and to
5 centralize state activities in spill prevention and response
6 activities;

7 (b) To prevent spills of oil and to promote programs that reduce
8 the risk of both catastrophic and small chronic spills;

9 (c) To ensure that responsible parties are liable, and have the
10 resources and ability, to respond to spills and provide compensation
11 for all costs and damages;

12 (d) To provide for state spill response and wildlife rescue
13 planning and implementation;

14 (e) To support and complement the federal oil pollution act of
15 1990 and other federal law, especially those provisions relating to
16 the national contingency plan for cleanup of oil spills and
17 discharges, including provisions relating to the responsibilities of
18 state agencies designated as natural resource trustees. The
19 legislature intends this chapter to be interpreted and implemented in
20 a manner consistent with federal law;

21 (f) To provide broad powers of regulation to the department of
22 ecology relating to spill prevention and response;

23 (g) To provide for independent review on an ongoing basis the
24 adequacy of oil spill prevention, preparedness, and response
25 activities in this state; ((and))

26 (h) To provide an adequate funding source for state response and
27 prevention programs; and

28 (i) To maintain the best achievable protection that can be
29 obtained through the use of the best achievable technology and those
30 staffing levels, training procedures, and operational methods that
31 provide the greatest degree of protection achievable.

32 **Sec. 3.** RCW 90.56.010 and 2007 c 347 s 6 are each amended to
33 read as follows:

34 The definitions in this section apply throughout this chapter
35 unless the context clearly requires otherwise.

36 (1) "Best achievable protection" means the highest level of
37 protection that can be achieved through the use of the best
38 achievable technology and those staffing levels, training procedures,
39 and operational methods that provide the greatest degree of

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

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

19 (5) "Bulk" means material that is stored or transported in a
20 loose, unpackaged liquid, powder, or granular form capable of being
21 conveyed 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
32 near the navigable waters of the state that transfers oil in bulk to
33 or from a tank vessel or pipeline, that is used for producing,
34 storing, handling, transferring, processing, or transporting oil in
35 bulk.

36 (b) For the purposes of oil spill contingency planning in RCW
37 90.56.210, advanced notice of oil transfers in section 8 of this act,
38 and financial responsibility in RCW 88.40.025, facility also means a
39 railroad that is not owned by the state that transports oil as bulk
40 cargo.

1 (c) A facility does not include any: (i) (~~(Railroad-car,)~~) Motor
2 vehicle(~~(, or other rolling stock)~~) while transporting oil over the
3 highways (~~(or rail lines)~~) of this state; (ii) underground storage
4 tank regulated by the department or a local government under chapter
5 90.76 RCW; (iii) motor vehicle motor fuel outlet; (iv) facility that
6 is operated as part of an exempt agricultural activity as provided in
7 RCW 82.04.330; or (v) marine fuel outlet that does not dispense more
8 than three thousand gallons of fuel to a ship that is not a covered
9 vessel, in a single transaction.

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

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

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

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

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

31 (17) "Oil" or "oils" means oil of any kind that is liquid at
32 (~~(atmospheric temperature)~~) twenty-five degrees Celsius and one
33 atmosphere of pressure and any fractionation thereof, including, but
34 not limited to, crude oil, bitumen, synthetic crude oil, natural gas
35 well condensate, petroleum, gasoline, fuel oil, diesel oil,
36 biological oils and blends, oil sludge, oil refuse, and oil mixed
37 with wastes other than dredged spoil. Oil does not include any
38 substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August
39 14, 1989, under section (~~(101-14)~~) 102(a) of the federal

1 comprehensive environmental response, compensation, and liability act
2 of 1980, as amended by P.L. 99-499.

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

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

12 (20)(a) "Owner or operator" means (i) in the case of a vessel,
13 any person owning, operating, or chartering by demise, the vessel;
14 (ii) in the case of an onshore or offshore facility, any person
15 owning or operating the facility; and (iii) in the case of an
16 abandoned vessel or onshore or offshore facility, the person who
17 owned or operated the vessel or facility immediately before its
18 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 (21) "Passenger vessel" means a ship of three hundred or more
23 gross tons with a fuel capacity of at least six thousand gallons
24 carrying passengers for compensation.

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

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

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

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

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

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

38 (26) "Waters of the state" includes lakes, rivers, ponds,
39 streams, inland waters, underground water, salt waters, estuaries,
40 tidal flats, beaches and lands adjoining the seacoast of the state,

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

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

8 (28) "Crude oil" means any naturally occurring hydrocarbons
9 coming from the earth that are liquid at twenty-five degrees Celsius
10 and one atmosphere of pressure including, but not limited to, crude
11 oil, bitumen and diluted bitumen, synthetic crude oil, and natural
12 gas well condensate.

13 **Sec. 4.** RCW 90.56.200 and 2000 c 69 s 19 are each amended to
14 read as follows:

15 (1) The owner or operator for each onshore and offshore facility,
16 except as determined in subsection (3) of this section, shall prepare
17 and submit to the department an oil spill prevention plan in
18 conformance with the requirements of this chapter. The plans shall be
19 submitted to the department in the time and manner directed by the
20 department. The spill prevention plan may be consolidated with a
21 spill contingency plan submitted pursuant to RCW 90.56.210. The
22 department may accept plans prepared to comply with other state or
23 federal law as spill prevention plans to the extent those plans
24 comply with the requirements of this chapter. The department, by
25 rule, shall establish standards for spill prevention plans.

26 (2) The spill prevention plan for an onshore or offshore facility
27 shall:

28 (a) Establish compliance with the federal oil pollution act of
29 1990, if applicable, and financial responsibility requirements under
30 federal and state law;

31 (b) Certify that supervisory and other key personnel in charge of
32 transfer, storage, and handling of oil have received certification
33 pursuant to RCW 90.56.220;

34 (c) Certify that the facility has an operations manual required
35 by RCW 90.56.230;

36 (d) Certify the implementation of alcohol and drug use awareness
37 programs;

1 (e) Describe the facility's maintenance and inspection program
2 and contain a current maintenance and inspection record of the
3 storage and transfer facilities and related equipment;

4 (f) Describe the facility's alcohol and drug treatment programs;

5 (g) Describe spill prevention technology that has been installed,
6 including overflow alarms, automatic overflow cut-off switches,
7 secondary containment facilities, and storm water retention,
8 treatment, and discharge systems;

9 (h) Describe any discharges of oil to the land or the water of
10 more than twenty-five barrels in the prior five years and the
11 measures taken to prevent a reoccurrence;

12 (i) Describe the procedures followed by the facility to contain
13 and recover any oil that spills during the transfer of oil to or from
14 the facility;

15 (j) Provide for the incorporation into the facility during the
16 period covered by the plan of those measures that will provide the
17 best achievable protection for the public health and the environment;
18 and

19 (k) Include any other information reasonably necessary to carry
20 out the purposes of this chapter required by rules adopted by the
21 department.

22 (3) Plan requirements in subsection (2) of this section are not
23 applicable to railroad facility operators while transporting oil over
24 rail lines of this state.

25 (4) The department shall only approve a prevention plan if it
26 provides the best achievable protection from damages caused by the
27 discharge of oil into the waters of the state and if it determines
28 that the plan meets the requirements of this section and rules
29 adopted by the department.

30 ((+4)) (5) Upon approval of a prevention plan, the department
31 shall provide to the person submitting the plan a statement
32 indicating that the plan has been approved, the facilities covered by
33 the plan, and other information the department determines should be
34 included.

35 ((+5)) (6) The approval of a prevention plan shall be valid for
36 five years. An owner or operator of a facility shall notify the
37 department in writing immediately of any significant change of which
38 it is aware affecting its prevention plan, including changes in any
39 factor set forth in this section or in rules adopted by the

1 department. The department may require the owner or operator to
2 update a prevention plan as a result of these changes.

3 ~~((+6))~~ (7) The department by rule shall require prevention plans
4 to be reviewed, updated, if necessary, and resubmitted to the
5 department at least once every five years.

6 ~~((+7))~~ (8) Approval of a prevention plan by the department does
7 not constitute an express assurance regarding the adequacy of the
8 plan nor constitute a defense to liability imposed under this chapter
9 or other state law.

10 ~~((+8))~~ (9) This section does not authorize the department to
11 modify the terms of a collective bargaining agreement.

12 **Sec. 5.** RCW 90.56.210 and 2005 c 78 s 1 are each amended to read
13 as follows:

14 (1) Each onshore and offshore facility shall have a contingency
15 plan for the containment and cleanup of oil spills from the facility
16 into the waters of the state and for the protection of fisheries and
17 wildlife, shellfish beds, natural resources, and public and private
18 property from such spills. The department shall by rule adopt and
19 periodically revise standards for the preparation of contingency
20 plans. The department shall require contingency plans, at a minimum,
21 to meet the following standards:

22 (a) Include full details of the method of response to spills of
23 various sizes from any facility which is covered by the plan;

24 (b) Be designed to be capable in terms of personnel, materials,
25 and equipment, of promptly and properly, to the maximum extent
26 practicable, as defined by the department removing oil and minimizing
27 any damage to the environment resulting from a worst case spill;

28 (c) Provide a clear, precise, and detailed description of how the
29 plan relates to and is integrated into relevant contingency plans
30 which have been prepared by cooperatives, ports, regional entities,
31 the state, and the federal government;

32 (d) Provide procedures for early detection of oil spills and
33 timely notification of such spills to appropriate federal, state, and
34 local authorities under applicable state and federal law;

35 (e) State the number, training preparedness, and fitness of all
36 dedicated, prepositioned personnel assigned to direct and implement
37 the plan;

1 (f) Incorporate periodic training and drill programs to evaluate
2 whether personnel and equipment provided under the plan are in a
3 state of operational readiness at all times;

4 (g) Describe important features of the surrounding environment,
5 including fish and wildlife habitat, shellfish beds, environmentally
6 and archaeologically sensitive areas, and public facilities. The
7 departments of ecology, fish and wildlife, and natural resources, and
8 the ((office)) department of archaeology and historic preservation,
9 upon request, shall provide information that they have available to
10 assist in preparing this description. The description of
11 archaeologically sensitive areas shall not be required to be included
12 in a contingency plan until it is reviewed and updated pursuant to
13 subsection (9) of this section;

14 (h) State the means of protecting and mitigating effects on the
15 environment, including fish, shellfish, marine mammals, and other
16 wildlife, and ensure that implementation of the plan does not pose
17 unacceptable risks to the public or the environment;

18 (i) Provide arrangements for the repositioning of oil spill
19 containment and cleanup equipment and trained personnel at strategic
20 locations from which they can be deployed to the spill site to
21 promptly and properly remove the spilled oil;

22 (j) Provide arrangements for enlisting the use of qualified and
23 trained cleanup personnel to implement the plan;

24 (k) Provide for disposal of recovered spilled oil in accordance
25 with local, state, and federal laws;

26 (l) Until a spill prevention plan has been submitted pursuant to
27 RCW 90.56.200, state the measures that have been taken to reduce the
28 likelihood that a spill will occur, including but not limited to,
29 design and operation of a facility, training of personnel, number of
30 personnel, and backup systems designed to prevent a spill;

31 (m) State the amount and type of equipment available to respond
32 to a spill, where the equipment is located, and the extent to which
33 other contingency plans rely on the same equipment; and

34 (n) If the department has adopted rules permitting the use of
35 dispersants, the circumstances, if any, and the manner for the
36 application of the dispersants in conformance with the department's
37 rules.

38 (2)(a) The following shall submit contingency plans to the
39 department within six months after the department adopts rules

1 establishing standards for contingency plans under subsection (1) of
2 this section:

3 (i) Onshore facilities capable of storing one million gallons or
4 more of oil; and

5 (ii) Offshore facilities.

6 (b) Contingency plans for all other onshore and offshore
7 facilities shall be submitted to the department within eighteen
8 months after the department has adopted rules under subsection (1) of
9 this section. The department may adopt a schedule for submission of
10 plans within the eighteen-month period.

11 (3) The department by rule shall determine the contingency plan
12 requirements for railroads transporting oil in bulk. Federal oil
13 spill response plans created pursuant to 33 U.S.C. Sec. 1321 may be
14 submitted in lieu of contingency plans until state rules are adopted.

15 (4)(a) The owner or operator of a facility shall submit the
16 contingency plan for the facility.

17 (b) A person who has contracted with a facility to provide
18 containment and cleanup services and who meets the standards
19 established pursuant to RCW 90.56.240, may submit the plan for any
20 facility for which the person is contractually obligated to provide
21 services. Subject to conditions imposed by the department, the person
22 may submit a single plan for more than one facility.

23 ((+4)) (5) A contingency plan prepared for an agency of the
24 federal government or another state that satisfies the requirements
25 of this section and rules adopted by the department may be accepted
26 by the department as a contingency plan under this section. The
27 department shall ensure that to the greatest extent possible,
28 requirements for contingency plans under this section are consistent
29 with the requirements for contingency plans under federal law.

30 ((+5)) (6) In reviewing the contingency plans required by this
31 section, the department shall consider at least the following
32 factors:

33 (a) The adequacy of containment and cleanup equipment, personnel,
34 communications equipment, notification procedures and call down
35 lists, response time, and logistical arrangements for coordination
36 and implementation of response efforts to remove oil spills promptly
37 and properly and to protect the environment;

38 (b) The nature and amount of vessel traffic within the area
39 covered by the plan;

1 (c) The volume and type of oil being transported within the area
2 covered by the plan;

3 (d) The existence of navigational hazards within the area covered
4 by the plan;

5 (e) The history and circumstances surrounding prior spills of oil
6 within the area covered by the plan;

7 (f) The sensitivity of fisheries, shellfish beds, and wildlife
8 and other natural resources within the area covered by the plan;

9 (g) Relevant information on previous spills contained in on-scene
10 coordinator reports prepared by the department; and

11 (h) The extent to which reasonable, cost-effective measures to
12 prevent a likelihood that a spill will occur have been incorporated
13 into the plan.

14 (~~(6)~~) (7) The department shall approve a contingency plan only
15 if it determines that the plan meets the requirements of this section
16 and that, if implemented, the plan is capable, in terms of personnel,
17 materials, and equipment, of removing oil promptly and properly and
18 minimizing any damage to the environment.

19 (~~(7)~~) (8) The approval of the contingency plan shall be valid
20 for five years. Upon approval of a contingency plan, the department
21 shall provide to the person submitting the plan a statement
22 indicating that the plan has been approved, the facilities or vessels
23 covered by the plan, and other information the department determines
24 should be included.

25 (~~(8)~~) (9) An owner or operator of a facility shall notify the
26 department in writing immediately of any significant change of which
27 it is aware affecting its contingency plan, including changes in any
28 factor set forth in this section or in rules adopted by the
29 department. The department may require the owner or operator to
30 update a contingency plan as a result of these changes.

31 (~~(9)~~) (10) The department by rule shall require contingency
32 plans to be reviewed, updated, if necessary, and resubmitted to the
33 department at least once every five years.

34 (~~(10)~~) (11) Approval of a contingency plan by the department
35 does not constitute an express assurance regarding the adequacy of
36 the plan nor constitute a defense to liability imposed under this
37 chapter or other state law.

38 **Sec. 6.** RCW 90.56.500 and 2009 c 11 s 9 are each amended to read
39 as follows:

1 (1) The state oil spill response account is created in the state
2 treasury. All receipts from RCW 82.23B.020(1) shall be deposited in
3 the account. All costs reimbursed to the state by a responsible party
4 or any other person for responding to a spill of oil shall also be
5 deposited in the account. Moneys in the account shall be spent only
6 after appropriation. The account is subject to allotment procedures
7 under chapter 43.88 RCW.

8 (2) The account shall be used exclusively to pay for:

9 (a) The costs associated with the response to spills or threats
10 of spills of crude oil or petroleum products into the ((navigable))
11 waters of the state; and

12 (b) The costs associated with the department's use of ((the)) an
13 emergency response towing vessel ((as described in RCW 88.46.135)).

14 (3) Payment of response costs under subsection (2)(a) of this
15 section shall be limited to spills which the director has determined
16 are likely to exceed ((fifty)) one thousand dollars.

17 (4) Before expending moneys from the account, but without
18 delaying response activities, the director shall make reasonable
19 efforts to obtain funding for response costs under subsection (2) of
20 this section from the person responsible for the spill and from other
21 sources, including the federal government.

22 (5) Reimbursement for response costs from this account shall be
23 allowed only for costs which are not covered by funds appropriated to
24 the agencies responsible for response activities. Costs associated
25 with the response to spills of crude oil or petroleum products shall
26 include:

27 (a) Natural resource damage assessment and related activities;

28 (b) Spill related response, containment, wildlife rescue,
29 cleanup, disposal, and associated costs;

30 (c) Interagency coordination and public information related to a
31 response; and

32 (d) Appropriate travel, goods and services, contracts, and
33 equipment.

34 **Sec. 7.** RCW 90.56.510 and 2000 c 69 s 22 are each amended to
35 read as follows:

36 (1) The oil spill prevention account is created in the state
37 treasury. All receipts from RCW 82.23B.020(2) shall be deposited in
38 the account. Moneys from the account may be spent only after
39 appropriation. The account is subject to allotment procedures under

1 chapter 43.88 RCW. If, on the first day of any calendar month, the
2 balance of the oil spill response account is greater than nine
3 million dollars and the balance of the oil spill prevention account
4 exceeds the unexpended appropriation for the current biennium, then
5 the tax under RCW 82.23B.020(2) shall be suspended on the first day
6 of the next calendar month until the beginning of the following
7 biennium, provided that the tax shall not be suspended during the
8 last six months of the biennium. If the tax imposed under RCW
9 82.23B.020(2) is suspended during two consecutive biennia, the
10 department shall by November 1st after the end of the second
11 biennium, recommend to the appropriate standing committees an
12 adjustment in the tax rate. For the biennium ending June 30, 1999,
13 and the biennium ending June 30, 2001, the state treasurer may
14 transfer a total of up to one million dollars from the oil spill
15 response account to the oil spill prevention account to support
16 appropriations made from the oil spill prevention account in the
17 omnibus appropriations act adopted not later than June 30, 1999.

18 (2) Expenditures from the oil spill prevention account shall be
19 used exclusively for the administrative costs related to the purposes
20 of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. In
21 addition, until June 30, 2019, expenditures from the oil spill
22 prevention account may be used for the development and annual review
23 of local emergency planning committee emergency response plans in RCW
24 38.52.040(3). Starting with the 1995-1997 biennium, the legislature
25 shall give activities of state agencies related to prevention of oil
26 spills priority in funding from the oil spill prevention account.
27 Costs of prevention include the costs of:

- 28 (a) Routine responses not covered under RCW 90.56.500;
29 (b) Management and staff development activities;
30 (c) Development of rules and policies and the statewide plan
31 provided for in RCW 90.56.060;
32 (d) Facility and vessel plan review and approval, drills,
33 inspections, investigations, enforcement, and litigation;
34 (e) Interagency coordination and public outreach and education;
35 (f) Collection and administration of the tax provided for in
36 chapter 82.23B RCW; and
37 (g) Appropriate travel, goods and services, contracts, and
38 equipment.

39 (3) Before expending moneys from the account for a response under
40 subsection (2)(a) of this section, but without delaying response

1 activities, the director shall make reasonable efforts to obtain
2 funding for response costs under this section from the person
3 responsible for the spill and from other sources, including the
4 federal government.

5 NEW SECTION. **Sec. 8.** A new section is added to chapter 90.56
6 RCW to read as follows:

7 (1)(a) The department must be provided prior notice before a
8 crude oil transfer, that is regulated under this chapter and that may
9 impact waters of the state, occurs between:

10 (i) A railroad facility and another facility; or

11 (ii) A railroad facility and a covered vessel.

12 (b) The notice required in (a) of this subsection is in addition
13 to the requirements found in RCW 88.46.165 and must rely on the
14 "advanced notice of transfer" system used by the department. The
15 notice must include the volume of the oil to be transferred, location
16 of transfer, vapor pressure of the oil to be transferred, gravity of
17 the oil, as measured by the American petroleum institute, to be
18 transferred, and the twenty-four hour range of time within which the
19 oil transfer is anticipated to occur. The department shall adopt
20 rules under this section.

21 (2) Twice per year, pipelines must report to the department the
22 volume of oil, gravity of the oil, as measured by the American
23 petroleum institute, vapor pressure of the oil, and types of diluting
24 agents in the oil, transported through the state. Reporting must
25 occur each year by July 31st for the period January 1st through June
26 30th and by January 31st for the period July 1st through December
27 31st.

28 (3) The department shall publish data collected under subsections
29 (1) and (2) of this section on a quarterly basis on the department
30 web site. Data reported with respect to oil transportation must be
31 aggregated on a statewide basis, volume transferred, type of oil
32 transferred, place of origin, mode of transportation, route taken to
33 the point of transfer, number of rail cars transferring oil, and
34 volume and number of oil spills en route to or during transfer that
35 are reported to the department.

36 (4) Consistent with RCW 42.56.270, the department, as well as
37 other entities that receive shared information from the department
38 under this section, may not disclose individual, nonaggregated
39 notices of transfers involving a railroad facility submitted to the

1 department under subsection (1)(a) of this section or information
2 submitted to the department under subsection (2) of this section
3 regarding the diluting agents contained in oil transported by
4 pipeline. However, the department may share unaggregated information
5 collected pursuant to subsections (1) and (2) of this section:

6 (a) For use by a local emergency planning committee for the
7 purposes of RCW 38.52.040; and

8 (b) For use by state or local police departments, fire
9 departments, paramedics, and other state or local government
10 personnel with an official emergency management or emergency response
11 duty.

12 NEW SECTION. **Sec. 9.** A new section is added to chapter 90.56
13 RCW to read as follows:

14 The department shall periodically evaluate and update planning
15 standards for oil spill response equipment required under contingency
16 plans required by this chapter in order to ensure access in the state
17 to equipment that represents the best achievable protection to
18 respond to a worst case spill and provide for continuous operation of
19 oil spill response activities to the maximum extent practicable and
20 without jeopardizing crew safety, as determined by the incident
21 commander or the unified command.

22 **Sec. 10.** RCW 88.40.011 and 2007 c 347 s 4 are each amended to
23 read as follows:

24 The definitions in this section apply throughout this chapter
25 unless the context clearly requires otherwise.

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

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

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

33 (4) "Covered vessel" means a tank vessel, cargo vessel, or
34 passenger vessel.

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

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

37 (7)(a) "Facility" means any structure, group of structures,
38 equipment, pipeline, or device, other than a vessel, located on or

1 near the navigable waters of the state that transfers oil in bulk to
2 or from any vessel with an oil carrying capacity over two hundred
3 fifty barrels or pipeline, that is used for producing, storing,
4 handling, transferring, processing, or transporting oil in bulk.

5 (b) For the purposes of oil spill contingency planning in RCW
6 90.56.210, advanced notice of oil transfers in section 8 of this act,
7 and financial responsibility in RCW 88.40.025, facility also means a
8 railroad that is not owned by the state that transports oil as bulk
9 cargo.

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

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

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

24 (10) "Hazardous substances" means any substance listed as of
25 March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under
26 section (~~(101-14)~~) 102(a) of the federal comprehensive environmental
27 response, compensation, and liability act of 1980, as amended by P.L.
28 99-499. The following are not hazardous substances for purposes of
29 this chapter:

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

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

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

37 (12) "Oil" or "oils" means oil of any kind that is liquid at
38 (~~(atmospheric temperature)~~) twenty-five degrees Celsius and one
39 atmosphere of pressure and any fractionation thereof, including, but
40 not limited to, crude oil, bitumen, synthetic crude oil, natural gas

1 well condensate, petroleum, gasoline, fuel oil, diesel oil,
2 biological oils and blends, oil sludge, oil refuse, and oil mixed
3 with wastes other than dredged spoil. Oil does not include any
4 substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R.
5 Part 302 adopted under section (~~(101(14))~~) 102(a) of the federal
6 comprehensive environmental response, compensation, and liability act
7 of 1980, as amended by P.L. 99-499.

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

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

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

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

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

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

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

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

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

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

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

6 (21) "Certificate of financial responsibility" means an official
7 written acknowledgment issued by the director or the director's
8 designee that an owner or operator of a covered vessel or facility,
9 or the owner of the oil, has demonstrated to the satisfaction of the
10 director or the director's designee that the relevant entity has the
11 financial ability to pay for costs and damages caused by an oil
12 spill.

13 **Sec. 11.** RCW 88.40.020 and 2003 c 91 s 3 and 2003 c 56 s 3 are
14 each reenacted and amended to read as follows:

15 (1) Any barge that transports hazardous substances in bulk as
16 cargo, using any port or place in the state of Washington or the
17 navigable waters of the state shall establish evidence of financial
18 responsibility in the amount of the greater of five million dollars,
19 or three hundred dollars per gross ton of such vessel.

20 (2)(a) Except as provided in (b) or (c) of this subsection, a
21 tank vessel that carries oil as cargo in bulk shall demonstrate
22 financial responsibility to pay at least five hundred million
23 dollars. The amount of financial responsibility required under this
24 subsection is one billion dollars after January 1, 2004.

25 (b) The director by rule may establish a lesser standard of
26 financial responsibility for tank vessels of three hundred gross tons
27 or less. The standard shall set the level of financial responsibility
28 based on the quantity of cargo the tank vessel is capable of
29 carrying. The director shall not set the standard for tank vessels of
30 three hundred gross tons or less below that required under federal
31 law.

32 (c) The owner or operator of a tank vessel who is a member of an
33 international protection and indemnity mutual organization and is
34 covered for oil pollution risks up to the amounts required under this
35 section is not required to demonstrate financial responsibility under
36 this chapter. The director may require the owner or operator of a
37 tank vessel to prove membership in such an organization.

38 (3)(a) A cargo vessel or passenger vessel that carries oil as
39 fuel shall demonstrate financial responsibility to pay at least three

1 hundred million dollars. However, a passenger vessel that transports
2 passengers and vehicles between Washington state and a foreign
3 country shall demonstrate financial responsibility to pay the greater
4 of at least six hundred dollars per gross ton or five hundred
5 thousand dollars.

6 (b) The owner or operator of a cargo vessel or passenger vessel
7 who is a member of an international protection and indemnity mutual
8 organization and is covered for oil pollution risks up to the amounts
9 required under this section is not required to demonstrate financial
10 responsibility under this chapter. The director may require the owner
11 or operator of a cargo vessel or passenger vessel to prove membership
12 in such an organization.

13 (4) A fishing vessel while on the navigable waters of the state
14 must demonstrate financial responsibility in the following amounts:

15 (a) For a fishing vessel carrying predominantly nonpersistent
16 product, one hundred thirty-three dollars and forty cents per
17 incident, for each barrel of total oil storage capacity, persistent
18 and nonpersistent product, on the vessel or one million three hundred
19 thirty-four thousand dollars, whichever is greater; or (b) for a
20 fishing vessel carrying predominantly persistent product, four
21 hundred dollars and twenty cents per incident, for each barrel of
22 total oil storage capacity, persistent product and nonpersistent
23 product, on the vessel or six million six hundred seventy thousand
24 dollars, whichever is greater.

25 (5) The ~~((documentation of financial responsibility shall
26 demonstrate the ability of the document holder to meet state and
27 federal financial liability requirements for the actual costs for
28 removal of oil spills, for natural resource damages, and for
29 necessary expenses))~~ certificate of financial responsibility is
30 conclusive evidence that the person or entity holding the certificate
31 is the party responsible for the specified vessel, facility, or oil
32 for purposes of determining liability pursuant to this chapter.

33 (6) This section shall not apply to a covered vessel owned or
34 operated by the federal government or by a state or local government.

35 **Sec. 12.** RCW 88.40.025 and 1991 c 200 s 704 are each amended to
36 read as follows:

37 An onshore or offshore facility shall demonstrate financial
38 responsibility in an amount determined by the department as necessary
39 to compensate the state and affected counties and cities for damages

1 that might occur during a reasonable worst case spill of oil from
2 that facility into the navigable waters of the state. The department
3 shall ~~((consider such matters as the amount of oil that could be
4 spilled into the navigable waters from the facility, the cost of
5 cleaning up the spilled oil, the frequency of operations at the
6 facility, the damages that could result from the spill and the
7 commercial availability and affordability of financial
8 responsibility))~~ adopt by rule an amount that will be calculated by
9 multiplying the reasonable per barrel cleanup and damage cost of
10 spilled oil, times the reasonable worst case spill volume, as
11 measured in barrels. This section shall not apply to an onshore or
12 offshore facility owned or operated by the federal government or by
13 the state or local government.

14 **Sec. 13.** RCW 88.40.030 and 2000 c 69 s 32 are each amended to
15 read as follows:

16 (1) Financial responsibility required by this chapter may be
17 established by any one of, or a combination of, the following methods
18 acceptable to the department of ecology: ~~((1))~~ (a) Evidence of
19 insurance; ~~((2))~~ (b) surety bonds; ~~((3))~~ (c) qualification as a
20 self-insurer; ~~((or (4))~~ (d) guaranty; (e) letter of credit; (f)
21 certificate of deposits; (g) protection and indemnity club
22 membership; or (h) other evidence of financial responsibility. Any
23 bond filed shall be issued by a bonding company authorized to do
24 business in the United States. Documentation of such financial
25 responsibility shall be kept on any covered vessel and filed with the
26 department at least twenty-four hours before entry of the vessel into
27 the navigable waters of the state. A covered vessel is not required
28 to file documentation of financial responsibility twenty-four hours
29 before entry of the vessel into the navigable waters of the state, if
30 the vessel has filed documentation of financial responsibility with
31 the federal government, and the level of financial responsibility
32 required by the federal government is the same as or exceeds state
33 requirements. The owner or operator of the vessel may file with the
34 department a certificate evidencing compliance with the requirements
35 of another state's or federal financial responsibility requirements
36 if the state or federal government requires a level of financial
37 responsibility the same as or greater than that required under this
38 chapter.

1 (2) A certificate of financial responsibility may not have a term
2 greater than one year.

3 **Sec. 14.** RCW 88.40.040 and 2003 c 56 s 4 are each amended to
4 read as follows:

5 (1) ~~((It is unlawful for any vessel required to have financial~~
6 ~~responsibility under this chapter to enter or operate on Washington~~
7 ~~waters without meeting the requirements of this chapter or rules~~
8 ~~adopted under this chapter, except)) A vessel or facility need not
9 demonstrate financial responsibility under this chapter prior to
10 using any port or place in the state of Washington or the navigable
11 waters of the state when necessary to avoid injury to the vessel's or
12 facility's crew or passengers. Any vessel owner or operator that does
13 not meet the financial responsibility requirements of this chapter
14 and any rules prescribed thereunder or the federal oil pollution act
15 of 1990 shall be reported by the department to the United States
16 coast guard.~~

17 (2) ~~((The department shall enforce section 1016 of the federal~~
18 ~~oil pollution act of 1990 as authorized by section 1019 of the~~
19 ~~federal act.)) Upon notification of an oil spill or discharge or
20 other action or potential liability, the director shall reevaluate
21 the validity of the certificate of financial responsibility. If the
22 director determines that, because of a spill outside of the state or
23 some other action or potential liability, the holder of a certificate
24 may not have the financial resources to pay damages for the oil spill
25 or discharge or other action or potential liability and have
26 resources remaining available to meet the requirements of this
27 chapter, the director may suspend or revoke the certificate.~~

28 (3) An owner or operator of more than one covered vessel, more
29 than one facility, or one or more vessels and facilities, is only
30 required to obtain a single certificate of financial responsibility
31 that applies to all of the owner or operator's vessels and
32 facilities.

33 (4) If a person holds a certificate for more than one covered
34 vessel or facility and a spill or spills occurs from one or more of
35 those vessels or facilities for which the owner or operator may be
36 liable for damages in an amount exceeding five percent of the
37 financial resources reflected by the certificate, as determined by
38 the director, the certificate is immediately considered inapplicable
39 to any vessel or facility not associated with the spill. In that

1 event, the owner or operator shall demonstrate to the satisfaction of
2 the director the amount of financial ability required pursuant to
3 this chapter, as well as the financial ability to pay all damages
4 that arise or have arisen from the spill or spills that have
5 occurred.

6 **Sec. 15.** RCW 88.16.170 and 1991 c 200 s 601 are each amended to
7 read as follows:

8 Because of the danger of spills, the legislature finds that the
9 transportation of crude oil and refined petroleum products by tankers
10 on the Columbia river, Grays Harbor, and on Puget Sound and adjacent
11 waters creates a great potential hazard to important natural
12 resources of the state and to jobs and incomes dependent on these
13 resources.

14 The legislature recognizes that the Columbia river has many
15 natural obstacles to navigation and shifting navigation channels that
16 create the risk of an oil spill. The legislature also recognizes
17 Grays Harbor and Puget Sound and adjacent waters are ((a)) relatively
18 confined salt water environments with irregular shorelines and
19 therefore there is a greater than usual likelihood of long-term
20 damage from any large oil spill.

21 The legislature further recognizes that certain areas of the
22 Columbia river, Grays Harbor, and Puget Sound and adjacent waters
23 have limited space for maneuvering a large oil tanker and that these
24 waters contain many natural navigational obstacles as well as a high
25 density of commercial and pleasure boat traffic.

26 For these reasons, it is important that large oil tankers be
27 piloted by highly skilled persons who are familiar with local waters
28 and that such ((~~tankers~~)) vessels have sufficient capability for
29 rapid maneuvering responses.

30 It is therefore the intent and purpose of RCW 88.16.180 and
31 88.16.190 to decrease the likelihood of oil spills on the Columbia
32 river, Grays Harbor, and on Puget Sound and its shorelines by
33 ((~~requiring all oil tankers above a certain size to employ licensed~~
34 ~~pilots and to be escorted by a tug or tugs while navigating on~~
35 ~~certain areas of Puget Sound and adjacent waters~~)) establishing
36 safety requirements that comprehensively address spill risks, which
37 may include the establishment of tug escorts and other measures to
38 mitigate safety risks in certain state waters.

1 **Sec. 16.** RCW 88.16.190 and 1994 c 52 s 1 are each amended to
2 read as follows:

3 ~~(1) ((Any oil tanker, whether enrolled or registered, of greater
4 than one hundred and twenty five thousand deadweight tons shall be
5 prohibited from proceeding beyond a point east of a line extending
6 from Discovery Island light south to New Dungeness light.~~

7 ~~(2) An oil tanker, whether enrolled or registered, of forty to
8 one hundred and twenty five thousand deadweight tons may proceed
9 beyond the points enumerated in subsection (1) if such tanker
10 possesses all of the following standard safety features:~~

11 ~~(a) Shaft horsepower in the ratio of one horsepower to each two
12 and one half deadweight tons; and~~

13 ~~(b) Twin screws; and~~

14 ~~(c) Double bottoms, underneath all oil and liquid cargo
15 compartments; and~~

16 ~~(d) Two radars in working order and operating, one of which must
17 be collision avoidance radar; and~~

18 ~~(e) Such other navigational position location systems as may be
19 prescribed from time to time by the board of pilotage commissioners:~~

20 ~~PROVIDED, That, if such forty to one hundred and twenty five
21 thousand deadweight ton tanker is in ballast or is under escort of a
22 tug or tugs with an aggregate shaft horsepower equivalent to five
23 percent of the deadweight tons of that tanker, subsection (2) of this
24 section shall not apply: PROVIDED FURTHER, That additional tug shaft
25 horsepower equivalencies may be required under certain conditions as
26 established by rule and regulation of the Washington utilities and
27 transportation commission pursuant to chapter 34.05 RCW: PROVIDED
28 FURTHER, That)) Except as provided in subsection (3) of this section,
29 an oil tanker of greater than forty thousand deadweight tons may
30 operate in the waters described in (a) of this subsection, to the
31 extent that these waters are within the territorial boundaries of
32 Washington, only if the oil tanker is under the escort of a tug or
33 tugs in compliance with the requirements of subsection (5) of this
34 section.~~

35 (a) Those waters east of a line extending from Discovery Island
36 light south to New Dungeness light and all points in the Puget Sound
37 area.

38 (b) The state board of pilotage commissioners, in consultation
39 with the department of ecology and relying on the results of vessel
40 traffic risk assessments, may write rules to implement this

1 subsection (1)(b), but only after an event described in subsection
2 (2) of this section takes place and only for the waters directly
3 affected by the facility event. These rules may include tug escort
4 requirements and other safety measures for oil tankers of greater
5 than forty thousand deadweight tons, all articulated tug barges, and
6 other towed waterborne vessels or barges that may apply in the
7 following areas consistent with subsections (3)(a) and (5) of this
8 section:

9 (i) Within a two-mile radius of the Grays Harbor pilotage
10 district as defined in RCW 88.16.050;

11 (ii) Any inland portion of the Columbia river or within three
12 miles of Cape Disappointment at the mouth of the Columbia river; or

13 (iii) The waters identified in (a) of this subsection.

14 (c) The state board of pilotage commissioners, in consultation
15 with the department of ecology and relying on the results of vessel
16 traffic risk assessments, shall adopt rules by June 30, 2017, to
17 implement this subsection (1)(c). These rules may include tug escort
18 requirements and other safety measures for oil tankers of greater
19 than forty thousand deadweight tons, all articulated tug barges, and
20 other towed waterborne vessels or barges and apply in the following
21 areas consistent with subsections (3)(a) and (5) of this section: The
22 waters described in (a) of this subsection, including all narrow
23 channels of the San Juan Islands archipelago, Rosario Strait, Haro
24 Strait, Boundary Pass, and connected waterways.

25 (2) The state board of pilotage commissioners may adopt rules
26 under subsection (1)(b) of this section only after:

27 (a) The governor approves, after January 1, 2015, a
28 recommendation of the energy facility site evaluation council
29 pursuant to RCW 80.50.100 to certify a facility meeting the criteria
30 listed in RCW 80.50.020(12) (d) or (f);

31 (b) A state agency or a local jurisdiction makes a final
32 determination or issues a final permit after January 1, 2015, to site
33 a new facility required to have a contingency plan pursuant to
34 chapter 90.56 RCW or to provide authority for the first time to
35 process or receive crude oil, as defined in chapter 90.56 RCW, to an
36 existing facility required to have a contingency plan pursuant to
37 chapter 90.56 RCW, other than a facility that is:

38 (i) A transmission pipeline; or

39 (ii) A railroad facility; or

1 (c) The state of Oregon or any local jurisdiction in Oregon makes
2 a final determination or issues a final permit to site a new facility
3 in the watershed of the Columbia river that would be required to have
4 a contingency plan pursuant to chapter 90.56 RCW if an identical
5 facility were located in Washington, or to provide authority for the
6 first time to process or receive crude oil, as defined in chapter
7 90.56 RCW, to an existing facility that would be required to have a
8 contingency plan pursuant to chapter 90.56 RCW if an identical
9 facility were located in Washington, other than a facility that is:

10 (i) A transmission pipeline; or

11 (ii) A railroad facility.

12 (3)(a) If an oil tanker, articulated tug barge, or other towed
13 waterborne vessel or barge is in ballast, the tug requirements of
14 subsection (1) of this section do not apply.

15 (b) If an oil tanker is a single-hulled oil tanker of greater
16 than five thousand gross tons, the requirements of subsection (1)(a)
17 of this section do not apply and the oil tanker must instead comply
18 with 33 C.F.R. Part 168, as of the effective date of this section.

19 (4)(a) Prior to proceeding with rule making as authorized under
20 subsection (1)(b) and (c) of this section, the state board of
21 pilotage commissioners must collaborate with the United States coast
22 guard, the Oregon board of maritime pilots, the Puget Sound, Grays
23 Harbor, and Columbia river harbor safety committees, area tribes,
24 public ports in Oregon and Washington, local governments, and other
25 appropriate entities. In adopting rules, the state board of pilotage
26 commissioners must take into account any tug escort or other maritime
27 safety measures for a water body that were or are required as
28 mitigation or as a condition of a facility siting decision by a state
29 agency or local jurisdiction.

30 (b) The department may not adopt any rules under this subsection
31 or under subsection (1)(b) and (c) of this section until a vessel
32 traffic risk assessment has been completed for the waters subject to
33 the rule making. In order to adopt a rule under this section or
34 subsection (1)(b) and (c) of this section, the board of pilotage
35 commissioners must determine that the results of a vessel traffic
36 risk assessment provides evidence that the rules are necessary in
37 order to achieve best achievable protection as defined in RCW
38 88.46.010. In order for the state board of pilotage commissioners to
39 rely on a vessel traffic risk assessment that is conducted after
40 January 1, 2015, the vessel traffic risk assessment must involve a

1 simulation analysis of vessel traffic. A simulation analysis is not
2 required of a vessel traffic risk assessment relied upon by the state
3 board of pilotage commissioners that was conducted before January 1,
4 2015.

5 (5) Oil tankers of greater than forty thousand deadweight tons,
6 all articulated tug barges, and other towed waterborne vessels or
7 barges must ensure that any escort tugs they use have an aggregate
8 shaft horsepower equivalent to at least five percent of the
9 deadweight tons of the escorted oil tanker or articulated tug barge.
10 The state board of pilotage commissioners may adopt rules to ensure
11 that escort tugs have sufficient mechanical capabilities to provide
12 for safe escort. Rules adopted on this subject must be designed to
13 achieve best achievable protection as defined under RCW 88.46.010.

14 (6) A tanker assigned a deadweight of equal to or less than forty
15 thousand deadweight tons at the time of construction or
16 reconstruction as reported in Lloyd's Register of Ships is not
17 subject to the provisions of RCW 88.16.170 through 88.16.190.

18 (7) The provisions of this section do not apply to pilotage for
19 enrolled tankers.

20 (8) For the purposes of this section:

21 (a) "Articulated tug barge" means a tank barge and a towing
22 vessel joined by hinged or articulated fixed mechanical equipment
23 affixed or connecting to the stern of the tank barge.

24 (b) "Oil tanker" means a self-propelled deep draft tank vessel
25 designed to transport oil in bulk. "Oil tanker" does not include an
26 articulated tug barge tank vessel.

27 (c) "Waterborne vessel or barge" means any ship, barge, or other
28 watercraft capable of traveling on the navigable waters of this state
29 and capable of transporting any crude oil or petroleum product in
30 quantities of ten thousand gallons or more for purposes other than
31 providing fuel for its motor or engine.

32 **Sec. 17.** RCW 82.23B.010 and 1992 c 73 s 6 are each amended to
33 read as follows:

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

37 (1) "Barrel" means a unit of measurement of volume equal to
38 forty-two United States gallons of crude oil or petroleum product.

1 (2) "Crude oil" means any naturally occurring liquid hydrocarbons
2 at atmospheric temperature and pressure coming from the earth,
3 including condensate and natural gasoline.

4 (3) "Department" means the department of revenue.

5 (4) "Marine terminal" means a facility of any kind, other than a
6 waterborne vessel, that is used for transferring crude oil or
7 petroleum products to or from a waterborne vessel or barge.

8 (5) "Navigable waters" means those waters of the state and their
9 adjoining shorelines that are subject to the ebb and flow of the
10 tide, including the Columbia and Snake rivers.

11 (6) "Person" has the meaning provided in RCW 82.04.030.

12 (7) "Petroleum product" means any liquid hydrocarbons at
13 atmospheric temperature and pressure that are the product of the
14 fractionation, distillation, or other refining or processing of crude
15 oil, and that are used as, useable as, or may be refined as a fuel or
16 fuel blendstock, including but not limited to, gasoline, diesel fuel,
17 aviation fuel, bunker fuel, and fuels containing a blend of alcohol
18 and petroleum.

19 (8) "Taxpayer" means the person owning crude oil or petroleum
20 products immediately after receipt of the same into the storage tanks
21 of a marine or bulk oil terminal in this state (~~from a waterborne~~
22 ~~vessel or barge~~) and who is liable for the taxes imposed by this
23 chapter.

24 (9) "Waterborne vessel or barge" means any ship, barge, or other
25 watercraft capable of (~~travelling~~) traveling on the navigable
26 waters of this state and capable of transporting any crude oil or
27 petroleum product in quantities of ten thousand gallons or more for
28 purposes other than providing fuel for its motor or engine.

29 (10) "Bulk oil terminal" means a facility of any kind, other than
30 a waterborne vessel, that is used for transferring crude oil or
31 petroleum products from a tank car or pipeline.

32 (11) "Tank car" means a rail car, the body of which consists of a
33 tank for transporting liquids.

34 **Sec. 18.** RCW 82.23B.020 and 2006 c 256 s 2 are each amended to
35 read as follows:

36 (1) An oil spill response tax is imposed on the privilege of
37 receiving: (a) Crude oil or petroleum products at a marine terminal
38 within this state from a waterborne vessel or barge operating on the
39 navigable waters of this state; (b) crude oil or petroleum products

1 at a bulk oil terminal within this state from a tank car; or (c)
2 crude oil or petroleum products at a bulk oil terminal within this
3 state from a pipeline. The tax imposed in this section is levied upon
4 the owner of the crude oil or petroleum products immediately after
5 receipt of the same into the storage tanks of a marine or bulk oil
6 terminal from a tank car, pipeline, or waterborne vessel or barge at
7 the rate of one cent per barrel of crude oil or petroleum product
8 received.

9 (2) In addition to the tax imposed in subsection (1) of this
10 section, an oil spill administration tax is imposed on the privilege
11 of receiving: (a) Crude oil or petroleum products at a marine
12 terminal within this state from a waterborne vessel or barge
13 operating on the navigable waters of this state; (b) crude oil or
14 petroleum products at a bulk oil terminal within this state from a
15 tank car; and (c) crude oil or petroleum products at a bulk oil
16 terminal within this state from a pipeline. The tax imposed in this
17 section is levied upon the owner of the crude oil or petroleum
18 products immediately after receipt of the same into the storage tanks
19 of a marine or bulk oil terminal from a tank car, pipeline, or
20 waterborne vessel or barge at the rate of (~~four~~) eight cents per
21 barrel of crude oil or petroleum product.

22 (3) The taxes imposed by this chapter (~~shall~~) must be collected
23 by the marine or bulk oil terminal operator from the taxpayer. If any
24 person charged with collecting the taxes fails to bill the taxpayer
25 for the taxes, or in the alternative has not notified the taxpayer in
26 writing of the (~~imposition of the~~) taxes imposed, or having
27 collected the taxes, fails to pay them to the department in the
28 manner prescribed by this chapter, whether such failure is the result
29 of the person's own acts or the result of acts or conditions beyond
30 the person's control, he or she (~~shall~~), nevertheless, (~~be~~) is
31 personally liable to the state for the amount of the taxes. Payment
32 of the taxes by the owner to a marine or bulk oil terminal operator
33 (~~shall~~) relieves the owner from further liability for the taxes.

34 (4) Taxes collected under this chapter (~~shall~~) must be held in
35 trust until paid to the department. Any person collecting the taxes
36 who appropriates or converts the taxes collected (~~shall be~~) is
37 guilty of a gross misdemeanor if the money required to be collected
38 is not available for payment on the date payment is due. The taxes
39 required by this chapter to be collected (~~shall~~) must be stated
40 separately from other charges made by the marine or bulk oil terminal

1 operator in any invoice or other statement of account provided to the
2 taxpayer.

3 (5) If a taxpayer fails to pay the taxes imposed by this chapter
4 to the person charged with collection of the taxes and the person
5 charged with collection fails to pay the taxes to the department, the
6 department may, in its discretion, proceed directly against the
7 taxpayer for collection of the taxes.

8 (6) The taxes (~~shall be~~) are due from the marine or bulk oil
9 terminal operator, along with reports and returns on forms prescribed
10 by the department, within twenty-five days after the end of the month
11 in which the taxable activity occurs.

12 (7) The amount of taxes, until paid by the taxpayer to the marine
13 or bulk oil terminal operator or to the department, (~~shall~~)
14 constitutes a debt from the taxpayer to the marine or bulk oil
15 terminal operator. Any person required to collect the taxes under
16 this chapter who, with intent to violate the provisions of this
17 chapter, fails or refuses to do so as required and any taxpayer who
18 refuses to pay any taxes due under this chapter, (~~shall be~~) is
19 guilty of a misdemeanor as provided in chapter 9A.20 RCW.

20 (8) Upon prior approval of the department, the taxpayer may pay
21 the taxes imposed by this chapter directly to the department. The
22 department (~~shall~~) must give its approval for direct payment under
23 this section whenever it appears, in the department's judgment, that
24 direct payment will enhance the administration of the taxes imposed
25 under this chapter. The department (~~shall~~) must provide by rule for
26 the issuance of a direct payment certificate to any taxpayer
27 qualifying for direct payment of the taxes. Good faith acceptance of
28 a direct payment certificate by a terminal operator (~~shall~~)
29 relieves the marine or bulk oil terminal operator from any liability
30 for the collection or payment of the taxes imposed under this
31 chapter.

32 (9) All receipts from the tax imposed in subsection (1) of this
33 section (~~shall~~) must be deposited into the state oil spill response
34 account. All receipts from the tax imposed in subsection (2) of this
35 section shall be deposited into the oil spill prevention account.

36 (10) Within forty-five days after the end of each calendar
37 quarter, the office of financial management (~~shall~~) must determine
38 the balance of the oil spill response account as of the last day of
39 that calendar quarter. Balance determinations by the office of
40 financial management under this section are final and (~~shall~~) may

1 not be used to challenge the validity of any tax imposed under this
2 chapter. The office of financial management (~~shall~~) must promptly
3 notify the departments of revenue and ecology of the account balance
4 once a determination is made. For each subsequent calendar quarter,
5 the tax imposed by subsection (1) of this section shall be imposed
6 during the entire calendar quarter unless:

7 (a) Tax was imposed under subsection (1) of this section during
8 the immediately preceding calendar quarter, and the most recent
9 quarterly balance is more than nine million dollars; or

10 (b) Tax was not imposed under subsection (1) of this section
11 during the immediately preceding calendar quarter, and the most
12 recent quarterly balance is more than eight million dollars.

13 **Sec. 19.** RCW 82.23B.030 and 1992 c 73 s 9 are each amended to
14 read as follows:

15 The taxes imposed under this chapter (~~shall~~) only apply to the
16 first receipt of crude oil or petroleum products at a marine or bulk
17 oil terminal in this state and not to the later transporting and
18 subsequent receipt of the same oil or petroleum product, whether in
19 the form originally received at a marine or bulk oil terminal in this
20 state or after refining or other processing.

21 **Sec. 20.** RCW 82.23B.040 and 1992 c 73 s 10 are each amended to
22 read as follows:

23 Credit (~~shall~~) must be allowed against the taxes imposed under
24 this chapter for any crude oil or petroleum products received at a
25 marine or bulk oil terminal and subsequently exported from or sold
26 for export from the state.

27 **Sec. 21.** RCW 38.52.040 and 2011 1st sp.s. c 21 s 27, 2011 c 336
28 s 789, and 2011 c 79 s 9 are each reenacted and amended to read as
29 follows:

30 (1) There is hereby created the emergency management council
31 (hereinafter called the council), to consist of not more than
32 seventeen members who shall be appointed by the adjutant general. The
33 membership of the council shall include, but not be limited to,
34 representatives of city and county governments, sheriffs and police
35 chiefs, the Washington state patrol, the military department, the
36 department of ecology, state and local fire chiefs, seismic safety
37 experts, state and local emergency management directors, search and

1 rescue volunteers, medical professions who have expertise in
2 emergency medical care, building officials, and private industry. The
3 representatives of private industry shall include persons
4 knowledgeable in emergency and hazardous materials management. The
5 councilmembers shall elect a chair from within the council
6 membership. The members of the council shall serve without
7 compensation, but may be reimbursed for their travel expenses
8 incurred in the performance of their duties in accordance with RCW
9 43.03.050 and 43.03.060 as now existing or hereafter amended.

10 (2) The emergency management council shall advise the governor
11 and the director on all matters pertaining to state and local
12 emergency management. The council may appoint such ad hoc committees,
13 subcommittees, and working groups as are required to develop specific
14 recommendations for the improvement of emergency management
15 practices, standards, policies, or procedures. The council shall
16 ensure that the governor receives an annual assessment of statewide
17 emergency preparedness including, but not limited to, specific
18 progress on hazard mitigation and reduction efforts, implementation
19 of seismic safety improvements, reduction of flood hazards, and
20 coordination of hazardous materials planning and response activities.
21 ~~((The council or a subcommittee thereof shall periodically convene in
22 special session and serve during those sessions as the state
23 emergency response commission required by P.L. 99-499, the emergency
24 planning and community right-to-know act. When sitting in session as
25 the state emergency response commission, the council shall confine
26 its deliberations to those items specified in federal statutes and
27 state administrative rules governing the coordination of hazardous
28 materials policy.))~~ The council shall review administrative rules
29 governing state and local emergency management practices and
30 recommend necessary revisions to the director.

31 (3) The council or a council subcommittee shall serve and
32 periodically convene in special session as the state emergency
33 response commission required by the emergency planning and community
34 right-to-know act (42 U.S.C. Sec. 11001 et seq.). The state emergency
35 response commission shall conduct those activities specified in
36 federal statutes and regulations and state administrative rules
37 governing the coordination of hazardous materials policy including,
38 but not limited to, review of local emergency planning committee
39 emergency response plans for compliance with the planning
40 requirements in the emergency planning and community right-to-know

1 act (42 U.S.C. Sec. 11001 et seq.). Committees shall annually review
2 their plans to address changed conditions, and submit their plans to
3 the state emergency response commission for review when updated, but
4 not less than at least once every five years. The department may
5 employ staff to assist local emergency planning committees in the
6 development and annual review of these emergency response plans, with
7 an initial focus on the highest risk communities through which trains
8 that transport oil in bulk travel. By March 1, 2018, the department
9 shall report to the governor and legislature on progress towards
10 compliance with planning requirements. The report must also provide
11 budget and policy recommendations for continued support of local
12 emergency planning.

13 (4)(a) The intrastate mutual aid committee is created and is a
14 subcommittee of the emergency management council. The intrastate
15 mutual aid committee consists of not more than five members who must
16 be appointed by the council chair from council membership. The chair
17 of the intrastate mutual aid committee is the military department
18 representative appointed as a member of the council. Meetings of the
19 intrastate mutual aid committee must be held at least annually.

20 (b) In support of the intrastate mutual aid system established in
21 chapter 38.56 RCW, the intrastate mutual aid committee shall develop
22 and update guidelines and procedures to facilitate implementation of
23 the intrastate mutual aid system by member jurisdictions, including
24 but not limited to the following: Projected or anticipated costs;
25 checklists and forms for requesting and providing assistance;
26 recordkeeping; reimbursement procedures; and other implementation
27 issues. These guidelines and procedures are not subject to the rule-
28 making requirements of chapter 34.05 RCW.

29 **Sec. 22.** RCW 81.24.010 and 2007 c 234 s 21 are each amended to
30 read as follows:

31 (1) Every company subject to regulation by the commission, except
32 those listed in subsection (3) of this section, shall, on or before
33 the date specified by the commission for filing annual reports under
34 RCW 81.04.080, file with the commission a statement on oath showing
35 its gross operating revenue from intrastate operations for the
36 preceding calendar year, or portion thereof, and pay to the
37 commission a fee equal to one-tenth of one percent of the first fifty
38 thousand dollars of gross operating revenue, plus two-tenths of one
39 percent of any gross operating revenue in excess of fifty thousand

1 dollars, except railroad companies which shall each pay to the
2 commission a fee equal to (~~one and one-half~~) two-tenths of one
3 percent of its combined intrastate gross operating revenue and the
4 Washington state portion of its gross interstate operating revenue.
5 The commission may, by rule, set minimum fees that do not exceed the
6 cost of collecting the fees. The commission may by rule waive any or
7 all of the minimum fee established pursuant to this section. Any
8 railroad association that qualifies as a nonprofit charitable
9 organization under the federal internal revenue code section
10 501(c)(3) is exempt from the fee required under this subsection.

11 (2) The percentage rates of gross operating revenue to be paid in
12 any one year may be decreased by the commission for any class of
13 companies subject to the payment of such fees, by general order
14 entered before March 1st of such year, and for such purpose railroad
15 companies are classified as class two. Every other company subject to
16 regulation by the commission, for which regulatory fees are not
17 otherwise fixed by law, shall pay fees as herein provided and shall
18 constitute additional classes according to kinds of businesses
19 engaged in.

20 (3) This section does not apply to private nonprofit
21 transportation providers, auto transportation companies, charter
22 party carriers and excursion service carriers, solid waste collection
23 companies, motor freight carriers, household goods carriers,
24 commercial ferries, and low-level radioactive waste storage
25 facilities.

26 NEW SECTION. **Sec. 23.** A new section is added to chapter 81.44
27 RCW to read as follows:

28 Commission employees certified by the federal railroad
29 administration to perform hazardous materials inspections may enter
30 the property of any business that receives, ships, or offers for
31 shipment hazardous materials by rail. Entry shall be at a reasonable
32 time and in a reasonable manner. The purpose of entry is limited to
33 performing inspections, investigations, or surveillance of equipment,
34 records, and operations relating to the packaging, loading,
35 unloading, or transportation of hazardous materials by rail, pursuant
36 only to the state participation program outlined in 49 C.F.R. Part
37 212. The term "business" is all inclusive and is not limited to
38 common carriers or public service companies.

1 **Sec. 24.** RCW 81.53.010 and 2013 c 23 s 302 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 ~~((The term))~~ (1) "Commission(~~(τ)~~)" ~~((when used in this chapter,))~~
6 means the utilities and transportation commission of Washington.

7 ~~((The term))~~ (2) "Highway(~~(τ)~~)" ~~((when used in this chapter,))~~
8 includes all state and county roads, streets, alleys, avenues,
9 boulevards, parkways, and other public places actually open and in
10 use, or to be opened and used, for travel by the public.

11 ~~((The term))~~ (3) "Railroad(~~(τ)~~)" ~~((when used in this chapter,))~~
12 means every railroad, including interurban and suburban electric
13 railroads, by whatsoever power operated, for the public use in the
14 conveyance of persons or property for hire, with all bridges,
15 ferries, tunnels, equipment, switches, spurs, sidings, tracks,
16 stations, and terminal facilities of every kind, used, operated,
17 controlled, managed, or owned by or in connection therewith. The
18 ~~((said))~~ term ~~((shall))~~ also includes every logging and other
19 industrial railway owned or operated primarily for the purpose of
20 carrying the property of its owners or operators or of a limited
21 class of persons, with all tracks, spurs, and sidings used in
22 connection therewith. The ~~((said))~~ term ~~((shall))~~ does not include
23 street railways operating within the limits of any incorporated city
24 or town.

25 ~~((The term))~~ (4) "Railroad company(~~(τ)~~)" ~~((when used in this~~
26 ~~chapter,))~~ includes every corporation, company, association, joint
27 stock association, partnership, or person, its, their, or his or her
28 lessees, trustees, or receivers appointed by any court whatsoever,
29 owning, operating, controlling, or managing any railroad(~~(τ as that~~
30 ~~term is defined in this section))~~).

31 ~~((The term))~~ (5) "Over-crossing(~~(τ)~~)" ~~((when used in this~~
32 ~~chapter,))~~ means any point or place where a highway crosses a
33 railroad by passing above the same. "Over-crossing" also means any
34 point or place where one railroad crosses another railroad not at
35 grade.

36 ~~((The term))~~ (6) "Under-crossing(~~(τ)~~)" ~~((when used in this~~
37 ~~chapter,))~~ means any point or place where a highway crosses a
38 railroad by passing under the same. "Under-crossing" also means any
39 point or place where one railroad crosses another railroad not at
40 grade.

1 (~~The term "over crossing" or "under crossing," shall also mean~~
2 ~~any point or place where one railroad crosses another railroad not at~~
3 ~~grade.~~

4 ~~The term~~) (7) "Grade crossing(~~(7)~~)" (~~(when used in this~~
5 ~~chapter,~~) means any point or place where a railroad crosses a
6 highway or a highway crosses a railroad or one railroad crosses
7 another, at a common grade.

8 (8) "Private crossing" means any point or place where a railroad
9 crosses a private road at grade or a private road crosses a railroad
10 at grade, where the private road is not a highway.

11 **Sec. 25.** RCW 81.53.240 and 1984 c 7 s 375 are each amended to
12 read as follows:

13 (1) Except to the extent necessary to permit participation by
14 first-class cities in the grade crossing protective fund, when an
15 election to participate is made as provided in RCW 81.53.261 through
16 81.53.291, or to the extent a first-class city requests to
17 participate in the commission's crossing safety inspection program
18 within the city, this chapter ((81.53-RCW)) is not operative within
19 the limits of first-class cities, and does not apply to street
20 railway lines operating on or across any street, alley, or other
21 public place within the limits of any city, except that a streetcar
22 line outside of cities of the first class shall not cross a railroad
23 at grade without express authority from the commission. The
24 commission may not change the location of a state highway without the
25 approval of the secretary of transportation, or the location of any
26 crossing thereon adopted or approved by the department of
27 transportation, or grant a railroad authority to cross a state
28 highway at grade without the consent of the secretary of
29 transportation.

30 (2) Within thirty days of the effective date of this section,
31 first-class cities must provide to the commission a list of all
32 existing public crossings within the limits of a first-class city,
33 including over and under-crossings, including the United States
34 department of transportation number for the crossing. Within thirty
35 days of modifying, closing, or opening a grade crossing within the
36 limits of a first-class city, the city must notify the commission in
37 writing of the action taken, identifying the crossing by United
38 States department of transportation number.

1 NEW SECTION. **Sec. 26.** A new section is added to chapter 81.53
2 RCW to read as follows:

3 (1) To address the potential public safety hazards presented by
4 private crossings in the state and by the transportation of hazardous
5 materials in the state, including crude oil, the commission is
6 authorized to and must adopt rules governing safety standards for
7 private crossings along the railroad tracks over which crude oil is
8 transported in the state. The commission is also authorized to
9 conduct inspections of the private crossings subject to this section,
10 to order the railroads to make improvements at the private crossings,
11 and enforce the orders.

12 (2) The commission must adopt rules governing private crossings
13 along railroad tracks over which crude oil is transported in the
14 state, establishing:

15 (a) Minimum safety standards for the private crossings subject to
16 this section, including, but not limited to, requirements for
17 signage;

18 (b) Criteria for prioritizing the inspection and improvements of
19 the private crossings subject to this section; and

20 (c) Requirements governing the improvements to private crossings
21 the railroad company must pay for and complete.

22 (3) Nothing in this section modifies existing agreements between
23 the railroad company and the landowner governing liability for
24 injuries or damages occurring at the private crossing.

25 **Sec. 27.** RCW 88.46.180 and 2011 c 122 s 2 are each amended to
26 read as follows:

27 (1) The department shall evaluate and update planning standards
28 for oil spill response equipment required under contingency plans
29 required by this chapter, including aerial surveillance, in order to
30 ensure access in the state to equipment that represents the best
31 achievable protection to respond to a worst case spill and provide
32 for continuous operation of oil spill response activities to the
33 maximum extent practicable and without jeopardizing crew safety, as
34 determined by the incident commander or the unified command.

35 (2) The department shall by rule update the planning standards at
36 five-year intervals to ensure the maintenance of best available
37 protection over time. Rule updates to covered nontank vessels shall
38 minimize potential impacts to discretionary cargo moved through the
39 state.

1 (~~(3) The department shall evaluate and update planning standards~~
2 ~~for tank vessels by December 31, 2012.~~)

3 **Sec. 28.** RCW 42.56.270 and 2014 c 192 s 6, 2014 c 174 s 5, and
4 2014 c 144 s 6 are each reenacted and amended to read as follows:

5 The following financial, commercial, and proprietary information
6 is exempt from disclosure under this chapter:

7 (1) Valuable formulae, designs, drawings, computer source code or
8 object code, and research data obtained by any agency within five
9 years of the request for disclosure when disclosure would produce
10 private gain and public loss;

11 (2) Financial information supplied by or on behalf of a person,
12 firm, or corporation for the purpose of qualifying to submit a bid or
13 proposal for (a) a ferry system construction or repair contract as
14 required by RCW 47.60.680 through 47.60.750 or (b) highway
15 construction or improvement as required by RCW 47.28.070;

16 (3) Financial and commercial information and records supplied by
17 private persons pertaining to export services provided under chapters
18 43.163 and 53.31 RCW, and by persons pertaining to export projects
19 under RCW 43.23.035;

20 (4) Financial and commercial information and records supplied by
21 businesses or individuals during application for loans or program
22 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
23 43.168 RCW, or during application for economic development loans or
24 program services provided by any local agency;

25 (5) Financial information, business plans, examination reports,
26 and any information produced or obtained in evaluating or examining a
27 business and industrial development corporation organized or seeking
28 certification under chapter 31.24 RCW;

29 (6) Financial and commercial information supplied to the state
30 investment board by any person when the information relates to the
31 investment of public trust or retirement funds and when disclosure
32 would result in loss to such funds or in private loss to the
33 providers of this information;

34 (7) Financial and valuable trade information under RCW 51.36.120;

35 (8) Financial, commercial, operations, and technical and research
36 information and data submitted to or obtained by the clean Washington
37 center in applications for, or delivery of, program services under
38 chapter 70.95H RCW;

1 (9) Financial and commercial information requested by the public
2 stadium authority from any person or organization that leases or uses
3 the stadium and exhibition center as defined in RCW 36.102.010;

4 (10)(a) Financial information, including but not limited to
5 account numbers and values, and other identification numbers supplied
6 by or on behalf of a person, firm, corporation, limited liability
7 company, partnership, or other entity related to an application for a
8 horse racing license submitted pursuant to RCW 67.16.260(1)(b),
9 marijuana producer, processor, or retailer license, liquor license,
10 gambling license, or lottery retail license;

11 (b) Internal control documents, independent auditors' reports and
12 financial statements, and supporting documents: (i) Of house-banked
13 social card game licensees required by the gambling commission
14 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted
15 by tribes with an approved tribal/state compact for class III gaming;

16 (11) Proprietary data, trade secrets, or other information that
17 relates to: (a) A vendor's unique methods of conducting business; (b)
18 data unique to the product or services of the vendor; or (c)
19 determining prices or rates to be charged for services, submitted by
20 any vendor to the department of social and health services for
21 purposes of the development, acquisition, or implementation of state
22 purchased health care as defined in RCW 41.05.011;

23 (12)(a) When supplied to and in the records of the department of
24 commerce:

25 (i) Financial and proprietary information collected from any
26 person and provided to the department of commerce pursuant to RCW
27 43.330.050(8); and

28 (ii) Financial or proprietary information collected from any
29 person and provided to the department of commerce or the office of
30 the governor in connection with the siting, recruitment, expansion,
31 retention, or relocation of that person's business and until a siting
32 decision is made, identifying information of any person supplying
33 information under this subsection and the locations being considered
34 for siting, relocation, or expansion of a business;

35 (b) When developed by the department of commerce based on
36 information as described in (a)(i) of this subsection, any work
37 product is not exempt from disclosure;

38 (c) For the purposes of this subsection, "siting decision" means
39 the decision to acquire or not to acquire a site;

1 (d) If there is no written contact for a period of sixty days to
2 the department of commerce from a person connected with siting,
3 recruitment, expansion, retention, or relocation of that person's
4 business, information described in (a)(ii) of this subsection will be
5 available to the public under this chapter;

6 (13) Financial and proprietary information submitted to or
7 obtained by the department of ecology or the authority created under
8 chapter 70.95N RCW to implement chapter 70.95N RCW;

9 (14) Financial, commercial, operations, and technical and
10 research information and data submitted to or obtained by the life
11 sciences discovery fund authority in applications for, or delivery
12 of, grants under chapter 43.350 RCW, to the extent that such
13 information, if revealed, would reasonably be expected to result in
14 private loss to the providers of this information;

15 (15) Financial and commercial information provided as evidence to
16 the department of licensing as required by RCW 19.112.110 or
17 19.112.120, except information disclosed in aggregate form that does
18 not permit the identification of information related to individual
19 fuel licensees;

20 (16) Any production records, mineral assessments, and trade
21 secrets submitted by a permit holder, mine operator, or landowner to
22 the department of natural resources under RCW 78.44.085;

23 (17)(a) Farm plans developed by conservation districts, unless
24 permission to release the farm plan is granted by the landowner or
25 operator who requested the plan, or the farm plan is used for the
26 application or issuance of a permit;

27 (b) Farm plans developed under chapter 90.48 RCW and not under
28 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject
29 to RCW 42.56.610 and 90.64.190;

30 (18) Financial, commercial, operations, and technical and
31 research information and data submitted to or obtained by a health
32 sciences and services authority in applications for, or delivery of,
33 grants under RCW 35.104.010 through 35.104.060, to the extent that
34 such information, if revealed, would reasonably be expected to result
35 in private loss to providers of this information;

36 (19) Information gathered under chapter 19.85 RCW or RCW
37 34.05.328 that can be identified to a particular business;

38 (20) Financial and commercial information submitted to or
39 obtained by the University of Washington, other than information the
40 university is required to disclose under RCW 28B.20.150, when the

1 information relates to investments in private funds, to the extent
2 that such information, if revealed, would reasonably be expected to
3 result in loss to the University of Washington consolidated endowment
4 fund or to result in private loss to the providers of this
5 information; (~~and~~)

6 (21) Market share data submitted by a manufacturer under RCW
7 70.95N.190(4); (~~and~~)

8 (22) Financial information supplied to the department of
9 financial institutions or to a portal under RCW 21.20.883, when filed
10 by or on behalf of an issuer of securities for the purpose of
11 obtaining the exemption from state securities registration for small
12 securities offerings provided under RCW 21.20.880 or when filed by or
13 on behalf of an investor for the purpose of purchasing such
14 securities; and

15 (23)(a) Notices of a transfer of crude oil submitted to the
16 department of ecology pursuant to section 8(1)(a) of this act and
17 that is in the possession of the department of ecology or any entity
18 with which the department of ecology has shared the notice pursuant
19 to section 8(4) of this act; and

20 (b) Information submitted to the department of ecology by
21 pipelines pursuant to section 8(2) of this act that is related to
22 diluting agents contained in transported oil and that is in the
23 possession of the department of ecology or any entity with which the
24 department of ecology has shared the information pursuant to section
25 8(4) of this act.

26 NEW SECTION. Sec. 29. Sections 17 through 20 of this act take
27 effect January 1, 2016.

28 NEW SECTION. Sec. 30. If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

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