
HOUSE BILL 1449

State of Washington**64th Legislature****2015 Regular Session**

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

Read first time 01/21/15. Referred to Committee on Environment.

1 AN ACT Relating to oil transportation safety; amending RCW
2 88.46.180, 90.56.005, 90.56.010, 90.56.200, 90.56.210, 90.56.500,
3 90.56.510, 88.40.011, 88.40.025, 88.40.030, 88.40.040, 88.16.170,
4 88.16.190, 82.23B.010, 82.23B.020, 82.23B.030, 82.23B.040, 81.24.010,
5 81.53.010, and 81.53.240; reenacting and amending RCW 88.46.010,
6 88.40.020, and 38.52.040; adding new sections to chapter 90.56 RCW;
7 adding a new section to chapter 81.44 RCW; adding a new section to
8 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 9 of this act,
33 and financial responsibility in RCW 88.40.025, facility also means a
34 railroad that transports oil as bulk cargo.

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

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

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

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

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

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

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

33 (15)(a) "Owner or operator" means (i) in the case of a vessel,
34 any person owning, operating, or chartering by demise, the vessel;
35 (ii) in the case of an onshore or offshore facility, any person
36 owning or operating the facility; and (iii) in the case of an
37 abandoned vessel or onshore or offshore facility, the person who
38 owned or operated the vessel or facility immediately before its
39 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 88.46.180 and 2011 c 122 s 2 are each amended to
25 read as follows:

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

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

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

3 **Sec. 3.** RCW 90.56.005 and 2010 1st sp.s. c 7 s 72 are each
4 amended to read as follows:

5 (1) The legislature declares that waterborne transportation as a
6 source of supply for oil and hazardous substances poses special
7 concern for the state of Washington. Each year billions of gallons of
8 crude oil and refined petroleum products are transported as cargo and
9 fuel by vessels on the navigable waters of the state. The state is
10 experiencing rapid changes in how crude oil moves through rail
11 corridors and over Washington waters, creating new safety and
12 environmental risks. The changing sources and transport of crude oil
13 bring new risks to our communities along rail lines and to the
14 Columbia river, Grays Harbor, and Puget Sound waters. Since 2008,
15 rail traffic hauling crude oil has increased more than forty-fold
16 nationwide and major accidents have occurred over the past year in
17 both the United States and Canada. These shipments are expected to
18 increase in the coming years. Vessels and facilities transporting oil
19 into Washington travel on some of the most unique and special marine
20 environments in the United States. These marine environments are a
21 source of natural beauty, recreation, and economic livelihood for
22 many residents of this state. As a result, the state has an
23 obligation to ensure the citizens of the state that the waters of the
24 state will be protected from oil spills.

25 (2) The legislature finds that prevention is the best method to
26 protect the unique and special marine environments in this state. The
27 technology for containing and cleaning up a spill of oil or hazardous
28 substances is at best only partially effective. Preventing spills is
29 more protective of the environment and more cost-effective when all
30 the response and damage costs associated with responding to a spill
31 are considered. Therefore, the legislature finds that the primary
32 objective of the state is to achieve a zero spills strategy to
33 prevent any oil or hazardous substances from entering waters of the
34 state.

35 (3) The legislature also finds that:

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

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

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

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

10 (e) In section 5002 of the federal oil pollution act of 1990, the
11 United States congress found that many people believed that
12 complacency on the part of industry and government was one of the
13 contributing factors to the Exxon Valdez spill and, further, that one
14 method to combat this complacency is to involve local citizens in the
15 monitoring and oversight of oil spill plans. Congress also found that
16 a mechanism should be established that fosters the long-term
17 partnership of industry, government, and local communities in
18 overseeing compliance with environmental concerns in the operation of
19 crude oil terminals. Moreover, congress concluded that, in addition
20 to Alaska, a program of citizen monitoring and oversight should be
21 established in other major crude oil terminals in the United States
22 because recent oil spills indicate that the safe transportation of
23 oil is a national problem.

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

27 (a) To establish state agency expertise in marine safety and to
28 centralize state activities in spill prevention and response
29 activities;

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

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

35 (d) To provide for state spill response and wildlife rescue
36 planning and implementation;

37 (e) To support and complement the federal oil pollution act of
38 1990 and other federal law, especially those provisions relating to
39 the national contingency plan for cleanup of oil spills and
40 discharges, including provisions relating to the responsibilities of

1 state agencies designated as natural resource trustees. The
2 legislature intends this chapter to be interpreted and implemented in
3 a manner consistent with federal law;

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

6 (g) To provide for independent review on an ongoing basis the
7 adequacy of oil spill prevention, preparedness, and response
8 activities in this state; (~~and~~)

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

11 (i) To maintain the best achievable protection that can be
12 obtained through the use of the best achievable technology and those
13 staffing levels, training procedures, and operational methods that
14 provide the greatest degree of protection achievable.

15 **Sec. 4.** RCW 90.56.010 and 2007 c 347 s 6 are each amended to
16 read as follows:

17 The definitions in this section apply throughout this chapter
18 unless the context clearly requires otherwise.

19 (1) "Best achievable protection" means the highest level of
20 protection that can be achieved through the use of the best
21 achievable technology and those staffing levels, training procedures,
22 and operational methods that provide the greatest degree of
23 protection achievable. The director's determination of best
24 achievable protection shall be guided by the critical need to protect
25 the state's natural resources and waters, while considering (a) the
26 additional protection provided by the measures; (b) the technological
27 achievability of the measures; and (c) the cost of the measures.

28 (2) "Best achievable technology" means the technology that
29 provides the greatest degree of protection taking into consideration
30 (a) processes that are being developed, or could feasibly be
31 developed, given overall reasonable expenditures on research and
32 development, and (b) processes that are currently in use. In
33 determining what is best achievable technology, the director shall
34 consider the effectiveness, engineering feasibility, and commercial
35 availability of the technology.

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

37 (4) "Cargo vessel" means a self-propelled ship in commerce, other
38 than a tank vessel or a passenger vessel, three hundred or more gross

1 tons, including but not limited to, commercial fish processing
2 vessels and freighters.

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

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

8 (7) "Covered vessel" means a tank vessel, cargo vessel, or
9 passenger vessel.

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

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

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

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

20 (b) For the purposes of oil spill contingency planning in RCW
21 90.56.210, advanced notice of oil transfers in section 9 of this act,
22 and financial responsibility in RCW 88.40.025, facility also means a
23 railroad that transports oil as bulk cargo.

24 (c) A facility does not include any: (i) (~~Railroad-car,~~) Motor
25 vehicle(~~, or other rolling stock~~) while transporting oil over the
26 highways (~~or rail lines~~) of this state; (ii) underground storage
27 tank regulated by the department or a local government under chapter
28 90.76 RCW; (iii) motor vehicle motor fuel outlet; (iv) facility that
29 is operated as part of an exempt agricultural activity as provided in
30 RCW 82.04.330; or (v) marine fuel outlet that does not dispense more
31 than three thousand gallons of fuel to a ship that is not a covered
32 vessel, in a single transaction.

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

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

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

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

9 (16) "Necessary expenses" means the expenses incurred by the
10 department and assisting state agencies for (a) investigating the
11 source of the discharge; (b) investigating the extent of the
12 environmental damage caused by the discharge; (c) conducting actions
13 necessary to clean up the discharge; (d) conducting predamage and
14 damage assessment studies; and (e) enforcing the provisions of this
15 chapter and collecting for damages caused by a discharge.

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

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

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

36 (20)(a) "Owner or operator" means (i) in the case of a vessel,
37 any person owning, operating, or chartering by demise, the vessel;
38 (ii) in the case of an onshore or offshore facility, any person
39 owning or operating the facility; and (iii) in the case of an
40 abandoned vessel or onshore or offshore facility, the person who

1 owned or operated the vessel or facility immediately before its
2 abandonment.

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

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

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

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

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

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

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

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

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

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

32 **Sec. 5.** RCW 90.56.200 and 2000 c 69 s 19 are each amended to
33 read as follows:

34 (1) The owner or operator for each onshore and offshore facility,
35 except as determined in subsection (3) of this section, shall prepare
36 and submit to the department an oil spill prevention plan in
37 conformance with the requirements of this chapter. The plans shall be
38 submitted to the department in the time and manner directed by the
39 department. The spill prevention plan may be consolidated with a

1 spill contingency plan submitted pursuant to RCW 90.56.210. The
2 department may accept plans prepared to comply with other state or
3 federal law as spill prevention plans to the extent those plans
4 comply with the requirements of this chapter. The department, by
5 rule, shall establish standards for spill prevention plans.

6 (2) The spill prevention plan for an onshore or offshore facility
7 shall:

8 (a) Establish compliance with the federal oil pollution act of
9 1990, if applicable, and financial responsibility requirements under
10 federal and state law;

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

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

16 (d) Certify the implementation of alcohol and drug use awareness
17 programs;

18 (e) Describe the facility's maintenance and inspection program
19 and contain a current maintenance and inspection record of the
20 storage and transfer facilities and related equipment;

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

22 (g) Describe spill prevention technology that has been installed,
23 including overflow alarms, automatic overflow cut-off switches,
24 secondary containment facilities, and storm water retention,
25 treatment, and discharge systems;

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

29 (i) Describe the procedures followed by the facility to contain
30 and recover any oil that spills during the transfer of oil to or from
31 the facility;

32 (j) Provide for the incorporation into the facility during the
33 period covered by the plan of those measures that will provide the
34 best achievable protection for the public health and the environment;
35 and

36 (k) Include any other information reasonably necessary to carry
37 out the purposes of this chapter required by rules adopted by the
38 department.

1 (3) Plan requirements in subsection (2) of this section are not
2 applicable to railroad cars while transporting oil over rail lines of
3 this state.

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

9 (~~(4)~~) (5) Upon approval of a prevention plan, the department
10 shall provide to the person submitting the plan a statement
11 indicating that the plan has been approved, the facilities covered by
12 the plan, and other information the department determines should be
13 included.

14 (~~(5)~~) (6) The approval of a prevention plan shall be valid for
15 five years. An owner or operator of a facility shall notify the
16 department in writing immediately of any significant change of which
17 it is aware affecting its prevention plan, including changes in any
18 factor set forth in this section or in rules adopted by the
19 department. The department may require the owner or operator to
20 update a prevention plan as a result of these changes.

21 (~~(6)~~) (7) The department by rule shall require prevention plans
22 to be reviewed, updated, if necessary, and resubmitted to the
23 department at least once every five years.

24 (~~(7)~~) (8) Approval of a prevention plan by the department does
25 not constitute an express assurance regarding the adequacy of the
26 plan nor constitute a defense to liability imposed under this chapter
27 or other state law.

28 (~~(8)~~) (9) This section does not authorize the department to
29 modify the terms of a collective bargaining agreement.

30 **Sec. 6.** RCW 90.56.210 and 2005 c 78 s 1 are each amended to read
31 as follows:

32 (1) Each onshore and offshore facility shall have a contingency
33 plan for the containment and cleanup of oil spills from the facility
34 into the waters of the state and for the protection of fisheries and
35 wildlife, shellfish beds, natural resources, and public and private
36 property from such spills. The department shall by rule adopt and
37 periodically revise standards for the preparation of contingency
38 plans. The department shall require contingency plans, at a minimum,
39 to meet the following standards:

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

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

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

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

14 (e) State the number, training preparedness, and fitness of all
15 dedicated, prepositioned personnel assigned to direct and implement
16 the plan;

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

20 (g) Describe important features of the surrounding environment,
21 including fish and wildlife habitat, shellfish beds, environmentally
22 and archaeologically sensitive areas, and public facilities. The
23 departments of ecology, fish and wildlife, and natural resources, and
24 the ((office)) department of archaeology and historic preservation,
25 upon request, shall provide information that they have available to
26 assist in preparing this description. The description of
27 archaeologically sensitive areas shall not be required to be included
28 in a contingency plan until it is reviewed and updated pursuant to
29 subsection (9) of this section;

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

34 (i) Provide arrangements for the prepositioning of oil spill
35 containment and cleanup equipment and trained personnel at strategic
36 locations from which they can be deployed to the spill site to
37 promptly and properly remove the spilled oil;

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

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

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

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

11 (n) If the department has adopted rules permitting the use of
12 dispersants, the circumstances, if any, and the manner for the
13 application of the dispersants in conformance with the department's
14 rules.

15 (2)(a) The following shall submit contingency plans to the
16 department within six months after the department adopts rules
17 establishing standards for contingency plans under subsection (1) of
18 this section:

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

21 (ii) Offshore facilities.

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

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

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

33 (b) A person who has contracted with a facility to provide
34 containment and cleanup services and who meets the standards
35 established pursuant to RCW 90.56.240, may submit the plan for any
36 facility for which the person is contractually obligated to provide
37 services. Subject to conditions imposed by the department, the person
38 may submit a single plan for more than one facility.

39 ((+4)) (5) A contingency plan prepared for an agency of the
40 federal government or another state that satisfies the requirements

1 of this section and rules adopted by the department may be accepted
2 by the department as a contingency plan under this section. The
3 department shall ensure that to the greatest extent possible,
4 requirements for contingency plans under this section are consistent
5 with the requirements for contingency plans under federal law.

6 ~~((+5+))~~ (6) In reviewing the contingency plans required by this
7 section, the department shall consider at least the following
8 factors:

9 (a) The adequacy of containment and cleanup equipment, personnel,
10 communications equipment, notification procedures and call down
11 lists, response time, and logistical arrangements for coordination
12 and implementation of response efforts to remove oil spills promptly
13 and properly and to protect the environment;

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

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

18 (d) The existence of navigational hazards within the area covered
19 by the plan;

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

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

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

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

29 ~~((+6+))~~ (7) The department shall approve a contingency plan only
30 if it determines that the plan meets the requirements of this section
31 and that, if implemented, the plan is capable, in terms of personnel,
32 materials, and equipment, of removing oil promptly and properly and
33 minimizing any damage to the environment.

34 ~~((+7+))~~ (8) The approval of the contingency plan shall be valid
35 for five years. Upon approval of a contingency plan, the department
36 shall provide to the person submitting the plan a statement
37 indicating that the plan has been approved, the facilities or vessels
38 covered by the plan, and other information the department determines
39 should be included.

1 ~~((+8))~~ (9) An owner or operator of a facility shall notify the
2 department in writing immediately of any significant change of which
3 it is aware affecting its contingency plan, including changes in any
4 factor set forth in this section or in rules adopted by the
5 department. The department may require the owner or operator to
6 update a contingency plan as a result of these changes.

7 ~~((+9))~~ (10) The department by rule shall require contingency
8 plans to be reviewed, updated, if necessary, and resubmitted to the
9 department at least once every five years.

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

14 **Sec. 7.** RCW 90.56.500 and 2009 c 11 s 9 are each amended to read
15 as follows:

16 (1) The state oil spill response account is created in the state
17 treasury. All receipts from RCW 82.23B.020(1) shall be deposited in
18 the account. All costs reimbursed to the state by a responsible party
19 or any other person for responding to a spill of oil shall also be
20 deposited in the account. Moneys in the account shall be spent only
21 after appropriation. The account is subject to allotment procedures
22 under chapter 43.88 RCW.

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

24 (a) The costs associated with the response to spills ~~((of crude~~
25 ~~oil or petroleum products into the navigable))~~ or threats of spills
26 of oil or hazardous substances to the waters of the state; and

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

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

32 (4) Before expending moneys from the account, the director shall
33 make reasonable efforts to obtain funding for response costs under
34 subsection (2) of this section from the person responsible for the
35 spill and from other sources, including the federal government.

36 (5) Reimbursement for response costs from this account shall be
37 allowed only for costs which are not covered by funds appropriated to
38 the agencies responsible for response activities. Costs associated

1 with the response to spills (~~of crude oil or petroleum products~~)
2 shall include:

- 3 (a) Natural resource damage assessment and related activities;
- 4 (b) Spill related response, containment, wildlife rescue,
5 cleanup, disposal, and associated costs;
- 6 (c) Interagency coordination and public information related to a
7 response; and
- 8 (d) Appropriate travel, goods and services, contracts, and
9 equipment.

10 **Sec. 8.** RCW 90.56.510 and 2000 c 69 s 22 are each amended to
11 read as follows:

12 (1) The oil spill prevention account is created in the state
13 treasury. All receipts from RCW 82.23B.020(2) shall be deposited in
14 the account. Moneys from the account may be spent only after
15 appropriation. The account is subject to allotment procedures under
16 chapter 43.88 RCW. If, on the first day of any calendar month, the
17 balance of the oil spill response account is greater than nine
18 million dollars and the balance of the oil spill prevention account
19 exceeds the unexpended appropriation for the current biennium, then
20 the tax under RCW 82.23B.020(2) shall be suspended on the first day
21 of the next calendar month until the beginning of the following
22 biennium, provided that the tax shall not be suspended during the
23 last six months of the biennium. If the tax imposed under RCW
24 82.23B.020(2) is suspended during two consecutive biennia, the
25 department shall by November 1st after the end of the second
26 biennium, recommend to the appropriate standing committees an
27 adjustment in the tax rate. For the biennium ending June 30, 1999,
28 and the biennium ending June 30, 2001, the state treasurer may
29 transfer a total of up to one million dollars from the oil spill
30 response account to the oil spill prevention account to support
31 appropriations made from the oil spill prevention account in the
32 omnibus appropriations act adopted not later than June 30, 1999.

33 (2) Expenditures from the oil spill prevention account shall be
34 used exclusively for the administrative costs related to the purposes
35 of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. In
36 addition, until June 30, 2019, expenditures from the oil spill
37 prevention account may be used for the development and annual review
38 of local emergency planning committee emergency response plans in RCW
39 38.52.040(3). Starting with the 1995-1997 biennium, the legislature

1 shall give activities of state agencies related to prevention of oil
2 spills priority in funding from the oil spill prevention account.
3 Costs of prevention include the costs of:

4 (a) Routine responses not covered under RCW 90.56.500;

5 (b) Management and staff development activities;

6 (c) Development of rules and policies and the statewide plan
7 provided for in RCW 90.56.060;

8 (d) Facility and vessel plan review and approval, drills,
9 inspections, investigations, enforcement, and litigation;

10 (e) Interagency coordination and public outreach and education;

11 (f) Collection and administration of the tax provided for in
12 chapter 82.23B RCW; and

13 (g) Appropriate travel, goods and services, contracts, and
14 equipment.

15 (3) Before expending moneys from the account, the director shall
16 make reasonable efforts to obtain funding for response costs under
17 this section from the person responsible for the spill and from other
18 sources, including the federal government.

19 NEW SECTION. Sec. 9. A new section is added to chapter 90.56
20 RCW to read as follows:

21 (1) In addition to the requirements found in RCW 88.46.165, and
22 relying on the "advanced notice of transfer" system used by the
23 department, the department must be provided prior notice before an
24 oil transfer, that is regulated under this chapter and that may
25 impact waters of the state, occurs between a rail facility or another
26 facility or covered vessel. The notice must include the time,
27 location, volume, and type of the oil transfer and the notice
28 requirement must be immediately implemented while the department
29 adopts rules. The department shall adopt rules under this section.

30 (2) Twice per year, pipelines must report to the department the
31 type and volume of oil transported through the state. Reporting must
32 occur each year by July 31st for the period January 1st through June
33 30th and by January 31st for the period July 1st through December
34 31st.

35 (3) The department shall publish data collected under subsections
36 (1) and (2) of this section on a quarterly basis on the department
37 web site. Data reported with respect to oil transportation must be
38 aggregated by county and include county of transfer, volume
39 transferred, type of oil transferred, place of origin, mode of

1 transportation, route taken to the point of transfer, number of rail
2 cars transferring oil, and volume and number of oil spills en route
3 to or during transfer that are reported to the department.

4 NEW SECTION. **Sec. 10.** A new section is added to chapter 90.56
5 RCW to read as follows:

6 The department shall evaluate and update planning standards for
7 oil spill response equipment required under contingency plans
8 required by this chapter in order to ensure access in the state to
9 equipment that represents the best achievable protection to respond
10 to a worst case spill and provide for continuous operation of oil
11 spill response activities to the maximum extent practicable and
12 without jeopardizing crew safety, as determined by the incident
13 commander or the unified command.

14 **Sec. 11.** RCW 88.40.011 and 2007 c 347 s 4 are each amended to
15 read as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

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

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

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

25 (4) "Covered vessel" means a tank vessel, cargo vessel, or
26 passenger vessel.

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

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

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

35 (b) For the purposes of oil spill contingency planning in RCW
36 90.56.210, advanced notice of oil transfers in section 9 of this act,
37 and financial responsibility in RCW 88.40.025, facility also means a
38 railroad that transports oil as bulk 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) retail motor vehicle
4 motor fuel outlet; (iii) facility that is operated as part of an
5 exempt agricultural activity as provided in RCW 82.04.330; (iv)
6 underground storage tank regulated by the department or a local
7 government under chapter 90.76 RCW; or (v) marine fuel outlet that
8 does not dispense more than three thousand gallons of fuel to a ship
9 that is not a covered vessel, in a single transaction.

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

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

15 (10) "Hazardous substances" means any substance listed as of
16 March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under
17 section (~~(101-14)~~) 102(a) of the federal comprehensive environmental
18 response, compensation, and liability act of 1980, as amended by P.L.
19 99-499. The following are not hazardous substances for purposes of
20 this chapter:

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

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

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

28 (12) "Oil" or "oils" means oil of any kind that is liquid at
29 (~~atmospheric temperature~~) twenty-five degrees Celsius and one
30 atmosphere of pressure and any fractionation thereof, including, but
31 not limited to, crude oil, bitumen, synthetic crude oil, natural gas
32 well condensate, petroleum, gasoline, fuel oil, diesel oil,
33 biological oils and blends, oil sludge, oil refuse, and oil mixed
34 with wastes other than dredged spoil. Oil does not include any
35 substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R.
36 Part 302 adopted under section (~~(101-14)~~) 102(a) of the federal
37 comprehensive environmental response, compensation, and liability act
38 of 1980, as amended by P.L. 99-499.

39 (13) "Offshore facility" means any facility located in, on, or
40 under any of the navigable waters of the state, but does not include

1 a facility any part of which is located in, on, or under any land of
2 the state, other than submerged land.

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

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

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

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

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

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

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

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

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

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

36 (21) "Certificate of financial responsibility" means an official
37 written acknowledgment issued by the director or the director's
38 designee that an owner or operator of a covered vessel or facility,
39 or the owner of the oil, has demonstrated to the satisfaction of the
40 director or the director's designee that the relevant entity has the

1 financial ability to pay for costs and damages caused by an oil
2 spill.

3 **Sec. 12.** RCW 88.40.020 and 2003 c 91 s 3 and 2003 c 56 s 3 are
4 each reenacted and amended to read as follows:

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

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

15 (b) The director by rule may establish a lesser standard of
16 financial responsibility for tank vessels of three hundred gross tons
17 or less. The standard shall set the level of financial responsibility
18 based on the quantity of cargo the tank vessel is capable of
19 carrying. The director shall not set the standard for tank vessels of
20 three hundred gross tons or less below that required under federal
21 law.

22 (c) The owner or operator of a tank vessel who is a member of an
23 international protection and indemnity mutual organization and is
24 covered for oil pollution risks up to the amounts required under this
25 section is not required to demonstrate financial responsibility under
26 this chapter. The director may require the owner or operator of a
27 tank vessel to prove membership in such an organization.

28 (3)(a) A cargo vessel or passenger vessel that carries oil as
29 fuel shall demonstrate financial responsibility to pay at least three
30 hundred million dollars. However, a passenger vessel that transports
31 passengers and vehicles between Washington state and a foreign
32 country shall demonstrate financial responsibility to pay the greater
33 of at least six hundred dollars per gross ton or five hundred
34 thousand dollars.

35 (b) The owner or operator of a cargo vessel or passenger vessel
36 who is a member of an international protection and indemnity mutual
37 organization and is covered for oil pollution risks up to the amounts
38 required under this section is not required to demonstrate financial
39 responsibility under this chapter. The director may require the owner

1 or operator of a cargo vessel or passenger vessel to prove membership
2 in such an organization.

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

5 (a) For a fishing vessel carrying predominantly nonpersistent
6 product, one hundred thirty-three dollars and forty cents per
7 incident, for each barrel of total oil storage capacity, persistent
8 and nonpersistent product, on the vessel or one million three hundred
9 thirty-four thousand dollars, whichever is greater; or (b) for a
10 fishing vessel carrying predominantly persistent product, four
11 hundred dollars and twenty cents per incident, for each barrel of
12 total oil storage capacity, persistent product and nonpersistent
13 product, on the vessel or six million six hundred seventy thousand
14 dollars, whichever is greater.

15 (5) The ~~((documentation of financial responsibility shall
16 demonstrate the ability of the document holder to meet state and
17 federal financial liability requirements for the actual costs for
18 removal of oil spills, for natural resource damages, and for
19 necessary expenses))~~ certificate of financial responsibility is
20 conclusive evidence that the person or entity holding the certificate
21 is the party responsible for the specified vessel, facility, or oil
22 for purposes of determining liability pursuant to this chapter.

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

25 **Sec. 13.** RCW 88.40.025 and 1991 c 200 s 704 are each amended to
26 read as follows:

27 An onshore or offshore facility shall demonstrate financial
28 responsibility in an amount determined by the department as necessary
29 to compensate the state and affected counties and cities for damages
30 that might occur during a reasonable worst case spill of oil from
31 that facility into the navigable waters of the state. The department
32 shall ~~((consider such matters as the amount of oil that could be
33 spilled into the navigable waters from the facility, the cost of
34 cleaning up the spilled oil, the frequency of operations at the
35 facility, the damages that could result from the spill and the
36 commercial availability and affordability of financial
37 responsibility))~~ adopt by rule an amount that will be calculated by
38 multiplying the reasonable per barrel cleanup and damage cost of
39 spilled oil, times the worst case spill volume, as measured in

1 barrels, calculated in the applicant's oil spill contingency plan.
2 This section shall not apply to an onshore or offshore facility owned
3 or operated by the federal government or by the state or local
4 government.

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

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

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

32 **Sec. 15.** RCW 88.40.040 and 2003 c 56 s 4 are each amended to
33 read as follows:

34 (1) It is unlawful for any vessel or facility required to have
35 financial responsibility under this chapter to enter or operate
36 ~~((or))~~ in Washington ~~((waters))~~ without meeting the requirements of
37 this chapter or rules adopted under this chapter, except when
38 necessary to avoid injury to the vessel's or facility's crew or

1 passengers. Any vessel owner or operator that does not meet the
2 financial responsibility requirements of this chapter and any rules
3 prescribed thereunder or the federal oil pollution act of 1990 shall
4 be reported by the department to the United States coast guard.

5 ~~(2) ((The department shall enforce section 1016 of the federal~~
6 ~~oil pollution act of 1990 as authorized by section 1019 of the~~
7 ~~federal act.))~~ Upon notification of an oil spill or discharge or
8 other action or potential liability, the director shall reevaluate
9 the validity of the certificate of financial responsibility. If the
10 director determines that, because of a spill outside of the state or
11 some other action or potential liability, the holder of a certificate
12 may not have the financial resources to pay damages for the oil spill
13 or discharge or other action or potential liability and have
14 resources remaining available to meet the requirements of this
15 chapter, the director may suspend or revoke the certificate.

16 (3) An owner or operator of either more than one covered vessel
17 or facility, or both is only required to obtain one certificate of
18 financial responsibility for each vessel and facility owned or
19 operated.

20 (4) If a person holds a certificate for more than one covered
21 vessel or facility and a spill or spills occurs from one or more of
22 those vessels or facilities for which the owner or operator may be
23 liable for damages in an amount exceeding five percent of the
24 financial resources reflected by the certificate, as determined by
25 the director, the certificate is immediately considered inapplicable
26 to any vessel or facility not associated with the spill. In that
27 event, the owner or operator shall demonstrate to the satisfaction of
28 the director the amount of financial ability required pursuant to
29 this chapter, as well as the financial ability to pay all damages
30 that arise or have arisen from the spill or spills that have
31 occurred.

32 **Sec. 16.** RCW 88.16.170 and 1991 c 200 s 601 are each amended to
33 read as follows:

34 Because of the danger of spills, the legislature finds that the
35 transportation of crude oil and refined petroleum products by
36 tankers, articulated tug barges, and other towed waterborne vessels
37 or barges on the Columbia river, Grays Harbor, and on Puget Sound and
38 adjacent waters creates a great potential hazard to important natural

1 resources of the state and to jobs and incomes dependent on these
2 resources.

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

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

15 For these reasons, it is important that large oil tankers,
16 articulated tug barges, and other towed waterborne vessels or barges
17 be piloted by highly skilled persons who are familiar with local
18 waters and that such ((tankers)) vessels have sufficient capability
19 for rapid maneuvering responses.

20 It is therefore the intent and purpose of RCW 88.16.180 and
21 88.16.190 to decrease the likelihood of oil spills on the Columbia
22 river, Grays Harbor, and on Puget Sound and its shorelines by
23 requiring all oil tankers above a certain size, all articulated tug
24 barges, and other towed waterborne vessels or barges to employ
25 licensed pilots ((and to be escorted by a)), tug ((or tugs)) escorts,
26 and other safety measures while navigating on certain areas of Puget
27 Sound and adjacent waters, and also in Grays Harbor and the Columbia
28 river.

29 **Sec. 17.** RCW 88.16.190 and 1994 c 52 s 1 are each amended to
30 read as follows:

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

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

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

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

4 ~~(c) Double bottoms, underneath all oil and liquid cargo~~
5 ~~compartments; and~~

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

8 ~~(e) Such other navigational position location systems as may be~~
9 ~~prescribed from time to time by the board of pilotage commissioners;~~

10 ~~PROVIDED, That, if such forty to one hundred and twenty five~~
11 ~~thousand deadweight ton tanker is in ballast or is under escort of a~~
12 ~~tug or tugs with an aggregate shaft horsepower equivalent to five~~
13 ~~percent of the deadweight tons of that tanker, subsection (2) of this~~
14 ~~section shall not apply: PROVIDED FURTHER, That additional tug shaft~~
15 ~~horsepower equivalencies may be required under certain conditions as~~
16 ~~established by rule and regulation of the Washington utilities and~~
17 ~~transportation commission pursuant to chapter 34.05 RCW: PROVIDED~~
18 ~~FURTHER, That)) Except as provided in subsection (2) of this section,~~
19 ~~an oil tanker of greater than forty thousand deadweight tons may~~
20 ~~operate in the waters described in (a) of this subsection, to the~~
21 ~~extent that these waters are within the territorial boundaries of~~
22 ~~Washington, only if the oil tanker is under the escort of a tug or~~
23 ~~tugs in compliance with the requirements of subsection (4) of this~~
24 ~~section.~~

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

28 (b) The pilotage commission, in consultation with the department
29 of ecology and relying on the results of vessel traffic risk
30 assessments, may write rules to implement this subsection (1)(b).
31 Rules adopted under this subsection (1)(b) must be designed to
32 achieve best achievable protection as defined in RCW 88.46.010. These
33 rules may include tug escort requirements and other safety measures
34 for oil tankers of greater than forty thousand deadweight tons, all
35 articulated tug barges, and other towed waterborne vessels or barges
36 that may apply in the following areas consistent with subsections
37 (2)(a) and (4) of this section:

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

1 (ii) Within three miles of Cape Disappointment at the mouth of
2 the Columbia river;

3 (iii) Any inland portion of the Columbia river; or

4 (iv) All other navigable waters of the state.

5 (c) The pilotage commission, in consultation with the department
6 of ecology and relying on the results of vessel traffic risk
7 assessments, shall adopt rules by June 30, 2017, to implement this
8 subsection (1)(c). Rules adopted under this subsection (1)(c) must be
9 designed to achieve best achievable protection as defined under RCW
10 88.46.010. These rules may include tug escort requirements and other
11 safety measures for oil tankers of greater than forty thousand
12 deadweight tons, all articulated tug barges, and other towed
13 waterborne vessels or barges and apply in the following areas
14 consistent with subsections (2)(a) and (4): All narrow channels of
15 the San Juan Islands archipelago, including Rosario Strait, Haro
16 Strait, Boundary Pass, and connected waterways.

17 (2)(a) If an oil tanker, articulated tug barge, or other towed
18 waterborne vessel or barge is in ballast, the tug requirements of
19 subsection (1) of this section do not apply.

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

24 (3) Prior to proceeding with rule making as authorized under
25 subsection (1)(b) and (c) of this section, the commission shall
26 consult with the United States coast guard, the Oregon board of
27 maritime pilots, the Puget Sound, Grays Harbor, and Columbia river
28 harbor safety committees, area tribes, public ports in Oregon and
29 Washington, local governments, and other appropriate entities.

30 (4) Oil tankers of greater than forty thousand deadweight tons,
31 all articulated tug barges, and other towed waterborne vessels or
32 barges must ensure that any escort tugs they use have an aggregate
33 shaft horsepower equivalent to at least five percent of the
34 deadweight tons of the escorted oil tanker or articulated tug barge.
35 The pilotage commission may adopt rules to ensure that escort tugs
36 have sufficient capabilities to provide for safe escort. Rules
37 adopted on this subject must be designed to achieve best achievable
38 protection as defined under RCW 88.46.010.

39 (5) A tanker assigned a deadweight of equal to or less than forty
40 thousand deadweight tons at the time of construction or

1 reconstruction as reported in Lloyd's Register of Ships is not
2 subject to the provisions of RCW 88.16.170 through 88.16.190.

3 (6) For the purposes of this section:

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

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

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

15 **Sec. 18.** RCW 82.23B.010 and 1992 c 73 s 6 are each amended to
16 read as follows:

17 ~~((Unless the context clearly requires otherwise,))~~ The
18 definitions in this section apply throughout this chapter unless the
19 context clearly requires otherwise.

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

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

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

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

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

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

33 (7) "Petroleum product" means any liquid hydrocarbons at
34 atmospheric temperature and pressure that are the product of the
35 fractionation, distillation, or other refining or processing of crude
36 oil, and that are used as, useable as, or may be refined as a fuel or
37 fuel blendstock, including but not limited to, gasoline, diesel fuel,
38 aviation fuel, bunker fuel, and fuels containing a blend of alcohol
39 and petroleum.

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

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

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

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

16 **Sec. 19.** RCW 82.23B.020 and 2006 c 256 s 2 are each amended to
17 read as follows:

18 (1) An oil spill response tax is imposed on the privilege of
19 receiving: (a) Crude oil or petroleum products at a marine terminal
20 within this state from a waterborne vessel or barge operating on the
21 navigable waters of this state; (b) crude oil or petroleum products
22 at a bulk oil terminal within this state from a tank car; or (c)
23 crude oil or petroleum products at a bulk oil terminal within this
24 state from a pipeline. The tax imposed in this section is levied upon
25 the owner of the crude oil or petroleum products immediately after
26 receipt of the same into the storage tanks of a marine or bulk oil
27 terminal from a tank car, pipeline, or waterborne vessel or barge at
28 the rate of one cent per barrel of crude oil or petroleum product
29 received.

30 (2) In addition to the tax imposed in subsection (1) of this
31 section, an oil spill administration tax is imposed on the privilege
32 of receiving: (a) Crude oil or petroleum products at a marine
33 terminal within this state from a waterborne vessel or barge
34 operating on the navigable waters of this state; (b) crude oil or
35 petroleum products at a bulk oil terminal within this state from a
36 tank car; and (c) crude oil or petroleum products at a bulk oil
37 terminal within this state from a pipeline. The tax imposed in this
38 section is levied upon the owner of the crude oil or petroleum
39 products immediately after receipt of the same into the storage tanks

1 of a marine or bulk oil terminal from a tank car, pipeline, or
2 waterborne vessel or barge at the rate of (~~four~~) ten cents per
3 barrel of crude oil or petroleum product.

4 (3) The taxes imposed by this chapter (~~shall~~) must be collected
5 by the marine or bulk oil terminal operator from the taxpayer. If any
6 person charged with collecting the taxes fails to bill the taxpayer
7 for the taxes, or in the alternative has not notified the taxpayer in
8 writing of the (~~imposition of the~~) taxes imposed, or having
9 collected the taxes, fails to pay them to the department in the
10 manner prescribed by this chapter, whether such failure is the result
11 of the person's own acts or the result of acts or conditions beyond
12 the person's control, he or she (~~shall~~), nevertheless, (~~be~~) is
13 personally liable to the state for the amount of the taxes. Payment
14 of the taxes by the owner to a marine or bulk oil terminal operator
15 (~~shall~~) relieves the owner from further liability for the taxes.

16 (4) Taxes collected under this chapter (~~shall~~) must be held in
17 trust until paid to the department. Any person collecting the taxes
18 who appropriates or converts the taxes collected (~~shall be~~) is
19 guilty of a gross misdemeanor if the money required to be collected
20 is not available for payment on the date payment is due. The taxes
21 required by this chapter to be collected (~~shall~~) must be stated
22 separately from other charges made by the marine or bulk oil terminal
23 operator in any invoice or other statement of account provided to the
24 taxpayer.

25 (5) If a taxpayer fails to pay the taxes imposed by this chapter
26 to the person charged with collection of the taxes and the person
27 charged with collection fails to pay the taxes to the department, the
28 department may, in its discretion, proceed directly against the
29 taxpayer for collection of the taxes.

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

34 (7) The amount of taxes, until paid by the taxpayer to the marine
35 or bulk oil terminal operator or to the department, (~~shall~~)
36 constitutes a debt from the taxpayer to the marine or bulk oil
37 terminal operator. Any person required to collect the taxes under
38 this chapter who, with intent to violate the provisions of this
39 chapter, fails or refuses to do so as required and any taxpayer who

1 refuses to pay any taxes due under this chapter, (~~shall be~~) is
2 guilty of a misdemeanor as provided in chapter 9A.20 RCW.

3 (8) Upon prior approval of the department, the taxpayer may pay
4 the taxes imposed by this chapter directly to the department. The
5 department (~~shall~~) must give its approval for direct payment under
6 this section whenever it appears, in the department's judgment, that
7 direct payment will enhance the administration of the taxes imposed
8 under this chapter. The department (~~shall~~) must provide by rule for
9 the issuance of a direct payment certificate to any taxpayer
10 qualifying for direct payment of the taxes. Good faith acceptance of
11 a direct payment certificate by a terminal operator (~~shall~~)
12 relieves the marine or bulk oil terminal operator from any liability
13 for the collection or payment of the taxes imposed under this
14 chapter.

15 (9) All receipts from the tax imposed in subsection (1) of this
16 section (~~shall~~) must be deposited into the state oil spill response
17 account. All receipts from the tax imposed in subsection (2) of this
18 section shall be deposited into the oil spill prevention account.

19 (10) Within forty-five days after the end of each calendar
20 quarter, the office of financial management (~~shall~~) must determine
21 the balance of the oil spill response account as of the last day of
22 that calendar quarter. Balance determinations by the office of
23 financial management under this section are final and (~~shall~~) may
24 not be used to challenge the validity of any tax imposed under this
25 chapter. The office of financial management (~~shall~~) must promptly
26 notify the departments of revenue and ecology of the account balance
27 once a determination is made. For each subsequent calendar quarter,
28 the tax imposed by subsection (1) of this section shall be imposed
29 during the entire calendar quarter unless:

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

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

36 **Sec. 20.** RCW 82.23B.030 and 1992 c 73 s 9 are each amended to
37 read as follows:

38 The taxes imposed under this chapter (~~shall~~) only apply to the
39 first receipt of crude oil or petroleum products at a marine or bulk

1 oil terminal in this state and not to the later transporting and
2 subsequent receipt of the same oil or petroleum product, whether in
3 the form originally received at a marine or bulk oil terminal in this
4 state or after refining or other processing.

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

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

11 **Sec. 22.** RCW 38.52.040 and 2011 1st sp.s. c 21 s 27, 2011 c 336
12 s 789, and 2011 c 79 s 9 are each reenacted and amended to read as
13 follows:

14 (1) There is hereby created the emergency management council
15 (hereinafter called the council), to consist of not more than
16 seventeen members who shall be appointed by the adjutant general. The
17 membership of the council shall include, but not be limited to,
18 representatives of city and county governments, sheriffs and police
19 chiefs, the Washington state patrol, the military department, the
20 department of ecology, state and local fire chiefs, seismic safety
21 experts, state and local emergency management directors, search and
22 rescue volunteers, medical professions who have expertise in
23 emergency medical care, building officials, and private industry. The
24 representatives of private industry shall include persons
25 knowledgeable in emergency and hazardous materials management. The
26 councilmembers shall elect a chair from within the council
27 membership. The members of the council shall serve without
28 compensation, but may be reimbursed for their travel expenses
29 incurred in the performance of their duties in accordance with RCW
30 43.03.050 and 43.03.060 as now existing or hereafter amended.

31 (2) The emergency management council shall advise the governor
32 and the director on all matters pertaining to state and local
33 emergency management. The council may appoint such ad hoc committees,
34 subcommittees, and working groups as are required to develop specific
35 recommendations for the improvement of emergency management
36 practices, standards, policies, or procedures. The council shall
37 ensure that the governor receives an annual assessment of statewide
38 emergency preparedness including, but not limited to, specific

1 progress on hazard mitigation and reduction efforts, implementation
2 of seismic safety improvements, reduction of flood hazards, and
3 coordination of hazardous materials planning and response activities.
4 (~~The council or a subcommittee thereof shall periodically convene in
5 special session and serve during those sessions as the state
6 emergency response commission required by P.L. 99-499, the emergency
7 planning and community right to know act. When sitting in session as
8 the state emergency response commission, the council shall confine
9 its deliberations to those items specified in federal statutes and
10 state administrative rules governing the coordination of hazardous
11 materials policy.~~) The council shall review administrative rules
12 governing state and local emergency management practices and
13 recommend necessary revisions to the director.

14 (3) The council or a council subcommittee shall serve and
15 periodically convene in special session as the state emergency
16 response commission required by the emergency planning and community
17 right-to-know act (42 U.S.C. Sec. 11001 et seq.). The state emergency
18 response commission shall conduct those activities specified in
19 federal statutes and regulations and state administrative rules
20 governing the coordination of hazardous materials policy including,
21 but not limited to, review of local emergency planning committee
22 emergency response plans for compliance with the planning
23 requirements in the emergency planning and community right-to-know
24 act (42 U.S.C. Sec. 11001 et seq.). Committees shall annually review
25 their plans to address changed conditions, and submit their plans to
26 the state emergency response commission for review when updated, but
27 not less than at least once every five years. The department may
28 employ staff to assist local emergency planning committees in the
29 development and annual review of these emergency response plans. By
30 March 1, 2018, the department shall report to the governor and
31 legislature on progress towards compliance with planning
32 requirements. The report must also provide budget and policy
33 recommendations for continued support of local emergency planning.

34 (4)(a) The intrastate mutual aid committee is created and is a
35 subcommittee of the emergency management council. The intrastate
36 mutual aid committee consists of not more than five members who must
37 be appointed by the council chair from council membership. The chair
38 of the intrastate mutual aid committee is the military department
39 representative appointed as a member of the council. Meetings of the
40 intrastate mutual aid committee must be held at least annually.

1 (b) In support of the intrastate mutual aid system established in
2 chapter 38.56 RCW, the intrastate mutual aid committee shall develop
3 and update guidelines and procedures to facilitate implementation of
4 the intrastate mutual aid system by member jurisdictions, including
5 but not limited to the following: Projected or anticipated costs;
6 checklists and forms for requesting and providing assistance;
7 recordkeeping; reimbursement procedures; and other implementation
8 issues. These guidelines and procedures are not subject to the rule-
9 making requirements of chapter 34.05 RCW.

10 **Sec. 23.** RCW 81.24.010 and 2007 c 234 s 21 are each amended to
11 read as follows:

12 (1) Every company subject to regulation by the commission, except
13 those listed in subsection (3) of this section, shall, on or before
14 the date specified by the commission for filing annual reports under
15 RCW 81.04.080, file with the commission a statement on oath showing
16 its gross operating revenue from intrastate operations for the
17 preceding calendar year, or portion thereof, and pay to the
18 commission a fee equal to one-tenth of one percent of the first fifty
19 thousand dollars of gross operating revenue, plus two-tenths of one
20 percent of any gross operating revenue in excess of fifty thousand
21 dollars, except railroad companies which shall each pay to the
22 commission a fee equal to (~~one and one-half~~) two-tenths of one
23 percent of its combined intrastate gross operating revenue and the
24 Washington state portion of its gross interstate operating revenue.
25 The commission may, by rule, set minimum fees that do not exceed the
26 cost of collecting the fees. The commission may by rule waive any or
27 all of the minimum fee established pursuant to this section. Any
28 railroad association that qualifies as a nonprofit charitable
29 organization under the federal internal revenue code section
30 501(c)(3) is exempt from the fee required under this subsection.

31 (2) The percentage rates of gross operating revenue to be paid in
32 any one year may be decreased by the commission for any class of
33 companies subject to the payment of such fees, by general order
34 entered before March 1st of such year, and for such purpose railroad
35 companies are classified as class two. Every other company subject to
36 regulation by the commission, for which regulatory fees are not
37 otherwise fixed by law, shall pay fees as herein provided and shall
38 constitute additional classes according to kinds of businesses
39 engaged in.

1 (3) This section does not apply to private nonprofit
2 transportation providers, auto transportation companies, charter
3 party carriers and excursion service carriers, solid waste collection
4 companies, motor freight carriers, household goods carriers,
5 commercial ferries, and low-level radioactive waste storage
6 facilities.

7 NEW SECTION. **Sec. 24.** A new section is added to chapter 81.44
8 RCW to read as follows:

9 Commission employees certified by the federal railroad
10 administration to perform hazardous materials inspections may enter
11 the property of any business that receives, ships, or offers for
12 shipment hazardous materials by rail. Entry shall be at a reasonable
13 time and in a reasonable manner. The purpose of entry is limited to
14 performing inspections, investigations, or surveillance of equipment,
15 records, and operations relating to the packaging, loading,
16 unloading, or transportation of hazardous materials by rail, pursuant
17 only to the state participation program outlined in 49 C.F.R. Part
18 212. The term "business" is all inclusive and is not limited to
19 common carriers or public service companies.

20 **Sec. 25.** RCW 81.53.010 and 2013 c 23 s 302 are each amended to
21 read as follows:

22 The definitions in this section apply throughout this chapter
23 unless the context clearly requires otherwise.

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

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

30 ~~((The term))~~ (3) "Railroad~~((τ))"~~ ~~((when used in this chapter,τ))~~
31 means every railroad, including interurban and suburban electric
32 railroads, by whatsoever power operated, for the public use in the
33 conveyance of persons or property for hire, with all bridges,
34 ferries, tunnels, equipment, switches, spurs, sidings, tracks,
35 stations, and terminal facilities of every kind, used, operated,
36 controlled, managed, or owned by or in connection therewith. The
37 ~~((said))~~ term ~~((shall))~~ also includes every logging and other
38 industrial railway owned or operated primarily for the purpose of

1 carrying the property of its owners or operators or of a limited
2 class of persons, with all tracks, spurs, and sidings used in
3 connection therewith. The ~~((said))~~ term ~~((shall))~~ does not include
4 street railways operating within the limits of any incorporated city
5 or town.

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

12 ~~((The term))~~ (5) "Over-crossing((τ))" ~~((when used in this~~
13 ~~chapter,))~~ means any point or place where a highway crosses a
14 railroad by passing above the same. "Over-crossing" also means any
15 point or place where one railroad crosses another railroad not at
16 grade.

17 ~~((The term))~~ (6) "Under-crossing((τ))" ~~((when used in this~~
18 ~~chapter,))~~ means any point or place where a highway crosses a
19 railroad by passing under the same. "Under-crossing" also means any
20 point or place where one railroad crosses another railroad not at
21 grade.

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

25 ~~The term))~~ (7) "Grade crossing((τ))" ~~((when used in this~~
26 ~~chapter,))~~ means any point or place where a railroad crosses a
27 highway or a highway crosses a railroad or one railroad crosses
28 another, at a common grade.

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

32 **Sec. 26.** RCW 81.53.240 and 1984 c 7 s 375 are each amended to
33 read as follows:

34 (1) Except to the extent necessary to permit participation by
35 first-class cities in the grade crossing protective fund, when an
36 election to participate is made as provided in RCW 81.53.261 through
37 81.53.291, or to the extent a first-class city requests to
38 participate in the commission's crossing safety inspection program
39 within the city, this chapter ((81.53 RCW)) is not operative within

1 the limits of first-class cities, and does not apply to street
2 railway lines operating on or across any street, alley, or other
3 public place within the limits of any city, except that a streetcar
4 line outside of cities of the first class shall not cross a railroad
5 at grade without express authority from the commission. The
6 commission may not change the location of a state highway without the
7 approval of the secretary of transportation, or the location of any
8 crossing thereon adopted or approved by the department of
9 transportation, or grant a railroad authority to cross a state
10 highway at grade without the consent of the secretary of
11 transportation.

12 (2) Within thirty days of the effective date of this section,
13 first-class cities must provide to the commission a list of all
14 existing public crossings within the limits of a first-class city,
15 including over and under-crossings, including the United States
16 department of transportation number for the crossing. Within thirty
17 days of modifying, closing, or opening a grade crossing within the
18 limits of a first-class city, the city must notify the commission in
19 writing of the action taken, identifying the crossing by United
20 States department of transportation number.

21 NEW SECTION. **Sec. 27.** A new section is added to chapter 81.53
22 RCW to read as follows:

23 (1) To address the potential public safety hazards presented by
24 private crossings in the state and by the transportation of hazardous
25 materials in the state, including crude oil, the commission is
26 authorized to adopt rules governing safety standards for private
27 crossings along the railroad tracks over which crude oil is
28 transported in the state. The commission is also authorized to
29 conduct inspections of the private crossings subject to this section,
30 to order the railroads to make improvements at the private crossings,
31 and enforce the orders.

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

35 (a) Minimum safety standards for the private crossings subject to
36 this section, including, but not limited to, requirements for
37 signage;

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

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

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

6 NEW SECTION. **Sec. 28.** Sections 18 through 21 of this act take
7 effect January 1, 2016.

8 NEW SECTION. **Sec. 29.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

--- END ---