

**E2SSB 5057** - H COMM AMD

By Committee on Appropriations

**NOT ADOPTED 4/14/2015**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. 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 movement of  
10 crude oil through rail corridors and over Washington waters creates  
11 safety and environmental risks. The sources and transport of crude  
12 oil bring risks to our communities along rail lines and to the  
13 Columbia river, Grays Harbor, and Puget Sound waters. These shipments  
14 are expected to increase in the coming years. Vessels and trains  
15 transporting oil into Washington travel on some of the most unique  
16 and special marine environments in the United States. These marine  
17 environments are a source of natural beauty, recreation, and economic  
18 livelihood for many residents of this state. As a result, the state  
19 has an obligation to ensure the citizens of the state that the waters  
20 of the state will be protected from oil spills.

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

31 (3) The legislature also finds that:

32 (a) Recent accidents in Washington, Alaska, southern California,  
33 Texas, Pennsylvania, and other parts of the nation have shown that

1 the transportation, transfer, and storage of oil have caused  
2 significant damage to the marine environment;

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

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

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

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

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

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

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

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

37 (d) To provide for state spill response and wildlife rescue  
38 planning and implementation;

39 (e) To support and complement the federal oil pollution act of  
40 1990 and other federal law, especially those provisions relating to

1 the national contingency plan for cleanup of oil spills and  
2 discharges, including provisions relating to the responsibilities of  
3 state agencies designated as natural resource trustees. The  
4 legislature intends this chapter to be interpreted and implemented in  
5 a manner consistent with federal law;

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

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

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

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

17 **Sec. 2.** RCW 88.46.010 and 2011 c 122 s 1 are each reenacted and  
18 amended to read as follows:

19 The definitions in this section apply throughout this chapter  
20 unless the context clearly requires otherwise.

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

- 28 (a) The additional protection provided by the measures;
- 29 (b) The technological achievability of the measures; and
- 30 (c) The cost of the measures.

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

33 (i) Processes that are being developed, or could feasibly be  
34 developed, given overall reasonable expenditures on research and  
35 development; and

36 (ii) Processes that are currently in use.

37 (b) In determining what is best achievable technology, the  
38 director shall consider the effectiveness, engineering feasibility,  
39 and commercial availability of the technology.

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

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

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

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

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

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

14 (9)(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 8 of this act,  
22 and financial responsibility in RCW 88.40.025, facility also means a  
23 railroad that is not owned by the state that transports oil as bulk  
24 cargo.

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

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

37 (11) "Navigable waters of the state" means those waters of the  
38 state, and their adjoining shorelines, that are subject to the ebb  
39 and flow of the tide and/or are presently used, have been used in the

1 past, or may be susceptible for use to transport intrastate,  
2 interstate, or foreign commerce.

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

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

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

24 (15)(a) "Owner or operator" means (i) in the case of a vessel,  
25 any person owning, operating, or chartering by demise, the vessel;  
26 (ii) in the case of an onshore or offshore facility, any person  
27 owning or operating the facility; and (iii) in the case of an  
28 abandoned vessel or onshore or offshore facility, the person who  
29 owned or operated the vessel or facility immediately before its  
30 abandonment.

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

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

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

1 (18) "Race Rocks light" means the nautical landmark located  
2 southwest of the city of Victoria, British Columbia.

3 (19) "Regional vessels of opportunity response group" means a  
4 group of nondedicated vessels participating in a vessels of  
5 opportunity response system to respond when needed and available to  
6 spills in a defined geographic area.

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

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

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

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

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

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

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

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

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

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

37 (28) "Volunteer coordination system" means an oil spill response  
38 system that, before a spill occurs, prepares for the coordination of  
39 volunteers to assist with appropriate oil spill response activities,  
40 which may include shoreline protection and cleanup, wildlife

1 recovery, field observation, light construction, facility  
2 maintenance, donations management, clerical support, and other  
3 aspects of a spill response.

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

9 (30) "Worst case spill" means: (a) In the case of a vessel, a  
10 spill of the entire cargo and fuel of the vessel complicated by  
11 adverse weather conditions; and (b) in the case of an onshore or  
12 offshore facility, the largest foreseeable spill in adverse weather  
13 conditions.

14 **Sec. 3.** RCW 90.56.010 and 2007 c 347 s 6 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) "Best achievable protection" means the highest level of  
19 protection that can be achieved through the use of the best  
20 achievable technology and those staffing levels, training procedures,  
21 and operational methods that provide the greatest degree of  
22 protection achievable. The director's determination of best  
23 achievable protection shall be guided by the critical need to protect  
24 the state's natural resources and waters, while considering (a) the  
25 additional protection provided by the measures; (b) the technological  
26 achievability of the measures; and (c) the cost of the measures.

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

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

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

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

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

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

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

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

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

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

18 (b) For the purposes of oil spill contingency planning in RCW  
19 90.56.210, advanced notice of oil transfers in section 8 of this act,  
20 and financial responsibility in RCW 88.40.025, facility also means a  
21 railroad that is not owned by the state that transports oil as bulk  
22 cargo.

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

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

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

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



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

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

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

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

28 (19) "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 (20)(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 (21) "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 (22) "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 (23) "Ship" means any boat, ship, vessel, barge, or other  
11 floating craft of any kind.

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

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

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

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

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

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

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

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

37 (1) The owner or operator for each onshore and offshore facility,  
38 except as determined in subsection (3) of this section, shall prepare  
39 and submit to the department an oil spill prevention plan in

1 conformance with the requirements of this chapter. The plans shall be  
2 submitted to the department in the time and manner directed by the  
3 department. The spill prevention plan may be consolidated with a  
4 spill contingency plan submitted pursuant to RCW 90.56.210. The  
5 department may accept plans prepared to comply with other state or  
6 federal law as spill prevention plans to the extent those plans  
7 comply with the requirements of this chapter. The department, by  
8 rule, shall establish standards for spill prevention plans.

9 (2) The spill prevention plan for an onshore or offshore facility  
10 shall:

11 (a) Establish compliance with the federal oil pollution act of  
12 1990, if applicable, and financial responsibility requirements under  
13 federal and state law;

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

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

19 (d) Certify the implementation of alcohol and drug use awareness  
20 programs;

21 (e) Describe the facility's maintenance and inspection program  
22 and contain a current maintenance and inspection record of the  
23 storage and transfer facilities and related equipment;

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

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

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

32 (i) Describe the procedures followed by the facility to contain  
33 and recover any oil that spills during the transfer of oil to or from  
34 the facility;

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

1 (k) Include any other information reasonably necessary to carry  
2 out the purposes of this chapter required by rules adopted by the  
3 department.

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

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

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

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

24 ((+6)) (7) The department by rule shall require prevention plans  
25 to be reviewed, updated, if necessary, and resubmitted to the  
26 department at least once every five years.

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

31 ((+8)) (9) This section does not authorize the department to  
32 modify the terms of a collective bargaining agreement.

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

35 (1) Each onshore and offshore facility shall have a contingency  
36 plan for the containment and cleanup of oil spills from the facility  
37 into the waters of the state and for the protection of fisheries and  
38 wildlife, shellfish beds, natural resources, and public and private  
39 property from such spills. The department shall by rule adopt and

1 periodically revise standards for the preparation of contingency  
2 plans. The department shall require contingency plans, at a minimum,  
3 to meet the following standards:

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

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

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

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

17 (e) State the number, training preparedness, and fitness of all  
18 dedicated, prepositioned personnel assigned to direct and implement  
19 the plan;

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

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

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

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

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

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

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

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

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

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

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

23 (ii) Offshore facilities.

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

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

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

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

1       (~~(4)~~) (5) A contingency plan prepared for an agency of the  
2 federal government or another state that satisfies the requirements  
3 of this section and rules adopted by the department may be accepted  
4 by the department as a contingency plan under this section. The  
5 department shall ensure that to the greatest extent possible,  
6 requirements for contingency plans under this section are consistent  
7 with the requirements for contingency plans under federal law.

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

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

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

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

20       (d) The existence of navigational hazards within the area covered  
21 by the plan;

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

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

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

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

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

36       (~~(7)~~) (8) The approval of the contingency plan shall be valid  
37 for five years. Upon approval of a contingency plan, the department  
38 shall provide to the person submitting the plan a statement  
39 indicating that the plan has been approved, the facilities or vessels

1 covered by the plan, and other information the department determines  
2 should be included.

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

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

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

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

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

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

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

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

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

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



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

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

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

9 (c) Interagency coordination and public information related to a  
10 response; and

11 (d) Appropriate travel, goods and services, contracts, and  
12 equipment.

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

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

36 (2) Expenditures from the oil spill prevention account shall be  
37 used exclusively for the administrative costs related to the purposes  
38 of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. In  
39 addition, until June 30, 2019, expenditures from the oil spill

1 prevention account may be used for the development and annual review  
2 of local emergency planning committee emergency response plans in RCW  
3 38.52.040(3). Starting with the 1995-1997 biennium, the legislature  
4 shall give activities of state agencies related to prevention of oil  
5 spills priority in funding from the oil spill prevention account.  
6 Costs of prevention include the costs of:

- 7 (a) Routine responses not covered under RCW 90.56.500;
- 8 (b) Management and staff development activities;
- 9 (c) Development of rules and policies and the statewide plan  
10 provided for in RCW 90.56.060;
- 11 (d) Facility and vessel plan review and approval, drills,  
12 inspections, investigations, enforcement, and litigation;
- 13 (e) Interagency coordination and public outreach and education;
- 14 (f) Collection and administration of the tax provided for in  
15 chapter 82.23B RCW; and
- 16 (g) Appropriate travel, goods and services, contracts, and  
17 equipment.

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

24 NEW SECTION. Sec. 8. A new section is added to chapter 90.56  
25 RCW to read as follows:

26 (1)(a) A facility that receives crude oil from a railroad car  
27 must provide advance notice to the department that the facility will  
28 receive crude oil from a railroad car, as provided in this section.  
29 The advance notice must include the route taken to the facility  
30 within the state, if known, and the scheduled time, location, volume,  
31 and type of crude oil received. Each week, a facility that provides  
32 advance notice under this section must provide the required  
33 information regarding the scheduled arrival of railroad cars carrying  
34 crude oil to be received by the facility in the succeeding seven-day  
35 period. A facility is not required to provide advance notice when  
36 there is no receipt of crude oil from a railroad car scheduled for a  
37 seven-day period.

38 (b) Twice per year, pipelines must report to the department the  
39 following information about the crude oil transported by the pipeline

1 through the state: The volume of crude oil, the type of crude oil,  
2 and the types of diluting agents used in the crude oil. This report  
3 must be submitted each year by July 31st for the period January 1st  
4 through June 30th and by January 31st for the period July 1st through  
5 December 31st.

6 (2) The department may share information provided by a facility  
7 through the advance notice system established in this section with  
8 the state emergency management division and any county, city, tribal,  
9 port, or local government emergency response agency upon request.

10 (3) The department must publish information collected under this  
11 section on a quarterly basis on the department's internet web site.  
12 With respect to the information reported under subsection (1)(a) of  
13 this section, the information published by the department must be  
14 aggregated on a statewide basis by route through the state, by week,  
15 and by type of crude oil. The report may also include other  
16 information available to the department including, but not limited  
17 to, place of origin, modes of transport, number of railroad cars  
18 delivering crude oil, and number and volume of spills during  
19 transport and delivery.

20 (4)(a) A facility providing advance notice under this section is  
21 not responsible for meeting advance notice time frame requirements  
22 under subsection (1) of this section in the event that the schedule  
23 of arrivals of railroad cars carrying crude oil changes during a  
24 seven-day period.

25 (b) Twice per year, a facility must submit a report to the  
26 department that corrects inaccuracies in the advanced notices  
27 submitted under subsection (1) of this section. The facility is not  
28 required to correct in the report any insubstantial discrepancies  
29 between actual and scheduled train arrival times. The report must be  
30 submitted each year by July 31st for the period January 1st through  
31 June 30th and by January 31st for the period July 1st through  
32 December 31st.

33 (5) Consistent with the requirements of chapter 42.56 RCW, the  
34 department and any state, local, tribal, or public agency that  
35 receives information provided under this section may not disclose any  
36 such information to the public or to nongovernmental entities that is  
37 not aggregated and that contains proprietary, commercial, or  
38 financial information. The requirement for aggregating information  
39 does not apply when information is shared by the department with

1 emergency response agencies as provided in subsection (2) of this  
2 section.

3 (6) The department shall adopt rules to implement this section.  
4 The advance notice system required in this section must be consistent  
5 with the oil transfer reporting system adopted by the department  
6 pursuant to RCW 88.46.165.

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

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

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

19 The definitions in this section apply throughout this chapter  
20 unless the context clearly requires otherwise.

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

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

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

28 (4) "Covered vessel" means a tank vessel, cargo vessel, or  
29 passenger vessel.

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

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

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

1       (b) For the purposes of oil spill contingency planning in RCW  
2 90.56.210, advanced notice of oil transfers in section 8 of this act,  
3 and financial responsibility in RCW 88.40.025, facility also means a  
4 railroad that is not owned by the state that transports oil as bulk  
5 cargo.

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

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

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

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

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

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

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

33       (12) "Oil" or "oils" means oil of any kind that is liquid at  
34 (~~(atmospheric temperature)~~) twenty-five degrees Celsius and one  
35 atmosphere of pressure and any fractionation thereof, including, but  
36 not limited to, crude oil, bitumen, synthetic crude oil, natural gas  
37 well condensate, petroleum, gasoline, fuel oil, diesel oil,  
38 biological oils and blends, oil sludge, oil refuse, and oil mixed  
39 with wastes other than dredged spoil. Oil does not include any  
40 substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R.

1 Part 302 adopted under section (~~(101(14))~~) 102(a) of the federal  
2 comprehensive environmental response, compensation, and liability act  
3 of 1980, as amended by P.L. 99-499.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 An onshore or offshore facility shall demonstrate financial  
33 responsibility in an amount determined by the department as necessary  
34 to compensate the state and affected counties and cities for damages  
35 that might occur during a reasonable worst case spill of oil from  
36 that facility into the navigable waters of the state. The department  
37 shall ~~((consider such matters as the amount of oil that could be~~  
38 ~~spilled into the navigable waters from the facility, the cost of~~  
39 ~~cleaning up the spilled oil, the frequency of operations at the~~



1 facility, the damages that could result from the spill and the  
2 commercial availability and affordability of financial  
3 responsibility)) adopt by rule an amount that will be calculated by  
4 multiplying the reasonable per barrel cleanup and damage cost of  
5 spilled oil, times the reasonable worst case spill volume, as  
6 measured in barrels. This section shall not apply to an onshore or  
7 offshore facility owned or operated by the federal government or by  
8 the state or local government.

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

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

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

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

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

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

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

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

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

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

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

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

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

25       It is therefore the intent and purpose of RCW 88.16.180 and  
26 88.16.190 to decrease the likelihood of oil spills on the Columbia  
27 river, Grays Harbor, and on Puget Sound and its shorelines by  
28 ~~((requiring all oil tankers above a certain size to employ licensed~~  
29 ~~pilots and to be escorted by a tug or tugs while navigating on~~  
30 ~~certain areas of Puget Sound and adjacent waters))~~ establishing  
31 safety requirements that comprehensively address spill risks, which  
32 may include the establishment of tug escorts and other measures to  
33 mitigate safety risks in certain state waters.

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

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

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

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

7       ~~(b) Twin screws; and~~

8       ~~(c) Double bottoms, underneath all oil and liquid cargo~~  
9 ~~compartments; and~~

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

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

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

29       ~~(a) Those waters east of a line extending from Discovery Island~~  
30 ~~light south to New Dungeness light and all points in the Puget Sound~~  
31 ~~area.~~

32       ~~(b) The state board of pilotage commissioners, in consultation~~  
33 ~~with the department of ecology and relying on the results of vessel~~  
34 ~~traffic risk assessments, may write rules to implement this~~  
35 ~~subsection (1)(b), but only after an event described in subsection~~  
36 ~~(2) of this section takes place and only for the waters directly~~  
37 ~~affected by the facility event. These rules may include tug escort~~  
38 ~~requirements and other safety measures for oil tankers of greater~~  
39 ~~than forty thousand deadweight tons, all articulated tug barges, and~~  
40 ~~other towed waterborne vessels or barges that may apply in the~~

1 following areas consistent with subsections (3)(a) and (5) of this  
2 section:

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

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

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

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

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

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

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

32 (i) A transmission pipeline; or

33 (ii) A railroad facility; or

34 (c) The state of Oregon or any local jurisdiction in Oregon makes  
35 a final determination or issues a final permit to site a new facility  
36 in the watershed of the Columbia river that would be required to have  
37 a contingency plan pursuant to chapter 90.56 RCW if an identical  
38 facility were located in Washington, or to provide authority for the  
39 first time to process or receive crude oil, as defined in chapter  
40 90.56 RCW, to an existing facility that would be required to have a

1 contingency plan pursuant to chapter 90.56 RCW if an identical  
2 facility were located in Washington, other than a facility that is:

3 (i) A transmission pipeline; or

4 (ii) A railroad facility.

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

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

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

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

38 (5) Oil tankers of greater than forty thousand deadweight tons,  
39 all articulated tug barges, and other towed waterborne vessels or  
40 barges must ensure that any escort tugs they use have an aggregate

1 shaft horsepower equivalent to at least five percent of the  
2 deadweight tons of the escorted oil tanker or articulated tug barge.  
3 The state board of pilotage commissioners may adopt rules to ensure  
4 that escort tugs have sufficient mechanical capabilities to provide  
5 for safe escort. Rules adopted on this subject must be designed to  
6 achieve best achievable protection as defined under RCW 88.46.010.

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

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

13 (8) For the purposes of this section:

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

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

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

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

27 (~~Unless the context clearly requires otherwise,~~) The  
28 definitions in this section apply throughout this chapter unless the  
29 context clearly requires otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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



1 the rate of one cent per barrel of crude oil or petroleum product  
2 received.

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

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

28 (4) Taxes collected under this chapter (~~shall~~) must be held in  
29 trust until paid to the department. Any person collecting the taxes  
30 who appropriates or converts the taxes collected (~~shall be~~) is  
31 guilty of a gross misdemeanor if the money required to be collected  
32 is not available for payment on the date payment is due. The taxes  
33 required by this chapter to be collected (~~shall~~) must be stated  
34 separately from other charges made by the marine or bulk oil terminal  
35 operator in any invoice or other statement of account provided to the  
36 taxpayer.

37 (5) If a taxpayer fails to pay the taxes imposed by this chapter  
38 to the person charged with collection of the taxes and the person  
39 charged with collection fails to pay the taxes to the department, the

1 department may, in its discretion, proceed directly against the  
2 taxpayer for collection of the taxes.

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

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

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

27 (9) All receipts from the tax imposed in subsection (1) of this  
28 section (~~shall~~) must be deposited into the state oil spill response  
29 account. All receipts from the tax imposed in subsection (2) of this  
30 section shall be deposited into the oil spill prevention account.

31 (10) Within forty-five days after the end of each calendar  
32 quarter, the office of financial management (~~shall~~) must determine  
33 the balance of the oil spill response account as of the last day of  
34 that calendar quarter. Balance determinations by the office of  
35 financial management under this section are final and (~~shall~~) may  
36 not be used to challenge the validity of any tax imposed under this  
37 chapter. The office of financial management (~~shall~~) must promptly  
38 notify the departments of revenue and ecology of the account balance  
39 once a determination is made. For each subsequent calendar quarter,

1 the tax imposed by subsection (1) of this section shall be imposed  
2 during the entire calendar quarter unless:

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

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

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

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

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

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

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

26 (1) There is hereby created the emergency management council  
27 (hereinafter called the council), to consist of not more than  
28 seventeen members who shall be appointed by the adjutant general. The  
29 membership of the council shall include, but not be limited to,  
30 representatives of city and county governments, sheriffs and police  
31 chiefs, the Washington state patrol, the military department, the  
32 department of ecology, state and local fire chiefs, seismic safety  
33 experts, state and local emergency management directors, search and  
34 rescue volunteers, medical professions who have expertise in  
35 emergency medical care, building officials, and private industry. The  
36 representatives of private industry shall include persons  
37 knowledgeable in emergency and hazardous materials management. The

1 councilmembers shall elect a chair from within the council  
2 membership. The members of the council shall serve without  
3 compensation, but may be reimbursed for their travel expenses  
4 incurred in the performance of their duties in accordance with RCW  
5 43.03.050 and 43.03.060 as now existing or hereafter amended.

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

27 (3) The council or a council subcommittee shall serve and  
28 periodically convene in special session as the state emergency  
29 response commission required by the emergency planning and community  
30 right-to-know act (42 U.S.C. Sec. 11001 et seq.). The state emergency  
31 response commission shall conduct those activities specified in  
32 federal statutes and regulations and state administrative rules  
33 governing the coordination of hazardous materials policy including,  
34 but not limited to, review of local emergency planning committee  
35 emergency response plans for compliance with the planning  
36 requirements in the emergency planning and community right-to-know  
37 act (42 U.S.C. Sec. 11001 et seq.). Committees shall annually review  
38 their plans to address changed conditions, and submit their plans to  
39 the state emergency response commission for review when updated, but  
40 not less than at least once every five years. The department may

1 employ staff to assist local emergency planning committees in the  
2 development and annual review of these emergency response plans, with  
3 an initial focus on the highest risk communities through which trains  
4 that transport oil in bulk travel. By March 1, 2018, the department  
5 shall report to the governor and legislature on progress towards  
6 compliance with planning requirements. The report must also provide  
7 budget and policy recommendations for continued support of local  
8 emergency planning.

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

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

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

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

1 operating in Washington declines while the sum total of interstate  
2 gross operating revenues increases, the commission may assess a  
3 reasonable surcharge on railroad companies to enable collection of  
4 moneys up to the sum total of revenues collected in fiscal year 2017  
5 from railroad companies operating in Washington. The commission must  
6 adopt a rule to implement the surcharge. The commission may, by rule,  
7 set minimum fees that do not exceed the cost of collecting the fees.  
8 The commission may by rule waive any or all of the minimum fee  
9 established pursuant to this section. Any railroad association that  
10 qualifies as a nonprofit charitable organization under the federal  
11 internal revenue code section 501(c)(3) is exempt from the fee  
12 required under this subsection.

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

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

28 NEW SECTION. Sec. 23. A new section is added to chapter 81.44  
29 RCW to read as follows:

30 Commission employees certified by the federal railroad  
31 administration to perform hazardous materials inspections may enter  
32 the property of any business that receives, ships, or offers for  
33 shipment hazardous materials by rail. Entry shall be at a reasonable  
34 time and in a reasonable manner. The purpose of entry is limited to  
35 performing inspections, investigations, or surveillance of equipment,  
36 records, and operations relating to the packaging, loading,  
37 unloading, or transportation of hazardous materials by rail, pursuant  
38 only to the state participation program outlined in 49 C.F.R. Part

1 212. The term "business" is all inclusive and is not limited to  
2 common carriers or public service companies.

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

5 The definitions in this section apply throughout this chapter  
6 unless the context clearly requires otherwise.

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

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

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

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

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

38 ~~((The term))~~ (6) "Under-crossing(~~(τ)~~)" ~~((when used in this~~  
39 ~~chapter,τ))~~ means any point or place where a highway crosses a

1 railroad by passing under the same. "Under-crossing" also means any  
2 point or place where one railroad crosses another railroad not at  
3 grade.

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

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

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

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

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

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



1 writing of the action taken, identifying the crossing by United  
2 States department of transportation number.

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

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

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

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

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

22 (c) Requirements governing the responsibilities of railroad  
23 companies to oversee the payment and completion of private crossing  
24 improvements.

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

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

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

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

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

8 **Sec. 28.** RCW 42.56.270 and 2014 c 192 s 6, 2014 c 174 s 5, and  
9 2014 c 144 s 6 are each reenacted and amended to read as follows:

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

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

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

21 (3) Financial and commercial information and records supplied by  
22 private persons pertaining to export services provided under chapters  
23 43.163 and 53.31 RCW, and by persons pertaining to export projects  
24 under RCW 43.23.035;

25 (4) Financial and commercial information and records supplied by  
26 businesses or individuals during application for loans or program  
27 services provided by chapters 43.325, 43.163, 43.160, 43.330, and  
28 43.168 RCW, or during application for economic development loans or  
29 program services provided by any local agency;

30 (5) Financial information, business plans, examination reports,  
31 and any information produced or obtained in evaluating or examining a  
32 business and industrial development corporation organized or seeking  
33 certification under chapter 31.24 RCW;

34 (6) Financial and commercial information supplied to the state  
35 investment board by any person when the information relates to the  
36 investment of public trust or retirement funds and when disclosure  
37 would result in loss to such funds or in private loss to the  
38 providers of this information;

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

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

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

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

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

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

27 (12)(a) When supplied to and in the records of the department of  
28 commerce:

29 (i) Financial and proprietary information collected from any  
30 person and provided to the department of commerce pursuant to RCW  
31 43.330.050(8); and

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

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

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

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

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

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

20 (15) Financial and commercial information provided as evidence to  
21 the department of licensing as required by RCW 19.112.110 or  
22 19.112.120, except information disclosed in aggregate form that does  
23 not permit the identification of information related to individual  
24 fuel licensees;

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

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

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

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

1 (19) Information gathered under chapter 19.85 RCW or RCW  
2 34.05.328 that can be identified to a particular business;

3 (20) Financial and commercial information submitted to or  
4 obtained by the University of Washington, other than information the  
5 university is required to disclose under RCW 28B.20.150, when the  
6 information relates to investments in private funds, to the extent  
7 that such information, if revealed, would reasonably be expected to  
8 result in loss to the University of Washington consolidated endowment  
9 fund or to result in private loss to the providers of this  
10 information; (~~and~~)

11 (21) Market share data submitted by a manufacturer under RCW  
12 70.95N.190(4); (~~and~~)

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

20 (23)(a) Unaggregated or individual notices of a transfer of crude  
21 oil that is financial, proprietary, or commercial information,  
22 submitted to the department of ecology pursuant to section 8(1)(a) of  
23 this act, and that is in the possession of the department of ecology  
24 or any entity with which the department of ecology has shared the  
25 notice pursuant to section 8 of this act; and

26 (b) Information submitted to the department of ecology by  
27 pipelines pursuant to section 8(1)(b) of this act that is related to  
28 diluting agents contained in transported oil and that is in the  
29 possession of the department of ecology or any entity with which the  
30 department of ecology has shared the information pursuant to section  
31 8 of this act.

32 NEW SECTION. Sec. 29. A new section is added to chapter 81.40  
33 RCW to read as follows:

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

36 (1) "Commission" means the utilities and transportation  
37 commission created in chapter 80.01 RCW.

38 (2) "Hazardous material" means spent nuclear fuel, high level  
39 nuclear waste, or class 3 flammable liquids, as defined in the

1 hazardous materials regulations of the United States department of  
2 transportation in 49 C.F.R. Part 173 as of the effective date of this  
3 section.

4 (3) "Hazardous material train" means any train:

5 (a) Carrying twenty or more car loads of a class 3 flammable  
6 liquid as defined by the United States department of transportation  
7 in 49 C.F.R. Part 173 as of the effective date of this section; or

8 (b) Containing one or more car loads of spent nuclear fuel or  
9 high level nuclear waste.

10 (4) "Qualified crew member" means a railroad operating craft  
11 employee who has been trained and meets the requirements and  
12 qualifications as determined by the federal railroad administration  
13 for a railroad operating service employee.

14 (5) "Railroad carrier" means a carrier of persons or property  
15 upon vehicles, other than streetcars, operated upon stationary rails,  
16 the route of which is principally outside incorporated cities and  
17 towns. "Railroad carrier" includes the officers and agents of the  
18 railroad carrier.

19 NEW SECTION. **Sec. 30.** A new section is added to chapter 81.40  
20 RCW to read as follows:

21 Except as provided in section 31 of this act, the following  
22 minimum crew requirements apply:

23 (1) Any person, corporation, company, or officer of the court  
24 operating any railroad, railway, or any part of any railroad or  
25 railway, in the state of Washington, and engaged, as a common  
26 carrier, in the transportation of freight or passengers, shall  
27 operate all trains and switching assignments over its road with crews  
28 consisting of no less than two qualified crew members.

29 (2)(a) Railroad carriers shall operate all hazardous material  
30 trains over its road with crews consisting of no less than three  
31 qualified crew members. One qualified train crew member shall be  
32 assigned to a position located on the rear of the train and within  
33 rolling equipment, situated to safely observe and monitor the train's  
34 contents and movement.

35 (b) Railroad carriers shall operate any hazardous material trains  
36 consisting of fifty-one or more car loads of any combination of  
37 hazardous materials over its road with crews consisting of no less  
38 than four qualified crew members. Two qualified crew members shall be  
39 assigned to a position on the rear of the train and within rolling

1 equipment, situated to safely observe and monitor the train's  
2 contents and movement.

3 NEW SECTION. **Sec. 31.** A new section is added to chapter 81.40  
4 RCW to read as follows:

5 (1) Trains transporting hazardous material shipments a distance  
6 of five miles or less may operate the train with the required crew  
7 members positioned on the lead locomotive.

8 (2)(a) Class II and class III carriers transporting fewer than  
9 twenty loaded hazardous material cars on trains operating on their  
10 road while at a speed of twenty-five miles per hour or less are  
11 exempt from the additional train crew requirements specified in  
12 section 30(2) of this act.

13 (b) The commission may grant exemptions to the minimum crew size  
14 requirements to class III railroad carriers that are not transporting  
15 hazardous materials on their road.

16 (3)(a) The commission may order class I or II railroad carriers  
17 to exceed the minimum crew size and operate specific trains, routes,  
18 or switching assignments on their road with additional numbers of  
19 qualified crew members if it is determined that such an increase in  
20 crew size is necessary to protect the safety, health, and welfare of  
21 the public and railroad employees, to prevent harm to the  
22 environment, and to address local safety and security hazards.

23 (b) In issuing such an order the commission may consider relevant  
24 factors including but not limited to the volatility of the  
25 commodities being transported, vulnerabilities, risk exposure to  
26 localities along the train route, security risks including sabotage  
27 or terrorism threat levels, a railroad carriers prior history of  
28 accidents, compliance violations, and track and equipment maintenance  
29 issues.

30 NEW SECTION. **Sec. 32.** A new section is added to chapter 81.40  
31 RCW to read as follows:

32 (1) Each train or engine run in violation of section 30 of this  
33 act constitutes a separate offense. However, section 30 of this act  
34 does not apply in the case of disability of one or more members of  
35 any train crew while out on the road between division terminals, or  
36 assigned to wrecking trains.

37 (2) Any person, corporation, company, or officer of the court  
38 operating any railroad, or part of any railroad or railway within the

1 state of Washington, and engaged as a common carrier, in the  
2 transportation of freight or passengers, who violates any of the  
3 provisions of section 30 of this act shall be fined not less than one  
4 thousand dollars and not more than one hundred thousand dollars for  
5 each offense.

6 (3) It is the duty of the commission to enforce this section.

7 NEW SECTION. **Sec. 33.** The following acts or parts of acts are  
8 each repealed:

9 (1) RCW 81.40.010 (Full train crews—Passenger—Safety review—  
10 Penalty—Enforcement) and 2003 c 53 s 386, 1992 c 102 s 1, & 1961 c 14  
11 s 81.40.010; and

12 (2) RCW 81.40.035 (Freight train crews) and 1967 c 2 s 2.

13 NEW SECTION. **Sec. 34.** A new section is added to chapter 90.56  
14 RCW to read as follows:

15 (1) The department must provide to the relevant policy and fiscal  
16 committees of the senate and house of representatives:

17 (a) A review of all state geographic response plans and any  
18 federal requirements as needed in contingency plans required under  
19 RCW 90.56.210 and 88.46.060 by December 31, 2015; and

20 (b) Annual updates, beginning December 31, 2016, and ending  
21 December 31, 2021, as required under RCW 43.01.036, as to the  
22 progress made in completing state and federal geographic response  
23 plans as needed in contingency plans required under RCW 90.56.060,  
24 90.56.210, and 88.46.060.

25 (2) The department must contract, if practicable, with eligible  
26 independent third parties to ensure completion by December 1, 2017,  
27 of at least fifty percent of the geographic response plans as needed  
28 in contingency plans required under RCW 90.56.210 and 88.46.060 for  
29 the state.

30 (3) All requirements in this section are subject to the  
31 availability of amounts appropriated for the specific purposes  
32 described.

33 NEW SECTION. **Sec. 35.** (1) Subject to the availability of  
34 amounts appropriated for this specific purpose, the department of  
35 ecology shall provide grants to emergency responders to assist with  
36 oil spill and hazardous materials response and firefighting equipment  
37 and resources needed to meet the requirements of this act.



1 (2) For the purposes of determining grant allocations, the  
2 department of ecology, in consultation with emergency first  
3 responders, oil spill response cooperatives, representatives from the  
4 oil and rail industries, and businesses that are recipients of liquid  
5 bulk crude oil shall: (a) Conduct an evaluation of oil spill and  
6 hazardous materials response and firefighting equipment and resources  
7 currently available for oil spill and hazardous materials response  
8 activities throughout the state; (b) review the local emergency  
9 management coordinating efforts for oil spill and hazardous materials  
10 response; (c) determine the need for additional, new, or updated  
11 equipment and resources; and (d) identify areas or regions of the  
12 state that are in greatest need of resources and oil spill and  
13 hazardous materials response and firefighting equipment.

14 (3) The department of ecology, in consultation with emergency  
15 first responders, oil spill response cooperatives, representatives  
16 from the oil and rail industries, and businesses that are recipients  
17 of liquid bulk crude oil shall review grant applications to  
18 prioritize grant awards using the evaluation of availability of oil  
19 spill and hazardous materials response and firefighting equipment and  
20 resources as determined in subsection (2) of this section.

21 (a) The application review must include evaluation of equipment  
22 and resource requests, funding requirements, and coordination with  
23 existing equipment and resources in the area.

24 (b) Funding must be prioritized for applicants from areas where  
25 the need for firefighting and oil spill and hazardous materials  
26 response equipment is the greatest as determined in subsection (2) of  
27 this section.

28 (c) Grants must be coordinated to maximize currently existing  
29 equipment and resources that have been put in place by first  
30 responders and industry.

31 NEW SECTION. **Sec. 36.** Subject to the availability of amounts  
32 appropriated for this specific purpose, the department of ecology and  
33 the utilities and transportation commission shall jointly hold a  
34 symposium on oil spill prevention and response activities for  
35 international transport of liquid bulk crude oil. The department of  
36 ecology and the utilities and transportation commission must invite  
37 representatives from affected tribes, public interest organizations,  
38 local governments, the United States government, Canadian provinces,

1 Canada, and other appropriate stakeholders. The symposium must at a  
2 minimum address:

3 (1) Cooperative prevention and emergency response activities  
4 between the shared international and state borders;

5 (2) Expected risks posed by transport of Canadian crude oil or  
6 liquid bulk crude oil throughout the Pacific Northwest region; and

7 (3) An update of the marine transport of liquid bulk crude oil  
8 through the Pacific Northwest region.

9 NEW SECTION. **Sec. 37.** Sections 17 through 20 of this act take  
10 effect January 1, 2016.

11 NEW SECTION. **Sec. 38.** If any provision of this act or its  
12 application to any person or circumstance is held invalid, the  
13 remainder of the act or the application of the provision to other  
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 39.** Except for sections 17 through 20 of this  
16 act, this act is necessary for the immediate preservation of the  
17 public peace, health, or safety, or support of the state government  
18 and its existing public institutions, and takes effect July 1, 2015."

19 Correct the title.

EFFECT: Makes the following changes to the underlying bill:

(1) Authorizes the State Board of Pilotage Commissioners to conduct maritime safety rule making, including to require tug escorts, in Puget Sound, Grays Harbor, and the Columbia river, if a new oil facility is sited or newly permitted to receive crude oil.

(2) Directs the State Board of Pilotage Commissioners to conduct maritime safety rule making in Puget Sound by June 30, 2017.

(3) Requires railroads to demonstrate an ability to pay for a reasonable worst case oil spill.

(4) Requires railroads, vessels, and facilities to obtain certificates of compliance demonstrating the ability to pay for a reasonable worst case spill, which is subject to revocation in the event that a spill would reduce the entity's financial assurances to below required levels.

(5) Requires railroads to complete spill contingency plans.

(6) Requires railroad and other oil facility spill contingency plans to achieve a best achievable protection standard.

(7) Increases the oil spill administration tax facility receipts by vessel or rail from 4 cents to 8 cents per barrel, and expands the scope of the tax to include receipts by pipeline.

(8) Eliminates the 2023 expiration of the increase on the regulatory fees charged to railroads by the Utilities and Transportation Commission.

(9) Authorizes the Utilities and Transportation Commission (UTC) to levy a regulatory fee surcharge on railroads, by rule, of an amount needed to equal the total amount of revenues collected by the UTC in fiscal year 2017, but only if overall interstate railroad operating revenues increase while overall intrastate railroad operating revenues decrease.

(10) Delays the effective date of provisions related to the oil spill administration and oil spill response taxes from July 1, 2015, until January 1, 2016.

(11) Directs local emergency response plans, rather than hazardous material plans, be developed by local committees, directs those plans to be submitted for state emergency response commission review every five years, and requires the submission of a planning progress report to the Legislature by 2018.

(12) Adds public interest organizations to the list of stakeholders to be included in the joint Department of Ecology and Utilities and Transportation Commission symposium on international oil transportation.

(13) Limits train crewing requirements for hazardous materials trains to those trains consisting of at least 20 cars of class 3 flammable liquids, as identified in federal regulations, and to those trains that include at least one car of spent nuclear fuel or nuclear waste.

(14) Directs that oil facilities that submit weekly advanced notices of crude oil receipts from railroads to the Department of Ecology must submit twice-yearly corrections of inaccuracies in those notices, not including any insubstantial discrepancies between scheduled and actual train arrival times.

(15) Directs that pipelines must submit twice-yearly information to the Department of Ecology about the volume and type of crude oil they transport through the state, as well as the type of diluting agents used in the oil.

(16) Exempts from public disclosure under the public records act individual or unaggregated financial, proprietary, or commercial advanced notice of transfer information submitted to the Department of Ecology.

(17) Exempts pipeline diluting agent information from public disclosure under the public records act.

(18) Directs that the information from advanced notices of crude oil receipt from trains that is submitted to the Department of Ecology must be aggregated on a statewide basis by route through the state and by week in a quarterly report on the Department's web site.

(19) Directs the Utilities and Transportation Commission to adopt safety standards for private rail crossings, rather than authorizing them to adopt standards, and grants the UTC authority to enforce safety standard requirements and to order railroads to pay to improve private crossings.

--- END ---