

E2SSB 5057 - H AMD

By Representative Farrell

ADOPTED AND ENGROSSED 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 type, and gravity as measured by standards developed by the American
32 petroleum institute, of crude oil received. Each week, a facility
33 that provides advance notice under this section must provide the
34 required information regarding the scheduled arrival of railroad cars
35 carrying crude oil to be received by the facility in the succeeding
36 seven-day period. A facility is not required to provide advance
37 notice when there is no receipt of crude oil from a railroad car
38 scheduled for a seven-day period.

1 (b) Twice per year, pipelines must report to the department the
2 following information about the crude oil transported by the pipeline
3 through the state: The volume of crude oil, the type of crude oil,
4 and the types of diluting agents used in the crude oil. This report
5 must be submitted each year by July 31st for the period January 1st
6 through June 30th and by January 31st for the period July 1st through
7 December 31st.

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

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

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

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

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

1 does not apply when information is shared by the department with
2 emergency response agencies as provided in subsection (2) of this
3 section.

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

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

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

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

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

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

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

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

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

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

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

33 (7)(a) "Facility" means any structure, group of structures,
34 equipment, pipeline, or device, other than a vessel, located on or
35 near the navigable waters of the state that transfers oil in bulk to
36 or from any vessel with an oil carrying capacity over two hundred
37 fifty barrels or pipeline, that is used for producing, storing,
38 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))~~ (a) Except as provided in subsection (2) of this
23 section, an oil tanker of greater than forty thousand deadweight tons
24 may operate in the waters east of a line extending from Discovery
25 Island light south to New Dungeness light and all points in the Puget
26 Sound area, to the extent that these waters are within the
27 territorial boundaries of Washington, only if the oil tanker is under
28 the escort of a tug or tugs in compliance with the requirements of
29 subsection (3) of this section.

30 (b) The state board of pilotage commissioners, in consultation
31 with the department of ecology and relying on the results of vessel
32 traffic risk assessments, shall adopt rules by June 30, 2017, to
33 implement this subsection (1)(b). These rules may include tug escort
34 requirements and other safety measures for oil tankers of greater
35 than forty thousand deadweight tons, all articulated tug barges, and
36 other towed waterborne vessels or barges. The rules adopted under
37 this subsection may not include rules to require that oil tankers of
38 greater than forty thousand deadweight tons be escorted by more than
39 one escort tug. The geographic scope of the rules must be limited to
40 the narrow channels of the San Juan Islands archipelago, including

1 Rosario Strait, Haro Strait, Boundary Pass, and connected waterways.
2 In order to adopt a rule under this section, the board of pilotage
3 commissioners must determine that the results of a vessel traffic
4 risk assessment provide evidence that the rules are necessary in
5 order to achieve best achievable protection as defined in RCW
6 88.46.010.

7 (2)(a) If an oil tanker, articulated tug barge, or other towed
8 waterborne vessel or barge is in ballast, the tug escort requirements
9 of subsection (1)(a) of this section and any tug escort rules adopted
10 pursuant to subsection (1)(b) of this section do not apply.

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

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

24 (4) A tanker assigned a deadweight of equal to or less than forty
25 thousand deadweight tons at the time of construction or
26 reconstruction as reported in Lloyd's Register of Ships is not
27 subject to the provisions of RCW 88.16.170 through 88.16.190.

28 (5) The provisions adopted under this section may not include any
29 rules affecting pilotage. This section does not affect any existing
30 authority to establish pilotage requirements.

31 (6) For the purposes of this section:

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

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

38 (c) "Waterborne vessel or barge" means any ship, barge, or other
39 watercraft capable of traveling on the navigable waters of this state
40 and capable of transporting any crude oil or petroleum product in

1 quantities of ten thousand gallons or more for purposes other than
2 providing fuel for its motor or engine.

3 NEW SECTION. **Sec. 17.** (1) The department of ecology must
4 complete an evaluation and assessment of vessel traffic management
5 and vessel traffic safety within and near the mouth of the Columbia
6 river. A draft evaluation and assessment must be completed and
7 submitted to the legislature consistent with RCW 43.01.036 by
8 December 15, 2017. A final evaluation and assessment must be
9 completed by June 30, 2018. In conducting this evaluation, the
10 department of ecology must consult with the United States coast
11 guard, the Oregon board of maritime pilots, Columbia river harbor
12 safety committee, the Columbia river bar pilots, the Columbia river
13 pilots, area tribes, public ports in Oregon and Washington, local
14 governments, and other appropriate entities.

15 (2) The evaluation and assessment completed under subsection (1)
16 of this section must include, but is not limited to, an assessment
17 and evaluation of: (a) The need for tug escorts for oil tankers,
18 articulated tug barges, and other towed waterborne vessels or barges;
19 (b) best achievable protection; and (c) required tug capabilities to
20 ensure safe escort of vessels on the waters that are the subject of
21 focus for each water body evaluated under subsection (1) of this
22 section.

23 (3) The assessment and evaluations submitted to the legislature
24 under subsection (1) of this section must include recommendations for
25 vessel traffic management and vessel traffic safety on the Columbia
26 river, including recommendations for tug escort requirements for
27 vessels transporting oil as bulk cargo.

28 (4) All requirements in this section are subject to the
29 availability of amounts appropriated for the specific purposes
30 described.

31 NEW SECTION. **Sec. 18.** A new section is added to chapter 88.16
32 RCW to read as follows:

33 (1) The board of pilotage commissioners may adopt rules to
34 implement this section. The rules may include tug escort requirements
35 and other safety measures for oil tankers of greater than forty
36 thousand deadweight tons, all articulated tug barges, and other towed
37 waterborne vessels or barges within a two-mile radius of the Grays
38 Harbor pilotage district as defined in RCW 88.16.050.

1 (2)(a) Prior to proposing a draft rule, the board of pilotage
2 commissioners must consult with the department of ecology, the United
3 States coast guard, the Grays Harbor safety committee, area tribes,
4 public ports, local governments, and other appropriate entities. The
5 board of pilotage commissioners may not adopt rules under this
6 section unless a state agency or a local jurisdiction, for a facility
7 within Grays Harbor that is required to have a contingency plan
8 pursuant to chapter 90.56 RCW:

9 (i) Makes a final determination or issues a final permit after
10 January 1, 2015, to site a new facility; or

11 (ii) Provides authority to an existing facility to process or
12 receive crude oil for the first time.

13 (b) This subsection does not apply to a transmission pipeline or
14 railroad facility.

15 (3) A rule adopted under this section must:

16 (a) Be designed to achieve best achievable protection as defined
17 in RCW 88.46.010;

18 (b) Ensure that any escort tugs used have an aggregate shaft
19 horsepower equivalent to at least five percent of the deadweight tons
20 of the escorted oil tanker or articulated tug barge; and

21 (c) Ensure that escort tugs have sufficient mechanical
22 capabilities to provide for safe escort.

23 (4) The provisions adopted under this section may not include
24 rules affecting pilotage. This section does not affect any existing
25 authority to establish pilotage requirements.

26 **Sec. 19.** RCW 82.23B.010 and 1992 c 73 s 6 are each amended to
27 read as follows:

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

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

33 (2) "Crude oil" means any naturally occurring (~~liquid~~)
34 hydrocarbons (~~at atmospheric temperature and pressure coming from~~
35 ~~the earth, including condensate and natural gasoline~~) coming from
36 the earth that are liquid at twenty-five degrees Celsius and one
37 atmosphere of pressure including, but not limited to, crude oil,
38 bitumen and diluted bitumen, synthetic crude oil, and natural gas
39 well condensate.

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

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

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

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

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

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

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

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

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

31 **Sec. 20.** RCW 82.23B.020 and 2006 c 256 s 2 are each amended to
32 read as follows:

33 (1) An oil spill response tax is imposed on the privilege of
34 receiving: (a) Crude oil or petroleum products at a marine terminal
35 within this state from a waterborne vessel or barge operating on the
36 navigable waters of this state; (b) crude oil or petroleum products
37 at a bulk oil terminal within this state from a tank car; or (c)
38 crude oil or petroleum products at a bulk oil terminal within this
39 state from a pipeline. The tax imposed in this section is levied upon

1 the owner of the crude oil or petroleum products immediately after
2 receipt of the same into the storage tanks of a marine or bulk oil
3 terminal from a tank car, pipeline, or waterborne vessel or barge at
4 the rate of one cent per barrel of crude oil or petroleum product
5 received.

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

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

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

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

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

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

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

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

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

1 notify the departments of revenue and ecology of the account balance
2 once a determination is made. For each subsequent calendar quarter,
3 the tax imposed by subsection (1) of this section shall be imposed
4 during the entire calendar quarter unless:

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

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

11 **Sec. 21.** RCW 82.23B.030 and 1992 c 73 s 9 are each amended to
12 read as follows:

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

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

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

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

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

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

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

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

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

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

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

27 **Sec. 24.** RCW 81.24.010 and 2007 c 234 s 21 are each amended to
28 read as follows:

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

1 of its intrastate gross operating revenue. The commission may, by
2 rule, set minimum fees that do not exceed the cost of collecting the
3 fees. The commission may by rule waive any or all of the minimum fee
4 established pursuant to this section. Any railroad association that
5 qualifies as a nonprofit charitable organization under the federal
6 internal revenue code section 501(c)(3) is exempt from the fee
7 required under this subsection.

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

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

23 NEW SECTION. **Sec. 25.** A new section is added to chapter 81.44
24 RCW to read as follows:

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

36 **Sec. 26.** RCW 81.53.010 and 2013 c 23 s 302 are each amended to
37 read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

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

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

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

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

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

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

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

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

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

11 **Sec. 27.** RCW 81.53.240 and 1984 c 7 s 375 are each amended to
12 read as follows:

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

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

1 NEW SECTION. **Sec. 28.** A new section is added to chapter 81.53
2 RCW to read as follows:

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

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

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

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

20 (c) Requirements governing the responsibilities of railroad
21 companies to ensure that private crossing improvements are completed.

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

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

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

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

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

3 **Sec. 30.** RCW 42.56.270 and 2014 c 192 s 6, 2014 c 174 s 5, and
4 2014 c 144 s 6 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (b) Information submitted to the department of ecology by
22 pipelines pursuant to section 8(1)(b) of this act that is related to
23 diluting agents contained in transported oil and that is in the
24 possession of the department of ecology or any entity with which the
25 department of ecology has shared the information pursuant to section
26 8 of this act.

27 NEW SECTION. Sec. 31. A new section is added to chapter 90.56
28 RCW to read as follows:

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

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

34 (b) Annual updates, beginning December 31, 2016, and ending
35 December 31, 2021, as required under RCW 43.01.036, as to the
36 progress made in completing state and federal geographic response
37 plans as needed in contingency plans required under RCW 90.56.060,
38 90.56.210, and 88.46.060.

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

6 (3) All requirements in this section are subject to the
7 availability of amounts appropriated for the specific purposes
8 described.

9 NEW SECTION. **Sec. 32.** (1) Subject to the availability of
10 amounts appropriated for this specific purpose, the department of
11 ecology shall provide grants to emergency responders to assist with
12 oil spill and hazardous materials response and firefighting equipment
13 and resources needed to meet the requirements of this act.

14 (2) For the purposes of determining grant allocations, the
15 department of ecology, in consultation with emergency first
16 responders, oil spill response cooperatives, representatives from the
17 oil and rail industries, and businesses that are recipients of liquid
18 bulk crude oil shall: (a) Conduct an evaluation of oil spill and
19 hazardous materials response and firefighting equipment and resources
20 currently available for oil spill and hazardous materials response
21 activities throughout the state; (b) review the local emergency
22 management coordinating efforts for oil spill and hazardous materials
23 response; (c) determine the need for additional, new, or updated
24 equipment and resources; and (d) identify areas or regions of the
25 state that are in greatest need of resources and oil spill and
26 hazardous materials response and firefighting equipment.

27 (3) The department of ecology, in consultation with emergency
28 first responders, oil spill response cooperatives, representatives
29 from the oil and rail industries, and businesses that are recipients
30 of liquid bulk crude oil shall review grant applications to
31 prioritize grant awards using the evaluation of availability of oil
32 spill and hazardous materials response and firefighting equipment and
33 resources as determined in subsection (2) of this section.

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

37 (b) Funding must be prioritized for applicants from areas where
38 the need for firefighting and oil spill and hazardous materials

1 response equipment is the greatest as determined in subsection (2) of
2 this section.

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

6 NEW SECTION. **Sec. 33.** Before the start of the 2016 legislative
7 session, the senate energy, environment, and telecommunications
8 committee and the house of representatives environment committee must
9 hold at least one joint meeting on oil spill prevention and response
10 activities for international transport of liquid bulk crude oil. The
11 committees may invite representatives of affected parties from the
12 United States and Canada to address issues including but not limited
13 to the following:

14 (1) Cooperative prevention and emergency response activities
15 between shared international and state borders;

16 (2) Expected risks posed by the transport of liquid bulk crude
17 oil throughout the Pacific Northwest region; and

18 (3) An update of the status of marine transport of liquid bulk
19 crude oil through the Pacific Northwest region.

20 NEW SECTION. **Sec. 34.** (1) By December 15, 2017, the department
21 of ecology must submit a report to the legislature, consistent with
22 RCW 43.01.036, that evaluates the revenues raised by sections 19
23 through 22 of this act and the expenditures on state oil spill
24 program activities that result from this act. The report must include
25 an analysis of the expenditures on oil spill program activities by
26 each state agency that is required or authorized to undertake new or
27 expanded activities by this act.

28 (2) If the evaluation by the department of ecology indicates that
29 the total amount of revenue raised by the increase in the amount and
30 scope of the taxes contained in this act exceeds the total
31 expenditures on department of ecology programs that this act
32 requires, the department must recommend agency request legislation in
33 the regularly scheduled 2018 legislative session to reduce the amount
34 of the tax increases or expansions under sections 19 through 22 of
35 this act such that the total amount of revenue raised by this act
36 will not exceed the total oil spill program expenditures by the
37 department of ecology required as a result of this act.

38 (3) This section expires July 1, 2019.

1 NEW SECTION. **Sec. 35.** Sections 19 through 22 of this act take
2 effect January 1, 2016.

3 NEW SECTION. **Sec. 36.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 37.** Except for sections 19 through 22 of this
8 act, this act is necessary for the immediate preservation of the
9 public peace, health, or safety, or support of the state government
10 and its existing public institutions, and takes effect July 1, 2015."

11 Correct the title.

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