

2SHB 1611 - H AMD TO H AMD (H-3695.4/18) 862
By Representative Taylor

1 Beginning on page 1, after line 4 of the amendment, strike all
2 material through "2018." on page 21, line 6 and insert the following:

3 "NEW SECTION. **Sec. 101.** (1) The legislature finds that:

4 (a) The 2004 legislature declared a zero spills goal for the
5 state of Washington. When a spill occurs, there is severe and
6 irreversible damage to the environment, human health, tribal and
7 other cultural and historical resources, and the economy. Fish,
8 orcas, wildlife habitats, shellfish beds, archaeologically sensitive
9 areas, clean air, and public facilities are put at risk when spills
10 occur in the state of Washington.

11 (b) The department of ecology's oil spill program faces a
12 critical funding gap due to the lack of adequate revenue to fully
13 fund the prevention and preparedness services required by state law,
14 including the 2015 oil transportation safety act. Moreover, the
15 program has endured a decline in capacity and resources to fully
16 utilize its existing authority for critical needs, like vessel
17 inspections and developing spill response plans. Without an adequate
18 investment in revenue, there will be a continued decline in required
19 prevention and preparedness services, causing an increased risk of
20 oil spills in the state of Washington and our shared waters with the
21 Canadian transboundary region.

22 (c) While oil transported into the state by rail and tank vessels
23 is taxed to fund the oil spill program's oil spill prevention and
24 preparedness activities, a third method of transport, pipelines,
25 currently is not taxed, despite it generating a sizeable oil spill
26 risk.

27 (d) Some oils are inherently heavy and are likely to stay
28 submerged in the water column or sink to the bottom of a water body.
29 In addition, many oils, depending on their qualities, weathering,
30 environmental factors, and method of discharge, may also submerge or
31 sink in water. Oils that submerge or sink in water pose a substantial
32 risk to the environment, human health, tribal and other cultural and

1 historical resources, and the economy and are a significant challenge
2 to cleanup. Oils are currently being transported by vessels, trains,
3 and pipelines in large volumes in our state, with increased volumes
4 of heavy oils being transported by vessel through our shared waters
5 from Canada. As knowledge about how oils submerge or sink in water
6 grows and technological advances to respond are developed, preventing
7 and preparing for these spills must be updated.

8 (2) Therefore, the legislature intends to provide adequate
9 revenue to fully fund prevention and preparedness services required
10 by state law, as well as direct the department of ecology to
11 specifically address the risks of oils submerging and sinking and
12 more extensively coordinate with our Canadian partners in order to
13 protect our state's economy and its shared resources.

14 **Sec. 102.** RCW 82.23B.010 and 2015 c 274 s 13 are each reenacted
15 and amended to read as follows:

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

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

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

23 (3) "Crude oil" means any naturally occurring hydrocarbons coming
24 from the earth that are liquid at twenty-five degrees Celsius and one
25 atmosphere of pressure including, but not limited to, crude oil,
26 bitumen and diluted bitumen, synthetic crude oil, and natural gas
27 well condensate.

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

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

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

35 (7) "Person" has the meaning provided in RCW 82.04.030.

36 (8) "Petroleum product" means any liquid hydrocarbons at
37 atmospheric temperature and pressure that are the product of the
38 fractionation, distillation, or other refining or processing of crude
39 oil, and that are used as, useable as, or may be refined as a fuel or

1 fuel blendstock, including but not limited to, gasoline, diesel fuel,
2 aviation fuel, bunker fuel, and fuels containing a blend of alcohol
3 and petroleum.

4 (9) "Pipeline" means an interstate or intrastate pipeline subject
5 to regulation by the United States department of transportation under
6 49 C.F.R. Part 195 in effect on the effective date of this section,
7 through which oil moves in transportation, including line pipes,
8 valves, and other appurtenances connected to line pipes, pumping
9 units, and fabricated assemblies associated with pumping units.

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

12 ((+10)) (11) "Taxpayer" means the person owning crude oil or
13 petroleum products immediately after receipt of the same into the
14 storage tanks of a marine or bulk oil terminal in this state and who
15 is liable for the taxes imposed by this chapter.

16 ((+11)) (12) "Waterborne vessel or barge" means any ship, barge,
17 or other watercraft capable of traveling on the navigable waters of
18 this state and capable of transporting any crude oil or petroleum
19 product in quantities of ten thousand gallons or more for purposes
20 other than providing fuel for its motor or engine.

21 **Sec. 103.** RCW 82.23B.020 and 2015 c 274 s 14 are each amended to
22 read as follows:

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

33 (2) In addition to the tax imposed in subsection (1) of this
34 section, an oil spill administration tax is imposed on the privilege
35 of receiving: (a) Crude oil or petroleum products at a marine
36 terminal within this state from a waterborne vessel or barge
37 operating on the navigable waters of this state; or (b) crude oil or
38 petroleum products at a bulk oil terminal within this state from a
39 tank car or 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 ((~~or~~)), pipeline, waterborne vessel, or
4 barge at the rate of four cents per barrel of crude oil or petroleum
5 product.

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

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

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

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

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

1 under this chapter, is guilty of a misdemeanor as provided in chapter
2 9A.20 RCW.

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

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

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

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

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

35 NEW SECTION. **Sec. 104.** The department of ecology shall provide
36 a report to the legislature by July 1, 2020, on the following: (1) A
37 description of activities conducted by the department's oil spill
38 program that are expected to continue after fiscal year 2019, and
39 activities that are not expected to continue after fiscal year 2019;

1 (2) recommendations regarding potential sources of funding for the
2 department's oil spill program other than, or in addition to, sources
3 of funding existing on the effective date of this section; (3)
4 recommendations regarding the allocation of funding from the taxes
5 established in RCW 82.23B.020 among various state agencies, including
6 whether funding should be discontinued or reduced for any agency; and
7 (4) a forecast of the department's oil spill program funding needs
8 after fiscal year 2019.

9 NEW SECTION. **Sec. 105.** A new section is added to chapter 90.56
10 RCW to read as follows:

11 Beginning July 1, 2018, and each July 1st thereafter, the
12 treasurer shall transfer the sum of two hundred thousand dollars from
13 the oil spill prevention account to the national guard spill clean-up
14 training account created in section 106 of this act.

15 NEW SECTION. **Sec. 106.** A new section is added to chapter 90.56
16 RCW to read as follows:

17 The national guard spill clean-up training account is created in
18 the state treasury. All receipts from section 105 of this act must be
19 deposited in the account. Moneys in the account may be spent only
20 after appropriation. All money in the account may be used only for
21 the purposes of planning and conducting training of the Washington
22 state national guard to perform oil and hazardous materials spills
23 cleanup.

24 **PART 2**
25 **VESSELS**

26 **Sec. 201.** RCW 88.46.060 and 2011 c 122 s 6 are each amended to
27 read as follows:

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

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

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

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

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

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

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

22 (g) Describe important features of the surrounding environment,
23 including fish (~~and~~) habitat, water column species and subsurface
24 resources, wildlife habitat, shellfish beds, environmentally and
25 archaeologically sensitive areas, and public facilities, that are:
26 (i) Based on information documented in geographic response plans and
27 area contingency plans, as required under RCW 90.56.210; or (ii) for
28 areas without geographic response plans or area contingency plans,
29 existing practices protecting these resources used for similar areas.

30 The departments of ecology, fish and wildlife, natural resources, and
31 archaeology and historic preservation, upon request, shall provide
32 information that they have available to assist in preparing this
33 description. The description of archaeologically sensitive areas
34 shall not be required to be included in a contingency plan until it
35 is reviewed and updated pursuant to subsection (9) of this section;

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

1 (i) Establish guidelines for the use of equipment by the crew of
2 a vessel to minimize vessel damage, stop or reduce any spilling from
3 the vessel, and, only when appropriate and only when vessel safety is
4 assured, contain and clean up the spilled oil;

5 (j) Provide arrangements for the repositioning of spill
6 containment and cleanup equipment and trained personnel at strategic
7 locations from which they can be deployed to the spill site to
8 promptly and properly remove the spilled oil;

9 (k) Provide arrangements for enlisting the use of qualified and
10 trained cleanup personnel to implement the plan;

11 (l) Provide for disposal of recovered spilled oil in accordance
12 with local, state, and federal laws;

13 (m) Until a spill prevention plan has been submitted pursuant to
14 RCW 88.46.040, state the measures that have been taken to reduce the
15 likelihood that a spill will occur, including but not limited to,
16 design and operation of a vessel, training of personnel, number of
17 personnel, and backup systems designed to prevent a spill;

18 (n) State the amount and type of equipment available to respond
19 to a spill, where the equipment is located, and the extent to which
20 other contingency plans rely on the same equipment;

21 (o) If the department has adopted rules permitting the use of
22 dispersants, the circumstances, if any, and the manner for the
23 application of the dispersants in conformance with the department's
24 rules;

25 (p) Compliance with RCW 88.46.230 if the contingency plan is
26 submitted by an umbrella plan holder; and

27 (q) Include any additional elements of contingency plans as
28 required by this chapter.

29 (2) The owner or operator of a covered vessel must submit any
30 required contingency plan updates to the department within the
31 timelines established by the department.

32 (3)(a) The owner or operator of a tank vessel or of the
33 facilities at which the vessel will be unloading its cargo, or a
34 nonprofit corporation established for the purpose of oil spill
35 response and contingency plan coverage and of which the owner or
36 operator is a member, shall submit the contingency plan for the tank
37 vessel. Subject to conditions imposed by the department, the owner or
38 operator of a facility may submit a single contingency plan for tank
39 vessels of a particular class that will be unloading cargo at the
40 facility.

1 (b) The contingency plan for a cargo vessel or passenger vessel
2 may be submitted by the owner or operator of the cargo vessel or
3 passenger vessel, by the agent for the vessel resident in this state,
4 or by a nonprofit corporation established for the purpose of oil
5 spill response and contingency plan coverage and of which the owner
6 or operator is a member. Subject to conditions imposed by the
7 department, the owner, operator, or agent may submit a single
8 contingency plan for cargo vessels or passenger vessels of a
9 particular class.

10 (c) A person who has contracted with a covered vessel to provide
11 containment and cleanup services and who meets the standards
12 established pursuant to RCW 90.56.240, may submit the plan for any
13 covered vessel for which the person is contractually obligated to
14 provide services. Subject to conditions imposed by the department,
15 the person may submit a single plan for more than one covered vessel.

16 (4) A contingency plan prepared for an agency of the federal
17 government or another state that satisfies the requirements of this
18 section and rules adopted by the department may be accepted by the
19 department as a contingency plan under this section. The department
20 shall ensure that to the greatest extent possible, requirements for
21 contingency plans under this section are consistent with the
22 requirements for contingency plans under federal law.

23 (5) In reviewing the contingency plans required by this section,
24 the department shall consider at least the following factors:

25 (a) The adequacy of containment and cleanup equipment, personnel,
26 communications equipment, notification procedures and call down
27 lists, response time, and logistical arrangements for coordination
28 and implementation of response efforts to remove oil spills promptly
29 and properly and to protect the environment;

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

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

34 (d) The existence of navigational hazards within the area covered
35 by the plan;

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

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

1 (g) Relevant information on previous spills contained in on-scene
2 coordinator reports prepared by the director; and

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

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

11 (b) The department must notify the plan holder in writing within
12 sixty-five days of an initial or amended plan's submittal to the
13 department as to whether the plan is disapproved, approved, or
14 conditionally approved. If a plan is conditionally approved, the
15 department must clearly describe each condition and specify a
16 schedule for plan holders to submit required updates.

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

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

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

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

35 NEW SECTION. **Sec. 202.** A new section is added to chapter 88.46
36 RCW to read as follows:

37 By December 31, 2019, consistent with the authority under RCW
38 88.46.060, the department must update rules for contingency plans to
39 require:

1 (1) Covered vessels to address situations where oils, depending
2 on their qualities, weathering, environmental factors, and method of
3 discharge, may submerge or sink in water; and

4 (2) Standards for best achievable protection for situations
5 involving the oils in subsection (1) of this section.

6 **Sec. 203.** RCW 88.46.220 and 2011 c 122 s 5 are each amended to
7 read as follows:

8 (1) The department is responsible for requiring joint large-
9 scale, multiple plan equipment deployment drills of (~~tank~~) covered
10 vessels to determine the adequacy of the owner's or operator's
11 compliance with the contingency plan requirements of this chapter.
12 The department must order at least one drill as outlined in this
13 section every three years, which must address situations where oils,
14 depending on their qualities, weathering, environmental factors, and
15 method of discharge, may submerge or sink in water.

16 (2) Drills required under this section must focus on, at a
17 minimum, the following:

18 (a) The functional ability for multiple contingency plans to be
19 simultaneously activated with the purpose of testing the ability for
20 dedicated equipment and trained personnel cited in multiple
21 contingency plans to be activated in a large scale spill; and

22 (b) The operational readiness during both the first six hours of
23 a spill and, at the department's discretion, over multiple
24 operational periods of response.

25 (3) Drills required under this section may be incorporated into
26 other drill requirements under this chapter to avoid increasing the
27 number of drills and equipment deployments otherwise required.

28 (4) Each successful drill conducted under this section may be
29 considered by the department as a drill of the underlying contingency
30 plan and credit may be awarded to the plan holder accordingly.

31 (5) The department shall, when practicable, coordinate with
32 applicable federal agencies, the state of Oregon, and the province of
33 British Columbia to establish a drill incident command and to help
34 ensure that lessons learned from the drills are evaluated with the
35 goal of improving the underlying contingency plans.

36 NEW SECTION. **Sec. 204.** A new section is added to chapter 88.46
37 RCW to read as follows:

1 (1) The department must establish the Salish Sea shared waters
2 forum to address common issues in the cross-boundary waterways
3 between Washington state and British Columbia such as: Enhancing
4 efforts to reduce oil spill risk; addressing navigational safety; and
5 promoting data sharing.

6 (2) The department must:

7 (a) Coordinate with provincial and federal Canadian agencies when
8 establishing the Salish Sea shared waters forum; and

9 (b) Seek participation from stakeholders that, at minimum,
10 includes representatives of the following: State, provincial, and
11 federal governmental entities, regulated entities, environmental
12 organizations, tribes, and first nations.

13 (3) The Salish Sea shared waters forum must meet at least once
14 per year to consider the following:

15 (a) Gaps and conflicts in oil spill policies, regulations, and
16 laws;

17 (b) Opportunities to reduce oil spill risk, including requiring
18 tug escorts for oil tankers, articulated tug barges, and other
19 waterborne vessels or barges;

20 (c) Enhancing oil spill prevention, preparedness, and response
21 capacity; and

22 (d) Whether an emergency response system in Haro Strait, Boundary
23 Pass, and Rosario Strait, similar to the system implemented by the
24 maritime industry pursuant to RCW 88.46.130, will decrease oil spill
25 risk and how to fund such a shared system.

26 (4) The definitions in this subsection apply throughout this
27 section unless the context clearly requires otherwise.

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

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

36 **Sec. 205.** RCW 88.46.167 and 2006 c 316 s 2 are each amended to
37 read as follows:

38 In addition to other inspection authority provided for in this
39 chapter and chapter 90.56 RCW, the department may conduct inspections

1 of oil transfer operations regulated under RCW 88.46.160 or
2 88.46.165. The department must conduct specialized reviews and
3 prioritize adding capacity for the inspection of oil transfer
4 operations where oils, depending on their qualities, weathering,
5 environmental factors, and method of discharge, may submerge or sink
6 in water.

7 NEW SECTION. **Sec. 206.** (1)(a) The department of ecology, in
8 consultation with the Puget Sound partnership and the pilotage
9 commission, must complete a report of vessel traffic and vessel
10 traffic safety within the Strait of Juan de Fuca, Puget Sound area
11 that includes the San Juan archipelago, its connected waterways, Haro
12 Strait, Boundary Pass, Rosario Strait, and the waters south of
13 Admiralty Inlet. A draft report, including recommendations, must be
14 completed and submitted, consistent with RCW 43.01.036, to the
15 legislature by December 1, 2018. The final report must be completed
16 and submitted to the legislature by June 30, 2019.

17 (b) In conducting the evaluation to produce the report, the
18 department of ecology must rely only on existing current vessel
19 traffic risk assessments and other available studies, consult with
20 the United States coast guard, maritime experts, including
21 representatives of covered vessels, onshore and offshore facilities,
22 environmental organizations, tribes, commercial and noncommercial
23 fishers, recreational resource users, provincial experts,
24 representatives of the Salish Sea shared waters forum established in
25 section 204 of this act, and other appropriate entities.

26 (2) The report completed under subsection (1) of this section
27 must include an assessment and evaluation of:

28 (a) Worldwide incident and spill data for articulated tug barges
29 and other towed waterborne vessels or barges;

30 (b) Transport of bitumen and diluted bitumen;

31 (c) Emerging trends in vessel traffic;

32 (d) Tug escorts for oil tankers, articulated tug barges, and
33 other towed waterborne vessels or barges, including a review of
34 requirements in California and Alaska;

35 (e) Requirements for tug capabilities to ensure safe escort of
36 vessels, including manning and pilotage needs;

37 (f) An emergency response system in Haro Strait, Boundary Pass,
38 and Rosario Strait, similar to the system implemented by the maritime
39 industry pursuant to RCW 88.46.130;

1 (g) The differences between locations and navigational
2 requirements for vessels transporting petroleum;

3 (h) The economic impact of proposals for tug escorts and
4 limitations on vessel size; and

5 (i) Situations, where oils, depending on their qualities,
6 weathering, environmental factors, and method of discharge, may
7 submerge or sink in water.

8 (3) The report required under subsection (1) of this section must
9 include recommendations, accompanied by the approximate costs and
10 amounts of risk reduction associated with each of the following types
11 of risk reduction recommendations, for:

12 (a) Vessel traffic management and vessel traffic safety; and

13 (b) The viability of the following in reducing oil spill risk:

14 (i) Tug escorts for oil tankers, articulated tug barges, and
15 other towed waterborne vessels or barges. If tug escorts are
16 determined in this assessment to reduce oil spill risk, the
17 department of ecology must recommend specific requirements and
18 capabilities for tug escorts;

19 (ii) An emergency response system in Haro Strait, Boundary Pass,
20 and Rosario Strait, similar to the system implemented by the maritime
21 industry pursuant to RCW 88.46.130. If the department of ecology
22 determines such a system will decrease oil spill risk, it must also
23 recommend an action plan to implement it.

24 (4) The definitions in this subsection apply throughout this
25 section unless the context clearly requires otherwise.

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

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

34 (5) This section expires June 30, 2019.

35 **PART 3**

36 **FACILITIES, GEOGRAPHIC RESPONSE PLANS, AND SPILL MANAGEMENT TEAMS**

37 **Sec. 301.** RCW 90.56.210 and 2017 c 239 s 1 are each amended to
38 read as follows:

1 (1) Each onshore and offshore facility shall have a contingency
2 plan for the containment and cleanup of oil spills from the facility
3 into the waters of the state and for the protection of fisheries and
4 wildlife, shellfish beds, natural resources, and public and private
5 property from such spills. The department shall by rule adopt and
6 periodically revise standards for the preparation of contingency
7 plans. The department shall require contingency plans, at a minimum,
8 to meet the following standards:

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

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

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

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

22 (e) State the number, training preparedness, and fitness of all
23 dedicated, prepositioned personnel assigned to direct and implement
24 the plan;

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

28 (g) Describe important features of the surrounding environment,
29 including fish (~~and~~) habitat, water column species and subsurface
30 resources, wildlife habitat, shellfish beds, environmentally and
31 archaeologically sensitive areas, and public facilities, that are:

32 (i) Based on information documented in geographic response plans and
33 area contingency plans, as required under RCW 90.56.210; or (ii) for
34 areas without geographic response plans or area contingency plans,
35 existing practices protecting these resources used for similar areas.

36 The departments of ecology, fish and wildlife, and natural resources,
37 and the department of archaeology and historic preservation, upon
38 request, shall provide information that they have available to assist
39 in preparing this description. The description of archaeologically
40 sensitive areas shall not be required to be included in a contingency

1 plan until it is reviewed and updated pursuant to subsection (9) of
2 this section;

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

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

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

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

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

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

23 (n) If the department has adopted rules permitting the use of
24 dispersants, the circumstances, if any, and the manner for the
25 application of the dispersants in conformance with the department's
26 rules.

27 (2)(a) The following shall submit contingency plans to the
28 department within six months after the department adopts rules
29 establishing standards for contingency plans under subsection (1) of
30 this section:

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

33 (ii) Offshore facilities.

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

39 (3)(a) The department by rule shall determine the contingency
40 plan requirements for railroads transporting oil in bulk.

1 (b) For class III railroads transporting oil in bulk that is not
2 crude oil in an amount of forty-nine or more tank car loads per year,
3 the rules adopted under this subsection may not require contingency
4 plans to include:

5 (i) Contracted access to oil spill response equipment; or

6 (ii) The completion of more than a total of one basic table-top
7 drill every three years to test the contingency plans.

8 (c) For class III railroads transporting oil in bulk that is not
9 crude oil in an amount less than forty-nine tank car loads per year,
10 rules adopted under this subsection may only require railroads to
11 submit a basic contingency plan to the department. A basic
12 contingency plan filed under this subsection (3)(c) must be limited
13 to requiring the class III railroads to:

14 (i) Keep documentation of the basic contingency plan on file with
15 the department at the plan holder's principal place of business and
16 at dispatcher field offices of the railroad;

17 (ii) Identify and include contact information for the chain of
18 command and other personnel, including employees or spill response
19 contractors, who will be involved in the railroad's response in the
20 event of a spill;

21 (iii) Include information related to the relevant accident
22 insurance carried by the railroad and provide a certificate of
23 insurance upon request;

24 (iv) Develop a field document for use by personnel involved in
25 oil handling operations that includes time-critical information
26 regarding basic contingency plan procedures to be used in the initial
27 response to a spill or a threatened spill; and

28 (v) Annually review the plan for accuracy.

29 (d) Federal oil spill response plans created pursuant to 33
30 U.S.C. Sec. 1321 may be submitted in lieu of contingency plans by a
31 class III railroad transporting oil in bulk that is not crude oil.

32 (e) For the purposes of this section, "class III railroad" has
33 the same meaning as defined by the United States surface
34 transportation board as of January 1, 2017.

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

37 (b) A person who has contracted with a facility to provide
38 containment and cleanup services and who meets the standards
39 established pursuant to RCW 90.56.240, may submit the plan for any
40 facility for which the person is contractually obligated to provide

1 services. Subject to conditions imposed by the department, the person
2 may submit a single plan for more than one facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 NEW SECTION. Sec. 302. A new section is added to chapter 90.56
17 RCW to read as follows:

18 By December 31, 2019, consistent with the authority under RCW
19 90.56.210, the department must update rules for contingency plans to
20 require:

21 (1) Covered facilities to address situations where oils,
22 depending on their qualities, weathering, environmental factors, and
23 method of discharge, may submerge or sink in water; and

24 (2) Standards for best achievable protection for situations
25 involving the oils in subsection (1) of this section.

26 **Sec. 303.** RCW 90.56.240 and 1990 c 116 s 4 are each amended to
27 read as follows:

28 (1) The department shall by rule establish standards for persons
29 who contract to provide spill management, cleanup, and containment
30 services under contingency plans approved under RCW 90.56.210.

31 (2) For the purposes of this section, "spill management" means
32 managing:

33 (a) Some or all aspects of a response, containment, and cleanup
34 of a spill, and utilizing an incident command or unified command
35 structure; or

36 (b) Wildlife rehabilitation and recovery services for a spill
37 response.

1 **Sec. 304.** RCW 90.56.569 and 2015 c 274 s 25 are each amended to
2 read as follows:

3 (1) The department must provide to the relevant policy and fiscal
4 committees of the senate and house of representatives((+)

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

8 ~~(b))~~ updates ((~~every two years, beginning~~)) by December 31,
9 ((~~2017~~)) 2019, and ((~~ending~~)) December 31, 2021, consistent with the
10 requirements of RCW 43.01.036, as to the progress made in completing
11 state and federal geographic response plans as needed in contingency
12 plans required under RCW 90.56.060, 90.56.210, and 88.46.060.

13 ~~(2) ((The department must contract, if practicable, with eligible~~
14 ~~independent third parties to ensure completion by December 1, 2017,~~
15 ~~of at least fifty percent of the geographic response plans as needed~~
16 ~~in contingency plans required under RCW 90.56.210 and 88.46.060 for~~
17 ~~the state.))~~ In its updates of geographic response plans, the
18 department must address situations where oils, depending on their
19 qualities, weathering, environmental factors, and method of
20 discharge, may submerge or sink in water.

21 (3) All requirements in this section are subject to the
22 availability of amounts appropriated for the specific purposes
23 described.

24 NEW SECTION. **Sec. 305.** A new section is added to chapter 90.56
25 RCW to read as follows:

26 (1) The department is responsible for requiring joint large-
27 scale, multiple plan equipment deployment drills of onshore and
28 offshore facilities and covered vessels under chapter 88.46 RCW to
29 determine the adequacy of the owner's or operator's compliance with
30 the contingency plan requirements of this chapter and chapter 88.46
31 RCW. The department must order at least one drill as outlined in this
32 section every three years, which must address situations where oils,
33 depending on their qualities, weathering, environmental factors, and
34 method of discharge, may submerge or sink in water.

35 (2) Drills required under this section must focus on, at a
36 minimum, the following:

37 (a) The functional ability for multiple contingency plans to be
38 simultaneously activated with the purpose of testing the ability for

1 dedicated equipment and trained personnel cited in multiple
2 contingency plans to be activated in a large-scale spill; and

3 (b) The operational readiness during both the first six hours of
4 a spill and, at the department's discretion, over multiple
5 operational periods of response.

6 (3) Drills required under this section may be incorporated into
7 other drill requirements under this chapter to avoid increasing the
8 number of drills and equipment deployments otherwise required.

9 (4) Each successful drill conducted under this section may be
10 considered by the department as a drill of the underlying contingency
11 plan and credit may be awarded to the plan holder accordingly.

12 (5) The department must prioritize drills for situations where
13 oils, depending on their qualities, weathering, environmental
14 factors, and method of discharge, may submerge or sink in water.

15 **PART 4**

16 **SEVERABILITY AND EMERGENCY CLAUSE**

17 NEW SECTION. **Sec. 401.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 402.** Sections 102, 103, and 206 of this act
22 are necessary for the immediate preservation of the public peace,
23 health, or safety, or support of the state government and its
24 existing public institutions, and take effect April 1, 2018."

EFFECT: Eliminates the increase in the oil spill administration tax from four cents per barrel to six cents per barrel. Transfers \$200,000 each year from the oil spill prevention account to a new account created for purposes of funding oil and hazardous material clean-up training for the Washington state national guard. Requires the department of ecology to provide a report to the legislature by January 1, 2020, on certain aspects of their oil spills program activities, including recommendations for potential sources of program funding and a forecast of program funding needs after fiscal year 2019. Reduces the minimum frequency of the Salish Sea forum's meetings to at least once per year, rather than at least twice per year.

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