FINAL BILL REPORT
E2SSB 6269

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Synopsis as Enacted

Brief Description: Strengthening oil transportation safety.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Ranker, Rolfes, Carlyle, Darneille, Hasegawa, Pedersen, Conway, Keiser, Hunt, Frockt, Kuderer, Chase, Liias and Saldaña; by request of Department of Ecology).

Senate Committee on Energy, Environment & Technology
Senate Committee on Ways & Means
House Committee on Appropriations

Background: Oil Spill and Response. The Legislature enacted oil spill prevention and response measures in 1990, to promote the safety of marine transportation and protect state waters from oil spills. The director of the Department of Ecology (Ecology) has the primary authority to oversee prevention of and response for oil spills in state waters through its Oil Spill Prevention and Response Program. Additionally, Ecology is responsible for containment and clean-up efforts of oil spills. The oil spill program requires oil spill prevention plans, contingency response plans, and documentation of financial responsibility for vessels and facilities that may discharge oil into navigable waters.

Oil Spill Prevention Plans and Oil Spill Contingency Plans. Ecology administers an oil spill preparedness, prevention, and response program. Facilities, including railroads, oil refineries, terminals, pipelines, and vessel operators involved in the bulk transfer of oil are required to have oil spill contingency plans that outline containment and remediation responses to potential oil spills. Contingency plans approved by Ecology must identify personnel, materials, and equipment capable of promptly and properly removing oil with minimal environmental damage. Plans must also describe important features of the environment in which the facility or vessel operates, including fish and wildlife, shellfish beds, and environmentally sensitive areas.

In addition to, or as part of, state spill contingency plans, onshore facilities must submit oil spill prevention plans to Ecology. Ecology may only approve these plans if they incorporate measures providing for the best achievable protection of public health and the environment. Best achievable protection is the highest level of protection using the best achievable technology, which includes using appropriate equipment, trained staff, and processes to ensure the highest level of protection. The best achievable protection standard is established

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by Ecology through administrative rules, which also apply to the equipment used by facilities and vessel contingency plans.

Oil Spill Response Tax and Oil Spill Administration Tax. The oil spill administration tax and an oil spill response tax are imposed when marine terminals in Washington receive crude oil or petroleum products from waterborne vessels or barges operating in the state's waters. The taxes are also imposed on facilities receiving crude oil by rail. The oil spill administration tax is $0.04 on each 42-gallon barrel with the receipts funding oil spill prevention, response, and restoration programs as well as administrative costs and collection costs.

The oil spill response tax is $0.01 per barrel, which funds the state response to oil spills involving clean-up costs in excess of $50,000. The oil spill response tax is deposited into the oil spill prevention account and the tax is suspended when that account's balance reaches $9 million. A credit is allowed against the oil spill response and oil spill administration taxes for any crude oil or petroleum products received at a marine or bulk oil terminal and then exported or sold for export from the state.

When adopting its rules for crude oil by rail and pipeline, Ecology expressed concerns regarding diluted bitumen because, under some conditions, it may become submerged below the water surface or sink to the bottom when spilled into water. An incident involving these crude oil types may create greater environmental, safety, health, and economic impacts than other types of crude oil.

Geographic Response Plans (GRPs). Washington, Oregon, and Idaho, along with federal agencies coordinate planning for oil and hazardous substance incidents. The Northwest Area Contingency Plan (NWACP), is a comprehensive plan that coordinates federal, state, tribal, local, and international responses to oil and hazardous substance incidents. The NWACP contains tools for responding to incidents, including GRPs. GRPs are strategies for early actions in the event of an oil spill. The strategies are developed for specific areas at risk for oil spills and must include plans to minimize impacts to sensitive environmental, cultural, and economic resources. The GRPs are developed in collaboration with states, local and federal agencies, and tribes and are maintained by Ecology and the Environmental Protection Agency.

Summary: Oil Spill Response Tax and Oil Spill Administration Tax. The oil spill response tax and the oil spill administration tax are imposed on pipelines.

By December 31, 2019, Ecology must update contingency plan rules to address situations where oils may sink or submerge in water. The plans must include the qualities of the oil, environmental factors, method of discharge, and weathering. Contingency plan equipment deployment drills must address situations where oils may sink or submerge. Ecology must conduct specialized reviews of operations that transfer oils that may sink or submerge. Ecology must prioritize adding capacity for these inspections.

Ecology's rules for persons contracting to cleanup or contain spills is revised to include spill management, which means managing some or all aspects of a response, containment, and cleanup of a spill, as well as utilizing a specified command structure, or wildlife rehabilitation and recovery servicers for a spill response.

Every three years, Ecology must require at least one joint large-scale, multiple plan equipment deployment drill of onshore and offshore facilities and covered vessels to determine the adequacy of compliance by owners and operators with contingency plan requirements. The drills, at a minimum, must focus on the functional ability for multiple contingency plans to deploy equipment and personnel when simultaneously activated, operational readiness during the first six hours of a spill, and over multiple operational periods of response.

Ecology is required to establish the Salish Sea Shared Waters forum (forum), which must meet at least annually. Ecology must coordinate with Canadian agencies when establishing the forum and seek participation from state, provincial, and federal governmental entities, as well as from regulated entities, environmental organizations, tribes, and first nations. The forum must address common issues in the shared waterways of Washington and British Columbia such as reducing oil spill risk, navigational safety, and data sharing. In addition, the forum must consider: gaps and conflicts between policies; tug escorts for oil tankers, articulated tug barges (ATBs), and other vessels; enhancing oil spill prevention, preparedness, and response capacity; and if an emergency response system in northern Puget Sound will decrease oil spill risk. The forum expires July 1, 2021.

Ecology, in consultation with the Puget Sound Partnership and the Pilotage Commission, must complete a report on vessel traffic and safety within the Strait of Juan de Fuca, Puget Sound area including the San Juan archipelago and connected waterways, Haro Strait, Boundary Pass, and the waters south of Admiralty Inlet. Ecology must use existing current vessel traffic risk assessments and other available studies, and consult with tribes, the U.S. Coast Guard, other appropriate maritime experts, and the forum.

The report must include assessment and evaluation of:

- worldwide incident and spill data for ATBs and other towed waterborne vessels;
- transport of bitumen and diluted bitumen;
- tug escorts for oil tankers, ATBs, and other towed waterborne vessels, including California requirements;
- requirements for tug escorts, including manning and pilotage needs;
- an emergency response system for Haro Strait, Boundary Pass, and Rosario Strait; and
- the economic impact of tug escort proposals.

Ecology must include recommendations in its report for:

- vessel traffic management and safety;
- the viability of tug escorts for ATBs and other towed waterborne vessels in reducing oil spill risk;
- specific requirements and capabilities for tug escorts if the use of escorts will reduce oil spill risk; and
- an emergency response system for Haro Strait, Boundary Pass, and Rosario Strait.

Ecology must submit a preliminary report to the Legislature by November 1, 2018, and a final report by June 30, 2019.

By July 1, 2020, Ecology must provide a report to the Legislature on:

- oil spill program activities that are and are not expected to continue after fiscal year 2019;
- recommendations on potential sources of funding and allocation of funding to various state agencies; and
- forecast of oil spill program funding needs after fiscal year 2019.

GRPs and contingency plans must include habitat, water column species, and subsurface resources in their description of important features of the surrounding environment. The descriptions must be based on information available in GRPs and area contingency plans. Updates to GRPs must include addressing oils that may sink or submerge.

Every year, the first $200,000 of receipts from the Oil Spill Administration tax is allocated to the National Guard for oil spill training and cleanup.

Votes on Final Passage:

Senate	42	7
House	62	35

Effective: April 1, 2018 (Sections 102, 103, and 206)
June 7, 2018