CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6210

Chapter 69, Laws of 2000

56th Legislature
2000 Regular Session

OIL SPILL PREVENTION AND RESPONSE

EFFECTIVE DATE: 6/8/00

Passed by the Senate March 6, 2000
YEAS 45  NAYS 0

BRAD OWEN
President of the Senate

Passed by the House March 1, 2000
YEAS 98  NAYS 0

CLYDE BALLARD
Speaker of the House of Representatives

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SUBSTITUTE SENATE BILL 6210 as passed by the Senate and the House of Representatives on the dates hereon set forth.

CLYDE BALLARD
Speaker of the House of Representatives

GARY LOCKE
Governor of the State of Washington

TONY M. COOK  Secretary

FRANK CHOPP
Speaker of the House of Representatives

Certified March 22, 2000 - 4:16 p.m.

March 22, 2000 - 4:16 p.m.

SECRETARY OF STATE
State of Washington
AN ACT Relating to technical and clarifying amendments relating to
the oil spill prevention and response statutes; amending RCW 88.46.010,
88.46.020, 88.46.030, 88.46.040, 88.46.050, 88.46.060, 88.46.070,
88.46.080, 88.46.090, 88.46.100, 88.46.120, 88.46.160, 88.46.170,
88.46.200, 90.56.010, 90.56.060, 90.56.080, 90.56.100, 90.56.200,
90.56.210, 90.56.370, 90.56.510, 90.56.540, 90.56.560, 82.23B.020,
43.21I.010, 43.21I.030, 43.21I.040, 88.40.011, 88.40.020, 88.40.030,
88.40.040, 90.56.310, and 43.21I.005; creating a new section;
decodifying RCW 43.21I.005, 88.46.150, 88.46.924, 88.46.925, and
88.46.927; and repealing RCW 88.46.140, 90.56.903, and 88.46.922.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 88.46.010 and 1992 c 73 s 18 are each amended to read
as follows:

Unless the context clearly requires otherwise, the definitions in
this section apply throughout this chapter.

(1) ("Administrator" means the administrator of the office of
marine safety created in RCW 43.21I.010.

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

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

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

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

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

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

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

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

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

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

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

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

"Office" means the office of marine safety established by RCW 43.21I.010.

"Oil" or "oils" means any naturally occurring liquid hydrocarbons at atmospheric temperature and pressure coming from the earth, including condensate and natural gasoline, and any fractionation thereof, including, but not limited to, crude oil, petroleum, gasoline, fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

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

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

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

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

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

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

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

((19)) (19) "Spill" means an unauthorized discharge of oil into the waters of the state.

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

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

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

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

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

Sec. 2. RCW 88.46.020 and 1991 c 200 s 415 are each amended to read as follows:

In carrying out the purposes of this chapter, including the adoption of rules for contingency plans, the ((administrator)) director...
shall to the greatest extent practicable implement this chapter in a manner consistent with federal law.

Sec. 3. RCW 88.46.030 and 1991 c 200 s 416 are each amended to read as follows:

(1) All tank vessels entering the navigable waters of the state shall be subject to inspection to assure that they comply with all applicable federal and state standards.

(2) The department shall review the tank vessel inspection programs conducted by the United States coast guard and other federal agencies to determine if the programs as actually operated by those agencies provide the best achievable protection to the waters of the state. If the department determines that the tank vessel inspection programs conducted by these agencies are not adequate to protect the state’s waters, it shall adopt rules for a state tank vessel inspection program. The department shall adopt rules providing for a random review of individual tank vessel inspections conducted by federal agencies. The department may accept a tank vessel inspection report issued by another state if that state’s tank vessel inspection program is determined by the department to be at least as protective of the public health and the environment as the program adopted by the department.

(3) The state tank vessel inspection program shall ensure that all tank vessels entering state waters are inspected at least annually. To the maximum extent feasible, the state program shall consist of the monitoring of existing tank vessel inspection programs conducted by the federal government. The department shall consult with the coast guard regarding the tank vessel inspection program. Any tank vessel inspection conducted pursuant to this section shall be performed during the vessel’s scheduled stay in port.

(4) Any violation of coast guard or other federal regulations uncovered during a state tank vessel inspection shall be immediately reported to the appropriate agency.

Sec. 4. RCW 88.46.040 and 1991 c 200 s 417 are each amended to read as follows:

(1) The owner or operator for each tank vessel shall prepare and submit to the department an oil spill prevention plan in
conformance with the requirements of this chapter. The plans shall be submitted to the ((office) department in the time and manner directed by the ((office, but not later than January 1, 1993)) department. The spill prevention plan may be consolidated with a spill contingency plan submitted pursuant to RCW 88.46.060. The ((office) department may accept plans prepared to comply with other state or federal law as spill prevention plans to the extent those plans comply with the requirements of this chapter. The ((office) department, by rule, shall establish standards for spill prevention plans. ((The rules shall be adopted not later than July 1, 1992.))

(2) The spill prevention plan for a tank vessel or a fleet of tank vessels operated by the same operator shall:

   (a) Establish compliance with the federal oil pollution act of 1990 and state and federal financial responsibility requirements, if applicable;
   (b) State all discharges of oil of more than twenty-five barrels from the vessel within the prior five years and what measures have been taken to prevent a reoccurrence;
   (c) Describe all accidents, collisions, groundings, and near miss incidents in which the vessel has been involved in the prior five years, analyze the causes, and state the measures that have been taken to prevent a reoccurrence;
   (d) Describe the vessel operations with respect to staffing standards;
   (e) Describe the vessel inspection program carried out by the owner or operator of the vessel;
   (f) Describe the training given to vessel crews with respect to spill prevention;
   (g) Establish compliance with federal drug and alcohol programs;
   (h) Describe all spill prevention technology that has been incorporated into the vessel;
   (i) Describe the procedures used by the vessel owner or operator to ensure English language proficiency of at least one bridge officer while on duty in waters of the state;
   (j) Describe relevant prevention measures incorporated in any applicable regional marine spill safety plan that have not been adopted and the reasons for that decision; and
(k) Include any other information reasonably necessary to carry out
the purposes of this chapter required by rules adopted by the
((office)) department.

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

(4) Upon approval of a prevention plan, the ((office)) department
shall provide to the person submitting the plan a statement indicating
that the plan has been approved, the vessels covered by the plan, and
other information the ((office)) department determines should be
included.

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

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

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

(8) This section does not authorize the ((office)) department to
modify the terms of a collective bargaining agreement.

Sec. 5. RCW 88.46.050 and 1992 c 73 s 19 are each amended to read
as follows:

(1) In order to ensure the safety of marine transportation within
the navigable waters of the state and to protect the state’s natural
resources, the ((administrator)) department shall adopt rules ((by July
1, 1992)) for determining whether cargo vessels and passenger vessels
entering the navigable waters of the state pose a substantial risk of
harm to the public health and safety and the environment.
(2) The rules ((adopted by the administrator pursuant to this section)) may include((, but are not limited to the following)):

(a) Examining available information sources for evidence that a cargo or passenger vessel may pose a substantial risk to safe marine transportation or the state’s natural resources. Information sources may include: Vessel casualty lists, United States coast guard casualty reports, maritime insurance ratings, the index of contingency plans compiled by the department of ecology, other data gathered by the maritime commission, or any other resources;

(b) Requesting the United States coast guard to deny a cargo vessel or passenger vessel entry into the navigable waters of the state, if the vessel poses a substantial environmental risk;

(c) Notifying the state’s spill response system that a cargo or passenger vessel entering the state’s navigable waters poses a substantial environmental risk;

(d) Inspecting a cargo or passenger vessel that may pose a substantial environmental risk, to determine whether the vessel complies with applicable state or federal laws. Any vessel inspection conducted pursuant to this section shall be performed during the vessel’s scheduled stay in port; and

(e) Enforcement actions.

Sec. 6. RCW 88.46.060 and 1995 c 148 s 3 are each amended to read as follows:

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

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

(b) Be designed to be capable in terms of personnel, materials, and equipment, of promptly and properly, to the maximum extent practicable, as defined by the department, removing oil and minimizing any damage to the environment resulting from a worst case spill;
(c) Provide a clear, precise, and detailed description of how the plan relates to and is integrated into relevant contingency plans which have been prepared by cooperatives, ports, regional entities, the state, and the federal government;

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

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

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

(g) Describe important features of the surrounding environment, including fish and wildlife habitat, environmentally and archaeologically sensitive areas, and public facilities. The departments of ecology, fish and wildlife, and natural resources, and the office of archaeology and historic preservation, upon request, shall provide information that they have available to assist in preparing this description. If the office of marine safety adopted rules for contingency plans prior to July 1, 1992, the description of archaeologically sensitive areas shall only be required when the department revises the rules for contingency plans after July 1, 1992. The description of archaeologically sensitive areas shall not be required to be included in a contingency plan until it is reviewed and updated pursuant to subsection (9) of this section;

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

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

(j) Provide arrangements for the prepositioning of spill containment and cleanup equipment and trained personnel at strategic locations from which they can be deployed to the spill site to promptly and properly remove the spilled oil;
(k) Provide arrangements for enlisting the use of qualified and trained cleanup personnel to implement the plan;

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

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

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

(o) If the department ((of ecology)) has adopted rules permitting the use of dispersants, the circumstances, if any, and the manner for the application of the dispersants in conformance with the department’s rules.

(2)(a) The owner or operator of a tank vessel of three thousand gross tons or more shall submit a contingency plan to the ((office)) department within six months after the ((office)) department adopts rules establishing standards for contingency plans under subsection (1) of this section.

(b) Contingency plans for all other covered vessels shall be submitted to the ((office)) department within eighteen months after the ((office)) department has adopted rules under subsection (1) of this section. The ((office)) department may adopt a schedule for submission of plans within the eighteen-month period.

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

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

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

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

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

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

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

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

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

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

(f) The sensitivity of fisheries and wildlife and other natural
resources within the area covered by the plan;
(g) Relevant information on previous spills contained in on-scene coordinator reports prepared by the director; and

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

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

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

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

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

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

Sec. 7. RCW 88.46.070 and 1992 c 73 s 21 are each amended to read as follows:

(1) The provisions of prevention plans and contingency plans approved by the ((office)) department pursuant to this chapter shall be legally binding on those persons submitting them to the ((office)) department and on their successors, assigns, agents, and employees. The superior court shall have jurisdiction to restrain a violation of, compel specific performance of, or otherwise to enforce such plans upon application by the ((office)) department. The ((office)) department...
may issue an order pursuant to chapter 34.05 RCW requiring compliance with a contingency plan or a prevention plan and may impose administrative penalties for failure to comply with a plan.

(2) If the ((administrator)) director believes a person has violated or is violating or creates a substantial potential to violate the provisions of this chapter, the ((administrator)) director shall notify the person of the ((administrator's)) director's determination by registered mail. The determination shall not constitute an order or directive under RCW 43.21B.310. Within thirty days from the receipt of notice of the determination, the person shall file with the ((administrator)) director a full report stating what steps have been and are being taken to comply with the determination of the ((administrator)) director. The ((administrator)) director shall issue an order or directive, as the ((administrator)) director deems appropriate under the circumstances, and shall notify the person by registered mail.

(3) If the ((administrator)) director believes immediate action is necessary to accomplish the purposes of this chapter, the ((administrator)) director may issue an order or directive, as appropriate under the circumstances, without first issuing a notice or determination pursuant to subsection (2) of this section. An order or directive issued pursuant to this subsection shall be served by registered mail or personally upon any person to whom it is directed.

Sec. 8. RCW 88.46.080 and 1992 c 73 s 22 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, it shall be unlawful for the owner or operator to knowingly and intentionally operate in this state or on the waters of this state a covered vessel without an approved contingency plan or an approved prevention plan as required by this chapter, or financial responsibility in compliance with chapter 88.40 RCW and the federal oil pollution act of 1990. The first conviction under this section shall be a gross misdemeanor under chapter 9A.20 RCW. A second or subsequent conviction shall be a class C felony under chapter 9A.20 RCW.

(2) It shall not be unlawful for the owner or operator to operate a covered vessel if:

(a) The covered vessel is not required to have a contingency plan, spill prevention plan, or financial responsibility;
(b) All required plans have been submitted to the ((office)) department as required by this chapter and rules adopted by the ((office)) department and the ((office)) department is reviewing the plan and has not denied approval; or

(c) The covered vessel has entered state waters after the United States coast guard has determined that the vessel is in distress.

(3) A person may rely on a copy of the statement issued by the ((office)) department pursuant to RCW 88.46.060 as evidence that a vessel has an approved contingency plan and the statement issued pursuant to RCW 88.46.040 that a vessel has an approved prevention plan.

(4) Any person found guilty of willfully violating any of the provisions of this chapter, or any final written orders or directive of the ((administrator)) director or a court in pursuance thereof shall be deemed guilty of a gross misdemeanor, as provided in chapter 9A.20 RCW, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in the discretion of the court. Each day upon which a willful violation of the provisions of this chapter occurs may be deemed a separate and additional violation.

Sec. 9. RCW 88.46.090 and 1992 c 73 s 23 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, it shall be unlawful for a covered vessel to enter the waters of the state without an approved contingency plan required by RCW 88.46.060, a spill prevention plan required by RCW 88.46.040, or financial responsibility in compliance with chapter 88.40 RCW and the federal oil pollution act of 1990. The ((office)) department may deny entry onto the waters of the state to any covered vessel that does not have a required contingency or spill prevention plan or financial responsibility.

(2) Except as provided in subsection (4) of this section, it shall be unlawful for a covered vessel to transfer oil to or from an onshore or offshore facility that does not have an approved contingency plan required under RCW 90.56.210, a spill prevention plan required by RCW 90.56.200, or financial responsibility in compliance with chapter 88.40 RCW and the federal oil pollution act of 1990.
(3) The ((administrator)) director may assess a civil penalty of up to one hundred thousand dollars against the owner or operator of a vessel who is in violation of subsection (1) or (2) of this section. Each day that the owner or operator of a covered vessel is in violation of this section shall be considered a separate violation.

(4) It shall not be unlawful for a covered vessel to operate on the waters of the state if:

(a) A contingency plan, a prevention plan, or financial responsibility is not required for the covered vessel;

(b) A contingency plan and prevention plan has been submitted to the ((office)) department as required by this chapter and rules adopted by the ((office)) department and the ((office)) department is reviewing the plan and has not denied approval; or

(c) The covered vessel has entered state waters after the United States coast guard has determined that the vessel is in distress.

(5) Any person may rely on a copy of the statement issued by the ((office)) department to RCW 88.46.060 as evidence that the vessel has an approved contingency plan and the statement issued pursuant to RCW 88.46.040 as evidence that the vessel has an approved spill prevention plan.

(6) Except for violations of subsection (1) or (2) of this section, any person who violates the provisions of this chapter or rules or orders adopted or issued pursuant thereto, shall incur, in addition to any other penalty as provided by law, a penalty in an amount of up to ten thousand dollars a day for each violation. Each violation is a separate offense, and in case of a continuing violation, every day’s continuance is a separate violation. Every act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under the provisions of this subsection and subject to penalty. The penalty amount shall be set in consideration of the previous history of the violator and the severity of the violation’s impact on public health and the environment in addition to other relevant factors. The penalty shall be imposed pursuant to the procedures set forth in RCW 43.21B.300.

Sec. 10. RCW 88.46.100 and 1995 c 391 s 9 are each amended to read as follows:

(1) In order to assist the state in identifying areas of the navigable waters of the state needing special attention, the owner or
operator of a covered vessel shall notify the coast guard within one
hour:

(a) Of the disability of the covered vessel if the disabled vessel
is within twelve miles of the shore of the state; and
(b) Of a collision or a near miss incident within twelve miles of
the shore of the state.

(2) The state military department and the department shall request the coast guard to notify the state military department
as soon as possible after the coast guard receives notice of a disabled
covered vessel or of a collision or near miss incident within twelve
miles of the shore of the state. The department shall
negotiate an agreement with the coast guard governing procedures for
coast guard notification to the state regarding disabled covered
vessels and collisions and near miss incidents.

(3) The department shall prepare a summary of the
information collected under this section and provide the summary to the
regional marine safety committees, the coast guard, and others in order
to identify problems with the marine transportation system.

(4) For the purposes of this section:

(a) A tank vessel or cargo vessel is considered disabled if any of
the following occur:

(i) Any accidental or intentional grounding;

(ii) The total or partial failure of the main propulsion or primary
steering or any component or control system that causes a reduction in
the maneuvering capabilities of the vessel;

(iii) An occurrence materially and adversely affecting the vessel’s
seaworthiness or fitness for service, including but not limited to,
fire, flooding, or collision with another vessel;

(iv) Any other occurrence that creates the serious possibility of
an oil spill or an occurrence that may result in such a spill.

(b) A barge is considered disabled if any of the following occur:

(i) The towing mechanism becomes disabled;

(ii) The towboat towing the barge becomes disabled through
occurrences defined in (a) of this subsection.

(c) A near miss incident is an incident that requires the pilot or
master of a covered vessel to take evasive actions or make significant
course corrections in order to avoid a collision with another ship or
to avoid a grounding as required by the international rules of the
road.
(5) Failure of any person to make a report under this section shall not be used as the basis for the imposition of any fine or penalty.

Sec. 11. RCW 88.46.120 and 1991 c 200 s 425 are each amended to read as follows:

The department may adopt rules including but not limited to standards for spill response equipment to be maintained on tank vessels. The standards adopted under this section shall be consistent with spill response equipment standards adopted by the United States coast guard.

Sec. 12. RCW 88.46.160 and 1991 c 200 s 438 are each amended to read as follows:

Any person or facility conducting ship refueling and bunkering operations, or the lightering of petroleum products, and any person or facility transferring oil between an onshore or offshore facility and a tank vessel shall have containment and recovery equipment readily available for deployment in the event of the discharge of oil into the waters of the state and shall deploy the containment and recovery equipment in accordance with standards adopted by the department. All persons conducting refueling, bunkering, or lightering operations, or oil transfer operations shall be trained in the use and deployment of oil spill containment and recovery equipment. The department shall adopt rules as necessary to carry out the provisions of this section. The rules shall include standards for the circumstances under which containment equipment should be deployed. An onshore or offshore facility shall include the procedures used to contain and recover discharges in the facility’s contingency plan. It is the responsibility of the person providing bunkering, refueling, or lightering services to provide any containment or recovery equipment required under this section. This section does not apply to a person operating a ship for personal pleasure or for recreational purposes.

Sec. 13. RCW 88.46.170 and 1993 c 162 s 1 are each amended to read as follows:

(1) The department shall establish a field operations program to enforce the provisions of this chapter. The field operations program shall include, but is not limited to, the following elements:
(a) Education and public outreach;

(b) Review of lightering and bunkering operations to prevent oil spills;

(c) Evaluation and boarding of tank vessels for compliance with prevention plans prepared pursuant to this chapter;

(d) Evaluation and boarding of covered vessels that may pose a substantial risk to the public health, safety, and the environment;

(e) Evaluation and boarding of covered vessels for compliance with rules adopted by the ((office)) department to implement recommendations of regional marine safety committees; and

(f) Collection of vessel information to assist in identifying vessels which pose a substantial risk to the public health, safety, and the environment.

(2) The ((office)) department shall coordinate the field operations program with similar activities of the United States coast guard. To the extent feasible, the ((office)) department shall coordinate its boarding schedules with those of the United States coast guard to reduce the impact of boardings on vessel operators, to more efficiently use state and federal resources, and to avoid duplication of United States coast guard inspection operations.

(3) In developing and implementing the field operations program, the ((office)) department shall give priority to activities designed to identify those vessels which pose the greatest risk to the waters of the state. The ((office)) department shall consult with the marine transportation industry, individuals concerned with the marine environment, other state and federal agencies, and the public in developing and implementing the program required by this section.

Sec. 14. RCW 88.46.200 and 1994 sp.s. c 9 s 854 are each amended to read as follows:

The ((administrator)) director may appoint ad hoc, advisory marine safety committees to solicit recommendations and technical advice concerning vessel traffic safety. The ((office)) department may implement recommendations made in regional marine safety plans that are approved by the ((office)) department and over which the ((office)) department has authority. If federal authority or action is required to implement the recommendations, the ((office)) department may petition the appropriate agency or the congress.
Sec. 15. RCW 90.56.010 and 1992 c 73 s 31 are each amended to read as follows:

For purposes of this chapter, the following definitions shall apply unless the context indicates otherwise:

(1) (“Administrator” means the administrator of the office of marine safety created in RCW 43.21I.010.

(2)) “Best achievable protection” means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The director’s determination of best achievable protection shall be guided by the critical need to protect the state’s natural resources and waters, while considering (a) the additional protection provided by the measures; (b) the technological achievability of the measures; and (c) the cost of the measures.

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

((4)) (3) “Board” means the pollution control hearings board.

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

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

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

((8)) (7) “Covered vessel” means a tank vessel, cargo vessel, or passenger vessel.

((9)) (8) “Department” means the department of ecology.

((10)) (9) “Director” means the director of the department of ecology.

((11)) (10) “Discharge” means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.
(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

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

"Fund" means the state coastal protection fund as provided in RCW 90.48.390 and 90.48.400.

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

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

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

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

"Oil" or "oils" means naturally occurring liquid hydrocarbons at atmospheric temperature and pressure coming from the
earth, including condensate and natural gasoline, and any fractionation thereof, including, but not limited to, crude oil, petroleum, gasoline, fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

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

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

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

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

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

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

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

(23) "Spill" means an unauthorized discharge of oil or hazardous substances into the waters of the state.
"Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or
(b) Transfers oil in a port or place subject to the jurisdiction of this state.

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

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

**Sec. 16.** RCW 90.56.060 and 1991 c 200 s 107 are each amended to read as follows:

(1) The department shall prepare and annually update a state-wide master oil and hazardous substance spill prevention and contingency plan. In preparing the plan, the department shall consult with an advisory committee representing diverse interests concerned with oil and hazardous substance spills, including the United States coast guard, the federal environmental protection agency, state agencies, local governments, port districts, private facilities, environmental organizations, oil companies, shipping companies, containment and cleanup contractors, tow companies, and hazardous substance manufacturers.

(2) The state master plan prepared under this section shall at a minimum:

(a) Take into consideration the elements of oil spill prevention and contingency plans approved or submitted for approval pursuant to this chapter and chapter 88.46 RCW and oil and hazardous substance spill contingency plans prepared pursuant to other state or federal law or prepared by federal agencies and regional entities;

(b) State the respective responsibilities as established by relevant statutes and rules of each of the following in the prevention of and the assessment, containment, and cleanup of a worst case spill.
of oil or hazardous substances into the environment of the state: (i) State agencies; (ii) local governments; (iii) appropriate federal agencies; (iv) facility operators; (v) property owners whose land or other property may be affected by the oil or hazardous substance spill; and (vi) other parties identified by the department as having an interest in or the resources to assist in the containment and cleanup of an oil or hazardous substance spill;

(c) State the respective responsibilities of the parties identified in (b) of this subsection in an emergency response;

(d) Identify actions necessary to reduce the likelihood of spills of oil and hazardous substances;

(e) Identify and obtain mapping of environmentally sensitive areas at particular risk to oil and hazardous substance spills; and

(f) Establish an incident command system for responding to oil and hazardous substances spills.

(3) In preparing and updating the state master plan, the department shall:

(a) Consult with federal, provincial, municipal, and community officials, other state agencies, the state of Oregon, and with representatives of affected regional organizations;

(b) Submit the draft plan to the public for review and comment;

(c) Submit to the appropriate standing committees of the legislature for review, not later than November 1 of each year, the plan and any annual revision of the plan; and

(d) Require or schedule unannounced oil spill drills as required by RCW 90.56.260 to test the sufficiency of oil spill contingency plans approved under RCW 90.56.210.

Sec. 17. RCW 90.56.080 and 1991 c 200 s 109 are each amended to read as follows:

(Not later than twelve months after May 15, 1991,) The division of fire protection services shall establish and manage the Washington oil and hazardous substances incident response training and education program to provide approved classes in hazardous substance response, taught by trained instructors. To carry out this program, the division of fire protection services shall:

(1) Adopt rules necessary to implement the program;
(2) Establish a training and education program by developing the curriculum to be used in the program in colleges, academies, and other educational institutions;

(3) Provide training to local oil and hazardous materials emergency response personnel; and

(4) Establish and collect admission fees and other fees that may be necessary to the program.

Sec. 18. RCW 90.56.100 and 1998 c 245 s 175 are each amended to read as follows:

(1) The Washington wildlife rescue coalition ((shall be)) is established for the purpose of coordinating the rescue and rehabilitation of wildlife injured or endangered by oil spills or the release of other hazardous substances into the environment.

(2) The Washington wildlife rescue coalition shall be composed of:

(a) A representative of the department of fish and wildlife designated by the director of fish and wildlife. The department of fish and wildlife shall be designated as lead agency in the operations of the coalition. The coalition shall be chaired by the representative from the department of fish and wildlife;

(b) A representative of the department of ecology designated by the director;

(c) A representative of the ((department of community, trade, and economic development)) Washington military department emergency management ((program)) division, designated by the director of ((community, trade, and economic development)) the Washington military department;

(d) A licensed veterinarian, with experience and training in wildlife rehabilitation, appointed by the veterinary board of governors;

(e) ((The director of the Washington conservation corps))) A lay person, with training and experience in the rescue and rehabilitation of wildlife appointed by the department; and

((e))) (f) A person designated by the legislative authority of the county where oil spills or spills of other hazardous substances may occur. This member of the coalition shall serve on the coalition until wildlife rescue and rehabilitation is completed in that county. The completion of any rescue or rehabilitation project shall be determined by the director of fish and wildlife.
(3) The duties of the Washington wildlife rescue coalition (shall be) are to:

(a) Develop an emergency mobilization plan to rescue and rehabilitate waterfowl and other wildlife that are injured or endangered by an oil spill or the release of other hazardous substances into the environment;

(b) Develop and maintain a resource directory of persons, governmental agencies, and private organizations that may provide assistance in an emergency rescue effort;

(c) Provide advance training and instruction to volunteers in rescuing and rehabilitating waterfowl and wildlife injured or endangered by oil spills or the release of other hazardous substances into the environment. The training may be provided through grants to community colleges or to groups that conduct programs for training volunteers. The coalition representatives from the agencies described in subsection (2) of this section shall coordinate their training efforts (with the director of the Washington conservation corps) and work to provide training opportunities for young citizens;

(d) Obtain and maintain equipment and supplies used in emergency rescue efforts.

(4)(a) Expenses for the coalition may be provided by the coastal protection fund administered according to RCW 90.48.400.

(b) The coalition is encouraged to seek grants, gifts, or donations from private sources in order to carry out the provisions of this section and RCW 90.56.110. Any private funds donated to the commission shall be deposited into the wildlife rescue account hereby created within the wildlife fund as authorized under Title 77 RCW.

Sec. 19. RCW 90.56.200 and 1991 c 200 s 201 are each amended to read as follows:

(1) The owner or operator for each onshore and offshore facility shall prepare and submit to the department an oil spill prevention plan in conformance with the requirements of this chapter. The plans shall be submitted to the department in the time and manner directed by the department ((, but not later than January 1, 1993)). The spill prevention plan may be consolidated with a spill contingency plan submitted pursuant to RCW 90.56.210. The department may accept plans prepared to comply with other state or federal law as spill prevention plans to the extent those plans comply with the requirements of this
chapter. The department, by rule, shall establish standards for spill
prevention plans. (The rules shall be adopted not later than July 1, 1992.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 20. RCW 90.56.210 and 1992 c 73 s 33 are each amended to read
as follows:

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

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

(b) Be designed to be capable in terms of personnel, materials, and
equipment, of promptly and properly, to the maximum extent practicable,
as defined by the department removing oil and minimizing any damage to
the environment resulting from a worst case spill;
(c) Provide a clear, precise, and detailed description of how the plan relates to and is integrated into relevant contingency plans which have been prepared by cooperatives, ports, regional entities, the state, and the federal government;

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

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

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

(g) Describe important features of the surrounding environment, including fish and wildlife habitat, environmentally and archaeologically sensitive areas, and public facilities. The departments of ecology, (fisheries, wildlife) fish and wildlife, and natural resources, and the office of archaeology and historic preservation, upon request, shall provide information that they have available to assist in preparing this description. (If the department has adopted rules for contingency plans prior to July 1, 1992, the description of archaeologically sensitive areas shall only be required when the department revises the rules for contingency plans after July 1, 1992.) The description of archaeologically sensitive areas shall not be required to be included in a contingency plan until it is reviewed and updated pursuant to subsection (9) of this section;

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

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

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

(k) Provide for disposal of recovered spilled oil in accordance with local, state, and federal laws;
(1) Until a spill prevention plan has been submitted pursuant to RCW 90.56.200, state the measures that have been taken to reduce the likelihood that a spill will occur, including but not limited to, design and operation of a facility, training of personnel, number of personnel, and backup systems designed to prevent a spill;

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

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

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

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

(ii) Offshore facilities.

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

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

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

(4) A contingency plan prepared for an agency of the federal government or another state that satisfies the requirements of this section and rules adopted by the department may be accepted by the department as a contingency plan under this section. The department shall assure that to the greatest extent possible, requirements for contingency plans under this section are consistent with the requirements for contingency plans under federal law.
In reviewing the contingency plans required by this section, the department shall consider at least the following factors:

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

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

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

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

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

(f) The sensitivity of fisheries and wildlife and other natural resources within the area covered by the plan;

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

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

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

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

(8) An owner or operator of a facility shall notify the department in writing immediately of any significant change of which it is aware affecting its contingency plan, including changes in any factor set forth in this section or in rules adopted by the department. The department may require the owner or operator to update a contingency plan as a result of these changes.
The department by rule shall require contingency plans to be reviewed, updated, if necessary, and resubmitted to the department at least once every five years. Approval of a contingency plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under this chapter or other state law.

Sec. 21. RCW 90.56.370 and 1990 c 116 s 18 are each amended to read as follows:

(1) Any person owning oil or having control over oil that enters the waters of the state in violation of RCW 90.56.320 shall be strictly liable, without regard to fault, for the damages to persons or property, public or private, caused by such entry.

(2) In any action to recover damages resulting from the discharge of oil in violation of RCW 90.56.320, the owner or person having control over the oil shall be relieved from strict liability, without regard to fault, if that person can prove that the discharge was caused solely by:

(a) An act of war or sabotage;
(b) An act of God;
(c) Negligence on the part of the United States government; or
(d) Negligence on the part of the state of Washington.

(3) The liability established in this section shall in no way affect the rights which:

(a) The owner or other person having control over the oil may have against any person whose acts may in any way have caused or contributed to the discharge of oil; or
(b) The state of Washington may have against any person whose actions may have caused or contributed to the discharge of oil.

Sec. 22. RCW 90.56.510 and 1999 sp.s. c 7 s 2 are each amended to read as follows:

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

(2) Expenditures from the oil spill prevention account shall be used exclusively for the administrative costs related to the purposes of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. Starting with the 1995-1997 biennium, the legislature shall give priority in funding from the oil spill prevention account. Costs of prevention include the costs of:

(a) Routine responses not covered under RCW 90.56.500;
(b) Management and staff development activities;
(c) Development of rules and policies and the state-wide plan provided for in RCW 90.56.060;
(d) Facility and vessel plan review and approval, drills, inspections, investigations, enforcement, and litigation;
(e) Interagency coordination and public outreach and education;
(f) Collection and administration of the tax provided for in chapter 82.23B RCW; and
(g) Appropriate travel, goods and services, contracts, and equipment.
Sec. 23. RCW 90.56.540 and 1991 c 200 s 605 are each amended to read as follows:

(1) A person is guilty of operating a vessel while under the influence of intoxicating liquor or drugs if the person operates a covered vessel within this state while:

(a) The person has 0.06 grams or more of alcohol per two hundred ten liters of breath, as shown by analysis of the person’s breath made under RCW ((88.16.230)) 90.56.550; or

(b) The person has 0.06 percent or more by weight of alcohol in the person’s blood as shown by analysis of the person’s blood made under RCW ((88.16.230)) 90.56.550; or

(c) The person is under the influence of or affected by intoxicating liquor or drugs; or

(d) The person is under the combined influence of or affected by intoxicating liquor or drugs.

(2) The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section.

(3) Operating a vessel while intoxicated is a class C felony under chapter 9A.20 RCW.

Sec. 24. RCW 90.56.560 and 1991 c 200 s 607 are each amended to read as follows:

No physician, registered nurse, qualified technician, or hospital, or duly licensed clinical laboratory employing or using services of the physician, registered nurse, or qualified technician, may incur any civil or criminal liability as a result of the act of withdrawing blood from any person when directed by a law enforcement officer to do so for the purpose of a blood test under RCW ((88.16.230)) 90.56.550. This section shall not relieve any physician, registered nurse, qualified technician, or hospital or duly licensed clinical laboratory from civil liability arising from the use of improper procedures or failing to exercise the required standard of care.

Sec. 25. RCW 82.23B.020 and 1999 sp.s. c 7 s 1 are each amended to read as follows:

(1) An oil spill response tax is imposed on the privilege of receiving crude oil or petroleum products at a marine terminal within
this state from a waterborne vessel or barge operating on the navigable
waters of this state. The tax imposed in this section is levied upon
the owner of the crude oil or petroleum products immediately after
receipt of the same into the storage tanks of a marine terminal from a
waterborne vessel or barge at the rate of one cent per barrel of crude
oil or petroleum product received.

(2) In addition to the tax imposed in subsection (1) of this
section, an oil spill administration tax is imposed on the privilege of
receiving crude oil or petroleum products at a marine terminal within
this state from a waterborne vessel or barge operating on the navigable
waters of this state. The tax imposed in this section is levied upon
the owner of the crude oil or petroleum products immediately after
receipt of the same into the storage tanks of a marine terminal from a
waterborne vessel or barge at the rate of four cents per barrel of
crude oil or petroleum product.

(3) The taxes imposed by this chapter shall be collected by the
marine terminal operator from the taxpayer. If any person charged with
collecting the taxes fails to bill the taxpayer for the taxes, or in
the alternative has not notified the taxpayer in writing of the
imposition of the taxes, or having collected the taxes, fails to pay
them to the department in the manner prescribed by this chapter,
whether such failure is the result of the person’s own acts or the
result of acts or conditions beyond the person’s control, he or she
shall, nevertheless, be personally liable to the state for the amount
of the taxes. Payment of the taxes by the owner to a marine terminal
operator shall relieve the owner from further liability for the taxes.

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

(5) If a taxpayer fails to pay the taxes imposed by this chapter to
the person charged with collection of the taxes and the person charged
with collection fails to pay the taxes to the department, the
department may, in its discretion, proceed directly against the
taxpayer for collection of the taxes.
(6) The taxes shall be due from the marine terminal operator, along with reports and returns on forms prescribed by the department, within twenty-five days after the end of the month in which the taxable activity occurs.

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

(8) Upon prior approval of the department, the taxpayer may pay the taxes imposed by this chapter directly to the department. The department shall give its approval for direct payment under this section whenever it appears, in the department’s judgment, that direct payment will enhance the administration of the taxes imposed under this chapter. The department shall provide by rule for the issuance of a direct payment certificate to any taxpayer qualifying for direct payment of the taxes. Good faith acceptance of a direct payment certificate by a terminal operator shall relieve the marine terminal operator from any liability for the collection or payment of the taxes imposed under this chapter.

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

(10) Within forty-five days after the end of each calendar quarter, the office of financial management shall determine the balance of the oil spill response account as of the last day of that calendar quarter. Balance determinations by the office of financial management under this section are final and shall not be used to challenge the validity of any tax imposed under this chapter. The office of financial management shall promptly notify the departments of revenue and ecology of the account balance once a determination is made. For each subsequent calendar quarter, the tax imposed by subsection (1) of this section shall be imposed during the entire calendar quarter unless:
(a) Tax was imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than nine million dollars; or

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


Sec. 27. RCW 43.21I.010 and 1992 c 73 s 4 are each amended to read as follows:

(1) There is hereby created ((an agency of state government to be known as the office of marine safety. The office)) within the department of ecology an oil spill prevention program. For the program, the department shall be vested with all powers and duties transferred to it from the office of marine safety and such other powers and duties as may be authorized by law. The main administrative office ((of the office)) for the ((office)) program shall be located in the city of Olympia. The ((administrator)) director may establish administrative facilities in other locations, if deemed necessary for the efficient operation of the ((office)) program, and if consistent with the principles set forth in subsection (2) of this section.

(2) The ((office of marine safety)) oil spill prevention program shall be organized consistent with the goals of providing state government with a focus in marine transportation and serving the people of this state. The legislature recognizes that the ((administrator)) director needs sufficient organizational flexibility to carry out the ((office’s)) program’s various duties. To the extent practical, the ((administrator)) director shall consider the following organizational principles:

(a) Clear lines of authority which avoid functional duplication within and between subelements of the ((office)) program;

(b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public; and

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(c) Maximum span of control without jeopardizing adequate supervision.

(3) The ((office)) department, through the program, shall provide leadership and coordination in identifying and resolving threats to the safety of marine transportation and the impact of marine transportation on the environment:

(a) Working with other state agencies and local governments to strengthen the state and local governmental partnership in providing public protection;

(b) Providing expert advice to the executive and legislative branches of state government;

(c) Providing active and fair enforcement of rules;

(d) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing marine safety measures;

(e) Providing information to the public; and

(f) Carrying out such other related actions as may be appropriate to this purpose.

(4) In accordance with the administrative procedure act, chapter 34.05 RCW, the ((office)) department shall ensure an opportunity for consultation, review, and comment before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the ((administrator)) director may create such administrative divisions, offices, bureaus, and programs within the ((office)) program as the ((administrator)) director deems necessary. The ((administrator)) director shall have complete charge of and supervisory powers over the ((office)) program, except where the ((administrator's)) director's authority is specifically limited by law.

(6) The ((administrator)) director shall appoint such personnel as are necessary to carry out the duties of the ((office)) program. In addition to exemptions set forth in RCW 41.06.070((28), the administrator, the administrator’s confidential secretary, and), up to four professional staff members shall be exempt from the provisions of chapter 41.06 RCW. All other employees of the ((office)) program shall be subject to the provisions of chapter 41.06 RCW.

(7) The definitions in this section apply throughout this chapter.

(a) "Department" means the department of ecology.
(b) "Director" means the director of the department.

Sec. 28. RCW 43.21I.030 and 1992 c 73 s 11 are each amended to read as follows:

In addition to any other powers granted the ((administrator)) director, the ((administrator)) director may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of this chapter and chapter 88.46 RCW. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The ((administrator)) director shall review each advisory committee within the jurisdiction of the ((office)) program and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed. The criteria specified in RCW 43.131.070 shall be used to determine whether or not each advisory committee shall be continued;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(4) Delegate powers, duties, and functions of the ((office)) program to employees of the ((office)) department as the ((administrator)) director deems necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(5) Enter into contracts on behalf of the ((office)) department to carry out the purposes of this chapter and chapter 88.46 RCW;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program for the purposes of this chapter and chapter 88.46 RCW; or

(7) Accept gifts, grants, or other funds.

Sec. 29. RCW 43.21I.040 and 1991 c 200 s 407 are each amended to read as follows:

(1) The ((administrator)) director shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before the ((administrator)) director together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.
(2) Subpoenas issued in adjudicative proceedings shall be governed by chapter 34.05 RCW.

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by chapter 34.05 RCW.

Sec. 30. RCW 88.40.011 and 1992 c 73 s 12 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Administrator" means the administrator of the office of marine safety created in RCW 43.21I.010.

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

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

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

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

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

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

(b) A facility does not include any: (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) retail motor vehicle motor fuel outlet; (iii) facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; (iv) underground storage tank regulated by the department or a local government under chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.
"Hazardous substances" means any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499. The following are not hazardous substances for purposes of this chapter:

(a) Wastes listed as F001 through F028 in Table 302.4; and
(b) Wastes listed as K001 through K136 in Table 302.4.

"Inland barge" means any barge operating on the waters of the state and certified by the coast guard as an inland barge.

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

"Office" means the office of marine safety established by RCW 43.21I.010.

"Oil" or "oils" means any naturally occurring liquid hydrocarbons at atmospheric temperature and pressure coming from the earth, including condensate and natural gasoline, and any fractionation thereof, including, but not limited to, crude oil, petroleum, gasoline, fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

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

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

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

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

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

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

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

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

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

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

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

Sec. 31. RCW 88.40.020 and 1992 c 73 s 13 are each amended to read as follows:

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

(2)(a) Except as provided in (c) of this subsection, a tank vessel that carries oil as cargo in bulk shall demonstrate financial responsibility to pay at least five hundred million dollars.

(b) The ((administrator)) director by rule may establish a lesser standard of financial responsibility for barges of three hundred gross tons or less. The standard shall set the level of financial responsibility based on the quantity of cargo the barge is capable of
carrying. The ((administrator)) director shall not set the standard for barges of three hundred gross tons or less below that required under federal law.

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

(3) A cargo vessel or passenger vessel that carries oil as fuel shall demonstrate financial responsibility to pay the greater of at least six hundred dollars per gross ton or five hundred thousand dollars.

(4) The documentation of financial responsibility shall demonstrate the ability of the document holder to meet state and federal financial liability requirements for the actual costs for removal of oil spills, for natural resource damages, and necessary expenses.

(5) The ((office)) department may by rule set a lesser amount of financial responsibility for a tank vessel that meets standards for construction, propulsion, equipment, and personnel established by the ((office)) department. The ((office)) department shall require as a minimum level of financial responsibility under this subsection the same level of financial responsibility required under federal law.

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

Sec. 32. RCW 88.40.030 and 1991 c 200 s 705 are each amended to read as follows:

Financial responsibility required by this chapter may be established by any one of, or a combination of, the following methods acceptable to the ((office of marine safety or the)) department of ecology: (1) Evidence of insurance; (2) surety bonds; (3) qualification as a self-insurer; or (4) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States. Documentation of such financial responsibility shall be kept on any covered vessel and filed with the ((office)) department at least twenty-four hours before entry of the vessel into the navigable waters of the state. A covered vessel is not required to file documentation of financial responsibility.
twenty-four hours before entry of the vessel into the navigable waters of the state, if the vessel has filed documentation of financial responsibility with the federal government, and the level of financial responsibility required by the federal government is the same as or exceeds state requirements. The owner or operator of the vessel may file with the ((office)) department a certificate evidencing compliance with the requirements of another state’s or federal financial responsibility requirements if the state or federal government requires a level of financial responsibility the same as or greater than that required under this chapter.

Sec. 33. RCW 88.40.040 and 1992 c 73 s 14 are each amended to read as follows:

(1) The ((office)) department shall deny entry to the waters of the state to any vessel that does not meet the financial responsibility requirements of this chapter. Any vessel owner or operator that does not meet the financial responsibility requirements of this chapter and any rules prescribed thereunder or the federal oil pollution act of 1990 shall be reported by the ((office)) department to the United States coast guard.

(2) The ((office)) department shall enforce section 1016 of the federal oil pollution act of 1990 as authorized by section 1019 of the federal act.

Sec. 34. RCW 90.56.310 and 1992 c 73 s 35 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, it shall be unlawful:

(a) For the owner or operator to operate an onshore or offshore facility without an approved contingency plan as required under RCW 90.56.210, a spill prevention plan required by RCW 90.56.200, or financial responsibility in compliance with chapter 88.40 RCW and the federal oil pollution act of 1990; or

(b) For the owner or operator of an onshore or offshore facility to transfer cargo or passengers to or from a covered vessel that does not have an approved contingency plan or an approved prevention plan required under chapter 88.46 RCW or financial responsibility in compliance with chapter 88.40 RCW and the federal oil pollution act of 1990.
(2) The department may assess a civil penalty under RCW 43.21B.300 of up to one hundred thousand dollars against any person who is in violation of this section. Each day that a facility or person is in violation of this section shall be considered a separate violation.

(3) It shall not be unlawful for a facility or other person to operate or accept cargo or passengers from a covered vessel if:

(a) A contingency plan, a prevention plan, or financial responsibility is not required for the facility; or

(b) A contingency and prevention plan has been submitted to the department as required by this chapter and rules adopted by the department and the department is reviewing the plan and has not denied approval.

(4) Any person may rely on a copy of the statement issued by the department pursuant to RCW 90.56.210(7) as evidence that the facility has an approved contingency plan and the statement issued pursuant to RCW 90.56.200(4) as evidence that the facility has an approved spill prevention plan. Any person may rely on a copy of the statement issued by the office of marine safety, or its successor agency, the department, pursuant to RCW 88.46.060 as evidence that the vessel has an approved contingency plan and the statement issued pursuant to RCW 88.46.040 as evidence that the vessel has an approved prevention plan.

Sec. 35. RCW 43.21I.005 and 1997 c 449 s 1 are each amended to read as follows:

(1) The legislature declares that Washington’s waters have irreplaceable value for the citizens of the state. These waters are vital habitat for numerous and diverse marine life and wildlife and the source of recreation, aesthetic pleasure, and pride for Washington’s citizens. These waters are also vital for much of Washington’s economic vitality.

The legislature finds that the transportation of oil on these waters creates a great potential hazard to these important natural resources. The legislature also finds that there is no state agency responsible for maritime safety to ensure this state’s interest in preserving these resources.

((The legislature therefore finds that in order to protect these waters it is necessary to establish an office of marine safety which will have the responsibility to promote the safety of marine transportation in Washington.))
(2) The legislature finds that adequate funding is necessary for
the state to continue its priority focus on the prevention of oil
spills, as well as maintain a strong oil spill response, planning, and
environmental restoration capability. The legislature further finds
that the long-term environmental health of the state’s waters
depends upon the strength and vitality of its oil spill prevention and
response program that fosters planning, coordination, and incident
command. To that end, the merger of the office of marine safety with
the department of ecology shall: Ensure coordination via streamlining
the marine safety functions of two agencies into one; provide a focused
prevention and response program under a single administration; generate
efficient incident command response capability and continue to meet the
challenges threatening marine safety and the environment; and increase
accountability to the public, the executive branch, and the
legislature.

(3) It is the intent of the legislature that the state’s oil spill
prevention, response, planning, and environmental restoration
activities be sufficiently funded to maintain a strong prevention and
response program. It is further the intent of the legislature that the
merger of the office of marine safety with the department of ecology be
accomplished in an organizational manner that maintains a priority
focus and position for the oil spill prevention and response program. The merger shall allow for ready identification of the program by the
public and ensure no diminution in the state’s commitment to marine
safety and environmental protection as follows:

(a) The director of the department of ecology shall consolidate all
of the agency’s oil spill prevention, planning, and response programs
and personnel into a division or equivalent unit of organization within
the department. The division shall be managed by a single
administrator who is an assistant director or person of equivalent
status in the department’s organization. The administrator shall
report directly to the director.

(b) The consolidated oil spill program unit within the department
shall maintain prevention of oil spills as a specific program.

(c) The department shall identify and participate in resolving
threats to safety of marine transportation and the impact of marine
transportation on the environment.
NEW SECTION. Sec. 36. The following acts or parts of acts are each decodified:
(1) RCW 43.21I.005 (Findings--Consolidation of oil spill programs--Administrator of consolidated oil spill program);
(2) RCW 88.46.150 (Tow boat standards--Study);
(3) RCW 88.46.924 (Continuation of rules, pending business, and obligations);
(4) RCW 88.46.925 (Prior acts valid); and
(5) RCW 88.46.927 (Collective bargaining agreements not altered).

NEW SECTION. Sec. 37. The following acts or parts of acts are each repealed:
(1) RCW 88.46.140 (Unified and consistent planning) and 1991 c 200 s 428;
(2) RCW 90.56.903 (Report on implementation) and 1991 c 200 s 1109;
and
(3) RCW 88.46.922 (Transfer of property and appropriations) and 1991 c 200 s 431.

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