
SECOND SUBSTITUTE HOUSE BILL 1611

State of Washington

65th Legislature

2017 Regular Session

By House Finance (originally sponsored by Representatives Farrell, Fitzgibbon, Fey, Peterson, Slatter, Tharinger, Pollet, Stonier, Senn, Appleton, Chapman, Goodman, Robinson, Pettigrew, Bergquist, Hudgins, McBride, Cody, Macri, Doglio, Stanford, Jinkins, Tarleton, and Kagi)

READ FIRST TIME 04/04/17.

1 AN ACT Relating to oil transportation safety; amending RCW
2 88.16.190, 90.56.370, 82.23B.020, 82.23B.030, 90.56.200, 90.56.240,
3 90.56.510, 90.56.565, 90.56.210, 90.56.220, 90.56.230, and 80.50.060;
4 reenacting and amending RCW 80.50.020 and 90.56.010; adding a new
5 section to chapter 90.56 RCW; creating new sections; prescribing
6 penalties; providing an effective date; providing an expiration date;
7 and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** (1) The legislature finds that the system
10 of crude oil transportation by boat, rail, and pipeline in Washington
11 has experienced significant changes in recent years. By enacting
12 chapter 274, Laws of 2015 (the oil transportation safety act), the
13 legislature took significant steps to address the risks of oil
14 transportation. However, because that legislation primarily focused
15 on the risks of crude oil transportation by rail, and did not address
16 the growing risks of oil shipped through state waters, additional
17 attention to this issue is warranted and the additional steps taken
18 in this act will help continue to improve oil transportation safety.

19 (2) In light of recent events since the passage of the oil
20 transportation safety act, oil transportation patterns are expected

1 to continue to further change in coming years. With these changes,
2 additional and changing risks are also expected:

3 (a) One important contextual change driving oil transportation
4 risks in Washington was the recent decision by the United States
5 congress in December 2015 to remove the longstanding prohibition on
6 the export of crude oil from the United States. This reversal of
7 federal law presents a significant prospective change to the patterns
8 of oil shipment through the state and may bring additional
9 environmental and public safety risks that are not adequately
10 addressed by existing plans and safety regulations.

11 (b) A second change on the horizon, which will have huge
12 ramifications for the transport of oil through the boundary waters
13 and the Strait of Juan de Fuca, stems from the recently approved
14 expansion of the Trans Mountain pipeline from Alberta to British
15 Columbia, Canada. The expanded pipeline is anticipated to increase
16 oil tanker traffic in the already busy United States-Canadian
17 boundary water shipping lanes from five tankers per month to up to
18 thirty-four oil laden tankers per month. Because the precipitating
19 event for this increase in traffic is the construction of a facility
20 in Canada, the environmental impacts of this traffic in Washington
21 waters will not otherwise be mitigated under chapter 43.21C RCW, the
22 state environmental policy act. Therefore, it is urgent and
23 imperative that the legislature act now to enhance its marine oil
24 transport risk reduction framework in order for the state to be even
25 minimally prepared for the tectonic shift in oil transportation that
26 is likely to occur in our ecologically fragile northern waters.

27 (3) Therefore, in light of these changes, it is the intent of the
28 legislature to enhance a variety of safety measures that protect
29 against the risk of oil spills occurring on land and on water, to
30 provide a sustainable source of funding for the state's oil spill
31 preparedness and response program, and to ensure the state's ability
32 to recover from the full scope of economic harms that would result
33 from a large oil spill.

34 **Sec. 2.** RCW 88.16.190 and 1994 c 52 s 1 are each amended to read
35 as follows:

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

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

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

7 ~~(b) Twin screws; and~~

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

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

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

14 ~~PROVIDED, That, if such forty to one hundred and twenty five~~
15 ~~thousand deadweight ton tanker is in ballast or is under escort of a~~
16 ~~tug or tugs with an aggregate shaft horsepower equivalent to five~~
17 ~~percent of the deadweight tons of that tanker, subsection (2) of this~~
18 ~~section shall not apply: PROVIDED FURTHER, That additional tug shaft~~
19 ~~horsepower equivalencies may be required under certain conditions as~~
20 ~~established by rule and regulation of the Washington utilities and~~
21 ~~transportation commission pursuant to chapter 34.05 RCW: PROVIDED~~
22 ~~FURTHER, That))~~

23 (a) Except as provided in subsection (3) of this
24 section, an oil tanker of forty to one hundred twenty-five thousand
25 deadweight tons may operate in the waters east of a line extending
26 from Discovery Island light south to New Dungeness light and all
27 points in the Puget Sound area, including but not limited to the San
28 Juan archipelago and connected waterways and the waters south of
29 Admiralty Inlet, to the extent that these waters are within the
30 territorial boundaries of Washington, only if the oil tanker is under
31 the escort of a tug or tugs in compliance with the requirements of
32 subsection (4) of this section.

33 (b) The board of pilotage commissioners, in consultation with and
34 assisted by the department of ecology and considering the results of
35 the most recently completed vessel traffic risk assessments, shall
36 adopt rules by December 31, 2018, to implement this subsection
37 (2)(b). The board of pilotage commissioners may enter into an
38 interagency agreement with the department of ecology to develop the
39 rules. The rules must include tug escort requirements and may include
40 pilotage requirements, requirements that the owner or operator of
oil-laden vessels establish and fund an emergency response system

1 that provides for an emergency towing vessel to be stationed in or
2 near the narrow channels of the San Juan Islands that meets the
3 criteria of RCW 88.46.135 other than the stationing location of the
4 response vessel, and other safety measures. The rules that establish
5 tug escort requirements may only apply to oil tankers of less than
6 forty thousand deadweight tons and articulated tug barges and
7 waterborne vessels or barges of greater than five thousand deadweight
8 tons. Other maritime safety requirements adopted by rule under this
9 subsection may apply to oil tankers, articulated tug barges, and
10 other waterborne vessels or barges of all sizes. The geographic scope
11 of the rules is the entirety of the Puget Sound and must address the
12 narrow channels of the San Juan archipelago, including Rosario
13 Strait, Haro Strait, Boundary Pass, and connected waterways.

14 (c) The board of pilotage commissioners must consult with the
15 United States coast guard, the Puget Sound harbor safety committee,
16 tribes, ports, local governments, and other appropriate entities
17 before adopting tug escort requirements, pilotage requirements, and
18 other safety measures for Puget Sound.

19 (3) If an oil tanker, articulated tug barge, or other towed
20 waterborne vessel or barge is in ballast, the tug escort requirements
21 of subsection (2)(a) of this section and any tug escort rules adopted
22 pursuant to subsection (2)(b) of this section do not apply.

23 (4)(a) Oil tankers, articulated tug barges, and other towed
24 waterborne vessels or barges must ensure that any escort tugs they
25 use have an aggregate shaft horsepower equivalent to at least five
26 percent of the deadweight tons of the escorted oil tanker, barge,
27 vessel, or articulated tug barge.

28 (b) The board of pilotage commissioners may adopt rules to ensure
29 that escort tugs have sufficient mechanical capabilities to provide
30 for safe escort.

31 (c) In order to adopt best achievable protection as defined under
32 RCW 88.46.010, rules adopted under this subsection must be informed
33 by:

- 34 (i) Accident records in British Columbia and Washington waters;
35 (ii) Propulsion and design of tank vessels; and
36 (iii) The characteristics of the waterways.

37 (5) A tanker assigned a deadweight of less than forty thousand
38 deadweight tons at the time of construction or reconstruction as
39 reported in Lloyd's Register of Ships is not subject to the

1 provisions of subsection (2)(a) of this section and RCW 88.16.170
2 ((through 88.16.190)) and 88.16.180.

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

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

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

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

16 **Sec. 3.** RCW 90.56.370 and 2011 c 122 s 10 are each amended to
17 read as follows:

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

22 (2) Damages for which responsible parties are liable under this
23 section include loss of income, such as lost fishing income or lost
24 lodging income due to reduced tourism, net revenue, the loss of means
25 of producing income or revenue directly or indirectly attributable to
26 oil entering waters of the state, lost real property value when it is
27 demonstrated to be a direct result of an oil spill, or an economic
28 benefit resulting from an injury to or loss of real or personal
29 property or natural resources.

30 (3) Damages for which responsible parties are liable under this
31 section include damages provided in subsections (1) and (2) of this
32 section resulting from: (a) The use and deployment of chemical
33 dispersants or from in situ burning in response to a violation of RCW
34 90.56.320; and (b) any action conducted in response to a violation of
35 RCW 90.56.320, including actions to collect, investigate, perform
36 surveillance over, remove, contain, treat, or disperse oil discharged
37 into waters of the state.

38 (4) In any action to recover damages resulting from the discharge
39 of oil in violation of RCW 90.56.320, the owner or person having

1 control over the oil shall be relieved from strict liability, without
2 regard to fault, if that person can prove that the discharge was
3 caused solely by:

4 (a) An act of war or sabotage;

5 (b) An act of God;

6 (c) Negligence on the part of the United States government; or

7 (d) Negligence on the part of the state of Washington.

8 (5) The liability established in this section shall in no way
9 affect the rights which: (a) The owner or other person having control
10 over the oil may have against any person whose acts may in any way
11 have caused or contributed to the discharge of oil, or (b) the state
12 of Washington may have against any person whose actions may have
13 caused or contributed to the discharge of oil.

14 **Sec. 4.** RCW 82.23B.020 and 2015 c 274 s 14 are each amended to
15 read as follows:

16 (1) An oil spill response tax is imposed on the privilege of
17 receiving: (a) Crude oil or petroleum products at a marine terminal
18 within this state from a waterborne vessel or barge operating on the
19 navigable waters of this state; or (b) crude oil or petroleum
20 products at a bulk oil terminal within this state from a tank car.
21 The tax imposed in this section is levied upon the owner of the crude
22 oil or petroleum products immediately after receipt of the same into
23 the storage tanks of a marine or bulk oil terminal from a tank car or
24 waterborne vessel or barge at the rate of one cent per barrel of
25 crude oil or petroleum product received.

26 (2) In addition to the tax imposed in subsection (1) of this
27 section, an oil spill administration tax is imposed on the privilege
28 of receiving: (a) Crude oil or petroleum products at a marine
29 terminal within this state from a waterborne vessel or barge
30 operating on the navigable waters of this state; or (b) crude oil or
31 petroleum products at a bulk oil terminal within this state from a
32 tank car. The tax imposed in this section is levied upon the owner of
33 the crude oil or petroleum products immediately after receipt of the
34 same into the storage tanks of a marine or bulk oil terminal from a
35 tank car or waterborne vessel or barge at the rate of (~~four~~) six
36 and one-half cents per barrel of crude oil or petroleum product.

37 (3) The taxes imposed by this chapter must be collected by the
38 marine or bulk oil terminal operator from the taxpayer. If any person
39 charged with collecting the taxes fails to bill the taxpayer for the

1 taxes, or in the alternative has not notified the taxpayer in writing
2 of the taxes imposed, or having collected the taxes, fails to pay
3 them to the department in the manner prescribed by this chapter,
4 whether such failure is the result of the person's own acts or the
5 result of acts or conditions beyond the person's control, he or she,
6 nevertheless, is personally liable to the state for the amount of the
7 taxes. Payment of the taxes by the owner to a marine or bulk oil
8 terminal operator relieves the owner from further liability for the
9 taxes.

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

18 (5) If a taxpayer fails to pay the taxes imposed by this chapter
19 to the person charged with collection of the taxes and the person
20 charged with collection fails to pay the taxes to the department, the
21 department may, in its discretion, proceed directly against the
22 taxpayer for collection of the taxes.

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

27 (7) The amount of taxes, until paid by the taxpayer to the marine
28 or bulk oil terminal operator or to the department, constitutes a
29 debt from the taxpayer to the marine or bulk oil terminal operator.
30 Any person required to collect the taxes under this chapter who, with
31 intent to violate the provisions of this chapter, fails or refuses to
32 do so as required and any taxpayer who refuses to pay any taxes due
33 under this chapter, is guilty of a misdemeanor as provided in chapter
34 9A.20 RCW.

35 (8) Upon prior approval of the department, the taxpayer may pay
36 the taxes imposed by this chapter directly to the department. The
37 department must give its approval for direct payment under this
38 section whenever it appears, in the department's judgment, that
39 direct payment will enhance the administration of the taxes imposed
40 under this chapter. The department must provide by rule for the

1 issuance of a direct payment certificate to any taxpayer qualifying
2 for direct payment of the taxes. Good faith acceptance of a direct
3 payment certificate by a terminal operator relieves the marine or
4 bulk oil terminal operator from any liability for the collection or
5 payment of the taxes imposed under this chapter.

6 (9) All receipts from the tax imposed in subsection (1) of this
7 section must be deposited into the state oil spill response account
8 created in RCW 90.56.500. All receipts from the tax imposed in
9 subsection (2) of this section shall be deposited into the oil spill
10 prevention account created in RCW 90.56.510.

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

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

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

28 **Sec. 5.** RCW 82.23B.030 and 2015 c 274 s 15 are each amended to
29 read as follows:

30 (1) The taxes imposed under this chapter only apply to the first
31 receipt of crude oil or petroleum products at a marine or bulk oil
32 terminal in this state and not to the later transporting and
33 subsequent receipt of the same oil or petroleum product, whether in
34 the form originally received at a marine or bulk oil terminal in this
35 state or after refining or other processing.

36 (2) The taxes imposed under this chapter do not apply to the
37 receipt of crude oil or petroleum products that the state is
38 prohibited from taxing under the United States Constitution.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.56
2 RCW to read as follows:

3 (1) Each onshore and offshore oil refinery facility handling
4 crude oil for export must revise the following items to specifically
5 address all types of crude oil planned or anticipated to be handled
6 at the facility, including crude oil from the Bakken oil fields and
7 diluted bitumen crude from Canada:

8 (a) The facility oil spill prevention plan required under RCW
9 90.56.200;

10 (b) The facility oil spill contingency plan required under RCW
11 90.56.210;

12 (c) The training and certification program required under RCW
13 90.56.220; and

14 (d) The operations manual required under RCW 90.56.230.

15 (2) By September 1, 2018, the department must adopt by rule the
16 required components of these plans addressing handling of crude oil
17 for export and must require that the plans demonstrate best
18 achievable protection from damages caused by the discharge of oil
19 into the waters of the state or other casualty from the release,
20 explosion, or ignition of the oil.

21 (3) Prior to the adoption of rules under this section, the
22 department may require an oil refinery facility to notify the
23 department if it is handling crude oil for export and to revise its
24 contingency plan, prevention plan, and operating manual to include a
25 description of the crude oil export handling activities, including
26 but not limited to the volumes and types of crude oil being handled,
27 or proposed to be handled, for export by the facility.

28 **Sec. 7.** RCW 90.56.200 and 2015 c 274 s 4 are each amended to
29 read as follows:

30 (1) The owner or operator for each onshore and offshore facility,
31 except as determined in subsection (3) of this section, shall prepare
32 and submit to the department an oil spill prevention plan in
33 conformance with the requirements of this chapter. The plans shall be
34 submitted to the department in the time and manner directed by the
35 department. The spill prevention plan may be consolidated with a
36 spill contingency plan submitted pursuant to RCW 90.56.210. The
37 department may accept plans prepared to comply with other state or
38 federal law as spill prevention plans to the extent those plans

1 comply with the requirements of this chapter. The department, by
2 rule, shall establish standards for spill prevention plans.

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

5 (a) Establish compliance with the federal oil pollution act of
6 1990, if applicable, and financial responsibility requirements under
7 federal and state law;

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

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

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

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

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

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

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

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

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

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

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

39 (4) The department shall only approve a prevention plan if it
40 provides the best achievable protection from damages caused by the

1 discharge of oil into the waters of the state and if it determines
2 that the plan meets the requirements of this section and rules
3 adopted by the department.

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

8 (6) The approval of a prevention plan shall be valid for five
9 years. An owner or operator of a facility shall notify the department
10 in writing immediately of any significant change of which it is aware
11 affecting its prevention plan, including changes in any factor set
12 forth in this section or in rules adopted by the department. The
13 department may require the owner or operator to update a prevention
14 plan as a result of these changes. Consistent with section 6 of this
15 act, a facility engaged in the refining of petroleum must be required
16 by the department to update its prevention plan prior to exporting
17 crude oil from the facility. The department shall provide notice of
18 the crude oil export proposal to interested parties, including local
19 and tribal governments, and shall make the prevention plan updates
20 available for public review and comment.

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

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

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

30 **Sec. 8.** RCW 90.56.240 and 1990 c 116 s 4 are each amended to
31 read as follows:

32 The department shall by rule establish standards for persons who
33 contract to provide spill management, cleanup, and containment
34 services under contingency plans approved under RCW 90.56.210.

35 **Sec. 9.** RCW 90.56.510 and 2015 c 274 s 7 are each amended to
36 read as follows:

37 (1) The oil spill prevention account is created in the state
38 treasury. All receipts from RCW 82.23B.020(2) shall be deposited in

1 the account. Moneys from the account may be spent only after
2 appropriation. The account is subject to allotment procedures under
3 chapter 43.88 RCW. ~~((If, on the first day of any calendar month, the
4 balance of the oil spill response account is greater than nine
5 million dollars and the balance of the oil spill prevention account
6 exceeds the unexpended appropriation for the current biennium, then
7 the tax under RCW 82.23B.020(2) shall be suspended on the first day
8 of the next calendar month until the beginning of the following
9 biennium, provided that the tax shall not be suspended during the
10 last six months of the biennium. If the tax imposed under RCW
11 82.23B.020(2) is suspended during two consecutive biennia, the
12 department shall by November 1st after the end of the second
13 biennium, recommend to the appropriate standing committees an
14 adjustment in the tax rate. For the biennium ending June 30, 1999,
15 and the biennium ending June 30, 2001, the state treasurer may
16 transfer a total of up to one million dollars from the oil spill
17 response account to the oil spill prevention account to support
18 appropriations made from the oil spill prevention account in the
19 omnibus appropriations act adopted not later than June 30, 1999.))~~

20 (2) Expenditures from the oil spill prevention account shall be
21 used exclusively for the administrative costs related to the purposes
22 of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. In
23 addition, until June 30, 2019, expenditures from the oil spill
24 prevention account may be used, subject to amounts appropriated
25 specifically for this purpose, for the development and annual review
26 of local emergency planning committee emergency response plans in RCW
27 38.52.040(3). Starting with the 1995-1997 biennium, the legislature
28 shall give activities of state agencies related to prevention of oil
29 spills priority in funding from the oil spill prevention account.
30 Costs of prevention include the costs of:

- 31 (a) Routine responses not covered under RCW 90.56.500;
- 32 (b) Management and staff development activities;
- 33 (c) Development of rules and policies and the statewide plan
34 provided for in RCW 90.56.060;
- 35 (d) Facility and vessel plan review and approval, drills,
36 inspections, investigations, enforcement, and litigation;
- 37 (e) Interagency coordination and public outreach and education;
- 38 (f) Collection and administration of the tax provided for in
39 chapter 82.23B RCW; and

1 (g) Appropriate travel, goods and services, contracts, and
2 equipment.

3 (3) Before expending moneys from the account for a response under
4 subsection (2)(a) of this section, but without delaying response
5 activities, the director shall make reasonable efforts to obtain
6 funding for response costs under this section from the person
7 responsible for the spill and from other sources, including the
8 federal government.

9 **Sec. 10.** RCW 90.56.565 and 2015 c 274 s 8 are each amended to
10 read as follows:

11 (1)(a) A facility that receives crude oil from a railroad car
12 must provide advance notice to the department that the facility will
13 receive crude oil from a railroad car, as provided in this section.
14 The advance notice must include the route taken to the facility
15 within the state, if known, and the scheduled time, location, volume,
16 region per bill of lading, and gravity as measured by standards
17 developed by the American petroleum institute, of crude oil received.
18 Each week, a facility that provides advance notice under this section
19 must provide the required information regarding the scheduled arrival
20 of railroad cars carrying crude oil to be received by the facility in
21 the succeeding seven-day period. A facility is not required to
22 provide advance notice when there is no receipt of crude oil from a
23 railroad car scheduled for a seven-day period.

24 (b) Twice per year, pipelines that transport crude oil must
25 report to the department the following information about the crude
26 oil transported by the pipeline through the state: The volume of
27 crude oil and the state or province of origin of the crude oil. This
28 report must be submitted each year by July 31st for the period
29 January 1st through June 30th and by January 31st for the period July
30 1st through December 31st.

31 (2) The department may share information provided by a facility
32 through the advance notice system established in this section with
33 the state emergency management division and any county, city, tribal,
34 port, ~~((or))~~ local government emergency response agency, or the
35 legislative bodies of local governments that oversee community first
36 response agencies upon request.

37 (3) The department must publish information collected under this
38 section on a quarterly basis on the department's internet web site.
39 With respect to the information reported under subsection (1)(a) of

1 this section, the information published by the department must be
2 aggregated on a statewide basis by route through the state, by week,
3 and by type of crude oil. The report may also include other
4 information available to the department including, but not limited
5 to, place of origin, modes of transport, number of railroad cars
6 delivering crude oil, and number and volume of spills during
7 transport and delivery.

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

13 (5) Consistent with the requirements of chapter 42.56 RCW, the
14 department and any state, local, tribal, or public agency that
15 receives information provided under this section may not disclose any
16 such information to the public or to nongovernmental entities that
17 contains proprietary, commercial, or financial information unless
18 that information is aggregated. The requirement for aggregating
19 information does not apply when information is shared by the
20 department with emergency response agencies as provided in subsection
21 (2) of this section.

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

26 **Sec. 11.** RCW 90.56.210 and 2015 c 274 s 5 are each amended to
27 read as follows:

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

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

38 (b) Be designed to be capable in terms of personnel, materials,
39 and equipment, of promptly and properly, to the maximum extent

1 practicable, as defined by the department removing oil and minimizing
2 any damage to the environment resulting from a worst case spill;

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

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

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

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

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

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

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

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

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

38 (l) Until a spill prevention plan has been submitted pursuant to
39 RCW 90.56.200, state the measures that have been taken to reduce the
40 likelihood that a spill will occur, including but not limited to,

1 design and operation of a facility, training of personnel, number of
2 personnel, and backup systems designed to prevent a spill;

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

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

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

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

16 (ii) Offshore facilities.

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

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

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

28 (b) Consistent with section 6 of this act, the owner or operator
29 of a facility shall update its contingency plan prior to exporting
30 crude oil from the facility. The department shall provide notice of
31 the crude oil export proposal to interested parties, including local
32 and tribal governments, and shall make the contingency plan updates
33 available for public review and comment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **Sec. 12.** RCW 90.56.220 and 1991 c 200 s 203 are each amended to
15 read as follows:

16 (1) The department by rule shall adopt standards for onshore and
17 offshore facilities regarding the equipment and operation of the
18 facilities with respect to the transfer, storage, and handling of oil
19 to ensure that the best achievable protection of the public health
20 and the environment is employed at all times. The department shall
21 implement a program to provide for the inspection of all onshore and
22 offshore facilities on a regular schedule to ensure that each
23 facility is in compliance with the standards.

24 (2) The department shall adopt rules for certification of
25 supervisory and other key personnel in charge of the transfer,
26 storage, and handling of oil at onshore and offshore facilities. The
27 rules shall include, but are not limited to:

28 (a) Minimum training requirements for all facility workers
29 involved in the transfer, storage, and handling of oil at a facility;

30 (b) Provisions for periodic renewal of certificates for
31 supervisory and other key personnel involved in the transfer,
32 storage, and handling of oil at the facility; and

33 (c) Continuing education requirements.

34 (3) The rules adopted by the department shall not conflict with
35 or modify standards imposed pursuant to federal or state laws
36 regulating worker safety.

37 (4) Consistent with section 6 of this act, an owner or operator
38 of a facility must update its training and certification program
39 prior to exporting crude oil. The department shall provide notice of

1 the proposal to export crude oil to interested parties, including
2 local and tribal governments, and shall make the training and
3 certification program updates available for public review and
4 comment.

5 **Sec. 13.** RCW 90.56.230 and 1991 c 200 s 204 are each amended to
6 read as follows:

7 (1)(a) Each owner or operator of an onshore or offshore facility
8 shall prepare an operations manual describing equipment and
9 procedures involving the transfer, storage, and handling of oil that
10 the operator employs or will employ for best achievable protection
11 for the public health and the environment and to prevent oil spills
12 in the navigable waters.

13 (b) Consistent with section 6 of this act, an owner or operator
14 of a facility must update its operations manual prior to exporting
15 crude oil. The department shall provide notice of the proposal to
16 export crude oil to interested parties, including local and tribal
17 governments, and shall make the operations manual updates available
18 for public review and comment.

19 (c) The operations manual shall also describe equipment and
20 procedures required for all vessels to or from which oil is
21 transferred through use of the facility. The operations manual shall
22 be submitted to the department for approval.

23 (2) Every existing onshore and offshore facility shall prepare
24 and submit to the department its operations manual within eighteen
25 months after the department has adopted rules governing the content
26 of the manual.

27 (3) The department shall approve an operations manual for an
28 onshore or offshore facility if the manual complies with the rules
29 adopted by the department. If the department determines a manual does
30 not comply with the rules, it shall provide written reasons for the
31 decision. The owner or operator shall resubmit the manual within
32 ninety days of notification of the reasons for noncompliance,
33 responding to the reasons and incorporating any suggested
34 modifications.

35 (4) The approval of an operations manual shall be valid for five
36 years. The owner or operator of the facility shall notify the
37 department in writing immediately of any significant change in its
38 operations affecting its operations manual. The department may

1 require the owner or operator to modify its operations manual as a
2 result of these changes.

3 (5) All equipment and operations of an operator's onshore or
4 offshore facility shall be maintained and carried out in accordance
5 with the facility's operations manual. The owner or operator of the
6 facility shall ensure that all covered vessels docked at an onshore
7 or offshore facility comply with the terms of the operations manual
8 for the facility.

9 NEW SECTION. **Sec. 14.** (1) The department of ecology shall
10 contract with an eligible independent third party to update the
11 October 2006 report to the state emergency response commission
12 regarding statewide response to chemical, biological, radiological,
13 nuclear, and explosive materials. The updated report must also
14 include an update to appendix A of that report, which addresses the
15 state's current hazardous materials response capabilities and that
16 reviews the emergency response programs of other states. The contract
17 for the updated report must give special emphasis to addressing
18 recent changes to patterns of hazardous material transportation,
19 including crude oil transportation, and the availability of resources
20 to respond to incidents resulting from the transport of hazardous
21 materials. The contract must require the updated report to be
22 completed by June 30, 2018.

23 (2) This section expires June 30, 2020.

24 **Sec. 15.** RCW 80.50.020 and 2010 c 152 s 1 are each reenacted and
25 amended to read as follows:

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

28 (1) "Alternative energy resource" includes energy facilities of
29 the following types: (a) Wind; (b) solar energy; (c) geothermal
30 energy; (d) landfill gas; (e) wave or tidal action; or (f) biomass
31 energy based on solid organic fuels from wood, forest, or field
32 residues, or dedicated energy crops that do not include wood pieces
33 that have been treated with chemical preservatives such as creosote,
34 pentachlorophenol, or copper-chrome-arsenic.

35 (2) "Applicant" means any person who makes application for a site
36 certification pursuant to the provisions of this chapter.

1 (3) "Application" means any request for approval of a particular
2 site or sites filed in accordance with the procedures established
3 pursuant to this chapter, unless the context otherwise requires.

4 (4) "Associated facilities" means storage, transmission,
5 handling, or other related and supporting facilities connecting an
6 energy plant with the existing energy supply, processing, or
7 distribution system, including, but not limited to, communications,
8 controls, mobilizing or maintenance equipment, instrumentation, and
9 other types of ancillary transmission equipment, off-line storage or
10 venting required for efficient operation or safety of the
11 transmission system and overhead, and surface or subsurface lines of
12 physical access for the inspection, maintenance, and safe operations
13 of the transmission facility and new transmission lines constructed
14 to operate at nominal voltages of at least 115,000 volts to connect a
15 thermal power plant or alternative energy facilities to the northwest
16 power grid. However, common carrier railroads or motor vehicles shall
17 not be included.

18 (5) "Biofuel" has the same meaning as defined in RCW 43.325.010.

19 (6) "Certification" means a binding agreement between an
20 applicant and the state which shall embody compliance to the siting
21 guidelines, in effect as of the date of certification, which have
22 been adopted pursuant to RCW 80.50.040 as now or hereafter amended as
23 conditions to be met prior to or concurrent with the construction or
24 operation of any energy facility.

25 (7) "Construction" means on-site improvements, excluding
26 exploratory work, which cost in excess of two hundred fifty thousand
27 dollars.

28 (8) "Council" means the energy facility site evaluation council
29 created by RCW 80.50.030.

30 (9) "Counsel for the environment" means an assistant attorney
31 general or a special assistant attorney general who shall represent
32 the public in accordance with RCW 80.50.080.

33 (10) "Electrical transmission facilities" means electrical power
34 lines and related equipment.

35 (11) "Energy facility" means an energy plant or transmission
36 facilities: PROVIDED, That the following are excluded from the
37 provisions of this chapter:

38 (a) Facilities for the extraction, conversion, transmission or
39 storage of water, other than water specifically consumed or

1 discharged by energy production or conversion for energy purposes;
2 and

3 (b) Facilities operated by and for the armed services for
4 military purposes or by other federal authority for the national
5 defense.

6 (12) "Energy plant" means the following facilities together with
7 their associated facilities:

8 (a) Any nuclear power facility where the primary purpose is to
9 produce and sell electricity;

10 (b) Any nonnuclear stationary thermal power plant with generating
11 capacity of three hundred fifty thousand kilowatts or more, measured
12 using maximum continuous electric generating capacity, less minimum
13 auxiliary load, at average ambient temperature and pressure, and
14 floating thermal power plants of one hundred thousand kilowatts or
15 more suspended on the surface of water by means of a barge, vessel,
16 or other floating platform;

17 (c) Facilities which will have the capacity to receive liquefied
18 natural gas in the equivalent of more than one hundred million
19 standard cubic feet of natural gas per day, which has been
20 transported over marine waters;

21 (d) Facilities which will have the capacity to receive more than
22 an average of fifty thousand barrels per day of crude or refined
23 petroleum or liquefied petroleum gas which has been or will be
24 transported over marine waters, except that the provisions of this
25 chapter shall not apply to storage facilities unless occasioned by
26 such new facility construction;

27 (e) Any underground reservoir for receipt and storage of natural
28 gas as defined in RCW 80.40.010 capable of delivering an average of
29 more than one hundred million standard cubic feet of natural gas per
30 day; and

31 (f) Facilities capable of processing more than twenty-five
32 thousand barrels per day of petroleum or biofuel into refined
33 products except where such biofuel production is undertaken at
34 existing industrial facilities.

35 (13) "Independent consultants" means those persons who have no
36 financial interest in the applicant's proposals and who are retained
37 by the council to evaluate the applicant's proposals, supporting
38 studies, or to conduct additional studies.

39 (14) "Land use plan" means a comprehensive plan or land use
40 element thereof adopted by a unit of local government pursuant to

1 chapter 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise
2 designated by chapter 325, Laws of 2007.

3 (15) "Person" means an individual, partnership, joint venture,
4 private or public corporation, association, firm, public service
5 company, political subdivision, municipal corporation, government
6 agency, public utility district, or any other entity, public or
7 private, however organized.

8 (16) "Preapplicant" means a person considering applying for a
9 site certificate agreement for any transmission facility.

10 (17) "Preapplication process" means the process which is
11 initiated by written correspondence from the preapplicant to the
12 council, and includes the process adopted by the council for
13 consulting with the preapplicant and with cities, towns, and counties
14 prior to accepting applications for all transmission facilities.

15 (18) "Secretary" means the secretary of the United States
16 department of energy.

17 (19) "Site" means any proposed or approved location of an energy
18 facility, alternative energy resource, or electrical transmission
19 facility.

20 (20) "Thermal power plant" means, for the purpose of
21 certification, any electrical generating facility using any fuel for
22 distribution of electricity by electric utilities.

23 (21) "Transmission facility" means any of the following together
24 with their associated facilities:

25 (a) ~~Crude~~ oil transmission pipelines of the following
26 dimensions: A pipeline larger than six inches minimum inside diameter
27 between valves for the transmission of these products with a total
28 length of at least five miles; or

29 (b) Refined petroleum or liquid petroleum product transmission
30 pipeline of the following dimensions: A pipeline larger than six
31 inches minimum inside diameter between valves for the transmission of
32 these products with a total length of at least fifteen miles;

33 ~~((b))~~ (c) Natural gas, synthetic fuel gas, or liquefied
34 petroleum gas transmission pipeline of the following dimensions: A
35 pipeline larger than fourteen inches minimum inside diameter between
36 valves, for the transmission of these products, with a total length
37 of at least fifteen miles for the purpose of delivering gas to a
38 distribution facility, except an interstate natural gas pipeline
39 regulated by the United States federal power commission.

1 (22) "Zoning ordinance" means an ordinance of a unit of local
2 government regulating the use of land and adopted pursuant to chapter
3 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state
4 Constitution, or as otherwise designated by chapter 325, Laws of
5 2007.

6 **Sec. 16.** RCW 80.50.060 and 2007 c 325 s 2 are each amended to
7 read as follows:

8 (1) The provisions of this chapter apply to the construction of
9 energy facilities which includes the new construction of energy
10 facilities and the reconstruction or enlargement of existing energy
11 facilities where:

12 (a) The net increase in physical capacity or dimensions resulting
13 from such reconstruction or enlargement meets or exceeds those
14 capacities or dimensions set forth in RCW 80.50.020 (~~((7))~~) (12) and
15 (~~((15))~~) (21) (b) and (c); or

16 (b) The total physical capacity or dimensions resulting from such
17 a reconstruction or enlargement meets or exceeds those capacities or
18 dimensions set forth in RCW 80.50.020(21)(a). No construction of such
19 energy facilities may be undertaken, except as otherwise provided in
20 this chapter, after July 15, 1977, without first obtaining
21 certification in the manner provided in this chapter.

22 (2) The provisions of this chapter apply to the construction,
23 reconstruction, or enlargement of a new or existing energy facility
24 that exclusively uses alternative energy resources and chooses to
25 receive certification under this chapter, regardless of the
26 generating capacity of the project.

27 (3)(a) The provisions of this chapter apply to the construction,
28 reconstruction, or modification of electrical transmission facilities
29 when:

30 (i) The facilities are located in a national interest electric
31 transmission corridor as specified in RCW 80.50.045;

32 (ii) An applicant chooses to receive certification under this
33 chapter, and the facilities are: (A) Of a nominal voltage of at least
34 one hundred fifteen thousand volts and are located in a completely
35 new corridor, except for the terminus of the new facility or
36 interconnection of the new facility with the existing grid, and the
37 corridor is not otherwise used for electrical transmission
38 facilities; and (B) located in more than one jurisdiction that has
39 promulgated land use plans or zoning ordinances; or

1 (iii) An applicant chooses to receive certification under this
2 chapter, and the facilities are: (A) Of a nominal voltage in excess
3 of one hundred fifteen thousand volts; and (B) located outside an
4 electrical transmission corridor identified in (a)(i) and (ii) of
5 this subsection (3).

6 (b) For the purposes of this subsection, "modify" means a
7 significant change to an electrical transmission facility and does
8 not include the following: (i) Minor improvements such as the
9 replacement of existing transmission line facilities or supporting
10 structures with equivalent facilities or structures; (ii) the
11 relocation of existing electrical transmission line facilities; (iii)
12 the conversion of existing overhead lines to underground; or (iv) the
13 placing of new or additional conductors, supporting structures,
14 insulators, or their accessories on or replacement of supporting
15 structures already built.

16 (4) The provisions of this chapter shall not apply to normal
17 maintenance and repairs which do not increase the capacity or
18 dimensions beyond those set forth in RCW 80.50.020 (~~((7))~~) (12) and
19 (~~((15))~~) (21) (b) and (c).

20 (5) Applications for certification of energy facilities made
21 prior to July 15, 1977, shall continue to be governed by the
22 applicable provisions of law in effect on the day immediately
23 preceding July 15, 1977, with the exceptions of RCW 80.50.190 and
24 80.50.071 which shall apply to such prior applications and to site
25 certifications prospectively from July 15, 1977.

26 (6) Applications for certification shall be upon forms prescribed
27 by the council and shall be supported by such information and
28 technical studies as the council may require.

29 **Sec. 17.** RCW 90.56.010 and 2015 c 274 s 3 are each reenacted and
30 amended to read as follows:

31 The definitions in this section apply throughout this chapter
32 unless the context clearly requires otherwise.

33 (1) "Best achievable protection" means the highest level of
34 protection that can be achieved through the use of the best
35 achievable technology and those staffing levels, training procedures,
36 and operational methods that provide the greatest degree of
37 protection achievable. The director's determination of best
38 achievable protection shall be guided by the critical need to protect
39 the state's natural resources and waters, while considering (a) the

1 additional protection provided by the measures; (b) the technological
2 achievability of the measures; and (c) the cost of the measures.

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

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

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

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

19 (6) "Committee" means the preassessment screening committee
20 established under RCW 90.48.368.

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

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

28 (9) "Department" means the department of ecology.

29 (10) "Director" means the director of the department of ecology.

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

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

38 (b) For the purposes of oil spill contingency planning in RCW
39 90.56.210, facility also means a railroad that is not owned by the
40 state that transports oil as bulk cargo.

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

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

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

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

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

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

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

36 (19) "Oil" or "oils" means oil of any kind that is liquid at
37 twenty-five degrees Celsius and one atmosphere of pressure and any
38 fractionation thereof, including, but not limited to, crude oil,
39 bitumen, synthetic crude oil, natural gas well condensate, petroleum,
40 gasoline, fuel oil, diesel oil, biological oils and blends, oil

1 sludge, oil refuse, and oil mixed with wastes other than dredged
2 spoil. Oil does not include any substance listed in Table 302.4 of 40
3 C.F.R. Part 302 adopted August 14, 1989, under section 102(a) of the
4 federal comprehensive environmental response, compensation, and
5 liability act of 1980, as amended by P.L. 99-499.

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

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

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

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

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

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

29 (25) "Spill" means an unauthorized discharge of oil or hazardous
30 substances into the waters of the state.

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

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

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

37 (27) "Waters of the state" includes lakes, rivers, ponds,
38 streams, inland waters, underground water, salt waters, estuaries,
39 tidal flats, beaches and lands adjoining the seacoast of the state,

1 sewers, and all other surface waters and watercourses within the
2 jurisdiction of the state of Washington.

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

8 (29) "Export" means the transfer of oil from an onshore facility
9 to a vessel that passes through state waters in transit to an
10 international destination or a domestic destination in another state.

11 NEW SECTION. **Sec. 18.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 19.** This act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of
17 the state government and its existing public institutions, and takes
18 effect July 1, 2017.

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