

E2SSB 5057 - H AMD 418

By Representative Farrell

ADOPTED AS AMENDED 4/14/2015

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 90.56.005 and 2010 1st sp.s. c 7 s 72 are each
4 amended to read as follows:

5 (1) The legislature declares that waterborne transportation as a
6 source of supply for oil and hazardous substances poses special
7 concern for the state of Washington. Each year billions of gallons of
8 crude oil and refined petroleum products are transported as cargo and
9 fuel by vessels on the navigable waters of the state. The movement of
10 crude oil through rail corridors and over Washington waters creates
11 safety and environmental risks. The sources and transport of crude
12 oil bring risks to our communities along rail lines and to the
13 Columbia river, Grays Harbor, and Puget Sound waters. These shipments
14 are expected to increase in the coming years. Vessels and trains
15 transporting oil into Washington travel on some of the most unique
16 and special marine environments in the United States. These marine
17 environments are a source of natural beauty, recreation, and economic
18 livelihood for many residents of this state. As a result, the state
19 has an obligation to ensure the citizens of the state that the waters
20 of the state will be protected from oil spills.

21 (2) The legislature finds that prevention is the best method to
22 protect the unique and special marine environments in this state. The
23 technology for containing and cleaning up a spill of oil or hazardous
24 substances is at best only partially effective. Preventing spills is
25 more protective of the environment and more cost-effective when all
26 the response and damage costs associated with responding to a spill
27 are considered. Therefore, the legislature finds that the primary
28 objective of the state is to achieve a zero spills strategy to
29 prevent any oil or hazardous substances from entering waters of the
30 state.

31 (3) The legislature also finds that:

1 (a) Recent accidents in Washington, Alaska, southern California,
2 Texas, Pennsylvania, and other parts of the nation have shown that
3 the transportation, transfer, and storage of oil have caused
4 significant damage to the marine environment;

5 (b) Even with the best efforts, it is nearly impossible to remove
6 all oil that is spilled into the water, and average removal rates are
7 only fourteen percent;

8 (c) Washington's navigable waters are treasured environmental and
9 economic resources that the state cannot afford to place at undue
10 risk from an oil spill;

11 (d) The state has a fundamental responsibility, as the trustee of
12 the state's natural resources and the protector of public health and
13 the environment to prevent the spill of oil; and

14 (e) In section 5002 of the federal oil pollution act of 1990, the
15 United States congress found that many people believed that
16 complacency on the part of industry and government was one of the
17 contributing factors to the Exxon Valdez spill and, further, that one
18 method to combat this complacency is to involve local citizens in the
19 monitoring and oversight of oil spill plans. Congress also found that
20 a mechanism should be established that fosters the long-term
21 partnership of industry, government, and local communities in
22 overseeing compliance with environmental concerns in the operation of
23 crude oil terminals. Moreover, congress concluded that, in addition
24 to Alaska, a program of citizen monitoring and oversight should be
25 established in other major crude oil terminals in the United States
26 because recent oil spills indicate that the safe transportation of
27 oil is a national problem.

28 (4) In order to establish a comprehensive prevention and response
29 program to protect Washington's waters and natural resources from
30 spills of oil, it is the purpose of this chapter:

31 (a) To establish state agency expertise in marine safety and to
32 centralize state activities in spill prevention and response
33 activities;

34 (b) To prevent spills of oil and to promote programs that reduce
35 the risk of both catastrophic and small chronic spills;

36 (c) To ensure that responsible parties are liable, and have the
37 resources and ability, to respond to spills and provide compensation
38 for all costs and damages;

39 (d) To provide for state spill response and wildlife rescue
40 planning and implementation;

1 (e) To support and complement the federal oil pollution act of
2 1990 and other federal law, especially those provisions relating to
3 the national contingency plan for cleanup of oil spills and
4 discharges, including provisions relating to the responsibilities of
5 state agencies designated as natural resource trustees. The
6 legislature intends this chapter to be interpreted and implemented in
7 a manner consistent with federal law;

8 (f) To provide broad powers of regulation to the department of
9 ecology relating to spill prevention and response;

10 (g) To provide for independent review on an ongoing basis the
11 adequacy of oil spill prevention, preparedness, and response
12 activities in this state; ((and))

13 (h) To provide an adequate funding source for state response and
14 prevention programs; and

15 (i) To maintain the best achievable protection that can be
16 obtained through the use of the best achievable technology and those
17 staffing levels, training procedures, and operational methods that
18 provide the greatest degree of protection achievable.

19 **Sec. 2.** RCW 88.46.010 and 2011 c 122 s 1 are each reenacted and
20 amended to read as follows:

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

23 (1) "Best achievable protection" means the highest level of
24 protection that can be achieved through the use of the best
25 achievable technology and those staffing levels, training procedures,
26 and operational methods that provide the greatest degree of
27 protection achievable. The director's determination of best
28 achievable protection shall be guided by the critical need to protect
29 the state's natural resources and waters, while considering:

- 30 (a) The additional protection provided by the measures;
- 31 (b) The technological achievability of the measures; and
- 32 (c) The cost of the measures.

33 (2)(a) "Best achievable technology" means the technology that
34 provides the greatest degree of protection taking into consideration:

- 35 (i) Processes that are being developed, or could feasibly be
36 developed, given overall reasonable expenditures on research and
37 development; and
- 38 (ii) Processes that are currently in use.

1 (b) In determining what is best achievable technology, the
2 director shall consider the effectiveness, engineering feasibility,
3 and commercial availability of the technology.

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

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

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

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

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

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

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

23 (b) For the purposes of oil spill contingency planning in RCW
24 90.56.210, advanced notice of oil transfers in section 8 of this act,
25 and financial responsibility in RCW 88.40.025, facility also means a
26 railroad that is not owned by the state that transports oil as bulk
27 cargo.

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

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

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

6 (12) "Offshore facility" means any facility located in, on, or
7 under any of the navigable waters of the state, but does not include
8 a facility any part of which is located in, on, or under any land of
9 the state, other than submerged land. "Offshore facility" does not
10 include a marine facility.

11 (13) "Oil" or "oils" means oil of any kind that is liquid at
12 (~~atmospheric temperature~~) twenty-five degrees Celsius and one
13 atmosphere of pressure and any fractionation thereof, including, but
14 not limited to, crude oil, bitumen, synthetic crude oil, natural gas
15 well condensate, petroleum, gasoline, fuel oil, diesel oil,
16 biological oils and blends, oil sludge, oil refuse, and oil mixed
17 with wastes other than dredged spoil. Oil does not include any
18 substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August
19 14, 1989, under section (~~101(14)~~) 102(a) of the federal
20 comprehensive environmental response, compensation, and liability act
21 of 1980, as amended by P.L. 99-499.

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

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

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

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

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

4 (18) "Race Rocks light" means the nautical landmark located
5 southwest of the city of Victoria, British Columbia.

6 (19) "Regional vessels of opportunity response group" means a
7 group of nondedicated vessels participating in a vessels of
8 opportunity response system to respond when needed and available to
9 spills in a defined geographic area.

10 (20) "Severe weather conditions" means observed nautical
11 conditions with sustained winds measured at forty knots and wave
12 heights measured between twelve and eighteen feet.

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

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

17 (23) "Strait of Juan de Fuca" means waters off the northern coast
18 of the Olympic Peninsula seaward of a line drawn from New Dungeness
19 light in Clallam county to Discovery Island light on Vancouver
20 Island, British Columbia, Canada.

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

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

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

27 (25) "Umbrella plan holder" means a nonprofit corporation
28 established consistent with this chapter for the purposes of
29 providing oil spill response and contingency plan coverage.

30 (26) "Vessel emergency" means a substantial threat of pollution
31 originating from a covered vessel, including loss or serious
32 degradation of propulsion, steering, means of navigation, primary
33 electrical generating capability, and seakeeping capability.

34 (27) "Vessels of opportunity response system" means nondedicated
35 boats and operators, including fishing and other vessels, that are
36 under contract with and equipped by contingency plan holders to
37 assist with oil spill response activities, including on-water oil
38 recovery in the near shore environment and the placement of oil spill
39 containment booms to protect sensitive habitats.

1 (28) "Volunteer coordination system" means an oil spill response
2 system that, before a spill occurs, prepares for the coordination of
3 volunteers to assist with appropriate oil spill response activities,
4 which may include shoreline protection and cleanup, wildlife
5 recovery, field observation, light construction, facility
6 maintenance, donations management, clerical support, and other
7 aspects of a spill response.

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

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

18 **Sec. 3.** RCW 90.56.010 and 2007 c 347 s 6 are each amended to
19 read as follows:

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

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

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

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

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

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

8 (6) "Committee" means the preassessment screening committee
9 established under RCW 90.48.368.

10 (7) "Covered vessel" means a tank vessel, cargo vessel, or
11 passenger vessel.

12 (8) "Department" means the department of ecology.

13 (9) "Director" means the director of the department of ecology.

14 (10) "Discharge" means any spilling, leaking, pumping, pouring,
15 emitting, emptying, or dumping.

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

22 (b) For the purposes of oil spill contingency planning in RCW
23 90.56.210, advanced notice of oil transfers in section 8 of this act,
24 and financial responsibility in RCW 88.40.025, facility also means a
25 railroad that is not owned by the state that transports oil as bulk
26 cargo.

27 (c) A facility does not include any: (i) (~~Railroad-car,~~) Motor
28 vehicle(~~(, or other rolling stock)~~) while transporting oil over the
29 highways (~~(or rail lines)~~) of this state; (ii) underground storage
30 tank regulated by the department or a local government under chapter
31 90.76 RCW; (iii) motor vehicle motor fuel outlet; (iv) facility that
32 is operated as part of an exempt agricultural activity as provided in
33 RCW 82.04.330; or (v) marine fuel outlet that does not dispense more
34 than three thousand gallons of fuel to a ship that is not a covered
35 vessel, in a single transaction.

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

38 (13) "Having control over oil" shall include but not be limited
39 to any person using, storing, or transporting oil immediately prior

1 to entry of such oil into the waters of the state, and shall
2 specifically include carriers and bailees of such oil.

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

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

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

18 (17) "Oil" or "oils" means oil of any kind that is liquid at
19 (~~atmospheric temperature~~) twenty-five degrees Celsius and one
20 atmosphere of pressure and any fractionation thereof, including, but
21 not limited to, crude oil, bitumen, synthetic crude oil, natural gas
22 well condensate, petroleum, gasoline, fuel oil, diesel oil,
23 biological oils and blends, oil sludge, oil refuse, and oil mixed
24 with wastes other than dredged spoil. Oil does not include any
25 substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August
26 14, 1989, under section (~~101(14)~~) 102(a) of the federal
27 comprehensive environmental response, compensation, and liability act
28 of 1980, as amended by P.L. 99-499.

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

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

38 (20)(a) "Owner or operator" means (i) in the case of a vessel,
39 any person owning, operating, or chartering by demise, the vessel;
40 (ii) in the case of an onshore or offshore facility, any person

1 owning or operating the facility; and (iii) in the case of an
2 abandoned vessel or onshore or offshore facility, the person who
3 owned or operated the vessel or facility immediately before its
4 abandonment.

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

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

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

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

16 (24) "Spill" means an unauthorized discharge of oil or hazardous
17 substances into the waters of the state.

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

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

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

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

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

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

1 **Sec. 4.** RCW 90.56.200 and 2000 c 69 s 19 are each amended to
2 read as follows:

3 (1) The owner or operator for each onshore and offshore facility,
4 except as determined in subsection (3) of this section, shall prepare
5 and submit to the department an oil spill prevention plan in
6 conformance with the requirements of this chapter. The plans shall be
7 submitted to the department in the time and manner directed by the
8 department. The spill prevention plan may be consolidated with a
9 spill contingency plan submitted pursuant to RCW 90.56.210. The
10 department may accept plans prepared to comply with other state or
11 federal law as spill prevention plans to the extent those plans
12 comply with the requirements of this chapter. The department, by
13 rule, shall establish standards for spill prevention plans.

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

16 (a) Establish compliance with the federal oil pollution act of
17 1990, if applicable, and financial responsibility requirements under
18 federal and state law;

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

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

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

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

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

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

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

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

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

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

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

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

16 ((+4)) (5) Upon approval of a prevention plan, the department
17 shall provide to the person submitting the plan a statement
18 indicating that the plan has been approved, the facilities covered by
19 the plan, and other information the department determines should be
20 included.

21 ((+5)) (6) The approval of a prevention plan shall be valid for
22 five years. An owner or operator of a facility shall notify the
23 department in writing immediately of any significant change of which
24 it is aware affecting its prevention plan, including changes in any
25 factor set forth in this section or in rules adopted by the
26 department. The department may require the owner or operator to
27 update a prevention plan as a result of these changes.

28 ((+6)) (7) The department by rule shall require prevention plans
29 to be reviewed, updated, if necessary, and resubmitted to the
30 department at least once every five years.

31 ((+7)) (8) Approval of a prevention plan by the department does
32 not constitute an express assurance regarding the adequacy of the
33 plan nor constitute a defense to liability imposed under this chapter
34 or other state law.

35 ((+8)) (9) This section does not authorize the department to
36 modify the terms of a collective bargaining agreement.

37 **Sec. 5.** RCW 90.56.210 and 2005 c 78 s 1 are each amended to read
38 as follows:

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

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

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

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

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

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

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

28 (g) Describe important features of the surrounding environment,
29 including fish and wildlife habitat, shellfish beds, environmentally
30 and archaeologically sensitive areas, and public facilities. The
31 departments of ecology, fish and wildlife, and natural resources, and
32 the ((office)) department of archaeology and historic preservation,
33 upon request, shall provide information that they have available to
34 assist in preparing this description. The description of
35 archaeologically sensitive areas shall not be required to be included
36 in a contingency plan until it is reviewed and updated pursuant to
37 subsection (9) of this section;

38 (h) State the means of protecting and mitigating effects on the
39 environment, including fish, shellfish, marine mammals, and other

1 wildlife, and ensure that implementation of the plan does not pose
2 unacceptable risks to the public or the environment;

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

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

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

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

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

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

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

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

29 (ii) Offshore facilities.

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

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

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

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

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

14 ~~((5))~~ (6) In reviewing the contingency plans required by this
15 section, the department shall consider at least the following
16 factors:

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

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

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

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

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

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

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

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

37 ~~((6))~~ (7) The department shall approve a contingency plan only
38 if it determines that the plan meets the requirements of this section
39 and that, if implemented, the plan is capable, in terms of personnel,

1 materials, and equipment, of removing oil promptly and properly and
2 minimizing any damage to the environment.

3 ~~((+7))~~ (8) The approval of the contingency plan shall be valid
4 for five years. Upon approval of a contingency plan, the department
5 shall provide to the person submitting the plan a statement
6 indicating that the plan has been approved, the facilities or vessels
7 covered by the plan, and other information the department determines
8 should be included.

9 ~~((+8))~~ (9) An owner or operator of a facility shall notify the
10 department in writing immediately of any significant change of which
11 it is aware affecting its contingency plan, including changes in any
12 factor set forth in this section or in rules adopted by the
13 department. The department may require the owner or operator to
14 update a contingency plan as a result of these changes.

15 ~~((+9))~~ (10) The department by rule shall require contingency
16 plans to be reviewed, updated, if necessary, and resubmitted to the
17 department at least once every five years.

18 ~~((+10))~~ (11) Approval of a contingency plan by the department
19 does not constitute an express assurance regarding the adequacy of
20 the plan nor constitute a defense to liability imposed under this
21 chapter or other state law.

22 **Sec. 6.** RCW 90.56.500 and 2009 c 11 s 9 are each amended to read
23 as follows:

24 (1) The state oil spill response account is created in the state
25 treasury. All receipts from RCW 82.23B.020(1) shall be deposited in
26 the account. All costs reimbursed to the state by a responsible party
27 or any other person for responding to a spill of oil shall also be
28 deposited in the account. Moneys in the account shall be spent only
29 after appropriation. The account is subject to allotment procedures
30 under chapter 43.88 RCW.

31 (2) The account shall be used exclusively to pay for:

32 (a) The costs associated with the response to spills or threats
33 of spills of crude oil or petroleum products into the ~~((navigable))~~
34 waters of the state; and

35 (b) The costs associated with the department's use of ~~((the))~~ an
36 emergency response towing vessel ~~((as described in RCW 88.46.135))~~.

37 (3) Payment of response costs under subsection (2)(a) of this
38 section shall be limited to spills which the director has determined
39 are likely to exceed ~~((fifty))~~ one thousand dollars.

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

6 (5) Reimbursement for response costs from this account shall be
7 allowed only for costs which are not covered by funds appropriated to
8 the agencies responsible for response activities. Costs associated
9 with the response to spills of crude oil or petroleum products shall
10 include:

- 11 (a) Natural resource damage assessment and related activities;
- 12 (b) Spill related response, containment, wildlife rescue,
13 cleanup, disposal, and associated costs;
- 14 (c) Interagency coordination and public information related to a
15 response; and
- 16 (d) Appropriate travel, goods and services, contracts, and
17 equipment.

18 **Sec. 7.** RCW 90.56.510 and 2000 c 69 s 22 are each amended to
19 read as follows:

20 (1) The oil spill prevention account is created in the state
21 treasury. All receipts from RCW 82.23B.020(2) shall be deposited in
22 the account. Moneys from the account may be spent only after
23 appropriation. The account is subject to allotment procedures under
24 chapter 43.88 RCW. If, on the first day of any calendar month, the
25 balance of the oil spill response account is greater than nine
26 million dollars and the balance of the oil spill prevention account
27 exceeds the unexpended appropriation for the current biennium, then
28 the tax under RCW 82.23B.020(2) shall be suspended on the first day
29 of the next calendar month until the beginning of the following
30 biennium, provided that the tax shall not be suspended during the
31 last six months of the biennium. If the tax imposed under RCW
32 82.23B.020(2) is suspended during two consecutive biennia, the
33 department shall by November 1st after the end of the second
34 biennium, recommend to the appropriate standing committees an
35 adjustment in the tax rate. For the biennium ending June 30, 1999,
36 and the biennium ending June 30, 2001, the state treasurer may
37 transfer a total of up to one million dollars from the oil spill
38 response account to the oil spill prevention account to support

1 appropriations made from the oil spill prevention account in the
2 omnibus appropriations act adopted not later than June 30, 1999.

3 (2) Expenditures from the oil spill prevention account shall be
4 used exclusively for the administrative costs related to the purposes
5 of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. In
6 addition, until June 30, 2019, expenditures from the oil spill
7 prevention account may be used for the development and annual review
8 of local emergency planning committee emergency response plans in RCW
9 38.52.040(3). Starting with the 1995-1997 biennium, the legislature
10 shall give activities of state agencies related to prevention of oil
11 spills priority in funding from the oil spill prevention account.
12 Costs of prevention include the costs of:

13 (a) Routine responses not covered under RCW 90.56.500;

14 (b) Management and staff development activities;

15 (c) Development of rules and policies and the statewide plan
16 provided for in RCW 90.56.060;

17 (d) Facility and vessel plan review and approval, drills,
18 inspections, investigations, enforcement, and litigation;

19 (e) Interagency coordination and public outreach and education;

20 (f) Collection and administration of the tax provided for in
21 chapter 82.23B RCW; and

22 (g) Appropriate travel, goods and services, contracts, and
23 equipment.

24 (3) Before expending moneys from the account for a response under
25 subsection (2)(a) of this section, but without delaying response
26 activities, the director shall make reasonable efforts to obtain
27 funding for response costs under this section from the person
28 responsible for the spill and from other sources, including the
29 federal government.

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

32 (1)(a) A facility that receives crude oil from a railroad car
33 must provide advance notice to the department that the facility will
34 receive crude oil from a railroad car, as provided in this section.
35 The advance notice must include the route taken to the facility
36 within the state, if known, and the scheduled time, location, volume,
37 type, and gravity as measured by standards developed by the American
38 petroleum institute, of crude oil received. Each week, a facility
39 that provides advance notice under this section must provide the

1 required information regarding the scheduled arrival of railroad cars
2 carrying crude oil to be received by the facility in the succeeding
3 seven-day period. A facility is not required to provide advance
4 notice when there is no receipt of crude oil from a railroad car
5 scheduled for a seven-day period.

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

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

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

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

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

1 (5) Consistent with the requirements of chapter 42.56 RCW, the
2 department and any state, local, tribal, or public agency that
3 receives information provided under this section may not disclose any
4 such information to the public or to nongovernmental entities that is
5 not aggregated and that contains proprietary, commercial, or
6 financial information. The requirement for aggregating information
7 does not apply when information is shared by the department with
8 emergency response agencies as provided in subsection (2) of this
9 section.

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

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

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

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

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

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

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

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

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

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

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

1 (7)(a) "Facility" means any structure, group of structures,
2 equipment, pipeline, or device, other than a vessel, located on or
3 near the navigable waters of the state that transfers oil in bulk to
4 or from any vessel with an oil carrying capacity over two hundred
5 fifty barrels or pipeline, that is used for producing, storing,
6 handling, transferring, processing, or transporting oil in bulk.

7 (b) For the purposes of oil spill contingency planning in RCW
8 90.56.210, advanced notice of oil transfers in section 8 of this act,
9 and financial responsibility in RCW 88.40.025, facility also means a
10 railroad that is not owned by the state that transports oil as bulk
11 cargo.

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

21 (8) "Fishing vessel" means a self-propelled commercial vessel of
22 three hundred or more gross tons that is used for catching or
23 processing fish.

24 (9) "Gross tons" means tonnage as determined by the United States
25 coast guard under 33 C.F.R. section 138.30.

26 (10) "Hazardous substances" means any substance listed as of
27 March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under
28 section (~~(101-14)~~) 102(a) of the federal comprehensive environmental
29 response, compensation, and liability act of 1980, as amended by P.L.
30 99-499. The following are not hazardous substances for purposes of
31 this chapter:

32 (a) Wastes listed as F001 through F028 in Table 302.4; and

33 (b) Wastes listed as K001 through K136 in Table 302.4.

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

39 (12) "Oil" or "oils" means oil of any kind that is liquid at
40 (~~at atmospheric temperature~~) twenty-five degrees Celsius and one

1 atmosphere of pressure and any fractionation thereof, including, but
2 not limited to, crude oil, bitumen, synthetic crude oil, natural gas
3 well condensate, petroleum, gasoline, fuel oil, diesel oil,
4 biological oils and blends, oil sludge, oil refuse, and oil mixed
5 with wastes other than dredged spoil. Oil does not include any
6 substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R.
7 Part 302 adopted under section (~~(101(14))~~) 102(a) of the federal
8 comprehensive environmental response, compensation, and liability act
9 of 1980, as amended by P.L. 99-499.

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

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

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

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

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

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

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

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

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

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

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

8 (21) "Certificate of financial responsibility" means an official
9 written acknowledgment issued by the director or the director's
10 designee that an owner or operator of a covered vessel or facility,
11 or the owner of the oil, has demonstrated to the satisfaction of the
12 director or the director's designee that the relevant entity has the
13 financial ability to pay for costs and damages caused by an oil
14 spill.

15 **Sec. 11.** RCW 88.40.020 and 2003 c 91 s 3 and 2003 c 56 s 3 are
16 each reenacted and amended to read as follows:

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

22 (2)(a) Except as provided in (b) or (c) of this subsection, a
23 tank vessel that carries oil as cargo in bulk shall demonstrate
24 financial responsibility to pay at least five hundred million
25 dollars. The amount of financial responsibility required under this
26 subsection is one billion dollars after January 1, 2004.

27 (b) The director by rule may establish a lesser standard of
28 financial responsibility for tank vessels of three hundred gross tons
29 or less. The standard shall set the level of financial responsibility
30 based on the quantity of cargo the tank vessel is capable of
31 carrying. The director shall not set the standard for tank vessels of
32 three hundred gross tons or less below that required under federal
33 law.

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

1 (3)(a) A cargo vessel or passenger vessel that carries oil as
2 fuel shall demonstrate financial responsibility to pay at least three
3 hundred million dollars. However, a passenger vessel that transports
4 passengers and vehicles between Washington state and a foreign
5 country shall demonstrate financial responsibility to pay the greater
6 of at least six hundred dollars per gross ton or five hundred
7 thousand dollars.

8 (b) The owner or operator of a cargo vessel or passenger vessel
9 who is a member of an international protection and indemnity mutual
10 organization and is covered for oil pollution risks up to the amounts
11 required under this section is not required to demonstrate financial
12 responsibility under this chapter. The director may require the owner
13 or operator of a cargo vessel or passenger vessel to prove membership
14 in such an organization.

15 (4) A fishing vessel while on the navigable waters of the state
16 must demonstrate financial responsibility in the following amounts:

17 (a) For a fishing vessel carrying predominantly nonpersistent
18 product, one hundred thirty-three dollars and forty cents per
19 incident, for each barrel of total oil storage capacity, persistent
20 and nonpersistent product, on the vessel or one million three hundred
21 thirty-four thousand dollars, whichever is greater; or (b) for a
22 fishing vessel carrying predominantly persistent product, four
23 hundred dollars and twenty cents per incident, for each barrel of
24 total oil storage capacity, persistent product and nonpersistent
25 product, on the vessel or six million six hundred seventy thousand
26 dollars, whichever is greater.

27 (5) ~~The ((documentation of financial responsibility shall~~
28 ~~demonstrate the ability of the document holder to meet state and~~
29 ~~federal financial liability requirements for the actual costs for~~
30 ~~removal of oil spills, for natural resource damages, and for~~
31 ~~necessary expenses)) certificate of financial responsibility is~~
32 ~~conclusive evidence that the person or entity holding the certificate~~
33 ~~is the party responsible for the specified vessel, facility, or oil~~
34 ~~for purposes of determining liability pursuant to this chapter.~~

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

37 **Sec. 12.** RCW 88.40.025 and 1991 c 200 s 704 are each amended to
38 read as follows:

1 An onshore or offshore facility shall demonstrate financial
2 responsibility in an amount determined by the department as necessary
3 to compensate the state and affected counties and cities for damages
4 that might occur during a reasonable worst case spill of oil from
5 that facility into the navigable waters of the state. The department
6 shall ~~((consider such matters as the amount of oil that could be
7 spilled into the navigable waters from the facility, the cost of
8 cleaning up the spilled oil, the frequency of operations at the
9 facility, the damages that could result from the spill and the
10 commercial availability and affordability of financial
11 responsibility))~~ adopt by rule an amount that will be calculated by
12 multiplying the reasonable per barrel cleanup and damage cost of
13 spilled oil, times the reasonable worst case spill volume, as
14 measured in barrels. This section shall not apply to an onshore or
15 offshore facility owned or operated by the federal government or by
16 the state or local government.

17 **Sec. 13.** RCW 88.40.030 and 2000 c 69 s 32 are each amended to
18 read as follows:

19 (1) Financial responsibility required by this chapter may be
20 established by any one of, or a combination of, the following methods
21 acceptable to the department of ecology: ~~((+1))~~ (a) Evidence of
22 insurance; ~~((+2))~~ (b) surety bonds; ~~((+3))~~ (c) qualification as a
23 self-insurer; ~~((or +4))~~ (d) guaranty; (e) letter of credit; (f)
24 certificate of deposits; (g) protection and indemnity club
25 membership; or (h) other evidence of financial responsibility. Any
26 bond filed shall be issued by a bonding company authorized to do
27 business in the United States. Documentation of such financial
28 responsibility shall be kept on any covered vessel and filed with the
29 department at least twenty-four hours before entry of the vessel into
30 the navigable waters of the state. A covered vessel is not required
31 to file documentation of financial responsibility twenty-four hours
32 before entry of the vessel into the navigable waters of the state, if
33 the vessel has filed documentation of financial responsibility with
34 the federal government, and the level of financial responsibility
35 required by the federal government is the same as or exceeds state
36 requirements. The owner or operator of the vessel may file with the
37 department a certificate evidencing compliance with the requirements
38 of another state's or federal financial responsibility requirements
39 if the state or federal government requires a level of financial

1 responsibility the same as or greater than that required under this
2 chapter.

3 (2) A certificate of financial responsibility may not have a term
4 greater than one year.

5 **Sec. 14.** RCW 88.40.040 and 2003 c 56 s 4 are each amended to
6 read as follows:

7 ~~(1) ((It is unlawful for any vessel required to have financial~~
8 ~~responsibility under this chapter to enter or operate on Washington~~
9 ~~waters without meeting the requirements of this chapter or rules~~
10 ~~adopted under this chapter, except)) A vessel or facility need not~~
11 ~~demonstrate financial responsibility under this chapter prior to~~
12 ~~using any port or place in the state of Washington or the navigable~~
13 ~~waters of the state when necessary to avoid injury to the vessel's or~~
14 ~~facility's crew or passengers. Any vessel owner or operator that does~~
15 ~~not meet the financial responsibility requirements of this chapter~~
16 ~~and any rules prescribed thereunder or the federal oil pollution act~~
17 ~~of 1990 shall be reported by the department to the United States~~
18 ~~coast guard.~~

19 ~~(2) ((The department shall enforce section 1016 of the federal~~
20 ~~oil pollution act of 1990 as authorized by section 1019 of the~~
21 ~~federal act.)) Upon notification of an oil spill or discharge or~~
22 ~~other action or potential liability, the director shall reevaluate~~
23 ~~the validity of the certificate of financial responsibility. If the~~
24 ~~director determines that, because of a spill outside of the state or~~
25 ~~some other action or potential liability, the holder of a certificate~~
26 ~~may not have the financial resources to pay damages for the oil spill~~
27 ~~or discharge or other action or potential liability and have~~
28 ~~resources remaining available to meet the requirements of this~~
29 ~~chapter, the director may suspend or revoke the certificate.~~

30 (3) An owner or operator of more than one covered vessel, more
31 than one facility, or one or more vessels and facilities, is only
32 required to obtain a single certificate of financial responsibility
33 that applies to all of the owner or operator's vessels and
34 facilities.

35 (4) If a person holds a certificate for more than one covered
36 vessel or facility and a spill or spills occurs from one or more of
37 those vessels or facilities for which the owner or operator may be
38 liable for damages in an amount exceeding five percent of the
39 financial resources reflected by the certificate, as determined by

1 the director, the certificate is immediately considered inapplicable
2 to any vessel or facility not associated with the spill. In that
3 event, the owner or operator shall demonstrate to the satisfaction of
4 the director the amount of financial ability required pursuant to
5 this chapter, as well as the financial ability to pay all damages
6 that arise or have arisen from the spill or spills that have
7 occurred.

8 **Sec. 15.** RCW 88.16.170 and 1991 c 200 s 601 are each amended to
9 read as follows:

10 Because of the danger of spills, the legislature finds that the
11 transportation of crude oil and refined petroleum products by tankers
12 on the Columbia river, Grays Harbor, and on Puget Sound and adjacent
13 waters creates a great potential hazard to important natural
14 resources of the state and to jobs and incomes dependent on these
15 resources.

16 The legislature recognizes that the Columbia river has many
17 natural obstacles to navigation and shifting navigation channels that
18 create the risk of an oil spill. The legislature also recognizes
19 Grays Harbor and Puget Sound and adjacent waters are ((a)) relatively
20 confined salt water environments with irregular shorelines and
21 therefore there is a greater than usual likelihood of long-term
22 damage from any large oil spill.

23 The legislature further recognizes that certain areas of the
24 Columbia river, Grays Harbor, and Puget Sound and adjacent waters
25 have limited space for maneuvering a large oil tanker and that these
26 waters contain many natural navigational obstacles as well as a high
27 density of commercial and pleasure boat traffic.

28 For these reasons, it is important that large oil tankers be
29 piloted by highly skilled persons who are familiar with local waters
30 and that such ((~~tankers~~)) vessels have sufficient capability for
31 rapid maneuvering responses.

32 It is therefore the intent and purpose of RCW 88.16.180 and
33 88.16.190 to decrease the likelihood of oil spills on the Columbia
34 river, Grays Harbor, and on Puget Sound and its shorelines by
35 ((~~requiring all oil tankers above a certain size to employ licensed~~
36 ~~pilots and to be escorted by a tug or tugs while navigating on~~
37 ~~certain areas of Puget Sound and adjacent waters~~)) establishing
38 safety requirements that comprehensively address spill risks, which

1 may include the establishment of tug escorts and other measures to
2 mitigate safety risks in certain state waters.

3 **Sec. 16.** RCW 88.16.190 and 1994 c 52 s 1 are each amended to
4 read as follows:

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

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

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

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

16 ~~(c) Double bottoms, underneath all oil and liquid cargo~~
17 ~~compartments; and~~

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

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

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

30 ~~FURTHER, That))~~ (a) Except as provided in subsection (2) of this
31 section, an oil tanker of greater than forty thousand deadweight tons
32 may operate in the waters east of a line extending from Discovery
33 Island light south to New Dungeness light and all points in the Puget
34 Sound area, to the extent that these waters are within the
35 territorial boundaries of Washington, only if the oil tanker is under
36 the escort of a tug or tugs in compliance with the requirements of
37 subsection (3) of this section.

38 (b) The state board of pilotage commissioners, in consultation
39 with the department of ecology and relying on the results of vessel

1 traffic risk assessments, shall adopt rules by June 30, 2017, to
2 implement this subsection (1)(b). These rules may include tug escort
3 requirements and other safety measures for oil tankers of greater
4 than forty thousand deadweight tons, all articulated tug barges, and
5 other towed waterborne vessels or barges. The rules adopted under
6 this subsection may not include rules to require that oil tankers of
7 greater than forty thousand deadweight tons be escorted by more than
8 one escort tug. The geographic scope of the rules must be limited to
9 the narrow channels of the San Juan Islands archipelago, including
10 Rosario Strait, Haro Strait, Boundary Pass, and connected waterways.
11 In order to adopt a rule under this section, the board of pilotage
12 commissioners must determine that the results of a vessel traffic
13 risk assessment provide evidence that the rules are necessary in
14 order to achieve best achievable protection as defined in RCW
15 88.46.010.

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

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

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

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

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

40 (6) For the purposes of this section:

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

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

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

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

24 (2) The evaluation and assessment completed under subsection (1)
25 of this section must include, but is not limited to, an assessment
26 and evaluation of: (a) The need for tug escorts for oil tankers,
27 articulated tug barges, and other towed waterborne vessels or barges;
28 (b) best achievable protection; and (c) required tug capabilities to
29 ensure safe escort of vessels on the waters that are the subject of
30 focus for each water body evaluated under subsection (1) of this
31 section.

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

37 (4) All requirements in this section are subject to the
38 availability of amounts appropriated for the specific purposes
39 described.

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

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

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

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

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

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

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

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

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

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

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

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

36 (~~Unless the context clearly requires otherwise,~~) The
37 definitions in this section apply throughout this chapter unless the
38 context clearly requires otherwise.

- 1 (1) "Barrel" means a unit of measurement of volume equal to
2 forty-two United States gallons of crude oil or petroleum product.
- 3 (2) "Crude oil" means any naturally occurring (~~liquid~~)
4 hydrocarbons (~~at atmospheric temperature and pressure coming from~~
5 ~~the earth, including condensate and natural gasoline~~) coming from
6 the earth that are liquid at twenty-five degrees Celsius and one
7 atmosphere of pressure including, but not limited to, crude oil,
8 bitumen and diluted bitumen, synthetic crude oil, and natural gas
9 well condensate.
- 10 (3) "Department" means the department of revenue.
- 11 (4) "Marine terminal" means a facility of any kind, other than a
12 waterborne vessel, that is used for transferring crude oil or
13 petroleum products to or from a waterborne vessel or barge.
- 14 (5) "Navigable waters" means those waters of the state and their
15 adjoining shorelines that are subject to the ebb and flow of the
16 tide, including the Columbia and Snake rivers.
- 17 (6) "Person" has the meaning provided in RCW 82.04.030.
- 18 (7) "Petroleum product" means any liquid hydrocarbons at
19 atmospheric temperature and pressure that are the product of the
20 fractionation, distillation, or other refining or processing of crude
21 oil, and that are used as, useable as, or may be refined as a fuel or
22 fuel blendstock, including but not limited to, gasoline, diesel fuel,
23 aviation fuel, bunker fuel, and fuels containing a blend of alcohol
24 and petroleum.
- 25 (8) "Taxpayer" means the person owning crude oil or petroleum
26 products immediately after receipt of the same into the storage tanks
27 of a marine or bulk oil terminal in this state (~~from a waterborne~~
28 ~~vessel or barge~~) and who is liable for the taxes imposed by this
29 chapter.
- 30 (9) "Waterborne vessel or barge" means any ship, barge, or other
31 watercraft capable of (~~travelling~~) traveling on the navigable
32 waters of this state and capable of transporting any crude oil or
33 petroleum product in quantities of ten thousand gallons or more for
34 purposes other than providing fuel for its motor or engine.
- 35 (10) "Bulk oil terminal" means a facility of any kind, other than
36 a waterborne vessel, that is used for transferring crude oil or
37 petroleum products from a tank car or pipeline.
- 38 (11) "Tank car" means a rail car, the body of which consists of a
39 tank for transporting liquids.

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

3 (1) An oil spill response tax is imposed on the privilege of
4 receiving: (a) Crude oil or petroleum products at a marine terminal
5 within this state from a waterborne vessel or barge operating on the
6 navigable waters of this state; (b) crude oil or petroleum products
7 at a bulk oil terminal within this state from a tank car; or (c)
8 crude oil or petroleum products at a bulk oil terminal within this
9 state from a pipeline. The tax imposed in this section is levied upon
10 the owner of the crude oil or petroleum products immediately after
11 receipt of the same into the storage tanks of a marine or bulk oil
12 terminal from a tank car, pipeline, or waterborne vessel or barge at
13 the rate of one cent per barrel of crude oil or petroleum product
14 received.

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

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

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

10 (5) If a taxpayer fails to pay the taxes imposed by this chapter
11 to the person charged with collection of the taxes and the person
12 charged with collection fails to pay the taxes to the department, the
13 department may, in its discretion, proceed directly against the
14 taxpayer for collection of the taxes.

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

19 (7) The amount of taxes, until paid by the taxpayer to the marine
20 or bulk oil terminal operator or to the department, (~~shall~~)
21 constitutes a debt from the taxpayer to the marine or bulk oil
22 terminal operator. Any person required to collect the taxes under
23 this chapter who, with intent to violate the provisions of this
24 chapter, fails or refuses to do so as required and any taxpayer who
25 refuses to pay any taxes due under this chapter, (~~shall-be~~) is
26 guilty of a misdemeanor as provided in chapter 9A.20 RCW.

27 (8) Upon prior approval of the department, the taxpayer may pay
28 the taxes imposed by this chapter directly to the department. The
29 department (~~shall~~) must give its approval for direct payment under
30 this section whenever it appears, in the department's judgment, that
31 direct payment will enhance the administration of the taxes imposed
32 under this chapter. The department (~~shall~~) must provide by rule for
33 the issuance of a direct payment certificate to any taxpayer
34 qualifying for direct payment of the taxes. Good faith acceptance of
35 a direct payment certificate by a terminal operator (~~shall~~)
36 relieves the marine or bulk oil terminal operator from any liability
37 for the collection or payment of the taxes imposed under this
38 chapter.

39 (9) All receipts from the tax imposed in subsection (1) of this
40 section (~~shall~~) must be deposited into the state oil spill response

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

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

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

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

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

22 The taxes imposed under this chapter (~~shall~~) only apply to the
23 first receipt of crude oil or petroleum products at a marine or bulk
24 oil terminal in this state and not to the later transporting and
25 subsequent receipt of the same oil or petroleum product, whether in
26 the form originally received at a marine or bulk oil terminal in this
27 state or after refining or other processing.

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

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

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

1 (1) There is hereby created the emergency management council
2 (hereinafter called the council), to consist of not more than
3 seventeen members who shall be appointed by the adjutant general. The
4 membership of the council shall include, but not be limited to,
5 representatives of city and county governments, sheriffs and police
6 chiefs, the Washington state patrol, the military department, the
7 department of ecology, state and local fire chiefs, seismic safety
8 experts, state and local emergency management directors, search and
9 rescue volunteers, medical professions who have expertise in
10 emergency medical care, building officials, and private industry. The
11 representatives of private industry shall include persons
12 knowledgeable in emergency and hazardous materials management. The
13 councilmembers shall elect a chair from within the council
14 membership. The members of the council shall serve without
15 compensation, but may be reimbursed for their travel expenses
16 incurred in the performance of their duties in accordance with RCW
17 43.03.050 and 43.03.060 as now existing or hereafter amended.

18 (2) The emergency management council shall advise the governor
19 and the director on all matters pertaining to state and local
20 emergency management. The council may appoint such ad hoc committees,
21 subcommittees, and working groups as are required to develop specific
22 recommendations for the improvement of emergency management
23 practices, standards, policies, or procedures. The council shall
24 ensure that the governor receives an annual assessment of statewide
25 emergency preparedness including, but not limited to, specific
26 progress on hazard mitigation and reduction efforts, implementation
27 of seismic safety improvements, reduction of flood hazards, and
28 coordination of hazardous materials planning and response activities.

29 ~~((The council or a subcommittee thereof shall periodically convene in
30 special session and serve during those sessions as the state
31 emergency response commission required by P.L. 99-499, the emergency
32 planning and community right to know act. When sitting in session as
33 the state emergency response commission, the council shall confine
34 its deliberations to those items specified in federal statutes and
35 state administrative rules governing the coordination of hazardous
36 materials policy.))~~ The council shall review administrative rules
37 governing state and local emergency management practices and
38 recommend necessary revisions to the director.

39 (3) The council or a council subcommittee shall serve and
40 periodically convene in special session as the state emergency

1 response commission required by the emergency planning and community
2 right-to-know act (42 U.S.C. Sec. 11001 et seq.). The state emergency
3 response commission shall conduct those activities specified in
4 federal statutes and regulations and state administrative rules
5 governing the coordination of hazardous materials policy including,
6 but not limited to, review of local emergency planning committee
7 emergency response plans for compliance with the planning
8 requirements in the emergency planning and community right-to-know
9 act (42 U.S.C. Sec. 11001 et seq.). Committees shall annually review
10 their plans to address changed conditions, and submit their plans to
11 the state emergency response commission for review when updated, but
12 not less than at least once every five years. The department may
13 employ staff to assist local emergency planning committees in the
14 development and annual review of these emergency response plans, with
15 an initial focus on the highest risk communities through which trains
16 that transport oil in bulk travel. By March 1, 2018, the department
17 shall report to the governor and legislature on progress towards
18 compliance with planning requirements. The report must also provide
19 budget and policy recommendations for continued support of local
20 emergency planning.

21 (4)(a) The intrastate mutual aid committee is created and is a
22 subcommittee of the emergency management council. The intrastate
23 mutual aid committee consists of not more than five members who must
24 be appointed by the council chair from council membership. The chair
25 of the intrastate mutual aid committee is the military department
26 representative appointed as a member of the council. Meetings of the
27 intrastate mutual aid committee must be held at least annually.

28 (b) In support of the intrastate mutual aid system established in
29 chapter 38.56 RCW, the intrastate mutual aid committee shall develop
30 and update guidelines and procedures to facilitate implementation of
31 the intrastate mutual aid system by member jurisdictions, including
32 but not limited to the following: Projected or anticipated costs;
33 checklists and forms for requesting and providing assistance;
34 recordkeeping; reimbursement procedures; and other implementation
35 issues. These guidelines and procedures are not subject to the rule-
36 making requirements of chapter 34.05 RCW.

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

1 (1) Every company subject to regulation by the commission, except
2 those listed in subsection (3) of this section, shall, on or before
3 the date specified by the commission for filing annual reports under
4 RCW 81.04.080, file with the commission a statement on oath showing
5 its gross operating revenue from intrastate operations for the
6 preceding calendar year, or portion thereof, and pay to the
7 commission a fee equal to one-tenth of one percent of the first fifty
8 thousand dollars of gross operating revenue, plus two-tenths of one
9 percent of any gross operating revenue in excess of fifty thousand
10 dollars, except railroad companies which shall each pay to the
11 commission a fee (~~(equal)~~) of up to (~~(one)~~) two and one-half percent
12 of its intrastate gross operating revenue. The commission may, by
13 rule, set minimum fees that do not exceed the cost of collecting the
14 fees. The commission may by rule waive any or all of the minimum fee
15 established pursuant to this section. Any railroad association that
16 qualifies as a nonprofit charitable organization under the federal
17 internal revenue code section 501(c)(3) is exempt from the fee
18 required under this subsection.

19 (2) The percentage rates of gross operating revenue to be paid in
20 any one year may be decreased by the commission for any class of
21 companies subject to the payment of such fees, by general order
22 entered before March 1st of such year, and for such purpose railroad
23 companies are classified as class two. Every other company subject to
24 regulation by the commission, for which regulatory fees are not
25 otherwise fixed by law, shall pay fees as herein provided and shall
26 constitute additional classes according to kinds of businesses
27 engaged in.

28 (3) This section does not apply to private nonprofit
29 transportation providers, auto transportation companies, charter
30 party carriers and excursion service carriers, solid waste collection
31 companies, motor freight carriers, household goods carriers,
32 commercial ferries, and low-level radioactive waste storage
33 facilities.

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

36 Commission employees certified by the federal railroad
37 administration to perform hazardous materials inspections may enter
38 the property of any business that receives, ships, or offers for
39 shipment hazardous materials by rail. Entry shall be at a reasonable

1 time and in a reasonable manner. The purpose of entry is limited to
2 performing inspections, investigations, or surveillance of equipment,
3 records, and operations relating to the packaging, loading,
4 unloading, or transportation of hazardous materials by rail, pursuant
5 only to the state participation program outlined in 49 C.F.R. Part
6 212. The term "business" is all inclusive and is not limited to
7 common carriers or public service companies.

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

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

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

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

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

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

38 ~~((The term))~~ (5) "Over-crossing~~((τ))"~~ ~~((when used in this~~
39 ~~chapter,τ))~~ means any point or place where a highway crosses a

1 railroad by passing above the same. "Over-crossing" also means any
2 point or place where one railroad crosses another railroad not at
3 grade.

4 ~~((The term))~~ (6) "Under-crossing~~((7))~~" ~~((when used in this~~
5 ~~chapter,))~~ means any point or place where a highway crosses a
6 railroad by passing under the same. "Under-crossing" also means any
7 point or place where one railroad crosses another railroad not at
8 grade.

9 ~~((The term "over-crossing" or "under-crossing," shall also mean~~
10 ~~any point or place where one railroad crosses another railroad not at~~
11 ~~grade.~~

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

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

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

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

38 (2) Within thirty days of the effective date of this section,
39 first-class cities must provide to the commission a list of all

1 existing public crossings within the limits of a first-class city,
2 including over and under-crossings, including the United States
3 department of transportation number for the crossing. Within thirty
4 days of modifying, closing, or opening a grade crossing within the
5 limits of a first-class city, the city must notify the commission in
6 writing of the action taken, identifying the crossing by United
7 States department of transportation number.

8 NEW SECTION. Sec. 28. A new section is added to chapter 81.53
9 RCW to read as follows:

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

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

22 (a) Minimum safety standards for the private crossings subject to
23 this section, including, but not limited to, requirements for
24 signage;

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

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

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

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

34 (1) The department shall evaluate and update planning standards
35 for oil spill response equipment required under contingency plans
36 required by this chapter, including aerial surveillance, in order to
37 ensure access in the state to equipment that represents the best
38 achievable protection to respond to a worst case spill and provide

1 for continuous operation of oil spill response activities to the
2 maximum extent practicable and without jeopardizing crew safety, as
3 determined by the incident commander or the unified command.

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

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

11 **Sec. 30.** RCW 42.56.270 and 2014 c 192 s 6, 2014 c 174 s 5, and
12 2014 c 144 s 6 are each reenacted and amended to read as follows:

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

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

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

24 (3) Financial and commercial information and records supplied by
25 private persons pertaining to export services provided under chapters
26 43.163 and 53.31 RCW, and by persons pertaining to export projects
27 under RCW 43.23.035;

28 (4) Financial and commercial information and records supplied by
29 businesses or individuals during application for loans or program
30 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
31 43.168 RCW, or during application for economic development loans or
32 program services provided by any local agency;

33 (5) Financial information, business plans, examination reports,
34 and any information produced or obtained in evaluating or examining a
35 business and industrial development corporation organized or seeking
36 certification under chapter 31.24 RCW;

37 (6) Financial and commercial information supplied to the state
38 investment board by any person when the information relates to the
39 investment of public trust or retirement funds and when disclosure

1 would result in loss to such funds or in private loss to the
2 providers of this information;

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

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

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

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

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

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

30 (12)(a) When supplied to and in the records of the department of
31 commerce:

32 (i) Financial and proprietary information collected from any
33 person and provided to the department of commerce pursuant to RCW
34 43.330.050(8); and

35 (ii) Financial or proprietary information collected from any
36 person and provided to the department of commerce or the office of
37 the governor in connection with the siting, recruitment, expansion,
38 retention, or relocation of that person's business and until a siting
39 decision is made, identifying information of any person supplying

1 information under this subsection and the locations being considered
2 for siting, relocation, or expansion of a business;

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

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

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

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

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

22 (15) Financial and commercial information provided as evidence to
23 the department of licensing as required by RCW 19.112.110 or
24 19.112.120, except information disclosed in aggregate form that does
25 not permit the identification of information related to individual
26 fuel licensees;

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

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

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

37 (18) Financial, commercial, operations, and technical and
38 research information and data submitted to or obtained by a health
39 sciences and services authority in applications for, or delivery of,
40 grants under RCW 35.104.010 through 35.104.060, to the extent that

1 such information, if revealed, would reasonably be expected to result
2 in private loss to providers of this information;

3 (19) Information gathered under chapter 19.85 RCW or RCW
4 34.05.328 that can be identified to a particular business;

5 (20) Financial and commercial information submitted to or
6 obtained by the University of Washington, other than information the
7 university is required to disclose under RCW 28B.20.150, when the
8 information relates to investments in private funds, to the extent
9 that such information, if revealed, would reasonably be expected to
10 result in loss to the University of Washington consolidated endowment
11 fund or to result in private loss to the providers of this
12 information; ~~((and))~~

13 (21) Market share data submitted by a manufacturer under RCW
14 70.95N.190(4); ~~((and))~~

15 (22) Financial information supplied to the department of
16 financial institutions or to a portal under RCW 21.20.883, when filed
17 by or on behalf of an issuer of securities for the purpose of
18 obtaining the exemption from state securities registration for small
19 securities offerings provided under RCW 21.20.880 or when filed by or
20 on behalf of an investor for the purpose of purchasing such
21 securities; and

22 (23)(a) Unaggregated or individual notices of a transfer of crude
23 oil that is financial, proprietary, or commercial information,
24 submitted to the department of ecology pursuant to section 8(1)(a) of
25 this act, and that is in the possession of the department of ecology
26 or any entity with which the department of ecology has shared the
27 notice pursuant to section 8 of this act; and

28 (b) Information submitted to the department of ecology by
29 pipelines pursuant to section 8(1)(b) of this act that is related to
30 diluting agents contained in transported oil and that is in the
31 possession of the department of ecology or any entity with which the
32 department of ecology has shared the information pursuant to section
33 8 of this act.

34 NEW SECTION. Sec. 31. A new section is added to chapter 81.40
35 RCW to read as follows:

36 The definitions in this section apply throughout this chapter
37 unless the context clearly requires otherwise.

38 (1) "Commission" means the utilities and transportation
39 commission created in chapter 80.01 RCW.

1 (2) "Hazardous material" means spent nuclear fuel, high level
2 nuclear waste, or class 3 flammable liquids, as defined in the
3 hazardous materials regulations of the United States department of
4 transportation in 49 C.F.R. Part 173 as of the effective date of this
5 section.

6 (3) "Hazardous material train" means any train:

7 (a) Carrying twenty or more car loads of a class 3 flammable
8 liquid as defined by the United States department of transportation
9 in 49 C.F.R. Part 173 as of the effective date of this section; or

10 (b) Containing one or more car loads of spent nuclear fuel or
11 high level nuclear waste.

12 (4) "Qualified crew member" means a railroad operating craft
13 employee who has been trained and meets the requirements and
14 qualifications as determined by the federal railroad administration
15 for a railroad operating service employee.

16 (5) "Railroad carrier" means a carrier of persons or property
17 upon vehicles, other than streetcars, operated upon stationary rails,
18 the route of which is principally outside incorporated cities and
19 towns. "Railroad carrier" includes the officers and agents of the
20 railroad carrier.

21 NEW SECTION. **Sec. 32.** A new section is added to chapter 81.40
22 RCW to read as follows:

23 Except as provided in section 33 of this act, the following
24 minimum crew requirements apply:

25 (1) Any person, corporation, company, or officer of the court
26 operating any railroad, railway, or any part of any railroad or
27 railway, in the state of Washington, and engaged, as a common
28 carrier, in the transportation of freight or passengers, shall
29 operate all trains and switching assignments over its road with crews
30 consisting of no less than two qualified crew members.

31 (2)(a) Railroad carriers shall operate all hazardous material
32 trains over its road with crews consisting of no less than three
33 qualified crew members. One qualified train crew member shall be
34 assigned to a position located on the rear of the train and within
35 rolling equipment, situated to safely observe and monitor the train's
36 contents and movement.

37 (b) Railroad carriers shall operate any hazardous material trains
38 consisting of fifty-one or more car loads of any combination of
39 hazardous materials over its road with crews consisting of no less

1 than four qualified crew members. Two qualified crew members shall be
2 assigned to a position on the rear of the train and within rolling
3 equipment, situated to safely observe and monitor the train's
4 contents and movement.

5 NEW SECTION. **Sec. 33.** A new section is added to chapter 81.40
6 RCW to read as follows:

7 (1) Trains transporting hazardous material shipments a distance
8 of five miles or less may operate the train with the required crew
9 members positioned on the lead locomotive.

10 (2)(a) Class II and class III carriers transporting fewer than
11 twenty loaded hazardous material cars on trains operating on their
12 road while at a speed of twenty-five miles per hour or less are
13 exempt from the additional train crew requirements specified in
14 section 32(2) of this act.

15 (b) The commission may grant exemptions to the minimum crew size
16 requirements to class III railroad carriers that are not transporting
17 hazardous materials on their road.

18 (3)(a) The commission may order class I or II railroad carriers
19 to exceed the minimum crew size and operate specific trains, routes,
20 or switching assignments on their road with additional numbers of
21 qualified crew members if it is determined that such an increase in
22 crew size is necessary to protect the safety, health, and welfare of
23 the public and railroad employees, to prevent harm to the
24 environment, and to address local safety and security hazards.

25 (b) In issuing such an order the commission may consider relevant
26 factors including but not limited to the volatility of the
27 commodities being transported, vulnerabilities, risk exposure to
28 localities along the train route, security risks including sabotage
29 or terrorism threat levels, a railroad carriers prior history of
30 accidents, compliance violations, and track and equipment maintenance
31 issues.

32 NEW SECTION. **Sec. 34.** A new section is added to chapter 81.40
33 RCW to read as follows:

34 (1) Each train or engine run in violation of section 32 of this
35 act constitutes a separate offense. However, section 32 of this act
36 does not apply in the case of disability of one or more members of
37 any train crew while out on the road between division terminals, or
38 assigned to wrecking trains.

1 (2) Any person, corporation, company, or officer of the court
2 operating any railroad, or part of any railroad or railway within the
3 state of Washington, and engaged as a common carrier, in the
4 transportation of freight or passengers, who violates any of the
5 provisions of section 32 of this act shall be fined not less than one
6 thousand dollars and not more than one hundred thousand dollars for
7 each offense.

8 (3) It is the duty of the commission to enforce this section.

9 NEW SECTION. **Sec. 35.** The following acts or parts of acts are
10 each repealed:

11 (1) RCW 81.40.010 (Full train crews—Passenger—Safety review—
12 Penalty—Enforcement) and 2003 c 53 s 386, 1992 c 102 s 1, & 1961 c 14
13 s 81.40.010; and

14 (2) RCW 81.40.035 (Freight train crews) and 1967 c 2 s 2.

15 NEW SECTION. **Sec. 36.** A new section is added to chapter 90.56
16 RCW to read as follows:

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

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

22 (b) Annual updates, beginning December 31, 2016, and ending
23 December 31, 2021, as required under RCW 43.01.036, as to the
24 progress made in completing state and federal geographic response
25 plans as needed in contingency plans required under RCW 90.56.060,
26 90.56.210, and 88.46.060.

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

32 (3) All requirements in this section are subject to the
33 availability of amounts appropriated for the specific purposes
34 described.

35 NEW SECTION. **Sec. 37.** (1) Subject to the availability of
36 amounts appropriated for this specific purpose, the department of
37 ecology shall provide grants to emergency responders to assist with

1 oil spill and hazardous materials response and firefighting equipment
2 and resources needed to meet the requirements of this act.

3 (2) For the purposes of determining grant allocations, the
4 department of ecology, in consultation with emergency first
5 responders, oil spill response cooperatives, representatives from the
6 oil and rail industries, and businesses that are recipients of liquid
7 bulk crude oil shall: (a) Conduct an evaluation of oil spill and
8 hazardous materials response and firefighting equipment and resources
9 currently available for oil spill and hazardous materials response
10 activities throughout the state; (b) review the local emergency
11 management coordinating efforts for oil spill and hazardous materials
12 response; (c) determine the need for additional, new, or updated
13 equipment and resources; and (d) identify areas or regions of the
14 state that are in greatest need of resources and oil spill and
15 hazardous materials response and firefighting equipment.

16 (3) The department of ecology, in consultation with emergency
17 first responders, oil spill response cooperatives, representatives
18 from the oil and rail industries, and businesses that are recipients
19 of liquid bulk crude oil shall review grant applications to
20 prioritize grant awards using the evaluation of availability of oil
21 spill and hazardous materials response and firefighting equipment and
22 resources as determined in subsection (2) of this section.

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

26 (b) Funding must be prioritized for applicants from areas where
27 the need for firefighting and oil spill and hazardous materials
28 response equipment is the greatest as determined in subsection (2) of
29 this section.

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

33 NEW SECTION. **Sec. 38.** Before the start of the 2016 legislative
34 session, the senate energy, environment, and telecommunications
35 committee and the house of representatives environment committee must
36 hold at least one joint meeting on oil spill prevention and response
37 activities for international transport of liquid bulk crude oil. The
38 committees may invite representatives of affected parties from the

1 United States and Canada to address issues including but not limited
2 to the following:

3 (1) Cooperative prevention and emergency response activities
4 between shared international and state borders;

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

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

9 NEW SECTION. **Sec. 39.** Sections 19 through 22 of this act take
10 effect January 1, 2016.

11 NEW SECTION. **Sec. 40.** 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. 41.** Except for sections 19 through 22 of this
16 act, this act is necessary for the immediate preservation of the
17 public peace, health, or safety, or support of the state government
18 and its existing public institutions, and takes effect July 1, 2015."

19 Correct the title.

EFFECT: Makes the following changes to the underlying bill:

(1) Directs the department of ecology to evaluate vessel traffic in the Columbia river and submit associated marine safety recommendations to the legislature by December 2017.

(2) Authorizes the state board of pilotage commissioners to adopt rules to require tug escorts on Grays Harbor for oil-bearing vessels or other safety measures except for pilotage rules for Grays Harbor, if an oil facility in Grays Harbor receives siting approval or authorization to newly receive crude oil.

(3) Directs the state board of pilotage commissioners to conduct maritime safety rule making for the narrow channels of the San Juan Islands by June 30, 2017; rule making may include tug escort rules but may not require a second tug escort for oil tankers.

(4) Requires railroads to demonstrate an ability to pay for a reasonable worst case oil spill.

(5) Requires railroads, vessels, and facilities to obtain certificates of financial responsibility demonstrating the ability to pay for a reasonable worst case spill, which is subject to revocation in the event that a spill would reduce the entity's financial assurances to below required levels.

(6) Requires railroads to complete spill contingency plans.

(7) Requires railroad and other oil facility spill contingency plans to achieve a best achievable protection standard.

(8) Increases the oil spill administration tax facility receipts by vessel or rail from 4 cents to 8 cents per barrel, and expands the scope of the tax to include receipts by pipeline.

(9) Eliminates the 2023 expiration of the increase on the regulatory fees charged to railroads by the utilities and transportation commission.

(10) Authorizes the regulatory fees charged to railroads by the utilities and transportation commission to be up to two and one-half percent of intrastate operating revenues, rather than setting the regulatory fee at exactly two and one-half percent of intrastate operating revenues.

(11) Delays the effective date of provisions related to the oil spill administration and oil spill response taxes from July 1, 2015, until January 1, 2016.

(12) Directs local emergency response plans, rather than hazardous material plans, be developed by local emergency response committees, directs those plans to be submitted for state emergency response commission review every five years, and requires the submission of a progress report on local planning activities to the legislature by 2018.

(13) Directs the house of representatives environment committee and senate energy, environment and telecommunications committee to host a joint meeting before the beginning of the 2016 session on the international transportation of crude oil in the Pacific Northwest, rather than directing the department of ecology and the utilities and transportation commission to host a joint symposium on that topic.

(14) Limits train crewing requirements for hazardous materials trains to those trains consisting of at least 20 cars of class 3 flammable liquids, as identified in federal regulations, and to those trains that include at least one car of spent nuclear fuel or nuclear waste.

(15) Directs that oil facilities that submit weekly advanced notices of crude oil receipts from railroads to the department of ecology must also submit twice-yearly corrections of inaccuracies in those notices; corrections are not required to include any insubstantial discrepancies between scheduled and actual train arrival times.

(16) Directs that pipelines must submit twice-yearly information to the department of ecology about the volume, gravity, and type of crude oil they transport through the state, as well as the type of diluting agents used in the oil.

(17) Exempts from public disclosure under the public records act individual or unaggregated financial, proprietary, or commercial advanced notice of transfer information submitted to the department of ecology.

(18) Exempts pipeline diluting agent information from public disclosure under the public records act.

(19) Directs that the information from advanced notices of crude oil receipt from trains that is submitted to the department of ecology must be aggregated on a statewide basis by route through the state and by week in a quarterly report on the department's web site.

(20) Directs the utilities and transportation commission to adopt safety standards for private rail crossings.

(21) Grants the utilities and transportation commission the authority to enforce safety standard requirements and to adopt rules related to railroad responsibilities to ensure the completion of private crossing improvements.

(22) Amends the definition of crude oil subject to the oil spill administration tax and the oil spill barrel tax to explicitly include bitumen, diluted bitumen, and synthetic crude oil.

--- END ---