

E2SSB 5057 - H AMD TO H AMD (H-2656.4/15)  
By Representative Shea

OUT OF ORDER 4/14/2015

1 Beginning on page 1, after line 2 of the amendment, strike all  
2 material through "2015." on page 50, line 12 and insert the  
3 following:

4 "NEW SECTION. **Sec. 1.** (1) Subject to the availability of  
5 amounts appropriated for this specific purpose, the department of  
6 ecology shall provide grants to emergency responders to assist with  
7 oil spill and hazardous materials response and firefighting equipment  
8 and resources needed to meet the requirements of this act.

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

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

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

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

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

8 **Sec. 2.** RCW 82.23B.010 and 1992 c 73 s 6 are each amended to  
9 read as follows:

10 ~~((Unless the context clearly requires otherwise, the definitions~~  
11 ~~in this section apply throughout this chapter.)) The definitions in  
12 this section apply throughout this chapter unless the context clearly  
13 requires otherwise.~~

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

16 (2) "Bulk oil terminal" means a facility of any kind, other than  
17 a waterborne vessel, that is used for transferring crude oil from a  
18 tank car.

19 (3) "Crude oil" means any naturally occurring liquid hydrocarbons  
20 at atmospheric temperature and pressure coming from the earth,  
21 including condensate and natural gasoline.

22 ~~((+3))~~ (4) "Department" means the department of revenue.

23 ~~((+4))~~ (5) "Marine terminal" means a facility of any kind, other  
24 than a waterborne vessel, that is used for transferring crude oil or  
25 petroleum products to or from a waterborne vessel or barge.

26 ~~((+5))~~ (6) "Navigable waters" means those waters of the state  
27 and their adjoining shorelines that are subject to the ebb and flow  
28 of the tide, including the Columbia and Snake rivers.

29 ~~((+6))~~ (7) "Person" has the meaning provided in RCW 82.04.030.

30 ~~((+7))~~ (8) "Petroleum product" means any liquid hydrocarbons at  
31 atmospheric temperature and pressure that are the product of the  
32 fractionation, distillation, or other refining or processing of crude  
33 oil, and that are used as, useable as, or may be refined as a fuel or  
34 fuel blendstock, including but not limited to, gasoline, diesel fuel,  
35 aviation fuel, bunker fuel, and fuels containing a blend of alcohol  
36 and petroleum.

37 ~~((+8))~~ (9) "Tank car" means a rail car, the body of which  
38 consists of a tank for transporting liquids.

1       (10) "Taxpayer" means the person owning crude oil or petroleum  
2 products immediately after receipt of the same into the storage tanks  
3 of a marine or bulk oil terminal in this state (~~from a waterborne~~  
4 ~~vessel or barge~~) and who is liable for the taxes imposed by this  
5 chapter.

6       (~~(9)~~) (11) "Waterborne vessel or barge" means any ship, barge,  
7 or other watercraft capable of travelling on the navigable waters of  
8 this state and capable of transporting any crude oil or petroleum  
9 product in quantities of ten thousand gallons or more for purposes  
10 other than providing fuel for its motor or engine.

11       **Sec. 3.** RCW 82.23B.020 and 2006 c 256 s 2 are each amended to  
12 read as follows:

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

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

34       (3) The taxes imposed by this chapter (~~shall~~) must be collected  
35 by the marine or bulk oil terminal operator from the taxpayer. If any  
36 person charged with collecting the taxes fails to bill the taxpayer  
37 for the taxes, or in the alternative has not notified the taxpayer in  
38 writing of the (~~imposition of the~~) taxes imposed, or having  
39 collected the taxes, fails to pay them to the department in the

1 manner prescribed by this chapter, whether such failure is the result  
2 of the person's own acts or the result of acts or conditions beyond  
3 the person's control, he or she (~~shall~~), nevertheless, (~~be~~) is  
4 personally liable to the state for the amount of the taxes. Payment  
5 of the taxes by the owner to a marine or bulk oil terminal operator  
6 (~~shall~~) must relieve the owner from further liability for the  
7 taxes.

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

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

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

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

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

1 qualifying for direct payment of the taxes. Good faith acceptance of  
2 a direct payment certificate by a terminal operator (~~shall~~) must  
3 relieve the marine or bulk oil terminal operator from any liability  
4 for the collection or payment of the taxes imposed under this  
5 chapter.

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

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

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

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

27 **Sec. 4.** RCW 82.23B.030 and 1992 c 73 s 9 are each amended to  
28 read as follows:

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

35 **Sec. 5.** RCW 82.23B.040 and 1992 c 73 s 10 are each amended to  
36 read as follows:

37 Credit (~~shall~~) must be allowed against the taxes imposed under  
38 this chapter for any crude oil or petroleum products received at a

1 marine or bulk oil terminal and subsequently exported from or sold  
2 for export from the state.

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

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

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

22 (3) The department must publish information collected under this  
23 section on a quarterly basis on the department's internet web site.  
24 The information published by the department must be aggregated on a  
25 statewide basis and may include other information available to the  
26 department including, but not limited to, place of origin, modes of  
27 transport, number of railroad cars delivering crude oil, and number  
28 and volume of spills during transport and delivery. The department  
29 must publish routes to facilities within the state, but may not  
30 include specific information about volume or gravity of oil, as  
31 measured by the standards developed by the American petroleum  
32 institute transported to any particular facility along the routes.

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

38 (5) Consistent with the requirements of chapter 42.56 RCW, the  
39 department and any state, local, tribal, or public agency that

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

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

12 **Sec. 7.** RCW 88.40.011 and 2007 c 347 s 4 are each amended to  
13 read as follows:

14 The definitions in this section apply throughout this chapter  
15 unless the context clearly requires otherwise.

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

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

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

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

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

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

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

33 (b) A facility does not include any: (i) Railroad car, motor  
34 vehicle, or other rolling stock while transporting oil over the  
35 highways or rail lines of this state; (ii) retail motor vehicle motor  
36 fuel outlet; (iii) facility that is operated as part of an exempt  
37 agricultural activity as provided in RCW 82.04.330; (iv) underground  
38 storage tank regulated by the department or a local government under  
39 chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense

1 more than three thousand gallons of fuel to a ship that is not a  
2 covered vessel, in a single transaction.

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

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

8 (10) "Hazardous substances" means any substance listed as of  
9 March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under  
10 section (~~(101-14)~~) 102(a) of the federal comprehensive environmental  
11 response, compensation, and liability act of 1980, as amended by P.L.  
12 99-499. The following are not hazardous substances for purposes of  
13 this chapter:

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

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

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

21 (12) "Oil" or "oils" means oil of any kind that is liquid at  
22 (~~(atmospheric temperature)~~) twenty-five degrees Celsius and one  
23 atmosphere of pressure and any fractionation thereof, including, but  
24 not limited to, crude oil, bitumen, synthetic crude oil, natural gas  
25 well condensate, petroleum, gasoline, fuel oil, diesel oil,  
26 biological oils and blends, oil sludge, oil refuse, and oil mixed  
27 with wastes other than dredged spoil. Oil does not include any  
28 substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R.  
29 Part 302 adopted under section (~~(101-14)~~) 102(a) of the federal  
30 comprehensive environmental response, compensation, and liability act  
31 of 1980, as amended by P.L. 99-499.

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

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

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

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

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

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

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

18 (19) "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 (20) "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 **Sec. 8.** RCW 88.46.010 and 2011 c 122 s 1 are each reenacted and  
30 amended to read as follows:

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

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

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

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

6 (i) Processes that are being developed, or could feasibly be  
7 developed, given overall reasonable expenditures on research and  
8 development; and

9 (ii) Processes that are currently in use.

10 (b) In determining what is best achievable technology, the  
11 director shall consider the effectiveness, engineering feasibility,  
12 and commercial availability of the technology.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (27) "Vessels of opportunity response system" means nondedicated  
38 boats and operators, including fishing and other vessels, that are  
39 under contract with and equipped by contingency plan holders to  
40 assist with oil spill response activities, including on-water oil

1 recovery in the near shore environment and the placement of oil spill  
2 containment booms to protect sensitive habitats.

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

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

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

20 **Sec. 9.** RCW 90.56.010 and 2007 c 347 s 6 are each amended to  
21 read as follows:

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

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

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

1 consider the effectiveness, engineering feasibility, and commercial  
2 availability of the technology.

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

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

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

11 (6) "Committee" means the preassessment screening committee  
12 established under RCW 90.48.368.

13 (7) "Covered vessel" means a tank vessel, cargo vessel, or  
14 passenger vessel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 owned or operated the vessel or facility immediately before its  
2 abandonment.

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

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

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

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

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

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

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

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

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

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

32 NEW SECTION. **Sec. 10.** A new section is added to chapter 88.16  
33 RCW to read as follows:

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

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

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

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

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

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

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

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

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

23 (4) The provisions of this section do not apply to any enrolled  
24 vessels.

25 NEW SECTION. **Sec. 11.** A new section is added to chapter 81.04  
26 RCW to read as follows:

27 (1) The commission must require a railroad company that  
28 transports crude oil in Washington to submit information to the  
29 commission relating to the railroad company's ability to pay damages  
30 in the event of a spill or accident involving the transport of crude  
31 oil by the railroad company in Washington. A railroad company must  
32 include the information in the annual report submitted to the  
33 commission pursuant to RCW 81.04.080.

34 (2) The commission may not use the information submitted by a  
35 railroad company under this section as a basis for engaging in  
36 economic regulation of a railroad company.

37 (3) The commission may not use the information submitted by a  
38 railroad company under this section as a basis for penalizing a  
39 railroad company.

1 (4) Nothing in this section may be construed as assigning  
2 liability to a railroad company or establishing liquidated damages  
3 for a spill or accident involving the transport of crude oil by a  
4 railroad company.

5 (5) The commission may adopt rules for implementing this section  
6 consistent with the requirements of RCW 81.04.080.

7 **Sec. 12.** RCW 81.53.240 and 1984 c 7 s 375 are each amended to  
8 read as follows:

9 (1) Except to the extent necessary to permit participation by  
10 first-class cities in the grade crossing protective fund, when an  
11 election to participate is made as provided in RCW 81.53.261 through  
12 81.53.291, or to the extent a first-class city requests to  
13 participate in the commission's crossing safety inspection program  
14 within the city, this chapter ((81.53-RCW)) is not operative within  
15 the limits of first-class cities, and does not apply to street  
16 railway lines operating on or across any street, alley, or other  
17 public place within the limits of any city, except that a streetcar  
18 line outside of cities of the first class shall not cross a railroad  
19 at grade without express authority from the commission. The  
20 commission may not change the location of a state highway without the  
21 approval of the secretary of transportation, or the location of any  
22 crossing thereon adopted or approved by the department of  
23 transportation, or grant a railroad authority to cross a state  
24 highway at grade without the consent of the secretary of  
25 transportation.

26 (2) Within thirty days of the effective date of this section,  
27 first-class cities must provide to the commission a list of all  
28 existing public crossings within the limits of a first-class city,  
29 including over and under-crossings, including the United States  
30 department of transportation number for the crossing. Within thirty  
31 days of modifying, closing, or opening a grade crossing within the  
32 limits of a first-class city, the city must notify the commission in  
33 writing of the action taken, identifying the crossing by the United  
34 States department of transportation number. All requirements in this  
35 subsection are subject to the availability of amounts appropriated  
36 for the specific purposes described.

1       **Sec. 13.** RCW 38.52.040 and 2011 1st sp.s. c 21 s 27, 2011 c 336  
2 s 789, and 2011 c 79 s 9 are each reenacted and amended to read as  
3 follows:

4       (1) There is hereby created the emergency management council  
5 (hereinafter called the council), to consist of not more than  
6 seventeen members who shall be appointed by the adjutant general. The  
7 membership of the council shall include, but not be limited to,  
8 representatives of city and county governments, sheriffs and police  
9 chiefs, the Washington state patrol, the military department, the  
10 department of ecology, state and local fire chiefs, seismic safety  
11 experts, state and local emergency management directors, search and  
12 rescue volunteers, medical professions who have expertise in  
13 emergency medical care, building officials, and private industry. The  
14 representatives of private industry shall include persons  
15 knowledgeable in emergency and hazardous materials management. The  
16 councilmembers shall elect a chair from within the council  
17 membership. The members of the council shall serve without  
18 compensation, but may be reimbursed for their travel expenses  
19 incurred in the performance of their duties in accordance with RCW  
20 43.03.050 and 43.03.060 as now existing or hereafter amended.

21       (2) The emergency management council shall advise the governor  
22 and the director on all matters pertaining to state and local  
23 emergency management. The council may appoint such ad hoc committees,  
24 subcommittees, and working groups as are required to develop specific  
25 recommendations for the improvement of emergency management  
26 practices, standards, policies, or procedures. The council shall  
27 ensure that the governor receives an annual assessment of statewide  
28 emergency preparedness including, but not limited to, specific  
29 progress on hazard mitigation and reduction efforts, implementation  
30 of seismic safety improvements, reduction of flood hazards, and  
31 coordination of hazardous materials planning and response activities.  
32 The council or a subcommittee thereof shall periodically convene in  
33 special session and serve during those sessions as the state  
34 emergency response commission required by P.L. 99-499, the emergency  
35 planning and community right-to-know act. When sitting in session as  
36 the state emergency response commission, the council shall confine  
37 its deliberations to those items specified in federal statutes and  
38 state administrative rules governing the coordination of hazardous  
39 materials policy. Subject to the availability of amounts appropriated  
40 for this specific purpose, the council must require local emergency

1 planning organizations to submit hazardous materials plans and to  
2 update the plans on a five-year cycle for compliance review by the  
3 director. The council shall review administrative rules governing  
4 state and local emergency management practices and recommend  
5 necessary revisions to the director.

6 (3)(a) The intrastate mutual aid committee is created and is a  
7 subcommittee of the emergency management council. The intrastate  
8 mutual aid committee consists of not more than five members who must  
9 be appointed by the council chair from council membership. The chair  
10 of the intrastate mutual aid committee is the military department  
11 representative appointed as a member of the council. Meetings of the  
12 intrastate mutual aid committee must be held at least annually.

13 (b) In support of the intrastate mutual aid system established in  
14 chapter 38.56 RCW, the intrastate mutual aid committee shall develop  
15 and update guidelines and procedures to facilitate implementation of  
16 the intrastate mutual aid system by member jurisdictions, including  
17 but not limited to the following: Projected or anticipated costs;  
18 checklists and forms for requesting and providing assistance;  
19 recordkeeping; reimbursement procedures; and other implementation  
20 issues. These guidelines and procedures are not subject to the rule-  
21 making requirements of chapter 34.05 RCW.

22 **Sec. 14.** RCW 38.52.070 and 1997 c 49 s 4 are each amended to  
23 read as follows:

24 (1) Each political subdivision of this state is hereby authorized  
25 and directed to establish a local organization or to be a member of a  
26 joint local organization for emergency management in accordance with  
27 the state comprehensive emergency management plan and program:  
28 PROVIDED, That a political subdivision proposing such establishment  
29 shall submit its plan and program for emergency management to the  
30 state director and secure his or her recommendations thereon, and  
31 verification of consistency with the state comprehensive emergency  
32 management plan, in order that the plan of the local organization for  
33 emergency management may be coordinated with the plan and program of  
34 the state. Local comprehensive emergency management plans must: (a)  
35 Specify the use of the incident command system for multiagency/  
36 multijurisdiction operations; and (b) include hazardous materials  
37 plans that are updated on a five-year cycle for compliance review by  
38 the director. No political subdivision may be required to include in  
39 its plan provisions for the emergency evacuation or relocation of

1 residents in anticipation of nuclear attack. If the director's  
2 recommendations are adverse to the plan as submitted, and, if the  
3 local organization does not agree to the director's recommendations  
4 for modification to the proposal, the matter shall be referred to the  
5 council for final action. The director may authorize two or more  
6 political subdivisions to join in the establishment and operation of  
7 a joint local organization for emergency management as circumstances  
8 may warrant, in which case each political subdivision shall  
9 contribute to the cost of emergency management upon such fair and  
10 equitable basis as may be determined upon by the executive heads of  
11 the constituent subdivisions. If in any case the executive heads  
12 cannot agree upon the proper division of cost the matter shall be  
13 referred to the council for arbitration and its decision shall be  
14 final. When two or more political subdivisions join in the  
15 establishment and operation of a joint local organization for  
16 emergency management each shall pay its share of the cost into a  
17 special pooled fund to be administered by the treasurer of the most  
18 populous subdivision, which fund shall be known as the . . . . .  
19 emergency management fund. Each local organization or joint local  
20 organization for emergency management shall have a director who shall  
21 be appointed by the executive head of the political subdivision, and  
22 who shall have direct responsibility for the organization,  
23 administration, and operation of such local organization for  
24 emergency management, subject to the direction and control of such  
25 executive officer or officers. In the case of a joint local  
26 organization for emergency management, the director shall be  
27 appointed by the joint action of the executive heads of the  
28 constituent political subdivisions. Each local organization or joint  
29 local organization for emergency management shall perform emergency  
30 management functions within the territorial limits of the political  
31 subdivision within which it is organized, and, in addition, shall  
32 conduct such functions outside of such territorial limits as may be  
33 required pursuant to the provisions of this chapter.

34 (2) In carrying out the provisions of this chapter each political  
35 subdivision, in which any disaster as described in RCW 38.52.020  
36 occurs, shall have the power to enter into contracts and incur  
37 obligations necessary to combat such disaster, protecting the health  
38 and safety of persons and property, and providing emergency  
39 assistance to the victims of such disaster. Each political  
40 subdivision is authorized to exercise the powers vested under this

1 section in the light of the exigencies of an extreme emergency  
2 situation without regard to time-consuming procedures and formalities  
3 prescribed by law (excepting mandatory constitutional requirements),  
4 including, but not limited to, budget law limitations, requirements  
5 of competitive bidding and publication of notices, provisions  
6 pertaining to the performance of public work, entering into  
7 contracts, the incurring of obligations, the employment of temporary  
8 workers, the rental of equipment, the purchase of supplies and  
9 materials, the levying of taxes, and the appropriation and  
10 expenditures of public funds.

11 **Sec. 15.** RCW 81.53.010 and 2013 c 23 s 302 are each amended to  
12 read as follows:

13 The definitions in this section apply throughout this chapter  
14 unless the context clearly requires otherwise.

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

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

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

35 ~~((The term))~~ (4) "Railroad company~~((  ))"~~ ~~((when used in this~~  
36 ~~chapter,))~~ includes every corporation, company, association, joint  
37 stock association, partnership, or person, its, their, or his or her  
38 lessees, trustees, or receivers appointed by any court whatsoever,

1 owning, operating, controlling, or managing any railroad(~~(, as that~~  
2 ~~term is defined in this section)~~).

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

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

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

16 ~~The term))~~ (7) "Grade crossing((~~τ~~))" ~~((when used in this~~  
17 ~~chapter~~τ~~)~~) means any point or place where a railroad crosses a  
18 highway or a highway crosses a railroad or one railroad crosses  
19 another, at a common grade.

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

23 NEW SECTION. **Sec. 16.** A new section is added to chapter 81.53  
24 RCW to read as follows:

25 (1) To address the potential public safety hazards presented by  
26 private crossings in the state and by the transportation of hazardous  
27 materials in the state, including crude oil, the commission is  
28 authorized to adopt rules establishing criteria for inspection of  
29 private crossings and governing safety standards for private  
30 crossings along the railroad tracks over which crude oil is  
31 transported in the state, including, but not limited to, requirements  
32 for signage.

33 (2) Nothing in this section modifies existing agreements between  
34 the railroad company and the landowner governing cost allocation for  
35 upgrades to private crossing or liability for injuries or damages  
36 occurring at the private crossing.

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

1        NEW SECTION.    **Sec. 17.**    (1)(a) The department of ecology must  
2 convene a panel consisting of representatives from: The oil and rail  
3 industries, businesses that are recipients of liquid bulk crude oil,  
4 Columbia river harbor safety committees, maritime fire safety  
5 associations, the United States coast guard, Columbia river public  
6 ports in Oregon and Washington, and Columbia river pilots.

7        (b) The panel convened under (a) of this subsection must evaluate  
8 and assess vessel traffic management and vessel traffic safety within  
9 the Columbia river.

10        (2) The panel shall convene no more than four times to assess and  
11 evaluate: (a) The need for tug escorts for oil tankers of greater  
12 than forty thousand deadweight tons, all articulated tug barges, and  
13 other towed waterborne vessels or barges; (b) best achievable  
14 protection; and (c) required tug capabilities to ensure safe escort  
15 of vessels on the Columbia river.

16        (3) By December 15, 2016, the department of ecology must provide  
17 to the appropriate committees of the legislature recommendations for  
18 vessel traffic management and vessel traffic safety on the Columbia  
19 river.

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

23        NEW SECTION.    **Sec. 18.**    A new section is added to chapter 81.44  
24 RCW to read as follows:

25        Commission employees certified by the federal railroad  
26 administration to perform hazardous materials inspections may enter  
27 the property of any business that receives, ships, or offers for  
28 shipment hazardous materials by rail. Entry shall be at a reasonable  
29 time and in a reasonable manner. The purpose of entry is limited to  
30 performing inspections, investigations, or surveillance of equipment,  
31 records, and operations relating to the packaging, loading,  
32 unloading, or transportation of hazardous materials by rail, pursuant  
33 only to the state participation program outlined in 49 C.F.R. Part  
34 212. The term "business" is all inclusive and is not limited to  
35 common carriers or public service companies.

36        **Sec. 19.**    RCW 81.24.010 and 2007 c 234 s 21 are each amended to  
37 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~~) up to (~~one~~) two and one-half percent of  
12 its intrastate gross operating revenue for the purpose of  
13 administering the rail safety program. The commission may, by rule,  
14 set minimum fees that do not exceed the cost of collecting the fees.  
15 The commission may by rule waive any or all of the minimum fee  
16 established pursuant to this section. Any railroad association that  
17 qualifies as a nonprofit charitable organization under the federal  
18 internal revenue code section 501(c)(3) is exempt from the fee  
19 required under this subsection.

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

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

35 **Sec. 20.** RCW 42.56.270 and 2014 c 192 s 6, 2014 c 174 s 5, and  
36 2014 c 144 s 6 are each reenacted and amended to read as follows:

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

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

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

10 (3) Financial and commercial information and records supplied by  
11 private persons pertaining to export services provided under chapters  
12 43.163 and 53.31 RCW, and by persons pertaining to export projects  
13 under RCW 43.23.035;

14 (4) Financial and commercial information and records supplied by  
15 businesses or individuals during application for loans or program  
16 services provided by chapters 43.325, 43.163, 43.160, 43.330, and  
17 43.168 RCW, or during application for economic development loans or  
18 program services provided by any local agency;

19 (5) Financial information, business plans, examination reports,  
20 and any information produced or obtained in evaluating or examining a  
21 business and industrial development corporation organized or seeking  
22 certification under chapter 31.24 RCW;

23 (6) Financial and commercial information supplied to the state  
24 investment board by any person when the information relates to the  
25 investment of public trust or retirement funds and when disclosure  
26 would result in loss to such funds or in private loss to the  
27 providers of this information;

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

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

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

36 (10)(a) Financial information, including but not limited to  
37 account numbers and values, and other identification numbers supplied  
38 by or on behalf of a person, firm, corporation, limited liability  
39 company, partnership, or other entity related to an application for a  
40 horse racing license submitted pursuant to RCW 67.16.260(1)(b),

1 marijuana producer, processor, or retailer license, liquor license,  
2 gambling license, or lottery retail license;

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

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

15 (12)(a) When supplied to and in the records of the department of  
16 commerce:

17 (i) Financial and proprietary information collected from any  
18 person and provided to the department of commerce pursuant to RCW  
19 43.330.050(8); and

20 (ii) Financial or proprietary information collected from any  
21 person and provided to the department of commerce or the office of  
22 the governor in connection with the siting, recruitment, expansion,  
23 retention, or relocation of that person's business and until a siting  
24 decision is made, identifying information of any person supplying  
25 information under this subsection and the locations being considered  
26 for siting, relocation, or expansion of a business;

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

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

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

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

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

7 (15) Financial and commercial information provided as evidence to  
8 the department of licensing as required by RCW 19.112.110 or  
9 19.112.120, except information disclosed in aggregate form that does  
10 not permit the identification of information related to individual  
11 fuel licensees;

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

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

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

22 (18) Financial, commercial, operations, and technical and  
23 research information and data submitted to or obtained by a health  
24 sciences and services authority in applications for, or delivery of,  
25 grants under RCW 35.104.010 through 35.104.060, to the extent that  
26 such information, if revealed, would reasonably be expected to result  
27 in private loss to providers of this information;

28 (19) Information gathered under chapter 19.85 RCW or RCW  
29 34.05.328 that can be identified to a particular business;

30 (20) Financial and commercial information submitted to or  
31 obtained by the University of Washington, other than information the  
32 university is required to disclose under RCW 28B.20.150, when the  
33 information relates to investments in private funds, to the extent  
34 that such information, if revealed, would reasonably be expected to  
35 result in loss to the University of Washington consolidated endowment  
36 fund or to result in private loss to the providers of this  
37 information; ((and))

38 (21) Market share data submitted by a manufacturer under RCW  
39 70.95N.190(4); ((and))

1 (22) Financial information supplied to the department of  
2 financial institutions or to a portal under RCW 21.20.883, when filed  
3 by or on behalf of an issuer of securities for the purpose of  
4 obtaining the exemption from state securities registration for small  
5 securities offerings provided under RCW 21.20.880 or when filed by or  
6 on behalf of an investor for the purpose of purchasing such  
7 securities; and

8 (23) Unaggregated or individualized information shared as part of  
9 notices of transfer of crude oil that is financial, proprietary, or  
10 commercial information, submitted to the department of ecology  
11 pursuant to section 6 of this act, and in the possession of the  
12 department of ecology or any entity with which the department of  
13 ecology has shared it.

14 NEW SECTION. **Sec. 21.** The senate energy, environment, and  
15 telecommunications committee and the house of representatives  
16 environment committee must hold at least one joint meeting on oil  
17 spill prevention and response activities for international transport  
18 of liquid bulk crude oil. The committees may invite representatives  
19 of affected parties from the United States and Canada to address  
20 cooperative prevention and emergency response activities between  
21 shared international and state borders; expected risks posed by  
22 transport of Canadian crude oil or liquid bulk crude oil throughout  
23 the Pacific Northwest region; and an update of the marine transport  
24 of liquid bulk crude oil through the Pacific Northwest region.

25 NEW SECTION. **Sec. 22.** If any provision of this act or its  
26 application to any person or circumstance is held invalid, the  
27 remainder of the act or the application of the provision to other  
28 persons or circumstances is not affected."

EFFECT: Makes the following changes to the striking amendment  
adopted by the house of representatives appropriations Committee:

(1) Eliminates certificate of financial responsibility requirements for railroads and eliminates changes to existing financial responsibility requirements to railroads and vessels.

(2) Requires railroad companies to provide information relating to the ability to pay for damages in the event of an accident or oil spill in the annual reports submitted by railroads to the utilities and transportation commission (UTC).

(3) Eliminates provisions requiring a minimum crew size on trains operated by common carriers and trains hauling hazardous materials.

(4) Eliminates requirements that facilities disclose information about the type of oil received from railroads.

(5) Directs the department of ecology to publish information about the routes of railroad cars delivering crude oil to facilities in the state, but prohibits disclosure of information about the volume or gravity of oil transported to particular facilities along the routes.

(6) Eliminates requirements that pipelines disclose information to the department of ecology regarding the volumes, types, and diluting agents in oil they transport.

(7) Eliminates requirements that facilities submit twice-yearly corrections to the department of ecology regarding substantial differences between the information reported in weekly advance notices and the actual receipts of crude oil by the facility.

(8) Removes direction to the board of pilotage commissioners to adopt tug escort or other marine safety rules for the narrow channels of the San Juan Islands.

(9) Eliminates authority for the UTC to adopt rules on railroad responsibilities to ensure private rail crossings.

(10) Removes the uses of the oil spill administration account for oil and hazardous materials emergency response planning by local emergency response committees.

(11) Requires local emergency planning organizations to update their hazardous material plans on a five-year cycle.

(12) Eliminates changes to the uses of the oil spill response account for spills or threatened spills of at least \$1,000 rather than at least \$50,000, and for emergency response vessel use other than the rescue tug stationed at Neah Bay.

(13) Revises the application of the oil spill administration tax to include railroads and vessels but exclude pipelines and retains the original tax at 4 cents per barrel.

(14) Restores the original definition of crude oil subject to the oil spill administration tax and the oil spill response tax.

(15) Removes the emergency clause that applied to all sections of the bill except the oil spill administration and response tax provisions, allowing the bill to instead take effect 90 days after the end of session.

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