

1 including the 2015 oil transportation safety act. Moreover, the
2 program has endured a decline in capacity and resources to fully
3 utilize its existing authority for critical needs, like vessel
4 inspections and developing spill response plans. Without an adequate
5 investment in revenue, there will be a continued decline in required
6 prevention and preparedness services, causing an increased risk of
7 oil spills in the state of Washington and our shared waters with the
8 Canadian transboundary region.

9 (c) While oil transported into the state by rail and tank vessels
10 is taxed to fund the oil spill program's oil spill prevention and
11 preparedness activities, a third method of transport, pipelines,
12 currently is not taxed, despite it generating a sizeable oil spill
13 risk.

14 (d) Some oils are inherently heavy and are likely to stay
15 submerged in the water column or sink to the bottom of a water body.
16 In addition, many oils, depending on their qualities, weathering,
17 environmental factors, and method of discharge, may also submerge or
18 sink in water. Oils that submerge or sink in water pose a substantial
19 risk to the environment, human health, tribal and other cultural and
20 historical resources, and the economy and are a significant challenge
21 to cleanup. Oils are currently being transported by vessels, trains,
22 and pipelines in large volumes in our state, with increased volumes
23 of heavy oils being transported by vessel through our shared waters
24 from Canada. As knowledge about how oils submerge or sink in water
25 grows and technological advances to respond are developed, preventing
26 and preparing for these spills must be updated.

27 (2) Therefore, the legislature intends to provide adequate
28 revenue to fully fund prevention and preparedness services required
29 by state law, as well as direct the department of ecology to
30 specifically address the risks of oils submerging and sinking and
31 more extensively coordinate with our Canadian partners in order to
32 protect our state's economy and its shared resources.

33 **Sec. 102.** RCW 82.23B.010 and 2015 c 274 s 13 are each reenacted
34 and amended to read as follows:

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

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

1 (2) "Bulk oil terminal" means a facility of any kind, other than
2 a waterborne vessel, that is used for transferring crude oil or
3 petroleum products from a tank car or pipeline.

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

9 (4) "Department" means the department of revenue.

10 (5) "Marine terminal" means a facility of any kind, other than a
11 waterborne vessel, that is used for transferring crude oil or
12 petroleum products to or from a waterborne vessel or barge.

13 (6) "Navigable waters" means those waters of the state and their
14 adjoining shorelines that are subject to the ebb and flow of the
15 tide, including the Columbia and Snake rivers.

16 (7) "Person" has the meaning provided in RCW 82.04.030.

17 (8) "Petroleum product" means any liquid hydrocarbons at
18 atmospheric temperature and pressure that are the product of the
19 fractionation, distillation, or other refining or processing of crude
20 oil, and that are used as, useable as, or may be refined as a fuel or
21 fuel blendstock, including but not limited to, gasoline, diesel fuel,
22 aviation fuel, bunker fuel, and fuels containing a blend of alcohol
23 and petroleum.

24 (9) "Pipeline" means an interstate or intrastate pipeline subject
25 to regulation by the United States department of transportation under
26 49 C.F.R. Part 195 in effect on the effective date of this section,
27 through which oil moves in transportation, including line pipes,
28 valves, and other appurtenances connected to line pipes, pumping
29 units, and fabricated assemblies associated with pumping units.

30 (10) "Tank car" means a rail car, the body of which consists of a
31 tank for transporting liquids.

32 ~~((+10+))~~ (11) "Taxpayer" means the person owning crude oil or
33 petroleum products immediately after receipt of the same into the
34 storage tanks of a marine or bulk oil terminal in this state and who
35 is liable for the taxes imposed by this chapter.

36 ~~((+11+))~~ (12) "Waterborne vessel or barge" means any ship, barge,
37 or other watercraft capable of traveling on the navigable waters of
38 this state and capable of transporting any crude oil or petroleum
39 product in quantities of ten thousand gallons or more for purposes
40 other than providing fuel for its motor or engine.

1 **Sec. 103.** RCW 82.23B.020 and 2015 c 274 s 14 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; or (b) crude oil or petroleum
7 products at a bulk oil terminal within this state from a tank car or
8 pipeline. The tax imposed in this section is levied upon the owner of
9 the crude oil or petroleum products immediately after receipt of the
10 same into the storage tanks of a marine or bulk oil terminal from a
11 tank car (~~(or)~~), pipeline, waterborne vessel, or barge at the rate of
12 one cent per barrel of crude oil or petroleum product received.

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

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

37 (4) Taxes collected under this chapter must be held in trust
38 until paid to the department. Any person collecting the taxes who
39 appropriates or converts the taxes collected is guilty of a gross
40 misdemeanor if the money required to be collected is not available

1 for payment on the date payment is due. The taxes required by this
2 chapter to be collected must be stated separately from other charges
3 made by the marine or bulk oil terminal operator in any invoice or
4 other statement of account provided to the taxpayer.

5 (5) If a taxpayer fails to pay the taxes imposed by this chapter
6 to the person charged with collection of the taxes and the person
7 charged with collection fails to pay the taxes to the department, the
8 department may, in its discretion, proceed directly against the
9 taxpayer for collection of the taxes.

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

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

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

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

37 (10) Within forty-five days after the end of each calendar
38 quarter, the office of financial management must determine the
39 balance of the oil spill response account as of the last day of that
40 calendar quarter. Balance determinations by the office of financial

1 management under this section are final and may not be used to
2 challenge the validity of any tax imposed under this chapter. The
3 office of financial management must promptly notify the departments
4 of revenue and ecology of the account balance once a determination is
5 made. For each subsequent calendar quarter, the tax imposed by
6 subsection (1) of this section shall be imposed during the entire
7 calendar quarter unless:

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

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

14 PART 2

15 VESSELS

16 **Sec. 201.** RCW 88.46.060 and 2011 c 122 s 6 are each amended to
17 read as follows:

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

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

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

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

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

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

7 (f) Incorporate periodic training and drill programs consistent
8 with this chapter to evaluate whether personnel and equipment
9 provided under the plan are in a state of operational readiness at
10 all times;

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

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

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

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

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

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

37 (m) Until a spill prevention plan has been submitted pursuant to
38 RCW 88.46.040, state the measures that have been taken to reduce the
39 likelihood that a spill will occur, including but not limited to,

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

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

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

10 (p) Compliance with RCW 88.46.230 if the contingency plan is
11 submitted by an umbrella plan holder; and

12 (q) Include any additional elements of contingency plans as
13 required by this chapter.

14 (2) The owner or operator of a covered vessel must submit any
15 required contingency plan updates to the department within the
16 timelines established by the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (b) The department must notify the plan holder in writing within
36 sixty-five days of an initial or amended plan's submittal to the
37 department as to whether the plan is disapproved, approved, or
38 conditionally approved. If a plan is conditionally approved, the
39 department must clearly describe each condition and specify a
40 schedule for plan holders to submit required updates.

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

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

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

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

19 NEW SECTION. **Sec. 202.** A new section is added to chapter 88.46
20 RCW to read as follows:

21 By December 31, 2019, consistent with the authority under RCW
22 88.46.060, the department must update rules for contingency plans to
23 require:

24 (1) Covered vessels to address situations where oils, depending
25 on their qualities, weathering, environmental factors, and method of
26 discharge, may submerge or sink in water; and

27 (2) Standards for best achievable protection for situations
28 involving the oils in subsection (1) of this section.

29 **Sec. 203.** RCW 88.46.220 and 2011 c 122 s 5 are each amended to
30 read as follows:

31 (1) The department is responsible for requiring joint large-
32 scale, multiple plan equipment deployment drills of (~~tank~~) covered
33 vessels to determine the adequacy of the owner's or operator's
34 compliance with the contingency plan requirements of this chapter.
35 The department must order at least one drill as outlined in this
36 section every three years, which must address situations where oils,
37 depending on their qualities, weathering, environmental factors, and
38 method of discharge, may submerge or sink in water.

1 (2) Drills required under this section must focus on, at a
2 minimum, the following:

3 (a) The functional ability for multiple contingency plans to be
4 simultaneously activated with the purpose of testing the ability for
5 dedicated equipment and trained personnel cited in multiple
6 contingency plans to be activated in a large scale spill; and

7 (b) The operational readiness during both the first six hours of
8 a spill and, at the department's discretion, over multiple
9 operational periods of response.

10 (3) Drills required under this section may be incorporated into
11 other drill requirements under this chapter to avoid increasing the
12 number of drills and equipment deployments otherwise required.

13 (4) Each successful drill conducted under this section may be
14 considered by the department as a drill of the underlying contingency
15 plan and credit may be awarded to the plan holder accordingly.

16 (5) The department shall, when practicable, coordinate with
17 applicable federal agencies, the state of Oregon, and the province of
18 British Columbia to establish a drill incident command and to help
19 ensure that lessons learned from the drills are evaluated with the
20 goal of improving the underlying contingency plans.

21 NEW SECTION. **Sec. 204.** A new section is added to chapter 88.46
22 RCW to read as follows:

23 (1) The department must establish the Salish Sea shared waters
24 forum to address common issues in the cross-boundary waterways
25 between Washington state and British Columbia such as: Enhancing
26 efforts to reduce oil spill risk; addressing navigational safety; and
27 promoting data sharing.

28 (2) The department must:

29 (a) Coordinate with provincial and federal Canadian agencies when
30 establishing the Salish Sea shared waters forum; and

31 (b) Seek participation from stakeholders that, at minimum,
32 includes representatives of the following: State, provincial, and
33 federal governmental entities, regulated entities, environmental
34 organizations, tribes, and first nations.

35 (3) The Salish Sea shared waters forum must meet at least once
36 per year to consider the following:

37 (a) Gaps and conflicts in oil spill policies, regulations, and
38 laws;

1 (b) Opportunities to reduce oil spill risk, including requiring
2 tug escorts for oil tankers, articulated tug barges, and other
3 waterborne vessels or barges;

4 (c) Enhancing oil spill prevention, preparedness, and response
5 capacity; and

6 (d) Whether an emergency response system in Haro Strait, Boundary
7 Pass, and Rosario Strait, similar to the system implemented by the
8 maritime industry pursuant to RCW 88.46.130, will decrease oil spill
9 risk and how to fund such a shared system.

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

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

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

20 **Sec. 205.** RCW 88.46.167 and 2006 c 316 s 2 are each amended to
21 read as follows:

22 In addition to other inspection authority provided for in this
23 chapter and chapter 90.56 RCW, the department may conduct inspections
24 of oil transfer operations regulated under RCW 88.46.160 or
25 88.46.165. The department must conduct specialized reviews and
26 prioritize adding capacity for the inspection of oil transfer
27 operations where oils, depending on their qualities, weathering,
28 environmental factors, and method of discharge, may submerge or sink
29 in water.

30 NEW SECTION. **Sec. 206.** (1)(a) The department of ecology, in
31 consultation with the Puget Sound partnership and the pilotage
32 commission, must complete a report of vessel traffic and vessel
33 traffic safety within the Strait of Juan de Fuca, Puget Sound area
34 that includes the San Juan archipelago, its connected waterways, Haro
35 Strait, Boundary Pass, and the waters south of Admiralty Inlet. A
36 draft report, including recommendations, must be completed and
37 submitted, consistent with RCW 43.01.036, to the legislature by

1 November 1, 2018. The final report must be completed and submitted to
2 the legislature by June 30, 2019.

3 (b) In conducting the evaluation to produce the report, the
4 department of ecology must rely on existing current vessel traffic
5 risk assessments and other available studies, consult with the United
6 States coast guard, area tribes, appropriate maritime experts,
7 including provincial experts, the Salish Sea shared waters forum
8 established in section 204 of this act, and other appropriate
9 entities.

10 (2) The report completed under subsection (1) of this section
11 must include an assessment and evaluation of:

12 (a) Worldwide incident and spill data for articulated tug barges
13 and other towed waterborne vessels or barges;

14 (b) Transport of bitumen and diluted bitumen;

15 (c) Emerging trends in vessel traffic;

16 (d) Tug escorts for oil tankers, articulated tug barges, and
17 other towed waterborne vessels or barges, including a review of
18 requirements in California;

19 (e) Requirements for tug capabilities to ensure safe escort of
20 vessels, including manning and pilotage needs;

21 (f) An emergency response system in Haro Strait, Boundary Pass,
22 and Rosario Strait, similar to the system implemented by the maritime
23 industry pursuant to RCW 88.46.130;

24 (g) The differences between locations and navigational
25 requirements for vessels transporting petroleum;

26 (h) The economic impact of proposals for tug escorts and
27 limitations on vessel size; and

28 (i) Situations, where oils, depending on their qualities,
29 weathering, environmental factors, and method of discharge, may
30 submerge or sink in water.

31 (3) The report required under subsection (1) of this section must
32 include recommendations for:

33 (a) Vessel traffic management and vessel traffic safety; and

34 (b) The viability of the following in reducing oil spill risk:

35 (i) Tug escorts for oil tankers, articulated tug barges, and
36 other towed waterborne vessels or barges. If tug escorts are
37 determined in this assessment to reduce oil spill risk, the
38 department of ecology must recommend specific requirements and
39 capabilities for tug escorts; and

1 (ii) An emergency response system in Haro Strait, Boundary Pass,
2 and Rosario Strait, similar to the system implemented by the maritime
3 industry pursuant to RCW 88.46.130. If the department of ecology
4 determines such a system will decrease oil spill risk, it must also
5 recommend an action plan to implement it.

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

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

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

16 (5) This section expires June 30, 2019.

17 **PART 3**

18 **FACILITIES, GEOGRAPHIC RESPONSE PLANS, AND SPILL MANAGEMENT TEAMS**

19 **Sec. 301.** RCW 90.56.210 and 2017 c 239 s 1 are each amended to
20 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (ii) Offshore facilities.

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

17 (3)(a) The department by rule shall determine the contingency
18 plan requirements for railroads transporting oil in bulk.

19 (b) For class III railroads transporting oil in bulk that is not
20 crude oil in an amount of forty-nine or more tank car loads per year,
21 the rules adopted under this subsection may not require contingency
22 plans to include:

23 (i) Contracted access to oil spill response equipment; or

24 (ii) The completion of more than a total of one basic table-top
25 drill every three years to test the contingency plans.

26 (c) For class III railroads transporting oil in bulk that is not
27 crude oil in an amount less than forty-nine tank car loads per year,
28 rules adopted under this subsection may only require railroads to
29 submit a basic contingency plan to the department. A basic
30 contingency plan filed under this subsection (3)(c) must be limited
31 to requiring the class III railroads to:

32 (i) Keep documentation of the basic contingency plan on file with
33 the department at the plan holder's principal place of business and
34 at dispatcher field offices of the railroad;

35 (ii) Identify and include contact information for the chain of
36 command and other personnel, including employees or spill response
37 contractors, who will be involved in the railroad's response in the
38 event of a spill;

1 (iii) Include information related to the relevant accident
2 insurance carried by the railroad and provide a certificate of
3 insurance upon request;

4 (iv) Develop a field document for use by personnel involved in
5 oil handling operations that includes time-critical information
6 regarding basic contingency plan procedures to be used in the initial
7 response to a spill or a threatened spill; and

8 (v) Annually review the plan for accuracy.

9 (d) Federal oil spill response plans created pursuant to 33
10 U.S.C. Sec. 1321 may be submitted in lieu of contingency plans by a
11 class III railroad transporting oil in bulk that is not crude oil.

12 (e) For the purposes of this section, "class III railroad" has
13 the same meaning as defined by the United States surface
14 transportation board as of January 1, 2017.

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

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

23 (5) A contingency plan prepared for an agency of the federal
24 government or another state that satisfies the requirements of this
25 section and rules adopted by the department may be accepted by the
26 department as a contingency plan under this section. The department
27 shall ensure that to the greatest extent possible, requirements for
28 contingency plans under this section are consistent with the
29 requirements for contingency plans under federal law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 NEW SECTION. **Sec. 302.** A new section is added to chapter 90.56
37 RCW to read as follows:

1 By December 31, 2019, consistent with the authority under RCW
2 90.56.210, the department must update rules for contingency plans to
3 require:

4 (1) Covered facilities to address situations where oils,
5 depending on their qualities, weathering, environmental factors, and
6 method of discharge, may submerge or sink in water; and

7 (2) Standards for best achievable protection for situations
8 involving the oils in subsection (1) of this section.

9 **Sec. 303.** RCW 90.56.240 and 1990 c 116 s 4 are each amended to
10 read as follows:

11 (1) The department shall by rule establish standards for persons
12 who contract to provide spill management, cleanup, and containment
13 services under contingency plans approved under RCW 90.56.210.

14 (2) For the purposes of this section, "spill management" means
15 managing:

16 (a) Some or all aspects of a response, containment, and cleanup
17 of a spill, and utilizing an incident command or unified command
18 structure; or

19 (b) Wildlife rehabilitation and recovery services for a spill
20 response.

21 **Sec. 304.** RCW 90.56.569 and 2015 c 274 s 25 are each amended to
22 read as follows:

23 (1) The department must provide to the relevant policy and fiscal
24 committees of the senate and house of representatives((+)

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

28 ~~(b))~~ updates ((every two years, beginning)) by December 31,
29 ((2017)) 2019, and ((ending)) December 31, 2021, consistent with the
30 requirements of RCW 43.01.036, as to the progress made in completing
31 state and federal geographic response plans as needed in contingency
32 plans required under RCW 90.56.060, 90.56.210, and 88.46.060.

33 ~~(2) ((The department must contract, if practicable, with eligible~~
34 ~~independent third parties to ensure completion by December 1, 2017,~~
35 ~~of at least fifty percent of the geographic response plans as needed~~
36 ~~in contingency plans required under RCW 90.56.210 and 88.46.060 for~~
37 ~~the state.))~~ In its updates of geographic response plans, the
38 department must address situations where oils, depending on their

1 qualities, weathering, environmental factors, and method of
2 discharge, may submerge or sink in water.

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

6 NEW SECTION. Sec. 305. A new section is added to chapter 90.56
7 RCW to read as follows:

8 (1) The department is responsible for requiring joint large-
9 scale, multiple plan equipment deployment drills of onshore and
10 offshore facilities and covered vessels under chapter 88.46 RCW to
11 determine the adequacy of the owner's or operator's compliance with
12 the contingency plan requirements of this chapter and chapter 88.46
13 RCW. The department must order at least one drill as outlined in this
14 section every three years, which must address situations where oils,
15 depending on their qualities, weathering, environmental factors, and
16 method of discharge, may submerge or sink in water.

17 (2) Drills required under this section must focus on, at a
18 minimum, the following:

19 (a) The functional ability for multiple contingency plans to be
20 simultaneously activated with the purpose of testing the ability for
21 dedicated equipment and trained personnel cited in multiple
22 contingency plans to be activated in a large-scale spill; and

23 (b) The operational readiness during both the first six hours of
24 a spill and, at the department's discretion, over multiple
25 operational periods of response.

26 (3) Drills required under this section may be incorporated into
27 other drill requirements under this chapter to avoid increasing the
28 number of drills and equipment deployments otherwise required.

29 (4) Each successful drill conducted under this section may be
30 considered by the department as a drill of the underlying contingency
31 plan and credit may be awarded to the plan holder accordingly.

32 (5) The department must prioritize drills for situations where
33 oils, depending on their qualities, weathering, environmental
34 factors, and method of discharge, may submerge or sink in water.

35 **PART 4**
36 **SEVERABILITY AND EMERGENCY CLAUSE**

1 NEW SECTION. **Sec. 401.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 402.** Sections 102, 103, and 206 of this act
6 are necessary for the immediate preservation of the public peace,
7 health, or safety, or support of the state government and its
8 existing public institutions, and take effect April 1, 2018.

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