

ESHB 1449 - S AMD 460

By Senator Ericksen

ADOPTED AS AMENDED 4/24/2015

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

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

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

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

31 (3) The legislature also finds that:

32 (a) Recent accidents in Washington, Alaska, southern California,
33 Texas, Pennsylvania, and other parts of the nation have shown that

1 the transportation, transfer, and storage of oil have caused
2 significant damage to the marine environment;

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

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

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

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

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

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

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

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

37 (d) To provide for state spill response and wildlife rescue
38 planning and implementation;

39 (e) To support and complement the federal oil pollution act of
40 1990 and other federal law, especially those provisions relating to

1 the national contingency plan for cleanup of oil spills and
2 discharges, including provisions relating to the responsibilities of
3 state agencies designated as natural resource trustees. The
4 legislature intends this chapter to be interpreted and implemented in
5 a manner consistent with federal law;

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

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

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

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

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

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

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

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

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

33 (i) Processes that are being developed, or could feasibly be
34 developed, given overall reasonable expenditures on research and
35 development; and

36 (ii) Processes that are currently in use.

37 (b) In determining what is best achievable technology, the
38 director shall consider the effectiveness, engineering feasibility,
39 and commercial availability of the technology.

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

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

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

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

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

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

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

20 (b) For the purposes of oil spill contingency planning in RCW
21 90.56.210, facility also means a railroad that is not owned by the
22 state that transports oil as bulk cargo.

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

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

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

1 (12) "Offshore facility" means any facility located in, on, or
2 under any of the navigable waters of the state, but does not include
3 a facility any part of which is located in, on, or under any land of
4 the state, other than submerged land. "Offshore facility" does not
5 include a marine facility.

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

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

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

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

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

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

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

1 (19) "Regional vessels of opportunity response group" means a
2 group of nondedicated vessels participating in a vessels of
3 opportunity response system to respond when needed and available to
4 spills in a defined geographic area.

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

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

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

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

16 (24) "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 (25) "Umbrella plan holder" means a nonprofit corporation
23 established consistent with this chapter for the purposes of
24 providing oil spill response and contingency plan coverage.

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

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

35 (28) "Volunteer coordination system" means an oil spill response
36 system that, before a spill occurs, prepares for the coordination of
37 volunteers to assist with appropriate oil spill response activities,
38 which may include shoreline protection and cleanup, wildlife
39 recovery, field observation, light construction, facility

1 maintenance, donations management, clerical support, and other
2 aspects of a spill response.

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

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

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

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

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

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

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

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

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

4 (6) "Committee" means the preassessment screening committee
5 established under RCW 90.48.368.

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

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

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

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

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

18 (b) For the purposes of oil spill contingency planning in RCW
19 90.56.210, facility also means a railroad that is not owned by the
20 state that transports oil as bulk cargo.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (1) The owner or operator for each onshore and offshore facility,
38 except as determined in subsection (3) of this section, shall prepare
39 and submit to the department an oil spill prevention plan in

1 conformance with the requirements of this chapter. The plans shall be
2 submitted to the department in the time and manner directed by the
3 department. The spill prevention plan may be consolidated with a
4 spill contingency plan submitted pursuant to RCW 90.56.210. The
5 department may accept plans prepared to comply with other state or
6 federal law as spill prevention plans to the extent those plans
7 comply with the requirements of this chapter. The department, by
8 rule, shall establish standards for spill prevention plans.

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

11 (a) Establish compliance with the federal oil pollution act of
12 1990, if applicable, and financial responsibility requirements under
13 federal and state law;

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

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

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

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

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

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

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

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

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

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

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

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

12 ((+4)) (5) Upon approval of a prevention plan, the department
13 shall provide to the person submitting the plan a statement
14 indicating that the plan has been approved, the facilities covered by
15 the plan, and other information the department determines should be
16 included.

17 ((+5)) (6) The approval of a prevention plan shall be valid for
18 five years. An owner or operator of a facility shall notify the
19 department in writing immediately of any significant change of which
20 it is aware affecting its prevention plan, including changes in any
21 factor set forth in this section or in rules adopted by the
22 department. The department may require the owner or operator to
23 update a prevention plan as a result of these changes.

24 ((+6)) (7) The department by rule shall require prevention plans
25 to be reviewed, updated, if necessary, and resubmitted to the
26 department at least once every five years.

27 ((+7)) (8) Approval of a prevention plan by the department does
28 not constitute an express assurance regarding the adequacy of the
29 plan nor constitute a defense to liability imposed under this chapter
30 or other state law.

31 ((+8)) (9) This section does not authorize the department to
32 modify the terms of a collective bargaining agreement.

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

35 (1) Each onshore and offshore facility shall have a contingency
36 plan for the containment and cleanup of oil spills from the facility
37 into the waters of the state and for the protection of fisheries and
38 wildlife, shellfish beds, natural resources, and public and private
39 property from such spills. The department shall by rule adopt and

1 periodically revise standards for the preparation of contingency
2 plans. The department shall require contingency plans, at a minimum,
3 to meet the following standards:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (ii) Offshore facilities.

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

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

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

35 (b) A person who has contracted with a facility 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 facility for which the person is contractually obligated to provide
39 services. Subject to conditions imposed by the department, the person
40 may submit a single plan for more than one facility.

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

8 (~~(5)~~) (6) In reviewing the contingency plans required by this
9 section, the department shall consider at least the following
10 factors:

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

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

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

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

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

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

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

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

31 (~~(6)~~) (7) The department shall approve a contingency plan only
32 if it determines that the plan meets the requirements of this section
33 and that, if implemented, the plan is capable, in terms of personnel,
34 materials, and equipment, of removing oil promptly and properly and
35 minimizing any damage to the environment.

36 (~~(7)~~) (8) The approval of the contingency plan shall be valid
37 for five years. Upon approval of a contingency plan, the department
38 shall provide to the person submitting the plan a statement
39 indicating that the plan has been approved, the facilities or vessels

1 covered by the plan, and other information the department determines
2 should be included.

3 ~~((+8+))~~ (9) An owner or operator of a facility shall notify the
4 department in writing immediately of any significant change of which
5 it is aware affecting its contingency plan, including changes in any
6 factor set forth in this section or in rules adopted by the
7 department. The department may require the owner or operator to
8 update a contingency plan as a result of these changes.

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

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

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

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

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

26 ~~((+a+))~~ (i) The costs associated with the response to spills or
27 imminent threats of spills of crude oil or petroleum products into
28 the ~~((navigable))~~ waters of the state; and

29 ~~((+b+))~~ (ii) The costs associated with the department's use of
30 ~~((the))~~ an emergency response towing vessel ~~((as described in RCW~~
31 ~~88.46.135))~~.

32 (b) During the 2015-2017 biennium, the legislature may transfer
33 up to two million two hundred twenty-five thousand dollars from the
34 account to the oil spill prevention account created in RCW 90.56.510.

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

38 (4) Before expending moneys from the account, but without
39 delaying response activities, the director shall make reasonable

1 efforts to obtain funding for response costs under subsection (2) of
2 this section from the person responsible for the spill and from other
3 sources, including the federal government.

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

9 (a) Natural resource damage assessment and related activities;

10 (b) Spill related response, containment, wildlife rescue,
11 cleanup, disposal, and associated costs;

12 (c) Interagency coordination and public information related to a
13 response; and

14 (d) Appropriate travel, goods and services, contracts, and
15 equipment.

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

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

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

- 12 (a) Routine responses not covered under RCW 90.56.500;
13 (b) Management and staff development activities;
14 (c) Development of rules and policies and the statewide plan
15 provided for in RCW 90.56.060;
16 (d) Facility and vessel plan review and approval, drills,
17 inspections, investigations, enforcement, and litigation;
18 (e) Interagency coordination and public outreach and education;
19 (f) Collection and administration of the tax provided for in
20 chapter 82.23B RCW; and
21 (g) Appropriate travel, goods and services, contracts, and
22 equipment.

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

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

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

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

5 (b) Twice per year, pipelines that transport crude oil must
6 report to the department the following information about the crude
7 oil transported by the pipeline through the state: The volume of
8 crude oil and the state or province of origin of the crude oil. This
9 report must be submitted each year by July 31st for the period
10 January 1st through June 30th and by January 31st for the period July
11 1st through December 31st.

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

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

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

31 (5) Consistent with the requirements of chapter 42.56 RCW, the
32 department and any state, local, tribal, or public agency that
33 receives information provided under this section may not disclose any
34 such information to the public or to nongovernmental entities that
35 contains proprietary, commercial, or financial information unless
36 that information is aggregated. The requirement for aggregating
37 information does not apply when information is shared by the
38 department with emergency response agencies as provided in subsection
39 (2) of this section.

1 (6) The department shall adopt rules to implement this section.
2 The advance notice system required in this section must be consistent
3 with the oil transfer reporting system adopted by the department
4 pursuant to RCW 88.46.165.

5 **Sec. 9.** RCW 88.40.011 and 2007 c 347 s 4 are each amended to
6 read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

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

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

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

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

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

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

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

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

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

1 (10) "Hazardous substances" means any substance listed as of
2 March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under
3 section (~~(101-14)~~) 102(a) of the federal comprehensive environmental
4 response, compensation, and liability act of 1980, as amended by P.L.
5 99-499. The following are not hazardous substances for purposes of
6 this chapter:

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

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

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

14 (12) "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 as of March 1, 2003, in Table 302.4 of 40 C.F.R.
22 Part 302 adopted 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 (13) "Offshore facility" means any facility located in, on, or
26 under any of the navigable waters of the state, but does not include
27 a facility any part of which is located in, on, or under any land of
28 the state, other than submerged land.

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

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

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

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

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

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

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

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

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

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

22 NEW SECTION. **Sec. 10.** A new section is added to chapter 81.04
23 RCW to read as follows:

24 (1) The commission must require a railroad company that
25 transports crude oil in Washington to submit information to the
26 commission relating to the railroad company's ability to pay damages
27 in the event of a spill or accident involving the transport of crude
28 oil by the railroad company in Washington. The information submitted
29 to the commission must include a statement of whether the railroad
30 has the ability to pay for damages resulting from a reasonable worst
31 case spill of oil, as calculated by multiplying the reasonable per
32 barrel cleanup and damage cost of spilled oil times the reasonable
33 worst case spill volume as measured in barrels. A railroad company
34 must include the information in the annual report submitted to the
35 commission pursuant to RCW 81.04.080.

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

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

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

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

10 NEW SECTION. **Sec. 11.** A new section is added to chapter 90.56
11 RCW to read as follows:

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

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

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

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

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

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 88.16
2 RCW to read as follows:

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

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

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

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

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

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

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

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

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

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

34 (5) The definitions in this subsection apply throughout this
35 section unless the context clearly requires otherwise.

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

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

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

9 **Sec. 13.** RCW 82.23B.010 and 1992 c 73 s 6 are each amended to
10 read as follows:

11 (~~Unless the context clearly requires otherwise,~~) The
12 definitions in this section apply throughout this chapter unless the
13 context clearly 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) "Crude oil" means any naturally occurring (~~liquid~~)
17 hydrocarbons (~~at atmospheric temperature and pressure coming from~~
18 ~~the earth, including condensate and natural gasoline~~) coming from
19 the earth that are liquid at twenty-five degrees Celsius and one
20 atmosphere of pressure including, but not limited to, crude oil,
21 bitumen and diluted bitumen, synthetic crude oil, and natural gas
22 well condensate.

23 (3) "Department" means the department of revenue.

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

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

30 (6) "Person" has the meaning provided in RCW 82.04.030.

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

38 (8) "Taxpayer" means the person owning crude oil or petroleum
39 products immediately after receipt of the same into the storage tanks

1 of a marine or bulk oil terminal in this state (~~((from a waterborne~~
2 ~~vessel or barge))~~) and who is liable for the taxes imposed by this
3 chapter.

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

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

12 (11) "Tank car" means a rail car, the body of which consists of a
13 tank for transporting liquids.

14 **Sec. 14.** RCW 82.23B.020 and 2006 c 256 s 2 are each amended to
15 read as follows:

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

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

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

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

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

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

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

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

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

1 under this chapter. The department (~~shall~~) must provide by rule for
2 the issuance of a direct payment certificate to any taxpayer
3 qualifying for direct payment of the taxes. Good faith acceptance of
4 a direct payment certificate by a terminal operator (~~shall~~)
5 relieves the marine or bulk oil terminal operator from any liability
6 for the collection or payment of the taxes imposed under this
7 chapter.

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

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

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

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

29 **Sec. 15.** RCW 82.23B.030 and 1992 c 73 s 9 are each amended to
30 read as follows:

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

37 **Sec. 16.** RCW 82.23B.040 and 1992 c 73 s 10 are each amended to
38 read as follows:

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

5 **Sec. 17.** RCW 38.52.040 and 2011 1st sp.s. c 21 s 27, 2011 c 336
6 s 789, and 2011 c 79 s 9 are each reenacted and amended to read as
7 follows:

8 (1) There is hereby created the emergency management council
9 (hereinafter called the council), to consist of not more than
10 seventeen members who shall be appointed by the adjutant general. The
11 membership of the council shall include, but not be limited to,
12 representatives of city and county governments, sheriffs and police
13 chiefs, the Washington state patrol, the military department, the
14 department of ecology, state and local fire chiefs, seismic safety
15 experts, state and local emergency management directors, search and
16 rescue volunteers, medical professions who have expertise in
17 emergency medical care, building officials, and private industry. The
18 representatives of private industry shall include persons
19 knowledgeable in emergency and hazardous materials management. The
20 councilmembers shall elect a chair from within the council
21 membership. The members of the council shall serve without
22 compensation, but may be reimbursed for their travel expenses
23 incurred in the performance of their duties in accordance with RCW
24 43.03.050 and 43.03.060 as now existing or hereafter amended.

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

1 ~~the state emergency response commission, the council shall confine~~
2 ~~its deliberations to those items specified in federal statutes and~~
3 ~~state administrative rules governing the coordination of hazardous~~
4 ~~materials policy.))~~ The council shall review administrative rules
5 governing state and local emergency management practices and
6 recommend necessary revisions to the director.

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

29 (4)(a) The intrastate mutual aid committee is created and is a
30 subcommittee of the emergency management council. The intrastate
31 mutual aid committee consists of not more than five members who must
32 be appointed by the council chair from council membership. The chair
33 of the intrastate mutual aid committee is the military department
34 representative appointed as a member of the council. Meetings of the
35 intrastate mutual aid committee must be held at least annually.

36 (b) In support of the intrastate mutual aid system established in
37 chapter 38.56 RCW, the intrastate mutual aid committee shall develop
38 and update guidelines and procedures to facilitate implementation of
39 the intrastate mutual aid system by member jurisdictions, including
40 but not limited to the following: Projected or anticipated costs;

1 checklists and forms for requesting and providing assistance;
2 recordkeeping; reimbursement procedures; and other implementation
3 issues. These guidelines and procedures are not subject to the rule-
4 making requirements of chapter 34.05 RCW.

5 **Sec. 18.** RCW 81.24.010 and 2007 c 234 s 21 are each amended to
6 read as follows:

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

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

36 (3) This section does not apply to private nonprofit
37 transportation providers, auto transportation companies, charter
38 party carriers and excursion service carriers, solid waste collection
39 companies, motor freight carriers, household goods carriers,

1 commercial ferries, and low-level radioactive waste storage
2 facilities.

3 NEW SECTION. **Sec. 19.** A new section is added to chapter 81.44
4 RCW to read as follows:

5 Commission employees certified by the federal railroad
6 administration to perform hazardous materials inspections may enter
7 the property of any business that receives, ships, or offers for
8 shipment hazardous materials by rail. Entry shall be at a reasonable
9 time and in a reasonable manner. The purpose of entry is limited to
10 performing inspections, investigations, or surveillance of equipment,
11 records, and operations relating to the packaging, loading,
12 unloading, or transportation of hazardous materials by rail, pursuant
13 only to the state participation program outlined in 49 C.F.R. Part
14 212. The term "business" is all inclusive and is not limited to
15 common carriers or public service companies.

16 **Sec. 20.** RCW 81.53.010 and 2013 c 23 s 302 are each amended to
17 read as follows:

18 The definitions in this section apply throughout this chapter
19 unless the context clearly requires otherwise.

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

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

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

1 street railways operating within the limits of any incorporated city
2 or town.

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

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

14 ~~((The term))~~ (6) "Under-crossing((~~τ~~))" ~~((when used in this~~
15 ~~chapter~~τ~~))~~ means any point or place where a highway crosses a
16 railroad by passing under the same. "Under-crossing" also means any
17 point or place where one railroad crosses another railroad not at
18 grade.

19 ~~((The term "over crossing" or "under crossing," shall also mean~~
20 ~~any point or place where one railroad crosses another railroad not at~~
21 ~~grade.~~

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

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

29 **Sec. 21.** RCW 81.53.240 and 1984 c 7 s 375 are each amended to
30 read as follows:

31 (1) Except to the extent necessary to permit participation by
32 first-class cities in the grade crossing protective fund, when an
33 election to participate is made as provided in RCW 81.53.261 through
34 81.53.291, or to the extent a first-class city requests to
35 participate in the commission's crossing safety inspection program
36 within the city, this chapter ((81.53-RCW)) is not operative within
37 the limits of first-class cities, and does not apply to street
38 railway lines operating on or across any street, alley, or other
39 public place within the limits of any city, except that a streetcar

1 line outside of cities of the first class shall not cross a railroad
2 at grade without express authority from the commission. The
3 commission may not change the location of a state highway without the
4 approval of the secretary of transportation, or the location of any
5 crossing thereon adopted or approved by the department of
6 transportation, or grant a railroad authority to cross a state
7 highway at grade without the consent of the secretary of
8 transportation.

9 (2) Within thirty days of the effective date of this section,
10 first-class cities must provide to the commission a list of all
11 existing public crossings within the limits of a first-class city,
12 including over and under-crossings, including the United States
13 department of transportation number for the crossing. Within thirty
14 days of modifying, closing, or opening a grade crossing within the
15 limits of a first-class city, the city must notify the commission in
16 writing of the action taken, identifying the crossing by United
17 States department of transportation number.

18 NEW SECTION. Sec. 22. A new section is added to chapter 81.53
19 RCW to read as follows:

20 (1) To address the potential public safety hazards presented by
21 private crossings in the state and by the transportation of hazardous
22 materials in the state, including crude oil, the commission is
23 authorized to and must adopt rules governing safety standards for
24 private crossings along the railroad tracks over which crude oil is
25 transported in the state. The commission is also authorized to
26 conduct inspections of the private crossings subject to this section,
27 to order the railroads to make improvements at the private crossings,
28 and enforce the orders.

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

32 (a) Minimum safety standards for the private crossings subject to
33 this section, including, but not limited to, requirements for
34 signage; and

35 (b) Criteria for prioritizing the inspection and improvements of
36 the private crossings subject to this section.

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

1 **Sec. 23.** RCW 88.46.180 and 2011 c 122 s 2 are each amended to
2 read as follows:

3 (1) The department shall evaluate and update planning standards
4 for oil spill response equipment required under contingency plans
5 required by this chapter, including aerial surveillance, in order to
6 ensure access in the state to equipment that represents the best
7 achievable protection to respond to a worst case spill and provide
8 for continuous operation of oil spill response activities to the
9 maximum extent practicable and without jeopardizing crew safety, as
10 determined by the incident commander or the unified command.

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

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

18 **Sec. 24.** RCW 42.56.270 and 2014 c 192 s 6, 2014 c 174 s 5, and
19 2014 c 144 s 6 are each reenacted and amended to read as follows:

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

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

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

31 (3) Financial and commercial information and records supplied by
32 private persons pertaining to export services provided under chapters
33 43.163 and 53.31 RCW, and by persons pertaining to export projects
34 under RCW 43.23.035;

35 (4) Financial and commercial information and records supplied by
36 businesses or individuals during application for loans or program
37 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
38 43.168 RCW, or during application for economic development loans or
39 program services provided by any local agency;

1 (5) Financial information, business plans, examination reports,
2 and any information produced or obtained in evaluating or examining a
3 business and industrial development corporation organized or seeking
4 certification under chapter 31.24 RCW;

5 (6) Financial and commercial information supplied to the state
6 investment board by any person when the information relates to the
7 investment of public trust or retirement funds and when disclosure
8 would result in loss to such funds or in private loss to the
9 providers of this information;

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

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

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

18 (10)(a) Financial information, including but not limited to
19 account numbers and values, and other identification numbers supplied
20 by or on behalf of a person, firm, corporation, limited liability
21 company, partnership, or other entity related to an application for a
22 horse racing license submitted pursuant to RCW 67.16.260(1)(b),
23 marijuana producer, processor, or retailer license, liquor license,
24 gambling license, or lottery retail license;

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

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

37 (12)(a) When supplied to and in the records of the department of
38 commerce:

1 (i) Financial and proprietary information collected from any
2 person and provided to the department of commerce pursuant to RCW
3 43.330.050(8); and

4 (ii) Financial or proprietary information collected from any
5 person and provided to the department of commerce or the office of
6 the governor in connection with the siting, recruitment, expansion,
7 retention, or relocation of that person's business and until a siting
8 decision is made, identifying information of any person supplying
9 information under this subsection and the locations being considered
10 for siting, relocation, or expansion of a business;

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

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

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

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

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

30 (15) Financial and commercial information provided as evidence to
31 the department of licensing as required by RCW 19.112.110 or
32 19.112.120, except information disclosed in aggregate form that does
33 not permit the identification of information related to individual
34 fuel licensees;

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

38 (17)(a) Farm plans developed by conservation districts, unless
39 permission to release the farm plan is granted by the landowner or

1 operator who requested the plan, or the farm plan is used for the
2 application or issuance of a permit;

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

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

12 (19) Information gathered under chapter 19.85 RCW or RCW
13 34.05.328 that can be identified to a particular business;

14 (20) Financial and commercial information submitted to or
15 obtained by the University of Washington, other than information the
16 university is required to disclose under RCW 28B.20.150, when the
17 information relates to investments in private funds, to the extent
18 that such information, if revealed, would reasonably be expected to
19 result in loss to the University of Washington consolidated endowment
20 fund or to result in private loss to the providers of this
21 information; (~~and~~))

22 (21) Market share data submitted by a manufacturer under RCW
23 70.95N.190(4); (~~and~~))

24 (22) Financial information supplied to the department of
25 financial institutions or to a portal under RCW 21.20.883, when filed
26 by or on behalf of an issuer of securities for the purpose of
27 obtaining the exemption from state securities registration for small
28 securities offerings provided under RCW 21.20.880 or when filed by or
29 on behalf of an investor for the purpose of purchasing such
30 securities; and

31 (23) Unaggregated or individual notices of a transfer of crude
32 oil that is financial, proprietary, or commercial information,
33 submitted to the department of ecology pursuant to section 8(1)(a) of
34 this act, and that is in the possession of the department of ecology
35 or any entity with which the department of ecology has shared the
36 notice pursuant to section 8 of this act.

37 NEW SECTION. Sec. 25. A new section is added to chapter 90.56
38 RCW to read as follows:

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

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

6 (b) Updates every two years, beginning December 31, 2017, and
7 ending December 31, 2021, consistent with the requirements of RCW
8 43.01.036, as to the progress made in completing state and federal
9 geographic response plans as needed in contingency plans required
10 under RCW 90.56.060, 90.56.210, and 88.46.060.

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

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

19 NEW SECTION. **Sec. 26.** (1) Subject to the availability of
20 amounts appropriated for this specific purpose, the department of
21 ecology shall provide grants to emergency responders to assist with
22 oil spill and hazardous materials response and firefighting equipment
23 and resources needed to meet the requirements of this act.

24 (2) For the purposes of determining grant allocations, the
25 department of ecology, in consultation with emergency first
26 responders, oil spill response cooperatives, representatives from the
27 oil and rail industries, and businesses that are recipients of liquid
28 bulk crude oil shall: (a) Conduct an evaluation of oil spill and
29 hazardous materials response and firefighting equipment and resources
30 currently available for oil spill and hazardous materials response
31 activities throughout the state; (b) review the local emergency
32 management coordinating efforts for oil spill and hazardous materials
33 response; (c) determine the need for additional, new, or updated
34 equipment and resources; and (d) identify areas or regions of the
35 state that are in greatest need of resources and oil spill and
36 hazardous materials response and firefighting equipment.

37 (3) The department of ecology, in consultation with emergency
38 first responders, oil spill response cooperatives, representatives
39 from the oil and rail industries, and businesses that are recipients

1 of liquid bulk crude oil shall review grant applications to
2 prioritize grant awards using the evaluation of availability of oil
3 spill and hazardous materials response and firefighting equipment and
4 resources as determined in subsection (2) of this section.

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

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

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

15 NEW SECTION. **Sec. 27.** Before the start of the 2016 legislative
16 session, the senate energy, environment, and telecommunications
17 committee and the house of representatives environment committee must
18 hold at least one joint meeting on oil spill prevention and response
19 activities for international transport of liquid bulk crude oil. The
20 committees may invite representatives of affected parties from the
21 United States and Canada to address issues including but not limited
22 to the following:

23 (1) Cooperative prevention and emergency response activities
24 between shared international and state borders;

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

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

29 NEW SECTION. **Sec. 28.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of
31 the state government and its existing public institutions, and takes
32 effect July 1, 2015.

33 NEW SECTION. **Sec. 29.** By July 31, 2015, the state treasurer
34 shall transfer two million two hundred twenty-five thousand dollars
35 from the oil spill response account created in RCW 90.56.500 to the
36 oil spill prevention account created in RCW 90.56.510.

1 NEW SECTION. **Sec. 30.** 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."

ESHB 1449 - S AMD 460
By Senator Ericksen

ADOPTED AS AMENDED 4/24/2015

5 On page 1, line 1 of the title, after "safety;" strike the
6 remainder of the title and insert "amending RCW 90.56.005, 90.56.010,
7 90.56.200, 90.56.210, 90.56.500, 90.56.510, 88.40.011, 82.23B.010,
8 82.23B.020, 82.23B.030, 82.23B.040, 81.24.010, 81.53.010, 81.53.240,
9 and 88.46.180; reenacting and amending RCW 88.46.010, 38.52.040, and
10 42.56.270; adding new sections to chapter 90.56 RCW; adding a new
11 section to chapter 81.04 RCW; adding a new section to chapter 88.16
12 RCW; adding a new section to chapter 81.44 RCW; adding a new section
13 to chapter 81.53 RCW; creating new sections; providing an effective
14 date; providing an expiration date; and declaring an emergency."

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

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

Requires railroads to demonstrate an ability to pay for a reasonable worst case oil spill as part of their annual report submitted to the utilities and transportation commission.

Requires railroads to complete spill contingency plans.

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

Authorizes the regulatory fees charged to railroads by the utilities and transportation commission to be up to two and one-half percent of intrastate operating revenues, except for short-line railroads that do not haul crude oil, whose regulatory fees remain set at one and one-half percent of intrastate operating revenues.

Applies an emergency clause to all provisions of the bill, directing it to take effect July 1, 2015.

Directs local emergency response plans, rather than hazardous material plans, to be developed by local emergency response committees, directs those plans to be submitted for state emergency response commission review every five years, authorizes the use of appropriated oil spill prevention account funds to facilitate local emergency response plan completion, and requires the submission of a progress report on local planning activities to the legislature by 2018.

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

Eliminates minimum train crewing requirements.

Requires facilities that receive oil transfers from railroads to submit information about the region per bill of lading.

Directs that crude oil pipelines must submit twice-yearly information to the department of ecology about the volume and state or province of origin of crude oil they transport through the state.

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

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

Directs the utilities and transportation commission to adopt safety standards for private rail crossings and grants the utilities and transportation commission the authority to enforce safety standard requirements.

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

Transfers \$2.25 million from the oil spill response account to the oil spill prevention account during the 2015-2017 biennium.

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