
ENGROSSED SUBSTITUTE HOUSE BILL 1449

AS AMENDED BY THE SENATE

Passed Legislature - 2015 Regular Session

State of Washington 64th Legislature 2015 Regular Session

By House Environment (originally sponsored by Representatives Farrell, Carlyle, Fitzgibbon, Ortiz-Self, Peterson, Walkinshaw, Gregerson, Senn, McBride, Robinson, Tarleton, Pollet, Cody, Ormsby, Riccelli, Kagi, Blake, Fey, Hudgins, Lytton, Bergquist, Sells, Takko, Tharinger, Jinkins, Wylie, S. Hunt, Stanford, Reykdal, Sawyer, Appleton, Van De Wege, Clibborn, Ryu, Goodman, and Kilduff; by request of Governor Inslee)

READ FIRST TIME 02/19/15.

1 AN ACT Relating to oil transportation safety; amending RCW
2 90.56.005, 90.56.010, 90.56.200, 90.56.210, 90.56.500, 90.56.510,
3 88.40.011, 82.23B.010, 82.23B.020, 82.23B.030, 82.23B.040, 81.24.010,
4 81.53.010, 81.53.240, and 88.46.180; reenacting and amending RCW
5 88.46.010, 38.52.040, and 42.56.270; adding new sections to chapter
6 90.56 RCW; adding a new section to chapter 81.04 RCW; adding a new
7 section to chapter 88.16 RCW; adding a new section to chapter 81.44
8 RCW; adding a new section to chapter 81.53 RCW; creating new
9 sections; providing an effective date; providing an expiration date;
10 and declaring an emergency.

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

12 **Sec. 1.** RCW 90.56.005 and 2010 1st sp.s. c 7 s 72 are each
13 amended to read as follows:

14 (1) The legislature declares that waterborne transportation as a
15 source of supply for oil and hazardous substances poses special
16 concern for the state of Washington. Each year billions of gallons of
17 crude oil and refined petroleum products are transported as cargo and
18 fuel by vessels on the navigable waters of the state. The movement of
19 crude oil through rail corridors and over Washington waters creates
20 safety and environmental risks. The sources and transport of crude
21 oil bring risks to our communities along rail lines and to the

1 Columbia river, Grays Harbor, and Puget Sound waters. These shipments
2 are expected to increase in the coming years. Vessels and trains
3 transporting oil into Washington travel on some of the most unique
4 and special marine environments in the United States. These marine
5 environments are a source of natural beauty, recreation, and economic
6 livelihood for many residents of this state. As a result, the state
7 has an obligation to ensure the citizens of the state that the waters
8 of the state will be protected from oil spills.

9 (2) The legislature finds that prevention is the best method to
10 protect the unique and special marine environments in this state. The
11 technology for containing and cleaning up a spill of oil or hazardous
12 substances is at best only partially effective. Preventing spills is
13 more protective of the environment and more cost-effective when all
14 the response and damage costs associated with responding to a spill
15 are considered. Therefore, the legislature finds that the primary
16 objective of the state is to achieve a zero spills strategy to
17 prevent any oil or hazardous substances from entering waters of the
18 state.

19 (3) The legislature also finds that:

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

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

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

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

33 (e) In section 5002 of the federal oil pollution act of 1990, the
34 United States congress found that many people believed that
35 complacency on the part of industry and government was one of the
36 contributing factors to the Exxon Valdez spill and, further, that one
37 method to combat this complacency is to involve local citizens in the
38 monitoring and oversight of oil spill plans. Congress also found that
39 a mechanism should be established that fosters the long-term
40 partnership of industry, government, and local communities in

1 overseeing compliance with environmental concerns in the operation of
2 crude oil terminals. Moreover, congress concluded that, in addition
3 to Alaska, a program of citizen monitoring and oversight should be
4 established in other major crude oil terminals in the United States
5 because recent oil spills indicate that the safe transportation of
6 oil is a national problem.

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

10 (a) To establish state agency expertise in marine safety and to
11 centralize state activities in spill prevention and response
12 activities;

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

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

18 (d) To provide for state spill response and wildlife rescue
19 planning and implementation;

20 (e) To support and complement the federal oil pollution act of
21 1990 and other federal law, especially those provisions relating to
22 the national contingency plan for cleanup of oil spills and
23 discharges, including provisions relating to the responsibilities of
24 state agencies designated as natural resource trustees. The
25 legislature intends this chapter to be interpreted and implemented in
26 a manner consistent with federal law;

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

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

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

34 (i) To maintain the best achievable protection that can be
35 obtained through the use of the best achievable technology and those
36 staffing levels, training procedures, and operational methods that
37 provide the greatest degree of protection achievable.

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

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) "Best achievable protection" means the highest level of
4 protection that can be achieved through the use of the best
5 achievable technology and those staffing levels, training procedures,
6 and operational methods that provide the greatest degree of
7 protection achievable. The director's determination of best
8 achievable protection shall be guided by the critical need to protect
9 the state's natural resources and waters, while considering:

- 10 (a) The additional protection provided by the measures;
- 11 (b) The technological achievability of the measures; and
- 12 (c) The cost of the measures.

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

15 (i) Processes that are being developed, or could feasibly be
16 developed, given overall reasonable expenditures on research and
17 development; and

18 (ii) Processes that are currently in use.

19 (b) In determining what is best achievable technology, the
20 director shall consider the effectiveness, engineering feasibility,
21 and commercial availability of the technology.

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

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

29 (5) "Covered vessel" means a tank vessel, cargo vessel, or
30 passenger vessel.

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

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

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

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

1 (b) For the purposes of oil spill contingency planning in RCW
2 90.56.210, facility also means a railroad that is not owned by the
3 state that transports oil as bulk cargo.

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

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

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

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

27 (13) "Oil" or "oils" means oil of any kind that is liquid at
28 (~~atmospheric temperature~~) twenty-five degrees Celsius and one
29 atmosphere of pressure and any fractionation thereof, including, but
30 not limited to, crude oil, bitumen, synthetic crude oil, natural gas
31 well condensate, petroleum, gasoline, fuel oil, diesel oil,
32 biological oils and blends, oil sludge, oil refuse, and oil mixed
33 with wastes other than dredged spoil. Oil does not include any
34 substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August
35 14, 1989, under section (~~(101-14)~~) 102(a) of the federal
36 comprehensive environmental response, compensation, and liability act
37 of 1980, as amended by P.L. 99-499.

38 (14) "Onshore facility" means any facility any part of which is
39 located in, on, or under any land of the state, other than submerged
40 land, that because of its location, could reasonably be expected to

1 cause substantial harm to the environment by discharging oil into or
2 on the navigable waters of the state or the adjoining shorelines.

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

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

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

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

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

21 (19) "Regional vessels of opportunity response group" means a
22 group of nondedicated vessels participating in a vessels of
23 opportunity response system to respond when needed and available to
24 spills in a defined geographic area.

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

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

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

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

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

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

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

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

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

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

16 (28) "Volunteer coordination system" means an oil spill response
17 system that, before a spill occurs, prepares for the coordination of
18 volunteers to assist with appropriate oil spill response activities,
19 which may include shoreline protection and cleanup, wildlife
20 recovery, field observation, light construction, facility
21 maintenance, donations management, clerical support, and other
22 aspects of a spill response.

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

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

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

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

37 (1) "Best achievable protection" means the highest level of
38 protection that can be achieved through the use of the best
39 achievable technology and those staffing levels, training procedures,

1 and operational methods that provide the greatest degree of
2 protection achievable. The director's determination of best
3 achievable protection shall be guided by the critical need to protect
4 the state's natural resources and waters, while considering (a) the
5 additional protection provided by the measures; (b) the technological
6 achievability of the measures; and (c) the cost of the measures.

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

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

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

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

23 (6) "Committee" means the preassessment screening committee
24 established under RCW 90.48.368.

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

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

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

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

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

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

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

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

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

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

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

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

32 (17) "Oil" or "oils" means oil of any kind that is liquid at
33 ~~((atmospheric temperature))~~ twenty-five degrees Celsius and one
34 atmosphere of pressure and any fractionation thereof, including, but
35 not limited to, crude oil, bitumen, synthetic crude oil, natural gas
36 well condensate, petroleum, gasoline, fuel oil, diesel oil,
37 biological oils and blends, oil sludge, oil refuse, and oil mixed
38 with wastes other than dredged spoil. Oil does not include any
39 substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August
40 14, 1989, under section ~~((101(14)))~~ 102(a) of the federal

1 comprehensive environmental response, compensation, and liability act
2 of 1980, as amended by P.L. 99-499.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (1) The owner or operator for each onshore and offshore facility,
16 except as determined in subsection (3) of this section, shall prepare
17 and submit to the department an oil spill prevention plan in
18 conformance with the requirements of this chapter. The plans shall be
19 submitted to the department in the time and manner directed by the
20 department. The spill prevention plan may be consolidated with a
21 spill contingency plan submitted pursuant to RCW 90.56.210. The
22 department may accept plans prepared to comply with other state or
23 federal law as spill prevention plans to the extent those plans
24 comply with the requirements of this chapter. The department, by
25 rule, shall establish standards for spill prevention plans.

26 (2) The spill prevention plan for an onshore or offshore facility
27 shall:

28 (a) Establish compliance with the federal oil pollution act of
29 1990, if applicable, and financial responsibility requirements under
30 federal and state law;

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

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

36 (d) Certify the implementation of alcohol and drug use awareness
37 programs;

1 (e) Describe the facility's maintenance and inspection program
2 and contain a current maintenance and inspection record of the
3 storage and transfer facilities and related equipment;

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

5 (g) Describe spill prevention technology that has been installed,
6 including overflow alarms, automatic overflow cut-off switches,
7 secondary containment facilities, and storm water retention,
8 treatment, and discharge systems;

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

12 (i) Describe the procedures followed by the facility to contain
13 and recover any oil that spills during the transfer of oil to or from
14 the facility;

15 (j) Provide for the incorporation into the facility during the
16 period covered by the plan of those measures that will provide the
17 best achievable protection for the public health and the environment;
18 and

19 (k) Include any other information reasonably necessary to carry
20 out the purposes of this chapter required by rules adopted by the
21 department.

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

25 (4) The department shall only approve a prevention plan if it
26 provides the best achievable protection from damages caused by the
27 discharge of oil into the waters of the state and if it determines
28 that the plan meets the requirements of this section and rules
29 adopted by the department.

30 ((+4)) (5) Upon approval of a prevention plan, the department
31 shall provide to the person submitting the plan a statement
32 indicating that the plan has been approved, the facilities covered by
33 the plan, and other information the department determines should be
34 included.

35 ((+5)) (6) The approval of a prevention plan shall be valid for
36 five years. An owner or operator of a facility shall notify the
37 department in writing immediately of any significant change of which
38 it is aware affecting its prevention plan, including changes in any
39 factor set forth in this section or in rules adopted by the

1 department. The department may require the owner or operator to
2 update a prevention plan as a result of these changes.

3 ~~((+6))~~ (7) The department by rule shall require prevention plans
4 to be reviewed, updated, if necessary, and resubmitted to the
5 department at least once every five years.

6 ~~((+7))~~ (8) Approval of a prevention plan by the department does
7 not constitute an express assurance regarding the adequacy of the
8 plan nor constitute a defense to liability imposed under this chapter
9 or other state law.

10 ~~((+8))~~ (9) This section does not authorize the department to
11 modify the terms of a collective bargaining agreement.

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

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

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

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

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

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

35 (e) State the number, training preparedness, and fitness of all
36 dedicated, prepositioned personnel assigned to direct and implement
37 the plan;

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

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

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

18 (i) Provide arrangements for the repositioning of oil spill
19 containment and cleanup equipment and trained personnel at strategic
20 locations from which they can be deployed to the spill site to
21 promptly and properly remove the spilled oil;

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

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

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

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

34 (n) If the department has adopted rules permitting the use of
35 dispersants, the circumstances, if any, and the manner for the
36 application of the dispersants in conformance with the department's
37 rules.

38 (2)(a) The following shall submit contingency plans to the
39 department within six months after the department adopts rules

1 establishing standards for contingency plans under subsection (1) of
2 this section:

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

5 (ii) Offshore facilities.

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

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

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

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

23 ((+4)) (5) A contingency plan prepared for an agency of the
24 federal government or another state that satisfies the requirements
25 of this section and rules adopted by the department may be accepted
26 by the department as a contingency plan under this section. The
27 department shall ensure that to the greatest extent possible,
28 requirements for contingency plans under this section are consistent
29 with the requirements for contingency plans under federal law.

30 ((+5)) (6) In reviewing the contingency plans required by this
31 section, the department shall consider at least the following
32 factors:

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

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

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

3 (d) The existence of navigational hazards within the area covered
4 by the plan;

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

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

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

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

14 ~~((+6))~~ (7) The department shall approve a contingency plan only
15 if it determines that the plan meets the requirements of this section
16 and that, if implemented, the plan is capable, in terms of personnel,
17 materials, and equipment, of removing oil promptly and properly and
18 minimizing any damage to the environment.

19 ~~((+7))~~ (8) The approval of the contingency plan shall be valid
20 for five years. Upon approval of a contingency plan, the department
21 shall provide to the person submitting the plan a statement
22 indicating that the plan has been approved, the facilities or vessels
23 covered by the plan, and other information the department determines
24 should be included.

25 ~~((+8))~~ (9) An owner or operator of a facility shall notify the
26 department in writing immediately of any significant change of which
27 it is aware affecting its contingency plan, including changes in any
28 factor set forth in this section or in rules adopted by the
29 department. The department may require the owner or operator to
30 update a contingency plan as a result of these changes.

31 ~~((+9))~~ (10) The department by rule shall require contingency
32 plans to be reviewed, updated, if necessary, and resubmitted to the
33 department at least once every five years.

34 ~~((+10))~~ (11) Approval of a contingency plan by the department
35 does not constitute an express assurance regarding the adequacy of
36 the plan nor constitute a defense to liability imposed under this
37 chapter or other state law.

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

1 (1) The state oil spill response account is created in the state
2 treasury. All receipts from RCW 82.23B.020(1) shall be deposited in
3 the account. All costs reimbursed to the state by a responsible party
4 or any other person for responding to a spill of oil shall also be
5 deposited in the account. Moneys in the account shall be spent only
6 after appropriation. The account is subject to allotment procedures
7 under chapter 43.88 RCW.

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

9 ((~~a~~)) (i) The costs associated with the response to spills or
10 imminent threats of spills of crude oil or petroleum products into
11 the ((~~navigable~~)) waters of the state; and

12 ((~~b~~)) (ii) The costs associated with the department's use of
13 ((~~the~~)) an emergency response towing vessel ((~~as described in RCW~~
14 ~~88.46.135~~)).

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

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

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

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

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

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

34 (c) Interagency coordination and public information related to a
35 response; and

36 (d) Appropriate travel, goods and services, contracts, and
37 equipment.

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

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

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

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

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

3 (g) Appropriate travel, goods and services, contracts, and
4 equipment.

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

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

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

26 (b) Twice per year, pipelines that transport crude oil must
27 report to the department the following information about the crude
28 oil transported by the pipeline through the state: The volume of
29 crude oil and the state or province of origin of the crude oil. This
30 report must be submitted each year by July 31st for the period
31 January 1st through June 30th and by January 31st for the period July
32 1st through December 31st.

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

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

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

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

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

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

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

28 The definitions in this section apply throughout this chapter
29 unless the context clearly requires otherwise.

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

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

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

37 (4) "Covered vessel" means a tank vessel, cargo vessel, or
38 passenger vessel.

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

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

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

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

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

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

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

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

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

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

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

1 with wastes other than dredged spoil. Oil does not include any
2 substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R.
3 Part 302 adopted under section ((101(14))) 102(a) of the federal
4 comprehensive environmental response, compensation, and liability act
5 of 1980, as amended by P.L. 99-499.

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (1) The commission must require a railroad company that
6 transports crude oil in Washington to submit information to the
7 commission relating to the railroad company's ability to pay damages
8 in the event of a spill or accident involving the transport of crude
9 oil by the railroad company in Washington. The information submitted
10 to the commission must include a statement of whether the railroad
11 has the ability to pay for damages resulting from a reasonable worst
12 case spill of oil, as calculated by multiplying the reasonable per
13 barrel cleanup and damage cost of spilled oil times the reasonable
14 worst case spill volume as measured in barrels. A railroad company
15 must include the information in the annual report submitted to the
16 commission pursuant to RCW 81.04.080.

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

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

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

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

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

31 (1) The department must complete an evaluation and assessment of
32 vessel traffic management and vessel traffic safety within and near
33 the mouth of the Columbia river. A draft evaluation and assessment
34 must be completed and submitted to the legislature consistent with
35 RCW 43.01.036 by December 15, 2017. A final evaluation and assessment
36 must be completed by June 30, 2018. In conducting this evaluation,
37 the department must consult with the United States coast guard, the
38 Oregon board of maritime pilots, Columbia river harbor safety

1 committee, the Columbia river bar pilots, the Columbia river pilots,
2 area tribes, public ports in Oregon and Washington, local
3 governments, and other appropriate entities.

4 (2) The evaluation and assessment completed under subsection (1)
5 of this section must include, but is not limited to, an assessment
6 and evaluation of: (a) The need for tug escorts for oil tankers,
7 articulated tug barges, and other towed waterborne vessels or barges;
8 (b) best achievable protection; and (c) required tug capabilities to
9 ensure safe escort of vessels on the waters that are the subject of
10 focus for each water body evaluated under subsection (1) of this
11 section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (~~Unless the context clearly requires otherwise,~~) The
32 definitions in this section apply throughout this chapter unless the
33 context clearly requires otherwise.

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

36 (2) "Crude oil" means any naturally occurring (~~liquid~~)
37 hydrocarbons (~~at atmospheric temperature and pressure coming from~~
38 ~~the earth, including condensate and natural gasoline~~) coming from
39 the earth that are liquid at twenty-five degrees Celsius and one

1 atmosphere of pressure including, but not limited to, crude oil,
2 bitumen and diluted bitumen, synthetic crude oil, and natural gas
3 well condensate.

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

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

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

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

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

19 (8) "Taxpayer" means the person owning crude oil or petroleum
20 products immediately after receipt of the same into the storage tanks
21 of a marine or bulk oil terminal in this state (~~((from a waterborne~~
22 ~~vessel or barge))~~) and who is liable for the taxes imposed by this
23 chapter.

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

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

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

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

36 (1) An oil spill response tax is imposed on the privilege of
37 receiving: (a) Crude oil or petroleum products at a marine terminal
38 within this state from a waterborne vessel or barge operating on the
39 navigable waters of this state; or (b) crude oil or petroleum

1 products at a bulk oil terminal within this state from a tank car.
2 The tax imposed in this section is levied upon the owner of the crude
3 oil or petroleum products immediately after receipt of the same into
4 the storage tanks of a marine or bulk oil terminal from a tank car or
5 waterborne vessel or barge at the rate of one cent per barrel of
6 crude oil or petroleum product received.

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

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

30 (4) Taxes collected under this chapter (~~((shall))~~) must be held in
31 trust until paid to the department. Any person collecting the taxes
32 who appropriates or converts the taxes collected (~~((shall be))~~) is
33 guilty of a gross misdemeanor if the money required to be collected
34 is not available for payment on the date payment is due. The taxes
35 required by this chapter to be collected (~~((shall))~~) must be stated
36 separately from other charges made by the marine or bulk oil terminal
37 operator in any invoice or other statement of account provided to the
38 taxpayer.

39 (5) If a taxpayer fails to pay the taxes imposed by this chapter
40 to the person charged with collection of the taxes and the person

1 charged with collection fails to pay the taxes to the department, the
2 department may, in its discretion, proceed directly against the
3 taxpayer for collection of the taxes.

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

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

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

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

32 (10) Within forty-five days after the end of each calendar
33 quarter, the office of financial management (~~shall~~) must determine
34 the balance of the oil spill response account as of the last day of
35 that calendar quarter. Balance determinations by the office of
36 financial management under this section are final and (~~shall~~) may
37 not be used to challenge the validity of any tax imposed under this
38 chapter. The office of financial management (~~shall~~) must promptly
39 notify the departments of revenue and ecology of the account balance
40 once a determination is made. For each subsequent calendar quarter,

1 the tax imposed by subsection (1) of this section shall be imposed
2 during the entire calendar quarter unless:

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

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

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

11 The taxes imposed under this chapter (~~shall~~) only apply to the
12 first receipt of crude oil or petroleum products at a marine or bulk
13 oil terminal in this state and not to the later transporting and
14 subsequent receipt of the same oil or petroleum product, whether in
15 the form originally received at a marine or bulk oil terminal in this
16 state or after refining or other processing.

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

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

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

26 (1) There is hereby created the emergency management council
27 (hereinafter called the council), to consist of not more than
28 seventeen members who shall be appointed by the adjutant general. The
29 membership of the council shall include, but not be limited to,
30 representatives of city and county governments, sheriffs and police
31 chiefs, the Washington state patrol, the military department, the
32 department of ecology, state and local fire chiefs, seismic safety
33 experts, state and local emergency management directors, search and
34 rescue volunteers, medical professions who have expertise in
35 emergency medical care, building officials, and private industry. The
36 representatives of private industry shall include persons
37 knowledgeable in emergency and hazardous materials management. The

1 councilmembers shall elect a chair from within the council
2 membership. The members of the council shall serve without
3 compensation, but may be reimbursed for their travel expenses
4 incurred in the performance of their duties in accordance with RCW
5 43.03.050 and 43.03.060 as now existing or hereafter amended.

6 (2) The emergency management council shall advise the governor
7 and the director on all matters pertaining to state and local
8 emergency management. The council may appoint such ad hoc committees,
9 subcommittees, and working groups as are required to develop specific
10 recommendations for the improvement of emergency management
11 practices, standards, policies, or procedures. The council shall
12 ensure that the governor receives an annual assessment of statewide
13 emergency preparedness including, but not limited to, specific
14 progress on hazard mitigation and reduction efforts, implementation
15 of seismic safety improvements, reduction of flood hazards, and
16 coordination of hazardous materials planning and response activities.
17 (~~The council or a subcommittee thereof shall periodically convene in
18 special session and serve during those sessions as the state
19 emergency response commission required by P.L. 99-499, the emergency
20 planning and community right to know act. When sitting in session as
21 the state emergency response commission, the council shall confine
22 its deliberations to those items specified in federal statutes and
23 state administrative rules governing the coordination of hazardous
24 materials policy.~~) The council shall review administrative rules
25 governing state and local emergency management practices and
26 recommend necessary revisions to the director.

27 (3) The council or a council subcommittee shall serve and
28 periodically convene in special session as the state emergency
29 response commission required by the emergency planning and community
30 right-to-know act (42 U.S.C. Sec. 11001 et seq.). The state emergency
31 response commission shall conduct those activities specified in
32 federal statutes and regulations and state administrative rules
33 governing the coordination of hazardous materials policy including,
34 but not limited to, review of local emergency planning committee
35 emergency response plans for compliance with the planning
36 requirements in the emergency planning and community right-to-know
37 act (42 U.S.C. Sec. 11001 et seq.). Committees shall annually review
38 their plans to address changed conditions, and submit their plans to
39 the state emergency response commission for review when updated, but
40 not less than at least once every five years. The department may

1 employ staff to assist local emergency planning committees in the
2 development and annual review of these emergency response plans, with
3 an initial focus on the highest risk communities through which trains
4 that transport oil in bulk travel. By March 1, 2018, the department
5 shall report to the governor and legislature on progress towards
6 compliance with planning requirements. The report must also provide
7 budget and policy recommendations for continued support of local
8 emergency planning.

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

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

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

27 (1) Every company subject to regulation by the commission, except
28 those listed in subsection (3) of this section, shall, on or before
29 the date specified by the commission for filing annual reports under
30 RCW 81.04.080, file with the commission a statement on oath showing
31 its gross operating revenue from intrastate operations for the
32 preceding calendar year, or portion thereof, and pay to the
33 commission a fee equal to one-tenth of one percent of the first fifty
34 thousand dollars of gross operating revenue, plus two-tenths of one
35 percent of any gross operating revenue in excess of fifty thousand
36 dollars, except railroad companies which shall each pay to the
37 commission a fee (~~equal~~) of up to (~~one~~) two and one-half percent
38 of its intrastate gross operating revenue. However, a class three
39 railroad that does not haul crude oil must pay a fee equal to one and

1 one-half percent of its intrastate gross operating revenue. The
2 commission may, by rule, set minimum fees that do not exceed the cost
3 of collecting the fees. The commission may by rule waive any or all
4 of the minimum fee established pursuant to this section. Any railroad
5 association that qualifies as a nonprofit charitable organization
6 under the federal internal revenue code section 501(c)(3) is exempt
7 from the fee required under this subsection.

8 (2) The percentage rates of gross operating revenue to be paid in
9 any one year may be decreased by the commission for any class of
10 companies subject to the payment of such fees, by general order
11 entered before March 1st of such year, and for such purpose railroad
12 companies are classified as class two. Every other company subject to
13 regulation by the commission, for which regulatory fees are not
14 otherwise fixed by law, shall pay fees as herein provided and shall
15 constitute additional classes according to kinds of businesses
16 engaged in.

17 (3) This section does not apply to private nonprofit
18 transportation providers, auto transportation companies, charter
19 party carriers and excursion service carriers, solid waste collection
20 companies, motor freight carriers, household goods carriers,
21 commercial ferries, and low-level radioactive waste storage
22 facilities.

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

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

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

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

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

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

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

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

29 ~~((The term))~~ (5) "Over-crossing(~~(τ)~~)" ~~((when used in this~~
30 ~~chapter,))~~ means any point or place where a highway crosses a
31 railroad by passing above the same. "Over-crossing" also means any
32 point or place where one railroad crosses another railroad not at
33 grade.

34 ~~((The term))~~ (6) "Under-crossing(~~(τ)~~)" ~~((when used in this~~
35 ~~chapter,))~~ means any point or place where a highway crosses a
36 railroad by passing under the same. "Under-crossing" also means any
37 point or place where one railroad crosses another railroad not at
38 grade.

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

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

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

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

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

30 (2) Within thirty days of the effective date of this section,
31 first-class cities must provide to the commission a list of all
32 existing public crossings within the limits of a first-class city,
33 including over and under-crossings, including the United States
34 department of transportation number for the crossing. Within thirty
35 days of modifying, closing, or opening a grade crossing within the
36 limits of a first-class city, the city must notify the commission in
37 writing of the action taken, identifying the crossing by United
38 States department of transportation number.

1 NEW SECTION. **Sec. 22.** A new section is added to chapter 81.53
2 RCW to read as follows:

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

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

15 (a) Minimum safety standards for the private crossings subject to
16 this section, including, but not limited to, requirements for
17 signage; and

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

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

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

25 (1) The department shall evaluate and update planning standards
26 for oil spill response equipment required under contingency plans
27 required by this chapter, including aerial surveillance, in order to
28 ensure access in the state to equipment that represents the best
29 achievable protection to respond to a worst case spill and provide
30 for continuous operation of oil spill response activities to the
31 maximum extent practicable and without jeopardizing crew safety, as
32 determined by the incident commander or the unified command.

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

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

1 **Sec. 24.** RCW 42.56.270 and 2014 c 192 s 6, 2014 c 174 s 5, and
2 2014 c 144 s 6 are each reenacted and amended to read as follows:

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

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

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

14 (3) Financial and commercial information and records supplied by
15 private persons pertaining to export services provided under chapters
16 43.163 and 53.31 RCW, and by persons pertaining to export projects
17 under RCW 43.23.035;

18 (4) Financial and commercial information and records supplied by
19 businesses or individuals during application for loans or program
20 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
21 43.168 RCW, or during application for economic development loans or
22 program services provided by any local agency;

23 (5) Financial information, business plans, examination reports,
24 and any information produced or obtained in evaluating or examining a
25 business and industrial development corporation organized or seeking
26 certification under chapter 31.24 RCW;

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

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

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

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

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

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

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

20 (12)(a) When supplied to and in the records of the department of
21 commerce:

22 (i) Financial and proprietary information collected from any
23 person and provided to the department of commerce pursuant to RCW
24 43.330.050(8); and

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

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

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

37 (d) If there is no written contact for a period of sixty days to
38 the department of commerce from a person connected with siting,
39 recruitment, expansion, retention, or relocation of that person's

1 business, information described in (a)(ii) of this subsection will be
2 available to the public under this chapter;

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

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

12 (15) Financial and commercial information provided as evidence to
13 the department of licensing as required by RCW 19.112.110 or
14 19.112.120, except information disclosed in aggregate form that does
15 not permit the identification of information related to individual
16 fuel licensees;

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

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

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

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

33 (19) Information gathered under chapter 19.85 RCW or RCW
34 34.05.328 that can be identified to a particular business;

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

1 fund or to result in private loss to the providers of this
2 information; (~~and~~)

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

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

12 (23) Unaggregated or individual notices of a transfer of crude
13 oil that is financial, proprietary, or commercial information,
14 submitted to the department of ecology pursuant to section 8(1)(a) of
15 this act, and that is in the possession of the department of ecology
16 or any entity with which the department of ecology has shared the
17 notice pursuant to section 8 of this act.

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

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

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

25 (b) Updates every two years, beginning December 31, 2017, and
26 ending December 31, 2021, consistent with the requirements of RCW
27 43.01.036, as to the progress made in completing state and federal
28 geographic response plans as needed in contingency plans required
29 under RCW 90.56.060, 90.56.210, and 88.46.060.

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

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

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

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

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

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

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

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

36 NEW SECTION. **Sec. 27.** Before the start of the 2016 legislative
37 session, the senate energy, environment, and telecommunications
38 committee and the house of representatives environment committee must
39 hold at least one joint meeting on oil spill prevention and response

1 activities for international transport of liquid bulk crude oil. The
2 committees may invite representatives of affected parties from the
3 United States and Canada to address issues including but not limited
4 to the following:

5 (1) Cooperative prevention and emergency response activities
6 between shared international and state borders;

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

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

11 NEW SECTION. **Sec. 28.** A new section is added to chapter 90.56
12 RCW to read as follows:

13 To the extent practicable and consistent with RCW 88.46.180, the
14 department shall periodically evaluate and update planning standards
15 for oil spill response equipment required under contingency plans
16 required by this chapter in order to ensure access in the state to
17 equipment that represents the best achievable protection to respond
18 to a worst case spill and provide for continuous operation of oil
19 spill response activities to the maximum extent practicable and
20 without jeopardizing crew safety, as determined by the incident
21 commander or the unified command. The department must coordinate
22 evaluation and update planning requirements under this section with
23 requirements under RCW 88.46.180 to eliminate duplication.

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

28 NEW SECTION. **Sec. 30.** By July 31, 2015, the state treasurer
29 shall transfer two million two hundred twenty-five thousand dollars
30 from the oil spill response account created in RCW 90.56.500 to the
31 oil spill prevention account created in RCW 90.56.510.

32 NEW SECTION. **Sec. 31.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

--- END ---