

**Chapter 88.46 RCW**  
**VESSEL OIL SPILL PREVENTION AND RESPONSE**

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**RCW 88.46.010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

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

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

(ii) Processes that are currently in use.

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

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

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

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

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

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

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

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

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

(c) Except as provided under (b) of this subsection, a facility does not include any: (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) retail motor vehicle motor fuel outlet; (iii) facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; (iv) underground storage tank regulated by the department or a local government under chapter 70A.355 RCW; or

(v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(30) "Worst case spill" means: (a) In the case of a vessel, a spill of the entire cargo and fuel of the vessel complicated by adverse weather conditions; and (b) in the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather conditions. [2020 c 20 s 1490; 2015 c 274 s 2. Prior: 2011 c 122 s 1; prior: 2009 c 11 s 7; 2007 c 347 s 5; 2000 c 69 s 1; 1992 c 73 s 18; 1991 c 200 s 414.]

**Effective date—2015 c 274:** See note following RCW 90.56.005.

**Findings—Intent—2009 c 11:** See note following RCW 88.46.130.

**Effective dates—1992 c 73:** See RCW 82.23B.902.

**RCW 88.46.020 Coordination with federal law.** In carrying out the purposes of this chapter, including the adoption of rules for contingency plans, the director shall to the greatest extent practicable implement this chapter in a manner consistent with federal law. [2000 c 69 s 2; 1991 c 200 s 415.]

**RCW 88.46.030 Tank vessel inspection programs.** (1) All tank vessels entering the navigable waters of the state shall be subject to inspection to assure that they comply with all applicable federal and state standards.

(2) The department shall review the tank vessel inspection programs conducted by the United States coast guard and other federal agencies to determine if the programs as actually operated by those agencies provide the best achievable protection to the waters of the state. If the department determines that the tank vessel inspection programs conducted by these agencies are not adequate to protect the state's waters, it shall adopt rules for a state tank vessel inspection program. The department shall adopt rules providing for a random review of individual tank vessel inspections conducted by federal agencies. The department may accept a tank vessel inspection report issued by another state if that state's tank vessel inspection program is determined by the department to be at least as protective of the public health and the environment as the program adopted by the department.

(3) The state tank vessel inspection program shall ensure that all tank vessels entering state waters are inspected at least annually. To the maximum extent feasible, the state program shall consist of the monitoring of existing tank vessel inspection programs conducted by the federal government. The department shall consult with the coast guard regarding the tank vessel inspection program. Any tank vessel inspection conducted pursuant to this section shall be performed during the vessel's scheduled stay in port.

(4) Any violation of coast guard or other federal regulations uncovered during a state tank vessel inspection shall be immediately reported to the appropriate agency. [2000 c 69 s 3; 1991 c 200 s 416.]

**RCW 88.46.040 Prevention plans.** (1) The owner or operator for each tank vessel shall prepare and submit to the department an oil spill prevention plan in conformance with the requirements of this chapter. The plans shall be submitted to the department in the time and manner directed by the department. The spill prevention plan may be consolidated with a spill contingency plan submitted pursuant to RCW 88.46.060. The department may accept plans prepared to comply with other state or federal law as spill prevention plans to the extent those plans comply with the requirements of this chapter. The department, by rule, shall establish standards for spill prevention plans.

(2) The spill prevention plan for a tank vessel or a fleet of tank vessels operated by the same operator shall:

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

(b) State all discharges of oil of more than twenty-five barrels from the vessel within the prior five years and what measures have been taken to prevent a reoccurrence;

(c) Describe all accidents, collisions, groundings, and near miss incidents in which the vessel has been involved in the prior five years, analyze the causes, and state the measures that have been taken to prevent a reoccurrence;

(d) Describe the vessel operations with respect to staffing standards;

- (e) Describe the vessel inspection program carried out by the owner or operator of the vessel;
  - (f) Describe the training given to vessel crews with respect to spill prevention;
  - (g) Establish compliance with federal drug and alcohol programs;
  - (h) Describe all spill prevention technology that has been incorporated into the vessel;
  - (i) Describe the procedures used by the vessel owner or operator to ensure English language proficiency of at least one bridge officer while on duty in waters of the state;
  - (j) Describe relevant prevention measures incorporated in any applicable regional marine spill safety plan that have not been adopted and the reasons for that decision; and
  - (k) Include any other information reasonably necessary to carry out the purposes of this chapter required by rules adopted by the department.
- (3) The department shall only approve a prevention plan if it provides the best achievable protection from damages caused by the discharge of oil into the waters of the state and if it determines that the plan meets the requirements of this section and rules adopted by the department.
- (4) Upon approval of a prevention plan, the department shall provide to the person submitting the plan a statement indicating that the plan has been approved, the vessels covered by the plan, and other information the department determines should be included.
- (5) The approval of a prevention plan shall be valid for five years. An owner or operator of a tank vessel shall notify the department in writing immediately of any significant change of which it is aware affecting its prevention plan, including changes in any factor set forth in this section or in rules adopted by the department. The department may require the owner or operator to update a prevention plan as a result of these changes.
- (6) The department by rule shall require prevention plans to be reviewed, updated, if necessary, and resubmitted to the department at least once every five years.
- (7) Approval of a prevention plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under this chapter or other state law.
- (8) This section does not authorize the department to modify the terms of a collective bargaining agreement. [2000 c 69 s 4; 1991 c 200 s 417.]

**RCW 88.46.050 Vessel screening.** (1) In order to ensure the safety of marine transportation within the navigable waters of the state and to protect the state's natural resources, the department shall adopt rules for determining whether cargo vessels and passenger vessels entering the navigable waters of the state pose a substantial risk of harm to the public health and safety and the environment.

(2) The rules may include:

(a) Examining available information sources for evidence that a cargo or passenger vessel may pose a substantial risk to safe marine transportation or the state's natural resources. Information sources may include: Vessel casualty lists, United States coast guard casualty reports, maritime insurance ratings, the index of contingency plans

compiled by the department of ecology, other data gathered by the maritime commission, or any other resources;

(b) Requesting the United States coast guard to deny a cargo vessel or passenger vessel entry into the navigable waters of the state, if the vessel poses a substantial environmental risk;

(c) Notifying the state's spill response system that a cargo or passenger vessel entering the state's navigable waters poses a substantial environmental risk;

(d) Inspecting a cargo or passenger vessel that may pose a substantial environmental risk, to determine whether the vessel complies with applicable state or federal laws. Any vessel inspection conducted pursuant to this section shall be performed during the vessel's scheduled stay in port; and

(e) Enforcement actions. [2000 c 69 s 5; 1992 c 73 s 19; 1991 c 200 s 418.]

**Effective dates—1992 c 73:** See RCW 82.23B.902.

**RCW 88.46.060 Contingency plans.** (1) Each covered vessel shall have a contingency plan for the containment and cleanup of oil spills from the covered vessel into the waters of the state and for the protection of fisheries and wildlife, shellfish beds, natural resources, and public and private property from such spills. The department shall by rule adopt and periodically revise standards for the preparation of contingency plans. The department shall require contingency plans, at a minimum, to meet the following standards:

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

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

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

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

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

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

(g) Describe important features of the surrounding environment, including fish habitat, water column species and subsurface resources, wildlife habitat, shellfish beds, environmentally and archaeologically sensitive areas, and public facilities, that are: (i) Based on information documented in geographic response plans and area contingency plans, as required under RCW 90.56.210; or (ii) for areas without geographic response plans or area contingency plans, existing practices protecting these resources used for similar areas. The departments of ecology, fish and wildlife, natural resources, and archaeology and historic preservation, upon request, shall provide

information that they have available to assist in preparing this description. The description of archaeologically sensitive areas shall not be required to be included in a contingency plan until it is reviewed and updated pursuant to subsection (9) of this section;

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

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

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

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

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

(m) Until a spill prevention plan has been submitted pursuant to RCW 88.46.040, state the measures that have been taken to reduce the likelihood that a spill will occur, including but not limited to, design and operation of a vessel, training of personnel, number of personnel, and backup systems designed to prevent a spill;

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) Approval of a contingency plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under this chapter or other state law. [2018 c 262 s 201; 2011 c 122 s 6; 2005 c 78 s 2; 2000 c 69 s 6; 1995 c 148 s 3; 1992 c 73 s 20; 1991 c 200 s 419.]

**Findings—Intent—Report—2018 c 262:** See notes following RCW 82.23B.010.

**Effective date—1995 c 148 ss 1-3:** "Sections 1 through 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 27, 1995]." [1995 c 148 s 6.]

**Effective dates—1992 c 73:** See RCW 82.23B.902.

**RCW 88.46.0601 Contingency plans—Department to update rules.**

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

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

(2) Standards for best achievable protection for situations involving the oils in subsection (1) of this section. [2018 c 262 s 202.]

**Findings—Intent—Report—2018 c 262:** See notes following RCW 82.23B.010.

**RCW 88.46.062 Nonprofit corporation providing contingency plan—Findings—Termination of maritime commission.**

(1) The legislature finds that there is a need to continue to provide oil spill response and contingency plan coverage for vessels that do not have their own contingency plans that transit the waters of this state. A nonprofit corporation shall be established for the sole purpose of providing oil spill response and contingency plan coverage in compliance with RCW 88.46.060.

(2) The maritime commission may conduct activities and make expenditures necessary for the transition of services presently provided by the commission and its contractors to the nonprofit corporation established pursuant to this section.

(3) Once the nonprofit corporation is established and the transfers under RCW 88.46.063 are completed, the maritime commission may cease operation. [1995 c 148 s 1.]

**Effective date—1995 c 148 ss 1-3:** See note following RCW 88.46.060.

**RCW 88.46.063 Nonprofit corporation providing contingency plan—Transfer of functions and assets from maritime commission.** All reports, documents, surveys, books, records, files, papers, written materials, tangible property, and assets, including contracts and assessment moneys held by the maritime commission shall be transferred to the nonprofit corporation created under RCW 88.46.062. Funds transferred under this section shall be used for the sole purpose of providing oil spill response and contingency plan coverage and related activities in compliance with RCW 88.46.060. No funds may be transferred under this section until all liabilities of the maritime commission have been provided for or satisfied. All liabilities not provided for or satisfied by the maritime commission before cessation of its operations shall be transferred to the nonprofit corporation at the time the maritime commission's assets are transferred to the corporation. [1995 c 148 s 2.]

**Effective date—1995 c 148 ss 1-3:** See note following RCW 88.46.060.

**RCW 88.46.065 Nonprofit corporation providing contingency plan—Liability limited.** A nonprofit corporation established for the sole purpose of providing contingency plan coverage for any vessel in compliance with RCW 88.46.060 is entitled to liability protection as provided in this section. Obligations incurred by the corporation and any other liabilities or claims against the corporation may be enforced only against the assets of the corporation, and no liability for the debts or actions of the corporation exists against a director, officer, member, employee, incident commander, agent, contractor, or subcontractor of the corporation in his or her individual or representative capacity. Except as otherwise provided in this chapter, neither the directors, officers, members, employees, incident commanders, or agents of the corporation, nor the business entities by whom they are regularly employed may be held individually responsible for discretionary decisions, errors in judgment, mistakes, or other acts, either of commission or omission, that are directly related to the operation or implementation of contingency plans, other than for acts of gross negligence or willful or wanton misconduct. The corporation may insure and defend and indemnify the directors, officers, members, employees, incident commanders, and agents to the extent permitted by chapters 23B.08 and 24.03A RCW. This section does not alter or limit the responsibility or liability of any person for the operation of a motor vehicle. [2021 c 176 s 5251; 1994 sp.s. c 9 s 853.]

**Effective date—2021 c 176:** See note following RCW 24.03A.005.

**Severability—Headings and captions not law—Effective date—1994 sp.s. c 9:** See RCW 18.79.900 through 18.79.902.

**RCW 88.46.068 Adequacy of contingency plans—Practice drills—Rules.** The department shall by rule adopt procedures to determine the adequacy of contingency plans approved under RCW 88.46.060. The rules shall require random practice drills without prior notice that will test the adequacy of the responding entities. The rules may provide

for unannounced practice drills of individual contingency plans. The department shall review and publish a report on the drills, including an assessment of response time and available equipment and personnel compared to those listed in the contingency plans relying on the responding entities, and requirements, if any, for changes in the plans or their implementation. The department may require additional drills and changes in arrangements for implementing approved plans which are necessary to ensure their effective implementation. [2006 c 316 s 4.]

**Severability—2006 c 316:** See note following RCW 88.46.167.

**RCW 88.46.070 Enforcement of prevention plans and contingency plans—Determination of violation—Order or directive—Notice.** (1) The provisions of prevention plans and contingency plans approved by the department pursuant to this chapter shall be legally binding on those persons submitting them to the department and on their successors, assigns, agents, and employees. The superior court shall have jurisdiction to restrain a violation of, compel specific performance of, or otherwise to enforce such plans upon application by the department. The department may issue an order pursuant to chapter 34.05 RCW requiring compliance with a contingency plan or a prevention plan and may impose administrative penalties for failure to comply with a plan.

(2) If the director believes a person has violated or is violating or creates a substantial potential to violate the provisions of this chapter, the director shall notify the person of the director's determination by registered mail. The determination shall not constitute an order or directive under RCW 43.21B.310. Within thirty days from the receipt of notice of the determination, the person shall file with the director a full report stating what steps have been and are being taken to comply with the determination of the director. The director shall issue an order or directive, as the director deems appropriate under the circumstances, and shall notify the person by registered mail.

(3) If the director believes immediate action is necessary to accomplish the purposes of this chapter, the director may issue an order or directive, as appropriate under the circumstances, without first issuing a notice or determination pursuant to subsection (2) of this section. An order or directive issued pursuant to this subsection shall be served by registered mail or personally upon any person to whom it is directed. [2000 c 69 s 7; 1992 c 73 s 21; 1991 c 200 s 420.]

**Effective dates—1992 c 73:** See RCW 82.23B.902.

**RCW 88.46.073 Violations of rules—Enforcement.** If the director believes a person has violated or is violating or creates a substantial potential to violate the provisions of any rules adopted under this chapter, the director may institute such actions as authorized under RCW 88.46.070 (2) and (3). [2006 c 316 s 3.]

**Severability—2006 c 316:** See note following RCW 88.46.167.

**RCW 88.46.080 Unlawful operation of a covered vessel—Penalties—Evidence of approved contingency plan or prevention plan.** (1) Except as provided in subsection (3) of this section, it shall be unlawful for the owner or operator to knowingly and intentionally operate in this state or on the waters of this state a covered vessel without an approved contingency plan or an approved prevention plan as required by this chapter, or financial responsibility in compliance with chapter 88.40 RCW and the federal oil pollution act of 1990.

(2) (a) The first conviction under this section is a gross misdemeanor under chapter 9A.20 RCW.

(b) A second or subsequent conviction is a class C felony under chapter 9A.20 RCW.

(3) It shall not be unlawful for the owner or operator to operate a covered vessel if:

(a) The covered vessel is not required to have a contingency plan, spill prevention plan, or financial responsibility;

(b) All required plans have been submitted to the department as required by this chapter and rules adopted by the department and the department is reviewing the plan and has not denied approval; or

(c) The covered vessel has entered state waters after the United States coast guard has determined that the vessel is in distress.

(4) A person may rely on a copy of the statement issued by the department pursuant to RCW 88.46.060 as evidence that a vessel has an approved contingency plan and the statement issued pursuant to RCW 88.46.040 that a vessel has an approved prevention plan.

(5) Any person found guilty of willfully violating any of the provisions of this chapter, or any final written orders or directive of the director or a court in pursuance thereof is guilty of a gross misdemeanor, as provided in chapter 9A.20 RCW, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment in the county jail for up to three hundred sixty-four days, or by both such fine and imprisonment in the discretion of the court. Each day upon which a willful violation of the provisions of this chapter occurs may be deemed a separate and additional violation. [2011 c 96 s 59; 2003 c 53 s 417; 2000 c 69 s 8; 1992 c 73 s 22; 1991 c 200 s 421.]

**Findings—Intent—2011 c 96:** See note following RCW 9A.20.021.

**Intent—Effective date—2003 c 53:** See notes following RCW 2.48.180.

**Effective dates—1992 c 73:** See RCW 82.23B.902.

**RCW 88.46.090 Unlawful acts—Civil penalty.** (1) Except as provided in subsection (4) of this section, it shall be unlawful for a covered vessel to enter the waters of the state without an approved contingency plan required by RCW 88.46.060, a spill prevention plan required by RCW 88.46.040, or financial responsibility in compliance with chapter 88.40 RCW and the federal oil pollution act of 1990. The department may deny entry onto the waters of the state to any covered vessel that does not have a required contingency or spill prevention plan or financial responsibility.

(2) Except as provided in subsection (4) of this section, it shall be unlawful for a covered vessel to transfer oil to or from an

onshore or offshore facility that does not have an approved contingency plan required under RCW 90.56.210, a spill prevention plan required by RCW 90.56.200, or financial responsibility in compliance with chapter 88.40 RCW and the federal oil pollution act of 1990.

(3) The director may assess a civil penalty of up to one hundred thousand dollars against the owner or operator of a vessel who is in violation of subsection (1) or (2) of this section. Each day that the owner or operator of a covered vessel is in violation of this section shall be considered a separate violation.

(4) It shall not be unlawful for a covered vessel to operate on the waters of the state if:

(a) A contingency plan, a prevention plan, or financial responsibility is not required for the covered vessel;

(b) A contingency plan and prevention plan has been submitted to the department as required by this chapter and rules adopted by the department and the department is reviewing the plan and has not denied approval; or

(c) The covered vessel has entered state waters after the United States coast guard has determined that the vessel is in distress.

(5) Any person may rely on a copy of the statement issued by the department to RCW 88.46.060 as evidence that the vessel has an approved contingency plan and the statement issued pursuant to RCW 88.46.040 as evidence that the vessel has an approved spill prevention plan.

(6) Except for violations of subsection (1) or (2) of this section, any person who violates the provisions of this chapter or rules or orders adopted or issued pursuant thereto, shall incur, in addition to any other penalty as provided by law, a penalty in an amount of up to ten thousand dollars a day for each violation. Each violation is a separate offense, and in case of a continuing violation, every day's continuance is a separate violation. Every act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under the provisions of this subsection and subject to penalty. The penalty amount shall be set in consideration of the previous history of the violator and the severity of the violation's impact on public health and the environment in addition to other relevant factors. The penalty shall be imposed pursuant to the procedures set forth in RCW 43.21B.300. [2000 c 69 s 9; 1992 c 73 s 23; 1991 c 200 s 422.]

**Effective dates—1992 c 73:** See RCW 82.23B.902.

**RCW 88.46.100 Notification of vessel emergencies resulting in discharge of oil.** In addition to any notifications that the owner or operator of a covered vessel must provide to the United States coast guard regarding a vessel emergency, the owner or operator of a covered vessel must notify the state of any vessel emergency that results in the discharge or substantial threat of discharge of oil to state waters or that may affect the natural resources of the state within one hour of the onset of that emergency. The purpose of this notification is to enable the department to coordinate with the vessel operator, contingency plan holder, and the United States coast guard to protect the public health, welfare, and natural resources of the state and to ensure all reasonable spill preparedness and response

measures are in place prior to a spill occurring. [2011 c 122 s 8; 2000 c 69 s 10; 1995 c 391 s 9; 1991 c 200 s 423.]

**Effective date—1995 c 391:** See note following RCW 38.52.005.

**RCW 88.46.120 Tank vessel response equipment standards.** The department may adopt rules including but not limited to standards for spill response equipment to be maintained on tank vessels. The standards adopted under this section shall be consistent with spill response equipment standards adopted by the United States coast guard. [2000 c 69 s 11; 1991 c 200 s 425.]

**RCW 88.46.125 Emergency response system—Funding—Intent—Finding.** (1) It is the intent of the legislature to provide the various components of the maritime industry with the tools necessary to satisfy the requirements of RCW 88.46.130 in the most cost-effective manner. In doing, the legislature encourages, but does not mandate, the maritime industry to unite behind their mutual interests and responsibilities and identify or form a single umbrella organization that allows all affected covered vessels to equitably share the costs inherent in the implementation of RCW 88.46.130.

(2) The legislature further finds that, given the broad range of covered vessel types and sizes, an equitable sharing of the costs of implementing RCW 88.46.130 will likely mean that not all covered vessels will be responsible for providing the same amount of funding. Any umbrella organization that is identified or formed to satisfy the requirements of chapter 11, Laws of 2009 should consider the multitude of factors that comprise the risk of vessel emergencies and the likelihood of initiating a response from the emergency response vessel required by RCW 88.46.130.

(3) The legislature intends to provide the authority for any operator of a covered vessel that feels as though an umbrella organization that is identified, formed, or proposed for formation does not equitably share the costs of compliance with RCW 88.46.130 with the covered vessel in question, or the class of vessel to which the covered vessel belongs, to either contract directly with an adequate emergency response vessel or form or join a discreet umbrella organization representing the appropriate segment of the maritime industry. However, if the operator of a covered vessel chooses not to join a proposed or existing umbrella organization, or finds that negotiations leading to the formation of an umbrella organization are not progressing in an adequate manner, the legislature requests, but does not require, that the vessel operator contact the department and provide official notice of their concern as to how the umbrella group in question failed in establishing an equitable cost-share strategy.

(4) The department shall collect and maintain all notices received under this section and shall summarize any reports received by the operators of covered vessels and report the summation to the appropriate committees of the legislature upon request by a legislative committee. [2009 c 11 s 4.]

**Findings—Intent—2009 c 11:** See note following RCW 88.46.130.

**RCW 88.46.130 Emergency response system.** (1) By July 1, 2010, the owner or operator of a covered vessel transiting to or from a Washington port through the Strait of Juan de Fuca, except for transits extending no further west than Race Rocks light, shall establish and fund an emergency response system that provides for an emergency response towing vessel to be stationed at Neah Bay.

(2) Any emergency response towing vessel provided under this section must:

(a) Be available to serve vessels in distress in the Strait of Juan de Fuca and off of the western coast of the state from Cape Flattery light in Clallam county south to Cape Disappointment light in Pacific county; and

(b) Meet the requirements specified in RCW 88.46.135.

(3) In addition to meeting requirements specified in RCW 88.46.060, contingency plans for covered vessels operating in the Strait of Juan de Fuca must provide for the emergency response system required by this section. Documents describing how compliance with this section will be achieved must be submitted to the department by December 1, 2009. An initial contingency plan submitted to the department after December 1, 2009, must be accompanied by documents demonstrating compliance with this section.

(4) The requirements of this section are met if:

(a) Owners or operators of covered vessels provide an emergency response towing vessel that complies with subsection (2) of this section; or

(b) The United States government implements a system of protective measures that the department determines to be substantially equivalent to the requirements of this section as long as the emergency response towing vessel required by this section is stationed at Neah Bay. [2009 c 11 s 2; 1991 c 200 s 426.]

**Findings—Intent—2009 c 11:** "(1) The legislature finds that the northern coast of the Olympic Peninsula and Washington's west coast from Cape Flattery south to Cape Disappointment:

(a) Possess uniquely rich and highly vulnerable biological, marine, and cultural resources supporting some of the nation's most valuable commercial, sport, and tribal fisheries;

(b) Sustain endangered species and numerous species of vulnerable marine mammals; and

(c) Are internationally recognized through extraordinary designations including a world heritage site, a national park, a national marine sanctuary, national wildlife refuges, a maritime area off-limits to shipping, and tribal lands and fishing areas of federally recognized coastal Indian tribes.

(2) The legislature further finds that these coasts are periodically beset by severe storms with dangerously high seas and by strong currents, obscuring fog, and other conditions that imperil vessels and crews. When vessels suffer damage or founder, the coasts are likewise imperiled, particularly if oil is spilled into coastal waters. Oil spills pose great potential risks to treasured resources.

(3) The legislature further finds that Washington has maintained an emergency response tug at Neah Bay since 1999 to protect state waters from maritime casualties and resulting oil spills. The tug is necessary because of the peculiarities of local waters that call for special precautionary measures. The tug has demonstrated its necessity and capability by responding to forty-two vessels in need of



assistance. State funding for the tug is scheduled to end June 30, 2009.

(4) The legislature intends that the maritime industry should provide and fully fund at least one year-round emergency response tug at Neah Bay, with necessary logistical and operational support, and that any tug provided by the maritime industry pursuant to this act should meet or exceed technical performance requirements specified in the state's fiscal year 2009 contract for the Neah Bay emergency response tug." [2009 c 11 s 1.]

**RCW 88.46.135 Emergency response system—Vessel planning standards.** (1) An emergency response towing vessel that is a part of the emergency response system required by RCW 88.46.130 must be stationed at Neah Bay and be available to respond to vessel emergencies. The towing vessel must be able to satisfy the following minimum planning standards:

- (a) Be underway within twenty minutes of a decision to deploy;
  - (b) Be able to deploy at any hour of any day to provide emergency assistance within the capabilities of the minimum planning standards and be safely manned to remain underway for at least forty-eight hours;
  - (c) In severe weather conditions, be capable of making up to, stopping, holding, and towing a drifting or disabled vessel of one hundred eighty thousand metric dead weight tons;
  - (d) In severe weather conditions, be capable of holding position within one hundred feet of another vessel;
  - (e) Be equipped with and maneuverable enough to effectively employ a ship anchor chain recovery hook and line throwing gun;
  - (f) Be capable of a bollard pull of at least seventy short tons;
- and
- (g) Be equipped with appropriate equipment for:
    - (i) Damage control patching;
    - (ii) Vessel dewatering;
    - (iii) Air safety monitoring; and
    - (iv) Digital photography.

(2) The requirements of this section may be fulfilled by one or more private organizations or nonprofit cooperatives providing umbrella coverage under contract to single or multiple covered vessels.

(3) (a) The department must be authorized to contract with the emergency response towing vessel, at the discretion of the department, in response to a potentially emerging maritime casualty or as a precautionary measure during severe storms. All instances of use by the department must be paid for by the department.

(b) Covered vessels that are required to provide an emergency response towing vessel under RCW 88.46.130 may not restrict the emergency response towing vessel from responding to distressed vessels that are not covered vessels.

(4) Nothing in this section limits the ability of a covered vessel to contract with an emergency response towing vessel with capabilities that exceed the minimum capabilities provided for a towing vessel in this section.

(5) The covered vessel owner or operator shall submit a written report to the department as soon as practicable regarding an emergency response system deployment, including photographic documentation

determined by the department to be of adequate quality. The report must provide a detailed description of the incident necessitating a response and the actions taken to render assistance under the emergency response system. [2009 c 11 s 3.]

**Findings—Intent—2009 c 11:** See note following RCW 88.46.130.

**RCW 88.46.139 Emergency response system—Adequacy determination—Practice drills.** (1) As part of reviewing contingency plans submitted under RCW 88.46.130, the department may determine the adequacy of the emergency response system required in RCW 88.46.130 through practice drills that test compliance with the requirements of RCW 88.46.135. Practice drills may be conducted without prior notice.

(2) Each successful response to a vessel emergency may be considered by the department to satisfy a drill covering this portion of a covered vessel's contingency plan.

(3) Drills of the emergency response system required in RCW 88.46.130 must emphasize the system's ability to respond to a potentially worst case vessel emergency scenario. [2009 c 11 s 6.]

**Findings—Intent—2009 c 11:** See note following RCW 88.46.130.

**RCW 88.46.160 Refueling, bunkering, or lightering operations—Availability of containment and recovery equipment—Rules.** Any person or facility conducting ship refueling and bunkering operations, or the lightering of petroleum products, and any person or facility transferring oil between an onshore or offshore facility and a tank vessel shall have containment and recovery equipment readily available for deployment in the event of the discharge of oil into the waters of the state and shall deploy the containment and recovery equipment in accordance with standards adopted by the department. All persons conducting refueling, bunkering, or lightering operations, or oil transfer operations shall be trained in the use and deployment of oil spill containment and recovery equipment. The department shall adopt rules as necessary to carry out the provisions of this section by June 30, 2006. The rules shall include standards for the circumstances under which containment equipment should be deployed including standards requiring deployment of containment equipment prior to the transfer of oil when determined to be safe and effective by the department. The department may require a person or facility to employ alternative measures including but not limited to automatic shutoff devices and alarms, extra personnel to monitor the transfer, or containment equipment that is deployed quickly and effectively. The standards adopted by rule must be suitable to the specific environmental and operational conditions and characteristics of the facilities that are subject to the standards, and the department must consult with the United States coast guard with the objective of developing state standards that are compatible with federal requirements applicable to the activities covered by this section. An onshore or offshore facility shall include the procedures used to contain and recover discharges in the facility's contingency plan. It is the responsibility of the person providing bunkering, refueling, or lightering services to provide any containment or recovery equipment required under this section. This section does not apply to a person

operating a ship for personal pleasure or for recreational purposes. [2004 c 226 s 3; 2000 c 69 s 12; 1991 c 200 s 438; 1987 c 479 s 2. Formerly RCW 90.48.510.]

**RCW 88.46.165 Oil transfers—Scope of rules—Reporting volumes of oil transferred.** (1) The department's rules authorized under RCW 88.46.160 and this section shall be scaled to the risk posed to people and to the environment, and be categorized by type of transfer, volume of oil, frequency of transfers, and such other risk factors as identified by the department.

(2) The rules may require prior notice be provided before an oil transfer, regulated under this chapter, occurs in situations defined by the department as posing a higher risk. The notice may include the time, location, and volume of the oil transfer, as well as the region per bill of lading, gravity as measured by standards developed by the American petroleum institute, and type of crude oil. The rules may not require prior notice when marine fuel outlets are transferring less than three thousand gallons of oil in a single transaction to a ship that is not a covered vessel and the transfers are scheduled less than four hours in advance.

(3) The department may require semiannual reporting of volumes of oil transferred to ships by a marine fuel outlet.

(4) The rules may require additional measures to be taken in conjunction with the deployment of containment equipment or with the alternatives to deploying containment equipment. However, these measures must be scaled appropriately to the risks posed by the oil transfer.

(5) The rules shall include regulations to enhance the safety of oil transfers over water originating from vehicles transporting oil over private roads or highways of the state. [2019 c 289 s 8; 2006 c 316 s 1.]

**Finding—Intent—2019 c 289:** See note following RCW 88.16.190.

**Severability—2006 c 316:** See note following RCW 88.46.167.

**RCW 88.46.167 Inspection authority—Department to conduct specialized reviews and prioritize adding capacity.** In addition to other inspection authority provided for in this chapter and chapter 90.56 RCW, the department may conduct inspections of oil transfer operations regulated under RCW 88.46.160 or 88.46.165. The department must conduct specialized reviews and prioritize adding capacity for the inspection of oil transfer operations where oils, depending on their qualities, weathering, environmental factors, and method of discharge, may submerge or sink in water. [2018 c 262 s 205; 2006 c 316 s 2.]

**Findings—Intent—Report—2018 c 262:** See notes following RCW 82.23B.010.

**Severability—2006 c 316:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2006 c 316 s 5.]

**RCW 88.46.170 Field operations program—Coordination with United States coast guard.** (1) The department shall establish a field operations program to enforce the provisions of this chapter. The field operations program shall include, but is not limited to, the following elements:

- (a) Education and public outreach;
- (b) Review of lightering and bunkering operations to prevent oil spills;
- (c) Evaluation and boarding of tank vessels for compliance with prevention plans prepared pursuant to this chapter;
- (d) Evaluation and boarding of covered vessels that may pose a substantial risk to the public health, safety, and the environment;
- (e) Evaluation and boarding of covered vessels for compliance with rules adopted by the department to implement recommendations of regional marine safety committees; and
- (f) Collection of vessel information to assist in identifying vessels which pose a substantial risk to the public health, safety, and the environment.

(2) The department shall coordinate the field operations program with similar activities of the United States coast guard. To the extent feasible, the department shall coordinate its boarding schedules with those of the United States coast guard to reduce the impact of boardings on vessel operators, to more efficiently use state and federal resources, and to avoid duplication of United States coast guard inspection operations.

(3) In developing and implementing the field operations program, the department shall give priority to activities designed to identify those vessels which pose the greatest risk to the waters of the state. The department shall consult with the marine transportation industry, individuals concerned with the marine environment, other state and federal agencies, and the public in developing and implementing the program required by this section. [2000 c 69 s 13; 1993 c 162 s 1.]

**Severability—1993 c 162:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 162 s 4.]

**Effective date—1993 c 162:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 162 s 5.]

**RCW 88.46.180 Planning standards for equipment—Updates.** (1) The department shall evaluate and update planning standards for oil spill response equipment required under contingency plans required by this chapter, including aerial surveillance, in order to ensure access in the state to equipment that represents the best achievable protection to respond to a worst case spill and provide for continuous operation of oil spill response activities to the maximum extent practicable and without jeopardizing crew safety, as determined by the incident commander or the unified command.

(2) The department shall by rule update the planning standards at five-year intervals to ensure the maintenance of best available protection over time. Rule updates to covered nontank vessels shall

minimize potential impacts to discretionary cargo moved through the state. [2015 c 274 s 23; 2011 c 122 s 2.]

**Effective date—2015 c 274:** See note following RCW 90.56.005.

**RCW 88.46.190 Rule making for vessels of opportunity response system.** By December 31, 2012, the department shall complete rule making for purposes of improving the effectiveness of the vessels of opportunity [response] system to participate in spill response. [2011 c 122 s 3.]

**RCW 88.46.200 Advisory marine safety committees—Recommendations.** The director may appoint ad hoc, advisory marine safety committees to solicit recommendations and technical advice concerning vessel traffic safety. The department may implement recommendations made in regional marine safety plans that are approved by the department and over which the department has authority. If federal authority or action is required to implement the recommendations, the department may petition the appropriate agency or the congress. [2000 c 69 s 14; 1994 sp.s. c 9 s 854.]

**Severability—Headings and captions not law—Effective date—1994 sp.s. c 9:** See RCW 18.79.900 through 18.79.902.

**RCW 88.46.210 Volunteer coordination system.** (1) The department shall establish a volunteer coordination system. The volunteer coordination system may be included as a part of the state's overall oil spill response strategy, and may be implemented by local emergency management organizations, in coordination with any analogous federal efforts, to supplement the state's timely and effective response to spills.

(2) The department should consider how the volunteer coordination system will:

(a) Coordinate with the incident commander or unified command of an oil spill and any affected local governments to receive, screen, and register volunteers who are not affiliated with the emergency management organization or a local nongovernmental organization;

(b) Coordinate the management of volunteers with local nongovernmental organizations and their affiliated volunteers;

(c) Coordinate appropriate response operations with different classes of volunteers, including pretrained volunteers and convergent volunteers, to fulfill requests by the department or an oil spill incident commander or unified command;

(d) Coordinate public outreach regarding the need for and use of volunteers;

(e) Determine minimum participation criteria for volunteers; and

(f) Identify volunteer training requirements and, if applicable, provide training opportunities for volunteers prior to an oil spill response incident.

(3) An act or omission by any volunteer participating in a spill response or training as part of a volunteer coordination system, while engaged in such activities, does not impose any liability on any state agency, any participating local emergency management organization, or

the volunteer for civil damages resulting from the act or omission. However, the immunity provided under this subsection does not apply to an act or omission that constitutes gross negligence or willful or wanton misconduct.

(4) The decisions to utilize volunteers in an oil spill response, which volunteers to utilize, and to determine which response activities are appropriate for volunteer participation in any given response are the sole responsibilities of the designated incident commander or unified command. [2011 c 122 s 4.]

**RCW 88.46.220 Equipment deployment drills of covered vessels.**

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

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

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

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

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

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

(5) The department shall, when practicable, coordinate with applicable federal agencies, the state of Oregon, and the province of British Columbia to establish a drill incident command and to help ensure that lessons learned from the drills are evaluated with the goal of improving the underlying contingency plans. [2018 c 262 s 203; 2011 c 122 s 5.]

**Findings—Intent—Report—2018 c 262:** See notes following RCW 82.23B.010.

**RCW 88.46.230 Umbrella plan holders.** (1) When submitting a contingency plan to the department under RCW 88.46.060, any umbrella plan holder that enrolls both tank vessels and covered vessels that are not tank vessels must, in addition to satisfying the other requirements of this chapter, specify:

(a) The maximum worst case discharge volume from covered vessels that are not tank vessels to be covered by the umbrella plan holder's contingency plan; and

(b) The maximum worst case discharge volume from tank vessels to be covered by the umbrella plan holder's contingency plan.

(2) Any owner or operator of a covered vessel having a worst case discharge volume that exceeds the maximum volume covered by an approved umbrella plan holder may enroll with the umbrella plan holder if the owner or operator of the covered vessel maintains an agreement with another entity to provide supplemental equipment sufficient to meet the requirements of this chapter.

(3) The department must approve an umbrella plan holder that covers vessels having a worst case discharge volume that exceeds the maximum volume if:

(a) The department determines that the umbrella plan holder should be approved for a lower discharge volume;

(b) The vessel owner or operator provides documentation to the umbrella plan holder authorizing the umbrella plan holder to activate additional resources sufficient to meet the worst case discharge volume of the vessel; and

(c) The department has previously approved a plan that provides access to the same resources identified in (3)(b) [(b) of this subsection] to meet the requirements of this chapter for worst case discharge volumes equal to or greater than the worst case discharge volume of the vessel.

(4) The umbrella plan holder must describe in the plan how the activation of additional resources will be implemented and provide the department the ability to review and inspect any documentation that the umbrella plan holder relies on to enroll a vessel with a worst case discharge that exceeds the plan's maximum volume. [2011 c 122 s 7.]

**RCW 88.46.250 Model—Assessment of oil spill risks, emergency response towing vessel—Report.** (1) The department must develop and maintain a model to quantitatively assess current and potential future risks of oil spills from covered vessels in Washington waters, as it conducts ongoing oil spill risk assessments. The department must consult with the United States coast guard, potentially affected federally recognized Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, and stakeholders to: Determine model assumptions; develop scenarios to show the likely impacts of changes to model assumptions, including potential changes in vessel traffic, commodities transported, and vessel safety and risk reduction measures; and update the model periodically.

(2) Utilizing the model pursuant to subsection (1) of this section, the department must quantitatively assess whether an emergency response towing vessel serving Haro Strait, Boundary Pass, Rosario Strait, and connected navigable waterways will reduce oil spill risk. The department must report its findings to the legislature by September 1, 2023. [2019 c 289 s 4.]

**Finding—Intent—2019 c 289:** See note following RCW 88.16.190.

**RCW 88.46.260 Vessel traffic patterns, oil spill risks—Effects of rules—Board of pilotage commissioners and department to consider—Notice.** (1) By October 1, 2028, and no less often than every ten years thereafter, the board of pilotage commissioners and the department must together consider:

(a) The effects of rules established under RCW 88.16.190 and 88.16.260 on vessel traffic patterns and oil spill risks in the Salish Sea. Factors considered must include modeling developed by the department under RCW 88.46.250 and may include: (i) Vessel traffic data; (ii) vessel accident and incident data, such as incidents where tug escorts or an emergency response towing vessel acted to reduce spill risks; and (iii) consultation with the United States coast guard, potentially affected federally recognized Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, and stakeholders; and

(b) Whether experienced or forecasted changes to vessel traffic patterns or oil spill risk in the Salish Sea necessitate an update to the tug escort rules adopted under RCW 88.16.260.

(2) In the event that the board of pilotage commissioners determines that updates are merited to the rules, the board must notify the appropriate standing committees of the house of representatives and the senate, and must thereafter adopt rules consistent with the requirements of RCW 88.16.260, including the consultation process outlined in RCW 88.16.260(6). [2019 c 289 s 5.]

**Finding—Intent—2019 c 289:** See note following RCW 88.16.190.

**RCW 88.46.901 Effective dates—1991 c 200.** See RCW 90.56.901.

**RCW 88.46.921 Office of marine safety abolished.** The office of marine safety is hereby abolished and its powers, duties, and functions are hereby transferred to the department of ecology. All references to the administrator or office of marine safety in the Revised Code of Washington shall be construed to mean the director or department of ecology. [1991 c 200 s 430.]

**Expiration date—1995 2nd sp.s. c 14 ss 511-523 and 528-533:** See note following RCW 43.19.1919.

**Effective dates—1995 2nd sp.s. c 14:** See note following RCW 43.19.1919.

**Effective date—1991 c 200 ss 430-436:** "Sections 430 through 436 of this act shall take effect July 1, 1997." [(1995 2nd sp.s. c 14 s 521 expired June 30, 1997); 1991 c 200 s 1120.]

**RCW 88.46.926 Apportionments of budgeted funds.** If apportionments of budgeted funds are required because of the transfers directed by \*RCW 88.46.922 through 88.46.925, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification. [1991 c 200 s 435.]

**\*Reviser's note:** (1) RCW 88.46.922 was repealed by 2000 c 69 s 37.

(2) RCW 88.46.924 and 88.46.925 were decodified by 2000 c 69 s 36.



**Effective date—1991 c 200 ss 430-436:** See note following RCW 88.46.921.