

Individual State Agency Fiscal Note

Bill Number: 5938 SB	Title: Vessel fin responsibility	Agency: 461-Department of Ecology
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

FUND					
Total \$					

Estimated Expenditures from:

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	1.3	1.3	1.3	2.0	2.0
Fund					
Oil Spill Prevention Account-State 217-1	115,074	117,823	232,897	358,561	354,210
Total \$	115,074	117,823	232,897	358,561	354,210

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☒ Requires new rule making, complete Part V.

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Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 2 of this bill would amend RCW 88.40.011 to add the defined term “fishing vessel” to the definition of "Cargo Vessel; limit “covered vessels” to vessels with a fuel capacity of over 250 barrels; broaden the definition of facility; add a definition of “fishing vessel”; update the definition of “hazardous substances”; delete the defintion of inland barge; and update federal regulations references in the definition of “oil”.

Section 2 would also add language to definitions that use the term “gross tons” to define that term as tonnage determined by the Coast Guard for U.S. flag vessels, or by international convention for non-U.S. flag vessels.

Agency assumption: Vessels acting as tenders or otherwise in support of the fishing industry would be considered cargo vessels.

Section 3 of this bill would amend RCW 88.40.020 to increase required financial responsibility amounts for vessels.

Agency impact: Although the U.S.Coast Guard, California, and Alaska have programs to certify compliance with their respective financial responsibility requirements, Washington does not have a program. Current state requirements are either less than or equal to federal requirements, or, for tank vessels, owners or operators are not required to submit evidence of financial responsibility because their ships are enrolled in a Protection and Indemnity Club (P&I Club). Under RCW 88.40.030, non tank vessels with a Federal Certificate of Financial Responsibility (COFR) do not have to submit evidence to Washington State. Tank vessels enrolled in a P & I Club are similarly exempt. The proposed bill would increase financial responsibility above federal limits for non-tank vessels. Therefore, current exempt vessels would be required to submit evidence of financial responsibility to Ecology for review and certification.

Subsection 3(1) would apply to any barge that transports hazardous substances on Washington waters and increase financial responsibility to \$300 per gross tons or \$5 million, whichever is greater. Ecology would have discretion to adopt rules to lower requirements for barges 300 gross tons or less based on cargo quantity and type.

Agency impact: Because the amendment would match levels required under federal law for barges greater than 300 gross tons, Ecology would depend on federal certification to establish compliance with requirement. Ecology would have to determine whether a rule would be necessary for barges 300 gross tons or less and, if so, what amounts would be appropriate for what cargo quantities and types.

Agency assumptions: For the purposes of this fiscal note, it is assumed that this provision would affect 75 barges, with 10 barges being 300 gross tons or less. It is further assumed that Ecology would establish by rule a certification program that would accept federal certification for 65 barges more than 300 gross tons, and set financial responsibility levels and evidentiary requirements for 10 barges 300 gross tons or less.

Subsection 3(2) would increase financial responsibility for all tank vessels to \$1 billion after January 1, 2004; allow Ecology to establish lower levels for “tank vessels or barges” 300 gross tons or less based on cargo capacity; and require tank vessels to prove membership in a Protection & Indemnity Club (P&I Club) that covers liabilities up to the amounts required by statute.

Agency impact: Ecology would establish by rule a form and process for: proving membership in a P&I Club; ensuring evidence of financial responsibility covers state liabilities; and acceptance of California certification or other state’s proof of coverage. Rulemaking would also determine whether small tank vessels (less than 300 gross tons) would require lesser amounts and, if so, what amounts.

Agency assumption: For the purposes of this fiscal note, it is assumed 400 tank vessels would be affected, 75 of which would be tank barges and 10 of which would be tank vessels of 300 gross tons or less. It is further assumed, that

approximately 50% of the tank vessels entering Washington waters also transit California waters.

Subsection 3(3) would increase financial responsibility amounts for cargo and passenger vessels 300 gross tons or more, with a fuel capacity of more than 6,500 barrels, to \$300 million.

Agency impact: Of the approximately 3,500 cargo and passenger vessels that operate on Washington waters annually, about 200 currently subject to state law would no longer be required to demonstrate financial responsibility under this proposal. The remaining 3,100 vessels would be required to demonstrate financial responsibility of \$300 million dollars. Of these, approximately 1,150 vessels would submit California certifications as evidence of financial responsibility. Ecology would have to establish in rule a process for submission, approval, and certification of evidence of financial responsibility for the remaining 1,950 vessels.

Subsection 3(4) would establish financial responsibility amounts for fishing vessels. Fishing vessels carrying predominantly nonpersistent product would be required to demonstrate financial responsibility of \$133.40 per incident per barrel of total oil storage capacity, or \$1,334,000, whichever is greater. Fishing vessels carrying predominantly persistent product would be required to demonstrate financial responsibility of \$400.20 per incident per barrel of total oil storage capacity or \$6,670,000, whichever is greater.

Agency impact: Subsection 3(4) is based on Alaska’s current requirements for nontank vessels. Alaska modifies its financial responsibility levels for nontank vessels every 3 years based on the Consumer Price Index for Anchorage. Currently, about 60 fishing vessels of 300 gross tons or more enter or operate on Washington waters. For the purposes of this fiscal note, it is assumed that 50 of Washington’s fishing vessels operate in Alaska. Ecology would have to establish in rule a process for submission, approval, and certification of evidence of financial responsibility for the remaining 10 fishing vessels

Agency assumptions: It is assumed that this section only applies to fishing vessels. For the purposes of this fiscal note, it is also assumed that 50 fishing vessels possess a Certificate of Financial Responsibility from Alaska.

Subsection 3(5) would broaden the scope of coverage required to include actual costs for removal of hazardous substances, civil penalties and fines, removal of shipwrecks and ship debris, and necessary expenses related to a spill or a substantial threat of a spill of oil or hazardous substances.

Agency impact: Ecology would have to review terms of coverage for all instruments, certifications, and P&I Club rules to determine whether the scope of coverage meets the scope of the proposed bill. This would require working with coverage providers to provide appropriate language specific to Washington waters.

Subsection 3(6) would allow Ecology to adopt rules that sets a lower level of financial responsibility for tank vessels that meet certain safety performance or other standards.

Agency impact: This provision would allow Ecology to provide incentives for tank vessel owners or operators to meet certain standards of operation. Ecology would have to work closely with maritime experts to develop appropriate reductions in financial responsibility for safety standards employed.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

This bill would authorize both mandatory and discretionary rulemaking by Ecology, and require an ongoing financial responsibility program.

Agency Assumption: For the purposes of this fiscal note, it is assumed that the bill would be effective 90 days after final adjournment of the 2003 legislative session.

Rulemaking

Section 3 would be implemented under one rulemaking process to address implementation of mandatory rulemaking under (c) of subsection 2, 4, and 5, and discretionary rulemaking under (b) of subsection 2 and 6.

Agency Assumptions:

1. Ecology assumes that this rulemaking would be a significant rulemaking under RCW 34.05.328 and require a cost/benefit analysis. It would require 2 years to complete involving 1 FTE Environmental Planner 4 and .25 FTE Environmental Education/Outreach Specialist 3 starting July 1, 2003. The cost/benefit analysis would require a personal services contract of \$10,000 in FY 05.

Ongoing Costs - Vessels

Ecology would establish a program to monitor P&I Club membership and terms of coverage, monitor and evaluate other states' certifications, and certify coverage cargo and passenger vessels and fishing vessels not otherwise exempted or covered.

Agency Assumptions:

1. Ecology assumes it would be able to accept federal, Californian, and Alaskan Certificates of Financial Responsibility (COFR) where the coverage certified meets Washington requirements. Ecology assumes that submission, evaluation and certification of evidence of financial responsibility for the remaining vessels would involve 10 barges carrying hazardous substances, 10 tank vessels, 1,950 cargo or passenger vessels, and 50 fishing vessels.

2. Based on California and Alaska's certification programs, Ecology assumes that its program would require 2 FTE starting July 1, 2005.

Salaries and Wages Detail: Direct program salaries are calculated at step H.

Employee Benefits for direct program staff are calculated at the agency average of 20.9% of salaries.

Goods and services are calculated at the agency average of \$3690 per direct FTE. Standard agency administrative overhead costs are also included.

Travel expenditures are calculated at the agency average rate of \$1461 per direct program FTE.

Equipment detail: \$5801 for start-up equipment is budgeted for each new direct FTE, based on current costs for an office chair, 1/5 motor pool vehicle, and basic computer equipment.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	1.3	1.3	1.3	2.0	2.0
A-Salaries and Wages	60,027	60,027	120,054	197,520	197,520
B-Employee Benefits	12,546	12,546	25,092	41,282	41,282
C-Personal Service Contracts		10,000	10,000		
E-Goods and Services	33,424	33,424	66,848	109,564	109,564
G-Travel	1,826	1,826	3,652	5,844	5,844
J-Capital Outlays	7,251		7,251	4,351	
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
Total:	\$115,074	\$117,823	\$232,897	\$358,561	\$354,210

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2004	FY 2005	2003-05	2005-07	2007-09
Enviro Ed Outreach Spec 3	42,588	0.3	0.3	0.3		
Enviro Spec 4	49,380	1.0	1.0	1.0	2.0	2.0
Total FTE's		1.3	1.3	1.3	2.0	2.0

Part IV: Capital Budget Impact

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Section 3 would be implemented under one rulemaking process to address implementation of mandatory rulemaking under subsection (2)(c) and subsection (3), and discretionary rulemaking under subsection (2)(b) and subsection (6).

Assumptions:

1. Ecology assumes that this rulemaking would be a significant rulemaking under RCW 34.05.328 and require a cost/benefit analysis. It would require 2 years to complete involving 1 FTE Environmental Planner 4 and .25 FTE Environmental Education/Outreach Specialist 3 starting July 1, 2003. The cost/benefit analysis would require a personal services contract of \$10,000 in FY 05.