

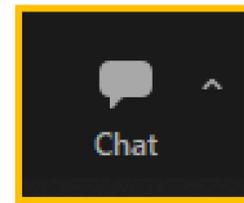
Public Hearing February 27, 28 & 29 2024: Rulemaking for Chapter 173-187 WAC - Financial Responsibility

We will begin shortly

All lines are muted

Technical issues?

Use the chat feature to
type privately to the host



This is a sound check. No sound?

1

Move your cursor to the bottom of your screen to show Zoom controls.



2

Select the “^” icon near the microphone.

3

3 Options

- A Click “Test Speaker & Microphone”
 - B Click “Switch to Phone Audio”
- OR**
- C Click “Audio Settings...”

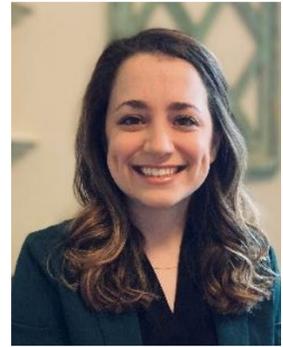


Ecology's Financial Responsibility Team

Diana Davis
Financial Responsibility
Unit Supervisor and
Rulemaking Lead



Brittany Flittner
Rulemaking Process Lead



Karen Denny
Area Planning Specialist



Sean Orr
Preparedness Planning
Specialist



Angela Zeigenfuse
Rulemaking Process
Support



Hearing Agenda

Introductions, agenda
review, meeting logistics

Thea Angeli

Staff presentation

Diana Davis

Q&A

Diana Davis

Formal public hearing

Thea Angeli

Close public hearing

Thea Angeli

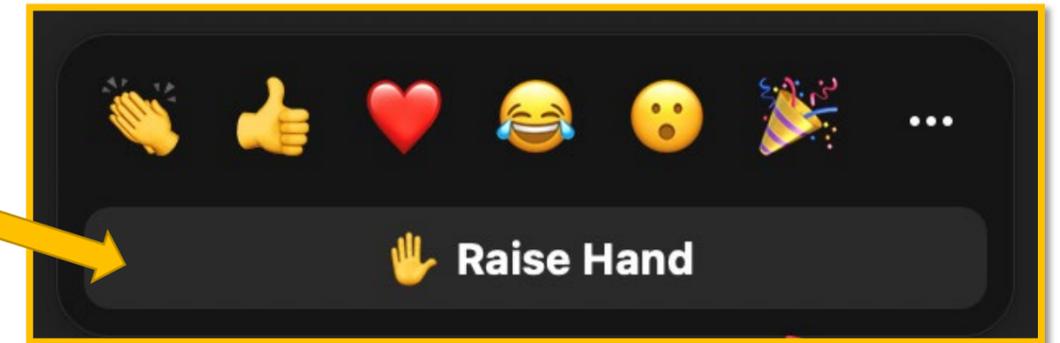
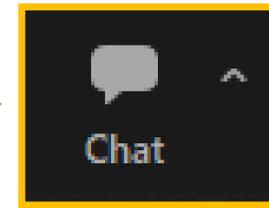
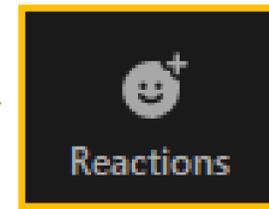


Zoom Introduction

If you want to ask a question, please click the “Raise Hand” button under “Reactions”

OR

Use the “Chat” box to type in your question





Financial Responsibility Rulemaking Chapter 173-187 WAC

Diana Davis, Financial Responsibility Unit Supervisor

Public Hearing Overview – February 27, 28 & 29, 2024



Rulemaking Overview

Ecology is formally proposing a new chapter of rule, Chapter 173-187 WAC - Financial Responsibility.

Financial Responsibility ensures vessel and facility owners and operators have adequate financial resources to pay cleanup costs and damages resulting from oil spills.



Why are we conducting this rulemaking?

Engrossed Second Substitute House Bill (E2SHB) 1691, codified in Chapter 88.40 RCW, directs Ecology to adopt rules regarding financial responsibility requirements for oil handling facilities and vessels.

PDF

RCW 88.40.005

Intent.

The legislature recognizes that oil and hazardous substance spills and other forms of incremental pollution present serious danger to the fragile marine environment of Washington state. It is the intent and purpose of this chapter to define and prescribe financial responsibility requirements for vessels that transport petroleum products as cargo or as fuel across the waters of the state of Washington and for facilities that store, handle, or transfer oil or hazardous substances in bulk on or near the navigable waters.

[**1991 c 200 § 701; 1990 c 116 § 29; 1989 1st ex.s. c 2 § 1.**]



Rulemaking Timeline

Dates	Activity
April 17, 2023	CR-101, rule announcement
June – October 2023	Rule development
January 19, 2024	Propose the rule (file the CR-102 form) Public comment period begins
February 27, 28 & 29, 2024	Public hearings
March 8, 2024	Public comment period ends
June 2024	Adopt rule (file the CR-103 form)
July 2024	Rule becomes effective



Rulemaking Scope

The new rule will:

Define the entities subject to requirements.

Establish required financial responsibility levels for oil handling facilities and pipelines.

Specify the procedures and timelines for obtaining or renewing a certificate of financial responsibility (COFR).

Establish requirements for acceptable evidence of financial responsibility, including self-insurance.

Scope Continued

Outline process for timely updates to changes in regulated industry financial status.

Define processes governing the suspension, revocation, and re-issuance of certificates of financial responsibility

Incorporate/update financial responsibility requirements currently included in WAC Chapter 317-50 – Financial Responsibility for Small Tank Barges and Oil Spill Response Barges

Repeal Chapter 317-50 WAC



Washington Proposed Financial Responsibility Requirements - Vessels

Vessel Type	Financial Responsibility Amounts
Barges that transport hazardous substances in bulk as cargo	\$5,000,000 or \$300 per gross ton, whichever is greater
Tank vessels, including tank barges	\$1,000,000,000
Tank vessels, including tank barges, 300 gross tons or less	\$5,000,000 or \$3,000 per barrel of the barge's total capacity, whichever is greater
Cargo vessel	\$300,000,000
Passenger vessel	\$300,000,000
Passenger vessels that transport passengers and vehicles between Washington and a foreign country	\$500,000 or \$600 per gross ton, whichever is greater
Fishing vessel that carries predominantly nonpersistent oil	\$1,334,000 or \$133.40 per each barrel of total oil storage capacity, whichever is greater
Fishing vessel that carries predominantly persistent oil	\$6,670,000 or \$400.20 per each barrel of total oil storage capacity, whichever is greater



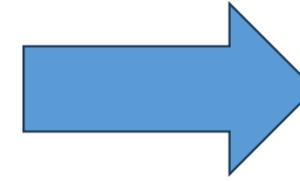
Washington Proposed Financial Responsibility Requirements - Facilities

Facility Type	Financial Responsibility Amounts	Maximum Amount Required
Class 1 facility (oil handling facilities including refineries and marine terminals)	\$12,500 per barrel times worst case spill (WCS) volume	\$300,000,000
Class 1 facility (offshore facilities)	\$12,500 per barrel times worst case spill (WCS) volume	\$300,000,000
Class 1 facility (pipelines)	\$12,500 per barrel times worst case spill (WCS) volume	\$300,000,000
Class 2 facility (mobile tank units)	\$12,500 per barrel times 30 percent of the entire contents of the container(s) in which the oil is stored or transported	\$5,000,000
Class 3 facility (small marine terminals)	\$12,500 per barrel times the volume of the largest facility tank	\$5,000,000



Alternative Financial Responsibility Calculation

Facilities may
request an
alternative financial
responsibility
calculation



May reduce the
amount of financial
responsibility they
will be required to
prove



Requirements:

- In writing
- Submission = at least 65 days before COFR application
- Describe ability to pay for a worst-case spill and prevention and preparedness efforts
- Subject to a 30 day public review



Financial Responsibility – Certification Process

Ecology will verify Protection & Indemnity (P&I) club membership for arriving vessels.

Enrolled in P&I club?

Yes → no COFR action required

No → submit an application for WA COFR

Regulated facilities → submit an application for COFR

Scenario with multiple facilities or vessels?

Owners/operators can:

- obtain 1 certificate to cover all their facilities or vessels
- obtain multiple certificates to cover a subset of their facilities or vessels

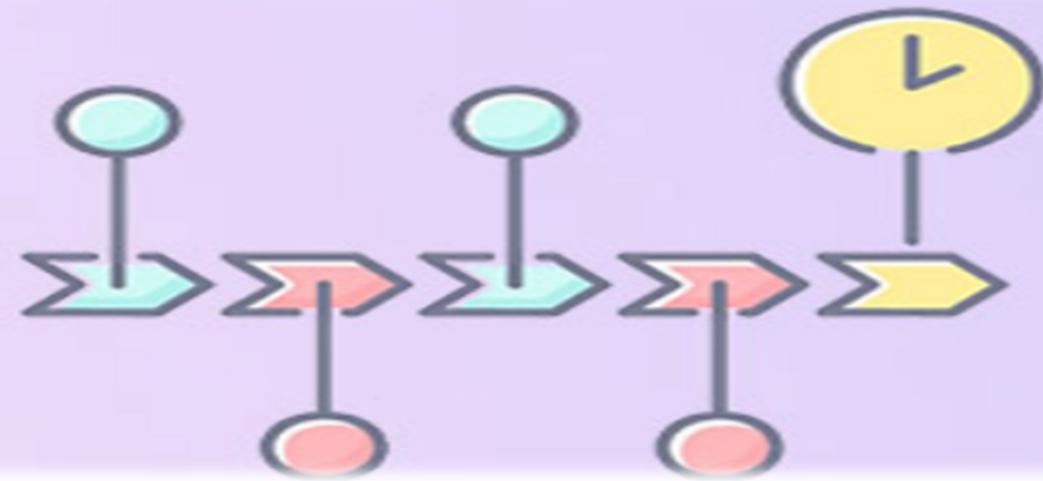


Methods of Proving Financial Responsibility

- Evidence of insurance
- Surety bonds
- Guarantee
- Letter of credit
- Certificates of deposit
- Protection and indemnity club membership
- Certificate of financial responsibility from another state or from the federal government
- Self-Insurance
- Other evidence of financial responsibility deemed acceptable by ecology



Compliance Timelines



Phase-in timeline to submit request for initial COFR:

- Class 1 facilities → 9 months
- Class 2 and 3 facilities → 15 months
- Vessels → 21 months

After the effective date of the rule,

The timeline to submit a request for a COFR is:

- Class 1, 2, and 3 facilities → 65 days before beginning operations in WA
- Vessels → at least 10 calendar days before entering the WA waters*

Compliance Timelines

Certificates expire 2 years after issuance

The proposed rule also specifies a timeline for COFR renewal.

Must submit an application to renew between 30 and 90 calendar days before the expiration date.

**EXPIRATION
DATE _____**

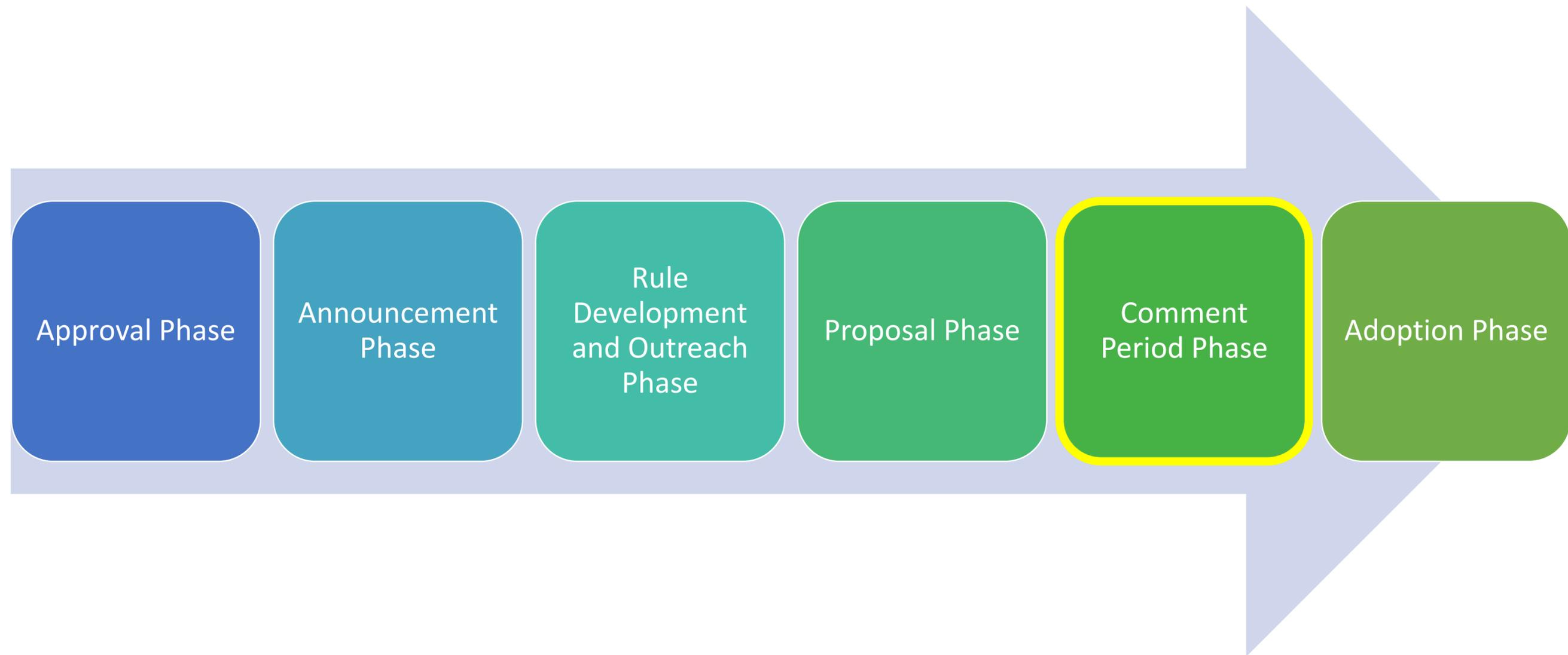


Notification Requirements

- Significant changes relevant to a vessel or facility's COFR must be reported to Ecology within 7 days. Changes include but are not limited to:
 - Change in ownership or operational control.
 - If method of demonstrating FR is to be terminated or any coverage is to cease.
 - If any FR coverage amount will be changed/adjusted.
- A large spill that may impact the ability to prove financial responsibility must be reported within 10 days



Phases of Rulemaking

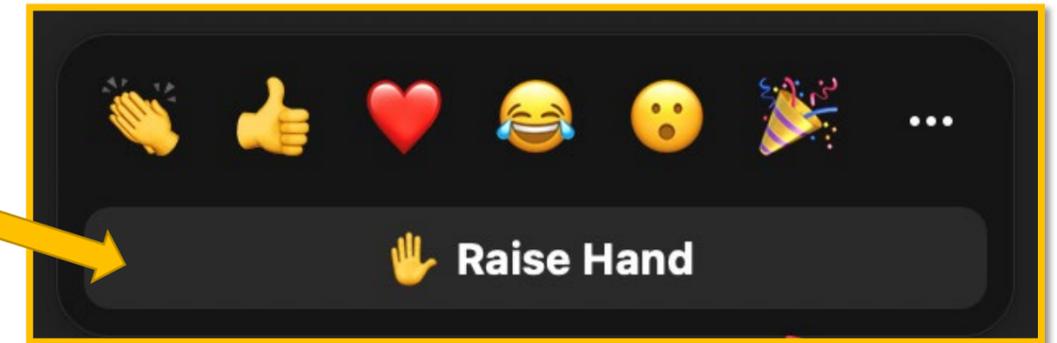
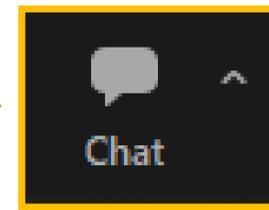
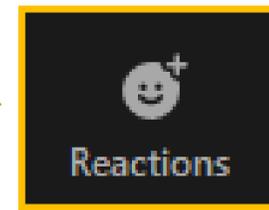


Questions

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your question



**We are now on a 10-minute break and
will resume shortly for formal
testimony.**



Submit Comments by March 8, 2024

Online

Submit comments online here:

<https://sppr.ecology.commentinput.com/?id=Njtx23iVBu>

Rulemaking Website:

<https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-187>

Mail

Submit comments by mail to:

Diana Davis
Department of Ecology
Northwest Region
Spill Prevention, Preparedness, and Response Program
PO Box 330316
Shoreline, WA 98133-9716

For Parcel Service:

Diana Davis
Department of Ecology
Northwest Region
Spill Prevention, Preparedness, and Response Program
15700 Dayton Ave N.
Shoreline, WA 98133

