



Financial Responsibility Rulemaking Chapter 173-187 WAC

Diana Davis, Financial Responsibility Unit Supervisor

Rule Overview and Introductions – June 15, 2023



Agenda

Welcome - Introductions

Certificate of Financial Responsibility (COFR)
Rulemaking

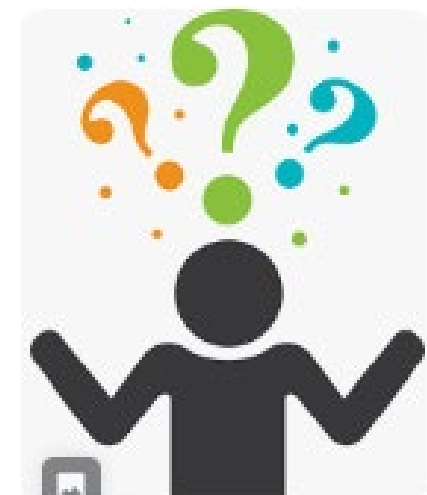
Why are we writing this rule

Who is involved

What is the rulemaking scope

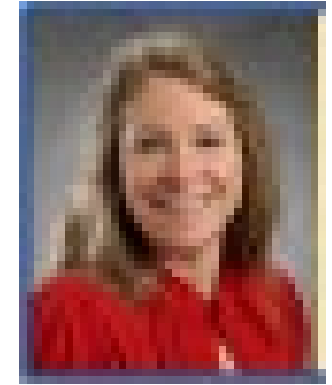
What is the timeline

Questions and dialog are welcomed! Please use the meeting **CHAT** feature to ask questions as you think of them and we will address them.



Ecology's Financial Responsibility Team

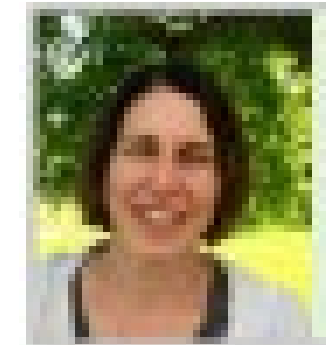
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Financial Responsibility
Unit Supervisor and
Rulemaking Lead



Sonja Larson
Response Technology
Specialist



Kim Morley
Rule Coordinator



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Lead Planner
Oil Movement



Rulemaking Overview

Ecology is initiating a rulemaking to create a new rule, Chapter 173-187 WAC - Financial Responsibility.

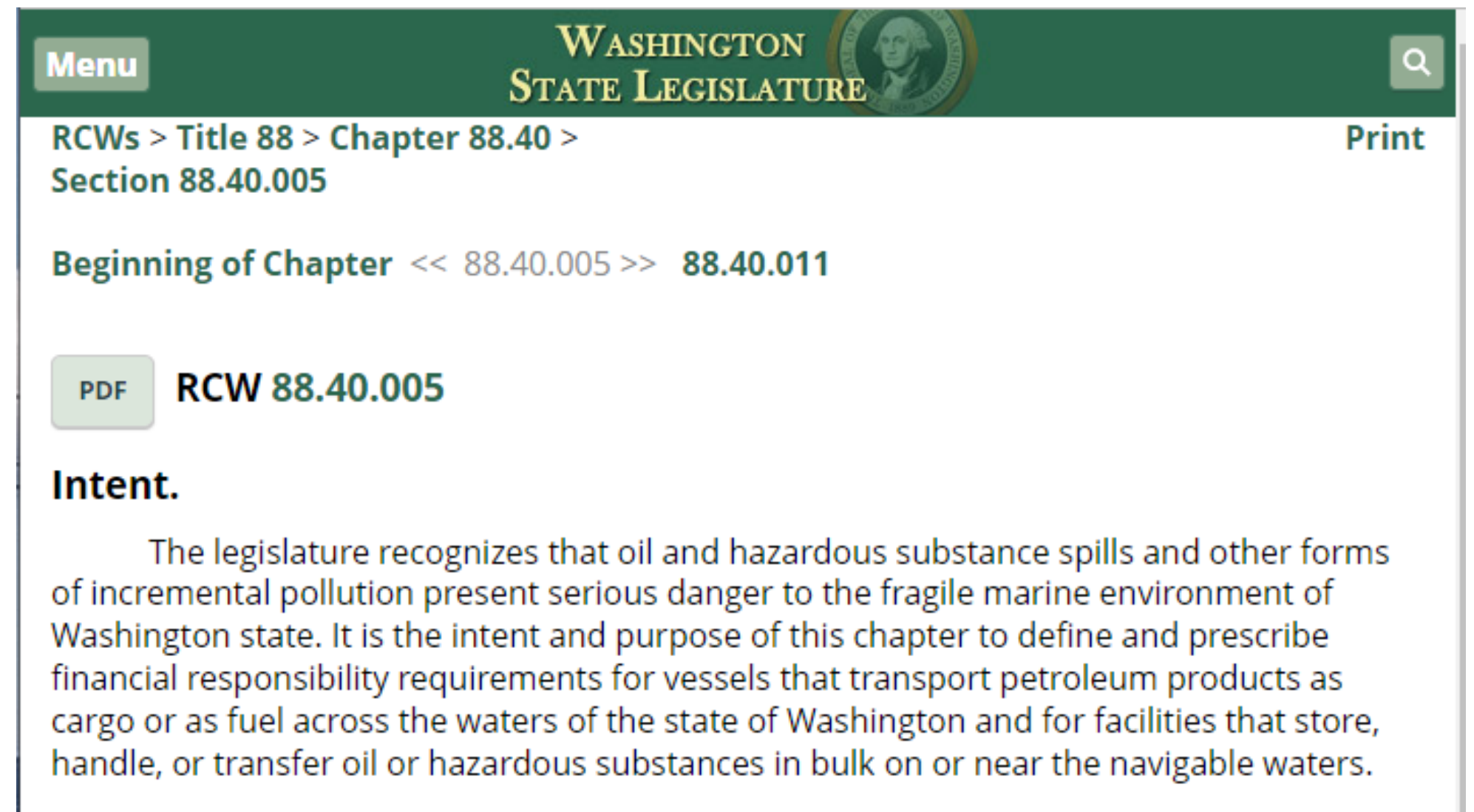
Financial Responsibility is used to ensure that vessel and facility owners and operators have adequate financial resources to pay cleanup costs and damages resulting from oil spills.

Additionally, an existing Chapter 317-50 WAC – Financial Responsibility for Small Tank Barges and Oil Spill Response Barges, will be incorporated into the new rule and then repealed.



Why are we conducting rulemaking at this time?

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



The screenshot displays the Washington State Legislature website. At the top, there is a green header with the text "WASHINGTON STATE LEGISLATURE" and a search icon. Below the header, the breadcrumb trail reads "RCWs > Title 88 > Chapter 88.40 > Section 88.40.005". A "Print" button is visible in the top right corner. Below the breadcrumb trail, there is a navigation bar with "Beginning of Chapter << 88.40.005 >> 88.40.011". A "PDF" button is located to the left of the section title "RCW 88.40.005". Underneath, the "Intent." section is highlighted, followed by a paragraph of text: "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."



Why are we conducting rulemaking at this time?

When oil handling facilities and vessel companies cannot adequately cover the cost of a spill:

- response actions may be delayed – resulting in greater environmental damage
- cleanup costs are borne by the Federal/State government/citizens



The Federal Government, as well as California and Alaska, currently have COFR programs in place and several Washington companies / vessels are already meeting the requirements of those states.



Why are we conducting rulemaking at this time?

Implementation of financial responsibility has been a goal of Washington State since the 1990's. However, up until now other spill-related activities have been higher priorities for the state and our program.

The spills program works with the regulated community, Tribes, and other interested parties to ensure:

- Oil Spill Prevention
- Oil Spill Preparedness
- Oil Spill Response



Spills Program Prevention

Our #1 goal is to achieve **ZERO** spills - Washington's waters are a treasured environmental and economic resource that the state can't afford to place at undue risk

Oil Spill Prevention Actions:

- Investigates spill incidents to identify the cause of spills and produce guidance or regulations to minimize future spills based on lessons learned
- Provides certification programs and educational materials on spill prevention best practices to the regulated community
- Performs vessel, facility, and oil transfer operation inspections
- Evaluates spill prevention plans, oil transfer operations, and oil-handler training programs



Spills Program Preparedness

While spill prevention is our highest priority, spills do happen. Effective spill preparedness leads to rapid, aggressive, and well coordinated responses.

Oil Spill Preparedness Activities:

- Requiring regulated industry to maintain strong oil spill contingency plans
- Testing the efficacy of these plans through oil spill drills
- Developing strong regional and area contingency plans and Geographic Response Plans (GRPs)



Spills Program Response

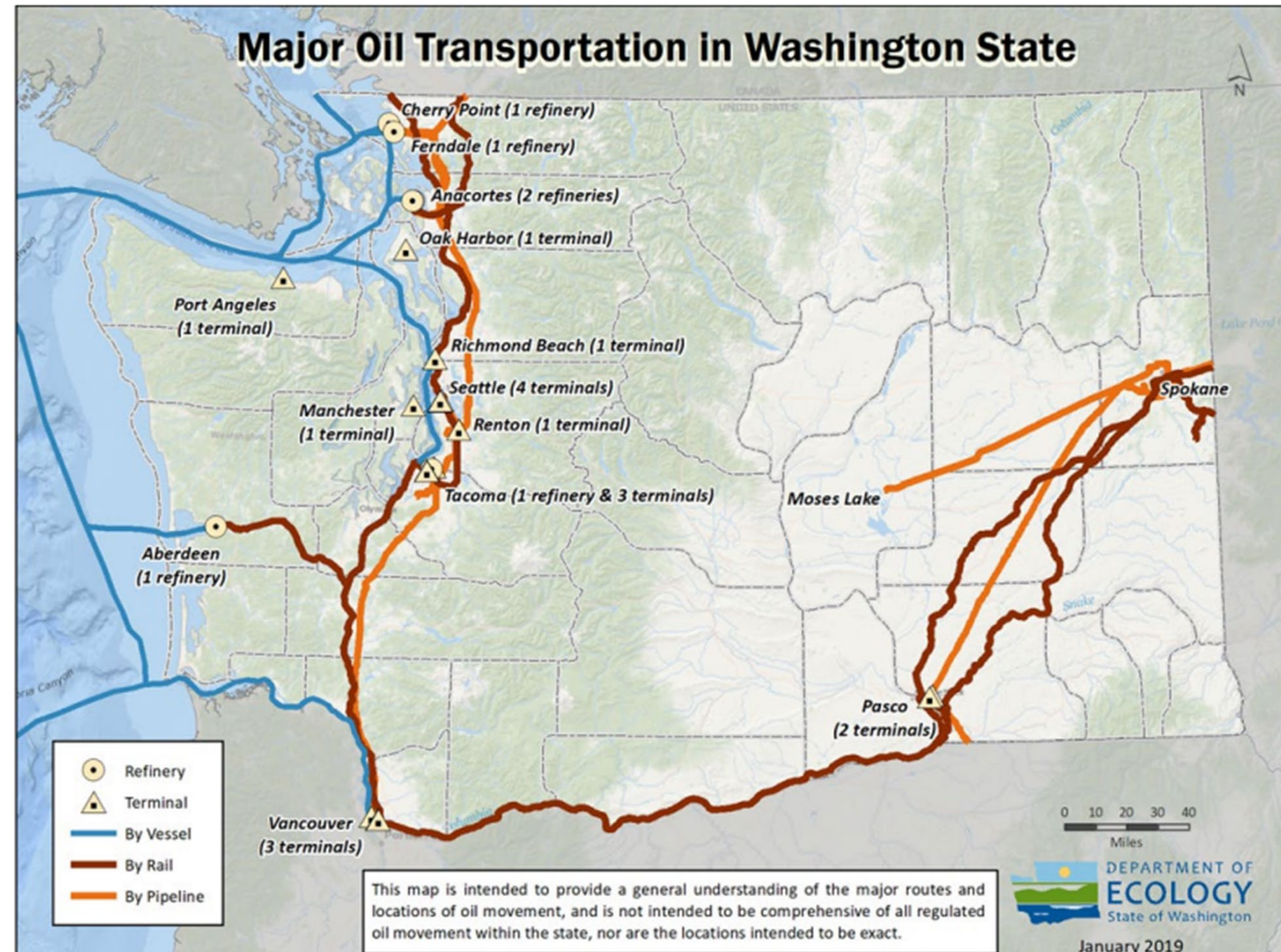
We are committed to **rapid, aggressive, and well-coordinated** responses – **24/7**

The Spills Response Team:

- Based throughout the state to ensure on-site arrival as quickly as possible
- Provide grant money for training and equipment to locals (fire departments, emergency management) and Tribes to support rapid responses by our local partners
- Works closely and cooperatively with other agencies, tribes, and responsible parties to protect human safety and minimize damage to the environment



Oil Movement in Washington State



Impacted Industry

Large oil handling facilities including refineries and oil terminals that transfer oil over waters of the state.



Cherry Point Refinery,
Blaine, WA



Tidewater Snake River
Terminal, Pasco, WA



Seaport Sound Terminal,
Tacoma, WA



Holly-Frontier Puget Sound
Refinery, Anacortes, WA

Impacted Industry

Small facilities that transfer oil to commercial vessels with a fuel capacity greater than 10,500 gallons. These include marine terminals and tank trucks that transfer oil over waters of the state, but not while transporting oil over the road.



Coleman Oil tank truck during vessel re-fueling, Bellingham, WA

Fishing vessel during re-fueling



Impacted Industry

Hazardous liquids pipelines and pipeline break out tanks.

Hazardous Liquid Pipelines - lines that move crude oil to refineries and move refined products (gasoline, jet fuel, diesel, etc) from refineries to other markets.



Impacted Industry

Tank ships and tank barges of any size.



Impacted Industry

Non-tank vessels, such as cargo and large fish processing vessels over 300 gross tons and involved in commerce, that carry oil as fuel.



Container ship, Seattle, WA



Fish processing vessel, Bellingham, WA



A roll on roll off vehicle carrier



Bulk carrier on the Columbia River at low tide

Impacted Industry

Non-tank vessels, such as cargo and large fish processing vessels over 300 gross tons and involved in commerce, that carry oil as fuel.

Kodiak Enterprises Fishing Vessel



Black Ball Ferry, Victoria, B.C to Port Angeles, WA

Rulemaking is a public process: we are conducting outreach to engage impacted industry and other key partners

- Impacted industry
- Federal and state agencies
- Tribes
- Local governments
- Response contractors
- Local Emergency Planning Committees (LEPCs)
- Organizations representing the oil industry or marine transportation
- Environmental advocacy organizations
- Emergency management
- Vessel agents
- Protection and Indemnity Insurers (P&I Clubs)
- General public



Adequate Financial Responsibility

Washington has one of the most advanced spill prevention, preparedness, and response programs in the world. As a result, our state has one of the lowest spill rates in the nation.

To maintain our forward leaning approach to oil spill preparedness and response, we are pursuing a Certificate of Financial Responsibility (COFR) program.



Adequate Financial Responsibility

The main goal of the rule is to establish a process to implement the Washington State Certificate of Financial Responsibility Program.

Financial responsibility amounts for vessels are detailed in the law.

Rulemaking will be further establishing financial responsibility amounts for regulated facilities.

Rulemaking will also define the types of accepted documents the regulated community may use to demonstrate financial responsibility.

Rulemaking Scope

The new rule will:

- Define the entities subject to financial responsibility requirements.
- Establish required levels of financial responsibility for oil handling facilities and pipelines.
- Specify the procedures and timelines for obtaining or renewing a certificate of financial responsibility.
- Establish requirements for acceptable evidence of financial responsibility, including self-insurance.



Scope Continued

- Outline the process for ensuring timely updates to changes in regulated industry financial status.
- Define the processes governing the suspension, revocation, and re-issuance of certificates of financial responsibility considering potential liabilities incurred by a covered entity after an oil spill or other incident.
- Incorporate and update financial responsibility requirements currently included in WAC Chapter 317-50 – Financial Responsibility for Small Tank Barges and Oil Spill Response Barges, and repeal that chapter.
- Make other changes to clarify language and make any corrections needed.

Rulemaking Timeline

Dates	Activity
April 17, 2023	CR-101, rule announcement
June – October 2023	Conduct outreach with tribes, stakeholders, and interested parties to develop the rule language
January 2024	Propose the rule (file the CR-102 form)
June 2024	Adopt Rule (file the CR-103 form)
July 2024	Rule effective



Workshop Plan

Workshop	Topic	Key Audience	Join online	Join by phone	Access code
Workshop #1 June 15, 2023 1:00pm - 3:30pm	Rule overview and introductions (why are we doing this now?)	All	https://waecy-wa.gov.zoom.us/meeting/register/tZYlcOquqz8rHNM2OKS6lsyXrP1E_fC70wCH	(253) 215 8782	828 7365 4167
Workshop #2 July 13, 2023 1:00pm - 3:30pm	Financial responsibility requirements for covered vessels, tank vessels and tank barges of any size. Non-tank vessels, such as cargo and large fish processing vessels over 300 gross tons and involved in commerce, that carry oil as fuel.	Vessels, P&I Club, Agents, umbrella plans	https://waecy-wa.gov.zoom.us/meeting/register/tZUqcu2rqTssEtSxMXhQAWEXf1kAmwwZGnk	(253) 205 0468	817 5437 0680
Workshop #3 July 27, 2023 1:00pm - 3:30pm	Financial responsibility for large oil handling facilities, that transfer oil over waters of the state, to or from vessels and pipelines. This includes refineries, oil terminals and pipelines.	Facilities	https://waecy-wa.gov.zoom.us/meeting/register/tZlpcu-oqz1qGNZySz7WZ6FhJatzbVNVqD2n	(253) 205 0468	864 5605 9022
Workshop #4 August 15, 2023 1:00pm - 3:30pm	Financial responsibility for small facilities that transfer oil to commercial vessels with a fuel capacity greater than 10,500 gallons. These include tank trucks during transfers over waters of the state, not while transporting oil over the road, and marine terminals.	Tank trucks and small facilities	https://waecy-wa.gov.zoom.us/meeting/register/tZYlcuurrTgoHtGQC1kB3dsBjo7ifOd0zg6P	(253) 215 8782	828 5233 3245
Workshop #5 September 12, 2023 1:00pm - 3:30pm	Financial responsibility certification process, documentation, timelines, renewal, revocation, and updates	All	https://waecy-wa.gov.zoom.us/meeting/register/tZwtcuGrrz0pE9Ph9GKdW5lg69VNAamay9Tfi	(253) 215 8782	880 5831 6397
Workshop #6 October 5, 2023 1:00pm - 3:30pm	Final rule workshop	All	https://waecy-wa.gov.zoom.us/meeting/register/tZlvduGhqjMiEtwjH1i08dF613SyuC7CFrq6	(253) 205 0468	862 1894 8888



Next Steps

We don't have rule language to share today.

This workshop is kicking off the informal comment period. The next Workshop July 13th 1:00 to 3:30, the workshop will focus on financial responsibility requirements for covered vessels.

The agenda and first draft of the rule language will be shared with registered attendees of that workshop prior to the workshop.

Please feel free to provide your thoughts and comments verbally here or in writing to Diana (Dida461@ECY.WA.GOV) via email and we will take them into consideration as we work through the rulewriting process.





Questions?

Thank you