

RCW 88.40.020 Financial responsibility for vessels—Department may update hazardous substances. (1) The owner or operator of any barge that transports hazardous substances in bulk as cargo, using any port or place in the state of Washington or the navigable waters of the state shall demonstrate financial responsibility in the amount of the greater of \$5,000,000, or \$300 per gross ton of such vessel.

(2) (a) Except as provided in (b) or (c) of this subsection, the owner or operator of a tank vessel that carries oil as cargo in bulk shall demonstrate financial responsibility to pay at least \$1,000,000,000.

(b) The director by rule may establish a lesser standard of financial responsibility for tank vessels of 300 gross tons or less. The standard shall set the level of financial responsibility based on the quantity of cargo the tank vessel is capable of carrying. The director shall not set the standard for tank vessels of 300 gross tons or less below that required under federal law.

(c) The owner or operator of a tank vessel who is a member of an international protection and indemnity mutual organization and is covered for oil pollution risks up to the amounts required under this section is not required to demonstrate financial responsibility under this chapter. The director may require the owner or operator of a tank vessel to prove membership in such an organization.

(3) (a) The owner or operator of a cargo vessel or passenger vessel that carries oil as fuel shall demonstrate financial responsibility to pay at least \$300,000,000. However, the owner or operator of a passenger vessel that transports passengers and vehicles between Washington state and a foreign country shall demonstrate financial responsibility to pay the greater of at least \$600 per gross ton or \$500,000.

(b) The owner or operator of a cargo vessel or passenger vessel who is a member of an international protection and indemnity mutual organization and is covered for oil pollution risks up to the amounts required under this section is not required to demonstrate financial responsibility under this chapter. The director may require the owner or operator of a cargo vessel or passenger vessel to prove membership in such an organization.

(4) The owner or operator of a fishing vessel while on the navigable waters of the state must demonstrate financial responsibility in the following amounts: (a) For a fishing vessel carrying predominantly nonpersistent product, \$133.40 per incident, for each barrel of total oil storage capacity, persistent and nonpersistent product, on the vessel or \$1,334,000, whichever is greater; or (b) for a fishing vessel carrying predominantly persistent product, \$400.20 per incident, for each barrel of total oil storage capacity, persistent product and nonpersistent product, on the vessel or \$6,670,000, whichever is greater.

(5) In order to demonstrate financial responsibility as required under this section, the owner or operator of a vessel must, effective upon a date specified in rules adopted by the department, obtain a certificate of financial responsibility from the department, except as provided in RCW 88.40.040. The certificate of financial responsibility is conclusive evidence that the person or entity holding the certificate is the party responsible for the specified vessel, facility, or oil for purposes of determining liability under chapter 90.48 RCW.

(6) The requirements of this section do not apply to a covered vessel owned or operated by the federal government or by a state or local government.

(7) The department may by rule update the hazardous substances subject to the requirements of this section to maintain consistency with any changes to federal regulations adopted after 2003 to the hazardous substances identified under section 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980. [2022 c 202 s 2. Prior: 2003 c 91 s 3; 2003 c 56 s 3; 2000 c 69 s 31; 1992 c 73 s 13; 1991 c 200 s 703; 1990 c 116 s 31; 1989 1st ex.s. c 2 s 3.]

Finding—Intent—2003 c 56: See note following RCW 88.40.011.

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

Effective dates—1991 c 200: See RCW 90.56.901.

Findings—Severability—1990 c 116: See notes following RCW 90.56.210.