

**RCW 90.48.366 Discharge of oil into waters of the state—**

**Compensation schedule.** (1) The department, in consultation with the departments of fish and wildlife and natural resources, and the parks and recreation commission, shall adopt rules establishing a compensation schedule for the discharge of oil in violation of this chapter and chapter 90.56 RCW. The amount of compensation assessed under this schedule shall be:

(a) For spills totaling one thousand gallons or more in any one event, no less than three dollars per gallon of oil spilled and no greater than three hundred dollars per gallon of oil spilled; and

(b) For spills totaling less than one thousand gallons in any one event, no less than one dollar per gallon of oil spilled and no greater than one hundred dollars per gallon of oil spilled.

(2) Persistent oil recovered from the surface of the water within forty-eight hours of a discharge must be deducted from the total spill volume for purposes of determining the amount of compensation assessed under the compensation schedule.

(3) The compensation schedule adopted under this section shall reflect adequate compensation for unquantifiable damages or for damages not quantifiable at reasonable cost for any adverse environmental, recreational, aesthetic, or other effects caused by the spill and shall take into account:

(a) Characteristics of any oil spilled, such as toxicity, dispersibility, solubility, and persistence, that may affect the severity of the effects on the receiving environment, living organisms, and recreational and aesthetic resources;

(b) The sensitivity of the affected area as determined by such factors as:

(i) The location of the spill;

(ii) Habitat and living resource sensitivity;

(iii) Seasonal distribution or sensitivity of living resources;

(iv) Areas of recreational use or aesthetic importance;

(v) The proximity of the spill to important habitats for birds, aquatic mammals, fish, or to species listed as threatened or endangered under state or federal law;

(vi) Significant archaeological resources as determined by the department of archaeology and historic preservation; and

(vii) Other areas of special ecological or recreational importance, as determined by the department; and

(c) Actions taken by the party who spilled oil or any party liable for the spill that:

(i) Demonstrate a recognition and affirmative acceptance of responsibility for the spill, such as the immediate removal of oil and the amount of oil removed from the environment; or

(ii) Enhance or impede the detection of the spill, the determination of the quantity of oil spilled, or the extent of damage, including the unauthorized removal of evidence such as injured fish or wildlife. [2011 c 122 s 9; 2007 c 347 s 1; 1994 sp.s. c 9 s 855; 1992 c 73 s 28; 1991 c 200 s 812; 1989 c 388 s 2.]

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

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

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

~~Intent—Application—Captions—Severability—1989 c 388~~: See notes following RCW 90.56.010.