

**RCW 88.40.040 Financial responsibility—Enforcement of federal oil pollution act—Holder of certificate, duties—Director.** (1) The owner or operator of a vessel is not required to demonstrate financial responsibility under this chapter prior to using any port or place in Washington or state waters when necessary to avoid injury to the vessel's crew or passengers. Any vessel owner or operator that does not meet the financial responsibility requirements of this chapter and any rules prescribed thereunder or the federal oil pollution act of 1990 shall be reported by the department to the United States coast guard.

(2) The department may enforce section 1016 of the federal oil pollution act of 1990 as authorized by section 1019 of the federal act.

(3) (a) (i) The holder of a certificate under this chapter must notify the director of an oil spill or discharge in state waters consistent with chapters 90.48 and 90.56 RCW.

(ii) The holder of a certificate of financial responsibility for more than one covered vessel or facility must notify the director if it experiences a spill or spill from a vessel or facility in another jurisdiction for which it may be liable and which may incur damages that exceed 15 percent of the financial resources reflected by the certificate.

(b) Upon notification of an oil spill or discharge or other potential liability by the owner or operator of a vessel or facility that holds a certificate of financial responsibility under (a) of this subsection, the director may reevaluate the validity of the certificate of financial responsibility under this chapter. The director must reevaluate the validity of a certificate of financial responsibility under this chapter upon notification of a spill for which the certificate holder may be liable and which may incur damages that exceed 25 percent of the financial resources reflected by the certificate. The director may suspend or revoke a certificate of financial responsibility if the director determines that, because of a spill, discharge, or other action or potential liability, the holder of the certificate is likely to no longer have the financial resources to both pay damages for the oil spill or discharge or other action or potential liability and have resources remaining available in an amount sufficient to meet the requirements of this chapter, effective 10 days after its determination.

(c) Upon a determination by the director under (a) of this subsection that a certificate has been suspended or revoked as a result of a spill, the owner or operator of a facility or vessel required to obtain a certificate of financial responsibility under this chapter may receive a new certificate of financial responsibility from the director upon a demonstration to the satisfaction of the director the amount of financial ability required pursuant to this chapter, as well as the financial ability to pay all reasonably estimated anticipated damages that arise or have arisen from the spill or spills that have occurred. The department must expeditiously review any applications from owners or operators whose certificates have been suspended or revoked by the department under this section. The department may issue a temporary certificate of financial responsibility to an owner or operator whose certificate has previously been revoked or suspended in order to allow the owner or operator to continue to operate a facility or vessel while the department evaluates a pending application from the owner or operator

for a new certificate. It is in the interest of the state to issue and manage certificates of financial responsibility in a manner that does not create or contribute to delays in commerce for vessels and facilities subject to the requirements of this chapter. The department is directed to adopt rules to implement this chapter accordingly.

(4) An owner or operator of more than one vessel subject to the requirements of this chapter, more than one facility subject to the requirements of this chapter, or more than one vessel and facility subject to the requirements of this chapter, may:

(a) Obtain a single certificate of financial responsibility that applies to all of the owner's or operator's vessels and facilities. The department must base the terms of such a certificate upon the vessel or facility that represents the greatest financial risk in the event of a spill; or

(b) Obtain separate certificates that each apply to a subset of the owner's or operator's vessels or facilities, provided that each vessel or facility of the owner or operator is covered by at least one valid certificate. [2022 c 202 s 5; 2003 c 56 s 4; 2000 c 69 s 33; 1992 c 73 s 14; 1991 c 200 s 706; 1989 1st ex.s. c 2 s 5.]

**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.