

Pacific States/British Columbia Oil Spill Task Force

West Coast Oil Spill Financial Responsibility Requirements



January 1 2016

ALASKA • BRITISH COLUMBIA • CALIFORNIA • HAWAII • OREGON • WASHINGTON

West Coast Oil Spill Financial Responsibility Requirements¹

Updated January 1, 2015

RESPONSIBLE PARTY OR DAMAGE TYPE	ALASKA (SEE CITATIONS BELOW)	BRITISH COLUMBIA (CANADA)²	WASHINGTON (SEE RCW 88.40)	OREGON (SEE ORS 468B.390)	CALIFORNIA (See Gov. C. §8670.37.51-57, §8670.56.5; 14 CCR §791-797)
Small Tank Barges	Same as for large tank barges (see below)	See below	Tank barges < 300 GT: Greater of \$2 million or \$3,000/bbl for persistent oil or \$1500/bbl for non-persistent oils	None	Tank barges <150,000 bbls: \$12,500 x 30% maximum cargo capacity as measured in bbl; but not less than \$1 million
Tank Vessels and Large Barges	Greater of \$549.00/bbl of crude capacity or \$183 million, per incident; or Greater of \$183.00/bbl of non-crude capacity or \$1.830 million per incident, up to a maximum of \$64,050,000. See AS 46.04.040 and 18 AAC 75.235	The Canada Shipping Act differentiates between convention ships and Non- to the CLC/Fund scheme of 69/71 recently amended in 1992. A convention means seagoing ship wherever registered carrying in bulk as cargo, crude oil, fuel oil, heavy oil, lubricating oil or any other hydrocarbon mineral oil or on a voyage following any such carriage of oil, unless it is proved that there is no residue of the oil on board. The maximum liability under section of Convention ship in respect of an occurrence is if the ship has a tonnage of not more than 5,000 tons, 4,510,000 units of account (SDRs) and if the ship has a tonnage of more than 5,000 tons, 4,510,000 units of account for the first 5,000 tons and 631 units of account for each additional ton, not exceeding 89,770,000 units of account in the aggregate.	For all tank ships and tank barges =>300 GT \$500 million (\$1 billion after 1/1/04)	>300 GT & < 3000 GT: Greater of \$2 million or \$1200/gross ton >3000 GT: Greater of \$10 million or \$1200/gross ton ³	Tankers and barges >150,000 bbls: \$1 billion

¹ The State of Hawaii defers to the US federal certificate of financial responsibility requirements and has no specific state requirements.

² BC's provincial legislation (namely, the Waste Management Act and the Environment Management Act) does not specifically address the subject of financial responsibility for ship-source oil pollution incidents. The matter is essentially one of federal jurisdiction. The federal financial responsibility rules regarding vessel source pollution in Canada are, for the most part, covered by Part XVI of the Canada Shipping Act.

³ These standards are identical to US OPA '90 financial responsibility requirements.

RESPONSIBLE PARTY OR DAMAGE TYPE	ALASKA	BRITISH COLUMBIA (CANADA)	WASHINGTON (SEE RCW 88.40)	OREGON (SEE ORS 468B.390)	CALIFORNIA (CCR TITLE 14, S.8670.37.51-57 AND S.8670.56.5-6)
Non-tank Vessels	Greater of \$549.00/bbl storage capacity per incident of persistent product, or \$9,150,000 minimum. Greater of \$ 183.00/bbl storage capacity per incident for non-persistent product or \$1,830,000. See AS 46.04.055 and 18 AAC 75.235.	The maximum liability of a ship-owner of a Non-convention ship (non-tank vessel or tanker carrying non-persistent oil or other bulk cargo) is also based upon the ship's tonnage. In the case of a ship with a tonnage less than 300 tons, the amount is C\$1,000,000 in respect of claims for loss of life or personal injury and \$500,000 in respect of any other claims. The limits of liability for claims in respect of claims for loss of life or personal injury, 2 million Units of Account for a ship with a tonnage not exceeding 2,000 tons. For a ship with a tonnage in excess of 2000 tons in addition to 2 million units, additional units go by tiers; up to 30,000 tons (800 units per ton), from 30,0001 to 70,000 tons (600 units per ton) and in excess of 70,000 tons (400 units per ton). The same is true for other claims, which are capped at 1 million units for a ship not over 2000tons, and figures of 400, 300 and 200 units for the three tiers there after or each ton from 2,001 to 30,000 tons, 800 Units of Account.	Cargo Vessels and Passenger Vessels of oil capacity > 6000 gals): \$300 million Fishing Vessels: where oil is predominantly: Persistent product: Greater of \$6.67 million OR \$400.20/bbl capacity Non-persistent product: Greater of \$1.334 million OR \$133.40/bbl capacity	> 300 GT: Greater of \$500,000 or \$600 gross ton*	Non-tank vessel >300 GT: up to \$300 million, but see below.
Other vessel categories	Not regulated (such as public vessels, non-self propelled watercraft and vessels engaged in innocent passage). See AS 46.04.055 and 18 AAC 75.235. Exempt Vessels (such as those used solely for oil discharge response operations). See AS 46.04.040 (m) and 18 AAC 75.205 (d).	See above	Inland Barge transporting hazardous substances: Greater of \$5 million or \$300/gross ton	None	Non-tank govt. vessels with capacity <7,500 bbl, and any non-tank with carrying capacity <6,500 bbl: 1-10 bbls: \$2 million 11-50 bbls: \$5 million 51-500 bbls: \$10 million 501-1000 bbls: \$18.9 million 1001- above limits: see regulatory formula

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Railroad Tank Car	<p>\$549.00/bbl storage capacity per incident of persistent product, or \$9,150,000 minimum. Greater of \$ 183.00/bbl storage capacity per incident for non-persistent product or \$1,830,000. See AS 46.04.055 and 18 AAC 75.235. The RR requirements are in AS 46.04.055: http://www.legis.state.ak.us/basis/folioproxy.asp?url=http://www.jnu01.legis.state.ak.us/cgi-bin/folioisa.dll/stattx06/query=[JUMP:'AS4604055']/doc/{@1}?firsthit</p> <p>18 AAC 75 Article 2 starts on page 29 of this document: http://dec.alaska.gov/commish/regulations/pdfs/18%20AAC%2075.pdf</p>	<p>Bill C52: Safe and Accountable Rail Act requires Federal railway companies maintain legislated minimum levels of insurance, based on the type and volume of dangerous goods they carry, ranging from \$25 million to \$1 billion. A supplementary shipper-financed fund will provide compensation to victims and pay for environmental clean-up in the event that a railway accident involving crude oil exceeds the amount of insurance held by the railway. Companies will have to pay \$1.65 CND per tonne of crude oil they ship by rail.</p>	<p>Engrossed Substitute House Bill 1449, Chapter 274, Laws of 2015, adopted financial responsibility reporting requirements that railroads hauling crude oil must include in the annual reports they submit to the Washington Utilities and Transportation Commission. Rules are pending.</p>	<p>None</p>	<p>\$10,000 times the reasonable worst case spill (RWCS) volume, as measured in bbls, determined in the applicant's oil spill contingency plan. (no minimum)</p>

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Facilities or offshore wells	\$91,500,000 for crude oil terminals, pipelines, and offshore exploration facilities; \$1,830,000 for onshore exploration facilities and onshore production facilities producing less than 2,500 BBLs per day; \$9,150,000 for onshore production facilities that produce between 2,500 and 5,000 BBLs per day; \$18,300,000 for onshore production facilities producing greater than 5,000 but less than 10,000 BBLs per day; and \$36,600,000 for onshore facilities producing greater than 10,000 BBLs per day. See AS 46.04.040 and 18 AAC 75.235.	The subject of offshore oil and gas is covered by the Canada Oil and gas operations Act (1992). The offshore rules only apply to wells. Under the offshore legislation operators are strictly liable to clean-up costs and for loss or damage to individuals including loss of income or future income.	An onshore or offshore facility shall demonstrate financial responsibility in an amount determined by the department as necessary to compensate the state and affected counties and cities for damages that might occur during a reasonable worst case spill of oil from that facility into the navigable waters of the state. The department shall consider such matters as the amount of oil that could be spilled into the navigable waters from the facility, the cost of cleaning up the spilled oil, the frequency of operations at the facility, the damages that could result from the spill and the commercial availability and affordability of financial responsibility. This section shall not apply to an onshore or offshore facility owned or operated by the federal government or by the state or local government.	None	<u>Marine Facilities</u> : \$12,500 times the reasonable worst case spill (RWCS) volume, as measured in bbl, but not less than \$1 million or more than \$300 million <u>Offshore Marine Facilities</u> : \$12,500 times RWCS in bbls (\$100 million to \$300 million) <u>Small Marine Fueling Facilities</u> : \$12,500 times RWCS in bbls (no minimum) <u>Mobile Transfer Units</u> : \$12,500 times 30% RWCS in bbls (no minimum) <u>Inland Pipelines & Oil Well Facilities</u> : \$10,000 times the RWCS in bbls (no minimum)
Unlimited liability?	Yes	Liability in Canada is not unlimited.	Yes	Yes	Yes
Certificate of Financial Responsibility required?	Yes	Only Convention ships are required to have evidence of financial responsibility; under the CLC/Fund schemes such certificates are known as "blue cards" issued by flag states.	Yes, for vessels; not for facilities	Required to be on ship or filed with the ODEQ	Yes
Cleanup costs?	Yes, to the extent that state resources are devoted to spill cleanup, but are not reimbursed, then cleanup costs are an element of cumulative damages.	The Canada Shipping Act makes the ship-owner liable for cleanup costs and loss or damage to individuals as a result of oil pollution damage from the ship.	Yes	Yes	Yes

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Third party damages?	Yes	The Act makes specific reference to claims for loss of income by those who make a living from the sea (fishermen, etc.) and those whose culture links them to the sea (First Nations).	Yes	No	Yes
Natural Resource damages?	Yes	Environmental damages are capped at the cost of reasonable measures of reinstatement, actually undertaken or to be undertaken.	Yes	Yes	Yes
Other Comments	Civil penalties and assessments are also included. See AS 46.03.758 through 46.03.760 and AS 46.03.822		Plus state's necessary expenses	Includes state's costs and any penalties or fines associated with the spill.	The certificate of FR 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.