

Rule Making (WAC 173-183)

Q: What is a natural resource damage assessment?

A: When oil is spilled to state waters, the Washington Department of Ecology can take three different actions. Ecology can issue a penalty for allowing oil to spill, seek reimbursement for its response costs, and seek to compensation for injuries to the public's natural resources. When the state seeks compensation, it is called a "natural resource damage assessment." The money collected from damage assessments are used to fund restoration for the injured natural resources.

The spiller can either pay monetary damages (using the state Compensation Schedule) or agree to fund restoration projects that directly benefit the resources in the area of the spill. In 1989, state lawmakers created the state Resource Damage Assessment (RDA) Committee to oversee the damage assessment process. The committee is made up of representatives from:

- Department of Ecology (lead state agency)
- Department of Fish and Wildlife
- Department of Natural Resources
- Department of Health
- Department of Archeology and Historic Preservation
- Washington Parks and Recreation Commission

Q: How are damages calculated?

A: Ecology began using the oil spill compensation schedule in 1992. The compensation schedule uses mathematical formulas to determine the monetary value for oil spill-related injuries to public natural resources. Variables in the formula include:

- Toxicity of the spilled oil.
- Sensitivity of the environment where the spill occurred – such as the types of resources put at risk, location, time of year, etc.
- How much oil the spiller recovered from the water.

MORE INFORMATION

Presentation and Q&A followed by Public Hearings

Sept. 25, 2012, 3pm

Holiday Inn Express Marysville
Skykomish Room
8606 – 36th Ave NE
Marysville, WA 98270
WEBINAR available at this location ONLY.

Sept. 26, 2012, 6pm

Columbia Basin College
Building B, Room B116
2600 N. 20th Avenue
Pasco, WA 99301

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Special accommodations

If you need this document in a format for the visually impaired, call the Spills Program at 360-407-7455.

Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.

Frequently Asked Questions

The state Resource Damage Assessment Committee determines which spills fall under the compensation schedule. The current schedule has a compensation range between \$1 and \$100 per gallon spilled for any spill volume. The change proposed in this rule will make the range between \$3 and \$300 per gallon for spills of 1,000 gallons or more in volume.

Q: Where does the collected money go?

A: Funds collected through the natural resource damage assessment compensation schedule go into the state Coastal Protection Fund. The purpose of the fund is to reserve the money for restoring and enhancing oil-spill related injuries in the area of the spill.

Q: Under the previous \$100 per gallon ceiling maximum, had the maximum ceiling ever been assessed before?

A: Based on the factors used in the compensation schedule, the maximum possible per gallon damage assessment has not been reached.

Q: Will Ecology automatically assess \$300 per gallon for any spill of 1,000 gallons or more in volume?

A: No. The factors used in the compensation schedule vary from spill to spill so the monetary value of damages will also vary. For spills 1,000 gallons or more, the \$300 per gallon of oil spilled is the maximum monetary value.

Q: What is the average damage assessment that Ecology has issued recently?

A: Since the adjustment was made in April of 2009, the average assessment determined by the Compensation Schedule has been \$27.36 per gallon of oil spilled. This figure comes from 71 cases.

Q: Can I be assessed damages to state natural resources if I spill just a little oil?

A: All oils, whether petroleum-based or biologically-based, cause environmental harm. In Washington, it is illegal for anyone to allow any oil to reach state waters. These include marine waters; fresh water sources such rivers, streams, ponds and lakes; wetlands; storm drains; irrigation and road ditches; ground (underground) water sources; and even melting snow.

However, the natural resource damage assessment process is generally used for oil spills involving 25 gallons or more. Spills less than 25 gallons to state waters are still subject to a penalty – especially if you fail to report the spill to the state.

Frequently Asked Questions

Q: Insert Question Isn't this just a "backdoor" tax to help Ecology raise more money?

A: The natural resource damage assessment program can only seek to directly offset the adverse environmental effects of an oil spill. The money collected is used to restore and enhance oil-spill related injuries in the area of the spill.

Q: What is "recovery credit?"

A: The compensation Schedule recognizes the detrimental effects of oil in three areas – acute toxicity, mechanical injury, and persistence. If a spiller quickly recovers oil from the water the compensation schedule formula is modified to reduce the effects of mechanical injury and persistence. This reduction in the monetary assessment acts like a credit so the spiller may pay less.

Q: Why distinguish between persistent and non-oils?

A: Persistent oils are generally either crude oils that are transported in oil tankers, pipelines, and railcars or fuel oils used for ship propulsion or steam generation. Persistent oil spills typically involve larger quantities and may take longer to clean up from the water. If persistent oils can be recovered from the water, there is significantly less environmental harm than if the oil impacts a shoreline. The 48 hours recovery credit time frame for persistent oil is a good incentive for spillers to mount rapid, aggressive, and well coordinated responses and recover oil before shore impacts happen.

Q: What are some examples of recent restoration projects that have been funded by the Coastal Protection Fund?

A: A list of ongoing and completed restoration projects funded by the Coastal Protection Fund can be found on the Spills Program Damage Assessment web page at <http://www.ecy.wa.gov/programs/spills/restoration/restorationprojects/cptrestorationprojects.html>.

The CPF is helping Capitol Land Trust do restoration at Allison Springs in Olympia, NW Straits in removing a rock groin that was blocking a sediment drift cell on March's Point, and WA State Parks install log jams on Woodard Creek at Beacon Rock State Park. Adult salmon were spawning in Allison springs immediately following the restoration and juvenile salmonids have been videotaped using the pools created by the new log jams.