



DEPARTMENT OF
ECOLOGY
State of Washington

Rule Implementation Plan

Oil Spill Contingency Plan

Chapter 173-182 WAC

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For more information contact:

Publications Coordinator
Spills Program
P.O. Box 47600
Olympia, WA 98504-7600

Phone: [360-407-7455]

Washington State Department of Ecology - www.ecy.wa.gov

Headquarters, Olympia	360-407-6000
Northwest Regional Office, Bellevue	425-649-7000
Southwest Regional Office, Olympia	360-407-6300
Central Regional Office, Yakima	509-575-2490
Eastern Regional Office, Spokane	509-329-3400

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Purpose

Ecology provides the information in this implementation plan to meet agency and Administrative Procedure Act (RCW 34.05.328) requirements related to rule adoptions.

Introduction

The purpose of this rule implementation plan is to inform those who must comply with Chapter 173-182 WAC, Oil Spill Contingency Plan, about how the Department of Ecology (Ecology) intends to:

- Implement and enforce the rule.
- Inform and educate persons affected by the rule.
- Promote and assist voluntary compliance for the rule.
- Evaluate the rule.
- Train and inform Ecology staff about the new or amended rule.

Also included in this plan is information about:

- Supporting documents that may need to be written or revised because of the new rule or amended rule.
- Other resources where more information about the rule is available.
- Contact information for Ecology employees who can answer questions about the rule implementation.

Implementation and Enforcement

Implementation of this rule will occur sequentially in the 48 months following the rule effective date. The phase in dates applies to those plan holders who, on the effective date of this chapter, have approved or conditionally approved plans, and response contractors with approved contractor applications. Each update must contain all necessary content and meet the requirements of the regulation:

Plan Update Phase-in Schedule:

- Effective 7/14/2013, all plan holders will submit plan updates reflecting: administrative changes to plan binding agreement, claims procedure and reporting of products handled; and planning standard changes in response capability requirements for Group 5 Oils (those with density equal to or greater than 1.0). Additionally, facility plans will reflect notification requirements for spills to land; and all vessel plans will reflect planning standards for dispersants, for sourcing of aerial surveillance assets, and for new notification requirements for a discharge or substantial threat of a discharge. Vessel umbrella plans will also reflect the requirement to provide up-to-date and internet accessible enrolled vessel information. Vessel umbrella plan holders must also include in the plan a description of processes for maintaining additional agreements for supplemental resources.

- Effective 7/14/2014, for vessel operators that transit or operate near the entrance to Puget Sound, all vessel plans will reflect: planning standards concerning vessels of opportunity for Region 1 - Cape Flattery / Strait of Juan de Fuca, and four-hour planning standards to incorporate best achievable protection in San Juan County and Neah Bay staging area, requirements for dedicated on-water storage, for shoreline cleanup, and contracted aerial surveillance assets. Additionally, new application content requirements and review process becomes effective for primary response contractors.
- Effective 1/14/2016, for vessel operators that transit or operate in north Puget Sound and the lower Columbia River, all vessel plans will reflect: planning standards concerning vessels of opportunity for Region 2 - San Juan Islands / North Puget Sound, and Region 4 - Lower Columbia River; four-hour planning standards to incorporate best achievable protection in Commencement Bay-Quartermaster Harbor and Cathlamet staging area; and Best Achievable Technology aerial surveillance capability (FLIR+) (*two step phase in process: first submit plan to Ecology for review and approval, second all necessary purchasing, staging and contracting must be complete by 1/14/2017*). Also, vessel plans holders who operate or transit the Neah Bay, Cathlamet, or San Juan Islands planning standard areas must provide a technical manual that includes all of the equipment and systems appropriate for those operating environments.
- Effective 1/14/2017, for vessel operators that transit or operate in central or south Puget Sound or Grays Harbor, all vessel plans will reflect: planning standards concerning vessels of opportunity for Region 3 - South Puget Sound & Central Puget Sound, Region 5 - Admiralty Inlet, Hood Canal and North Puget Sound, and Region 6 - Grays Harbor; and four-hour planning standards to incorporate best achievable protection in Grays Harbor.
- Existing triennial drill cycles for plan holders will incorporate new components as drill requirements are phased in. Additionally, effective 1/14/13, vessel umbrella plan holders will conduct one Vessel Umbrella Plan Spill Management Team Transition Tabletop exercise per year, and all other vessel plan holders will conduct one Large-scale Deployment exercise per triennial cycle.
- Existing requirement for vessels to provide notification of significant threats of a spill, previously addressed through education, will begin to see increased attention to compliance and enforcement.

Required Plan Updates

Plan revisions will be required on each of the dates above, and may result in updates to planning standard spreadsheets used to model plan adequacy. Ecology will receive all plan updates, post them for 30-day public review, and respond to submitter no later than 65 days following submission. Existing plan review and drill planning processes will be modified to include the new components as they are phased in.

Five Year Best Achievable Protection (BAP) Review Cycle

Under the new rule Ecology will use a five-year review best achievable protection review cycle to ensure oil spill preparedness standards incorporate best achievable protection, including best achievable technologies, equipment and training. The equipment, training and planning standards in this rule will be the subject of review. Local government, regulated industry and representatives of citizen and public interest groups concerned about environmental resource management will be integral to the success of the review cycle because of their ability to participate, review and comment. The review cycle will start immediately following rule effective date. Ecology may use the following processes to inform and update the use of BAP in the planning standards by:

- (a) Convening an advisory committee(s) to assist ecology during the five-year review cycle and promote BAP.
- (b) Evaluating the recovery systems identified in the technical manual during the five-year cycle to determine best achievable technology, and inform the development of future planning standards.
- (c) Sponsoring a technology conference during the five-year cycle in cooperation with persons, organizations, and groups with interests and expertise in relevant technologies; or
- (d) Conducting or reviewing studies, inquiries, surveys, or analyses appropriate to the consideration of new technologies, plan evaluation methods including effective daily recovery capacity (EDRC), or best operational practices.

Ecology may prepare reports of our findings. These reports will identify the new technologies, processes, techniques or operational practices that Ecology considers to represent BAP. Ecology will provide an opportunity for a thirty-day public review and comment period on the draft report. Ecology will use the developed reports to update the contingency planning rule as necessary every five years

Vessels of Opportunity

Ecology will develop and maintain a vessel vetting database for the enhanced vessel of opportunity (VOO) program. This will allow commercial and recreational vessel owners to self-identify their interest in participating in the vessel of opportunity program, and to provide information about their vessel and crew capabilities. Plan holders will choose vessels from the database to contract and train as TIER I VOO in the areas they operate or transit. Ecology will not set the contract terms for TIER I VOO. The phase in of the VOO program is structured to allow education and outreach to keep pace with vessel enrollment in each of the 6 VOO regions.

The first VOO region to be developed is the Strait of Juan de Fuca. Ecology will work with plan holders and the Makah Tribe to develop a model VOO program for tribes that can be used to target outreach and other VOO regions throughout the state. Lessons learned from the implementation of the Strait of Juan de Fuca TIER I VOO program will inform implementation in other regions.

Enforcement

Existing enforcement provisions, RCW 90.56.270 Enforcement of contingency plans, RCW 90.56.310 Operation of a facility or vessel without contingency or prevention plan or financial responsibility - Civil penalty, and RCW 43.21B.300 Penalty procedures, all remain applicable.

Informing and Educating Persons Affected by the Rule

Throughout the rule process, Ecology staff have been in contact with the regulated community and the public through messages, publications, workshops and meetings to familiarize people with pending changes and to capture their input. Technical assistance and model language to demonstrate effective approaches to meeting plan update requirements will be provided in the course of ongoing, regular communication with plan holders and primary response contractors. Ecology uses a mailing list of interested people and the program webpage to send out information to plan holders, response contractors, counties, environmentalists, tribes and other interested people.

The Agency will also utilize the Northwest Area Committee as a forum to inform key stakeholders and to facilitate adoption of rule provisions. In addition, an oil spill committee managed by the Puget Sound Partnership has been formed to advise the Agency on oil spill related issues, and this forum will also be useful to educate persons about the rule.

Promoting and Assisting Voluntary Compliance

Educating stakeholders on the changes in the rule helps to promote voluntary compliance. This rule has been in place since the early 1990's, and companies are already complying with the existing requirements. Assistance will be provided to help bridge the gap to understand changes that the amended rule makes. Ecology will promote and assist voluntary compliance by maintaining close communication with the regulated community.

Opportunities to provide that encouragement include participation in designing the equipment deployment and tabletop drills that confirm that plan holders response capability is sufficient to meet planning standards. Agency staff will continue to observe and evaluate drill outcomes, and provide coaching along with written evaluations that include well-dones, lessons learned and areas for potential improvement.

Prior to the compliance date for the technical manual requirement, Ecology will work with industry to develop the templates for the technical manual. Ecology anticipates plan holders will utilize the Western Response Resource List, <https://fortress.wa.gov/ecy/publications/publications/0808009.pdf>, to facilitate equipment identification and specification descriptions when developing the recovery and storage systems analysis required in the technical manual.

Ecology will use the Northwest Area Committee, and the planning process for the Northwest Area Contingency Plan to encourage voluntary compliance, and to educate the response community and other stakeholders.

Evaluating the Rule

Levels of preparedness will be assessed through the contingency plan review process, and through summary of drill performance through time, as new planning standards are tested. Debriefs and lessons learned from actual incidents will provide an additional test of the effectiveness of this rule and its implementation.

Training and Informing Ecology Staff

Many of the Ecology staff responsible for implementing this rule work directly with affected plan holders, and are involved with current internal processes for contingency plan development and review, drill design and evaluation, and assessment of primary response contractor and response equipment. These individuals have begun preparing tools, documents and process changes that will be needed to establish and implement these changes. They also assess existing processes and seek to capture potential process efficiencies.

List of Supporting Documents that May Need to be Written or Revised

The following supporting documents will be revised and posted on the program webpage:

- Binding Agreement (*Form ECY 070-217*). Used by plan holders as a written statement binding them to use of the plan.
- Drill Evaluation Checklist (*used by Ecology staff and plan holders to assess drill performance*)
- Plan Review Checklist (*used by Ecology staff when reviewing plans and by regulated industry when developing them*)
- Plan Review Procedure Manual (*guidance to industry when developing plans*)
- Planning and Conducting Drills in Washington State (*Publication 12-08-002*)
- Primary Response Contractors Application (*Form ECY 070-216*)

“Focus on” documents will be developed and posted for the following topics:

- Aerial Surveillance
- Oil Products Handled
- Vessels of Opportunity
- Best Achievable Protection Five Year Review Cycle
- Technical Manuals

Model plan language, guidance and reporting forms will be developed for products handled, facility notification requirements, spills to ground, and claims procedure. Processes for filing documents and reports will be developed with consideration of RCW 43.17.095, requiring state agencies to offer electronic filing for business forms.

Projected updates to the Northwest Area Contingency Plan include:

- Information about vessels of opportunity and the vessel of opportunity database maintained by the state of Washington.
- Updated information about common shoreline types found in Washington and approved shoreline cleanup methods.
- Enhanced logistical information regarding aerial surveillance assets in Washington that may be called out to support oil spill responses.
- Enhanced detail about the risk of spills in Washington state and the operational challenges associated with the various oil types carried, handled or transported in our waters and the shared waters with Canada.

More Information

Spills Program Rules Page

<http://www.ecy.wa.gov/programs/spills/rules/main.html>

Contact Information

Sonja Larson
Spills Program
P.O. Box 47600
Olympia, WA 98504-7600

Phone: (360) 407-6682

E-mail: sonja.larson@ecy.wa.gov