



DEPARTMENT OF
ECOLOGY
State of Washington

Rule Implementation Plan

Oil Spill Contingency Plan - Railroad

Chapter 173-186 WAC

August 2016
Publication no. 16-08-022

Publication and Contact Information

This report is available on the Department of Ecology's website at <https://fortress.wa.gov/ecy/publications/SummaryPages/1608022.html>.

For more information contact:

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

E-mail: Franji.Mayes@ecy.wa.gov
Phone: 360-407-7211

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, Union Gap	509-575-2490
Eastern Regional Office, Spokane	509-329-3400

Ecology publishes this document to meet the requirements of the Washington State Administrative Procedure Act (RCW 34.05.325)

If you need this document in a version 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.

Table of Contents

PURPOSE	1
INTRODUCTION	1
IMPLEMENTATION AND ENFORCEMENT.....	1
<i>Contingency plan submittal schedule.....</i>	<i>1</i>
<i>Boilerplate/fillable form and guidance for plan submittal.....</i>	<i>2</i>
<i>Drills and exercises to test plans</i>	<i>2</i>
<i>Information technology system and other process changes.....</i>	<i>3</i>
<i>Enforcement.....</i>	<i>3</i>
INFORMING AND EDUCATING PERSONS AFFECTED BY THE RULE	4
PROMOTING AND ASSISTING VOLUNTARY COMPLIANCE	4
EVALUATING THE RULE.....	4
TRAINING AND INFORMING ECOLOGY STAFF	5
LIST OF SUPPORTING DOCUMENTS THAT MAY NEED TO BE WRITTEN OR REVISED	5
MORE INFORMATION	5
CONTACT INFORMATION	5

~This page is intentionally left blank.~

Purpose

The Washington State Department of Ecology (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

On August 31, 2016, Ecology adopted Chapter 173-186 WAC Oil Spill Contingency Plan - Railroad (AO # 15-14). The purpose of this rule implementation plan is to inform those who must comply with Chapter 173-186 WAC about how 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

This chapter applies to all railroads (not owned by the state) operating in Washington that transport bulk oil as cargo. Ecology will use existing staff to do the following work.

Contingency plan submittal schedule

Existing railroads that are transporting crude oils:

- By October 31, 2016, railroads transporting crude oils will provide Ecology either a federal plan or the information outlined in WAC 173-186-120 to demonstrate capability to respond to oil spills.
- By December 30, 2016, all existing railroads that transport crude oil in Washington must submit a contingency plan.
- If from the initial review of the plan, it is determined that there is insufficient access to equipment, rail plan holders will have an additional 18 months after initial plan review to be in full compliance with the equipment planning standards described in WAC 173-186-310.

Existing railroads that are transporting oils other than crude oils:

- By December 30, 2016, railroads transporting oils other than crude oil will provide Ecology either a federal plan or the information outlined in WAC 173-186-120 to demonstrate capability to respond to oil spills.
- By March 30, 2017, all existing railroads that transport oil other than crude oil in Washington must submit a contingency plan or be enrolled in an integrated plan.
- If from the initial review of the plan, it is determined that there is insufficient access to equipment, rail plan holders will have an additional 18 months after initial plan review to be in full compliance with the equipment planning standards described in WAC 173-186-310.

All railroads regulated by the rule:

- Railroads that are not currently transporting oil that may begin operations in the future must submit a contingency plan to Ecology at least 65 days prior to beginning operations in Washington. Ecology has encouraged using the model of the one single, integrated plan as cost effective alternative to submitting individual plans.
- Rail plan holders must review their plans at least once annually and submit changes to Ecology for review and approval, or inform Ecology that the existing plan is still accurate.
- Rail plan holders must notify Ecology of significant changes to the plan according to the process described in WAC 173-186-140.
- Rail plan holders must resubmit plans for review and approval every five years.

Ecology recognizes there may be rail operations that may not be known at the time of the rule effective date, including companies that may be storing rail cars loaded with oil. Ecology will be conducting a survey to assess and identify these operators.

Boilerplate/fillable form and guidance for plan submittal

Ecology considered requiring all rail plan holders to develop their own format for contingency planning, but determined that this may be burdensome, particularly for railroads with limited resources. Ecology is developing a boilerplate plan and guidance as an option for all rail plan holders for easy submittal of plans for review. A link will be provided on the Ecology website by early September, prior to the effective date of the rule.

Drills and exercises to test plans

Rail plan holders and primary response contractors (PRCs) are required to participate in a drill and equipment verification program to ensure that all contingency plan components function to provide, to the maximum extent practicable, prompt and proper removal of oil and minimization of damage from a variety of spill sizes. In Washington, a modified triennial cycle for drills, as found in the National Preparedness for Response Exercise Program (NPREP), is relied on to test each component of the plan.

Scheduling drills: Rail plan holders can schedule drills on the Northwest Area Committee exercise schedule at <http://ecyapsppr/naces/>. Drill scheduling requirements are shown in the table below (excerpt from the rule, WAC 173-186-510).

Table 1: Triennial drill requirements

Type of Drill	Frequency Within the Triennial Cycle	Special Instructions	Scheduling Instructions
Tabletop drills	3 - One in each year of the cycle	One of the three shall involve a worst case discharge scenario. The worst case discharge scenario drill shall be conducted once every three years.	Scheduled at least 60 days in advance, except the worst case discharge scenario at least 90 days in advance.
Deployment drills	6 - Two per year	These drills include notification, safety assessments, GRP and equipment deployments.	Scheduled at least 30 days in advance.
Ecology initiated unannounced drills	As necessary	This drill may involve testing any component of the plan, including notification procedures, deployment of personnel, boom, recovery and storage equipment.	No notice.
Wildlife Deployment Drill	1 - One in each three year cycle. This is an additional drill unless it is incorporated into a large multi-objective deployment drill	This drill will be a deployment of wildlife equipment and wildlife handlers.	Scheduled at least 30 days in advance.

Evaluating drills: Ecology will provide a written drill evaluation report to the rail plan holder following each drill. Credit will be granted for drill objectives that are successfully met.

Information technology system and other process changes

Ecology will be making some minor modifications to our existing data system, Spills Program Integrated Information System, to accommodate tracking the plan review process, drills, and lessons learned for railroads.

We will update our contingency plan process documents, including the contingency plan review checklist and plan review manual, and we are developing a boilerplate/fillable form for easy plan submittal by rail plan holders. This boilerplate plan will be available on our website.

Enforcement

Ecology may verify compliance with the requirements of Chapter 173-186 WAC through inspection of forms and records as outlined in WAC 173-186-600. If a rail plan holder fails to

comply with the requirements of Chapter 173-186 WAC, Ecology may place conditions on plan approval, require additional drills to test the effectiveness of the plan, and/or revoke the approval status. Drill failures could result in administrative orders requiring updates to the plan, additional training for responders, and/or additional equipment purchases. Enforcement procedures are described in WAC 173-186-610.

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, are applicable.

Informing and Educating Persons Affected by the Rule

Throughout the rulemaking process, Ecology staff have been in contact with the regulated community and the public through email messages, publications, workshops, and public hearings to inform people of the rule development and to capture their input.

The Spills Program will use a combination of outreach methods to inform and educate persons affected by the rule (meetings with railroad operators, press releases, list-servs, etc.). Notices of rule adoption will be sent immediately after the rule is adopted to entities subject to the rule and interested stakeholders, including current vessel and facility plan holders, tribes, and members of the public who provided contact information with their comments for the rule. The Agency's webpage will also be updated to notify users of the rule adoption and to direct them to published supporting documents.

Promoting and Assisting Voluntary Compliance

Educating stakeholders about the rule requirements helps to promote voluntary compliance. Although contingency planning regulations for vessels and facilities have been in place since the 1990's, we understand this is a new regulation for the rail industry and it will take time for Ecology to confirm that full compliance has been achieved. Ecology has taken into consideration the cost burden of compliance for the smaller railroads and we are developing a template and guidance for easier plan submittal. Ecology will promote and assist voluntary compliance by maintaining close communication with the regulated community as they work to develop their contingency plans.

Evaluating the Rule

Compliance will be assessed through the contingency plan review and evaluation process, and through drill performance over time as different 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. Plan reviews typically take 65 days to complete, 30 days of which are a required public review opportunity.

Training and Informing Ecology Staff

Many of the Ecology staff responsible for implementing this rule work directly with existing vessel and facility plan holders, and are involved with current internal processes for contingency plan development and review, drill design and evaluation, and assessment of primary response contractors and response equipment. These individuals will apply their experience to implementing the requirements that have been developed for rail plan holders.

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

The following supporting document has been developed and posted on the Spills Program webpage:

- Binding Agreement (Form ECY 070-550). Used by plan holders as a written statement binding them to use of the plan.

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

- Plan Submittal Boilerplate/Fillable Form including Guidance (For rail plan holder use)
- 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 to assist with plan development)
- Plan Review Procedure Manual (guidance to industry when developing plans)
- Planning and Conducting Drills in Washington State (Publication 12-08-002)

More Information

Spills Program Rules Page: <http://www.ecy.wa.gov/programs/spills/rules/main.html>

Contact Information

Nhi Irwin
Department of Ecology Spills Program
P.O. Box 47600
Olympia, WA 98504-7600
Phone: (360) 407-7039
E-mail: nhi.irwin@ecy.wa.gov