Focus on: Assessing Oil Spill Damages

Shoreline impacts from an oil spill.

Contact

Natural Resource Damage Assessment Unit
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Spill Prevention, Preparedness, and Response Program
ecology.wa.gov/SpillsProgram

Accommodations

To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-6831 or visit https://ecology.wa.gov/accessibility. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

What is Natural Resource Damage Assessment?

Oil spills of any size are harmful to the environment. Under state law (RCW 90.56.370), individuals or companies responsible for spilling oil into state waters are liable for damages resulting from injuries to public resources.

The process for determining damages for an oil spill is called a Natural Resource Damage Assessment (NRDA). This process in Washington is well defined in the Oil Spill Natural Resource Damage Assessment Rule (Chapter 173-183 WAC).

Definitions

- "Damage" is the monetary cost of restoring the injured public resources to pre-spill conditions, plus interim losses.
- "Injury" is an adverse change to a public resource caused by the oil spill.
- "Public resources" include fish, animals, vegetation, land, waters of the state, and other resources belonging to, managed by, held in trust by, or otherwise controlled by the state.

Pre-assessment screening

Following an oil spill, the Resource Damage Assessment (RDA) Committee meets to evaluate the size of the spill and the effects on public resources. This process is the pre-assessment screening. The committee considers three questions during the pre-assessment screening:

1. Can damages for injuries to public resources caused by the spill be quantified at a reasonable cost?
2. Is it technically feasible to restore or enhance the injured public resources?
3. Has the spiller proposed a restoration and enhancement project or study that adequately compensates the state for injuries to public resources caused by the spill?

Based on the answers to these questions, the committee will decide to proceed with a formal damage assessment, work with the spiller to develop an acceptable restoration or enhancement project or study, or use the oil spill compensation schedule. State law requires using the compensation schedule if the answer to all three questions is "no."

Resource Damage Assessment (RDA) Committee

In 1989, state lawmakers created the Resource Damage Assessment (RDA) Committee to oversee the protection and restoration of natural resources that are injured by oil spills. The committee is made up of representatives from:

- Department of Ecology
- Department of Fish and Wildlife
- Department of Natural Resources
- Department of Health
- Parks and Recreation Commission
- Department of Archaeology and Historical Preservation

Public involvement

The public is invited to attend and comment at RDA Committee meetings and pre-assessment screenings. In addition, the RDA Committee and the Coastal Protection Fund (CPF) Steering Committee welcome the public to attend meetings and provide comments and suggestions for restoration and enhancement projects.

To see the meeting schedule, visit our restoration web page:

https://ecology.wa.gov/Spills-Cleanup/Spills/Spill-preparedness-response/Restoring-resources-after-spills

Compensation schedule

The Department of Ecology began using the pre-assessment screening and oil spill compensation schedule (Chapter 173-183 WAC) in 1992. It helps to determine a monetary value (damages) for injuries to public resources caused by the oil spill.

The compensation schedule allows Ecology to collect damages based on a dollar per gallon charge. For spills less than 1,000 gallons, this is $1 to $100 per gallon. For spills of 1,000 gallons or more, this range is $3 to $300 per gallon spilled.

The RDA Committee scores the following factors when using the compensation schedule:

- **Oil toxicity** scores consider acute toxicity, mechanical injury, and persistence values for the type of oil spilled. Each of these three factors are scored on a 0–5 ranking (0 being the least harmful).
- **Environmental sensitivity/vulnerability** is scored on a 0–5 ranking with 0 being the least sensitive/vulnerable. This score is calculated differently depending on the type of habitat affected (marine, freshwater, wetlands, or the Columbia River estuary).

When using the compensation schedule, the RDA Committee uses scores for the factors listed above in a mathematical formula to estimate damages.

The spiller can receive credit that lowers damages when they quickly recover spilled oil from the water. Prompt removal of the oil may reduce injuries to sensitive or vulnerable resources.

Using the compensation schedule, damages will depend on the amount of oil spilled and the total scores. A 900 gallon oil spill will result in a damage assessment that ranges from a minimum of $900 up to a maximum of $90,000. A 1,000 gallon spill will result in a damage assessment that ranges from a minimum of $3,000 up to a maximum of $300,000.

Coastal Protection Fund

Ecology deposits damages collected through the compensation schedule into the state Coastal Protection Fund (CPF). The Washington Legislature established the CPF as part of the Oil and Hazardous Substance Spill Prevention and Response Act for:

- Environmental restoration and enhancement projects.
- Investigations of the long-term effects of oil spills.
- Developing and implementing an aquatic land geographic information system.

Funds may also be allocated for research and development regarding the causes, effects, and removal of oil spill pollution.

The CPF Steering Committee decides how the fund is used. After a major spill, the Committee looks at ways to use the fund for restoration and enhancement activities in the affected area. The Committee also oversees the selected restoration and enhancement projects.

Volunteer planting project for the Tarboo Creek restoration project, funded by the CPF. Photo: Northwest Watershed Institute