



DEPARTMENT OF
ECOLOGY
State of Washington

Rule Implementation Plan

Chapter 173-186 WAC Oil Spill Contingency Plan - Railroad

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Rule Implementation Plan

Chapter 173-186 WAC Oil Spill Contingency Plan - Railroad

Spills Program

Washington State Department of Ecology

Olympia, Washington

Table of Contents

Purpose..... 5

Introduction..... 5

Implementation and Enforcement..... 6

Contingency Plan Submittal Schedule..... 7

Informing and Educating Persons Affected by the Rule 8

Promoting and Assisting Voluntary Compliance 9

Evaluating the Rule..... 9

Training and Informing Ecology Staff..... 9

List of Supporting Documents that May Need to be Written or Revised 10

More Information..... 11

Contact Information 11

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 December 12, 2019, Ecology adopted amendments to Chapter 173-186 WAC Oil Spill Contingency Plan-Railroad (AO # 18-04). 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 amended rule.

Also included in this plan is information about:

- Supporting documents that may need to be written or revised because of the 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 over the eighteen months following the rule effective date. Ecology will use existing staff to do the work. The rule defines three types of railroad plan holders with scaled regulatory requirements. All requirements will be met within 18 months.

Type A Railroads

Within 18 months from the rule effective date, Type A railroad plan holders will update their plans with these changes:

- Binding agreement (WAC 173-186-210).
- Contingency plan general content - Notification information relating to spill management teams, wildlife response service providers, contracts or other approved documents, personnel listed in ICS roles in an organizational table, and description of type and frequency of training (WAC 173-186-220).
- Contingency plan general content - Reference to an incident management handbook or detailed description of planning process (WAC 173-186-220).
- Contingency plan general content - List of resources at risk considering water column and benthic species and habitat, identification of waterways depth and response options based on those factors. (WAC 173-186-220). This update will be met through planned updates to the geographic response plans which are developed as annexes to the Northwest Area Contingency Plan.
- Field document - Notification form (WAC 173-186-230).
- Nonfloating oils planning standard (WAC 173-186-330).
- Meet the requirements for access to equipment and personnel to support initial wildlife assessment, wildlife deterrence, and mobile field stabilization assets (WAC 173-186-370).
- Drill types and frequency (WAC 173-186-510 and 173-186-530).

A list of approved spill management teams and wildlife response service providers will be provided to plan holders within 6 months of the effective date of this rule for use in compliance (12 months ahead of the compliance dates for railroads).

Type B Railroads

Within 18 months from the rule effective date, Type B railroad plan holders will update their plans with these changes:

- Binding agreement (WAC 173-186-602).
- Contingency plan general content - Reference to an incident management handbook or detailed description of planning process (WAC 173-186-603).
- Contingency plan general content - Notification information relating to spill management teams, wildlife response service providers, personnel listed in ICS roles in an organizational table, and description of type and frequency of training dependent of ICS position (WAC 173-186-603).

- Contingency plan general content - List of resources at risk considering water column and benthic species and habitat, identification of waterway depth and response option based on those factors. (WAC 173-186-603). This update will be met through planned updates to the geographic response plans which are developed as annexes to the Northwest Area Contingency Plan.
- Field document - Notification form (WAC 173-186-604).
- Drills (WAC 173-186-800 and 173-186-810).

A list of Ecology approved spill management teams and wildlife response service providers will be provided to plan holders within 6 months of the effective date of this rule for use in compliance (12 months ahead of the compliance dates for railroads).

Type C Railroads

Within 18 month from the rule effective date, Type C plan holders will either send a letter to Ecology stating that the plan is complete and still meets all requirements; or update the already approved plan with any missing required information. We anticipate that we will receive letters from Type C railroads with no need to update their plans.

Contingency Plan Submittal Schedule

Plan revisions will be required at least 30 days prior to the phase in dates, and may result in updates to planning standard spreadsheets used to analyze plan adequacy. If updated planning standard spreadsheets are needed, they will be provided by Ecology for incorporation in plan holder contingency plans.

Each plan update may be given a thirty day public review and comment period. Ecology will approve, disapprove, or conditionally approve the plan update no later than sixty-five days from the update submittal date.

Ecology will provide technical assistance to each plan holder as the compliance dates approach.

Boilerplate/Fillable Forms for Oil Spill Plans

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.

Boilerplate plan templates will be updated and/or developed for Type B and Type C railroads, and be made available on the Ecology website. A boilerplate Binding Agreement form will be available on the Ecology website.

Geographic Response Plan Updates

Plan holders must now also include details about benthic and seafloor resources at risk from non-floating oil spills in their plans. This requirement may be met by citing the Geographic Response Plans which are developed as annexes to the Northwest Area Contingency Plan. Over the next 18 months Ecology will expand the spatial scope of GRPs to include the required

information. Industry, key trustee agencies (federal and state), tribes, and stakeholders such as marine resource committees and the public that live and work in the vicinity of their local GRP strategies year-round are involved in GRP development through an outreach and engagement process.

If the relevant GRP(s) have not been updated by the phase-in date, then plan holders shall have thirty days from the date the GRP is published to ensure the plan is updated to incorporate relevant details in their contingency plan.

Drills and Exercises to Test Plans

Type A Rail

Type A railroad plan holders are required to participate in a multiple plan holder large scale equipment deployment drill, with other regulated plan holders. Ecology will call for the drill and organize the effort. There will be three general regions for the state and the drill location will rotate through those regions (once in each area) over a three year period of time. Drill credit will be provided to the plan holder for their participation in the drill. Existing drill forms will be modified to include the large scale equipment deployment drill required by the rule. Technical assistance documents will be developed and provided to industry.

Type B Rail

Type B railroad plan holders will be required to conduct a basic tabletop drill once every three years. A drill evaluation checklist will be developed with the rail operators to guide them through the basic tabletop drill they are required to conduct. Training materials will be written and provided to the plan holders understand how to schedule and conduct the basic drill. The drill program will not begin until the technical assistance is in place.

Type C railroads are not required to participate in a drill program.

Enforcement

Ecology staff will continue to work with the regulated community in complying with the requirements of this rule. Several tools will be developed and may include plan templates, sample update language for plans, updates to the Northwest Area Contingency Plan, which may be referenced by plan holders, and updates to the checklists and websites that Ecology uses to communicate the requirements, review, and update plans.

To the extent to which plan holders rely on primary response contractor applications, spill management team applications, or wildlife response service provider applications, to demonstrate compliance for plan holder planning standards, the contractor applications must also be updated correspondingly.

Informing and Educating Persons Affected by the Rule

Throughout the rulemaking process, Ecology staff have communicated with the regulated community and the public through email messages, phone calls, publications, meetings, webinars, and public hearings to inform industry and the public of the rule development and to capture their input.

In the implementation phase, Ecology will use a combination of outreach methods to inform and educate persons affected by the rule, including:

- Correspondence with railroad plan holders.
- Post information on Ecology's agency and Spills Program web pages
- Issue a press release announcing the adoption of the rule
- Email stakeholders who have requested to be on our distribution list for this rulemaking
- Post the final rule on the internet for public access and post updates on the permanent rulemaking process.
- Continue to include information on the program and rulemaking process under the Rules section of Ecology's Laws and Rules web site
- Inform and educate the public when they contact Ecology.

Notices of rule adoption will be sent immediately after the rule is adopted to entities subject to the rule and interested stakeholders.

Promoting and Assisting Voluntary Compliance

Educating plan holders on the changes in the rule promotes voluntary compliance. Ecology will promote voluntary compliance by maintaining close communication with the regulated community as they work to update elements of their contingency plans and other directives laid out in this rulemaking.

Extensive technical assistance will be provided to further explain changes in the amended rule. 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

Improved levels of preparedness will be assessed through the contingency plan review process, and through the evaluation of drill performance over time. 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 existing rail plan holders and are directly involved with the internal processes of contingency plan development and review, drill design and evaluation, assessment of response equipment and the development of the Geographic Response Plans. Within Ecology, a working group will be tasked with educating staff on the ways this rule update will impact the contingency plan development and review, drill design and evaluation, and assessment of primary response contractors and

response equipment. Although some plan review processes may change, little to no additional training will be required for Ecology staff.

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

The Binding Agreement, boilerplate contingency plan templates, and other documents will be updated and/or developed and be made available on the Ecology website.

We intend to update or develop the following supporting materials:

- Binding Agreement (ECY 070-550)
- Boilerplate Contingency Plan for Railroads (ECY 070-559)
- Internal documents to guide plan review and approval as well as to evaluate drills
- Application forms and instructions for companies applying to be approved Spill Management Teams and/or Wildlife Response Service Providers
- The addition of non-floating oil information to Geographic Response Plans

More Information

Plan holders can access technical assistance tools via the following Ecology webpages:

- Contingency planning <https://ecology.wa.gov/Regulations-Permits/Plans-policies/Contingency-planning-for-oil-industry>
- Best achievable protection <https://ecology.wa.gov/Regulations-Permits/Plans-policies/Contingency-planning-for-oil-industry/Best-Achievable-Protection>
- Geographic Response plans <https://ecology.wa.gov/Regulations-Permits/Plans-policies/Contingency-planning-for-oil-industry/Geographic-response-plans-for-oil-spills>
- Planning standards <https://ecology.wa.gov/Regulations-Permits/Plans-policies/Contingency-planning-for-oil-industry/Spills-planning-standards>
- Worldwide response resource list <https://ecology.wa.gov/Regulations-Permits/Plans-policies/Contingency-planning-for-oil-industry/Worldwide-Response-Resource-List>
- Oil Spill drills <https://ecology.wa.gov/Regulations-Permits/Plans-policies/Contingency-planning-for-oil-industry/Oil-spill-drills>
- Register as an oil spill response volunteer or vessel of opportunity <https://oilspills101.response.news/>
- Northwest Area contingency plan <https://rrt10nwac.com/>

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