



DEPARTMENT OF
ECOLOGY
State of Washington

Rule Implementation Plan
Chapter 173-182 WAC Oil Spill
Contingency Plan

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Implementation Plan

Chapter 173-182 WAC

Oil Spill Contingency Plan

Spill Prevention, Preparedness, and Response Program
Washington State Department of Ecology
Olympia, Washington

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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 18, 2019, Ecology adopted amendments to Chapter 173-182 WAC Oil Spill Contingency Plan (AO # 18-10). The purpose of this rule implementation plan is to inform those who must comply with the rule 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 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 twenty four months following the rule effective date. The phase in dates apply to those plan holders who, on the effective date of this chapter, have approved or conditionally approved plans, primary response contractors with approved contractor applications, and spill management teams (SMT) and wildlife response service providers (WRSP) that may apply for ecology approval to be cited in contingency plans. Each update must contain all necessary content and meet the requirements of the regulation:

Within 6 months from the rule effective date:

- SMTs and WRSPs begin to submit applications for review and approval.

A spill management team will be approved if they submit an application which includes a commitment to meeting the requirements of WAC 173-182-830. Applications should be submitted based on the services the entity can support. A website will be developed with details about becoming a state approved SMT or WRSP. Additionally, an application

will be developed to facilitate review and approval. Applications may be signed and submitted electronically.

Within 12 months from the rule effective date, plan holders update their plans to comply with the following sections as applicable to the plan holder:

- Contingency plan general content (WAC 173-182-230(3)(e)).
- Spill management teams (WAC 173-182-280).
- Transfer sites for covered vessels at locations where transfers occur, and for facilities with a vessel terminal (WAC 173-182-355).
- Planning standards for shoreline cleanup (WAC 173-182-522).
- Binding agreement (WAC 173-182-220).
- Field Document (WAC 173-182-240 (2))
- Type and frequency of drills, (WAC 173-182-710(6)), commitment to participating in the multiple plan holder deployment drill.
- Planning standards for air monitoring to protect oil spill responders and the public (WAC 173-182-535).
- Planning standards for in situ burning (WAC 173-182-330).
- Planning standards for dispersants (WAC 173-182-325).
- Planning standard spills of oils that, depending on their chemical properties, environmental factors (weathering), and method of discharge, may submerge or sink (WAC 173-182-323).
- Planning standards for wildlife response (WAC 173-182-540 (1), (2)(a), (2)(b), (2)(c), (2)(e), (2)(f), (3) and (4)).

The majority of the enhanced requirements phase in within 12 months of the rule effective date. Several tools will be developed to facilitate plan holder updates to their contingency plans to address the new requirements. Tools may include sample update language, 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.

Within 18 months from rule effective date:

- Vessels enrolling under either an umbrella contingency plan or a multi vessel contingency plan must ensure that via the enrollment process they can demonstrate either contracted access to a state approved SMT or in-house team which meets the requirements of WAC 173-182-280, 830, 840, and 850.

Vessels enrolling under an umbrella plan or multi-vessel plan will need to identify their Spill Management Teams. The teams may either be an in-house team or a contracted team. The in-house team and the contracted team must submit applications that comply with WAC 173-182-280, 830, 840, and 850. Prior to this phase-in we will be working with the state approved umbrella and multi-vessel plan holders to help them communicate with their enrolled vessels about this change. We will also be developing focus sheets and outreach materials to agents and the enrolled vessels to prepare them for this change.

- Plan holders must include details about benthic and seafloor resources at risk from non-floating oil spills in accordance with requirements for response and protection strategies under WAC 173-182-510. This requirement may be met by citing the Geographic Response Plans (GRPs) which are developed as annexes to the Northwest Area Contingency Plan. 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 reference the GRP and incorporate relevant details in their contingency plan in accordance with WAC 173-182-510(2)(b)(i) and (2)(b)(ii).

Over the next 18 months ecology will work to expand the spatial scope of GRPs to include the water column and benthic species at risk from non-floating oil spills. We will continue to reach out to stakeholders and expand our tribal engagement in GRP development and updates across the state. Tribes are uniquely qualified to contribute detailed local information about their lands, waters, and resources. We recognize that there are several key local stakeholders, such as tribes, marine resource committees, and the public that live and work in the vicinity of their local GRP strategies year-round and can be invaluable resources in understanding seasonal changes which may complicate GRP deployment. Instead of requiring individual plan holders to conduct the GRP updates, Ecology took on this key work because we recognize the value of stakeholder input and consider locals and tribes as essential partners in ensuring that GRPs are successful and useful.

Within 24 months of the effective date:

- Plan holders shall meet the requirements for access to enhanced wildlife rehabilitation capability as described in Planning standards for wildlife response (WAC 173-182-540 (2)(d)).

On March 14, 2018, Governor Jay Inslee signed Executive Order 18-02 directing state agencies to take several immediate actions to benefit Southern Resident Killer Whales (SRKWs), and established a task force to develop a longer-term action plan for recovery and future sustainability of killer whales.

The Department of Ecology Spill Prevention, Preparedness, and Response Program created a [curriculum](#) to increase the number of trainings for people with vessels in the whale watching industry to volunteer and assist in the event of an oil spill. The term vessel of opportunity (VOO) describes an organized system to preregister volunteer boat operators who can be quickly activated after a spill occurs and tasked with specialized response actions that supplement the fleets of professional spill responders. Before a spill, the participants will have varying levels of involvement as a volunteer, but once a spill occurs and the VOOs are activated, the boat operators will be paid. Creating a curriculum to improve and increase the preregistration and the number of trainings is a fundamental step to ensure the long term recovery of SRKW's.

Over the next few years Ecology will work collaboratively with USFWS, NMFS, NOAA, WDFW, and regulated plan holders who operate or transit in areas that could impact

whales, including Southern Resident Killer Whales, to develop a training program for VOO vessels to support marine mammal deterrent operations. Initially outreach will be targeted to whale watching vessels to support this key work but the program will be open to any interested vessel owners. Vessels will be encouraged to identify their interest in participating in the program via signing up at www.oilspills101.wa.gov. Once the pool of available vessels is identified, plan holders, or as applicable primary response contractors acting on behalf of plan holders, will vet the vessels and create a plan for contracting, call out, outfitting and training.

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

Required Plan Updates

Plan revisions will be required at least 30 days prior to each of the phase in dates above, and may result in updates to planning standard spreadsheets used to model 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 will 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.

Existing plan review and drill planning processes will be modified to include the new components as they are phased in.

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, vessel agents, P&I Clubs, spill management teams, wildlife response service providers, and primary response contractors.

Ecology uses a mailing list of interested people and the program webpage to send out information to federal and state agencies, plan holders, response contractors, counties, environmental groups, 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.

Promoting and Assisting Voluntary Compliance

Educating stakeholders on the changes in the rule helps to promote voluntary compliance. Technical assistance will be provided to help regulated entities and other stakeholders to understand changes in the amended rule. Ecology will promote and assist voluntary compliance by maintaining close communication with the regulated community.

Two one-day forums will be held to educate regulated industry and the public. One forum will focus on non-floating oils risks, response techniques, and challenges. The other forum will focus on wildlife response operations. These education avenues will be key in establishing the necessary foundation to implement the new rules and set expectations for plan update content as well as realistic drills to test the new planning standards.

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 the evaluation of drill performance over 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. 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.
- Primary Response Contractor Application
- Spill Management Team Application
- Wildlife Response Service Provider Application
- Planning spreadsheets (used to Ecology to verify the ability of plan holders to meet their planning standards)
- Wildlife deterrents training
- Focus sheet providing information to vessels enrolling in an umbrella plan or a multi vessel contingency plan about the new requirements for having contacted access to a state approved Spill Management Team.

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

- Oil products handled in Washington
- Marine mammal deterrents curriculum

Model plan language, guidance and forms will be developed to support plan updates and compliance. 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.

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/>
- Curriculum Plan for a Killer Whale Deterrence Program <https://fortress.wa.gov/ecy/publications/SummaryPages/1808006>

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