State of Oregon Department of Environmental Quality

Notice of Proposed Rulemaking

Nov. 30, 2020

High Hazard Railroad Contingency Planning 2021

This package contains the following documents:

- Notice of Rulemaking
- Draft Rules – Edits Highlighted
- Draft Rules – Edits Included (final clean version)

Note for Readers:

This package contains multiple documents. If you want to read more than one document at a time, you can open multiple copies of this PDF by downloading the PDF and then opening it in Adobe. You can then either:

- Click on the "Windows" item in the top ribbon
- Click on "New Window"
- A second copy of the PDF will open in a new window

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Introduction

DEQ invites public input on proposed permanent rule amendments to chapter 340 of the Oregon Administrative Rules.

Request for Other Options

During the public comment period, DEQ asks for public comment on whether there are other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business.

Overview

There has been a substantial increase in crude oil transported by rail through Oregon. Millions of gallons of oil are now transported through the state on a regular basis. Transportation of crude oil by rail was not contemplated when laws regarding hazardous rail transportation (ORS 468B.300 through 468B.500) were enacted. Due to this increase, additional regulations and contingency plans are essential in ensuring the continued protection of our environment and public health.

Passage of HB 2209 during the 2019 legislative session specifically addresses contingency planning for high hazard train routes. This law will go a long way to ensure the safe transport of oil through Oregon and the environmental protection of our natural resources. The new rules implement the requirements of HB 2209 as they pertain to High Hazard Rail. In order to ensure additional preparedness and consistent contingency planning, this rulemaking establishes a loaded tank car fee to fund a position with Oregon State Fire Marshal that will be in charge of drill and exercise requirements for High Hazard Rail. It further establishes new contingency planning requirements for High Hazard Rail as well as provides updates to existing rules throughout Oregon Administrative Rules as they pertain to Oil Spill Contingency Planning and Fees.

To further clarify the requirements specific to High Hazard Rail transport, the rulemaking establishes a new dedicated section for contingency planning for rail and clarifies language already in statute to ensure consistency in contingency planning requirements. The new sections of the rules ensures that adequate planning and response capabilities are met by companies transporting oil in bulk through the state via rail car. It establishes a requirement for oil spill response drills and exercises, and ensures that rail companies incorporate Geographic Response Plans as they are developed.

Procedural Summary

More information

Information about this rulemaking is on this rulemaking's web page:

High Hazard Rail Contingency Planning 2021

Public Hearings

DEQ plans to hold 1 public hearing. The hearing will be by webinar and teleconference only. Anyone can attend the hearing by webinar or phone.

Information about the virtual public hearing:

Date: Dec. 16, 2020
Start time: 1 p.m.
Location: Meeting to be held remotely.
Join online via Zoom

Join by phone:
Call-in number 888-475-4499 (toll-free in the U.S.)
Meeting ID: 898 5753 7633
Passcode: 226859

Instructions on how to join webinar or teleconference: Instructions

How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. A person can submit comments by email, by regular mail or at the public hearing.

Comment deadline

DEQ will only consider comments on the proposed rules that DEQ receives by 4 p.m., on Dec. 29, 2020.

Submit comment by email

Any person can submit comments by sending an email. Commenters should include "High Hazard Rail Contingency Planning 2021" in the email subject line. Submit emails to: hhrp@deq.state.or.us

Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

By mail

Oregon DEQ
Attn: Kyrion Gray
700 NE Multnomah St., Room 600
Portland, OR 97232-4100

Sign up for rulemaking notices

Get email or text updates about this rulemaking by either:

- Signing up through this link: Environmental Cleanup GovDelivery;
- Signing up on the rulemaking web site: High Hazard Rail Contingency Planning 2021

What will happen next?

DEQ will include a written response to comments in a staff report DEQ will submit to the Environmental Quality Commission. DEQ may modify the rule proposal based on the comments.

Proposed rules only become effective if the Environmental Quality Commission adopts them. DEQ's intended action is to present the proposed rule changes to the EQC as soon as possible after the earliest date on which the rule changes could take effect. DEQ intends to submit the proposed rule changes to the EQC on or after Jan. 20, 2021.

Statement of need

What need would the proposed rule address?

This rulemaking establishes requirements for railroad companies that transport oil by rail to establish and maintain contingency plans in the event of a derailment and oil spill impacting the waters of the state. This establishes and clarifies items from statute and provides for an ongoing system of drills, exercises and plan submittals to ensure compliance with current high hazard rail regulations. It also establishes a per tank fee to fund a position with the Oregon State Fire Marshal to ensure compliance with the submitted contingency plans.

How would the proposed rule address the need?

There are currently no requirements for high hazard rail through the state. This rulemaking will allow for state regulation and contingency planning oversight as well as emergency response management in the event of a derailment and spill.

How will DEQ know the rule addressed the need?

DEQ will conduct annual reviews of the plans submitted from the railroads as well as coordinate exercises and drills with Oregon State Fire Marshal to ensure compliance with the contingency plans that have been submitted.

Rules affected, authorities, supporting documents

Lead division

Land Quality

Program or activity

Emergency Response and Cleanup Program

Chapter 340 action

Adopt				
340-141-0250	340-141-0260	340-141-0265	340-141-0270	340-141-0280
340-141-0282	340-141-0285	340-141-0290		
Amend				
340-141-0001	340-141-0005	340-141-0010	340-141-0130	340-141-0140
340-141-0150	340-141-0160	340-141-0170	340-141-0180	340-141-0190
340-141-0200	340-141-0210	340-141-0220	340-1410230	340-141-0240

Statutory Authority - ORS				
468.020	468.065			

Statutes Implemented - ORS				
468B.300 – 468B.500				

Legislation

HB 2209 – 2019 Legislative Session

Documents relied on for rulemaking

Document title	Document location
HB - 2209	https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2209/Introduced
Rule Advisory Committee meeting materials	https://www.oregon.gov/deq/Regulations/rulemaking/RuleDocuments/hhrc2021m3materials.pdf

Fee Analysis

These proposed rules would establish new fees. EQC authority to act on the proposed fees is ORS 468B.437.

The owner of oil transported by railroad must pay the Department of Revenue (DOR) a fee not to exceed $20 for each car. The owner of oil must pay the fee on a quarterly basis. The fees will be deposited into a suspense account at DOR. After DOR has garnished administration costs, the fee revenue will be transferred to both the High Hazard Train Route Oil Spill Preparedness Fund and the Oil and Hazardous Material Transportation by Rail Action Fund. The revenue spilt between the funds will be determined by rule. DEQ and the Office of the Oregon State Fire Marshal must both establish the fee amount by rule. DOR is authorized to conduct audits of fee payers and provide enforcement activity. Any moneys remaining in the funds on the date the legislature repeals the authorizing legislation must be refunded to the payers without interest.

Brief description of proposed fees

Proposed fees established under ORS 468B.435 (13)(c) authorize a fee up to $20 per tank car to be paid by the owner of the crude oil that is transporting the oil along the high hazard rail route of the state. DEQ proposes setting a fee of $20 per tank car.

Reasons

The proposed fees would address a new fee created by statute of $20 per rail car.
DEQ anticipates this fee to be used to implement training exercises. Personnel for these exercises include a Public Safety Training Specialist 2 with the Oregon State Police. Anticipated costs for the 2019-2021 biennium are $0.00. Anticipated costs for the 2021-2023 biennium are $ 475,000.00 for 1 employee (1 FTE) including DOR costs for administering the fund.
Use of the funding is described in ORS 468B.435 (3)(a),(b),(c) and (d) as well as ORS 453.392 (1)(d).

Fee proposal alternatives considered

There are no alternatives proposed at this time.

Fee payer

The owner of the oil that is being transported will pay the fee.

Affected party involvement in fee-setting process

The rulemaking advisory committee members included the chair of Clean Rivers Cooperative as well as multiple companies involved with the transit of oil via rail. Clean Rivers Cooperative is a member based organization that includes members of the petroleum industry and regulated maritime contingency plan holders.

Summary of impacts

Given the indeterminate status of the other funds (fee) revenue that will support this program, this analysis will provide estimates of the costs when implemented to the full extent of the conceptualized program. Affected agencies will use existing personnel to begin initial implementation of the law. If revenues are not sufficient to support the associated workload, the affected agencies may return to the Emergency Board or an Interim Legislative Session to request additional funding resources.

Without this fee, the Oregon State Fire Marshal may not be able to adopt a schedule to include a triennial tabletop exercise, a triennial statewide exercise of a spill or release from rail transport and a multi-agency, multi-jurisdictional and multi-disciplinary oil or hazardous material spill or release exercise.

An additional Gross Revenue Fee of 0.05% of the combined gross operating revenues derived within Oregon of all total revenue of railroads that qualify as High Hazard Railroad operators is being charged. This fee is already established by statute.

Fee payer agreement with fee proposal

The proposed fees were presented at the first RAC meeting and no opposition was mentioned. No fee payers are currently on the RAC, nor located within the state. One facility in Oregon unloads crude oil from tank cars and is not subject to the fee.

How long will the current fee sustain the program?

This is a new program and a new fee. There is no fee being modified, the current fee will go into effect if the Environmental Quality Commission adopts it. The fee is due to sunset on Jan. 2, 2027.

Proposed Fees		
Expected change in revenue (+/-)	+$475,000	+100%
Main GF required by statute/rule to fund program	$0	0%
Proposed fee allows General Fund replacement	$0	0%
Expected effective date	After publication in 2021	

Transactions and Revenue				
Biennium	**Number of transactions**	**Number of fee payers**	**Impact on revenue (+/-)**	**Total revenue (+/-)**
Current biennium	0	0	$0	$0
Next biennium	0	5	+$475,000	+$475,000

Statement of fiscal and economic impact

DEQ is unable to quantify the total cumulative effect. However, based on the fee of $20 per tank car, and numbers provided during the 2019 legislative session, the total amount for that year would have been $320,000. The funds generated from these fees will go directly to funding state agencies and their involvement in the exercise planning and execution process.

Fiscal and Economic Impact

Given the indeterminate status of the other funds (fee) revenue which will support this program, this analysis will provide estimates of the costs to the full extent of the conceptualized program. The affected agencies will use existing personnel to develop rules. If revenues are not sufficient to support the associated workload, the affected agencies may return to the Emergency Board or an Interim Legislative Session to request additional funding resources. The legislation specifies the information that must be included in the contingency plan, which could include some level of railroad participation in Oregon State Fire Marshal spill/release exercises. This rulemaking proposes that the owner of oil transported by railroad must pay the DOR a fee of $20 for each car, most of which DOR will transfer to both the High Hazard Train Route Oil Spill Preparedness Fund and the Oil and Hazardous Material Transportation by Rail Action Fund. DOR is authorized to conduct audits of fee payers and provide enforcement activity. Any moneys remaining in the funds on the date of repeal of this legislation must be refunded to the payers without interest.

Statement of Cost of Compliance

State agencies

DEQ anticipates the need for 1 Public Safety Training Specialist 2 with the Oregon State Police at a cost of $0.00 for the 2019-2021 biennium. DOR will collect fees and perform audit services. DOR's administrative costs will be $236,000.00. DOR administration fees will be taken out of the amount collected and the Oregon State Police and Oregon State Fire Marshal will receive funds from DOR to allow for implementing the training exercises, which will be managed by a full-time Public Safety Training Specialist 2

Local governments

No additional fiscal impacts, associated with this legislation, are anticipated to local governments as participation in the training exercises is not mandated. Participation is assumed to be at the discretion of the local budgetary authority and subject to existing funding levels

Public

DEQ does not anticipate the proposed rules having a significant impact on the public because these fees only apply to large businesses.

Large businesses - businesses with more than 50 employees

The entities subject to these fees are all large businesses. Therefore, the costs described above apply to large businesses.

Small businesses – businesses with 50 or fewer employees

ORS 183.336 - Cost of Compliance for Small Businesses

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

DEQ does not anticipate the proposed rules having significant adverse impact on small businesses.

b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

The proposed rules do not require any additional activities for small businesses.

c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

The proposed rules will not require any additional resources.

d. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ did not involve small businesses in this process, because the only parties affected by this are oil companies.

Documents relied on for fiscal and economic impact

The requirement to list the documents relied on to determine fiscal impact is separate from and in addition to the similar list in the Rules affected, authorities, supporting documents section above.

Document title	Document location
Fiscal Impact of Proposed Legislation	https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureAnalysisDocument/51207
Revenue Impact of Proposed Legislation	https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureAnalysisDocument/47569

Advisory committee fiscal review

DEQ appointed an advisory committee.

As ORS 183.33 requires, DEQ asked for the committee's recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and
- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 reduce that impact.

The committee reviewed the draft fiscal and economic impact statement and its findings are stated in the approved minutes dated Aug. 4, 2020.

The committee determined the proposed rules would not have a significant adverse impact on small businesses in Oregon.

The above review was conducted and the RAC members agree that there would be no significant adverse impact on small businesses in Oregon.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined the proposed rules would have no effect on the development costs because explain why.

Committee members concur, no impact on housing costs.

Federal relationship

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

The proposed rules are not different from or in addition to the following federal requirements:

40 CFR 300 - National Oil and Hazardous Substances Pollution Contingency Plan
Subparts A – J, Appendix E

49 CFR 130 – Oil Spill Prevention and Response Plans
Subparts A, B, C

These rules address the contingency plan requirements that will be implemented on high hazard rail. The requirements and contents of the contingency plan are equivalent to federal guidelines concerning oil spill contingency planning listed in the above section. They enact policies already in place by statute and update and modernize existing language in the section.

Land use

Land-use considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with state wide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
- Resources, objects, or areas identified in the statewide planning goals, or
- Present or future land uses identified in acknowledge comprehensive plans

DEQ determined whether the proposed rules involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

Determination

DEQ determined that these proposed rules do not affect land use under OAR 340-018-0030 or DEQ's State Agency Coordination Program. In the event of a spill, the Department will consult with local counties and cities to ensure input and participation in the response efforts.

DEQ's statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules.

OAR 340-018-0040(1) - compliance with statewide planning goals achieved by ensuring compatibility with acknowledged comprehensive plans.

EQC Prior Involvement

DEQ did not present additional information specific to this proposed rule revision.

Advisory Committee

Background

DEQ convened the High Hazard Rail Contingency Plan Rulemaking Advisory Committee. The committee included representatives from industry (including railroads), tribal interests, local communities and emergency response organizations and met 3 times.

The committee members were:

Rulemaking Name Advisory Committee	
Name	**Representing**
Dominic Winslow	Burlington Northern Santa Fe Railroad
Cindy Robert	Union Pacific Railroad
Michael Lang	Friends of the Columbia Gorge
Audie Huber	Confederated Tribes of Umatilla Indian Reservation
Holly Robinson	Maritime Fire and Safety Administration
Jerry Henderson	Clean Rivers Cooperative
Julie Carter	Columbia River Inter-Tribal Fishing Commission
Michael Heffner	Oregon State Fire Marshal
Richard Franklin	US Environmental Protection Agency
Scott Winkels	League of Oregon Cities

Meeting notifications

To notify people about the advisory committee's activities, DEQ:

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
  - Rulemaking
  - Environmental Cleanup Program
- Added advisory committee announcements to DEQ's calendar of public meetings at DEQ Calendar.

Committee discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee (summarize committee charter, topics, discussions, conclusions, recommendations).

Public Engagement

Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On Nov. 30, 2020 Filing notice with the Oregon Secretary of State for publication in the December 2020 Oregon Bulletin;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: High Hazard Rail Contingency Planning 2021;
- Emailing approximately 17,749 interested parties on the following DEQ lists through GovDelivery:
    - Rulemaking
    - Environmental Cleanup Program
    - DEQ Public Notices
- Emailing 15 stakeholders on the High Hazard Rail Interested party mailing lists here
- Emailing the following key legislators required under ORS 183.335:
    - Representative Paul Evans, Chair, House Interim Committee On Veterans and Emergency Preparedness
    - Representative Rick Lewis, Vice-Chair, House Interim Committee On Veterans and Emergency Preparedness
    - Representative Marty Wilde, Vice-Chair, House Interim Committee On Veterans and Emergency Preparedness
    - Representative Mark Meek, Member, House Interim Committee On Veterans and Emergency Preparedness
    - Representative Courtney Neron, Member, House Interim Committee On Veterans and Emergency Preparedness
    - Representative Bill Post, Member, House Interim Committee On Veterans and Emergency Preparedness
    - Representative Kim Wallan, Member, House Interim Committee On Veterans and Emergency Preparedness
    - Representative Jack Zika, Member, House Interim Committee On Veterans and Emergency Preparedness
- Emailing advisory committee members,
- Posting on the DEQ event calendar: DEQ Calendar

How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. A person can submit comments by email, by regular mail or at the public hearing.

Comment deadline

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Submit comment online

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By mail

Oregon DEQ
Attn: Kyrion Gray
700 NE Multnomah St., Room 600
Portland, OR 97232-4100

At hearing

Dec. 16, 2020 at 1 p.m.

Public Hearing

DEQ plans to hold one public hearing. Anyone can attend a hearing in person, or by webinar or teleconference.

Date: Dec. 16, 2020
Start time: 1 p.m.
Location: Meeting to be held remotely.
Join online via Zoom

Join by phone:
Call-in number 888-475-4499 (toll-free in the U.S.)
Meeting ID: 898 5753 7633
Passcode: 226859

Instructions on how to join webinar or teleconference: Instructions

DEQ will consider all comments and testimony received before the closing date. DEQ will summarize all comments and respond to comments in the Environmental Quality Commission staff report.

Accessibility Information

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.

Key to Identifying Changed Text:

~~Deleted Text~~
New/inserted text

Division 141
OIL SPILL CONTINGENCY PLANNING AND FEES

340-141-0001
Purpose and Applicability

(1) The purpose of these rules is to establish:

(a) Fees for covered vessels and facilities;

(b) Contingency preparedness and planning standards for covered vessels and facilities needing approved plans before operating in Oregon; and

(c) Standards for preparation, management and maintenance of contingency plans.

(2) Applicability: The owner or operator of an onshore facility, offshore facility and covered vessel must prepare, submit and use oil spill prevention and emergency response plans in accordance with the requirements of this Division. Federal plans required under 33 ~~CFR~~C.F.R. 154, 40 ~~CFR~~C.F.R. 109, 40 ~~CFR~~C.F.R. 110, or the Federal Oil Pollution Act of 1990 or plans required by other states may be submitted to satisfy plan requirements under this Division, if ~~the Department~~DEQ deems that such federal or state requirements equal or exceed those of ~~the Department~~DEQ.

Statutory/Other Authority: ORS 468.020 & 468B.345 - 468B.405
Statutes/Other Implemented: ORS 468B.300 - 468B.500
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0005
Definitions as used in this Division

(1) "Average Most Probable" spill, release or discharge means the probable volume of oil that may spill as defined in a plan considering the history of spills from similar facilities or

vessels of the same class operating on the west coast of the United States. It may also be defined as the lesser of one percent of the worst case spill, release or discharge, or 50 barrels, when used as a planning volume.

(2) "Best Achievable Protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures and operational methods that provide the greatest degree of protection available considering:

(a) The additional protection provided by the measures;

(b) The technological feasibility of the measures; and

(c) The cost of the measures.

(3) "Best Achievable Technology" means the technology that provides the greatest degree of protection, taking into consideration processes that are currently in use, processes that have been developed or processes that could feasibly be developed with reasonable expenditures on research and development. In determining what is best achievable technology, the Director will consider the effectiveness, engineering feasibility and commercial availability of the technology.

(4) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder or granular form capable of being conveyed by a pipe, bucket, chute or belt system.

(5) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel of 300 or more gross tons. "Cargo vessel" does not include a vessel used solely for commercial fish harvesting.

(6) "Columbia River" means the length of the Columbia River from where it enters the State of Oregon from the State of Washington to the point where it leaves the state at river mile zero at the Pacific Ocean.

(7) "Commercial Fish Harvesting" means taking food fish with any gear unlawful for angling under ORS 506.006, taking food fish in excess of the limits permitted for personal use, or taking food fish with the intent of disposing of such food fish or parts thereof for profit, or by sale, barter or trade, in commercial channels.

(8) "Commission" means the Environmental Quality Commission.

(9) "Contingency Plan" or "Plan" means an oil spill prevention and emergency response plan required under ORS 468B.345.

(10) "Contract or other approved means" in a response or a plan means:

(a) A written contract between a covered vessel or facility owner or operator and an oil spill removal organization that identifies and ensures the availability of specified personnel and equipment within stipulated response times in specified oil spill response Zones;

(b) Certification by the vessel or facility owner or operator that specified personnel and equipment are owned, operated or under the direct control of the vessel or facility owner or operator and are available within stipulated response times in specified oil spill response Zones;

(c) Active membership in a local or regional oil spill removal organization that has identified specified personnel and equipment that are available to respond to an oil spill within stipulated response times in specified oil spill response Zones; or

(d) A written document that:

(A) Identifies personnel, equipment and services capable of being provided by the oil spill removal organization within stipulated response times in specified oil spill response Zones;

(B) Acknowledges that the oil spill removal organization intends to commit the identified resources in the event of an oil spill;

(C) Permits the commission to verify the availability of the identified oil spill removal resources through tests, inspections and exercises; and

(D) Is referenced in an oil spill contingency plan for the vessel or facility.

(11) "Covered vessel" means a tank vessel, self-propelled tank vessel, cargo vessel or passenger vessel.

(12) "Dedicated response vessel" means a vessel that limits service exclusively to recovering and transporting spilled oil, tanker escorting, deploying oil spill response equipment, supplies and personnel, spill response-related training, testing, exercises and research or other oil spill removal and related activities.

(13) "~~Department~~DEQ" means the Department of Environmental Quality.

(14) "Director" means the Director of the Department of Environmental Quality.

(15) "Discharge" means any emission other than natural seepage of oil, whether intentional or unintentional. "Discharge" includes but is not limited to spilling, leaking, pumping, pouring, emitting, emptying or dumping oil.

(16) "Drill" means the simulated performance of a spill response or task predicted in a plan.

(17) "Effective Daily Recovery Capacity" or "EDRC" means the factor used to estimate limitations on equipment efficiency from variables such as sea state, current velocity or visibility.

(18) "Field Document" means a simplified response plan for onsite use in the event of a spill, summarizing key notification and action elements.

(19) "Facility" means a pipeline or any structure, group of structures, equipment or device, other than a vessel located on or near navigable waters of a state, that is used for producing, storing, handling, transferring, processing or transporting oil in bulk and that is capable of storing or transporting 10,000 or more gallons of oil per day. "Facility" does not include:

(a) A railroad car, motor vehicle or other rolling stock while transporting oil over the highways or rail lines of this state;

(b) An underground storage tank regulated by ~~the Department of Environmental Quality~~DEQ or a local government under ORS 466.706–466.882 and 466.994; or

(c) Any structure, group of structures, equipment or device, other than a vessel located on or near navigable waters of a state, that is used for producing, storing, handling, transferring, processing or transporting 10,000 gallons or more of oil per day but does not receive oil from tank vessels, barges or pipelines.

(20) "High Hazard Train Route" means a section of rail lines in this state:

(a) That abuts or travels over navigable waters, a drinking source, or an inland location, that is one quarter mile or less from waters of the state; and

(b) Over which trains operate that, in a single train transport:

(A) 20 or more tank railcars in a continuous block that are loaded with oil; or

(B) 35 or more railroad cars loaded with oil that are spread throughout the entirety of the rolling stock, not including the locomotive, that make up the train.

(21~~0~~) "Initial assessment" is a task assigned to first responders who are participating with ~~the Department~~DEQ in a Unified Command or Incident Command System, and includes the following tasks:

(a) Verifying the spill location;

(b) Establishing the type of incident based on products and conditions;

(c) Confirming or correcting the reported quantity released or area extent of the contamination;

(d) Reporting the efficacy of the initial containment;

(e) Projecting immediate resource needs to control the release; and

(f) Reporting local knowledge about the probable impacts of the release.

(22~~1~~) "Interim Storage Site" means a site used to temporarily store recovered oil or oily waste until the recovered oil or oily waste is disposed of at a permanent disposal site. Interim storage sites include trucks, barges and other vehicles used to store recovered oil or oily waste until transport begins.

(23~~2~~) "Maritime Association" means an association or cooperative of marine terminals, facilities, vessel owners, vessel operators, vessel agents or other maritime industry groups that provides oil spill response planning and spill related communications services within the state.

(24~~3~~) "Maximum Extent Practicable" means the highest level of effectiveness that can be achieved through staffing levels, training procedures and best achievable technology considering the effectiveness, engineering feasibility, commercial availability, safety and cost of the measures.

(25) “National Contingency Plan” means the plan prepared and published under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9605, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99–499, (hereinafter CERCLA), and by section 311(d) of the Clean Water Act (CWA), 33 U.S.C. 1321(d), as amended by the Oil Pollution Act of 1990 (OPA).

(26~~4~~) “National Incident Management System” or “NIMS”, as established by the Homeland Security Presidential Directive 5 of February 28, 2003 is a consistent nationwide template to enable Federal, State, local and tribal governments and private-sector and nongovernmental organizations to work together effectively and efficiently to prepare for, prevent, respond to and recover from domestic incidents, regardless of cause, size or complexity, including acts of catastrophic terrorism.

(27~~5~~) "Navigable Waters" means the Columbia River, the Willamette River up to Willamette Falls, the Pacific Ocean and estuaries to the head of tide water.

(28) “Non-Floating Oil” means asphalt, heavy fuel oil, diluted bitumen, synthetic bitumen, any group V oil or any oil with the physical and chemical properties which may weather or accumulate sediment and become neutrally buoyant or sink in freshwater or saltwater.

(29~~6~~) "Non-Persistent Oil" means those petroleum products with physical characteristics less dense than persistent oils, also referred to as Group I petroleum products.

(3027) "Northwest Area Contingency Plan" means the regional emergency response plan developed in accordance with federal requirements and adopted as an annex to the State of Oregon all hazard plan as required by ORS 466.620.

(3128) "Offshore Facility" means any facility located in, on or under any of the navigable waters of the state.

(3229) "Oil" or "Oils" means oil including gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse, and any other petroleum-related product.

(a) Oil, including gasoline, crude oil, bitumen, synthetic crude oil, natural gas well condensate, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse, and any other petroleum-related product; and

(b) Liquefied natural gas.

(330) "Oil Spill Contingency Response Planning Standards" means ~~the Department~~DEQ's standards for reviewing oil spill contingency plans. The planning standards represent ~~the Department~~DEQ's best general estimate of types and quantities of personnel and equipment required to ensure adequate response to any location.

(341) "Oil Spill Response Planning Zones" are geographic areas of the State for which ~~the Department~~DEQ has established minimum planning standards. The Oil Spill Planning Zones are as follows:

(a) "Columbia River Zone" includes the Columbia River from where it enters the State of Oregon from the State of Washington to the point where it leaves the state at river mile zero at the Pacific Ocean, and extending 25 miles inland adjacent to the waterway. It is divided into four sub-Zones:

(A) "Columbia River, Upper River sub-Zone" means the Columbia River from the point where it enters Oregon from the State of Washington to the Bonneville Dam;

(B) "Columbia River, Portland sub-Zone" means the Willamette River below Willamette Falls, and the Columbia River between the Bonneville Dam and river mile 85 at St. Helens;

(C) "Columbia River, Rainier sub-Zone" means the Columbia River between river mile 85 at St. Helens and river mile 40 at Bugby Hole; and

(D) "Columbia River, Astoria sub-Zone" means the Columbia River between river mile 40 at Bugby Hole and river mile zero at the Pacific Ocean.

(b) "Coastal Bays Zone" means all ports on the Oregon coast where covered vessels make calls and extending inland 25 miles;

(c) "Open Ocean Zone" is the Pacific Ocean from the mark of average high tide out to the three mile limit of Oregon's authority; and

(d) "Inland Zone" means areas of Oregon where oil spill risks can be reduced through planning and contingency strategies, and not included in another listed Planning Zone.

(352) "Oily Waste" means oil contaminated waste resulting from an oil spill or oil spill response operations.

(363) "Onshore Facility" means any facility, located in, on or under any land of the state, other than submerged land, that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or adjoining shorelines.

(374) "Owner or Operator" means:

(a) In the case of an onshore or offshore facility, any person owning or operating the facility.

(b) In the case of a vessel, any person owning, operating or chartering by demise, the vessel.

(c) In the case of an abandoned onshore or offshore facility, or vessel, the person who owned or operated the facility or vessel immediately before its abandonment.

(385) "Passenger vessel" means a ship of 300 or more gross tons carrying passengers for compensation.

(396) "Persistent Oil" means those petroleum products with environmental degradation resistance or viscosity characteristics equal to and greater than fuel oil having a specific gravity of more than 0.8, also referred to as Group II and higher petroleum products.

(4037) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, trusts, joint venture, consortium, association, state, municipality, commission, political subdivision of a state or any interstate body, any commercial entity and the state and any agencies thereof, and the federal government and any agencies thereof.

(4138) "Person Having Control Over Oil" includes, but is not limited to, any person using, storing or transporting oil immediately prior to entry of such oil into the navigable waters of the state, and specifically includes carriers and bailees of such oil.

(4239) "Pipeline" means a facility, including piping, compressors, pump stations and storage tanks used to transport oil between facilities or between facilities and tank vessels.

(430) "Primary Response Contractor" means a response contractor that is identified in a required plan and is committed to the plan holder by contract or other approved means.

(441) "Region of Operation" with respect to the holder of a contingency plan means the area where the operations that require a contingency plan are located.

(452) "Resident" means that the resource is kept ready for use at an address within the planning Zone (or sub-Zone if planning standards specify) in which the facility or vessel is located.

(463) "Response Contractor" means an individual, organization, association, or cooperative that provides or intends to provide equipment, personnel for oil spill containment, cleanup or removal activities.

(474) "Self-propelled tank vessel" means a tank vessel that is capable of moving under its own power.

(485) "Ship" means any boat, ship, vessel, barge or other floating craft of any kind.

(496) "Spill or release" means the discharge, deposit, injection, dumping, spilling, emitting, releasing, leaking or placing of any oil or hazardous material into the air or into or on any land or waters of the state, as defined in ORS 468B.005, except as authorized by a permit issued under ORS Chapter 454, 459, 459A, 468, 468A, 468B or 469, 466.005 to 466.385, 466.990(1) and (2) or 466.992 or federal law or while being stored or used for its intended purpose.

(5047) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue. "Tank vessel" does not include:

(a) A vessel carrying oil in drums, barrels or other packages;

(b) A vessel carrying oil as fuel or stores for that vessel; or

(c) An oil spill response barge or vessel.

(5148) "Trip" means travel to the appointed destination and return travel to the point of origin within the navigable waters of the State of Oregon.

(5249) "Waters of the State" includes lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

(530) "Worst case spill" means:

(a) In the case of a vessel, a spill of the entire cargo and fuel of the tank vessel complicated by adverse weather conditions.

(b) In the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather conditions.

Statutory/Other Authority: ORS 468.020 & 468B.345 - 468B.405
Statutes/Other Implemented: ORS 468B.300 - 468B.500
History:
DEQ 8-2005, f. & cert. ef. 7-14-05
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0010
Program Administration and Compliance Fees

(1) All offshore and onshore facilities required to develop oil spill prevention and emergency response plans under ORS 468B.345 are required to pay the annual fee established in 468B.405(1). Fees for offshore and onshore facilities are due July 1 each year and cover the following 12 month period.

(2) Covered vessels are required to pay the per trip or daily fee established in 468B.405(1). Fees for covered vessels must be remitted to ~~the Department~~DEQ within 60 days of the conclusion of each trip.

(3) Moneys collected under this rule will be deposited in the State Treasury to the credit of the Oil Spill Prevention Fund established by ORS 468B.410. DEQ may not use funds deposited in the Oil Spill Prevention Fund to pay DEQ's costs that it may pay with funds deposited in the High Hazard Train Route Oil Spill Preparedness Fund.

Statutory/Other Authority: ORS 468.020 & 468B.345 - 468B.500
Statutes/Other Implemented: ORS 468B.405
History:
DEQ 18-2010, f. & cert. ef. 12-23-10
DEQ 8-2005, f. & cert. ef. 7-14-05
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0130
Plan Format Requirements

(1) Plans must be prepared using a combination of narrative and graphic formats that provide both detailed spill response information and quick access to general information needed during an emergency response.

(2) Plans must be divided into a system of chapters and appendices. Chapters and appendices must be numbered. Chapters should be reserved primarily for information on emergency response and cleanup operations, such as notification procedures or description

of the spill response organization structure. The plan must include at least the information listed in OAR 340-141-0140 for vessels and facilities, or the information listed in OAR 340-141-0265 for Railroads. Appendices should be used primarily for supplemental background information and documentation such as response strategies or descriptions of drills and exercises. The spill prevention strategies may be part of the appendices.

(3) A system of index tabs must be used to provide easy reference to particular chapters and appendices.

(4) Plans must be formatted to allow replacement of revised pages and components without requiring replacement of the entire plan.

(5) Plans must include a simplified field document that summarizes key notification and action elements of the plan and is suitable for onsite use in the event of a spill.

(6) Plans may be submitted and updated electronically if all required plan components are in a form ~~the Department~~DEQ can easily access. ~~The Department~~DEQ will determine which types of electronic media are acceptable for the plan submittal.

(7) Composite plans that rely on standard documents ~~the Department~~DEQ already has on file may incorporate those documents by reference.

Statutory/Other Authority: ORS 468.020 & 468B.395
Statutes/Other Implemented: ORS 468B.345 - 468B.390
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0140
Plan Content Requirements

(1) Submittal Agreement. Each plan must contain a submittal agreement that:

(a) Includes the name, address and phone number of the submitting party;

(b) Verifies acceptance of the plan, including any incorporated contingency plans, by the owner or operator of the facility or covered vessel by either signature of the owner or operator or a person with authority to bind the corporation that owns or operates the facility or covered vessel;

(c) Commits to execution of the plan, including any incorporated contingency plans, by the owner or operator of the facility or covered vessel, and verifies authority for the plan holder to make appropriate expenditures in order to execute plan provisions; and

(d) Includes:

(A) In the case of a facility, the name, location including latitude, longitude and river mile, and address of the facility, type of facility, starting date of operations, types of oils (see definition of oil) handled, volume of oil stored and maximum volume of oil capable of being stored.

(B) In the case of a covered vessel, the vessel's name, the name, location and address of the owner or operator, official identification code or call sign, country of registry, common ports of call in Oregon, type of oils (see definition of oil) handled, volume of oil transported as fuel and expected period of operation in state waters.

(C) In the case of a covered vessel enrolled in a cooperative or maritime association plan, the vessel may provide evidence of coverage in lieu of paragraph (B) of this subsection.

(2) Amendments. Each plan must include a log sheet to record amendments to the plan. The log sheet must be placed at the front of the plan. The log sheet must provide for a record of the section amended, the date that the old section was replaced with the amended section, verification that ~~the Department~~DEQ was notified of the amendment ~~pursuant to~~under OAR 340-141-0220(3) and the initials of the individual making the change. A description of the amendment and its purpose must also be included in the log sheet, or filed in the form of an amendment letter immediately after the log sheet.

(3) Table of Contents. Each plan must include a detailed table of contents based on chapter, section, appendix numbers and titles and tables and figures. If the plan is an integrated plan used to also satisfy USCG and USEPA requirements, a cross reference must be included.

(4) Purpose and Scope. Each plan must describe the purpose and scope of that plan, including:

(a) The region of operation covered by the plan;

(b) The onshore facility, offshore facility or covered vessel operations covered by the plan; and

(c) The size and type of the average most probable spill and the worst case spill from the facility or covered vessel.

(5) Updates. Each plan must describe the events or time periods that will trigger updates of the plan.

(6) Implementation Strategy. Each plan must present a strategy for ensuring use of the plan for spill response and cleanup operations as required by OAR 340-141-0210.

(7) Spill Response System. Each plan must describe the organization of the spill response system, including all task assignments anticipated by the end of the first full operational period, or necessary to manage the resources required by the 12 hour planning standard, given a response to an Average Most Probable Discharge. Plans must use a National

Incident Management System (NIMS) incident management system, as described in the Northwest Area Contingency Plan (NWACP).

(8) Contractor Identification. Each plan must identify the primary response contractor and subcontractors (except equipment rentals or supply vendors) whose services are bound to the plan by a contract or other approved means:

(a) If a plan holder is a member of an oil spill response cooperative and relies on that cooperative to perform or supplement its response operations within the regions of operations covered by the plan, the plan must state the cooperative's name, address, phone number and response capability. The plan must also include proof of cooperative membership; or

(b) If a plan holder is not a member of an oil spill response cooperative, for each contractor, the plan must state that contractor's name, address, phone number or other means of contact at any time of the day, and response capability (e.g., land spills only). For each contractor, the plan must include a letter of intent signed by the contractor which indicates the contractor's commitment to respond within the specified time period, with personnel and equipment listed in (12) and (13) of this section. Copies of written contracts or agreements with contractors must be available for inspection, if requested by ~~the Department~~DEQ.

(9) Relationship to Other Plans. Each plan must briefly describe its relation to all applicable local, state, regional and federal government spill response plans. The plan must describe how the plan holder's response organization will be integrated into the Northwest Area Contingency Plan.

(10) Spill Detection. Each plan must list procedures that will be used to detect and document the presence and size of a spill, including methods which are effective during low visibility conditions. The plan must also describe the use of mechanical or electronic monitoring or alarm systems (including threshold sensitivities) used to detect oil discharges into adjacent land or water from tanks, pipes, manifolds and other transfer or storage equipment.

(11) Notifications. Each plan must describe procedures that will be taken to immediately notify appropriate parties that a spill has occurred.

(a) The plan holder must maintain a notification call out list that must be available for inspection upon the request of ~~the Department~~DEQ, and that:

(A) Provides a contact at any time of the day for all spill response personnel identified under section (7) of this rule, including the contact's name, position title, phone number or other means of contact for any time of the day, and an alternate contact in the event the individual is unavailable;

(B) Lists the name and phone number of all government agencies that must be notified in the event of an oil spill ~~pursuant to requirements~~ under ORS 466.635; and

(C) Establishes a clear order of priority for immediate notifications.

(b) The plan must identify a central reporting office or individual who is responsible for implementing the call out process.

(12) Response Personnel. Each plan must describe the personnel, including contract personnel available, to respond to an oil spill, including:

(a) A job description for each type of spill response position needed as indicated in the spill response organization scheme addressed in section (7) of this rule, or a reference to a recognized NIMS position;

(b) The number of personnel available to perform the duties of each type of spill response position;

(A) This number must be equal to or greater than the number of persons necessary to sustain a response to the worst case spill defined in the plan.

(B) If 24 hour operations are expected, the number of persons available to staff the ICS must be multiplied by the proposed number of operational periods (shifts).

(c) Arrangements for pre-positioning personnel at strategic locations that will meet criteria ~~pursuant to~~under OAR 340-141-0190(3)(d); and

(d) The type and frequency of spill response operations and safety training that each individual in a spill response position receives to attain the level of qualification demanded by their job description.

(13) Equipment and spill response resources. Each plan must describe equipment and spill resources as follows:

(a) Each plan must list all resident equipment and resident dedicated response vessels used for oil containment, recovery, removal, shoreline and adjacent lands cleanup and wildlife rescue and rehabilitation. Each plan must also list all relied upon communication tools. ~~The Department~~DEQ will accept information about equipment by reference if the equipment is being provided through a primary response contractor as part of the plan. ~~The Department~~DEQ may request information about the condition and date of manufacture of any listed and referenced equipment to further evaluate its applicability to the planning standards or a response.

(b) For resident equipment and vessels listed under subsection (a) of this section that are not owned by or available exclusively to the plan holder, the plan must also estimate the extent that other contingency plans rely on the same equipment.

(c) For all resident oil containment and recovery equipment, the plan also must include equipment make and model, the manufacturer's nameplate capacity of the response

equipment, the EDRC (in barrels per day) and applicable design limits (e.g., maximum wave height capability, suitability for inland waters or open ocean).

(d) Based on information described in subsection (c) of this section, the plan must state the maximum amount of oil that could be recovered per 24-hour period with the equipment used as it is designed.

(e) For purposes of determining plan adequacy under OAR 340-141-0190, and to assess realistic capabilities based on potential limitations by weather, sea state, and other variables, ~~the Department~~DEQ will use the data presented in subsections (c) and (d) of this section to apply a higher efficiency factor for equipment listed in a plan if that plan holder provides adequate evidence that the higher efficiency factor is warranted for particular equipment or if the United States Coast Guard has approved a higher efficiency rating.

(f) The plan must provide arrangements for pre-positioning of oil spill response equipment at strategic locations that will meet response time criteria ~~pursuant to~~under OAR 340-141-0190(3)(d).

(g) When calculating the delivery time of equipment to a spill staging area, the plan must use travel speeds consistent with federal speed predictions for the equipment being moved.

(14) Communications. Each plan must describe the communication systems used for spill notification and response operations, including:

(a) Communication procedures that identify who will be responsible for the function, to whom and from whom communication will be established and any special instructions;

(b) The communication function (e.g., ground-to-air) assigned to each channel or frequency used;

(c) The maximum geographic range for each type of communications equipment used; and

(d) The communication system compatibility with key spill response agencies.

(15) Response Operation Sites. Each plan must describe the process used by the plan holder to establish sites needed for spill response operations, including location or location selection criteria for an incident command post, a communications center if located away from the command post and equipment and personnel staging areas.

(16) Response Flow Chart or Timeline. Each plan must describe the response process by:

(a) Presenting a flowchart or decision tree describing the procession of each major stage of spill response operations from spill discovery to completion of cleanup. The flowchart or decision tree must describe the general order and priority in which key spill response activities are performed; and

(b) Describing all key spill response operations in checklist forms, to be used by spill response managers in the event of an oil spill.

(17) Authorities. Each plan must describe responsible authorities by:

(a) Listing the local, state and other government authorities responsible for the emergency procedures peripheral to spill containment and cleanup; and

(b) Describing the plan holder's role in these emergency operation procedures before the proper authorities arrive, including but not limited to, control of fires and explosions, rescue activities, access restriction to the spill impact area and site security.

(18) Damage Control. Each plan must describe equipment and procedures to be used by the facility or covered vessel personnel to minimize the magnitude of the spill and minimize structural damage that could increase the quantity of oil spilled.

(a) For facilities, damage control procedures must include methods to slow or stop pipeline, storage tank, and other leaks, and methods to achieve immediate emergency shutdown.

(b) For tank vessels, damage control procedures must include methods and onboard equipment to achieve vessel stability and prevent further vessel damage, slow or stop pipe, tank, and other leaks and achieve emergency shutdown during oil transfer.

(c) For other covered vessels, damage control procedures must address methods to achieve vessel stability and slow or stop leaks from fuel tanks and lines.

(19) Containment. Each plan must describe, in detail, any nonstandard methods specific to the plan to contain spilled oil and recover it from the environment. When a plan calls for the use of methods that have not been expressly approved by ~~the Department~~DEQ, the description of the proposed options must include:

(a) The surveillance methods expected to be used to detect and track the extent and movement of the spill; and

(b) A description of methods to be used to contain and remove oil that will be effective for environmentally sensitive locations included in the Zone, or Zones, for which the plan is written.

(20) Response Time. Each plan must briefly describe initial equipment and personnel deployment activities that will accomplish the response standard listed in OAR 340-141-0190(e)(d) and provide:

(a) An estimate of the actual execution time;

(b) The specific location in the Zone where the resident required response equipment is stored; and

(c) The source and management of personnel to deploy the initial response equipment.

(21) Chemical Agents. If the plan holder proposes to use dispersants, coagulants, bioremediants or other chemical agents for response operations under certain conditions, the plan must describe:

(a) Type and toxicity of chemicals, supplemented with material safety data sheets (MSDS) for each product;

(b) The conditions under which the chemicals will be applied, in conformance with all applicable local, state and federal requirements, including the Northwest Area Contingency plan and OAR 340-141-0020;

(c) Methods of deployment; and

(d) Location and accessibility of supplies and deployment equipment.

(22) In Situ-Burning. If the plan holder proposes to use in-situ burning for response operations, the plan must describe:

(a) Type of burning operations;

(b) Conditions under which burning will be applied in conformance with all applicable local, state and federal requirements, including the Northwest Area Contingency plan and OAR 340-264-0030 to 0040;

(c) Methods of application; and

(d) Location and accessibility of supplies and deployment equipment.

(23) Environmental Protection. Each plan must describe how environmental protection will be achieved, including:

(a) Protection of sensitive shoreline and island habitat by diverting or blocking oil movement;

(b) Priorities for sensitive area protection in the region of operation covered by the plan as provided in a Geographic Response Strategy of the Northwest Area Contingency Plan, or designated by ~~the Department~~DEQ;

(c) Rescue and rehabilitation of birds, marine mammals and other wildlife contaminated or otherwise affected by the oil spill; and

(d) Measures taken to reduce damages to the environment caused by shoreline and adjacent land cleanup operations.

(24) Interim Storage. Each plan that has identified that oil will be recovered must plan for the storage of the oil and combined oily waste material potentially created.

(a) Each plan must describe site criteria and methods used for interim storage of oil recovered and oily wastes generated during response and cleanup operations, including sites available within the facility. Interim storage methods and sites must be designed to prevent contamination of the storage area by recovered oil and oily wastes.

(b) If use of interim storage sites will require approval by local, state or federal officials, the plan must include information that could expedite the approval process, including a list of appropriate contacts and a brief description of procedures to follow for each applicable approval process.

(c) Interim storage and permanent disposal methods and sites must be sufficient to sustain support for oil recovery operations and manage the entire volume of oil recovered and oily wastes generated.

(d) Interim storage and permanent disposal methods and sites must comply with all applicable local, state and federal requirements.

(25) Health and Safety. Each plan must describe procedures to protect the health and safety of oil spill response workers, and other individuals on-site. Provisions for training, decontamination facilities, safety gear and a safety officer position must be addressed.

(26) A description of steps taken for air monitoring to protect responders and the public including:

(a) A description of air monitoring procedures for the work site,

(b) A description of air monitoring procedures for the surrounding area (including surrounding communities),

(c) A description of a communication plan to inform communities of any risks,

(d) A plan to identify shelter in place and evacuation procedures

(27~~6~~) Post Spill Review. Each plan must explain post-spill review procedures, including methods to review both the effectiveness of the plan and the need for plan amendments. Post-spill procedures must provide for a debriefing with ~~the Department~~DEQ that will include any newly recognized need to amend the plan and list of any other lessons learned.

(28~~7~~) Drills and Exercises. All approved plans must be verified by drills and exercises. Each plan must describe the schedule and type of drills and other exercises that will be practiced to ensure readiness of the plan elements, including drills that satisfy OAR 340-141-0200 (3).

(a) The plan holder must test and document internal call out procedures at least once every 90 calendar days. The plan holder must retain records of these drills for at least three years and make them available for ~~Department~~ DEQ review upon request.

(b) The plan holder must notify ~~the Department~~DEQ of drills and exercises, at least 60 days before full deployment and tabletop drills, and 10 days prior to equipment exercises. Prior notice to ~~the Department~~DEQ is not required before notification drills and internal phone number verification exercises.

(c) The plan holder must send post drill reports for all tabletop exercises or deployment drills to ~~the Department~~DEQ no later than 60 days after the completion of the drill or exercise. The executive summary from a National Preparedness for Response Exercise Program (N-PREP) report may be submitted to meet this requirement when the exercise has been designed by the N-PREP staff.

(29~~8~~) Risk Variables. Each plan must list the spill risk variables within the region of operation covered by the plan, including:

(a) Each plan for a facility must list the following:

(A) Types, physical properties and amounts of oil handled;

(B) A written description and map indicating site topography, stormwater and other drainage systems, mooring areas, pipelines, tanks, and other oil processing, storage and transfer sites and operations;

(C) A written description of sites or operations with a history of or high potential for oil spills, including key areas that pose significant navigation risk within the region of operation covered by the plan; and

(D) Methods to reduce spills during transfer operations, including overfill prevention.

(b) Each plan for a covered vessel must list the following:

(A) Types, physical properties and amounts of oil handled;

(B) A written description and diagram showing cargo, fuel and ballast tanks; and piping, power plants and other oil storage and transfer sites and operations; and

(C) A written description of operations with a history of or high potential for oil spills, including key areas that pose significant navigation risks within the region of operation covered by the plan.

(30~~29~~) Environmental Variables. Each plan must list the environmental variables within the region of operation covered by the plan. Facility plans required to include river or coastal areas must identify the environmental variables from the probable point of release to the

point the oil could travel in 24 hours in a current of four knots. Vessel contingency plans must encompass the entire length of the Oregon waterway in the Zone or sub-Zone entered. All plans must describe:

(a) Natural resources, including coastal and aquatic habitat types and sensitivity by season, breeding sites, presence of state or federally listed endangered or threatened species and presence of commercial and recreational species;

(b) Public resources, including public beaches, water intakes, drinking water supplies and marinas;

(c) Seasonal hydrographic and climatic conditions; and

(d) Physical geographic features, including relative isolation of coastal regions, beach types, and other geological characteristics. Plans may reference numbered Geographic Response Plan strategies (GRPs) in the Northwest Area Contingency Plan when identifying individual environmental features.

(310) Logistical Resources. Each plan must list the logistical resources within the region of operation covered by the plan, including facilities for fire services, medical services and accommodations; and shoreline access areas, including boat launches.

(321) Response Strategy Outline. Each plan must include a statement of the intended response activities. This statement must describe how the plan resources must be applied to adequately respond during the initial phase of the response to an average most probable and worst case spill, release or discharge. The Response Strategy Outline must begin with a description of the situation to be managed, and must describe:

(a) Deployment of resources and estimates of response times;

(b) The intended result of the activity for each person listed in section (7) and (12) of this section;

(c) Command and control arrangements;

(d) Required coordination; and

(e) Probable obstacles and an estimate of oil movement during the first 72 hours.

(32) Financial Responsibility. Each plan must provide evidence that the facility or vessel is in compliance with federal financial responsibility requirements ~~pursuant to~~under ORS 468B.390.

(33) Technical Terms Glossary. Each plan must include a glossary of technical terms and abbreviations used in the plan.

Statutory/Other Authority: ORS 468.020 & 468B.395
Statutes/Other Implemented: ORS 468B.345 - 468B.390
History:
DEQ 8-2005, f. & cert. ef. 7-14-05
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0150
Oil Spill Contingency Planning Standards

(1) The purpose of this rule is to establish oil spill prevention and emergency response contingency planning standards for onshore and offshore facilities, pipelines and vessels that will, when followed:

(a) Promote the prevention of oil spills;

(b) Promote a consistent west coast approach to oil spill prevention and response;

(c) Maximize the effectiveness and timeliness of oil spill response by responsible parties and response contractors;

(d) Ensure readiness of equipment and personnel;

(e) Support coordination with state, federal and other contingency plans in particular the state plan required under ORS 468B.495 - 468B.500; and

(f) Protect Oregon waters and other natural resources from the impacts of oil spills.

(2) A plan that conforms to ~~the Department~~DEQ's planning standards, or alternative planning standard approved or required by ~~the Department~~DEQ as provided in subsection (2)(a) and (2)(b), may be approved if all other planning requirements in this Division are met:

(a) Plans submitted that are based on standards that differ from ~~the Department~~DEQ's planning standards must be supported by a detailed analysis that fully supports the methodology proposed. Alternative planning standards proposed by a plan submitter must be consistent with regional goals, be defended by the plan writer during public review of the plan and be approved by ~~the Department~~DEQ.

(b) ~~The Department~~DEQ will apply the applicable planning standard when evaluating the adequacy of a plan submitted to ~~the Department~~DEQ for approval, unless the planning standards do not fully reflect the unique circumstances of a particular facility or vessel. If ~~the Department~~DEQ determines that the plan does not fully protect the environment despite compliance with the general planning standards, ~~the Department~~DEQ will provide a detailed written explanation of its decision outlining the basis for its decision and the specific changes needed in the submitted plan.

(3) Plan writers must identify in their plans adequate resources to protect the areas potentially affected by a spill from their facility or vessel. The plan must state how the Planning Standards, including any performance standards, will be achieved. Required resources are further described in section (4)(a), (4)(b) and (4)(c) of this rule. The lands and waters of the state are divided into Zones and sub-Zones for planning purposes. Planning standards are established for each Zone and sub-Zone covered by this Division:

(a) Facilities located in a sub-Zone of the Columbia River must meet the following planning standards, except as provided in subsections (g) and (h) of this section:

(A) By 1 hour after the discovery of a spill, the facility must have deployed containment boom around the spill source. The length of boom on hand for this purpose must be at least four times the length of the largest vessel, or combined vessel lengths, potentially at that facility. The boom must be placed in the water in a location and fashion so as to contain and facilitate recovery of the greatest amount of oil from the water.

(B) By 2 hours after the discovery of a spill, responders listed in the plan must be prepared to participate in an initial assessment of the release. The amount of boom deployed and available in reserve to be deployed, if needed, must be eight times the length of the largest vessel, or combined vessel lengths, potentially at that facility.

(C) By 6 hours after the discovery of a spill, the facility must arrange for recovery of spilled oil. There must be equipment and personnel on site with the ability to recover the lesser of 12,000 barrels of oil or an amount of oil equal to 10 percent of the facility's worst case spill from the water in the next 24 hours.

(D) By 12 hours after the discovery of a spill, the facility must have 35,000 feet of boom deployed or available at the designated staging area for equipment deployment. Facilities handling only nonpersistent oils need to have 15,000 feet of boom at this time. All facilities must have the ability at or before this time to recover the lesser of 36,000 barrels of oil or 15 percent of the worst-case spill volume from the water in the next 24 hours. Facilities must have the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(E) By 24 hours after the discovery of a spill, the facility must have in place equipment and personnel with the ability to recover oil from the water to the lesser of 48,000 barrels of oil or 20 percent of the worst case spill volume in the next 24 hours.

(F) By 48 hours after the discovery of a spill, the facility must have in place equipment and personnel with the ability to recover oil from the water to the lesser of 60,000 barrels of oil or 25 percent of the worst case spill volume in the next 24 hours.

(b) Facilities located in the Coastal Bays Zone must meet the following planning standards:

(A) By 1 hour after the discovery of a spill, the facility must have deployed containment boom around the spill source. The length of boom on hand for this purpose must be at least

four times the length of the largest vessel, or combined vessel lengths, potentially at that facility. The boom must be placed in the water in a location and fashion so as to contain and facilitate recovery of the greatest amount of oil from the water.

(B) By 2 hours after the discovery of a spill, responders listed in the plan must be prepared to participate in an initial assessment of the release. The amount of boom deployed and available in reserve to be deployed if needed must be eight times the length of the largest vessel, or combined vessel lengths, potentially at that facility.

(C) By 6 hours after the discovery of a spill, the facility must arrange for recovery of spilled oil. There must be equipment and personnel on site with the ability to recover the lesser of 12,000 barrels of oil or an amount of oil equal to 10 percent of the facility's worst-case spill from the water in the next 24 hours.

(D) By 12 hours after the discovery of a spill, the facility must have 35,000 feet of boom deployed or available at the designated staging area for equipment deployment. Facilities handling only nonpersistent oils need to have 10,000 feet of boom at this time. All facilities must have the ability to recover oil at or before this time and have in place equipment and personnel with the ability to recover the lesser of 36,000 barrels of oil or 15 percent of the worst case spill volume from the water in the next 24 hours. Facilities must have the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(E) By 24 hours after the discovery of a spill, the facility must have deployed or have at the designated staging area for equipment deployment an amount of boom equal to 35,000 feet. Facilities handling only nonpersistent oils need to have 15,000 feet of boom at this time. All facilities must have in place equipment and personnel with the ability to recover from the water the lesser of 48,000 barrels of oil or 20 percent of the worst case spill volume in the next 24 hours.

(F) By 48 hours after the discovery of a spill, the facility must have the ability to recover oil from the water to the lesser of 60,000 barrels of oil or 25 percent of the worst case spill volume in the next 24 hours.

(c) Offshore facilities located in the Open Ocean Zone;

(A) By 1 hour after the discovery of a spill, the offshore facility must have begun deploying the open ocean rated boom required to be at the facility. This must be an amount of boom equal to the full perimeter of the offshore facility plus the length of the largest vessel or barge, or combined vessel lengths, moored at the offshore facility.

(B) By 6 hours after the discovery of a spill, responders listed in the plan must be prepared to participate in an initial assessment of the release. The offshore facility must also have the ability to begin recovering oil so an amount equal to 10 percent of the worst-case spill volume can be recovered in the next 24 hours and stored on site.

(C) By 12 hours after the discovery of a spill, the offshore facility must have the ability to deploy protective boom at all sensitive coastal locations within 25 miles of the offshore facility. Facilities must have the ability to recover the lesser of 36,000 barrels of oil or 15 percent of the worst case spill volume from the water in the next 24 hours. Facilities must have the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(D) By 24 hours after the discovery of a spill, the offshore facility must have the ability to recover oil from the water to the lesser of 48,000 barrels of oil or 20 percent of the worst case spill volume in the next 24 hours.

(E) By 48 hours after the discovery of a spill, the offshore facility must have the ability to establish shoreline cleanup resources and wildlife rescue services. The facility must have the ability to recover oil from the water to the lesser of 60,000 barrels of oil or 25 percent of the worst case spill volume in the next 24 hours.

(d) Covered vessels operating in any sub-Zone of the Columbia River must meet the following planning standards:

(A) By 2 hours after the discovery of a spill, the responders listed in the operator's plan must be prepared to participate in an initial assessment of the release. Responders listed in the plan must have initiated deployment of containment boom around the source except in the case of passenger vessels, and vessels at risk of exacerbating the situation, where a deflection deployment for safety reasons may be used. The amount of boom being deployed must be the lesser of 1000 feet, or a length equal to four times the length of the vessel. The boom must be placed in the water in a location and fashion so as to safely contain and facilitate recovery of the greatest amount of oil from the water. Additional boom must be available at the staging area equal to the balance of four times the length of the vessel if the vessel is more than 250 feet in length. In all cases the plan must include, by contract or other approved means, a boat crew capable of deploying and tending the required boom to be operating on site at this time.

(B) By 6 hours after the discovery of a spill, the vessel operator must have arranged for recovery of spilled oil. There must be equipment and personnel available to be on site at this time with the ability to recover the lesser of 12,000 barrels of oil, or an amount of oil equal to two percent of the vessel's worst-case spill, from the water in the next 24 hours. The vessel plan must also provide for the delivery of 10,000 feet of containment boom.

(C) By 12 hours after the discovery of a spill, the vessel operator must have the ability to deploy 40,000 feet of boom. There must be a recovery system capable of removing the lesser of 36,000 barrels of oil or five percent of the worst case spill volume from the water in the next 24 hours. Plans must include the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(D) By 24 hours after the discovery of a spill, the vessel operator must have deployed, or have at the designated staging area for equipment deployment, equipment and operators with

the ability to recover the lesser of 48,000 barrels of oil or 12 percent of the worst case spill volume from the water in the next 24 hours.

(E) By 48 hours after the discovery of a spill, the vessel operator must be able to arrange for an increased ability to recover oil from the water to the lesser of 60,000 barrels of oil or 17 percent of the worst-case spill in the next 24 hours.

(e) Covered vessels operating in the Coastal Bays Zone must meet the following planning standards:

(A) By 2 hours after the discovery of a spill, the responders listed in the plan must be prepared to participate in an initial assessment of the release. Responders listed in the plan must have initiated deployment of containment boom around the source, or in the case of passenger vessels a deflection deployment for safety reasons. The amount of boom being deployed must be the lesser of 1,000 feet, or a length equal to four times the length of the vessel. The boom must be placed in the water in a location and fashion so as to contain and facilitate recovery of the greatest amount of oil from the water. Additional boom must be available at the staging area equal to the balance of four times the length of the vessel if the vessel is more than 250 feet in length. In all cases the plan must include, by contract or other approved means, a boat crew capable of deploying and tending the required boom to be operating on site at this time.

(B) By 6 hours after the discovery of a spill, the vessel operator must have arranged for recovery of spilled oil. There must be equipment and personnel on site at this time with the ability to recover the lesser of 12,000 barrels of oil or an amount of oil equal to two percent of the vessel's worst-case spill from the water in the next 24 hours. The vessel plan must also have provided for the delivery to the site of 6,500 feet of containment boom.

(C) By 12 hours after the discovery of a spill, the vessel operator must have the ability to deploy 9,500 feet of boom. There must be a recovery system on site capable of removing the lesser of 36,000 barrels of oil or five percent of the worst case spill volume from the water in the next 24 hours. Vessels must have the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(D) By 24 hours after the discovery of a spill, the vessel operator must have 14,000 feet of boom deployed, or at the designated staging area for equipment deployment, and equipment and operators with the ability to recover the lesser of 48,000 barrels of oil or 12 percent of the worst case spill volume from the water in the next 24 hours.

(E) By 48 hours after the discovery of a spill, the vessel operator must be able to arrange to recover oil from the water to the lesser of 60,000 barrels of oil or 17 percent of the worst-case spill volume in the next 24 hours.

(f) Covered vessels operating in the Open Ocean Zone:

(A) By 2 hours after the discovery of a spill, the responders listed in the plan must mobilize personnel, prepare to conduct an initial site assessment and site safety characterization of the spill area and arrange for aircraft for aerial observations. Transport of appropriate boom must take place in preparation for deployment at the source. In the case of passenger vessels, booming strategies must take into account the safety of passengers. Amount of boom must be the lesser of 1,000 feet, or a length equal to four times the length of the vessel. Booming strategies must maximize containment and facilitate recovery of the greatest amount of oil from the water. Additional boom must be available at the response resource staging area equal to the balance of four times the length of the vessel if the vessel is more than 250 feet in length. In all cases, the plan must have listed by contract or other approved means qualified personnel to accomplish the requirements of this paragraph.

(B) By 6 hours after the discovery of a spill, the vessel operator must have arranged for recovery of spilled oil. There must be equipment and personnel on site capable of recovering the lesser of 12,000 barrels of oil from the water or an amount of oil equal to two percent of the vessel's worst-case spill in the next 24 hours. The vessel plan must also have provided for the delivery to the site of 10,000 feet of containment boom.

(C) By 12 hours after the discovery of a spill, the vessel operator must have the ability to deploy 40,000 feet of boom. There must be on site a recovery system capable of removing from the water the lesser of 36,000 barrels of oil or three percent of the worst case spill volume in the next 24 hours. Vessel operators must have the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(D) By 24 hours after the discovery of a spill, the vessel operator must have deployed, or have at the designated staging area for equipment deployment, equipment and operators with the ability to recover the lesser of 48,000 barrels of oil or 12 percent of the worst case spill volume from the water in the next 24 hours.

(E) By 48 hours after the discovery of a spill, the vessel operator must be able to arrange to recover oil from the water to the lesser of 60,000 barrels of oil or 17 percent of the worst-case spill volume in the next 24 hours.

(g) Pipelines located in, or crossing, a planning Zone where there is a potential for spilling or releasing oil to navigable waters of the state must meet the following planning standards:

(A) By 1 hour after the discovery of a spill, the pipeline operator must completely shut down the pipeline.

(B) By 2 hours after the discovery of a spill, the pipeline operator or its dedicated response contractor must have deployed 1,000 feet of containment boom around the spill source entering the water. The boom must be placed in the water in a location and fashion so as to contain and facilitate recovery of the greatest amount of oil from the water.

(C) By 6 hours after the discovery of a spill, the pipeline operator must have arranged for recovery of spilled oil. There must be equipment and personnel on site capable of recovering the lesser of 12,000 barrels of oil or an amount of oil equal to 10 percent of the pipeline's worst-case spill from the water in the next 24 hours.

(D) By 12 hours after the discovery of a spill, the pipeline operator must have 15,000 feet of boom deployed or at the designated staging area for equipment deployment. All pipelines must have the ability to recover oil at or before this time and have in place equipment and personnel with the ability to recover the lesser of 36,000 barrels of oil or 15 percent of the worst case spill volume from the water in the next 24 hours. The pipeline operator must have the ability to assess the damage potentially done to wildlife and shorelines in the impacted area of the spill.

(E) By 24 hours after the discovery of a spill, the pipeline operator must increase the ability to recover oil from the water to the lesser of 48,000 barrels of oil or 20 percent of the worst case spill volume in the next 24 hours. The pipeline operator must have arranged for sufficient boom of an appropriate design to be deployed for the protection of sensitive wildlife habitats within the potential drift of oil in 24 hours.

(F) By 48 hours after the discovery of a spill, the pipeline operator must increase the ability to recover oil from the water to the lesser of 60,000 barrels of oil or 25 percent of the worst case spill volume in the next 24 hours. The pipeline operator must have arranged for sufficient boom of an appropriate design to be deployed for the protection of sensitive wildlife habitats within the potential drift of oil in 48 hours.

(h) Pipelines located in, or crossing, the Inland Zone must meet the following planning standards:

(A) By 1 hour after the discovery of a spill, the pipeline operator must complete a shutdown of the pipeline.

(B) By 2 hours after the discovery of a spill, the pipeline operator must have assigned personnel and emergency equipment to locate the exact point of release. The pipeline operator must have arranged for the equipment and response personnel necessary to contain the spill.

(C) By 6 hours after the discovery of a spill, the pipeline operator must have the ability to complete the assessment of the spill. The pipeline operator must have the ability to rapidly get resources to the spill location using preplanned caches of materials where no local resources are resident.

(D) By 12 hours after the discovery of the spill, the pipeline operator must have the ability to recover freestanding liquid oil from the environment equal to five percent of the worst-case spill in the next 24 hours. The pipeline operator must have the ability to assess and mitigate the damage potentially done to wildlife, wildlife habitat and natural resources in the impacted area of the spill.

(E) By 24 hours after the discovery of a spill, the pipeline operator must have deployed or have at the designated staging area for equipment deployment an amount of equipment capable of removing 10 percent of the worst case spill volume from the land and any impacted water in the next 24 hours.

(F) By 48 hours after the discovery of a spill, the pipeline operator must increase the ability to remove oil from the environment to the lesser of 60,000 barrels in the next 24 hours, or 15 percent of the worst case spill volume. The pipeline operator must have arranged for sufficient equipment, of an appropriate design, to be deployed for the protection of sensitive wildlife habitats within the potential spread or travel of the oil in 24 hours.

(4) Resources identified in a plan to meet planning standards must include these conditions and qualifications:

(a) The required resources listed in the plans for facilities, not including transmission pipelines or pipeline terminals, must be the property of the plan holder or specifically available to the plan holder through a contract or other approved means. Those resources required for the first and second hours on the Columbia River must be stocks of materials and labor sources resident within the impacted sub-Zone. To meet the six hour planning standards, the resources on the Columbia River may also be those normally resident in an adjacent sub-Zone. To meet the planning standard on the Columbia River at 12 hours, the materials may be from resources resident in the Zone. Those resources required for the first through the sixth hours in a coastal bay must be stocks of materials and labor sources resident within the impacted Zone. To meet the 12-hour planning standards in Coastal and Inland Zones, the resources may be from an adjacent planning Zone.

(b) The required resources listed in a covered vessel plan must be the property of the plan holder, or specifically available to the plan holder through a contract or other approved means. Those resources necessary and available to meet planning standards for the initial response, and through the first two hours on the Columbia River must be stocks of materials and labor sources resident within the impacted sub-Zone. To meet the six-hour planning standard, the resources may be from an adjacent sub-Zone. To meet the 12-hour planning standards the resources on the Columbia River must be those normally resident in that Zone. To meet planning standards at two hours and six hours in Coastal Bay Zone, the resources must be resident in the specific bay. To meet planning standards at 12 hours in the Coastal Bay Zone, the resources may be from an adjacent Zone.

(c) The required resources listed for a pipeline plan must be the property of the plan holder, or specifically available to the plan holder through a contract or other approved means. Those resources required for the first and second hours on the Columbia River must be stocks of materials and labor sources resident within the impacted sub-Zone. To meet the six-hour planning standards, the resources on the Columbia River may also be those normally resident in an adjacent sub-Zone. To meet the 12-hour planning standard on the Columbia River, the materials may be from resources resident in the Zone. Those resources required for the first through the sixth hours in a Coastal Bay Zone must be stocks of materials and labor sources resident within the impacted Zone. To meet planning standards

at 12 hours in Coastal and Inland Zones, the resources may be from an adjacent planning Zone.

(5) For all facilities, pipelines and covered vessels subject to planning standards in this rule, if equipment to recover oil from the water is required, the plan must identify interim storage for the recovered oil and oily water. Interim storage qualifications are described in section 0140 (24), the required content of contingency plans section of this rule, and are also addressed in OAR 340-142-0080. ~~The Department~~DEQ will set plan specific interim storage planning standards, or apply a default interim storage capacity equal to three times the effective daily recovery capacity (EDRC) of the equipment used to achieve the recovery percentages or volumes given in the planning standards of section (3). EDRC is used in planning standards to adjust the total recovery ability of a particular piece of oil spill recovery equipment to a lower value compensating for any incidental water it may recover. Unless otherwise approved by ~~the Department~~DEQ the nameplate efficiency for a piece of equipment will be derated to 20 percent of its manufacturer's claim. Requirements for the 6 to 12 hour planning standards must show how the plan will meet the need for interim storage.

Statutory/Other Authority: ORS 468.020 & 468B.395
Statutes/Other Implemented: ORS 468B.350
History:
DEQ 184-2018, minor correction filed 04/16/2018, effective 04/16/2018
DEQ 104-2018, minor correction filed 04/10/2018, effective 04/10/2018
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0160
Prevention Strategies for Facilities

(1) The owner or operator of each onshore and offshore facility must develop spill prevention strategies that will, when implemented, provide the best achievable protection from damages caused by the discharge of oil into the waters of the state. The strategies may be in the form of:

(a) Appendices to oil spill prevention and emergency response plans required under this chapter; or

(b) A standalone prevention plan that meets all requirements of OAR 340-141-0100 to 340-141-0230.

(2) Spill Prevention Countermeasure and Control Plans (SPCC), Operation Manuals and other prevention documents prepared to meet federal requirements under 33 ~~CFR~~C.F.R. 154, 33 ~~CFR~~C.F.R. 156, 40 ~~CFR~~C.F.R. 109, 40 ~~CFR~~C.F.R. 112, or the Federal Oil Pollution Act of 1990 or plans prepared to meet the requirements of other states may be submitted to satisfy requirements under this chapter if ~~the Department~~DEQ deems that such requirements equal or exceed those of ~~the Department~~DEQ, or if the plans are modified or appended to satisfy requirements of this Division.

(3) Spill prevention strategies must at a minimum provide all of the following:

(a) Documentation of types and frequency of spill prevention training provided to applicable personnel;

(b) Evidence that the facility has an operations manual;

(c) A description of a drug and alcohol awareness program that provides training and information materials to all employees on recognition of alcohol and drug abuse treatment opportunities, and applicable company policies;

(d) Evidence of a maintenance and inspection program that includes:

(A) Summary of the frequency and type of all regularly scheduled inspection and preventative maintenance procedures for tanks, pipelines, key storage, transfer, or production equipment including associated pumps, valves, and flanges, and overpressure safety devices and other spill prevention equipment;

(B) Description of integrity testing of storage tanks and pipelines using such techniques as hydrostatic testing and visual inspection, including but not limited to the frequency of tests, means of identifying that a leak has occurred and measures to reduce spill risk if test material is product;

(C) External and internal corrosion detection and repair;

(D) Damage criteria for equipment repair or replacement;

(E) Maintenance and inspection records of the storage and transfer facilities and related equipment will be made available to ~~the Department~~DEQ upon request; and

(F) Documentation required under 40 ~~CFR~~C.F.R. 112.7(e) or 33 ~~CFR~~C.F.R. 154, Subparts C and D may be used to address elements of this subsection.

(e) A description of the use of containment boom at facilities transferring persistent oil, including:

(A) Type(s) of boom used based upon the varied conditions within the region(s) of operation; and

(B) Methods of boom placement and anchoring.

(f) Identification of spill prevention technology currently in use, including if applicable:

(A) Tank and pipeline materials and design;

(B) Storage tank overflow alarms, tank overflow cutoff switches, low level alarms and automatic transfer shutdown systems, including methods to alert operators, system accuracy and tank fill margin remaining at time of alarm activation before overflow would occur at maximum pumping rate (documentation required under 40 ~~CFR~~C.F.R. 112.7(e)(2)(viii) or 33 ~~CFR~~C.F.R. 154.310(a)(12-13) may be used to address some or all of these elements);

(C) Leak detection systems for both active and nonactive pipeline conditions including detection thresholds in terms of duration and percentage of pipeline flow limitations on system performance due to normal pipeline events, and procedures for operator response to leak alarms (documentation required under 40 ~~CFR~~C.F.R. 112.7(e)(3) may be used to address some or all of these elements);

(D) Rapid pump and valve shutdown procedures, including means of ensuring that surge and overpressure conditions do not occur, rates of valve closure, sequence and time duration (average and maximum) for entire procedure, automatic and remote control capabilities utilized and visual displays of system status for operator use (documentation required under 40 ~~CFR~~C.F.R. 112.7(e)(3) may be used to address some or all of these elements);

(E) Minimization of post-shutdown residual drainout from pipes, including criteria for locating valves, identification of all valves (including types and means of operation) that may be open during a transfer process, and any other techniques for reducing drain out;

(F) Means of relieving pressure due to thermal expansion of liquid in pipes during periods of nonuse;

(G) Secondary containment, including contents of the largest tank plus space for precipitation, and material design and permeability of the containment area (documentation required under 40 ~~CFR~~C.F.R. 112.7(e)(1) and (2)(ii)–(iv) may be used to address some or all of these elements);

(H) Surge control systems;

(I) Internal and external corrosion control coatings or wrappings and instruments;

(J) Storm water and other drainage retention, treatment and discharge systems, including maximum storage capacities and identification of any applicable discharge permits (documentation required under 40 ~~CFR~~C.F.R. 112.7(e)(1) and (2)(iii) and (ix) may be used to address some or all of these elements); and

(K) Criteria for suspension of operations while leak detection or other spill control systems are inoperative.

(g) A description of facility site security systems, including:

(A) Procedures for controlling and monitoring facility access;

(B) Lighting (documentation required under 33 ~~CFR~~C.F.R. 154.570 may be used to address some or all of this element);

(C) Signage; and

(D) Right-of-way identification or other measures to prevent third party damage (documentation required under 40 ~~CFR~~C.F.R. 122.7(e)(3)(v) and (9) may be used to address some or all of this element).

(h) History of any discharges of oil to the land or waters of the state in excess of 25 barrels (1,050 gallons) which occurred during the five-year period prior to the plan submittal date. For each discharge, describe:

(A) Quantity;

(B) Type of oil;

(C) Geographic area;

(D) Analysis of cause, including source(s) of discharged oil and contributing factors (e.g., equipment failure, employee error, adverse weather, etc.); and

(E) Measures taken to remedy the cause and prevent reoccurrence.

(i) A detailed and comprehensive site risk analysis that:

(A) Evaluates the construction, age, corrosion, inspection and maintenance, operation and oil spill risk of the transfer, production and storage system including piping, tanks, pumps, valves and associated equipment;

(B) Evaluates spill minimization and containment systems;

(C) Incorporates information required in subsection (f) of this section;

(D) Is prepared under the supervision of (and bears the seal of) a licensed professional engineer; and

(E) Includes documentation required under 40 ~~CFR~~C.F.R. 112.7(b) and (e) may be used to address some or all of the elements in this subsection.

(j) A description of how the facility will incorporate those measures that will provide best achievable protection to address the spill risks identified in the risk analyses required in subsection (i) of this section. (Information documented ~~pursuant to~~under 40 ~~CFR~~C.F.R. 112.7(e) and 33 ~~CFR~~C.F.R. 154.310 may be used to address some or all of the elements of this subsection.)

Statutory/Other Authority: ORS 468.020 & 468B.395
Statutes/Other Implemented: ORS 468B.345 - 468B.390
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 105-2018, minor correction filed 04/10/2018, effective 04/10/2018
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0170
Prevention Strategies for Vessels

(1) Each covered vessel must have spill prevention strategies that when implemented will provide the best achievable protection from damages caused by the discharge of oil into the waters of the state.

(2) Prevention documents prepared to meet federal requirements under the Oil Pollution Act of 1990 or plans prepared to meet the requirements of other states may be used to satisfy the criteria of this section.

(3) Vessel owners or operators will make maintenance and inspection records, and oil transfer procedures available to ~~the Department~~DEQ upon request.

Statutory/Other Authority: ORS 468.020 & 468B.395
Statutes/Other Implemented: ORS 468B.345 - 468B.390
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0180
Plan Submittal

(1) Before operating in Oregon, facilities must submit plans for review as follows:

(a) Except as provided in (c), plans for facilities must be submitted to ~~the Department~~DEQ at least 90 days before oil is moved into or out of the facility.

(b) Plans for covered vessels of 300 gross tons or more which transit the Columbia River and Willamette River must be submitted to ~~the Department~~DEQ at least 90 days before that vessel enters navigable waters of the state.

(c) Plans for existing pipelines in the Inland Zone must be submitted by June 30, 2003. After June 30, 2003 plans for new pipelines must be submitted 90 days before pipeline operations commence.

(2) One complete copy of the plan (including appendices) must be submitted to ~~the Department~~DEQ in printed or electronic form. Plans must be submitted to: Department of Environmental Quality, Emergency Response Program, ~~811 SW 6~~~~th~~700 NE Multnomah ~~Ave~~St., Suite 600, Portland, Oregon ~~97204~~97232. Electronic copies ~~must~~ may be sent to ~~the~~

~~Department~~DEQ. ~~on either standard computer disk or compact disk.~~ A printed copy of the complete plan showing all revisions may be required during the public review period. The plan holder may be required to supply up to four printed copies of the final plan.

(3) Onshore and offshore facility plans may be submitted by:

(a) The facility owner or operator; or

(b) An oil spill response cooperative or maritime association in which the facility owner or operator is a participating member.

(4) Tank vessel plans may be submitted by:

(a) The tank vessel owner or operator;

(b) The owner or operator of a facility at which the tank vessel unloads cargo, in conformance with requirements under OAR 340-141-0150(1); or

(c) An oil spill response cooperative or maritime association in which the tank vessel owner or operator is a participating member.

(5) Cargo and passenger vessel plans may be submitted by:

(a) The vessel owner or operator;

(b) The agent for the vessel resident in this state;

(c) An oil spill response cooperative or maritime association in which the tank vessel owner or operator is a participating member; or

(d) A primary response contractor.

(6) Subject to the conditions imposed by ~~the Department~~DEQ, the owner, operator, agent or a maritime association may submit a single contingency plan for cargo vessels or passenger vessels of a particular class.

(7) A single plan may be submitted for more than one facility or covered vessel owned by the same person, provided that the plan contents meet the requirements of OAR 340-141-0100 to 340-141-0230 for each facility, pipeline or covered vessel listed.

(8) The plan submitter may request that proprietary information be kept confidential under ORS 192.501(2). If a plan submitter wishes to claim that any provision in a plan is a trade secret, the submitter must specifically notify ~~the Department~~DEQ of its claim and identify those provisions in the plan that are claimed to be trade secrets.

Statutory/Other Authority: ORS 468.020 & 468B.395
Statutes/Other Implemented: ORS 468B.355
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0190
Plan Review

(1) Upon receipt of a plan, ~~the Department~~DEQ will promptly evaluate the plan for completeness. If ~~the Department~~DEQ determines that a plan is incomplete, the submitter will be notified of deficiencies. The review period will not begin until ~~the Department~~DEQ receives a complete plan. ~~The Department~~DEQ will allow 30 days for the submitter to supply the missing components of the plan. After 30 days the plan will be returned without approval to the submitter.

(2) ~~The Department~~DEQ will notify interested persons of any contingency plans under review by ~~the Department~~DEQ, and make such plans available for review to ODFW, DLCD, the State Fire Marshal and any interested person. ~~The Department~~DEQ will provide a 30-day period for agencies and other interested persons to comment on a plan.

(3) A Plan will be approved if, in addition to meeting criteria in OAR 340-141-0100 through 340-141-0170, it demonstrates that when implemented, it will:

(a) Provide for prompt and proper response to and cleanup of a variety of spills, including average most probable spills and worst-case spills;

(b) Provide for prompt and proper protection of the environment from oil spills;

(c) Provide for immediate notification and mobilization of resources upon discovery of a spill; and

(d) Provide for initial deployment of response equipment and personnel at the site of the spill within one hour of discovery for facilities and two hours of discovery for covered vessels given suitable safety conditions.

(4) When reviewing plans, ~~the Department~~DEQ will, in addition to the above criteria, consider the following:

(a) The volume and type of oil(s) addressed by the plan;

(b) The history and circumstances of prior spills by similar types of facilities, including spill reports by ~~Department~~ DEQ spill responders;

(c) The presence of operating hazards;

(d) The sensitivity and value of natural resources within the Oil Spill Response Planning Zones and geographic area covered by the plan;

(e) Any pertinent local, state, federal agency or public comments received on the plan; and

(f) The extent that reasonable, cost-effective spill prevention measures have been incorporated into the plan.

(5) ~~The Department~~DEQ may approve a plan without a full review ~~pursuant to~~under this rule if that plan has been approved by a federal agency or other state using approval criteria that equal or exceed those of ~~the Department~~DEQ.

(6) ~~The Department~~DEQ will endeavor to notify the facility or covered vessel owner or operator within five working days after the review is completed whether the plan has been approved.

(7) If the plan is approved, the facility or covered vessel owner or operator will receive a certificate of approval describing the conditions of approval, including an expiration date not to exceed five years.

(8) ~~The Department~~DEQ may approve a plan conditionally by requiring the owner or operator of a facility or covered vessel owner or operator to operate with specific precautionary measures until unacceptable components of the plan are resubmitted and approved.

(a) Precautionary measures may include, but are not limited to, placing spill containment boom around all vessels during oil transfers, reducing oil transfer rates, increasing personnel levels, or restricting operations to daylight hours. Precautionary measures may also include additional requirements to ensure availability of response workers and equipment.

(b) A plan holder will have 30 calendar days after ~~the Department~~DEQ gives notification of conditional status to submit and implement required changes to ~~the Department~~DEQ, with the option for an extension at ~~the Department~~DEQ's discretion. Plan holders who fail to meet conditional requirements or provide required changes in the time allowed will lose conditional approval status.

(c) ~~The Department~~DEQ may use plan approval with conditions as an alternate to rejecting a plan with minor defects.

(9) If plan approval is denied, the owner or operator of the facility or covered vessel will be given a written explanation of ~~the Department~~DEQ's reasons for disapproval and a list of actions needed to gain approval. The facility or covered vessel must not commence or continue oil storage, transport, transfer, production or other operations until a plan for that facility or covered vessel has been approved.

(10) If a plan holder demonstrates an inability to comply with an approved contingency plan or otherwise fails to comply with requirements of this Division, ~~the Department~~DEQ may, at its discretion:

(a) Place conditions on approval ~~pursuant to~~under section (8) of this rule; or

(b) Revoke its approval.

(11) Approval of a plan by ~~the Department~~DEQ does not constitute an express assurance regarding the adequacy of the plan or constitute a defense to liability imposed under state law.

(12) A plan holder may request a hearing on ~~the Department~~DEQ's decision under OAR 340, division 11.

Statutory/Other Authority: 468B.390 & ORS 468.020
Statutes/Other Implemented: ORS 468B.365
History:
DEQ 106-2018, minor correction filed 04/10/2018, effective 04/10/2018
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0200
Drills, Exercises, and Inspections

(1) ~~The Department~~DEQ may require plan holders of approved plans to participate in one announced drill or one unannounced limited drill annually.

(2) As a condition of plan approval, ~~the Department~~ DEQ may require that the plan holder successfully conduct drills of the elements of a plan submitted for approval.

(3) Requirements under sections (1) and (2) of this rule may be met:

(a) By drills led by other state, local or federal authorities, if ~~the Department~~DEQ finds that the criteria for drill execution and review equal or exceed those of ~~the Department~~DEQ;

(b) By drills initiated by the plan holder, if ~~the Department~~DEQ participates, reviews and evaluates the drill, and if ~~the Department~~DEQ finds that the drill adequately tests the plan; or

(c) By responses to actual spill events, if ~~the Department~~DEQ participates, reviews and evaluates the spill response, and if ~~the Department~~DEQ finds that the spill event adequately tests the plan.

(4) ~~The Department~~DEQ may excuse a primary response contractor from full deployment participation in more than one drill if, in the past 12 months, the primary response contractor has performed to ~~the Department~~DEQ's satisfaction in a full deployment drill in an exercise

listed in section (3) of this rule or has satisfactorily responded to a significant spill event in Oregon.

(5) ~~The Department~~DEQ may require the facility or covered vessel owner or operator to participate in additional drills beyond those required in section (1) of this rule if ~~the Department~~DEQ is not satisfied with the adequacy of the plan or plan implementation during exercises or spill response events.

(6) ~~The Department~~DEQ will review the degree to which the specifications of the plan are implemented during the drill. ~~The Department~~DEQ will endeavor to notify the facility or covered vessel owner or operator of the review results within 30 calendar days following the drill. If ~~the Department~~DEQ finds deficiencies in the plan, ~~the Department~~DEQ will report those deficiencies to the plan holder and require the plan holder to make specific amendments to the plan ~~pursuant to~~under requirements of OAR 340-141-0220.

(7) ~~The Department~~DEQ may publish an annual report on plan drills, including a summary of response times, actual equipment and personnel use, recommendations for plan requirement changes and industry response to those recommendations.

(8) ~~The Department~~DEQ may require the plan holder to publish an annual report on plan drills including a summary of response times, active equipment and personnel use and recommendations for improvement.

(9) ~~The Department~~DEQ may verify compliance with this Division by unannounced inspections in accordance with ORS 468B.370.

Statutory/Other Authority: ORS 468.020 & 468B.390
Statutes/Other Implemented: ORS 468B.370 - 468B.380
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0210
Plan Maintenance and Use

(1) At least one copy of the plan must be kept in a central location accessible at any time by the incident commander or spill response manager named in accordance with OAR 340-141-0140(7). Each facility covered by the plan must possess a copy of the plan and keep it in a conspicuous and accessible location.

(2) A field document prepared under OAR 340-141-0130(5) must be available to all appropriate personnel. Each covered vessel covered by the plan must possess a copy of the field document and keep it in a conspicuous and accessible location.

(3) A facility, ~~or~~ covered vessel, or high hazard rail owner or operator or their designee must implement the plan in the event of a spill. The owner or operator of the facility or covered

vessel must receive approval from ~~the Department~~DEQ before it conducts any major aspect of the spill response contrary to the plan unless:

(a) Such actions are necessary to protect human health and safety;

(b) Such actions must be performed immediately in response to unforeseen conditions to avoid additional environmental damage; or

(c) The plan holder has been directed to perform such actions by ~~the Department~~DEQ, EPA, Pipeline Hazardous Materials Safety Administration (PHMSA) or the United States Coast Guard.

Statutory/Other Authority: ORS 468.020 & 468B.345 - 468B.390
Statutes/Other Implemented: ORS 468B.345 - 468B.390
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0220
Plan Update Timeline

(1) ~~The Department~~DEQ must be notified in writing as soon as possible and within 24 hours of any significant change that could affect implementation of the plan, including a significant decrease in available spill response equipment or personnel. Decreases are significant if they prevent the owner or operator from carrying out the requirements of the plan in the time specified in the Oil Spill Contingency Response Planning Standards for the Zones or sub-Zones of operation. The plan holder must also provide a schedule for the prompt return of the plan to full operational status. A receipt confirmed e-mail or facsimile will be considered written notice for purposes of this section. Changes that are not considered significant include minor variations in equipment or personnel characteristics, call out lists or operating procedures. Failure to notify ~~the Department~~DEQ of significant changes constitutes noncompliance with this rule as well as an inability to comply with an approved plan under OAR 340-141-0210(3).

(2) If ~~the Department~~DEQ finds that, as a result of a change, the plan no longer meets approval criteria ~~pursuant to~~under OAR 340-141-0190, ~~the Department~~DEQ may, in its discretion, place conditions on approval, require additional drills or inspections or revoke approval in accordance with OAR 340-141-0190(8). Plan holders are encouraged to maintain backup response resources in order to ensure that their plans can always be fully implemented.

(3) Within 30 calendar days of an approved change in the plan, the owner or operator of the facility or covered vessel must distribute the amended pages of the plan to ~~the Department~~DEQ and other plan holders.

(4) Plans must be reviewed by ~~the Department~~DEQ every five years ~~pursuant to~~under ORS 468B.345(3). Plans must be submitted for reapproval unless the plan holder submits a letter

requesting that ~~the Department~~DEQ review the plan already in ~~the Department~~DEQ's possession. The plan holder must submit the plan or such a letter at least 90 calendar days before expiration of the plan.

(5) ~~The Department~~DEQ may review a plan following any spill for which the plan holder is responsible.

(6) ~~The Department~~DEQ may require plan holders of approved plans to renew the signed letter of intent required by OAR 340-141-0100 annually to confirm that there has been no change to the plan or the plan holder's commitment to its use.

Statutory/Other Authority: ORS 468.020 & 468B.345 - 468B.390
Statutes/Other Implemented: ORS 468B.345 - 468B.365
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0230
Noncompliance with Plan Requirements

(1) No person may cause or permit the operation of an onshore or offshore facility in the state, or a covered vessel within the navigable waters of the state without a properly implemented oil spill prevention and emergency response plan approved by ~~the Department~~DEQ.

(2) No person may cause or permit the operation of a facility or covered vessel without proof of financial responsibility in compliance with ORS 468B.390, which requires the equivalent of the federal requirement.

(3) Any violation of this division will be subject to the enforcement and penalty provisions of ORS 468.140, and OAR 340 division 012.

Statutory/Other Authority: ORS 468.020 & 468B.345 - 468B.390
Statutes/Other Implemented: ORS 468B.345 - 468B.390
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0240
Equipment Mutual Aid

(1) ~~The Department~~DEQ may preapprove the transfer of equipment, materials or personnel by a plan holder to another plan holder, or person, when necessary to assist in response to an oil discharge.

(2) ~~The Department~~DEQ's preapproval may include:

(a) Waiver of response times specified in a plan; or

(b) Conditions specified by ~~the Department~~DEQ regarding, but not limited to, notification to ~~the Department~~DEQ, return or replacement of equipment, materials or personnel and measures necessary to prevent or reduce the potential for discharges during the period of reduced response capability.

(3) Preapproval under this rule does not require plan modification or update.

Statutory/Other Authority: ORS 468.020 & 468B.345 - 468B.390
Statutes/Other Implemented: ORS 468B.365
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0250
Definitions as used in the following sections specific to high hazard train route contingency planning requirements

(1) "Average Most Probable" spill, release or discharge for high hazard train routes means the probable volume of oil that may spill as defined in a plan considering the history of spills. It may also be defined as the lesser of one percent of the worst case spill, release or discharge, or 50 barrels, when used as a planning volume.
(2) "Owner" means the owner or operator who has ultimate control over the high hazard rail line for contingency planning requirements.
(3) "Worst case spill" means the greater of:
(a) 300,000 gallons of oil from a single train; or
(b) 15 percent of the total lading of oil transported within the largest single train reasonably expected to transport oil over the high hazard rail route.
Statutory/Other Authority: ORS 468B.300 & 468B.340
Statutes/Other Implemented: ORS 468B.300 – 468B.500
History:
340-141-0260
Oil Spill Contingency Plan for High Hazard Rail Applicability
(1) A railroad that owns a high hazard train route in this state must have an oil spill contingency plan that has been approved by DEQ.
(2)(a) The owner of a high hazard rail route must submit a contingency plan for a high hazard train route to DEQ within 90 days after the date of operation of trains that cause a section of rail lines to meet the definition of a high hazard train route on that section of rail lines, or within a longer time period that DEQ and the railroad mutually agree on if DEQ and railroad agree that the longer time period is necessary. A railroad operating a high hazard train route prior to January 1, 2021 must submit a contingency plan by January 1, 2021.
(b) In addition to meeting the requirement of paragraph (a) of this subsection, and immediately after the date the railroad begins operating trains that cause a section of rail lines to meet the definition of a high hazard train route on that section of rail lines, a railroad must provide notice to DEQ that the railroad began operating a high hazard train route. Notice provided under this paragraph must include:

(A) Identification of the high hazard train route for which the notice is provided;
(B) The names, addresses, phone numbers, and electronic mail addresses for the primary contact for the railroad that owns or operates the high hazard train route and for the local primary contacts for the railroad that owns or operates the high hazard train route; and
(C) A statement of whether personnel are available to arrive on behalf of the railroad that owns or operates the high hazard train route to respond to an oil spill or release, or threatened oil spill or release, and if personnel are available, the contact information for the personnel.
(3) The railroad that owns or operates the high hazard train route must submit a contingency plan for the high hazard train route.
(4) A contingency plan for a high hazard train route must be renewed at least once every five years. An expiring approved contingency plan remains in effect until DEQ approves the revised contingency plan.
(5) DEQ will respond to the submission of a contingency plan or a contingency plan revision for a high hazard train route within 90 days of the date that the contingency plan or the contingency plan revision is submitted, or within a longer time period that DEQ and the submitting railroad mutually agree on if DEQ and railroad agree that the longer time period is necessary for DEQ to provide a response. Failure by DEQ to respond to a contingency plan or a contingency plan revision within the requisite time period constitutes approval of the contingency plan or the contingency plan revision.
(6) A failure by a railroad that owns or operates a high hazard train route to comply with section (5) of this rule, or to comply with a contingency plan submitted under section (5) of this rule does not preclude the railroad from operating the high hazard train route.
(7) A contingency plan for a high hazard train route prepared for an agency of the federal government or an adjacent state that satisfies the requirements of this rule shall be accepted by DEQ as a contingency plan required under section 340-141-0260 of this Rule.
Statutory/Other Authority: ORS 468.020 & 468B.437
Statutes/Other Implemented: ORS 468B.427 & 468B.429 & 468B.431
History:
340-141-0265
Contingency Plan Contents
All applicable contingency plans under 340-141-0260 must include at least the following:
(1) Submittal Agreement. Each plan must contain a submittal agreement that:

(a) Includes the name, address and phone number of the submitting party;

(b) Verifies acceptance of the plan, including any incorporated contingency plans, by the owner of the high hazard train route by either signature of the owner or a person with authority to bind the corporation that owns the high hazard train route.;

(c) Commits to execution of the plan, including any incorporated contingency plans, by the owner of the high hazard train route and verifies authority for the plan holder to make appropriate expenditures in order to execute plan provision and includes; the location

(latitude and longitude) of the train route, the railroad mileposts, the product being transported and the maximum amount and type that the entire train consist is capable of transporting.

(2) Amendments. Each plan must include a log sheet to record amendments to the plan. The log sheet must be placed at the front of the plan. The log sheet must provide for a record of the section amended, the date that the old section was replaced with the amended section, verification that DEQ was notified of the amendment under OAR 340-141-0285(3) and the initials of the individual making the change. A description of the amendment and its purpose must also be included in the log sheet, or filed in the form of an amendment letter immediately after the log sheet.

(3) Table of Contents. Each plan must include a detailed table of contents based on chapter, section, appendix numbers and titles and tables and figures. If the plan is an integrated plan used to also satisfy PHMSA requirements, a cross reference must be included.

(4) Purpose and Scope. Each plan must describe the purpose and scope of that plan, including:

(a) The region of operation covered by the plan;

(b) The high hazard train route operations covered by the plan; and

(c) The size and type of the average most probable spill and the worst case spill from the high hazard train route.

(5) Updates. Each plan must describe the events or time periods that will trigger updates of the plan.

(6) Implementation Strategy. Each plan must present a strategy for ensuring use of the plan for spill response and cleanup operations as required by OAR 340-141-0210.

(7) Spill Response System. Each plan must describe the organization of the spill response system. This includes those resources required and, or necessary to manage the resources given a response to an Average Most Probable Discharge and worst case spill. Plans must use a National Incident Management System (NIMS) incident management system, as described in the Northwest Area Contingency Plan (NWACP).

(8) Contractor Identification. Each plan must identify the Oil Spill Response Organization (OSRO), oil spill response cooperative, or primary response contractor and subcontractors (except equipment rentals or supply vendors) whose services are bound to the plan by a contract or other approved means:

(a) If a plan holder is a member of an oil spill response cooperative and relies on that cooperative to perform or supplement its response operations within the regions of

operations covered by the plan, the plan must state the cooperative's name, address, phone number and response capability. The plan must also include proof of cooperative membership; or

(b) If a plan holder is not a member of an oil spill response cooperative, for the OSRO or contractor, the plan must state that contractor's name, address, phone number or other means of contact at any time of the day, and response capability (e.g., land spills only). For each contractor, the plan must include a letter of intent signed by the contractor which indicates the contractor's commitment to respond within the specified time period, with personnel and equipment listed in (10) and (11) of this section. Copies of written contracts or agreements with contractors must be available for inspection, if requested by DEQ.

(9) Relationship to Other Plans. Each plan must briefly describe its relation to all applicable local, state, regional and federal government spill response plans. The plan must describe how the plan holder's response organization will be integrated into the Northwest Area Contingency Plan.

(10) Response Personnel. Each plan must describe the personnel, including contract personnel available, to respond to an oil spill, including:

(a) A job description for each type of spill response position needed as indicated in the spill response organization scheme addressed in section (7) of this rule, or a reference to a recognized NIMS position;

(b) The number of personnel available to perform the duties of each type of spill response position;

(A) This number must be equal to or greater than the number of persons necessary to sustain a response to the worst case spill defined in the plan.

(B) If 24 hour operations are expected, the number of persons available to staff the ICS must be multiplied by the proposed number of operational periods (shifts).

(11) Equipment and spill response resources. Each plan must describe equipment and spill resources as follows:

(a) Each plan must list response equipment including response vessels used for oil containment, recovery, removal, shoreline and adjacent lands cleanup and wildlife rescue and rehabilitation. Each plan must also list all relied upon communication tools. DEQ will accept information about equipment by reference if the equipment is being provided through an OSRO or response contractor as part of the plan. DEQ may request information about the condition and date of manufacture of any listed and referenced equipment to further evaluate its applicability a response. If the plan relies on federally approved OSROs or response

contractors who list their equipment in a shared and publicly available database, this information may be included by reference in lieu of a full list in the plan.

(b) For equipment and vessels listed under subsection (a) of this section that are not owned by or available exclusively to the plan holder, the plan must also estimate the extent that other contingency plans rely on the same equipment.

(c) For all oil containment and recovery equipment, the plan also must include equipment make and model, the manufacturer's nameplate capacity of the response equipment, the EDRC (in barrels per day) and applicable design limits (e.g., maximum wave height capability, suitability for inland waters).

(d) Based on information described in subsection (c) of this section, the plan must state the maximum amount of oil that could be recovered per 24-hour period with the equipment used as it is designed.

(e) For purposes of determining plan adequacy under OAR 340-141-0190, and to assess realistic capabilities based on potential limitations by weather and other variables, DEQ will use the data presented in subsections (c) and (d) of this section to apply a higher efficiency factor for equipment listed in a plan if that plan holder provides adequate evidence that the higher efficiency factor is warranted for particular equipment or if the United States Coast Guard has approved a higher efficiency rating.

(f) The plan must provide arrangements for pre-positioning of oil spill response equipment at strategic locations.

(g) When calculating the delivery time of equipment to a spill staging area, the plan must use travel speeds consistent with federal speed predictions for the equipment being moved.

(12) Response Flow Chart or Timeline. Each plan must describe the response process by:

(a) Presenting a flowchart or decision tree describing the procession of each major stage of spill response operations from spill discovery to completion of cleanup. The flowchart or decision tree must describe the general order and priority in which key spill response activities are performed; and

(b) Describing all key spill response operations in checklist forms, to be used by spill response managers in the event of an oil spill.

(13) Authorities. Each plan must describe responsible authorities by:

(a) Listing the local, state, tribal and other government authorities responsible for the emergency procedures peripheral to spill containment and cleanup; and

(b) Describing the plan holder's role in these emergency operation procedures before the proper authorities arrive, including but not limited to, control of fires and explosions, rescue activities, access restriction to the spill impact area and site security.

(14) Damage Control. Each plan must describe equipment and procedures to be used by the railroad personnel to minimize the magnitude of the spill and minimize structural damage that could increase the quantity of oil spilled. This includes necessary actions to slow or stop any leaks as well as stabilizing the cars to ensure no further damage may be incurred.

(15) Environmental Protection. Each plan must describe how environmental protection will be achieved, including:

(a) Protection of sensitive aquatic species, shoreline and inland habitat by diverting or blocking oil movement;

(b) Priorities for sensitive area protection in the region of operation covered by the plan as provided in a Geographic Response Strategy of the Northwest Area Contingency Plan, or designated by DEQ;

(c) Rescue and rehabilitation of sensitive and aquatic species, birds, marine mammals and other wildlife contaminated or otherwise affected by the oil spill; and

(d) Measures taken to reduce damages to the environment caused by shoreline and adjacent land cleanup operations.

(16) Interim Storage. Each plan that has identified that oil will be recovered must plan for transporting or storage of the oil and combined oily waste material potentially created.

(a) Each plan must describe site criteria and methods used for interim storage of oil recovered and oily wastes generated during response and cleanup operations, including available storage sites. Interim storage methods and sites must be designed to prevent contamination of the storage area by recovered oil and oily wastes.

(b) If use of interim storage sites will require approval by local, state or federal officials, the plan must include information that could expedite the approval process, including a list of appropriate contacts and a brief description of procedures to follow for each applicable approval process.

(c) Interim storage and permanent disposal methods and sites must be sufficient to sustain support for oil recovery operations and manage the entire volume of oil recovered and oily wastes generated.

(d) Interim storage and permanent disposal methods and sites must comply with all applicable local, state and federal requirements.

(17) Health and Safety. Each plan must describe procedures to protect the health and safety of oil spill response workers, and other individuals on-site. Provisions for training, decontamination facilities, safety gear and a safety officer position must be addressed.

(18) A description of steps taken for air monitoring to protect responders and the public including:

(a) A description of air monitoring procedures for the work site

(b) A description of air monitoring procedures for the surrounding area (including surrounding communities)

(c) A description of a communication plan to inform communities of any risks

(d) A plan to identify shelter in place and evacuation procedures

(19) Post Spill Review. Each plan must explain post-spill review procedures, including methods to review both the effectiveness of the plan and the need for plan amendments. Post-spill procedures must provide for a debriefing with DEQ that will include any newly recognized need to amend the plan and list of any other lessons learned.

(20) Drills and Exercises. All approved plans must be verified by drills and exercises. Each plan must describe the schedule and type of drills and other exercises that will be practiced to ensure readiness of the plan elements, including drills that satisfy OAR 340-141-0270

(a) The plan holder must test and document internal call out procedures at least once every 90 calendar days. The plan holder must retain records of these drills for at least three years and make them available for DEQ review upon request.

(b) The plan holder must notify DEQ of drills and exercises, at least 60 days before equipment deployment, tabletop exercises, and functional exercises. Prior notice to DEQ is not required before notification drills and internal phone number verification exercises.

(c) The plan holder must send post drill reports for all tabletop exercises or deployment drills to DEQ no later than 60 days after the completion of the drill or exercise. The executive summary from a National Preparedness for Response Exercise Program (NPREP) report may be submitted to meet this requirement when the exercise has been designed by the NPREP staff.

(21) Risk Variables. Each plan for a high hazard train route must list the spill risk variables within the region of operation covered by the plan, including:

(a) Types, physical properties and amounts of oil handled;

(b) A written description and map indicating route topography, storage and transfer sites;

(c) A written description of sites or operations with a history of or high potential for oil spills, including key areas that pose significant spill risk within the region of operation covered by the plan;

(d) A written description and diagram showing the tank cars, piping and intakes; and

(e) Methods to reduce spills during transfer operations, including overfill prevention.

(22) Environmental Variables. Each plan must list the environmental variables within the region of operation covered by the plan. Contingency plans for a high hazard rail route are required to include rivers and drinking water sources. The plan must identify the environmental variables from the probable point of release to the point the oil could travel in 24 hours using the calculation method described in 40 C.F.R. 112 Appendix C-III. All plans must describe:

(a) Natural resources, including aquatic habitat types and sensitivity by season, breeding sites, presence of state or federally listed endangered or threatened species and presence of commercial and recreational species;

(b) Public resources, including public access, water intakes drinking water supplies;

(c) Seasonal hydrographic and climatic conditions; and

(d) Physical geographic features, including geological characteristics. Plans may reference numbered Geographic Response Plan strategies (GRPs) in the Northwest Area Contingency Plan when identifying individual environmental and cultural resource features.

(23) Logistical Resources. Each plan must list the logistical resources within the region of operation covered by the plan, including facilities for fire services, medical services and accommodations; and shoreline access areas, including boat launches.

(24) Response Strategy Outline. Each plan must include a statement of the intended response activities. This statement must describe how the plan resources must be applied to adequately respond during the initial phase of the response to an average most probable and worst case spill, release or discharge. The Response Strategy Outline must begin with an example spill scenario, including a description of the situation to be managed, and must describe:

(a) Deployment of resources and estimates of response times;

(b) The intended result of the activity for each person listed in section (8) and (10) of this section;

(c) Command and control arrangements;

(d) Required coordination; and

(e) Probable obstacles and an estimate of oil movement during the first 72 hours if release is to an inland or coastal waterway.

(25) A railroad that owns a high hazard rail route must submit to DEQ a financial responsibility statement as defined in ORS 468B.433 along with their contingency plan and provide an updated financial responsibility statement at least once every five years together with submission of a renewed contingency Plan.

(26) Technical Terms Glossary. Each plan must include a glossary of technical terms and abbreviations used in the plan.

(27) Procedures and information related to supporting the early detection of an oil spill or release and timely notification of appropriate federal, state, local, tribal and other authorities about an oil spill or release as applicable state and federal law require, including but not limited to:

(a) Procedures for the initial detection of an oil spill or release;

(b) Procedures to be used for immediate notification of qualified individuals at the railroad that owns or operates the high hazard train route;

(c) Call-down lists for notification of appropriate federal, state, local, tribal and other authorities;

(d) Information demonstrating that the railroad that owns the high hazard train route has ownership of or access to an emergency response communications network covering the entire high hazard train route and that the emergency response communications network also provides for immediate notification and continual emergency communications during cleanup response;

(e) Procedures specifying the circumstances under which notifications will be made and the time frames for making notifications; and

(f) Follow-up requirements for notifications, provided for on a 24-hour basis

Statutory/Other Authority: ORS 468.020 & 468B.437
Statutes/Other Implemented: ORS 468B.345 – 468B.500
History:

340-141-0270
Drill and Exercise Requirements for High Hazard Rail

(1) All applicable contingency plans must have a section that describes a plan for drills and exercises as described in OAR 340-141-0270.

(2) The exercises listed in the plan must at a minimum include the following:

(a) An annual oil spill or release notification exercise;

(b) A triennial oil spill or release response tabletop exercise;

(c) A triennial oil spill or release response functional exercise; and

(d) A triennial full-scale, multiagency, multijurisdictional and multidisciplinary oil spill containment and recovery equipment deployment exercise.

(e) The triennial drill may include the executive summary from a National Preparedness for Response Exercise Program (NPREP) report, which may be submitted to meet this requirement when the exercise has been designed by the NPREP staff federal NPREP requirements.

(3) Drills and exercises listed in this plan may include NPREP objectives to meet federal NPREP requirements.

(4) A record of all drills and exercises designed to meet all Oregon requirements must be included in the drill and exercise plan.

(5) DEQ will review the degree to which the specifications of the plan are implemented during the drill. DEQ will endeavor to notify the rail owner of the review results within 30 calendar days following the drill. If DEQ finds deficiencies in the plan, DEQ will report those deficiencies to the plan holder and require the plan holder to make specific amendments to the plan.

(6) DEQ may require the plan holder to publish an annual report on plan drills including a summary of response times, active equipment and personnel use and recommendations for improvement.

(7) In the event of an actual spill, if DEQ participates, reviews and evaluates the spill response and finds that the spill events adequately test the plan, this may count as a required exercise.

Statutory/Other Authority: ORS 468.020 & 468B.437
Statutes/Other Implemented: ORS 468B.429 & 468B.395 & 453.392
History:

340-141-0280
Department of Environmental Quality Responsibility to Review and Approve Plans

(1) DEQ will review a contingency plan for a high hazard train route submitted under rule 340-141-0260. DEQ will approve the contingency plan if the plan:

(a) Meets the requirements of rule 340-141-0265; and

(b) If implemented, is capable, to the maximum extent practicable in terms of personnel, materials and equipment, of removing oil promptly and properly and minimizing any damage to the environment.

(2) A railroad that owns or operates a high hazard train route must notify DEQ in writing promptly of any significant change affecting the contingency plan, including changes in any factor set forth in this rule. DEQ may require the railroad to update a contingency plan as a result of these changes. Examples of significant changes include changes to the following:

(a) Emergency Response Procedures

(b) The Qualified Individual(s) named

(c) A change in the National Contingency Plan or an Area Contingency Plan that has significant impact on the equipment appropriate for response activities

(d) A change in the type of oil transported, if the type affects the required response resources

(e) Any other information relating to circumstances that may affect full implementation of the plan

(3) The contingency plan must require the applicant to use the best technology available at the time the contingency plan was submitted or renewed. For purposes of this subsection 340-141-0280(3), DEQ will consider as the best technology that technology that provides the greatest degree of protection, taking into consideration processes that are currently in use anywhere in the world. In determining what is the best technology available, DEQ will consider the technology's effectiveness, engineering feasibility, technological achievability, and cost.

(4)(a) Before DEQ approves a contingency plan required under rule 340-141-0260, DEQ will provide a copy of the contingency plan to the State Department of Fish and Wildlife, the office of the State Fire Marshal, and the Department of Land Conservation and Development for review.

(b) In addition to providing copies to the agencies listed in subsection (a) of this section, before approving or modifying a contingency plan for a high hazard train route, DEQ will provide a copy of the contingency plan to each federally recognized Indian tribe that owns land or enjoys treaty-reserved hunting, fishing or gathering rights that could be impacted by an oil discharge along any portion of the high hazard train route.

(c) The agencies and tribes that receive copies of a contingency plan under this section must review the contingency plan according to procedures and time limits established by rule of the Environmental Quality Commission.

(5) Upon approval of a contingency plan, DEQ will issue to the plan holder a certificate stating that the contingency plan has been approved. The certificate will include the name of the high hazard train route for which the certificate is issued, the effective date of the contingency plan and the date by which the contingency plan must be submitted for renewal.

(6) DEQ's approval of a contingency plan does not constitute an express assurance regarding the adequacy of the contingency plan or constitute a defense to liability imposed under ORS chapters 468, 468A and 468B or any other state law.

Statutory/Other Authority: ORS 468B.395 & ORS 468B.437
Statutes/Other Implemented: ORS 468B.431
History:

340-141-0282
Plan Maintenance and Use

(1) At least one copy of the plan must be kept in a central location accessible at any time by the incident commander or spill response manager named in accordance with OAR 340-141-0265(7).

(2) A High Hazard Rail owner or their designee must implement the plan in the event of a spill. The owner of the High Hazard Rail Line must receive approval from DEQ before it conducts any major aspect of the spill response contrary to the plan unless:

(a) Such actions are necessary to protect human health and safety;

(b) Such actions must be performed immediately in response to unforeseen conditions to avoid additional environmental damage; or

(c) The plan holder has been directed to perform such actions by the Department or the United States Coast Guard.

Statutory/Other Authority: ORS 468B.437
Statutes/Other Implemented: ORS 468B.305
History:

340-141-0285
Plan Update Timeline

(1) DEQ must be notified in writing as soon as possible and within 24 hours of any significant change that could affect implementation of the plan, including a significant decrease in available spill response equipment or personnel. Decreases are significant if they prevent the owner from carrying out the requirements of the plan. The plan holder must also

provide a schedule for the prompt return of the plan to full operational status. A receipt confirmed e-mail or facsimile will be considered written notice for purposes of this section. Changes that are not considered significant include minor variations in equipment or personnel characteristics, call out lists or operating procedures. Failure to notify DEQ of significant changes constitute noncompliance with this rule as well as an inability to comply with the approved plan under OAR 340-141-0282-(3).

(2) If DEQ finds that as a result of a change, the plan no longer meets approval criteria under OAR 340-141-0280, DEQ may, in its discretion, place conditions on approval, require additional drills or inspections or revoke approval in accordance with OAR 340-141-0280(1). Plan holders are encouraged to maintain backup response resources in order to ensure that their plans can always be fully implemented.

(3) Within 30 calendar days of an approved change in the plan, the owner of the high hazard rail line must distribute the amended pages of the plan to DEQ and other plan holders.

(4) Plans must be reviewed by DEQ every five years under ORS 468B.427(4). Plans must be submitted for reapproval unless the plan holder submits a letter requesting that DEQ review the plan already in DEQ's possession. The plan holder must resubmit the plan or such a letter at least 90 calendar days before expiration of the plan.

(5) DEQ may review a plan following any spill for which the plan holder is responsible.

(6) DEQ may require plan holders of approved plans to renew the signed letter of intent required by OAR 340-141-0265 annually to confirm that there has been no change to the plan or the plan holder's commitment to its use.

Statutory/Other Authority: ORS 468B.437
Statutes/Other Implemented: ORS 468B.395 & 468B.431
History:

340-141-0290
High Hazard Railroad Contingency Planning Fees

(1) Definitions as used in this section:

(a) "Oil" has the meaning given that term in ORS 468B.300 except that "oil" does not mean gasoline or any other petroleum related product that has been processed such that it is capable of being used as a fuel for the propulsion of a motor vehicle.

(b) "Owner" means the person who has the ultimate control over, and the right to use or sell, oil being shipped.

(c) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, joint venture, consortium, association, state, municipality, commission, political subdivision of a state or any interstate body, any commercial entity and the federal government or any agency of the federal government.

(d) “Tank railroad car” means a loaded or unloaded railroad car or rolling stock designated to transport oil as part of a single train that transports:

(A) 20 or more tank railroad cars in a continuous block that are loaded with oil; or

(B) 35 or more tank railroad cars loaded with oil that are spread throughout the entirety of the rolling stock, not including the locomotive, that make up the train.

(2) The owner of oil at the time the oil is transported by loaded tank railroad car in this state shall pay to the Department of Revenue a fee of up to $20 for each tank railroad car loaded with oil.

(a) If the loaded tank railroad car enters this state from outside of this state, the fee shall be imposed on the owner of the oil at the time the loaded tank railroad car enters this state.

(b) If the tank railroad car is loaded with oil in this state, the fee shall be imposed upon the loading of the oil into or onto the tank railroad car for transport in or through this state.

(3) Each railroad that is required to submit a contingency plan for a high hazard train route under ORS 468B.427 must pay to the Department of Transportation in each year a fee as in established in ORS 468B.435 Section 13a.

Statutory/Other Authority: ORS 468B. 437
Statutes/Other Implemented: ORS 468B.410 & 468B.435
History:

Division 141
OIL SPILL CONTINGENCY PLANNING AND FEES

340-141-0001
Purpose and Applicability

(1) The purpose of these rules is to establish:

(a) Fees for covered vessels and facilities;

(b) Contingency preparedness and planning standards for covered vessels and facilities needing approved plans before operating in Oregon; and

(c) Standards for preparation, management and maintenance of contingency plans.

(2) Applicability: The owner or operator of an onshore facility, offshore facility and covered vessel must prepare, submit and use oil spill prevention and emergency response plans in accordance with the requirements of this Division. Federal plans required under 33 C.F.R. 154, 40 C.F.R. 109, 40 C.F.R. 110, or the Federal Oil Pollution Act of 1990 or plans required by other states may be submitted to satisfy plan requirements under this Division, if DEQ deems that such federal or state requirements equal or exceed those of DEQ.

Statutory/Other Authority: ORS 468.020 & 468B.345 - 468B.405
Statutes/Other Implemented: ORS 468B.300 - 468B.500
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0005
Definitions as used in this Division

(1) "Average Most Probable" spill, release or discharge means the probable volume of oil that may spill as defined in a plan considering the history of spills from similar facilities or vessels of the same class operating on the west coast of the United States. It may also be defined as the lesser of one percent of the worst case spill, release or discharge, or 50 barrels, when used as a planning volume.

(2) "Best Achievable Protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training

procedures and operational methods that provide the greatest degree of protection available considering:

(a) The additional protection provided by the measures;

(b) The technological feasibility of the measures; and

(c) The cost of the measures.

(3) "Best Achievable Technology" means the technology that provides the greatest degree of protection, taking into consideration processes that are currently in use, processes that have been developed or processes that could feasibly be developed with reasonable expenditures on research and development. In determining what is best achievable technology, the Director will consider the effectiveness, engineering feasibility and commercial availability of the technology.

(4) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder or granular form capable of being conveyed by a pipe, bucket, chute or belt system.

(5) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel of 300 or more gross tons. "Cargo vessel" does not include a vessel used solely for commercial fish harvesting.

(6) "Columbia River" means the length of the Columbia River from where it enters the State of Oregon from the State of Washington to the point where it leaves the state at river mile zero at the Pacific Ocean.

(7) "Commercial Fish Harvesting" means taking food fish with any gear unlawful for angling under ORS 506.006, taking food fish in excess of the limits permitted for personal use, or taking food fish with the intent of disposing of such food fish or parts thereof for profit, or by sale, barter or trade, in commercial channels.

(8) "Commission" means the Environmental Quality Commission.

(9) "Contingency Plan" or "Plan" means an oil spill prevention and emergency response plan required under ORS 468B.345.

(10) "Contract or other approved means" in a response or a plan means:

(a) A written contract between a covered vessel or facility owner or operator and an oil spill removal organization that identifies and ensures the availability of specified personnel and equipment within stipulated response times in specified oil spill response Zones;

(b) Certification by the vessel or facility owner or operator that specified personnel and equipment are owned, operated or under the direct control of the vessel or facility owner or

operator and are available within stipulated response times in specified oil spill response Zones;

(c) Active membership in a local or regional oil spill removal organization that has identified specified personnel and equipment that are available to respond to an oil spill within stipulated response times in specified oil spill response Zones; or

(d) A written document that:

(A) Identifies personnel, equipment and services capable of being provided by the oil spill removal organization within stipulated response times in specified oil spill response Zones;

(B) Acknowledges that the oil spill removal organization intends to commit the identified resources in the event of an oil spill;

(C) Permits the commission to verify the availability of the identified oil spill removal resources through tests, inspections and exercises; and

(D) Is referenced in an oil spill contingency plan for the vessel or facility.

(11) "Covered vessel" means a tank vessel, self-propelled tank vessel, cargo vessel or passenger vessel.

(12) "Dedicated response vessel" means a vessel that limits service exclusively to recovering and transporting spilled oil, tanker escorting, deploying oil spill response equipment, supplies and personnel, spill response-related training, testing, exercises and research or other oil spill removal and related activities.

(13) "DEQ" means the Department of Environmental Quality.

(14) "Director" means the Director of the Department of Environmental Quality.

(15) "Discharge" means any emission other than natural seepage of oil, whether intentional or unintentional. "Discharge" includes but is not limited to spilling, leaking, pumping, pouring, emitting, emptying or dumping oil.

(16) "Drill" means the simulated performance of a spill response or task predicted in a plan.

(17) "Effective Daily Recovery Capacity" or "EDRC" means the factor used to estimate limitations on equipment efficiency from variables such as sea state, current velocity or visibility.

(18) "Field Document" means a simplified response plan for onsite use in the event of a spill, summarizing key notification and action elements.

(19) "Facility" means a pipeline or any structure, group of structures, equipment or device, other than a vessel located on or near navigable waters of a state, that is used for producing, storing, handling, transferring, processing or transporting oil in bulk and that is capable of storing or transporting 10,000 or more gallons of oil per day. "Facility" does not include:

(a) A railroad car, motor vehicle or other rolling stock while transporting oil over the highways or rail lines of this state;

(b) An underground storage tank regulated by DEQ or a local government under ORS 466.706–466.882 and 466.994; or

(c) Any structure, group of structures, equipment or device, other than a vessel located on or near navigable waters of a state, that is used for producing, storing, handling, transferring, processing or transporting 10,000 gallons or more of oil per day but does not receive oil from tank vessels, barges or pipelines.

(20) “High Hazard Train Route” means a section of rail lines in this state:

(a) That abuts or travels over navigable waters, a drinking source, or an inland location, that is one quarter mile or less from waters of the state; and

(b) Over which trains operate that, in a single train transport:

(A) 20 or more tank railcars in a continuous block that are loaded with oil; or

(B) 35 or more railroad cars loaded with oil that are spread throughout the entirety of the rolling stock, not including the locomotive, that make up the train.

(21) "Initial assessment" is a task assigned to first responders who are participating with DEQ in a Unified Command or Incident Command System, and includes the following tasks:

(a) Verifying the spill location;

(b) Establishing the type of incident based on products and conditions;

(c) Confirming or correcting the reported quantity released or area extent of the contamination;

(d) Reporting the efficacy of the initial containment;

(e) Projecting immediate resource needs to control the release; and

(f) Reporting local knowledge about the probable impacts of the release.

(22) "Interim Storage Site" means a site used to temporarily store recovered oil or oily waste until the recovered oil or oily waste is disposed of at a permanent disposal site. Interim storage sites include trucks, barges and other vehicles used to store recovered oil or oily waste until transport begins.

(23) "Maritime Association" means an association or cooperative of marine terminals, facilities, vessel owners, vessel operators, vessel agents or other maritime industry groups that provides oil spill response planning and spill related communications services within the state.

(24) "Maximum Extent Practicable" means the highest level of effectiveness that can be achieved through staffing levels, training procedures and best achievable technology considering the effectiveness, engineering feasibility, commercial availability, safety and cost of the measures.

(25) “National Contingency Plan” means the plan prepared and published under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9605, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99–499, (hereinafter CERCLA), and by section 311(d) of the Clean Water Act (CWA), 33 U.S.C. 1321(d), as amended by the Oil Pollution Act of 1990 (OPA).

(26) “National Incident Management System” or “NIMS”, as established by the Homeland Security Presidential Directive 5 of February 28, 2003 is a consistent nationwide template to enable Federal, State, local and tribal governments and private-sector and nongovernmental organizations to work together effectively and efficiently to prepare for, prevent, respond to and recover from domestic incidents, regardless of cause, size or complexity, including acts of catastrophic terrorism.

(27) "Navigable Waters" means the Columbia River, the Willamette River up to Willamette Falls, the Pacific Ocean and estuaries to the head of tide water.

(28) “Non-Floating Oil” means asphalt, heavy fuel oil, diluted bitumen, synthetic bitumen, any group V oil or any oil with the physical and chemical properties which may weather or accumulate sediment and become neutrally buoyant or sink in freshwater or saltwater.

(29) "Non-Persistent Oil" means those petroleum products with physical characteristics less dense than persistent oils, also referred to as Group I petroleum products.

(30) "Northwest Area Contingency Plan" means the regional emergency response plan developed in accordance with federal requirements and adopted as an annex to the State of Oregon all hazard plan as required by ORS 466.620.

(31) "Offshore Facility" means any facility located in, on or under any of the navigable waters of the state.

(32) "Oil" or "Oils" means oil including gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse, and any other petroleum-related product.

(a) Oil, including gasoline, crude oil, bitumen, synthetic crude oil, natural gas well condensate, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse, and any other petroleum-related product; and

(b) Liquefied natural gas.

(33) "Oil Spill Contingency Response Planning Standards" means DEQ's standards for reviewing oil spill contingency plans. The planning standards represent DEQ's best general estimate of types and quantities of personnel and equipment required to ensure adequate response to any location.

(34) "Oil Spill Response Planning Zones" are geographic areas of the State for which DEQ has established minimum planning standards. The Oil Spill Planning Zones are as follows:

(a) "Columbia River Zone" includes the Columbia River from where it enters the State of Oregon from the State of Washington to the point where it leaves the state at river mile zero at the Pacific Ocean, and extending 25 miles inland adjacent to the waterway. It is divided into four sub-Zones:

(A) "Columbia River, Upper River sub-Zone" means the Columbia River from the point where it enters Oregon from the State of Washington to the Bonneville Dam;

(B) "Columbia River, Portland sub-Zone" means the Willamette River below Willamette Falls, and the Columbia River between the Bonneville Dam and river mile 85 at St. Helens;

(C) "Columbia River, Rainier sub-Zone" means the Columbia River between river mile 85 at St. Helens and river mile 40 at Bugby Hole; and

(D) "Columbia River, Astoria sub-Zone" means the Columbia River between river mile 40 at Bugby Hole and river mile zero at the Pacific Ocean.

(b) "Coastal Bays Zone" means all ports on the Oregon coast where covered vessels make calls and extending inland 25 miles;

(c) "Open Ocean Zone" is the Pacific Ocean from the mark of average high tide out to the three mile limit of Oregon's authority; and

(d) "Inland Zone" means areas of Oregon where oil spill risks can be reduced through planning and contingency strategies, and not included in another listed Planning Zone.

(35) "Oily Waste" means oil contaminated waste resulting from an oil spill or oil spill response operations.

(36) "Onshore Facility" means any facility, located in, on or under any land of the state, other than submerged land, that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or adjoining shorelines.

(37) "Owner or Operator" means:

(a) In the case of an onshore or offshore facility, any person owning or operating the facility.

(b) In the case of a vessel, any person owning, operating or chartering by demise, the vessel.

(c) In the case of an abandoned onshore or offshore facility, or vessel, the person who owned or operated the facility or vessel immediately before its abandonment.

(38) "Passenger vessel" means a ship of 300 or more gross tons carrying passengers for compensation.

(39) "Persistent Oil" means those petroleum products with environmental degradation resistance or viscosity characteristics equal to and greater than fuel oil having a specific gravity of more than 0.8, also referred to as Group II and higher petroleum products.

(40) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, trusts, joint venture, consortium, association, state, municipality, commission, political subdivision of a state or any interstate body, any commercial entity and the state and any agencies thereof, and the federal government and any agencies thereof.

(41) "Person Having Control Over Oil" includes, but is not limited to, any person using, storing or transporting oil immediately prior to entry of such oil into the navigable waters of the state, and specifically includes carriers and bailees of such oil.

(42) "Pipeline" means a facility, including piping, compressors, pump stations and storage tanks used to transport oil between facilities or between facilities and tank vessels.

(43) "Primary Response Contractor" means a response contractor that is identified in a required plan and is committed to the plan holder by contract or other approved means.

(44) "Region of Operation" with respect to the holder of a contingency plan means the area where the operations that require a contingency plan are located.

(45) "Resident" means that the resource is kept ready for use at an address within the planning Zone (or sub-Zone if planning standards specify) in which the facility or vessel is located.

(46) "Response Contractor" means an individual, organization, association, or cooperative that provides or intends to provide equipment, personnel for oil spill containment, cleanup or removal activities.

(47) "Self-propelled tank vessel" means a tank vessel that is capable of moving under its own power.

(48) "Ship" means any boat, ship, vessel, barge or other floating craft of any kind.

(49) "Spill or release" means the discharge, deposit, injection, dumping, spilling, emitting, releasing, leaking or placing of any oil or hazardous material into the air or into or on any land or waters of the state, as defined in ORS 468B.005, except as authorized by a permit issued under ORS Chapter 454, 459, 459A, 468, 468A, 468B or 469, 466.005 to 466.385, 466.990(1) and (2) or 466.992 or federal law or while being stored or used for its intended purpose.

(50) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue. "Tank vessel" does not include:

(a) A vessel carrying oil in drums, barrels or other packages;

(b) A vessel carrying oil as fuel or stores for that vessel; or

(c) An oil spill response barge or vessel.

(51) "Trip" means travel to the appointed destination and return travel to the point of origin within the navigable waters of the State of Oregon.

(52) "Waters of the State" includes lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

(53) "Worst case spill" means:

(a) In the case of a vessel, a spill of the entire cargo and fuel of the tank vessel complicated by adverse weather conditions.

(b) In the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather conditions.

Statutory/Other Authority: ORS 468.020 & 468B.345 - 468B.405
Statutes/Other Implemented: ORS 468B.300 - 468B.500

History:
DEQ 8-2005, f. & cert. ef. 7-14-05
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0010
Program Administration and Compliance Fees

(1) All offshore and onshore facilities required to develop oil spill prevention and emergency response plans under ORS 468B.345 are required to pay the annual fee established in 468B.405(1). Fees for offshore and onshore facilities are due July 1 each year and cover the following 12 month period.

(2) Covered vessels are required to pay the per trip or daily fee established in 468B.405(1). Fees for covered vessels must be remitted to DEQ within 60 days of the conclusion of each trip.

(3) Moneys collected under this rule will be deposited in the State Treasury to the credit of the Oil Spill Prevention Fund established by ORS 468B.410. DEQ may not use funds deposited in the Oil Spill Prevention Fund to pay DEQ's costs that it may pay with funds deposited in the High Hazard Train Route Oil Spill Preparedness Fund.

Statutory/Other Authority: ORS 468.020 & 468B.345 - 468B.500
Statutes/Other Implemented: ORS 468B.405
History:
DEQ 18-2010, f. & cert. ef. 12-23-10
DEQ 8-2005, f. & cert. ef. 7-14-05
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0130
Plan Format Requirements

(1) Plans must be prepared using a combination of narrative and graphic formats that provide both detailed spill response information and quick access to general information needed during an emergency response.

(2) Plans must be divided into a system of chapters and appendices. Chapters and appendices must be numbered. Chapters should be reserved primarily for information on emergency response and cleanup operations, such as notification procedures or description of the spill response organization structure. The plan must include at least the information listed in OAR 340-141-0140 for vessels and facilities, or the information listed in OAR 340-141-0265 for Railroads. Appendices should be used primarily for supplemental background information and documentation such as response strategies or descriptions of drills and exercises. The spill prevention strategies may be part of the appendices.

(3) A system of index tabs must be used to provide easy reference to particular chapters and appendices.

(4) Plans must be formatted to allow replacement of revised pages and components without requiring replacement of the entire plan.

(5) Plans must include a simplified field document that summarizes key notification and action elements of the plan and is suitable for onsite use in the event of a spill.

(6) Plans may be submitted and updated electronically if all required plan components are in a form DEQ can easily access. DEQ will determine which types of electronic media are acceptable for the plan submittal.

(7) Composite plans that rely on standard documents DEQ already has on file may incorporate those documents by reference.

Statutory/Other Authority: ORS 468.020 & 468B.395
Statutes/Other Implemented: ORS 468B.345 - 468B.390
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0140
Plan Content Requirements

(1) Submittal Agreement. Each plan must contain a submittal agreement that:

(a) Includes the name, address and phone number of the submitting party;

(b) Verifies acceptance of the plan, including any incorporated contingency plans, by the owner or operator of the facility or covered vessel by either signature of the owner or operator or a person with authority to bind the corporation that owns or operates the facility or covered vessel;

(c) Commits to execution of the plan, including any incorporated contingency plans, by the owner or operator of the facility or covered vessel, and verifies authority for the plan holder to make appropriate expenditures in order to execute plan provisions; and

(d) Includes:

(A) In the case of a facility, the name, location including latitude, longitude and river mile, and address of the facility, type of facility, starting date of operations, types of oils (see definition of oil) handled, volume of oil stored and maximum volume of oil capable of being stored.

(B) In the case of a covered vessel, the vessel's name, the name, location and address of the owner or operator, official identification code or call sign, country of registry, common ports of call in Oregon, type of oils (see definition of oil) handled, volume of oil transported as fuel and expected period of operation in state waters.

(C) In the case of a covered vessel enrolled in a cooperative or maritime association plan, the vessel may provide evidence of coverage in lieu of paragraph (B) of this subsection.

(2) Amendments. Each plan must include a log sheet to record amendments to the plan. The log sheet must be placed at the front of the plan. The log sheet must provide for a record of the section amended, the date that the old section was replaced with the amended section, verification that DEQ was notified of the amendment under OAR 340-141-0220(3) and the initials of the individual making the change. A description of the amendment and its purpose must also be included in the log sheet, or filed in the form of an amendment letter immediately after the log sheet.

(3) Table of Contents. Each plan must include a detailed table of contents based on chapter, section, appendix numbers and titles and tables and figures. If the plan is an integrated plan used to also satisfy USCG and USEPA requirements, a cross reference must be included.

(4) Purpose and Scope. Each plan must describe the purpose and scope of that plan, including:

(a) The region of operation covered by the plan;

(b) The onshore facility, offshore facility or covered vessel operations covered by the plan; and

(c) The size and type of the average most probable spill and the worst case spill from the facility or covered vessel.

(5) Updates. Each plan must describe the events or time periods that will trigger updates of the plan.

(6) Implementation Strategy. Each plan must present a strategy for ensuring use of the plan for spill response and cleanup operations as required by OAR 340-141-0210.

(7) Spill Response System. Each plan must describe the organization of the spill response system, including all task assignments anticipated by the end of the first full operational period, or necessary to manage the resources required by the 12 hour planning standard, given a response to an Average Most Probable Discharge. Plans must use a National Incident Management System (NIMS) incident management system, as described in the Northwest Area Contingency Plan (NWACP).

(8) Contractor Identification. Each plan must identify the primary response contractor and subcontractors (except equipment rentals or supply vendors) whose services are bound to the plan by a contract or other approved means:

(a) If a plan holder is a member of an oil spill response cooperative and relies on that cooperative to perform or supplement its response operations within the regions of operations covered by the plan, the plan must state the cooperative's name, address, phone

number and response capability. The plan must also include proof of cooperative membership; or

(b) If a plan holder is not a member of an oil spill response cooperative, for each contractor, the plan must state that contractor's name, address, phone number or other means of contact at any time of the day, and response capability (e.g., land spills only). For each contractor, the plan must include a letter of intent signed by the contractor which indicates the contractor's commitment to respond within the specified time period, with personnel and equipment listed in (12) and (13) of this section. Copies of written contracts or agreements with contractors must be available for inspection, if requested by DEQ.

(9) Relationship to Other Plans. Each plan must briefly describe its relation to all applicable local, state, regional and federal government spill response plans. The plan must describe how the plan holder's response organization will be integrated into the Northwest Area Contingency Plan.

(10) Spill Detection. Each plan must list procedures that will be used to detect and document the presence and size of a spill, including methods which are effective during low visibility conditions. The plan must also describe the use of mechanical or electronic monitoring or alarm systems (including threshold sensitivities) used to detect oil discharges into adjacent land or water from tanks, pipes, manifolds and other transfer or storage equipment.

(11) Notifications. Each plan must describe procedures that will be taken to immediately notify appropriate parties that a spill has occurred.

(a) The plan holder must maintain a notification call out list that must be available for inspection upon the request of DEQ, and that:

(A) Provides a contact at any time of the day for all spill response personnel identified under section (7) of this rule, including the contact's name, position title, phone number or other means of contact for any time of the day, and an alternate contact in the event the individual is unavailable;

(B) Lists the name and phone number of all government agencies that must be notified in the event of an oil spill under ORS 466.635; and

(C) Establishes a clear order of priority for immediate notifications.

(b) The plan must identify a central reporting office or individual who is responsible for implementing the call out process.

(12) Response Personnel. Each plan must describe the personnel, including contract personnel available, to respond to an oil spill, including:

(a) A job description for each type of spill response position needed as indicated in the spill response organization scheme addressed in section (7) of this rule, or a reference to a recognized NIMS position;

(b) The number of personnel available to perform the duties of each type of spill response position;

(A) This number must be equal to or greater than the number of persons necessary to sustain a response to the worst case spill defined in the plan.

(B) If 24 hour operations are expected, the number of persons available to staff the ICS must be multiplied by the proposed number of operational periods (shifts).

(c) Arrangements for pre-positioning personnel at strategic locations that will meet criteria under OAR 340-141-0190(3)(d); and

(d) The type and frequency of spill response operations and safety training that each individual in a spill response position receives to attain the level of qualification demanded by their job description.

(13) Equipment and spill response resources. Each plan must describe equipment and spill resources as follows:

(a) Each plan must list all resident equipment and resident dedicated response vessels used for oil containment, recovery, removal, shoreline and adjacent lands cleanup and wildlife rescue and rehabilitation. Each plan must also list all relied upon communication tools. DEQ will accept information about equipment by reference if the equipment is being provided through a primary response contractor as part of the plan. DEQ may request information about the condition and date of manufacture of any listed and referenced equipment to further evaluate its applicability to the planning standards or a response.

(b) For resident equipment and vessels listed under subsection (a) of this section that are not owned by or available exclusively to the plan holder, the plan must also estimate the extent that other contingency plans rely on the same equipment.

(c) For all resident oil containment and recovery equipment, the plan also must include equipment make and model, the manufacturer's nameplate capacity of the response equipment, the EDRC (in barrels per day) and applicable design limits (e.g., maximum wave height capability, suitability for inland waters or open ocean).

(d) Based on information described in subsection (c) of this section, the plan must state the maximum amount of oil that could be recovered per 24-hour period with the equipment used as it is designed.

(e) For purposes of determining plan adequacy under OAR 340-141-0190, and to assess realistic capabilities based on potential limitations by weather, sea state, and other variables,

DEQ will use the data presented in subsections (c) and (d) of this section to apply a higher efficiency factor for equipment listed in a plan if that plan holder provides adequate evidence that the higher efficiency factor is warranted for particular equipment or if the United States Coast Guard has approved a higher efficiency rating.

(f) The plan must provide arrangements for pre-positioning of oil spill response equipment at strategic locations that will meet response time criteria under OAR 340-141-0190(3)(d).

(g) When calculating the delivery time of equipment to a spill staging area, the plan must use travel speeds consistent with federal speed predictions for the equipment being moved.

(14) Communications. Each plan must describe the communication systems used for spill notification and response operations, including:

(a) Communication procedures that identify who will be responsible for the function, to whom and from whom communication will be established and any special instructions;

(b) The communication function (e.g., ground-to-air) assigned to each channel or frequency used;

(c) The maximum geographic range for each type of communications equipment used; and

(d) The communication system compatibility with key spill response agencies.

(15) Response Operation Sites. Each plan must describe the process used by the plan holder to establish sites needed for spill response operations, including location or location selection criteria for an incident command post, a communications center if located away from the command post and equipment and personnel staging areas.

(16) Response Flow Chart or Timeline. Each plan must describe the response process by:

(a) Presenting a flowchart or decision tree describing the procession of each major stage of spill response operations from spill discovery to completion of cleanup. The flowchart or decision tree must describe the general order and priority in which key spill response activities are performed; and

(b) Describing all key spill response operations in checklist forms, to be used by spill response managers in the event of an oil spill.

(17) Authorities. Each plan must describe responsible authorities by:

(a) Listing the local, state and other government authorities responsible for the emergency procedures peripheral to spill containment and cleanup; and

(b) Describing the plan holder's role in these emergency operation procedures before the proper authorities arrive, including but not limited to, control of fires and explosions, rescue activities, access restriction to the spill impact area and site security.

(18) Damage Control. Each plan must describe equipment and procedures to be used by the facility or covered vessel personnel to minimize the magnitude of the spill and minimize structural damage that could increase the quantity of oil spilled.

(a) For facilities, damage control procedures must include methods to slow or stop pipeline, storage tank, and other leaks, and methods to achieve immediate emergency shutdown.

(b) For tank vessels, damage control procedures must include methods and onboard equipment to achieve vessel stability and prevent further vessel damage, slow or stop pipe, tank, and other leaks and achieve emergency shutdown during oil transfer.

(c) For other covered vessels, damage control procedures must address methods to achieve vessel stability and slow or stop leaks from fuel tanks and lines.

(19) Containment. Each plan must describe, in detail, any nonstandard methods specific to the plan to contain spilled oil and recover it from the environment. When a plan calls for the use of methods that have not been expressly approved by DEQ, the description of the proposed options must include:

(a) The surveillance methods expected to be used to detect and track the extent and movement of the spill; and

(b) A description of methods to be used to contain and remove oil that will be effective for environmentally sensitive locations included in the Zone, or Zones, for which the plan is written.

(20) Response Time. Each plan must briefly describe initial equipment and personnel deployment activities that will accomplish the response standard listed in OAR 340-141-0190(e)(d) and provide:

(a) An estimate of the actual execution time;

(b) The specific location in the Zone where the resident required response equipment is stored; and

(c) The source and management of personnel to deploy the initial response equipment.

(21) Chemical Agents. If the plan holder proposes to use dispersants, coagulants, bioremediants or other chemical agents for response operations under certain conditions, the plan must describe:

(a) Type and toxicity of chemicals, supplemented with material safety data sheets (MSDS) for each product;

(b) The conditions under which the chemicals will be applied, in conformance with all applicable local, state and federal requirements, including the Northwest Area Contingency plan and OAR 340-141-0020;

(c) Methods of deployment; and

(d) Location and accessibility of supplies and deployment equipment.

(22) In Situ-Burning. If the plan holder proposes to use in-situ burning for response operations, the plan must describe:

(a) Type of burning operations;

(b) Conditions under which burning will be applied in conformance with all applicable local, state and federal requirements, including the Northwest Area Contingency plan and OAR 340-264-0030 to 0040;

(c) Methods of application; and

(d) Location and accessibility of supplies and deployment equipment.

(23) Environmental Protection. Each plan must describe how environmental protection will be achieved, including:

(a) Protection of sensitive shoreline and island habitat by diverting or blocking oil movement;

(b) Priorities for sensitive area protection in the region of operation covered by the plan as provided in a Geographic Response Strategy of the Northwest Area Contingency Plan, or designated by DEQ;

(c) Rescue and rehabilitation of birds, marine mammals and other wildlife contaminated or otherwise affected by the oil spill; and

(d) Measures taken to reduce damages to the environment caused by shoreline and adjacent land cleanup operations.

(24) Interim Storage. Each plan that has identified that oil will be recovered must plan for the storage of the oil and combined oily waste material potentially created.

(a) Each plan must describe site criteria and methods used for interim storage of oil recovered and oily wastes generated during response and cleanup operations, including sites

available within the facility. Interim storage methods and sites must be designed to prevent contamination of the storage area by recovered oil and oily wastes.

(b) If use of interim storage sites will require approval by local, state or federal officials, the plan must include information that could expedite the approval process, including a list of appropriate contacts and a brief description of procedures to follow for each applicable approval process.

(c) Interim storage and permanent disposal methods and sites must be sufficient to sustain support for oil recovery operations and manage the entire volume of oil recovered and oily wastes generated.

(d) Interim storage and permanent disposal methods and sites must comply with all applicable local, state and federal requirements.

(25) Health and Safety. Each plan must describe procedures to protect the health and safety of oil spill response workers, and other individuals on-site. Provisions for training, decontamination facilities, safety gear and a safety officer position must be addressed.

(26) A description of steps taken for air monitoring to protect responders and the public including:

(a) A description of air monitoring procedures for the work site,

(b) A description of air monitoring procedures for the surrounding area (including surrounding communities),

(c) A description of a communication plan to inform communities of any risks,

(d) A plan to identify shelter in place and evacuation procedures

(27) Post Spill Review. Each plan must explain post-spill review procedures, including methods to review both the effectiveness of the plan and the need for plan amendments. Post-spill procedures must provide for a debriefing with DEQ that will include any newly recognized need to amend the plan and list of any other lessons learned.

(28) Drills and Exercises. All approved plans must be verified by drills and exercises. Each plan must describe the schedule and type of drills and other exercises that will be practiced to ensure readiness of the plan elements, including drills that satisfy OAR 340-141-0200 (3).

(a) The plan holder must test and document internal call out procedures at least once every 90 calendar days. The plan holder must retain records of these drills for at least three years and make them available for DEQ review upon request.

(b) The plan holder must notify DEQ of drills and exercises, at least 60 days before full deployment and tabletop drills, and 10 days prior to equipment exercises. Prior notice to

DEQ is not required before notification drills and internal phone number verification exercises.

(c) The plan holder must send post drill reports for all tabletop exercises or deployment drills to DEQ no later than 60 days after the completion of the drill or exercise. The executive summary from a National Preparedness for Response Exercise Program (NPREP) report may be submitted to meet this requirement when the exercise has been designed by the NPREP staff.

(29) Risk Variables. Each plan must list the spill risk variables within the region of operation covered by the plan, including:

(a) Each plan for a facility must list the following:

(A) Types, physical properties and amounts of oil handled;

(B) A written description and map indicating site topography, stormwater and other drainage systems, mooring areas, pipelines, tanks, and other oil processing, storage and transfer sites and operations;

(C) A written description of sites or operations with a history of or high potential for oil spills, including key areas that pose significant navigation risk within the region of operation covered by the plan; and

(D) Methods to reduce spills during transfer operations, including overfill prevention.

(b) Each plan for a covered vessel must list the following:

(A) Types, physical properties and amounts of oil handled;

(B) A written description and diagram showing cargo, fuel and ballast tanks; and piping, power plants and other oil storage and transfer sites and operations; and

(C) A written description of operations with a history of or high potential for oil spills, including key areas that pose significant navigation risks within the region of operation covered by the plan.

(30) Environmental Variables. Each plan must list the environmental variables within the region of operation covered by the plan. Facility plans required to include river or coastal areas must identify the environmental variables from the probable point of release to the point the oil could travel in 24 hours in a current of four knots. Vessel contingency plans must encompass the entire length of the Oregon waterway in the Zone or sub-Zone entered. All plans must describe:

(a) Natural resources, including coastal and aquatic habitat types and sensitivity by season, breeding sites, presence of state or federally listed endangered or threatened species and presence of commercial and recreational species;

(b) Public resources, including public beaches, water intakes, drinking water supplies and marinas;

(c) Seasonal hydrographic and climatic conditions; and

(d) Physical geographic features, including relative isolation of coastal regions, beach types, and other geological characteristics. Plans may reference numbered Geographic Response Plan strategies (GRPs) in the Northwest Area Contingency Plan when identifying individual environmental features.

(31) Logistical Resources. Each plan must list the logistical resources within the region of operation covered by the plan, including facilities for fire services, medical services and accommodations; and shoreline access areas, including boat launches.

(32) Response Strategy Outline. Each plan must include a statement of the intended response activities. This statement must describe how the plan resources must be applied to adequately respond during the initial phase of the response to an average most probable and worst case spill, release or discharge. The Response Strategy Outline must begin with a description of the situation to be managed, and must describe:

(a) Deployment of resources and estimates of response times;

(b) The intended result of the activity for each person listed in section (7) and (12) of this section;

(c) Command and control arrangements;

(d) Required coordination; and

(e) Probable obstacles and an estimate of oil movement during the first 72 hours.

(32) Financial Responsibility. Each plan must provide evidence that the facility or vessel is in compliance with federal financial responsibility requirements under ORS 468B.390.

(33) Technical Terms Glossary. Each plan must include a glossary of technical terms and abbreviations used in the plan.

Statutory/Other Authority: ORS 468.020 & 468B.395
Statutes/Other Implemented: ORS 468B.345 - 468B.390
History:
DEQ 8-2005, f. & cert. ef. 7-14-05
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0150
Oil Spill Contingency Planning Standards

(1) The purpose of this rule is to establish oil spill prevention and emergency response contingency planning standards for onshore and offshore facilities, pipelines and vessels that will, when followed:

(a) Promote the prevention of oil spills;

(b) Promote a consistent west coast approach to oil spill prevention and response;

(c) Maximize the effectiveness and timeliness of oil spill response by responsible parties and response contractors;

(d) Ensure readiness of equipment and personnel;

(e) Support coordination with state, federal and other contingency plans in particular the state plan required under ORS 468B.495 - 468B.500; and

(f) Protect Oregon waters and other natural resources from the impacts of oil spills.

(2) A plan that conforms to DEQ's planning standards, or alternative planning standard approved or required by DEQ as provided in subsection (2)(a) and (2)(b), may be approved if all other planning requirements in this Division are met:

(a) Plans submitted that are based on standards that differ from DEQ's planning standards must be supported by a detailed analysis that fully supports the methodology proposed. Alternative planning standards proposed by a plan submitter must be consistent with regional goals, be defended by the plan writer during public review of the plan and be approved by DEQ.

(b) DEQ will apply the applicable planning standard when evaluating the adequacy of a plan submitted to DEQ for approval, unless the planning standards do not fully reflect the unique circumstances of a particular facility or vessel. If DEQ determines that the plan does not fully protect the environment despite compliance with the general planning standards, DEQ will provide a detailed written explanation of its decision outlining the basis for its decision and the specific changes needed in the submitted plan.

(3) Plan writers must identify in their plans adequate resources to protect the areas potentially affected by a spill from their facility or vessel. The plan must state how the Planning Standards, including any performance standards, will be achieved. Required resources are further described in section (4)(a), (4)(b) and (4)(c) of this rule. The lands and waters of the state are divided into Zones and sub-Zones for planning purposes. Planning standards are established for each Zone and sub-Zone covered by this Division:

(a) Facilities located in a sub-Zone of the Columbia River must meet the following planning standards, except as provided in subsections (g) and (h) of this section:

(A) By 1 hour after the discovery of a spill, the facility must have deployed containment boom around the spill source. The length of boom on hand for this purpose must be at least four times the length of the largest vessel, or combined vessel lengths, potentially at that facility. The boom must be placed in the water in a location and fashion so as to contain and facilitate recovery of the greatest amount of oil from the water.

(B) By 2 hours after the discovery of a spill, responders listed in the plan must be prepared to participate in an initial assessment of the release. The amount of boom deployed and available in reserve to be deployed, if needed, must be eight times the length of the largest vessel, or combined vessel lengths, potentially at that facility.

(C) By 6 hours after the discovery of a spill, the facility must arrange for recovery of spilled oil. There must be equipment and personnel on site with the ability to recover the lesser of 12,000 barrels of oil or an amount of oil equal to 10 percent of the facility's worst case spill from the water in the next 24 hours.

(D) By 12 hours after the discovery of a spill, the facility must have 35,000 feet of boom deployed or available at the designated staging area for equipment deployment. Facilities handling only nonpersistent oils need to have 15,000 feet of boom at this time. All facilities must have the ability at or before this time to recover the lesser of 36,000 barrels of oil or 15 percent of the worst-case spill volume from the water in the next 24 hours. Facilities must have the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(E) By 24 hours after the discovery of a spill, the facility must have in place equipment and personnel with the ability to recover oil from the water to the lesser of 48,000 barrels of oil or 20 percent of the worst case spill volume in the next 24 hours.

(F) By 48 hours after the discovery of a spill, the facility must have in place equipment and personnel with the ability to recover oil from the water to the lesser of 60,000 barrels of oil or 25 percent of the worst case spill volume in the next 24 hours.

(b) Facilities located in the Coastal Bays Zone must meet the following planning standards:

(A) By 1 hour after the discovery of a spill, the facility must have deployed containment boom around the spill source. The length of boom on hand for this purpose must be at least four times the length of the largest vessel, or combined vessel lengths, potentially at that facility. The boom must be placed in the water in a location and fashion so as to contain and facilitate recovery of the greatest amount of oil from the water.

(B) By 2 hours after the discovery of a spill, responders listed in the plan must be prepared to participate in an initial assessment of the release. The amount of boom deployed and

available in reserve to be deployed if needed must be eight times the length of the largest vessel, or combined vessel lengths, potentially at that facility.

(C) By 6 hours after the discovery of a spill, the facility must arrange for recovery of spilled oil. There must be equipment and personnel on site with the ability to recover the lesser of 12,000 barrels of oil or an amount of oil equal to 10 percent of the facility's worst-case spill from the water in the next 24 hours.

(D) By 12 hours after the discovery of a spill, the facility must have 35,000 feet of boom deployed or available at the designated staging area for equipment deployment. Facilities handling only nonpersistent oils need to have 10,000 feet of boom at this time. All facilities must have the ability to recover oil at or before this time and have in place equipment and personnel with the ability to recover the lesser of 36,000 barrels of oil or 15 percent of the worst case spill volume from the water in the next 24 hours. Facilities must have the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(E) By 24 hours after the discovery of a spill, the facility must have deployed or have at the designated staging area for equipment deployment an amount of boom equal to 35,000 feet. Facilities handling only nonpersistent oils need to have 15,000 feet of boom at this time. All facilities must have in place equipment and personnel with the ability to recover from the water the lesser of 48,000 barrels of oil or 20 percent of the worst case spill volume in the next 24 hours.

(F) By 48 hours after the discovery of a spill, the facility must have the ability to recover oil from the water to the lesser of 60,000 barrels of oil or 25 percent of the worst case spill volume in the next 24 hours.

(c) Offshore facilities located in the Open Ocean Zone;

(A) By 1 hour after the discovery of a spill, the offshore facility must have begun deploying the open ocean rated boom required to be at the facility. This must be an amount of boom equal to the full perimeter of the offshore facility plus the length of the largest vessel or barge, or combined vessel lengths, moored at the offshore facility.

(B) By 6 hours after the discovery of a spill, responders listed in the plan must be prepared to participate in an initial assessment of the release. The offshore facility must also have the ability to begin recovering oil so an amount equal to 10 percent of the worst-case spill volume can be recovered in the next 24 hours and stored on site.

(C) By 12 hours after the discovery of a spill, the offshore facility must have the ability to deploy protective boom at all sensitive coastal locations within 25 miles of the offshore facility. Facilities must have the ability to recover the lesser of 36,000 barrels of oil or 15 percent of the worst case spill volume from the water in the next 24 hours. Facilities must have the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(D) By 24 hours after the discovery of a spill, the offshore facility must have the ability to recover oil from the water to the lesser of 48,000 barrels of oil or 20 percent of the worst case spill volume in the next 24 hours.

(E) By 48 hours after the discovery of a spill, the offshore facility must have the ability to establish shoreline cleanup resources and wildlife rescue services. The facility must have the ability to recover oil from the water to the lesser of 60,000 barrels of oil or 25 percent of the worst case spill volume in the next 24 hours.

(d) Covered vessels operating in any sub-Zone of the Columbia River must meet the following planning standards:

(A) By 2 hours after the discovery of a spill, the responders listed in the operator's plan must be prepared to participate in an initial assessment of the release. Responders listed in the plan must have initiated deployment of containment boom around the source except in the case of passenger vessels, and vessels at risk of exacerbating the situation, where a deflection deployment for safety reasons may be used. The amount of boom being deployed must be the lesser of 1000 feet, or a length equal to four times the length of the vessel. The boom must be placed in the water in a location and fashion so as to safely contain and facilitate recovery of the greatest amount of oil from the water. Additional boom must be available at the staging area equal to the balance of four times the length of the vessel if the vessel is more than 250 feet in length. In all cases the plan must include, by contract or other approved means, a boat crew capable of deploying and tending the required boom to be operating on site at this time.

(B) By 6 hours after the discovery of a spill, the vessel operator must have arranged for recovery of spilled oil. There must be equipment and personnel available to be on site at this time with the ability to recover the lesser of 12,000 barrels of oil, or an amount of oil equal to two percent of the vessel's worst-case spill, from the water in the next 24 hours. The vessel plan must also provide for the delivery of 10,000 feet of containment boom.

(C) By 12 hours after the discovery of a spill, the vessel operator must have the ability to deploy 40,000 feet of boom. There must be a recovery system capable of removing the lesser of 36,000 barrels of oil or five percent of the worst case spill volume from the water in the next 24 hours. Plans must include the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(D) By 24 hours after the discovery of a spill, the vessel operator must have deployed, or have at the designated staging area for equipment deployment, equipment and operators with the ability to recover the lesser of 48,000 barrels of oil or 12 percent of the worst case spill volume from the water in the next 24 hours.

(E) By 48 hours after the discovery of a spill, the vessel operator must be able to arrange for an increased ability to recover oil from the water to the lesser of 60,000 barrels of oil or 17 percent of the worst-case spill in the next 24 hours.

(e) Covered vessels operating in the Coastal Bays Zone must meet the following planning standards:

(A) By 2 hours after the discovery of a spill, the responders listed in the plan must be prepared to participate in an initial assessment of the release. Responders listed in the plan must have initiated deployment of containment boom around the source, or in the case of passenger vessels a deflection deployment for safety reasons. The amount of boom being deployed must be the lesser of 1,000 feet, or a length equal to four times the length of the vessel. The boom must be placed in the water in a location and fashion so as to contain and facilitate recovery of the greatest amount of oil from the water. Additional boom must be available at the staging area equal to the balance of four times the length of the vessel if the vessel is more than 250 feet in length. In all cases the plan must include, by contract or other approved means, a boat crew capable of deploying and tending the required boom to be operating on site at this time.

(B) By 6 hours after the discovery of a spill, the vessel operator must have arranged for recovery of spilled oil. There must be equipment and personnel on site at this time with the ability to recover the lesser of 12,000 barrels of oil or an amount of oil equal to two percent of the vessel's worst-case spill from the water in the next 24 hours. The vessel plan must also have provided for the delivery to the site of 6,500 feet of containment boom.

(C) By 12 hours after the discovery of a spill, the vessel operator must have the ability to deploy 9,500 feet of boom. There must be a recovery system on site capable of removing the lesser of 36,000 barrels of oil or five percent of the worst case spill volume from the water in the next 24 hours. Vessels must have the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(D) By 24 hours after the discovery of a spill, the vessel operator must have 14,000 feet of boom deployed, or at the designated staging area for equipment deployment, and equipment and operators with the ability to recover the lesser of 48,000 barrels of oil or 12 percent of the worst case spill volume from the water in the next 24 hours.

(E) By 48 hours after the discovery of a spill, the vessel operator must be able to arrange to recover oil from the water to the lesser of 60,000 barrels of oil or 17 percent of the worst-case spill volume in the next 24 hours.

(f) Covered vessels operating in the Open Ocean Zone:

(A) By 2 hours after the discovery of a spill, the responders listed in the plan must mobilize personnel, prepare to conduct an initial site assessment and site safety characterization of the spill area and arrange for aircraft for aerial observations. Transport of appropriate boom must take place in preparation for deployment at the source. In the case of passenger vessels, booming strategies must take into account the safety of passengers. Amount of boom must be the lesser of 1,000 feet, or a length equal to four times the length of the vessel. Booming strategies must maximize containment and facilitate recovery of the greatest amount of oil from the water. Additional boom must be available at the response resource staging area

equal to the balance of four times the length of the vessel if the vessel is more than 250 feet in length. In all cases, the plan must have listed by contract or other approved means qualified personnel to accomplish the requirements of this paragraph.

(B) By 6 hours after the discovery of a spill, the vessel operator must have arranged for recovery of spilled oil. There must be equipment and personnel on site capable of recovering the lesser of 12,000 barrels of oil from the water or an amount of oil equal to two percent of the vessel's worst-case spill in the next 24 hours. The vessel plan must also have provided for the delivery to the site of 10,000 feet of containment boom.

(C) By 12 hours after the discovery of a spill, the vessel operator must have the ability to deploy 40,000 feet of boom. There must be on site a recovery system capable of removing from the water the lesser of 36,000 barrels of oil or three percent of the worst case spill volume in the next 24 hours. Vessel operators must have the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(D) By 24 hours after the discovery of a spill, the vessel operator must have deployed, or have at the designated staging area for equipment deployment, equipment and operators with the ability to recover the lesser of 48,000 barrels of oil or 12 percent of the worst case spill volume from the water in the next 24 hours.

(E) By 48 hours after the discovery of a spill, the vessel operator must be able to arrange to recover oil from the water to the lesser of 60,000 barrels of oil or 17 percent of the worst-case spill volume in the next 24 hours.

(g) Pipelines located in, or crossing, a planning Zone where there is a potential for spilling or releasing oil to navigable waters of the state must meet the following planning standards:

(A) By 1 hour after the discovery of a spill, the pipeline operator must completely shut down the pipeline.

(B) By 2 hours after the discovery of a spill, the pipeline operator or its dedicated response contractor must have deployed 1,000 feet of containment boom around the spill source entering the water. The boom must be placed in the water in a location and fashion so as to contain and facilitate recovery of the greatest amount of oil from the water.

(C) By 6 hours after the discovery of a spill, the pipeline operator must have arranged for recovery of spilled oil. There must be equipment and personnel on site capable of recovering the lesser of 12,000 barrels of oil or an amount of oil equal to 10 percent of the pipeline's worst-case spill from the water in the next 24 hours.

(D) By 12 hours after the discovery of a spill, the pipeline operator must have 15,000 feet of boom deployed or at the designated staging area for equipment deployment. All pipelines must have the ability to recover oil at or before this time and have in place equipment and personnel with the ability to recover the lesser of 36,000 barrels of oil or 15 percent of the

worst case spill volume from the water in the next 24 hours. The pipeline operator must have the ability to assess the damage potentially done to wildlife and shorelines in the impacted area of the spill.

(E) By 24 hours after the discovery of a spill, the pipeline operator must increase the ability to recover oil from the water to the lesser of 48,000 barrels of oil or 20 percent of the worst case spill volume in the next 24 hours. The pipeline operator must have arranged for sufficient boom of an appropriate design to be deployed for the protection of sensitive wildlife habitats within the potential drift of oil in 24 hours.

(F) By 48 hours after the discovery of a spill, the pipeline operator must increase the ability to recover oil from the water to the lesser of 60,000 barrels of oil or 25 percent of the worst case spill volume in the next 24 hours. The pipeline operator must have arranged for sufficient boom of an appropriate design to be deployed for the protection of sensitive wildlife habitats within the potential drift of oil in 48 hours.

(h) Pipelines located in, or crossing, the Inland Zone must meet the following planning standards:

(A) By 1 hour after the discovery of a spill, the pipeline operator must complete a shutdown of the pipeline.

(B) By 2 hours after the discovery of a spill, the pipeline operator must have assigned personnel and emergency equipment to locate the exact point of release. The pipeline operator must have arranged for the equipment and response personnel necessary to contain the spill.

(C) By 6 hours after the discovery of a spill, the pipeline operator must have the ability to complete the assessment of the spill. The pipeline operator must have the ability to rapidly get resources to the spill location using preplanned caches of materials where no local resources are resident.

(D) By 12 hours after the discovery of the spill, the pipeline operator must have the ability to recover freestanding liquid oil from the environment equal to five percent of the worst-case spill in the next 24 hours. The pipeline operator must have the ability to assess and mitigate the damage potentially done to wildlife, wildlife habitat and natural resources in the impacted area of the spill.

(E) By 24 hours after the discovery of a spill, the pipeline operator must have deployed or have at the designated staging area for equipment deployment an amount of equipment capable of removing 10 percent of the worst case spill volume from the land and any impacted water in the next 24 hours.

(F) By 48 hours after the discovery of a spill, the pipeline operator must increase the ability to remove oil from the environment to the lesser of 60,000 barrels in the next 24 hours, or 15 percent of the worst case spill volume. The pipeline operator must have arranged for

sufficient equipment, of an appropriate design, to be deployed for the protection of sensitive wildlife habitats within the potential spread or travel of the oil in 24 hours.

(4) Resources identified in a plan to meet planning standards must include these conditions and qualifications:

(a) The required resources listed in the plans for facilities, not including transmission pipelines or pipeline terminals, must be the property of the plan holder or specifically available to the plan holder through a contract or other approved means. Those resources required for the first and second hours on the Columbia River must be stocks of materials and labor sources resident within the impacted sub-Zone. To meet the six hour planning standards, the resources on the Columbia River may also be those normally resident in an adjacent sub-Zone. To meet the planning standard on the Columbia River at 12 hours, the materials may be from resources resident in the Zone. Those resources required for the first through the sixth hours in a coastal bay must be stocks of materials and labor sources resident within the impacted Zone. To meet the 12-hour planning standards in Coastal and Inland Zones, the resources may be from an adjacent planning Zone.

(b) The required resources listed in a covered vessel plan must be the property of the plan holder, or specifically available to the plan holder through a contract or other approved means. Those resources necessary and available to meet planning standards for the initial response, and through the first two hours on the Columbia River must be stocks of materials and labor sources resident within the impacted sub-Zone. To meet the six-hour planning standard, the resources may be from an adjacent sub-Zone. To meet the 12-hour planning standards the resources on the Columbia River must be those normally resident in that Zone. To meet planning standards at two hours and six hours in Coastal Bay Zone, the resources must be resident in the specific bay. To meet planning standards at 12 hours in the Coastal Bay Zone, the resources may be from an adjacent Zone.

(c) The required resources listed for a pipeline plan must be the property of the plan holder, or specifically available to the plan holder through a contract or other approved means. Those resources required for the first and second hours on the Columbia River must be stocks of materials and labor sources resident within the impacted sub-Zone. To meet the six-hour planning standards, the resources on the Columbia River may also be those normally resident in an adjacent sub-Zone. To meet the 12-hour planning standard on the Columbia River, the materials may be from resources resident in the Zone. Those resources required for the first through the sixth hours in a Coastal Bay Zone must be stocks of materials and labor sources resident within the impacted Zone. To meet planning standards at 12 hours in Coastal and Inland Zones, the resources may be from an adjacent planning Zone.

(5) For all facilities, pipelines and covered vessels subject to planning standards in this rule, if equipment to recover oil from the water is required, the plan must identify interim storage for the recovered oil and oily water. Interim storage qualifications are described in section 0140 (24), the required content of contingency plans section of this rule, and are also addressed in OAR 340-142-0080. DEQ will set plan specific interim storage planning

standards, or apply a default interim storage capacity equal to three times the effective daily recovery capacity (EDRC) of the equipment used to achieve the recovery percentages or volumes given in the planning standards of section (3). EDRC is used in planning standards to adjust the total recovery ability of a particular piece of oil spill recovery equipment to a lower value compensating for any incidental water it may recover. Unless otherwise approved by DEQ the nameplate efficiency for a piece of equipment will be derated to 20 percent of its manufacturer's claim. Requirements for the 6 to 12 hour planning standards must show how the plan will meet the need for interim storage.

Statutory/Other Authority: ORS 468.020 & 468B.395
Statutes/Other Implemented: ORS 468B.350
History:
DEQ 184-2018, minor correction filed 04/16/2018, effective 04/16/2018
DEQ 104-2018, minor correction filed 04/10/2018, effective 04/10/2018
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0160
Prevention Strategies for Facilities

(1) The owner or operator of each onshore and offshore facility must develop spill prevention strategies that will, when implemented, provide the best achievable protection from damages caused by the discharge of oil into the waters of the state. The strategies may be in the form of:

(a) Appendices to oil spill prevention and emergency response plans required under this chapter; or

(b) A standalone prevention plan that meets all requirements of OAR 340-141-0100 to 340-141-0230.

(2) Spill Prevention Countermeasure and Control Plans (SPCC), Operation Manuals and other prevention documents prepared to meet federal requirements under 33 C.F.R. 154, 33 C.F.R. 156, 40 C.F.R. 109, 40 C.F.R. 112, or the Federal Oil Pollution Act of 1990 or plans prepared to meet the requirements of other states may be submitted to satisfy requirements under this chapter if DEQ deems that such requirements equal or exceed those of DEQ, or if the plans are modified or appended to satisfy requirements of this Division.

(3) Spill prevention strategies must at a minimum provide all of the following:

(a) Documentation of types and frequency of spill prevention training provided to applicable personnel;

(b) Evidence that the facility has an operations manual;

(c) A description of a drug and alcohol awareness program that provides training and information materials to all employees on recognition of alcohol and drug abuse treatment opportunities, and applicable company policies;

(d) Evidence of a maintenance and inspection program that includes:

(A) Summary of the frequency and type of all regularly scheduled inspection and preventative maintenance procedures for tanks, pipelines, key storage, transfer, or production equipment including associated pumps, valves, and flanges, and overpressure safety devices and other spill prevention equipment;

(B) Description of integrity testing of storage tanks and pipelines using such techniques as hydrostatic testing and visual inspection, including but not limited to the frequency of tests, means of identifying that a leak has occurred and measures to reduce spill risk if test material is product;

(C) External and internal corrosion detection and repair;

(D) Damage criteria for equipment repair or replacement;

(E) Maintenance and inspection records of the storage and transfer facilities and related equipment will be made available to DEQ upon request; and

(F) Documentation required under 40 C.F.R. 112.7(e) or 33 C.F.R. 154, Subparts C and D may be used to address elements of this subsection.

(e) A description of the use of containment boom at facilities transferring persistent oil, including:

(A) Type(s) of boom used based upon the varied conditions within the region(s) of operation; and

(B) Methods of boom placement and anchoring.

(f) Identification of spill prevention technology currently in use, including if applicable:

(A) Tank and pipeline materials and design;

(B) Storage tank overflow alarms, tank overflow cutoff switches, low level alarms and automatic transfer shutdown systems, including methods to alert operators, system accuracy and tank fill margin remaining at time of alarm activation before overflow would occur at maximum pumping rate (documentation required under 40 C.F.R. 112.7(e)(2)(viii) or 33 C.F.R. 154.310(a)(12-13) may be used to address some or all of these elements);

(C) Leak detection systems for both active and nonactive pipeline conditions including detection thresholds in terms of duration and percentage of pipeline flow limitations on

system performance due to normal pipeline events, and procedures for operator response to leak alarms (documentation required under 40 C.F.R. 112.7(e)(3) may be used to address some or all of these elements);

(D) Rapid pump and valve shutdown procedures, including means of ensuring that surge and overpressure conditions do not occur, rates of valve closure, sequence and time duration (average and maximum) for entire procedure, automatic and remote control capabilities utilized and visual displays of system status for operator use (documentation required under 40 C.F.R. 112.7(e)(3) may be used to address some or all of these elements);

(E) Minimization of post-shutdown residual drainout from pipes, including criteria for locating valves, identification of all valves (including types and means of operation) that may be open during a transfer process, and any other techniques for reducing drain out;

(F) Means of relieving pressure due to thermal expansion of liquid in pipes during periods of nonuse;

(G) Secondary containment, including contents of the largest tank plus space for precipitation, and material design and permeability of the containment area (documentation required under 40 C.F.R. 112.7(e)(1) and (2)(ii)–(iv) may be used to address some or all of these elements);

(H) Surge control systems;

(I) Internal and external corrosion control coatings or wrappings and instruments;

(J) Storm water and other drainage retention, treatment and discharge systems, including maximum storage capacities and identification of any applicable discharge permits (documentation required under 40 C.F.R. 112.7(e)(1) and (2)(iii) and (ix) may be used to address some or all of these elements); and

(K) Criteria for suspension of operations while leak detection or other spill control systems are inoperative.

(g) A description of facility site security systems, including:

(A) Procedures for controlling and monitoring facility access;

(B) Lighting (documentation required under 33 C.F.R. 154.570 may be used to address some or all of this element);

(C) Signage; and

(D) Right-of-way identification or other measures to prevent third party damage (documentation required under 40 C.F.R. 122.7(e)(3)(v) and (9) may be used to address some or all of this element).

(h) History of any discharges of oil to the land or waters of the state in excess of 25 barrels (1,050 gallons) which occurred during the five-year period prior to the plan submittal date. For each discharge, describe:

(A) Quantity;

(B) Type of oil;

(C) Geographic area;

(D) Analysis of cause, including source(s) of discharged oil and contributing factors (e.g., equipment failure, employee error, adverse weather, etc.); and

(E) Measures taken to remedy the cause and prevent reoccurrence.

(i) A detailed and comprehensive site risk analysis that:

(A) Evaluates the construction, age, corrosion, inspection and maintenance, operation and oil spill risk of the transfer, production and storage system including piping, tanks, pumps, valves and associated equipment;

(B) Evaluates spill minimization and containment systems;

(C) Incorporates information required in subsection (f) of this section;

(D) Is prepared under the supervision of (and bears the seal of) a licensed professional engineer; and

(E) Includes documentation required under 40 C.F.R. 112.7(b) and (e) may be used to address some or all of the elements in this subsection.

(j) A description of how the facility will incorporate those measures that will provide best achievable protection to address the spill risks identified in the risk analyses required in subsection (i) of this section. (Information documented under 40 C.F.R. 112.7(e) and 33 C.F.R. 154.310 may be used to address some or all of the elements of this subsection.)

Statutory/Other Authority: ORS 468.020 & 468B.395
Statutes/Other Implemented: ORS 468B.345 - 468B.390
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 105-2018, minor correction filed 04/10/2018, effective 04/10/2018
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0170
Prevention Strategies for Vessels

(1) Each covered vessel must have spill prevention strategies that when implemented will provide the best achievable protection from damages caused by the discharge of oil into the waters of the state.

(2) Prevention documents prepared to meet federal requirements under the Oil Pollution Act of 1990 or plans prepared to meet the requirements of other states may be used to satisfy the criteria of this section.

(3) Vessel owners or operators will make maintenance and inspection records, and oil transfer procedures available to DEQ upon request.

Statutory/Other Authority: ORS 468.020 & 468B.395
Statutes/Other Implemented: ORS 468B.345 - 468B.390
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0180
Plan Submittal

(1) Before operating in Oregon, facilities must submit plans for review as follows:

(a) Except as provided in (c), plans for facilities must be submitted to DEQ at least 90 days before oil is moved into or out of the facility.

(b) Plans for covered vessels of 300 gross tons or more which transit the Columbia River and Willamette River must be submitted to DEQ at least 90 days before that vessel enters navigable waters of the state.

(c) Plans for existing pipelines in the Inland Zone must be submitted by June 30, 2003. After June 30, 2003 plans for new pipelines must be submitted 90 days before pipeline operations commence.

(2) One complete copy of the plan (including appendices) must be submitted to DEQ in printed or electronic form. Plans must be submitted to: Department of Environmental Quality, Emergency Response Program, 700 NE Multnomah St., Suite 600, Portland, Oregon 97232. Electronic copies may be sent to DEQ. A printed copy of the complete plan showing all revisions may be required during the public review period. The plan holder may be required to supply up to four printed copies of the final plan.

(3) Onshore and offshore facility plans may be submitted by:

(a) The facility owner or operator; or

(b) An oil spill response cooperative or maritime association in which the facility owner or operator is a participating member.

(4) Tank vessel plans may be submitted by:

(a) The tank vessel owner or operator;

(b) The owner or operator of a facility at which the tank vessel unloads cargo, in conformance with requirements under OAR 340-141-0150(1); or

(c) An oil spill response cooperative or maritime association in which the tank vessel owner or operator is a participating member.

(5) Cargo and passenger vessel plans may be submitted by:

(a) The vessel owner or operator;

(b) The agent for the vessel resident in this state;

(c) An oil spill response cooperative or maritime association in which the tank vessel owner or operator is a participating member; or

(d) A primary response contractor.

(6) Subject to the conditions imposed by DEQ, the owner, operator, agent or a maritime association may submit a single contingency plan for cargo vessels or passenger vessels of a particular class.

(7) A single plan may be submitted for more than one facility or covered vessel owned by the same person, provided that the plan contents meet the requirements of OAR 340-141-0100 to 340-141-0230 for each facility, pipeline or covered vessel listed.

(8) The plan submitter may request that proprietary information be kept confidential under ORS 192.501(2). If a plan submitter wishes to claim that any provision in a plan is a trade secret, the submitter must specifically notify DEQ of its claim and identify those provisions in the plan that are claimed to be trade secrets.

Statutory/Other Authority: ORS 468.020 & 468B.395
Statutes/Other Implemented: ORS 468B.355
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0190
Plan Review

(1) Upon receipt of a plan, DEQ will promptly evaluate the plan for completeness. If DEQ determines that a plan is incomplete, the submitter will be notified of deficiencies. The review period will not begin until DEQ receives a complete plan. DEQ will allow 30 days

for the submitter to supply the missing components of the plan. After 30 days the plan will be returned without approval to the submitter.

(2) DEQ will notify interested persons of any contingency plans under review by DEQ, and make such plans available for review to ODFW, DLCD, the State Fire Marshal and any interested person. DEQ will provide a 30-day period for agencies and other interested persons to comment on a plan.

(3) A Plan will be approved if, in addition to meeting criteria in OAR 340-141-0100 through 340-141-0170, it demonstrates that when implemented, it will:

(a) Provide for prompt and proper response to and cleanup of a variety of spills, including average most probable spills and worst-case spills;

(b) Provide for prompt and proper protection of the environment from oil spills;

(c) Provide for immediate notification and mobilization of resources upon discovery of a spill; and

(d) Provide for initial deployment of response equipment and personnel at the site of the spill within one hour of discovery for facilities and two hours of discovery for covered vessels given suitable safety conditions.

(4) When reviewing plans, DEQ will, in addition to the above criteria, consider the following:

(a) The volume and type of oil(s) addressed by the plan;

(b) The history and circumstances of prior spills by similar types of facilities, including spill reports by DEQ spill responders;

(c) The presence of operating hazards;

(d) The sensitivity and value of natural resources within the Oil Spill Response Planning Zones and geographic area covered by the plan;

(e) Any pertinent local, state, federal agency or public comments received on the plan; and

(f) The extent that reasonable, cost-effective spill prevention measures have been incorporated into the plan.

(5) DEQ may approve a plan without a full review under this rule if that plan has been approved by a federal agency or other state using approval criteria that equal or exceed those of DEQ.

(6) DEQ will endeavor to notify the facility or covered vessel owner or operator within five working days after the review is completed whether the plan has been approved.

(7) If the plan is approved, the facility or covered vessel owner or operator will receive a certificate of approval describing the conditions of approval, including an expiration date not to exceed five years.

(8) DEQ may approve a plan conditionally by requiring the owner or operator of a facility or covered vessel owner or operator to operate with specific precautionary measures until unacceptable components of the plan are resubmitted and approved.

(a) Precautionary measures may include, but are not limited to, placing spill containment boom around all vessels during oil transfers, reducing oil transfer rates, increasing personnel levels, or restricting operations to daylight hours. Precautionary measures may also include additional requirements to ensure availability of response workers and equipment.

(b) A plan holder will have 30 calendar days after DEQ gives notification of conditional status to submit and implement required changes to DEQ, with the option for an extension at DEQ's discretion. Plan holders who fail to meet conditional requirements or provide required changes in the time allowed will lose conditional approval status.

(c) DEQ may use plan approval with conditions as an alternate to rejecting a plan with minor defects.

(9) If plan approval is denied, the owner or operator of the facility or covered vessel will be given a written explanation of DEQ's reasons for disapproval and a list of actions needed to gain approval. The facility or covered vessel must not commence or continue oil storage, transport, transfer, production or other operations until a plan for that facility or covered vessel has been approved.

(10) If a plan holder demonstrates an inability to comply with an approved contingency plan or otherwise fails to comply with requirements of this Division, DEQ may, at its discretion:

(a) Place conditions on approval under section (8) of this rule; or

(b) Revoke its approval.

(11) Approval of a plan by DEQ does not constitute an express assurance regarding the adequacy of the plan or constitute a defense to liability imposed under state law.

(12) A plan holder may request a hearing on DEQ's decision under OAR 340, division 11.

Statutory/Other Authority: 468B.390 & ORS 468.020
Statutes/Other Implemented: ORS 468B.365
History:

DEQ 106-2018, minor correction filed 04/10/2018, effective 04/10/2018
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0200
Drills, Exercises, and Inspections

(1) DEQ may require plan holders of approved plans to participate in one announced drill or one unannounced limited drill annually.

(2) As a condition of plan approval, DEQ may require that the plan holder successfully conduct drills of the elements of a plan submitted for approval.

(3) Requirements under sections (1) and (2) of this rule may be met:

(a) By drills led by other state, local or federal authorities, if DEQ finds that the criteria for drill execution and review equal or exceed those of DEQ;

(b) By drills initiated by the plan holder, if DEQ participates, reviews and evaluates the drill, and if DEQ finds that the drill adequately tests the plan; or

(c) By responses to actual spill events, if DEQ participates, reviews and evaluates the spill response, and if DEQ finds that the spill event adequately tests the plan.

(4) DEQ may excuse a primary response contractor from full deployment participation in more than one drill if, in the past 12 months, the primary response contractor has performed to DEQ's satisfaction in a full deployment drill in an exercise listed in section (3) of this rule or has satisfactorily responded to a significant spill event in Oregon.

(5) DEQ may require the facility or covered vessel owner or operator to participate in additional drills beyond those required in section (1) of this rule if DEQ is not satisfied with the adequacy of the plan or plan implementation during exercises or spill response events.

(6) DEQ will review the degree to which the specifications of the plan are implemented during the drill. DEQ will endeavor to notify the facility or covered vessel owner or operator of the review results within 30 calendar days following the drill. If DEQ finds deficiencies in the plan, DEQ will report those deficiencies to the plan holder and require the plan holder to make specific amendments to the plan under requirements of OAR 340-141-0220.

(7) DEQ may publish an annual report on plan drills, including a summary of response times, actual equipment and personnel use, recommendations for plan requirement changes and industry response to those recommendations.

(8) DEQ may require the plan holder to publish an annual report on plan drills including a summary of response times, active equipment and personnel use and recommendations for improvement.

(9) DEQ may verify compliance with this Division by unannounced inspections in accordance with ORS 468B.370.

Statutory/Other Authority: ORS 468.020 & 468B.390
Statutes/Other Implemented: ORS 468B.370 - 468B.380
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0210
Plan Maintenance and Use

(1) At least one copy of the plan must be kept in a central location accessible at any time by the incident commander or spill response manager named in accordance with OAR 340-141-0140(7). Each facility covered by the plan must possess a copy of the plan and keep it in a conspicuous and accessible location.

(2) A field document prepared under OAR 340-141-0130(5) must be available to all appropriate personnel. Each covered vessel covered by the plan must possess a copy of the field document and keep it in a conspicuous and accessible location.

(3) A facility, covered vessel, or high hazard rail owner or operator or their designee must implement the plan in the event of a spill. The owner or operator of the facility or covered vessel must receive approval from DEQ before it conducts any major aspect of the spill response contrary to the plan unless:

(a) Such actions are necessary to protect human health and safety;

(b) Such actions must be performed immediately in response to unforeseen conditions to avoid additional environmental damage; or

(c) The plan holder has been directed to perform such actions by DEQ, EPA, Pipeline Hazardous Materials Safety Administration (PHMSA) or the United States Coast Guard.

Statutory/Other Authority: ORS 468.020 & 468B.345 - 468B.390
Statutes/Other Implemented: ORS 468B.345 - 468B.390
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0220
Plan Update Timeline

(1) DEQ must be notified in writing as soon as possible and within 24 hours of any significant change that could affect implementation of the plan, including a significant decrease in available spill response equipment or personnel. Decreases are significant if they prevent the owner or operator from carrying out the requirements of the plan in the time specified in the Oil Spill Contingency Response Planning Standards for the Zones or sub-

Zones of operation. The plan holder must also provide a schedule for the prompt return of the plan to full operational status. A receipt confirmed e-mail or facsimile will be considered written notice for purposes of this section. Changes that are not considered significant include minor variations in equipment or personnel characteristics, call out lists or operating procedures. Failure to notify DEQ of significant changes constitutes noncompliance with this rule as well as an inability to comply with an approved plan under OAR 340-141-0210(3).

(2) If DEQ finds that, as a result of a change, the plan no longer meets approval criteria under OAR 340-141-0190, DEQ may, in its discretion, place conditions on approval, require additional drills or inspections or revoke approval in accordance with OAR 340-141-0190(8). Plan holders are encouraged to maintain backup response resources in order to ensure that their plans can always be fully implemented.

(3) Within 30 calendar days of an approved change in the plan, the owner or operator of the facility or covered vessel must distribute the amended pages of the plan to DEQ and other plan holders.

(4) Plans must be reviewed by DEQ every five years under ORS 468B.345(3). Plans must be submitted for reapproval unless the plan holder submits a letter requesting that DEQ review the plan already in DEQ's possession. The plan holder must submit the plan or such a letter at least 90 calendar days before expiration of the plan.

(5) DEQ may review a plan following any spill for which the plan holder is responsible.

(6) DEQ may require plan holders of approved plans to renew the signed letter of intent required by OAR 340-141-0100 annually to confirm that there has been no change to the plan or the plan holder's commitment to its use.

Statutory/Other Authority: ORS 468.020 & 468B.345 - 468B.390
Statutes/Other Implemented: ORS 468B.345 - 468B.365
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0230
Noncompliance with Plan Requirements

(1) No person may cause or permit the operation of an onshore or offshore facility in the state, or a covered vessel within the navigable waters of the state without a properly implemented oil spill prevention and emergency response plan approved by DEQ.

(2) No person may cause or permit the operation of a facility or covered vessel without proof of financial responsibility in compliance with ORS 468B.390, which requires the equivalent of the federal requirement.

(3) Any violation of this division will be subject to the enforcement and penalty provisions of ORS 468.140, and OAR 340 division 012.

Statutory/Other Authority: ORS 468.020 & 468B.345 - 468B.390
Statutes/Other Implemented: ORS 468B.345 - 468B.390
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0240
Equipment Mutual Aid

(1) DEQ may preapprove the transfer of equipment, materials or personnel by a plan holder to another plan holder, or person, when necessary to assist in response to an oil discharge.

(2) DEQ's preapproval may include:

(a) Waiver of response times specified in a plan; or

(b) Conditions specified by DEQ regarding, but not limited to, notification to DEQ, return or replacement of equipment, materials or personnel and measures necessary to prevent or reduce the potential for discharges during the period of reduced response capability.

(3) Preapproval under this rule does not require plan modification or update.

Statutory/Other Authority: ORS 468.020 & 468B.345 - 468B.390
Statutes/Other Implemented: ORS 468B.365
History:
DEQ 2-2003, f. & cert. ef. 1-31-03

340-141-0250
Definitions as used in the following sections specific to high hazard train route contingency planning requirements

(1) "Average Most Probable" spill, release or discharge for high hazard train routes means the probable volume of oil that may spill as defined in a plan considering the history of spills. It may also be defined as the lesser of one percent of the worst case spill, release or discharge, or 50 barrels, when used as a planning volume.
(2) "Owner" means the owner or operator who has ultimate control over the high hazard rail line for contingency planning requirements.
(3) "Worst case spill" means the greater of:
(a) 300,000 gallons of oil from a single train; or
(b) 15 percent of the total lading of oil transported within the largest single train reasonably expected to transport oil over the high hazard rail route.
Statutory/Other Authority: ORS 468B.300 & 468B.340
Statutes/Other Implemented: ORS 468B.300 – 468B.500
History:

340-141-0260
Oil Spill Contingency Plan for High Hazard Rail Applicability

(1) A railroad that owns a high hazard train route in this state must have an oil spill contingency plan that has been approved by DEQ.

(2)(a) The owner of a high hazard rail route must submit a contingency plan for a high hazard train route to DEQ within 90 days after the date of operation of trains that cause a section of rail lines to meet the definition of a high hazard train route on that section of rail lines, or within a longer time period that DEQ and the railroad mutually agree on if DEQ and railroad agree that the longer time period is necessary. A railroad operating a high hazard train route prior to January 1, 2021 must submit a contingency plan by January 1, 2021.

(b) In addition to meeting the requirement of paragraph (a) of this subsection, and immediately after the date the railroad begins operating trains that cause a section of rail lines to meet the definition of a high hazard train route on that section of rail lines, a railroad must provide notice to DEQ that the railroad began operating a high hazard train route. Notice provided under this paragraph must include:

(A) Identification of the high hazard train route for which the notice is provided;

(B) The names, addresses, phone numbers, and electronic mail addresses for the primary contact for the railroad that owns or operates the high hazard train route and for the local primary contacts for the railroad that owns or operates the high hazard train route; and

(C) A statement of whether personnel are available to arrive on behalf of the railroad that owns or operates the high hazard train route to respond to an oil spill or release, or threatened oil spill or release, and if personnel are available, the contact information for the personnel.

(3) The railroad that owns or operates the high hazard train route must submit a contingency plan for the high hazard train route.

(4) A contingency plan for a high hazard train route must be renewed at least once every five years. An expiring approved contingency plan remains in effect until DEQ approves the revised contingency plan.

(5) DEQ will respond to the submission of a contingency plan or a contingency plan revision for a high hazard train route within 90 days of the date that the contingency plan or the contingency plan revision is submitted, or within a longer time period that DEQ and the submitting railroad mutually agree on if DEQ and railroad agree that the longer time period is necessary for DEQ to provide a response. Failure by DEQ to respond to a contingency plan or a contingency plan revision within the requisite time period constitutes approval of the contingency plan or the contingency plan revision.

(6) A failure by a railroad that owns or operates a high hazard train route to comply with section (5) of this rule, or to comply with a contingency plan submitted under section (5) of this rule does not preclude the railroad from operating the high hazard train route.

(7) A contingency plan for a high hazard train route prepared for an agency of the federal government or an adjacent state that satisfies the requirements of this rule shall be accepted by DEQ as a contingency plan required under section 340-141-0260 of this Rule.

Statutory/Other Authority: ORS 468.020 & 468B.437
Statutes/Other Implemented: ORS 468B.427 & 468B.429 & 468B.431
History:

340-141-0265
Contingency Plan Contents
All applicable contingency plans under 340-141-0260 must include at least the following:
(1) Submittal Agreement. Each plan must contain a submittal agreement that:

(a) Includes the name, address and phone number of the submitting party;

(b) Verifies acceptance of the plan, including any incorporated contingency plans, by the owner of the high hazard train route by either signature of the owner or a person with authority to bind the corporation that owns the high hazard train route.;

(c) Commits to execution of the plan, including any incorporated contingency plans, by the owner of the high hazard train route and verifies authority for the plan holder to make appropriate expenditures in order to execute plan provision and includes; the location (latitude and longitude) of the train route, the railroad mileposts, the product being transported and the maximum amount and type that the entire train consist is capable of transporting.

(2) Amendments. Each plan must include a log sheet to record amendments to the plan. The log sheet must be placed at the front of the plan. The log sheet must provide for a record of the section amended, the date that the old section was replaced with the amended section, verification that DEQ was notified of the amendment under OAR 340-141-0285(3) and the initials of the individual making the change. A description of the amendment and its purpose must also be included in the log sheet, or filed in the form of an amendment letter immediately after the log sheet.

(3) Table of Contents. Each plan must include a detailed table of contents based on chapter, section, appendix numbers and titles and tables and figures. If the plan is an integrated plan used to also satisfy PHMSA requirements, a cross reference must be included.

(4) Purpose and Scope. Each plan must describe the purpose and scope of that plan, including:

(a) The region of operation covered by the plan;

(b) The high hazard train route operations covered by the plan; and

(c) The size and type of the average most probable spill and the worst case spill from the high hazard train route.

(5) Updates. Each plan must describe the events or time periods that will trigger updates of the plan.

(6) Implementation Strategy. Each plan must present a strategy for ensuring use of the plan for spill response and cleanup operations as required by OAR 340-141-0210.

(7) Spill Response System. Each plan must describe the organization of the spill response system. This includes those resources required and, or necessary to manage the resources given a response to an Average Most Probable Discharge and worst case spill. Plans must use a National Incident Management System (NIMS) incident management system, as described in the Northwest Area Contingency Plan (NWACP).

(8) Contractor Identification. Each plan must identify the Oil Spill Response Organization (OSRO), oil spill response cooperative, or primary response contractor and subcontractors (except equipment rentals or supply vendors) whose services are bound to the plan by a contract or other approved means:

(a) If a plan holder is a member of an oil spill response cooperative and relies on that cooperative to perform or supplement its response operations within the regions of operations covered by the plan, the plan must state the cooperative's name, address, phone number and response capability. The plan must also include proof of cooperative membership; or

(b) If a plan holder is not a member of an oil spill response cooperative, for the OSRO or contractor, the plan must state that contractor's name, address, phone number or other means of contact at any time of the day, and response capability (e.g., land spills only). For each contractor, the plan must include a letter of intent signed by the contractor which indicates the contractor's commitment to respond within the specified time period, with personnel and equipment listed in (10) and (11) of this section. Copies of written contracts or agreements with contractors must be available for inspection, if requested by DEQ.

(9) Relationship to Other Plans. Each plan must briefly describe its relation to all applicable local, state, regional and federal government spill response plans. The plan must describe how the plan holder's response organization will be integrated into the Northwest Area Contingency Plan.

(10) Response Personnel. Each plan must describe the personnel, including contract personnel available, to respond to an oil spill, including:

(a) A job description for each type of spill response position needed as indicated in the spill response organization scheme addressed in section (7) of this rule, or a reference to a recognized NIMS position;

(b) The number of personnel available to perform the duties of each type of spill response position;

(A) This number must be equal to or greater than the number of persons necessary to sustain a response to the worst case spill defined in the plan.

(B) If 24 hour operations are expected, the number of persons available to staff the ICS must be multiplied by the proposed number of operational periods (shifts).

(11) Equipment and spill response resources. Each plan must describe equipment and spill resources as follows:

(a) Each plan must list response equipment including response vessels used for oil containment, recovery, removal, shoreline and adjacent lands cleanup and wildlife rescue and rehabilitation. Each plan must also list all relied upon communication tools. DEQ will accept information about equipment by reference if the equipment is being provided through an OSRO or response contractor as part of the plan. DEQ may request information about the condition and date of manufacture of any listed and referenced equipment to further evaluate its applicability a response. If the plan relies on federally approved OSROs or response contractors who list their equipment in a shared and publicly available database, this information may be included by reference in lieu of a full list in the plan.

(b) For equipment and vessels listed under subsection (a) of this section that are not owned by or available exclusively to the plan holder, the plan must also estimate the extent that other contingency plans rely on the same equipment.

(c) For all oil containment and recovery equipment, the plan also must include equipment make and model, the manufacturer's nameplate capacity of the response equipment, the EDRC (in barrels per day) and applicable design limits (e.g., maximum wave height capability, suitability for inland waters).

(d) Based on information described in subsection (c) of this section, the plan must state the maximum amount of oil that could be recovered per 24-hour period with the equipment used as it is designed.

(e) For purposes of determining plan adequacy under OAR 340-141-0190, and to assess realistic capabilities based on potential limitations by weather and other variables, DEQ will use the data presented in subsections (c) and (d) of this section to apply a higher efficiency factor for equipment listed in a plan if that plan holder provides adequate evidence that the higher efficiency factor is warranted for particular equipment or if the United States Coast Guard has approved a higher efficiency rating.

(f) The plan must provide arrangements for pre-positioning of oil spill response equipment at strategic locations.

(g) When calculating the delivery time of equipment to a spill staging area, the plan must use travel speeds consistent with federal speed predictions for the equipment being moved.

(12) Response Flow Chart or Timeline. Each plan must describe the response process by:

(a) Presenting a flowchart or decision tree describing the procession of each major stage of spill response operations from spill discovery to completion of cleanup. The flowchart or decision tree must describe the general order and priority in which key spill response activities are performed; and

(b) Describing all key spill response operations in checklist forms, to be used by spill response managers in the event of an oil spill.

(13) Authorities. Each plan must describe responsible authorities by:

(a) Listing the local, state, tribal and other government authorities responsible for the emergency procedures peripheral to spill containment and cleanup; and

(b) Describing the plan holder's role in these emergency operation procedures before the proper authorities arrive, including but not limited to, control of fires and explosions, rescue activities, access restriction to the spill impact area and site security.

(14) Damage Control. Each plan must describe equipment and procedures to be used by the railroad personnel to minimize the magnitude of the spill and minimize structural damage that could increase the quantity of oil spilled. This includes necessary actions to slow or stop any leaks as well as stabilizing the cars to ensure no further damage may be incurred.

(15) Environmental Protection. Each plan must describe how environmental protection will be achieved, including:

(a) Protection of sensitive aquatic species, shoreline and inland habitat by diverting or blocking oil movement;

(b) Priorities for sensitive area protection in the region of operation covered by the plan as provided in a Geographic Response Strategy of the Northwest Area Contingency Plan, or designated by DEQ;

(c) Rescue and rehabilitation of sensitive and aquatic species, birds, marine mammals and other wildlife contaminated or otherwise affected by the oil spill; and

(d) Measures taken to reduce damages to the environment caused by shoreline and adjacent land cleanup operations.

(16) Interim Storage. Each plan that has identified that oil will be recovered must plan for transporting or storage of the oil and combined oily waste material potentially created.

(a) Each plan must describe site criteria and methods used for interim storage of oil recovered and oily wastes generated during response and cleanup operations, including available storage sites. Interim storage methods and sites must be designed to prevent contamination of the storage area by recovered oil and oily wastes.

(b) If use of interim storage sites will require approval by local, state or federal officials, the plan must include information that could expedite the approval process, including a list of appropriate contacts and a brief description of procedures to follow for each applicable approval process.

(c) Interim storage and permanent disposal methods and sites must be sufficient to sustain support for oil recovery operations and manage the entire volume of oil recovered and oily wastes generated.

(d) Interim storage and permanent disposal methods and sites must comply with all applicable local, state and federal requirements.

(17) Health and Safety. Each plan must describe procedures to protect the health and safety of oil spill response workers, and other individuals on-site. Provisions for training, decontamination facilities, safety gear and a safety officer position must be addressed.

(18) A description of steps taken for air monitoring to protect responders and the public including:

(a) A description of air monitoring procedures for the work site

(b) A description of air monitoring procedures for the surrounding area (including surrounding communities)

(c) A description of a communication plan to inform communities of any risks

(d) A plan to identify shelter in place and evacuation procedures

(19) Post Spill Review. Each plan must explain post-spill review procedures, including methods to review both the effectiveness of the plan and the need for plan amendments. Post-spill procedures must provide for a debriefing with DEQ that will include any newly recognized need to amend the plan and list of any other lessons learned.

(20) Drills and Exercises. All approved plans must be verified by drills and exercises. Each plan must describe the schedule and type of drills and other exercises that will be practiced to ensure readiness of the plan elements, including drills that satisfy OAR 340-141-0270

(a) The plan holder must test and document internal call out procedures at least once every 90 calendar days. The plan holder must retain records of these drills for at least three years and make them available for DEQ review upon request.

(b) The plan holder must notify DEQ of drills and exercises, at least 60 days before equipment deployment, tabletop exercises, and functional exercises. Prior notice to DEQ is not required before notification drills and internal phone number verification exercises.

(c) The plan holder must send post drill reports for all tabletop exercises or deployment drills to DEQ no later than 60 days after the completion of the drill or exercise. The executive summary from a National Preparedness for Response Exercise Program (NPREP) report may be submitted to meet this requirement when the exercise has been designed by the NPREP staff.

(21) Risk Variables. Each plan for a high hazard train route must list the spill risk variables within the region of operation covered by the plan, including:

(a) Types, physical properties and amounts of oil handled;

(b) A written description and map indicating route topography, storage and transfer sites;

(c) A written description of sites or operations with a history of or high potential for oil spills, including key areas that pose significant spill risk within the region of operation covered by the plan;

(d) A written description and diagram showing the tank cars, piping and intakes; and

(e) Methods to reduce spills during transfer operations, including overfill prevention.

(22) Environmental Variables. Each plan must list the environmental variables within the region of operation covered by the plan. Contingency plans for a high hazard rail route are required to include rivers and drinking water sources. The plan must identify the environmental variables from the probable point of release to the point the oil could travel in 24 hours using the calculation method described in 40 C.F.R. 112 Appendix C-III. All plans must describe:

(a) Natural resources, including aquatic habitat types and sensitivity by season, breeding sites, presence of state or federally listed endangered or threatened species and presence of commercial and recreational species;

(b) Public resources, including public access, water intakes drinking water supplies;

(c) Seasonal hydrographic and climatic conditions; and

(d) Physical geographic features, including geological characteristics. Plans may reference numbered Geographic Response Plan strategies (GRPs) in the Northwest Area Contingency Plan when identifying individual environmental and cultural resource features.

(23) Logistical Resources. Each plan must list the logistical resources within the region of operation covered by the plan, including facilities for fire services, medical services and accommodations; and shoreline access areas, including boat launches.

(24) Response Strategy Outline. Each plan must include a statement of the intended response activities. This statement must describe how the plan resources must be applied to adequately respond during the initial phase of the response to an average most probable and worst case spill, release or discharge. The Response Strategy Outline must begin with an example spill scenario, including a description of the situation to be managed, and must describe:

(a) Deployment of resources and estimates of response times;

(b) The intended result of the activity for each person listed in section (8) and (10) of this section;

(c) Command and control arrangements;

(d) Required coordination; and

(e) Probable obstacles and an estimate of oil movement during the first 72 hours if release is to an inland or coastal waterway.

(25) A railroad that owns a high hazard rail route must submit to DEQ a financial responsibility statement as defined in ORS 468B.433 along with their contingency plan and provide an updated financial responsibility statement at least once every five years together with submission of a renewed contingency Plan.

(26) Technical Terms Glossary. Each plan must include a glossary of technical terms and abbreviations used in the plan.

(27) Procedures and information related to supporting the early detection of an oil spill or release and timely notification of appropriate federal, state, local, tribal and other authorities about an oil spill or release as applicable state and federal law require, including but not limited to:

(a) Procedures for the initial detection of an oil spill or release;

(b) Procedures to be used for immediate notification of qualified individuals at the railroad that owns or operates the high hazard train route;

(c) Call-down lists for notification of appropriate federal, state, local, tribal and other authorities;

(d) Information demonstrating that the railroad that owns the high hazard train route has ownership of or access to an emergency response communications network covering the entire high hazard train route and that the emergency response communications network also provides for immediate notification and continual emergency communications during cleanup response;

(e) Procedures specifying the circumstances under which notifications will be made and the time frames for making notifications; and

(f) Follow-up requirements for notifications, provided for on a 24-hour basis

Statutory/Other Authority: ORS 468.020 & 468B.437
Statutes/Other Implemented: ORS 468B.345 – 468B.500
History:

340-141-0270
Drill and Exercise Requirements for High Hazard Rail

(1) All applicable contingency plans must have a section that describes a plan for drills and exercises as described in OAR 340-141-0270.

(2) The exercises listed in the plan must at a minimum include the following:

(a) An annual oil spill or release notification exercise;

(b) A triennial oil spill or release response tabletop exercise;

(c) A triennial oil spill or release response functional exercise; and

(d) A triennial full-scale, multiagency, multijurisdictional and multidisciplinary oil spill containment and recovery equipment deployment exercise.

(e) The triennial drill may include the executive summary from a National Preparedness for Response Exercise Program (NPREP) report, which may be submitted to meet this requirement when the exercise has been designed by the NPREP staff federal NPREP requirements.

(3) Drills and exercises listed in this plan may include NPREP objectives to meet federal NPREP requirements.

(4) A record of all drills and exercises designed to meet all Oregon requirements must be included in the drill and exercise plan.

(5) DEQ will review the degree to which the specifications of the plan are implemented during the drill. DEQ will endeavor to notify the rail owner of the review results within 30

calendar days following the drill. If DEQ finds deficiencies in the plan, DEQ will report those deficiencies to the plan holder and require the plan holder to make specific amendments to the plan.

(6) DEQ may require the plan holder to publish an annual report on plan drills including a summary of response times, active equipment and personnel use and recommendations for improvement.

(7) In the event of an actual spill, if DEQ participates, reviews and evaluates the spill response and finds that the spill events adequately test the plan, this may count as a required exercise.

Statutory/Other Authority: ORS 468.020 & 468B.437
Statutes/Other Implemented: ORS 468B.429 & 468B.395 & 453.392
History:

340-141-0280
Department of Environmental Quality Responsibility to Review and Approve Plans

(1) DEQ will review a contingency plan for a high hazard train route submitted under rule 340-141-0260. DEQ will approve the contingency plan if the plan:

(a) Meets the requirements of rule 340-141-0265; and

(b) If implemented, is capable, to the maximum extent practicable in terms of personnel, materials and equipment, of removing oil promptly and properly and minimizing any damage to the environment.

(2) A railroad that owns or operates a high hazard train route must notify DEQ in writing promptly of any significant change affecting the contingency plan, including changes in any factor set forth in this rule. DEQ may require the railroad to update a contingency plan as a result of these changes. Examples of significant changes include changes to the following:

(a) Emergency Response Procedures

(b) The Qualified Individual(s) named

(c) A change in the National Contingency Plan or an Area Contingency Plan that has significant impact on the equipment appropriate for response activities

(d) A change in the type of oil transported, if the type affects the required response resources

(e) Any other information relating to circumstances that may affect full implementation of the plan

(3) The contingency plan must require the applicant to use the best technology available at the time the contingency plan was submitted or renewed. For purposes of this subsection 340-141-0280(3), DEQ will consider as the best technology that technology that provides the greatest degree of protection, taking into consideration processes that are currently in use anywhere in the world. In determining what is the best technology available, DEQ will consider the technology's effectiveness, engineering feasibility, technological achievability, and cost.

(4)(a) Before DEQ approves a contingency plan required under rule 340-141-0260, DEQ will provide a copy of the contingency plan to the State Department of Fish and Wildlife, the office of the State Fire Marshal, and the Department of Land Conservation and Development for review.

(b) In addition to providing copies to the agencies listed in subsection (a) of this section, before approving or modifying a contingency plan for a high hazard train route, DEQ will provide a copy of the contingency plan to each federally recognized Indian tribe that owns land or enjoys treaty-reserved hunting, fishing or gathering rights that could be impacted by an oil discharge along any portion of the high hazard train route.

(c) The agencies and tribes that receive copies of a contingency plan under this section must review the contingency plan according to procedures and time limits established by rule of the Environmental Quality Commission.

(5) Upon approval of a contingency plan, DEQ will issue to the plan holder a certificate stating that the contingency plan has been approved. The certificate will include the name of the high hazard train route for which the certificate is issued, the effective date of the contingency plan and the date by which the contingency plan must be submitted for renewal.

(6) DEQ's approval of a contingency plan does not constitute an express assurance regarding the adequacy of the contingency plan or constitute a defense to liability imposed under ORS chapters 468, 468A and 468B or any other state law.

Statutory/Other Authority: ORS 468B.395 & ORS 468B.437
Statutes/Other Implemented: ORS 468B.431
History:

340-141-0282
Plan Maintenance and Use

(1) At least one copy of the plan must be kept in a central location accessible at any time by the incident commander or spill response manager named in accordance with OAR 340-141-0265(7).

(2) A High Hazard Rail owner or their designee must implement the plan in the event of a spill. The owner of the High Hazard Rail Line must receive approval from DEQ before it conducts any major aspect of the spill response contrary to the plan unless:

(a) Such actions are necessary to protect human health and safety;

(b) Such actions must be performed immediately in response to unforeseen conditions to avoid additional environmental damage; or

(c) The plan holder has been directed to perform such actions by the Department or the United States Coast Guard.

Statutory/Other Authority: ORS 468B.437
Statutes/Other Implemented: ORS 468B.305
History:

340-141-0285
Plan Update Timeline

(1) DEQ must be notified in writing as soon as possible and within 24 hours of any significant change that could affect implementation of the plan, including a significant decrease in available spill response equipment or personnel. Decreases are significant if they prevent the owner from carrying out the requirements of the plan. The plan holder must also provide a schedule for the prompt return of the plan to full operational status. A receipt confirmed e-mail or facsimile will be considered written notice for purposes of this section. Changes that are not considered significant include minor variations in equipment or personnel characteristics, call out lists or operating procedures. Failure to notify DEQ of significant changes constitute noncompliance with this rule as well as an inability to comply with the approved plan under OAR 340-141-0282(3).

(2) If DEQ finds that as a result of a change, the plan no longer meets approval criteria under OAR 340-141-0280, DEQ may, in its discretion, place conditions on approval, require additional drills or inspections or revoke approval in accordance with OAR 340-141-0280(1). Plan holders are encouraged to maintain backup response resources in order to ensure that their plans can always be fully implemented.

(3) Within 30 calendar days of an approved change in the plan, the owner of the high hazard rail line must distribute the amended pages of the plan to DEQ and other plan holders.

(4) Plans must be reviewed by DEQ every five years under ORS 468B.427(4). Plans must be submitted for reapproval unless the plan holder submits a letter requesting that DEQ review the plan already in DEQ's possession. The plan holder must resubmit the plan or such a letter at least 90 calendar days before expiration of the plan.

(5) DEQ may review a plan following any spill for which the plan holder is responsible.

(6) DEQ may require plan holders of approved plans to renew the signed letter of intent required by OAR 340-141-0265 annually to confirm that there has been no change to the plan or the plan holder's commitment to its use.

Statutory/Other Authority: ORS 468B.437
Statutes/Other Implemented: ORS 468B.395 & 468B.431
History:

340-141-0290
High Hazard Railroad Contingency Planning Fees

(1) Definitions as used in this section:

(a) "Oil" has the meaning given that term in ORS 468B.300 except that "oil" does not mean gasoline or any other petroleum related product that has been processed such that it is capable of being used as a fuel for the propulsion of a motor vehicle.

(b) "Owner" means the person who has the ultimate control over, and the right to use or sell, oil being shipped.

(c) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, joint venture, consortium, association, state, municipality, commission, political subdivision of a state or any interstate body, any commercial entity and the federal government or any agency of the federal government.

(d) "Tank railroad car" means a loaded or unloaded railroad car or rolling stock designated to transport oil as part of a single train that transports:

(A) 20 or more tank railroad cars in a continuous block that are loaded with oil; or

(B) 35 or more tank railroad cars loaded with oil that are spread throughout the entirety of the rolling stock, not including the locomotive, that make up the train.

(2) The owner of oil at the time the oil is transported by loaded tank railroad car in this state shall pay to the Department of Revenue a fee of up to $20 for each tank railroad car loaded with oil.

(a) If the loaded tank railroad car enters this state from outside of this state, the fee shall be imposed on the owner of the oil at the time the loaded tank railroad car enters this state.

(b) If the tank railroad car is loaded with oil in this state, the fee shall be imposed upon the loading of the oil into or onto the tank railroad car for transport in or through this state.

(3) Each railroad that is required to submit a contingency plan for a high hazard train route under ORS 468B.427 must pay to the Department of Transportation in each year a fee as in established in ORS 468B.435 Section 13a.

Statutory/Other Authority: ORS 468B. 437
Statutes/Other Implemented: ORS 468B.410 & 468B.435
History: