

Am I Liable for other State Costs?

Q: Besides penalties, am I liable for other state costs for an oil spill?

A: Possibly. Those responsible for oil spills may be asked to reimburse the state for cleanup costs. Additionally, spillers may also be asked to pay for damages to any state beaches, wildlife or other natural resources. Oil spill penalties and other enforcement actions resemble traffic fines. For example, if you're driving your car and you fail to yield at a stop sign and hit a passing car. The police may issue you a fine for violating a traffic law. You or your insurance company must also pay the owner of the other car for any property or personal damages. In addition, if the accident required a road crew to help clear the debris, you might also be billed for the crew's expenses.

Q: What kind of oil spill cleanup costs could I be responsible for paying?

A: Oil spills often require the services of cleanup contractors. If contractors are hired by Ecology, you are liable for their time and any cleanup supplies they use. You could also be responsible for overtime pay incurred by Ecology employees and staff from other state or local agencies. If you act promptly by hiring a contractor yourself or use your own spill response equipment, outside response costs are usually minimal. However, if Ecology spill responders feel the spill cleanup is being delayed, mishandled or there is an immediate environmental threat that is not being controlled, agency responders may call in a contractor or use state equipment. If this happens, you may receive a bill to reimburse the state for its costs. If you have any questions about response and cleanup costs, please contact Ecology staff that responded to the spill.

Q: How does the state determine the extent of damages to natural resources?

A: Soon you may receive a letter from the state Resource Damage Assessment Committee (chaired by Ecology) notifying you that they intend to assess natural resource damages for this spill. State rules (WAC 173-183) describe this process in detail. Damage assessment procedures begin with a preassessment screening, which is simply a meeting where state agencies decide how to best measure natural resource impacts. Several options are available ranging from field studies to using mathematical models like the state's Oil Spill Compensation Schedule. The spiller is invited to participate in the preassessment screening and any further damage assessment activities. For smaller spills, this compensation schedule is often the best damage assessment tool. The schedule estimates damages for spills less than 1,000 gallons is \$1 to \$100 per gallon, and for spills of 1,000 gallons or more, \$3 to \$300 per gallon. The schedule also provides credit for rapid oil recovery.

WHY IT MATTERS

Oil spills are costly to clean up and can cause long term damage to the environment. Although the risk of a catastrophic spill is slight, cumulatively spills of all sizes degrade the quality of state waters.

FOR MORE INFORMATION

If you have any questions about natural resource damages, please contact:

Alison Meyers 360-407-7114 or
Dale Davis 360-407-6972

If you have any questions about penalties, please contact:

Jeff Fishel 360-407-7504

For cost recovery:

Tra Thai 360-407-7454

Business hours are from 8:00 a.m. to 5:00 p.m. weekdays.

If you want more information or have additional questions on spill prevention, preparedness, and response please visit the Spills Program's home page at

<http://www.ecy.wa.gov/programs/spills/spills.html>.

Special accommodations:

If you need this publication in an alternate format, call the Spills Program at 360-407-7455.

Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.

Focus on Am I Liable for other State Costs?

Q: What does the state do with money received from resource damage assessments?

A: The ultimate goal of resource damage assessments is the restoration of injured natural resources. Payments for oil spill damages go into the state's Coastal Protection Fund which can only be used for environmental restoration projects, oil spill studies, and habitat mapping systems. In fact, the spiller is always welcome to propose restoration projects instead of paying monetary damages.

Oil Spill Statutes for Washington State (To accompany a *Notice of Correction*)

RCW 90.56.280 Duty to notify coast guard and State Emergency Management Department of discharge.

It shall be the duty of any person discharging oil or hazardous substances or otherwise causing, permitting, or allowing the same to enter the waters of the state, unless the discharge or entry was expressly authorized by the department prior thereto or authorized by operation of law under RCW 90.48.200, to immediately notify the coast guard (800-424-8802) and Washington State Emergency Management. The notice to Emergency Management within the Washington State Military Department shall be made to the department's twenty-four hour state-wide toll-free number established for reporting emergencies. (800-258-5990 or 800-OILS-911)

RCW 90.48.080 Discharge of polluting matter in waters prohibited.

It shall be unlawful for any person to throw, drain, run, or otherwise discharge into any of the waters of this state, or to cause, permit or suffer to be thrown, run, drained, allowed to seep or otherwise discharged into such waters any organic or inorganic matter that shall cause or tend to cause pollution of such waters according to the determination of the department, as provided for in this chapter.

RCW 90.56.320 Unlawful for oil to enter waters--Exceptions.

It shall be unlawful, except under the circumstances hereafter described in this section, for oil to enter the waters of the state from any ship or any fixed or mobile facility or installation located offshore or onshore whether publicly or privately operated, regardless of the cause of the entry or fault of the person having control over the oil, or regardless of whether it be the result of intentional or negligent conduct, accident or other cause. This section shall not apply to discharges of oil in the following circumstances:

- (1) The person discharging was expressly authorized to do so by the department prior to the entry of the oil into state waters; or
- (2) The person discharging was authorized to do so by operation of law as provided in RCW90.48.200.

RCW 90.56.340 Duty to remove oil.

It shall be the obligation of any person owning or having control over oil entering waters of the state in violation of RCW 90.56.320 to immediately collect and remove the same. If it is not feasible to collect and remove, said person shall take all practicable actions to contain, treat and disperse the same. The director shall prohibit or restrict the use of any chemicals or other dispersant or treatment materials proposed for use under this section whenever it appears to the director that use thereof would be detrimental to the public interest.