

**WAC 173-180-650 Class 1 facility—Prevention plan review and approval process.** (1) The owner or operator of a Class 1 facility must submit the prevention plan to ecology for reapproval at least 120 calendar days prior to the plan's expiration date. The facility may request ecology review the plan currently on file at ecology.

If the plan is not submitted within the time frame required for reapproval before the expiration date, the lapse is considered noncompliance and may result in the loss of plan approval.

(2) Upon receipt of the plan, ecology will determine whether the plan is complete. If ecology determines that the plan is not complete, the facility will be notified of any deficiencies.

Ecology may request additional information for the plan.

(3) Once the plan is determined complete, ecology will make the plan available for a 30 calendar day public review and comment period, which will occur within ecology's 120 calendar day review period. Ecology will accept comments on the plan no later than 30 calendar days after the plan has been made publicly available.

(4) Before the plan's expiration date, ecology will respond with a letter approving, conditionally approving, or disapproving the plan.

(a) The facility may continue to conduct operations if the facility properly submitted the plan to ecology and ecology has not provided the facility with a formal response.

(b) The plan must be approved if, in addition to meeting criteria in WAC 173-180-630, it demonstrates that when implemented, it can:

(i) Provide best achievable protection from damages caused by the discharge of oil into the waters of the state;

(ii) Minimize the likelihood that facility oil spills will occur;

(iii) Minimize the size and impacts of those facility oil spills which do occur; and

(iv) Provide, to the maximum extent practicable, protection from oil spill risk factors identified in the risk analysis required by WAC 173-180-630(13).

(c) When reviewing plans, ecology must, in addition to the above criteria, consider the following, at a minimum:

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

(ii) The history and circumstances of prior spills by similar types of facilities, including spill reports by ecology on-scene coordinators;

(iii) Inspection reports;

(iv) The presence of hazards unique to the facility, such as seismic activity or production processes;

(v) The sensitivity and value of natural resources within the geographic area covered by the plan; and

(vi) Any pertinent local, state, tribal, federal agency, or public comments received on the plan.

(5) If the plan receives approval, the letter will describe the terms of approval, including expiration date. Plan approval expires five years from the date on the approval letter.

(6) If the plan is conditionally approved, ecology may require the facility to operate with specific restrictions until unacceptable components of the plan are revised, resubmitted, and approved.

(a) In the conditional approval, ecology will describe:

(i) Each specific restriction and the duration in which they apply; and

(ii) Each required item to bring the plan into compliance.

(b) Restrictions may include, but are not limited to:

(i) Reducing oil transfer rates;  
(ii) Increasing personnel levels;  
(iii) Restricting operations to daylight hours or favorable weather conditions; or  
(iv) Additional requirements to ensure availability of response equipment.

(c) The owner or operator has 30 calendar days after notification of conditional approval to submit revisions and implement required changes. An extension may be issued at ecology's discretion. Conditional approval expires no later than 18 months from date of notification.

(d) Facilities which fail to meet conditional requirements or provide required changes in the time allowed may lose conditional approval status. Ecology may revoke its conditional approval prior to the expiration date if the facility fails to meet the terms of the conditional approval.

(7) If the plan is disapproved, the facility must receive an explanation of the factors for disapproval. The facility must not continue oil storage, transport, transfer, production, or other operations until the plan has been approved or conditionally approved.

[Statutory Authority: RCW 88.46.160, 88.46.165, 90.56.005, 90.56.050, 90.56.200, 90.56.220, 90.56.230, and chapter 90.56 RCW. WSR 23-12-077 (Order 21-03), § 173-180-650, filed 6/6/23, effective 7/7/23. Statutory Authority: RCW 88.46.160, 88.46.165, and chapter 90.56 RCW. WSR 06-20-034 (Order 06-02), § 173-180-650, filed 9/25/06, effective 10/26/06.]