

Pacific States/British Columbia Oil Spill Task Force

Non-petroleum products: Regulations and Guidelines for Response and Cleanup in Task Force Jurisdictions



January 1 2016

Non-petroleum products: regulations and guidelines for response and cleanup

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	Definition of oil*	Definition of non-oil or chemical products	Regulations, guidelines and/or policies for response to non-oil products**	NRDA guidance for non-oil products	Funding for response and clean up for non-oil products	Notes (links, case studies, reports, etc.)
Alaska	AS 46.08.900 Defines “oil” as: (7) petroleum products of any kind and in any form, whether crude, refined, or a petroleum by-product, including petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oily refuse, oil mixed with other wastes, liquified natural gas, propane, butane, and other liquid hydrocarbons regardless of specific gravity	AS 46. 03.826 Defines “hazardous substance” as: ”(A) an element or compound which, when it enters into the atmosphere or in or upon the water or surface or subsurface land of the state, presents an imminent and substantial danger to the public health or welfare, including but not limited to fish, animals, vegetation, or any part of the natural habitat in which they are found; (B) oil ¹ ; or (C) a substance defined as a hazardous substance under 42 U.S.C. 9601(14); ¹ AS 46.08.900 Does not consider uncontaminated crude oil or uncontaminated refined oil in an amount of 10 gallons or less to be a “hazardous substance”	18 AAC 75.300-396 addresses reporting, cleanup of oil and other hazardous substances (defined by AS 46.03.826)	No state-specific guidance exists at this time. Primarily the State has participated in the process as a natural resource trustee for large petroleum releases.	AS 46.03.822 establishes the responsible party’s strict liability for the release of hazardous substances. AS 46.08.070 establishes the State’s ability to seek reimbursement for containment and cleanup AS 46.08.010 established one State fund containing two accounts, to be used for prevention and release mitigation. AS 46.08.040-45 outlines the uses of the fund.	A detailed, step-by-step, review of the State response and clean-up process can be found here .

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British Columbia	BC has no definition but would follow the TDG Regulation: "crude oil" means virgin or naturally occurring unrefined petroleum, or diluted bitumen or any other unrefined hydrocarbon mixture that is similar in composition to virgin or naturally occurring unrefined petroleum. It includes crude oil with the UN numbers 1267 and 3494 that are set out in Column 1 of the Dangerous Goods List in Chapter 3.2 of the <i>Recommendations on the Transport of Dangerous Goods – Model Regulations</i> , Eighteenth revised edition, 2013, published by the United Nations;	<p><i>Environmental Management Act</i> "pollution" means the presence in the environment of substances or contaminants that substantially alter or impair the usefulness of the environment; and 79 (1) In this section, "polluting substance" means any substance, whether gaseous, liquid or solid that, in the opinion of the minister, is capable of causing pollution if it were to (a) escape into the air, (b) be spilled onto any land or into any body of water, or (c) escape onto any land or into any body of water.</p> <p>Federal legislation - <i>Canada Shipping Act, 2001</i> defines pollutant: "pollutant" means (a) a substance that, if added to any waters, would degrade or</p>	<p><i>Environmental Management Act; Spill Reporting Regulation</i></p> <p>Report 2 (1) For the purposes of section 79 (5) of the Act, a person who had possession, charge or control of a substance immediately before its spill shall immediately report the spill.</p> <p>Further action 3 Where a spill occurs, the person who immediately before the spill had possession, charge or control of the spilled substance shall take all reasonable and practical action, having due regard for the safety of the public and of himself or herself, to stop, contain and minimize the effects of the spill.</p>	No provincial guidance at this time.	None. Provincial -Environmental Management Act - Spill Cost Recovery Regulation allows the province to take action and recover reasonable costs.	N/A

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		<p>alter or form part of a process of degradation or alteration of the quality of the waters to an extent that is detrimental to their use by humans or by an animal or a plant that is useful to humans; and (b) any water that contains a substance in such a quantity or concentration, or that has been so treated, processed or changed, by heat or other means, from a natural state, that it would, if added to any waters, degrade or alter or form part of a process of degradation or alteration of the quality of the waters to an extent that is detrimental to their use by humans or by an animal or a plant that is useful to humans. It includes oil and any substance or class of substances that is prescribed for the purpose of this Part to be a pollutant.</p>				

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California [NOTE: For purposes of the <i>Lempert-Keene-Seastrand Oil Spill Prevention & Response Act</i> , the Office of Spill Prevention & Response, and the Department of Fish & Wildlife.]	Gov. C. §8670.3 “Oil” means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.	For purposes of water pollution in the Fish & Game Code: Any substance or material “deleterious” to fish, plant life, mammals, or bird life. [Fish & Game Code §5650] Other state agencies have their own statutory or regulatory definitions.	OSPR/DFW has no non-oil spill regulations. Other state agencies have regulations and guidelines relevant to their mandates. (e.g. CA Dept. of Toxic Substances Control)	OSPR/DFW pursues NRDA in California. There are no guidelines specifically for non-oil NRDA at this time. OSPR’s NRDA guidelines and procedures apply regardless of the pollutant.	OSPR/DFW has no dedicated funding for non-oil spills; cost recovery and penalty collection only. Other state agencies have funding related to their mandates.	https://www.wildlife.ca.gov/OSPR
Hawaii	Type of oil that has not been refined		128D Hawaii Environmental Response Law along with oil and chemical releases addresses “POLLUTANT or CONTAMINANT” which would cover non oils.	Yes, the Department of Land and Natural Resources (DLNR) has NRDA laws that cover 128D Hawaii Resources.	YES ERRF, 128D emergency responses are funded by ERRF that is from the 5 cent barrel tax.	
Oregon	ORS 468B.300(18): “Oils” or “oil” means oil, including gasoline, crude oil, fuel oil, diesel oil, lubricating oil, sludge, oil refuse and any other	ORS 466.605(7): (7) “Hazardous material” means one of the following: (a) A material designated by the commission under ORS 466.630.	ORS 466.645: (1) Any person liable for a spill or release or threatened spill or release under ORS 466.640 shall immediately clean up the spill or release under the direction	ORS 496.705 Damage suits for unlawful killing of wildlife	ORS 466.640(1): Any person owning or having control over any oil or hazardous material spilled or released or threatening to spill or release shall be strictly liable	

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	petroleum related product and liquefied natural gas.	<p>(b) Hazardous waste as defined in ORS 466.005.</p> <p>(c) Radioactive waste as defined in ORS 469.300, radioactive material identified by the Energy Facility Siting Council under ORS 469.605 and radioactive substances as defined in ORS 453.005.</p> <p>(d) Communicable disease agents as regulated by the Oregon Health Authority under ORS 431.035 to 431.530, 433.001 to 433.045 and 433.110 to 433.770.</p> <p>(e) Hazardous substances designated by the United States Environmental Protection Agency under section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended.</p>	of the Department of Environmental Quality. Any person liable for a spill or release or a threatened spill or release shall immediately initiate cleanup, whether or not the department has directed the cleanup.		<p>without regard to fault for the spill or release or threatened spill or release.</p> <p>ORS 468B.455 (2): All penalties recovered under ORS 468B.450 (1) shall be paid into the Oil Spillage Control Fund. Such moneys are continuously appropriated to the Department of Environmental Quality for the advancement of costs incurred in carrying out cleanup activities and for the rehabilitation of affected fish and wildlife as provided under ORS 468B.060.</p>	

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Washington	RCW 90.56.010 (17): Oil of any kind that is liquid at 25 C and 1 atm pressure and any fractionation thereof, including but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredge spoil. Oil does not include any substances listed in Table 302.4 of 40 CFR part 302 adopted August 14, 1989, under section 102(a) of CERCLA	RCW 90.48.020: “Pollution” is defined as: such contamination, or other alteration of the physical, chemical or biological properties, of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life. WA also has definitions for	Response Authorities: RCW 90.56: Oil and hazardous substance response, notification, cost recovery, penalties, contingency plan requirements, criminal provisions, etc. RCW 90.48: Pollutant discharge response, cost recovery, penalties, oil NRDA authority. RCW 70.105 and 70.105D: Hazardous Waste and Dangerous Waste notification, response, cleanup, and liabilities. WAC 173-303: Hazardous Waste and Dangerous Waste rules. WAC 173-340: Model Toxics Control Act. Hazardous waste site clean-up rules.	WA has its own state authority for pursuing NRDA for oil, as defined by state law. The Oil NRDA rule is: WAC 178-183 No state-specific guidance exists at this time for non-oil NRDA. WA has participated as a trustee in the federal CERCLA NRDA process for non-oil contaminants.	Funding for non-oil clean-up actions is provided by the Hazardous Substance Tax, which is a 0.7% tax applied to hazardous materials sold in WA. Funds collected from the HST are roughly split and divided into the State and Local Toxics Control Accounts. These fund response and clean-up activities by state and local governments.	www.ecy.wa.gov

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		Dangerous Waste (WAC 173-303-090 and 173-303-0100), Hazardous Substance (RCW 70.105.010 and WAC 173-340-200) and Hazardous Waste (RCW 70.105.010 and WAC 173-303-040)				

*These def. are from the Task Force agencies and may not reflect definitions used by other state agencies and organizations.

** As limited to Task Force agencies.