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Comments on June 5, 2019 Amending (Chapter 173-186) of the Rulemaking Proposal on Oil Spill Contingency Plan-Railroad

Thank you on behalf of the undersigned groups for the opportunity to comment on the above-mentioned ruling, and for holding the public hearings on the rulemaking.

As Ecology knows, industry is attempting to increase its volume of oil or tar sands oil from Alberta, which transports through our state. Railroads have become increasingly important because they have the flexibility to ship oil in that they already exist as a mode of transportation. Crude by rail traffic from Canada has jumped 40% ([Canada's crude by rail traffic jumps 40 percent](#)) according to the National Energy Board. Heavy oil demand from the United States has also increased because of sanctions on Venezuela by the United States. The Province of Alberta is working on a process to divest its crude-by-rail program to the private sector. Until and if a pipeline is built, a rail capacity of at least 400,000 bbls/d will be needed for the Western Canada Sedimentary Basin (<https://www.jwnenergy.com/article/2019/6/cibc-oversee-highly-confidential-transition-alberta-rail-contracts-industry/>). Ninety nine percent of Canadian oil exports, which are bitumen, go to the United States: <https://www.sciencedaily.com/releases/2018/10/181029084100.htm> (As Canadian oil exports increase; research explores effects of crude oil on native salmon).

We are particularly concerned with tar or oil sands oil and diluting it with when transported. In the references on the *Preliminary Regulatory Analyses, June 2019*, of the rulemaking, Ecology cites a presentation by Dr. Peter Hodson to the National Academy of Sciences on Dilbit Spills in Freshwater:

http://nas-sites.org/dilbit/files/2015/03/2_Peter-Hodson_freshwater-marine-comparison.pdf

As you know, but worth reiterating from the presentation, oil spill impacts in freshwater are often worse than they are in marine waters for several reasons:

-clean-up is expensive and it can be a destructive process to the freshwater shorelines. Shorelines are at a higher ratio to a lake or river.

- several types of habitats and density of species occur in freshwater.
- dilution and dispersal are often lower in freshwater
- bottom sediments are more quickly contaminated because the water is shallow and interacts more easily with the sediment, oil in freshwater sinks more readily than in marine environments.
- turbidity is higher in rivers due to time of year, dams, and flooding (which will strand oil in riparian areas and on land)
- oil initially spilled on land will have soil in it if it reaches water
- degradation and weathering can cause oil to gather in thick layers

Dr. Hodson also co-authored a study (in the Bulletin of Environmental Contamination and Toxicology) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5775368/> with Ftoon Alsaadi and Valerie S. Langlois dated Dec. 14, 2017 entitled *An Embryonic Field of Study: The Aquatic Fate and Toxicity of Diluted Bitumen*. Among the findings:

- Dilbit blends are not well assessed. In part, because the additives are proprietary. In addition, the blends are seasonal
- Dilbit adheres to shorelines and structures because it has persistent residues that are adhesive
- weathering greatly influences the behavior of Dilbit. Weathering begins right after a spill occurs and can increase sinking rapidly and the quick loss of dilutant can create a fire hazard.
- Dilbit toxicity studies have looked at fish embryos but the full life-cycle of the fish needs to be examined
- ecological timing of a spill is a major factor in terms of impacts

We appreciate that Ecology is looking more and more at non-floating oils, and that they are addressing it in the WACS. We are also seeing the enhanced response to non-floating oils in the GRPs and the NWACP. Thank you specifically for:

1. Including the water column and benthic species at risk from non-floating oils, and the increased need to monitor risks of this oil on waterway depths, density and so on. Pg. 12 of the WACs.
2. Requiring a form to document spill notification procedures when noted, in the field document. Pg. 13.
3. The specification for information of sensitive areas like natural, cultural, animal species, water intakes and private and public wells, to name a few examples. Pg. 23.
4. The increased attention to wildlife needs during an oil spill and the rehabilitation requirements for oiled wildlife. Pg. 14

We would like to see improvements in the document in this manner:

1. Incident Commanders should live in the state. Exceptions for a spill in the Columbia where the IC could live in Portland or along the Oregon side of the Columbia River could be considered. Portland has a major airport. However, we think it is better they are in the state within three hours instead of six hours. We realize that modern communication technology means that IC can communicate with those at the spill. With non-floating oils, it is more crucial to get to a spill quicker, and we need the IC to be on the job.
2. We are glad that the 12-hour standard for crude was replaced with a 6-hour capacity to initiate assessment of non-floating oils. However, we do not think this is enough time,

particularly for inland waters. A fast response time is the single most important action to limit the damage from sinking oils.

3. We also understand that there are circumstances that may make the timeframe more difficult: (A) fire (B) first responder and rail crew safety. That should always come first. (C) A remote location (D. difficult terrain. (E) Not enough equipment caches.
4. Some circumstances cannot be controlled, however (A) We can have more equipment caches. (B) We can learn and share more of the BAP with surveys, reviews, inquires, in LEPCs, in specials meeting in which the public is invited. (C) While not exactly in the scope of these amendments, we can put more emphasis on the specific needs and conditions of the GRPs. In addition, we should emphasize that in the C- Plans especially for RRs that travel along a river, which most of them do.
For example, as a suggestion, the Spokane River needs some special attention to note that it has seven dams that are relatively close together. It runs through a major city. It has a sole source drinking aquifer that is EPA designated. The aquifer and river mix in places. It has legacy-mining metals. Spokane River will have agricultural runoff. The river also contains PCBs and flame-retardants. PCBs are on beaches and how would Dilbit interact with those PCBs on the shorelines? We need to note what needs to be studied. Some studies could be commissioned on particularly vulnerable areas similar to the one done in 2016 for the Lower Columbia.
5. We strongly agree that RRs need to have a retainer for wildlife response providers. It is a tough job, and those who respond to saving wild life need to be assured their services are valuable. Having a retainer is a response action that can be controlled, it is identifiable and measurable, and will save the lives of wildlife. In addition, retainers will likely increase the quality of wildlife response services and rehabilitators. We need to emphasize all wild life of course but anadromous fish and amphibians, because of their lifecycles, could better inform us of biological data on oil spills in fresh water. We would like to be able to participate with DOE and WDFW in any meetings regarding data learned from oil spill response.
6. We would like DOE to always request data from waste disposal records during spill clean ups. Page 23 of WACs. That shall be shared with the public.
7. Furthermore, a scientific need exists to put into place a protocol for studying a spill in an inland body of water. Some suggestions of a study are. (a) Test for toxicity of the oil from the surface, water column and the riverbed, and especially the shoreline, after a spill. (b) Test the waste disposal. (c) Look for evidence of effects where oil is deposited. What does the shoreline look like before and after clean up.
8. Any actual spill or drill, if there are revisions to the C- Plan or something significantly learned shall be made public via the list serve and comments accepted from the public. Those comment periods shall extend at least 30 days. The follow up of lessons learned from a spill, and how they are implemented are crucial for C- Plans to be effective and have merit. That is why public input is so important. We think that should be made clearer as to the protocol of that happening
9. Plan deficiencies that have been identified by Ecology in C- Plans shall also be made public via the list serve so the public can comment. Again, comment periods shall extend at least 30 days.

Thank you again for this opportunity to comment. We will be sending some studies on some new technology for oil-spill clean-up technology. We will always need that technology. However, we cannot, as you know, use that as the primary means in dealing with oil spills. Prevention is the best technology.

We will also be sending more studies on the nature of various types of oil spill and experiments.

Sincerely,
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