

Washington State Short Line Railroad Association

The Washington State Short Line Railroad Coalition is concerned regarding how the Dept. of Ecology is implementing the Oil Spill Contingency Planning Regulations, as they relate to smaller railroads (i.e...small short line railroads).

In particular, the Dept. of Ecology is now requiring that smaller railroads fill 29 positions for potential spills, instead of 16 positions. Additionally, Ecology is also requiring that smaller railroads have a Primary Response Coordinator (PRC), and also a third party Spill Management Team (SMT).

Even though Ecology is indicating that smaller railroads do not have to contract with SMT's and PRC's, no contractor (either a SMT or PRC) will let their employees be listed on an oil spill contingency plan without a retainer or contract, which adds significant additional unnecessary costs.

In addition to the above, Ecology is requiring small railroads to list a state qualified Wildlife Response Service Provider (WRSP). Same issue - the provider will not let a small railroad list them without a contract or retainer.

Furthermore, it appears by requiring an increase from 16 to 29 positions, Ecology is more or less inadvertently forcing smaller railroads to contract out with the above entities. Ecology is apparently worried about smaller railroads' ability to respond (with 16 positions) and as a result, Ecology is pushing small railroads to contract with SMT's, PRC's and other contractor entities (to get to 29 positions), even though most smaller railroads in Washington State haul little or no crude oil or hazardous materials.

Moreover, all the PRC's, SMT's and WRSP's have to be state certified approved contractors, but Ecology does not have an approved list yet. The hope is that there may be some contractors that can fulfill all 3 roles, but that so has not been the case.

Unfortunately, as a result of how Ecology is implementing the above, smaller railroads may now to evaluate whether to ship certain types of oils (and other chemicals), and provide different mitigation if any of the oils/chemicals meet that the most stringent classification (Class A). In particular, it appears that if a smaller railroad ships even 1 car of crude oil car, it will be put into a Class A category, the same as a very large railroad.

In our opinion, the way that this rule is being implemented is not what was agreed upon when the bill was being negotiated a couple of years ago. In other words, we don't think that this was the intent of the legislators who worked this legislation, as it related to small railroads.

In summary, we would strongly urge Ecology to stay with a 16 person roster for small railroads, as opposed to requiring a 29 person roster for small railroads which then causes an adverse chain reaction of unnecessary costly contracting-out with SMT's, PRC's and WRSP's, which doesn't provides any benefit in regards to what Ecology and the legislature were trying accomplish with this rule.

Sincerely,

Washington State Shortline Railroad Coalition

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