

**WAC 173-186-420 Process for plan approval.** Rail owners or operators for new railroad operations shall submit plans to ecology no less than sixty-five days prior to their planned date for beginning of operations in Washington.

(1) Upon receipt of a plan, ecology shall evaluate whether the plan is complete, and if not, the rail plan holder shall be notified of any deficiencies within five business days. The public review and comment period does not begin until a complete plan is received.

(2) Once a plan has been determined to be complete, ecology shall notify interested parties, including local and tribal governments and make the plan available for public review and comment. Ecology will accept comments on the plan for a period of thirty days after the plan has been made publicly available. No later than sixty-five days from the date of public notice of availability, ecology will make a written determination either approving, conditionally approving, or disapproving the plan. The written determination will be provided in the form of an order and subject to appeal as specified in chapter 43.21B RCW.

(a) If the plan is approved, the rail plan holder will receive a certificate of plan approval and the plan expiration date. Approved plans shall be valid for five years.

(b) If the plan is conditionally approved, ecology may require a rail plan holder to operate under specific restrictions until unacceptable components of the plan are revised, resubmitted and approved. In the conditional approval ecology will describe:

(i) Each specific restriction and the duration for which it applies;

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

(iii) The schedule for rail plan holders to submit required updates, including a reference to the regulatory standard in question.

Restrictions may include, but are not limited to, additional information for the plan or additional requirements to ensure availability of response equipment.

Conditional approval expires no later than eighteen months from date of issue at which time the rail plan holder shall need to request an extension, which is subject to public review.

Ecology shall revoke its conditional approval prior to the expiration date when a rail plan holder fails to meet the terms of the conditional approval. The revocation will be in the form of an appealable order.

(c) If the plan is disapproved, the rail plan holder shall receive an explanation of the factors.

(3) Ecology may review a plan following an actual spill or drill of a plan and may require revisions as appropriate.

(4) Public notice will be given of any approval, conditional approval, or disapproval of a plan.

[Statutory Authority: RCW 90.56.210. WSR 16-18-052 (Order 15-14), § 173-186-420, filed 8/31/16, effective 10/1/16.]