

WAC 173-183-860 Calculation of damages for spills into freshwater wetlands. (1) The formula provided in subsection (2) of this section shall be used to determine damages liability for spills into freshwater wetlands. The value of the variables used in the formula shall be determined by:

- (a) The OSC as enumerated in WAC 173-183-810(1);
 - (b) The mutually agreed upon independent expert, if applicable, as described in WAC 173-183-810(2); and
 - (c) The RDA committee chair as enumerated in WAC 173-183-820 (1) (d).
- (2) Damages liability shall be calculated using the following formula:

Damages (\$) =

$$x * [(OIL_{AT} * SVS * \text{total gallons spilled}) + (OIL_{MI} * SVS * \text{total gallons spilled}) + (OIL_{PER} * SVS * \text{total gallons spilled})]$$

where: total gallons spilled = the number of gallons of oil spilled as determined by the procedures outlined in WAC 173-183-810;

SVS = Spill vulnerability score (from WAC 173-183-700(3));

OIL_{AT} = Acute Toxicity Score for Oil (from WAC 173-183-340);

OIL_{MI} = Mechanical Injury Score for Oil (from WAC 173-183-340); and

OIL_{PER} = Persistence Score for Oil (from WAC 173-183-340).

x = multiplier of 1.620 for spills less than 1000 gallons in volume to adjust the damages calculated to the \$1-100 per gallon range.

x = multiplier of 4.860 for spills of 1000 gallons or more in volume to adjust the damages calculated to the \$3-300 per gallon range.

Formula results shall be rounded to the nearest 0.01 to determine damages liability as follows: Decimals less than 0.005 shall be rounded down, and decimals equal to or greater than 0.005 shall be rounded up. For spills less than one thousand gallons, when the formula results in damages less than one dollar per gallon, the damages shall be adjusted to the minimum of one dollar per gallon spilled. For spills of one thousand gallons or more in volume, when the formula results in damages less than three dollars per gallon, the damages shall be adjusted to the minimum of three dollars per gallon spilled.

[Statutory Authority: RCW 90.48.366, 90.56.050, 90.48.035. WSR 13-01-055 (Order 11-05), § 173-183-860, filed 12/14/12, effective 1/14/13; WSR 09-07-029 (Order 08-14), § 173-183-860, filed 3/10/09, effective 4/10/09. Statutory Authority: Chapter 90.48 RCW. WSR 03-11-010 (Order 03-03), § 173-183-860, filed 5/12/03, effective 6/12/03; WSR 92-10-005 (Order 91-13), § 173-183-860, filed 4/23/92, effective 5/24/92.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.