

WAC 173-183-260 Restoration and enhancement projects proposed by the PLP. (1) The potentially liable party (PLP) may propose restoration or enhancement projects or studies during the preassessment screening phase to substitute for some or all of:

(a) The damages calculated from the compensation schedule authorized under RCW 90.48.366 and 90.48.367; or

(b) The claims from damage assessment studies authorized under RCW 90.48.142 and 90.48.367.

(2) To be considered as part of the preassessment screening decision process specified in WAC 173-183-240, PLP proposals must be submitted to the RDA committee chair within ten days of PLP notification by the RDA committee.

(3) The RDA committee may accept the PLP proposal in lieu of some or all of:

(a) The damages calculated from the compensation schedule authorized under RCW 90.48.366 and 90.48.367; or

(b) The claims from damage assessment studies authorized under RCW 90.48.142 and 90.48.367.

(4) For the RDA committee to find a proposal sufficient to adequately compensate the people of the state for public resource damages, the PLP proposal must at least contain the following elements:

(a) An investigation of all potentially injured public resources to determine if they have been exposed to the spilled oil;

(b) Follow-up investigations on all public resources documented to be exposed to determine if exposure has resulted in injury;

(c) Follow-up investigations on all public resources documented to be injured by the spill to quantify the injury;

(d) Quantification of damages for all public resources where injury has been quantified; and

(e) Restoration/enhancement projects to compensate for public resource injuries to the extent technically feasible; and, for damages that cannot be compensated by technically feasible restoration or enhancement projects, implementation of projects/studies to compensate for these losses. Public resource restoration and enhancement projects and studies shall be prioritized as follows:

(i) On-site, in-kind;

(ii) Offsite, in-kind;

(iii) On-site, out-of-kind; and

(iv) Offsite, out-of-kind.

(5) Prior to the PLP initiating any projects or studies intended to substitute for damages, the PLP's proposal must be approved by the RDA committee. If a PLP proposal is found to be acceptable to the RDA committee, the committee shall notify the PLP of this decision.

(6) If RDA committee finds a PLP project and study plan proposal to be acceptable, the RDA committee shall oversee all projects and studies conducted by the PLP.

(7) Upon completion of the PLP's project and study plan, the RDA committee shall decide the extent to which the PLP's projects and studies substitute for public resource damages as identified in subsection (3) of this section.

[Statutory Authority: Chapter 90.48 RCW. WSR 92-10-005 (Order 91-13), § 173-183-260, filed 4/23/92, effective 5/24/92.]