



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: June 06, 2023

TIME: 12:48 PM

WSR 23-12-077

**Agency:** Department of Ecology AO #21-03

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes  No If Yes, explain:

**Purpose:** Ecology is adopting amendments to Chapter 173-180 WAC, Facility oil handling standards and Chapter 173-184 WAC, Vessel oil transfer advance notice and containment requirements. Chapter 173-180 WAC establishes oil spill prevention and oil transfer requirements for regulated oil handling facilities. Chapter 173-184 WAC establishes oil transfer requirements for vessels delivering oil in bulk on or over waters of the state.

Rule amendments to both chapters will implement updates to RCW 88.46.165. Amendments include necessary administrative updates, expand on existing requirements, and establish new requirements as described below.

**In Chapters 173-180 and 173-184 WAC:**

- Make changes to address inconsistent or unclear direction in the rule(s), and make any corrections needed.
- Evaluate and update codes and standards throughout the rule(s).
- Update and clarify enforcement provisions for expired plans, manuals, reports, and programs requiring re-approval for Class 1 and 2 facilities and delivering vessels.
- Update submittal requirements, recordkeeping requirements, and compliance schedules throughout the rule(s).
- For Rate A deliverers:
  - Clarify safe and effective determination and Boom Reporting Form submission requirements.
  - Expand Safe and Effective Threshold Determination Report content requirements and align report and review requirements.
- Expand advance notice of oil transfer reporting requirements for Class 1, 2, and 3 facilities and delivering vessels.

**In Chapter 173-180 WAC:**

- Clarify and expand plan content and drill requirements for Class 2 facility Oil Transfer Response Plans.
- For Class 1 facilities:
  - Establish facility out of service and decommissioning requirements.
  - Establish seismic protection requirements for transfer pipelines and storage tanks.
  - Clarify and expand plan preparation and plan content requirements for Prevention Plans, including secondary containment permeability and facility spill risk analysis criteria.
  - Clarify training and certification requirements.

**In Chapter 173-184 WAC:**

- Update advance notice reporting timeframe requirements for delivering vessels.
- Update and clarify pre-booming and safe and effective threshold determination requirements for lightering operations, and for short-term transfer location approval requests for Rate A deliverers.

**Citation of rules affected by this order:**

New:  
 Repealed:  
 Amended: Chapter 173-180 WAC and Chapter 173-184 WAC  
 Suspended:

**Statutory authority for adoption:** RCW 88.46.160 – Refueling, bunkering, or lightering operations – Availability of containment and recovery equipment – Rules.  
RCW 88.46.165 – Oil transfers – Scope of rules – Reporting volumes of oil transferred.  
Chapter 90.56 RCW – Oil and hazardous substance spill prevention and response.  
RCW 90.56.005 – Findings – Purpose.  
RCW 90.56.050 – Rules.  
RCW 90.56.200 – Prevention plans.  
RCW 90.56.220 – Facility operation standards.  
RCW 90.56.230 – Operations manuals.

**Other authority:** N/A

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as [WSR 23-02-052](#) on [01/03/2023](#) (date).

Describe any changes other than editing from proposed to adopted version: The following content describes the changes between the rule proposal language and the adopted language and provides Ecology's reasons for making them.

**Chapter 173-180 WAC**

**WAC 173-180-025 Definitions:**

- The definition of boom was updated to reference the 2022 version of ASTM F625/F625M-94. The definition previously referenced the 2017 version of this standard. This update does not change any regulatory requirements.
- The definition of Class 3 facility was updated to correct a grammatical error. This update does not change any regulatory requirements.
- The definition of storage tank was updated to include the conversion between gallons and barrels. Ecology received feedback during the public comment period that it is useful to maintain the conversion between gallons and barrels where it previously existed in the language. This update does not change any regulatory requirements.
- The definition of transfer pipeline was updated to the definition that previously existed in the language. Ecology received feedback during the public comment period that the proposed changes made to this definition created confusion. This update does not change any regulatory requirements.

**WAC 173-180-080 Compliance Schedule**

- A compliance schedule for operations manual requirements for Class 1 and 2 facilities in WAC 173-180-420 and 173-180-421 was added to this section. Ecology received feedback during the public comment period that it would be helpful to specify a compliance schedule for Operations Manuals and Training and Certification Programs. Additionally, Ecology received feedback that the compliance schedule for Operations Manuals should allow for alignment with Safe and Effective Threshold Determination Reports. This change requires facilities to incorporate updates by their current operations manual's expiration date, instead of by the effective date of the rule.
- A compliance schedule for Training and Certification Program requirements for Class 1 and 2 facilities in WAC 173-180-510 and 173-180-511 was added to this section. Ecology received feedback during the public comment period that it would be helpful to specify a compliance schedule for Operations Manuals and Training and Certification Programs. This change requires facilities to incorporate updates by their current Training and Certification Program's expiration date, instead of the by the effective date of the rule.

**WAC 173-180-221 Rate A prebooming and alternative measures requirements.**

- Subsection (2) of this section was updated for clarity. This update does not change any regulatory requirements.

**WAC 173-180-320 Secondary containment requirements for storage tanks.**

- Subsection (4) of this section was updated to align with federal requirements in 40 C.F.R. Part 112.12(c)(2). This update does not change any regulatory requirement as the requirement already exists in federal law for the same regulated entities.
- Subsection (8) of this section was updated to include the conversion between gallons and barrels. Ecology received feedback during the public comment period that it is useful to maintain the conversion between gallons and barrels where it previously existed in the language. This update does not change any regulatory requirements.

**WAC 173-180-330 Storage tank requirements.**

- Subsection (3)(a)(iii) of this section was updated to reference the latest publication of API Standard 620, Design and construction of large welded, low-pressure tanks. The proposed language did not include the correct published year of 2013. This update also includes addendum 1 (2014), 2 (2018), and 3 (2021). This update does not change any regulatory requirements.

**WAC 173-180-340 Transfer pipeline requirements.**

- Subsection (5)(a) of this section was updated to reference the latest publication of ASME B31.3-2022, published in 2023, and ASME B31.4-2022, published in 2022. This update does not change any regulatory requirements.
- Subsection (10) of this section was updated to remove an error in the proposed language. The year 1991 was included with ASME B31G-2012 (R2017). This is incorrect and was removed. This update does not change any regulatory requirements.

**WAC 173-180-525 Class 1 and 2 facilities – Training and certification program approval process.**

- Subsection (7) of this section was updated to provide clarity. This update does not change any regulatory requirements.

**WAC 173-180-630 Class 1 facility – Prevention plan content requirements.**

- Subsection (10)(g)(ii) of this section was updated to provide clarity. Ecology received feedback that this requirement was unclear. This update does not change any regulatory requirements.
- Subsection (12) of this section was updated to include the conversion between gallons and barrels. Ecology received feedback during the public comment period that it is useful to maintain the conversion between gallons and barrels where it previously existed in the language. This update does not change any regulatory requirements.
- Subsection (13)(b)(ii) of this section was updated to provide a correction. Ecology received feedback requesting clarity as to whether this requirement should apply to each secondary containment system or the entire facility. This update states the requirement is to evaluate spill minimization and containment systems using the worst case spill volume for each secondary containment system.

**WAC 173-180-815 Drill scheduling, design, evaluation, and records.**

- Subsection (1)(b) of this section was updated to correct a typographical error. This update does not change any regulatory requirements.

**Chapter 173-184 WAC**

**WAC 173-184-025 Definitions**

- The definition of boom was updated to reference the 2022 version of ASTM F625/F625M-94. The definition previously referenced the 2017 version of this standard. This update does not change any regulatory requirements.
- The definition of Class 3 facility was updated to correct a grammatical error. This update does not change any regulatory requirements.

**WAC 173-184-115 Rate A prebooming and alternative measures requirements.**

- Subsection (2) of this section was updated for clarity. This update does not change any regulatory requirements.
- Subsection (2)(a) of this section was updated to correct a grammatical error. This update does not change any regulatory requirements.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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Web site: <https://apps.ecology.wa.gov/publications/SummaryPages/2308011.html>

Other: N/A

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

Federal statute:	New	0	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	0	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>2</u>	Amended	<u>2</u>	Repealed	<u>0</u>

**The number of sections adopted at the request of a nongovernmental entity:**

New	<u>1</u>	Amended	<u>4</u>	Repealed	<u>0</u>
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**The number of sections adopted on the agency's own initiative:**

New	15	Amended	<u>65</u>	Repealed	24
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New 13 Amended 61 Repealed 23

**The number of sections adopted using:**

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

**Date Adopted:** June 6, 2023

**Name:** Laura Watson

**Title:** Director

**Signature:**

