



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do NOT use for expedited rule making

Agency: Department of Ecology AO # 17-02

Subject of possible rule making:

In reliance on the February 21, 2017 final affirmative determination by the Environmental Protection Agency that adequate pumpout facilities for the safe and sanitary removal and treatment of sewage from vessels are reasonably available for the waters of Puget Sound, the Washington State Department of Ecology (Ecology) is starting rulemaking to adopt a new rule, "Vessel sewage no discharge zones" (Chapter 173-228 WAC), to establish a Puget Sound No Discharge Zone.

The Puget Sound No Discharge Zone would cover 2,300 square miles of marine waters of Washington State inward from the line between New Dungeness Lighthouse and the Discovery Island Lighthouse to the Canadian border, and fresh waters of Lake Washington, Lake Union, and connecting waters between and to Puget Sound.

Statutes authorizing the agency to adopt rules on this subject:

RCW 90.48.030, 90.48.035, 90.48.260, 33 USC § 1322

Reasons why rules on this subject may be needed and what they might accomplish:

See Attachment A.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:

Ecology will work with tribes to discuss rule activities and seek input. Other coordinating federal and state agencies include the United States Environmental Protection Agency, United States Coast Guard, Washington State Department of Health, Puget Sound Partnership, Washington State Fish and Wildlife, Washington State Parks and Recreation Commission, Washington State Department of Natural Resources, and Washington State Department of Licensing.

Process for developing new rule (check all that apply):

Negotiated rule making

Pilot rule making

Agency study

Other: Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act

(Chapter 34.05 RCW).

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

Interested parties can stay informed about the rulemaking and public involvement opportunities as described below. Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

1. Visiting the agency web page at: <http://www.ecy.wa.gov/programs/wq/ruledev/wac173228/1702timedocs.html>
2. Signing up to receive e-mail notices at: <http://listserv.wa.gov/cgi-bin/wa?A0=ECOLOGY-WATER-QUALITY-INFO>
3. Contacting:

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DATE
July 5, 2017

NAME (TYPE OR PRINT)

Heather R, Bartlett

SIGNATURE

TITLE
Water Quality Program Manager

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

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WSR 17-14-104

Attachment A

Reasons why rules on this subject may be needed and what they might accomplish

Puget Sound is a unique, sensitive water body. Its limited tidal flushing makes it prone to poor water quality conditions. Federal law currently allows vessels to discharge treated sewage within three miles of shore.

We are beginning a rulemaking to make Puget Sound a No Discharge Zone, which would prohibit the release of sewage (black water) from vessels, whether treated or not. This follows the 5-year stakeholder process, the [petition submittal](#) to the Environmental Protection Agency (EPA), and EPA's final affirmative determination that adequate pumpout facilities for the safe and sanitary removal and treatment of sewage from vessels are reasonably available for the waters of Puget Sound. This information will all be used as part of this rulemaking.

The Puget Sound No Discharge Zone would cover 2,300 square miles of marine waters of Washington State inward from the line between New Dungeness Lighthouse and the Discovery Island Lighthouse to the Canadian border, and fresh waters of Lake Washington, Lake Union, and connecting waters between and to Puget Sound.

Vessel sewage discharges have a high potential impact due to proximity, often directly over or near shellfish and other protected resources, such as swimming beaches. Shellfish beds are vulnerable to pathogen pollution (which comes from sewage), which threatens an important shellfish food supply in Washington State. Due to this risk, we have closed approximately 3,000 acres of shellfish harvesting areas that are in close proximity to marinas, we anticipate that under these rules the status of these shellfish harvesting restrictions would be reevaluated.

Our state has made large investments in sewage treatment, stormwater management, and in the prevention of industrial pollution and agricultural runoff. Making Puget Sound a No Discharge Zone for vessel sewage addresses a missing piece in our strategy to clean up and restore Puget Sound. It is a near-term action in the Puget Sound Action Agenda, and is a recommendation of the Washington Shellfish Initiative.

On February 21, 2017, the EPA made a final affirmative determination that the Puget Sound region, as described above, has adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels reasonably available. The EPA said the State may finalize its proposed designation.

Most of Puget Sound's estimated 156,600 recreational and commercial vessels with on-board toilets have sewage holding tanks and use pump-out stations, or wait to discharge more than three miles from shore or at sea. Roughly 2,200, or 2 percent, have limited treatment systems and would need to add holding tanks.

The rule will clarify requirements necessary to implement the No Discharge Zone determination by the EPA, which applies to all recreational and commercial vessels. Previous work in preparation for the petition to the EPA lead to including a delayed implementation of five years for some commercial vessels such as tugs, fishing, research, and small overnight passenger cruise vessels to add sewage holding tanks.