



# PREPROPOSAL STATEMENT OF INQUIRY

## CR-101 (October 2017) (Implements RCW 34.05.310) Do NOT use for expedited rule making

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DATE: December 05, 2018

TIME: 11:51 AM

WSR 18-24-127

**Agency:** Department of Ecology AO #18-04

**Subject of possible rule making:** Ecology plans to amend Chapter 173-186 WAC, Oil Spill Contingency Plan – Railroad. This chapter requires railroads carrying oil as cargo to plan for oil spills to include how to make notifications, have the appropriate equipment and trained personnel to respond to spills that may occur. This rulemaking will:

- Establish three tiers for railroad contingency planning and streamline requirements according to RCW 90.56.210.
- Establish requirements for citing Spill Management Teams including entities providing wildlife rehabilitation and recovery services.
- Enhance requirements for readiness for spills of oils that may weather and sink.
- Update drill requirements to reflect legislative direction.
- Make other edits to address inconsistent or unclear direction in the rule.

**Statutes authorizing the agency to adopt rules on this subject:** RCW 90.56 Oil and Substance Spill Prevention and Response

**Reasons why rules on this subject may be needed and what they might accomplish:** We were in the beginning stages of implementing this chapter when in 2017 the legislature passed ESHB 1136 (RCW 90.56.210) changing oil spill contingency planning requirements for smaller railroads. The purpose of this rulemaking is to streamline the plan requirements for the smaller railroads who move refined oil products and not crude oil. In addition, this rule update will comply with the passage of E2SSB 6269 in 2018 (RCW 90.56.210) directing Ecology to update rules to account for non-floating oils and to require spill management teams to apply and be approved by Ecology in order to be cited in contingency plans.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** We will share information and coordinate rulemaking activities to the following agencies: US Coast Guard, Environmental Protection Agency, Washington State Utilities and Transportation Commission, Pipeline and Hazardous Materials Safety Administration and Federal Railroad Administration.

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

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Ecology will follow the standard process for the adoption of rules under the

Administrative Procedure Act (Chapter 34.05 RCW).

**Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:**

Name: Nhi Irwin  
 Address: Department of Ecology  
 Spills Prevention, Preparedness and  
 Response Program  
 PO Box 47600  
 Lacey, WA 98504  
 Phone: 360-407-7039  
 Fax: N/A

(If necessary)

Name:  
 Address:  
 Phone:  
 Fax:

TTY: People with speech disability may call TTY at 877-833- 6341. People with impaired hearing may call Washington Relay Service at 711.

Email: Sign up to receive email notices:  
spillsrulemaking@ecy.wa.gov

Email:

Web site: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-186>

Web site:

Other: To stay informed about rulemaking, please signup for our ListServ [SPILLS-PROGRAM@LISTSERV.ECOLOGY.WA.GOV](mailto:SPILLS-PROGRAM@LISTSERV.ECOLOGY.WA.GOV) Other: N/A

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

**Date:** 12/5/2018

**Signature:**

**Name:** Linda Pilkey-Jarvis



**Title:** Preparedness Section Manager