



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington State Department of Ecology AO #15-13

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 15-23-105 ; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).	<input type="checkbox"/> Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject)

The Washington State Department of Ecology (Ecology) proposes a new rule, Chapter 173-185 WAC, Oil Movement by Rail and Pipeline Notification. The rule will:

- Specify the applicability of the rule.
- Define terms used in the rule and ensure consistency with other Ecology regulations.
- Establish advance notice requirements for facilities that receive crude oil by rail.
- Establish biannual notice requirements for pipelines that transport crude oil through the state.
- Identify the manner that information must be submitted to Ecology.
- Identify the process for emergency responders, local governments, and tribes to request oil movement information, and the process that Ecology will use to provide non-aggregated information.
- Identify the types of aggregated information that Ecology will disclose to the public.
- Establish penalties for noncompliance with the rule.

Hearing location(s): See Attachment A.

Date: _____ Time: _____

Submit written comments to:

Name: Kim Morley
 Address: Department of Ecology, Spills Program
 P.O. Box 47600, Olympia, WA 98504-7600
 e-mail Kim.Morley@ecy.wa.gov
 fax (360) 407-7288 by (date) June 10, 2016

Assistance for persons with disabilities: Contact

Spills Program Reception at (360) 407-7455 by May 10, 2016

TTY (877) 833-6341 or (711) Relay Service

Date of intended adoption: August 24, 2016

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Chapter 173-185 WAC will create reporting standards for facilities that receive crude oil by rail, and pipelines that transport crude oil through the state. Additionally, the rule will identify reporting standards for Ecology to share information with emergency responders, local governments, tribes, and the public.

Notification of oil movement will provide emergency responders with essential information they can use to better prepare for and respond to incidents. The information provided will identify the volume and type of crude oil scheduled for transport through the state. Emergency responders can use the information to plan response strategies, equipment selection, and staffing levels.

Reasons supporting proposal: See Attachment B

Statutory authority for adoption: RCW 90.56.565

Statute being implemented: Chapter 90.56 RCW

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

DATE

4/4/16

NAME

Polly Zehm

SIGNATURE

TITLE

Deputy Director, Department of Ecology

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 06, 2016

TIME: 8:33 AM

WSR 16-08-118

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

N/A

Name of proponent: Department of Ecology, Spill Prevention, Preparedness and Response Program (Spills Program)

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Kim Morley	Lacey, WA	(360) 407-7040
Implementation.... Spills Program	Lacey, WA	(360) 407-7455
Enforcement.....Spills Program	Lacey, WA	(360) 407-7455

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No.

In completing the Preliminary Cost-Benefit and Least Burdensome Alternative Analyses for proposed Chapter 173-185 WAC, Oil Movement by Rail and Pipeline Notification Rule (Publication No. 16-08-009), it was determined that only minor costs are imposed on businesses due to the proposed rulemaking. According to RCW 19.85.030 (1)(a), an SBEIS is not required. In addition, Ecology determined that the proposed rule does not impact any small business (businesses with fewer than 50 employees, as defined by the Regulatory Fairness Act).

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Kim Morley

Address: Spills Program

Department of Ecology

P.O. Box 47600

Olympia, WA 98504-7600

phone (360) 407-7040

fax (360) 407-7288

e-mail Kim.Morley@ecy.wa.gov

No: Please explain:

Attachment A:

Hearing location(s):

Ecology is holding four public hearings on this rule proposal, one each in Spokane, Everett, and Vancouver, and one via webinar. Webinars are an online meeting forum that you can attend from any computer using internet access.

Date	Time	Format	Location
Tuesday May 17, 2016	7:00 pm	In Person	Ramada at Spokane International Airport Lower Level Ballroom 8909 West Airport Drive Spokane, WA 99224
Monday May 23, 2016	1:00 – 5:00 pm	In Person	Holiday Inn Downtown Everett Ballroom 1 3105 Pine Street Everett, WA 98201
Thursday May 26, 2016	1:00 pm	Webinar	This is an online hearing forum that you can attend from any computer using internet access. To join the webinar, click on the following link for more information and instructions: http://www.ecy.wa.gov/programs/spills/rules/Webinar1513.pdf .
Friday June 3, 2016	1:00 pm	In Person	DoubleTree by Hilton - Vancouver The Columbia Room 12712 SE 2nd Circle Vancouver, WA 98684

For more information about the public hearings, visit the following website:

<http://www.ecy.wa.gov/programs/spills/rules/1513ov.html>

Formal comments

Formal comments on this rulemaking will be accepted in the following ways:

- At the public hearings:
 - Verbally by those who attend in person or during the webinar via phone at (800) 704-9804, Participant 88955236#
 - Written submitted by those who attend in person
 - Comments will not be accepted through the chat box by persons viewing the webinar
- Any time during the comment period:
 - By email to Kim.Morley@ecy.wa.gov
 - By mail to Kim Morley, Department of Ecology Spills Program, P.O. Box 47600, Olympia, WA 98504-7600
 - By fax to (360) 407-7288
 - Submitted through the online comment tool at <https://www.piersystem.com/go/doc/5779/2804978/>

Attachment B:

Reasons supporting proposal:

In 2015, the Washington Legislature directed Ecology to develop rules on new reporting requirements for the movement of crude oil by rail and pipeline.

Significant changes in the modes of transportation and properties of crude oil are occurring in Washington State. In Washington State there has been an increase in the amount and types of crude oil being transported through the state by rail and pipeline, such as diluted bitumen from Canada and Bakken from North Dakota. Diluted bitumen is concerning because under some conditions it may become submerged below the water surface or sink to the bottom when spilled into water. Bakken crude is more volatile and flammable, and likely to seep into the groundwater quicker than other types of crude oil. Therefore, an incident involving these oil types may create greater environmental, safety, health, and economic impacts than other types of crude oil.

Five crude oil refineries and two crude oil pipelines exist in the state and there are new facilities proposed. New facilities may further impact how oil is transported throughout Washington State.

Timely notice of oil movement information is needed for emergency responders and planners to effectively prepare for and respond to oil spills and other incidents associated with the transport of crude oil by rail and pipeline. Providing adequate information will help to protect those living and working near railroads and pipelines, the economy, and environmental resources of Washington.