



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Washington State Department of Ecology AO # 15-08

Permanent Rule Only

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:

The Department of Ecology is adopting amendments to Chapter 173-182 WAC - Oil Spill Contingency Plan. The regulations enhance oil spill contingency plan requirements for hazardous liquids pipelines required to submit oil spill contingency plans under Chapter 90.56 RCW, and for primary response contractors that support the implementation of pipeline plans. The amendment of this rule requires pipelines to update their contingency plans and submit them for Ecology approval.

Additional details see Attachment A

Citation of existing rules affected by this order:

Repealed:

Amended: Chapter 173-182 WAC

Suspended:

Statutory authority for adoption: RCW 90.56

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 16-11-112 on May 18, 2016.

Describe any changes other than editing from proposed to adopted version:

See Attachment B

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

Name: Shon Kraley phone (360) 407-6774
Address: Economics and Regulatory fax (360) 407-6989
Research e-mail shon.kraley@ecy.wa.gov
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Date adopted: 10/12/16

NAME Maia Bellon

SIGNATURE

TITLE
Director, Department of Ecology

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 12, 2016

TIME: 11:42 AM

WSR 16-21-046

**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	_____	Amended	<u>1</u>	Repealed	_____
Federal rules or standards:	New	_____	Amended	<u>1</u>	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	<u>3</u>	Repealed	_____

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

	New	<u>3</u>	Amended	<u>2</u>	Repealed	_____
--	-----	----------	---------	----------	----------	-------

The number of sections adopted in the agency's own initiative:

	New	<u>4</u>	Amended	<u>4</u>	Repealed	_____
--	-----	----------	---------	----------	----------	-------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	_____	Amended	<u>14</u>	Repealed	_____
--	-----	-------	---------	-----------	----------	-------

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

Attachment A:

The rule requirements were last updated for pipelines in 2006. At that time the pipeline planning standards were developed to align with the marine terminal standards. In Washington pipelines exist in both marine and inland areas. After several years of implementing the rule, we have identified the need to update our standards to ensure that required oil spill response equipment is appropriate for the pipeline risks and operating environments (marine and inland). We also feel the need to better incorporate and embrace available technology and geo-referenced data in our planning requirements.

Additional details of this rulemaking:

- Updates definitions to ensure clarity and consistency with existing federal regulations.
- Clarifies the Worst Case Discharge calculation for pipelines.
- Creates a new pipeline geographic information planning standard which uses geo-referenced data to support preparedness planning and initial decision making during pipeline oil spills.
- Enhances air monitoring requirements for pipelines to ensure safety of oil spill responders and the general public.
- Enhance our spills to ground requirements to ensure rapid, aggressive and well-coordinated responses to spills to ground which could impact ground water.
- Updates the pipeline planning standard requirements to ensure equipment required is appropriate for the environments pipelines may impact.
- Expands the Best Achievable Protection (BAP) Review Cycle to facilities and pipelines.
- Makes other changes to clarify language.

Attachment B:

The following describes the changes from the proposed rule language to the adopted rule language and Ecology's reasons for making them. Where a change was made solely for editing or clarification purposes, we did not include it in this summary.

WAC 173-182-030 Definitions.

Updated the definition of "Transmission Pipeline" to remove the outdated reference to the federal definition which is no longer in statute.

In the "Worst Case Spill" definition the minimum time to detect the release and shutdown the pipeline, for planning purposes, was changed from twenty minutes to thirty minutes to reflect public concerns about pipeline leak detection systems and response times. The thirty minute minimum sets a reasonable baseline for establishing the Worst Case Spill planning volume. This volume is used to determine the boom, storage, and recovery assets the pipeline must own or contract and reference in the contingency plan.

WAC 173-182-135 Phase in language for pipeline plan holders.

Changed the phase-in for the air monitoring requirements from 24 months to 12 months to reflect comments received during the public comment period.

WAC 173-182-640 Process for public notice and opportunity for public review and comment period.

Updated to reflect concerns that the public comment period section should make explicit that notice and comments will be available for plans that are significantly changed, in addition to those that are updated for their 5 year review period.

WAC 173-182-720 Evaluation criteria

Updates to this section to align with the 2016 version of the National Preparedness for Response Exercise Program (NPREP) guidance document.