



# 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: February 02, 2021

TIME: 9:51 AM

WSR 21-04-126

**Agency:** Department of Ecology AO # 19-09

**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 an amendment to Chapter 173-185 WAC, Oil Movement by Rail and Pipeline Notification. This chapter establishes reporting standards for facilities that receive crude oil by rail and pipelines that transport crude oil through the state. The rule also describes reporting standards for Ecology to share information with tribes, emergency responders, local governments, and the public.

The rule amendment will implement sections of Engrossed Substitute House Bill (ESHB) 1578 and Engrossed Substitute Senate Bill (ESSB) 5579, both passed in 2019 and codified in RCW 90.56.565.

**This rule amendment will:**

- Expand advance notice reporting requirements for facilities that receive crude oil by rail to include type and vapor pressure of crude oil
- Expand biannual notice requirements for pipelines that transport crude oil through the state to include gravity and type of crude oil
- Describe how required information will be provided to the Utilities and Transportation Commission (UTC)
- Make other changes to clarify language and make any corrections needed

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

New:  
 Repealed:  
 Amended: Chapter 173-185 WAC  
 Suspended:

**Statutory authority for adoption:** Chapter 90.56 RCW; RCW 90.56.005; RCW 90.56.050; RCW 90.56.565

**Other authority:** N/A

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

Adopted under notice filed as WSR 20-18-101 on September 2, 2020 (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.

**WAC 173-185-050 Definitions:**

- The definition of facility was updated in the rule to align with the definition in Chapter 90.56 RCW. The statutory definition was recently amended to update a reference to a recodified statute.
- The definition of person was updated in the rule to align with the statutory definition in Chapter 90.56 RCW.

**WAC 173-185-070 Advance notice – Facility requirements:**

- Clarified the description of type of crude oil reported to Ecology by updating (2)(f)(i) of this section to refer to the "gravity as reported under (e) of this subsection" rather than "expected gravity as reported under (e) of this

subsection". This is consistent with the (2)(e) of this section, which requires gravity to be reported but allows expected gravity to be reported if actual gravity is unknown. This clarification does not change any regulatory requirements.

- The version of the American Society for Testing and Materials (ASTM) Standard D6377 was updated to reflect the most recent update to the standard for vapor pressure testing, published in 2020. The previous version was published in 2016.

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/2108003.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	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	<u>5</u>	Repealed	___

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

New	___	Amended	<u>3</u>	Repealed	___
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**The number of sections adopted on the agency's own initiative:**

New	___	Amended	<u>4</u>	Repealed	___
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	___	Amended	<u>4</u>	Repealed	___
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**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	___

**Date Adopted:** 2/2/2021

**Name:** Laura Watson

**Title:** Director

**Signature:**

A handwritten signature in black ink, appearing to read 'L. Watson', is written over the signature line.