



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 #15-13

Subject of possible rule making: Ecology is conducting rulemaking to propose a new rule, Chapter 173-185 WAC, Oil Movement by Rail and Pipeline Notification. The purpose of this rule is to:

- 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.

Statutes authorizing the agency to adopt rules on this subject:

Ecology has broad authority under Chapter 90.56 RCW to adopt rules for oil spill prevention and preparedness. During the 2015 legislative session, new provisions were added to Chapter 90.56 RCW that authorize Ecology to adopt rules on notice and disclosure of information on the movement of crude oil by rail and pipeline. Laws of 2015, ch. 274, § 8.

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:

Federal and state agencies that regulate the environment, railroads, facilities, or pipelines covered by this rule include the U.S. Coast Guard, U.S. Department of Transportation (Pipeline and Hazardous Materials Safety Administration and Federal Railroad Administration), U.S. Environmental Protection Agency, Washington Utilities and Transportation Commission, Oregon Department of Environmental Quality, and Idaho Department of Environmental Quality. Ecology will notify and solicit input from these federal and state agencies, and other stakeholders throughout this rulemaking process.

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).

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

(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

See Attachment B.

DATE

11/18/2015

NAME (TYPE OR PRINT)

Dale Jensen

SIGNATURE

TITLE

Spill Prevention, Preparedness, and Response Program

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: November 18, 2015

TIME: 9:29 AM

WSR 15-23-105

Attachment A:

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

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. Washington State has experienced dramatic changes in the amount and types of oil transported by rail and pipeline. There has been an increase in the amount of heavy crude oils, such as diluted bitumen from Canada and Bakken from North Dakota, being transported through the state. 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 accident involving these oil types may create greater environmental, safety, health, and economic impacts than other types of crude oil. Additionally, multiple recent proposals for new oil facilities may 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 accidents associated with the transport of crude oil by rail and pipeline. Providing adequate information will help to protect the lives of people living and working near railroads and pipelines, the economy, and environmental resources of Washington.

The proposed rule would create reporting standards for facilities that receive crude oil by rail, and pipelines that transport crude oil through the state. Additionally, the rule would identify reporting standards for Ecology to share information with emergency responders, local governments, tribes, and the public.

Attachment B:

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

Ecology will engage stakeholders and interested parties throughout this rulemaking process. We will extend an offer for government-to-government consultation with tribal governments during each phase of rule development. Ecology will schedule multiple workshops and provide an opportunity for stakeholders to submit written comments on any preliminary rule language prior to issuing a formal rule proposal. We will also hold a comment period and at least one public hearing on the formal rule proposal to solicit comments prior to rule adoption. We will create a webpage and focus sheet summarizing the issues and important dates. We will rely on the rule webpage, existing listservs, and email communication to provide stakeholders and interested parties with updates on the process and opportunities to provide input. Interested parties can access information on this rulemaking by:

- Visiting the following agency website: <http://www.ecy.wa.gov/programs/spills/rules/1513ov.html>.
- Signing up for the list-serve to receive e-mail notices at: <http://listserv.wa.gov/cgi-bin/wa?A0=SPILLS-PROGRAM>.
- Contacting the following person:

Tiffany Johnson
Department of Ecology, Spills Program
P.O. Box 47600
Olympia, WA 98504-7600

Phone: (360) 407-7625
Fax: (360) 407-7288
Email: tiffany.johnson@ecy.wa.gov