



PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (October 2017)
(Implements RCW 34.05.310)**

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Agency: Department of Ecology AO # 19-09

Subject of possible rule making: Ecology is starting a rulemaking to amend 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 rulemaking will implement Engrossed Substitute House Bill (ESHB) 1578 and Engrossed Substitute Senate Bill (ESSB) 5579, both passed in 2019 and codified in RCW 90.56.565 and 90.56.580.

This rulemaking will:

- Expand advance notice reporting requirements for facilities that receive crude oil by rail to include type and vapor pressure of crude oil
- Expand biennial 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)
- Incorporate statutory limits on the vapor pressure of crude oil that can be loaded or unloaded into or from a rail tank car by facilities that receive crude oil by rail, and establish other requirements necessary to implement and enforce these limits
- Make other changes to clarify language and make any corrections needed

Statutes authorizing the agency to adopt rules on this subject: Chapter 90.56 RCW; RCW 90.56.005; RCW 90.56.050; RCW 90.56.565

Reasons why rules on this subject may be needed and what they might accomplish: In 2016, Ecology adopted Chapter 173-185 WAC to enhance crude oil spill preparedness and response in Washington State. The rule established reporting standards for facilities that receive crude oil by rail and pipelines that transport crude oil through the state. Additionally, the rule describes reporting standards for Ecology to share information with tribes, emergency responders, local governments, and the public. The rule was adopted as a result of 2015 legislative direction to provide a better understanding of the changing risk picture for crude oil transported by rail and pipeline in Washington State. The rule supports our understanding of the risks associated with changes in both the volume and properties of crude oil moving through Washington.

Timely notice of crude oil movement information is necessary for emergency responders and planners to effectively prepare for and respond to oil spills and other incidents associated with transporting crude oil by rail and pipeline. Providing adequate information about the dates, routes, and properties of crude oil can help protect people living and working near railroads and pipelines, the economy, and the environment.

Rule amendments are needed to incorporate statutory changes made in the 2019 legislative session. Through ESHB 1578 and ESSB 5579, the Legislature expanded reporting requirements for regulated facilities, pipelines, and Ecology, and placed statutory limits on the vapor pressure of crude oil that can be loaded or unloaded into or from a rail tank car by facilities that receive crude oil by rail.

Expanded reporting requirements will help Ecology and other emergency responders understand the crude oil movement picture statewide, and to better assess potential impacts of crude oil movement by rail and pipeline. The additional data can help Ecology and emergency response agencies determine the need for additional prevention and preparedness measures.

Statutory limits on the vapor pressure of crude oil that facilities can load into or unload from a rail tank car addresses rail transportation safety, public safety, and environmental protection of the communities that crude oil is transported through.

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 facilities and pipelines that transport or handle oil in bulk include: United States Coast Guard, Environmental Protection Agency, United States Department of Transportation (Pipeline and Hazardous Materials Safety Administration and Federal Railroad Administration), Washington Utilities and Transportation Commission, Oregon Department of Environmental Quality, California Department of Fish and Wildlife Office of Spill Prevention and Response, Alaska Department of Environmental Conservation Spill Prevention and Response, 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).

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

	(If necessary)
Name: Kim Morley	Name:
Address: Department of Ecology Spill Prevention, Preparedness, and Response Program PO Box 47600 Olympia, WA 98504	Address:
Phone: (360) 701-2398	Phone:
Fax: N/A	Fax:
TTY: People with speech disability may call TTY at 877-833-6341. People with impaired hearing may call Washington Relay Service at 711.	TTY:
Email: kim.morley@ecy.wa.gov	Email:
Web site: https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-185	Web site:
Other: For updates about this rulemaking join our listserv - SPILLS-PROGRAM@LISTSERV.WA.GOV	Other:

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: 1/6/2020

Name: Dale Jensen

Title: Spill Prevention, Preparedness, and Response Program Manager

Signature:

