



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 #15-14

Subject of possible rule making: Ecology is conducting rulemaking to propose a new rule, Chapter 173-186 WAC, Oil Spill Contingency Plan – Railroad. The rulemaking will address, but not be limited to, the following:

- Describe the purpose and use of the contingency plans for rail.
- Describe the applicability and authorities of the rule, and timing for compliance.
- Include definitions for terms used in the rule.
- Define authority and process for contingency plan submittal and review.
- Establish a process for plan updates and notification of significant changes.
- Develop a signature authority for binding plan holders to the use of their plans.
- Establish contingency plan content requirements.
- Describe the required elements of the contingency plan field document.
- Establish notification requirements and call out procedures.
- Define training and personnel resources to fill roles in oil spill management teams.
- Identify resources at risk from rail spills.
- Establish equipment planning standards for responding to railroad oil spills.
- Establish Best Achievable Protection planning requirements for railroads.
- Establish a drill program and drill evaluation criteria for railroad plan holders.
- Establish recordkeeping, noncompliance, and compliance information.
- Other issues to ensure consistency and clarity is maintained throughout the rule.

Statutes authorizing the agency to adopt rules on this subject: See Attachment A

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

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: See Attachment C

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.)

Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development. Ecology will schedule one or more workshops and will provide an opportunity for stakeholders to submit written comments on any preliminary rule content prior to issuing a formal proposed rule. Ecology will also hold a comment period and at least one formal public hearing on the formal rule proposal to solicit comments prior to rule adoption. Ecology has established a website and listserv to provide stakeholders and interested parties with updates on the process.

Website: <http://www.ecy.wa.gov/programs/spills/rules/1514ov.html>

Listserv: <http://listserv.wa.gov/cgi-bin/wa?A0=SPILLS-PROGRAM>

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DATE
11-18-2015

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CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: November 18, 2015

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WSR 15-23-103

Attachment A:

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, RCW 88.46.010 and RCW 90.56.010 were amended to include railroads (not owned by the state) that transport bulk oil as cargo in the definition of “facility”, and RCW 90.56.210 was amended to expand Ecology’s authority to require state contingency plans for rail.

Attachment B:

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

Increased crude by rail transport has changed the risk picture for oil spills in Washington State. During the 2015 legislative session, RCW 88.46.010 and RCW 90.56.010 were amended to include railroads (not owned by the state) that transport bulk oil as cargo in the definition of “facility”, and RCW 90.56.210 was amended to expand Ecology’s authority to require state contingency plans for rail. Ecology was directed to develop rules establishing contingency planning requirements for railroads transporting oil in bulk. Contingency plans for railroads will ensure that first responders are aware of the locations of oil transport, oil response equipment, and are trained to respond in a rapid, aggressive, and well-coordinated manner.

Attachment C:

Identify other federal and state agencies that regulate this subject and the process for coordinating the rule with these agencies:

At the federal level, the U.S. Department of Transportation Federal Railroad Administration has regulations that require oil spill response plans for railroads. Ecology currently regulates contingency planning requirements for vessels and pipelines. This rulemaking will in many ways mirror the federal requirements but will tailor the requirements to Washington’s operating environments and risk. We will ensure that the new standards are compatible and coordinated with existing federal and state standards.