



DEPARTMENT OF
ECOLOGY
State of Washington

**Rule Implementation Plan
Chapter 173-185 WAC, Oil Movement by Rail and
Pipeline Notification**

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Implementation Plan
Chapter 173-185 WAC
Oil Movement by Rail and Pipeline Notification

Spill Prevention, Preparedness, and Response Program

Washington State Department of Ecology

Olympia, Washington

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Purpose

The Washington State Department of Ecology (Ecology) provides the information in this implementation plan to meet agency and Administrative Procedure Act (RCW 34.05.328) requirements related to rule adoptions.

Introduction

On February 2, 2021, Ecology adopted amendments to Chapter 173-185 WAC, Oil Movement by Rail and Pipeline Notification (AO # 19-09). The purpose of this rule implementation plan is to inform those who must comply with Chapter 173-185 WAC about how Ecology intends to:

- Implement and enforce the rule.
- Inform and educate persons affected by the rule.
- Promote and assist voluntary compliance for the rule.
- Evaluate the rule.
- Train and inform Ecology staff about the amended rule.

Also included in this plan is information about:

- Supporting documents that may need to be written or revised because of the amended rule.
- Other resources where more information about the rule is available.
- Contact information for Ecology employees who can answer questions about the rule implementation.

Implementation and Enforcement

Chapter 173-185 WAC (Oil movement by rail and pipeline notification) 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.

Ecology adopted amendments to Chapter 173-185 WAC.

The amendments:

- 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 transporting 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.

The rule revisions will go into effect on March 5, 2021, 31 days after the rule is adopted. Facilities and pipelines regulated by the rule must meet the new requirements beginning on the rule effective date.

The adopted rule revisions will not require additional staff for implementation. Existing Spill Prevention, Preparedness, and Response Program (Spills Program) staff will implement and enforce the rule. Questions about implementation and enforcement of the rule should be directed to Eli Seely at 360-480-3095 or Eli.Seely@ecy.wa.gov.

Advance Notice Requirements for Facilities Receiving Crude Oil by Rail

Beginning on the rule effective date, owners and operators of facilities, as defined in WAC 173-185-050(5)(a), that receive crude oil by rail must report to Ecology the type and vapor pressure of crude oil by rail received by the facility in advance of delivery. Ecology has incorporated additional input fields in the existing Advance Notice of Oil Transfer (ANT) System to implement these new reporting requirements. The notification requirements for facilities receiving crude oil by rail are found in WAC 173-185-070.

Facilities subject to the additional advance notice reporting requirements are already subject to the existing advance notice reporting requirements. These facilities will be able to enter the additional required information in the ANT System using their existing SecureAccess Washington accounts.

New users of the ANT System must create a SecureAccess Washington (SAW) account and request access to the ANT System before they will be able to submit crude oil by rail shipment information. Users can create SAW accounts at: <https://secureaccess.wa.gov/>. Ecology has developed guidance for creating a SAW account and requesting access to the ANT System, available on our website at: <https://ecology.wa.gov/Regulations-Permits/Reporting-requirements/Advance-notice-of-oil-transfer>. Once approved, facilities can log into SAW and open the ANT System to submit notification details for oil transfers.

Facilities are required to submit advance notification of crude oil by rail shipments expected for arrival in the succeeding seven day reporting period. If there are no scheduled shipments for the seven day period, a facility is not required to provide advance notice. In the event that additional shipments of crude oil by rail are scheduled for delivery during a seven day advance notice period that has already been reported to Ecology, the facility must submit the required information about the shipment to Ecology via the ANT System as soon as reliable and accurate details are available to the facility. If possible, this should be done before the shipment enters the state.

Once an individual notification of a crude oil by rail shipment is submitted into the ANT System, facilities may return to the notification submission to edit details if they choose. Facilities may edit details through the ANT System for up to 21 days after the date of the first shipment in the reporting period. After that time, the facility may provide updated details by email, phone, or other method directly to Ecology staff. This updated information can be sent to Ecology up to 15 days after the end of the quarter containing the scheduled crude oil delivery date. Ecology staff will then update the submission.

Ecology has updated guidance for facilities to assist with submitting advance notification information into the ANT System, available on our website at: <https://ecology.wa.gov/Regulations-Permits/Reporting-requirements/Advance-notice-of-oil-transfer>.

Biannual Notice Reporting Requirements for Pipelines Transporting Crude Oil in or through Washington State

Effective March 5, 2021, owners and operators of pipelines that transport crude oil in or through Washington State must include the type and gravity of crude oil when they submit their biannual reports to Ecology. The notification requirements for pipelines transporting crude oil in or through the state are found in WAC 173-185-080.

Information must be submitted to Ecology using Ecology Form 070-562. The form can be submitted via email to OilTransferNotifications@ecy.wa.gov or through the web-based form on Ecology's website at <https://ecology.wa.gov/Regulations-Permits/Reporting-requirements/Crude-oil-transmission-pipeline-report-form>. This is consistent with the current methods available for pipelines to submit biannual reports to Ecology. Ecology is updating Form

070-562 to incorporate the new required information for the pipeline reports. The updated form will be available on Ecology's website after the effective date of the rule.

The first biannual notice reporting deadline following the effective date of this rule is July 31, 2021.

The Advance Notice System for Emergency Response Agencies and the Utilities and Transportation Commission

RCW 90.56.565(2) directs Ecology to share information collected from facilities subject to this rule with the state Emergency Management Division, the UTC, and any county, city, port, or other local government emergency response agencies, and tribes through the ANT System.

Ecology currently allows members of the emergency response community to request secure access to the ANT System to view individual notifications about crude oil movement by rail in Washington State. With the rule update, Ecology has extended this access to the UTC.

New users of the ANT System must create a SAW account and request access to the ANT System before they will be able to view crude oil by rail shipment information. Users can create SAW accounts at: <https://secureaccess.wa.gov/>. Ecology has developed guidance for creating a SAW account and requesting access to the ANT System, available on our website at: <https://ecology.wa.gov/Regulations-Permits/Reporting-requirements/Advance-notice-of-oil-transfer>.

Ecology staff will review each ANT System access request and verify that each request is affiliated with an eligible emergency response agency or the UTC as described in WAC 173-185-090. If account owner affiliation cannot be verified, access to the ANT System will not be approved.

Once approved, users can review individual notice of transfer information submitted by facilities in Washington State that receive crude oil by rail. The information submitted by facilities is made available to emergency response agencies as soon as it is submitted into the ANT System. The default view shows all of the notices recently submitted by facilities subject to this rule. Users can tailor the view to show notices for crude oil by rail shipments for specific counties or date ranges. Ecology has updated guidance for emergency response agencies to assist with viewing rail shipments of crude oil in the ANT System, available on our website at: <https://ecology.wa.gov/Regulations-Permits/Reporting-requirements/Advance-notice-of-oil-transfer>.

Individual notice or unaggregated information about crude oil movement by rail submitted in compliance with this rule is exempt from public disclosure. WAC 173-185-110 requires that Ecology and any state, local, tribal, or public agency with access to commercial, financial, or proprietary information stored in the ANT System to first aggregate the information before disclosing it to the public or nongovernmental entities. Details about how information intended for public disclosure is to be aggregated is described in WAC 173-185-100. Agencies that access

individual notice of transfer information submitted by facilities through the ANT System will see disclaimers and disclosures as a reminder that information acquired through the ANT System is exempt from public disclosure and must be aggregated before being disclosed to the public.

Quarterly Reporting

Ecology will continue to disclose the information collected under this rule through aggregated quarterly reports that are published on our website, as described in WAC 173-185-100.

Each report provides information about crude oil movement by rail and pipeline in a summarized format for each quarter of the calendar year. Information reported by facilities is aggregated on a statewide basis by route, week, and type of crude oil, as required by RCW 90.56.565(3).

Members of the public can quickly find details about crude oil by rail shipments being transported on railroad line segments through the state.

After the effective date of this rule amendment, Ecology will update future quarterly reports to contain information on:

- Crude oil type based on American Petroleum Institute (API) gravity and designation of the crude oil as sweet or sour for facilities and pipelines.
- Vapor pressure for facilities.
- API gravity for pipelines.

Ecology sends an email notification through our Spills Program listserv (<http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?SUBED1=SPILLS-PROGRAM&A=1>) each time a new quarterly report is available on our website. Interested parties are encouraged to subscribe to the Spills Program listserv to receive these email notifications as well as other Spills Program information.

Enforcement

The following and existing enforcement provisions are applicable to all violations of Chapter 173-185 WAC:

- RCW 90.48.120 Notice of department's determination that violation has or will occur—
Report to department of compliance with determination – Order or directive to be issued – Notice;
- 90.48.140 Penalty; and
- 90.48.144 Violations – Civil penalty – Procedure.

Informing and Educating Persons Affected by the Rule

Throughout the rulemaking process, Ecology staff have communicated with the regulated community and the public through emails, phone calls, meetings, workshops, and public hearings to inform them about the rule development and to capture input.

Notices of rule adoption will be sent immediately after the rule is adopted to entities subject to the rule, emergency response communities, tribes, and interested stakeholders, including members of the public who provided contact information with their comments for the rule.

Additionally, the Spills Program will use a combination of outreach methods to inform and educate persons affected by the rule, including:

- Updates to Ecology's website to notify users of the rule adoption and to direct them to published supporting documents.
- Outreach to regulated facilities and pipelines to provide links to guidance documents, offer training on reporting information on crude oil movement in March and April 2021, and to offer technical assistance to facilities with data entry into the ANT System or Crude Oil Transmission Pipeline Report Form.
- Outreach to the UTC, the emergency management division, and county, city, tribal, port, and local government emergency response agencies to inform them of the rule amendments, provide links to guidance documents, and offer training on accessing information on crude oil by rail through the ANT System on an ongoing basis.
- Email notification through the Spills Program listserv (<http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?SUBED1=SPILLS-PROGRAM&A=1>) each time a new quarterly report on crude oil movement by rail and pipeline has been published on our website.
- Inform and educate the public when they contact Ecology.

Assistance is also available by contacting Eli Seely at 360-480-3095 or Eli.Seely@ecy.wa.gov.

Promoting and Assisting Voluntary Compliance

Educating stakeholders about the updated requirements and reporting interface for the rule helps to promote voluntary compliance. Ecology staff responsible for implementing this rule work directly with affected entities to assist with compliance, and are involved with internal processes for advance notice of oil transfers. These individuals are updating the tools needed for successful implementation of the rule changes.

Ecology will promote voluntary compliance by maintaining close communication with regulated facilities and pipelines as the rule amendments become effective. Training opportunities and technical assistance will be provided to help regulated entities and others to understand the changes in the amended rule.

Additionally, the facilities and pipelines subject to the crude oil movement notification requirements in RCW 90.56.565 have been reporting information for crude oil movement by rail and pipeline since initial adoption of the rule in 2016. The ANT System and pipeline reporting form make reporting as simple and accurate as possible.

Evaluating the Rule

The purpose of the rule is to collect information about crude oil movement by rail and pipeline in Washington that can be used to understand the changing risk picture associated with crude oil transport in the state.

Ecology's Spills Program developed the ANT System for crude oil by rail entries and a view interface for emergency response agencies when the rule was first adopted in 2016. The system allows facilities subject to this rule to use a web-based form to submit the required notification information about crude oil by rail shipments scheduled for arrival at the facility. In addition, the system allows eligible emergency response agencies to quickly access advance notice information as soon as it is submitted by facilities. The Spills Program updated the ANT System to incorporate the information required by the adopted rule amendments.

To evaluate whether the rule amendments achieve the purpose for which it was adopted, Ecology will continue to monitor compliance by facilities and pipelines subject to the rule and evaluate the accuracy of information submitted for advance notification and quarterly reporting purposes. To facilitate accurate notification, the ANT System can be updated to add or remove selection variables for all of the required information as the crude oil movement picture in Washington State changes. As rail routes are added or eliminated, or as crude oil from new regions of origin is imported, facilities can inform Ecology that the ANT System needs to be updated.

Ecology will also rely on feedback from the emergency response community and the UTC about the usefulness and accuracy of the ANT System. Information reported by these agencies may be used for penalty and enforcement purposes. Users can contact staff working with the ANT System through the contact information at the end of this document.

The public may also contact staff to make suggestions regarding the aggregated quarterly reports for crude oil movement by rail and pipeline through the contact information at the end of this document.

Training and Informing Ecology Staff

A key to avoiding miscommunication between Ecology staff, the regulated community, emergency response agencies, and the public is to inform Ecology staff to route all calls or communications regarding oil movement by rail and pipeline and the ANT System directly to specific staff from the Spills Program that are responsible for implementation of the rule.

Protocols for handling phone calls, emails, or other communication about oil movement information from outside of the agency will be included in program and section meetings for the Spills Program. Additionally, contact information is included in the ANT System and with aggregated quarterly reports published on Ecology's website. Since the existing ANT System is already housed within the Spills Program, program staff understand that only designated staff should respond to communications on the topic of oil movement by rail and pipeline.

List of Supporting Documents that May Need to be Written or Revised

The following supporting materials will be updated and made available on the Ecology website at <https://ecology.wa.gov/Regulations-Permits/Reporting-requirements/Advance-notice-of-oil-transfer>:

- Guide to Setting Up an Account for the Advance Notice of Transfer System through SecureAccess Washington (SAW) (Publication No. 06-08-041): This guide helps users set up an account in the state's SAW online system.
- Guide for Users of the Advance Notice of Oil Transfer (ANT) System (Publication No. 06-08-040): This guide helps users enter vessel, facility, or rail Advance Notice of Oil Transfer into the state's web-based system.
- Crude Oil Transmission Pipeline Report Form (ECY 070-562): Used by pipelines subject to the reporting requirements in WAC 173-185-080.
- Guide for Emergency Response Users of the Advance Notice of Oil Transfer (ANT) System (Publication No. 16-08-030): This guide helps emergency response users view and download rail shipments of crude oil that enter Washington State.
- Rail Advance Notice of Oil Transfer (ANT) System Tutorial Video: Developed to assist the emergency response community in navigating Ecology's ANT System.

More Information

For more information, please see the following Ecology webpages:

- Spills Program rules and laws: <https://ecology.wa.gov/About-us/Get-to-know-us/Our-Programs/Spills-Prevention-Preparedness-Response/Rules-directing-our-work>
- Chapter 173-185 WAC rulemaking page: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-185>
- Advance notice of oil transfer: <https://ecology.wa.gov/Regulations-Permits/Reporting-requirements/Advance-notice-of-oil-transfer>

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