



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

## **Rule Implementation Plan**

### **Oil Movement by Rail and Pipeline Notification**

#### **Chapter 173-185 WAC**

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# Table of Contents

<b>PURPOSE .....</b>	<b>1</b>
<b>INTRODUCTION .....</b>	<b>1</b>
<b>IMPLEMENTATION AND ENFORCEMENT.....</b>	<b>2</b>
ADVANCE NOTIFICATION REQUIREMENTS FOR FACILITIES RECEIVING CRUDE-BY-RAIL.....	2
BIANNUAL NOTICE REPORTING REQUIREMENTS FOR PIPELINES TRANSPORTING CRUDE OIL IN WASHINGTON STATE .....	4
THE ADVANCE NOTICE SYSTEM FOR EMERGENCY RESPONSE AGENCIES .....	4
QUARTERLY REPORTING .....	5
<b>INFORMING AND EDUCATING PERSONS AFFECTED BY THE RULE .....</b>	<b>7</b>
REGULATED COMMUNITY .....	7
EMERGENCY RESPONSE AGENCIES.....	7
PUBLIC AT LARGE .....	8
<b>PROMOTING AND ASSISTING VOLUNTARY COMPLIANCE .....</b>	<b>9</b>
<b>EVALUATING THE RULE.....</b>	<b>10</b>
<b>TRAINING AND INFORMING ECOLOGY STAFF .....</b>	<b>11</b>
<b>LIST OF SUPPORTING DOCUMENTS THAT MAY NEED TO BE WRITTEN OR REVISED .....</b>	<b>12</b>
<b>MORE INFORMATION .....</b>	<b>13</b>
<b>CONTACT INFORMATION .....</b>	<b>13</b>

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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 August 24, 2016, Ecology adopted Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification (AO # 15-13). 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 new or amended rule.

Also included in this plan is information about:

- Supporting documents that may need to be written or revised because of the new rule or 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

RCW 90.56.565 directs Ecology to develop a rule that:

- Creates advance notification requirements for facilities receiving crude-by-rail in Washington State.
- Creates biannual reporting requirements for pipelines transporting crude oil through transmission pipelines in the state.
- Creates an advance notice system to share crude-by-rail notification information with emergency response agencies.
- Creates reporting requirements for Ecology that include publishing aggregated quarterly reports describing oil movement by rail and pipeline in Washington State.

The scope of the rule is limited to regulating facilities in Washington State that receive crude oil by rail and pipelines that transport crude oil through transmission pipelines in or through the state. Implementation and enforcement of the reporting elements described below will occur on October 1, 2016, which is the effective date for the rule.

## Advance Notification Requirements for Facilities Receiving Crude-by-Rail

Effective October 1, 2016, owners and operators of facilities, as defined in WAC 173-185-050(4)(a), that receive crude-by-rail deliveries must report to Ecology certain information about crude-by-rail shipped in bulk in Washington State in advance of delivery. To implement this aspect of the rule, Ecology designed a reporting interface that works within the existing advance notice of transfer system created for vessels in RCW 88.46.165. The notification requirements for facilities receiving crude-by-rail are found in WAC 173-185-070.

Many of the facilities that currently enter notification information into the existing system for vessel transfers are also subject to the new crude-by-rail notification requirements of this rule. For those entities, a new option to select vessel or rail interface tabs will be available at the top of the page upon logging into the Advance Notice of Transfer (ANT) system accounts they already use.

New users subject to the rule must create a SecureAccess Washington (SAW) account and request access to the Advance Notice of Transfer application (ANT) before they will be able to submit crude-by-rail shipment information in compliance with this rule. Users can create SAW accounts at: <https://secureaccess.wa.gov/>.

Once created, SAW users will need to login at <https://secureaccess.wa.gov/>.

After logging in, users must request access to the Department of Ecology's Advance Notice of Transfer system (ANT). To add the ANT application as a service to a SAW account, users must click "Add a New Service". Then, users will need to select "Department of Ecology" from the list of agencies on the right side of the screen. Users will then need to select "Advance Notice of Oil Transfer" from the list of applications sponsored by Ecology. After clicking the "Apply" button, a message acknowledging successful registration should appear. Ecology staff will then review the request to confirm that a regulated entity is requesting access. A user guide describing

this process in more detail is available at <http://www.ecy.wa.gov/programs/spills/prevention/antsystem.html>.

Questions about ANT access issues should be directed to Jack Barfield at [Jack.Barfield@ecy.wa.gov](mailto:Jack.Barfield@ecy.wa.gov).

Once approved, facilities can simply log into SAW and open the ANT application to begin the process of submitting notification details for oil transfers. Facilities entering details about crude-by-rail transfers will need to select “Rail” as the mode of transport upon opening the ANT application. By selecting rail as the mode of transport for a transfer, a new screen will prompt the facility user to enter the required information about crude-by-rail shipments expected for delivery in the succeeding seven-day period described in WAC 173-185-070. Facilities will also have the option to provide the name of the crude oil product scheduled for delivery.

In the event that additional shipments of crude-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 application as soon as reliable and accurate details are available to the facility. If possible, this should be done before the shipment enters the state.

Facilities should make every effort to report accurate rail route information for each crude-by-rail shipment. A rail route selection tool is built into the ANT application to assist facilities to this end. The selection tool is designed to allow facilities to reference information available before delivery (e.g. rail operators, entry point into the state, region of origin, product name, etc.) to select the most likely route through the state for each crude-by-rail shipment. This information is made available to emergency response agencies as soon as it is submitted into the ANT application.

Although a facility may select “unknown” for a rail route, facilities are encouraged to use the rail route selection tool first. Doing so will prompt every emergency response agency that accesses notification information for that week to consider the possible impacts posed to their respective areas of response. And, unless corrected, this incomplete information about the shipment will also be included in aggregated quarterly reports.

Ecology has authority under RCW 90.48.120, 90.48.140, and 90.48.144 to enforce the rule and issue penalties for violations. Ecology’s Spills Program currently enforces Chapter 173-184 WAC, the advance notice rule for marine vessels, under the same statutory authority. This rule uses the same enforcement protocol as Chapter 173-184 WAC to investigate violations or possible violations extended to the agency in RCW 90.56.410.

## **Biannual Notice Reporting Requirements for Pipelines Transporting Crude Oil in Washington State**

Effective October 1, 2016, owners and operators of pipelines that transport crude oil through transmission pipelines in or through Washington State must comply with biannual reporting requirements described in WAC 173-185-080. Submission of the biannual notice information will be via email to [OilTransferNotifications@ecy.wa.gov](mailto:OilTransferNotifications@ecy.wa.gov).

Required biannual notice information for crude oil moved in transportation through transmission pipelines in or through Washington State is limited to volume by state or province of origin of the crude oil.

By January 31 of each year, pipelines subject to the rule must submit required information about crude oil movement through transmission pipelines in the state for the period of July 1 to December 31 of the previous calendar year. January 31, 2017 is the first biannual notice reporting due date following the October 1, 2016 effective date of this rule.

By July 31 of each year, pipelines subject to the rule must submit required information about crude oil movement through transmission pipelines in the state for the period of January 1 to June 30 of the current calendar year.

Required information for each six month period described above must be received Ecology via email by the end of day on the biannual notice reporting due dates (January 31 and July 31).

Ecology has established penalty and enforcement authority through RCW 90.48.120, 90.48.140, and 90.48.144. Ecology's Spills Program is currently enforcing a similar rule (Chapter 173-184 WAC) and uses the same enforcement protocol to investigate violations or possible violations extended to the agency in RCW 90.56.410 in the enforcement of this rule.

### **The Advance Notice System for Emergency Response Agencies**

RCW 90.56.565(2) directs Ecology share information collected from facilities subject to this rule with the state Emergency Management Division, county, city, port, other local government emergency response agencies, and tribes through an advance notice system. The system is designed to be consistent with the existing advance notice of transfer system for vessels (ANT) transferring oil over water described in RCW 88.46.165.

To implement this aspect of the rule, Ecology will allow members of the emergency response community to request secure access to the ANT application to review individual notification about crude oil movement by rail in Washington State. Each emergency response agency requesting access to the ANT application must first acquire a SecureAccess Washington (SAW) account. SAW accounts can be created at <https://secureaccess.wa.gov/> using the "Create New Account" link at the bottom of the webpage.

Once created, SAW users will need to login at <https://secureaccess.wa.gov/>.

After logging in, users must request access to the Department of Ecology’s Advance Notice of Transfer application (ANT). To add the ANT application as a service to a SAW account, users must click “Add a New Service”. Then, users will need to select “Department of Ecology” from the list of agencies on the right side of the screen. Users will then need to select “Advance Notice of Oil Transfer” from the list of applications sponsored by Ecology. After clicking the “Apply” button, a message acknowledging successful registration should appear. A user guide describing this process in more detail is available at <http://www.ecy.wa.gov/programs/spills/prevention/antsystem.html>.

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

Questions about ANT access issues should be directed to Jack Barfield at [Jack.Barfield@ecy.wa.gov](mailto:Jack.Barfield@ecy.wa.gov).

To review oil movement notification information, emergency response agencies with SAW and ANT system access must first log into SAW at <https://secureaccess.wa.gov/>. Once logged in, the user must then click on the ANT link to open the application. The link can be found in “My Services”.

In ANT, users can review individual notice of transfer information submitted by facilities in Washington State that receive crude-by-rail. 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-by-rail shipments for specific counties or date ranges.

Individual notice or unaggregated information about oil movement by rail submitted in compliance with this rule is exempt from public disclosure. WAC 173-185-110 requires that Ecology and any emergency response 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.

Penalties and enforcement of the nondisclosure section of this rule, as it pertains to disclosure of nonaggregated proprietary, commercial, or financial information to the public, is described in RCW 90.48.120, 90.48.140, and 90.48.144.

## **Quarterly Reporting**

Ecology will publish quarterly reports on the agency website to implement the disclosure requirement described in WAC 173-185-100. Notice of report availability each quarter will be sent using the Spills listserv available at <http://listserv.wa.gov/cgi-bin/wa?SUBED1=SPILLS-PROGRAM&A=1>. Interested members of the public are encouraged to subscribe to the listserv for information related to the topic of oil spills in Washington State and for notice of quarterly report availability.

Quarterly reports summarize volume data each week for each type of crude moving on individual route segments through the state. This format complies with the requirement in WAC 173-185-100 to aggregate information related to oil movement to facilities in Washington State. The reports show volume totals for each type of crude transported on individual route segments through the state during each week of the quarter covered by the report. Members of the public can quickly find details about crude-by-rail shipments being transported on railroad line segments through the state.

In addition to aggregated crude-by-rail oil movement notification information, quarterly reports will include information about crude oil movement through transmission pipelines in or through the state. Access to information about the reported number and volume of oil spills during transport and delivery will also be described in the reports.

# **Informing and Educating Persons Affected by the Rule**

The Spills Program will use a combination of outreach methods to inform and educate persons affected by the rule. Notices of rule adoption will be sent immediately after the rule is adopted to entities subject to the rule, the emergency response community, and interested stakeholders, including members of the public who provided contact information with their comments for the rule. The Agency's webpage will also be updated to notify users of the rule adoption and to direct them to published supporting documents.

## **Regulated Community**

The regulated community and emergency response agencies requiring access to the advance notice of transfer application (ANT) will have access to a SAW registration guide that describes the steps necessary to request access to ANT. This guide is available at <http://www.ecy.wa.gov/programs/spills/prevention/antsystem.html>.

A video tutorial describing how to create SecureAccess Washington (SAW) account can be found at <https://www.youtube.com/watch?v=XFizCBKZpK8>.

In addition, facilities will have an opportunity to request in-person training in the use of the ANT system for submitting crude-by-rail information during September and October of 2016. Staff will contact each facility before October 1, 2016 to make in-person training available during September and October of 2016. User guides are also available at <http://www.ecy.wa.gov/programs/spills/prevention/antsystem.html>.

Facilities may also request assistance by phone or email from Jack Barfield at 360-407-7483 or [Jack.Barfield@ecy.wa.gov](mailto:Jack.Barfield@ecy.wa.gov).

## **Emergency Response Agencies**

Emergency response agencies must follow the procedures described in the previous section to create a SAW account and request access to the ANT application before information about crude-by-rail can be made available to them.

Ecology staff will include information about accessing the ANT application in communications with eligible emergency response agencies through outreach at association meetings and conferences between August and November of 2016.

A video tutorial describing how to create SecureAccess Washington (SAW) account can be found at <https://www.youtube.com/watch?v=XFizCBKZpK8>.

Individual assistance is also available by contacting Jack Barfield at 360-407-7483 or [Jack.Barfield@ecy.wa.gov](mailto:Jack.Barfield@ecy.wa.gov).

## **Public at Large**

Notice of updates to agency websites for aggregated quarterly reports is sent to subscribers of the Spills Program email listserv. Members of the public can subscribe at <http://listserv.wa.gov/cgi-bin/wa?SUBED1=SPILLS-PROGRAM&A=1>. Aggregated quarterly reports will be published on the agency webpage.

Assistance is also available by contacting Jack Barfield at 360-407-7483 or [Jack.Barfield@ecy.wa.gov](mailto:Jack.Barfield@ecy.wa.gov).

## Promoting and Assisting Voluntary Compliance

Educating stakeholders about the requirements and reporting interface for the rule helps to promote voluntary compliance. Many of the Ecology staff responsible for implementing this rule work directly with affected entities, and are involved with current internal processes for advance notice of transfer of oil. These individuals have begun preparing tools, documents and process changes that will be needed to establish and implement these changes. They also assess existing processes and seek to capture potential process efficiencies.

Ecology and the facilities required to report oil movement details work closely to support the Agency's goal to have zero spills. Many of the facilities subject to the oil movement notification requirements in RCW 90.56.565 have been reporting advance notice of transfer for oil delivered by vessel for many years with great success. The vessel system makes advance notice of transfer reporting as simple and accurate as possible. The system designed for crude-by-rail deliveries integrates with the vessel system and has the same goal.

Facilities are required to submit advance notification of crude-by-rail shipments expected for arrival in the succeeding 7-day reporting period. If there are no scheduled shipments for the 7-day period, a facility is not required to provide advance notice. However, if a facility receives notification of a shipment after reports are due, the facility is expected to submit accurate and reliable notification details to the ANT system before the shipment enters the state. Once an individual notification of a crude-by-rail shipment is submitted into the ANT system, facilities may return to the notification submission to edit details if they choose.

To assist pipelines with convenient reporting, Ecology is facilitating a simplified reporting process where pipeline owners and operators can simply email a form containing the volumes of crude oil transported through transmission pipelines in or through the state totaled by each state or province of origin. The designated email address for pipeline biannual notice report submission is [OilTransferNotifications@ecy.wa.gov](mailto:OilTransferNotifications@ecy.wa.gov).

Emergency response agencies that access individual notice of transfer information submitted by facilities through the advance notice system will see disclaimers and disclosures as a reminder that information acquired through the ANT acquired is exempt from public disclosure and must be aggregated before being disclosed to the public. Details about how information must be aggregated are described in WAC 173-185-100.

## Evaluating the Rule

The purpose of the rule is to collect information about 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. This information is necessary to provide accurate and timely information to emergency response agencies serving communities at an increased risk of impacts from crude oil spills and other incidents associated with the movement of crude oil by rail. It is also important to provide information to the public to inform community planning and other endeavors affected by a rapidly changing risk picture.

Ecology's Spills Program has developed a notification submission and advance notice reporting interface consistent with the existing advance notice of transfer application created for vessels transferring oil over water (Chapter 173-184 WAC). The system allows facilities subject to this rule to use a web-based form to submit the required notification information about crude-by-rail shipments scheduled for arrival at the facility in order to comply with the advance notification requirements outlined in this rule. In addition, the system allows eligible emergency response agencies to quickly access advance notice information as soon as it is submitted by facilities.

To evaluate whether the rule achieves the purposes for which it was adopted, Ecology will 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 notification, the ANT system can be updated to add or remove drop down selection variables for all of the required information as the oil movement picture in Washington State changes. As rail routes are added or eliminated, or as crude sources from new regions of origin are imported, facilities can quickly inform Ecology that the ANT system needs to be updated to maintain the convenience of reporting required notification information. Staff will review the request and investigate the proposed changes for their applicability in maintaining and improving the ANT application.

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

The public at large 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 at large is to inform the wider Ecology staff to route all calls or communications regarding advance notice of oil transfer directly to staff data analysts from the Spills Program Statewide Resources Data Team. This unit developed the advance notice application used to implement the rule and is charged with maintaining the clearinghouse for information submitted by regulated entities, accessed by the emergency response community, and used to generate data for the aggregated quarterly reports.

Protocols for handing 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 application and with aggregated quarterly reports published on the agency webpage. Since the existing advance notice system is already housed within the Spills Program, staff understands that only designated data team analysts 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**

1. Guide to Setting Up an Account for the Advance Notice of Transfer (ANT) System
2. Guide for Users of the Advance Notice of Oil Transfer (ANT) System
3. Crude Oil Movement by Pipeline – Oil Transfer Reporting Form

## More Information

Spills Program Rules Page

<http://www.ecy.wa.gov/programs/spills/rules/main.html>

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