DEPARTMENT OF
ECOLOGY
State of Washington

Concise Explanatory Statement

Chapter 173-182 WAC

Oil Spill Contingency Plan Rule

Summary of rulemaking and response to comments

October 2016
Publication no. 16-08-025

Publication and Contact Information

This publication is available on the Department of Ecology's website at
https://fortress.wa.gov/ecy/publications/SummaryPages/1608025.html

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Spills Prevention Preparedness and Response Program
Washington State Department of Ecology
Olympia, Washington 98504-7600

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Introduction

The purpose of a Concise Explanatory Statement is to:

- Meet the Administrative Procedure Act (APA) requirements for agencies to prepare a Concise Explanatory Statement (RCW 34.05.325).
- Provide reasons for adopting the rule.
- Describe any differences between the proposed rule and the adopted rule.
- Provide Ecology's response to public comments.

This Concise Explanatory Statement provides information on The Washington State Department of Ecology's (Ecology) rule adoption for:

Title:	Oil Spill Contingency Plan Rule
WAC Chapter(s):	173-182
Adopted date:	October 12, 2016
Effective date:	November 12, 2016

To see more information related to this rulemaking or other Ecology rulemakings please visit our web site: http://www.ecy.wa.gov/laws-rules/index.html

Reasons for Adopting the Rule

Ecology is adopting amendments for Chapter 173-182 WAC Oil Spill Contingency Plan. The rule requirements were last updated for pipelines in 2006. At that time the pipeline planning standards were developed to align with the marine terminal standards.

In Washington pipelines exist in both marine and inland areas. After several years of implementing the rule, we have identified the need to update our standards to ensure that required oil spill response equipment is appropriate for the pipeline risks and operating environments (marine and inland). We also feel the need to better incorporate and embrace available technology and geo-referenced data in our planning requirements.

The rulemaking updates the planning requirements for pipelines in the following ways:

- Updates definitions to ensure clarity and consistency with existing federal regulations.
- Clarifies the Worst Case Discharge calculation for pipelines.
- Creates a new pipeline geographic information planning standard which will use available geo-referenced data to support preparedness planning and initial decision making during pipeline oil spills.
- Enhances our existing air monitoring requirements for pipelines to ensure safety of oil spill responders and the general public.
- Enhances our spills to ground requirements to ensure rapid, aggressive and well-coordinated responses to spills to ground which could impact ground water.
- Updates our pipeline planning standard storage requirements to ensure the equipment required is appropriate for the environments pipelines may impact.
- Expands the Best Achievable Protection (BAP) Review Cycle to facilities and pipelines.
- Other changes to clarify language and make any corrections needed.

Differences Between the Proposed Rule and Adopted Rule

RCW 34.05.325(6)(a)(ii) requires Ecology to describe the differences between the text of the proposed rule as published in the *Washington State Register* and the text of the rule as adopted, other than editing changes, stating the reasons for the differences.

There are some differences between the proposed rule filed on May 18, 2016 and the adopted rule filed on October 12, 2016. Ecology made these changes for all of the following reasons:

- In response to comments we received.
- To ensure clarity and consistency.
- To meet the intent of the authorizing statute.

The following content describes the changes from the proposed rule language to the adopted language and Ecology's reasons for making them. Where a change was made solely for editing or clarification purposes, we did not include it in this section.

WAC 173-182-030 Definitions.

Updated the definition of "Transmission Pipeline" to remove the outdated reference to the federal definition which is no longer in statute.

In the "Worst Case Spill" definition the minimum time to detect the release and shutdown the pipeline, for planning purposes, was changed from twenty minutes to thirty minutes to reflect public concerns about pipeline leak detection systems and response times. The thirty minute minimum sets a reasonable baseline for establishing the Worst Case Spill planning volume. This volume is used to determine the boom, storage, and recovery assets the pipeline must own or contract and reference in the contingency plan.

WAC 173-182-135 Phase in language for pipeline plan holders.

Changed the phase-in for the air monitoring requirements from 24 months to 12 months to reflect comments received during the public comment period.

WAC 173-182-640 Process for public notice and opportunity for public review and comment period.

Updated to reflect concerns that the public comment period section should make explicit that notice and comments will be available for plans that are significantly changed, in addition to those that are updated for their 5 year review period.

WAC 173-182-720 Evaluation criteria

Updates to this section to align with the 2016 version of the National Preparedness for Response Exercise Program (NPREP) guidance document.

Response to Comments

Description of comments:

Ecology reviewed all public comments received during the public comment period. Comments received were sorted by subject matter grouping similar topics together, excerpting the comments, and writing a response to each set of comments. Each of the comments reflects a particular issue or set of issues raised by one or more individuals or organizations.

Commenter identification:

Ecology accepted comments from May 18, 2016 until July 22, 2016. This section provides comments that we received during the public comment period and our responses. Commenters can find the location of a response to his or her comment in the Commenter Index in the section immediate following this one. (RCW 34.05.325(6)(a)(iii))

You can see the original content of the comments we received in Appendix A.

Summarized Comments and Responses:

1) Oil Products Handled
Comment: We suggest that for pipelines transporting diluted bitumen require the contents to be additionally identified in a way consistent with the recommendations of the National Academies of Science --that is to say, by their industry-standard names usually associated with the geographic source of the bitumen. See Spills of Diluted Bitumen from Pipelines: A Comparative Study of Environmental Fate, Effects, and Response. **Comment:** Require contingency plans to identify the specific type of oil transported through pipelines. To ensure responder safety and a successful spill response, it is essential for spill responders to know the type or species of oil.
Response: Under WAC 173-182-230 (4) Facilities, including transmission pipelines, must provide details about all oils or products handled by name and include; density, gravity, API, oil group number, and sulfur content. No changes to the rule were made based on these comments because the requirement is addressed in the existing rule.

2)Worst Case Discharge
Comment: The definition “Worst-Case Spill” as applied to pipelines is not consistent with other worst-case spill definitions in the WAC. "Worst case spill" is defined (i): For planning purposes the total time to detect the release and shutdown of the pipe-line should be based on historic discharge data or in the absence of such historic data, the operator’s best estimate. The total time to detect and shut down the pipeline, must be equal to or greater than 20 minutes. The inclusion of 20 minutes as a minimum amount

of time (for planning purposes) to detect a spill and shut down a pipeline does not reflect any industry average given the challenges experienced with pipeline spill detection systems.

Comment: While we are pleased to see a minimum response time being inserted into the definition of worst case spill, we believe that the 20 minutes identified in the definition for time to shut down is likely much faster than most operators will identify, respond, shut down and isolate a segment that has failed. We suggest that minimum time be enlarged to at least 30 minutes, and that during review of plans Ecology be very skeptical of operators' claimed response times.

Response: Thank you for your comment about the 20 minute minimum time to detect and shut down the pipeline. The 20 minute minimum is identified as a planning standard and not a response standard. In order to reflect public comments received and ensure conservative planning volumes, we have changed the minimum time to detect and shut down the pipeline from 20 minutes to 30 minutes.

3) Financial Responsibility

Comment: The plan should include clearly delineated fiscal responsibility for the costs associated with spills. The plan should designate the specific corporations that produced the spilled oil and the specific corporations that loaded and transported the oil as being responsible for fully reimbursing every public agency, business, non-profit organization, and private individual who participated in spill response, or was harmed or inconvenienced by the spill and its aftermath. The corporations must obtain and show proof of bonds sufficient to cover the full extent of these costs. The bonds must be from an independent insurance agency/entity with holdings certified and guaranteed to fully cover and dedicated to specific oil shipments for specified date ranges. The oil producing, loading and transporting corporations should not be allowed to "self-bond" including amongst themselves or with affiliated or financially linked corporations. The plan should establish a website now so that when a spill occurs the public agencies, businesses, non-profits, volunteers and harmed individuals can immediately log in to the site and submit records for their time, costs, and damages.

Response: Washington State has strict liability for oil spills. A responsible party (spiller) is strictly liable, without regard to fault, for the damages caused by spills to water.

The rules require a description of the process that pipeline plan holders will use to set up their claims process at the time of a spill.

Financial disclosure is outside the scope of this rulemaking. Financial disclosure requirements for pipelines are under the jurisdictional authority of the Utilities Transportation Commission (UTC). Please refer to http://www.utc.wa.gov/docs/Pages/Hazliqpipelinesafetyfeemethodologyrulemaking160122.aspx for details about financial disclosure for pipelines. No changes were made to the rule language based on this comment.

4) Environmental Concerns

Comment: I am a Tacoma resident concerned about the destruction a potential oil spill would have on my family, my community and our natural environment. Commencement Bay is a source of pride for both myself and the Tacoma community and it deserves strong protection.

Comment: While I support the expanded pipeline requirements proposed, I have concerns about the proposed regulation's effectiveness, scope of certain amendments, possible ambiguities and the phase in of new requirements. For these reasons, I find the proposed rule to be inadequate in the protection of our waters and natural resources.

Comment: I am very upset about lack of contingency plans if there is an oil spill whether by pipeline or train wreck. I live in Spokane and in planet earth and we need to do more to protect our people and planet.

Comment: While many of the rule revisions are a step in the right direction, there are still significant shortcomings in the plan's scope and phase-in period. The proposed plan would not require the level of protection and responsiveness necessary to effectively deal with a pipeline spill.

Comment: Over 98% of climate scientists have been speaking out about the CLIMATE CLIFF we have gone over! All governments should be working rapidly to keep ALL fossil fuels in the ground. It is unconscionable that WA State would even consider more pipelines. PLEASE stop this insanity! Our children and grandchildren depend on your morale resolve.

Comment: Overall, CHB supports the expanded requirements for pipelines outlined in the proposed rule. However, CHB has concerns related to the effectiveness of this proposed regulation, in regards to the scope of certain amendments, possible ambiguities in the rules and the phase in of the amendments and new requirements.

Comment: I think that most of my questions have been answered, and I don't have much to say other than I urge you to really develop these plans in a way that can most mitigate damage that would be done to local folks if in case of a spill. I understand that spills do happen. I'm conscience of the 1 in California. I think that ended up going potentially into the ocean. I know that it could be very serious. Here we of course have our wonderful Columbia River and the other rivers that feed into it, including Spokane. I grew up close to the Snake, so I am concerned about those water ways and damage to fish, etcetera as far as people who use the water for drinking. Downriver from Spokane ... Upriver? Downriver from Spokane water is being taken I believe for drinking. Here it's used for swimming, etcetera. All of those is really important to me that all of that water be protected. I thank you for the work that you do, and I urge you to continue doing strong work to protect we, the citizens of Washington. Thank you.

Response: Thank you for your comments. The rule will enhance oil spill contingency planning requirements for oil handling pipelines operating in Washington State. This rule applies to six transmission pipelines operating under approved contingency plans in Washington State. The rule is not proposing additional pipelines be sited or built.

Under a recent legislative update, trains that transport fuel as cargo are considered facilities for the purposes of contingency planning in Washington State. The new requirements for railroad contingency planning can be found in WAC 173-186.

The rule updates for pipelines are based on over 10 years of lessons learned from reviewing pipeline contingency plans and testing pipelines through a substantive drill program. The rule uses lessons learned from the current oil transportation picture, best achievable protection (BAP) and best achievable technology (BAT) in oil spill planning.

5) Initial Response Actions

Comment: Revise the 1-hour planning standard that requires a safety assessment of the spill by trained crew and appropriate air monitoring to have arrived to also include appropriate protective equipment (e.g., respirators) for all spill responders.

Comment: Amend New Section WAC 173-182-535 Pipeline planning standards for air monitoring to protect oil spill responders and the public to include (as underlined): (9) A description of how oil spill responders will be protected with appropriate equipment (e.g., respirators) while responding to spills with adverse air quality.

In order to ensure a rapid, aggressive and well-coordinated response, amend the definition of "Spill Assessment" as underlined: "Spill assessment" means determining product type, potential spill volume, environmental conditions including tides, currents, weather, river speed and initial trajectory as well as a safety assessment including air monitoring and identification of appropriate protective equipment, including respirators, for oil spill responders.

Response: The selection of appropriate personal protective equipment is based on the spill scenario, product type, volume spilled and the conditions of the day. We did not add the more prescriptive language recommended in your comment because prescribing personal protective equipment is outside the authority of our rules. In a spill or drill, deployment of equipment and personnel shall be guided by safety considerations and in accordance with the Washington Industrial Safety and Health Act (WISHA) and Labor & Industries (L&I) standards. The responsible party must take all actions necessary and appropriate to immediately collect and remove, contain, and treat oil entering waters of the state and address the entire volume of an actual spill regardless of the planning standards. The planning standards do not, and cannot, prescribe how spill responses will be conducted.

6) Best Achievable Protection (BAP)

Comment: Identify how pipeline contingency plan requirements address BAP and BAT in order to be commensurate or exceed the contingency plan requirements currently required for other means of transporting oil products.

Comment: Require 1-, 2-, 4-, 6-, 12-, 24-, and 48-hour planning standards that will avert or minimize oil spills into waterways (and in particular waters of statewide significance) and corresponding environmental and economic damage by requiring BAP and BAT.

Response: The enhanced planning standards for pipelines WAC 173-182-365 and 366 are commensurate with the contingency plan requirements for other types of oil handling facilities (ie. refineries and tank farms) as well as covered vessels. The pipeline requirements were updated to more clearly prescribe where pipeline planning points would be required and to ensure that the equipment relied upon for storage and early hours containment was appropriate for the operating environments pipelines may impact (both inland and marine). The planning standards are designed to respond to a worst case spill from the pipeline. They do not avert or minimize oil spills into waterways. Prevention requirements for pipelines are under the jurisdictional authority of the Utilities Transportation Commission.

Additionally the new planning requirements for a geographic information response tool and enhanced air monitoring requirements represent BAP for pipelines as determined by the state of Washington.

7) Air Monitoring

Comment: The proposed air monitoring provision for pipelines should be expanded to all plans, including vessel facility and rail plans.

Comment: Air monitoring standards should be phased in within twelve months rather than twenty-four.

Comment: We are very pleased to see Ecology include a planning standard for the monitoring of air quality following a spill. We think it is important to have the operators specifically identify the standards it intends to use, the levels of pollutants that will trigger actions to evacuate areas and/or require protection of cleanup workers, and to insure that the equipment that operators or first responders plan to use is capable of measuring to a low enough contamination level to be protective of public and worker health.

Comment: Pipelines pose a significant public safety risk and putting in place strong contingency plans is critical to the health and safety of our communities. ESHB 1449 is the Oil Transportation SAFETY bill which emphasizes the safe transport of oil by rail and the safety of the public and our State's first responders. Requiring appropriate protective equipment, including respirators, for first responders and oil spill responders is necessary to ensure spill response safety, and to ensure a rapid, aggressive and well-coordinated response.

Response: Ecology is conducting a focused rulemaking and updating requirements for pipelines only at this time. Updates impacting requirements for other types of plan holders regulated under WAC 173-182 are outside of the scope of the rulemaking. Based on comments received we changed the phase in time for the new air monitoring standards from 24 months to 12 months. Additionally, under the Northwest Area Contingency Plan (NWACP) the response community, industry, interested public, state, federal and tribal representatives formed a taskforce to work together to identify private and government air monitoring

capability, and how those will be coordinated for community air monitoring. The area plan will be updated to include details of successful air monitoring for responders and the community as a function of the taskforce work. The area plan will include details about the standards, levels of pollutants that trigger evacuations, and equipment.

8) Aerial Surveillance

Comment: In order to apply the requirement of aerial assets and surveillance to all pipelines, including transmission pipelines, either the regulations must be amended to apply to all pipelines or the definition of facility should be expanded to apply to all pipelines, including transmission pipelines.

Comment: Ensure that the planning standards for aerial surveillance are commensurate or exceed WAC 173-182-321 Covered vessel planning standards for aerial surveillance.

Comment: According to the summary of changes document, Ecology also clarified the definition of facility. Currently, facility is defined in WAC 273-182-030(19). The proposed regulations amend this by combining subsections (a)(i) and (ii), thereby eliminating the "and" between them and inserting "that is" before former (ii). This clarification leaves in the definition of facility the requirement that it "transfers oil in bulk to or from a tank vessel or pipeline." This could be read as implying that only a pipeline that transfers oil to or from a vessel or another pipeline is a facility. There is a separate definition of transmission pipeline as a USDOT regulated pipeline. It could be argued that since the definitions of facility does not refer to transmission pipelines, they are not facilities. This can be significant, because certain requirements apply only to facility plans. For example, WAC 173-182-320 applies aerial surveillance to facility plans and WAC 173-182-321 to aerial surveillance for covered vessels. This, in turn, means there could be ambiguity as to whether aerial monitoring applies to certain pipelines, including transmission pipelines. Either the regulations should be amended to expressly apply requirements for aerial assets and surveillance to all pipelines, including transmission pipelines, or the definition of facility expanded to apply to all pipelines, including transmission pipelines.

Response: Under WAC 173-182 pipelines are facilities and all requirements that apply to facilities also apply to pipelines except where transmission pipelines are specifically called out. Those requirements only apply to transmission pipelines. Currently the requirements at WAC 173-182-320 for facility aerial surveillance requirements apply to facilities, including transmission pipelines. We did not update the requirements for facilities to the more stringent vessel standard because this would impact all facilities regulated under the rule, not just transmission pipelines. We plan to update the facility planning standard requirements in the future. Updates to the rule impacting facilities, other than transmission pipelines are outside the scope of the rulemaking at this time.

9) Geographic Information Planning Standard

Comment: Thank you for including the new pipeline geographic information planning standard which is essential to support preparedness planning and initial decision making during pipeline spills. To ensure protection of the waters of statewide significance, and in particular those rivers and streams that provide salmon spawning and rearing habitat and the nearshore environment that is critical to juvenile salmon, the rule should be revised to require Geographic Response Plans (GRPs) for every river crossing and where the pipeline is in close proximity to a river.

In addition, GRPs should be required at the crossing of every conveyance to waters of statewide significance, including all seasonal streams, culverts, agricultural irrigation and/or drainage infrastructure, storm-water run-off drainage and/or containment systems (which conveyed spilled oil from the recent pipeline spill in Ventura, CA), and sewage treatment facilities (which conveyed spilled oil into the Columbia River from the recent train derailment in Mosier, OR). This is especially important for those pipelines transporting diluted bitumen (aka Canadian crude oil). A study that will be published in the journal *Environmental Toxicology and Chemistry* shows that exposure to diluted bitumen impairs the swimming ability and changes the heart structures of young salmon. Rapid and thorough spill response procedures are essential for pipelines transporting diluted bitumen through salmon habitat.

Comment: In proposed new WAC 173-182-515, we suggest that the geographic information planning standards require identification of any points where spilled oil could get into a municipal sewage system, as well as into storm water management systems, to allow unified command and the operator to understand the importance of preventing oil from entering them. We otherwise strongly support the addition of this standard.

Response: Thank you for your comments in support of the new geographic information planning tool. We believe this new requirement will support rapid, aggressive and well-coordinated spill responses.

No changes were made to the rule language based on comments received. Under the new requirement, pipeline plan holders must create a detailed data layer about their pipeline which includes locations of the line, key block valves, break out tanks etcetera.

The pipeline operator may also detail access points, culverts and other conveyances to waters of the state. These points are considered pipeline control points which are pre-identified containment locations; culverts do not qualify as Geographic Response plans. Pipeline Control Points are containment strategies at conveyances. Geographic Response Plans are booming strategies pre-identified at locations of sensitive biological, cultural or economic resources.

To view locations of pipelines and coverage of Geographic Response Plans please refer to our Spills Story Map Series.

10) Non-floating Oils

Comment: Thank you for including this new section in the draft rule. All modes of transporting crude oil should be required to have contingency plans that include spill response resources for non-floating oils. It is well documented that certain oils can sink when spilled, even those oils that are not classified as Group 5 oils. In order to ensure a rapid, aggressive and well-coordinated oil spill response, it is imperative that BAP and BAT be required for all oils that can sink. This would include diluted bitumen which is also known as Canadian crude oil, Canadian Oil Sands, or dilbit. See the United States Coast Guard's May 29, 2014 report to Congress, *Risk Assessment of Transporting Canadian Oil Sands*, and the National Academy of Sciences' *Spills of Diluted Bitumen from Pipelines: A Comparative Study of Environmental Fate, Effects, and Response*. Requiring that "the equipment must be capable of being on scene within twelve hours of spill notification" does not address the recommendation for "special immediate actions" in the National Academy of Sciences' *Spills of Diluted Bitumen from Pipelines: A Comparative Study of Environmental Fate, Effects, and Response*.

To ensure BAP, please revise per underline/strikeout:
(2) The equipment must be capable of being on scene within ~~twelve~~ six hours of spill notification.
To ensure BAP and BAT, please also require the listing of the specific equipment and amount of equipment needed to respond to a worst-case discharge (per underline/strikeout):
Such equipment shall include, but is not limited to, the following, with specific equipment and specific amounts/details listed in order to respond to a worst-case spill volume (e.g., feet of boom, make/model of specific equipment, minimum oil recovery rate, etc.):
(a) Sonar, sampling equipment or other methods to locate the oil on the bottom or suspended in the water column;
(b) Containment boom, sorbent boom, silt curtains, or other methods for containing the oil that may remain floating on the surface or to reduce spreading on the bottom;
(c) Dredges, pumps, or other equipment necessary to recover oil from the bottom and shoreline;
(d) Equipment necessary to assess the impact of such worst-case spill volume discharges; and
(e) Other appropriate equipment necessary to respond to a worst-case spill volume discharge involving the type of oil handled, stored, or transported.

Response: Thank you for your comment. We received several comments during the informal comment period requesting that pipelines be required to plan for spills of potentially non-floating oils. We added a new planning standard to reflect this requirement. Your additional comments requesting that the equipment be made available within 6, instead of 12 hours and additional specificity about volumes of discharges were not incorporated into this update of the regulations. We will consider additional specificity in the non-floating oils requirements in the future. Currently, the standard is adopted from the federal government planning requirement for group 5 oils. The federal government does not require equipment to be on-scene for 24 hours. Our requirement to have equipment available within 12 hours is more stringent than the federal standard which forms the baseline for our planning requirements.

11) Pipeline Planning Points

Comment: The current draft "Pipeline Planning Points" map does not include enough planning points to ensure the protection of all waters of statewide significance (which include the marine waters of Puget Sound/Salish Sea) and to ensure a rapid, aggressive, and well-coordinated response that is especially critical when responding to spills of non-floating oils. Pipelines transporting crude oil that are in proximity to waters of statewide significance should require more frequent placement of "Pipeline Planning Points" to ensure the necessary rapid response times. Ecology must ensure that pipeline contingency plans address the cumulative risks that exist where pipelines transporting oil intersect or are adjacent/in proximity to pipelines that transport natural gas and/or liquefied natural gas. Pipeline Planning Points at these locations are also needed given the cumulative risks. Please see attached "Additional Recommended Pipeline Planning Points" document.

Comment: The first is that there was a very specific contingency plan in Prince William Sound during 1989. The oil spill, if there was one, had to be responded to within five and a half hours. There was a list of equipment that needed to be available and ready. The equipment was not available. It was buried under snow drifts. The folks at the terminal responsible for responding to a spill hadn't repaired the barge which was at dry dock, it cracked. Although they were required to respond in five and a half hours it was 14 hours before they got out there. The barge was only able to hold a very small amount of oil and so soon the skimmers filled up, and so what looked really good in writing tuned out to be not as practical in practice.

Response: The rule update establishes planning points for pipelines at crossings of statewide significance. The planning points are used to verify that equipment can be mobilized from the staging locations to the planning points. By identifying the planning points we can verify equipment at each crossing based on the worst case discharge planning volume at that point. The additional planning points you requested were not added to the model for one or more of the following reasons:

- The pipeline does not cross a shoreline of statewide significance at the point requested.
- The additional point you requested is already covered by an adjacent point.
- The point requested is for a pipeline segment that has been decommissioned and is no longer in service.
- The point requested is already covered by the pipeline tank farm standard.

Finally, no changes were made based on your request to "address the cumulative risks that exist where pipelines transporting oil intersect or are adjacent to pipeline that transport natural gas." Natural gas pipelines are not subject to this rulemaking.

12) Fire Response Equipment

Comment: An evaluation of the need for fire response equipment should be added to the planning standards.

Comment: The equipment requirements and planning standards do not reference firefighting equipment. CHB proposes adding the evaluation of need for fire response equipment to the planning standards.

Response: We agree that a gap analysis and assessment of fire response equipment is needed to address risks from rail and pipelines.

In April 2015, Gov. Inslee signed the Oil Transportation Safety Act, enacting ESHB 1449 to help protect Washington state from the risks associated with transporting oil. ESHB 1449 provided a step forward to help protect the environment and Washingtonians from new oil spill risks. The bill specifically directed Ecology to undertake five policy initiatives to help address these new risks:

- Advance notice of oil movement
- Railroad contingency planning
- Geographic response plans
- Vessel traffic safety evaluation and assessment
- Equipment cache grants

Under the equipment cache grants program Ecology will provide grants to emergency responders for oil and hazardous materials response equipment, firefighting public safety equipment, and training. A stakeholder group will be convened to assist with developing and administering the grant program. The stakeholder group will consist of first responders, oil spill response cooperatives, oil and rail industry representatives, and businesses that receive liquid bulk crude oil. An analysis will be conducted to evaluate current available resources and the need for response equipment in specific locations. The funding for the grants must be prioritized based on who has the greatest need for the equipment, and coordinated to maximize the benefit of currently available equipment and resources.

13) Public Review and Comment Periods

Comment: It is unclear whether public notice and opportunity for comments are included in WAC 173-182-640 Process for public notice and opportunity to for public review and comment period. Please revise per underline/strikeout:
(3) Public comment periods must extend at least thirty days. Public notice, review, and comment periods are required in the following circumstances:
(a) Plan submittals for facilities or vessels that have never submitted a plan in Washington;
(b) Plan updates required by WAC 173-182-130 and 173-182-135;
(c) The submittal of plans for five-year review as required by WAC 173-182-120;
(d) Requests for an alternative planning standard in accordance with WAC 173-182-620;
(e) Plan holder requests for drill requirement waivers in accordance with WAC 173-182-740; ((and))
(f) PRC applications submitted under WAC 173-182-810.; ((and))
(g) Significant changes to approved plans as identified in WAC 173-182-142.

Comment: We agree with the concern raised by the comments submitted by the Friends of the Earth, et al, that the public comment period section should make explicit that notice and comments will be available for plans that are significantly changed, in addition to those that are updated for their 5 year review period.

Comment: The second component of that is your preparedness to receive public comments. Even though we're very sparse in numbers here in this ballroom today, if there was a spill you

would be clearly bombarded with comments, concerns both from cities, counties and citizens. I hope that you have a plan and capacity outlined in your own internal thinking for responding to that level of citizen and municipality concerns. If you are interested, I'll leave my card on the back table, not as a formal submission here today but just if anybody is interested.

Response: Based on comments received we updated the rule to clearly state that public review and comment periods will be conducted for significant permanent changes required by WAC 173-182-142.

14) Cost Benefit Analysis

Comment: Please revise Section 1.6 Risk from Class 5 oils with the current cost of the 2010 diluted bitumen spill in the Kalamazoo River, Michigan.
The Cost-Benefit and Least Burdensome Alternative Analysis describes the likely costs of the proposed rule in far more detail than it describes the costs of spills and other costs associated with the likely benefits of the proposed rule. The language identifying the benefits of this rule needs to be expanded.
Please document the benefits of this rule's requirements for rapid response and cleanup which reduce the impacts related to:

- Health: Describe the costs to the potentially affected populations for the treatment of injuries from fires and/or explosions, adverse air quality and/or toxic chemical exposure drinking water and food contamination.
- Quality of life, including property damage and contamination (which include evacuation related costs): Describe populations on or near pipelines. Describe properties on or near pipelines including descriptions of neighborhoods, property values and taxes, etc.
- Environmental costs: Include information on the Natural Resource Damage Assessment process as well as valuation data for all environmental resources on or near pipelines.
- Tribal resources and traditional lifeways: Describe the tribal lands and treaty right resources on or near pipelines.
- Economic disruption costs: Describe businesses on or near pipelines, their values and costs associated with a pipeline spill.

Response: The comment was provided to the economist responsible for developing the Cost Benefit Analysis (CBA) for this rulemaking. Every attempt was made to update the CBA to reflect these concerns. Refer to the final published CBA for details.

The difference in the level of detail shown in the discussion of the costs of the rule versus the discussion of its benefits is based in the ability to more precisely describe the requirements of the rule. The rule requires specific equipment, which is straightforward to address and quantify. The benefits of the rule, however, depend on the sizes of spills, their locations, whether fire is involved, nearby affected property and environmental services, the types of oil transported, and the likelihood of a spill event.

15) Spill Response Equipment
Comment: Regarding Oil Spill Contingency Planning / Regulations that are in process I am reminding you about our ADsorb-it Technology and what we manufacture for the truly Effective removal of even the visible oil sheen from water. I have included and attached information for our Patented ADsorb-it Fabric Technology / Products for the effective removal of oils and particulates from water. We provide our technology / products to many companies in California where some of the most stringent discharge regulations exist and the Washington State Department of Ecology has been purchasing and using our products for several years. Since Ecology is very familiar with how effective our technology is, I am suggesting that it be incorporated into the contingency planning to truly protect our environment.
Response: The commenter requested that the entire comment and details about the Adsorb-it response equipment be included in the response to comments. The state of Washington does not approve or certify equipment for use in responses to state waters. Inclusion of the Adsorb-it Technology in this document does not constitute an endorsement for the use of the product.

Commenter Index

The tables below lists the names of organizations or individuals who submitted a comment on the rule proposal and where you can find Ecology's response to the comment(s). Commenter's names are in alphabetical order by last name. The Subject area comments and responses are numbered. Locate the numbered subject area in the section found immediately before this one and review the associated comments and responses.

Commenter Name (Last, First)	Subject Area -- Comments and Responses
Abramson, Mary	4) Environmental Concerns
Ackerman, Laura	1) Oil products Handled, 5) Initial response actions, 6) Best Achievable Protection (BAP), 7) Air Monitoring, 8) Aerial Surveillance, 9) Geographic Information Planning Standard, 10) Non-floating oils, 13) Public Review and Comment Periods
Alderton, Jan	10) Non-floating Oils
Bryan, Carol	4) Environmental Concerns
Cannon, Cynthia	7) Air Monitoring, 8) Aerial Surveillance,

	12) Fire Response Equipment
Chelotti, Judith	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment
Craven, Rebecca	1) Oil Products Handled, 2) Worst Case Discharge, 7) Air Monitoring, 9) Geographic Information Planning Standard, 13) Public Review and Comment Period
Day, Angela	11) Pipeline planning points, 13) Public Review and Comment Period
Dean, Burke	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment
Druffel, Pauline	4) Environmental concerns
Fairchild, Becca	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment
Fortune, Linda	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment
Godo, Malika	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment
Gogins, Karen	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment
Herbert, Debby	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment
Joy, Sandra	4) Environmental Concerns
Laslie, Maude	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment

Locsin, Ann	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment
Menne, Barbara	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment
Meyer, William	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment
Meyer, Sherry	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment
Mitchell, Robert	3) Financial Responsibility, 4) Environmental Concerns
Pearse, Herb	15) Spill Response Equipment
Pratt, Lovel	1) Oil products Handled, 2) Worst Case Discharge, 5) Initial response actions, 6) Best Achievable Protection (BAP), 7) Air Monitoring, 8) Aerial Surveillance, 9) Geographic Information Planning Standard, 10) Non-floating Oils, 11) Pipeline Planning Points, 13) Public Review and Comment Periods, 14) Cost Benefit Analysis
Robertson, La Donna	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment
Rotundi, Paula	3) Financial Responsibility
Shakov, Vladimir	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment
Weinstein, Elyette	4) Environmental Concerns
Wireman, Eleanor	4) Environmental Concerns

Wooten, Chris	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment

Organization	**Subject Area -- Comments and Responses**
Comments Submitted on behalf of The Pipeline Safety Trust	1) Oil Products Handled, 2) Worst Case Discharge, 7) Air Monitoring, 9) Geographic Information Planning Standard, 13) Public Review and Comment Period
Comments Submitted on behalf of Citizens For a Healthy Bay	7) Air Monitoring, 8) Aerial Surveillance, 12) Fire Response Equipment
Comments Submitted on behalf of: Friends of the Earth, The Lands Council, Friends of Grays Harbor, Stand, Citizens for A Clean Harbor (Grays Harbor), San Juans Alliance, Washington Environmental Council, Friends of the San Juans Puget Sound Keeper Alliance	1) Oil products Handled, 2) Worst Case Discharge, 5) Initial response actions, 6) Best Achievable Protection (BAP), 7) Air Monitoring, 8) Aerial Surveillance, 9) Geographic Information Planning Standard, 10) Non-floating Oils, 11) Pipeline Planning Points, 13) Public Review and Comment Periods, 14) Cost Benefit Analysis

.

Appendix A: Copies of all written comments

July 10, 2016

Sonja Larson
WA State Department of Ecology Spills Program
PO Box 47600
Olympia, WA 98504-7600
sonja.larson@ecy.wa.gov

Re: Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline

Dear Ms. Larson:

Thank you for providing the opportunity to comment on the proposed new rule, Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline.

I am a Tacoma resident concerned about the destruction a potential oil spill would have on my family, my community and our natural environment. Commencement Bay is a source of pride for both myself and the Tacoma community and it deserves strong protection.

While I support the expanded pipeline requirements proposed, I have concerns about the proposed regulation's effectiveness, scope of certain amendments, possible ambiguities and the phase in of new requirements. For these reasons, I find the proposed rule to be inadequate in the protection of our waters and natural resources.

I strongly urge Ecology to make the following revisions to the rule:

1. The proposed air monitoring provision for pipelines should be expanded to all plans, including vessel facility and rail plans.
2. In order to apply the requirement of aerial assets and surveillance to all pipelines, including transmission pipelines, either the regulations must be amended to apply to all pipelines or the definition of facility should be expanded to apply to all pipelines, including transmission pipelines.
3. Air monitoring standards should be phased in within twelve months rather than twenty-four.
4. An evaluation of the need for fire response equipment should be added to the planning standards.

Strengthening the components above will help ensure that the pipeline rule fulfills the mission of Ecology's spills program to maintain the best achievable protection. I strongly encourage Ecology to establish a more stringent rule for pipeline contingency plans that resolves the issues outlined above.

Thank you for your consideration as you work to protect our shared natural resources.

Sincerely,
Barbara Menne

Hi Ms. Larson,

I appreciate you providing the opportunity to comment on the proposed new rule, Chapter 173-182 WAC: Oil Spill Contingency Plan - Pipeline.

I have lived in Tacoma since 2006 when I moved here to attend Pacific Lutheran University. I'm concerned about the destruction an oil spill would cause to my family, my community, and our environment. Commencement Bay is a vital part of our community that needs protection, not further degradation.

While I support the expanded pipeline requirements proposed, I have concerns about the proposed regulation's effectiveness, scope of certain amendments, possible ambiguities, and the phase in of new requirements. For these reasons, I find the proposed rule to be inadequate in the protection of our waters and natural resources.

I strongly urge Ecology to make the following revisions to the rule:
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Thank you for your consideration as you work to protect our shared natural resources.

Becca Fairchild
Tacoma resident, soon-to-be-mom, and MBA

Dear Ms. Larson:

Thank you for providing the opportunity to comment on the proposed new rule, Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline.

I am a Tacoma resident concerned about the destruction a potential oil spill would have on my family, my community and our natural environment. Commencement Bay is a source of pride for both myself and the Tacoma community and it deserves strong protection.

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Thank you for your consideration as you work to protect our shared natural resources.

Sincerely,

Chris Wooten
253-952-4091
chriswooten@earthlink.net

Sonja Larson
WA State Department of Ecology Spills Program
PO Box 47600
Olympia, WA 98504-7600
sonja.larson@ecy.wa.gov

Re: **Chapter 173-182 WAC: Oil Spill Contingency Plan–Pipeline**

Dear Ms. Larson:

Thank you for providing the opportunity to comment on the proposed new rule, Chapter 173-182 WAC: Oil Spill Contingency Plan–Pipeline.

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While I support the expanded pipeline requirements under discussion, I have concerns about the proposed regulation's effectiveness, scope of certain amendments, possible ambiguities, and the phase-in of new requirements. For these reasons, I find the proposed rule to be inadequate in the protection of our waters and natural resources.

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Thank you for your consideration as you work to protect our shared natural resources.

Sincerely,

Cynthia Cannon
5346 Broadview Avenue NE
Tacoma, WA 98422
cj.cannon@comcast.net

July 22, 2016
Sonja Larson WA State Department of Ecology Spills Program
PO Box 47600
Olympia, WA 98504-7600
sonja.larson@ecy.wa.gov
Re: Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline

Dear Ms. Larson:

Thank you for providing the opportunity to comment on the proposed new rule, Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline.

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Thank you for your consideration as you work to protect our shared natural resources.

Sincerely,

Dean Burke
Executive Director

1119 Pacific Ave. Suite 500
Tacoma, WA 98402

Direct: 253.284.3259
Office: 253.327.1866

July 22, 2016

Sonja Larson
WA State Department of Ecology Spills Program
PO Box 47600
Olympia, WA 98504-7600
sonja.larson@ecy.wa.gov

Re: Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline

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Thank you for your consideration as you work to protect our shared natural resources.

Sincerely,

Debby Herbert
253-722-7498

Sent from Mail for Windows 10

Tue 7/12/2016 9:14 PM

Elyette Weinstein <elyette_w@yahoo.com>

Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline

To Larson, Sonja (ECY)

While many of the rule revisions are a step in the right direction, there are still significant shortcomings in the plan's scope and phase-in period. The proposed plan would not require the level of protection and responsiveness necessary to effectively deal with a pipeline spill.

Thu 7/7/2016 4:21 PM

j <mehath1@aol.com>

NO on new oil or gas infrastructure

To Larson, Sonja (ECY)

Dear Ms. Larson,

Over 98% of climate scientists have been speaking out about the CLIMATE CLIFF we have gone over! All governments should be working rapidly to keep ALL fossil fuels in the ground. It is unconscionable that WA state would even consider more pipelines. PLEASE stop this insanity! Our children and grandchildren depend on your morale resolve.

Thank you. Mary Abramson 7833 Vireo Ct. S.E. Olympia, WA

Reply Reply All Forward

Thu 7/7/2016 10:13 PM

Sandra Joy <elasandrajoy333@gmail.com>

concious language

To Larson, Sonja (ECY)

the time to recognize we must start to look at ways of new energy production . to constantly build and use old destructive plans and oil are over. new technology is available and we must become aware of it and find out about the patents that are not yet available wake up Tacoma .. lets get to researching what is available in other countries and here and lets make some effort about bringing it to light.. it.. take charge ,new companies,new faces.kick out the greed in with wholesome news and views. who wants to invite to speak ,some known (maybe not to us yet) folks , in our country and other countries who know we are all sharing the same air and water... be global. as a conscious citizen. think international.. lets do this. who is ready ... there are people all over the planet who would speak and help so lets start. lets find out .. just the meeting of new people is excitinting this is not political, is is our everlasting relationship with out planet. how much love can flow ... here are some questions.... what is at the heart of the matter, is it within the spirit of the law of one (love) does it serve all people , does this take us home .... what does this mean to each of us. please contemplate. please listen first to your own heart. please express it each person matters.... it takes one person to change a planet... gandi, budda ,jesus, kennedy, obama, putin, hitler you, me, your neighbor. your mom , your second grade teacher.. your son. there are all kinds of folks which kind are you? the good ,the bad and the ugly are every where , YOU must decide , what did you come to this planet to do... please think and dream big. you are here , you are now.

Oil Pipeline Spill Contingency Plan

July 22, 2016

Sonja Larson
WA State Department of Ecology Spills Program PO Box 47600
Olympia, WA 98504-7600 sonja.larson@ecy.wa.gov

Re: Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline

Dear Ms. Larson:

Thank you for providing the opportunity to comment on the proposed new rule, Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline.

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While I support the expanded pipeline requirements proposed, I have concerns about the proposed regulation's effectiveness, scope of certain amendments, possible ambiguities and the phase in of new requirements. For these reasons, I find the proposed rule to be inadequate in the protection of our waters and natural resources.

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Thank you for your consideration as you work to protect our shared natural resources. Sincerely,

Judi Chelotti

July 22, 2016

Sonja Larson
WA State Department of Ecology Spills Program PO Box 47600 Olympia, WA 98504-7600 sonja.larson@ecy.wa.gov
Re: Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline

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Thank you for providing the opportunity to comment on the proposed new rule, Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline.
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Commencement Bay is a source of pride for both myself and the Tacoma community and it deserves strong protection.
The EPA needs to really step up to the plate and define protection plans that have really do the job for the sake of people and not for the protection of big business.

While I support the expanded pipeline requirements proposed, I have concerns about the proposed regulation's effectiveness, scope of certain amendments, possible ambiguities and the phase in of new requirements.
For these reasons, I find the proposed rule to be inadequate in the protection of our waters and natural resources.

I strongly urge Ecology to make the following revisions to the rule:
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Thank you for your consideration as you work to protect our shared natural resources. Again, it is time for our nation and mother earth be protected by the highest standards so that our quality of life is not diminished.

Sincerely,

Dr. Linda Fortune
4114 N.30th St.
Tacoma, Washington 98407
253-759-8271
lafort@wamail.net

July 22, 2016

Sonja Larson
WA State Department of Ecology Spills Program
PO Box 47600
Olympia, WA 98504-7600
sonja.larson@ecy.wa.gov

Re: **Chapter 173-182 WAC: Oil Spill Contingency Plan–Pipeline**

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Thank you for providing the opportunity to comment on the proposed new rule, Chapter 173-182 WAC: Oil Spill Contingency Plan–Pipeline.

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Thank you for your consideration as you work to protect our shared natural resources.

Sincerely,
Maude A. Laslie
5346 Broad View Ave NE
Tacoma, WA 98422
July 10, 2016

Sonja Larson
WA State Department of Ecology Spills Program PO Box 47600
Olympia, WA 98504-7600

Re: Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline

Dear Ms. Larson:

Thank you for providing the opportunity to comment on the proposed new rule, Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline.

I am an Edgewood resident concerned about the destruction a potential oil spill would have on my family in Tacoma, my community and our natural environment. Commencement Bay is a source of pride for both myself and the Tacoma community and it deserves strong protection.

While I support the expanded pipeline requirements proposed, I have concerns about the proposed regulation's effectiveness, scope of certain amendments, possible ambiguities and the phase in of new requirements. For these reasons, I find the proposed rule to be inadequate in the protection of our waters and natural resources.

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Thank you for your consideration as you work to protect our shared natural resources.

Sincerely,

William Meyer
Edgewood, WA
William.a.meyer@comcast.net

Sonja Larson
WA State Department of Ecology Spills Program PO Box 47600
Olympia, WA 98504-7600 sonja.larson@ecy.wa.gov

Re: Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline

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Thank you for your consideration as you work to protect our shared natural resources.

Sincerely,

Ann Locsin

206-249-3474

Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has.
~ Margaret Mead

July 10, 2016

Sonja Larson
WA State Department of Ecology Spills Program PO Box 47600
Olympia, WA 98504-7600 sonja.larson@ecy.wa.gov

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Thank you for your consideration as you work to protect our shared natural resources.

Sincerely,

Sherry Meyer
Edgewood, WA
sherrymeyer@icloud.com

Subject: Oil Spill Contingency Planning / ADsorb-it Products Remove Visible Oils and Particulates from Water

Hi Sonja,

Regarding Oil Spill Contingency Planning / Regulations that are in process I am reminding you about our ADsorb-it Technology and what we manufacture for the truly effective removal of even the visible oil sheen from water. I have included and attached information for our Patented ADsorb-it Fabric Technology / Products for the effective removal of oils and particulates from water. We provide our technology / products to many companies in California where some of the most stringent discharge regulations exist and the Washington State Department of Ecology has been purchasing and using our products for several years. Since Ecology is very familiar with how effective our technology is, I am suggesting that it be incorporated into the contingency planning to truly protect our environment. I have attached several letters for reference.

To give you a better feel for the technology we have to offer with the ADsorb-it Fabric Products, I have attached a series of photos of BP's Deployment of many miles of the ADsorb-it Fabric as an oil fence for shoreline protection during their major oil release to the Gulf of Mexico in 2010. If you look at the 6th photo in the series, there is no visible oil on the shoreline or on the water but plenty of oil in the ADsorb-it Fabric. The tide comes in and goes out and as the water passes through, the oil stays in the fabric. Since ADsorb-it does not noticeably degrade in sunlight, long term deployment of ADsorb-it provides ongoing cleanup of waterway oil issues since, when left in place, it sorbs oils over the long term and allows the oils to bio-degrade in the fabric as opposed to dispersing / migrating to other locations.

Oil Production Companies, National Grid, Southern California Edison, PacifiCorp, the Bonneville Power Administration and other major utilities nationally use and reuse our ADsorb-it Filter Socks and our other products to address their dewatering / water filtration needs. I have attached a photo of one of these utilities using our #SFS8-10 ADsorb-it Filter Sock to dewater one of their vault excavations that contained in excess of 5,000 gallons of silty water with visible oils. This was dewatered through the SFS8-10 directly to the city stormwater system. Also attached is a photo of one of our utility clients using our #SFS8-5 Filter Sock (the most popular sock) to dewater one of their underground vaults. They have been using our Filter Socks for vault dewatering since 2008.

Our standard ADsorb-it Fabric / Products effectively remove even the visible oil sheen from water and particulates down to about 100-Microns. We also manufacture filter socks to provide oil removal and fine particulate filtration to about 1-Micron.

We manufacture the VMS (Vault Maintenance System) Filter Sock that we designed for Southern California Edison (SCE) to meet the stringent TSS discharge requirements in California. The VMS removes visible oils from water as well as providing particulate filtration to about 1-Micron. To see the VMS in use please watch the Training Video that was put together by SCE at: http://www.eco-tec-inc.com/Video_VMS.html. I have attached field testing results for the VMS as well.

We manufacture many product configurations for different applications including stormwater and oil spill response so take a look at our web site www.eco-tec-inc.com and click on "Products" in the left column and then click the individual products for more photos of different applications. Since we are the manufacturer we are also in a position to provide custom designed products to meet any special applications.

Best Regards,

Herb Pearse

herb@eco-tec-inc.com
Phone: 888-668-8982
Fax: 253-884-6803
International: 001-253-884-6804

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July 22, 2016

Sonja Larson
WA State Department of Ecology Spills Program
PO Box 47600
Olympia, WA 98504-7600
sonja.larson@ecy.wa.gov

Re: Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline

Dear Ms. Larson:

Thank you for providing Citizens for a Healthy Bay the opportunity to review and comment on the proposed new rule, Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline (herein sometimes the "pipeline rule" or "pipeline regulation").

Citizens for a Healthy Bay (CHB) is a 25-year-old environmental organization whose mission is to represent and engage citizens in the cleanup, restoration and protection of Commencement Bay, the surrounding waters and natural habitat. We are a 501(c)3 nonprofit providing practical, solutions-based environmental leadership in the Puget Sound area. We work side-by-side with local citizens, businesses and governments to prevent water pollution and make our community more sustainable.

Staff and expert members of the Policy and Technical Advisory Committee with CHB have attended the WA State Dept. of Ecology (Ecology) public hearing and reviewed the proposed rule and related information. Overall, we find the proposed rule to be inadequate in the protection of our waters and natural resources. Our comments are outlined below.

Background

The Oil Spill Contingency Plan – Pipeline rule (the pipeline rule) proposed by Ecology would apply to owners and operators of onshore facilities, offshore facilities and covered vessels. The proposed rule would not apply to public vessels, mobile facilities, or spill response vessels dedicated to spill response activities when operating on the waters of this state, nor would it apply to railroads. Ecology is updating the rule to mitigate risks associated with these facilities, vessels and pipelines.

Pipelines are governed by Chapter 173-182 WAC, the same chapter that governs vessels and facilities. The proposed rules generally expand the requirements for pipelines.

General Comments

Overall, CHB supports the expanded requirements for pipelines outlined in the proposed rule. However, CHB has concerns related to the effectiveness of this proposed regulation, in regards to the scope of certain amendments, possible ambiguities in the rules and the phase in of the amendments and new requirements.

Specific Comments

CHB recognizes the importance of expanded requirements for pipeline oil spill contingency planning and strongly supports several provisions contained in the proposed amendments, including those for the following:

- Air monitoring[1]
- Geographic planning standards providing detailed line, route and geographic information[2]
- Planning standards for crude and diluted bitumen[3]
- Expanded calculation of worst case spills from pipelines[4]
- Expanded planning standards for pipelines impacting shorelines of statewide significance[5]
- Identification of spill response zones along pipelines[6]
- New planning standards for pipeline tank farms[7]

However, CHB has serious concerns with the scope of certain amendments, possible ambiguities in the rules and the phase in of the amendments and new requirements.

Expanded Air Monitoring

The proposed WAC 273-182-535 would require pipeline plans to include air monitoring to protect the public and responders, including criteria for evacuation zones and shelter in place. According to the summary of changes document accompanying the proposed regulations[8], plans "generally do not contain details for how they will manage the safety of the public, which could be impacted by a spill. This would include how area-wide air monitoring will occur…, action levels…, communication methods to at-risk populations,

[1] Proposed new section WAC 173-182-535.
[2] Proposed new section 173-182-515.
[3] Proposed new section 173-182-323.
[4] Proposed amendment to WAC 173-182-030(70).
[5] Proposed amendment to WAC 173-182-365.
[6] Proposed amendment to WAC 173-182.030(54).
[7] Proposed new section WAC 173-182-366.
[8] "Pipeline Rule Update – Summary of Changes": page 1. http://www.ecy.wa.gov/programs/spills/rules/1106SummaryOfChanges.pdf.

evacuation zones…." This provision should be expanded to all plans, including vessel, facility and rail plans.

Facility Requirement for Aerial Assets

According to the summary of changes document[9], Ecology also clarified the definition of facility. Currently, *facility* is defined in WAC 273-182-030(19). The proposed regulations amend this by combining subsections (a)(i) and (ii), thereby eliminating the "and" between them and inserting "that is" before former (ii). This clarification leaves in the definition of facility the requirement that it "transfers oil in bulk to or from a tank vessel or pipeline." This could be read as implying that only a pipeline that transfers oil to or from a vessel or another pipeline is a *facility*. There is a separate definition of *transmission pipeline* as a USDOT regulated pipeline.[10] It could be argued that since the definitions of *facility* does not refer to transmission pipelines, they are not facilities.

This can be significant, because certain requirements apply only to facility plans. For example, WAC 173-182-320 applies aerial surveillance to facility plans and WAC 173-182-321 to aerial surveillance for covered vessels. This, in turn, means there could be ambiguity as to whether aerial monitoring applies to certain pipelines, including transmission pipelines. Either the regulations should be amended to expressly apply requirements for aerial assets and surveillance to all pipelines, including transmission pipelines, or the definition of facility expanded to apply to all pipelines, including transmission pipelines.

Phase In Schedule

Proposed WAC 173-182-135 provides that certain sections, including planning standards, worst case volume calculations and response zones, are to be phased in within twelve months. Other sections, including the geographic information planning standard and air monitoring standards, are to be phased in within twenty-four months. Since the air monitoring standards critically impact public health and safety, CHB argues that those standards should be phased in within twelve months rather than the proposed twenty-four months.

Fire Risk from Pipelines

The equipment requirements and planning standards do not reference firefighting equipment. CHB proposes adding the evaluation of need for fire response equipment to the planning standards.

[9] "Pipeline Rule Update – Summary of Changes": page 1. http://www.ecy.wa.gov/programs/spills/rules/1106SummaryOfChanges.pdf.
[10] Current WAC 173-182-030(60), renumbered without change to (64).

Please contact our office if there are questions regarding our comments. Thank you for the opportunity to provide comments on the proposed rule.

Sincerely,

Melissa Malott
Executive Director, Citizens for a Healthy Bay

Friends of the Earth * The Lands Council * Friends of Grays Harbor
Stand * Citizens For A Clean Harbor in Grays Harbor * San Juans Alliance
Washington Environmental Council * Friends of the San Juans
Puget Soundkeeper Alliance

July 22, 2016

Submitted via email: *sonja.larson@ecy.wa.gov*

Sonja Larson
Department of Ecology
Spills Program
PO Box 47600
Olympia, WA 98504-7600

RE: Comments on draft rulemaking language: Chapter 173-182 WAC Oil Spill Contingency Plan – Pipeline

Dear Ms. Larson,

Thank you for this opportunity to submit comments on the draft rulemaking language for Chapter 173-182 WAC Oil Spill Contingency Plan – Pipeline.

Oil spills from pipelines can cause devastating impacts to the immediate and down-stream environments and species; shorelines of statewide significance; drinking water sources; the region's economy; and the quality of life for residents, visitors, and businesses. Pipelines also pose a significant public safety risk and putting in place strong contingency plans is critical to the health and safety of our communities. It is imperative that this rulemaking include the Best Achievable Protection (BAP) and Best Achievable Technology (BAT) necessary to address the environmental and safety risks from the transport of oil by pipeline, as directed by the Legislature.

1. Identify how pipeline contingency plan requirements address BAP and BAT in order to be commensurate or exceed the contingency plan requirements currently required for other means of transporting oil products

- Require 1-, 2-, 4-, 6-, 12-, 24-, and 48-hour planning standards that will avert or minimize oil spills into waterways (and in particular waters of statewide significance) and corresponding environmental and economic damage by requiring BAP and BAT.
- Ensure that the planning standards for aerial surveillance are commensurate or exceed WAC 173-182-321 Covered vessel planning standards for aerial surveillance.

2. Require contingency plans to identify the specific type of oil transported through pipelines.

To ensure responder safety and a successful spill response, it is essential for spill responders to know the type or species of oil. Given the uncertainty of the outcome of

the Oil Movement by Rail and Pipeline Notification rulemaking, include the requirement for contingency plans to identify the type or species of oil.

3. Geographic information planning standards for pipeline plan holders

Thank you for including the new pipeline geographic information planning standard which is essential to support preparedness planning and initial decision making during pipeline spills. To ensure protection of the waters of statewide significance, and in particular those rivers and streams that provide salmon spawning and rearing habitat and the nearshore environment that is critical to juvenile salmon, the rule should be revised to require Geographic Response Plans (GRPs) for every river crossing and where the pipeline is in close proximity to a river. In addition, GRPs should be required at the crossing of every conveyance to waters of statewide significance, including all seasonal streams, culverts, agricultural irrigation and/or drainage infrastructure, storm-water run-off drainage and/or containment systems (which conveyed spilled oil from the recent pipeline spill in Ventura, CA), and sewage treatment facilities (which conveyed spilled oil into the Columbia River from the recent train derailment in Mosier, OR).

This is especially important for those pipelines transporting diluted bitumen (aka Canadian crude oil). A study that will be published in the journal *Environmental Toxicology and Chemistry* shows that exposure to diluted bitumen impairs the swimming ability and changes the heart structures of young salmon.[1] Rapid and thorough spill response procedures are essential for pipelines transporting diluted bitumen through salmon habitat.

[1] Sarah L. Alderman, Feng Lin, Anthony P. Farrell, Christopher J. Kennedy, Todd E. Gillis. **Effects of diluted bitumen exposure on juvenile sockeye salmon: From cells to performance**. *Environmental Toxicology and Chemistry*, 2016; DOI: 10.1002/etc.3533

4. Ensure that BAP and BAT are included in WAC 173-182-323 Planning standards for pipelines carrying crude oil

Thank you for including this new section in the draft rule. All modes of transporting crude oil should be required to have contingency plans that include spill response resources for nonfloating oils.

It is well documented that certain oils can sink when spilled, even those oils that are not classified as Group 5 oils. In order to ensure a rapid, aggressive and well-coordinated oil spill response, it is imperative that BAP and BAT be required for all oils that can sink. This would include diluted bitumen which is also known as Canadian crude oil, Canadian Oil Sands, or dilbit. See the United States Coast Guard's May 29, 2014 report to Congress, *Risk Assessment of Transporting Canadian Oil Sands*, and the National Academy of Sciences' *Spills of Diluted Bitumen from Pipelines: A Comparative Study of Environmental Fate, Effects, and Response*.

Requiring that "the equipment must be capable of being on scene within twelve hours of spill notification" does not address the recommendation for "special immediate actions" in the National Academy of Sciences' *Spills of Diluted Bitumen from Pipelines: A*

Comparative Study of Environmental Fate, Effects, and Response. To ensure BAP, please revise per underline/strikeout:

(2) The equipment must be capable of being on scene within ~~twelve~~ six hours of spill notification.

To ensure BAP and BAT, please also require the listing of the specific equipment and amount of equipment needed to respond to a worst-case discharge (per underline/strikeout):

> Such equipment shall include, but is not limited to, the following, <u>with specific equipment and specific amounts/details listed in order to respond to a worst-case spill volume (e.g., feet of boom, make/model of specific equipment, minimum oil recovery rate, etc.):</u>
> (a) Sonar, sampling equipment or other methods to locate the oil on the bottom or suspended in the water column;
> (b) Containment boom, sorbent boom, silt curtains, or other methods for containing the oil that may remain floating on the surface or to reduce spreading on the bottom;
> (c) Dredges, pumps, or other equipment necessary to recover oil from the bottom and shoreline;
> (d) Equipment necessary to assess the impact of such <u>worst-case spill volume discharges</u>; and
> (e) Other appropriate equipment necessary to <u>respond to a worst-case spill volume</u> discharge involving the type of oil handled, stored, or transported.

5. Identify additional "Pipeline Planning Points" to protect all waters of statewide significance; to address cumulative risks where pipelines transporting natural gas and/or liquefied natural gas intersect or are adjacent/in proximity to pipelines transporting oil; and to ensure a rapid, aggressive, and well-coordinated response
The current draft "Pipeline Planning Points" map does not include enough planning points to ensure the protection of all waters of statewide significance (which include the marine waters of Puget Sound/Salish Sea) and to ensure a rapid, aggressive, and well-coordinated response that is especially critical when responding to spills of nonfloating oils. Pipelines transporting crude oil that are in proximity to waters of statewide significance should require more frequent placement of "Pipeline Planning Points" to ensure the necessary rapid response times.

Ecology must ensure that pipeline contingency plans address the cumulative risks that exist where pipelines transporting oil intersect or are adjacent/in proximity to pipelines that transport natural gas and/or liquefied natural gas. Pipeline Planning Points at these locations are also needed given the cumulative risks. Please see attached Additional Recommended Pipeline Planning Points document.

6. Definition of "Worst-Case Spill"
The definition "Worst-Case Spill" as applied to pipelines is not consistent with other worst-case spill definitions in the WAC. "Worst case spill" is defined is defined in (i):

> For planning purposes the total time to detect the release and shutdown of the pipeline should be based on historic discharge data or in the absence of such historic data, the operator's best estimate. The total time to detect and shut down the pipeline, must be equal to or greater than 20 minutes

The inclusion of 20 minutes as a minimum amount of time (for planning purposes) to detect a spill and shut down a pipeline does not reflect any industry average given the challenges experienced with pipeline spill detection systems.

See the Pipeline and Hazardous Materials Safety Administration's Preliminary Factual Report on the May 19, 2015 pipeline spill in Santa Barbara, California, where 124,320 gallons of black crude oil spilled, with an estimated 20,000 gallons reaching the Pacific Ocean. According to the report, the oil release began at about 10:55 am and the line continued to operate for approximately 35 minutes after the leak occurred. It wasn't until 1:27 pm that commands to shut valves were initiated:
http://www.phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/Press%20Releases/Plains%20Preliminary%20Factual%20Report.pdf

See also the July 20, 2015 Newsweek article about the 1.3 million gallon Nexen Energy pipeline spill in Alberta, Canada that was discovered by a contractor in the field on July 15, 2015.

> The burst pipeline was less than one year old and was equipped with advanced monitoring systems that failed to detect the leak, according to CBC News. … But leak detection systems, which Nexen officials and others have called the pipeline's "failsafe systems," notoriously fall short of that namesake. Between 2002 and 2012, pipeline detection technology only caught 5 percent of spills in the U.S., an InsideClimate News investigation found. The public reported 22 percent of spills, and oil industry workers reported 62 percent. http://www.newsweek.com/failsafe-pipeline-leak-detection-system-failed-massive-alberta-tar-sands-spill-355371

See also the InsideClimate News article referenced above, *Few Oil Pipeline Spills Detected by Much-Touted Technology*:
http://insideclimatenews.org/news/20120919/few-oil-pipeline-spills-detected-much-touted-technology

7. Ensure the Safety of the Public and First Responders

Pipelines pose a significant public safety risk and putting in place strong contingency plans is critical to the health and safety of our communities. ESHB 1449 is the Oil Transportation SAFETY bill which emphasizes the safe transport of oil by rail and the safety of the public and our State's first responders. Requiring appropriate protective equipment, including respirators, for first responders and oil spill responders is necessary to ensure spill response safety, and to ensure a rapid, aggressive and well-coordinated response.

- Revise the 1-hour planning standard that requires a safety assessment of the spill by trained crew and appropriate air monitoring to have arrived to also include appropriate protective equipment (e.g., respirators) for all spill responders.
- Amend New Section WAC 173-182-535 Pipeline planning standards for air monitoring to protect oil spill responders and the public to include (as underlined): <u>(9) A description of how oil spill responders will be protected with appropriate equipment (e.g., respirators) while responding to spills with adverse air quality.</u>
- In order to ensure a rapid, aggressive and well-coordinated response, amend the definition of “Spill Assessment” as underlined: "Spill assessment" means determining product type, potential spill volume, environmental conditions including tides, currents, weather, river speed and initial trajectory as well as a safety assessment including air monitoring <u>and identification of appropriate protective equipment, including respirators, for oil spill responders</u>.

8. Include a Comprehensive Cost-Benefit and Least Burdensome Alternative Analysis
Please revise Section 1.6 Risk from Class 5 oils with the current cost of the 2010 diluted bitumen spill in the Kalamazoo River, Michigan.

The Cost-Benefit and Least Burdensome Alternative Analysis describes the likely costs of the proposed rule in far more detail than it describes the costs of spills and other costs associated with the likely benefits of the proposed rule. The language identifying the benefits of this rule needs to be expanded.

Please document the benefits of this rule’s requirements for rapid response and cleanup which reduce the impacts related to:

- Health: Describe the costs to the potentially affected populations for the treatment of injuries from fires and/or explosions, adverse air quality and/or toxic chemical exposure, drinking water and food contamination.
- Quality of life, including property damage and contamination (which include evacuation related costs): Describe populations on or near pipelines. Describe properties on or near pipelines including descriptions of neighborhoods, property values and taxes, etc.
- Environmental costs: Include information on the Natural Resource Damage Assessment process as well as valuation data for all environmental resources on or near pipelines.
- Tribal resources and traditional lifeways: Describe the tribal lands and treaty right resources on or near pipelines.
- Economic disruption costs: Describe businesses on or near pipelines, their values and costs associated with a pipeline spill.

9. Ensure public notice and opportunity for comment when significant changes are made to approved contingency plans.
It is unclear whether public notice and opportunity for comments are included in WAC 173-182-640 Process for public notice and opportunity to for public review and comment period. Please revise per underline/strikeout:

(3) Public comment periods must extend at least thirty days. Public notice, review, and comment periods are required in the following circumstances:

(a) Plan submittals for facilities or vessels that have never submitted a plan in Washington;
(b) Plan updates required by WAC 173-182-130 and 173-182-135;
(c) The submittal of plans for five-year review as required by WAC 173-182-120;
(d) Requests for an alternative planning standard in accordance with WAC 173-182-620;
(e) Plan holder requests for drill requirement waivers in accordance with WAC 173-182-740; ((and))
(f) PRC applications submitted under WAC 173-182-810.; <u>((and))</u>
<u>(g) Significant changes to approved plans as identified in WAC 173-182-142.</u>

Ecology has the authority and the mandate via the Tenth Amendment (Amendment X) to the United States Constitution and RCW 90.56.030 to address WAC 173-186-010 Purpose (1)(d):

> Provide for the protection of Washington waters, natural, cultural and significant economic resources by minimizing the impact of oil spills

Thank you for considering our comments.

Sincerely,

Friends of the Earth

The Lands Council

Friends of Grays Harbor

Stand

Citizens For A Clean Harbor in Grays Harbor

San Juans Alliance

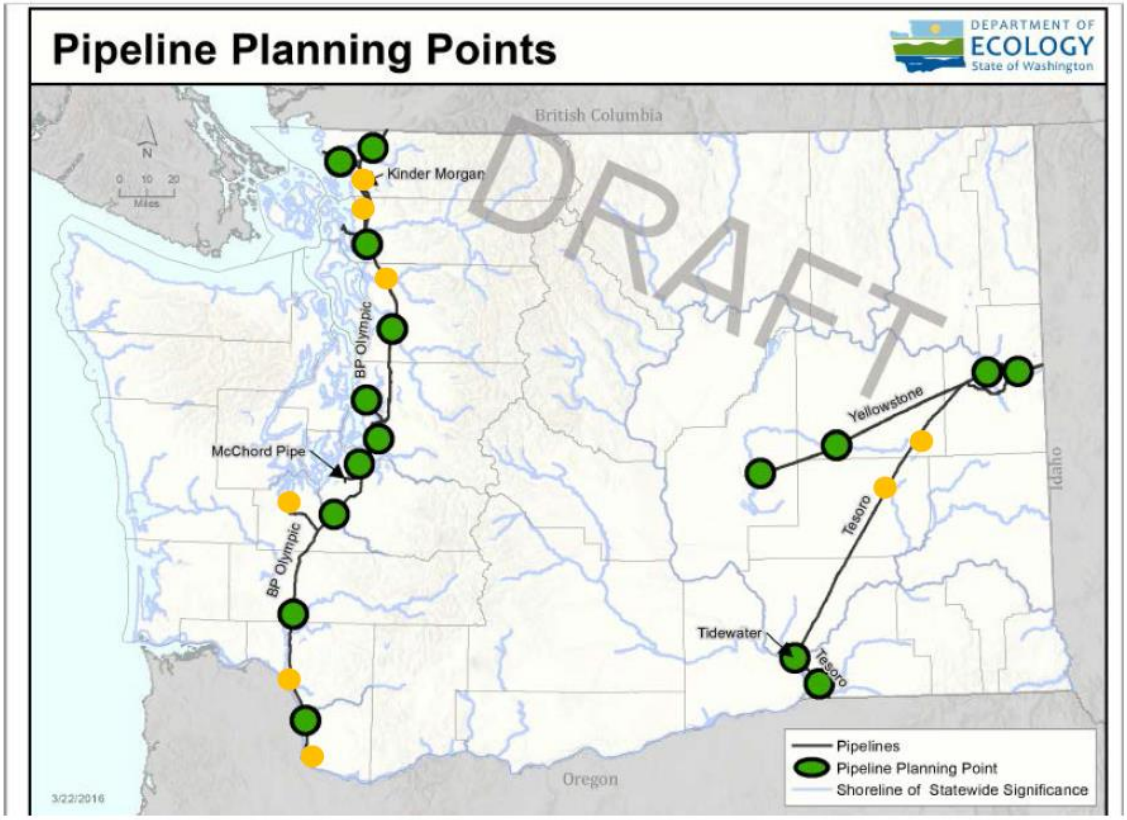
Washington Environmental Council

Friends of the San Juans

Puget Soundkeeper Alliance

● = Recommended additional Pipeline Planning Points

Additional Pipeline Planning Points are also needed to identify where pipelines transporting natural gas and/or liquefied natural gas intersect or are adjacent/in proximity to pipelines transporting oil



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July 22, 2016

Submitted via email: *sonja.larson@ecy.wa.gov*

Sonja Larson
Department of Ecology
Spills Program
PO Box 47600
Olympia, WA 98504-7600

RE: Comments on draft rulemaking language: Chapter 173-182 WAC Oil Spill Contingency Plan – Pipeline

Dear Ms. Larson:

Please accept these comments on behalf of the Pipeline Safety Trust. We are pleased with the efforts that the Department of Ecology is making to strengthen and improve an already good spill response planning program for pipelines.

For the most part, we are fully in support of the proposed changes and additions. We have a few specific comments:

1) We suggest that for pipelines transporting diluted bitumen, the Ecology require the contents to be additionally identified in a way consistent with the recommendations of the National Academies of Science --that is to say, by their industry-standard names usually associated with the geographic source of the bitumen. See *Spills of Diluted Bitumen from Pipelines: A Comparative Study of Environmental Fate, Effects, and Response.*

2) In proposed new WAC 173-182-515, we suggest that the geographic information planning standards require identification of any points where spilled oil could get into a municipal sewage system, as well as into stormwater management systems, to allow unified command and the operator to understand the importance of preventing oil from entering them. We otherwise strongly support the addition of this standard.

3) We are very pleased to see Ecology include a planning standard for the monitoring of air quality following a spill. We think it is important to have the operators specifically identify the standards it intends to use, the levels of pollutants that will trigger actions to evacuate areas and/or require protection of cleanup workers, and to insure that the equipment that

operators or first responders plan to use is capable of measuring to a low enough contamination level to be protective of public and worker health.

4) We agree with the concern raised by the comments submitted by the Friends of the Earth, et al, that the public comment period section should make explicit that notice and comments will be available for plans that are significantly changed, in addition to those that are updated for their 5 year review period.

5) Finally, while we are pleased to see a minimum response time being inserted into the definition of worst case spill, we believe that the 20 minutes identified in the definition for time to shut down is likely much faster than most operators will identify, respond, shut down and isolate a segment that has failed. We suggest that minimum time be enlarged to at least 30 minutes, and that during review of plans Ecology be very skeptical of operators' claimed response times.

Thank you again for this opportunity to comment.

Rebecca Craven
Program Director
Pipeline Safety Trust

DATE: June 9, 2016 2:43:44 PM PDT

- **Name (First and Last)**
  Paula Rotondi

- **Comment**
  The plan should include clearly delineated fiscal responsibility for the costs associated with spills. The plan should designate the specific corporations that produced the spilled oil and the specific corporations that loaded and transported the oil as being responsible for fully reimbursing every public agency, business, non-profit organization, and private individual who participated in spill response, or was harmed or inconvenienced by the spill and its aftermath. The corporations must obtain and show proof of bonds sufficient to cover the full extent of these costs. The bonds must be from an independent insurance agency/entity with holdings certified and guaranteed to fully cover and dedicated to specific oil shipments for specified date ranges. The oil producing, loading and transporting corporations should not be allowed to "self-bond" including amongst themselves or with affiliated or financially linked corporations. To a large extent, this financial responsibility plan could be designed by "reverse engineering" the financial responsibility plan established and implemented after the BP Deepwater Horizon spill that devastated ecosystems and lives of the Gulf Coast. The plan should establish a website now so that when a spill occurs the public agencies, businesses, non-profits, volunteers and harmed individuals can immediately log in to the site and submit records for their time, costs, and damages. We must end the practices that allow the corporations that profit enormously from oil production and transportation to saddle the public and individual victims with the costs of cleaning up these toxic spills. In many cases these corporations (and their executives) pay no taxes - either because of their special tax loopholes or unscrupulous manipulation of tax codes. These corporations will only truly commit to preventing oil spills when they cannot escape paying for the full financial consequences of their actions.

- **For official use only:**
  Comments submitted by email

DATE: June 8, 2016 3:45:24 PM PDT

- **Name (First and Last)**
  Robert Mitchell

- **Comment**
  Dear Ms. Kim Morley + the Spills Rules Making Dept. at the WA state Dept. of Ecology: If your email is NOT the proper place to lodge a comment on the three (3) Chapter 173's: -182 WAC Oil Spill Contingency Plan Rule; -185 WAC Oil Movement by Rail and Pipeline Notification; + -186 WAC Oil Spill Contingency Plan-Railroad notify us asap, so we can get our beliefs to the right spot before the Friday, June 10, 2016, cut-off date & time. As a result, short of NO fossil fuel transports-PLS. only allow the following, IF cars laden w/killer highly volatile Bakken crude have to used: rail cars called DOT-120's. Though Tesora which operates out of Anacortes announced in 2015 that it had added 210 DOT-120 cars to its tiny fleet, the estimated 400,000 rail cars our nation currently has & uses coupled with the increasing demand to feed refineries and an export market now allowed by a Congress which is in the pockets of corporate lobbyists-makes it obvious that those older cars cannot be replaced FAST enough! Additionally, WA's Sen. Maria Cantwell in 2015 called for rules that 'would require the volatile gases contained in Bakken crude be removed before being transported by rail' AND Sen. Ron Wyden of Oregon proposed 'charging a fee for the use of the older tank cars providing a tax break for use of the newer cars' so the speed of the cars' replacement would have a two-path incentive. *** Put these incentives into the new laws, please. We suggest, however, NO oil cars, no pipelines, no barges with fossil fuels-coal, oil, gas-nothing be transported on or near the Salish Sea. Emergency spill response plans need to be iron-clad & those who break them made immediately financially accountable. All trains must have GPS transponders reporting their whereabouts every 10 minutes to a fully funded in 2016 state emergency response center where the actual volume of oil is reported daily. If our local government agencies must knuckle under to the corporate titans as the ecological clock ticks towards the point-of-no-return for our planet-then the safeguards we've detailed above must be in place immediately. The corporate giants have had enough time to gamble with our planet's health and safety; what a polluted charred mess we are bestowing upon our children and the rest of Earth's inhabitants-like what's left of endangered salmon, et al. Have the moral courage to do the 'right thing' for the future children / species from whom we borrow our Earth, Robert & Karen Mitchell 3110 Mission Beach Rd. Tulalip, WA 98271 #425-238-7754 wolfgangsglass.66@gmail.com

- **For official use only:**
  Comments submitted by email

DATE: June 7, 2016 10:19:53 AM PDT

- **Name (First and Last)**
  Eleanor Wireman

- **Comment**
  I fully support proposed rule changes to make movement of oil as safe as possible. The oil should stay in the ground, but that's not realistic. Holding the oil and rail companies to the highest standards of safety and transparency is critical.

Oil Pipeline Spill Contingency Plan - Comment Letter

RECEIVED
Department of Ecology
JUL 25 2016
Spills Program

7.21.16
Date

Sonja Larson
WA State Department of Ecology Spills Program
PO Box 47600
Olympia, WA 98504-7600
sonja.larson@ecy.wa.gov

Re: Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline

Dear Ms. Larson:

Thank you for providing the opportunity to comment on the proposed new rule, Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline.

I am a Tacoma resident concerned about the destruction a potential oil spill would have on my family, my community and our natural environment. Commencement Bay is a source of pride for both myself and the Tacoma community and it deserves strong protection.

While I support the expanded pipeline requirements proposed, I have concerns about the proposed regulation's effectiveness, scope of certain amendments, possible ambiguities and the phase in of new requirements. For these reasons, I find the proposed rule to be inadequate in the protection of our waters and natural resources.

I strongly urge Ecology to make the following revisions to the rule:

1. The proposed air monitoring provision for pipelines should be expanded to all plans, including vessel facility and rail plans.
2. In order to apply the requirement of aerial assets and surveillance to all pipelines, including transmission pipelines, either the regulations must be amended to apply to all pipelines or the definition of facility should be expanded to apply to all pipelines, including transmission pipelines.
3. Air monitoring standards should be phased in within twelve months rather than twenty-four.
4. An evaluation of the need for fire response equipment should be added to the planning standards.

Strengthening the components above will help ensure that the pipeline rule fulfills the mission of Ecology's spills program to maintain the best achievable protection. I strongly encourage Ecology to establish a more stringent rule for pipeline contingency plans that resolves the issues outlined above.

Thank you for your consideration as you work to protect our shared natural resources.

Sincerely,

MALI'KA GODO
Print

GODO
Sign

2602 Westridge Ave, #R101, Tacoma WA 98406
Address

Oil Pipeline Spill Contingency Plan - Comment Letter

RECEIVED
Department of Ecology
JUL 25 2016
Spills Program

7.21.16
Date

Sonja Larson
WA State Department of Ecology Spills Program
PO Box 47600
Olympia, WA 98504-7600
sonja.larson@ecy.wa.gov

Re: Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline

Dear Ms. Larson:

Thank you for providing the opportunity to comment on the proposed new rule, Chapter 173-182 WAC: Oil Spill Contingency Plan – Pipeline.

I am a Tacoma resident concerned about the destruction a potential oil spill would have on my family, my community and our natural environment. Commencement Bay is a source of pride for both myself and the Tacoma community and it deserves strong protection.

While I support the expanded pipeline requirements proposed, I have concerns about the proposed regulation's effectiveness, scope of certain amendments, possible ambiguities and the phase in of new requirements. For these reasons, I find the proposed rule to be inadequate in the protection of our waters and natural resources.

I strongly urge Ecology to make the following revisions to the rule:

1. The proposed air monitoring provision for pipelines should be expanded to all plans, including vessel facility and rail plans.
2. In order to apply the requirement of aerial assets and surveillance to all pipelines, including transmission pipelines, either the regulations must be amended to apply to all pipelines or the definition of facility should be expanded to apply to all pipelines, including transmission pipelines.
3. Air monitoring standards should be phased in within twelve months rather than twenty-four.
4. An evaluation of the need for fire response equipment should be added to the planning standards.

Strengthening the components above will help ensure that the pipeline rule fulfills the mission of Ecology's spills program to maintain the best achievable protection. I strongly encourage Ecology to establish a more stringent rule for pipeline contingency plans that resolves the issues outlined above.

Thank you for your consideration as you work to protect our shared natural resources.

Sincerely,

LaDonna Robertson
Print

LaDonna D. Robertson
Sign

1709 S G St., Tacoma WA 98405
Address

Appendix B: Transcripts from public hearings.

Everett, WA – June 29, 2016

Steve: Thank you. All right. I'm required to read a few pieces here as part of the formal record. I am Steve Ogle, the hearings officer for this hearing. This afternoon we're going to conduct a hearing on the rule proposal for chapter 173-182 WAC Oil spill contingency plan, specifically the pipeline rule. Let the record show its 3:47 on June 29th 2016. This hearing is being held at the Holiday Inn Downtown Everett, Ballroom 1, 3105 Pine Street at Everett, Washington 98201. Legal notice of this hearing was published in the Washington State Register on May 18th, 2016. Washington State Register number;
WSR 16-11-112.

In addition, notices of the hearing were mailed to 36 private governments, emailed to hundreds of interested parties, posted on Ecology's Website and posted on social media, including Facebook, Twitter and Ecology's blog. News releases on the rule making and hearings were issued on May 18th and June 24th 2016. I'll be calling people up to provide testimony based on the order your name appears on the sign-in sheet. Once everyone who has indicated that they would like to testify has had that opportunity, I'll open it up for others.

When I call your name, please step to the front, state your name. If you haven't given us contact information, an email or an address, please do so. You can also provide this after the hearing if you prefer to. Speak clearly so we can get a good recording of your testimony. With that, we'll begin with Lovel Pratt.

Lovel: This time I get to talk first. Sorry. Good afternoon. My name is Lovel Pratt with Mulno Cove Consulting. I am here today on behalf of Friends of the Earth. I want to thank you for holding this hearing and thank you for updating the contingency plan requirements for pipelines. Just to start out, I want to preface my comments saying that the pipeline contingency plan requirements should be at least as rigorous as the contingency plan requirements for any other means of transporting oil products. That's the overall comment I'd like to make in regard to the more detailed comments I'll provide.

In terms of aerial surveillance, these requirements should be comparable with those requirements for vessels in 173-182-321. Great that you have requirements for geographic response plans and I would ask that those be required for every crossing and every means of conveyance. For example this would be agricultural irrigation, drainage ditches; those kinds of man-made ways that oil can travel. An example of this is the recent Ventura pipeline oil spill where the oil did travel through, I believe it was irrigation ditches. Fortunately there wasn't irrigation.

Speaker 1: Culvert?

Lovel: Culvert. I think fortunately with the drought there wasn't water to convey it to the rain waters, but in any case I think that's a way that we could have oil in our marine waters, which would be another concern. The definition of worst case spill. This is something where I don't think the current definition is consistent with the legislative attempt and it's not comparable with worst case spill definitions for rail now and for vessels. Providing the language where it says the total time to detect and shut down the pipeline must be equal to or greater than 20 minutes is not a consolation from my perspective in reading information about pipeline spills.

There was an article on July 20 of 2015 issue of News Week talking about the 1.3 million gallon Maxim energy pipeline spill. I am just going to read from that. "The burst pipeline was less than one year old and was equipped with advanced monitoring systems that failed to detect the leak, according to CBC News. The leak detection systems which Maxim officials and others have called the pipeline's 'fail-safe systems' notoriously fall of that namesake. Between 2002 and 2012, pipeline detection technology only caught 5% of spills in the US. An inside climate news investigation found the public reported 22% of spills and oil industry workers reported 62%."

It just seems that the contingency plans requirements that you have the authority to ensure you carry out the legislative intent. You're consistent with the definition of worst case spill for other means of transporting oil products. It's important that there be consistency, and this 20 minute threshold is by no means reassuring that it would be anywhere near adequate in terms of planning purposes for a spill. In the question and answer session, I touched upon the fact that EHSB1449 is the oil transportation's safety bill, I emphasized the word 'safety'.

I am appreciative of the language included that addresses best available protection in terms of air monitoring for the public, but it really seems that this issue needs to be addressed for responders. Specifically in the definition of spill assessment, at the end of that definition, I ask that you include and identification of appropriate protective equipment including respirators for oil spill responders, and that you revise the one hour planning standards that require appropriate air monitoring equipment for performing safety assessments to also require the trained group to have appropriate protective equipment, such as respirators.

Then amending the section 173-182-535, the planning standards for air monitoring to have a new section that talks about a description of how oil spill responders will be protected with appropriate equipment such as respirators while responding to spills with that quality. I want to thank you for responding to comments and for addressing the recommendations at the National Academy of Sciences study and for including the planning standards for the pipelines carrying crude that address nonpolluting oils. That's really great.

I just want to confirm that these requirements that are specific in the draft include all best available protection measures. Comparing this and my previous comments about appropriate protective gear for spill responders, I think was one

of the major findings in the National Academy of sciences was that spill response needs to be immediate, as quick as possible to be effective so that the crude does not weather and sink and become more costly and more difficult to clean up. I think even in the studies there are some studies that are more controversial about with diluted bitumen, does it sink does it not sink.

Definitively, it does sink over time and so those first hours are crucial for responders to arrive and to aggressively be able to clean up the oil before it does sink. In terms of the cost benefit and some alternative analysis, that describes the lengthy cost of the proposed rule in far more detail than it describes the cost of spills and the other costs associated with the likely benefits in the proposed rule. I ask that the costs of spills and the costs associated with likely benefits of the proposed rule be more flushed out in that cost benefit and at least bring some alternative analysis.

I think this would more than justify the additional resources that would be required with a more realistic definition of worst case oil spill volume and the requirements associated with that for contingency plans. I am not sure what the outcome will be of the advanced rule notification making. I know you received a lot of comments about the importance of knowing the type of oil that responders have to respond to. It's not clear to me how that will end up in terms of that advanced notification requirement. It seems appropriate that that be addressed here in the contingency plan requirements; that the type of oil specifically be known so that responders are compared to respond to that specific type of oil.

I think that would be very appropriate to include here. I think also it should be included in the other rule, but we're talking about his rue now and I think it should be included here. Let me just confirm. I think that is it for now. Thank you very much. Oh no, wait.

One more thing; pipeline planning points. I do want to comment and say it appears that not all the waters of statewide significance where they cross a pipeline that a planning point exists or where waters of statewide significance are in close proximity to the pipeline a planning point exists. It looks like there are some gaps where there shouldn't be in terms of the identification of appropriate planning points. That was the last comment. Thank you.

Steve: Thank you, Lovel. Lovel was actually the only person who signed up to provide comments. What I'd like to do is give everyone else an opportunity, if you'd like to come up and provide verbal comments at this time, please.

Angela: Hello, my name is Angela Day. Do you need my address?

Steve: Please, ma'am.

Angela: I live at 11804 Serengeti Road, Washington 98296. I am here just truly as an interested student. Also I am the author of the book 'Red Light to Star Road: Recalling the EXXON VALDEZ Disaster '. My family, the Day family owned and operated a town called Dayville where the Trans Alaska pipeline terminal is

now located. When I married into the family, I married a fisherman who had been in the business for many generations. My primary interest was just in telling the story.

As I looked into it, I realized that the grounding was not just the result of a drunken skipper but rather the result of an entire system that failed. I'd just like to make two brief points. I haven't had a chance to read your proposed rule because I wasn't able to find it online. If I'm able to contribute anything meaningful in writing, I will send some comments along. Just two brief comments.

The first is that there was a very specific contingency plan in Prince William Sound during 1989. The oil spill, if there was one, had to be responded to within five and a half hours. There was a list of equipment that needed to be available and ready. The equipment was not available. It was buried under snow drifts. The folks at the terminal responsible for responding to a spill hadn't repaired the barge which was at dry dock, it cracked. Although they were required to respond in five and a half hours it was 14 hours before they got out there. The barge was only able to hold a very small amount of oil and so soon the skimmers filled up, and so what looked really good in writing tuned out to be not as practical in practice.

I am really glad to see your spill drills. I hope they are frequent enough to verify that spill as described in the contingency plan can actually be cleaned up. I am also glad to see that you have a way of verifying what equipment is available because that contributed significantly, that lack of availability, to the magnitude and the consequences of the Exxon oil spill.

The second comment I would just like to make is regarding the Department of Ecology's internal plans. One of the things that was a problem was regulations themselves within the department of environmental conservation, the Alaska equivalent of Ecology.

They had internal whistle-blowers who weren't taken seriously. They also had industry whistle-blowers. There wasn't a good mechanism for responding to those. I have also done some work in the area of nuclear safety. What is true is that regulators that are responsive to internal whistle-blowers are often able to catch things that could become very significant safety risks by responding to them in their earlier periods.

The second component of that is your preparedness to receive public comments. Even though we're very sparse in numbers here in this ballroom today, if there was a spill you would be clearly bombarded with comments, concerns both from cities, counties and citizens. I hope that you have a plan and capacity outlined in your own internal thinking for responding to that level of citizen and municipality concerns. If you are interested, I'll leave my card on the back table, not as a formal submission here today but just if anybody is interested.

I think it's important that we remember what we have learned in the past from historical events and that we use that as we consider safety and precautions and responses moving forward. Thank you for the opportunity to comment.

Steve: Thank you very much. Would anyone else like to come up to comment? That was our last attendee. I really appreciate you commenting. There is more formal hearing language I need to go through. If you'd like to send Ecology comments after this hearing, please remember they must be received by July 22, 2016. You can submit those comments to the Department of Ecology Spills program on Sonja Larson P. O BOX, 47600, Columbia, Washington 90504-7600.

You can also submit those by email to Sonja S-O-N-J-A. Larson L-A-R-S-O-N@ecy.wa.gov. You can also submit these by fax at 360-407-7288. Finally, you can also use our online comment form which can be found on Ecology Spills Program Rule-making website at www.ecy.wa.gov/programs/spills/rules/main.html.

We'll be holding additional hearings Thursday, June 30th at 2pm at Clarke College Geyser Student Center. That's at 1933, Fort Vancouver Way in Vancouver, Washington 90663. We'll also do a webinar during that session. Webinars are an online meeting forum that you can attend from any computer using internet access. Instructions for joining the webinar can be found on our public involvement webpage at www.ecy.wa.gov/programs/spills/rules/1106.np.html.

We'll hold one more hearing on Thursday, July 7th at 1 pm at the Renata at Spokane International Airport lower level ballroom, 8909, West Airport Drive, Spokane, Washington, 99224.

All testimonies received at this hearing as well as other hearings that we held in Vancouver, and by webinar and in Spokane, along with all written comments received no later than July 22nd 2016 will be part of the official hearing record for this proposal. Ecology will send notice about the concise explanatory statement for CES publication 21. Everyone who provided written comments or oral testimony in this rule proposal and submitted contact information to everyone that's signed in today's hearing that provided an email address and three, other interested parties on the agency's mailing party for this rule.

The CES, will among other things, containing the agency's response to questions and issues and concerns that were submitted during the public comment period. If you'd like to receive a copy but did not give your contact information, please let one staff at this hearing know or contact Sonja at the contact information provided for submitting comments. The next step is to review comments after we do all our hearings and the comment period closes. We'll be able to review all comments and make a determination whether to adopt the rule.

Ecology director, Maya Belin, will consider the rule documentation and staff recommendations and will make a decision about adopting the proposal. The adoption is currently scheduled for October 12th, 2016. If the proposed rule

should be adopted that day and followed with the code advisor, it would go in effect 31 days later. If we can be of further help to you, please do not hesitate to ask, or you can contact Sonja if you have other questions.

On behalf of the department of ecology, thank you for coming. I appreciate your cooperation and courtesy. Let the record show this hearing is adjourned at 4:07.

Vancouver, WA – June 30, 2016

Speaker 1: I'm Steve Ogle hearings officer for this hearing. This afternoon we are to conduct a hearing on the rule proposal for chapter 173-182 WAC, the Oil Spill Contingency Plan, pipeline rule update. Let the record show that it is 2:22 on June 30th, 2016 and this hearing is being held at Clark College, Gaiser Student Center 1933 Fort Vancouver Way, Vancouver Washington 98663. This hearing is also being held by webinar. Legal notice of this hearing was published in the Washington state register on May 18th, 2016. Washington State register number WSR number 16-11-112. In addition, notices of the hearing were mailed to 36 tribal governments, emailed to hundreds of interested people, posted on ecology's website for the rule, posted on social media including Facebook, Twitter and Ecology's blog and a news release on the rule making and hearings were issued on May 18th and June 24th of 2016.

I will be calling people up to provide testimony based on the order your name appears on the sign in sheet. For those attending by webinar, I'll call on you in the order you've selected the raise hand button. Once everyone who has indicated that they would like to testify has had the opportunity, I will open it up for others. We actually don't have anyone signed up to provide testimony. Do we have anybody on the webinar, Wendy?

Speaker 2: [inaudible 00:01:50]

Speaker 1: Okay. No one in the auditorium has any testimony either. Okay. Let the record show that we had 1 person attend the public hearing, 2 people attend by webinar, no one wanted to provide oral testimony. If you'd like to submit written comments, please remember they must be received by July 22nd, 2016. You can send those to the department of ecology spills program, Sonja Larson PO Box 47600 Olympia Washington 98504-7600. You can also email those to Sonja at Sonja.Larson@ECY.WA.GOV. You may also fax those in at 360-407-7288. Finally, through our online comment form, which can be found on ecology spill's rule making page at www.ECY.WA.GOV/programs/spills/rules/main.html. An additional public hearing will be held Thursday July 7th, 2016 at 1 PM at Ramada Spokane International airport, lower level ballroom, 9809 West Airport Drive Spokane, Washington 99224. All testimony received at this hearing as well as at the hearing that was held in Everett yesterday and a hearing that will be held in Spokane on July 7th, along with all written comments received no later than July 22nd, 2016, will be part of the official hearing record for this proposal.

Ecology will send notice about the concise explanatory statement, or CES publication to: 1) everyone that provided written comment or oral testimony on

the rule proposal and submitted contact information, 2) everyone that signed in for today's hearing that provided an email address, 3) other interested parties on the agency's mailing list for this rule. The CES will, among other things, contain the agency's response to questions and issues of concern that were submitted during the public comment period. If you'd like to receive a copy but did not give your contact information to us, please let one of the staff at this hearing know or contact Sonja at the contact information provided for submitting comments.

The next step following public comment is to review the comments, make a determination whether to adopt the rule. Ecology director Maia Bellon will consider the rule documentation and staff recommendations and will make a decision about adopting this proposal. Adoption is currently scheduled for October 12th. 2016. If the proposed rule should be adopted that date and filed with the code reviser, it will go into effect 31 days later.

If we can be of further help to you, please do not hesitate to ask or you can contact Sonja if you have other questions. On behalf of the department of ecology, thank you for coming. I appreciate your cooperation and your courtesy. Let the record show that this hearing is adjourned at 2:27.

Spokane, WA – July 7, 2016

Steve: Bear with me while I read through some of this and then we'll call you folks over.

Speaker 2: Are you mic'd? I think I turned it off because we were so close.

Steve: Do you want me to keep it on-

Speaker 2: That's good.

Steve: Just so we can hear everybody? This is the formal part of the hearing. My name's Steve Ogle. I'm the hearings officer for this hearing. This afternoon we are to conduct a hearing on the rule proposal for Chapter 173-182 WAC, the oil spill contingency plan, which is a pipeline rule update. Let the record show that it is 2:02 p.m. on July 7th, 2016. This hearing is being held at Ramada Inn at Spokane International Airport lower level ballroom, 8909 West Airport Drive Spokane, Washington 99224. Legal notice of this hearing was published in the Washington State Register on May 18th, 2016, Washington State Register number WSR number 16-11-112. In addition, notices of the hearing were mailed to 36 tribal governments, e-mailed to 1,000 interested parties, posted on Ecology's website for the rule, posted on social media including Facebook, Twitter, and Ecology's blog. A new's release on the rule making and the hearings was issued on May 18th and June 24th, 2016.

I'll be calling people up to provide testimony based on the order your name appears on the sign-in sheet. Once everyone who has indicated that they would like to speak has had an opportunity, I'll open it up for others. When I call your name, please step up to the front. State your name and if you haven't given us

contact information, e-mail, or home address, please do so. You can also provide this after the hearing if you prefer. Please speak clearly so that we can get a good recording of your testimony. I think we're ready to begin.

Polly, would you like to come up and speak?

Polly: Thank you and thank you for coming to Spokane for this hearing. I'm Pauline [inaudible 02:47], and I am from Spokane. I think that most of my questions have been answered, and I don't have much to say other than I urge you to really develop these plans in a way that can most mitigate damage that would be done to local folks if in case of a spill. I understand that spills do happen. I'm conscience of the 1 in California. I think that ended up going potentially into the ocean. I know that it could be very serious.

Here we of course have our wonderful Columbia River and the other rivers that feed into it, including Spokane. I grew up close to the Snake, so I am concerned about those water ways and damage to fish, etcetera as far as people who use the water for drinking. Downriver from Spokane ... Upriver? Downriver from Spokane water is being taken I believe for drinking. Here it's used for swimming, etcetera. All of those is really important to me that all of that water be protected. I thank you for the work that you do, and I urge you to continue doing strong work to protect we, the citizens of Washington. Thank you.

Steve: Thank you very much. Laura, would you like to come up?

Laura: Sure. I'm Laura Ackerman of Lands Council here in Spokane. We advocate for the Inland Northwest forest, waters, and wildlife. Thank you for the opportunity to comment today. My comments are very brief. They'll be expanded in writing most likely in the contingency with other conservation groups.

That new section that you have, 173-182-323, really happy with that section. With what I read from it, I really want to emphasize that contingency plan requirements for pipelines should be as rigorous as those for the oil by rail. That includes the planning standard requirements, the aerial surveillance requirements. I'd like to see really robust immediate response to spills. I'll about that more in written comments. Dilbit is just a really minor part of the oil pitcher in pipelines that we know of in the state, but obviously it presents some serious problems because it submerges. We need to have really quick response to that.

I like the idea of geographic response plans. I think they need to happen. In those plans, we need to talk about every river crossing and the conveyances for those, like storm drains, irrigation, drainage systems, and we need to use best achievable protection. It's unclear to me whether the advanced notification, if it will include all the info on oil in that notification. If it is, great. If it doesn't, that should certainly happen. I'd actually think if we'd had a couple webinars, not just 1 but maybe 2 or 3, this presentation was very valuable. I think a lot of people, if they could watch it from the pleasure of their own couch in front of a laptop, would really be helpful. Not everybody can get out to a meeting on the West side of the city at 1 p.m.

Also, just a note about the Spokane River because it's so well used for recreation. It's just really the heart of downtown Spokane. We have a lot of minorities who use the river for sustenance. The Spokane tribe. We have a lot of Laos people here, Russians, Ukrainians, Marshallese Islanders. I think I had mentioned these in my comments on rail contingency planning. A spill would be pretty difficult for the people who use that river in its various ways. Also, for the Redband trout. They are a type of salmon. They actually used to be anadromous until the dams put an end to that. They're very sensitive as a type of salmon to environmental pollutants. We really have to have the strongest spill contingency plans as possible.

Just in Spokane, we certainly have a lot to lose. As a tax payer, and a citizen, I have a stake in all the waters of the state of Washington. That's I think something ... We all use them, and we all enjoy them. It's important for the entire state of Washington as well as Spokane. I just wanted you to be a little more aware of our situation here as well. Thank you very much for coming to Spokane. I appreciate it.

Steve: Thank you Laura. Anybody else like to provide comment? Looks like we're done with testimony.

I'd like to read a few more things. You can submit written comments. We'll be taking those through July 22nd, 2016. You can send those to the Department of Ecology Spills Program, Sonja Larson PO box 47600 Olympia, Washington 98504-7600. You can also submit them by e-mail to Sonja at sonja.larson@ecy.wa.gov. You can also fax those in if you'd like, 3604077288 and through our online comment form which can be found on Ecology spills program rule making website at www.ecy.wa.gov/programs/spills/rules/main.html.

All testimony received at this hearing as well as other hearings that were held in Everett on June 29th and in Vancouver and by webinar in Vancouver on June 30th, 2016, along with all written comments received no later than July 22nd, 2016 will be part of the official hearings record for this proposal. Ecology will send notices about a concise explanatory statement or CES publication to everyone that provided written comments or oral testimony on this rule proposal and submitted contact information, everyone that signed in for today's hearing that provided an e-mail address, other interested parties on the agency's mailing list for this rule. The concise explanatory statement will, among other things, contain the agency's response to questions and issues and concern that were submitted during the public comment period. If you'd like to receive a copy but did not give us your contact information, please let 1 of the staff at this hearing know or contact Sonja Larson at the contact information provided for submitting comments.

The next step is to review the comments and make a determination whether to adopt the rule. Ecology director Maia Bellon will consider the rule documentation and rules [inaudible 11:32] staff recommendations and will make a decision

about adopting this proposal. Adoption is currently scheduled for October 12th, 2016. If the proposed rule should be adopted that day and filed with the code reviser, it would go into effect 31 days later. If we can be of further help to you, please do not hesitate to ask or you can contact Sonja Larson if you have other questions. On behalf of the Department of Ecology, thank you for coming. I appreciate your cooperation and your courtesy, let the record show that this hearing is adjourned at 2:13.