



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Ecology AO # 08-14

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR <u>08-16-107</u> ; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4).	<input type="checkbox"/> Continuance of WSR _____

Title of rule and other identifying information: Preassessment screening and oil spill compensation schedule regulations (Chapter 173-183 WAC). The Department of Ecology is proposing to amend the natural resource damage liability formula multipliers and multiplier descriptions used for the calculation of damages from oil spills into marine and estuarine waters, the Columbia River estuary, freshwater wetlands, and freshwater streams, rivers, and lakes.

Hearing location(s):

See attached document for hearing locations, dates and times.

Submit written comments to:

Name: Harry Chichester
Address: P.O. Box 47600
Olympia, WA 98504-7600
e-mail: spillsrulemaking@ecy.wa.gov
phone: (360) 407-7202
fax: (360) 407-7288 Received by 5PM on February 9, 2009

Assistance for persons with disabilities: Contact

Harry Chichester at (360) 407-7202 by January 26, 2009

If you have hearing loss, call 711 for Washington Relay Service
If you have a speech disability, call (877) 833-6341

Date of intended adoption: March 10, 2009
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this proposal is to amend the compensation schedule mathematical formula multipliers in regulation so that the full range of compensation (\$1 to \$100 per gallon of oil spilled) required in state law can be calculated. Multiplier descriptions in regulation would also be changed to reflect the new ceiling value of \$100 per gallon. This proposal would:

- 1) Amend Chapter 173-183 WAC, sections 830(c)(3), 840(c)(2), 850(c)(2), and 860(c)(2), by replacing current multipliers with new multipliers that are capable of achieving the full range of compensation required in state law.
- 2) Amend Chapter 173-183 WAC, sections 830(c)(3), 840(c)(2), 850(c)(2), and 860(c)(2), by replacing the \$50 ceiling limit value with the new \$100 ceiling limit described in state law.

Reasons supporting proposal: Chapter 347, 2007 laws (Senate Bill 5552) changed the upper limit of the Natural Resource Damage Assessment (NRDA) compensation range in RCW 90.48.366 from \$50 to \$100 per gallon of oil spilled. Current formula multipliers in Chapter 173-183 WAC are mathematically incapable of achieving the full range of compensation required. This amendment proposal will make our rules consistent with law, allowing the full range of compensation to be calculated.

Statutory authority for adoption: RCW 90.48.366, RCW 90.56.050, and RCW 90.48.035

Statute being implemented: 90.48 RCW as modified by 2007 Legislature - Chapter 347, 2007 laws (Senate Bill 5552)

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 19, 2008
TIME: 2:14 PM

WSR 09-01-124

DATE 12/19/08

NAME Rob Duff

SIGNATURE

TITLE Deputy Director (Acting), Department of Ecology

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization)

Washington Department of Ecology

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Harry Chichester	Department of Ecology, Headquarters, Lacey WA	(360) 407-7202
Implementation	Dave Byers	Department of Ecology, Headquarters, Lacey WA	(360) 407-6974
Enforcement	Rebecca Post	Department of Ecology, Headquarters, Lacey WA	(360) 407-7114

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

A small business economic impact statement was not required for this rulemaking because it meets the exemption in RCW 19.85.025(3) referencing RCW 34.05.310(4). This rule making meets the exemption in RCW 34.05.310(4)(e) because its content is "explicitly and specifically dictated by statute."

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain:

A cost-benefit analysis was not prepared because this is not a significant rulemaking. Its content is "explicitly and specifically dictated by statute," meeting the exemption in RCW 34.05.328(5)(b)(v).