



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do NOT use for expedited rule making

Agency: Department of Ecology AO# 08-14

Subject of possible rule making: Ecology is proposing to amend the preassessment screening and oil spill compensation schedule regulations (Chapter 173-183 WAC) to change the natural resource damage liability formula multipliers, and multiplier descriptions, for calculation of damages from oil spills into marine and estuarine waters, the Columbia River estuary, freshwater wetlands, and freshwater streams, rivers, and lakes.

Statutes authorizing the agency to adopt rules on this subject:
RCW 90.48.366, RCW 90.56.050, and RCW 90.48.035

Reasons why rules on this subject may be needed and what they might accomplish: In May 2007, the Legislature raised 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, sections 830, 840, 850, and 860 are mathematically incapable of achieving the full range of compensation (\$1 to \$100 dollars per gallon of oil spilled into waters of the state) required in state law. This rule would amend the natural resource damage liability formula multipliers for calculation of damages from oil spills into marine and estuarine waters, the Columbia River estuary, freshwater wetlands, and freshwater streams, rivers, and lakes, so that the full range of compensation provided in RCW 90.48.366 can be realized. Multiplier descriptions will change showing new multiplier and the increased ceiling values.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:
The Washington Resource Damage Assessment (RDA) Committee is responsible for determining which method to use for assessing natural resource damages following an oil spill in state waters. The RDA Committee includes representatives from the departments of Ecology, Fish and Wildlife, Natural Resources, Health, the State Parks and Recreation Commission, and the Office of Archaeology and Historic Preservation. Coordination and communication with other agencies regarding this rulemaking will occur through regular RDA committee meetings.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe)

This rulemaking is to amend an existing rule. Ecology is seeking input from the public, industry, environmental groups, and tribal, state, and federal representatives. A minimum of one public hearing will be conducted. The proposed amendments will be provided to all parties that have identified themselves as interested in this rulemaking, and will be posted on the internet at <http://www.ecy.wa.gov/programs/spills/rules/main.html>.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:
(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

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