



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017)
(Implements RCW 34.05.310)

Do **NOT** use for expedited rule making

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DATE: August 07, 2019

TIME: 10:48 AM

WSR 19-16-153

Agency: Dept. of Agriculture

Subject of possible rule making: Chapter 16-201 WAC Fertilizer Bulk Storage and Operational Area Containment Rules. As a result of a petition for rule making, the department is considering amending WAC 16-201-240—Maintenance and Inspection—to include pressure testing of underground piping as an option in the required inspection process for evidence of leaks, spills, cracks, solar decay or wear.

Statutes authorizing the agency to adopt rules on this subject: RCW 15.54.800

Reasons why rules on this subject may be needed and what they might accomplish: The secondary containment rules (chapter 16-201 WAC) for fertilizers came into effect in 1997. The objective of these rules were to establish guidelines for the protection of ground and surface water by minimizing the risk of a fertilizer release. As with most businesses in production agriculture, the fertilizer industry has changed significantly over time. Economics within the industry have forced manufacturing and distribution facilities to consolidate operations, thus creating fewer but larger facilities. In the past, facilities were geographically located in a company's service area and typically had storage volumes of 50,000 to 125,000 gallons of fertilizer. The service area for those locations was commonly 25-45 miles from the facility. In an effort to increase efficiency, companies have been replacing many of the smaller facilities with fewer, much larger facilities with storage capacities ranging from 250,000 gallons to several million gallons, and extending their service area to 150 miles or more.

With larger storage capacity needs, facilities that once held storage containers for 5 or 6 products in a location now require the same physical area for one container to store a single product. Consequently, facilities with larger storage capacities and a greater number of products significantly increases the distance from the operational area (where trucks are filled) to the storage area of the fertilizer. This requires long runs of pipe to be contained in concrete and metal-grated chases or in elevated pipe racks. Above ground piping creates a hazard to a large facility due to the large number of pipes and the distance between tanks and operational area. This above ground piping can be damaged by heavy or over-height machinery.

Currently, WAC 16-201-240 only allows for a visual observation for any evidence of leaks, spills, cracks, solar decay or wear during an inspection process. This requires all piping to be above ground so that it can be visually inspected. Placing the piping underground would allow for a safer, more efficient and more economic operation, but complicates the visual inspection requirement. Adding a pressure test option as a form of inspection to check for leaks in the underground lines would not only preserve the original intent of the rule to minimize the risk of a fertilizer release, but also improves safety and efficiency for fertilizer facilities.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: There are no other state or federal agencies that regulate the storage of bulk liquid fertilizers.

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

- Negotiated rule making
- Pilot rule making
- Agency study

Other (describe)

Department staff will discuss any proposed amendments with affected stakeholder groups. Affected stakeholders will also have an opportunity to submit written comments on the proposed rules during the public comment period and will be able to present oral testimony at the public hearing(s).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

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Additional comments:

Date: August 7, 2019

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