

Tank Standards and Inspection

The Regulatory Gap in White Liquor Tank Oversight

Citizens for Safe Water and Air - Port Townsend

PORT TOWNSEND, WA

This research has been compiled to the best of our ability from named public sources. If you believe any fact presented here is incorrect or incomplete, please contact safewaterandair@gmail.com so it can be reviewed and corrected.

1. The Core Finding

No regulatory body in Washington state or at the federal level currently has legal authority to inspect the structural integrity of an above-ground white liquor storage tank. This has been confirmed on the record by Washington State Department of Labor and Industries (L&I)'s own public information officer, and separately by a University of Washington occupational health researcher. This is not a single oversight. It traces to specific, identifiable gaps in the way several different regulatory programs each define their own scope.

2. Why Washington's Boiler and Pressure Vessel Program Does Not Cover It

Washington's boiler and pressure vessel program, chapter 296-104 of the Washington Administrative Code (WAC), authorized under Chapter 70.79 of the Revised Code of Washington (RCW) and administered by Washington State Department of Labor and Industries (L&I), excludes white liquor tanks on two separate and independent grounds.

Definitional Exclusion

Washington Administrative Code (WAC) 296-104-010(q) defines an unfired pressure vessel as a closed vessel under pressure. A white liquor storage tank is atmospheric, not pressurized, so it does not meet this definition, and the entire chapter does not apply to it, independent of anything else.

Named Exclusion

Washington Administrative Code (WAC) 296-104-100(vi) states plainly that standard inspection provisions do not apply to a black liquor recovery boiler, showing that Washington's own regulation writers were specifically aware this class of pulp and paper equipment exists, and chose to exclude it rather than overlook it.

3. Why the Washington State Department of Ecology Does Not Cover It

The Washington State Department of Ecology inspects underground storage tanks at least once every three years, because of the groundwater contamination risk they pose. This authority does not extend to above-ground tanks. A separate rule, Washington Administrative Code (WAC) 296-24-33005, does

set construction standards for above-ground atmospheric tanks, but only for flammable liquids. White liquor is caustic and corrosive, not flammable, so even this rule does not reach it.

4. What Voluntary Inspection Standards Do Exist

A real, mature, industry-recognized inspection standard for tanks like this already exists. American Petroleum Institute (API) Standard 653, Tank Inspection, Repair, Alteration, and Reconstruction, sets out a full inspection regime for above-ground steel storage tanks: external inspections at least every five years, and internal inspections roughly every ten, performed by American Petroleum Institute (API)-certified inspectors, covering shell corrosion, settlement, welds, and structural distress, exactly the kind of engineering assessment that could catch the failure mode seen in Longview.

American Petroleum Institute (API) Standard 653 was written with petroleum tanks in mind, but its own standard explicitly allows an owner to apply it, at their discretion, to tanks built to other specifications. Nothing in Washington law requires Port Townsend Paper Company (PTPC) to do this for its white liquor tanks. Many petroleum storage facilities are required to comply with American Petroleum Institute (API) Standard 653 as a condition of their permits. Chemical plants storing corrosive, non-petroleum liquids generally are not.

5. Someone Has Come Up Against Exactly This Gap Before

On January 9, 2014, a storage tank at Freedom Industries in Charleston, West Virginia, leaked approximately 10,000 gallons of a coal-processing chemical called 4-methylcyclohexanemethanol (MCHM) into the Elk River, contaminating the drinking water supply for approximately 300,000 residents across nine counties for several days. At the time, no West Virginia state agency was responsible for inspecting that tank or its containment measures.

State officials said plainly that it was not their department's responsibility to do so, the same pattern found in Washington's white liquor tanks today. West Virginia's response was swift and, initially, broadly bipartisan. Within weeks, the state legislature passed the Aboveground Storage Tank Act with unanimous support. The new law required tanks to be registered with the state, required an inventory of what each tank contained, required owners to prepare spill response plans describing how a leak could affect local water supplies, and, critically, required certified inspections to confirm the tanks were actually working as intended.

The federal United States Chemical Safety and Hazard Investigation Board (CSB), the same independent federal agency now investigating the Longview disaster, investigated the Elk River spill and published a final report in 2017. That report concluded the new West Virginia law and its accompanying regulation addressed many of the gaps and deficiencies the board had identified, and that West Virginia's Department of Environmental Protection was now equipped with the appropriate authority and tools to prevent a similar incident.

6. The Cautionary Half of This Precedent

The West Virginia law did not stay strong. Over the decade following its passage, the state legislature weakened it repeatedly under sustained industry pressure, most often from oil and gas interests. By early 2026, roughly 89 percent of the originally registered tanks, more than 41,000 of the original

46,000, had been exempted from the law's requirements, leaving only about 11 percent still regulated.

As this document is being written, in March 2026, the West Virginia Senate passed a further rollback bill, which the House narrowed but did not reject, specifically reducing inspection requirements for smaller tanks storing oil and gas production fluids. A former West Virginia Department of Environmental Protection official who helped write the original law testified that the state now regulates roughly 4,500 of the state's approximately 42,000 aboveground tanks.

The lesson for this campaign is not that legislative fixes do not work. West Virginia's law worked, by the federal investigating board's own account, for over a decade, and there has been no repeat of a Freedom Industries-scale spill since. The lesson is that a new inspection law is not a one-time win. It requires sustained attention afterward to survive industry pressure to narrow its scope.

7. Washington's Own Emerging Opening

Two Washington state legislators representing the Longview district, Republican State Senator Jeff Wilson and Republican State Representative Joel McEntire, have both said publicly they are open to considering new legislation to close this gap, after learning that no regulatory agency currently has the authority to inspect white liquor tanks. Neither has proposed specific bill language yet, since the investigations into the Longview disaster are still ongoing. No bill has been filed as of this writing.

8. What This Means for This Campaign

Washington has a real, concrete model to point to: a state that faced the same kind of gap, closed it with a specific, unanimously passed law within weeks of a disaster, and had that law credited by the same federal board now investigating Longview. That is a strong, specific ask this campaign could make of state legislators rather than only regulators who have already confirmed they lack the authority to act. It also means any such law needs to be written, and defended afterward, with an eye toward the kind of incremental narrowing West Virginia's law experienced.

9. Building and Fire Code Pathways, and Why Tank Age Matters

What the Fire Code Actually Requires

Washington's fire code, based on the International Fire Code (IFC), does recognize corrosive liquids as their own hazardous material category, separate from the flammable and combustible liquids covered by Washington's oil rule. Chapter 50 of the fire code, Hazardous Materials General Provisions, applies to above-ground stationary tanks storing hazardous materials generally, which would include a corrosive chemical like white liquor.

What that chapter actually requires, confirmed against the code text, is narrower than it might sound. It calls for periodic safety audits to verify compliance with the chapter's requirements, seismic bracing and anchoring of hazardous material equipment in accordance with the International Building Code (IBC), secondary containment, and overfill prevention devices for tanks larger than 500 gallons. It does not appear to require a recurring structural engineering inspection of the kind American Petroleum Institute (API) Standard 653 requires for oil tanks under Washington Administrative Code (WAC) 173-180-330, an ultrasonic thickness test checking for internal wall corrosion, for example.

A safety audit confirming proper signage and containment is a different thing from an engineering inspection checking whether the tank itself is still structurally sound.

A second limit matters even more. The fire code states plainly that existing above-ground tanks are maintained according to the code requirements that were applicable at the time of installation, not automatically updated to whatever the current code requires. Washington's oil rule only reaches existing tanks because it explicitly wrote in a retroactive compliance deadline, the 2033 date already discussed elsewhere in this campaign's files. No equivalent explicit retroactive requirement was found for corrosive material tanks under the fire code's hazardous materials chapter. In practice, that means an older white liquor tank could fall entirely outside current code requirements, regardless of what the code says today, simply because of when it was built.

Why Tank Age Matters

That makes PTPC's tank age directly relevant, and it is not fully known. PTPC began operating in 1928, before the recovery boiler, the equipment that recovers and reforms the chemicals in white liquor, had even been invented as a technology in the early 1930s. Today's recovery system is necessarily a later addition or rebuild, not part of the original 1928 construction.

This campaign's own violations research has already identified a confirmed 50 year old boiler among PTPC's equipment, placing at least one piece of relevant equipment's installation around the mid-1970s, decades before the current edition of the fire code or International Building Code (IBC) existed. A specific construction or installation date for the white liquor storage tank itself, as distinct from the boiler, has not been confirmed.

10. What Could Fix This Right Now, Without a New Law

Everything documented so far describes what does not reach white liquor tanks. Two existing legal tools point the other direction, and neither requires anyone to spot visible corrosion first.

The General Duty Clause

Revised Code of Washington (RCW) 49.17.060, Washington's general duty clause under Washington Industrial Safety and Health Act (WISHA), requires an employer to provide a workplace free from recognized hazards likely to cause serious injury or death. The statute itself bars a citation under this general clause only where a specific rule already covers the hazard. Since no specific rule covers white liquor tank structural integrity, that bar does not apply here, meaning Washington State Department of Labor and Industries (L&I) already has the authority to act under this clause.

A recognized hazard does not require a visible defect on this specific tank. Industry-wide knowledge of a failure mode, eleven deaths at a nearly identical facility using the same equipment type, can itself establish that a hazard is recognized.

Emergency Restraint Authority

Revised Code of Washington (RCW) 49.17.130 sits alongside it. Where the Washington State Department of Labor and Industries (L&I) director believes a condition creates a substantial probability of death or serious harm, based on inspection or investigation rather than necessarily a visible defect, the director can issue an order immediately restraining use of the equipment. This is existing

emergency authority, not something requiring new legislation.

The Petition for Rulemaking

Revised Code of Washington (RCW) 34.05.330, Washington's petition for rulemaking process, is the tool available to residents directly rather than to a regulator. Any person may petition any Washington state agency to adopt, amend, or repeal a rule. The agency has 60 days to respond, either denying the petition in writing with specific reasons or beginning rulemaking. A denial can be appealed to the Governor within 30 days, and the Governor then has 45 days to respond.

This mechanism could be used to formally ask Washington State Department of Labor and Industries (L&I) to adopt a rule requiring periodic structural inspection of large process tanks holding corrosive chemicals, closing the same definitional gap already identified in chapter 296-104 of the Washington Administrative Code (WAC). This campaign has already done exactly that.

The Petition Filed by This Campaign

A rulemaking petition under this statute was filed with Washington State Department of Labor and Industries (L&I) on July 3, 2026, requesting that the department adopt a new rule, or amend chapter 296-104 of the Washington Administrative Code (WAC), to require periodic structural integrity inspection of atmospheric storage tanks holding highly hazardous corrosive process chemicals at industrial facilities in Washington state, modeled on the inspection regime already required for oil storage tanks under Washington Administrative Code (WAC) 173-180-330, with inspection frequency tied to tank age.

On the specific inspection intervals requested, the petition asked for the following graduated schedule:

- Tanks under 20 years old, or newly constructed after the rule's effective date: external inspection at least every 5 years, internal inspection at least every 10 years, consistent with baseline American Petroleum Institute (API) Standard 653 intervals.
- Tanks 20 to 40 years old: external inspection at least every 2 to 3 years, internal inspection at least every 5 years.
- Tanks over 40 years old: external inspection annually, internal inspection at least every 2 to 3 years, with a mandatory engineering assessment of remaining corrosion life.

The petition also asked that any rule require submission of inspection results to the department, and seismic evaluation for tanks constructed before the rule's effective date, consistent with the approach already used in Washington Administrative Code (WAC) 173-180-330. Washington State Department of Labor and Industries (L&I) confirmed formal receipt of the petition in a letter dated July 8, 2026, from Caitlin Gates, Deputy Policy Director and Agency Rules Coordinator, copied to Washington State Department of Labor and Industries (L&I) Director Joel Sacks and other senior Washington State Department of Labor and Industries (L&I) leadership.

That letter states the department received the petition on July 3, 2026, and that under Revised Code of Washington (RCW) 34.05.330 it must respond within 60 days, accordingly no later than Tuesday, September 1, 2026.

A Note on Agency Choice

The Washington State Department of Ecology's authority for tank seismic and American Petroleum Institute (API) 653 inspection requirements, discussed earlier in this document, is grounded in chapter 90.56 of the Revised Code of Washington (RCW), a statute specifically about oil. Ecology likely cannot extend that model to a non-oil chemical through rulemaking alone, since its authority there is chemical-specific by statute. Washington State Department of Labor and Industries (L&I)'s authority under chapter 49.17 of the Revised Code of Washington (RCW) is broader, covering safety and health standards for conditions of employment generally, not limited to any one chemical category.

That makes Washington State Department of Labor and Industries (L&I), not Ecology, the more legally sound target for a rulemaking petition on this specific gap.

11. Appendix: Source Documents

The following pages reproduce, in full, the actual rulemaking petition filed with Washington State Department of Labor and Industries (L&I) on July 3, 2026, the department's written confirmation of receipt, and the email that transmitted that confirmation.

Document A: Petition for Rulemaking Under Revised Code of Washington (RCW) 34.05.330, Filed July 3, 2026

Subject: Petition for Rulemaking Under Revised Code of Washington (RCW) 34.05.330: Structural Inspection of Corrosive Process Chemical Storage Tanks. From David Ginsberg, davidbginsberg@gmail.com, sent Friday, July 3, 2026 at 9:24 AM. To: Rules@lni.wa.gov. Cc: Steve.Tharinger@leg.wa.gov.

"To the Rules Coordinator, I am submitting this as a formal Petition for Adoption of a State Administrative Rule under Revised Code of Washington (RCW) 34.05.330 and chapter 82-05 Washington Administrative Code (WAC). Requested action: adopt a new rule, or amend chapter 296-104 of the Washington Administrative Code (WAC), to require periodic structural integrity inspection of atmospheric storage tanks holding highly hazardous corrosive process chemicals at industrial facilities in Washington state, modeled on the inspection regime already required for oil storage tanks under Washington Administrative Code (WAC) 173-180-330, with inspection frequency tied to tank age as described below."

"Why this petition is being filed: On May 26, 2026, a white liquor storage tank at the Nippon Dynawave Packaging mill in Longview, Washington, imploded, killing eleven workers. White liquor is a hot, corrosive chemical used throughout Washington's kraft pulp and paper industry, including at facilities in Longview and Port Townsend. Following that disaster, I confirmed directly with Washington State Department of Ecology staff, and separately through Washington State Department of Labor and Industries (L&I)'s own public information officer as reported in the press, that no state or federal agency currently has authority to inspect the structural integrity of an above-ground white liquor storage tank."

"This gap traces to specific, identifiable exclusions:"

- Chapter 296-104 Washington Administrative Code (WAC), Washington's boiler and pressure vessel program, excludes atmospheric tanks by definition (WAC 296-104-010(q) requires a closed vessel

under pressure), and separately names black liquor recovery boilers as excluded from standard inspection provisions (WAC 296-104-100(vi)).

- The Washington State Department of Ecology's tank inspection authority is limited to underground tanks.
- Washington already operates a detailed, working model for exactly this kind of inspection requirement, Washington Administrative Code (WAC) 173-180-330, which mandates seismic design compliance and American Petroleum Institute (API) Standard 653 inspection for oil storage tanks. That rule's authority is limited by statute to oil under chapter 90.56 Revised Code of Washington (RCW), and cannot reach a chemically similar but legally distinct hazard like white liquor.

"Washington also has direct, relevant precedent for closing a gap of exactly this kind: after a 2014 chemical storage tank leak in West Virginia contaminated drinking water for 300,000 residents, that state's legislature passed a mandatory tank inspection law within weeks. The United States Chemical Safety and Hazard Investigation Board (CSB), the same federal board now investigating the Longview disaster, credited that law with closing the gap it had identified."

"Washington State Department of Labor and Industries (L&I) already possesses the general statutory authority needed to adopt a rule of this kind under chapter 49.17 Revised Code of Washington (RCW), Washington Industrial Safety and Health Act (WISHA), which is not limited to any single chemical category. This petition asks the department to use that existing authority."

"Specifically requested, with inspection frequency tied to tank age: Tank age is directly relevant to corrosion and structural risk, and a flat inspection interval treats a newly installed tank the same as one nearing or past the end of its original design life. I am requesting that any rule adopted include graduated inspection intervals based on tank age," for example the same three tiers set out above.

"I recognize the department's engineers may determine different specific thresholds are more appropriate based on the technical record developed during rulemaking; these figures are offered as a starting point reflecting the basic principle that older tanks warrant more frequent scrutiny, not as a fixed demand. I would also ask that any rule require submission of inspection results to the department, and seismic evaluation for tanks constructed before the rule's effective date, consistent with the approach already used in Washington Administrative Code (WAC) 173-180-330. Thank you for your consideration of this petition."

Respectfully, David Ginsberg, 1240 W Sims Way #102, Port Townsend, WA 98368, [phone redacted for privacy], davidbginsberg@gmail.com.

Document B: L&I Confirmation Letter From Caitlin Gates, Dated July 8, 2026

State of Washington, Department of Labor and Industries, PO Box 44001, Olympia, WA 98504-4001.
Via email: davidbginsberg@gmail.com. July 8, 2026. Addressed to David Ginsberg, 1240 W Sims Way #102, Port Townsend, WA 98368.

"Dear David: On behalf of the Department of Labor and Industries, I am acknowledging receipt of your petition for rulemaking under Revised Code of Washington (RCW) 34.05.330, Administrative Procedure Act. We received your petition on July 3, 2026, requesting rulemaking to require periodic structural

integrity inspection of atmospheric storage tanks holding highly hazardous corrosive process chemicals at industrial facilities in Washington State, modeled on the inspection regime already required for oil storage tanks under Washington Administrative Code (WAC) 173-180-330, with inspection frequency tied to tank age.”

“In your petition you reference both Chapter 296-104 Washington Administrative Code (WAC) and Chapter 49.17 Revised Code of Washington (RCW). Chapter 296-104 Washington Administrative Code (WAC) is the rule chapter that governs boilers in Washington State under Chapter 70.79 Revised Code of Washington (RCW). Those rules are adopted by the Board of Boiler Rules and administered by the Department of Labor and Industries. The Department of Labor and Industries will work with the Board to coordinate their response.”

“Chapter 49.17 Revised Code of Washington (RCW) is the statute that governs the occupational safety and health rules in Washington State within the Department of Labor and Industries. Your rule petition, as it relates to the occupational safety and health of workers in Washington State, will be reviewed by the Department of Labor and Industries for consideration. We will respond to your request according to the rulemaking procedures of the Administrative Procedure Act. Under Revised Code of Washington (RCW) 34.05.330, we must respond to your petition within 60 days. Accordingly, we will respond no later than Tuesday, September 1, 2026. If you have any questions, please contact me directly at Caitlin.Gates@lni.wa.gov, or 360-902-6744.”

Sincerely, Caitlin Gates, Deputy Policy Director and Agency Rules Coordinator. Copied to: Joel Sacks, Washington State Department of Labor and Industries (L&I) Director; Maggie Leland, Washington State Department of Labor and Industries (L&I) Policy Director; Jennifer Williams, Assistant Director for Customer Service, Compliance, and Public Safety; and Craig Blackwood, Assistant Director for Division of Occupational Safety and Health.

Document C: L&I Transmittal Email From Valerie Hines, Sent July 8, 2026

Subject: Petition for Rulemaking Under Revised Code of Washington (RCW) 34.05.330: Structural Inspection of Corrosive Process Chemical Storage Tanks. From Hines, Valerie (LNI), hinv235@lni.wa.gov, Wednesday, July 8, 2026 at 4:49 PM. To: David Ginsberg. Cc: Tharinger, Steve; Gates, Caitlin (LNI); LNI RE Rules.

“David, An acknowledgment letter confirming the receipt of your rule petition to Labor and Industries is attached. Valerie Hines (she/her/hers), Assisting in agency rulemaking, Government Affairs and Policy Division. We Keep Washington Safe and Working.” The email quoted the original message below it: from David Ginsberg, sent Friday, July 3, 2026 at 9:24 AM, to LNI RE Rules, copying Tharinger, Steve, with the subject line given above, and two attachments, the petition itself and a file named Acknowledgment_Ginsberg.pdf.

Sources and Citations

All factual claims in this document are drawn from the following sources, verified during research for this document.

1. Chapter 70.79 RCW and chapter 296-104 WAC, Washington's boiler and pressure vessel program, including WAC 296-104-010(q) (definitional exclusion for unfired pressure vessels) and WAC 296-104-100(vi) (named

- exclusion for black liquor recovery boilers), administered by Washington State Department of Labor and Industries (L&I).
2. WAC 296-24-33005, construction standards for above-ground atmospheric storage tanks holding flammable liquids.
 3. American Petroleum Institute (API) Standard 653, Tank Inspection, Repair, Alteration, and Reconstruction.
 4. WAC 173-180-330, Washington State Department of Ecology's seismic design and API Standard 653 inspection requirements for oil storage tanks, authorized under chapter 90.56 RCW.
 5. U.S. Chemical Safety and Hazard Investigation Board (CSB): final report, 2017, investigation of the January 9, 2014 Freedom Industries chemical storage tank leak into the Elk River, Charleston, West Virginia; and West Virginia's Aboveground Storage Tank Act, enacted 2014.
 6. RCW 49.17.060, Washington's general duty clause under the Washington Industrial Safety and Health Act (WISHA).
 7. RCW 49.17.130, Washington State Department of Labor and Industries (L&I) emergency restraint authority over hazardous conditions.
 8. RCW 34.05.330 and chapter 82-05 WAC, Washington's petition for rulemaking process under the Administrative Procedure Act.
 9. Chapter 49.17 RCW, the Washington Industrial Safety and Health Act (WISHA), governing Washington State Department of Labor and Industries (L&I)'s general occupational safety and health authority.
 10. Petition for Rulemaking Under RCW 34.05.330: Structural Inspection of Corrosive Process Chemical Storage Tanks, filed by David Ginsberg with Washington State Department of Labor and Industries (L&I), July 3, 2026, addressed to Rules@lni.wa.gov and copied to State Representative Steve Tharinger; reproduced in full as Document A.
 11. Washington State Department of Labor and Industries (L&I): confirmation letter from Caitlin Gates, Deputy Policy Director and Agency Rules Coordinator, dated July 8, 2026, copied to Director Joel Sacks, Policy Director Maggie Leland, Assistant Director Jennifer Williams, and Assistant Director Craig Blackwood; reproduced in full as Document B.
 12. Washington State Department of Labor and Industries (L&I): transmittal email from Valerie Hines, Government Affairs and Policy Division, sent July 8, 2026 at 4:49 PM, delivering the Document B confirmation letter as an attachment; reproduced in full as Document C.