

- 317-20-065, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-066 Best achievable protection. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-066, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-070 Plan approval. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-070, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-080 Failure to comply—Plan disapproval. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-080, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-090 Immediate administrative action. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-090, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-100 Waivers. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-100, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-110 Information protected from public disclosure. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-110, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-120 Plan update. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-120, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-130 Notice of entry. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-130, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-140 Standards for tank vessel operations. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-140, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-150 Plan format and contents. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-150, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-155 Units of measurement. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-155, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-160 Submittal agreement. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-160, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-165 Intrastate vessel operations schedule. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-165, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-170 Operational summary. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-170, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-180 Definition of event. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-180, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-190 Reporting events. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-190, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-200 Personnel information. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-200, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-210 Preventive maintenance program. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-210, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-220 Spill prevention technology. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-220, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-230 Regional marine safety committee plans. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-230, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-240 Documentation. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-240, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-900 Severability. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 93-07-005, § 317-20-900, filed 3/4/93, effective 4/4/93.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.
- 317-20-999 Interim prevention plans. [Statutory Authority: RCW 43.21I.030 and 88.46.040. 92-24-024, § 317-20-999, filed 11/24/92, effective 12/24/92.] Repealed by 95-01-029, filed 12/9/94, effective 6/7/95. Statutory Authority: RCW 43.21I.030 and 88.46.040.

Chapter 317-30

CARGO AND PASSENGER VESSEL SCREENING RULES

- 317-30-010 Purpose. [Statutory Authority: RCW 43.21I.030 and 88.46.050. 93-07-003, § 317-30-010, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.21I.030.
- 317-30-020 Application. [Statutory Authority: RCW 43.21I.030 and 88.46.050. 93-07-003, § 317-30-020, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.21I.030.
- 317-30-030 Screening for substantial risk. [Statutory Authority: RCW 43.21I.030 and 88.46.050. 93-07-003, § 317-30-030, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.21I.030.
- 317-30-040 Substantial risk factors. [Statutory Authority: RCW 43.21I.030 and 88.46.050. 93-07-003, § 317-30-040, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.21I.030.
- 317-30-050 Cargo and fuel characteristics. [Statutory Authority: RCW 43.21I.030 and 88.46.050. 93-07-003, § 317-30-050, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.21I.030.
- 317-30-060 Operating characteristics. [Statutory Authority: RCW 43.21I.030 and 88.46.050. 93-07-003, § 317-30-060, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.21I.030.
- 317-30-070 Operating environment. [Statutory Authority: RCW 43.21I.030 and 88.46.050. 93-07-003, § 317-30-070, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.21I.030.
- 317-30-080 Notification of entry. [Statutory Authority: RCW 43.21I.030 and 88.46.050. 93-07-003, § 317-30-080, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.21I.030.
- 317-30-090 Intrastate operation. [Statutory Authority: RCW 43.21I.030 and 88.46.050. 93-07-003, § 317-30-090, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.21I.030.

317-30-100	Safety reports. [Statutory Authority: RCW 43.211.030 and 88.46.050. 93-07-003, § 317-30-100, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.211.030.
317-30-110	Safety reports after notice or waiver. [Statutory Authority: RCW 43.211.030 and 88.46.050. 93-07-003, § 317-30-110, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.211.030.
317-30-120	Waivers. [Statutory Authority: RCW 43.211.030 and 88.46.050. 93-07-003, § 317-30-120, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.211.030.
317-30-130	Inspections. [Statutory Authority: RCW 43.211.030 and 88.46.050. 93-07-003, § 317-30-130, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.211.030.
317-30-140	Vessels posing a substantial risk. [Statutory Authority: RCW 43.211.030 and 88.46.050. 93-07-003, § 317-30-140, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.211.030.
317-30-150	Penalties. [Statutory Authority: RCW 43.211.030 and 88.46.050. 93-07-003, § 317-30-150, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.211.030.
317-30-900	Severability. [Statutory Authority: RCW 43.211.030 and 88.46.050. 93-07-003, § 317-30-900, filed 3/4/93, effective 4/4/93.] Repealed by 96-12-077, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 88.46.050 and 43.211.030.

Chapter 317-05 WAC

DEFINITIONS

WAC

317-05-010	Application.
317-05-020	Definitions.
317-05-030	Computation of time.

WAC 317-05-010 Application. The definitions in this section apply throughout this Title unless it is expressly stated, or context clearly requires, otherwise.

[Statutory Authority: RCW 43.211.030, 88.46.010, 88.46.040 and 88.46.050. 93-07-004, § 317-05-010, filed 3/4/93, effective 4/4/93.]

WAC 317-05-020 Definitions. (1) "Administrator" means the administrator of the office of marine safety.

(2) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(3) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, three hundred gross tons or more, including but not limited to, commercial fish processing vessels and freighters.

(4) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(5) "Department" means the department of ecology.

(6) "Director" means the director of the department of ecology.

(7) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(8)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is

used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) A facility does not include any:

(i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state;

(ii) Retail motor vehicle motor fuel outlet;

(iii) Facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330;

(iv) Underground storage tank regulated by the department or a local government under chapter 90.76 RCW; or

(v) A stationary marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(9) "Marine facility" means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.

(10) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide, or are used presently, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce, or any of these factors.

(11) "Office" means the office of marine safety.

(12) "Oil" or "oils" means any naturally occurring liquid hydrocarbons at atmospheric temperature and pressure coming from the earth, including condensate and natural gasoline, and any fractionation thereof, including, but not limited to, crude oil, petroleum, gasoline, fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302 adopted August 14, 1989, under section 101(4) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499.

(13) "Offshore facility" means any facility, as defined in subsection (8) of this section, located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land. "Offshore facility" does not include a marine facility as defined in subsection (9) of this section.

(14) "Onshore facility" means any facility, as defined in subsection (8) of this section, any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(15)(a) "Owner or operator" means:

(i) In the case of a vessel, any person owning, operating, or chartering by demise (bareboat charter), the vessel;

(ii) In the case of an onshore or offshore facility, any person owning or operating the facility; and

(iii) In the case of an abandoned vessel, onshore, or offshore facility, the person who owned or operated the vessel, anchor or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(16) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(17) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, ship, or any other entity whatsoever.

(18) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(19) "Spill" means an unauthorized discharge of oil into the waters of the state.

(20) "State waters" means the navigable waters of the state.

(21) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

- (a) Operates on the waters of the state; or
- (b) Transfers oil in a port or place subject to the jurisdiction of this state.

A ship is constructed or adapted to carry oil in bulk as cargo or cargo residue if authorized to do so under the ship's certification. A vessel carries oil as cargo or cargo residue if the oil is carried for dispensing to other vessels or equipment off the vessel, or for delivery from point to point, regardless of whether direct compensation for carriage is involved. A vessel being used to collect spilled oil from the water, and may have some recovered oil storage capacity, does not carry oil as cargo.

[Statutory Authority: RCW 43.211.030, 88.46.010, 88.46.040 and 88.46.050. 93-07-004, § 317-05-020, filed 3/4/93, effective 4/4/93.]

WAC 317-05-030 Computation of time. In computing a period of time established by these rules, the day of the act, incident, or default which starts the period prescribed is not included. If the last day of the period falls on a Saturday, Sunday, or legal holiday, the period is extended until the end of the next day that is not a Saturday, Sunday, or legal holiday. Days run from midnight to midnight except for the last day of the period which ends at the close of business on that day.

[Statutory Authority: RCW 43.211.030, 88.46.010, 88.46.040 and 88.46.050. 93-07-004, § 317-05-030, filed 3/4/93, effective 4/4/93.]

Chapter 317-10 WAC

VESSEL CONTINGENCY PLAN AND RESPONSE CONTRACTOR STANDARDS

WAC	
317-10-010	Purpose.
317-10-020	Authority.
317-10-030	Definitions.
317-10-035	Applicability.
317-10-040	Plan preparation.
317-10-045	Plan format requirements.
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317-10-060	Plan submittal.
317-10-065	Plan review.
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317-10-090	Contractor standards.
317-10-092	Contractor approval information required.
317-10-094	Submittal of contractor approval applications.
317-10-096	Contractor application review.
317-10-098	Severability.

WAC 317-10-010 Purpose. The purpose of this chapter is to establish vessel oil spill contingency plan requirements and response contractor standards which, when followed, will:

- (1) Maximize the effectiveness and timeliness of oil spill response by responsible parties and response contractors;
- (2) Ensure readiness of equipment and personnel;
- (3) Support coordination with state, federal, and other contingency plans; and
- (4) Provide improved protection of Washington waters and natural resources from the impacts of oil spills.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-010, filed 11/5/91, effective 1/1/92.]

WAC 317-10-020 Authority. Part IV, chapter 200, Laws of 1991, provides statutory authority for the contingency plan preparation and review requirements and response contractor standards established by this chapter.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-020, filed 11/5/91, effective 1/1/92.]

WAC 317-10-030 Definitions. (1) "Administrator" means the administrator of the Washington office of marine safety.

(2) "Average efficiency factor" means a factor used to estimate limitations of equipment efficiency from variables such as sea state, current velocity, or visibility.

(3) "Best achievable technology" means the technology that provides the greatest degree of protection, taking into consideration processes that are developed, or could feasibly be developed given overall reasonable expenditures on research and development, and processes that are currently in use. In determining what is best achievable technology, the administrator shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(4) "Board" means the pollution control hearings board.

(5) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(6) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, of greater than three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.

(7) "Columbia River" means the length of the Columbia River from its mouth at the Pacific Ocean to its confluence with the Snake River.

(8) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(9) "Department" means the state of Washington department of ecology.

(10) "Deadweight ton" means the difference, in metric tons, between the lightweight displacement and the total displacement of a vessel, as defined under Title 46, United States Code of Federal Regulations, Part 30, Subpart 30.10.

(11) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(12)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel,

located on or near the navigable waters of the state that (both):

(i) Transfers oil in bulk to or from a tank vessel or pipeline; and

(ii) Is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) A facility does not include any:

(i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state;

(ii) Underground storage tank regulated by the department or a local government under chapter 90.76 RCW;

(iii) Motor vehicle motor fuel outlet;

(iv) Facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or

(v) Marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a tank vessel, cargo vessel, or passenger vessel, in a single transaction.

(13) "Gross ton" means a vessel's approximate volume as defined under Title 46, United States Code of Federal Regulations, Part 69.

(14) "Interim storage site" means a site used to temporarily store recovered oil or oily waste until the recovered oil or oily waste is disposed of at a permanent disposal site. Interim storage sites include trucks, barges, and other vehicles used to store recovered oil or oily waste until transport begins.

(15) "Liquefied petroleum gas" means petroleum gas converted to a liquid state by pressure and cooling, including but not limited to natural gas, butane, and propane.

(16) "Marine facility" means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.

(17) "Maximum extent practicable" means the highest level of effectiveness that can be achieved through staffing levels, training procedures, and best achievable technology. In determining what is the maximum extent practicable, the administrator shall consider the effectiveness, engineering feasibility, commercial availability, safety, and the cost of the measures.

(18) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(19) "Office" means the state of Washington office of marine safety.

(20) "Oil" or "oils" means naturally occurring liquid hydrocarbons at atmospheric temperature and pressure coming from the earth, including condensate and natural gasoline, and any fractionation thereof, including, but not limited to, crude oil, petroleum, gasoline, fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499.

(1999 Ed.)

(21) "Oily waste" means oil contaminated waste resulting from an oil spill or oil spill response operations.

(22) "Owner or operator" means:

(a) In the case of a vessel, any person owning, operating, or chartering by demise, the vessel; or

(b) In the case of an abandoned vessel, the person who owned or operated the vessel immediately before its abandonment.

(23) "Passenger vessel" means a ship of greater than three hundred or more gross tons or five hundred or more international gross tons carrying passengers for compensation.

(24) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

(25) "Pipeline" means, for the purposes of subsection (12)(a)(i) of this section, a pipeline connected to a marine facility, and not owned or operated by the facility referred to in subsection (12)(a) of this section.

(26) "Plan" means oil spill response, cleanup, and disposal contingency plan.

(27) "Primary response contractor" means a response contractor that is directly responsible to a contingency plan holder, either by a contract or written agreement.

(28) "Response contractor" means an individual, organization, association, or cooperative that provides or intends to provide equipment and/or personnel for oil spill containment, cleanup, and/or removal activities.

(29) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(30) "Spill" means an unauthorized discharge of oil which enters waters of the state.

(31) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(32) "Vessel type" means a general category of vessel based on form and function, such as tank barge, tanker, freighter, cruise ship, ferry, or fish-processing vessel.

(33) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(34) "Worst case spill" means a spill of the vessel's entire cargo and fuel complicated by adverse weather conditions (during which wind, reduced visibility, and sea state hinder but do not preclude normal response operations).

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-030, filed 11/5/91, effective 1/1/92.]

WAC 317-10-035 Applicability. (1) Oil spill response, cleanup, and disposal contingency plans must be prepared, submitted, and used, pursuant to requirements in this chapter, for:

(a) Tank vessels; and

(b) Cargo vessels and passenger vessels of three hundred or more gross tons operating on waters of the state.

(2) Federal plans required under 33 C.F.R. 154, 40 C.F.R. 109, 40 C.F.R. 110, or the Federal Oil Pollution Act of 1990 may be submitted to satisfy plan requirements under this chapter if the office deems that such federal requirements possess approval criteria which equal or exceed those of the office.

(3) Response contractors must be approved by the office before they may serve as primary response contractors for a vessel contingency plan.

(4) For those sections of contingency plans which address liquefied petroleum gases, the office may excuse plan holders from meeting requirements in this chapter that are not applicable to spill response for liquefied petroleum gases due to their physical properties.

[Statutory Authority: Chapter 43.211 RCW. 93-14-096, § 317-10-035, filed 7/1/93, effective 8/1/93. Statutory Authority: ESHB 1027. 91-22-086, § 317-10-035, filed 11/5/91, effective 1/1/92.]

WAC 317-10-040 Plan preparation. (1) Each covered vessel shall prepare a contingency plan for the containment and cleanup of oil spills from the covered vessel into the waters of the state, and for the protection of fisheries and wildlife, other natural resources, and public or private property from such spills.

(2) Plans shall be in a form usable for oil spill control, containment, cleanup, and disposal operations and shall be capable of being located according to requirements in WAC 317-10-075.

(3) Plans shall be thorough and contain enough information, analyses, supporting data, and documentation to demonstrate the plan holder's ability to meet the requirements of this chapter.

(4) Plans shall be designed to be capable to the maximum extent practicable, when implemented, of promptly and properly removing oil and minimizing environmental damage from a variety of spill sizes, including small chronic spills, and worst case spills. At a minimum, plans shall meet the criteria specified in WAC 317-10-045 and 317-10-050; criteria are presented in suggested but not requisite order.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-040, filed 11/5/91, effective 1/1/92.]

WAC 317-10-045 Plan format requirements. (1) Plans shall be prepared using a combined narrative and graphic format which facilitates both the study of detailed spill response information and quick access to general information given emergency information needs and time constraints.

(2) Plans shall be divided into a system of chapters and appendices. Chapters and sections shall be numbered. Chapters should be reserved primarily for information on emergency response and cleanup operations, such as notification procedures or description of the spill response organization structure. Appendices should be used primarily for supplemental background and documentation information, such as response scenarios or description of drills and exercises.

(3) A system of index tabs shall be used to provide easy reference to particular chapters or appendices.

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(4) Plans shall be formatted to allow replacement of chapter or appendix pages with revisions without requiring replacement of the entire plan.

(5) A simplified field document suitable for on-site use in the event of a spill and summarizing key notification and action elements of the plan shall also be prepared and submitted as part of the plan.

(6) Computerized plans may be submitted to the office in addition to a hard copy. Computerized plans, accompanied by a hard copy, may be used to meet the requirements of WAC 317-10-075.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-045, filed 11/5/91, effective 1/1/92.]

WAC 317-10-050 Plan content requirements. (1) Each plan shall contain a submittal agreement which:

(a) Includes the name, address, and phone number of the submitting party;

(b) Verifies acceptance of the plan, including any incorporated contingency plans, by the owner or operator of the covered vessel, by signature of the owner or operator or their designee;

(c) Commits execution of the plan, including any incorporated contingency plans, by the owner or operator or their designee, and verifies authority for the plan holder to make appropriate expenditures in order to execute plan provisions; and

(d) Except for plans filed by the Washington state maritime commission or a maritime association defined under Oregon law, includes the vessel's name, the name, location, and address of the owner or operator, official identification code or call sign, country of registry, common ports of call in Washington waters, type of oil(s) handled, oil volume capacity, expected period of operation in state waters, and passenger capacity if a passenger vessel.

(2) Each plan shall include a log sheet to record amendments to the plan. The log sheet shall be placed at the front of the plan. The log sheet shall provide for a record of the section amended, the date that the old section was replaced with the amended section, verification that the office was notified of the amendment pursuant to WAC 317-10-080(3), and the initials of the individual making the change. A description of the amendment and its purpose shall also be included in the log sheet, or filed in the form of an amendment letter immediately after the log sheet.

(3) Each plan shall include a detailed table of contents based on chapter, section, and appendix numbers and titles, as well as tables and figures.

(4) Each plan shall describe the purpose and scope of that plan, including:

(a) The geographic area covered by the plan;

(b) The covered vessel operations covered by the plan; and

(c) The size of the worst case spill from the covered vessel.

(5) Each plan shall describe the procedures and time periods corresponding to updates of the plan and distribution of the plan and updates to affected and interested parties.

(6) Each plan shall present a strategy to ensure use of the plan for spill response and cleanup operations pursuant to requirements in WAC 317-10-075.

(7) Each plan shall describe the organization of the spill response system, including all task assignments addressed by requirements of this section. This description shall identify the role of an incident commander or primary spill response manager, who shall possess the lead authority in spill response and cleanup decisions. The plan shall describe how a smooth transfer of the incident commander or primary spill response manager position between individuals will be accomplished. An organizational diagram depicting the chain of command shall also be included.

(8)(a) For each primary response contractor which a plan holder may or does rely on to perform or supplement its response operations within the geographic area covered by the plan, the plan shall state that contractor's name, address, phone number, or other means of contact at any time of the day, and response capability (e.g., land spills only). For each primary response contractor, the plan shall include a letter of intent signed by the primary response contractor which indicates the contractor's willingness to respond. Copies of written contracts or agreements with primary response contractors shall be available for inspection, if requested by the department.

(b) If a plan holder is a member of an oil spill response cooperative and relies on that cooperative to perform or supplement its response operations within the geographic area covered by the plan, the plan shall state the cooperative's name, address, phone number, and response capability. The plan shall also include proof of cooperative membership.

(c) Plans which rely on primary response contractors shall rely only on primary response contractors approved by the office under WAC 317-10-090.

(9) Each plan shall briefly describe its relation to all applicable local, state, regional, and federal government response plans. Plans shall address how the plan holder's response organization will be coordinated with an incident command system utilized by state and federal authorities.

(10) Each plan shall list procedures which will be used to detect and document the presence and size of a spill, including methods which are effective during low visibility conditions. For tank vessels, the plan shall describe the use, if any, of mechanical or electronic monitoring or alarm systems (including threshold sensitivities) used to detect oil discharges into adjacent land or water from tanks, pipes, manifolds, and other transfer or storage equipment.

(11) Each plan shall describe procedures which will be taken to immediately notify appropriate parties that a spill has occurred.

(a) The plan holder shall maintain a notification call out list which shall be available if requested by the office for inspection, and which:

(i) Provides a contact at any time of the day for all spill response personnel identified under subsection (7) of this section, including the contact's name, position title, phone number or other means of contact for any time of the day, and an alternate contact in the event the individual is unavailable;

(ii) Lists the name and phone number of all government agencies which must be notified in the event of an oil spill

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pursuant to requirements under RCW 90.48.360 as recodified by section 1115, chapter 200, Laws of 1991, and other state and federal requirements; and

(iii) Establishes a clear order of priority for immediate notification;

(b) The plan shall identify a central reporting office or individual who is responsible for implementing the call out process; and

(c) The plan shall utilize a system of categorizing incident type and severity. Plan holders are encouraged to utilize the system established by the department in the Washington state-wide master oil and hazardous substance spill contingency plan as developed pursuant to RCW 90.48.378 as recodified by section 1115, chapter 200, Laws of 1991.

(12) Each plan shall describe the personnel (including contract personnel) available to respond to an oil spill, including:

(a) A job description for each type of spill response position needed as indicated in the spill response organization scheme addressed in subsection (7) of this section;

(b) The number of personnel available to perform each type of spill response position;

(c) Arrangements for prepositioning personnel at strategic locations which will meet criteria pursuant to WAC 317-10-065 (3)(d);

(d) The type and frequency of spill response operations and safety training that each individual in a spill response position receives to attain the level of qualification demanded by their job description; and

(e) The procedures, if any, to train and use volunteers willing to assist in spill response operations. Volunteer procedures for wildlife rescue shall comply with rules adopted by the Washington department of wildlife.

(13)(a) Each plan shall list the type, quantity, age, location, maintenance schedule, and availability of equipment used during spill response, including equipment used for oil containment, recovery, storage, and removal, shoreline and adjacent lands cleanup, wildlife rescue and rehabilitation, and communication.

(b) For equipment listed under (a) of this subsection that is not owned by or available exclusively to the plan holder, the plan shall also estimate the extent to which other contingency plans rely on that same equipment.

(c) For oil containment and recovery equipment, the plan also shall include equipment make and model, and the manufacturer's nameplate capacity of the response equipment (in gallons per minute), and applicable design limits (e.g., maximum wave height capability; inland waters vs. open ocean).

(d) Based on information described in (c) of this subsection, the plan shall state the maximum amount of oil which could be recovered per twenty-four-hour period.

(e) For purposes of determining plan adequacy under WAC 317-10-065, and to assess realistic capabilities based on potential limitations by weather, sea state, and other variables, the data presented in (c) and (d) of this subsection will be multiplied by an average efficiency factor of twenty percent. The office will apply a higher efficiency factor for equipment listed in a plan if that plan holder provides adequate evidence that the higher efficiency factor is warranted for particular equipment. The office may assign a lower effi-

ciency factor to particular equipment listed in a plan if it determines that the performance of that equipment warrants such a reduction.

(f) The plan shall provide arrangements for prepositioning of oil spill response equipment at strategic locations which will meet criteria pursuant to WAC 317-10-065 (3)(d).

(14) Each plan shall describe the communication systems used for spill notification and response operations, including:

(a) Communication procedures;

(b) The communication function (e.g., ground-to-air) assigned to each channel or frequency used; and

(c) The maximum geographic range for each channel or frequency used.

(15) Each plan shall describe the process to establish sites needed for spill response operations, including location or location criteria for:

(a) A central command post;

(b) A central communications post if located away from the command post; and

(c) Equipment and personnel staging areas.

(16)(a) Each plan shall present a flowchart or decision tree describing the procession of each major stage of spill response operations from spill discovery to completion of cleanup. The flowchart or decision tree shall describe the general order and priority in which key spill response activities are performed.

(b) Each plan shall describe all key spill response operations in checklist form, to be used by spill response managers in the event of an oil spill.

(17)(a) Each plan shall list the local, state, and other government authorities responsible for the emergency procedures peripheral to spill containment and cleanup, including:

(i) Procedures to control fires and explosions, and to rescue people or property threatened by fire or explosion;

(ii) Procedures to control ground and air traffic which may interfere with spill response operations; and

(iii) Procedures to manage access to the spill response site.

(b) Each plan shall describe the plan holder's role in these emergency operation procedures prior to the arrival of proper authorities.

(18) Each plan shall describe equipment and procedures to be used by the vessel personnel to minimize the magnitude of the spill and minimize structural damage which may increase the quantity of oil spilled.

(a) For tank vessels, damage control procedures shall include methods and onboard equipment to achieve vessel stability and prevent further vessel damage, slow or stop pipe, tank, and other leaks, and achieve emergency shutdown during oil transfer.

(b) For other covered vessels, damage control procedures shall address methods to achieve vessel stability and slow or stop leaks from fuel tanks and lines.

(19) Each plan shall describe, in detail, methods to contain spilled oil and remove it from the environment. Methods shall describe deployment of equipment and personnel, using diagrams or other visual aids when possible. Response methods covered must include:

(a) Surveillance methods used to detect and track the extent and movement of the spill;

(b) Methods to contain and remove oil in offshore waters;

(c) Methods to contain and remove oil in near-shore waters, including shoreline protection procedures and oil diversion/pooling procedures; and

(d) Methods to contain and remove oil, including surface oil, subsurface oil, and oiled debris and vegetation, from a variety of shoreline, adjacent land, and beach types.

(20) Each plan shall briefly describe initial equipment and personnel deployment activities which will accomplish the response standard listed in WAC 317-10-065 (3)(d), and provide an estimate of the actual execution time.

(21) If the plan holder will use dispersants, coagulants, bioremediants, or other chemical agents for response operations, conditions permitting, the plan shall describe:

(a) Type and toxicity of chemicals;

(b) Under what conditions they will be applied in conformance with all applicable local, state, and federal requirements, including the state-wide master oil and hazardous substance spill contingency plan;

(c) Methods of deployment; and

(d) Location and accessibility of supplies and deployment equipment.

(22) If the plan holder will use in-situ burning for response operations, conditions permitting, the plan shall describe:

(a) Type of burning operations;

(b) Under what conditions burning will be applied in conformance with all applicable local, state, and federal requirements, including the state-wide master oil and hazardous substance spill contingency plan;

(c) Methods of application; and

(d) Location and accessibility of supplies and deployment equipment.

(23) Each plan shall describe how environmental protection will be achieved, including:

(a) Protection of sensitive shoreline and island habitat by diverting or blocking oil movement;

(b) Priorities for sensitive area protection in the geographic area covered by the plan as designated by the department in environmentally sensitive area maps referenced in the state-wide master oil and hazardous substance spill contingency plan;

(c) Rescue and rehabilitation of birds, marine mammals, and other wildlife contaminated or otherwise affected by the oil spill in compliance with rules adopted by the Washington department of wildlife; and

(d) Measures taken to reduce damages to the environment caused by shoreline and adjacent land cleanup operations, such as impacts to sensitive shoreline habitat by heavy machinery.

(24)(a) Each plan shall describe site criteria and methods used for interim storage of oil recovered and oily wastes generated during response and cleanup operations. Interim storage methods and sites shall be designed to prevent contamination by recovered oil and oily wastes.

(b) If use of interim storage sites will require approval by local, state, or federal officials, the plan shall include infor-

mation which could expedite the approval process, including a list of appropriate contacts and a brief description of procedures to follow for each applicable approval process.

(c) Each plan shall describe methods and sites used for permanent disposal of oil recovered and oily wastes generated during response and cleanup operations.

(d) Interim storage and permanent disposal methods and sites shall be sufficient to keep up with oil recovery operations and handle the entire volume of oil recovered and oily wastes generated.

(e) Interim storage and permanent disposal methods and sites shall comply with all applicable local, state, and federal requirements.

(25) Each plan shall describe procedures to protect the health and safety of oil spill response workers, volunteers, and other individuals on-site. Provisions for training, decontamination facilities, safety gear, and a safety officer position shall be addressed.

(26) Each plan shall explain post-spill review procedures, including methods to review both the effectiveness of the plan and the need for plan amendments. Post-spill procedures shall provide for a debrief of the office.

(27)(a) Each plan shall describe the schedule and type of drills and other exercises which will be practiced to ensure readiness of the plan elements, including drills which satisfy WAC 317-10-070(3).

(b) Tests of internal call out procedures shall be performed at least once every ninety calendar days and documented by the plan holder. Such tests are only required to involve notification, not actual deployment.

(28) Unless the plan holder has received approval for a prevention plan submitted pursuant to chapter 200, Laws of 1991, each tank vessel plan shall describe measures taken to reduce the likelihood that a spill will occur which exceed or are not covered by existing state and federal requirements, including:

(a) Type and frequency of personnel training on methods to minimize operational risks;

(b) Methods to ensure equipment integrity, including inspection and maintenance schedules;

(c) Methods to reduce spills during transfer operations, including overfill prevention; and

(d) For tank vessels, key measures used to reduce risks during navigation.

(29) Each covered vessel plan shall list the spill risk variables within the geographic area covered by the plan, including:

(a) Types, physical properties, and amounts of oil handled;

(b) Except for plans filed by the Washington state maritime commission or a maritime association defined under Oregon law, a written description and diagram indicating cargo, fuel, and ballast tanks and piping, power plants, and other oil storage and transfer sites and operations; and

(c) A written description of operations with a history of or high potential for oil spills, including key areas which pose significant navigation risk within the geographic area covered by the plan.

(30) Each plan shall list the environmental variables within the geographic area covered by the plan, including:

(a) Natural resources, including coastal and aquatic habitat types and sensitivity by season, breeding sites, presence of state or federally listed endangered or threatened species, and presence of commercial and recreational species (environmental variable information may be obtained directly from environmentally sensitive area maps referenced in the state-wide master oil and hazardous substance spill contingency plan);

(b) Public resources, including public beaches, water intakes, drinking water supplies, and marinas;

(c) Seasonal hydrographic and climatic conditions; and

(d) Physical geographic features, including relative isolation of coastal regions, beach types, and other geological characteristics.

(31) Each plan shall list the logistical resources within the geographic area covered by the plan, including:

(a) Facilities for fire services, medical services, and accommodations; and

(b) Shoreline access areas, including boat launches.

(32)(a) Each plan shall describe detailed, plausible, step-by-step response scenarios for:

(i) A small oil spill less than five hundred gallons; and

(ii) A worst case spill as described in the plan pursuant to subsection (4)(c) of this section.

(b) Each scenario description shall include:

(i) The circumstances surrounding the spill, including size, type, location, climatic and hydrographic conditions, time, and cause;

(ii) An estimate of oil movement during the first seventy-two hours, including likely shoreline contact points; and

(iii) Estimates of response time and percent recovery for each major phase of operations.

(c) If a plan applies to multiple covered vessels, each scenario description shall discuss implementation of the plan in the event of simultaneous separate spills.

(33) Each plan shall include a glossary of technical terms and abbreviations used in the plan.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-050, filed 11/5/91, effective 1/1/92.]

WAC 317-10-060 Plan submittal. (1)(a) Plans for tank vessels of three thousand gross tons or more shall be submitted to the office within six months after adoption of this chapter.

(b) All other covered vessels shall submit plans to the office within eighteen months after adoption of this chapter.

(2)(a) Any covered vessel that first begins operating after the adoption of this chapter shall submit a plan to the office at least sixty-five calendar days prior to the beginning of operations in Washington waters, with the exception of covered vessels which fall under the jurisdiction of the Washington maritime commission pursuant to chapter 88.44 RCW, as amended by sections 901 through 907, chapter 200, Laws of 1991.

(b) Covered vessels which fall under the jurisdiction of the Washington maritime commission pursuant to chapter 88.44 RCW, as amended by sections 901 through 907, chapter 200, Laws of 1991, shall be incorporated into the maritime commission contingency plan pursuant to WAC 317-10-080.

(3) Three copies of the plan and appendices shall be delivered to:

Contingency Plan Review
Washington Office of Marine Safety
P.O. Box 42407
Olympia, WA 98504-2407

(4)(a) Tank vessel plans may be submitted by:

(i) The tank vessel owner or operator;

(ii) The owner or operator of a facility where the tank vessel unloads cargo, in conformance with requirements under WAC 317-10-050(1); or

(iii) A primary response contractor approved by the office pursuant to WAC 317-10-090, in conformance with requirements under WAC 317-10-050(1).

(b) Cargo and passenger vessel plans may be submitted by:

(i) The vessel owner or operator;

(ii) The agent for the vessel, in conformance with requirements under WAC 317-10-050(1); or

(iii) A response contractor approved by the office pursuant to WAC 317-10-090, in conformance with requirements under WAC 317-10-050(1).

(c) Plans for covered vessels which fall under the jurisdiction of the Washington maritime commission pursuant to chapter 88.44 RCW, as amended by sections 901 through 907, chapter 200, Laws of 1991, may be submitted by the Washington maritime commission, in conformance with requirements under WAC 317-10-050(1).

(5) A single plan may be submitted for multiple vessels of the same vessel type, provided that the plan contents meet the requirements in this chapter for each vessel listed.

(6) An owner, operator, or plan submitter may request information contained in an oil spill contingency plan be protected from public disclosure. The request must be made in a letter to the administrator and signed by the owner, operator, or plan submitter making the request. The information to be protected must be identified clearly by plan section, page number, paragraph, and, if possible, sentence. In addition to identifying the information to be protected, the request must also identify the legal basis justifying that request.

(7) The owner, operator, or plan submitter is solely responsible for all costs incurred, including reasonable attorney fees, in defending any action for public disclosure brought under chapter 42.17 RCW. In addition, the owner, operator, or plan submitter may bring an injunctive action pursuant to RCW 42.17.350.

(8) If the office receives a request for public disclosure of information that an owner, operator, or plan submitter has requested protection, the office will:

(a) Notify the owner, operator, or plan submitter when a request is made;

(b) Notify the owner, operator, or plan submitter of any proceedings initiated to compel disclosure; and

(c) Withhold the information until released by the owner, operator, or plan submitter or until a court order requires disclosure.

[Statutory Authority: Chapter 88.46 RCW. 93-11-001, § 317-10-060, filed 5/5/93, effective 6/5/93. Statutory Authority: ESHB 1027. 91-22-086, § 317-10-060, filed 11/5/91, effective 1/1/92.]

WAC 317-10-065 Plan review. (1) The office shall endeavor to review each plan in sixty-five calendar days. Upon receipt of a plan, the office shall evaluate promptly whether the plan is incomplete. If the office determines that a plan is incomplete, the submitter shall be notified of deficiencies. The review period shall not begin until the office receives a complete plan.

(2) The office shall regularly notify interested parties of any contingency plans which are under review by the office, and make plans available for review to all other state, local, and federal agencies, and the public. The office shall accept comments from these interested parties on the plan during the first thirty calendar days of review by the office.

(3) A plan shall be approved if, in addition to meeting criteria in WAC 317-10-045 and 317-10-050, it demonstrates that when implemented, it can:

(a) To the maximum extent practicable, provide for prompt and proper response to and cleanup of a variety of spills, including small chronic spills, and worst case spills;

(b) To the maximum extent practicable, provide for prompt and proper protection of the environment from oil spills;

(c) Provide for immediate notification and mobilization of resources upon discovery of a spill;

(d) Provide for initial deployment of response equipment and personnel at the site of the spill within two hours of the plan holder's awareness that a spill has occurred given suitable safety conditions; and

(e) Use as primary response contractors, only those response contractors approved by the office under WAC 317-10-090.

(4) When reviewing plans, the office shall, in addition to the above criteria, consider the following:

(a) The volume and type of oil(s) addressed by the plan;

(b) The history and circumstances of prior spills by similar types of vessels, including spill reports by department on-scene coordinators;

(c) The presence of operating hazards;

(d) The sensitivity and value of natural resources within the geographic area covered by the plan;

(e) Any pertinent local, state, federal agency, or public comments received on the plan;

(f) The extent to which reasonable, cost-effective spill prevention measures have been incorporated into the plan; and

(g) The nature and amount of vessel traffic and navigational hazards within the geographic area covered by the plan.

(5) The office may approve a plan without a full review as per provisions of this section if that plan has been approved by a federal agency or other state which the office has deemed to possess approval criteria which equal or exceed those of the office.

(6) The office may prepare a manual to aid office staff responsible for plan review. This manual may be made available to provide guidance for plan preparers. While the manual would be used as a tool to conduct review of a plan, the office will not be bound by the contents of such a manual.

(7) The office shall endeavor to notify the covered vessel owner or operator or their designee within five working days

after the review is completed whether the plan has been approved.

(a) If the plan receives approval, the covered vessel owner or operator shall receive a certificate of approval describing the terms of approval, including expiration dates.

(b)(i) The office may approve a plan conditionally by requiring a covered vessel owner or operator to operate with specific precautionary measures until unacceptable components of the plan are resubmitted and approved.

(ii) Precautionary measures may include, but are not limited to, reducing oil transfer rates, increasing personnel levels, or restricting operations to daylight hours. Precautionary measures may also include additional requirements to ensure availability of response equipment.

(iii) A plan holder shall have thirty calendar days after the office gives notification of conditional status to submit and implement required changes to the office, with the option for an extension at the office's discretion. Plan holders who fail to meet conditional requirements or provide required changes in the time allowed shall lose conditional approval status.

(c) If plan approval is denied, the covered vessel owner or operator shall receive an explanation of the factors for disapproval and a list of actions to be taken to gain approval. The covered vessel shall not continue oil storage, transfer, or other operations until a plan for that vessel has been approved.

(d) A plan holder shall have thirty calendar days from the date of the notice of nonapproval to appeal the office's decision. The appeal shall be perfected by serving an application for an adjudicative proceeding upon the office within the time specified herein.

(e) If a plan holder demonstrates an inability to comply with an approved contingency plan or otherwise fails to comply with requirements of this chapter, the office may, at its discretion:

(i) Place conditions on approval pursuant to (b) of this subsection; or

(ii) Revoke its approval pursuant to (c) of this subsection.

(f) Approval of a plan by the office does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under state law.

(8) The office shall work with the department to ensure that no duplication of regulatory responsibilities occurs in the review of contingency plans from marine facilities.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-065, filed 11/5/91, effective 1/1/92.]

WAC 317-10-070 Drills and inspections. (1) For the purpose of determining plan adequacy, the office may require a plan holder to participate in one unannounced full deployment drill annually. The office shall choose plan holders for such drills through a random process.

(2) The office may require a plan holder to participate in one announced, limited deployment drill annually. The office shall choose plan holders for such drills through a random process.

(3) Requirements under subsections (1) and (2) of this section may be met:

(a) By drills led by other state, local, or federal authorities if the office finds that the criteria for drill execution and review equal or exceed those of the office;

(b) By drills initiated by the plan holder, if the office is involved in participation, review, and evaluation of the drill, and if the office finds that the drill adequately tests the plan; and

(c) By responses to actual spill events, if the office is involved in participation, review, and evaluation of the spill response, and if the office finds that the spill event adequately tests the plan.

(4) The office may excuse a primary response contractor from full deployment participation in more than one drill, if in the past twelve months, the primary response contractor has performed to the office's satisfaction in a full deployment drill or an exercise listed in subsection (3) of this section.

(5) The office shall review the degree to which the specifications of the plan are implemented during the drill. The office shall endeavor to notify the covered vessel owner or operator of the review results within thirty calendar days following the drill. If the office finds deficiencies in the plan, the office shall report those deficiencies to the plan holder and require the plan holder to make specific amendments to the plan pursuant to requirements in WAC 317-10-080.

(6) The department shall publish an annual report on plan drills, including a summary of response times, actual equipment and personnel use, recommendations for plan requirement changes, and industry response to those recommendations.

(7) The office may require the covered vessel owner or operator to participate in additional drills beyond those required in subsections (1) and (2) of this section if the office is not satisfied with the adequacy of the plan during exercises or spill response events.

(8) The office may verify compliance with this chapter by unannounced inspections.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-070, filed 11/5/91, effective 1/1/92.]

WAC 317-10-075 Plan maintenance and use. (1) At least one copy of the plan shall be kept in a central location accessible at any time by the incident commander or spill response manager named in accordance with WAC 317-10-050(7).

(2) A field document prepared under WAC 317-10-045(5) shall be available to all appropriate personnel. Each covered vessel covered by the plan shall possess a copy of the field document and keep it in a conspicuous and accessible location.

(3) A covered vessel owner or operator or their designee shall implement the plan in the event of a spill. The covered vessel owner or operator or their designee must receive approval from the office before it conducts any major aspect of the spill response contrary to the plan unless:

(a) Such actions are necessary to protect human health and safety;

(b) Such actions must be performed immediately in response to unforeseen conditions to avoid additional environmental damage; or

(c) The plan holder has been directed to perform such actions by the department or the United States Coast Guard.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-075, filed 11/5/91, effective 1/1/92.]

WAC 317-10-080 Plan update timeline. (1) The office shall be notified in writing as soon as possible and within twenty-four hours of any significant change which could affect implementation of the plan, including a substantial decrease in available spill response equipment or personnel. The plan holder shall also provide a schedule for the prompt return of the plan to full operational status. A facsimile will be considered written notice for the purposes of this subsection. Changes which are not considered significant include minor variations in equipment or personnel characteristics, call out lists, or operating procedures. Failure to notify the office of significant changes shall be considered noncompliance with this chapter and subject to provisions of WAC 317-10-065 (7)(e).

(2) If the office finds that, as a result of the change, the plan no longer meets approval criteria pursuant to WAC 317-10-065, the office may, in its discretion, place conditions on approval or revoke approval in accordance to WAC 317-10-065 (7)(e). Plan holders are encouraged to maintain back-up resources in order to ensure that their plans can always be fully implemented.

(3) Within thirty calendar days of an approved change, the covered vessel owner or operator or their designee shall distribute the amended page(s) of the plan to the office and other plan holders.

(4) Plans shall be reviewed by the office every five years pursuant to WAC 317-10-065. Plans shall be submitted for reapproval unless the plan holder submits a letter requesting that the office review the plan already in the office's possession. The plan holder shall submit the plan or such a letter at least sixty-five calendar days in advance of the plan expiration date.

(5) The office may review a plan following any spill for which the plan holder is responsible.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-080, filed 11/5/91, effective 1/1/92.]

WAC 317-10-085 Noncompliance with plan requirements. (1) Any violation of this chapter may be subject to the enforcement and penalty sanctions of chapter 200, Laws of 1991.

(2) The office may deny entry onto the waters of the state to any covered vessel that does not have an approved plan and is so required.

(3) The office may assess a civil penalty of up to one hundred thousand dollars against any person who is in violation of this section. Each day that a person or covered vessel is in violation of this section shall be considered a separate violation.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-085, filed 11/5/91, effective 1/1/92.]

WAC 317-10-090 Contractor standards. (1) Primary response contractors listed in a covered vessel contingency plan must be approved by the office. Response contractors

which are listed in a contingency plan only as subcontractors to a primary response contractor do not have to be approved by the office.

(2) Primary response contractors shall be approved by the office subject to the following conditions:

(a) Equipment, equipment maintenance, and equipment and personnel deployment readiness must be verifiable by inspection by the office. Any resources not on site at the time of an inspection must be accounted for by company records. Approval of personnel readiness shall require capability of a one hour call out time in which personnel must be able to begin mobilization of response efforts. Equipment readiness shall include being available and able to be deployed to a spill site without delay, not counting normal maintenance and repairs;

(b) Response personnel shall comply with all appropriate safety and training requirements listed in WAC 296-62-300. Training records may be audited for verification; and

(c) Determination of an acceptable safety history by review of pertinent records on a case-by-case, best-professional-judgment basis. Lack of a safety history will not be grounds for denying approval.

(3) The office shall work with the department to ensure that no duplication of regulatory responsibilities occurs in the review of primary response contractors.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-090, filed 11/5/91, effective 1/1/92.]

WAC 317-10-092 Contractor approval information required. To apply for approval, contractors shall submit the following items to the office:

(1) Contractor's name, UBI number, address, and phone number;

(2) Response capability, including geographic area of response coverage, with any exclusions;

(3) The types of oil and media (e.g., marine, fresh water, or land) to which the contractor is willing and able to respond;

(4) An organizational diagram depicting chain of command;

(5) A call out list as described in WAC 317-10-050 (11)(a)(i);

(6) A list of all response equipment and personnel pursuant to WAC 317-10-050 (12)(a), (b), and (d) and (13)(a) and (c); and

(7) A list of all OSHA/WISHA citations and reports, lost-time accidents, and accident claims related to oil spill response operations for the last five years. Any applicant with less than five years under their current business name or organization shall provide a listing of any oil spill response contract businesses owned or operated by the principals in the new company within the last five years, including a brief description of the companies and their safety history information as listed above.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-092, filed 11/5/91, effective 1/1/92.]

WAC 317-10-094 Submittal of contractor approval applications. (1) Three copies of the contractor's approval application shall be delivered to:

Response Contractor Approval
Washington Office of Marine Safety
P.O. Box 42407
Olympia, WA 98504-2407

(2) Applications may be submitted at any time after adoption of this chapter. If submitted with a contingency plan, the information required pursuant to WAC 317-10-092 shall be presented separately.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-094, filed 11/5/91, effective 1/1/92.]

WAC 317-10-096 Contractor application review. (1) The office shall endeavor to review each application for primary response contractor approval in forty-five calendar days. Upon receipt of an application, the office shall evaluate promptly whether the application is incomplete. If the office determines that an application is incomplete, the submitter shall be notified of deficiencies. The forty-five-day review period shall begin when the application is complete.

(2) An application shall be approved if it meets the conditions specified in WAC 317-10-090.

(3) The office shall endeavor to notify the applicant that the application has been approved/not approved within five working days after the review is completed.

(a) If the application is approved, the contractor shall receive a certificate of approval describing the terms of approval, including expiration dates.

(b) If the application is not approved, the contractor shall receive an explanation of the factors for disapproval and a list of actions to be taken to gain approval. The contractor may not act as a primary response contractor for a covered vessel contingency plan until approved by the office.

(c) If the application is not approved, the contractor shall have thirty calendar days from the date of the notice of non-approval to appeal the office's decision. The appeal shall be perfected by serving an application for an adjudicative proceeding upon the office within the time specified herein.

(d) Approval of a response contractor by the office does not constitute an express assurance regarding the adequacy of the contractor nor constitute a defense to liability imposed under state law.

(4) Response contractor approvals shall be reviewed by the office every two years pursuant to WAC 317-10-094. Reapproval applications shall be submitted sixty calendar days in advance of the approval expiration date.

(5) An approved contractor shall notify the office in writing as soon as possible and within twenty-four hours of any significant change in the information reported in the approval application, such as a substantial change in equipment ownership. A facsimile received by the office will be considered written notice for the purposes of this subsection. Failure to notify the office may result in loss of approval status. Upon notification, the office may review and modify the approval of the primary response contractor pursuant to this section. If the department determines that approval conditions are no longer met, approval may be withdrawn.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-096, filed 11/5/91, effective 1/1/92.]

(1999 Ed.)

WAC 317-10-098 Severability. If any provision of this chapter is held invalid, the remainder of the rule is not affected.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-098, filed 11/5/91, effective 1/1/92.]

Chapter 317-21 WAC OIL SPILL PREVENTION PLANS

WAC

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**PART 1
GENERAL**

WAC 317-21-010 Purpose. This chapter establishes standards for oil spill prevention plans required for all tank vessels under RCW 88.46.040. These standards are designed to:

- (1) Provide the best achievable protection of state waters and marine environments;
- (2) Reduce the risk of a vessel casualty resulting in an oil spill; and
- (3) Encourage the development and use of procedures and technology that increase the safety of marine transportation and protection of the state's natural resources.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-010, filed 12/9/94, effective 6/7/95.]

WAC 317-21-020 Application. (1) A tank vessel may not operate in state waters unless the vessel's owner or operator complies with the provisions of this chapter and any administrative action or order issued by the office in administering this chapter.

(2) A tank vessel entering state waters based on a U.S. Coast Guard determination that the vessel is in distress is exempt from the requirements of this chapter.

(3) An oil spill prevention plan for a tanker must meet the standards in Part 3 of this chapter.

(4) An oil spill prevention plan for a tank barge must meet the standards in Part 4 of this chapter.

(5) An oil spill prevention plan for a tank barge must demonstrate that any tow vessel used to transport the barge complies with applicable standards in Part 4 of this chapter.

(6) The provisions of an oil spill prevention plan approved by the office are legally binding on the tank vessel owner or operator for whom it was submitted and the owner's or operator's successors, assigns, agents, and employees.

[Statutory Authority: RCW 88.46.040. 96-03-070, § 317-21-020, filed 1/17/96, effective 2/17/96. Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-020, filed 12/9/94, effective 6/7/95.]

WAC 317-21-030 Duties. An owner or operator of a tank vessel shall:

(1) Maintain a submitted oil spill prevention plan to accurately represent the owner's or operator's policies, procedures, and practices;

(2) Update the approved plan annually;

(3) Make the vessel available during its scheduled stay in port for inspection by the office;

(4) Ensure that all charts, position recordings, and other records developed during the vessel's transit through or while at anchor in state waters, including voyage plans and position fixes, are not destroyed until the vessel departs its berth, anchorage, or moorage; and

(5) Supply information or documents requested by the office to complete, clarify, or confirm information presented in the plan.

[Statutory Authority: RCW 88.46.040. 96-03-070, § 317-21-030, filed 1/17/96, effective 2/17/96. Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-030, filed 12/9/94, effective 6/7/95.]

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WAC 317-21-040 Information protected from public disclosure. (1) An owner or operator may request that information contained in an oil spill prevention plan be protected from public disclosure. The request must be made to the administrator in writing and identify the legal basis supporting the request. To be protected, the information must be clearly identified by plan section, page number, paragraph, and, sentence.

(2) The owner or operator is solely responsible for all costs incurred, including reasonable attorney fees, in defending against any action for public disclosure brought under chapter 42.17 RCW. The owner or operator may seek injunctive relief under RCW 42.17.330. If the office receives a request for public disclosure of information for which an owner or operator has requested protection, the office will:

(a) Notify the owner or operator that a request has been made;

(b) Notify the owner or operator of any proceedings initiated to compel disclosure; and

(c) Withhold the information until released by the owner or operator or until a court order requires disclosure.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-040, filed 12/9/94, effective 6/7/95.]

WAC 317-21-050 Language. All oil spill prevention plans, reports, correspondence, documents, and other records submitted to the office must be in English.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-050, filed 12/9/94, effective 6/7/95.]

WAC 317-21-060 Definitions. Unless the context clearly requires otherwise, the definitions in chapter 317-05 WAC and the following apply to this chapter:

(1) "Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those management practices, staffing levels, training procedures, and operational methods that provide the greatest degree of protection available. The administrator's determination of best achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering:

(a) The additional protection provided by the measures;

(b) The technological achievability of the measures; and

(c) The cost of the measures.

(2) "Best achievable technology" means the technology that provides the greatest degree of protection, taking into consideration:

(a) Processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development; and

(b) Processes that are currently in use. In determining what is best achievable technology, the administrator shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(3) "Coastal" means state waters that are not inland waters.

(4) "Document" means a record including any printed or written paper, completed form, bound record book, log, photograph, film, sound recording, drawing, machine-readable

material, or other recording device regardless of nature or characteristics.

(5) "Fleet" means more than one tank vessel operated by the same owner or operator.

(6) "Inland" means state waters where a pilot or pilotage license endorsement is required by state or federal law for any self-propelled vessel.

(7) "Proficient in English" means the ability to clearly speak the English language so personnel from other vessels and facilities understand and may safely complete a vessel operation.

(8) "Restricted visibility" means visibility is limited because of fog, mist, precipitation, sand storms or other condition limiting visibility.

(9) "Tank barge" means a tank vessel without a means of self-propulsion or a self-propelled tank vessel less than forty meters (one hundred thirty feet) in overall length.

(10) "Tanker" means a self-propelled tank vessel forty or more meters in overall length.

(11) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

A ship is constructed or adapted to carry oil in bulk as cargo or cargo residue if authorized to do so under the ship's certification or classification. A vessel carries oil as cargo or cargo residue if the oil is carried for dispensing to other vessels or equipment off the vessel, or for delivery from point to point, regardless of whether direct compensation for carriage is involved. A vessel being used to collect spilled oil from the water, and that may have some recovered oil storage capacity, does not carry oil as cargo.

(12) "Topping off" means the period of time oil is received in the last ten percent of available tank capacity in any cargo tank.

(13) "Training" means instruction, materials, and procedures, formal and informal, beyond minimum applicable crew licensing and documentation requirements, including shipboard materials, practical exercises, drills, on-the-job training, and other measures to ensure a capable and knowledgeable crew.

(14) "Vessel type" means vessels built to the same design and that have the same construction, sub-assembly, power plants, and cargo and deck arrangements.

[Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-060, filed 12/9/94, effective 6/7/95.]

WAC 317-21-070 Plan submission. (1) An owner or operator shall submit three copies of an oil spill prevention plan to the office. Each copy must contain the information and be in the format required by WAC 317-21-100.

(2) An owner or operator may submit a combined oil spill contingency plan and oil spill prevention plan. Six copies of the combined plan must be submitted to the office. Information that fulfills the requirements of both this chapter and chapter 317-10 WAC need not be repeated but must be clearly cross referenced in the submittal agreement required by WAC 317-21-120. Information that fulfills the require-

ments of this chapter must be clearly distinguished from information that fulfills the requirements of chapter 317-10 WAC.

(3) An owner or operator may submit a plan for a fleet of tank vessels. The plan must provide information unique to each vessel type, defined in WAC 317-21-060(14), in separate appendices.

(4) At any time, an owner or operator may submit a new complete plan for review and approval under this chapter. Approval of the new plan revokes all previous plans submitted for that vessel or fleet.

[Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-070, filed 12/9/94, effective 6/7/95.]

PART 2 PLAN REQUIREMENTS

WAC 317-21-100 Format. A tank vessel owner or operator shall submit an oil spill prevention plan divided into a system of numbered chapters, sections, and appendices, and bound and tabbed in loose-leaf binders. The chapters of the plan must be in the following order:

(1) *Preface.* The preface must include the submittal agreement required under WAC 317-21-120, a statement by the owner or operator that the vessel complies with the financial responsibility requirements of chapter 88.40 RCW, and, if applicable, a letter addressed to the administrator identifying protected information under WAC 317-21-040.

(2) *Document control.* An amendment log or other form of document control must be provided to record amendments to the plan. The section amended, date of amendment, and name of the person making the amendment must be indicated.

(3) *Table of contents.* The table of contents must show the chapter, section, and appendix titles and page numbers, and the page numbers for tables, figures, and other graphics.

(4) *Chapter 1.* This chapter must contain policies, procedures, and practices for watch standing, navigation, engineering, pre-arrival tests and inspections, and emergencies that meet the standards in WAC 317-21-200 through 317-21-225 for tankers, or 317-21-300 through 317-21-310 for tank barges.

(5) *Chapter 2.* This chapter must contain policies, procedures, and practices for personnel training, illicit drug and alcohol use, personnel evaluation, work hour requirements, language and work hour documentation requirements that meet the standards in WAC 317-21-230 through 317-21-255 for tankers, or 317-21-315 through 317-21-335 for tank barges.

(6) *Chapter 3.* This chapter must contain policies, procedures, and practices that describe management, vessel visitation, and preventive maintenance programs that meet the standards in WAC 317-21-260 for tankers, or 317-21-340 for tank barges.

(7) *Chapter 4.* This chapter must contain descriptions of navigation equipment, emergency towing systems, towing equipment, emergency reconnection equipment, and navigation lights and day shapes that meet the standards in WAC 317-21-265 for tankers, or 317-21-345 for tank barges.

(8) *Chapter 5.* This chapter must contain an event summary and event reports required under WAC 317-21-130.

[Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-100, filed 12/9/94, effective 6/7/95.]

WAC 317-21-110 Units of measure. Owners or operators shall express units of measure as follows: volumetric measurements shall be in barrels (petroleum); linear measurements shall be in feet and decimal feet; weight measurements shall be in long tons; velocity shall be in knots; and propulsive power shall be in shaft horsepower.

[Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-110, filed 12/9/94, effective 6/7/95.]

WAC 317-21-120 Submittal agreement. An oil spill prevention plan must include a submittal agreement that includes the following information.

(1) Information identifying the person submitting the plan including:

(a) The owner or operator by name, principle place of business, mailing address, and telephone number;

(b) The name, call sign, and Lloyd's number (official number for tank barges) of vessels covered by the plan; and

(c) The name, address, and telephone number of a person designated by the owner or operator to be contacted for matters concerning the plan.

(2) A statement, signed by the owner or operator, verifying that the submitted plan describes policies, procedures, and practices of the owner or operator employed on vessels covered by the plan and commits the owner or operator, the owner's or operator's successors, assigns, agents, and employees to complying with the policies, procedures, and practices described in the plan.

(3) For a tanker, an operational summary that describes:

(a) Routes normally transited including usual ports of call;

(b) Frequency and duration of typical port calls in state waters;

(c) The owner's or operator's management organization and identification by name, mailing address, and phone number of any ship, technical, or crewing management company providing service for a vessel covered by the plan;

(d) The total vessel manning complement required for compliance with company policy, collective bargaining agreements, insurance and underwriters, or other agreement; and

(e) The rating and assigned duties of any licensed or documented seamen who are brought aboard to temporarily relieve or supplement the vessel's manning complement, if any, while the vessel is in port.

(4) For a tank barge, an operational summary for the barge and a typical tow vessel that contains the information required under subsection (3) of this section.

(5) For a tanker or tank barge that operates entirely in state waters, a written schedule of the vessel's typical operations in state waters. The written schedule must identify the:

(a) Vessel's maximum bunker and cargo capacity in barrels (petroleum), average quantity of bunker and cargo carried, and usual place and schedule for oil transfer and bunkering operations;

(b) Typical routes served by the vessel;

(c) Typical schedule of the vessel;

(d) Expected pilotage, tug escort, lightering, or other assistance beyond that required by federal or state law; and

(e) Contingency plan covering the vessel under Washington law.

(6) A written schedule submitted under WAC 317-40-050(2) meets the requirement under subsection (5) of this section.

[Statutory Authority: RCW 88.46.040, 96-03-070, § 317-21-120, filed 1/17/96, effective 2/17/96. Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-120, filed 12/9/94, effective 6/7/95.]

WAC 317-21-130 Event reporting. (1) The owner or operator shall include an event summary of the past five years for each vessel covered by an oil spill prevention plan, or during the time the vessel has been under the control of the owner or operator if less than five years. The summary must include:

(a) The date, time, and location of each event;

(b) The weather conditions at the time of the event;

(c) The vessel operations underway at the time;

(d) The identity of any facilities and other vessels involved in the event;

(e) The type and amount of any oil spilled, and the estimated amount recovered;

(f) A list of any government agencies to which the event was reported;

(g) A brief analysis of any known causes and contributing factors for each event that considers, at a minimum, human error, equipment or technology failure, and maintenance or inspection deficiencies;

(h) A description of measures taken to prevent a reoccurrence of each event, including changes to operating or maintenance procedures, personnel policies, vessel crew and organization, and the vessel's technology.

(2) The owner or operator shall submit to the office reports of events that occur after a plan is submitted. Each report must contain the information required by subsection (1) of this section. The owner or operator shall submit the report immediately on request by the office. If the office makes no request, the owner or operator shall submit a report no later than thirty days after the date of the event.

(3) For the purposes of this section, "event" means a:

(a) Collision;

(b) Allision;

(c) Near-miss incident which means a pilot, master, or other person in charge of navigating a tank vessel successfully takes action of a nonroutine nature to avoid a collision with another ship, structure, or aid to navigation, or grounding of the vessel, or damage to the environment;

(d) Marine casualty which means those casualties described in 46 C.F.R. sec. 4.05-1, except subsections (a)(5), (a)(6) and (b), regardless of vessel type, nation of registry, or location;

(e) Disabled vessel which means an accidental or intentional grounding, failure of the propulsion or primary steering systems; failure of a component or control system that reduces the vessel's maneuverability, or fire, flood, or other

incident that affects the vessel's seaworthiness or fitness for service;

(f) Spills of oil from a tank vessel of over twenty-five barrels; or

(g) For a tank barge, damaged towing gear.

(4) Failure to submit a complete event summary or an event report may result in:

(a) Disapproval of the owner's or operator's plan;

(b) Penalties assessed under RCW 88.46.090(6) for each failure to submit information requested in subsection 1 (a) through (h) of this section; or

(c) Referral for prosecution under RCW 88.46.080.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-130, filed 12/9/94, effective 6/7/95.]

WAC 317-21-140 Vessel specific information and documentation. The owner or operator shall include in an appendix to a vessel's oil spill prevention plan vessel specific information and documentation.

(1) Vessel specific information includes each vessel's:

(a) Name and former names, country of registry, official number, and call sign;

(b) Oil carrying capacity for cargo and bunkers;

(c) Length overall, maximum beam, gross tonnage, deadweight tonnage, number of screws, shaft horsepower, and type of propulsion;

(d) A simple diagram of the vessel's general arrangement;

(e) For tank barges, the minimum shaft horsepower, number and type of screws, and number of persons required to crew vessels used to tow the barge; and

(f) The highest grade of oil each vessel is authorized to carry.

(2) Certification and classification documentation includes:

(a) Copies of certificates of inspection and other authorizing documents issued by the U. S. Coast Guard in effect at time of submission of the plan;

(b) Copies of minimum manning certificates and certification by foreign classification societies in effect at time of submission of the plan;

(c) Copies of certificates of financial responsibility issued either by the state of Washington, or issued by another government but which meet the financial responsibility requirements of chapter 88.40 RCW; and

(d) For owners or operators of tank barges, copies of any certification or other authorizing documentation for tow vessels supplying propulsion to the tank barge.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-140, filed 12/9/94, effective 6/7/95.]

PART 3

BEST ACHIEVABLE PROTECTION STANDARDS FOR TANKERS

WAC 317-21-200 Operating procedures—Watch practices. An oil spill prevention plan for a tanker must describe watch practices, policies, and procedures that meet the following standards.

(1999 Ed.)

(1) *Navigation watch.* The navigation watch shall consist of at least two licensed deck officers, a helmsman, and a lookout. One of the licensed deck officers may be a state-licensed pilot when the tanker is in pilotage waters. The helmsman may not serve as a lookout.

(a) When the tanker is operating in restricted visibility, the navigation watch shall include at least three licensed deck officers, one of whom may be a state-licensed pilot when the tanker is in pilotage waters. The vessel master or officer in charge shall determine periods of restricted visibility and record in the deck log the time restricted visibility begins and ends.

(b) Lookouts must be posted in a safe location that allows sight and hearing of all navigational hazards and other vessels.

(c) There must be rapid and reliable communication between the lookout and the officer in charge on the bridge.

(d) The name of a navigation watch member must be logged in the deck log when the member assumes watch-standing duties.

(2) *Bridge resource management.* The navigation watch shall employ a bridge resource management system that organizes the navigation watch into a bridge team and coordinates the use of bridge equipment for vessel navigation, collision avoidance, and bridge administration. The bridge resource management system must be standard practice throughout the owner's or operator's fleet. The system must include, but is not limited to:

(a) Defined bridge team assignments and duties for open sea transits, coastal and restricted waterway navigation, and conditions of restricted visibility;

(b) Procedures for navigating with a pilot;

(c) Defined responsibilities, stations, and communication guidelines for each bridge team member in response to emergencies, including pollution incidents;

(d) Clearly articulated goals, objectives, and priorities for each bridge team member;

(e) Clear delegation of duties, responsibilities, and authority between bridge team members;

(f) Guidelines for understandable and situation-specific communication between bridge team members and between the bridge team and pilot for open sea transits, coastal, and restricted waterway navigation, and conditions of restricted visibility;

(g) Comprehensive passage and voyage planning; and

(h) Defined responsibilities, stations, and communication guidelines for each bridge team member for maneuvering to enter or leave designated and customary shipping lanes, anchorage, and moorage.

(3) *Coordination with pilots.* The bridge resource management system must include a procedure to coordinate interaction of the bridge team and pilot at a time and in a manner that does not interfere with the performance of the pilot's duties.

(a) The master shall identify for the pilot those members of the bridge team who are not proficient in English and explain the responsibilities of each licensed deck officer on watch.

(b) To facilitate this coordination, vessel masters shall use a checklist that includes, at a minimum, the following:

[Title 317 WAC—p. 17]

(i) Information requested by the pilot under WAC 296-116-205 concerning vessel maneuvering characteristics, condition of navigation and communication equipment, capabilities and problems with the propulsion and steering system, and other vessel specifications;

(ii) Navigational procedures and considerations, including destination, intended route, planned speed, vessel traffic services, and tug escort requirements; and

(iii) Local conditions including expected weather, tide, current, sea conditions, and vessel traffic.

(c) If conditions permit, the pilot coordination checklist may be covered during the prescort conference required under 33 CFR Part 168 for single-hull tankers over five thousand gross tons.

(4) *Security rounds.* The master shall designate spaces on the vessel subject to security rounds to identify and to correct, if feasible, safety hazards such as potential fire hazards, defective machinery, hull and bulkhead integrity, malfunctioning safety equipment, potential sources of pollution, and potentially dangerous crew activities.

(a) Security rounds must be conducted when the vessel is underway, anchored, or moored.

(b) The master shall designate security rounds on as much of the vessel as the master deems safe for the crew member making the round.

(c) Crew members making security rounds shall be provided appropriate training and checklists, and instructed to first notify the deck watch officer before attempting corrective action.

(d) Security rounds must be made at least every two hours. On tankers equipped with functioning automated fire and flooding detection systems, security rounds must be made at least every four hours.

(e) The vessel's deck watch officer shall log the completion of each security round in the deck log.

(5) *Anchor watch.* A licensed deck officer shall maintain a watch from the bridge while the tanker is anchored. The officer shall continuously monitor the position of the vessel at anchor and plot its position at least once each hour.

(6) *Engineering watch.* Licensed engineers shall be in the engineering control room and in the immediate vicinity of the machinery space's emergency throttle controls if:

(a) The tanker's engineering control room is not within the machinery spaces; and

(b) The vessel is maneuvering to embark or disembark a pilot, docking or departing berth, or anchoring or departing anchorage.

[Statutory Authority: RCW 88.46.040, 96-03-070, § 317-21-200, filed 1/17/96, effective 2/17/96. Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-200, filed 12/9/94, effective 6/7/95.]

WAC 317-21-205 Operating procedures—Navigation. An oil spill prevention plan for a tanker must describe navigation practices, policies and procedures that meet the following standards.

(1) *Fix intervals.* The position of tankers while underway in state waters must be constantly monitored using all appropriate navigational aids to determine set and drift. Positions must be recorded at fifteen minute intervals or less, and may be recorded manually or electronically.

[Title 317 WAC—p. 18]

(2) *Voyage planning.* Prior to operating in state waters, the vessel master shall ensure that a comprehensive written voyage plan is developed for the tanker's trip through state waters. The voyage plan is a navigation guide used by the bridge team for transits through state waters. The plan should not be adhered to without deviation. The advice of the vessel's state-licensed pilot and varying local conditions must be taken into consideration. A standard voyage plan for consecutive voyages along the same routes may be used if updated prior to the tanker's entry into state waters. The voyage plan must address, at a minimum, the following:

(a) A review of available charts and navigational publications to determine waterway characteristics such as channel depth and width, turning areas, navigational obstructions, and appropriate speeds for each waterway transited;

(b) A review of notices to mariners and other navigational publications to determine the accuracy and dependability, and operating status, of available navigational aids, including radio-navigational aids;

(c) A review of available charts, navigational publications, and geographic oil spill response plans to determine environmentally sensitive areas designated and provided by the northwest area committee established under 33 U.S.C. sec. 1321(j), traffic separation systems, areas-to-be-avoided, landfalls, routes expected to be transited at night, and other areas where caution should be exercised;

(d) Predicted weather, currents and tides;

(e) Expected vessel traffic;

(f) Procedures, expected communications, and times for complying with the requirements for vessel traffic services, pilotage, tug escorts, and tug assists;

(g) Emergency procedures to be used while transiting state waters for vessel casualties, pollution incidents, and personnel health and safety;

(h) Berthing and anchoring arrangements, including water depth at intended mooring or anchorage;

(i) Engineering considerations, including pre-arrival tests and inspections as required under WAC 317-21-215, planned maintenance, fuel tanks used and expected fuel consumption, stability, trim and drafts, and required ballast; and

(j) Review of the information in, and accuracy of, available charts, notices to mariners, and other navigational publications.

(3) *Compass checks.* While underway in state waters, the vessel master shall establish a schedule for frequent comparisons of the steering gyrocompass with the magnetic compass;

(4) *Port Angeles.* A master of a tanker carrying cargo shall use at least one assist tug for anchoring and departing anchorages in the port of Port Angeles. The port of Port Angeles includes all navigable waters west of 123 degrees, 24 minutes west longitude encompassed by Ediz Hook.

(5) *Tug escorts.* Reserved.

(6) *Rescue tug.* Reserved.

[Statutory Authority: RCW 88.46.040, 96-03-070, § 317-21-205, filed 1/17/96, effective 2/17/96. Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-205, filed 12/9/94, effective 6/7/95.]

WAC 317-21-210 Operating procedures—Engineering. An oil spill prevention plan for a tanker must

describe engineering practices, policies, and procedures that meet the following standards.

(1) Tankers without automatic stand-by switching gear for stand-by generators must operate with a stand-by generator running and immediately available to assume the electrical load while underway in state waters.

(2) The steering gear flat must be inspected hourly while operating in state waters, unless monitored by closed circuit television or other acceptable monitoring system.

(3) If applicable, scoop injection cooling water systems must be secured at least six hours before operating in state waters.

(4) If applicable, the main engines must be operating to capacity on fuel used for maneuvering before operating in state waters.

[Statutory Authority: RCW 88.46.040, 96-03-070, § 317-21-210, filed 1/17/96, effective 2/17/96. Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-210, filed 12/9/94, effective 6/7/95.]

WAC 317-21-215 Operating procedures—Prearrival tests and inspections. An oil spill prevention plan for a tanker must describe policies, procedures, and practices that require the following prearrival tests or inspections, as appropriate for the system, to be conducted and logged in the deck or engineering log twelve hours or less before entering or getting underway in state waters.

(1) Navigation equipment, including compasses, radars, direction finders, and speed monitoring devices, must be inspected. Compass, range, and bearing errors must be logged in the deck log and posted on the bridge to be used by the bridge team.

(2) Emergency and stand-by ship service generators must be started and the switch gear proven to be working.

(3) All steering systems and local controls of the steering gear at the steering gear flat must be inspected or tested, and the steering gear flat inspected for unusual conditions such as leaks, fractures, and loose connections.

(4) The main engine, or engines, must be tested ahead and astern, or through the full range of pitch of controllable pitch propellers, if the tanker is so equipped.

(5) Main lubrication oil pumps must be inspected or tested and ready for immediate use.

(6) Main heavy oil pumps must be inspected or tested and ready for immediate use.

(7) For main engine lubrication and fuel oil systems with fitted duplex strainers, stand-by strainers must be cleaned, purged, and made immediately available.

(8) Fuel sufficient to operate the main engine or engines on the transit to berth or anchorage must be transferred to the main engine settler or service tanks, or both.

(9) For motor-driven tankers:

(a) Main and stand-by cooling water system circulating pumps must be inspected or tested and ready for immediate use;

(b) Intake or charge air auxiliary electric blowers, if applicable, must be inspected or tested and ready for immediate use;

(c) Starting and control air tanks must be filled and ready for use;

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(d) Main and stand-by air compressors must be inspected or tested and ready for immediate use; and

(e) The starting air piping system must be aligned and drained of condensate.

(10) For steam-driven tankers:

(a) Spare boiler burners must be prepared and ready for immediate use;

(b) Forced draft fans must be inspected or tested and ready for immediate use; and

(c) Main and stand-by feed water pumps must be inspected or tested and ready for immediate use.

[Statutory Authority: RCW 88.46.040, 96-03-070, § 317-21-215, filed 1/17/96, effective 2/17/96. Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-215, filed 12/9/94, effective 6/7/95.]

WAC 317-21-220 Operating procedures—Emergency procedures. An oil spill prevention plan for a tanker must describe practices, policies, and procedures for emergencies that meet the following standards.

(1) The vessel master shall maintain and post station bills clearly stating crew assignments and duties for the following emergencies:

(a) Shipboard fire;

(b) Orders to abandon ship;

(c) Man overboard; and

(d) Oil spill response.

(2) The vessel master shall establish written procedures for responding to:

(a) Collisions and allisions;

(b) Groundings and strandings;

(c) Hull breach, structural failure and foundering;

(d) Loss of propulsion;

(e) Loss of steering;

(f) Loss of electrical power; and

(g) Gyrocompass malfunction.

(3) The vessel master shall establish written procedures outlining preparations for:

(a) Emergency towing;

(b) Responding to loss of throttle control from the bridge which includes ensuring engineers are quickly on station as described in WAC 317-21-200(6); and

(c) Weather that poses hazards to personnel, the vessel, or equipment.

[Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-220, filed 12/9/94, effective 6/7/95.]

WAC 317-21-225 Operating procedures—Events. If the vessel is involved in an event, defined under WAC 317-21-130(3), while in state waters, the position plotting records, whether written, typed, electronically, or otherwise recorded, required under WAC 317-21-205(1), and the comprehensive written voyage plan required under WAC 317-21-205(2) may not be erased, discarded, or altered without permission of the office.

[Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-225, filed 12/9/94, effective 6/7/95.]

WAC 317-21-230 Personnel policies—Training. An oil spill prevention plan for a tanker must describe a comprehensive training program that requires training beyond the

training necessary to obtain a license or merchant marine document. The program must include instruction on the use of job-specific equipment, installed technology, lifesaving equipment and procedures, and oil spill prevention and response equipment and procedures. The program must at a minimum contain the following elements.

(1) *Crew training.* Within three years from the effective date of this chapter or from the date of employment by the owner or operator, whichever is later, a crew member shall complete a comprehensive training program approved by the office.

(2) *Vessel orientation.* Personnel newly assigned to a tanker or who have not served on another tanker of the same vessel type for more than one year, and maintenance personnel who sail on tankers, shall undergo an orientation that includes:

(a) Station assignments and procedures under WAC 317-21-220; and

(b) A vessel familiarization tour that includes:

(i) A walking tour of the deck house and other spaces designated by the vessel master; and

(ii) Identification of all egress routes.

(3) *Position specific requirements.* All personnel newly hired or who have not served on a tanker of the same vessel type for more than one year, and who are filling positions designated on the vessel's certificate of inspection issued by the U.S. Coast Guard or safe manning certificate issued by the vessel's nation of registry, shall complete training specific to their position.

(a) The vessel's master, chief mate, chief engineer, and senior assistant engineer shall be trained in shipboard management.

(b) The vessel's master and other licensed deck officers shall be trained in:

(i) Bridge resource management;

(ii) Automated radar plotting aids;

(iii) Shiphandling;

(iv) Crude oil washing, if the vessel is so equipped;

(v) Inert gas systems, if the vessel is so equipped;

(vi) Cargo handling for all cargo types carried, including associated hazards with each type, and hull stress during cargo transfer;

(vii) Oil spill prevention and response responsibilities; and

(viii) Shipboard fire fighting.

(c) The vessel's licensed engineering officers shall be trained in:

(i) Inert gas systems, if the vessel is so equipped;

(ii) Vapor recovery systems, if the vessel is so equipped;

(iii) Crude oil washing, if the vessel is so equipped;

(iv) Oil spill prevention and response responsibilities; and

(v) Shipboard fire fighting.

(d) Unlicensed ratings shall be trained in bridge resource management if assigned bridge responsibilities, or in cargo handling if assigned cargo handling responsibilities, or both, and all ratings shall receive training in oil spill prevention and response, and shipboard fire fighting.

(4) *Refresher training.* Personnel who received training described in subsection (3) of this section shall undergo refresher training at least once every five years. Refresher

training must include examination of the crew member's skills to determine his or her ability to safely and effectively perform in the position assigned. Personnel who fail to undergo refresher training within five years, shall complete the position specific training program required in subsection (3) of this section.

(5) *Shipboard drills.* The following shipboard drills must be conducted and logged in the vessel's deck log.

(a) A weekly fire drill that meets the requirements of 46 C.F.R. sec. 35.10-5.

(b) A monthly abandon ship drill that meets the requirements of the International Convention on Safety of Life at Sea, Chapter III, Part B, Regulation 18.

(c) The following drills must be conducted quarterly:

(i) Oil spill response;

(ii) Emergency steering that complies with the International Convention of Safety of Life at Sea, Chapter V, Regulation 19-2(d);

(iii) Loss of propulsion;

(iv) Loss of electrical power;

(v) Emergency towing; and

(vi) Man overboard.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-230, filed 12/9/94, effective 6/7/95.]

WAC 317-21-235 Personnel policies—Illicit drug and alcohol use. (1) An owner or operator of a tanker shall have policies, procedures, and practices for alcohol and drug testing that comply with 33 CFR Part 95 and 46 CFR Parts 4 and 16, except 46 CFR sec. 16.500. The owner's and operator's policies, procedures, and practices shall ensure that:

(a) A person neither consumes, nor is under the influence of, alcohol on a tanker while in state waters unless that person is a passenger who does not perform, and will not perform, any duty on the tanker in state waters; and

(b) A person neither consumes, nor is under the influence of, illicit drugs on a tanker while in state waters.

(2) State-licensed pilots are subject to the alcohol and illicit drug chemical testing policies established by the state board of pilotage commissioners and are not required to comply with the testing program developed to meet the standards described in this section.

(3) The testing program must include tests for alcohol and drug use that meet the following objectives:

(a) A person is not employed who is likely to consume illicit drugs or consume alcohol while on a tanker in state waters;

(b) Chemical tests for evidence of alcohol or drug use, or both, are taken from all crew members who may have been directly involved as soon as practicable after an allision, collision, grounding, ship board fire, flood, or discharge of oil or hazardous material; and

(c) A person on a tanker is tested for illicit drug or alcohol use, or both, when there is reasonable cause to believe the person is under the influence of alcohol or illicit drugs; and

(d) All personnel are randomly chemically tested for being under the influence of illicit drugs or alcohol.

(4) The owner or operator shall describe measures employed to ensure quality control of all test samples taken and the accuracy of test results.

(5) The owner or operator shall submit a report with annual plan updates required under WAC 317-21-530. The report must describe testing activity and results for the past calendar year. The report must include:

(a) The total number of personnel covered by the owner or operator's plan during the past year;

(b) The total number of personnel tested for illicit drugs in the past year;

(c) The total number of personnel tested for alcohol in the past year; and

(d) A numerical summary of the testing performed and positive test results by ratings and assigned vessel.

(6) The owner or operator shall report to the office the name, rating and assigned vessel of any navigation or engineering watchstander who remains employed by the owner or operator as a watchstander after testing positive more than once during the previous twelve months of employment for illicit drugs or use of alcohol on a tanker. The report shall be made within seventy-two hours of confirmation of the positive test result.

(7) For the purposes of this section, the following definitions apply.

(a) "Chemical test" means an analysis of a person's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of illicit drug or alcohol use performed in a scientifically recognized manner.

(b) "Illicit drug" means a narcotic drug, controlled substance or a controlled substance analog as defined under 21 U.S.C. sec. 802 that the U.S. Coast Guard has approved for testing under 49 CFR Part 40, and for which the U.S. Department of Health and Human Services has established an approved testing protocol and positive threshold.

(c) "Positive test results" means a chemical test that identifies any amount of alcohol or levels of illicit drugs meeting or exceeding initial cut off levels described in 49 CFR sec. 40.29(e) found as a result of chemically testing a person's breath, blood, urine, saliva, bodily fluids, or tissues.

(d) "Random chemically tested" means that each crew member of a vessel covered by a prevention plan has a substantially equal chance of selection on a statistically valid basis throughout the crew member's employment, as long as the number of vessel personnel tested annually equals the U.S. Coast Guard's annual rate for random drug testing under 46 CFR sec. 16.230. Random testing may not include pre-employment, post-accident, reasonable cause tests, or tests required to maintain a mariner's license or documentation. Random testing also may not include tests required by a marine facility.

(e) "Reasonable cause" means a reasonable belief that a person has used an illicit drug or alcohol based on either direct observation of actual use or of specific, contemporaneous physical, behavioral, or performance indicators of probable use.

(f) "Under the influence" means either the effects of consuming alcohol or illicit drugs is apparent by observation of the person's manner, disposition, speech, muscular movement, general appearance or behavior, or the person has a positive test result. A person is presumed to be under the influence if observed to consume any alcohol or drugs other

than recommended dosages of prescribed or nonprescribed medications.

(8) If one percent or less of the personnel covered by an owner's or operator's plan have positive test results for two consecutive calendar years, the owner or operator may reduce the level of random testing to twenty-five percent of covered personnel. Positive test results from post-accident, reasonable cause, and random testing are included in the calculation of the one percent. If more than one percent of the covered personnel have positive test results for two consecutive years, the office may require:

(a) Preboarding alcohol testing for all personnel;

(b) Unannounced, random alcohol testing of personnel while the vessel is in state waters; or

(c) Both.

[Statutory Authority: RCW 88.46.040, 96-03-070, § 317-21-235, filed 1/17/96, effective 2/17/96. Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-235, filed 12/9/94, effective 6/7/95.]

WAC 317-21-240 Personnel policies—Personnel evaluation. An oil spill prevention plan for a tanker must contain policies, procedures, and practices that describe a program for evaluating members of a vessel's crew. The program must include the following elements.

(1) The vessel master, chief engineer, and officers shall monitor the fitness for duty of crew members. A crew member determined to be unfit for duty shall be immediately relieved of duties.

(2) Crew members with a contractual obligation to serve on vessels covered by the prevention plan for more than six months shall undergo a performance review at least annually that provides a job performance evaluation and identifies any training needed to safely and effectively perform his or her assigned duties.

[Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-240, filed 12/9/94, effective 6/7/95.]

WAC 317-21-245 Personnel policies—Work hours.

(1) A member of a tanker's crew may not work more than fifteen hours in twenty-four hours, nor more than thirty-six hours in seventy-two hours except in an emergency. Time spent performing administrative duties is considered time worked. Time spent participating in ship board drills is not considered time worked if participation is required by the master, company policy, or law or regulation.

(2) An emergency is an unforeseen situation that poses an imminent threat to human safety or the environment, or substantial loss of property.

(3) A licensed deck officer may not assume duties on a navigation watch when first departing a berth in state waters unless he or she was off duty for at least six hours of the twelve hours prior to departure.

[Statutory Authority: RCW 88.46.040, 96-03-070, § 317-21-245, filed 1/17/96, effective 2/17/96. Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-245, filed 12/9/94, effective 6/7/95.]

WAC 317-21-250 Personnel policies—Language. An oil spill prevention plan for a tanker must demonstrate that:

(1) All licensed deck officers and the vessel's designated person in charge under 33 CFR sec. 155.700 are proficient in

English and speak a language understood and spoken by subordinate officers and unlicensed crew; and

(2) All operating manuals, directives, written instructions, placards and station bills are printed in a language understood and spoken by both the vessel's licensed officers and unlicensed crew.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-250, filed 12/9/94, effective 6/7/95.]

WAC 317-21-255 Personnel policies—Record keeping. The owner or operator shall maintain the following records:

(1) *Training records.* The owner or operator shall maintain detailed training records for personnel assigned to each vessel covered by the plan. The records must include training required to obtain a license or merchant marine document, and completion dates and performance evaluations of the training described in WAC 317-21-230 (2) through (4). Personnel training records must be maintained either on the vessel where the person is assigned or at a central location. If the owner or operator maintains personnel training records at a central location, the owner or operator shall:

(a) Provide the office the address where the records are kept and name of the custodian of the records; and

(b) Provide the office requested records within seventy-two hours of receiving a request for the record.

(2) *Work hour records.* The owner or operator shall ensure that compliance with WAC 317-21-245 is documented and, upon request, shall provide the documentation to the office.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-255, filed 12/9/94, effective 6/7/95.]

WAC 317-21-260 Management. (1) *Management oversight.* Owners and operators of a tanker shall have management policies, procedures, and practices that demonstrate active monitoring of vessel operations and maintenance, personnel training and development, personnel health and fitness for duty, technological improvements in navigation and cargo handling, and management practices. Active monitoring includes identification of problems in these areas and implementation of corrective measures.

(2) *Management program.* Subject to subsection (3) of this section, the management program must meet the certification requirements of:

(a) The International Ship Managers Association for complying with the Code of Ship-Management Standards;

(b) Det Norske Veritas for complying with the Safety/Environmental Protection management system;

(c) Lloyd's Register for complying with the Quality Management System; or

(d) The vessel's nation of registry for complying with the International Maritime Organization's International Safety Management Code.

(3) *Management program elements.* An owner or operator without a certified management program under subsection (2) of this section, shall have a management program containing the following elements.

(a) *Policy statement.* A company policy statement, signed by the company's chief executive officer, committing the company, management, employees, and agents to:

(i) Personal safety; and

(ii) Prevention of environmental pollution.

(b) *Organization.* An organizational scheme that includes:

(i) Clear lines of authority and communication for safety, quality assurance, and environmental pollution prevention for both the vessel and shore-side management;

(ii) Shipboard safety meetings at least weekly;

(iii) An accident prevention program for recognizing, evaluating, and reducing accidents that result in personal injury or reduction of quality assurance, or both; and

(iv) A program for responding to environmental pollution or events, or both, that provides reporting guidelines, investigation procedures, and a process for determining and implementing corrective measures.

(c) *Performance measurement.* A program to measure the performance of management, employees, and agents in meeting the goals stated in the company's policy statement. The program must include a system of internal audits by the company and external audits by an independent auditor.

(4) *Vessel visitation.* An owner or operator of a tanker shall have a vessel visitation program that requires quarterly visits by company management such as port captains or port engineers to each tanker covered by the plan in active service. During these visits, company managers shall review shipboard management and operations with the vessel master and chief engineer, and provide guidance in correcting identified problem areas. The vessel's master shall record the time, date, and findings in the deck log.

(5) *Preventive maintenance.* An oil spill prevention plan for a tanker must describe a comprehensive maintenance program that includes, at a minimum, the following elements.

(a) *Planned maintenance.* A planned maintenance program for a vessel's navigation, propulsion, steering, communications, electrical, and cargo handling systems that involves at a minimum:

(i) Preventive maintenance for each system according to the procedures and recommended frequency of the machine's or equipment's manufacturer;

(ii) Annual inspections of each system; and

(iii) Inventory control and maintenance of necessary replacement parts.

(b) *Critical area inspection plans.* A plan to monitor and repair the structural integrity of critical areas of the vessel's holds, piping, and hull identified by historical information or predictive models, or both. Critical areas must be visually inspected annually, and thickness gauged where structural integrity is questioned. Corrosion reduction measures must be identified and scheduled.

(c) *Documentation.* Surveys of the holds, piping, and hull by the vessel's classification society, and annual inspections or surveys by any other independent entity, must be documented and any reports generated retained on board.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-260, filed 12/9/94, effective 6/7/95.]

WAC 317-21-265 Technology. (1) *Navigation equipment.* An oil spill prevention plan for a tank vessel must describe navigation equipment used on a vessel covered by the plan which includes:

(a) Global positioning system (GPS) receivers; and
(b) Two separate radar systems, one of which is equipped with an automated radar plotting aid (ARPA).

(2) *Emergency towing system.* Tankers must be equipped with an emergency towing system on both the bow and stern within two years from the effective date of this chapter. The emergency towing system comprises:

(a) Designated strong points able to withstand the load to which they may be subjected during a towing operation in maximum sustained winds of forty knots and sea or swell heights of five and a half meters (18 feet);

(b) Appropriate chafing chains, towing pennant, tow line and connections of a size and strength to tow the tanker fully laden in maximum sustained winds of forty knots and sea or swell heights of five and a half meters (18 feet); and

(c) Appropriately sized and colored marker buoys attached to the towing pennants.

(3) The emergency towing system must be deployable:

(i) In 15 minutes or less by at most two crew members;
(ii) From the bridge or other safe location when the release points are inaccessible; and
(iii) Without use of the vessel's electrical power.

[Statutory Authority: RCW 88.46.040, 96-03-070, § 317-21-265, filed 1/17/96, effective 2/17/96. Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-265, filed 12/9/94, effective 6/7/95.]

PART 4

BEST ACHIEVABLE PROTECTION STANDARDS FOR TANK BARGES

WAC 317-21-300 Operating procedures—Watch procedures. An oil spill prevention plan for a tank barge must describe watch policies, procedures, and practices for the tank barge and a typical tow vessel used to transport the barge that meet the following standards:

(1) *Navigation watch composition.* The navigation watch on the tow vessel shall consist of at least one licensed deck officer or tow vessel operator.

(a) When underway in restricted visibility, a lookout must be assigned to the navigation watch and stationed in a safe location that allows sight and hearing of all navigational hazards and other vessels, and there must be a rapid and reliable means of communication between the lookout and the tow vessel operator.

(b) The tow vessel's operator shall determine periods of restricted visibility and record in the deck log the date and time restricted visibility begins and ends.

(c) The names of each navigation watch member must be logged in the deck log as the member assumes duties.

(2) *Security rounds.* Security rounds must be made in compliance with the standards in WAC 317-21-200(4) and include:

(a) Inspection of towing equipment;
(b) Navigation lights on both the tow vessel and the tank barge if the person can do so safely; and
(c) For moored barges:

(i) Inspection of the tank barge if attended by the tow vessel; or

(ii) Inspections that comply with 46 C.F.R. Sec. 35.05-15(b), if not attended by the tow vessel.

[Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-300, filed 12/9/94, effective 6/7/95.]

WAC 317-21-305 Operating procedures—Navigation procedures. An oil spill prevention plan for a tank barge must describe policies, procedures, and practices that ensure the tow vessel operator complies with the following navigation standards:

(1) *Voyage planning practices and procedures.* The tow vessel operator shall comply with established voyage planning practices and procedures. Standard voyage plans may be used for frequently traveled routes if updated prior to departure. The practices and procedures must include, at a minimum, the following:

(a) Channel depth and width, turning areas, navigational obstructions, and appropriate speeds for each waterway transited;

(b) Use of routes outside of charted traffic separation lanes or close to shore where not prohibited;

(c) Identification of commercial and recreational fishing grounds to be avoided or navigated; and

(d) Identification of areas where tank barges may not transit including Deception Pass, Swinomish Slough, and Hadlock Cut in Puget Sound;

(e) Accuracy and dependability, and functioning, of available navigational aids, including radio-navigational aids;

(f) Environmentally sensitive areas designated and provided by the northwest area committee established under 33 U.S.C. sec. 1321(j), traffic separation systems, areas-to-be-avoided, landfalls, routes expected to be transited at night, and other areas where caution should be exercised;

(g) Predicted weather, currents and tides;

(h) Expected vessel traffic;

(i) Review of the information in, and accuracy of, available charts, notices to mariners, and other navigational publications;

(j) Tank barge inspections immediately prior to and after the voyage including inspections of hull integrity, towing equipment, and navigation lights.

(2) *Bar-crossing procedures.* Tow vessel operators shall comply with procedures to cross ocean bars that:

(a) Prohibit crossings with tandem tows;

(b) Prohibit crossings in heavy weather or sea conditions, or both, or when the swell height is excessive;

(c) Require all main deck hatches and ports on the tow vessel and barge to be closed and secured;

(d) Require all generators and tow winch engines to be running while crossing a bar;

(e) Require tow winch brakes to be set with the air brake off and the hand brake set hand-tight;

(f) Require chafe boards to be left off during a bar crossing; and

(g) Require the tow vessel operator to pilot the vessel, a crew member to be stationed at the tow winch controls with a rapid and reliable means of communication with the operator,

and a crew member to be on call to respond to machinery space alarms.

(3) *Navigation equipment checks.* The tow vessel operator shall comply with applicable elements of WAC 317-21-205(3) and 317-21-215(1).

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-305, filed 12/9/94, effective 6/7/95.]

WAC 317-21-310 Operating procedures—Emergency procedures. An oil spill prevention plan for a tank barge must describe policies, procedures, and practices for both the barge and tow vessel for:

- (1) Shipboard fire;
- (2) Man overboard;
- (3) Groundings and strandings; and
- (4) Lost barge retrieval.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-310, filed 12/9/94, effective 6/7/95.]

WAC 317-21-315 Personnel policies—Crewing. An oil spill prevention plan for a tank barge must contain policies, procedures, and practices that demonstrate the following:

(1) Two personnel, one of whom must be a certified tankerman under 46 C.F.R. subpart 12.20, shall be on the tank barge during topping off if receiving oil cargo from a facility or tank vessel, except:

(a) On tank barges constructed to provide an unrestricted view of all cargo tank openings from any point on the barge and if topping off is conducted at a reduced rate of flow; or

(b) On tank barges equipped with overfill protection devices approved by the U.S. Coast Guard and if topping off is conducted at a reduced rate of flow.

(2) Three licensed officers or tow vessel operators shall be on a tow vessel for tank barge tows in coastal waters.

(3) Tow vessel operators shall maintain a list of crew members while towing a tank barge in state waters.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-315, filed 12/9/94, effective 6/7/95.]

WAC 317-21-320 Personnel policies—Training. An oil spill prevention plan for a tank barge must describe a comprehensive training program for the tow vessel crew and tank barge personnel that meets the standards described in WAC 317-21-230 (1), (2), (3) (c)(iv) and (v), and (4). Tank barge personnel shall also be trained in cargo handling. The following drills must also be conducted:

(1) For coastal towing, drills are conducted at least once per voyage for shipboard fire fighting and man overboard. In addition, lost barge retrieval procedures and oil spill response procedures must be reviewed at least once per voyage.

(2) For inland waterway towing:

- (a) A shipboard fire fighting drill is conducted weekly;
- (b) A lost barge retrieval drill is conducted monthly; and
- (c) Oil spill response and man overboard drills are conducted quarterly.

[Statutory Authority: RCW 88.46.040. 96-03-070, § 317-21-320, filed 1/17/96, effective 2/17/96. Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-320, filed 12/9/94, effective 6/7/95.]

[Title 317 WAC—p. 24]

WAC 317-21-325 Personnel policies—Illicit drug and alcohol use. The owner or operator shall comply with the requirements of WAC 317-21-235.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-325, filed 12/9/94, effective 6/7/95.]

WAC 317-21-330 Personnel policies—Work hours. A person employed on a tank barge while conducting oil transfers shall comply with the standards described in WAC 317-21-245. Work hours do not include periods when an oil transfer procedure is shut down and oil transfer duties are not being performed.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-330, filed 12/9/94, effective 6/7/95.]

WAC 317-21-335 Personnel policies—Record keeping. (1) *Training records.* The owner or operator shall maintain detailed training records for tank barge personnel and tow vessel crew members that meet the requirements of WAC 317-21-255(1).

(2) The owner or operator shall ensure that compliance with WAC 317-21-330 is documented and, upon request, shall provide the documentation to the office.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-335, filed 12/9/94, effective 6/7/95.]

WAC 317-21-340 Management. *Management program.* An oil spill prevention plan for a tank barge must describe a management program for the tank barge and tow vessel used to transport the barge that meets the standards described in WAC 317-21-260.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-340, filed 12/9/94, effective 6/7/95.]

WAC 317-21-345 Technology. (1) *Navigation equipment.* An owner or operator of a tank barge shall ensure that tow vessels transporting tank barges are equipped with a functional radar. Tow vessels transporting tank barges in coastal waters shall be equipped with global positioning system (GPS) receivers.

(2) *Towing equipment.* An owner or operator of a tank barge shall employ towing equipment that complies with the following standards:

(a) **Tow vessels.** Tow vessels that transport tank barges in coastal waters must have twin screws and a minimum bollard pull of four pounds per deadweight ton of the tank barge.

(b) **Coastal tow wire.** The tow wire for coastal hawser towing must have:

- (i) A diameter of at least one and one-quarter inch;
- (ii) A nominal breaking strength of two and a half times the bollard pull of the tow vessel;
- (iii) An independent wire rope core;
- (iv) Improved plow steel or extra improved plow steel wire;
- (v) Been heavily lubricated or galvanized at the time of manufacture;
- (vi) A right or left regular lay and is six by nineteen construction or larger; and
- (vii) A tow line that terminates in either:

(A) A spelter or thermo-set resin poured socket sized to exceed the breaking strength of the tow wire; or

(B) A spliced eye with a thimble sized to exceed the breaking strength of the tow wire.

(c) **Inland tow wire.** The tow wire for inland hawser towing must comply with the requirements in (b) of this subsection except:

(i) The primary tow line for inland towing may be synthetic fiber; and

(ii) Swaged eyes and wire clips may not be used on the primary tow line.

(d) **Bridles and surge chains.** Tank barges must be equipped with:

(i) For coastal hawser towing, tow bridle and surge chains where the:

(A) Breaking strength of each bridle leg and the surge chain is 1.3 times the nominal breaking strength of the primary tow line;

(B) Chain is Grade Two or higher, welded or forged, integral stud link chain; and

(C) Surge chain may have an end link or one studless link;

(ii) For inland hawser towing, tow bridles made of chain or synthetic fiber or wire-rope where the breaking strength of each bridle leg is equal or greater than the nominal breaking strength of the primary tow line.

(e) **Barge fittings.** Tank barges must be equipped with:

(i) Two tow pads to which the tow bridle is connected where the:

(A) Tow pad and supporting structure has a yield strength of 1.25 times the nominal breaking strength of the tow line;

(B) Tow pad can carry the load applied throughout the full arc possible in normal service; and

(C) The axis of the tow pads lie along the axis of the attached bridle leg when towing straight ahead; and

(ii) Towing fairleads if the tow pads are not located at the extreme bow and where:

(A) Closed fairleads or chocks are installed so that each leg of the tow bridle leads straight from the bridle apex through the center of the fairlead to the tow pad;

(B) The fairlead opening is round or oval, and large enough to pass all parts of the bridle in either direction but without allowing excessive lateral motion;

(C) All fairlead surfaces are ground smooth with a radius four times greater than the bar diameter of the chain, or the diameter of the synthetic or wire-rope used.

(f) **Shackles.** All shackles used must be:

(i) Rated with a breaking strength of 1.3 times the nominal breaking strength of the primary tow line;

(ii) Either round pin anchor or chain safety shackles with a locking nut secured by a nut and bolt, or cotter pin;

(iii) Forged or cast; and

(iv) Marked with the shackle's safe working load and rated or minimum breaking strength.

(g) **Shackle and flounder plates.** Shackle and flounder plates must be:

(i) Constructed of whole plates with no welding other than on assembly gussets and reinforcing rings; and

(ii) Triangular cast, forged, or fabricated steel equal to the ASTM-36 standard with all corners rounded.

(h) **Wire rope records, inspections and maintenance.** All wire rope towing equipment described in (b) through (d) of this subsection shall be inspected and maintained in accordance with the standards in U.S. Coast Guard Navigation and Vessel Inspection Circular (NVIC) 5-92, enclosure 1, part B.

(i) **Chafing protection.** All towing equipment described in (b) through (e) of this subsection must be protected from chafing where the component contacts a surface that could cause wear during normal operation.

(j) **Tow winches.** Tank barge tow winches must:

(i) Accept and hold a load equal to the breaking strength of the tow line without damage to the winch, its foundation, or brakes;

(ii) Have a brake on the main cable drum capable of holding the breaking strength of the inner most layer of the tow line without power to the winch;

(iii) Have a towing winch cable drum with a minimum diameter 12 times the diameter of the tow line;

(iv) Have a connection between the tow line bitter end and the winch cable drum with a holding capacity no greater than fifteen percent of the breaking strength of the tow line;

(v) Always have ten or more wraps of the tow line on the bottom layer of the cable drum while towing; and

(vi) Have control stations located where emergency release of the tow line does not endanger operating personnel.

(3) **Emergency reconnection equipment.** Owners and operators of tank barges and tow vessels transporting the barge shall employ emergency reconnection equipment for coastal hawser towing that meet the following standards.

(a) **Emergency tow line.** Tank barges must be equipped with an emergency tow line and components where the:

(i) Breaking strength of the tow line and components is 1.5 times the bollard pull of the tow vessel;

(ii) Tow line's bitter end is secured down the barge deck from bow to stern with break-away clips; and

(iii) Towing end of the tow line is attached to a trailing buoy with a five-inch polypropylene floating line.

(b) **Hook retrieval device.** Tank barge tow vessels must be equipped with a hook retrieval device slotted to lock into and pick up the tow bridle to be reconnected to the tow vessel's tow line.

(4) **Fenders.** Tank barge tow vessels must be equipped with a fender system capable of absorbing the impact of the tow vessel coming along side the tank barge and able to protect all parts of the tow vessel's bow and stern exposed to contact during normal operations.

(5) **Navigation lights and day shapes.** Tank barges and tank barge tow vessels must be equipped with navigation lights and day shapes required by the U.S. Coast Guard. Tank barge electrical systems must comply with the American Bureau of Shipping and U.S. Coast Guard standards for the most volatile cargo allowed to be carried by the barge according to the barge's certificate of inspection or other classification document.

[Statutory Authority: RCW 88.46.040, 96-03-070, § 317-21-345, filed 1/17/96, effective 2/17/96. Statutory Authority: RCW 43.211.030 and 88.46.040, 95-01-029, § 317-21-345, filed 12/9/94, effective 6/7/95.]

**PART 5
PLAN REVIEW AND APPROVAL**

WAC 317-21-400 Review process. When an oil spill prevention plan is received, the office will determine whether the plan is complete or incomplete. If the plan is incomplete, the owner or operator will be notified. If the plan is complete, the office will review the plan for compliance with the best achievable protection standards described in this chapter.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-400, filed 12/9/94, effective 6/7/95.]

WAC 317-21-410 Plan approval. An oil spill prevention plan that meets the standards described in Part 3 for tankers, or Part 4 for tank barges, will be approved as providing the best achievable protection of state waters and marine environments. The office may conditionally approve a plan that substantially meets the standards of this chapter. An approved plan is valid for five years unless:

- (1) The owner or operator submitting the plan fails to update the plan in compliance with WAC 317-21-530;
- (2) The owner or operator fails to submit an event report required under WAC 317-21-130, or safety report required under WAC 317-21-540;
- (3) The owner or operator fails to comply with the financial responsibility requirements of chapter 88.40 RCW; or
- (4) The policies, procedures, and practices described in the plan are not followed.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-410, filed 12/9/94, effective 6/7/95.]

**PART 6
COMPLIANCE**

WAC 317-21-500 Administrative actions. (1) An owner or operator of a tank vessel who fails to comply with the requirements of this chapter, an approved or conditionally approved oil spill prevention plan, a waiver issued under WAC 317-21-520, or any order issued by the office in administering this chapter may be subject to the following administrative actions:

- (a) Plan disapproval;
- (b) Restriction of the tank vessel's movements or operations in state waters, or both;
- (c) Assessment of civil penalties under RCW 88.46.090;
- (d) Referral for prosecution under RCW 88.46.080; or
- (e) Denial of entry into state waters.

(2) If the administrator believes that the condition or operation of a tank vessel requires immediate administrative action to accomplish the purposes of this chapter, the administrator may issue an emergency order under RCW 88.46.070(3) requiring immediate compliance.

[Statutory Authority: RCW 88.46.040. 96-03-070, § 317-21-500, filed 1/17/96, effective 2/17/96. Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-500, filed 12/9/94, effective 6/7/95.]

WAC 317-21-510 Administrative review. (1) An owner or operator may request review of an administrative action or order issued under WAC 317-21-500.

(2) A request for administrative review must be submitted in writing to the administrator within fourteen days from

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the date of receipt of the notice of administrative action. The owner or operator shall state the nature of the action and specific reasons supporting reversal or modification of the action.

(3) Within twenty days from receipt of a timely submitted request for review, the administrator may:

- (a) Set a date by which the administrator will act on the request;
- (b) Request more information from the owner or operator requesting the reconsideration;
- (c) Set a date for a brief adjudicative hearing held in compliance with RCW 34.05.485 and 34.05.488.
- (d) Rescind or modify the administrative action; or
- (e) Deny the request.

(4) While the appeal is pending, the office may:

(a) Require the owner or operator to comply with the order or administrative action unless undue burden will be incurred;

(b) Stay the enforcement of the order or administrative action until the administrator has made a final determination or until all administrative and legal appeals are exhausted; or

(c) Condition operation of the owner's or operator's vessels in state waters until all appeals are exhausted.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-510, filed 12/9/94, effective 6/7/95.]

WAC 317-21-520 Waivers. (1) The office may waive specific requirements under this chapter if an owner or operator submits an application for waiver demonstrating that complying with a requirement would be unduly burdensome and there is an alternative to strict compliance that meets the purposes for which the requirement was adopted.

(2) The office will waive application of this chapter to a vessel certified as a tank vessel if the owner or operator submits a waiver application stating that the vessel:

- (a) Is not used, and will not be used, to carry oil in bulk as cargo or cargo residue; or
- (b) Is not carrying oil in bulk as cargo and is destined to a marine facility for repairs.

(3) A waiver granted under this section is valid until the vessel is used to carry oil in bulk as cargo or cargo residue but in no instance for more than five years unless an extension is granted by the office prior to its expiration date.

(4) The office may condition a waiver and a waiver extension to ensure the best achievable protection of the state's natural resources and marine safety.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-520, filed 12/9/94, effective 6/7/95.]

WAC 317-21-530 Plan updates. (1) If there is a significant change affecting an oil spill prevention plan, the vessel's owner or operator shall submit an amendment to the plan that reflects the change no later than thirty days after the change occurs.

- (2) A significant change includes:
 - (a) An increase or decrease in manning levels;
 - (b) The owner or operator requires crew training and qualifications different from those described in the plan;

(c) The configuration of navigation systems, emergency towing systems, or tank barge towing equipment changes from that described in WAC 317-21-265 and 317-21-345;

(d) The vessel's class or classification society used changes;

(e) The flag nation of a vessel changes;

(f) The vessel's name changes; or

(g) The vessel's owner, operator, or manager changes.

(3) If necessary, owners and operators shall submit a plan update in the form of an amendment by March 31 of each year after the plan is approved. Amendments are necessary to reflect significant changes, changes in the owner or operators policies, procedures and practices, and other changes made during the previous year to make the plan current and accurate.

[Statutory Authority: RCW 88.46.040. 96-03-070, § 317-21-530, filed 1/17/96, effective 2/17/96. Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-530, filed 12/9/94, effective 6/7/95.]

WAC 317-21-540 Advance notice of entry and safety reports. (1) A tank vessel owner or operator shall submit a notice of entry to the office by telephone or facsimile at least twenty-four hours before the vessel enters state waters.

(2) An owner or operator shall submit the following information in the notice of entry;

(a) The vessel's name, country of registry, gross tonnage, call sign, and Lloyd's number;

(b) The name and telephone number of the vessel's local representative or agent;

(c) The estimated date, time, and point of entry into state waters by the vessel;

(d) Intended berths or anchorages in Washington;

(e) Last port of call;

(f) The amount and type of bunker or cargo, or both, that will be transferred;

(g) Whether loaded with cargo;

(h) The operational deficiencies of the vessel's primary and auxiliary navigation, propulsion, or cargo containment and transfer systems; and

(i) Identification of the contingency plan covering the vessel under Washington law.

(3) If an owner or operator is unable to provide notice twenty-four hours prior to arrival as required by subsection (1) of this section, the owner or operator shall give notice to the office as soon as practicable and shall include an explanation for the delay.

(4) The owner or operator shall submit a safety report with the advance notice of entry describing the condition and corrective action taken if the vessel experiences:

(a) Abnormality or malfunction of any steering, navigation, propulsion, or safety system;

(b) Breach of the hull or integrity of the structure of a cargo, bunker, bilge, or ballast tank that causes or may reasonably be expected to cause an oil spill or loss of stability;

(c) Damage from fire or explosion;

(d) An incomplete engineering or deck complement under United States law or regulation, or under the vessel's nation of registry; or

(e) Any condition that may adversely affect the safety of a vessel, property, or marine environments.

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(5) If a tank vessel experiences any condition described in subsection (4) of this section after submitting an advance notice of entry, the office shall be notified by telephone or facsimile immediately after discovery of the condition. A written safety report describing the condition and corrective action taken must be submitted to the office no later than seventy-two hours after the initial report.

[Statutory Authority: RCW 88.46.040. 96-03-070, § 317-21-540, filed 1/17/96, effective 2/17/96. Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-540, filed 12/9/94, effective 6/7/95.]

WAC 317-21-550 Inspections and investigations. (1) The office may inspect any tank vessel in port in state waters for compliance with the vessel's oil spill prevention plan. Boarding personnel shall have access to the:

(a) Deck and engineering logs;

(b) Voyage plans for the current voyage;

(c) Charts and other records used to fix the position of the vessel during transit and at anchor; and

(d) Personnel training records if maintained on board the vessel; and

(e) Other documents that demonstrate compliance with the vessel's plan.

(2) The documents described in subsection (1) of this section may not be destroyed unless the office notifies the vessel master that no inspection will take place and the vessel has not experienced an event during its current voyage. The office may investigate an event that occurs in state waters for the purpose of determining compliance with this chapter.

(3) The office may require further information concerning a reported event as defined under WAC 317-21-130(3), a submitted safety report, or an oil spill prevention plan. If documents containing the information requested are not on board the vessel, the office will request the information from the owner or operator. Fourteen days after receipt of a written notice from the office, the owner or operator shall make available to the office at a place within the state of Washington copies of documents containing the information requested.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-550, filed 12/9/94, effective 6/7/95.]

WAC 317-21-560 Exceptional compliance. (1) *Compliance incentives.* If an owner or operator of a tank vessel demonstrates exceptional compliance with the best achievable protection standards described in this chapter, the office may:

(a) Reduce the level of inspection for tank vessels covered by the plan;

(b) Waive specific requirements that the owner or operator demonstrates as obsolete because of a new procedure or technology employed on vessels covered by the plan; or

(c) Take other actions as appropriate.

(2) *Exceptional compliance.* For the purposes of this section, "exceptional compliance" means the owner or operator:

(a) Complies with the requirements of this chapter;

(b) Implements policies, procedures, or practices which may differ from the standards of this chapter but that meet or exceed the purpose for which the standard was adopted; and

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(c) Demonstrates a commitment to safe vessel operations verified through inspections by the office of the vessels covered by the plan.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-560, filed 12/9/94, effective 6/7/95.]

WAC 317-21-900 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-900, filed 12/9/94, effective 6/7/95.]

WAC 317-21-910 Effective date. This chapter shall take effect one hundred eighty days after the effective filing date of the order adopting this chapter.

[Statutory Authority: RCW 43.211.030 and 88.46.040. 95-01-029, § 317-21-910, filed 12/9/94, effective 6/7/95.]

Chapter 317-31 WAC

**CARGO AND PASSENGER VESSELS—
SUBSTANTIAL RISK**

WAC

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**PART 1
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**PART 2
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317-31-200	Accepted industry standards.
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**PART 3
ENFORCEMENT**

317-31-300	Vessels posing a substantial risk.
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WAC 317-31-010 Purpose. This chapter implements the cargo and passenger vessel screening and boarding program under RCW 88.46.050 to:

- (1) Protect the state's natural resources;
- (2) Provide for safe marine transportation in state waters; and
- (3) Determine whether cargo and passenger vessels entering or operating in state waters pose a substantial risk of harm to the public health and safety and to the environment.

[Statutory Authority: RCW 88.46.050 and 43.211.030. 96-12-077, § 317-31-010, filed 6/5/96, effective 7/6/96.]

WAC 317-31-020 Application. Owners and operators of cargo and passenger vessels entering or operating in state waters shall comply with the provisions of this chapter.

[Statutory Authority: RCW 88.46.050 and 43.211.030. 96-12-077, § 317-31-020, filed 6/5/96, effective 7/6/96.]

WAC 317-31-030 Definitions. Unless the context clearly requires otherwise, the definitions in chapter 317-05 WAC and the following apply to this chapter.

(1) "Boarding checklist" means a checklist used by vessel inspectors from the office as a guideline to determine the risk a vessel poses to the public health and safety and the environment.

(2) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, three hundred gross tons or more, including but not limited to, fishing vessels and freighters.

(3) "Event" means a:

(a) Collision, allision or grounding;

(b) Near-miss incident in which a pilot, master, or other person in charge of navigating a vessel successfully takes action of a nonroutine nature to avoid a collision with another ship, structure, or aid to navigation, or grounding of the vessel, or damage to the environment;

(c) Marine casualties described in 46 C.F.R. sec. 4.05-1, except subsections (a)(5), (a)(6) and (b), regardless of vessel type, or nation of registry;

(d) Disabled vessel due to an accidental or intentional grounding, failure of the propulsion or primary steering systems, failure of a component or control system that reduces the vessel's maneuverability, or fire, flood, or other incident that affects the vessel's seaworthiness or fitness for service; or

(e) Spills of oil into state waters.

(4) "Fishing vessel" means a vessel engaged in the commercial catching, harvesting or processing of fish, or in tendering to or from vessels that catch, harvest or process fish.

(5) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(6) "Potential risk" means the potential for harm to public health and welfare and the environment posed by a vessel as calculated through vessel screening.

(7) "Screening" means a process of determining a vessel's potential risk based on historical factors that are risk predictors.

(8) "State waters" means the navigable waters of the state.

(9) "Substantial risk" means a vessel falls below accepted industry standards to a degree that the vessel's continued operation seriously threatens the public health and safety and the environment.

[Statutory Authority: RCW 88.46.050 and 43.211.030. 96-12-077, § 317-31-030, filed 6/5/96, effective 7/6/96.]

**PART 1
VESSEL SCREENING**

WAC 317-31-100 Vessel screening. (1) The office may screen any cargo or passenger vessel, except fishing vessels

and vessels subject to chapter 317-21 WAC, entering or operating in state waters to determine a vessel's potential risk based on vessel information collected by the office. The office may collect information from any source, including the owner and operator, other public agencies, or by inspection. A vessel's potential risk is based on vessel information relating to factors that are risk predictors and that include, but are not limited to:

- (a) Vessel age;
- (b) Vessel type;
- (c) Redundancy of mechanical, navigational, and electrical generation systems;
- (d) Country of registry (flag);
- (e) Classification society;
- (f) Owner;
- (g) Presence of a state-licensed pilot while in state waters;
- (h) Changes in ownership, country of registry, or classification society;
- (i) History of violations of international, federal, and state laws and regulations;
- (j) History of marine casualties; and
- (k) Key personnel history.

(2) The risk factors are arranged in a matrix and assigned a risk weight according to a factor's impact on safe marine transportation. The greater impact a factor has results in a higher risk weight. Risk weights are based on opinions of expert mariners experienced in marine transportation in state waters and data supplied by the office's vessel boarding program. Vessel information is evaluated through the matrix to calculate a vessel's potential risk.

[Statutory Authority: RCW 88.46.050 and 43.211.030. 96-12-077, § 317-31-100, filed 6/5/96, effective 7/6/96.]

WAC 317-31-110 Advance notice of entry. (1) A cargo or passenger vessel owner or operator shall submit a notice of entry to the office by telefax or telephone at least twenty-four hours before the vessel enters state waters. An owner or operator of a vessel in intrastate operation is exempt from this provision if in compliance with WAC 317-31-120.

- (2) The advance notice of entry must provide:
- (a) The vessel's name, country of registry, gross tonnage, call sign, and official number of the vessel;
 - (b) The name and telephone number of the vessel's local representative or agent;
 - (c) The estimated date, time, and point of entry into state waters by the vessel;
 - (d) Intended berths or anchorages in Washington;
 - (e) Last and next port of call;
 - (f) The amount and type of bunkers, if any, that will be transferred;
 - (g) The type of cargo, if any, that will be transferred;
 - (h) A safety report if required under WAC 317-31-130; and

(i) Identification of the contingency plan covering the vessel under Washington law and chapter 317-10 WAC.

(3) In addition to providing the information in subsection (2) of this section, an owner or operator of a cargo or passenger vessel carrying dangerous cargo in bulk, defined in 33

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C.F.R. section 160.203, shall submit with its notice of entry the following information:

- (a) The name and quantity of the dangerous cargo carried in bulk;
 - (b) The location of the vessel at the time the report is submitted; and
 - (c) The stowage location of the dangerous cargo.
- (4) If an owner or operator is unable to provide notice at least twenty-four hours prior to arrival as required by subsection (1) of this section, the owner or operator shall give notice to the office as soon as practicable and shall include an explanation for the delay in notifying the office.

(5) Vessels that submit an advance notice of arrival containing all the information required under subsections (2) and (3) of this section to the U.S. Coast Guard, directly or through the Canada/United States Cooperative Vessel Traffic Service (CVTS), need not provide the notice to the office otherwise required by subsection (1) of this section. However, safety reports required by WAC 317-31-130 or 317-31-140 must be submitted to the office.

[Statutory Authority: RCW 88.46.050 and 43.211.030. 96-12-077, § 317-31-110, filed 6/5/96, effective 7/6/96.]

WAC 317-31-120 Intrastate operation. (1) If a cargo or passenger vessel is underway more than fifty percent of the time in state waters in a calendar year, the vessel's owner or operator shall submit to the office a written schedule of the vessel's typical operations before operating the vessel in state waters.

- (2) The written schedule must identify the:
- (a) Vessel's name, size (including gross tonnage, length overall, beam, and maximum anticipated draft), type, call sign, and official number;
 - (b) Name, mailing address, telefax number, and telephone number for immediate contact of the owner or operator;
 - (c) Vessel's maximum fuel oil capacity in barrels, average quantity of fuel oil carried, type of fuel oil carried, usual place and schedule for bunkering;
 - (d) Typical routes served by the vessel;
 - (e) Usual or typical schedule of the vessel; and
 - (f) Cargo(s) carried and capacity.

(3) An owner or operator providing a schedule under this section is excused from notice requirements under WAC 317-31-110.

[Statutory Authority: RCW 88.46.050 and 43.211.030. 96-12-077, § 317-31-120, filed 6/5/96, effective 7/6/96.]

WAC 317-31-130 Safety reports. (1) The owners or operators of cargo and passenger vessels shall submit a safety report to the office that indicates the existence of any of the following vessel conditions:

- (a) Any abnormality or malfunction of any steering, propulsion or safety systems, or navigation systems required by federal or international law or regulation;
- (b) A breach of the hull or the integrity of a cargo or bunker tank that causes or that may reasonably be expected to cause an oil spill or loss of stability;
- (c) Damage from a fire or explosion;

(d) An incomplete engineering or deck complement under United States law or regulation or under the requirements of the vessel's country of registry; or

(e) Any condition that could adversely affect the safety of a vessel, bridge, structure, shore area, or the environment.

(2) The safety report must describe the condition and state the steps taken, being taken, or planned to correct or compensate for the condition.

(3) Safety reports should be submitted to the office at least twenty-four hours before the vessel enters state waters, or immediately on request by the office.

[Statutory Authority: RCW 88.46.050 and 43.211.030. 96-12-077, § 317-31-130, filed 6/5/96, effective 7/6/96.]

WAC 317-31-140 Safety reports after notice of entry.

If a condition described in WAC 317-31-130(1) arises after a notice of entry or notice of intrastate operation is submitted, the owner or operator shall immediately notify the office of the condition by telefax or telephone. A written safety report meeting the requirements of WAC 317-31-130 must be submitted to the office no later than forty-eight hours after notice of the condition is made.

[Statutory Authority: RCW 88.46.050 and 43.211.030. 96-12-077, § 317-31-140, filed 6/5/96, effective 7/6/96.]

PART 2 VESSEL BOARDING

WAC 317-31-200 Accepted industry standards.

Accepted industry standards are those standards established under WAC 317-31-220 for cargo and passenger vessels, or WAC 317-31-230 for fishing vessels, and applicable requirements of the following international conventions and federal regulations:

(1) The International Convention for the Safety of Life at Sea, 1974 (SOLAS);

(2) The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW);

(3) The International Convention for Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78);

(4) The International Labor Organization, Convention Concerning Minimum Standards in Merchant Ships, convention number 147 (ILO 147);

(5) Provisions of chapter 33 of the Code of Federal Regulations including:

(a) Part 26 (Vessel bridge-to-bridge radiotelephone regulations);

(b) Part 70 (Interference with or damage to aids to navigation);

(c) Subchapter D (International Navigation Rules);

(d) Subchapter E (Inland Navigation Rules);

(e) Part 95 (Operating a vessel while intoxicated);

(f) [CFR] Subchapter M (Marine Pollution Financial Responsibility and Compensation);

(g) Subchapter O (Pollution);

(h) Subchapter P (Ports and Waterways Safety); and

(6) Provisions of chapter 46 of the Code of Federal Regulations including:

(a) Part 4 (Marine Casualties and Investigations);

(b) Subchapter B (Merchant Marine Officers and Seamen);

(c) Subchapter C (Uninspected Vessels);

(d) Subchapter D (Tank Vessels);

(e) Subchapter E (Load Lines);

(f) Subchapter F (Marine Engineering);

(g) Subchapter G (Documentation and Measurement of Vessels);

(h) Subchapter H (Passenger Vessels);

(i) Subchapter I (Cargo and Miscellaneous Vessels);

(j) Subchapter J (Electrical Engineering);

(k) Subchapter N (Dangerous Cargoes);

(l) Subchapter O (Certain Bulk Dangerous Cargoes);

(m) Subchapter Q (Equipment, Construction and Materials: Specification[s] and Approval);

(n) Subchapter S (Subdivision and Stability); and

(o) Part 197, subpart C (Benzene).

[Statutory Authority: RCW 43.211.030. 97-10-097, § 317-31-200, filed 5/7/97, effective 6/7/97. Statutory Authority: RCW 88.46.050 and 43.211.030. 96-12-077, § 317-31-200, filed 6/5/96, effective 7/6/96.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 317-31-210 Determination of substantial risk.

(1) The office shall determine whether a vessel poses a substantial risk after boarding and inspecting the vessel during its scheduled stay in port, or upon notice of any condition on board that poses a substantial risk of harm to the public health and safety and the environment. The office shall determine substantial risk based on the condition of the vessel and crew, and the professional judgment of its inspectors.

(2) The office shall board each fishing vessel at least once every two years.

(3) The office may not board vessels subject to chapter 317-21 WAC for purposes of making a substantial risk determination.

(4) Vessel inspections involve evaluation of the following:

(a) Documented compliance with applicable federal laws and regulations, and international maritime conventions;

(b) Vessel crewing and personnel policies and practices that ensure compliance with the vessel's Safe Manning Certificate or Certificate of Inspection, and that address language capabilities, work hours, health, and training;

(c) Safety and environmental management policies and practices that address vessel and personnel safety, pollution prevention, management oversight, preventive maintenance, and inspections and surveys;

(d) Vessel operating policies and practices for bridge operations and navigation, ground tackle procedures, emergency preparedness;

(e) Engineering policies and practices for maintaining machinery, organization, and operating procedures; and

(f) Condition of engineering and deck spaces including safety and lifesaving equipment.

(5) Vessel inspectors use a boarding checklist that incorporates accepted industry standards to gather information to

guide vessel inspectors in making determinations of substantial risk. Vessel owners and operators may receive a copy of a boarding checklist prior to their vessel entering state waters by submitting a request by mail or telefax to the following address:

Washington State Office of Marine Safety
PO Box 42407
Olympia, Washington 98504-2407
USA
Telefax: 1-800-664-9184

[Statutory Authority: RCW 88.46.050 and 43.211.030. 96-12-077, § 317-31-210, filed 6/5/96, effective 7/6/96.]

WAC 317-31-220 Modification of accepted industry standards. (1) This section establishes a process for modifying accepted industry standards as established by the advisory group on cargo and passenger vessel substantial risk criteria and noticed in the *Washington State Register*, No 96-03-082. The purpose of this section is to establish a process that results in enforceable standards while affording vessel owners and operators substantial input and notice.

(2) The vessel inspection advisory council is hereby established. The council's mission is to make recommendations to the office every two years, if necessary, concerning accepted industry standards for cargo and passenger vessels. The office shall review the council's recommendations and publish in the state register proposed standards. After the date of publication, the office shall allow thirty days for public comment. After consideration of council recommendations and public comment, the office shall adopt the proposed industry standards by publication of a notice of adoption and availability of the standards in the state register.

(3) Council members and their replacements shall be appointed by the office and serve a term of two years. The council chair shall be appointed by the office. Each council member may designate one alternate who may exercise that member's vote. The office shall invite the U.S. Coast Guard to participate as a nonvoting advisor to the council. The council shall comprise at least fifteen members who represent the following interests:

- (a) Classification societies;
- (b) Commercial fishing vessels;
- (c) Environmental organizations;
- (d) Maritime labor organizations;
- (e) Maritime trade associations;
- (f) Oregon state department of environmental quality;
- (g) Native American tribes;
- (h) Cargo vessel owners;
- (i) Cargo vessel operators;
- (j) Cruise ship owners;
- (k) Cruise ship operators;
- (l) Washington state ferry system;
- (m) Washington state department of ecology;
- (n) Washington state office of marine safety;
- (o) Washington state pilots;
- (p) Oregon state pilots;
- (q) Washington state public ports;
- (r) Public agencies responsible for regulating natural resources;
- (s) Marine education and training; and

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(t) The public at large.

(4) A meeting of the council may be held fourteen days after the notice of the meeting is published in the state register. The meeting notice shall state the date, time, and place of the meeting, and the names of the organizations represented. Meetings of the council may be convened either by the office or the council's chair. At the first meeting of the council, the office shall present a compilation of boarding results under the boarding checklist for the council's review.

(5) The office shall provide staff and administrative support for the council. The office shall also maintain minutes, public comments, boarding results, and other council records in a file available to the public.

[Statutory Authority: RCW 43.211.030. 97-10-097, § 317-31-220, filed 5/7/97, effective 6/7/97. Statutory Authority: RCW 88.46.050 and 43.211.030. 96-12-077, § 317-31-220, filed 6/5/96, effective 7/6/96.]

WAC 317-31-230 Modification of accepted industry standards for fishing vessels. (1) This provision establishes a process for establishing and modifying accepted industry standards for fishing vessels. The purpose of this section is to establish a process that results in enforceable standards while affording vessels owners and operators substantial input and notice.

(2) The fishing vessel inspection advisory council is hereby established. The council shall make recommendations based on international and federal laws and regulations applicable to fishing vessels, and on the actual practices of the Washington-based fishing industry as revealed in the boarding results presented by the office. The council may recommend higher standards than the actual practices of the Washington-based fishing industry and those in applicable international and federal laws and regulations only where reasonably necessary to protect public health and safety, and the environment. The office shall review the council's recommendations and publish in the state register proposed standards. After the date of publication, the office shall allow thirty days for public comment. After consideration of council recommendations and public comment, the office shall adopt the proposed industry standards by publication of a notice of adoption and availability of the standards in the state register.

(3) Council members and their replacements shall be appointed by the office and serve a term of two years. The council chair shall be appointed by the office. Each council member may designate one alternate who may exercise that member's vote. The office shall invite the U.S. Coast Guard to participate as a nonvoting advisor to the council. The council shall comprise at least six members who represent the following interests:

- (a) Commercial fishing vessels;
- (b) Commercial fish processing vessels;
- (c) Environmental organizations;
- (d) Native American tribes;
- (e) Washington state department of ecology;
- (f) Washington state office of marine safety; and
- (g) The public at large.

(4) A meeting of the council may be held fourteen days after the notice of the meeting is published in the state register. The meeting notice shall state the date, time, and place of

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the meeting, and the names of the organizations represented. Meetings of the council may be convened either by the office or the council's chair. At the first meeting of the council, the office shall present a compilation of boarding results under the boarding checklist for the council's review.

(5) The office shall provide staff and administrative support for the council. The office shall also maintain council minutes, public comment, boarding results, and other council records in a file available to the public.

(6) Until the council has established accepted industry standards under this section, the office shall use an interim standard to determine substantial risk for fishing vessels under WAC 317-31-210. The office will board fishing vessels as provided in WAC 317-31-210(2) using a boarding checklist developed through agreement with a representative of the fishing industry as published in the *Washington State Register*, No 95-06-063.

[Statutory Authority: RCW 43.211.030, 97-10-097, § 317-31-230, filed 5/7/97, effective 6/7/97. Statutory Authority: RCW 88.46.050 and 43.211.030, 96-12-077, § 317-31-230, filed 6/5/96, effective 7/6/96.]

WAC 317-31-240 Event reports. (1) The owner or operator of a cargo, passenger, or fishing vessel that experiences an event in state waters shall submit a report to the office immediately on request or, if not requested, no later than thirty days after the date of the event. Each report must contain:

- (a) The date, time, and location of the event;
- (b) The weather conditions at the time of the event;
- (c) The vessel operations underway at the time;
- (d) The identity of any facilities or other vessels involved, or both;
- (e) The type and amount of any oil spilled, and the estimated amount recovered;
- (f) A list of any government agencies to which the event was reported;
- (g) A brief analysis of any known causes and contributing factors; and
- (h) A description of measures taken to prevent a reoccurrence of the event including changes to operating or maintenance procedures, personnel policies, vessel crew and organization, and the vessel's technology.

(2) A copy of the report submitted to the U.S. Coast Guard under 46 CFR subpart 4.05 will satisfy the requirements of subsection (1) of this section if subsection (1)(a) through (h) of this section are addressed.

(3) The office may investigate reported events for the purpose of identifying policies, procedures, or practices that may pose a substantial risk.

[Statutory Authority: RCW 88.46.050 and 43.211.030, 96-12-077, § 317-31-240, filed 6/5/96, effective 7/6/96.]

WAC 317-31-250 Inspections. (1) Vessel inspectors may board and inspect a cargo or passenger vessel during the vessel's scheduled stay in port that poses a high potential risk under WAC 317-31-100. Vessel inspectors may also board and inspect cargo or passenger vessels the office has reason to believe may pose a substantial risk, or if the office does not have sufficient information to determine potential risk under

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WAC 317-30-100. The owner or operator shall make the vessel available for inspection on request by the office.

(2) The office may seek more information concerning the vessel from the U.S. Coast Guard or the owner or operator of the vessel, prior to or in lieu of performing an inspection of the vessel.

(3) Any violations of federal or international rules observed will be reported to the U.S. Coast Guard. Inspections will be coordinated with the U.S. Coast Guard to avoid duplication.

[Statutory Authority: RCW 88.46.050 and 43.211.030, 96-12-077, § 317-31-250, filed 6/5/96, effective 7/6/96.]

PART 3 ENFORCEMENT

WAC 317-31-300 Vessels posing a substantial risk. If the office determines that a cargo or passenger vessel poses a substantial risk, the office may:

- (1) Request that the U.S. Coast Guard deny entry; or
- (2) Issue an order under RCW 88.46.070 (2) or (3) that allows the vessel to enter or operate in state waters subject to conditions the office determines necessary to minimize the risk the vessel poses. The conditions may include:
 - (a) Submission of specified information or written material about the vessel and its operations;
 - (b) Tug or spill response vessel escorts;
 - (c) The addition of officers, crew, or licensed pilots;
 - (d) Restricting the vessel's route, or area of operation;
 - (e) Restricting operations in adverse weather, tidal, or current conditions;
 - (f) Restricting bunkering or cargo transfer operations;
 - (g) Placing navigation, communications, or other special equipment on board; and
 - (h) Other conditions, restrictions, or requirements deemed appropriate under the circumstances.

[Statutory Authority: RCW 88.46.050 and 43.211.030, 96-12-077, § 317-31-300, filed 6/5/96, effective 7/6/96.]

WAC 317-31-310 Penalties. A person who violates the provisions of this chapter or orders issued under this chapter, is subject to civil and criminal penalties and procedures under RCW 88.46.080 and 88.46.090.

[Statutory Authority: RCW 88.46.050 and 43.211.030, 96-12-077, § 317-31-310, filed 6/5/96, effective 7/6/96.]

WAC 317-31-900 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

[Statutory Authority: RCW 88.46.050 and 43.211.030, 96-12-077, § 317-31-900, filed 6/5/96, effective 7/6/96.]

Chapter 317-40 WAC BUNKERING OPERATIONS

WAC	Purpose.
317-40-010	Application.
317-40-020	Definitions.
317-40-030	

317-40-040	Compliance with federal law and regulations.
317-40-050	Receiving vessel procedures.
317-40-060	Bunkering by a facility.
317-40-065	Emergency shut down procedures.
317-40-070	Pretransfer conference.
317-40-080	Delivering vessel procedures.
317-40-085	Work hours.
317-40-090	Record keeping.
317-40-100	Owner and operator responsibilities.
317-40-110	Location of bunkering (reserved).
317-40-120	Best achievable technology (reserved).
317-40-130	Oil spills.
317-40-140	Compliance.
317-40-150	Enforcement.
317-40-900	Effective date.
317-40-910	Severability.

WAC 317-40-010 Purpose. This chapter establishes minimum standards for safe bunkering operations to reduce the likelihood of an oil spill by:

(1) Emphasizing the importance of proper procedures, communication and monitoring before, during and after a bunkering operation;

(2) Ensuring that the duties of each person involved in a bunkering operation are clearly defined; and

(3) Requiring vessel owners and operators to adopt company policies that improve the safety of bunkering.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-010, filed 7/29/94, effective 10/29/94.]

WAC 317-40-020 Application. This chapter applies to all bunkering operations to refuel a self-propelled covered vessel 300 gross tons or more, and to all owners, operators, persons-in-charge, and other personnel involved in bunkering in state waters.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-020, filed 7/29/94, effective 10/29/94.]

WAC 317-40-030 Definitions. Unless the context clearly requires otherwise, the definitions in chapter 317-05 WAC and the following apply to this chapter:

(1) "Bunkering" means an oil transfer operation to replenish a self-propelled covered vessel 300 gross tons or more with fuel or bunkers used to propel the vessel.

(2) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, three hundred gross tons or more, including but not limited to, commercial fish processing vessels and freighters.

(3) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(4) "Innage" means the difference from the surface of the liquid to a fixed datum plate or to the tank bottom.

(5) "Office" means the office of marine safety.

(6) "Oil transfer procedure" means the document required under 33 C.F.R. Sec. 155.720 that contains information required under 33 C.F.R. Sec. 155.750 including bunkering procedures.

(7) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(8) "Person in charge" means, for vessels, the person designated under 33 C.F.R. Sec. 155.700 who meets the qualifications under 33 C.F.R. Sec. 155.710. For facilities, it is the person designated under 33 C.F.R. Sec. 154.700 who meets the qualifications of 33 C.F.R. Sec. 154.710.

(9) "Proficient in English" means the ability to clearly speak the English language so personnel from other vessels and facilities understand and may safely complete a vessel operation.

(10) "Tank vessel" means a ship 300 gross tons or more that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of the state.

A ship is constructed or adapted to carry oil in bulk as cargo or cargo residue if authorized to do so under the ship's certification. A vessel carries oil as cargo or cargo residue if the oil is carried for dispensing to other vessels or equipment off the vessel, or for delivery from point to point, regardless of whether direct compensation for carriage is involved. A vessel being used to collect spilled oil from the water, and may have some recovered oil storage capacity, does not carry oil as cargo.

(11) "Training" means instructional, materials, and procedures, including shipboard materials, practical exercises, and drills.

(12) "Topping off" means the receipt of bunker oil into the last ten percent of available tank capacity in any bunker tank.

(13) "Ullage" or "outage" means the depth of space above the free surface of the fluid to the tank top.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-030, filed 7/29/94, effective 10/29/94.]

WAC 317-40-040 Compliance with federal law and regulations. (1) All bunkering and personnel involved in bunkering must comply with applicable provisions of federal law and regulations governing licensing, documentation, and oil transfer operations under 33 C.F.R. Sec. 155 and 156, and 46 C.F.R. Sec. 12, 15, and 35.

(2) Federal law and regulations applicable to bunkering on the effective date of these rules are hereby incorporated. Any amendment or recodification of an applicable federal law or regulation is also hereby incorporated unless expressly stated otherwise.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-040, filed 7/29/94, effective 10/29/94.]

WAC 317-40-050 Receiving vessel procedures. Receiving vessel personnel on a covered vessel being refueled in state waters shall comply with the requirements of this section.

(1) **Training.** Except for a receiving vessel subject to subsection (2) of this section, a receiving vessel's person in charge shall conduct a training session for all personnel with duties under the vessel's oil transfer procedure within 48 hours before a vessel's scheduled bunkering. If personnel not assigned bunkering duties in the oil transfer procedure are assigned such duties, the person in charge shall train such personnel before they assume bunkering responsibilities. Training shall be conducted in a language common to both the person in charge and personnel being trained. The training shall include, but is not limited to, a review of the:

(a) Vessel's preloading plan as described in subsection (3) of this section;

(b) Civil and criminal penalties and liabilities for not complying with federal and state regulations, and for spilling oil in Washington waters;

(c) Vessel's oil transfer procedure, including each person's responsibilities and station;

(d) English phrases and hand signals to communicate the instructions listed in subsection (8)(b) of this section; and

(e) Emergency shutdown procedures described under WAC 317-40-065.

(2) **Intrastate operation.** A receiving vessel underway in state waters more than 50 percent of the time in a calendar year and that bunkers three or more times in a month shall conduct the training session described in subsection (1) of this section at least once every month.

(a) The receiving vessel's owner or operator shall submit a written schedule of the vessel's operations to the office stating:

(i) The vessel's name, call sign, and official number;

(ii) The typical routes served by the vessel; and

(iii) The typical number of bunkering operations performed in any 30 days.

(b) The receiving vessel's owner or operator shall notify the office in writing within 30 days of making a change in the vessel's typical operations

(3) **Preloading plan.** The receiving vessel's person in charge shall prepare a preloading plan prior to conducting the training session required under subsection (1) of this section. The person in charge shall ensure that a copy of the plan is posted at a place where the plan is easily seen by, and in a language common to, vessel personnel engaged in bunkering. The preloading plan must include the:

(a) Identification, location and capacity of the vessel's bunker tanks receiving oil;

(b) Level and type of liquid in each bunker tank prior to the scheduled time for bunkering;

(c) Final ullage or innage, and percent of each bunker tank to be filled;

(d) Sequence in which the bunker tanks are to be filled; and

(e) Procedures to regularly monitor all bunker tank levels and valve alignments.

(4) **Watchstanders.** The vessel's oil transfer procedure must designate a point-of-transfer watch and a deck-rover watch. Each watch must be equipped with two-way communications to communicate with the person in charge and vessel master or officer in charge.

(a) A point-of-transfer watch must remain at the point of connection with the delivering vessel during bunkering.

(b) The primary duty of the deck-rover is to monitor for oil spills on deck or over the side during bunkering. The deck-rover may perform other duties not in conflict with his or her primary duty. The deck-rover shall:

(i) Visually inspect the deck and water near or opposite all bunker tanks and each tank's sounding tube and vent, if accessible; and

(ii) Remain in a position during changing over of tanks or topping off to view any spillage on deck or in the water.

(5) **Personnel duties.** Except for the deck-rover watch, personnel assigned bunkering responsibilities may perform only those duties assigned while the vessel is bunkering. All personnel assigned to bunkering shall comply with their assigned duties under the vessel's oil transfer procedure and remain at their work stations during topping off.

(6) **Vessel access.** A receiving vessel must have an accommodation ladder in place to use for access between the receiving and delivering vessels, or between the receiving vessel and facility. If the vessel's master determines that the ladder is inaccessible from the delivering vessel another means of access must be provided that meets the standards established in the International Convention for the Safety of Life at Sea, 1974, as consolidated in 1986 (SOLAS). If the vessel master determines access is not safe due to weather or seastate, the master may allow communication by radio or by means set forth in subsection 8 of this section.

(7) **Soundings.** The receiving vessel's person in charge shall ensure that he or she receives sounding reports on tank levels according to the monitoring procedure established in the vessel's preloading plan.

(8) **Communication.**

(a) The receiving vessel's person in charge shall ensure that communication between the receiving and delivering vessel or facility is accomplished either visually and by voice, sound-powered phones, radio, or air horn as required under 33 C.F.R. Sec. 155.785. The receiving vessel's person in charge shall notify the delivering vessel's or facility's person in charge immediately before topping off begins.

(b) The person in charge shall ensure that bunkering personnel know and use English phrases and hand signals to communicate the following instructions during bunkering: "stop," "hold," "okay," "wait," "fast," "slow," and "finish."

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-050, filed 7/29/94, effective 10/29/94.]

WAC 317-40-060 Bunkering by a facility. During the pretransfer conference, the person in charge for a receiving vessel being refueled by a facility shall ensure that the receiving vessel's personnel comply with these rules and with the facility's operations manual as required under chapter 173-180B WAC.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-060, filed 7/29/94, effective 10/29/94.]

WAC 317-40-065 Emergency shut down procedures.

(1) If any of the receiving vessel's personnel discovers an oil spill either on deck outside fixed containment, or on the water, or believes an oil spill is likely, he or she shall request immediate shutdown of the bunkering operation.

(2) The delivering vessel's personnel shall immediately activate the emergency shutdown device at the request of any person on the receiving vessel.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-065, filed 7/29/94, effective 10/29/94.]

WAC 317-40-070 Pretransfer conference. (1) Before any oil is transferred during bunkering, the receiving vessel's person in charge and the delivering vessel's or facility's person in charge shall hold a pretransfer conference as required

under 33 C.F.R. Sec. 156.120. The persons in charge shall meet in person onboard either vessel or at the facility unless the receiving vessel's master determines it is unsafe under WAC 317-40-050(6). The persons in charge shall:

(a) State and discuss the contents of the declaration of inspection required under 33 C.F.R. Sec. 156.150;

(b) Discuss procedures for informing the delivering vessel's or facility's person in charge before the receiving vessel changes over tanks or begins topping off; and

(c) Discuss emergency shutdown procedures and identify each vessel's means to shut down the transfer in an emergency.

(2) The receiving vessel's person in charge shall identify for the delivering vessel's or facility's person in charge those personnel designated as point-of-transfer watch and deck-rover watch.

(3) A receiving vessel may not receive bunkers unless a person proficient in English and a language common to the vessel's officers and crew is present at the pretransfer conference. The receiving vessel's owner or operator shall provide an interpreter proficient in English and a language common to the vessel's officers and crew at the request of the office, the delivering vessel's or facility's person in charge, or the U.S. Coast Guard.

(4) If the delivering vessel's person-in-charge is not satisfied with the receiving vessel's representative's English proficiency, he or she shall request an interpreter.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-070, filed 7/29/94, effective 10/29/94.]

WAC 317-40-080 Delivering vessel procedures. Delivering vessel personnel may not begin bunkering unless:

(1) The tanker man meets the certification requirements under 46 C.F.R. Subpart 12.20 and has undergone annual training to become familiar with the requirements of this chapter.

(2) Access is provided to and from the receiving vessel that meets WAC 317-40-050(5).

(3) A pretransfer conference was held that met the requirements of WAC 317-40-070;

(4) A declaration of inspection was discussed in the pretransfer conference and signed by both persons in charge as required under 33 C.F.R. Sec. 156.120;

(5) The delivering vessel's person in charge ensures that communication between the receiving and delivering vessel is accomplished either visually and by voice, sound-powered telephone, radio, or air horn, as required under 33 C.F.R. Sec. 155.785; and

(6) The receiving vessel's person in charge has discussed procedures for informing the delivering vessel's person in charge before changing over tanks and beginning topping off.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-080, filed 7/29/94, effective 10/29/94.]

WAC 317-40-085 Work hours. Receiving and delivering vessel personnel involved in bunkering may not work more than 15 hours in any 24-hour period nor more than 36 hours in any 72-hour period except in an emergency or spill response operation. For purposes of this section, "emergency" means an unforeseen situation that poses an imminent

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threat to human safety, or the environment, or substantial loss of property.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-085, filed 7/29/94, effective 10/29/94.]

WAC 317-40-090 Record keeping. (1) The master of a receiving vessel or his designee shall record in the vessel's official or deck log the date and time of the receiving vessel training session required under WAC 317-40-060(1), and the name and rating of who attended, immediately upon completion of the session.

(2) The master or officer in charge shall record in the receiving vessel's official or deck log that a pretransfer conference was held prior to bunkering that complied with the requirements of WAC 317-40-070.

(3) The receiving vessel's preloading plan and declaration of inspection shall be retained on the vessel for 30 days from the date of bunkering.

(4) The receiving and delivering vessels' owner or operator shall maintain records, such as log book entries, maintenance records or payroll records, demonstrating compliance with work hour restrictions in Section 317-40-085 and shall, upon request, provide that information to the office of marine safety.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-090, filed 7/29/94, effective 10/29/94.]

WAC 317-40-100 Owner and operator responsibilities. (1) Owners and operators of receiving and delivering vessels must ensure that the procedures required under this chapter are implemented and followed on their vessels.

(2) Owners and operators shall ensure that records are kept as required by this chapter and federal regulations.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-100, filed 7/29/94, effective 10/29/94.]

WAC 317-40-110 Location of bunkering (reserved).

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-110, filed 7/29/94, effective 10/29/94.]

WAC 317-40-120 Best achievable technology (reserved).

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-120, filed 7/29/94, effective 10/29/94.]

WAC 317-40-130 Oil spills. (1) In the event oil is spilled into the water, or discharged onto either the receiving or delivering vessel's deck outside fixed containment, the vessel's persons in charge shall immediately shut down the bunkering operation. (2) Bunkering may not resume until: (a) Notification is made as required in RCW 90.56.280; and (b) The persons in charge determine that there is no threat of subsequent oil spills.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-130, filed 7/29/94, effective 10/29/94.]

WAC 317-40-140 Compliance. (1) Upon request by the office, an owner or operator of a receiving or delivering vessel involved in bunkering in state waters shall demonstrate compliance with this chapter. The owner or operator

shall make available to the office any or all of the following: (a) the receiving vessel's official and engineering logs; (b) written company policies; (c) standing orders; (d) the receiving vessel's preloading plan; (e) each vessel's declaration of inspection form; (f) the vessel's oil transfer procedures; and (g) training materials.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-140, filed 7/29/94, effective 10/29/94.]

WAC 317-40-150 Enforcement. (1) Failure to comply with the requirements of chapter 88.46 RCW, the provisions of this chapter, or any order or administrative action issued by the office under this chapter, the office may:

- (1) Order an immediate shutdown of the bunkering procedure;
- (2) Require additional personnel;
- (3) Refer the violations for criminal prosecution pursuant to 88.46.080 RCW; or
- (4) Take other appropriate actions to address the violation.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-150, filed 7/29/94, effective 10/29/94.]

WAC 317-40-900 Effective date. This chapter shall take effect 90 days after the order adopting these rules is filed with the office of the code reviser.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-900, filed 7/29/94, effective 10/29/94.]

WAC 317-40-910 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

[Statutory Authority: RCW 88.46.170 and 43.211.030. 94-16-076, § 317-40-910, filed 7/29/94, effective 10/29/94.]

Chapter 317-50 WAC

FINANCIAL RESPONSIBILITY FOR SMALL TANK BARGES AND OIL SPILL RESPONSE BARGES

WAC

317-50-010	Purpose.
317-50-020	Application.
317-50-030	Definitions.
317-50-040	Financial responsibility for small tank barges.
317-50-050	Evidence of financial responsibility for small tank barges.
317-50-060	Submitting evidence of financial responsibility.
317-50-070	Enforcement.
317-50-080	Financial responsibility for oil spill response barges.
317-50-900	Severability.

WAC 317-50-010 Purpose. This chapter allows owners and operators of small tank barges to reduce their financial responsibility under RCW 88.40.020 (2)(b) without compromising protection of the state's marine environments and public health and safety. This chapter also exempts tank barges dedicated solely to oil spill response activities from the requirement to possess financial responsibility under RCW 88.40.020.

[Statutory Authority: RCW 88.40.020 (2)(b), 88.40.020(5) and 88.40.030. 97-10-096, § 317-50-010, filed 5/7/97, effective 6/7/97.]

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WAC 317-50-020 Application. This chapter applies to any tank barge in state waters that is 300 gross tons or less or that is an oil spill response barge.

[Statutory Authority: RCW 88.40.020 (2)(b), 88.40.020(5) and 88.40.030. 97-10-096, § 317-50-020, filed 5/7/97, effective 6/7/97.]

WAC 317-50-030 Definitions. Unless the context clearly requires otherwise, the definitions in chapter 317-05 WAC and the following apply to this section:

(1) "Financial responsibility" means demonstrated capability to meet state and federal financial liability requirements for actual costs of oil spill removal, natural resource damages, and necessary expenses.

(2) "Oil spill response barge" means a barge dedicated solely to oil spill response activities.

(3) "Nonpersistent oil" means a petroleum-based oil that, at the time of shipment, consists of hydrocarbon fractions where:

(a) At least 50 percent by volume distill at a temperature of 340 degrees Celsius (645 degrees Fahrenheit); and

(b) At least 95 percent by volume distill at a temperature of 370 degrees Celsius (700 degrees Fahrenheit).

(4) "Persistent oil" means a petroleum-based oil that does not meet the distillation criteria for nonpersistent oil.

(5) "Small tank barge" means a tank barge three hundred gross tons or less.

(6) "State waters" means the navigable waters of the state as defined in WAC 317-05-020(10).

(7) "Tank barge" means a tank vessel without a means of self-propulsion or a self-propelled tank vessel less than forty meters (one hundred and thirty feet) in overall length.

(8) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

A ship is constructed or adapted to carry oil in bulk as cargo or cargo residue if authorized to do so under the ship's certification or classification. A vessel carries oil as cargo or cargo residue if the oil is carried for dispensing to other vessels or equipment off the vessel, or for delivery from point to point, regardless of whether direct compensation for carriage is involved. A vessel being used to collect spilled oil from the water, and that may have some recovered oil storage capacity, does not carry oil as cargo.

[Statutory Authority: RCW 88.40.020 (2)(b), 88.40.020(5) and 88.40.030. 97-10-096, § 317-50-030, filed 5/7/97, effective 6/7/97.]

WAC 317-50-040 Financial responsibility for small tank barges. (1) An owner or operator of a small tank barge covered by an oil spill prevention plan on file with the office in compliance with chapter 317-21 WAC shall possess financial responsibility in the amount determined under subsection (2) of this section. If the owner's or operator's oil spill prevention plan is disapproved by the office or voluntarily withdrawn, the owner or operator shall possess financial responsibility in the amount of at least five hundred million dollars (\$500,000,000).

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(2) Financial responsibility for a small tank barge is the greater of two million dollars (\$2,000,000) or:

(a) For tank barges certified to carry persistent oil, \$3000 per barrel of the barge's total capacity, or if assigned a load line under 46 CFR Parts 42 or 44, per barrel of allowed capacity; or

(b) For tank barges certified to carry nonpersistent oil, \$1,500 per barrel of the barge's total capacity, or if assigned a load line under 46 CFR Parts 42 or 44, per barrel of allowed capacity.

[Statutory Authority: RCW 88.40.020 (2)(b), 88.40.020(5) and 88.40.030. 97-10-096, § 317-50-040, filed 5/7/97, effective 6/7/97.]

WAC 317-50-050 Evidence of financial responsibility for small tank barges. Evidence of financial responsibility for a small tank barge may be one or a combination of the following:

(1) A current and valid certificate of enrollment in a Protection and Indemnity Mutual Association.

(2) A current and valid Master Certificate of Financial Responsibility issued by the US Coast Guard under 33 CFR §138.110 and a copy of the letter of insurance, enrollment or other summary of coverage provided by the guarantor for which the Master Certificate is issued.

(3) A copy of a policy issued by the Water Quality Insurance Syndicate (WQIS) or a certificate of insurance evidencing placement with WQIS issued by a licensed broker that includes at a minimum:

(a) The term of the policy;

(b) The amount of deductible or similar retention of liability; and

(c) A description of the coverage limits in relation to a vessel oil spill.

(4) The office may consider other evidence of financial responsibility if the owner or operator demonstrates the financial ability to meet state and federal financial liability for the actual costs for removal of oil spills, for natural resource damages, and necessary expenses. Acceptable evidence is a written opinion, based on Generally Accepted Accounting Principles in the United States (GAAP), signed by an independent certified public accountant licensed to practice in the United States that the coverage meets the standards of 33 CFR §138.80 for the amount required by WAC 317-50-040(2).

[Statutory Authority: RCW 88.40.020 (2)(b), 88.40.020(5) and 88.40.030. 97-10-096, § 317-50-050, filed 5/7/97, effective 6/7/97.]

WAC 317-50-060 Submitting evidence of financial responsibility. (1) A small tank barge owner or operator shall submit evidence that demonstrates financial responsibility under WAC 317-50-040 for each barge entering or operating in Washington waters. The evidence must be included in the oil spill prevention plan submitted under chapter 317-21 WAC and on file with the office twenty-four hours before the barge enters Washington waters.

(2) The following are considered significant changes for the purpose of updating a barge's oil spill prevention plan under WAC 317-21-530:

(a) A change in the term or amount of coverage;

(b) A change in the type of coverage;

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(c) Termination of coverage;

(d) A new coverage provider; and

(e) A change that may affect the opinion of the independent certified public accountant submitted to the office under WAC 317-50-050(4).

[Statutory Authority: RCW 88.40.020 (2)(b), 88.40.020(5) and 88.40.030. 97-10-096, § 317-50-060, filed 5/7/97, effective 6/7/97.]

WAC 317-50-070 Enforcement. A small tank barge owner or operator who fails to comply with the provisions of this chapter and any order or directive issued by the office requiring compliance with this chapter may be subject to any or all of the following:

(1) Assessment of a civil penalty of up to \$100,000 per day for each day the owner or operator's barge is found without evidence of financial responsibility required under this chapter;

(2) Disapproval of the owner's or operator's oil spill prevention plan under chapter 317-21 WAC;

(3) Referral for prosecution under RCW 88.46.080;

(4) Denial of entry into state waters.

[Statutory Authority: RCW 88.40.020 (2)(b), 88.40.020(5) and 88.40.030. 97-10-096, § 317-50-070, filed 5/7/97, effective 6/7/97.]

WAC 317-50-080 Financial responsibility for oil spill response barges. (1) A tank barge used solely as an oil spill response barge is not required to possess evidence of financial responsibility under RCW 88.40.020 if the owner or operator submits to the office a letter certifying that:

(a) The barge is used exclusively for oil spill response activities and will not be used to carry oil in bulk as cargo;

(b) The owner or operator is an approved response contractor under WAC 317-10-090; and

(c) The owner or operator is indemnified by plan holders for whom the owner or operator is a primary response contractor for liabilities that may arise under state and federal law.

(2) The letter must be in writing, on letterhead and signed by the chief executive officer of the owner or operator, or authorized representative. Identifying information for each tank barge covered by the letter must be provided and include at least the vessel's name, Lloyd's number or official number, country of registry, and gross tonnage.

(3) Any change in status of ownership, charter arrangement, classification, or use must be reported to the office within 10 working days of the change.

[Statutory Authority: RCW 88.40.020 (2)(b), 88.40.020(5) and 88.40.030. 97-10-096, § 317-50-080, filed 5/7/97, effective 6/7/97.]

WAC 317-50-900 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

[Statutory Authority: RCW 88.40.020 (2)(b), 88.40.020(5) and 88.40.030. 97-10-096, § 317-50-900, filed 5/7/97, effective 6/7/97.]

Chapter 317-100 WAC

SEPA PROCEDURES

WAC

317-100-010	Authority.
317-100-020	Adoption by reference.
317-100-030	Purpose.
317-100-040	Additional definitions.
317-100-050	Designation of responsible official.
317-100-060	EIS preparation.
317-100-070	Coordination of combined state-federal action.
317-100-080	Policies and procedures for conditioning or denying permits or other approvals.
317-100-090	Severability.

WAC 317-100-010 Authority. These rules are adopted under RCW 43.21C.120 (the State Environmental Policy Act) and chapter 197-11 WAC.

[Statutory Authority: RCW 43.211.020 and 43.21C.120. 93-14-097, § 317-100-010, filed 7/1/93, effective 8/1/93.]

WAC 317-100-020 Adoption by reference. The office of marine safety adopts the following sections of chapter 197-11 WAC by reference:

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197-11-040	Definitions.
197-11-050	Lead agency.
197-11-055	Timing of the SEPA process.
197-11-060	Content of environmental review.
197-11-070	Limitations on actions during SEPA process.
197-11-080	Incomplete or unavailable information.
197-11-090	Supporting documents.
197-11-100	Information required of applicants.
197-11-300	Purpose of this part.
197-11-305	Categorical exemptions.
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197-11-315	Environmental checklist.
197-11-330	Threshold determination process.
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197-11-340	Determination of nonsignificance (DNS).
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197-11-400	Purpose of EIS.
197-11-402	General requirements.
197-11-405	EIS types.
197-11-406	EIS timing.
197-11-408	Scoping.
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197-11-420	EIS preparation.
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197-11-440	EIS contents.
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197-11-443	EIS contents when prior nonproject EIS.
197-11-444	Elements of the environment.
197-11-448	Relationship of EIS to other considerations.
197-11-450	Cost-benefit analysis.
197-11-455	Issuance of DEIS.

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197-11-460	Issuance of FEIS.
197-11-500	Purpose of this part.
197-11-502	Inviting comment.
197-11-504	Availability and cost of environmental documents.
197-11-508	SEPA register.
197-11-535	Public hearings and meetings.
197-11-545	Effect of no comment.
197-11-550	Specificity of comments.
197-11-560	FEIS response to comments.
197-11-570	Consulted agency costs to assist lead agency.
197-11-600	When to use existing environmental documents.
197-11-610	Use of NEPA documents.
197-11-620	Supplemental environmental impact statement—Procedures.
197-11-625	Addenda—Procedures.
197-11-630	Adoption—Procedures.
197-11-635	Incorporation by reference—Procedures.
197-11-640	Combining documents.
197-11-650	Purpose of this part.
197-11-655	Implementation.
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197-11-680	Appeals.
197-11-700	Definitions.
197-11-702	Act.
197-11-704	Action.
197-11-706	Addendum.
197-11-708	Adoption.
197-11-710	Affected tribe.
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197-11-714	Agency.
197-11-716	Applicant.
197-11-718	Built environment.
197-11-720	Categorical exemption.
197-11-722	Consolidated appeal.
197-11-724	Consulted agency.
197-11-726	Cost-benefit analysis.
197-11-728	County/city.
197-11-730	Decision maker.
197-11-732	Department.
197-11-734	Determination of nonsignificance (DNS).
197-11-736	Determination of significance (DS).
197-11-738	EIS.
197-11-740	Environment.
197-11-742	Environmental checklist.
197-11-744	Environmental document.
197-11-746	Environmental review.
197-11-748	Environmentally sensitive area.
197-11-750	Expanded scoping.
197-11-752	Impacts.
197-11-754	Incorporation by reference.
197-11-756	Lands covered by water.
197-11-758	Lead agency.
197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
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197-11-768	Mitigation.
197-11-770	Natural environment.
197-11-772	NEPA.
197-11-774	Nonproject.
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197-11-790	SEPA.
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197-11-796	State agency.
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197-11-810	Exemptions and nonexemptions applicable to specific state agencies.
197-11-855	Department of ecology.
197-11-880	Emergencies.
197-11-890	Petitioning DOE to change exemptions.
197-11-900	Purpose of this part.
197-11-908	Environmentally sensitive areas.
197-11-912	Procedures on consulted agencies.
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197-11-917	Relationship to chapter 197-10 WAC.
197-11-920	Agencies with environmental expertise.
197-11-922	Lead agency rules.
197-11-924	Determining the lead agency.
197-11-926	Lead agency for governmental proposals.
197-11-928	Lead agency for public and private proposals.
197-11-930	Lead agency for private projects with one agency with jurisdiction.
197-11-932	Lead agency for private projects requiring licenses from more than one agency.
197-11-934	Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
197-11-936	Lead agency for private projects requiring licenses from more than one state agency.
197-11-938	Lead agencies for specific proposals.
197-11-940	Transfer of lead agency status to a state agency.
197-11-942	Agreements on lead agency status.
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197-11-960	Environmental checklist.
197-11-965	Adoption notice.
197-11-970	Determination of nonsignificance (DNS).
197-11-980	Determination of significance and scoping notice (DS).
197-11-985	Notice of assumption of lead agency status.

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197-11-990 Notice of action.

[Statutory Authority: RCW 43.211.020 and 43.21C.120. 93-14-097, § 317-100-020, filed 7/1/93, effective 8/1/93.]

WAC 317-100-030 Purpose. This chapter implements the state-wide rules in chapter 197-11 WAC as they apply to the office of marine safety.

[Statutory Authority: RCW 43.211.020 and 43.21C.120. 93-14-097, § 317-100-030, filed 7/1/93, effective 8/1/93.]

WAC 317-100-040 Additional definitions. (1) "Administrator" means the administrator of the office of marine safety.

(2) "Division" means the functional divisions of the office of marine safety's organization.

(3) "Office" means the office of marine safety unless otherwise indicated.

(4) "Program director" means the person responsible for a particular agency division.

[Statutory Authority: RCW 43.211.020 and 43.21C.120. 93-14-097, § 317-100-040, filed 7/1/93, effective 8/1/93.]

WAC 317-100-050 Designation of responsible official. Within the office the ultimate responsible official is the administrator. The responsible official for a specific proposal shall be the program director of the division that generates the proposal and whose name shall be published in the *SEPA Register* under WAC 197-11-508 adopted by reference in WAC 317-100-020.

[Statutory Authority: RCW 43.211.020 and 43.21C.120. 93-14-097, § 317-100-050, filed 7/1/93, effective 8/1/93.]

WAC 317-100-060 EIS preparation. (1) Preparation of draft and final EISs and SEISs is the responsibility of the program director of the division that generates the proposal or the director's designee. The responsible official shall be satisfied that all EISs and SEISs issued by the office are in compliance with this chapter.

(2) Any draft or final EIS or SEIS shall be prepared by the office, the applicant, or by a consultant mutually agreed upon by the office and applicant.

(3) Whenever a person other than the office prepares a draft or final EIS or SEIS, the responsible official shall:

(a) Coordinate scoping to ensure that the person preparing the document receives all substantive information submitted by any agency or person;

(b) Direct the areas of research and study to be undertaken and the content and organization of the document;

(c) Assist in obtaining information on file with another agency that is needed by the person preparing the document; and

(d) Allow the person preparing the document access to the office's records relating to the document, as prescribed in chapter 317-02 WAC.

(4) This section may not be construed to prohibit the office from charging any fee of an applicant that the office is otherwise authorized to charge (see WAC 197-11-914). A performance bond in an amount specified by the office may be required of the applicant to ensure payment of the office's

expenses in preparing, in whole or in part, a draft or final EIS or SEIS.

[Statutory Authority: RCW 43.211.020 and 43.21C.120. 93-14-097, § 317-100-060, filed 7/1/93, effective 8/1/93.]

WAC 317-100-070 Coordination of combined state-federal action. When the office considers actions that also involve federal actions, the office shall coordinate with the federal agency involved so that one EIS, or other environmental document, needs to be prepared.

[Statutory Authority: RCW 43.211.020 and 43.21C.120. 93-14-097, § 317-100-070, filed 7/1/93, effective 8/1/93.]

WAC 317-100-080 Policies and procedures for conditioning or denying permits or other approvals. (1) The policy and goals in this section are supplemental to other authorities of the office.

(2) It is the policy of the office to avoid or mitigate adverse environmental impacts that may result from the office's decisions.

(3) The office shall ensure that presently unquantified environmental amenities and values are given appropriate consideration in decision-making along with economic and technical considerations.

(4) When an environmental document for a proposal identifies significant adverse impacts, the responsible official shall consider whether:

(a) The environmental document identifies mitigation measures that are reasonable and capable of being accomplished;

(b) Other local, state, or federal requirements and enforcement would mitigate the significant adverse environmental impacts; and

(c) Reasonable mitigation measures are sufficient to mitigate the significant adverse impacts.

(5) When an environmental document for a proposal identifies significant adverse impacts, and the statements in subsection (4)(a), (b), and (c) of this section are true, the responsible party may condition approval of the proposal. If the statements are false, the responsible party may deny the proposal.

[Statutory Authority: RCW 43.211.020 and 43.21C.120. 93-14-097, § 317-100-080, filed 7/1/93, effective 8/1/93.]

WAC 317-100-090 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

[Statutory Authority: RCW 43.211.020 and 43.21C.120. 93-14-097, § 317-100-090, filed 7/1/93, effective 8/1/93.]