AMENDATORY SECTION (Amending WSR 06-20-034, filed 9/25/06, effective 10/26/06)

WAC 173-184-010 Applicability of this chapter. (1) ((~~Except as provided in subsection (2) of this section,~~)) This chapter applies to all vessels delivering oil in bulk on or over the waters of the state to the following ((~~persons~~)):

(a) Tank vessels;

(b) Cargo vessels;

(c) Passenger vessels;

(d) Any other nonrecreational vessels; or

(e) Class 1, 2, and 3 facilities.

(2) This chapter does not apply to:

(a) An oil spill recovery vessel that is engaged in spill response activities;

(b) Emergency lightering of vessels to mitigate further damage;

(c) A vessel's internal oil transfers;

(d) Vacuum trucks when used to remove waste oil, bilge slops, contaminated ballast or fuel, or excess fuels ((~~intended~~)) for shoreside disposal;

(e) Public vessels; and

(f) Fuel transfers from tug to barge for operation of installed machinery.

AMENDATORY SECTION (Amending WSR 06-20-034, filed 9/25/06, effective 10/26/06)

WAC 173-184-015 Purpose. (1) This chapter establishes minimum standards for safe oil transfers to meet a zero spill goal established by the legislature. This chapter emphasizes:

(a) Using a scaled approach that sets standards for safe oil transfers to protect people and the environment;

(b) That it is the obligation of vessel and facility owners and operators to adopt company policies that improve the safety of oil transfers; and

(c) Minimizing the size and impacts of those oil spills which do occur.

(2) A second purpose of this chapter is the further implementation of chapter 88.46 RCW to regulate the transfer of oil on or over waters of the state.

AMENDATORY SECTION (Amending WSR 06-20-034, filed 9/25/06, effective 10/26/06)

WAC 173-184-020 Authority. (1) The legislature granted ecology the authority to adopt and enforce these rules regulating the transfer of oil on or over waters of the state under RCW 88.46.160 and 88.46.165.

(2) The owner or operator of any vessel involved in an oil transfer over state waters must allow ecology access for the purpose((~~s~~)) of ensuring compliance with the requirements of this chapter.

AMENDATORY SECTION (Amending WSR 07-22-119, filed 11/7/07, effective 12/8/07)

WAC 173-184-025 Definitions. ((~~Unless the context clearly requires otherwise, the definitions in chapter 317-05 WAC and the following apply to this chapter:~~

~~(1) "Boatyard" means a class 4 facility which builds, repairs, or refurbishes nonrecreational vessels under three hundred gross tons, regardless of fuel capacity.~~)) (1) "American Petroleum Institute (API) gravity" is a measure of how heavy or light a petroleum liquid is compared to water.

(2) "Boom" means flotation boom or other effective barrier containment material suitable for containment, protection, or recovery of oil that is discharged onto the surface of the water. Boom will be classified using criteria found in the ASTM International F 1523-94 (2018) and ASTM International ASTM F625/F625M-94 (2022), and the *Resource Typing Guidelines* found in the Worldwide Response Resource List (WRRL) user manual.

(3) "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.

(4) ((~~"Bunkering" means a bulk oil transfer operation to replenish a self-propelled vessel with fuel or lubricating oil.~~

~~(5)~~)) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, ((~~three hundred~~)) 300 or more gross tons((~~,~~)) including, but not limited to, commercial fish processing vessels and freighters.

((~~(6)~~)) (5) "Class 1 facility" means a facility as defined in RCW 90.56.010 as:

(a) 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) For the purposes of oil spill contingency planning in RCW 90.56.210, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) Except as provided in (b) of this subsection, 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 ecology or a local government under chapter ((~~90.76~~)) 70A.355 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~~)) 3,000 gallons of fuel to a ship that is not a covered vessel, in a single transaction.

((~~(7)~~)) (6) "Class 2 facility" means a railroad car, motor vehicle, portable device or other rolling stock, while not transporting oil over the highways or rail lines of the state, used to transfer oil to a nonrecreational vessel.

((~~(8)~~)) (7) "Class 3 facility" means a structure that:

(a) Transfers oil to a nonrecreational vessel with a capacity of ((~~ten thousand five hundred~~)) 10,500 or more gallons of oil whether the vessel's oil capacity is used for fuel, lubrication oil, bilge waste, or slops or other waste oils;

(b) Does not transfer oil in bulk to or from a tank vessel or pipeline; and

(c) Does not include any: Boatyard, railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; underground storage tank regulated by ecology or a local government under chapter ((~~90.76~~)) 70A.355 RCW; or a motor vehicle motor fuel outlet; or a facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330.

((~~(9)~~)) (8) "Class 4 facility" means a structure that:

(a) Is a marina, boatyard, marine fueling outlet, and other fueling installation((~~s~~)) that transfers to a nonrecreational vessel with a capacity to hold less than ((~~ten thousand five hundred~~)) 10,500 gallons of oil whether the vessel's oil capacity is used for fuel, lubrication oil, bilge waste, or slops or other waste oil;

(b) Does not transfer oil in bulk to or from a tank vessel or pipeline; and

(c) Does not include any: Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; underground storage tank regulated by ecology or a local government under chapter ((~~90.76~~)) 70A.355 RCW; or a motor vehicle motor fuel outlet; or a facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330.

((~~(10)~~)) (9) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

((~~(11)~~)) (10) "Crude oil" means any naturally occurring hydrocarbons coming from the earth that are liquid at 25 degrees Celsius and one atmosphere of pressure including, but not limited to, crude oil, bitumen and diluted bitumen, synthetic crude oil, and natural gas well condensate.

(11) "Demise charter" means the owner gives possession of the vessel to the charterer and the charterer hires its own captain and crew.

(12) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping ((~~regardless of quantity~~)).

((~~(12)~~)) (13) "Ecology" means the state of Washington department of ecology.

((~~(13)~~)) (14) "Gross tons" means a vessel's approximate volume as defined ((~~in Title 46, United States Code of Federal Regulations (~~)) under 46 C.F.R.((~~)~~,)) Part 69.

((~~(14)~~)) (15) "Lightering" means the process of transferring oil as cargo from one tank vessel to another tank vessel.

(16) "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.

((~~(15)~~)) (17) "Nonrecreational vessel" means any vessel that is not a recreational vessel as defined in this section.

((~~(16)~~)) (18) "Oil" or "oils" means oil of any kind that is liquid at ((~~atmospheric temperature and~~)) 25 degrees Celsius and one atmosphere of pressure and any fractionation thereof((~~,~~)) including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, ((~~biological oils and blends,~~)) 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(4)~~)) 102(a) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499.

((~~(17)~~)) (19) "Owner" or "operator" means:

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

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

(c) In the case of an abandoned vessel((~~,~~)) or onshore((~~,~~)) or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment; and

(d) "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.

((~~(18)~~)) (20) "Passenger vessel" means a ship of ((~~three hundred~~)) 300 or more gross tons with a fuel capacity of at least ((~~six thousand~~)) 6,000 gallons carrying passengers for compensation.

((~~(19)~~)) (21) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, ((~~co-partnership~~)) copartnership, association, firm, individual, ((~~ship,~~)) or any other entity whatsoever.

((~~(20)~~)) (22) "Person in charge (PIC)" ((~~or "PIC"~~)) means a person qualified and designated as required under 33 C.F.R. Part 155((~~,~~)) for vessels, 33 C.F.R. Part 154 for Class 1, 2, or 3 facilities, or if not designated, the person with overall responsibility for oil transfer operations.

((~~(21)~~)) (23) "Personnel" means individuals employed by, or under contract with a facility or vessel.

((~~(22)~~)) (24) "Public vessel" means a vessel that is owned, or demise chartered, and is operated by the United States government, or a government of a foreign country, and is not engaged in commercial service.

((~~(23)~~)) (25) "Recreational vessel" means a vessel owned and operated only for pleasure with no monetary gain involved, and if leased, rented, or chartered to another for recreational use, is not used for monetary gain. This definition applies to vessels such as house boats, ski boats, and other small craft on a rental or lease agreement.

((~~(24)~~)) (26) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

((~~(25)~~)) (27) "Spill" means an unauthorized discharge of oil into the waters of the state.

((~~(26)~~)) (28) "State" means the state of Washington.

((~~(27)~~)) (29) "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.

((~~(28)~~)) (30) "Transfer" means any movement of oil in bulk to or from a nonrecreational vessel or transmission pipeline.

((~~(29)~~)) (31) "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.

AMENDATORY SECTION (Amending WSR 06-20-034, filed 9/25/06, effective 10/26/06)

WAC 173-184-030 Inspections. (1) Ecology may verify compliance with this chapter by announced and unannounced inspections in accordance with chapters 90.56 and 88.46 RCW.

(2) ((~~To ensure compliance with this chapter, ecology may ask for documents required by this chapter.~~

~~(3)~~)) Ecology will provide an inspection report to the vessel ((~~at the conclusion of the~~)) after each inspection.

(3) Ecology will notify the vessel owner or operator of any deficiencies identified during the inspection.

NEW SECTION

WAC 173-184-033 Recordkeeping. (1) Records required by this chapter must be maintained and available to ecology for a minimum of three years.

(2) All records required in this chapter must be available to ecology upon request.

(3) A copy of each ASTM Standard referenced in this rule is available for inspection at 300 Desmond Drive S.E., Lacey, Washington 98503.

AMENDATORY SECTION (Amending WSR 06-20-034, filed 9/25/06, effective 10/26/06)

WAC 173-184-040 Noncompliance. (1) Any violation of this chapter may be subject to enforcement and ((~~penalty sanctions of~~)) penalties under chapter 88.46 RCW.

(2) If an owner or operator of a delivering vessel fails to comply with the requirements in approved plans or reports, as applicable, or otherwise fails to comply with requirements of this chapter, ecology may, at its discretion:

(a) Place conditions on approval; or

(b) Revoke its approval.

NEW SECTION

WAC 173-184-055 Compliance schedule. (1) Owners and operators of delivering vessels in operation at the time this rule is effective must meet the requirements in this rule on the effective date of this rule, except where specified below.

(a) Within 30 calendar days from rule effective date, all delivering vessels must meet advance notice requirements in WAC 173-184-100.

(b) Within 60 calendar days from rule effective date, any delivering vessel conducting Rate A transfers must meet prebooming requirements in WAC 173-184-115.

(c) By the current safe and effective threshold determination report's expiration date, any delivering vessel conducting Rate A transfers must meet report requirements in WAC 173-184-130.

(2) Owners and operators of new delivering vessels must meet requirements in this chapter prior to beginning operations in the state, including submittal deadlines outlined in this chapter.

(3) When there is a change in the owner or operator of a delivering vessel, the new owner or operator of the vessel must meet the requirements in this chapter prior to beginning operations in the state, including submittal deadlines outlined in this chapter.

PART B: OIL TRANSFER REQUIREMENTS ((~~FOR ALL DELIVERING VESSELS~~))

AMENDATORY SECTION (Amending WSR 06-20-034, filed 9/25/06, effective 10/26/06)

WAC 173-184-100 Advance notice of transfer for delivering vessels. (1) The delivering vessel (or designee) involved in an oil transfer of more than ((~~one hundred~~)) 100 gallons must ((~~provide prior notice of the oil transfer to ecology. The notice must be provided in~~)) notify ecology at least 24 hours prior to an oil transfer operation or the time frame set forth by the applicable United States Coast Guard captain of the port, whichever is greater. If the deliverer cannot meet the notification requirements in this section, notice must be provided as soon as possible prior to the oil transfer.

Advance notice information must be updated if the start time of the oil transfer operation in subsection (2)(b) of this section changes from the original reported time by more than six hours.

(2) The notice of transfer must be submitted ((~~to ecology on the Advanced~~)) on ecology's "Advance Notice of Oil Transfer" ((~~form provided by ecology, a facsimile, or an equivalent form that~~)) website or by email. Form number ECY 070-175 must be used. The notice must contain((~~s~~)) the following information:

(a) Company name, address, contact person, and telephone number of organization delivering the oil;

(b) Date of transfer operation, estimated starting time, and duration of the oil transfer operation;

(c) Documented name of delivering vessel and receiving vessel or ((~~class 1, 2, or 3~~)) facility ((~~involved in the oil transfer, including Lloyd's Register/International Maritime Organization number or~~)). If a vessel's documented name is not available, include the official number ((~~if available~~));

(d) City name and either the address or location/anchorage where the oil transfer operation will occur;

(e) Transfer type;

(f) Oil product type ((~~and~~)), and if crude oil, include:

(i) Region of origin as stated on the bill of lading;

(ii) Gravity, as measured by standards developed by the American Petroleum Institute, or specific gravity;

(iii) Sulfur content of the oil, percent by weight; and

(iv) Viscosity.

(g) Quantity in gallons or barrels; and

((~~(f)~~)) (h) Whether or not prebooming will take place? (yes or no).

((~~(3) Notification may be made by the delivering vessel's agent or other contracted representative.~~

~~(4) The notification form may be submitted via internet website established by ecology, by email, or by facsimile. The notification form and contact information are found on ecology's website: http://www.ecy.wa.gov/programs/spills/spills.html.~~

~~(5) Compliance schedule: All delivering vessels must begin submitting advance notice within thirty calendar days of the effective date of this chapter.~~))

AMENDATORY SECTION (Amending WSR 06-20-034, filed 9/25/06, effective 10/26/06)

WAC 173-184-105 Equivalent compliance plan. (1) Any owner or operator may submit a ((~~proposal~~)) plan for equivalent compliance for the alternative measures required in WAC 173-184-115 and 173-184-120. Any owner or operator who submits a ((~~proposal~~)) plan must preboom or meet the applicable alternative measures until the equivalent compliance plan is approved.

(a) Rate A ((~~(see WAC 173-184-110)~~)) deliverers may only submit ((~~an equivalent compliance plan proposal~~)) a plan for alternative measures ((~~found~~)) in WAC 173-184-115((~~(7)~~)) (9).

(b) Rate B deliverers may only submit ((~~an equivalent compliance plan proposal~~)) a plan for alternative measures ((~~found~~)) in WAC 173-184-120(2).

(2) Format requirements. The ((~~proposal must contain~~)) plan must include the following ((~~and in the order presented~~)):

(a) Cover sheet with name of company submitting the plan and seeking equivalent compliance, and point of contact information; and

(b) Table of contents including supporting documents and appendices((~~;~~

~~(c)~~)).

(3) Content requirements. The plan must include the following:

(a) Executive summary of the ((~~equivalent proposal~~)) plan;

((~~(d)~~)) (b) A detailed description of ((~~the equivalent proposal that includes, when appropriate,~~)) the equipment, personnel, operating procedures, and maintenance systems and any other alternatives that are being proposed; and

((~~(e)~~)) (c) A detailed analysis of how the ((~~proposal~~)) plan offers equivalent or greater level of protection as compared to the requirements in this chapter. This includes:

(i) Methodology of the analysis;

(ii) Detailed results with supporting data, references, graphs, tables, pictures, and other relevant information; and

(iii) Technical feasibility of ((~~proposal~~)) the plan versus current requirements.

((~~(3) Submission timeline of proposed equivalent compliance plan.~~)) (4) Submittal requirements. The owner or operator must submit the ((~~equivalent compliance proposal~~)) plan to ecology at least ((~~one hundred twenty~~)) 120 calendar days ((~~before~~)) prior to their planned date for beginning operations under ((~~this section~~)) that plan in Washington state.

((~~(a)~~)) One electronic copy of the plan must be submitted to ecology. Ecology will maintain electronic submittal instructions on the spill prevention, preparedness, and response program website.

(5) Review and approval process. The owner or operator must submit the plan to ecology for reapproval at least 120 calendar days prior to the plan's expiration date. The owner or operator may request ecology review the plan currently on file at ecology.

(a) If the plan is not submitted within the time frame required for reapproval before the expiration date, the lapse is considered noncompliance and may result in the loss of plan approval.

(b) Upon receipt of the plan, ecology will determine whether the plan is complete. If ecology determines that the plan is not complete, the owner or operator will be notified of any deficiencies.

Ecology may request additional information for the plan such as site specific meteorological, water current velocity, and other monitoring data to support the plan.

(c) Once the plan is determined complete, ecology will make the ((~~proposal~~)) plan available for a ((~~thirty-calendar-day~~)) 30 calendar day public review and comment period((~~;~~

~~(b) Ecology may request additional information regarding any aspect of the proposal such as site-specific meteorological, water current velocity, and other monitoring data to support the proposal;~~

~~(c)~~)), which will occur within ecology's 120 calendar day review period. Ecology will accept comments on the plan no later than 30 calendar days after the plan has been made publicly available.

(d) Before the plan's expiration date, ecology will respond ((~~to the owner or operator within ninety calendar days of receipt of the proposal~~)) with a letter approving, conditionally approving, or disapproving the ((~~proposal; and~~

~~(d) The~~)) plan.

Ecology may approve the plan if, based upon the documents submitted and other information available to ecology, it finds that:

(i) The plan is complete and accurate; and

(ii) The plan would provide an equivalent or greater level of environmental protection as the alternative measures required in WAC 173-184-115 and 173-184-120.

(e) If the plan receives approval, the letter will describe the terms of approval, including expiration date. Plan approval ((~~will be~~

~~valid for no more than~~)) expires five years from the date on the approval letter.

((~~(4) Approval of proposed equivalent compliance plan. Ecology may approve the equivalent compliance proposal if, based upon the documents submitted and other information available to the agency, it finds that:~~

~~(a) The equivalent compliance proposal is complete and accurate; and~~

~~(b) The equivalent compliance proposal would provide an equivalent or greater level of environmental protection as the alternative measures required in WAC 173-184-115 and 173-184-120.~~

~~(5)~~)) (f) If the plan is conditionally approved, ecology may require the delivering vessel to operate with specific restrictions until acceptable components of the plan are revised, resubmitted, and approved.

(i) In the conditional approval, ecology will describe:

(A) Each specific restriction and the duration for which they apply; and

(B) Each required item to bring the plan into compliance.

(ii) Restrictions may include, but are not limited to:

Meeting some or all of the alternative measure requirements in WAC 173-184-115 or 173-184-120, as applicable.

(iii) The owner or operator has 30 calendar days after notification of conditional approval to submit revisions and implement required changes. An extension may be issued at ecology's discretion. Conditional approval expires no later than 18 months from date of notification.

(iv) Owners or operators who fail to meet conditional requirements or provide required changes in the time allowed may lose conditional approval status. Ecology may revoke its conditional approval prior to the expiration date if the owner or operator fails to meet the terms of the conditional approval.

(g) If the plan is disapproved, the owner or operator must receive an explanation of the factors for disapproval and must preboom or meet the applicable alternative measures requirements.

(6) Plan updates. Ecology may ((~~reconsider an approval, or conditional approval, at any time after a response to a significant oil spill by the company.~~

~~(6) The owner or operator must submit one paper copy and one electronic copy of the proposal to ecology:~~

~~The Department of Ecology~~
~~Spill Prevention, Preparedness, and Response Program~~
~~Equivalent Compliance Review~~
~~P.O. Box 47600~~
~~Olympia, WA 98504-7600~~
~~Or~~
~~The Department of Ecology~~
~~Spill Prevention, Preparedness, and Response Program~~
~~Equivalent Compliance Review~~
~~300 Desmond Drive~~
~~Lacey, WA 98503~~)) review and require changes to the plan following any spill, inspection, or drill.

AMENDATORY SECTION (Amending WSR 06-20-034, filed 9/25/06, effective 10/26/06)

WAC 173-184-110 Transfer containment and recovery requirements. (1) These ((~~standards~~)) requirements apply to all oil transfers ((~~that involve any jet fuels, diesels, heating oils, and any other oils that are recoverable when spilled to water. These standards do not apply to vessels delivering~~)) regulated by this chapter with the exception of transfers of gasoline, aviation gasoline, ethanol, nonene, and other highly volatile products with similar characteristics.

(2) The deliverer must first determine the rate at which oil is to be transferred and then follow the applicable ((~~standards~~)) requirements outlined in this chapter:

(a) Rate A((~~:~~)) means oil transfer operations at a rate over ((~~five hundred~~)) 500 gallons per minute. Rate A requirements are found in WAC 173-184-115.

(b) Rate B((~~:~~)) means oil transfer operations at a rate of ((~~five hundred~~)) 500 gallons per minute or less. Rate B requirements are found in WAC 173-184-120.

(3) To meet the requirements of this chapter, the deliverer must have personnel trained in the proper use and maintenance of boom and associated deployment and oil recovery equipment.

(4) All boom and associated equipment, including the equipment used to deploy the boom, must be of the appropriate size and design for safe and effective deployment in the expected environmental conditions encountered in the transfer area(s) ((~~based on the manufacturer's specifications.~~)) as described in the approved safe and effective threshold determination report including, but not limited to:

(a) Wave height;

(b) Water currents;

(c) Wind; and

(d) Other conditions that may affect booming operations.

AMENDATORY SECTION (Amending WSR 06-20-034, filed 9/25/06, effective 10/26/06)

WAC 173-184-115 Rate A prebooming and ((~~Rate A~~)) alternative measures requirements. (1) The Rate A deliverer must preboom oil transfers when it is safe and effective to do so. When prebooming is not safe and effective, the deliverer must meet the alternative measures requirements found in subsection ((~~(7)~~)) (9) of this section and submit the *Ecology Boom Reporting Form* pursuant to subsection (4) of this section.

(2) The determination of safe and effective must be made prior to starting a transfer((~~, or~~)) and reevaluated if conditions change((~~,~~)) before or during a transfer. ((~~This safe and effective~~)) To make this determination, the deliverer must use the following safe and effective threshold values. The safe and effective determination must be based on the conditions at the transfer location:

(a) Transfers at a Class 1 facility must use the ((~~class 1~~)) facility's values found in the facility's operations manual ((~~- see~~)) in accordance with WAC 173-180-420.

(b) Transfers that do not occur at Class 1 facilities must use the values found in the delivering vessel's approved safe and effective threshold determination report submitted in accordance with WAC 173-184-130((~~, the Safe and effective threshold determination report~~)).

((~~(3)~~)) (c) For a transfer at a location not covered by an approved safe and effective threshold determination report, the deliverer must use the following safe and effective threshold values:

(i) Wind speed: Sustained 20 knots or gusts of 30 knots;

(ii) Waves: Greater than three feet;

(iii) Water current velocity: 1.5 knots or greater; and

(iv) Any combination of the above that make deploying and retrieving boom and equipment at the transfer location unsafe.

(v) The use of these values is intended for infrequent transfers at locations not anticipated when the safe and effective threshold determination report was approved by ecology. If ecology determines that a deliverer has frequent transfers at a location not covered by an approved safe and effective threshold determination report, ecology may require a new report review and approval process as described in WAC 173-184-130(4).

(d) The delivering vessel in a lightering transfer must preboom the transfer if it is safe and effective to do so. Safe and effective threshold values must be:

(i) Provided by the receiving vessel, if the receiving vessel has approved safe and effective threshold values for the transfer location; or

(ii) The values specified in (c) of this subsection.

(3) When water currents are 1 knot or less, delivering vessels must consider prebooming if it is safe to do so, even if the boom may be less than fully effective. When water currents are greater than 1 knot, delivering vessels may consider prebooming based on the expected performance of the boom.

(4) When it is not safe and effective to preboom or when conditions develop during a preboomed transfer ((~~which~~)) that require((~~s~~)) removal of the boom, the Rate A deliverer must report this finding to ecology ((~~and meet the alternative measures found in subsection (7) of this section~~)) through the *Ecology Boom Reporting Form*. The ((~~Ecology Boom Reporting~~)) form must ((~~be used for this purpose, and~~)) include all observed and forecasted conditions that exceed the weather and safety values in the safe and effective threshold determination report. The form must be submitted on ecology's website or by email ((~~or facsimile~~)). Form number ECY 070-215 must be used. The form must be submitted prior to the transfer and/or immediately when conditions have changed.

((~~(4)~~)) (5) If a transfer is not preboomed due to conditions exceeding the safe and effective values, or if the boom is removed due to changing environmental conditions during the transfer, the Rate A deliverer must boom the transfer if it becomes safe and effective to do so. If environmental conditions continue to exceed safe and effective values, follow-up *Ecology Boom Reporting Forms* must be submitted every:

(a) Four hours for a transfer at anchor; or

(b) Six hours for a transfer at a terminal.

(6) If multiple oil transfers are occurring simultaneously with a single vessel, and one product transferred is not appropriate to preboom, such as gasoline, aviation gasoline, ethanol, nonene, and other highly volatile products with similar characteristics, then that por-

tion of the transfer where it is ((~~unsuitable~~)) not appropriate to preboom must meet the alternative measures found in subsection ((~~(7)~~)) (9) of this section.

((~~(5)~~)) The portion of the transfer that is appropriate to preboom must be preboomed if:

(a) It is safe and effective to do so;

(b) Pumping is complete for the product that is not appropriate to preboom; and

(c) There are at least three hours remaining in the transfer.

(7) For the purposes of this section, the deliverer must be able to quickly disconnect all boom in the event of an emergency.

((~~(6)~~)) (8) Rate A prebooming requirements.

(a) In order to preboom transfers, the deliverer must have, prior to the transfer, access to boom four times the length of the largest vessel involved in the transfer or ((~~two thousand~~)) 2,000 feet, whichever is less.

(i) The deliverer must deploy the boom such that it completely surrounds the vessel(s) and facility/terminal dock area directly involved in the oil transfer operation, or the portion of the vessel and transfer area that provides for maximum containment of any oil spilled.

((~~(i)~~)) (ii) The boom must be deployed with a minimum stand-off of five feet away from the sides of a vessel, measured at the waterline. This stand-off may be modified for short durations needed to meet a facility or ((~~ship's~~)) vessel's operational needs.

((~~(ii)~~)) (iii) The deliverer must periodically check the boom positioning ((~~periodically~~)) and adjust ((~~the boom~~)) as necessary throughout the duration of the transfer and specifically during tidal changes and significant wind or wave events.

(b) In addition to prebooming, the deliverer must have the following ((~~recovery equipment~~)) available on-site:

(i) Enough sorbent materials and storage capacity for a seven barrel oil spill appropriate for use on water or land;

(ii) Containers suitable for holding the recovered oil and oily water; and

((~~(ii)~~)) (iii) Nonsparking hand scoops, shovels, and buckets((~~; and~~

~~(iii) Enough sorbent materials and storage capacity for a seven barrel oil spill appropriate for use on water or land~~)).

(c) For preboomed transfers((~~:~~)), within one hour of being made aware of a spill, the deliverer must be able to complete deployment of the remaining boom as required in (a) of this subsection, should it be necessary for containment, protection, or recovery purposes.

((~~(7)~~)) (9) Rate A alternative measures. Rate A deliverers must use these alternative measures when it is not safe and effective to meet the prebooming requirements:

(a) ((~~To meet the alternative measures requirements~~)) Prior to starting the oil transfer operation, the deliverer must have access to boom four times the length of the largest vessel involved in the transfer or ((~~two thousand~~)) 2,000 feet, whichever is less.

(b) ((~~In addition to the boom,~~)) The deliverer must have the following ((~~recovery equipment~~)) available on-site:

(i) Enough sorbent materials and storage capacity for a seven barrel oil spill appropriate for use on water or land;

(ii) Containers suitable for holding the recovered oil and oily water; and

((~~(ii)~~)) (iii) Nonsparking hand scoops, shovels, and buckets((~~;~~ ~~and~~

~~(iii) Enough sorbent materials and storage capacity for a seven barrel oil spill appropriate for use on water or land~~)).

(c) The deliverer must have the ability to safely track an oil spill in low visibility conditions. The tracking system must be on-scene and ready to be deployed within ((~~thirty~~)) 30 minutes of being made aware of the spill.

(d) ((~~For alternative measures:~~)) Within one hour of being made aware of a spill, the deliverer must be able to completely surround the vessel(s) and facility/terminal dock area directly involved in the oil transfer operation with boom, or the portion of the vessel and transfer area that provides for maximum containment of any oil spilled.

(e) ((~~For alternative measures:~~)) Within two hours of being made aware of a spill, the deliverer must have the following:

(i) Additional boom four times the length of the largest vessel involved in the transfer or ((~~two thousand~~)) 2,000 feet, whichever is less, available for containment, protection, or recovery; and

(ii) A skimming system must be on-site((~~. The skimming system must be~~)), in stand-by status, and be capable of ((~~fifty~~)) 50 barrels recovery and ((~~one hundred~~)) 100 barrels of storage.

AMENDATORY SECTION (Amending WSR 06-20-034, filed 9/25/06, effective 10/26/06)

WAC 173-184-120 Rate B prebooming and alternative measures requirements. (1) Rate B prebooming requirements. The Rate B deliverer must choose to meet either the following prebooming requirements or the alternative measures found in subsection (2) of this section. If prebooming is chosen, then:

(a) Prior to starting the oil transfer operation, the deliverer must deploy boom so that it completely surrounds the vessel(s) and facility/terminal dock area directly involved in the oil transfer operation, or the deliverer may preboom the portion of the vessel and transfer area which will provide for maximum containment of any oil spilled into the water.

(i) The deliverer must deploy the boom with a minimum stand-off of five feet away from the sides of a vessel, measured at the waterline. This stand-off may be modified for short durations needed to meet a facility or ((~~ship's~~)) vessel's operational needs;

(ii) The deliverer must periodically check boom positioning and adjust the boom as necessary throughout the duration of the transfer and specifically during tidal changes and significant wind or wave events.

(b) ((~~In addition,~~)) The deliverer must have the following ((~~recovery equipment~~)) available on-site:

(i) Enough sorbent materials and storage capacity for a two barrel oil spill appropriate for use on water or land;

(ii) Containers suitable for holding the recovered oil and oily water; and

((~~(ii)~~)) (iii) Nonsparking hand scoops, shovels, and buckets((~~;~~ ~~and~~

~~(iii) Enough sorbent materials and storage capacity for a two barrel oil spill appropriate for use on water or land~~)).

(c) For prebooming: Within one hour of being made aware of a spill, the deliverer must be able to completely deploy an additional ((~~five hundred~~)) 500 feet of boom. This boom may be used for containment, recovery, or protection.

(2) ((~~The~~)) Rate B alternative measures requirements. If a Rate B deliverer chooses alternative measures, then:

(a) Prior to starting the oil transfer operation, the deliverer must have access to boom sufficient to completely surround the vessel(s) and facility/terminal dock area directly involved in the oil transfer operation, or the deliverer may preboom the portion of the vessel and transfer area which will provide for maximum containment of any oil spilled into the water.

(b) ((~~In addition,~~)) The deliverer must have the following ((~~recovery equipment~~)) available on-site:

(i) Enough sorbent materials and storage capacity for a two barrel oil spill appropriate for use on water or land;

(ii) Containers suitable for holding the recovered oil and oily water; and

((~~(ii)~~)) (iii) Nonsparking hand scoops, shovels, and buckets((~~; and~~

~~(iii) Enough sorbent materials and storage capacity for a two barrel oil spill appropriate for use on water or land~~)).

(c) ((~~For alternative measures:~~)) Within one hour of being made aware of a spill, the deliverer must be able to complete deployment of an additional ((~~five hundred~~)) 500 feet of boom for containment, protection, or recovery.

(d) ((~~For alternative measures:~~)) Within two hours of being made aware of a spill, the deliverer must have an additional ((~~five hundred~~)) 500 feet of boom available on-scene for containment, protection, or recovery.

AMENDATORY SECTION (Amending WSR 06-20-034, filed 9/25/06, effective 10/26/06)

WAC 173-184-130 Safe and effective threshold determination report. This section applies to delivering vessels conducting Rate A transfers at locations other than Class 1 facilities. The owner or operator of a delivering vessel conducting Rate A transfers must prepare a safe and effective threshold determination report that meets the requirements of this chapter. This report provides the threshold values that delivering vessels will use to determine when prebooming an oil transfer is safe for personnel and when the boom is likely to be effective at containing a spill.

(1) ((~~Report~~)) Format requirements. The report must include((~~, at a minimum, the following in the order presented~~)) the following:

(a) Cover sheet with name of company submitting the report and point of contact information; and

(b) Table of contents including supporting documents and appendices((~~;~~

~~(c)~~)).

(2) Content requirements. The report must include the following, at a minimum:

(a) Summary of safe and effective threshold values((~~; and~~
~~(d) The body of the report must include the following:~~
~~(i)~~)) that includes each location at which a Rate A transfer occurs;

(b) Information used to support these values must be based ((~~upon~~)) on on-site environmental monitoring data recorded at specific times, dates, and locations; ((~~and~~
~~(ii)~~)) (c) These values and the supporting data must address, at a minimum, the following site-specific information:

((~~(A)~~)) (i) Personnel safety;

((~~(B)~~)) (ii) Sea state values in feet including typical wave periods;

((~~(C)~~)) (iii) Water current velocity such as peak currents, sustained currents in hourly increments, and direction of flow, during typical oil transfer operations;

((~~(D)~~)) (iv) Wind speed in knots, and prevailing directions; ((~~and~~
~~(E)~~)) (v) Other conditions such as vessel traffic, fishing activities, and other factors that influence the oil transfer operation((~~.~~
~~(iii)~~)); and

(vi) Types of oil transfer operations including fueling, cargo, lightering, and others (e.g., lube oil transfers, hydraulic oil transfers); and the transfer rates involved.

(d) The owner or operators must provide a detailed analysis of the proposed threshold values for the transfer location including:

((~~(A)~~)) (i) Methodology of the analysis;

((~~(B)~~)) (ii) Equipment used to ((~~measure~~)) collect data ((~~collected~~)); and

((~~(C)~~)) (iii) Supporting data, references, graphs, tables, pictures, and other relevant information. Supporting data must cover multiple years, including data recent enough to reflect existing conditions and collected no more than 10 years from the date of the safe and effective threshold determination report.

(e) Boom specifications for preboomed transfers:

(i) Type of boom (e.g., internal flotation, fence, inflatable) and total height; and

(ii) Accepted industry standards regarding the performance of boom and associated deployment equipment in various operating environments.

(f) Description of the deliverer's ability to safely deploy and retrieve boom at all transfer locations in all conditions up to and including the upper limits of the approved safe and effective thresholds;

(g) Description of how the safe and effective determination will be made for each transfer based on the conditions at the transfer location, including:

The equipment or technology used to measure on-site environmental monitoring data before and during transfers, including weather and water current conditions. Include weather stations, buoys, and other instruments used.

(h) Description of how the safe and effective threshold determination will consider whether to preboom when it is safe to do so, even if the boom is less than fully effective;

(i) Description of how the safe and effective threshold determination will be reevaluated based on changes in environmental conditions; and

(j) Description of how alternative measures will be met in the event of a spill if conditions exceed safe and effective values, including transit to the transfer location and deployment.

((~~(2)~~)) (3) Submittal requirements. ((~~Owners or operators of delivering vessels that conduct Rate A transfers~~)) The owner or operator of a Rate A deliverer must submit a safe and effective threshold determination report to ecology ((~~for review and approval for each location at which a Rate A transfer occurs~~)) at least 120 calendar days prior to their planned date for conducting an oil transfer operation in Washington state.

One ((~~paper and one~~)) electronic copy of the ((~~threshold determination~~)) report and appendices must be ((~~delivered to:~~

~~The Department of Ecology~~
~~Spill Prevention, Preparedness, and Response Program~~
~~Threshold Determination Report~~
~~P.O. Box 47600~~
~~Olympia, WA 98504-7600~~

~~(3)~~)) submitted to ecology. Ecology will maintain electronic submittal instructions on the spill prevention, preparedness, and response program website.

(4) Review and approval process.

((~~(a) When reviewing threshold determination reports, ecology must consider the following:~~

~~(i) Personnel safety;~~

~~(ii) Operating environment of the transfer location(s) such as site-specific meteorological, water current velocity, and other monitoring data to support the threshold determination;~~

~~(iii) Accepted industry standards regarding the performance of boom and associated response equipment in various operating environments;~~

~~(iv) Types of oil transfer operations including bunkering, cargo operations, transfer rates, and other factors that influence oil transfers.~~

~~(b)~~)) The owner or operator of a Rate A deliverer must submit the report to ecology for reapproval at least 120 calendar days prior to the report's expiration date. The owner or operator may request ecology review the report currently on file at ecology.

(a) If the report is not submitted within the time frame required for reapproval before the expiration date, the lapse is considered noncompliance and may result in the loss of report approval.

(b) Upon receipt of the report, ecology will determine whether the report is complete. If ecology determines that the report is not complete, the owner or operator will be notified of any deficiencies.

Ecology may request additional information for the report such as site specific meteorological, weather current velocity, and other monitoring data to support the report.

(c) Once the report is determined complete, ecology will make the report available for a ((~~thirty-calendar-day~~)) 30 calendar day public review and comment period, which will occur within ecology's 120 calendar day review period. Ecology will accept comments on the report no later than 30 calendar days after the report has been made publicly available.

((~~(c)~~)) (d) Before the report's expiration date, ecology will respond ((~~to the owner or operator within ninety calendar days of receipt of the threshold determination report~~)) with a letter approving, conditionally approving, or disapproving the report.

((~~(d) The approval of this report will be valid for no more than~~)) (e) If the report receives approval, the letter will describe the terms of approval, including expiration date. Report approval expires five years from the date on the approval letter.

((~~(e)~~)) (f) If the report is conditionally approved, ecology may require the delivering vessel to operate with specific restrictions until acceptable components of the report are revised, resubmitted, and approved.

(i) In the conditional approval, ecology will describe:

(A) Each specific restriction and the duration for which they apply; and

(B) Each required item to bring the report into compliance.

(ii) Restrictions may include, but are not limited to:

(A) Reducing oil transfer rates;

(B) Increasing personnel levels;

(C) Restricting operations to daylight hours or favorable weather conditions; or

(D) Additional requirements to ensure availability of response equipment.

(iii) The owner or operator has 30 calendar days after notification of conditional approval to submit revisions and implement required changes. An extension may be issued at ecology's discretion. Conditional approval expires no later than 18 months from date of notification.

(iv) Owners or operators who fail to meet conditional requirements or provide required changes in the time allowed may lose conditional approval status. Ecology may revoke its conditional approval prior to the expiration date if the owner or operator fails to meet the terms of the conditional approval.

(g) If the report is disapproved, the owner or operator must receive an explanation of the factors for disapproval. The delivering vessel must not engage in Rate A transfers until the report has been approved or conditionally approved.

(5) Report updates. Ecology may review and require ((~~a new review and approval process for this report after a spill by the vessel.~~

~~(4) **Compliance and submittal schedule.**~~

~~(a) Safe and effective threshold determination report must be submitted within one hundred eighty calendar days after the effective date of this chapter.~~

~~(b) Rate A deliverers that begin operating in Washington waters after the effective date of this chapter must submit the report at least one hundred twenty calendar days prior to the first oil transfer operation~~)) changes to the report following any spill, inspection, or drill, or if ecology determines that the deliverer has frequent transfers at a location not covered by their approved report.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 173-184-035	Drill credit.
WAC 173-184-125	Compliance schedule for prebooming and alternative measures for Rate A and Rate B transfers.