

WAC 173-187-040 Definitions. (1) "Authorized representative" means a person who has the authority, or delegated authority, to submit and attest to information relevant to the certificate of financial responsibility process.

(2) "Barge" means a vessel that is not self-propelled.

(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) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel, fishing vessel, or a passenger vessel, of 300 or more gross tons.

(5) "Class 1 facility" means a facility as defined in RCW 88.40.011 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 any vessel with an oil carrying capacity over 250 barrels 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 ecology or a local government under chapter 70A.355 RCW; or

(v) Marine fuel outlet that does not dispense more than 3,000 gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(6) "Class 2 facility" means a 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.

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

(a) Transfers oil to a nonrecreational vessel with a capacity of 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 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.

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

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

(10) "Fishing vessel" means a self-propelled commercial vessel of 300 or more gross tons that is used for catching or processing fish.

(11) "Gross tons" means tonnage as determined by the United States Coast Guard under 33 C.F.R. Sec. 138.30.

(12) "Hazardous substances" means any substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under sec-

tion 102(a) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499. The following are not hazardous substances for purposes of this chapter:

(a) Wastes listed as F001 through F028 in Table 302.4; and

(b) Wastes listed as K001 through K136 in Table 302.4.

(13) "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.

(14) "Nonpersistent or group 1 oil" means:

(a) A petroleum-based oil, such as gasoline, diesel, or jet fuel, which evaporates relatively quickly. Such oil, at the time of shipment, consists of hydrocarbon fractions of which:

(i) At least 50 percent, by volume, distills at a temperature of 340°C (645°F); and

(ii) At least 95 percent, by volume, distills at a temperature of 370°C (700°F).

(b) A nonpetroleum oil with a specific gravity less than 0.8.

(15) "Offshore facility" means any facility 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.

(16) "Oil" or "oils" means oil of any kind that is liquid at 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, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under section 102(a) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499.

(17) "Oil spill response barge" means a barge dedicated solely to oil spill response activities.

(18) "Onshore facility" means any facility, as defined in subsections (5), (6), and (7) 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.

(19)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, 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 or onshore or offshore facility, the person who owned or operated the vessel 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.

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

(21) "Persistent oil" means:

(a) Petroleum-based oil that does not meet the distillation criteria for a nonpersistent oil. Persistent oils are further classified

based on both specific and American Petroleum Institute (API) observed gravities corrected to 60°F, as follows:

(i) Group 2 - Specific gravity greater than or equal to 0.8000 and less than 0.8500. API gravity less than or equal to 45.00 and greater than 35.0;

(ii) Group 3 - Specific gravity greater than or equal to 0.8500, and less than 0.9490. API gravity less than or equal to 35.0 and greater than 17.5;

(iii) Group 4 - Specific gravity greater than or equal to 0.9490 and up to and including 1.0. API gravity less than or equal to 17.5 and greater than 10.00; and

(iv) Group 5 - Specific gravity greater than 1.0000. API gravity equal to or less than 10.0.

(b) A nonpetroleum oil with a specific gravity of 0.8 or greater. These oils are further classified based on specific gravity as follows:

(i) Group 2 - Specific gravity equal to or greater than 0.8 and less than 0.85;

(ii) Group 3 - Specific gravity equal to or greater than 0.85 and less than 0.95;

(iii) Group 4 - Specific gravity equal to or greater than 0.95 and less than 1.0; or

(iv) Group 5 - Specific gravity equal to or greater than 1.0.

(22) "P&I club" means an international protection and indemnity mutual organization.

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

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

(25) "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.

Articulated tug barges (ATBs), tank barges, and tank ships are considered tank vessels.

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

(27) "Transmission pipeline" means all parts of a pipeline whether interstate or intrastate, through which oil moves in transportation, including mainline, laterals, valves, and other appurtenances such as pumping units, and fabricated assemblies associated with pumping units metering and delivery stations and fabricated assemblies therein, and breakout tanks.

(28) "Washington certificate of financial responsibility (COFR)" means an official written acknowledgment issued by ecology that an owner or operator of a covered vessel or facility, or the owner of the oil, has demonstrated to the satisfaction of ecology that the relevant entity has the financial ability to pay for costs and damages caused by an oil spill.

(29) "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.

(30) "Worst case spill" means:

(a) For a Class 1 offshore facility, the largest possible spill considering storage, production, and transfer capacity complicated by adverse weather conditions; or

(b) For a Class 1 onshore facility, the entire volume of the largest above ground storage tank on the facility site complicated by adverse weather conditions, unless ecology determines that a larger or smaller volume is more appropriate given a particular facility's site characteristics and storage, production, and transfer capacity; or

(c) For a Class 2 facility, the entire contents of the container(s) in which the oil is stored or transported; or

(d) For a Class 3 facility, the entire volume of the largest above ground storage tank on the facility site complicated by adverse weather conditions, unless ecology determines that a larger or smaller volume is more appropriate given a particular facility's site characteristics and storage, production, and transfer capacity; or

(e) For pipelines, the size of the worst case spill is dependent on the location of pump stations, key block valves, geographic considerations, response zones, or volume of the largest breakout tank. For each it is the largest volume determined from the following three different methods, complicated by adverse weather conditions:

(i) The pipeline's maximum time to detect the release, plus the maximum shutdown response time multiplied by the maximum flow rate per hour, plus the largest line drainage volume after shutdown.

For planning purposes, the total time to detect the release and shutdown the pipeline should be based on historic discharge data or, in the absence of such historic data, the operator's best estimate. At a minimum, the total time to detect and shut down the pipeline must be equal to or greater than 30 minutes;

(ii) The maximum historic discharge from the pipeline; and

(iii) The largest single breakout tank or battery of breakout tanks within a single secondary containment system.

Each operator shall determine the worst case spill and provide the methodology, including calculations, used to arrive at the volume.

(31) "Verification of financial responsibility" means a verification by ecology that a covered vessel is a current member of an international protection and indemnity (P&I) club.

[Statutory Authority: Chapter 88.40 RCW. WSR 24-13-065 (Order 22-14), § 173-187-040, filed 6/14/24, effective 7/15/24.]