

Section 2.23 Pertinent Federal, State, and Local Requirements

2.23.1 Applicable Federal, State, and Local Permits and Requirements

Table 2.23-1 includes a list of the federal, state, and local permits and requirements that would apply to the proposed project if it were not reviewed under the EFSEC process. The table includes the name of the permit or approval, the agency responsible for issuing the permit along with the applicable regulation or statute, and the section of the EFSEC application that addresses that requirement. For the meaning of the acronyms used in the table, please see the list of acronyms, initialisms, and abbreviations at the beginning of this application.

Table 2.23-1. Applicable Federal, State, and Local Permits and Requirements

Permit or Approval	Agency/Statute and/or Regulation	Application Section
Federal Permits/Approvals		
NEPA Compliance	USACE (anticipated federal lead agency for this project) 40 CFR 1500-1508	Not Applicable
ESA Section 7 Consultation	USFWS and NMFS Section 7 of ESA	3.4, Appendix H.1
Magnuson Stevens Fisheries Conservation and Management Act	NMFS 50 CFR 600	3.4, Appendix H.1
Marine Mammal Protection Act (MMPA)	USFWS and NMFS 50 CFR 18 and 50 CFR 216	3.4, Appendix H.1
National Historic Preservation Act (NHPA) Section 106 Review	USACE, in consultation with Department of Archeology and Historic Preservation (DAHP) 16 USC 470	4.2.5,
Section 10 Permit	USACE Rivers and Harbors Act 33 CFR 322	Appendix H.2
Private Aids to Navigation (PATON) Permit	USCG 33 CFR 62	4.3
Hazardous Materials & Oil Transportation Regulations	US Department of Transportation Hazardous Material Transportation Act (HMTA), 49 CFR 100-185	4.1.4
Maritime Procedures	USCG 46 CFR 35 (Tank Vessels – Operations)	2.10
MTSA	USCG 33 CFR 101-107	2.19
<u>Facilities Transferring Oil or Other Hazardous Materials in Bulk</u>	USCG 33 CFR 154 Subpart E Vapor Control Systems 33 CFR 154 Subpart F Response Plans for Oil Facilities	<u>4.1.4.2</u>
<u>Oil and Hazardous Material Transfer Operations</u>	USCG 33 CFR 156	<u>2.10</u>
<u>Discharge of Oil (“Sheen Rule”)</u>	EPA 40 CFR 110	<u>2.10</u>

Permit or Approval	Agency/Statute and/or Regulation	Application Section
<u>Oil Pollution Prevention</u>	40 CFR 112, Subpart A, Subsection 112.8 of Subpart B	<u>2.10</u>
<u>Emergency Planning and Community Right-to-Know Act (EPCRA)</u>	EPA 40 CFR 350-372	<u>4.1.6.1</u>
State Permits/Approvals		
SEPA Compliance	Ecology (EFSEC lead agency for this project) RCW 43.21C and WAC 197-11	Parts 2, 3, and 4
Hydraulic Project Approval (HPA)	WDFW Hydraulic Code (RCW 77.55 and WAC 220-110)	Appendix H.2
Ballast Water Management	WDFW RCW 77.120 and WAC 220-150	Appendix H.1
Aquatic Land Management	Washington State Department of Natural Resources (DNR) RCW 79.105 and WAC 332-30-123	H.2
NPDES Industrial Stormwater Permit	Ecology Clean Water Act (CWA), 40 CFR 122.28, RCW 90.48 and WAC 173-220	5.2
NPDES Construction Stormwater General Permit	Ecology CWA, 40 CFR 122.28, RCW 90.48 and WAC 173-220	5.3
MTCA Consent Decree/ Restrictive Covenant Work	Ecology RCW 70.105D, RCW 64.70, WAC 173-340	4.1
<u>Prevention of Significant Deterioration Permit</u>	<u>Ecology</u> <u>Federal Clean Air Act (as delegated to Ecology)</u> <u>Washington Clean Air Act RCW 70.94</u> <u>WAC 173-400-700</u>	<u>5.1</u>
Facility Oil Handling Standards <ul style="list-style-type: none"> • Oil Transfer Requirements • Design Standards • Operations Manual • Training/Certification • Oil Transfer Response Plans 	Ecology 33 CFR 154 (Facilities Transferring Oil or Hazardous Material in Bulk), 40 CFR 112 (Oil Pollution Prevention), 40 CFR 300 (National Oil and Hazardous Substances Pollution Contingency Plan) WAC 173-180 (Facility Oil Handling Standards)	2.10, 2.19, 4.1
Vessel Oil Transfer Advance Notice and Containment	Ecology 40 CFR 112 (Oil Pollution Prevention) WAC 173-184	4.1
Spill Prevention and Contingency Plans	Ecology 40 CFR 112 (Oil Pollution Prevention) RCW 90.56 (Oil and Hazardous Substance Spill Prevention and Response), WAC 173-180 (Facility Oil Handling Standards), WAC 173-182 (Oil Spill Contingency Plan), WAC 173-183 Oil Spill Natural Resource Damage Assessment	2.10, 2.11, 5.2, 5.3

Permit or Approval	Agency/Statute and/or Regulation	Application Section
Dangerous/Hazardous Waste Regulations	Ecology RCRA 40 CFR 260 RCW 70.105 (Hazardous Waste Management), WAC 173-303	4.1
Safety and Health Regulations	Washington State Labor & Industries OSHA RCW 49.17 (WISHA), WAC 296	4.1
<u>Hazardous Chemical Emergency Response Planning And Community Right-To-Know Reporting</u>	<u>Ecology</u> <u>WAC 118-40</u>	<u>4.1.6.1</u>
<u>Boiler and Unfired Pressure Vessel Rules</u>	<u>Labor and Industries</u> <u>RCW 70.79;WAC 296-104</u>	<u>2.3</u>
Local Permits/Approvals		
Site Plan Review	City VMC 20.270	4.2
Shoreline Substantial Development Permit	City RCW 90.58 and City SMP	Appendix I.1, I.2
Critical Areas Permit	City VMC 20.740	4.2, Appendix H.1
Tree Ordinance	City VMC 20.770	2, Appendix H.1
Archaeological Predetermination Review	City VMC 20.710	4.2.5
Transportation Concurrency	City VMC 11.70	4.3, Appendix J
Major Grading Permit	City IBC, VMC Title 12 and Title 17	3.1, Appendix G
Civil Engineering Review	City VMC Title 10, Title 11, and Title 14	Appendix F, G, J
Building, Fire, Mechanical and Electrical Permits	City IBC, IMC, IFC, UPC, NEC, Washington State Energy Code, VMC Title 16 and Title 17	2.18, 3.1, 4.1
Industrial Waste Discharge Permit	City Wastewater Discharge Standards WAC 173-221A VMC 14.10	5.2

Permit or Approval	Agency/Statute and/or Regulation	Application Section
Air Discharge Permit(s)	SWCAA <u>Federal Clean Air Act (as delegated to SWCAA)</u> <u>Washington Clean Air Act RCW 70.94</u> Vapor Combustion System design and operation regulation by USCG 33 CFR 154 NSPS 40 CFR 60 Crude Oil Storage Tanks equipment and procedures defined in 40 CFR 60.112b HAPs 40 CFR 61 MACT Standards 40 CFR 63 RCW 70.94 NOC preconstruction permit WAC 173-400-110 Title V air operation permit WAC 173-401 TAPs WAC 173-460 Particulate Matter WAC 173-470 Sulfur Oxides WAC 173-474 VOCs WAC 173-490	5.1

2.23.2 Federal Permits and Approvals

This section covers applicable federal permits and approvals for the proposed project. Where a federal regulation is delegated to the state, it is included under the state process in section 2.23.3 below.

2.23.2.1 National Environmental Policy Act Compliance

*Federal lead agency is likely the USACE.
40 CFR 1500-1508*

Any project with a federal nexus requires that the lead federal agency comply with the National Environmental Policy Act (NEPA). The federal action of issuance of a permit or approval by the USACE triggers NEPA review, and the USACE typically will take NEPA lead status.

Project Compliance

The USACE, or appropriate lead agency, is responsible for compliance with the requirements of NEPA. For the proposed project, NEPA compliance ~~will~~ could require the preparation of an environmental assessment (EA) or environmental impact statement (EIS), or may rely on programmatic NEPA compliance available through one or more Nationwide Permits. The Applicant would provide the USACE with any relevant project studies and information to assist the NEPA review and determination. The USACE handles all NEPA review and documentation requirements as part of the Section 10 permit (see section 2.23.6).

2.23.2.2 Endangered Species Act, Section 7 Consultation

USFWS and NMFS

Section 7 of the Endangered Species Act

The Endangered Species Act (ESA) provides protection for federally listed endangered and threatened species and their habitat. The ESA requires that federal agencies consult with the USFWS and NMFS when actions have the potential to affect listed species or critical habitat. NMFS addresses actions affecting salmon, other marine fishes, marine mammals, and marine

reptiles. USFWS addresses actions affecting birds, terrestrial animals, plants, amphibians, and most freshwater fish. The consultation process can be informal if the effects would be beneficial or discountable, or formal if the effects are more than discountable. The Columbia River provides habitat for multiple listed salmonids, smelt, sturgeon, and Steller sea lion. The proposed in-water construction elements require federal permits which triggers the need for ESA compliance.

Project Compliance

The USACE, as the federal lead agency for the proposed project, is required to demonstrate compliance with Section 7 of the ESA. A biological evaluation (BE) will be prepared and submitted to the USACE as the federal lead for consultation with the USFWS and NMFS. While the scope of ESA compliance is determined by the USACE, bBecause the project may affected listed species and/or critical habitat it is likely to require formal consultation and the USACE will provide the BE to USFWS and NMFS. NMFS and/or USFWS will prepare a biological opinion if warranted that documents the effects on the species and critical habitat and establishes terms and conditions for the USACE to follow in issuance of the permit.

2.23.2.3 Magnuson Stevens Fisheries Conservation and Management Act

NMFS

50 CFR 600

The Magnuson Stevens Fisheries Conservation and Management Act provides for the conservation and management of fishery resources to prevent overfishing, rebuild overfished stocks, and facilitate the long-term protection of essential fish habitats in order to protect the viability of commercial and recreational fisheries. The Act requires that federal agencies consult with NMFS when actions have the potential to affect essential fish habitat. The consultation is done as part of the ESA consultation process described above.

The Columbia River includes habitats that have been designated as essential fish habitat (EFH) under the Act for various life-history stages of Chinook and coho salmon (Pacific salmon EFH composite). The proposed in-water construction elements require federal permits which triggers the need for compliance with the Act.

Project Compliance

The USACE, as the federal lead agency for the proposed project, is required to demonstrate compliance with the Magnuson-Stevens Act. A BE will be completed for this project and will be submitted to the USACE as the federal lead for consultation with NMFS. NMFS will review the BE.

2.23.2.4 Marine Mammal Protection Act

USFWS and NMFS

50 CFR 18 and 50 CFR 216

The Marine Mammal Protection Act (MMPA) provides protection for all marine mammals and prohibits the import, export, sale, hunting, killing, capture, and harassment of marine mammals. Activities that could result in the “take” of marine mammals should be designed and implemented to avoid take. If take is unavoidable, issuance of an Incidental Harassment Authorization (IHA) or Letter of Authorization (LOA) may be required.

The Columbia River provides habitat for California sea lions, harbor seals, and Steller sea lions which are protected by the MMPA under the jurisdiction of NMFS. ~~Steller sea lions are also protected under the ESA.~~ The proposed project, with both in-water work and activities adjacent to the river, has the potential to impact these species.

Project Compliance

The pile ~~driving-removal~~ associated with the improvements to berths 13 and 14 will generate sound levels that could exceed established disturbance thresholds ~~and can impact~~ for marine mammals. It is anticipated that the pile ~~driving-removal~~ will be timed to occur when marine mammals are not likely to be present in the Columbia River. If necessary, a marine mammal monitoring plan will be implemented to shut down pile ~~driving-removal~~ operations if a marine mammal is sighted in the area where noise levels exceed the established thresholds.

2.23.2.5 Section 106 Review

*Department of Archaeology and Historic Preservation
Section 106 of the National Historic Preservation Act*

The National Historic Preservation Act (NHPA) provides for the preservation of sites listed on the National Register of Historic Places and those eligible for listing. The NHPA requires the lead federal agency to consider the impacts of a federal action on any cultural or historic resource listed on or eligible for listing on the National Register.

Project Compliance

The USACE, as the anticipated federal lead agency for the proposed project, is required to demonstrate compliance with Section 106 of the NHPA. State and local compliance with cultural resources regulations is addressed below in section 2.23.4.5. A cultural resources report will be prepared and submitted the USACE as part of the Section 10 permit process.

2.23.2.6 Section 10 Permit

*United States Army Corps of Engineers (USACE)
Rivers and Harbors Act 33 CFR 322*

A Section 10 permit issued by the USACE is required when work occurs in, over, or within a navigable waterway. The Columbia River is a navigable waterway, and proposed work associated with the ship loading and the existing dock at berths 13 and 14, may triggers the requirement for a Section 10 permit; compliance may be achieved through one or more Nationwide Permits.

Project Compliance

A Joint Aquatic Resource Permit Application (JARPA) (Appendix H.2) has been prepared for the project and will be submitted to the USACE for review and potential issuance of the Section 10 permit or acknowledgement that the work is authorized through one or more nationwide permits. The JARPA is submitted with applicable reports and studies completed for the project to demonstrate how the project complies with the permitting requirements.

2.23.2.7 Private Aids to Navigation Permit

United States Coast Guard (USCG)

33 CFR 62

A Private Aids to Navigation (PATON) permit issued by the USCG is required for all activities involving in-water structures that may affect marine traffic or involve the installation of navigational aids (lights and/or markings). In-water construction elements may elect to, or be required to, install lights or other markings to aid in navigation. A permit is required to install new navigational aids and/or modify existing navigational aids.

Project Compliance

The USACE will provide the USCG with a copy of the submitted JARPA and the USCG will review the application to determine if navigational aids will be required. Any new or modified navigational aids will follow the requirements for navigational aids per 33 CFR 62.

2.23.2.8 Hazardous Materials & Oil Transportation Regulations

U.S. Department of Transportation (USDOT)

49 CFR 100-185

The USDOT regulates the transportation of hazardous materials for all modes of transportation, including air, highway, rail and water under the hazardous materials regulations (HMR) contained in 49 CFR 100-185. The Marine Terminal elements, as a portion of the Facility used to transfer oil in bulk to a vessel, must comply with the applicable HMRS.

Project Compliance

Facility design, procedures, policies, and operations of the proposed elements at the Marine Terminal will be carried out in accordance with the rules and regulations of 49 CFR 100-185.

2.23.2.9 Maritime Procedures

USCG

46 CFR 35

The purpose of 46 CFR 35 is to regulate the operations of tank vessels. Specifically, 49 CFR 35.03 requires that work vests be worn by crew members when working near or over water under favorable working conditions. Section 49 CFR 35.30 covers general safety rules and subpart 35.35 covers requirements that apply to cargo handling on tank vessels.

Project Compliance

All vessels calling on the Facility will comply with the provisions of the program in the operation of the vessel.

2.23.2.10 Maritime Transportation Security Act (MTSA)

USCG

33 CFR 101-107

The Maritime Transportation Security Act (MTSA) is designed to protect ports and waterways from a terrorist attack. The law requires vessels and port facilities to develop security plans and conduct assessments of the vulnerability of their facilities. The USCG collaborates on the plans to help secure ports and vessels in or adjacent to U.S. waterways.

Project Compliance

The proposed project will produce the required facility plans for the operation of the oil terminal in compliance with the MTSA. These plans are discussed in further detail in section 2.19 of this application.

2.23.2.11 Facilities Transferring Oil or Other Hazardous Materials in Bulk

USCG

33 CFR 154 Subparts A through F

33 CFR 154, Facilities Transferring Oil or Other Hazardous Materials in Bulk, applies to facilities capable of transferring oil to or from a vessel with a capacity of 250 barrels or more.

Subparts A through D apply to the design and operation of the vessel loading equipment associated with Area 400.

Subpart E, Vapor Control Systems regulates the manner in which vapors inside marine vessels are collected, conditioned, and then disposed of to ensure the safety of the loading operation at all times. The regulations require that a “certifying entity” review the plans and calculations for the MVCU, and conduct inspections and witness tests that demonstrate the Facility conforms to the certified plans and specifications, meets the requirement of the applicable regulations and operates properly. Prior to beginning operations, and based upon the inspection and testing, the Facility must receive a letter of adequacy from the USCG Captain of the Port (COPT) with jurisdiction over the geographical location where the Facility is located.

Subpart F – Response Plans for Oil Facilities, addresses oil spill response contingency planning for fixed marine transfer facilities that could reasonably be expected to cause substantial harm or significant and substantial harm to the environment by discharging oil into or on the navigable waters, adjoining shorelines, or exclusive economic zone (EEZ).

Project Compliance

The Facility will incorporate the necessary design elements to comply with these regulations, and the Applicant will make the necessary submittal to the USCG to obtain approval of the MVCU prior to beginning operations of the vessel loading systems, and prepare a spill response contingency plan.

2.23.2.12 Oil and Hazardous Material Transfer Operations

USCG

33 CFR 156

This regulation applies to the transfer of oil or hazardous material on the navigable waters or contiguous zone of the United States to, from, or within each vessel with a capacity of 250 barrels or more. The regulation establishes procedures for advance notification of transfers to the USCG, design considerations for the equipment used to transfer oil, supervision and monitoring of transfer operations, and transfer equipment tests and inspections.

Project Compliance

The Applicant will design the transfer equipment to comply with the requirements of 33 CFR 156, and will implement the necessary procedures for advance notification, supervision and monitoring, and tests and inspections.

2.23.2.13 Discharge of Oil ("Ssheen Rule")

EPA

40 CFR 110

This regulation addresses the reporting of spills to the National Response Center.

Project Compliance

The Applicant will document and implement the requirement to notify the National Response Center in the event of reportable spills of oil in its SPCC plan and spill response contingency plan.

2.23.2.14 Oil Pollution Prevention

EPA

40 CFR 112

Subpart A and Subsection 112.8 of Subpart B, address the requirements for an SPCC plan for a non-transportation facility. These subparts apply to the facilities and operations related to offloading crude oil from the rail cars (Area 200); conveying oil to and storing it in the storage tanks (Area 300); and conveying it to the marine vessel loading area (Area 400).

Project Compliance

The Applicant will develop and implement an SPCC plan.

2.23.2.15 EPCRA

EPA

40 CFR 350-72

The Emergency Planning and Community Right-to-Know Act (EPCRA) establishes requirements for federal, state and local governments, Indian Tribes, and industry regarding emergency planning and "Community Right-to-Know" reporting on hazardous and toxic chemicals. Based on the quantities of crude oil stored and the presence of extremely hazardous substances contained in the crude oil stored on-site in quantities greater than corresponding threshold planning quantities TPOs, the Facility is likely to be required to participate in emergency planning efforts with the Clark County Local Emergency Planning Committee, and to file reports with EPA and Ecology.

Project Compliance

The Applicant will make the necessary determinations regarding the quantities of extremely hazardous substances stored on site in relation to the corresponding threshold planning quantities and will initiate applicable planning and reporting activities in consequence.

2.23.3 State Permits and Approvals

2.23.3.1 State Environmental Policy Act Compliance

*Ecology (EFSEC will be lead agency for this application)
RCW 43.21C and WAC 197-11*

The SEPA requires that any decisions by state or local agencies related to issuance of permits, construction of public facilities, or adoption of regulations or policies, is reviewed to understand how the proposal affects the environment. Environmental review is required under SEPA for any project or activity not meeting the categorical exemption thresholds found in WAC 197-11-800. Typically, the agency responsible for the project or permits is the lead agency. EFSEC is the lead agency for projects requiring site certification.

Project Compliance

Absent EFSEC review, Ecology and/or the City will be the likely SEPA lead agency. It is anticipated that EFSEC will be the lead agency for the project because the project is applying for EFSEC site certification. As lead agency, EFSEC will issue a scoping notice to receive comments from the public, other agencies and jurisdictions, and interested tribes. Scoping will help identify what will be studied in the environmental impact statement (EIS). The lead agency will then evaluate the proposal and issue a draft EIS, followed by a final EIS.

2.23.3.2 Hydraulic Project Approval

*Washington State Department of Fish and Wildlife (WDFW)
Hydraulic Code (RCW 77.55 and WAC 220-110)*

Hydraulic Project Approval (HPA) is required for any construction activities that use, divert, obstruct, or change the natural flow or bed of any fresh water or saltwater of the state (e.g., the Columbia River). The proposed project will likely require an HPA for work proposed in the water. WDFW will also likely review the project for consistency with management recommendations that have been developed to protect habitat for designated Priority Habitats and Species.

Project Compliance

It is anticipated that EFSEC will contract with WDFW to prepare a recommendation to issue an HPA as part of the site certification. A JARPA has been completed for the project. WDFW can use it in the review and recommendation for issuance of the HPA. The JARPA is submitted with applicable reports and studies completed for the project to demonstrate how the project complies with the permitting requirements.

2.23.3.3 Ballast Water Management

*WDFW
RCW 77.120 and WAC 220-150*

The WDFW Ballast Water Program regulates the management of ballast water for all vessels of 300 gross tons or more that have operated outside the waters of the state. The owner or operator of a vessel is required to complete a ballast water reporting form at least 24 hours before arriving in waters of the state. Discharge of ballast water is allowed only if there has been open sea exchange or if the ballast water has been treated and meets standards as set in the law.

Project Compliance

All vessels calling on the Facility will comply with the provisions of the program in the operation of the vessel.

2.23.3.4 Aquatic Land Management

*Washington State Department of Natural Resources (DNR)
RCW 79.105 and WAC 332-30-123*

The DNR Aquatic Resources Program manages the use of state-owned aquatic lands to ensure that their use is appropriate and done in a manner that considers the environmental risks, public health and safety risks, and financial risks of the proposed use. DNR regulates use of aquatic lands by issuing a use authorization.

Most of Area 200 is located on land that is under ownership by the Port. A small portion of Berth 13 is located on DNR lands, and the Port and DNR have entered into an agreement that allows the Port to assume management of state owned aquatic lands on behalf of DNR.

Project Compliance

The Port will make appropriate notice to DNR as required by the Port management area agreement.

2.23.3.5 NPDES Industrial Stormwater Permit

*Ecology
Clean Water Act, 40 CFR 122.28, RCW 90.48 and WAC 173-220*

A NPDES permit is required for any surface water discharges of stormwater from industrial facilities. Stormwater from the project site will be discharged to the Port's stormwater system, which in turn discharges to the Columbia River through existing outfalls. Wholesale petroleum bulk stations and terminals (SIC Code 5171) are listed in the general permit as requiring coverage under the industrial general stormwater permit. However, WAC 463-76-031 only allows coverage under the general permit for areas not associated with the industrial activity. Therefore, the need for an individual permit is anticipated.

Project Compliance

Section 5 includes the required application materials for the NPDES permit.

2.23.3.6 NPDES Construction Stormwater General Permit

*Ecology
Clean Water Act, 40 CFR 122.28, RCW 90.48 and WAC 173-220*

An NPDES Construction Stormwater General Permit is required for any construction disturbing more than 1 acre of land. The project will disturb more than an acre of land and will require obtaining permit coverage.

Project Compliance

A Notice of Intent (NOI) is the application form required to obtain coverage under this permit. Along with the NOI, an impaired water body analysis – and supplemental reports (if necessary) – may be required for issuance of the permit coverage. In addition, an SWPPP must be developed

and maintained and inspection, monitoring, and reporting are required during construction. An NOI is provided in section 5.3 of this application.

2.23.3.7 MTCA Consent Decree/Restrictive Covenants

Ecology

RCW 70.105D, RCW 64.70, WAC 173-340

The proposed project site was previously the location of industrial activities that resulted in soil and groundwater contamination. Final removal of contaminated soils on the project site was completed in March 2010 as required by the Cleanup Action Plan and Consent Decree for the site. However, residual concentrations of contaminants remain on the site and an Environmental Restrictive covenants have been placed on the property. In addition, there are four locations within the proposed project boundary that have more restrictive conditions (described further in section 4.1). The proposed project will be required to demonstrate conformance with the requirements of the consent decrees and restrictive covenants for the site.

Project Compliance

Any project activities that propose changes within the locations on the project site under consent decrees or restrictive covenants will be required to receive Ecology approval and demonstrate that the project complies with the consent decree. It is anticipated that EFSEC will coordinate with the Port, as land owner subject to covenant, and with the Industrial Section of Ecology through the site certification process.

2.23.3.8 Prevention of Significant Deterioration Permit

Ecology

Federal Clean Air Act; RCW 70.94, WAC 173-400-700

A Prevention of Significant Deterioration (PSD) air emissions permit is required for the installation and operation of all facilities with the potential for discharge of criteria pollutants in excess of (PSD) thresholds. Per WAC 463-60-537 an application is included with this Site Certification Application. The Facility has GHG emissions greater than 100,000 tons per yer, and triggers PSD permitting for this pollutant.

Project Compliance

The application includes the requisite narrative, air emission model results, and a BACT analysis in compliance with permitting requirements. See section 5.1 of this application for the air permit and air quality analysis.

2.23.3.82.23.3.9 Facility Oil Handling Standards

Ecology

WAC 173-180, 33 CFR 154, 40 CFR 112 (Oil Pollution Prevention), 40 CFR 300 (National Oil and Hazardous Substances Pollution Contingency Plan),

The Facility oil handling standards in WAC 173-180 cover all aspects of operations for the proposed project, including oil transfer requirements, design standards, operations manuals, training and certification, and oil transfer response plans. These standards require that the proposed Facility prepare facility operation plans, security plans, emergency and spill response plans to address potential security and safety concerns for the Facility.

Project Compliance

The proposed project will produce the required facility plans for the operation of the oil terminal in compliance with WAC 173-180. These regulations are discussed in further detail in sections 2.10, 2.19 and 4.1 of this application.

2.23.3.92.23.3.10 Vessel Oil Transfer Advance Notice and Containment

Ecology

40 CFR Part 112 (Oil Pollution Prevention), WAC 173-184

An advance notice of oil transfer (ANT) is required for the project during operations any time oil is transferred to a ship. The purpose of these notices is to ensure the safe transfer of oil on or over water to meet the zero spill goal established by WAC 173-184.

Project Compliance

When submitted to Ecology through the online ANT system, the ANT will demonstrate compliance with the requirements of WAC 173-184. These notices will be required during operations of the site and not during construction activities.

2.23.3.102.23.3.11 Spill Prevention and Contingency Plans

Ecology

40 CFR 112, RCW 90.56, WAC 173-180 and WAC 173-182, WAC 173-183

An SPCC plan is required for both construction and operation of the proposed project to help prevent any discharge of oil into navigable waters or adjoining shorelines. The SPCC plan for construction is a required submittal item for the NPDES permits described above and the various prevention and facility operating plans required for the project. An oil spill contingency plan is also required for the project and will be developed and in place prior to operations beginning at the site.

Project Compliance

A preliminary n outline of the contents of an SPCC plan is included per to address WAC 463-60-205 and described in Section 5.2 and 5.3 as part of the applications for wastewater and stormwater discharges. Compliance with WAC 173-180, 173-182, and 173-183 is further discussed in sections 2.10 and 2.11 of this application. Final SPCC plans for both construction and operations will be completed prior to the beginning of construction or operations.

2.23.3.112.23.3.12 Dangerous/Hazardous Waste Regulations

Ecology

RCRA, RCW 70.105, WAC 173-303

Any business that produces dangerous waste is referred to as a “dangerous-waste generator” under WAC 173-303 and is legally responsible to identify dangerous waste and how much may be generated by business activities. Dangerous waste, according to state law, includes both federally identified hazardous waste and Washington “state-only” dangerous waste. The proposed project will comply with the requirements of WAC 173-303 with regards to any hazardous waste generated during construction, operation and decommissioning activities.

Should any hazardous materials be excavated from the site during the construction, they will be handled in accordance with existing covenant requirements and disposed of in accordance with applicable state and federal regulations.

Project Compliance

Facility design and operations of the proposed project will be in accordance with the rules and regulations of WAC 173-303. Compliance with the dangerous waste regulations is addressed in section 4.1.3 of this application.

2.23.3.12-2.23.3.13 Safety and Health Regulations

Washington State Labor & Industries (L&I)
OSHA, RCW 49.17 (WISHA), WAC 296

Employers in Washington must comply with all applicable safety and health rules as identified in WAC 296. The proposed project, as an industrial facility, must also comply with the Washington Industrial Safety and Health Act (WISHA) under RCW 49.17. Compliance with the state regulations results in compliance with the federal Occupational Safety and Health Act (OSHA) that ensures employees do not suffer any material impairment of health and functional capacity due to occupational exposure to hazards.

Project Compliance

Facility design and operations of the proposed project will be carried out in accordance with the rules and regulations of WISHA and WAC 296. Section 4.1.4 of this application provides additional detail regarding compliance with these regulations.

2.23.3.14 Hazardous Chemical Emergency Response Planning and Community Right-To-Know Reporting

Ecology

WAC 118-40, RCW 38.52.030(2); 38.52.050 (1) and (3); and 43.63A.060.

This chapter implements the provisions of EPCRA in the state of Washington to establish a mechanism for compliance by state and local governmental agencies and industry. Compliance with the requirements of EPCRA, as recognized by the United States Environmental Protection Agency, is regarded as compliance with the provisions of this chapter.

Project Compliance

The Applicant will make the necessary determinations regarding the quantities of extremely hazardous substances stored on site in relation to the corresponding threshold planning quantities and will initiate applicable planning and reporting activities in consequence.

2.23.3.15 Boiler and Unfired Pressure Vessel Laws and Rules

Labor and Industries

RCW 70.79; WAC 296-104

These laws and rules establish requirements for construction, installation, repairs and general requirements applicable to boilers.

Project Compliance

The boilers will be designed, installed and operated in accordance with these provisions.

2.23.4 City Permits and Approvals

This section discusses applicable City permits and approvals for the proposed project. As explained in this application, the proposed project will be reviewed and approved through the

EFSEC site certification process. The Applicant conducted a pre-application conference with the City and the report is included as Appendix I.1, which identified applicable development standards that would apply to the project absent EFSEC jurisdiction. The applicable City requirements have been stated below. Section 4.2 addresses applicable and use plans and regulations in more detail and how the Facility is consistent with the application standards. Table 2.23-1 lists the applicable city standards and approvals.

Project Compliance

If not reviewed through the EFSEC process, the proposed project would be subject to the City's Type II site plan review process as described in VMC 20.210.050. The City's land use procedures ordinance requires that all land use applications required for a project shall be considered under the highest review process. The Type II process applies to quasi-judicial permit and actions that involve discretion by the responsible official, in this case the planning director. The Type II process includes a public notice but does not involve a public hearing. Appeals of the planning director's decision can be made to the City's land use hearing examiner. Because the project also involves a shoreline substantial development permit, the decision of the City would also be provided to Ecology and appeals of the decision on the shoreline permit could be made to the Washington Shoreline Hearings Boards.

Following approval of the preliminary land use application through the Type II process and resolution of any appeals the City requires approval of final site plan documenting compliance with conditions identified in the land use decision and the approval of engineering plans documenting compliance with City construction standards (for city owned utilities and roadways). These are followed by the review and issuance of grading, building and other construction permits.

Section 4.2 lists how the project is in compliance with the application city land use standards.

2.23.4.1 Transportation Concurrency

City

VMC 11.70

VMC 11.70 requires that projects that generate additional weekday PM peak hour vehicle trips be reviewed for transportation impacts.

Project Compliance

If not reviewed through the EFSEC process, the proposed project would be subject to the City's Type II site plan review process. The City would address compliance with transportation concurrency standards through the site plan review process.

It is estimated that, at full project build-out and operating capacity, the project as proposed will result in approximately 332 average daily trips (ADT), with approximately 48 trips occurring in the weekday AM peak hour and 46 trips occurring in the weekday PM peak hour. Traffic generation is based on the anticipation that approximately 110 full-time staff will be employed by the Facility at full capacity build-out. The trip estimates are based on trip rates from *Trip Generation*, 9th Edition published by the Institute of Transportation Engineers using data for land use code 110 (Light Industrial).

A transportation impact analysis was completed by Kittelson & Associates for the project. Based on the analysis, all intersections within the study area will operation adequately during the AM and PM peak hours and all concurrency corridors will maintain acceptable levels of service. Additional information is included in section 4.3 and Appendix J of this application.

2.23.4.2 Major Grading Permit

City

IBC, VMC Title 12 and Title 17

A major grading permit is required by the City for any grading, cuts, fills, and or stockpiling of more than 500 cubic yards or by the presence of a critical area no matter the grading volume. Grading permits are required for general site grading and not for excavations for utilities or building foundations.

Project Compliance

If not reviewed through the EFSEC process, the proposed project would be subject to a major grading permit from the City. The grading permit would require the submittal of an application form, grading plans, and geotechnical report. It is anticipated that EFSEC will contract with the City for the review and issuance of this permit.

2.23.4.3 Civil Engineering Review

City

VMC Title 10, Title 11, and Title 14

The City requires that development complete a civil engineering design and review process. This process ensures compliance with the City's engineering standards.

Project Compliance

If not reviewed through the EFSEC process, the proposed project would be subject to the City's civil engineering review process.

The City's civil engineering review requires the submittal of the following documentation: preliminary and final civil plans, erosion/sediment control, water, sewer, contaminated materials management plan, an SPCC plan, and a stormwater report. It is anticipated that EFSEC will contract with the City for the review and issuance of this permit.

Streets and Sidewalks – The project does not include any proposed improvements to existing streets or sidewalks. Primary vehicular access to the proposed project will be to the administration building portion of Area 200, on NW Old Lower River Road, a private road owned and maintained by the Port. NW Old Lower River Road connects with NW Lower River Road (SR 501) approximately 1,000 feet west of the proposed office building. Area 300 will be accessed from a shared drive with Farwest Steel from NW Lower River Road. Area 300 is not anticipated to require full-time staffing and parking will be provided for routine maintenance needs. Area 400 will be accessed by Gateway Avenue and Port-maintained access roads. An existing asphalt area at the berths will be used by project personnel during ship loading operations. Area 600 will not be occupied full time, but parking will be provided for maintenance vehicles and access will be from NW Old Lower River Road. Driveways will comply with the provisions of VMC 11.80.110.

Water – The proposed project location is currently served by City water and a Port-operated private water system. According to the pre-application conference report (lines 1397-1398), City records show an existing 12-inch, 14-inch, and 16-inch ductile iron (DI) main in NW Old Lower River Road, a 16-inch DI main in SR 501, and a 10-inch DI main in NW Harborside Drive in the dock area. Existing fire hydrants are currently available on or adjacent to all areas of the proposed project with an estimated minimum fire flow of 3,500 gallons per minute (gpm). Consistent with City standards as stated in the pre-application report (lines 1407-1430), the proposed project will meet Fire Marshal pipe size requirements.

Sanitary Sewer – The anticipated sanitary sewer discharges include domestic sewerage from the administration and support buildings in Area 200, treated boiler blowdown water (wastewater generated from solids left behind during the steam generation process) in Areas 300 and 600, domestic sewerage from a restroom located inside of the boiler building in Area 300, and a sump pump located in the pump basin in Area 300. Boiler blowdown water will be pre-treated for heat before discharge to the City sanitary sewer system. New service laterals will be installed to existing manholes. Pretreatment, sewer connections, and lateral installations will meet applicable City standards. As stated in the pre-application report (lines 1496-1501), the construction of public sewers will not be required.

Erosion Control – The project’s grading plans are designed to minimize and control erosion and sedimentation. A site-specific construction SWPPP will be developed and implemented. A preliminary construction SWPPP is included in this application; this preliminary SWPPP was developed based on the Facility level of design at the time of submittal. A final construction SWPPP will be developed prior to beginning any Facility-related ground disturbance.

BMPs will be used in accordance with the SWPPP for the project to ensure compliance with City and state regulations and are further described in Section 3.3.

Stormwater – Stormwater improvements have been analyzed and designed in accordance with City development standards and the Washington State Department of Ecology (Ecology) 2012 Stormwater Management Manual for Western Washington (Stormwater Manual). The stormwater report prepared for the project is contained in Appendix F. Stormwater from the site will be discharged through manmade conveyances to the Columbia River; therefore, the proposed project is exempt from the flow control minimum requirement. Stormwater treatment technologies will be implemented to treat and monitor stormwater quality in accordance with the required NPDES stormwater permits.

2.23.4.4 Building, Fire, Mechanical and Electrical Permits

City

RCW 19.27, IBC, IMC, IFC, UPC, NEC, Washington State Energy Code, VMC Title 16 and Title 17

The Washington State Building Code Act adopts by reference building and related codes that local jurisdictions must adopt and enforce. Titles 16 and 17 of the VMC establish these requirements in the City. Applications and plans are required to be submitted and reviewed by the City prior to issuing permits.

Project Compliance

It is anticipated that EFSEC will contract with the City of Vancouver for review and issuance of permits under the required code provisions as well as for providing the required inspections and issuance of occupancy permits. The project will be required to submit the required permit applications, building, electrical, mechanical, fire, plumbing, and other plans. All plans will be designed in compliance with the codes referenced above. Application and issuance of building permit applications will be completed following issuance of the site certification agreement.

2.23.5 Industrial Waste Discharge

City

VMC 14.10

The City requires industrial waste discharge permits for the discharge of industrial wastewater to the sanitary sewer system. The permit type will be based on the volume and nature of the discharge. New industrial wastewater dischargers must complete a permit application and submit the application at least 120 days prior to the desired date of discharge and the permit must be obtained prior to commencing discharge.

Project Compliance

It is anticipated that EFSEC will contract with the City of the review and issuance of this permit. As required by VMC 14.10.180, the project will submit an application for a new connection and ensure that a permit is issued prior to discharging to the stormwater system.

2.23.6 Southwest Clean Air Agency Permits and Approvals

2.23.6.1 Air Discharge Permits

SWCAA

Clean Air Act, 33 CFR 154, 40 CFR 60, 40 CFR 60.112b, 40 CFR 61, 40 CFR 63, RCW 70.94 and WAC 173-400-110, WAC 173-401, WAC 173-460, WAC 173-470, WAC 173-474, and WAC 173-490

An air discharge permit is required for the installation and operation of all facilities with the potential for discharge of air pollutants that trigger applicable permitting requirements. Per WAC 463-60-537 a Notice of Construction application is included with this Site Certification Application for criteria pollutant emissions that do not trigger PSD thresholds and for hazardous and toxic air pollutants.

The application includes ~~an application form~~ the requisite, narrative, air emission model results, and a BACT analysis in compliance with permitting requirements. See section 5.1 of this application for the air permit and air quality analysis.