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30 October 2026

(Attn: Washington Department of Ecology)
Spill Preparedness, Prevention and Response Program (SPPR)
300 Desmond Dr. SE
Lacey, WA 98503

SENT ELECTRONICALLY

Subject: Proposed Updates to Washington Administrative Code 173-186

Union Pacific Railroad Company (Union Pacific) is submitting this letter as it relates to the proposed regulatory rulemaking changes to Washington Administrative Code (WAC) Chapter 173-182 *Oil Spill Contingency Plan* and WAC Chapter 173-186 *Oil Spill Contingency Plan – Railroad*. The following comments are based on the publicly available draft rule language documents, dated August 2026.

Comments for consideration by Washington Department of Ecology (ECY) are as follows:

Comment 1 Citation: **WAC 173-186-220 (5)**
Comment 1: Local first responders often establish incident command, including the location of the incident command post (ICP), well ahead of when plan holder resources arrive on site. Maintaining a list of potential ICP locations in railroad plan holder spill contingency plans is not realistic for railroad plan holders due to the geographic scope of their plans. The vast geographic scope of rail operations requires railroads to maintain mobile assets, including mobile ICPs, so that these assets can be rapidly deployed to the incident location. Requiring railroad plan holders to maintain a list of ICPs that realistically will not be used in an incident should be removed from the chapter. UPRR believes that the potential ICP locations for approved or potential ICP locations should be maintained in the Northwest Regional Contingency Plan (NWRCP) to serve as one centralized list from which plan holders have awareness of in the event of the immediate need of an ICP. UPRR is willing to support the testing of ICP's identified in the NWRCP and that may be relevant to UPRR based on track network configurations through worst-case discharge (WCD) drills to support the maintenance of this list.

Comment 2 Citation: **WAC 173-186-220 (7)(b)(i)**
Comment 2: Due to the dynamic nature of railroad operations, responses to railroad incidents, and depth of available staff, limiting a plan holder to two positions for each plan-holder employee spill management team (SMT) member restricts the railroad plan holder's ability to effectively determine depth capabilities within the plan holder SMT. UPRR recommends removing this limitation of two positions per-employee.

Comment 3 Citation: **WAC 173-186-220 (14)**
Comment 3: Spill assessment procedure requirements for railroad spill contingency plans should be specific to rail-related incidents. Duplicating the language for spill assessment in WAC 173-186 with the language of WAC 173-182 removes the response nuance required for rail-related incidents. The language for spill assessment requirements, including use of the spill assessment form, should be updated to rail-specific language. Spill assessment procedures are listed in the field guide and documented using the ICS 201 Form. A separate spill assessment form or checklist creates unnecessary duplication and should be removed as a requirement from the chapter.

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Comment 4 Citation: **WAC 173-186-220 (15)**
Comment 4: The requirements for non-Geographic Response Plan (GRP) related control points should be removed as this requirement, in combination with the other requirements identified under WAC 173-186-220 (15), constitutes many of the component parts of a GRP. Requiring plan holders to take on the burden to collect/produce and maintain receptor at risk data and develop tactical two page control point documents contradicts the federal requirements for public sector agencies to develop and maintain area and regional contingency plans (including GRPs) identified in 33 U.S.C. § 1321(j)(4) and implemented through 40 CFR § 300.210.

Comment 5 Citation: **WAC 173-186-220 (15)(b)(c)(d)(e)**
Comment 5: The resources at risk list provided is not an appropriate request for plan holders that are primarily concerned with incidents which may impact inland/fresh water areas not covered under a GRP. The majority of resources at risk data required does not exist and it is not reasonable to be expected due to cost and limitations of licensing such data. Rulemaking language should be updated to be reflective of publicly available data that is realistic for plan holders to access and produce in a public facing document. Further, should these data sources not be provided by ECY or other public sector agencies, the ability to share resources and/or data between plan holders should be coordinated by ECY.

Comment 6 Citation: **WAC 173-186-220 (15)(b)(c)(d)(e)**
Comment 6: Definitions for open ended resources at risk, e.g., ”significant economic resource”, should be provided in WAC 173-186-040, or, have the reference to the location of the definition (e.g., the NWRCP) included within the regulatory language.

Comment 7 Citation: **WAC 176-186-040**
Comment 7: Definitions relevant to WAC 173-186 should remain within the chapter and not reside within WAC 173-182.

Comment 8 Citation: **WAC 173-186-510**
Comment 8: Expectations for unannounced drills should be stipulated to clarify where resources may/may not reside when responding to the unannounced drill. It should be clearly stated that resources may reside out of state and still be used for these types of drills.

If you have any questions, or require further clarification, please let me know.

Sincerely,

Paul Holt

Paul Holt
Hazardous Materials Manager

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