

Friends of the San Juans

Protect this Place

September 30, 2026

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Submitted via online [Public Comment Form](#)

Re: Comments on the [preliminary draft](#) for the [rulemaking](#) to amend [Chapter 173-182 WAC, Oil Spill Contingency Plan](#)

Dear Alex Colletti,

Thank you for the opportunity to comment on the [preliminary draft](#) amendments to [Chapter 173-182 WAC](#).

Friends of the San Juans is a nonprofit organization dedicated to protecting and restoring the San Juan Islands and the Salish Sea for people and nature. Our work includes advancing oil spill prevention and spill response preparedness requirements, protecting Southern Resident killer whales and other marine species, and reducing the environmental, cultural, treaty-protected, and public health and safety risks and impacts associated with vessel traffic.

Many of the proposed updates in the preliminary draft rule continue to emphasize planning narratives, capability descriptions, diagrams, and administrative documentation without the necessary corresponding operational performance standards, deployment requirements, staffing expectations, readiness verification, corrective action, follow-up testing, or Ecology-directed performance testing.

Washington State law requires contingency plans to provide operational response capability and requires drills to evaluate operational readiness:

- [RCW 90.56.005](#) establishes oil spill prevention as the state's primary objective and calls for a comprehensive oil spill prevention and response program; ongoing independent review of the adequacy of spill prevention, preparedness, and response activities; and maintenance of best achievable protection through technology, staffing, training, and operational methods. It also calls for ensuring that responsible parties are liable and have the resources and ability to respond to spills and provide compensation for all resulting costs and damages.
- [RCW 90.56.210](#) requires facility contingency plans to provide the personnel, materials, and equipment needed to promptly and properly remove oil and minimize environmental

damage from a worst-case oil spill. It also requires training and drills that evaluate whether personnel and equipment remain operationally ready at all times and requires plans to identify where equipment is located and the extent to which other plans rely on the same equipment.

- [RCW 88.46.060](#) establishes similar requirements for covered vessels, including tank, cargo, and passenger vessels. It requires contingency plans to be capable—in terms of personnel, materials, and equipment—of responding promptly and properly to a worst-case oil spill; to protect fisheries and wildlife, shellfish beds, natural resources, and public and private property; and to include periodic training and drill programs that evaluate whether personnel and equipment remain in a state of operational readiness at all times.
- [WAC 173-182-621](#) requires Ecology’s five-year review and update of Chapter 173-182 WAC to maintain Best Achievable Protection for a worst-case spill by evaluating technology, staffing, training, and operational methods, including whether response technologies are deployable and effective under real-world oil spill conditions.
- [WAC 173-182-030](#)(73) defines "Worst case spill," in part, as “complicated by adverse weather conditions.”

Taken together, these requirements support standards that require and verify operational capability under realistic oil spill conditions, including adverse weather.

Friends of the San Juans submits these comments and recommended revisions to help ensure that the final rule advances Ecology’s stated objectives, aligns with Washington’s statutory requirements for oil spill response preparedness, and requires contingency plans to demonstrate operational capability under realistic worst-case spill conditions.

Note that the recommendations regarding WAC 173-182-310, 173-182-350, 173-182-610, 173-182-700, and 173-182-710 implement the [CR-101](#)’s stated objectives of maximizing the effectiveness and timeliness of oil spill preparedness and response, ensuring the highest level of protection achievable through current technology, staffing, and operational practices, and clarifying existing requirements to eliminate ambiguity and improve consistent application.

The recommendations below directly address the subjects identified in the CR-101, including nonfloating oil technical manuals and drills, Southern Resident killer whale deterrence, shoreline assessment and cleanup, and aerial surveillance. They also advance the CR-101’s broader objectives of clarifying existing requirements, improving consistent application, aligning the rules with modern agency practices, maximizing the effectiveness and timeliness of preparedness and response, and ensuring the highest level of protection achievable through current technology, staffing, and operational practices.

Existing risks reinforce the need for stronger standards

According to Ecology’s [Vessel Entries and Transits \(VEAT\) reports for Washington Waters](#), tank ships bound for Canadian ports via Strait of Juan de Fuca more than tripled from 173 entering transits in 2023 to 528 entering transits in 2025. This coincides with the completion of the Trans

Mountain Pipeline Expansion project in 2024, and the increased export of tar sands crude oil (also known as diluted bitumen or dilbit) from 300,000 barrels per day (bpd) to 890,000 bpd (with the [June 2026 monthly capacity at 97%](#)).

[Ecology submitted a comment letter on September 18, 2026, regarding the proposed West Coast Oil Pipeline](#) that “would move one million barrels a day of heavy tar sands crude oil to a new marine terminal and oil storage facility at Roberts Bank, British Columbia, which sits less than two miles from the Washington border.” The letter describes existing conditions that are directly relevant to this rulemaking:

The waters of Haro Strait and Boundary Pass are uniquely vulnerable. Not only is this one of the narrowest and most challenging areas of the Salish Sea to navigate, but the effects of an oil spill in this area would be exacerbated by frequent strong currents. While portions of Haro Strait and Boundary Pass lie within United States waters, over 80 percent of commercial vessel traffic in these waters call on Canadian ports and add substantial risk of a spill in our shared waterways.

These existing and increasing risks make it essential that the final rule establish clear, enforceable planning standards based on resources and response capabilities that will be available when and where an oil spill occurs. Contingency plans should not receive approval if they rely on inadequate resources, unsupported assumptions about the availability of shared equipment, or mobilization and deployment timelines that are not achievable under foreseeable spill conditions. Friends of the San Juans urges Ecology to adopt the following improvements to ensure that the final rule satisfies Washington’s statutory requirements for oil spill response preparedness.

Planning Standards Should Be Demonstrated, Verified, and Improved

The preliminary draft rule remains too general to establish how planning standards must be demonstrated, verified, and improved. The final rule should include clearer performance-based requirements while retaining the important distinction between preparedness benchmarks and the legal obligations that apply during an actual oil spill.

Nonfloating Oil Spill Response

Evaluate operational periods for nonfloating oils

The preliminary draft does not fully address whether existing mobilization, travel, and deployment planning standards remain adequate for products that may sink or submerge. Ecology should evaluate whether current planning standards sufficiently account for nonfloating oil spill behavior in the areas where the transport of nonfloating oils has increased significantly in recent years: the Strait of Juan de Fuca, Haro Strait, Boundary Pass, and lower Georgia Strait.

As included above, Ecology's [September 18, 2026, comment letter](#) states:

The waters of Haro Strait and Boundary Pass are uniquely vulnerable. Not only is this one of the narrowest and most challenging areas of the Salish Sea to navigate, but the effects of an oil spill in this area would be exacerbated by frequent strong currents.

The evaluation of these waterways should consider:

- Product-specific sinking or submergence timeframes.
- Currents, tides, bathymetry, sediment loads, and freshwater inputs.
- Nighttime and low-visibility conditions.
- Remote or access-constrained operating environments.
- The time required to mobilize specialized personnel and equipment.
- The time required to establish sampling, tracking, mapping, and data-management functions.

If Ecology concludes that existing operational periods remain adequate, the final rule should explain how those operational periods were evaluated against nonfloating oil behavior and actual conditions, including adverse weather, in Washington waters, including Haro Strait and Boundary Pass.

Clarify and strengthen nonfloating oil mobilization, arrival, and deployment capabilities

The existing draft establishes staged nonfloating oil capabilities but generally describes resources as resources that “could have arrived.” These recommended revisions address notification, mobilization, deployment, and operating-area conditions within the planning-standard framework. The following recommendations are based on the existing operating periods, which should be evaluated and revised as described above.

Recommendations are made using underlined additions and ~~strike-through deletions~~.

Recommended revisions to preliminary draft [WAC 173-182-324](#), Planning standards for spills of nonfloating oils.

Pages 80-81, lines 1514-1537

WAC 173-182-324(2):

(2) The plan holder or PRC shall have the necessary personnel and equipment available and capable of arriving or being notified, mobilized, transported, and deployed within the time frames outlined in the table below.

Revise the 1-hour capability in the table:

1 hour: Initiate an assessment and consultation regarding the potential for the spilled oil to submerge or sink. The assessment shall consider available product-characterization information, weathering, water density, freshwater inputs, suspended sediment, currents,

tides, bathymetry, temperature, and the estimated time available before the oil may submerge or sink.

Revise the 6-to-12-hour capability in the table:

6-12 hours: Resources and personnel to detect and delineate the spilled oil, such as side-scan or multibeam sonar, laser fluorosensors, induced polarization, divers, remotely operated vehicles, or other methods to locate the oil on the bottom or suspended in the water column ~~could have arrived~~ shall be available and capable of arriving and initiating operations within the applicable time frame.

Additionally, containment boom, sorbent boom, silt curtains, or other methods for containing oil that may remain floating on the surface or reducing spreading on the bottom ~~could have arrived~~ shall be available and capable of being deployed within the applicable time frame.

Revise the 12-to-24-hour capability in the table:

12-24 hours: Resources and personnel necessary to assess the impact of the spilled oil on the environment ~~could have arrived~~ shall be available and capable of arriving and initiating assessment operations within the applicable time frame. Types of resources that may be used for this purpose include sampling equipment.

Additionally, dredges, submersible pumps, sorbents, agitators, or other equipment necessary to recover oil from the bottom and shoreline ~~could have arrived~~ shall be available and capable of arriving and, when authorized or approved for use, being deployed within the applicable time frame.

Revise subsection (3):

(3) The contingency plan shall detail the process for identifying if the oil handled has the potential to submerge or sink and include ~~a description of the process~~ product-specific procedures and operational decision criteria for detecting, delineating, sampling, mapping, tracking, containing, and recovering nonfloating oils in the areas that may be impacted.

In lieu of including nonfloating-oil response details in the contingency plan, plan holders may cite the nonfloating-oil response tools found in the NWRCP and relevant ACPs. Incorporation of those tools by reference does not replace the requirement to identify the personnel, equipment, access arrangements, locations, mobilization procedures, arrival times, operating limitations, and sustained-response capabilities necessary to implement the tools.

Add new subsections (4) and (5):

(4) The plan shall demonstrate that the notification, mobilization, arrival, and deployment standards in this section are appropriate for the types or categories of oil handled or transported and for representative conditions in each operating area. The demonstration shall consider product-specific submergence and sinking time frames; currents; tides; bathymetry; water depth; sediment load; freshwater inputs; weather; visibility; access

constraints; and the time required to establish sampling, tracking, mapping, and data-management functions.

(5) Personnel and equipment identified to meet this section may not be counted toward another function that may be required simultaneously unless the plan demonstrates compliance with the resource-counting requirements in WAC 173-182-350 and 173-182-610.

Amend existing requirements for technical manuals to improve nonfloating oil spill response

Friends of the San Juans supports Ecology's proposal to expand technical manual requirements for nonfloating oils. The proposed amendments require technical manuals to include response technologies, equipment, personnel, equipment locations, estimated arrival times, operating pictures, diagrams, and descriptions of how responders will detect, delineate, map, and assess nonfloating oil. These are important improvements. However, the preliminary draft rule remains heavily focused on narrative descriptions rather than operational capability. The final rule should make clear that technical manuals must guide time-critical field decisions during an actual spill.

Because [WAC 173-182-621](#) requires Ecology to incorporate proven technologies and response processes as part of maintaining Best Achievable Protection, technical manuals should function as operational response tools rather than generalized planning documents. The adequacy of technical manuals should be evaluated through Ecology-initiated unannounced drills.

Recommended revisions to preliminary draft [WAC 173-182-349](#) Covered vessel plan holders technical manuals

Pages 88-90, lines 1713-1733

WAC 173-182-349(5)-(7), beginning at line 1713:

(5) Facility and vessel plan holders that handle nonfloating oil shall provide a technical manual that includes the technologies, equipment, and personnel that are necessary to meet the requirements of WAC 173-182-324, appropriate to the operating environment, through the twenty-four-hour time frame. The technical manual shall be designed for use as an operational decision-support tool during drills and spills. The technical manual shall include:

(a) A visual operating picture and diagrams of the technologies, equipment, and personnel that are available and will be used for detecting nonfloating oils. The location of equipment and personnel and estimated times for arrival shall be included. The manual shall identify the personnel required for each operational function and operational period and the training or qualifications necessary to perform each function.

(b) ~~A narrative description of how~~ Procedures, decision trees, field-assessment protocols, sampling procedures, and tactical-selection tools describing how nonfloating oils will be delineated, mapped, and analyzed in the applicable

operating environments and how this data will inform cleanup methods and incident objectives.

(c) A narrative description and visual operating-picture diagrams of the technologies, equipment, and personnel that are available and will be used for recovering nonfloating oils. The description shall include the limitations of the equipment, such as operating environments, oil types, water depth, water visibility, and logistical support required. The location of equipment and personnel and estimated times for arrival shall be included.

(d) Information concerning the types or categories of oil handled or transported under the plan, including available information regarding the conditions under which those oils may sink, submerge, become neutrally buoyant, or adhere to suspended sediment and how their behavior may change through weathering.

(e) Initial field-assessment and sampling procedures and methods for detecting, delineating, mapping, sampling, and tracking floating, submerged, and sunken oil.

(f) Criteria for selecting assessment and response technologies and the operating limitations, detection limits, accuracy, and logistical requirements of each technology or method.

(g) Operational tactics, deployment criteria, and decision tools for detecting, delineating, containing, tracking, sampling, and recovering floating, submerged, and sunken oil under representative conditions, including varying water depths, currents, tides, substrates, sediment loads, weather, and visibility.

(h) Procedures for coordinating nonfloating-oil assessment and response with the responder and community air-monitoring procedures required under WAC 173-182-535.

(i) Responder health and safety procedures appropriate to the spilled product and proposed assessment and recovery methods.

(j) Procedures for communicating field information to unified command and incorporating that information into incident objectives, safety decisions, public-health actions, and operational tactics.

(k) Procedures for staffing and sustaining nonfloating-oil assessment and response operations across multiple operational periods.

(6) The technical manual is a standalone planning standard and is not intended to demonstrate compliance with any other planning standards. Technical manuals are not intended to bind the use of any specific tactics during a drill or spill ~~or to imply a guarantee of what will occur in a real spill event.~~ Plan holders shall maintain access to the personnel, equipment, and technologies identified in the manual and shall demonstrate the availability and operability of the identified response capabilities during spills and drills.

(7) Technical manuals shall be reviewed and updated once every five years ~~to ensure new equipment and new technologies are considered and available for a response~~ and following a spill, drill, material change in the types or categories of oil handled, or material change in response capability when lessons learned or new information demonstrate that

an update is necessary. The review shall consider new equipment, technologies, operating methods, product information, and drill or spill performance.

Responsible parties should provide immediate access to product characterization information

One of the most important recommendations generated by the nonfloating oil workgroup was the need for improved access to product characterization information. This information should be provided immediately following spill notification or within a clearly defined and appropriately brief timeframe. Early access to product information is critical for responder safety and for determining whether spilled oil may sink, submerge, become neutrally buoyant, or otherwise behave differently from conventional floating oils.

This information should be provided promptly to Ecology, Unified Command, relevant health and safety personnel, and responders whose work may be affected by the product's characteristics.

Immediate access to product information is strongly related to the CR-101's specific objective of enabling responders to "quickly evaluate" potential nonfloating oil behavior and environmental effects while maintaining safety.

These recommended revisions are structured as a contingency-plan requirement, consistent with the existing construction of WAC 173-182-250. The current draft requires initial air monitoring and procedures for estimating and documenting the nature and quantity of a spill but does not expressly require immediate access to detailed product-characterization information.

Recommended revisions to preliminary draft [WAC 173-182-250](#), Initial response actions Page 53, lines 1041-1047

Add after WAC 173-182-250(4):

(5) The plan shall include procedures for obtaining and providing available information necessary to characterize spilled oil and evaluate its behavior and potential effects on responders, the public, and the environment. The procedures shall provide for this information to be made available immediately following spill notification to ecology, the incident commander or unified command when established, health and safety personnel, public health agencies, and responders whose work may be affected by the product's characteristics.

(6) The information required under subsection (5) of this section shall include, as applicable:

- (a) Safety data sheets;
- (b) Product specifications and known physical and chemical properties;
- (c) Available information regarding diluents, blending agents, and additives;

- (d) Density, viscosity, flash point, vapor pressure, and other characteristics relevant to product behavior and responder and public safety;
 - (e) Available information regarding weathering, evaporation, emulsification, adhesion to suspended sediment, neutral buoyancy, submergence, and sinking potential;
 - (f) Product-characterization information relevant to responder and community exposure; and
 - (g) Information needed to identify appropriate air-monitoring constituents, exposure criteria, action levels, and protective actions.
- (7) The plan shall include procedures for promptly providing updated information when field sampling, laboratory analysis, or other reliable information identifies materially different product characteristics.

Strengthen Drill Requirements for Nonfloating Oil Response

The preliminary draft does not fully implement the NFO Workgroup recommendations. The NFO workgroup recognized that rapid response before oil submerges may determine whether effective recovery remains possible. Yet the proposal does not evaluate whether existing planning-standard timelines are appropriate for oils that may transition from floating to submerged conditions. Once oil submerges, sinks, or interacts with sediment, recovery may become substantially more difficult, less effective, and more damaging to environmental, cultural, and economic resources. See more below.

Strengthen Drill Requirements

WAC 173-182-710 should be revised to ensure that the drill program tests complete response capabilities, not isolated equipment or planning narratives. RCW 90.56.210 and RCW 88.46.060 require periodic training and drills that evaluate whether personnel and equipment remain operationally ready at all times to respond to a worst-case spill, which is defined in WAC 173-182-030(73) as “complicated by adverse weather conditions.” Revisions are needed to make the proposed nonfloating-oil drill requirement complete, measurable, and capable of verifying the technical-manual requirements. The final rule should therefore require defined-frequency deployment drills for nonfloating oil response and wildlife reconnaissance, monitoring, and deterrence; meaningful plan-holder participation as a condition of drill credit; operational testing of air monitoring, shoreline assessment, aerial surveillance, and other specialized capabilities; risk-based unannounced drills; testing of shared-resource assumptions; and corrective actions with follow-up verification when deficiencies are identified.

The preliminary draft’s proposed nonfloating oil deployment requirement should be strengthened to test the complete operational sequence, including product characterization, responder safety, deployment of detection and recovery systems, field mapping and data transfer, tactical decision-making, resource compatibility, and performance under representative operating

conditions, including adverse weather conditions. The wildlife-deterrence requirement should similarly test vessel and personnel mobilization, reconnaissance, whale identification, monitoring, communications, authorization and selection of deterrence tactics, and sustained operations. In areas where Southern Resident killer whales may be present, the drill should expressly include a Southern Resident killer whale scenario.

The statutes support a stronger performance-oriented approach. Facility and covered-vessel contingency plans must incorporate periodic training and drill programs that evaluate whether personnel and equipment remain in a state of operational readiness at all times. The plans must also be capable, in terms of personnel, materials, and equipment, of promptly and properly responding to a worst-case spill, complicated by adverse weather conditions, and minimizing environmental damage.

In the final rule, WAC 173-182-710 should include these core principles:

1. Each specialized capability must be tested at a defined frequency.
2. Drill credit must be based on meaningful participation and demonstrated performance, not merely plan coverage, regional presence, or observation.
3. The specialized drill requirements must test the complete operational chain, including notification, mobilization, arrival, deployment, command, communications, data transfer, tactical decision-making, safety, and sustained operations.
4. At least some drills must be unannounced and conducted under realistic operating conditions and ideally include adverse weather conditions.
5. Deficiencies must be addressed with corrective action and follow-up verification.

Recommended revisions to preliminary draft [WAC 173-182-710](#), Type and frequency of drills
Pages 124–130, lines 2381–2510

Deployment drills

Revisions are needed to clarify that testing “each type of equipment” is not sufficient by itself. The plan holder should be required to demonstrate the complete response system, including the personnel and supporting resources needed to make the equipment operational.

Revise the “Special Instructions” entry:

Over the triennial cycle, these drills shall test each type of equipment and each specialized response capability required by the plan to demonstrate compliance with planning standards. At least two of these drills shall include a GRP strategy deployment. Drills shall test the personnel, equipment, support resources, communications, and logistical arrangements necessary to mobilize, deploy, operate, sustain, and demobilize the tested capability.

Nonfloating oil spill deployment drill - add an additional drill row

The existing subsection (4)(e) requires a nonfloating-oil deployment, but the table should identify it expressly because the table is the primary summary of drill types and frequency. Lines 2428

through 2431 currently require one deployment per triennial cycle for plan holders handling oils that may submerge or sink.

A separate nonfloating oil deployment drill row would connect WAC 173-182-710 directly to the proposed nonfloating oil planning standards and technical manual. The preliminary draft requires those manuals to identify detection and recovery technologies, personnel, locations, arrival times, operating limitations, and methods for delineating, mapping, and analyzing nonfloating oil.

Recommended additional row:

Type of Drill: Nonfloating oil spill deployment drill

Frequency Within Triennial Cycle: One per triennial cycle for each plan holder that handles or transports oil that may submerge, become suspended in the water column, or sink. This is an additional deployment drill.

Special Instructions: The drill shall test notification, product characterization, safety assessment, mobilization, and field deployment of personnel, equipment, and support resources necessary to detect, delineate, map, track, sample, contain where practicable, and recover nonfloating oil under conditions representative of the plan holder's operating environment. The drill shall include transfer and use of field data for tactical decision-making and shall test relevant technical-manual procedures.

Scheduling Instructions: Scheduled at least 90 calendar days in advance, except when selected by Ecology for an unannounced drill.

Revise the wildlife-deterrence deployment-drill row

The preliminary draft only says that the drill will deploy wildlife equipment and wildlife-response personnel. That formulation does not ensure that the plan holder demonstrates the full reconnaissance-to-deterrence sequence needed to keep whales from encountering spilled oil. The proposed wildlife-planning language separately requires contacts for aerial reconnaissance, trained whale identification, vetted vessels, monitoring, and deterrence operations, but the preliminary draft of WAC 173-182-710 does not require those elements to be tested together.

Recommended revisions:

Type of Drill: Wildlife ~~deterrence deployment~~ reconnaissance, monitoring, and deterrence deployment drill

Special instructions: ~~This drill will be a deployment of wildlife response equipment and wildlife response service provider personnel.~~ This drill shall test the mobilization, deployment, command, communications, and operational coordination of personnel, vessels, aircraft where applicable, trained observers, equipment, and wildlife-response service providers necessary to conduct wildlife reconnaissance, monitoring, and deterrence. In operating areas where Southern Resident killer whales may be present, the drill shall include a Southern Resident killer whale scenario and shall test the capability to locate and identify whales, communicate verified sightings and oil-location information, establish and maintain a common operating picture, select and authorize appropriate

deterrence tactics, mobilize trained vessels and personnel, and conduct or simulate field deterrence consistent with applicable permits, protocols, safety requirements, and direction from wildlife authorities.

Multiple plan holder large scale equipment deployment drill

The existing “may involve” formulation makes even the central objectives of the large-scale drill optional. Because this is the only required drill expressly intended to test simultaneous activation of multiple contingency plans, it should demonstrate integrated response capability rather than merely offer a list of possible objectives.

Recommended revisions:

Special Instructions: This drill ~~may involve~~ shall test, as applicable to the selected scenario and operating environment, dedicated and nondedicated equipment, VOO, multiple simultaneous tactics, ~~responses to potentially nonfloating oils, and the verification of operational readiness over multiple operational periods~~ specialized response capabilities, sustained staffing and logistical support, and verification of operational readiness over multiple operational periods.

Ecology-initiated unannounced drills

A minimum programmatic frequency would be consistent with the statutory requirement to evaluate whether personnel and equipment remain operationally ready at all times to respond to a worst-case spill complicated by adverse weather conditions.

Recommended revisions:

Frequency Within the Triennial Cycle: ~~As necessary.~~ At a frequency sufficient to test each plan holder and each major category of specialized response capability over no more than two consecutive triennial cycles, with at least one unannounced tabletop, notification, or deployment drill for each plan holder during each triennial cycle.

Recommended revisions to WAC 173-182-710(4), lines 2410–2413:

To ensure that the new or revised capabilities elsewhere in the rule are incorporated into drills rather than remaining planning narratives.

(4) Plan holders shall use deployment drills to demonstrate the actions they would take in a spill, including notifications, safety actions, product and hazard characterization, responder and community air monitoring where applicable, environmental assessment, shoreline assessment, aerial and on-water surveillance, land-based tactics, and response equipment deployment.

Recommended revisions to WAC 173-182-710(4)(b), lines 2417–2419:

Testing an isolated piece of equipment does not demonstrate that the equipment can be transported, assembled, staffed, supplied, and operated as a functional response system.

(b) Plan holders shall ensure that each type of dedicated equipment listed in the plan and personnel responsible for operating the equipment are tested during each triennial cycle. The drill shall test the complete response system with the vessels, vehicles, operators, support equipment, communications, storage, transportation, safety resources, and logistical support necessary to make the equipment operational.

Recommended revisions to WAC 173-182-710(4)(c), lines 2420–2423:

Revise:

The preliminary draft requires drills in all potentially affected operating environments but does not define the period over which that requirement must be satisfied or identify the representative conditions that must be covered.

(c) Plan holders shall design drills that demonstrate the ability to meet the planning standards, including recovery systems ~~and~~, system compatibility, personnel availability, mobilization, deployment, sustained operation, and the suitability of the system for the operating environment. Drills shall be conducted in all operating environments that the plan holder could impact from spills over no more than two consecutive triennial cycles and shall collectively include representative variations in access, water depth, currents, tides, substrate, weather, visibility, and day and night operations.

Recommended revisions to WAC 173-182-710(4)(e), lines 2428–2431:

The preliminary draft does not specify what capability must actually be demonstrated. This is more effective than simply requiring deployment of “equipment, resources, and personnel for a response to a nonfloating oil scenario.”

Replace the existing provision with:

(e) At least once during each triennial cycle, plan holders that handle or transport oils that, depending on their physical or chemical properties, weathering, environmental conditions, or method of discharge, may submerge, become suspended in the water column, or sink shall conduct a nonfloating oil equipment deployment drill. The drill shall:

- (i) Use a product and scenario representative of the oils handled or transported and the plan holder’s operating environment;
- (ii) Test prompt access to product-characterization and safety information;
- (iii) Test responder-safety procedures, including hazard assessment, appropriate air or exposure monitoring, personal protective equipment, decontamination, and criteria for modifying or suspending unsafe operations;
- (iv) Mobilize and deploy personnel, equipment, vessels, and supporting resources necessary to detect, delineate, map, track, sample, contain where practicable, and recover oil from the surface, water column, shoreline, or bottom, as applicable;
- (v) Demonstrate field-data collection, quality assurance, mapping, communication to the spill management team and unified command, and use of the information in tactical decision-making;
- (vi) Test equipment and tactics under representative operating conditions and document limitations affecting performance;

- (vii) Demonstrate compatibility among detection, containment, recovery, temporary storage, transportation, decontamination, and waste-management systems; and
- (viii) Evaluate whether the personnel and resources identified in the contingency plan and technical manual can meet applicable mobilization and arrival-time requirements.

Recommended revisions to WAC 173-182-710(5), lines 2432–2435

A plan holder should not receive operational-readiness credit merely for observing its contractor deploy equipment. The statutes place contingency-plan obligations on the facility or covered-vessel plan holder, even where response services are contracted.

(5) Plan holders may receive credit for deployment drills conducted by PRCs if:

- (a) The PRC is listed in the plan, ~~and~~
- (b) The plan holder operates in the area, ~~and~~ schedules on the NACES drill calendar ~~and participates or observes the drill.~~
- (c) The plan holder meaningfully participates in the drill and demonstrates the plan holder's notification, command, coordination, logistical, and resource-mobilization responsibilities. Observation alone does not qualify for drill credit.
- (d) The personnel, equipment, and response systems demonstrated are available to the plan holder under the agreements identified in the approved contingency plan.
- (e) Ecology determines that the drill demonstrated the objectives and planning standards for which credit is requested.

Recommended revisions to WAC 173-182-710(6), lines 2436–2474

This recommended addition would address the risk that multiple contingency plans rely on the same limited personnel or equipment. Both facility and covered-vessel statutes require plans to identify available equipment, its location, and the extent to which other contingency plans rely on that same equipment.

The preliminary draft appears to award credit to all plan holders operating or transiting the tested region. That could allow a plan holder to receive credit without demonstrating its own personnel, equipment, procedures, or contracted-resource access.

- (6) At least once every three years, all plan holders shall participate in a multiple plan holder large- scale equipment deployment drill. This drill is a test of the functional ability for multiple contingency plans to be simultaneously activated in response to a spill ~~and of the availability, compatibility, coordination, and sustained operation of personnel, equipment, and resources relied upon by more than one plan holder.~~ This drill may be incorporated into other drill requirements to avoid increasing the number of drills and equipment deployments otherwise required. ~~The drill location will be selected by ecology to ensure all plan holders have the opportunity to get credit based on the areas they operate or transit.~~ A plan holder shall receive credit only for the objectives and planning

standards that the plan holder meaningfully participates in and successfully demonstrates. Operating or transiting within the region, providing financial support, attending planning meetings, or observing the drill is not by itself sufficient for credit.

Recommended revisions to WAC 173-182-710(6)(b), line 2451:

A planning lead should not receive deployment-drill credit for observation alone.

(b) At least one plan holder may be the drill-planning lead, participate in all planning meetings, and ~~observe~~ actively participate in and demonstrate assigned operational objectives during the drill.

Recommended revisions to WAC 173-182-710(6)(c), lines 2453–2454:

(c) This deployment ~~may~~ shall include the following objectives ~~as applicable to the~~ sufficient to test the major capabilities applicable to the selected scenario and operating environment. Over two consecutive triennial cycles, the regional large-scale drills shall collectively test the following objectives as applicable...

Recommended revisions to WAC 173-182-710(6)(c)(iii)(G), line 2470-2474

(G) Equipment and personnel to conduct reconnaissance, identification, monitoring, and deterrence operations to prevent whales, which may include southern resident killer whales, including Southern Resident killer whales where they may be present, from encountering spilled oil and to communicate whale locations, movements, oil trajectories, recommended tactics, and operational decisions through the incident command system.

Recommended additions following WAC 173-182-710(6)(c)(iii)(H), line 2475:

The preliminary draft includes operational readiness during the first six hours and over multiple operational periods, but does not specify the functions that must be sustained or require Ecology to stress-test shared resource assumptions.

(I) Responder and community air monitoring, including field deployment, data collection, quality assurance, communication of results, and use of action levels to inform protective decisions;

(J) Shoreline assessment teams, data management, integration of shoreline information into operational planning, and implementation of shoreline response priorities;

(K) Product-specific safety and response information, including timely access to information concerning physical and chemical properties, weathering, submergence or sinking potential, and responder and public-health hazards;

(L) Simultaneous claims on personnel, equipment, vessels, aircraft, storage, transportation, and other resources identified in more than one contingency plan; and

(M) Sustained operations across multiple operational periods, including shift changes, replacement personnel, equipment maintenance, resupply, temporary storage, waste handling, and continuity of command and communications.

Strengthen the wildlife response drill requirements

The following recommendation recognizes that actual use of deterrence devices may not always be appropriate during a drill, while still requiring the supporting capability to be physically mobilized and demonstrated.

Recommended revisions to WAC 173-182-710(9), lines 2490–2492:

(9) Once every three years during each triennial cycle, plan holders must deploy wildlife response equipment and personnel to demonstrate the ability to deter wildlife from oiled areas shall conduct a wildlife reconnaissance, monitoring, and deterrence deployment drill. This is an additional deployment drill.

(a) The drill shall demonstrate:

(i) Notification and mobilization of qualified wildlife personnel and applicable state/provincial, federal, and Tribal wildlife authorities;

(ii) Mobilization and deployment of vessels, aircraft where applicable, trained observers, communications equipment, and authorized deterrence equipment;

(iii) Wildlife observation, species identification, documentation, and reporting;

(iv) Integration of wildlife locations and movements with oil-surveillance, trajectory, and operational information;

(v) Development and communication of wildlife-protection objectives and tactical assignments through the incident command system;

(vi) Communications among field teams, wildlife specialists, the spill management team, and regulators;

(vii) Safety, permitting, authorization, and decision criteria for initiating, modifying, or terminating deterrence operations; and

(viii) Sustained monitoring and deterrence capability over more than one operational period.

(b) For plan holders operating or transiting where Southern Resident killer whales may be present, the drill shall include a Southern Resident killer whale scenario and shall test trained whale identification, aerial or vessel-based reconnaissance as applicable, verified sighting reports, mobilization of vetted and trained vessel operators, and operational coordination necessary to prevent whales from encountering spilled oil.

(c) A tabletop discussion or verification of contact information does not satisfy the deployment requirement, but may be incorporated as one component of the drill.

(d) Ecology may authorize simulation of actual acoustic or other deterrence methods when field use would create an unacceptable risk to wildlife, public safety, or the environment. The personnel, vessels, equipment, communications,

authorization process, and operational decision-making shall nevertheless be demonstrated.

Strengthen resource verifications in unannounced drills

The current resource-verification provision only ensures confirmation of 50 percent of resources in one cycle and the remainder in the next. It does not ensure that each specialized capability is tested as an integrated operational system.

Revise section (10) and subsection (10)(a), lines 2493–2499:

(10) For all plan holders, Ecology ~~may~~shall initiate scheduled inspections and unannounced deployment, notification, and tabletop drills.

(a) In addition to the drills listed above, Ecology will implement a systematic scheduled inspection program and an unannounced drill program to survey, assess, verify, inspect, or deploy response equipment listed in the plan. ~~This program will be conducted in a way so that no less than fifty percent of the resources will be confirmed during the first triennial cycle, and the remaining fifty percent during the subsequent triennial cycle. The program shall include a schedule and selection method designed to test each plan holder and each major category of specialized response capability, including nonfloating-oil response, wildlife reconnaissance and deterrence, shoreline assessment, aerial surveillance, and responder and community air monitoring, over no more than two consecutive triennial cycles.~~

Address identified deficiencies via unannounced drills

Revise subsection (10)(b), lines 2500–2507:

(b) Unannounced drills ~~may~~shall be initiated by Ecology when specific problems are noted with individual plan holders ~~and shall also select drills, or randomly, to strategically ensure that on a risk-based or randomized basis to ensure adequate testing of all operating environments, personnel, equipment, contractual access, mobilization times, communications, logistical support, and specialized response capabilities.~~

Add a mobilization time verification

A mobilization time verification would allow Ecology to verify not only whether a resource exists, but whether the plan's claimed notification, mobilization, transit, setup, and staffing assumptions are realistic.

After subsection (10)(e), line 2510, add:

(f) An unannounced drill may require personnel and equipment to proceed to a designated location or to provide time-stamped verification of notification, acceptance, mobilization, departure, travel progress, arrival, setup, and readiness to operate.

(g) Ecology shall compare demonstrated mobilization, travel, setup, staffing, and operating performance with the assumptions and timeframes contained in the

contingency plan, planning-standard analysis, technical manual, and applicable contracts or letters of intent.

(h) When safety or environmental concerns prevent full deployment, Ecology may modify the drill while requiring the plan holder to demonstrate the remaining objectives to the maximum extent practicable.

Add corrective-action and follow-up requirements

A corrective-action provision and follow-up requirements are needed. Without a corrective-action provision, the rule describes what is to be tested but does not clearly specify the consequence when the test demonstrates that the claimed capability is unavailable or ineffective.

Add a new subsection after the unannounced-drill provisions:

(11) Corrective actions and follow-up verification.

(a) If Ecology identifies a deficiency during a drill, inspection, or spill response, the plan holder shall submit a corrective-action plan within 30 calendar days after receiving Ecology's final evaluation, unless Ecology approves a different deadline.

(b) The corrective-action plan shall:

(i) Identify the deficiency and its cause;

(ii) Describe interim measures necessary to maintain response readiness;

(iii) Identify changes to personnel, training, equipment, contracts, procedures, technical manuals, or the contingency plan;

(iv) establish responsible parties and completion dates; and

(v) identify how correction will be demonstrated.

(c) Ecology may require a follow-up drill, equipment deployment, inspection, documentation review, or other performance test.

(d) Drill credit shall not be granted for an objective that was not satisfactorily demonstrated. Conditional credit may be granted only when Ecology establishes a corrective-action deadline and determines that the deficiency does not materially impair response readiness.

(e) Repeated failure to correct a deficiency or demonstrate an approved planning assumption may result in withdrawal of drill credit, disapproval of the affected planning assumption, a required contingency-plan amendment, or other action authorized by law.

Prevent Double Counting of Response Resources

Consistent with the CR-101's objective of clarifying existing requirements to eliminate ambiguity and improve consistent application, the final rule should clarify when personnel and equipment may be relied upon for multiple response functions that could be required simultaneously.

RCW 88.46.060 and RCW 90.56.210 require plans to state the amount and type of equipment available, where it is located, and the extent to which other contingency plans rely on the same equipment. The statutes also require capabilities sufficient to respond promptly and properly to a worst-case spill.

Ecology should require plan holders to demonstrate that sufficient personnel, equipment, and specialized resources exist to conduct simultaneous floating-oil and nonfloating-oil response operations.

Plan holders should also be required to demonstrate that:

- Adequate personnel are available for each operational function and operational period.
- Assigning a resource to one function will not delay or prevent another required function.
- Specialized resources remain available under the worst-case planning scenario.
- Reliance on mutual aid or nondedicated resources is supported by enforceable access arrangements and realistic mobilization assumptions.
- Sufficient personnel are available to sustain simultaneous operations beyond the initial operational period.

Ecology should verify these assumptions through drills, ideally unannounced drills, that require simultaneous activation of floating-oil recovery, NFO assessment, wildlife protection, aerial surveillance, air monitoring, shoreline assessment, and other competing response functions.

Recommended revisions to preliminary draft [WAC 173-182-350](#) Documenting compliance with the planning standards

Pages 91-93, lines 1739-1789

Add after the sentence ending at line 1745:

This spreadsheet analysis shall account for all elements required in the planning standard, including boom, recovery systems, storage, and personnel. The analysis shall identify each person, equipment item, vessel, aircraft, communications system, technical specialist, or other resource relied upon to meet more than one planning standard or operational function. The analysis shall identify whether those functions may be required simultaneously.

Add after WAC 173-182-350(2), line 1748:

(3) When a resource is identified for two or more functions that may be required simultaneously, the planning-standard analysis shall demonstrate that sufficient personnel, equipment, support resources, and replacement personnel are available to perform each function without delaying, interrupting, or materially reducing another required capability.

Renumber the following subsections accordingly.

WAC 173-182-350 is the appropriate location for requiring disclosure and analysis of overlapping resource assignments because it governs the planning-standard analysis and Ecology's review of identified equipment and personnel.

Recommended revisions to preliminary draft [WAC 173-182-610](#) Plan evaluation criteria

Pages 113-114, lines 2154-2180

Add after WAC 173-182-610(4):

(5) A resource may not be counted toward two or more functions that may be required simultaneously unless the plan holder demonstrates, and ecology determines, that sufficient personnel, equipment, support resources, and replacement personnel are available to perform each function without delaying, interrupting, or materially reducing another required capability.

(6) The demonstration required under subsection (5) of this section shall account for notification, mobilization, travel, deployment, supervision, safety, rest, relief, logistics, and sustained operations. Reliance on mutual-aid or nondedicated resources must be supported by enforceable access arrangements and realistic notification, mobilization, and travel assumptions.

(7) Ecology may verify the demonstration required under subsections (5) and (6) of this section through tabletop, deployment, or unannounced drills that require simultaneous activation of response functions.

WAC 173-182-610 is the appropriate location for the substantive counting prohibition because it controls Ecology's determination of which resources may be counted when evaluating plan adequacy.

Environmental Resource Protection Should Include Operational Standards for Nonfloating Oils

Friends of the San Juans supports Ecology's proposal to require identification of water-column and benthic resources potentially affected by nonfloating oil spills. However, resource identification alone is insufficient. The preliminary draft currently requires resource identification and consideration of physical conditions but does not expressly connect those requirements to personnel, assessment methods, deployment time frames, or operational decisions. Ecology should also establish expectations regarding operational response capability, assessment methods, and deployment timelines necessary to protect those resources.

Recommended revisions to preliminary draft [WAC 173-182-510](#), Requirements for response and protection strategies

Pages 115-116, lines 1948-1953

WAC 173-182-510(2)(b)(i):

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(i) Identification of sensitive resources shall not be limited to surface and shoreline species at risk from floating-oil spills but shall also include water-column and benthic species at risk from sunken, submerged, or nonfloating oil spills and the locations, seasons, life stages, and ecological conditions that may increase their vulnerability.

WAC 173-182-510(2)(b)(ii):

(ii) Additional nonfloating-oil considerations include identification of waterway depths, water density, sediment load, seafloor or river-bottom types, and response options based on those factors and risks from nonfloating-oil spills. The plan shall also identify:

(A) Methods for assessing threats to water-column and benthic resources;

(B) Sampling, detection, delineation, mapping, and monitoring methods;

(C) Qualified personnel and equipment necessary to implement those methods;

(D) Notification, mobilization, arrival, and deployment time frames;

(E) Procedures for incorporating assessment results into response priorities and tactics;

(F) Procedures for consulting with affected tribes and incorporating Tribal expertise and information into assessment and response decisions; and

(G) Procedures for evaluating whether a proposed action could remobilize oil, increase exposure, or cause additional ecological or cultural-resource injury.

Strengthen Existing Drill Requirements to Protect Southern Resident Killer Whales

Friends of the San Juans supports Ecology's proposal to add wildlife deterrence deployment drills and strengthen planning requirements associated with Southern Resident killer whale protection. A major oil spill will require rapid deployment of trained personnel, equipment, and pre-approved deterrence resources; reconnaissance to determine the whales' location and direction of movement; and continuous monitoring as conditions change.

Requiring a wildlife-deterrence deployment drill once per triennial cycle is an important improvement. However, effective deterrence capability depends upon more than the existence of plans and equipment. Drill objectives and evaluation criteria should be measurable and should test whether the relevant personnel and resources can perform their assigned functions under realistic conditions.

The preliminary draft includes important new whale-reconnaissance and deterrence provisions, but it does not specify measurable expectations for callout, reconnaissance initiation, information transfer, sustained operations, or unified-command integration.

Given the potentially irreversible impacts of an oil spill affecting Southern Resident killer whales, Ecology should adopt the most protective preparedness standards reasonably achievable. Ecology's [September 18, 2026, letter](#) states that oil spills are among the most significant threats to the survival of Southern Resident killer whales.

**Recommended revisions to WAC 173-182-540, Planning standards for wildlife response
Pages 122-126, lines 2072-2152**

WAC 173-182-540(2)(b), lines 2085-2092:

- (b) Equipment and personnel for whale reconnaissance, if these animals may be present in the areas where the plan holder operates or transits, including:
- (i) Contact information for providers of aircraft capable of supporting aerial reconnaissance and deterrence beyond the immediate spill area to locate whales, which may include Southern Resident killer whales;
 - (ii) Contact information for persons or organizations that can identify whales, which may include Southern Resident killer whales, from aerial observation and support field-reconnaissance activities; and
 - (iii) Notification, callout, mobilization, communications, aircraft and vessel availability, data-transmission, replacement-personnel, and sustained-operations procedures sufficient to provide timely information concerning whale locations and movements to the wildlife branch and unified command.

WAC 173-182-540(2)(d), lines 2097-2103:

- (d) Based on the areas where the plan holder operates or transits, equipment and personnel to conduct monitoring and deterrence operations to prevent whales, which may include Southern Resident killer whales, from encountering spilled oil. The plan shall include contact information for a list of vessels, which may be whale-watching vessels, that have been vetted, trained, and equipped to support killer whale deterrence operations. The accuracy of the contact information shall be verified in tabletop drills. The deployment capability shall be tested in multiple-plan-holder deployment drills and during the wildlife-deterrence deployment drill required by WAC 173-182-710. The plan shall identify measurable performance expectations for personnel availability; notification and callout; initiation of reconnaissance; communications interoperability; resource mobilization; field deployment; transfer and use of whale-location information; integration with unified command and the wildlife branch; documentation of operational decisions; and sustained reconnaissance, monitoring, and deterrence across multiple operational periods.

Incorporate Shoreline Cleanup Assessment Technique (SCAT) into Shoreline Planning Standards

Friends of the San Juans supports Ecology's proposal to incorporate SCAT into shoreline cleanup planning standards. However, the principal recommendation of the BAP SCAT workgroup was not simply to add references to SCAT. The workgroup recommended an integrated Shoreline Response Program framework linking shoreline assessment and shoreline spill response within a unified operational structure.

Shoreline assessment is frequently mobilized after significant shoreline oiling has already occurred. Delayed assessment can limit opportunities to establish baseline conditions, identify priority areas, direct protection strategies, and inform early spill response decisions.

The preliminary draft already introduces a Shoreline Response Program and identifies key Shoreline Cleanup Assessment Technique personnel. These recommended revisions connect assessment and cleanup functions and require earlier assessment mobilization that would better support Washington State's objective of promptly and properly removing the spilled oil and minimizing environmental damages.

Recommended revisions to preliminary draft [WAC 173-182-522](#), Planning standards for shoreline cleanup

Pages 118-120, lines 1996-2037

Revise subsection (1), beginning at line 1996:

- (1) Each contingency plan shall describe the process and resources for establishing a Shoreline Response Program that integrates shoreline assessment, protection, cleanup, data management, and operational decision-making. The plan shall:
 - (a) Include a list of qualified personnel to manage ~~a shoreline response program~~ shoreline assessment and shoreline cleanup functions. At a minimum, the list shall include:
 - (i) Shoreline Cleanup Assessment Technique (SCAT) coordinator;
 - (ii) SCAT field-team manager;
 - (iii) SCAT data manager; and
 - (iv) Shoreline cleanup supervisor or operations coordinator.
 - (b) Identify shoreline types that could be impacted by an oil spill and procedures ~~to determine~~ for determining appropriate response tactics for potentially impacted shorelines during spills.
 - (c) Describe how data will be collected, managed, shared, and communicated to unified command, the operations section, the planning section, natural-resource trustees, affected tribes, landowners, and affected communities, as appropriate.
 - (d) Describe the organizational relationship between shoreline assessment and shoreline cleanup functions and how assessment information will inform protection priorities, cleanup objectives, treatment recommendations, operational assignments, and endpoints.
 - (e) Establish procedures for early notification and mobilization of shoreline-assessment personnel when shoreline oiling is reasonably anticipated, including procedures for documenting baseline conditions when practicable.
 - (f) Identify sufficient qualified personnel to conduct shoreline assessment and shoreline cleanup concurrently and sustain both functions across multiple operational periods.
- (2) The plan shall describe contracted access to shoreline-cleanup workers, shoreline-assessment personnel, and shoreline-cleanup equipment to ensure the following

~~capability could have~~ can meet the applicable mobilization and arrival standards.
Notification and mobilization of shoreline-assessment personnel shall begin as soon as shoreline oiling is reasonably anticipated. Shoreline-cleanup workers and cleanup equipment shall be capable of arriving within twenty-four hours of spill notification:

Add a new subsection after WAC 173-182-522(3), line 2037:

(4) During each triennial cycle, shoreline-assessment notification, mobilization, data transmission, and integration with unified command shall be tested during a drill. Ecology may conduct the notification, callout, resource-verification, or mobilization component without advance notice.

Update Aerial Surveillance Requirements and the Incorporation of Uncrewed Aerial Systems with Measurable Performance Criteria

Friends of the San Juans supports Ecology's effort to modernize aerial surveillance requirements and allow the use of Uncrewed Aerial Systems (UAS). The transition toward outcome-based standards is appropriate and can accommodate future technological developments and alternatives to conventional crewed aircraft. However, outcome-based standards are only effective if desired outcomes are clearly defined and measurable.

Without measurable criteria, it will be difficult to verify whether aerial surveillance capabilities satisfy preparedness objectives. The preliminary draft already requires initial and advanced aerial surveillance, trained observers, visual and nonvisual sensing, georeferenced observations, image transmission, and support during darkness and low visibility. These recommended additions establish measurable performance and verification requirements.

Recommended revisions to preliminary draft [WAC 173-182-321](#), Covered vessel planning standards for aerial surveillance

Pages 75-79, lines 1425-1508

Add after WAC 173-182-321(1)(b), line 1448:

(c) The plan shall identify measurable performance specifications and operational limitations for each aerial oil surveillance resource, including:

- (i) The oil-detection, delineation, mapping, and tracking capabilities of the resource;
- (ii) Geographic coverage, operating range, endurance, and the frequency with which updated information can be provided;
- (iii) Capabilities and limitations during darkness, low visibility, precipitation, high winds, restricted airspace, and other representative operating conditions;
- (iv) Capabilities for wildlife reconnaissance, shoreline-assessment support, and situational awareness;

(v) Procedures and time frames for transmitting georeferenced imagery, observations, and other usable information to unified command and field personnel;

(vi) Procedures for maintaining continuity of surveillance during the initial seventy-two hours of a discharge; and

(vii) Communications, battery life, range, payload, sensor, launch-and-recovery, airspace, weather, and other operational constraints.

WAC 173-182-321(3), line 1453:

(3) In order to provide best achievable technology for aerial oil surveillance, plan holders shall also provide for access to a helicopter, fixed-wing asset, uncrewed aerial system, or other aerial oil surveillance asset, under contract or other approved means, that individually or in combination with other resources can provide a strategic picture of the overall spill; assist in location of slicks when they are not visible by persons operating at or near the water's surface or at night; extend the hours of clean-up operations to include dark and low-visibility conditions; and identify oceanographic and geographic features toward which oil may migrate.

Add after WAC 173-182-321(4), line 1508:

(5) The availability, capabilities, and performance specifications identified under this section shall be demonstrated during drills conducted under WAC 173-182-700 and 173-182-710. Ecology may require testing under representative operating conditions, including darkness or low visibility, when a plan relies on capabilities intended for those conditions.

Improve Operational Readiness

The draft rule appropriately recognizes that the purpose of the drill program is to ensure contingency plan components function to provide prompt and proper removal of spilled oil. However, the rule continues to emphasize scheduled exercises rather than demonstrated readiness.

Actual spills do not occur during business hours, on predetermined schedules, or after personnel have had time to prepare. Scheduled exercises allow participants to address logistical issues beforehand, ensure staffing availability, and stage equipment in ways that are not representative of actual spill conditions. Scheduled exercises provide important opportunities for training and coordination, but they do not independently establish that personnel and resources would be available during an actual spill. Washington's preparedness framework is intended to verify actual response capability, not merely planning compliance.

Expanding realistic readiness testing would better align the drill program with RCW 90.56.210, RCW 88.46.060, and Ecology's obligations under WAC 173-182-621. These statutes expressly require periodic training and drill programs to evaluate whether personnel and equipment remain

operationally ready. WAC 173-182-621 further calls for evaluating whether response technologies are “deployable and effective in a real world spill environment.”

The preliminary draft requires retesting but makes plan amendments and additional training discretionary. These recommended revisions require documented corrective action and verification that the correction was effective.

Recommended revisions to preliminary draft [WAC 173-182-700](#), Drill participation, scheduling, and evaluation

Pages 135-137, lines 2348-2372

WAC 173-182-700(5) and (6), lines 2365-2370:

(5) Objectives that are not successfully met shall be tested again and must be successfully demonstrated within the triennial cycle; except that significant failures, as determined by ecology, shall be retested within thirty calendar days. A material deficiency or significant failure, as determined by ecology, shall be addressed through corrective action and retested within a time established by ecology that may not exceed thirty calendar days unless ecology approves a longer period in writing based on the nature of the corrective action required.

(6) Where plan deficiencies have been identified in the written evaluation, plan holders ~~may be required to make specific amendments to the plan or conduct additional training to address the deficiencies~~ shall, within the time specified in ecology’s written drill evaluation, submit a written corrective-action plan that:

- (a) Identifies each deficiency and its cause;
- (b) Identifies the actions necessary to correct the deficiency;
- (c) Assigns responsibility for each corrective action;
- (d) Establishes an enforceable completion date;
- (e) Identifies any necessary plan amendment, training, equipment change, access arrangement, or staffing change; and
- (f) Describes how completion will be documented.

Recommended addition after WAC 173-182-700(6):

(7) Ecology shall require follow-up testing sufficient to verify that corrective actions have remedied each material deficiency or significant failure. Drill credit shall not be granted for the applicable objective until successful follow-up testing has been completed.

Air Monitoring Standards Should Be More Performance-Based to Better Protect Public Health

Ecology’s improvements to community and responder air-monitoring requirements remain largely descriptive rather than performance-based. Oil spills can expose responders and nearby

communities to volatile and hazardous substances. The composition and concentration of those substances may change as oil weathers or as response operations proceed.

Community air monitoring should begin early enough to inform protective actions, not only after potential exposure has raised public concern. Contingency plans should identify the personnel, equipment, mobilization procedures, data-management systems, and communications protocols necessary to establish monitoring promptly. The preliminary draft covers these subjects in general, but it mostly requires descriptions rather than measurable deployment, monitoring, reporting, and communication procedures.

Timely public access to health-related information is an important element of spill preparedness. Contingency plans should address how information will be communicated to the public. This information should be presented in formats that affected communities can understand and use.

Air monitoring and public communication capabilities should also be tested during drills, including Ecology-initiated unannounced drills. Exercises should evaluate personnel availability, equipment mobilization, monitoring-site selection, data transmission, coordination with public-health authorities, and communication of protective information.

Consistent with the CR-101's emphasis on responder safety, timely and effective spill response, modern agency practices, and clarification of existing requirements, Ecology should strengthen the existing air-monitoring planning standards so that they provide measurable and operationally useful preparedness requirements.

Recommended revisions to preliminary draft [WAC 173-182-535](#), Planning standards for air monitoring

Pages 121-122, lines 2050-2067

Revise the introductory sentence:

Plans shall include ~~a narrative description of~~ measurable procedures and performance standards addressing applicable federal, state, and local requirements and the plan holder's resources for conducting air monitoring to protect oil spill responders and the public, including:

Revise and expand the listed requirements:

- (1) ~~A description of how~~ Procedures and deployment time frames for initial site safety assessment for responders ~~will occur~~;
- (2) ~~A description of how~~ Procedures, coverage expectations, monitoring frequency, and action levels for work-area air monitoring ~~will occur~~;
- (3) ~~A description of how~~ Procedures, deployment time frames, coverage expectations, and monitoring frequency for community air monitoring (area-wide monitoring) ~~will occur~~;

- ~~(4) A description of Identification of air-monitoring instruments, instrument detection limits, calibration requirements, quality-assurance and quality-control procedures, and data-validation procedures that will be used;~~
- (5) A description of action levels for various oil constituents of concern based on products handled or transported under the plan, including constituents associated with the oil and any known diluents, additives, or blending agents, and including benzene, hydrogen sulfide, etc.;
- ~~(6) Criteria for selecting and adjusting monitoring locations based on spill trajectory, product weathering, wind and weather conditions, topography, population, sensitive receptors, response activities, and available background information;~~
- ~~(7) Procedures for establishing background conditions when practicable and for increasing, relocating, or otherwise adjusting monitoring when conditions change or action levels are approached or exceeded;~~
- ~~(6) (8) A description of Data management protocols procedures and required reporting time frames to the unified command;~~
- ~~(7) (9) A description of how communication methods to at-risk populations will be managed under unified command Procedures for coordinating with tribal, state, and local public-health authorities and communicating monitoring results, health advisories, exceedance notifications, and protective-action recommendations to affected communities;~~
- ~~(8) (10) A description of how Action levels, procedures, and decision criteria through which evacuation zones and shelter-in-place criteria are established;~~
- (11) Identification of the personnel, equipment, access arrangements, equipment locations, mobilization procedures, communications systems, and data-management systems necessary to establish responder and community air monitoring within the applicable time frames;
- (12) Procedures for timely public access to monitoring results, including preliminary or screening-level results when necessary to inform immediate protective actions and validated data when available. Preliminary information shall be clearly identified as such. Public information shall include monitoring locations and times, substances monitored, health advisories, exceedance notifications, and protective-action recommendations;
- (13) Procedures for providing public information in accessible formats to Tribes;
- (14) Procedures for providing public information in accessible formats and through methods reasonably capable of reaching people with limited English proficiency, people with disabilities, and communities without reliable internet access; and
- (15) Procedures for testing air-monitoring and public-communication capabilities during drills, including personnel availability, equipment mobilization, monitoring-site selection, data transmission, coordination with public-health authorities, and communication of protective information.

Recommended revisions to preliminary draft [WAC 173-182-310](#) Planning standards

Page 65, Lines 1234-1247

Recommended revisions and additions to WAC 173-182-310(1) and (2):

(1) Ecology ~~will~~ shall apply a planning standard when determining the ability of a plan holder to meet the requirements of these regulations. Each planning standard ~~is subject to verification at scheduled or unannounced drills.~~ must be met continuously throughout the period of plan approval and must be verified through scheduled or unannounced drills, inspections, equipment deployments, call-out tests, record reviews, equipment testing, or other evaluations authorized under this chapter. In an actual spill event, initial deployment ~~shall be guided by safety considerations~~ must be guided by responder and public safety, protection of natural, cultural, and economic resources, and the need to contain and control the spill as rapidly and effectively as practicable. A plan holder must anticipate reasonably foreseeable hazards and maintain the procedures, training, personal protective equipment, monitoring capability, and alternative response tactics necessary to conduct response operations safely and effectively. The responsible party must address the entire volume and full extent of an actual spill regardless of the planning standards. Addressing the spill includes all containment, recovery, protection, monitoring, nonfloating oil response, shoreline assessment and cleanup, wildlife response, waste management, and other actions required by applicable law and necessary to minimize harm from the spill.

(2) A plan holder must demonstrate that the personnel, equipment, materials, procedures, contracts, training, communications, transportation, and logistical support identified in the plan can be mobilized, deployed, operated, maintained, and sustained within the applicable planning timeframes. Verification must account for reasonably anticipated operating conditions, including darkness, visibility, weather, sea state, currents, tides, seasonal conditions, access limitations, communications constraints, and the physical and chemical properties and behavior of the oils covered by the plan.

(3) When a drill, inspection, spill response, or other evaluation identifies a deficiency in a plan holder's ability to meet an applicable planning standard, Ecology must require corrective action within a timeframe established by Ecology. Corrective action may include amendments to the contingency plan, additional equipment or personnel, revised contracts or procedures, additional training, or further verification through a drill or deployment.

~~(2) (4)~~ (4) The planning standards described in this chapter ~~do not constitute cleanup standards that must be met by a plan holder of a contingency plan~~ are preparedness and response-capability standards and do not establish a guaranteed cleanup outcome or limit the duties of a plan holder, responsible party, or other person during an actual spill. Failure to remove a discharge within the time periods set out in this ~~section~~ chapter does not, by itself, constitute failure to comply with a contingency plan ~~for purposes of this section or for the purpose of imposing administrative, civil, or criminal penalties under any other law.~~

(5) Nothing in this section limits:

- (a) The duty to promptly and properly contain, recover, remove, and clean up oil;
- (b) The duty to minimize harm to human health, the environment, natural and cultural resources, and public and private property;
- (c) The obligation to implement the approved contingency plan and comply with lawful directions issued during the response; or
- (d) Ecology's authority to determine compliance or pursue enforcement based on the totality of the circumstances.

Incorporate Best Achievable Protection Comments into Rule Implementation

Friends of the San Juans submitted comments, requested revisions to Chapter 173-182 WAC, and participated in workgroups during the 2025 Best Achievable Protection (BAP) process. One comment was for revisions to [WAC 173-182-370](#), San Juan County planning standard, to require response equipment and resources to meet the four- and six-hour planning standards be resident (staged at a location within San Juan County). The San Juan County Planning Standard Area includes Haro Strait and Boundary Pass. This same request was previously made by the San Juan County Council during the 2012 rulemaking and again by ENGOs during the 2019 rulemaking. Ecology's response to this request, in the March [2025 Best Achievable Protection Survey Results Summary](#), stated:

A workgroup is not needed at this time. We can incorporate this issue into the rule scope and consider it during rulemaking.

The only explanation for why this request was not incorporated into the rule scope and considered during rulemaking was an email reply stating, "we are not changing the San Juan County planning standard during this rulemaking." Ecology's statement that it could incorporate this issue into the rule scope and consider it during rulemaking reasonably created an expectation that the preliminary draft or supporting materials would address the recommendation and explain Ecology's decision.

To improve transparency and support implementation of the CR-101's commitment to consider identified recommendations from the 2025 BAP workgroup, Ecology should either incorporate the following requirement into WAC 173-182-621 or commit to an equivalent public documentation process through rulemaking materials or agency practice. Recommendations/comments should result in the intended measurable improvements to Washington's oil spill response preparedness program or, at the least, be included in a document identifying each material BAP recommendation or comment, the corresponding WAC provision, whether the recommendation was accepted, modified, deferred, or declined, and the basis for Ecology's decision.

Recommended revisions to preliminary draft

- [WAC 173-182-621](#), Oil spill contingency plan Best Achievable Protection five-year review
- Pages 128-131, lines 2206-2259

Friends of the San Juans comments on preliminary draft proposal to amend Chapter 173-182 WAC

Add a new subsection at the end, page 131, line 2260:

(7) Following completion of each five-year review, ecology shall make publicly available a response-to-comments document explaining how BAP recommendations and public comments and workgroup recommendations informed the proposed preliminary draft, draft, and final rule, including:

- (a) Identification of each material recommendation evaluated during the review;
- (b) Identification of the corresponding provision of this chapter or other implementation mechanism;
- (c) A statement of whether the recommendation was accepted, modified, deferred, or declined, and the basis for that determination;
- (d) Identification of recommendations that Ecology intends to implement through rule language, contingency-plan review criteria, technical-manual requirements, drill objectives, guidance, pilot testing, or another implementation measure; and
- (e) Identification of operational deficiencies requiring additional technical evaluation, testing, or consideration during the next five-year review.

Conclusion

In summary, the final rule should ensure that capabilities described in contingency plans are measurable, deployable, sustainable, and regularly verified. The final rule should strengthen not only planning requirements but also measurable readiness, Ecology-directed verification, operational performance, corrective action, and accountability.

Please reach out with any questions or to further discuss these comments and recommended revisions. Thank you for your consideration.

Sincerely,



Lovel Pratt

Marine Protection and Policy Director