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Sent via online submission to: [Oil Spill Contingency Plan Rulemaking - Informal Comment Period.](#)

Ms. Alex Colletti
Rulemaking Lead
Spill Prevention, Preparedness, and Response Program
P.O. Box 47775,
Olympia, WA 98504-7775

Re: WSPA Comments on Second Preliminary Draft Language, Chapter 173-182 WAC

Dear Ms. Colletti:

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide comments on the Washington Department of Ecology's second preliminary draft rule language for Chapter 173-182 WAC related to oil spill contingency plan standards. WSPA also appreciates Ecology's continued engagement with stakeholders throughout the rule development process and the revisions reflected in the August 2026 draft.

WSPA is a non-profit trade association that represents companies that safely explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California, Washington, Oregon, Nevada, and Arizona.

WSPA member companies have long partnered with the Department of Ecology (Ecology) Spill Prevention, Preparedness, and Response Program and maintain a strong record of investment in spill prevention, response capability, and continuous improvement in operational readiness. That experience informs these comments.

WSPA previously submitted comments on April 24, 2026 regarding preliminary drill language and on June 17, 2026 regarding the first preliminary draft of Chapter 173-182 WAC. WSPA appreciates that the second preliminary draft ("Draft 2") addresses several of the concerns raised in those comments. In particular, a number of revisions move toward a framework that is more closely tied to demonstrated response capability, provides additional implementation time, and recognizes the value of flexible and multi-objective preparedness activities.

At the same time, certain provisions remain unclear or would impose requirements that appear more prescriptive than necessary to demonstrate actual preparedness and response capability. In several instances, the draft also appears to create tension between provisions intended to promote flexible, integrated response systems and other provisions that could be read to require separate or duplicative compliance activities. WSPA believes these issues can be addressed without diminishing the preparedness objectives of the rulemaking. Rather, additional clarification would help ensure that the final framework is protective, administrable, predictable, and focused on demonstrated operational capability.

General Comments

WSPA appreciates Ecology's efforts to respond to stakeholder feedback between the first and second preliminary drafts. The revisions to phase-in requirements, significant-change provisions,

technical manuals, aerial surveillance, and drill requirements demonstrate meaningful consideration of issues raised during the informal comment process. Ecology's workshop discussions also reflected an emphasis on focusing regulatory requirements on response outcomes and capability rather than prescribing particular technologies or unnecessarily rigid implementation methods. WSPA supports that principle and encourages Ecology to apply it consistently throughout Chapter 173-182 WAC.

Where existing resources, contractor arrangements, integrated exercises, or alternative technologies demonstrate the required capability, the rule should allow those approaches to satisfy the applicable planning standard. Conversely, administrative events or operational changes that do not materially diminish response capability should not independently create noncompliance.

Similarly, where Ecology proposes new requirements that materially increase the frequency of drills, staffing obligations, equipment documentation, reporting requirements, or other operational commitments, WSPA encourages Ecology to clearly identify the preparedness need the requirement is intended to address and explain why existing planning standards, contractor requirements, or integrated exercises are not sufficient to demonstrate the required capability.

Area Contingency Plan and Regional Contingency Plan Implementation (WAC 173-182-130)

WSPA appreciates Ecology's revisions to the phase-in provisions addressing the transition to the Northwest Regional Contingency Plan (NWRCP) and applicable Area Contingency Plans (ACPs).

In our June 17th comments, WSPA requested sufficient advance notice of ACP revisions, meaningful opportunities for stakeholder participation, and a reasonable implementation period before plan holders are required to revise approved contingency plans. WSPA also requested that plan holders not be considered out of compliance solely because an external planning document is revised before corresponding contingency-plan amendments can reasonably be prepared and approved.

Draft 2 provides that plan holders must update references to the Northwest Area Contingency Plan and align plans with the NWRCP and applicable ACPs within 12 months of the rule effective date or adoption of the NWRCP, whichever is later. WSPA appreciates this change and believes the "whichever is later" provision responds constructively to the implementation concern raised in our prior comments. WSPA recommends that Ecology apply the same principle to future material revisions of individual ACPs and Geographic Response Plans (GRPs). Plan holders should receive sufficient advance notice of revisions, meaningful opportunities to participate in their development and review, and a reasonable implementation period before corresponding amendments to approved plans become mandatory.

WSPA also notes that Draft 2 provides, in connection with nonfloating-oil requirements, that where relevant GRPs have not been updated by the applicable phase-in date, plan holders will have 30 days following publication of the GRP to update their plans. Depending on the scope of a GRP revision, contractor coordination, technical review, and Ecology plan-approval requirements, 30 days may not provide sufficient time for a substantive plan amendment.

WSPA therefore encourages Ecology to distinguish between a ministerial update to a citation or reference and a revision that requires substantive changes to an approved contingency plan. Where substantive changes are required, Ecology should provide a reasonable implementation period and should not consider a plan holder out of compliance solely because an external planning document has changed before the corresponding plan amendment can reasonably be prepared, submitted, and approved.

Significant Changes to Approved Plans (WAC 173-182-142)

WSPA appreciates revisions in Draft 2 that more directly connect certain significant-change triggers to compliance with applicable planning standards. In our June 17th comments, WSPA requested that significant-change notification requirements remain focused on changes that materially affect the plan holder's ability to meet planning standards. WSPA specifically noted that routine personnel turnover, temporary equipment movements, maintenance activities, and other operational fluctuations should not trigger reporting requirements when response capability remains unaffected.

Draft 2 appears responsive to this concern in several places. For example, the draft identifies loss of personnel or equipment as significant when the loss results in noncompliance with a planning standard and identifies certain contractual changes based on their effect on response capability. WSPA supports this capability-based approach and recommends that Ecology apply the same principle consistently throughout WAC 173-182-142.

Several categories remain potentially broader than necessary, including movement of more than 10 percent of specified equipment from a home base, transfers of equipment to support an out-of-region response, changes in equipment ownership, and certain personnel changes. These events should constitute significant changes only where they materially affect the plan holder's ability to meet an applicable planning standard.

For example, temporary movement of equipment should not be considered a significant change merely because a numerical percentage threshold is exceeded if equivalent resources remain available and the plan holder continues to satisfy the applicable planning standard. Likewise, deployment of resources to an actual spill response should not itself create a regulatory violation where sufficient backfill or alternative capability remains available.

WSPA also requests additional clarification concerning the 60-day notice requirement for planned significant changes. Draft 2 appropriately recognizes that notice may be provided as soon as practicable where a change occurs within the 60-day period. However, a facility or other plan holder may rely upon an Ecology-approved PRC, WRSP, SMT, subcontractor, or other third party and may neither control nor receive 60 days' advance notice of an equipment relocation, ownership change, staffing decision, or subcontractor change.

WSPA recommends that Ecology clarify the provision along the following lines:

Planned significant changes initiated by or reasonably known to the plan holder shall be reported at least 60 calendar days before the effective date where practicable. Significant changes arising from circumstances outside the plan holder's control shall be reported as soon as practicable after the plan holder becomes aware of the change.

This approach would preserve Ecology's interest in advance notice while avoiding technical noncompliance arising from circumstances outside the plan holder's reasonable control.

Facility Spill Notification Requirements (WAC 173-182-264)

WSPA appreciates Ecology's revisions to proposed WAC 173-182-264 and recognizes that Draft 2 addresses several concerns raised in WSPA's June 17th comments. WSPA previously expressed concern that the first preliminary draft could be interpreted to make all releases to permeable surfaces, including certain secondary containment areas, reportable regardless of quantity or actual environmental consequence. WSPA also requested clarification regarding de minimis releases, secondary containment, spills of unknown volume, and the relationship between the proposed

requirements and existing regulatory programs.

Draft 2 improves the provision by focusing the reporting exception on spills that do not impact or threaten waters of the state, including groundwater. The draft also continues to recognize an exception for qualifying releases within NPDES-permitted systems. WSPA appreciates those revisions. However, Draft 2 introduces a requirement that a spill be “confirmed (within one hour)” to be less than 42 gallons and not impact or threaten waters of the state in order to qualify for the exception. At the same time, reportable spills must themselves be reported within one hour.

WSPA is concerned that these overlapping requirements could create a de facto reporting obligation for small, contained releases simply because facility personnel cannot conclusively determine both spill quantity and potential groundwater impacts within the same one-hour period.

During the initial stages of a release, facility personnel appropriately prioritize personnel safety, source control, containment, and initial assessment. Depending upon the circumstances, a reliable determination of spill volume or the existence of a migration pathway may require additional investigation.

WSPA therefore recommends revising WAC 173-182-264(1)(a) to provide:

Spills known or reasonably determined to be less than 42 gallons that do not impact or reasonably threaten waters of the state, including groundwater.

Alternatively, Ecology could expressly clarify that the inability to conclusively confirm applicability of the exception within one hour does not independently create a reporting obligation where the facts reasonably available to facility personnel demonstrate that the spill is contained and does not threaten waters of the state.

WSPA further recommends retaining the risk-based improvements reflected in Draft 2 while restoring the professional-judgment concepts contained in the existing rule for releases of initially unknown volume. Relevant considerations include whether a release is ongoing, the proximity or pathway to waters of the state, precipitation, shallow groundwater, containment conditions, and other site-specific information reasonably available during the initial assessment. For consistency, WSPA also recommends that Ecology incorporate the same practical feasibility considerations reflected in WAC 173-182-262 into the facility notification provisions.

Finally, Ecology should clarify that WAC 173-182-264 addresses spill events and is not intended to create a separate notification requirement for historical contamination or other conditions independently subject to investigation or remediation under MTCA or another existing cleanup program.

Planning Standards for Aerial Surveillance (WAC 173-182-321)

WSPA appreciates Ecology’s effort to consolidate aerial-surveillance planning standards and to move the rule toward a more capability-based framework. Ecology’s workshop discussions identified an appropriate objective: regulations should focus on the desired mission and operational outcome rather than unnecessarily prescribing a particular aircraft, sensor, or technology. WSPA supports allowing UAS and other technologies to supplement or satisfy aerial-surveillance functions where they can demonstrate the required capability.

Draft 2 makes progress toward that objective by using the broader term “aerial oil surveillance resources.” However, portions of the draft continue to prescribe particular combinations of remote-

sensing systems and detailed technical characteristics. WSPA recommends that the final rule focus primarily on the functions the surveillance system must perform. Those functions may appropriately include locating and tracking oil, providing georeferenced information, supporting direction of recovery resources, operating effectively during darkness or reduced visibility, transmitting useful information to Unified Command, and preserving data needed for response decision-making.

Where a UAS, aircraft-based system, emerging technology, or combination of systems can meet those performance objectives, the rule should provide a straightforward pathway for its use without requiring acquisition or maintenance of duplicative technology solely because it is identified by type in the rule. A performance-based framework will also allow the rule to accommodate technological improvement over the life of the regulation without requiring repeated amendments simply because the most effective surveillance platform or sensor configuration changes.

Technical Manuals (WAC 173-182-349)

WSPA appreciates several revisions Ecology made to the technical-manual provisions in Draft 2. In our June 17th comments, WSPA requested clarification regarding applicability of technical manuals to facility plan holders, questioned whether a separate manual would duplicate information already contained in approved facility plans and contractor documentation, and recommended aligning technical-manual updates with the five-year contingency-plan review cycle.

Draft 2 now provides for a five-year technical-manual review and expressly states that technical manuals are not intended to bind the use of specific tactics during a drill or spill or to guarantee what will occur during an actual incident. WSPA appreciates these changes. WSPA also appreciates the phase-in language allowing plan holders to reference a technical manual developed by an approved PRC. This is an important means of avoiding duplicative documentation where the specialized equipment, personnel, and technical capability are provided through the plan holder's response contractor.

Ecology's technical-manual workshop materials also indicated that the new requirements were intended to better describe and plan for resources already required under the rule, rather than require additional or specific equipment or personnel. WSPA encourages Ecology to ensure that this intent is clear in the final regulatory language.

In particular, because Draft 2 describes the technical manual as a "standalone planning standard," WSPA requests clarification that this phrase refers to the documentation and planning function of the manual and does not create an independent obligation to acquire additional equipment or personnel beyond the resources otherwise necessary to satisfy WAC 173-182-324 and other applicable planning standards. The final language should also continue to permit plan holders to incorporate or reference approved PRC materials rather than reproduce identical equipment descriptions, diagrams, locations, limitations, and personnel information in multiple regulatory documents. Avoiding duplication will improve the accuracy and usefulness of the manuals by allowing technical information to be maintained by the entity that actually owns, operates, and updates the applicable response system.

Shoreline Cleanup and SCAT (WAC 173-182-522)

WSPA supports the objective of ensuring that a Shoreline Cleanup Assessment Technique (SCAT) capability can be established promptly when warranted by an incident. At the same time, Ecology's workshop discussion recognized the importance of distinguishing SCAT functions from shoreline-cleanup labor and of avoiding an overly prescriptive structure so that the response can be right-sized to the particular incident. The workshop also recognized that the NWRCP and applicable

ACPs can provide detailed and more readily updated implementation guidance. WSPA recommends maintaining that distinction in the final rule. WAC 173-182-522 should establish the capability that must be available without unnecessarily dictating the staffing configuration or incident-specific organization that Unified Command must use.

Draft 2 would require plans to include a list of qualified personnel for the SCAT coordinator, SCAT field team manager, and SCAT data manager roles. Ecology should clarify that plan holders may demonstrate access to these functions through qualified contracted organizations or role-based staffing arrangements and need not continually amend a contingency plan merely because individual personnel assigned by a contractor change.

More detailed procedures concerning SCAT team composition, data management, field organization, and incident-specific implementation are particularly appropriate for the NWRCP, ACPs, guidance, and response-specific Incident Action Plans. This would preserve regulatory certainty while allowing SCAT activities to be appropriately scaled to the nature, location, and consequences of an actual spill.

Drill Requirements (WAC 173-182-710)

WSPA appreciates that Draft 2 incorporates several concepts discussed in WSPA's April 24th comments, including continued reliance on the multiple plan holder large-scale equipment deployment drill as a mechanism for demonstrating multiple response capabilities within a realistic, integrated exercise.

WSPA continues to believe that preparedness is most effectively demonstrated through integrated, multi-objective exercises rather than unnecessary repetition of standalone deployments. Large-scale exercises allow plan holders, PRCs, WRSPs, SMTs, agencies, and other response partners to demonstrate how separate capabilities operate together under an Incident Command System during an actual response.

Draft 2 expressly recognizes this principle in WAC 173-182-710(6), providing that the multiple plan holder drill may be incorporated into other drill requirements to avoid increasing the number of drills and equipment deployments otherwise required. The draft further provides that the large-scale drill may include nonfloating-oil response equipment and personnel and equipment for whale monitoring and deterrence. WSPA strongly supports those provisions.

However, Draft 2 also continues to characterize the wildlife rehabilitation drill and wildlife deterrence drill as "additional" deployment drills under WAC 173-182-710(8) and (9). This creates uncertainty as to whether a plan holder that successfully demonstrates those capabilities during the multiple plan holder drill must nevertheless conduct separate standalone deployments.

The uncertainty is particularly apparent for whale deterrence. Proposed WAC 173-182-540(2)(d) states that whale-deterrence deployment capability will be tested in multiple plan holder deployment drills. WAC 173-182-710(9), however, can be read to require another separate wildlife-deterrence deployment every three years.

Those provisions should be reconciled.

WSPA recommends that Ecology expressly provide that the wildlife rehabilitation and deterrence requirements may be satisfied through the multiple plan holder large-scale equipment deployment drill or another Ecology-approved multi-objective exercise when the applicable equipment, personnel, coordination, and response objectives are adequately demonstrated.

A clarification could provide substantially as follows:

Compliance with subsections (8) and (9) may be demonstrated through a multiple plan holder large-scale equipment deployment drill, another Ecology-approved multi-objective deployment drill, or an actual response for which Ecology grants appropriate drill credit, provided the applicable objectives are demonstrated. A separate standalone deployment drill is not required when those objectives have been successfully demonstrated through such an exercise or response.

WSPA also recommends confirming that the nonfloating-oil deployment requirement in WAC 173-182-710(4)(e) may be satisfied as one of the otherwise required deployment drills, including through an applicable multiple plan holder exercise, rather than functioning as an additional drill.

These clarifications are particularly important for wildlife deterrence. Ecology's workshop materials recognized that plan holders are not independently authorized to conduct Southern Resident Killer Whale deterrence without the necessary federal authorization and that the availability and authority of specialized personnel present practical constraints. Those circumstances make integrated exercises involving the appropriate government agencies and qualified response resources substantially more realistic than requiring each plan holder to independently recreate a deterrence deployment.

WSPA also requests that Ecology clarify applicability of WAC 173-182-710(9). WAC 173-182-540(2)(d) appropriately ties whale-related monitoring and deterrence resources to the areas in which a plan holder operates or transits. By contrast, WAC 173-182-710(9) appears on its face to apply broadly to plan holders. A deterrence deployment requirement should apply only where the corresponding wildlife planning standard is applicable to the plan holder and operating area.

These revisions would preserve Ecology's ability to verify wildlife and nonfloating-oil preparedness while avoiding duplicative deployments, unnecessary pressure on limited specialized resources, and exercises that cannot lawfully or realistically replicate the operational conditions of an actual response.

John Day Dam Staging Area (WAC 173-182-440)

WSPA notes that Draft 2 adds a new planning standard for covered vessel and facility plan holders operating or transiting the Columbia River between river miles 190 and 270.

Because this provision was introduced in the second preliminary draft, affected plan holders have had less opportunity to evaluate its operational assumptions than provisions carried forward from the first draft. The proposed standard includes specific response times, boom quantities, recovery capability, storage requirements, and requirements associated with operations near dams and exclusion zones.

WSPA encourages Ecology to work directly with affected plan holders and response contractors to confirm that the proposed requirements are technically achievable in the relevant operating environment and appropriately account for access, currents, dam restrictions, equipment staging, personnel availability, and applicable federal operating limitations.

Before finalizing this section, WSPA would also appreciate Ecology making available the technical basis for the proposed response times and resource quantities so that affected stakeholders can evaluate whether the planning standard accurately reflects real-world response capability in this portion of the Columbia River.

Conclusion

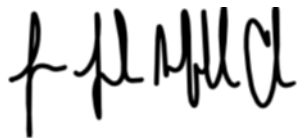
WSPA appreciates Ecology's responsiveness to several issues raised during the first informal comment period. These revisions improve Draft 2 and demonstrate the value of continued stakeholder engagement.

WSPA nevertheless recommends additional revisions to ensure that the final rule remains focused on demonstrated preparedness and environmental protection rather than technical or duplicative compliance requirements. In particular, WSPA recommends that Ecology:

1. revise the one-hour confirmation requirement in WAC 173-182-264 so that small, contained spills do not become reportable solely because an investigation cannot reasonably be completed within 60 minutes;
2. consistently apply a material planning-standard impact threshold throughout WAC 173-182-142;
3. clarify the purpose, scope, and enforceability of facility technical manuals under WAC 173-182-349;
4. clarify that qualifying wildlife and nonfloating oil objectives completed during a multiple-plan-holder large-scale equipment deployment drill satisfy the corresponding deployment requirements under WAC 173-182-710 when the applicable objectives are demonstrated; and
5. continue moving toward performance-based and readiness-based standards that recognize equivalent methods of demonstrating response capability.

WSPA appreciates Ecology's efforts to improve clarity and consistency within Chapter 173-182 WAC and looks forward to continued engagement as the rulemaking progresses. Please do not hesitate to contact me if you have any questions or would like to discuss these comments further at (360) 594-1415 or via email at: amachado@wspa.org.

Sincerely,



Cc: Jessica Spiegel - WSPA