

23 non-governmental organizations (Lovel Pratt)

Comments from Friends of the San Juans, Se'Si'Le, Sierra Club Washington State Chapter, Washington Conservation Action, NRDC (Natural Resources Defense Council), Communities for a Healthy Bay, 350 Seattle, Sound Action, Save Our wild Salmon Coalition, Pacific Environment, Stand.earth, Puget Soundkeeper, Friends of the Earth, Orca Network, 350 Tacoma, Center for Whale Research, Columbia Riverkeeper, The SeaDoc Society, Front and Centered, RE Sources, Climate Solutions, Seattle Aquarium, and Washington Physicians for Social Responsibility

September 30, 2026

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

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](#) proposed amendments to [Chapter 173-182 WAC](#). The undersigned represent 23 non-governmental organizations (NGOs) that work in Washington State on environmental, conservation, and public health and safety issues. Our work includes protecting the health and safety of Washington communities and the Salish Sea marine ecosystem, including the critically endangered Southern Resident killer whales, from oil spill risks and impacts. We support Ecology's efforts to strengthen the state's oil spill contingency plan requirements, including the proposed improvements addressing non-floating oils, responder and community air monitoring, Southern Resident killer whale protection, shoreline assessment, and aerial surveillance.

During Ecology's 2019 rulemaking to update Chapter 173-182 WAC, NGOs requested stronger requirements for non-floating oil response, wildlife protection, unannounced drills, response-resource availability, and operational readiness. Many of those requests were not addressed in the previous rulemaking and we renew those requests for the current rulemaking.

The preliminary draft update does not fully establish measurable standards demonstrating that required personnel, equipment, and response capabilities will be available, deployable, sustainable, and effective during a worst-case oil spill. The final rule should strengthen not only what contingency plans describe, but what plan holders must demonstrate.

Washington State law requires demonstrated operational readiness and establishes a strong mandate for oil spill response preparedness:

- [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 addresses responsible parties' ability to respond to oil 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."

These requirements call for more than planning narratives, technical manuals, diagrams, and equipment lists. They require standards that demonstrate actual operational capability under realistic oil spill conditions and adverse weather conditions.

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 (aka diluted bitumen or dilbit) from 300,000 barrels per day (bpd) to 890,000 bpd.

[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 statements reinforce the importance of ensuring that contingency plans do not rely on insufficient response resources, unsupported assumptions about shared equipment, or unrealistic mobilization and deployment timelines. To address these challenges and satisfy Washington State's regulatory requirements, we ask Ecology to incorporate the following improvements into the final rule.

1. Establish operational standards for non-floating oil spill response

As was requested in 2019, accelerated operational periods and detailed personnel, equipment, and response-capacity requirements are needed to effectively respond to spills of tar sands crude oil and other oils that may submerge or sink.

The final rule should require plan holders to demonstrate the ability to detect, assess, track, contain, and recover floating, submerged, and sunken oil under representative conditions in Washington waters, including Haro Strait and Boundary Pass. Requirements should address personnel, equipment, equipment locations, mobilization and deployment times, operating limitations, storage, logistics, and sustained operations.

Technical manuals should function as operational response tools, not simply planning documents. They should include product-specific information, field-assessment procedures, operational decision tools, response tactics, health and safety procedures, and protocols for transmitting field information to Unified Command.

Ecology should also evaluate whether existing deployment standards are sufficiently protective for oils that may submerge or sink before meaningful containment and recovery can occur.

2. Require immediate access to product information

Responsible parties should be required to provide complete product-characterization information immediately following spill notification or within a clearly defined and appropriately brief timeframe.

Required information should include safety data sheets, physical and chemical properties, diluents, additives, density, viscosity, flash point, weathering characteristics, sinking or submergence potential, and information relevant to responder and community safety and exposure, and environmental behavior. The information should be provided promptly to Ecology, Unified Command, public-health and safety personnel, and affected responders.

3. Strengthen air monitoring and public information

Air-monitoring and protection requirements for responders and communities during the early hours of an oil spill are essential, particularly for spills of tar sands crude oils, also known as diluted bitumen or dilbit. The preliminary draft minimally revises existing requirements for contingency plans to describe responder and community air monitoring, instruments and detection limits, action levels, reporting to Unified Command, communication with at-risk populations, and evacuation and shelter-in-place criteria. These changes are useful but do not establish measurable requirements for timely deployment, product-specific monitoring, geographic coverage, quality assurance, reporting frequency, public access to monitoring information, or readiness testing. The final rule should supplement these narrative requirements with enforceable performance standards, particularly for spills of diluted bitumen and other oils that may release benzene and other hazardous volatile constituents.

Diluted bitumen and other oil spills can release benzene and other volatile organic compounds from its diluent, creating immediate inhalation, fire, and public-health concerns. The [Public Health Assessment for the 2010 Kalamazoo River diluted-bitumen spill](#), documented elevated benzene concentrations that prompted an evacuation recommendation, and exposed residents reported headaches, nausea, respiratory discomfort, eye irritation, and other acute symptoms. Air concentrations may also increase near oil-recovery and excavation activities.

The final rule should require prompt, product-specific responder and community air monitoring, with measurable standards for deployment times, substances monitored, geographic coverage, work-area monitoring, detection limits, action levels, quality assurance, reporting, public-health coordination, and protective actions. Affected communities should receive timely access to validated monitoring information, exceedance notifications, health advisories, and protective recommendations in accessible and understandable formats.

4. Prevent double counting of response resources

The 2019 NGO comments asked Ecology to ensure sufficient resources for simultaneous open-water recovery, shoreline protection, wildlife response, and other essential operations. We renew that request.

The final rule should prohibit unsupported double counting of personnel, vessels, aircraft, equipment, and specialized resources. Plan holders should demonstrate that assigning a resource to one function will not delay or prevent another required function, and that sufficient personnel and logistical support are available to sustain concurrent operations. Reliance on mutual aid or nondedicated resources should be supported by enforceable access arrangements and realistic mobilization assumptions.

5. Connect resource identification to deployable protection

Identifying water-column, benthic, shoreline, wildlife, cultural, and treaty-protected resources is important, but identification alone is insufficient.

Contingency plans should explain how threats to these resources will be assessed, what personnel and equipment will be deployed, when deployment will occur, and how field information will guide response priorities and tactics. Plans should also explain how Tribal expertise and information will be incorporated and how response actions that could remobilize oil or increase ecological harm will be evaluated.

6. Strengthen Southern Resident killer whale protections

Ecology's September 18, 2026, letter identifies "the ever-present risk of a strike or a spill" as a significant threat to Southern Resident killer whales. The final rule should establish measurable standards for rapid reconnaissance, continuous monitoring and deterrence, trained personnel, year-round vessel and aircraft availability, authorized deterrence resources, communications, information sharing, and sustained operations. Requirements should address coordination among Tribes, First Nations, federal and state/provincial agencies, responders, Unified Command, and the Wildlife Branch.

7. Require unannounced readiness testing and corrective action

Scheduled exercises provide valuable training, but they do not independently establish that personnel and resources would be available during an unexpected oil spill. The final rule should require at least one Ecology-initiated unannounced equipment deployment drill for each plan holder during every triennial cycle.

Unannounced drills, including equipment deployment drills, should periodically test non-floating oil spill response, wildlife reconnaissance and monitoring and deterrence, shoreline assessment, air monitoring, response contractors, spill management teams, and simultaneous demands on shared resources.

When a drill identifies a material deficiency, the rule should require a written corrective-action plan, an enforceable completion date, documentation of completion, and follow-up testing.

8. Integrate shoreline assessment and cleanup

The final rule should incorporate shoreline assessment into a coordinated Shoreline Response Program. It should require early mobilization, connect assessment findings to protection and spill response decisions, provide sufficient personnel for concurrent assessment and response operations, and support coordination with Tribes, natural-resource trustees, landowners, and affected communities.

9. Establish measurable aerial-surveillance standards

Requirements for crewed and uncrewed aerial surveillance should address mobilization time, geographic coverage, oil detection and tracking, wildlife reconnaissance, shoreline-assessment support, night-time and low-visibility operations, continuity of surveillance, and transmission of useful information to Unified Command. These capabilities should be tested under realistic oil spill conditions and adverse weather conditions.

10. Address Best Achievable Protection Recommendations

Ecology needs to improve transparency and accountability for the public and NGOs to meaningfully participate in these rulemakings. Ecology should:

1. Publish a crosswalk identifying each material recommendation, the corresponding WAC provision, whether it was accepted, modified, deferred, or declined, and the basis for that decision.
2. Identify recommendations that will be implemented outside the rule, including through guidance, plan-review criteria, technical manuals, or drill objectives.
3. Use the recommendations to establish measurable preparedness and drill standards for non-floating oil response, Southern Resident killer whale protection, shoreline response, and responder and community air monitoring.
4. Establish a documented process and timeline for addressing operational gaps and unresolved recommendations.
5. Publish a response-to-comments document explaining how the Best Achievable Protection recommendations informed the final rule.

These steps would help ensure that the Best Achievable Protection process produces measurable improvements in Washington's oil spill preparedness program.

When Ecology agrees that a deficiency exists but does not address it in the final rule, it should identify how and when the deficiency will be addressed through plan-review criteria, technical manuals, drills, or another publicly accountable process.

Conclusion

In this rulemaking, we ask Ecology to adopt many of the same oil spill response preparedness improvements that many of our organizations requested in 2019. These are longstanding issues involving non-floating oil response, public health, simultaneous demands on shared resources, wildlife protection, and verified operational readiness.

The final rule should:

1. Establish measurable operational requirements for non-floating oil response.
2. Require prompt access to complete product information.
3. Strengthen responder and community air monitoring.
4. Prevent unsupported double counting of personnel and equipment.
5. Connect resource identification to deployable protection.
6. Strengthen Southern Resident killer whale reconnaissance and deterrence.
7. Require periodic unannounced readiness testing.
8. Establish corrective-action and follow-up testing requirements.
9. Integrate shoreline assessment and cleanup.
10. Establish measurable aerial-surveillance standards.

11. Explain how the final rule addresses the Best Achievable Protection recommendations.

Washington State law requires contingency plans that are capable of responding promptly and properly to a worst-case oil spill, personnel and equipment that remain operationally ready, and response capabilities that are deployable and effective in real-world conditions, including adverse weather conditions. The final rule should give full effect to these requirements through measurable standards, realistic testing, independent verification, corrective action, and accountability.

Thank you for considering these comments.

Sincerely,

Friends of the San Juans
Se'Si'Le
Sierra Club Washington State Chapter
Washington Conservation Action
NRDC (Natural Resources Defense Council)
Communities for a Healthy Bay
350 Seattle
Sound Action
Save Our wild Salmon Coalition
Pacific Environment
Stand.earth
Puget Soundkeeper
Friends of the Earth
Orca Network
350 Tacoma
Center for Whale Research
Columbia Riverkeeper
The SeaDoc Society
Front and Centered
RE Sources
Climate Solutions
Seattle Aquarium
Washington Physicians for Social Responsibility