

Western States Petroleum Association (Antonio Machado)

WSPA appreciates the opportunity to provide feedback on Ecology's preliminary draft rule language for Chapter 173-182 WAC related to oil spill contingency plan standards. Please see uploaded letter, thanks.



Antonio Machado

Director, Northwest Regulatory Affairs and Fuels

June 17, 2026

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

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

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

Dear Ms. Hillyard:

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide feedback on the Washington Department of Ecology's preliminary draft rule language for Chapter 173-182 WAC related to oil spill contingency plan standards. WSPA values Ecology's continued engagement with stakeholders throughout this rulemaking process and remains committed to supporting a preparedness framework that is effective, practical, and grounded in real-world operational capability.

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 Ecology's Spill Prevention, Preparedness, and Response Program and maintain a strong record of investment in spill prevention, response capability, and continuous improvement in operational capabilities.

General Comments

WSPA notes that the draft includes numerous administrative revisions intended to improve readability, update references, enhance consistency, and clarify existing requirements. Several of these revisions also provide additional flexibility within the contingency planning framework. WSPA appreciates Ecology's continued efforts to maintain standards that are flexible, practicable, and performance-based rather than increasingly prescriptive.

WSPA also notes that WAC 173-182-710 (Drill Requirements) has not been modified in this draft and therefore does not reflect the April 13, 2026 preliminary draft language previously issued for stakeholder review. Accordingly, WSPA reiterates and incorporates by reference the comments and concerns described in its April 24, 2026 comment letter regarding that section.

Area Contingency Plans

The draft rule includes more explicit references to Area Contingency Plans (ACPs) throughout Chapter 173-182 WAC. WSPA and its members are interested in remaining actively engaged in future updates to ACPs affecting their areas of operation, particularly because plan holders will be required to maintain contingency plans that are consistent with both regional and area planning documents.

To facilitate compliance, plan holders should receive sufficient advance notice of ACP revisions and meaningful opportunities to participate in the development and review of those updates. WSPA further recommends that Ecology establish a reasonable implementation period following ACP revisions before requiring corresponding updates to approved contingency plans. Plan holders should not be considered out of compliance solely because external planning documents have been revised before plan amendments can be prepared and approved.

Facility Spill Notification Requirements

The draft indicates that language has been modified in WAC 173-182-264(1) (Notification requirements for facility spills to ground or containment that threaten waters of the state), as excerpted below:

(a) All spills are considered reportable spills except;

(i) Spills that are known to be less than forty-two gallons to impermeable surfaces that cannot impact surface water or groundwater, such as asphalt or concrete.

(b) A spill to permeable surfaces, even within secondary containment, is considered to have impacted ground and is reportable.

The proposed language appears to establish a reportable quantity threshold of 42 gallons or more for spills to impermeable surfaces that do not impact surface water or groundwater. However, with the addition of proposed subsection (1)(b), it is unclear what reportable quantity threshold, if any, applies to spills on permeable surfaces. Further, neither “impermeable surface” nor “permeable surface” is defined in Chapter 173-182 WAC.

As a result, the proposed revisions may introduce ambiguity and uncertainty regarding notification obligations. For example, it is unclear whether a de minimis spill to a permeable surface within secondary containment would be reportable regardless of volume. As drafted, the language appears to require plan holders to make case-by-case determinations that may be subject to differing interpretations.

WSPA is also concerned that the proposed language may not be fully aligned with existing requirements in Chapter 173-180 WAC governing facility secondary containment systems. Many Class 1 facilities are currently implementing Ecology's recently adopted secondary containment requirements under WAC 173-180-320, which require containment systems to be sufficiently impervious to prevent impacts to groundwater and allow for spill recovery prior to environmental release. Ecology has also developed guidance regarding permeability standards and compliance expectations associated with these requirements.

Given these existing regulatory controls, it is unclear why all spills to earthen or otherwise permeable secondary containment systems would automatically be considered reportable regardless of volume or actual threat to waters of the state. WSPA encourages Ecology to ensure that the proposed notification requirements are consistent with existing secondary containment performance standards and recognize the protective function of properly designed and maintained containment systems.

WSPA further notes that WAC 173-182-264(1)(a)(vi) currently recognizes an exemption for spills contained within areas controlled by NPDES-permitted systems that are not likely to threaten groundwater and do not exceed applicable federal reportable quantities. Many facility secondary containment areas are designed to drain to NPDES-permitted systems. As such, it is difficult to

reconcile the continued existence of this exemption with a requirement that all spills to permeable secondary containment systems be reported regardless of size or environmental consequence. Additional clarification regarding Ecology's intent would be helpful.

The proposed language may also significantly expand reporting obligations for small, incidental releases that have historically not been considered reportable. As drafted, the rule could be interpreted to require reporting of de minimis releases such as small hydraulic hose leaks, minor fuel overfills, or other incidental operational spills that are promptly contained and cleaned up onsite. WSPA is concerned that such an interpretation could create substantial administrative burden without providing a corresponding environmental benefit.

In addition to concerns regarding de minimis releases, WSPA also requests clarification regarding proposed WAC 173-182-264(1)(c), which states that "A spill of unknown volume and unknown impact to groundwater is reportable." As drafted, this provision could create uncertainty regarding whether reporting obligations apply only to active spill events or also to historical releases, discovered contamination, or other conditions identified during routine operations, maintenance, or site investigations. WSPA is concerned that the language could be interpreted to require reporting of historical or indeterminate conditions that may already be subject to characterization, investigation, or cleanup under existing regulatory programs, including the Model Toxics Control Act (MTCA). Clarification that this provision applies to active spill events, together with a clearer explanation of how it relates to existing MTCA requirements and other cleanup program obligations, would improve implementation and help avoid unnecessary reporting of de minimis releases, historical contamination, or other conditions that do not present an ongoing threat to waters of the state.

To improve clarity and consistency, Ecology should consider using the existing defined term "waters of the state" rather than the undefined term "surface water." Doing so would align the notification requirements with established regulatory terminology and reduce the potential for differing interpretations.

To provide greater clarity and consistency, WSPA recommends retaining the existing language in WAC 173-182-264(1)(a)(i) and removing proposed subsection (1)(b). Alternatively, Ecology should clearly define applicable reporting thresholds and provide definitions for "permeable" and "impermeable" surfaces.

Significant Change Notification Requirements

WSPA requests additional clarification regarding the proposed revisions to WAC 173-182-142 related to significant changes to approved plans. The notification requirements should remain focused on changes that materially affect a plan holder's ability to meet applicable planning standards.

Routine personnel turnover, short-duration equipment movements, temporary maintenance activities, and other operational fluctuations that do not reduce response capability should not trigger reporting obligations. Clarifying this distinction would reduce unnecessary administrative burden while ensuring Ecology receives timely notification of changes that are relevant to spill preparedness and response capability.

Technical Manuals

WSPA requests clarification regarding the scope and applicability of the proposed revisions to WAC 173-182-349 (Technical Manual Requirements). Historically, this section was titled "Covered Vessel

Plan Holder Technical Manual" and applied specifically to vessel plan holders. The proposed title change to "Plan Holder Technical Manual Requirements," together with the addition of new provisions, appears to broaden applicability to facility plan holders as well.

If Ecology intends for facility plan holders to develop and maintain separate technical manuals, this would represent a new requirement for facilities. Facility plan holders currently address non-floating oil detection and response strategies within approved Facility Oil Spill Response Plans and frequently rely on contracted Oil Spill Removal Organizations (OSROs) for specialized response resources and technical capabilities.

WSPA requests clarification regarding the purpose and regulatory value of a separate technical manual requirement for facilities and whether the proposed requirement would duplicate information already maintained within approved contingency plans. Ecology should also explain how this additional requirement would enhance preparedness or response capabilities beyond existing planning requirements. Under WAC 173-182-349, proposed subsection (7) would require technical manuals to be updated every three years. To maintain consistency with existing planning requirements and reduce unnecessary administrative burden, WSPA recommends aligning technical manual updates with the existing five-year contingency plan review, submittal, and approval cycle.

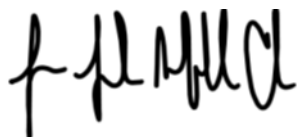
In addition, WSPA requests clarification regarding the intended regulatory status of technical manuals. Because technical manuals are intended to support planning evaluations and may contain operational information that changes more frequently than contingency plans, Ecology should clarify that technical manuals serve as supporting reference documents and are not independently enforceable planning requirements unless expressly incorporated into an approved contingency plan.

Conclusion

WSPA appreciates Ecology's continued engagement with stakeholders and its efforts to improve clarity and consistency within Chapter 173-182 WAC. We appreciate the opportunity to provide these comments and look forward to continued participation throughout the rulemaking process.

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



Antonio Machado

Senior Manager, Northwest Regulatory Affairs and Fuels

April 24, 2026

Sent via email to: spillsrulemaking@ecy.wa.gov

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

Re: WSPA Comments on Preliminary Drill Language, Chapter 173-182-710 WAC

Dear Ms. Hillyard:

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide early feedback on the Washington Department of Ecology's preliminary draft rule language for Chapter 173-182-710 WAC related to oil spill contingency plan drill requirements. WSPA values Ecology's continued engagement with stakeholders during this rulemaking process and remains committed to supporting a preparedness framework that is effective, practical, and grounded in real-world operational capability.

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 Ecology's Spill Prevention, Preparedness, and Response Program and maintain a strong record of investment in spill prevention, response capability, and continuous improvement in operational readiness.

At a high level, WSPA does not believe the proposed updates materially improve ecological outcomes relative to the additional complexity and cost they may impose. While several elements of the draft reflect current practice, the proposal introduces more prescriptive requirements, particularly related to wildlife response and additional deployment drills that raise concerns regarding feasibility, legal authority, resource availability, and overall program effectiveness.

General Comments

WSPA respectfully urges Ecology to maintain oil spill contingency planning standards that are flexible, practicable, and performance-based, rather than increasingly prescriptive. A durable preparedness framework should emphasize demonstrated, sustained organizational readiness rather than the segmentation and repetition of individual drill types. In practice, response capability is most effectively validated through integrated, multi-objective exercises that reflect real-world conditions, rather than discrete standalone deployments that may not meaningfully enhance preparedness outcomes.

WSPA further recommends that Ecology explicitly recognize qualified Spill Management Teams (SMTs), including Incident Command System leadership and Environmental Unit capabilities, as a primary mechanism for demonstrating response readiness. Emphasizing organizational capability over episodic mobilization aligns with proven approaches in other jurisdictions and better reflects real-world response performance. Aligning drill credit, compliance pathways, and regulatory expectations with demonstrated sustained readiness will improve both preparedness outcomes and

efficient use of resources.

Multiple Plan Holder Large Scale Equipment Deployment Drill

WSPA supports Ecology's continued reliance on Multiple Plan Holder Large Scale Equipment Deployment drills (LSEDs) as the central mechanism for demonstrating large-scale response capability. These exercises provide the most realistic and efficient opportunity to test complex coordination, equipment deployment, and operational decision-making under Incident Command System (ICS) structures.

WSPA notes that, in practice, Ecology has historically incorporated key deployment objectives, such as wildlife response, ERTV deployment, and non-floating oil response into LSEDs, allowing plan holders to receive credit without the need for separate standalone drills. This approach has provided an efficient and effective pathway for demonstrating preparedness while minimizing duplicative effort.

Consistent with this established practice, Ecology should make every effort to incorporate these key deployment objectives into LSEDs on a recurring basis so that plan holders can continue to receive appropriate credit. Where such objectives are not included in a given cycle, plan holders should not be required to conduct separate standalone drills, as doing so would introduce unnecessary cost, logistical burden, and strain on limited response resources without a corresponding improvement in preparedness outcomes. WSPA also requests clarification as to whether Ecology intends to include these objectives consistently within LSEDs moving forward.

Wildlife Rehabilitation and Deterrence Deployment Drills

WSPA appreciates Ecology's clarification that wildlife rehabilitation deployment drill credit may be achieved through participation in LSEDs. However, the addition of a new wildlife deterrence deployment drill raises significant operational, legal, and practical concerns that warrant careful reconsideration.

Wildlife response activities, particularly deterrence involving marine mammals and endangered species, are highly specialized and subject to strict federal regulatory constraints. Plan holders generally do not have the legal authority to independently conduct a "take" under the Marine Mammal Protection Act (MMPA). As reflected in the Northwest Area Contingency Plan, whale deterrence operations may only be conducted under federal authorization, typically by the Federal On-Scene Coordinator and pursuant to a National Marine Fisheries Service (NMFS) permit and must be carried out by qualified and specialized personnel.

In addition, the limited availability of qualified wildlife response providers creates practical constraints. Requiring individual plan holders to independently conduct wildlife rehabilitation and deterrence deployment drills on a triennial basis risks overextending these resources, creating scheduling challenges, and increasing costs without a clear or proportional ecological benefit.

Consistent with current practice, wildlife response objectives have been effectively incorporated into LSEDs, allowing plan holders to receive credit when these elements are exercised. Where wildlife objectives have not been included in LSEDs during a given cycle, plan holders have not historically been required to conduct separate standalone drills. Maintaining this approach is important to ensure consistency, clarity, and feasibility.

These considerations underscore the importance of maintaining LSEDs as the primary mechanism for achieving wildlife-related drill objectives. Integrating wildlife rehabilitation and deterrence into

multi-objective, ICS-based exercises allows for realistic testing of capabilities while leveraging appropriate federal oversight and specialized resources. WSPA therefore strongly recommends that Ecology prioritize incorporation of wildlife objectives into LSEDs and avoid requiring standalone wildlife deployment drills, except where site-specific risk or uniquely sensitive environmental conditions clearly justify such requirements.

WSPA also requests that Ecology provide clear guidance to plan holders regarding how these requirements are intended to be met, particularly in light of legal limitations and resource constraints. Where wildlife deterrence activities are necessary, Ecology should consider mechanisms whereby such operations are coordinated, authorized, and potentially funded by the U.S. Coast Guard Federal On-Scene Coordinator, including through a Pollution Removal Funding Authorization (PRFA), with costs recoverable from plan holders as appropriate.

Non-Floating Oil Deployment Drill

WSPA recognizes the importance of maintaining preparedness for oils that may submerge or sink; however, the proposed addition of a standalone non-floating oil deployment drill should be approached with flexibility and consistency with current practice.

Historically, non-floating oil response objectives have been addressed through large-scale, multi-objective exercises, particularly LSEDs, where plan holders have been able to receive credit when these elements are included. Where such objectives have not been incorporated into LSEDs during a triennial cycle, plan holders have not been required to conduct separate standalone drills.

Requiring separate deployment drills for non-floating oil response risks duplicating efforts already achieved through these exercises and may impose unnecessary operational burdens. Ecology should ensure that non-floating oil response objectives are incorporated into LSEDs where practicable and avoid imposing additional standalone requirements unless clearly justified by risk and operational need.

Readiness-Based Approach

WSPA encourages Ecology to align the rule with a readiness-based framework that prioritizes demonstrated capability over prescriptive drill counts. Such an approach better reflects real-world response conditions and supports more effective preparedness outcomes. Recognizing certified Spill Management Teams as a central component of preparedness, integrating multiple objectives within ICS-based exercises, and aligning compliance expectations with sustained organizational readiness will improve overall program effectiveness.

In addition, Ecology should consider applying a risk- and tier-based approach to drill requirements that focuses resources on higher-risk operations and environmentally sensitive areas. Providing flexibility or reduced requirements for lower-risk operations would better align regulatory expectations with actual risk and improve efficiency without compromising environmental protection.

Consistency with Current Practice

WSPA notes that several elements of the draft appear to reflect existing Ecology practices, including the incorporation of multiple objectives into LSEDs and the use of unannounced drills. To the extent this is the case, Ecology should clearly codify these practices to provide transparency and predictability for plan holders while avoiding ambiguity that could lead to inconsistent implementation.

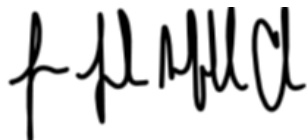
Conclusion

WSPA appreciates Ecology's efforts to engage stakeholders and improve clarity in the drill requirements under Chapter 173-182-710 WAC. As this rulemaking progresses, WSPA respectfully urges Ecology to maintain flexibility, preserve the central role of LSEDs, avoid unnecessary standalone drill requirements, and ensure that new provisions related to wildlife and non-floating oil response are practicable and grounded in legal and operational realities.

WSPA also encourages Ecology to adopt a readiness-based, risk-informed framework that recognizes certified spill management teams, aligns compliance expectations with demonstrated capability, and reflects current effective practices.

WSPA appreciates the opportunity to provide these comments and looks forward to continued engagement. 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,

A handwritten signature in black ink, appearing to read 'Amanda Machado', is positioned below the text 'Sincerely,'.

Cc: Jessica Spiegel - WSPA