

Puget Sound Partnership (Todd Hass)

Dear Rulemaking Team,

Thank you for the opportunity to provide feedback and suggestions on the Preliminary draft rule language for Chapter 173-182 WAC that you posted in August. My agency was a sponsor of a recent Northwest Area Committee meeting of stakeholders and tribes to help guide contingency planning to identify key tactics and equipment to successfully deter Southern Resident Killer Whales from marine oil spills, I am pleased to see this draft include some new drill requirements. I hope that you'll seriously consider my suggestions, i-iv, below for additional refinement at this preliminary stage. I am submitting this before the recommended deadline of September 30, in the hopes that we will have ample time to discuss any follow up questions you may have and better inform your final deadline of October 31, 2026.

(i) Page 138

Please clarify the edited entries in the following Table row as I've indicated in **BOLD ALL CAPS**. This will bring it into closer alignment with my suggestions for page 145 (derived from input during public meetings Ecology hosted last spring), and content from page 144.

Currently:

Wildlife deterrence deployment drill	One per triennial cycle. This is an additional deployment drill.	This drill will be a deployment of wildlife response equipment and wildlife response service provider personnel.	Scheduled at least 90 calendar days in advance.
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Change to:

Wildlife RECONNAISSANCE and deterrence deployment drill	One per triennial cycle. This is an additional deployment drill.	This drill will be a deployment of wildlife DETECTION AND response equipment and wildlife response service provider personnel.	Scheduled at least 90 calendar days in advance.
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(ii) Page 145, Please consider inserting the following new wording as indicated in bold **ALL CAPS** below.

Lines 2490-2491 Once every three years, plan holders must deploy wildlife **RECONNAISSANCE** and response equipment and personnel to demonstrate **THE** ability to **DETECT AND** deter wildlife from oiled areas **DURING DAY AND NIGHT**. This is an additional deployment drill.

Rationale for suggestion above:

Stakeholder discussions noted that there's one thermal camera (soon there will be an additional 2 thermal/hi-resolution cameras) stationed in Puget Sound to detect SRKWs and other cetaceans in near real-time and that wildlife reconnaissance tools for nighttime detections are otherwise generally lacking in Washington. Before efforts for wildlife deterrence can be mounted, wildlife *monitoring and detection efforts must first locate vulnerable animals in the vicinity*. Stakeholder discussions revealed that because Southern Resident Orcas and some other wildlife can be detected and identified at night using infrared technologies, and because reconnaissance and deterrence may provide hazing/protection benefits around the clock (for spills that might occur 24/7), you/we heard from stakeholders—including industry and contractors—that testing the ability of plan holders to conduct wildlife reconnaissance with existing and new thermal devices on support vessels, via underwater hydrophones, and/or shore-based infra-red cameras would be a practical way to pursue, implement and test best achievable protection measures in this update period.

The above is also consistent with a prior section* (page 144) that requires equipment and personnel to conduct “monitoring” to support deterrence for SRKWs, etc.

(iii) The passage below* would be stronger and far more accurate if the word “monitoring” was replaced with reconnaissance or detection. Monitoring implies that wildlife *have already been detected* and are being watched or “monitored,” the following set of suggestions is intended to clarify that targeted, purposeful reconnaissance is a prerequisite to successful hazing and deterrence efforts.

*Page 144 Lines 2470 and 2471: “(G) *Equipment and personnel to conduct ~~monitoring~~ **RECONNAISSANCE** and deterrence operations to prevent whales, which may include southern resident killer whales, from encountering spilled oil*”

(iv) Lastly, I thought I heard support for a new requirement for plan holders to be able to access novel—and not necessarily pre-approved—equipment to support best achievable protection for Southern Resident Killer Whales. Specifically, I am referring to the use of surface-level hukilau nets to provide a semipermeable barrier across waterways where we

don't want killer whales to travel. Deployment of a hukilau represents a tactic that does not risk the animals' entanglement or drowning. Although this is not pre-approved by NMFS, requiring that this tool be readily available across our region for NMFS and the Unified Command to be able to authorize seems a prudent advancement in the state's BAP standard. This also loosely coincides with two recommendations from the 2024 NWAC Southern Resident Killer Whale Deterrence Task Force that called for the consideration of non-acoustic deterrents and taking advantage of navigational "chokepoints" throughout the Salish Sea to steer orcas away from spill areas.

Best regards,

Todd Hass, PhD

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