2025 Best Achievable Protection Survey Results Summary

March 2025

Complete comments received are included as an appendix in this document.

Area of Interest	Summary of Comments	Workgroup	Ecology Response
Non-Floating Oils	Enhance preparedness and capability to respond to non-floating oils. This concern is related to the increased transport of diluted bitumen via vessel and pipeline.	Yes	It is necessary to re-visit current rule requirements and assess if there are new response technologies or processes that can be adopted.
San Juan County Planning Standard Equipment Residency	Require response equipment and resources to meet the four- and six-hour planning standards be staged at a location within San Juan County (resident).	No	A workgroup is not needed at this time. We can incorporate this issue into the rule scope and consider it during rulemaking.
Whale/Wildlife Deterrence	Develop a more specific framework for plan holders and contractors to provide timely access to whale deterrence resources in a response.	Yes	There is current work being done by NOAA, Washington Department of Fish and Wildlife, and others to develop a SRKW deterrence framework. We propose to incorporate this current work into the BAP process. We can utilize the information generated by this group into the rule scope and future rulemaking.
Shoreline Clean-up and Assessment	Consider changes to shoreline clean-up planning standards. Consider need for Shoreline Clean-up and Assessment Team (SCAT) deployment plans or for plan holders to contract qualified SCAT personnel. Provide for early-hours SCAT mobilization, SCAT Coordinator/Manager as part of ICS,	Yes	It is necessary to re-visit current rule requirements and assess if there are new response technologies or processes that can be adopted. A workgroup will be beneficial to review best practices and provide recommendations for the scope of the rule to enhance SCAT requirements.

	training, detailed SCAT plans, and best practices for shoreline clean-up.		
Aeiral Surveillance	Consider the use of unmanned aerial aircraft (UAV/drones) as a best practice to achieve a more efficient, timely, and effective means to monitor spills. Unmanned aircraft systems may be more accessible and have different tactical advantages during a spill response.	Yes	The use of UAV has evolved greatly since the rule was last updated. A workgroup could review best practices and provide recommendations for the scope of the rule to include incorporating use of UAV into rule.
ICS Training Qualifications	Provide additional clarity for Incident Command System (ICS) training and personal qualifications including best practices for position qualifications. Include a mechanism for Ecology to review task books and/or qualifications on behalf of private sector responders, plan holders, and SMT personnel.	No	There are currently several mechanisms in place under the existing rule to review Incident Management Team (IMT) position qualifications and training. This is conducted through the contingency plan review process and the Spill Management Team (SMT) and Primary Response Contractor (PRC) application review process. IMT/SMT positions are also tested in drills.
Response information sharing - Access to electronic operating picture and Joint Information System	Consider best practices for all plan holders to create both an electronic common operating picture and an electronic "joint information system (JIS)" for sharing and disseminating incident information to all responders. These systems could be made accessible to all responders who need access to incident information. These systems could be tested during drills to make sure they are accessible to all responders and members of UC.	No	Having a shared platform to store incident documentation that can be accessed by all response partners and agencies is a known gap in preparedness. This issue has been raised with multiple planning bodies (RRT, NWAC, CANUSPAC, etc.). The solution is dependent on state and federal agency IT security systems and protocols. We will continue to work with our response partners on this issue.
Define roles and responsibilities of Qualified Individual (QI)	Consider providing clarity for the role of Qualified Individual (QI) during initial response actions, notifications and within a Spill Management Team.	No	A workgroup is not needed at this time. We can consider this idea during rulemaking. Ecology will solicit additional clarification on this issue with the commenter.
SAFE Products List for	Ecology should maintain a current list of dispersants for which site, area, and ecosystem-specific concerns relative to the use of these chemical agents have been addressed either by submission of	TBD	We are interested in this concept and want to learn more about how this would be done. We believe this would be a collaborative project with the member jurisdictions of Regional Response Team 10.

	available data and information or by supplemental toxicity and efficacy testing. Only products listed on the Northwest Waters Product List may be authorized for use in state waters (and adjoining federal waters?)		
Worst Case Discharge Drills	Consider the possibility of reducing the requirement for Worst Case Drills once every three years to reduce costs.	No	Worst Case Discharge (WCD) drills are a critical element of planning and preparedness. It is critical to maintain this requirement to ensure our response community remains prepared to respond to complex incidents. We are open to discussing ways to reduce costs.
Subject Matter Experts	Provide process for identifying and qualifying subject matter experts as part of Best Achievable Protection (BAP)	No	A workgroup is not needed at this time. We are considering this as we move forward with the BAP process and may consider this idea during rulemaking.

Appendix

2025 Best Achievable Protection Survey Results – Submitted Comments

March 2025

BAP Proposal or Idea Full Comment	Which Washington Administrative Code does your topic most closely align with
Could there be a way to pivot away from WCD drills every 3 years and all the costs and logistics affiliated with that and utilize those funds to sponsor a research study that could make actual differences? We fund and sponsor a study to completion and use this experience in place of a drill.	RCW 90.56.210
Create a process for identifying and qualifying SME's.	
Solidifying the framework for whale deterrence in a response - currently WAECY has planning standards that apply to wildlife response which ensure contracts are in place with competent organizations to ensure a rapid, aggressive, and well coordinated response in case of wildlife being oiled. While whale deterrence has been a hot topic within the response community and it feels that there is an expectation that this will occur, there is little framework to support a plan holder deploying this equipment/these teams and ensuring the proper contracting and payment is in place. As a previous contractor/OSRO on the Aleutian Isle response, we were used to pay deterrence teams with little success or oversight. It also took weeks to get teams in place when a WCD in this area could necessitate a response in hours/days. I feel that this legwork needs to be put in place ahead of time to ensure a seamless and successful response. Separately, as a previous response contractor with hands on experience I would be happy to participate as a subject matter expert on groups as needed.	WAC 173-182-540
Title: SCAT in Contingency Planning Description: Shoreline Cleanup Assessment Technique (SCAT) is a globally recognized standard for oil spill response, providing a systematic approach to evaluating shoreline impacts and guiding cleanup efforts. The Washington Administrative Codes (WAC) regulations contain no explicit requirement for SCAT deployment plans or for plan holders to contract qualified SCAT personnel. To enhance preparedness and ensure a more effective response to spills, we	173-182-250; 173-182-280; 173-182-510; 173-182-522; 173-186-350

propose that WAC regulations be reviewed with a focus on how plan holders can be more prepared for rapid mobilization of qualified SCAT personnel when shoreline impacts are imminent. Below are a few initial topics for a potential working group: -Should SCAT mobilization be an initial response action (173-182-250) when shoreline impacts are imminent? -Although SCAT Program Coordinator is not an official ICS role, SCAT is a standard best practice for spills with shoreline impacts. Should plan holders be required to include a SCAT program manager as a specified member of the spill management team (173-182-280)? -A core goal of SCAT programs is to ensure response activities provide a net environmental benefit (NEB). Should plans require a description of how SCAT will be implemented to achieve NEB (173-182-510)? -Should plans specify how clean-up operations should interact/coordinate with SCAT (173-182-522)? -Should SCAT be considered a necessary resource for shoreline cleanup for rail plan holders (173-186-350)? -What would make an organization qualified as a SCAT provider? Personnel trained as SCAT team members, team leaders, SCAT coordinators, and SCAT data managers. Capability of collecting and managing SCAT data and rapidly producing required response products (oiling maps, STRs, etc.). Experience utilizing the NWACP for the creation of SCAT plans.	
The current rules state that planholders should have access to a helicopter with an externally mounted thermal camera. With uncrewed aircraft systems (UAS) being more common and accessible, and having different tactical advantages on a spill response, plus with the limited availability of this extremely expensive asset, including UAS into this rule set could aid in preparedness by making use of a more commonly available tool.	WAC 173-182-321
Training and personnel qualifications are inadequately defined. ICS position specific training is very difficult and expensive. There is no unified mechanism for the creation and review of ICS qualifications, such as task books, for private sector. Ecology should adopt a best practice, guidelines for position qualifications, and a mechanism for reviewing task books and/or qualifications on behalf of private sector responders, planholders, and SMT personnel.	WAC 173-182-280, 173-182-840

This rule requires pipeline plan holders to create a GIS system that functions effectively as a common operating picture for pipeline responders. As an extension of this rule, Ecology should adopt rules that require ALL planholders to create both an electronic common operating picture and an electronic "joint information system (JIS)" for sharing and disseminating incident information. These systems must be made accessible to all responders who need access to incident information. These systems must be tested during drills to make sure they are accessible to all responders and members of UC. This is to address the increasingly common problem of computer systems being unable to share information due to security restrictions or incompatible systems. This issue is affecting spill response by reducing the interoperability of contractors and limiting the ability to share critical information. Issues range from not being able to share files, not being able to sign plans, not being able to view incident photos, not being able to interface on systems such as Microsoft Teams, etc. Free options for both the common operating picture and JIS exist.	WAC 173-182-515
Primary Focus: The role and responsibilities of the Qualified Individual (QI). Secondary Focus: SMFF and RAC procedures.	WAC 173-182-250 – Initial response actions WAC 173-182-260 – Notification and call-out procedures WAC 173-182-262 – Vessel notification requirements for a discharge or substantial threat of a discharge WAC 173-182-280 – Spill management teams
The Northwest Waters Product List — A New BAP Standard The purpose is to develop and maintain a Northwest Waters Product List as a new BAP standard. There is a need to ensure that products listed on the NCP Product Schedule can be used safely in waters of intended use in this region prior to use. EPA has provided new rules [§ 300.910(g)] to address site, area, and ecosystem-specific concerns relating to ecologically and economically key species (EEKS). There is also a need to plan and prepare for proper disposal of stockpiled products that have been discontinued or are otherwise unusable. The work group will discuss what is needed to develop a proposed new standard under which: 1. Ecology will maintain a current list of dispersants for which	WAC 173-182-325 Planning standards for dispersants. If the standard is needed for other chemical and biological products, the title of this standard may need to change—or a new standard may need to be added for other products. WAC 173-182-900 Recordkeeping. Needed so Ecology may verify compliance with this chapter by examining waste disposal records including records for dangerous waste.

site, area, and ecosystem-specific concerns relative to the use of these chemical agents have been addressed either by submission of available data and information or by supplemental toxicity and efficacy testing. Only products listed on the Northwest Waters Product List may be authorized for use in state waters (and adjoining federal waters?); 2. Products that have been discontinued by the manufacturer will be removed from the Northwest Waters Dispersant List, effective upon notification by the manufacturer. 3. Products are considered expired and unusable when they have reached their expiration date and they no longer meet the applicable efficacy and toxicity listing provisions under § 300.915 and of this chapter, based on testing of representative samples within the previous 12 months. 4. Discontinued products or expired and unusable dispersants will be treated as dangerous waste under WAC 173-303 and disposed of accordingly.	
Revise WAC 173-182-370 San Juan County planning standard to require the resources to meet the four and six hour standards to be resident: Those covered vessel and facility plan holders that transit or operate within San Juan County must meet this standard. The resources to meet the two, three, four and six hour standards must be resident.	WAC 173-182-370
Canadian exports of heavy crude/diluted bitumen increased 930% from late May - November 2024 (see https://rbnenergy.com/both-sides-now-has-the-trans-mountain-pipeline-expansion-shifted-western-canadas-crude-oil-exports). Assess spill response preparedness for spills of heavy Canadian crude/diluted bitumen and revise WAC 173-182-030 (31) "Nonfloating oil" definition and WAC 173-182-324 planning standards for oil spills that may weather and sink -- to ensure BAP.	WAC 173-182-030 (31) and WAC 173-182-324
Proposal: To identify gaps in whale/wildlife deterrence and establish funding mechanisms to ensure continued emergency response preparedness with trained and equipped responders throughout the region. In 2024 the NWAC RRT 10 Southern Resident Killer Whale Deterrence Task Force published their final report. The Tadsk Force goals were to review current whale deterrence response planning and identify responders throughout SRKW's critical habitat and to identify funding	This proposal directly aligns with WAC 173-182-540 https://app.leg.wa.gov/wac/default.aspx?cite=173-182-540 Planning Standards for Wildlife Response

mechanisms to support whale deterrence activities. The Task Force went beyond identifying the use of Vessels of Opportunity and outlined the training, drill, and equipment needs to ensure rapid emergency response is achievable with trained, prepared, and equipped teams. Since the culmination of the Task Force WDFW's Oiled Wildlife Response Team were able to implement two whale deterrence training drills thanks to grant funding from the National Fish and Wildlife Foundation. However, grant funding of this sort is not a long-term solution to funding emergency response preparedness needs for whale deterrence. Challenges related to funding of this aspect of spill response were identified by the Task Force, and the fundamental question posed by the Task Force was "what does a sustainable funding model look like to ensure that response teams are trained and ready to respond?" This question remains pertinent to all wildlife response. Despite the Task Force's best efforts, no clear funding mechanism was identified and thus this remains a critical gap to achieving Best Available Protections, however the foundations for this work have been laid by the efforts of the NWAC RRT 10 SRKW Deterrence Task Force therefore providing the needed springboard to further this work.	
The top-ranked long-term recommendation in the NWAC RRT 10 Southern Resident Killer Whale Deterrence Task Force Final Report that was released in June 2024, sought to improve the best achievable protection of Southern Resident Orcas via "Research efficacy and usability of alternative deterrence methods – e.g., Hukilau surface deterrence, Acoustic Harassment Devices, Genus-wave device, Lubell speakers and playbacks." I propose that this topic seems ripe and well supported for attention by the community that seeks BAP.	This proposal directly aligns with WAC 173-182-540 https://app.leg.wa.gov/wac/default.aspx?cite=173-182-540 Planning Standards for Wildlife Response