April 3, 2025

To: Brent Olson, MS, CSP, CIH
Industrial Hygiene Technical Policy Manager
Division of Occupational Safety and Health
Washington State Dept. of Labor & Industries

Matt Bissell
Oil Spill Prevention, Preparedness,
and Response Program Manager
Washington State Dept. of Ecology

Dear Mr. Olson and Mr. Bissell,

By way of this email, I am submitting a petition for a joint rulemaking to the Dept. of Labor and Industries and the Dept. of Ecology in accordance with RCW 34.05.330.

CONTACT INFORMATION
Petitioner's name: Riki Ott
Name of organization: The ALERT Project (a project of Earth Island Institute)
Mailing address: POB 2195, Vashon, WA 98070
Telephone: 206-853-2855
Email address: riki@alertproject.org

INFORMATION ON RULE PETITION
2. AMEND RULE -- I am requesting the agencies to change existing rules.
List rule number (WAC) if known: WAC 296-824, WAC 296-802, WAC 296-800, WAC 173-182
X **I am requesting the following changes**: Systemic changes -- see attached. The files include redline revisions to existing text with proposed language.
X **This change is needed because**: A joint rulemaking is needed to establish an incident-specific health monitoring and surveillance program for emergency responders in WAC 296-824 and to integrate and implement the health program as a best practice in oil spill contingency plans and response (WAC 173-182), as recommended by the 2023 Health and Safety Task Force chartered by Regional Response Team (RRT) 10 and the Northwest Area Committee (NWAC, including WA, OR, ID).

Further changes are needed to ensure that employee medical records, exposure records including safety data sheets, and analyses using these records that are generated from incident-specific health monitoring and surveillance programs are included under WAC 296-802 Medical and Exposure Records; and that safety data sheets are accessible and available to state agencies under WAC 296-800, Core Safety and Health Rules and WAC 173-182-120, Submitting a Contingency Plan.
X **The effect of this change will be:** To make protecting the health of emergency responders including oil spill responder actionable by establishing prescriptive heath monitoring and surveillance standards and implementing them in oil spill continency planning standards as a best practice, "the highest level of protection."

Please confirm receipt.
Thank you,
Dr. Riki Ott
Director, The ALERT Project
www.alertproject.org

Petition for Joint Rulemaking: Revisions to Establish and Implement an Incident-Specific Health Monitoring and Surveillance Program for Emergency Responders	
The joint need. A joint rulemaking is needed **to establish** an incident-specific health monitoring and surveillance program for emergency responders in WAC 296-824 **and to integrate and implement** the health program as a best practice in oil spill contingency plans and response (WAC 173-182), as recommended by the 2023 Health and Safety Task Force chartered by Regional Response Team (RRT) 10 and the Northwest Area Committee (NWAC, including WA, OR, ID).	
Dept. of Labor and Industries (LNI)	**Dept. of Ecology (ECY)**
Table 1. WAC 296-824. Emergency Response. **The need.** It has long been known by industry and government that emergency response workers get sick below action levels thought to be protective and that PELs and environmental monitoring are unreliable indicators for risk assessment in situations where chemical mixtures or health hazards may be present. In 2024, OSHA proposed prescriptive health monitoring and surveillance programs for emergency response (89 FR 7774). The proposed rule does not apply to the HAZWOPER rule (§ 1910.120). However earlier in 2012, as part of the National Response Team, OSHA supported a technical assistance document for implementing a similar prescriptive health monitoring and surveillance program for HAZWOPER emergency response.[1] Notably, these actions provide for using signs and symptoms of exposure for exposure assessment, in addition to traditional risk assessment based on PELs, in situations where hazardous substances, chemical mixtures or health hazards may be present. The OSHA hazard communication standard (§1910.1200) also provides descriptions of signs and symptoms of exposure. **Proposed revisions to this chapter would** establish prescriptive standards for incident-specific health monitoring and surveillance programs for emergency responders to all-hazard disasters consistent with these policies and practices.	**Table 2. WAC 173-182. Oil Spill Contingency Plan.** **The need.** In 2024, the Health and Safety Task Force, chartered by RRT 10 and the NWAC, determined there was a need to better protect oil spill responders and the exposed public in situations where hazardous substances, chemical mixtures, or health hazards may be present. In such situations, health monitoring based on signs and symptoms of exposure is more reliable for exposure assessment than traditional risk assessment using PEL standards and environmental monitoring. The task force recommended that prescriptive incident-specific health monitoring and surveillance programs be established separately for worker health and public health and be implemented during oil spill response. The task force recommendations were well received by the charterers—and the National Response Team that was briefed by the task force co-chair (and submitter of this joint petition), by invite, at its March 2024 meeting. Parties briefed realized the applicability of the worker health monitoring and surveillance program for all-hazard disasters. **Proposed revisions to this chapter would** implement the prescriptive program that is established as an emergency response standard by LNI, consistent with OSHA's concepts and policies, to provide the highest level of protection for all-hazard emergency responders including oil spills, consistent with ECY standards.

[1] 2012. Emergency Responder Health Monitoring and Surveillance (ERHMS) Technical Assistance Document, 1/26/2012. https://www.nrt.org/sites/2/files/ERHMS_Final_060512.pdf

TABLE 1. WAC 296-824. Emergency Response.		
Rule, Need and Effect	**Examples**	**Suggested Language**
WAC 296-824-099. Definitions. • While the definition for "employee" is broad enough to include a contracted individual who may be a responder (see example), "**responder**" is needed to refer to any on-site field person, including those who are, or will be, temporarily assigned to perform duties at emergency or post-emergency sites. The term is needed to provide appropriate awareness training and medical coverage for all responders. (Note: "Responder" also includes employees and members of public sector emergency response employers in states with OSHA-approved state plans, who are regulated as employees by the State.) • Since 2012, OSHA's hazard communication standard has recognized that certain health hazards are exceptions to standards like PELs that are based on dose-dependent harm (more dose equals more harm). This means that PELs are unreliable indicators for risk assessment for these health hazards (see examples). • Proposed revisions include "**uncertain exposures**" as the third outcome of risk assessment to protect workers when health hazards may be present. The term needs to be defined to be integrated into emergency response and oil spill contingency planning.	**WAC 296-800-099**: "Based on chapter **49.1749.17** RCW, the term **employee** and other terms of like meaning, unless the context of the provision containing such term indicates otherwise, means an employee of an employer who is employed in the business of his or her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is personal labor for an employer under this standard whether by way of manual labor or otherwise." The definition for "**responder**" was adopted from the proposed ER Standard (89 FR 7774 at § 1910.156(b) Definitions, at 8014. See also rationale at 7808. PELs are not reliable indicators for risk assessment when **health hazards**, as defined in WAC 296-800, includes hazard classes of carcinogens, germ cell mutagens, reproductive toxins, or respiratory or skin sensitizers are present (WAC 296-901-14022 Appendix A A.0.4.2. and A.4, consistent with the same sections in 29 CFR § 1910.1200 Appendix A). The definition of "**uncertain exposure**" was adopted from the National Response Team's (NRT) Emergency Responder Health Monitoring and Surveillance (ERHMS) Technical Assistance Document (TAD), 1/26/2012, at 39.	**-099. Definitions** **Responder** means an employee or a standing or temporary assigned member of an ICS unit, PRC, SMT or WRSP team, or an assigned volunteer, who is, or will be, assigned to perform duties on-site in the field at emergency incidents including post-emergency cleanup. Responders are employees in the meaning of chapter 296-800 WAC. **Uncertain exposures** often involve complex chemical mixtures and occur when: (a) The toxicity of the hazard is unknown; (b) PELs have not been established; (c) Health hazards or chemical mixtures with or without hazardous substances or health hazards could be present; or (d) Symptom-based health monitoring indicates the presence of potential chemical exposure.

Rule, Need and Effect	Examples	Suggested Language
WAC 296-824-099. (continued) • In 2024, systemic changes were finalized in the OSHA hazard communication standard § 1910.1200 to recognize that **mixtures** of chemicals with or without hazardous substances and health hazards may present uncertain exposure risks and cause harm at low levels of exposure (89 FR 44144, May 20, 2024). • Language is needed throughout this chapter to account for exposure risk from chemical mixtures and health hazards when PELs are unknown or unreliable and to be consistent with revisions in other OSHA chapters. • When the proposed language is communicated and used in exposure assessment, worker training programs, health monitoring programs, and record-keeping, then the tools are in place to protect all responders from low level chronic or repeated exposures as well as high level acute exposures to hazardous substances, mixtures, and health hazards.	Definitions of "**chemical**," "**mixture**," and "**substance**" were adopted from WAC 296-901-14006, consistent with 29 CFR § 1910.1200(c). The definition of "**danger area**" was adopted from the National Response Team's (NRT) Emergency Responder Health Monitoring and Surveillance (ERHMS) Technical Assistance Document (TAD), 1/26/2012, at 39.	**-099.** (continued) **Chemical.** Chemical means any substance, or mixture of substances. **Mixture**. Mixture means a combination or a solution composed of two or more substances in which they do not react. **Substance**. Substance means chemical elements and their compounds in the natural state or obtained by any production process, including any additive necessary to preserve the stability of the product and any impurities deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition. **Danger area.** Areas where conditions pose a serious danger to employees, such as areas where: (a) Immediately dangerous to life or health (IDLH) conditions could exist; (b) High levels of exposure to toxic substances could exist; (c) Uncertain exposure conditions could exist; or (d) There is a potential for exceeding the lower explosive limit (LEL), also known as the lower flammability limit (LFL), of a substance.

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Rule, Need and Effect	Examples	Suggested Language
WAC 296-824-099. Definitions. • Since the 9-11 disaster (2001), agencies that include emergency response functions have worked towards integrating symptom-based hazard and exposure assessments into hazard communication, awareness training, health monitoring, and record-keeping (see examples). • Since 2012, the hazard communication standard has described signs or symptoms of exposure to various body systems in medical terms and common language to assist employers and employees understand what is being communicated. • Proposed revisions integrate these descriptions of signs and symptoms of exposure into planning standards so these tools can be incorporated into awareness training, risk communication, and medical evaluations and monitoring to minimize harm to professional *and citizen* responders. • Revisions are consistent with language in the globally harmonized system of hazard communication revision 7 (89 FR 44144).	Definitions for **signs and symptoms of exposure** were drawn from the OSHA HazCom Standard and Appendices, the NRT's 2012 ERHMS TAD, and OSHA's proposed Emergency Response (ER) Standard (89 FR 7774, Feb 5, 2024): – WAC 296-901-14022 Appendix A, consistent with 29 CFR § 1910.1200 (e.g., skin, A.2; respiratory symptoms, A.8.2.2.1; central nervous system effects, A.8.2.2.2); and – the BP Deepwater Horizon class action medical benefits settlement, Exhibit 8, Tables 1 and 2 for acute or chronic specified physical conditions.[2] The proposed ER Standard includes numerous examples of symptom-based evaluations and health monitoring, e.g.: (g)(2)(iii) "All medical evaluations must include the following… (A) Medical and work history with emphasis on symptoms of cardiac and respiratory disease…" (g)(3)(B) "For responders who, either immediately or subsequently, exhibit signs or symptoms which may have resulted from exposure to combustion products, medical consultation shall be provided and, if medically indicated, ongoing medical surveillance.	**-099.** (continued) **Signs and symptoms of exposure**, as described in WAC 296-901-14022 Appendix A, include but are not limited to: (a) skin rashes or ulcers, bleeding, bloody scabs, alopecia (hair loss) or scars from skin corrosive/ irritants, itching, scaly skin, blistering, redness, peeling, inflammation or pain, oil acne, acne vulgaris (A.2); (b) respiratory symptoms such as wheezing, cough, difficulty breathing or shortness of breath, chest tightness, watery eyes, runny nose from respiratory irritants (A.8.2.2.1), respiratory hypersensitivity (asthma-like symptom) (A.4.2.1.2.1), sputum production, nose bleeding, throat irritation; or (c) signs of central nervous system depression like severe headaches or migraines, nausea or vomiting, dizziness or vertigo, irritability, fatigue, impaired memory function, deficits in perception and coordination, reaction time, or sleepiness (A.8.2.2.2), fainting, or seizures; (d) conjunctivitis, corneal ulcer, keratitis from eye irritation or eye burn or eye bleeding; or (e) gastrointestinal distress such as nausea, diarrhea, vomiting, abdominal cramps, abdominal pain.

[2] https://www.laed.uscourts.gov/sites/default/files/OilSpill/6.pdf

Rule, Need and Effect	Examples	Suggested Language
WAC 296-824-099. (continued) • **Medical terms**. Language is needed differentiate between health monitoring (for individuals) and health surveillance (of the responder population), as part of an incident-specific medical plan. (Medical definitions for these terms could also be placed in WAC 296-800 Safety and Health Core Rules, if needed.) • Note: Records generated by incident-specific health monitoring and surveillance are "medical records" as defined in WAC 296-802 because "exposure records" as defined in WAC 296-800 and 296-802 do not include "results which assess the biological effect of a substance or agent." This is described further in supporting revisions to WAC 296-800 in Table 3 and WAC 296-802 in Table 4. • **Incident**. The term is needed to differentiate between incident-specific health monitoring and standard medical monitoring.	**Medical terms** "health monitoring and surveillance" were adopted from the NRT ERHMS TAD, at 26. The glossary provides more detailed definitions and functions, at 201. In this chapter and in WAC 296-824 and WAC 296-800, health monitoring and surveillance is used for emergency response incidents as it focuses on general well-being and preventative measures. Medical monitoring and surveillance addresses a disease, condition, or treatment's effects and is used to refer to standard medical monitoring and surveillance programs (not incidents).[3] The definition for **incident** was adopted from the proposed federal rule for Emergency Response § 1910.156(b) (89 FR 7774, at 8013).	**-099.** (continued) **Health monitoring.** The ongoing and systematic collection, analysis, interpretation, and dissemination of data related to an individual incident responder's injury and illness and exposure status, focusing on general well-being and precautionary measures. **Health surveillance.** The ongoing and systematic collection, analysis, interpretation, and dissemination of data related to an incident's emergency responder population as a whole, focusing on general well-being and precautionary measures. **Incident**. Any situation to which an employee or responder responds to perform emergency or post-emergency services.

[3] National Research Council Committee on Review and Disposal of the Army Chemical Stockpile Disposal Program. 2001. Washington (DC): National Academies Press. 3, Health Monitoring. https://www.ncbi.nlm.nih.gov/books/NBK207463/

Rule, Need and Effect	Examples	Suggested Language
WAC 296-824-099. (continued) • **ICS unit**. The term is needed to establish health monitoring units by the smallest response unit as a basis for determining an illness outbreak. • **Illness outbreaks**. Language is needed to establish an unacceptable level of exposure to hazardous substances, mixtures, or health hazards during uncertain exposures to trigger intervention action like "unacceptable exposure" does for hazardous substances when PELs are known. • **Precautionary**. This term is well-established in the medical community: for situations when there is doubt about the presence of a hazard, there should be no doubt about preventing the harm.[4]	The definition for "**ICS unit**" (operable unit) was adopted from the NCP 40 CFR 300.5 which provides more details: "The cleanup of a site can be divided into a number of operable units, depending on the complexity of the problems associated with the site. Operable units may address geographical portions of a site, specific site problems, or initial phases of an action, or may consist of any set of actions performed over time or any actions that are concurrent but located in different parts of a site." Task forces are considered operable units. CDC defines a "**disease outbreak**" as when there are more cases of a disease than expected in a specific time, location, or population.[5] It also found that, on average, 3–11% of the U.S. population has the flu.[6] Since possible signs and symptoms of chemical exposure (and heat stress) mimic the common cold or flu, incident illness outbreaks are set to these standards. A **precautionary approach** is recommended by the ERHMS TAD when uncertain exposures may exist (at 39).	**-099.** (continued) **ICS (operable) unit**: A discrete action that comprises an incremental step toward comprehensively addressing site problems. **Illness outbreak.** (a) When 10% or more of the members of an employee team or a standing or temporary ICS unit develop signs and symptoms of possible overexposure to hazardous substances, mixtures, or health hazards; **OR** (b) When 10% or more of the ICS units during the same shift and working in the same geographic area, develop signs and symptoms of possible overexposure to hazardous substances, mixtures, or health hazards. **Precautionary**. Preventative measures or actions taken to reduce the risk of harm or disease even if the scientific evidence is not conclusive.

[4] Richter ED, Laster R. 2004. The Precautionary Principle, epidemiology and the ethics of delay. *Int J Occup Med Environ Health* 17(1):9-16. PMID: 15212202. https://pubmed.ncbi.nlm.nih.gov/15212202/

[5] https://www.cdc.gov/urdo/php/surveillance/outbreak-case-definitions.html

[6] Tokars JI, Olsen SJ, Reed C, 2018. Seasonal incidence of symptomatic influenza in the United States, *Clinical Infectious Diseases*, 66(10):1511–1518. https://doi.org/10.1093/cid/cix1060

Rule, Need and Effect	Examples	Suggested Language
WAC 296-824-20005. Develop an emergency response plan. • Emergency medical treatment provides immediate care to persons with life-threatening conditions or acute injuries; it does not include first aid as defined by WAC 296-800 or health monitoring and surveillance as established in this chapter. • During emergency response, health monitoring and surveillance are also needed to accurately recognize, diagnose, and treat signs and symptoms of potential exposure to combustion products, carcinogens, and other incident-related health hazards—and to intervene early to minimize long-term harm from these exposures and the illnesses and diseases that may manifest years after exposure. • Health monitoring and surveillance would also provide responders with incident-specific records to track and minimize cumulative work-related harm.	The decades-long legacy of long-term work-related harm to professional and volunteer emergency responders speaks to the failure of past medical programs to cover on-site field responders. This legacy is what drove development of the proposed Emergency Response standard, however, it does not apply to the HAZWOPER standard § 1910.120 (§ 1910.156(a)(2)(ii) – at least as proposed. But in content and intent, it does. The NRT's 2012 recommended guidance for ER health monitoring and surveillance contains similar prescriptive measures for all-hazard emergencies. The three practices outlined in this section provide the framework and are summarized in the ERHMS guide for key decision-makers (2012).[7] This petition proposes to codify these working practices into law.	**-20005. Develop an emergency response plan.** (1) You must make sure your plan is written and adequately addresses... (c) Employee training (see paragraph (1)(f)(ii) in this section and WAC 296-824-30005 and WAC 296-824-50015 for more detail): **Note:** 3. Training on specific substances may be appropriate depending on the number and characteristics of hazardous substances, mixtures, or health hazards expected to be encountered. For example, if employees or responders may only respond to one substance, you could provide training (covering the knowledge and skills specified in Tables 3 through 6) on that single substance. If employees or responders might respond to a range of hazardous substances, mixtures or health hazards, training may be required to cover categories of hazardous substances and health hazards. (e) Medical; (i) Emergency medical treatment and first aid;

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[7] https://www.nrt.org/sites/2/files/ERHMS_Decisionmakers_060512.pdf

Rule, Need and Effect	Examples	Suggested Language
WAC 296-824-20005. (continued) • **Illness outbreaks**. Intervention measures are triggered when high-level exposures are unacceptable, based on environmental monitoring and numeric standards (PELs). Intervention measures are needed when low-level or uncertain exposures are causing harm, based on health monitoring and surveillance of signs and symptoms of exposure. To make the latter actionable, "illness outbreak" is proposed as a quantifiable measure to decide what is unacceptable for symptom-based health monitoring.		**-20005.** (continued) (ii) Incident-specific health monitoring and surveillance (see WAC 296-824-400 for more detail): (A) Pre-deployment activities including rostering and credentialing, baseline health screening, employee and responder training, and data management and security; (B) Deployment activities including exposure assessments, site-specific training, PPE selection, health monitoring and surveillance, communication of health monitoring and surveillance data; (C) Post-deployment activities including employee and responder out-processing and exit health examinations, an after-action medical report, and post-incident health monitoring and surveillance, as needed, with annual updates to the incident medical report; (h) Emergency response procedures, including intervention measures during illness outbreaks (see WAC 296-824-40010); (2) You must make your written emergency response plan available to employees and emergency and post-emergency responders, their representatives, and WISHA personnel for inspecting or copying.

Rule, Need and Effect	Examples	Suggested Language
WAC 296-824-20005. (continued) • **Skilled support personnel**. While skilled support personnel are needed to provide services during emergency responses, this section has been exploited by employers to "temporarily" assign citizen responders to duties that may last weeks or months in situations for which they have not been adequately trained (see examples). • The solution, recommended by the RRT 10 and NWAC 2023 Health and Safety Task is to create two types of skilled support personnel, type I for immediate jobs (as intended) and type II for temporary assigned responders (TARs) to ensure the latter are adequately trained for duties and covered in medical programs. The latter includes shoreline cleanup workers and their supervisors who were *and were not* part of the initial response.	For further justification of skilled support worker type II, see the Health and Safety Task Force report, at 30.[8] Examples of personnel are from WAC 173-182.	**-20005.** (continued) **Table 1. Roles and Duties of Emergency Responders** **If the employee's or responder's role is:** Skilled support personnel type I **Then all of the following apply. They:** • Are needed to perform an immediate, specific emergency support task at the site • Are skilled in the operation of equipment… Skilled support personnel type II **Note**: Temporary assigned responders are considered "responders" in this chapter. • Are needed and assigned to perform a temporary, specific emergency support task on-site in the field, e.g., as a first responder, an aerial observer or spotter, a standing or temporary assigned member of an ICS unit, PRC, SMT or WRSP team, or an assigned volunteer. • Are skilled in performing the assigned task

[8] https://nrt.org/sites/175/files/Health_and_Safety_TF_White_Paper_2024.pdf

WAC 296-824-30005. Train your employees. • The current standard exempts skilled support personnel from this section. Proposed language exempts only skilled support personnel type I who would still be covered under WAC 296-824-50015. • Revisions are needed to ensure skilled support personnel type II who are *temporarily assigned* roles and duties as First Responders Awareness or Operations Levels are adequately trained roles. Similar revisions would be needed to cover other levels of response, if skilled support personnel type II are needed to fill these roles. • Certification of training competency helps hold employers accountable for emergency responder health as certified employees and responders are covered under the WAC 246-15 whistleblower complaints in health care settings. • Revisions are needed to prevent or minimize the long-term suffering and illnesses that are known to be linked to exposures during man-made disasters.	Volunteers and contractors such as Vessel of Opportunity (VOO crews) are temporary assigned responders by nature as nondedicated resources. Ecology currently recognizes this and provides adequate training for Tier I VOO responders with the ability to scale up Tier II responders (see WAC 296-182-317). However, this has never been tested in a large spill. What has occurred, repeatedly in the past, is that the flood of humanity that shows up "to help" with large-scale disasters is put to work with little concern for long-term health consequences. Over a million volunteers presented in Taean, South Korea, to help clean up the *Hebei Spirit* oil spill. When they showed up again to volunteer for epidemiology studies, the scientists called them (and their studies) HEROS: Health Effects to Responders of Oil Spills. The HEROS studies[9] were the predecessor for the two epidemiology studies from the BP Deepwater Horizon disaster. All these studies found chronic harm to multiple body systems that were linked with oil spill exposures – and were evidenced by acute signs and symptoms of exposure.	**-30005. Train your employees and responders.** **Note:** 1. Use Tables 3 through 6 to identify your employees' or responders' training competencies. You must make sure your employees and responders are appropriately trained for their assigned roles and duties as follows: **EXEMPTION:** Skilled support employees, type I, are not covered by training requirements in this section (See WAC 296-824-50015). **Note**: Skilled support personnel, type II (i.e., temporary assigned responders, TARs), are covered by training requirements in this section for the appropriate assigned roles and duties (see WAC 296-824-50015). (1) Initial training: (a) Provide initial training before the employee or responder is allowed to participate in an actual emergency response operation. ... (c) Certify that employees or responders, as applicable, objectively demonstrate competencies specified in Tables 3, 4 and 5. **Note**: Retraining is not required when employees or responders demonstrate competencies annually and a record is kept of the demonstration methodology used.

Deleted: Note: When first responders at the awareness or operations level have sufficient experience to objectively demonstrate competencies specified in Table 3, you may accept experience instead of training.¶

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[9] Park MS, et al. 2019. Health effect research on Hebei Spirit Oil Spill (HEROS) in Korea: A cohort profile. *BMJ Open* 9:e026740. doi:10.1136/ bmjopen-2018-026740

Rule, Need and Effect	Examples	Suggested Language
WAC 296-824-30005. (continued) • Basic awareness training is needed for all on-site field employees and responders listed in Table 1 to recognize signs and symptoms of potential chemical exposure. The success of a symptom-based health monitoring and surveillance program hinges on whether people are adequately trained to recognize the evidence: the signs and symptoms of potential exposure. Without such information, workers are unlikely to report symptoms that can be mistaken for common maladies such as colds or flu, headaches, vertigo, or skin rashes. Without reporting, there can be no surveillance and no triggering mechanism for intervention measures. With no mitigation measures, illness outbreaks occur—and the initiators of long-term harm are in place. • This training is critical for the first responders as other levels incorporate the competencies specified for operations level, but Table 2 should provide minimum training for all on-site field responders. • This training is supported by various OSHA standard interpretations (see examples) and the 2024 HazCom standard that was promoted as a *right to understand* in addition to the right to know.[10]	OSHA standard interpretations support minimum HAZWOPER training levels for different types of employees and clarify the exemption for reporting cold and flu-like symptoms: - Regular employees and contractors who work as emergency or post-emergency responders must have a minimum of 8 to 40 hours of HAZWOPER training. OSHA standard interpretation 1990-10-23 OSHA standard interpretation 2012-03-14 - Off- or on-site first receivers who spend minimal time on-site in the field or at hospitals when receiving incident victims who have not been thoroughly decontaminated must have a minimum of 8-hours of HAZWOPER training. OSHA standard interpretation 2017-03-31 - *Only* common colds or flu are exempt under 1904.5(b)(2)(viii); employers must evaluate the work conditions to make a determination about symptom causation. OSHA standard interpretation 2023-11-15 The hazard communication in training and safety manuals must be understandable to workers like, for example, by providing common symptoms of potential exposure instead of medical jargon.	**-30005** (continued) **Table 2. Minimum Training Durations for All Responders** **If you are a:** First responder at the awareness level **Then:** You need a minimum of 8 hours of training (see Table 3) … Incident Commander… Specialist employees **Then:** You need a minimum of 8 hours of training (see Table 6) Skilled support personnel type II **Then:** You need a minimum of 8 hours of training (see Table 6) Incident Safety Officer **Then:** You need a minimum of 8 hours of training (see Table 6)

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[10] https://www.cdc.gov/niosh/learning/safetyculturehc/module-5/7.html

Rule, Need and Effect	Examples	Suggested Language
WAC 296-824-30005. (continued) • The Hazard Communication standard describes symptoms of exposure to respiratory and skin sensitizers as hypersensitivities to airways as asthma-like breathing difficulties and to skin as chronic rashes. It describes that symptoms can occur with repeated low-level exposures and that low-level exposures may also elicit responses (symptoms) after the initial exposure. • The health risk from exposure to high levels of hazardous substances is communicated to workers. The health risk from exposure to low levels of hazardous substances, mixtures, and health hazards or repeated exposures to these contaminants needs to be communicated to and understood by emergency responders.	Symptoms of respiratory and skin sensitizers: WAC 296-901-140 A.4.1.1-5. "Chemical sensitivity" and "chemical intolerance" continue to defy definitions, however, they best fit the Centers for Disease Control case definition of multi-symptom illnesses. These phrases attempt to characterize the same constellation of allergy-like symptoms (triggered by low-level exposures) that do not fit under the classical definition of allergy. The disease etiology was described in 2021 as an immune system function. Miller CS, et al. 2021. Mast cell activation may explain many cases of chemical intolerance. *Environ Sci Eur* 33, 129. https://doi.org/10.1186/s12302-021-00570-3 Masri S, et al., 2021. Toxicant-induced loss of tolerance for chemicals, foods, and drugs. *Environ Sci Eur* 33:65. https://doi.org/10.1186/s12302-021-00504-z	**-30005** (continued) **Table 3. Competencies for First Responders at the Awareness Level and Operations Level** Employees or responders must be able to show they: - Understand what hazardous substances, mixtures, or health hazards are and their associated risks. - Recognize the presence of hazardous substances, mixtures, or health hazards in an emergency or an illness outbreak. - Can identify... - Understand the potential consequences of hazardous substances, mixtures, or health hazards in an emergency, including the signs and symptoms of potential exposure and an illness outbreak. - Understand the role of a first responder... ... - Know basic hazard and risk assessment techniques, including during uncertain exposures. Awareness Level: X ... - Can implement decontamination procedures to their level of training. Awareness Level: X ...

Rule, Need, Effect, and Examples	Suggested Language
WAC 296-824-30005. (continued) • Minimum training durations for *all on-site field responders*, including Incident Safety Officers and skilled support personnel type II were proposed in Table 2. Table 6 provides expected competencies for these additional responders. • Training for Incident Safety Officers and temporary assigned ICS units, such as VOO crews or Shoreline Cleanup Supervisors and shoreline cleanup crews, provides a pathway for communications to flow from the workers to their immediate supervisors (or captains) to the Incident Safety Officer who reports to Incident Command. This communication pathway is critical to achieve the highest level of health protection for *all responders*.	**-30005** (continued) **Table 4. Competencies for Hazardous Materials Technicians and Hazardous Materials Specialists** Employees must be able to show they: - Have the competencies specified for first responder operations level (see Table 3). ... - Understand hazard and risk assessment techniques, including during uncertain exposures. - Understand basic chemical, immunological, and toxicological terminology and behavior. Understand basic chemical, radiological, immunological, and toxicological terminology and behavior. ... **Table 6. Competencies for Specialist Employees, Incident Safety Officers, and Skilled Support Personnel type II** Employees designated as Specialist Employees or Incident Safety Officers must be able to show they: • Have current knowledge in their field regarding safety and health practices relating to the specific hazardous substance, mixture, or health hazard. • Have the knowledge of the ICS... • Understand the care and use of... • Meet other training requirements, as appropriate for their assigned duties. Employees designated as Skilled Support Personnel type II who are not covered elsewhere in this section must be able to show they: • Have basic awareness training to recognize signs and symptoms of potential chemical exposure. • Understand what hazardous substances, mixtures, or health hazards are and their associated risks. • Understand the potential consequences of hazardous substances, mixtures, or health hazards in an emergency. • Understand how to take intervention measures during an illness outbreak and report it to the Incident Safety Officer.

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Rule, Need and Effect	Examples	Suggested Language
WAC 296-824-400. Medical surveillance. • A prescriptive program that provides health monitoring and surveillance for all on-site field responders is needed to make the priority to protect human life and health actionable.	The basic elements of a prescriptive health monitoring and surveillance program, described in this section, were adopted from the ERHMS TAD and are similar to the prescriptive program described in the proposed Emergency Response standard.	**WAC 296-824-400. Incident-specific health monitoring and surveillance.** To provide and document incident-specific health monitoring and surveillance for your employees and responders. **You must meet the requirements...** Develop a health monitoring and surveillance plan for emergency response WAC 296-824-40005 Provide health monitoring for employees and responders WAC 296-824-40010 Provide health surveillance for employees and responders WAC 296-824-40015 Keep incident-specific medical records WAC 296-824-40020
WAC 296-824-40005. Provide medical surveillance to employees. • SECTION TITLE and CONTENT NEW (old content moved to new section 40010)		**296-824-40005. Develop a health monitoring and surveillance plan for emergency response,** 1) You must develop a written incident-specific health monitoring and surveillance plan for employees and responders that adequately addresses the following:

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Rule, Need and Effect	Examples	Suggested Language
WAC 296-824-40005. (continued) • NEW CONCEPT: Health screening to include baseline chemical sensitivities and chemical intolerances. • This is needed for job placement and the health monitoring program to understand harm from low-level exposures, i.e., why responders get sick at levels below those thought to be acceptable.	In lieu of definitions for chemical sensitivity and chemical intolerance, internationally clinicians and researchers are using a validated diagnostic tool, the QEESI, to evaluate patients and to help patients and their caregivers understand toxicant-induced loss of tolerance (TILT) and avoid key exposures. The QEESI can also be used to track the emergence of TILT following a major exposure event, to compare responder groups for medical surveillance, and to document changes in symptoms and intolerances over time with treatment or avoidance. Hoffman Program for Chemical Intolerance, UT Health San Antonio https://tiltresearch.org/resources/	**-40005.** (continued) (a) **Pre-deployment activities** including: (i) Rostering and credentialing to support four functions; (A) Registration with basic records and credentialing information for each responder; (B) Emergency credentialing (assigning a credential level based on responder certifications and education); (C) Re-verification (periodically verifies responder information); and (D) Emergency badging (assigning an identification badge with credential level); (ii) Health screening – Entrance medical examinations to determine fitness to perform assigned response duties; (A) Establish a baseline physical and mental health status; and (B) Establish baseline chemical sensitivities and intolerances to multiple body systems with a validated survey tool; **Note**: The physician should consult the Hoffman Program for Chemical Intolerance for resources including the quick environmental exposure and sensitivity survey, QEESI (https://tiltresearch.org/resources/). (C) Immunization status; (D) Education, training, and experience;

Rule, Need and Effect	Examples	Suggested Language
WAC 296-824-40005. (continued) • NEW CONCEPT: Adding illness outbreaks as a tool to determine unacceptable exposures based on signs or symptoms of exposure. • This is needed to make the priority goal of protecting worker life and health actionable.	ERHMS TAD recommends a holistic approach that does not rely on environmental monitoring alone when uncertainty about exposure assessment exists: "Where uncertainty exists in exposure assessment, it is wise to utilize an approach known as the "precautionary principle" when making safety and health decisions. Under this principle, it is best to err on the side of safety when any decision concerning human health and safety is in the balance," at 39.	**-40005.** (continued) (iii) In addition to the training specified in section (1)(c) of this section, Precautionary training to; (A) Recognize and report illness outbreaks, defined as when 10% or more of the members of an employee team or a standing or temporary ICS response unit develop signs and symptoms of possible overexposure to hazardous substances, mixtures, or health hazards; (B) Take precautionary measures such as leaving the area until further directed by a Safety Officer; (iv) Data management and information security including: (A) Protection of private and personally identifiable information; (B) Interoperability for efficient electronic transmission of records to support medical surveillance; (C) Long-term storage of medical records, exposure records, and analyses using medical or exposure records as required under chapter 296-802 WAC, Employee Medical and Exposure Records;

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Rule, Need and Effect	Examples	Suggested Language
WAC 296-824-40005. (continued) • NEW CONCEPT: Addition of uncertain exposure assessment. • This is needed as risk assessments based on environmental monitoring and PEL standards are unreliable in situations where uncertain exposures, health hazards, or mixtures may exist. • NEW CONCEPT: Addition of OEM-trained teams for the health monitoring and surveillance program that can be scaled up to large-scale all-hazard disasters. This is needed to accurately diagnose whether cold- and flu-like symptoms among the choices of common colds or flu or work-related chemical exposures or work-related heat stress. Accurate diagnoses are needed to intervene early to minimize chronic harm from heat stress or potential chemical exposures.	According to physician Daniel Teitelbaum, MD, board-certified in environmental medicine, occupational medicine, and medical toxicology, with experience organizing medical programs during disaster response (doximity profile), functional and effective health monitoring means worker safety programs should have an occupational and environmental medicine structure with one lead Occupational and Environmental Medicine (OEM) doctor, not an Emergency Room doctor. For oil spill responses involving 10,000+ people, there should be one OEM physician for every 2,500 workers with two nurses and an industrial hygienist assigned to each team and safety personnel so that, for each task force and each shift, there would be either an EMT or a certified safety person who could provide first aid. These ERHMS teams would report to the lead OEM doctor who participates in and reports to Unified Command.	**-40005.** (continued) (b) **Deployment activities** including: (i) Workplace exposure assessments using three outcomes: (A) Acceptable exposures based on PELs; (B) Unacceptable exposures based on PELs; or (C) Uncertain exposures when safe limits for exposure have not been established or when a complex mixture may pose a threat even though individual exposure limits may not exceed OELs; (ii) On-site responder in-processing including: (A) On-site rostering; (B) Site-specific training including precautionary training (see (1)(a)(iii) in this section); (C) Selection of PPE; (iii) Health monitoring and surveillance including; (A) One lead Occupational and Environmental Medicine (OEM) physician; (B) At a minimum, a team of two nurses and one industrial hygienist for health monitoring and one safety personnel to provide first aid; (C) Ability to scale up the program to have the minimum team available for every 2,500 on-site field workers;

Rule, Need and Effect	Examples	Suggested Language
WAC 296-824-40005. (continued) • NEW CONCEPT: Addition of incident-specific post-emergency health monitoring and surveillance for a minimum of two years for responders who meet conditions listed in Table 7 (as revised, see section -40010). • This is needed because exposure to hazardous substances, mixtures, or health hazards can lead to chronic diseases and illnesses that may manifest years after the initial exposure.	Health Hazard Evaluations (HHE) are not mandatory, and when conducted they have proven to be unreliable predictors of long-term health issues that may arise from response-related exposures. For example, the HHE conducted for the BP Deepwater Horizon disaster concluded that the high prevalence of cold- and flu-like symptoms among on-site field responders that occurred during the response was due to common cold or heat stress. In contrast, the two epidemiology studies, conducted separately on professional and citizen responders, found that long-term respiratory, neurological, and cardio-vascular harm was linked with response exposures – and that the harm increased with exposure to chemical dispersants. - Summary of epidemiology studies: Appendix A, Health and Safety Task Force final report (2024). https://nrt.org/sites/175/files/Health_and_Safety_TF_White_Paper_2024.pdf - Summary of known human experience and health harm from Corexit dispersants: Appendix A, ALERT Project and allies' petition to EPA to delist Corexit dispersants https://alertproject.org/wp-content/uploads/2024/08/EPA-ltr-Appendix-A.pdf	**-40005.** (continued) (D) An intervention action plan when an illness outbreak occurs (iv) Communication of health monitoring and surveillance data including: (A) Intra-organizationally; (B) Inter-organizationally; (C) Inside the ICS structure; (D) Outside the ICS structure; (c) **Post-deployment activities** including: (i) Responder out-processing including: (A) Health assessment of physical and mental health and chemical sensitivities as part of an exit examination conducted within 1 week before or after demobilization; (B) Documentation of use of any Emergency Medical Services or inclusion in an illness outbreak in an ICS unit or geographic area; (C) Post-event health tracking; (ii) You must establish a health surveillance plan for all incident-specific employees or responders to comply with Tables 7 and 8. (iii) After action medical report with annual updates for at least two years or for the duration of the incident-specific medical surveillance whichever is longer.

Rule, Need, Effect, and Examples	Suggested Language
NOTE: Systemic changes in the remaining sections are consistent with changes in other sections and have been justified and explained previously—unless noted. New concepts or changes are justified and explained.	
WAC 296-824-40010. Provide medical surveillance to employees. • Note: Content is former section 40005. • Revisions to title and specific paragraphs provide incident-specific health monitoring for individuals by an appropriately trained professional to track cumulative health history from multiple incidents and medical surveillance for employers or state agencies to track population impacts in real-time for early intervention and long-term to determine if policy changes are needed to better protect responders. • This is also needed because concepts of health monitoring and medical surveillance were conflated and need to be separated for the health monitoring and surveillance program to work.	**296-824-40010. Provide incident-specific health monitoring and surveillance for employees and responders.** 1) You must provide incident-specific health monitoring and surveillance for employees and responders to comply with Tables 7 and 8, and the following: (a) Make incident-specific health monitoring available at: (ii) No cost to employees or responders, including travel associated costs such as mileage, gas or bus fare if the employee or responder is required to travel off-site; and (iii) Wages for additional time spent outside of employee's or responder's normal work hours. (b) Make sure a licensed Occupational and Environmental Medicine (OEM) physician performs or supervises exams and procedures; (c)(ii) A description of the employee's or responder's duties that relate to exposure to a hazardous substance, mixture, or health hazards. (iii) The hazardous substance exposure levels anticipated for the employee or responder and the anticipated signs and symptoms of exposure to the hazardous substance, mixtures, or health hazards. (d)(iii) A special emphasis on: (A) Assessment of signs and symptoms related to handling of or exposure to hazardous substances or mixtures; ... (C) Evaluation of fitness for duty (including the ability to wear any PPE, chemical sensitivities or chemical intolerances, or other conditions that may be expected at the workplace). **Note:** The physician should consult the Hoffman Program for Chemical Intolerance for resources including the quick environmental exposure and sensitivity survey, QEESI (https://tiltresearch.org/resources/).

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Rule, Need, Effect, and Examples	Suggested Language
WAC 296-824-40010. (continued) • NEW CONCEPT: Addition of exposure as part of an illness outbreak event as cause for long-term monitoring. • Retitling Table 7 is needed to clarify that medical surveillance is long-term, i.e., it may go beyond the incident for employees or responders who meet one or more of the conditions specified in the table.	**-40010.** (continued) (2) You must obtain the physician's written opinion and give a copy to the employee or responder that includes: (a) A statement of whether or not medical conditions were found which would increase the employee's or responder's risk for impairment during emergency response work or respirator use. (b) Limitations recommended to the employee's or responder's assigned work, if any. (c) Examination and test results if the employee or responder requests this information. (d) A statement that affirms the employee or responder has been confidentially informed of medical examination results (including medical conditions requiring follow-up). **Table 7. Long-Term Health Surveillance for Employee or Responder Categories** **If the employee is covered by this chapter and is:** ... • An employee or emergency responder who shows immediate or delayed signs or symptoms possibly resulting from exposure to hazardous substances, mixtures, or health hazards during an incident. • An employee or emergency responder who was part of an incident illness outbreak event. **Then you must:** • Offer incident-specific health monitoring as specified in Table 8. • Not an emergency responder and: - May be injured - Shows immediate or delayed signs or symptoms possibly resulting from exposure to hazardous substances, mixtures, or health hazards - May have been exposed to hazardous substances at concentrations above the permissible exposure limits (PELs) or the published exposure levels without appropriate PPE.

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Rule, Need, Effect, and Examples	Suggested Language
WAC 296-824-40010, (continued) • In general, more clarification is needed to distinguish between standard and incident-specific health monitoring.	**-40010.** (continued) **Then you must:** Offer incident-specific health monitoring as specified in Table 8. **Note:** A medical evaluation for respirator use is required by chapter WAC 296-842 WAC, Respirators, for those employees or responders who have not been cleared for respirator use during medical monitoring activities. **Table 8. Frequency of Medical Examinations and Consultations.** **If the employee or responder is covered by:** • Standard medical monitoring **Note**: During an incident, employees who are assigned to the incident are covered by the incident-specific health monitoring and surveillance plan in addition to the standard medical monitoring program. **Then health monitoring must include:** • Medical examinations and consultations: - Before assignment. - Before assignment to an incident, employees who will or may be assigned to on-site field work must receive the incident-specific physical examination if they have not had one within the past 6 months, in addition to the other baseline screenings required for incidents. **Note**: If the employee is a hazardous materials (HAZMAT) team member or a hazardous materials specialist, the employee must receive a baseline physical examination. - At least once every 12 months... - Whenever employees or responders are reassigned to an area where they will no longer be covered by incident-specific health monitoring, - As soon as possible after an employee or responder reports: ◊ Signs or symptoms of possible overexposure to hazardous substances, mixtures, or health hazards - At the termination of their employment unless they were examined within the past 6 months, and they were not assigned to an incident during the past 6 months.

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Rule, Need, Effect, and Examples	Suggested Language
WAC 296-824-40010. (continued) • There is need to specify that incident-specific health monitoring includes an environmental exposure sensitivity examination to establish baseline chemical sensitivity and/or intolerances. • During an emergency response, "as soon as possible" may not be soon enough to get responders out of a potentially dangerous situation. A time certain is needed (48 hours). • A minimum of two years of health monitoring follow up will likely reveal illnesses from skin and respiratory sensitizers and possibly early oncogenesis or the metabolic changes that precede this, as well as other indicators of incident-related long-term harm.	**Table 8.** (continued) • Incident-specific health monitoring **Then health monitoring must include:** • Medical examinations and consultations: - Before assignment to include baseline physical and mental health examinations and an environmental exposure sensitivity examination with QEESI - Within 48 hours: ◊ After an employee or responder reports development of signs or symptoms of possible exposure to hazardous substances, mixtures, or health hazards ◊ After an ICS unit reports an illness outbreak or the OEM team conducting health surveillance determines that an illness outbreak has occurred in multiple ICS units during the same shift and in the same geographic area - As part of exit examinations within 1 week before or after the termination of employment for the incident-specific response work. - At additional times: ◊ Annually for a minimum of two years if the employee or responder was treated for acute signs and symptoms of possible exposure to hazardous substances, mixtures or health hazards during the incident ◊ Annually for a minimum of two years if the employee or responder was a member of a team or ICS unit that was part of an illness outbreak - If the physician determines follow-up is medically necessary after two years.

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Rule, Need, Effect, and Examples	Suggested Language
WAC 296-824-40015. Provide medical surveillance for employees. • NEW CONCEPT: Medical surveillance is needed to: - Analyze data in real-time during the response for early recognition of and intervention of potentially dangerous conditions; - Identify potential delayed or long-term adverse effects of the response experience; and - Help employers and key decision-makers improve the safety environment and better protect emergency responder safety and health during the next emergency. • EXAMPLE adopted from the ERHMS TAD and the Hoffman TILT Program at the University of Texas Health–San Antonio, as noted earlier. • NEW CONCEPT: After-action medical report with annual updates as needed for long-term health monitoring replaces the obsolete Health Hazard Evaluations and institutionalizes prescriptive health monitoring as part of HAZWOPER responses.	**-40015. Provide health surveillance for employees and responders.** (1) During an incident including any post-incident operations, you must: (a) Conduct health surveillance of the population of employees and responders as directed by the lead OEM physician with weekly updates for: (i) Pre-deployment examinations and QEESI surveys; (ii) Exit examinations and QEESI surveys; (iii) Reports of signs and symptoms of possible exposure to hazardous substances, mixtures, or health hazards by symptom, ICS unit, shift, geographic region, and assignment; (iv) Reports of unacceptable exposure to hazardous substances and mixtures for which PELs are known by ICS unit, shift, geographic region, and assignment; (v) Any illness outbreaks and their status or resolution including intervention measures, if any; (b) Send digital copies of data compilation updates and analyses to Washington DOSH weekly; (c) Communicate any illness outbreaks weekly (see WAC 296-824-40005(1)(a)(iv)); (2) After an emergency including post-emergency operations, you must: (a) Complete an after-action medical report under the direction of the lead OEM physician within 6 months of incident demobilization including: (i) An analysis of all pre-deployment and deployment medical records and exposure records, including exit examinations and pre- and post-incident QEESI surveys; (ii) Plans for long-term health surveillance based on the lead OEM physician's analysis of incident-specific medical and exposure records to comply with Tables 7 and 8; (b) If long-term health surveillance is implemented, provide annual updates to the after-action medical report, written by the lead OEM physician, for a minimum of two years.

Rule, Need, Effect, and Examples	Suggested Language
WAC 296-824-40020. Keep records. • NEW CONCEPT: Incident-specific medical records, exposure records, and analyses of these records are kept (see WAC 296-802), and they are kept separately from but part of an employee's standard medical records. • This is needed to assess cumulative harm from multiple response incidents and to make emergency responses to man-made disasters safer for all responders.	**-40020: Keep health monitoring and surveillance records.** You must keep a record of: **(1) Standard medical monitoring and surveillance** (a) Name and Social Security Number of the employee receiving health monitoring and medical surveillance; (b) Physicians' written opinions, recommended limitations, and results of examinations and tests, including any incident-specific medical records, exposure records, and analyses using medical and exposure records; (c) Any employee medical complaints regarding exposures to hazardous substances, mixtures, or health hazards; (d) Exposures and information to comply with Tables 7 and 8; (e) A copy of all information given to the examining physician (except a copy of this chapter). **(2) Incident-specific health monitoring and surveillance** (a) Name and Social Security Number of the employee or responder receiving health monitoring and surveillance; (b) Incident-specific identification and brief description and: (i) Dates of incident mobilization and demobilization; (ii) Deployment dates of the employee or responder by job assignment, if possible; (c) Physicians' written opinions, recommended limitations, results of examinations and tests, including the pre- and post-deployment QEESI surveys and long-term health monitoring records, if any; (d) Any employee or responder medical complaints regarding exposures to hazardous substances, mixtures, or health hazards; (e) Medical records, exposure records, analyses of these records and other information to comply with Tables 7 and 8; (f) A copy of all information given to the examining physicians (except a copy of this chapter) and the lead OEM physician (including a copy of this chapter); and (g) Lead OEM physicians' after-action medical reports including annual updates, analyses of these records and other records or recommendations relating to long-term health surveillance.

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Rule, Need, Effect, and Examples	Suggested Language
Where does this fit? **NEW SECTION TO WAC 296-40030?** **OR** **A REVISION TO RCW 49.17 WISHA?** • For a prescriptive emergency responder health monitoring and surveillance program to work, a centralized database for recordkeeping – and all that goes with it – is necessary to receive, process, and analyze medical data from multiple employers during an all-hazard response. • The centralized database should be able to process records from multiple employers—which means that employers should collect data in a format compatible with the database intake and processing. • A centralized database for medical recordkeeping is recommended by the NRT's ERHMS TAD. It is currently unclear whether this should be a function of a federal agency or a state agency (the latter to ensure protection and permanence of records for the 30 years required by WAC 296-802).	? During emergency response and HAZWOPER incident responses, DOSH shall support incident-specific medical monitoring and surveillance: 1) Maintain injury and illness records and health monitoring data in a centralized database for medical surveillance; 2) Assign a team of qualified DOSH medical and health and safety professionals familiar with occupational and environmental medicine and toxicological and immunological principles to the incident; (3) Conduct a weekly analysis of monitoring records during emergency response and post-emergency response operations, and annually thereafter, with data organized by the smallest working unit (e.g., ICS task force or workplace emergency response team) to understand trends. 4) Send a copy of all data, including medical records, exposure records, and analyses using medical or exposure records from its incident-specific health monitoring and surveillance analyses to the NIOSH Western States Division for further research into best practices, according to the following schedule: (a) Within a week of completion of the after-action medical report; (b) Annually for a minimum of two years if long-term medical surveillance is implemented.

Rule, Need, Effect, and Examples	Suggested Language
WAC 296-824-500. Incident requirements.	**WAC 296-824-500. Incident requirements.** Summary. **Your responsibility:** To conduct and manage emergency response operations so employees and responders receive the highest level of protection from hazardous substances, mixtures, health hazards, and conditions. **You must meet the requirements... in this section:** Prepare skilled support personnel WAC 296-824-20005 WAC 296-824-30005 (type II only) WAC 296-824-50015 WAC 296-824-60005 (type II only)
WAC 296-824-50005. Recognize emergencies and initiate a response.	**WAC 296-824-50005. Recognize emergencies and initiate a response.** You must make sure employees and responders follow procedures in your emergency response plan to: (2) Notify employees, responders, and others designated in your plan, of the release;
WAC 296-824-50010. Implement and maintain an incident command system...	**WAC 296-824-50010. Implement and maintain an incident command system (ICS).** **Note**: 2. If the first employee or responder arriving at the scene is not trained as an IC...
WAC 296-824-50015. Prepare skilled support personnel. • Additional note at beginning supports additional role of skilled support personnel type II described earlier in this chapter.	**-50015. Prepare skilled support personnel.** **Note**: 1. The duties of skilled support personnel types I and II are described in Table 1, Roles and Duties of Emergency Responders. 2. The training and competencies of skilled support personnel type II who are temporarily assigned duties as responders, or shoreline cleanup crews, are described in Tables 2, 3, and 6. (1) You must make sure that your skilled support personnel (including those employees or responders who are not regularly employed by you) who could be exposed to on-scene hazards are given an initial briefing at the site before they participate in any emergency response. In addition to the required training (for type II temporary assigned responders), the initial briefing must include: (a) What hazardous substances, mixtures, or health hazards are involved and the signs and symptoms of potential chemical exposure;

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Rule, Need, Effect, and Examples	Suggested Language
WAC 296-824-50015. (continued)	**-50015.** (continued) ... **Note**: Skilled support personnel type I do not need to comply with the other training requirements of this chapter.
WAC 296-824-50020. Make sure the incident commander oversees activities during the response. • NEW PROCEDURES added to address low-level and/or uncertain exposures, consistent with other sections. • NEW PROCEDURE to track products used in decontamination where workers may be exposed to mixtures of contaminants and health hazards.	**-50020. Make sure the incident commander oversees activities during the response.** (1) Identify all hazardous substances, mixtures, health hazards, and conditions present, within their training level, using site analysis and maximum exposure limits, when appropriate, and signs and symptoms of exposure when maximum exposure limits are not appropriate. (2) Implement emergency response procedures appropriate to the hazardous substances, mixtures, health hazards, and conditions present, such as: (a) Procedures that address the use of engineering controls, hazardous substance handling and exposure, and new technologies; (b) Procedures that address reports of uncertain exposures, signs and symptoms of potential chemical exposure, and illness outbreaks; (c) Procedures that address decontamination including keeping a list of products used (name, date, quantity, and supplier); (d) Procedures that address PPE; and (e) Procedures that limit the number of personnel to those who are actively performing emergency response operations in areas where exposures to hazardous substances, mixtures, or health hazards could exist. (3) Designate an incident safety officer (ISO)... They must: (a) Identify and evaluate hazards including hazardous substances, mixtures, health hazards, and uncertain exposures; (b) Communicate with the IC about hazards, immediately informing the IC of corrective actions that must be taken when conditions are judged to be: (i) An imminent danger; or (ii) Immediately dangerous to life or health (IDLH); or (iii) From uncertain exposures that may have triggered reports of signs and symptoms of exposure or illness outbreaks.

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Rule, Need, Effect, and Examples	Suggested Language
WAC 296-824-50020. Make sure the incident commander oversees activities during the response. • NEW PROCEDURES added to address low-level and/or uncertain exposures, consistent with other sections. • NEW PROCEDURE to track products used in decontamination where workers may be exposed to mixtures of contaminants and health hazards.	**-50020. Make sure the incident commander oversees activities during the response.** (1) Identify all hazardous substances, mixtures, health hazards, and conditions present, within their training level, using site analysis and maximum exposure limits, when appropriate, and signs and symptoms of exposure when maximum exposure limits are not appropriate. (2) Implement emergency response procedures appropriate to the hazardous substances, mixtures, health hazards, and conditions present, such as: (a) Procedures that address the use of engineering controls, hazardous substance handling and exposure, and new technologies; (b) Procedures that address reports of uncertain exposures, signs and symptoms of potential chemical exposure, and illness outbreaks; (c) Procedures that address decontamination including keeping a list of products used (name, date, quantity, and supplier); (d) Procedures that address PPE; and (e) Procedures that limit the number of personnel to those who are actively performing emergency response operations in areas where exposures to hazardous substances, mixtures, or health hazards could exist. (3) Designate an incident safety officer (ISO)... They must: (a) Identify and evaluate hazards including hazardous substances, mixtures, health hazards, and uncertain exposures; (b) Communicate with the IC about hazards, immediately informing the IC of corrective actions that must be taken when conditions are judged to be: (i) An imminent danger; or (ii) Immediately dangerous to life or health (IDLH); or (iii) From uncertain exposures that may have triggered reports of signs and symptoms of exposure or illness outbreaks.

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Rule, Need, Effect, and Examples	Suggested Language
WAC 296-824-50025. Use the buddy system in danger areas. • Systemic changes only in this section, consistent with changes to definition in 296-824-099. • Note added to emphasize danger from uncertain exposure conditions that likely exist in decontamination areas.	**-50025. Use the buddy system in danger areas.** **Definition:** (c) Uncertain exposure conditions could exist; or (d) There is a potential for exceeding the LEL... **Note:** Decontamination areas may have uncertain exposure conditions due to presence of chemical mixtures.
WAC 296-824-50030. Provide rescue and medical assistance.	**WAC 296-824-50030. Provide rescue and medical assistance.** (1) You must provide stand-by employees and responders including temporary assigned responders equipped with the same level of personal protective equipment (PPE) as the entrants, for assistance or rescue. **Note**: 1. The buddy system applies to stand-by employees and responders (see WAC 296-824-50025). 2. One of the two stand-by employees or responders can be assigned to another task provided it does not interfere with the performance of the stand-by role. ... (2) You must make sure employees or responders trained in first aid are readily available with necessary medical equipment and have a way to transport the injured.
WAC 296-824-60005. Personnel protective equipment. • Systemic changes only in this section, consistent with other sections unless noted.	**-60005. Personnel protective equipment.** Use appropriate personnel protective equipment (PPE). **Note**: 1. Only properly trained employees or responders should select PPE. (1) You must provide appropriate PPE at no cost to the employees or responders and make sure it is used if hazards could be present. ... (2) You must select PPE (such as respirators, gloves, protective suits and other PPE) based on: ... (c) The hazards and potential hazards of the site, including whether uncertain exposures may exist (see Table 9, Selecting PPE for Specific Hazards).

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Rule, Need, Effect, and Examples	Suggested Language
WAC 296-824-60005. (continued) • Systemic changes only in this section, consistent with other sections unless noted. • Note added after the table for clarification to be consistent with other sections.	**-60005.** (continued) **Table 9** **Selecting PPE for Specific Hazards** **If:** Inhalation hazards could be present with attention to uncertain exposures. **Then:** ... **OR** • A decreased level of respiratory protection only when the incident commander determines, from air monitoring and health monitoring results, that employees and responders will be adequately protected. **If:** Chemical exposure levels will create a substantial possibility of: ... • Immediate risk of uncertain exposures as evidenced by illness outbreaks or signs and symptoms of possible chemical exposure. • Reduced ability to escape. **Then:** ... **OR** • A decreased level of respiratory protection only when the incident commander determines, from air monitoring and health monitoring results, that employees and responders will be adequately protected. **If:** Skin absorption of a hazardous substance, mixture, or health hazard may result in a substantial possibility of: ... • Immediate risk of uncertain exposures as evidenced by illness outbreaks or signs and symptoms of possible chemical exposure. **Then:** ... **OR** • A decreased level of respiratory protection only when the incident commander determines, from air monitoring and health monitoring results, that employees and responders will be adequately protected. **Note:** If signs and symptoms of possible chemical exposure persist despite proper use of PPE, then employees and responders must be removed from the area until conditions improve using site analysis and maximum exposure limits, when appropriate.

Rule, Need, Effect, and Examples	Suggested Language
WAC 296-824-60010. Control hazards created by personal protective equipment (PPE). • Note added for clarification to be consistent with other sections.	**-60010. Control hazards created by personal protective equipment (PPE).** You must control hazards created by the use of PPE, including: (1) Heat stress due to extremely high temperatures. **Note**: Signs and symptoms of heat stress mimic signs and symptoms of possible chemical exposure. Responders treated for heat stress must also be examined by an OEM physician for potential chemical exposure. (2) Any other employee or responder health hazard and consideration. **Note:** If signs and symptoms of possible chemical exposure persist despite proper use of PPE, then employees and responders must be removed from the area until conditions improve using site analysis and maximum exposure limits, when appropriate.
WAC 296-824-700. Post-emergency response. • Clarifications are consistent with other sections.	**-700. Post-emergency response.** Your responsibility: To provide employees and responders with the highest level of protection during post-emergency response activities by following appropriate work practices, training and other requirements.

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Rule, Need, Effect, and Examples	Suggested Language
WAC 296-824-70005. Follow the appropriate post-emergency response requirements. • Clarifications are consistent with other sections unless noted. • NOTE: WAC 296-843 should be revised to include the NEW CONCEPTS offered as suggested language in this petition, i.e., addition of mixtures and health hazards and planning, worker training, and health monitoring and surveillance programs for potential harm from low-level and repeated low-level exposures, etc. This is beyond the scope of this joint petition for a rulemaking. • In the interest of protecting all emergency and post-emergency employees and responders involved in a specific incident, the suggested language would include post-emergency employees and responders who were NOT part of the initial response in the incident-specific health monitoring program (at least until WAC 296-843 is revised).	**-70005. Follow the appropriate post-emergency response requirements.** **Important:** … 2. When cleanup is done by the employees and responders who were part of the initial emergency response; (a) The employees and responders are not covered by this section (however, training, PPE and other requirements in WAC are 296-824-20005 through 296-824-60015 apply to these employees and responders including skilled support personnel type II); (b) The cleanup is considered part of the incident-specific response. … **Table 10. Rules that Apply to Post-Emergency Response Activities.** **When response cleanup is performed by employees or responders who were not part of the initial response and:** It is necessary to remove hazardous substances, mixtures, health hazards and contaminated materials (example: Soil) from the site **The following rules or requirements apply:** Chapter 296-843 WAC, Hazardous waste operations or Chapter 296-824 WAC, Emergency Response, whichever is more protective. …

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TABLE 2. WAC 173-182. Oil Spill Contingency Plan.		
Rule, Need and Effect	**Examples**	**Suggested Language**
WAC 173-182-010. Purpose. • This chapter explicitly solicits, develops, and implements best achievable protections, based on best available technologies, for Washington waters and natural, cultural, and economic resources—but it does not offer parallel protections for worker and public health. • New concept: Proposed revisions throughout this chapter implement actionable protocols and procedures to provide the highest level of health protection to all on-site field employees and responders during oil spill emergency and post-emergency response. • Specifically, proposed revisions integrate the NEW incident-specific health monitoring and surveillance plan for emergency and post-emergency responders in WAC 296-824 (proposed as part of this joint rulemaking) into this chapter as an integral part of oil spill response.	Responsibility to take the lead in developing regulations to respond safely, effectively, and efficiently to oil spills: RCW 90.56.005(4)(f). The legislature granted the department of ecology broad powers of regulation relating to spill prevention and response. Responsibility to protect workers from other agencies and entities: RCW 90.56.20. The ecology director directs the state incident command system and coordinates spill response efforts of all state agencies and local emergency response personnel. Responsibility to adopt rules to protect workers: RCW 90.56.50(7). The department may adopt rules including the following catch-all: "And other rules and regulations as the exigencies of any condition may require or such as may be reasonably necessary to carry out the intent of this chapter." Responsibility to protect all on-site field workers: RCW 90.56.60. The statewide master contingency plan must at a minimum state the respective responsibilities as established by relevant statutes and rules the state agencies, local governments, appropriate federal agencies, Tribes, and facility operators among others.	**-010. Purpose.** The purpose of this chapter is to... Ecology recognizes the potential for exposures to hazardous substances, mixtures such as oil spills, and health hazards to cause acute and delayed or long-term harm to workers and the public even when exposed to contaminants at low action levels. Ecology has a preference for health monitoring and surveillance of people who work in an on-site field capacity during all-hazard emergencies and for public health assessments in impacted communities or areas during all-hazard emergencies. The provisions of this chapter, when followed, should be implemented and construed so that they will: ... (d) Provide the highest level of protection for each employee or responder who is designated to operate in an on-site field capacity during an all-hazard emergency including oil spills through integration of an incident-specific health monitoring and surveillance plan (WAC 296-824) into the oil spill contingency plan; (e) Provide for the protection of Washington waters... (f) Provide the highest level of protection that can be met through [BAT]...

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Rule, Need and Effect	Examples	Suggested Language
WAC 173-010. (continued) • Protecting on-site field workers from harm is a stated priority of oil spill response, not an option. The planning standards must be met for the incident-specific health monitoring and surveillance plan—unlike the planning standards for spill cleanup that can be adopted to take all necessary actions to deal with the entire volume of the spill.		**-010.** (continued) (2) The planning standards described in this chapter do not constitute clean-up standards that must be met by the holder of a contingency with the exception of the incident-specific health monitoring and surveillance plan. Failure to remove a discharge within the timeframe of this chapter ... The responsible party must take all actions necessary and appropriate to immediately collect and remove, contain, treat, burn and disperse oil entering waters of the state and address the entire volume of an actual spill regardless of the planning standards while taking actions to minimize acute and delayed or long-term harm to all on-site field employees and responders.
WAC 173-182-030. Definitions. • The job descriptions and training levels for most emergency responders and skilled support personnel (types I and II) are provided in WAC 296-824. However, the job description for aerial oil spill spotter is unique to this chapter. • The proposed revision would increase protection for on-the-water and on-land responders during aerial spraying of dispersants by requiring aerial oil spill spotters to report response activities in the vicinity of spray operations.	During **aerial spraying** of dispersant, on-the-water activities are usually restricted within a certain distance of the flight path to protect responders. For example, during the BP Deepwater Horizon disaster, vessels were supposedly not allowed within six nautical miles of the flight path. However, this was not enforced, and VOO crews were routinely directly sprayed or hit by downwind drift. Among their other duties, aerial oil spill spotters could document and report when boats are operating within the restricted area of the aerial spraying operations.	**-030. Definitions.** "Aerial oil spill spotter" (spotter) means... (d) Observe, document, and report the effectiveness of response operations and any vessels operating within a six nautical mile radius of aerial dispersant spraying or in-situ burn operations.

Rule, Need and Effect	Examples	Suggested Language
WAC 173-182-030. Definitions. • While the definition for "employee" is broad enough to include a contracted individual who may be a responder (see example), "**responder**" is needed to refer to any on-site field person, including those who are, or will be, temporarily assigned to perform duties at emergency or post-emergency sites. The term is needed to provide appropriate awareness training and medical coverage for all responders. (Note: "Responder" also includes employees and members of public sector emergency response employers in states with OSHA-approved state plans, who are regulated as employees by the State.) • Since 2012, OSHA's hazard communication standard has recognized that certain health hazards are exceptions to standards like PELs that are based on dose-dependent harm (more dose equals more harm). This means that PELs are unreliable indicators for risk assessment for these health hazards (see examples). • Proposed revisions include "**uncertain exposures**" as the third outcome of risk assessment to protect workers when health hazards may be present. The term needs to be defined to be integrated into emergency response and oil spill contingency planning.	**WAC 296-800-099**: "Based on chapter **49.1749.17** RCW, the term **employee** and other terms of like meaning, unless the context of the provision containing such term indicates otherwise, means an employee of an employer who is employed in the business of his or her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is personal labor for an employer under this standard whether by way of manual labor or otherwise." The definition for "**responder**" was adopted from the proposed emergency response standard (89 FR 7774 at § 1910.156(b) Definitions, at 8014. See also rationale at 7808. PELs are not reliable indicators for risk assessment when **health hazards**, as defined in WAC 296-800, includes hazard classes of carcinogens, germ cell mutagens, reproductive toxins, or respiratory or skin sensitizers are present (WAC 296-901-14022 Appendix A A.0.4.2. and A.4, consistent with the same sections in 29 CFR § 1910.1200 Appendix A). The definition of "**uncertain exposure**" was adopted from the National Response Team's (NRT) Emergency Responder Health Monitoring and Surveillance (ERHMS) Technical Assistance Document (TAD), 1/26/2012, at 39.	**-030. Definitions** **Responder** means an employee or a standing or temporary assigned member of an ICS unit, PRC, SMT or WRSP team, or an assigned volunteer, who is, or will be, assigned to perform duties on-site in the field at emergency incidents including post-emergency cleanup. Responders are employees in the meaning of chapter 296-800 WAC. **Uncertain exposures** often involve complex chemical mixtures and occur when: (a) The toxicity of the hazard is unknown; (b) PELs have not been established; (c) Health hazards or chemical mixtures with or without hazardous substances or health hazards could be present; or (d) Symptom-based health monitoring indicates the presence of potential chemical exposure.

Rule, Need and Effect	Examples	Suggested Language
WAC 173-182-030. (continued) • In 2024, systemic changes were finalized in the OSHA hazard communication standard § 1910.1200 to recognize that **mixtures** of chemicals with or without hazardous substances and health hazards may present uncertain exposure risks and cause harm at low levels of exposure (89 FR 44144, May 20, 2024). • Language is needed throughout this chapter to account for exposure risk from chemical mixtures and health hazards when PELs are unknown or unreliable and to be consistent with revisions in other OSHA chapters. • When the proposed language is communicated and used in exposure assessment, worker training programs, health monitoring programs, and record-keeping, then the tools are in place to protect all responders from low level chronic or repeated exposures as well as high level acute exposures to hazardous substances, mixtures, and health hazards.	Definitions of "**chemical**," "**mixture**," and "**substance**" were adopted from WAC 296-901-14006, consistent with 29 CFR § 1910.1200(c). The definition of "**danger area**" was adopted from the National Response Team's (NRT) Emergency Responder Health Monitoring and Surveillance (ERHMS) Technical Assistance Document (TAD), 1/26/2012, at 39.	**-030.** (continued) **Chemical.** Chemical means any substance, or mixture of substances. **Mixture**. Mixture means a combination or a solution composed of two or more substances in which they do not react. **Substance**. Substance means chemical elements and their compounds in the natural state or obtained by any production process, including any additive necessary to preserve the stability of the product and any impurities deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition. **Danger area.** Areas where conditions pose a serious danger to employees, such as areas where: (a) Immediately dangerous to life or health (IDLH) conditions could exist; (b) High levels of exposure to toxic substances could exist; (c) Uncertain exposure conditions could exist; or (d) There is a potential for exceeding the lower explosive limit (LEL), also known as the lower flammability limit (LFL), of a substance.

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Rule, Need and Effect	Examples	Suggested Language
WAC 173-182-030. (continued) • Since the 9-11 disaster (2001), agencies that include emergency response functions have worked towards integrating symptom-based hazard and exposure assessments into hazard communication, awareness training, health monitoring, and record-keeping (see examples). • Since 2012, the hazard communication standard has described signs or symptoms of exposure to various body systems in medical terms and common language to assist employers and employees understand what is being communicated. • Proposed revisions integrate these descriptions of signs and symptoms of exposure into planning standards so these tools can be incorporated into awareness training, risk communication, and medical evaluations and monitoring to minimize harm to professional *and citizen* responders. • Revisions are consistent with language in the globally harmonized system of hazard communication revision 7 (89 FR 44144).	Definitions for **signs and symptoms of exposure** were drawn from the OSHA hazard communication standard and appendices, the NRT's 2012 ERHMS TAD, and OSHA's proposed emergency response standard (89 FR 7774, Feb 5, 2024). The proposed Emergency Response Standard includes numerous examples of symptom-based evaluations and health monitoring, e.g.: (g)(2)(iii). "All medical evaluations must include the following... (A) Medical and work history with emphasis on symptoms of cardiac and respiratory disease..." (g)(3)(B). "For responders who, either immediately or subsequently, exhibit signs or symptoms which may have resulted from exposure to combustion products, medical consultation shall be provided and, if medically indicated, ongoing medical surveillance. Definitions were adopted from: – WAC 296-901-14022 Appendix A, consistent with 29 CFR § 1910.1200 (e.g., skin, A.2; respiratory symptoms, A.8.2.2.1; central nervous system effects, A.8.2.2.2); and – the BP Deepwater Horizon class action medical benefits settlement, Exhibit 8, Tables 1 and 2 for acute or chronic specified physical conditions.[1]	**-030.** (continued) **Signs or symptoms of exposure**, as described in WAC 296-901-14022 Appendix A, include but are not limited to: (a) skin rashes or ulcers, bleeding, bloody scabs, alopecia (hair loss) or scars from skin corrosive/ irritants, itching, scaly skin, blistering, redness, peeling, inflammation or pain, oil acne, acne vulgaris (A.2); (b) respiratory symptoms such as wheezing, cough, difficulty breathing or shortness of breath, chest tightness, watery eyes, runny nose from respiratory irritants (A.8.2.2.1), respiratory hypersensitivity (asthma-like symptom) (A.4.2.1.2.1), sputum production, nose bleeding, throat irritation; (c) signs of central nervous system depression like severe headaches or migraines, nausea or vomiting, dizziness or vertigo, irritability, fatigue, impaired memory function, deficits in perception and coordination, reaction time, or sleepiness (A.8.2.2.2), fainting, or seizures; (d) conjunctivitis, corneal ulcer, keratitis from eye irritation or eye burn or eye bleeding; or (e) gastrointestinal distress such as nausea, diarrhea, vomiting, abdominal cramps, abdominal pain.

[1] https://www.laed.uscourts.gov/sites/default/files/OilSpill/6.pdf

Rule, Need and Effect	Examples	Suggested Language
WAC 173-182-030. (continued) • **Medical terms**. Language is needed differentiate between health monitoring (for individuals) and health surveillance (of the responder population), as part of an incident-specific medical plan. (Medical definitions for these terms could also be placed in WAC 296-800 Safety and Health Core Rules, if needed.) • Note: Records generated by incident-specific health monitoring and surveillance are "medical records" as defined in WAC 296-802 because "exposure records" as defined in WAC 296-800 and 296-802 do not include "results which assess the biological effect of a substance or agent." This is described further in supporting revisions to WAC 296-800 in Table 3 and WAC 296-802 in Table 4. • **Incident**. The term is needed to differentiate between incident-specific health monitoring and standard medical monitoring.	**Medical terms** "health monitoring and surveillance" were adopted from the NRT ERHMS TAD, at 26. The glossary provides more detailed definitions and functions, at 201. In this chapter and in WAC 296-824 and WAC 296-800, health monitoring and surveillance is used for emergency response incidents as it focuses on general well-being and preventative measures. Medical monitoring and surveillance addresses a disease, condition, or treatment's effects and is used to refer to standard medical monitoring and surveillance programs (not incidents).[2] The definition for **incident** was adopted from the proposed federal rule for Emergency Response § 1910.156(b) (89 FR 7774, at 8013).	**-030.** (continued) **Health monitoring.** The ongoing and systematic collection, analysis, interpretation, and dissemination of data related to an individual incident responder's injury and illness and exposure status, focusing on general well-being and precautionary measures. **Health surveillance.** The ongoing and systematic collection, analysis, interpretation, and dissemination of data related to an incident's emergency responder population as a whole, focusing on general well-being and precautionary measures. **Incident**. Any situation to which an employee or responder responds to perform emergency or post-emergency services.

[2] National Research Council Committee on Review and Disposal of the Army Chemical Stockpile Disposal Program. 2001. Washington (DC): National Academies Press. 3, Health Monitoring. https://www.ncbi.nlm.nih.gov/books/NBK207463/

Rule, Need and Effect	Examples	Suggested Language
WAC 173-182-030. (continued) • **ICS unit**. The term is needed to establish health monitoring units by the smallest response unit as a basis for determining an illness outbreak. • **Illness outbreaks**. Language is needed to establish an unacceptable level of exposure to hazardous substances, mixtures, or health hazards during uncertain exposures to trigger intervention action like "unacceptable exposure" does for hazardous substances when PELs are known. • **Precautionary**. This term is well-established in the medical community: for situations when there is doubt about the presence of a hazard, there should be no doubt about preventing the harm.[3]	The definition for "**ICS unit**" (operable unit) was adopted from the NCP 40 CFR 300.5 which provides more details: "The cleanup of a site can be divided into a number of operable units, depending on the complexity of the problems associated with the site. Operable units may address geographical portions of a site, specific site problems, or initial phases of an action, or may consist of any set of actions performed over time or any actions that are concurrent but located in different parts of a site." Task forces are considered operable units. CDC defines a "**disease outbreak**" as when there are more cases of a disease than expected in a specific time, location, or population.[4] It also found that, on average, 3–11% of the U.S. population has the flu.[5] Since possible signs and symptoms of chemical exposure (and heat stress) mimic the common cold or flu, incident illness outbreaks are set to these standards. A **precautionary approach** is recommended by the ERHMS TAD when uncertain exposures may exist (at 39).	**-030.** (continued) **ICS (operable) unit**: A discrete action that comprises an incremental step toward comprehensively addressing site problems. **Illness outbreak.** (a) When 10% or more of the members of an employee team or a standing or temporary ICS unit develop signs and symptoms of possible overexposure to hazardous substances, mixtures, or health hazards; **OR** (b) When 10% or more of the ICS units during the same shift and working in the same geographic area, develop signs and symptoms of possible overexposure to hazardous substances, mixtures, or health hazards. **Precautionary**. Preventative measures or actions taken to reduce the risk of harm or disease even if the scientific evidence is not conclusive.

[3] Richter ED, Laster R. 2004. The Precautionary Principle, epidemiology and the ethics of delay. *Int J Occup Med Environ Health* 17(1):9-16. PMID: 15212202. https://pubmed.ncbi.nlm.nih.gov/15212202/

[4] https://www.cdc.gov/urdo/php/surveillance/outbreak-case-definitions.html

[5] Tokars JI, Olsen SJ, Reed C, 2018. Seasonal incidence of symptomatic influenza in the United States, *Clinical Infectious Diseases*, 66(10):1511–1518. https://doi.org/10.1093/cid/cix1060

Rule, Need and Effect	Examples	Suggested Language
WAC 173-182-230. Contingency plan general content. • This section and those that follow propose to implement the incident-specific health monitoring and surveillance plan for emergency responders in WAC 296-824 as part of oil spill response activities as a best practice for oil spill response as per the recommendations of the 2023 Health and Safety Task Force. • A prescriptive program for health monitoring and surveillance for all on-site field responders is needed to make the priority to protect human life and health actionable. • While the plan holder and PRCs are responsible for incident-specific health plans (as proposed), state government employees and responders would have a similar health monitoring plan and reporting requirements (WAC 296-824). This would allow LNI/DOSH to do comprehensive health surveillance of the population of on-site field responders in real-time.	Authority to prescribe incident-specific health monitoring and surveillance plans for emergency responders involved in oil spill cleanups: RCW 49.17.050(8) Provide for the establishment of new and the perfection and expansion of existing programs for occupational safety and health education for employers and employees.	**-230. Contingency plan general content.** (1) Contingency plans must include all of the content and meet all the requirements in this section and in chapter 296-824 WAC Emergency Response. (2) In Washington state, the NWACP serves as the statewide master oil and hazardous substance contingency plan required by RCW 90.56.060. Plan holders shall write plans that refer to and are consistent with the NWACP. (3) The NWACP also serves as an emergency response plan. Plan holders shall write plans that refer to and are consistent with the WAC 296-824 for incident-specific emergency response. (i) The incident-specific emergency response plan elements such as health monitoring and surveillance and worker safety training shall be consolidated with the spill contingency plan. (ii) If there is conflict between the NWACP and WAC 296-824, the incident-specific health monitoring and surveillance plan shall adhere to the most protective standards. (4) All contingency plans must include... (5) Additional facility plan content. (6) Additional vessel plan content. (7) Plans covering multiple vessels... (8) Umbrella plans... (9) Plans shall include concise procedures...

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Rule, Need and Effect	Examples	Suggested Language
WAC 173-182-240. Field document. • An incident-specific health monitoring and surveillance plan unfolds in three stages: pre-deployment, deployment, and post-deployment. The plan begins before a response with baseline physical and mental health examinations and screening for chemical sensitivity, and it can outlive the response by a couple years or more, depending on the need for long-term health monitoring.	WAC 296-824-40005 describes the prescriptive incident-specific health monitoring and surveillance program. Elements were adopted from the ERHMS TAD and the prescriptive program described in the *proposed* emergency response standard (89 FR 7774, Feb 5, 2024).	**-240. Field document.** (2) At a minimum, the field document shall contain: ... (c) A checklist that identifies significant steps used to respond to a spill, including implementing the incident-specific health monitoring and surveillance plan, listed in a logical progression of response activities.
WAC 173-182-250. Initial Response actions. • The exposed public also needs to be protected from oil spill exposures. Incident-specific health assessment and surveillance is needed to provide the highest level of protection in situations where environmental monitoring and protective standards are unreliable such as when uncertain exposures may exist.		**-250. Initial Response actions.** (1) Plan holders and responsible parties are required to document their initial spill actions and the plan shall include the forms that will be used for such documentation. ... (3) The plan must state how safety assessment including initial air monitoring and incident-specific health monitoring and surveillance will be conducted for all types of spills, including spills to groundwater.

Rule, Need and Effect	Examples	Suggested Language
WAC 173-182-280. Spill management teams. • New concept: Addition of medical teams and doctors trained in occupational and environmental medicine (OEM) for the health monitoring and surveillance program that can be scaled up to large-scale all-hazard disasters. • This is needed to accurately recognize, diagnose, and treat the characteristic signs and symptoms of exposure to oil spills. Many symptoms of oil-chemical exposure mimic symptoms for a common cold or flu or heat stress. Accurate diagnoses are needed to intervene early and correctly to minimize chronic harm from potential chemical exposures.	According to physician Daniel Teitelbaum, MD, board-certified in environmental medicine, occupational medicine, and medical toxicology, with experience organizing medical programs during disaster response (doximity profile), functional and effective health monitoring means worker safety programs should have an occupational and environmental medicine structure with one lead Occupational and Environmental Medicine (**OEM**) doctor, not an Emergency Room doctor. For oil spill responses involving 10,000+ people, there should be one OEM physician for every 2,500 workers with two nurses and an industrial hygienist assigned to each team and safety personnel so that, for each task force and each shift, there would be either an EMT or a certified safety person who could provide first aid. These ERHMS teams would report to the lead OEM doctor who participates in and reports to Unified Command.	**-280. Spill management teams.** (b) For the purpose of ensuring depth of the spill management team... (iii) The OEM-trained leader of the health monitoring and surveillance plan will report to the Safety Officer. In a large or worst case spill, the ICS Medical Unit will be prepared to scale up its health monitoring and surveillance plan. For planning purposes, a ratio of 1:2,500 medical teams to on-site field responders and personnel should be available under contract to the plan holder (see WAC 296-824-40005).

Rule, Need, Effect, and Examples	Suggested Language
NOTE: Systemic changes in the remaining sections are consistent with changes in other sections and have been justified and explained previously—unless noted. New concepts or changes are justified and explained.	
WAC 173-182-310. Planning standards. • New concept: Integrating an incident-specific health monitoring and surveillance plan as part of the planning standards for oil spill response. • This part of the contingency plan would be enforced through LNI.	**-310. Planning standards.** (1) Ecology shall apply a planning standard when determining the ability of a plan holder to meet the purposes of these regulations and WAC 296-824 Emergency Response. (2) The planning standards described in this chapter do not constitute clean-up standards that must be met by the holder of a contingency with the exception of the health monitoring and surveillance plan. … Failure to implement an incident-specific health monitoring and surveillance plan does constitute failure to comply with WAC 296-824 and may result in administrative, civil, or criminal penalties.
WAC 173-182-315. Facility planning standards for nondedicated work boats and operators. • New concept: Integrating health protections from the plan holder's or PRC's incident-specific health plan, namely, the pre-deployment training and medical screening examinations, into the first 48 hours of a response.	**-315. Facility planning standards for nondedicated work boats and operators.** Each facility plan holder shall plan to obtain nondedicated work boats and operators that will be available to deploy GRPs, enhance skimming, and to provide logistical support or other uses during a spill. At a minimum, the plan shall describe support for the worst-case spill response with work boats and operators that could have arrived on-scene beginning at forty-eight hours, rostered and deployed under the plan holder's or PRC's incident-specific health monitoring and surveillance plan.
WAC 173-182-317. Covered vessel planning standards for VOO. • New concept: Integrating health protections and record management for VOO operators (captains and crew) as skilled support personnel type II, into the plan holder's or PRC's incident-specific health plan.	**-317. Covered vessel planning standards for VOO.** (1) This section applies to owners and operators of covered vessels and covered vessel plan holders who are required to have a plan for the use of VOO as temporary assigned responders. The plan shall describe how VOO operators, as skilled support personnel type II, will be integrated into the plan holder's incident-specific health monitoring and surveillance plan, including recordkeeping, as described in WAC 296-824. …

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Rule, Need, Effect, and Examples	Suggested Language
WAC 173-182-317. (continued) • New concept: Integrating a process for VOO operators type I (skilled support personnel type I) who are not covered under the plan holder's or PRC's incident-specific health plan to transition to type II workers who are covered by the incident-specific health plan. • New concept: Integrating simulated illness outbreaks into tabletop drills.	**-317.** (continued) (5) For each region a vessel plan holder transits or operates the plan holder must have a contract with the prescribed number of Tier I VOO below. VOO are nondedicated resources; the minimum number of VOO required assumes that one out of every two contracted vessels may be available at any time. In each region a percentage of the VOO must have completed (within the past 12 months) all baseline health evaluations as part of the health monitoring and surveillance plan and be pretrained and certified for their assigned roles and capable of the following tactics: ... (6) Plan holder obligations, as identified within this section, are subject to an adequate number of suitable vessels and capable operators enrolling with ecology. (7)(a)(ii) Medically preevaluated crew pretrained through a combination of classroom training, computer-based education, equipment familiarization, and field training exercises appropriate to the tactics the vessel may be assigned, including: ... (iv) Training records must be maintained for a period of five years. Medical records, exposure records, and analyses of these records must be maintained for a period of 30 years (WAC 296-802, Employee Medical and Exposure Records). Training records and medical records, exposure records, and analyses of these records shall be made available to the department upon request. (7)(b) Tier II designated vessels include: ... Vessel plan holders shall describe in their contingency plan the process for rapidly conducting medical evaluations and training the operators and crew and contracting the Tier II vessels for at least logistical support tactics that do not involve being on-site in the field. Tier II VOO are nondedicated resources (considered skilled support personnel type I in WAC 296-824). ... (8)(c) Tabletop drills may incorporate simulated illness outbreaks where over 10 percent of a VOO crew, task force, or ICS units, operating during the same shift in the same geographic area, report respiratory symptoms. Data collected during the simulated illness outbreak shall include the vessel name, crew names, location, time of initial call, intervention measures, resolution, and communication and reporting measures.

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Rule, Need, Effect, and Examples	Suggested Language
WAC 173-182-320. Facility planning standards for aerial surveillance. • Includes flight crew and spotters in the plan holder's incident-specific health plan for facilities.	**-320. Facility planning standards for aerial surveillance.** Each facility plan shall provide for aerial oil tracking resources capable of being on-scene within six hours of spill. Flight crew and spotters shall be included in the incident-specific health monitoring and surveillance plan. At a minimum...
WAC 173-182-321. Covered vessel planning standards for aerial surveillance. • Integrates an incident-specific health monitoring plan for aerial surveillance crew into the planning standards for covered vessels.	**-321. Covered vessel planning standards for aerial surveillance.** Covered vessels operating or transiting the lower Columbia River, Grays Harbor, Strait of Juan de Fuca, Puget Sound, or Washington coast, shall document the following aerial surveillance capability through the plan: (1) Documentation of records needed for inclusion in an incident-specific health monitoring and surveillance plan; (2) Access to a helicopter... (3) Plans must also include... (4) In order to provide best achievable technology... (5) Plan holders must have access to...
WAC 173-182-324. Planning standards for spills of oil that... may submerge or sink. • Integrates incident-specific health protection for nonfloating oil spills that also emit harmful contaminants into the air. For example, after the largest spill of "dilbit" (tar sands-derived crude oil mixed with diluents) in the United States, exposed residents experienced many of the signs and symptoms linked with oil spill exposures and reported long-term harm from their initial exposures.[6]	**-324. Planning standards for spills of oil that... may submerge or sink.** (1) Plan holders carrying, handling, storing, or transporting oils that may weather and sink when spilled to the environment must have a contract with a PRC that maintains the resources and/or capabilities necessary to respond to a spill of nonfloating oils. The resources must include documentation of records needed for inclusion in an incident-specific health monitoring and surveillance plan. Examples of nonfloating oils include...

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[6] Jamail D, 2011. The pipeline of poison. *Al Jazeera English*. https://www.aljazeera.com/features/2011/10/19/the-pipeline-of-poison

Rule, Need, Effect, and Examples	Suggested Language
WAC 173-182-325. Planning standards for dispersants. • Current events, i.e., discontinuation of Corexit dispersants used in and stockpiled for oil spill response, revealed a gap in planning standards. Proposed revisions integrate a planning standard for safely disposing of discontinued or expired and unusable dispersant, based on a need to protect workers, the public, and the environment from exposure to these products that often contain hazardous substances, mixtures, and health hazards. • Long overlooked in oil spill response, formation of secondary organic aerosols within the marine boundary layer was the dominant fate of surface oil after the BP Deepwater Horizon disaster.[7] Secondary organic aerosols were predicted to reach coastal communities downwind of the upwelling source and over 80 miles inland.[8]	**-325. Planning standards for dispersants.** (1) Plan holders carrying, handling, storing, or transporting Group 2, 3, or 4 persistent oil that is known to be dispersible and that may impact when spilled in any area where preapproval or case-by-case use of dispersants is available as per the NWACPs, must plan for the use of dispersants and disposal of products that have been discontinued by the manufacturer or are expired and unusable. Discontinued or expired and unusable dispersants will be treated as dangerous waste under WAC 173-303 and disposed of accordingly. (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) The plan holder must describe operational support capability, including the platforms and spotters used to deploy dispersants, monitor the operational efficacy of the dispersant application to support operational decision making and ensure safety of response personnel, including on-the-water responders (and on-land responders, if applicable) within at least a five nautical mile radius of aerial operations. (5) These resources must be capable of being on-scene within twelve hours of spill notification. Personnel resources must be part of an incident-specific health monitoring and surveillance plan.

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[7] Ward CP, Overton EB, 2020. How the 2010 *Deepwater Horizon* spill reshaped our understanding of crude oil photochemical weathering at sea: a past, present, and future perspective. *Environ Sci Process Impacts*. 2020 May. 22(5):1125-1138. doi: 10.1039/d0em00027b

[8] Middlebrook AM, Murphy DM, Ahmadov R, +25, and Ravishankara AR. 2012. Air quality implications of the Deepwater Horizon oil spill, at Table 8. *Proc Nat Acad Sci. Phys Sci*, 109: 20280–5. doi:10.1073/pnas.1110052108

Rule, Need, Effect, and Examples	Suggested Language
WAC 173-182-330. Planning standards for in-situ burning. • Integrates incident-specific health protection for employees and responders who are assigned to in-situ burn duties.	**-330. Planning standards for in-situ burning.** (5) These resources must be capable of being on-scene within twelve hours of spill notification. Personnel resources must be part of an incident-specific health monitoring and surveillance plan.
WAC 173-182-349. Covered vessel plan holders technical manuals. • Integrates incident-specific health protection into the technical manuals.	**-349. Covered vessel plan holders' technical manuals.** ... (2) The technical manuals will be used to inform the five-year BAP cycle and support ecology's determination that the response systems, training levels, and staffing demonstrate best available protection and the health monitoring and surveillance plan demonstrates the highest level of protection.
WAC 173-182-350. Documenting compliance with planning standards. • Integrates incident-specific health protection into the technical manuals.	**WAC 173-182-350. Documenting compliance with planning standards** The plan holder shall describe how the planning standards found in this chapter are met. (1) Each plan shall provide a spreadsheet on the resources intended to meet the planning standards as described in this chapter. This spreadsheet shall account for boom, recovery systems, storage, and dedicated and nondedicated personnel who qualify as fit for duty, pretrained and certified, and ready to be rostered, if needed, as part of a spill response and an incident-specific health monitoring and surveillance program. (2) Ecology will analyze the planning standard spreadsheet provided to determine whether the plan holder has access to equipment and qualified personnel, meaning part of an incident-specific health monitoring and surveillance plan), necessary to meet the planning standards.
WAC 173-182-510. Requirements for response and protection strategies. • This section concerns only environmental strategies.	**-510. Requirements for response and environmental protection strategies.** **Note:** The health protection strategies are integrated throughout this chapter. A new section, WAC 173-182-513, "Requirements for worker health protection strategies," could also be developed with a checklist of activities based on the requirements in WAC 296-824, if needed, and with LNI's assistance!

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Rule, Need, Effect, and Examples	Suggested Language
WAC 173-182-522. Planning standards for shoreline cleanup. • In this chapter, shoreline cleanup workers and supervisors are considered skilled support personnel type II and are covered by incident-specific medical monitoring and surveillance. • During large spills (and other emergencies), the line between emergency and post-emergency response work often blurs. Shoreline cleanup work can occur simultaneously with emergency response and for long durations like during the BP Deepwater Horizon disaster. Also, harmful environmental exposures may linger long after an emergency is over. In southeast Louisiana, air monitoring results found the average level of benzene and spill-derived oil aerosols (PAHs) exceeded health protective standards for public health for the *five months* of peak emissions after the BP Deepwater Horizon disaster.[9] • Proposed revisions are needed to better prepare and protect all the responders involved in on-site field work after an incident.	**-522. Planning standards for shoreline cleanup.** (1) Each contingency plan shall include… (a) Plan holders must have contracted access to one hundred trained shoreline clean-up workers (considered skilled support personnel type II). The shoreline clean-up workers must have appropriate safety and HAZWOPER training required in chapter 296-824 WAC. The training should enable clean-up workers to safely perform clean-up actions under the direction of the supervisors and the work assignment as developed by the unified command. The shoreline cleanup workers will not be counted towards other planning standards, but they will be covered under the incident-specific health monitoring and surveillance plan. (b) Plan holders must have contracted access to trained shoreline clean-up supervisors. Training for supervisors must include safety, HAZWOPER, and relevant ICS courses as required in chapter 296-824 WAC. Supervisors must be able to recognize and understand the potential consequences of exposure to hazardous substances, mixtures, or health hazards in an emergency, including the signs and symptoms of exposure and illness outbreaks. For planning purposes, a ratio of 1:10 supervisors to clean-up workers should be available under contract to the plan holder. The shoreline clean-up supervisors will not be counted towards other planning standards, but they will be covered under the incident-specific health monitoring and surveillance plan. Supervisors must understand the ICS process and be able to direct workers consistent with the work assignments as developed by unified command and during an illness outbreak consistent with the incident-specific health monitoring and surveillance plan as directed by the Safety Officer.

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[9] Nance E, King D, Wright B, Bullard RD. 2016. Ambient air concentrations exceeded health-based standards for fine particulate matter and benzene during the BP DHOS. *J Air Waste Manag Assoc.* Jan, 66(2):224-36. doi: 10.1080/10962247.2015.1114044

Rule, Need, Effect, and Examples	Suggested Language
WAC 173-182-535. Planning standards for air monitoring to protect oil spill responders and the public. • States delegate public health authority to local jurisdictions, however, the public health assessments (and the state authority to conduct them) are not well integrated into all-hazard disaster responses. • To better integrate public health into oil spill response activities, the 2023 Health and Safety Task Force recommended establishing and implementing a Public Health Assessment Unit like what was done in California by RRT 9 and state and local government entities—but with the addition of health monitoring and surveillance. This is already being undertaken in Washington. • Proposed revisions would require plan holders to plan intervention measures to mitigate harm if the PHA Unit leader determines that action levels are triggered.	**-535. Planning standards to protect oil spill responders and the public from environmental exposures.** Plans will include a narrative description of applicable federal, state, and local requirements and the plan holder's resources for conducting air monitoring and health monitoring to protect oil spill responders and the public, including: (1) A description of how initial site safety assessment for responders will occur; (2) A description of how work area air monitoring and health monitoring will occur if hazardous substances, mixtures, or health hazards could be present; (3) A description of how community air monitoring (area wide monitoring) will occur if hazardous substances, mixtures, or health hazards could be present and the intervention measures that will be taken to mitigate harm if public health assessment action levels (established by state and local public health officials) are triggered; (4) A description of air monitoring instruments and detection limits that will be used by responders when monitoring for public safety; (5) A description of action levels for various oil constituents of concern, if known, and for mixtures and health hazards based on illness outbreaks as quantified by signs and symptoms of exposure in impacted and adjacent and/or downwind neighborhoods; (6) A description of data management protocols and reporting time frames to the unified command consistent with the requirements of this chapter and chapter 296-824 WAC; (7) A description of communication methods to at-risk populations; (8) A description of how evacuation zones and shelter-in-place criteria are established.
WAC 173-182-540. Planning standards for wildlife response. • Integrates all wildlife responders into the plan holder's incident-specific health protection plan.	**-540. Planning standards for wildlife response.** Plan holders must plan to respond to and care for wildlife injured or endangered by oil spills. Wildlife response actions shall be conducted in accordance with applicable federal and state regulations and the Northwest Area Plan. Dedicated wildlife responders and assigned volunteers (considered as skilled support personnel type II under WAC 296-824) will be covered under the incident-specific health monitoring and surveillance plan. ...

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Rule, Need, Effect, and Examples	Suggested Language
WAC 173-182-610. Plan evaluation criteria. • Establishes that public health assessment is the domain of local and state governments, but the plan holder is responsible	**-610. Plan evaluation criteria.** Plan holders shall prepare a plan that demonstrates capability, to the maximum extent practicable, of promptly and properly removing oil and minimizing environmental damage from a variety of spill sizes, up to and including worst case spills, while taking actions to minimize acute and chronic harm to on-site field employees, responders, and the public. Ecology will evaluate plans based on these conditions: ... (5) Ecology will count an incident-specific health monitoring and surveillance plan and medical personnel, as specified in WAC 296-824, that can be scaled up, as needed, for the size of the response. Ecology will also count plans to support public health monitoring and assessment, but not a public health monitoring plan as that is under state and local jurisdiction.
WAC 173-182-620. Alternative method of evaluating planning standards. • This standard is meant to provide flexibility not a loophole.	**-620. Alternative method of evaluating planning standards.** (1) A plan holder may request that ecology review and approve a plan based on alternative planning standards for this chapter. The alternative plan must also comply with WAC 296-824. Such requests should be submitted... ...
WAC 173-182-700. Drill participation, scheduling and evaluation. • Note: No revisions were made to any other sections because it seemed the worst-case scenario tabletop drill and the deployment drills could include drills on aspects of the incident-specific health monitoring and surveillance plan.	**-700. Drill participation, scheduling and evaluation.** (1) Plan holders, spill management teams (SMTs), wildlife response service providers (WRSPs), and primary response contractors (PRCs) shall participate in a drill and equipment verification program for the purpose of ensuring that all contingency plan components function to provide, to the maximum extent practicable, prompt and proper removal of oil and minimization of environmental damage and harm to responder health and public health from a variety of spill sizes. ...

Rule, Need, Effect, and Examples	Suggested Language
WAC 173-182-720. Evaluation criteria. • Revision consistent with other sections. • Note: Changes could be made to section 173-182-7230 Other Ways to Get Drill Credit for credit for the incident-specific health protection plan.	**-720. Evaluation criteria.** ... (8) Protection: Demonstrate the ability of the spill response organization to protect the environmentally, culturally, and economically sensitive areas identified in the NWACP and the plan while minimizing harm to responders and the public. ...
WAC 173-182-800. ...(PRC) application. • Revision consistent with other sections.	**-800. ...(PRC) application.** (1) To become a state-approved PRC, a response contractor must: ... (e) Identify and train staff and supervisors expected to be deployed on oil spill response tactics or used to meet plan holder's standards including for incident-specific health monitoring and surveillance; ...
WAC 173-182-810. Content submittal and review of PRC applications. • Proposed revisions ensure that the employer responsible for implementing an incident-specific health protection plan is known and listed if not the plan holder. • Clarifies and integrates awareness training of mixtures and health hazards as part of essential core training. This is needed to better protect employees and responders during an oil spill response.	**810. Content submittal and review of PRC applications.** (1) A list of primary response contractor personnel indicating whether they are full-time, part-time, or subcontracted including their homebase or office location, the name of the employer responsible for implementing an incident-specific health monitoring and surveillance plan and collecting and maintaining the medical records, exposure records, and analyses of these records if other than the PRC, and the spill management team roles or tactical roles they may fill in a response. (a) If personnel are available to the primary response contractor via subcontract a summary of the contract terms for personnel resources should be included in the application with the name of the employer responsible for collecting and maintaining incident-specific medical records, exposure records, and analyses of these records if other than the PRC or contractor. The contract shall be made available to ecology upon request. (b) A list of all staff training, including training of subcontractors if applicable, and a description of the frequency of core training response staff receive. Essential core training must include recognition and understanding of the potential consequences of exposure to hazardous substances, mixtures, or health hazards in an emergency, including the signs and symptoms of exposure and an illness outbreak.

Rule, Need, Effect, and Examples	Suggested Language
WAC 173-182-810. (continued) • Proposed revision is needed to ensure responders are available for immediate deployment.	**-810.** (continued) (c) A list and date of pre-deployment health screening evaluations conducted by an OEM-trained physician within 12 months of deployment to determine fitness to perform assigned response duties. (d) The training program must be ... (e) Additional training as necessary...
WAC 173-182-820. Significant changes to... (PRC) applications require notification. • Current events, i.e., discontinuation of Corexit dispersants used in and stockpiled for oil spill response, revealed a gap in planning standards. Proposed revision is consistent with 173-182-325.	**-820. Significant changes to ... (PRC) applications require notification.** ... (2) Changes which are considered significant include: (a) Loss of equipment or unusable products (from discontinuation or expiration) that results in being out of compliance with any planning standard of any plan holder covered by the PRC; ...
WAC 173-182-830. ... (SMT) and ... (WRSP) application requirements. • Plan holder commitment to ecology's standard of planning for the highest level of protection for all responders is critical to the overall success of the response.	**-830. ... (SMT) and ... (WRSP) application requirements.** ... (6) Commit to the implementation and use of the contingency plan(s) to which they are contracted during a spill and substantial threat of a spill, and to the training of personnel to implement the plan including an incident-specific health monitoring and surveillance plan; (7) Commit to working in unified command within the incident command system to ensure that all personnel and equipment resources necessary to the response will be called out to clean up the spill safely while minimizing harm to responders and the public to the maximum extent practicable.

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Rule, Need, Effect, and Examples	Suggested Language
WAC 173-182-840. … (SMT) and … (WRSP) application requirements. • Proposed revisions integrate incident-specific health protections for other role categories and ensure field staff are pre-trained and medically-evaluated for immediate deployment.	**-840. … (SMT) and … (WRSP) application requirements.** … (1) A list of personnel indicating whether they are full-time or part-time, dedicated, or nondedicated including their home base or office location, the name of the employer responsible for implementing an incident-specific health monitoring and surveillance plan and collecting and maintaining the medical records, exposure records, and analyses of these records if other than the plan holder, and the roles they may fill in a response. … (4) A list of staff training by position, and a description of the frequency of training staff receive. Essential core training must include recognition and understanding of the potential consequences of exposure to hazardous substances, mixtures, or health hazards in an emergency, including the signs and symptoms of exposure and an illness outbreak. (5) A list and date of pre-deployment health screening evaluations conducted by an OEM-trained physician within 12 months of deployment for field staff to determine fitness to perform assigned response duties. (6) Wildlife response service providers… … renumber … (12) Approval by ecology does not constitute…
WAC 173-182-900. Recordkeeping. • Allows ecology to verify compliance of the plan to provide the incident-specific health protection.	**-900. Recordkeeping.** Ecology may verify compliance with this chapter by examining incident-specific health monitoring and surveillance records including medical records, exposure records, and analyses of these records, training and equipment maintenance records, drill records, accuracy of call-out and notification lists, spill management team lists, ICS forms, waste disposal records, post-records, spill reviews and records on lessons learned.

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Support Petition for Joint Rulemaking: Other Revisions to Support Establishing and Implementing an Incident-Specific Health Monitoring and Surveillance Program for Emergency Responders		
The joint need. A joint rulemaking is also needed to ensure that employee medical records, exposure records including safety data sheets, and analyses using these records that are generated from incident-specific health monitoring and surveillance programs are included under WAC 296-802 Medical and Exposure Records; and that safety data sheets are accessible and available to state agencies under WAC 296-800, Core Safety and Health Rules and WAC 173-182-120, Submitting a Contingency Plan.		
Dept. of Labor and Industries (LNI)	**Dept. of Labor and Industries (LNI)**	**Dept. of Ecology (ECY)**
Table 3. WAC 296-802. Employee Medical and Exposure Records. **The need.** Proposed revisions to this chapter would: • Make medical records, exposure records, and analyses using these records generated by an incident-specific health monitoring and surveillance program part of this chapter; • Require that medical records for all responders, including temporary assigned skilled support personnel, are kept as part of the incident-specific record; • Require that all data, not data summaries, are kept for incident-specific programs; • Provide access to safety data sheets for state agencies that need to verify compliance with emergency response preparedness and planning standards including review of incident-specific health programs; and • Provide consistency with language and terminology in proposed systemic revisions to WAC 296-824 and WAC 173-182.	**Table 4. WAC 296-800. Core Safety and Health Rules.** **The need.** Proposed revisions to this chapter would: • Clarify that safety data sheets contain no personal information and can be made public; • Require employers to have safety data sheets as part of employee exposure records; • Require employers to provide safety data sheets to state agencies that request them; and • Make some language and terminology consistent with proposed systemic revisions to WAC 296-824 and WAC 173-182.	**Table 5. WAC 173-182-120. Submitting a Contingency Plan.** **The need.** Proposed revisions to this chapter would: • Require plan holders to include safety data sheets for any dispersants or other products anticipated for use during oil spill response to the Department of Ecology as part of the submittal package for their oil spill contingency plan.

TABLE 3. WAC 296-802. Employee Medical and Exposure Records.	
Rule, Need, Effect and Examples	**Suggested Language**
WAC 296-802-099. Definitions. • In 2024, systemic changes were finalized in the OSHA hazard communication standard § 1910.1200 to recognize that mixtures of chemicals with or without hazardous substances and health hazards may present uncertain exposure risks and cause harm at low levels of exposure (GHS revision 7, 89 FR 44144, May 20, 2024). • Language is needed throughout this chapter to account for exposure risk from chemical **mixtures and health hazards** when PELs are unknown or unreliable and to be consistent with revisions in other OSHA chapters. • Proposed revisions are consistent with language and terminology in proposed revisions to WAC 296-824 and WAC 173-182. • Safety data sheets are designed to communicate the nature of and consequences from exposure to chemicals in the workplace. This is a different purpose than a chemical inventory and exposure records of individual employees. The latter cannot be a substitute or an "alternative record" for the former.	**-802-099. Definitions.** **Employee exposure record.** A record containing any of the following kinds of information: (a) Environmental (workplace) monitoring or measuring of a toxic substance, mixture, health hazard, or harmful physical agent... (b) Biological monitoring results which directly assess the absorption of a toxic substance, mixture, health hazard, or harmful physical agent by body systems (e.g., the level of a chemical in the blood, urine, breath, hair, fingernails, etc.) but not including results which assess the biological effect of a substance, mixture, health hazard, or agent or which assess an employee's use of alcohol or drugs; (c) Safety data sheets (WAC 296-901-14014) indicating that the material may pose a hazard to human health; and (d) In addition to the above: (i) A chemical inventory or any other record which reveals where, when, and how much was used and the identity (e.g., chemical, common or trade name) of a toxic substance, mixture, health hazard, or harmful physical agent. (ii) Exposure records of other employees with past or present job duties or related working conditions.

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Rule, Need, Effect and Examples	Suggested Language
WAC 296-802-099. (continued) • Proposed revision to **medical record** clarifies that incident-specific health monitoring and surveillance records are part of an employee's medical record. • The term "**emergency medical service**" is used in WAC 206-800-15020 in reference to first-aid treatment and in WAC 296-824-20005 in reference to developing an emergency response plan but is not defined in either of these chapters. Any use of emergency medical services during emergency response should be accounted for as part of an employee's medical record. The proposed definition was adopted from the proposed emergency response standard § 1910.156(b) (89 FR 7774). • Proposed revisions to "**exposure or exposed**" are consistent with proposed systemic revisions to this chapter and use in Hazard communication, WAC 296-901-140 and Safety data sheets, WAC 206-901-14014.	**-802-099.** (continued) **Employee medical record.** ... (a) A record concerning the health status of an employee which is made or maintained by a physician, nurse, or other health care personnel, or technician, including: ... (ii) The results of medical examinations (preemployment, preassignment, periodic, episodic, or incident-specific for health monitoring and surveillance) and laboratory tests (including chest and other X-ray examinations taken for purposes of establishing a baseline or detecting occupational illness, and all biological monitoring not defined as an "employee exposure record"). (iii) Medical opinions, diagnoses... (iv) First-aid records. (v) Descriptions of treatment and prescriptions, including use of emergency medical services. (vi) Employee medical complaints. **Emergency medical service.** The provision of employee treatment, such as basic life support, advanced life support, and other pre-hospital procedures, that may include transportation to a medical facility. It includes the provision of first aid and life-threatening exposures within the scope of this chapter. **Exposure or exposed.** The contact an employee has with a hazardous chemical, toxic substance, mixture, health hazard, harmful physical agent such as an oxygen deficient condition while working. Exposure can occur through various routes, such as inhalation, ingestion, skin contact, or skin absorption. (Consistent with use in Hazard communication, WAC 296-901-140, and Safety data sheets, WAC 206-901-14014.)

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Rule, Need, Effect and Examples	Suggested Language
WAC 296-802-100. Scope. • Proposed revisions are consistent with proposed systemic revisions to this chapter. • The proposed revision to the **Reference** accommodates the proposed revision to require submission of Safety data sheets for products that are anticipated to be used during oil spill response as part of the oil spill contingency plan.	**-802-100. Scope.** ... **This chapter applies to:** • All employers who make, maintain, contract for, or have access to records relating to employee exposure to toxic substances, mixtures, health hazards, or harmful physical agents, whether or not they are required by specific occupational safety and health rules. These records include: ... **Reference**: • Requirements for safety data sheets are found in WAC 296-901-14014, Safety data sheets, and WAC 173-182-325, Planning Standards for Dispersants.
296-802-20005. Keep employee medical records. • The proposed revision accommodates the proposed revisions in Tables 1 and 2 that include temporary assigned contractors and responders (skilled support personnel type II) as employees who are part of an incident-specific health monitoring and surveillance program that may continue after post-deployment for at least two years and would need a complete data set.	**-802-20005. Keep employee medical records.** (1) You must keep medical records for at least as long as the employee works for you plus thirty years. Exemption: • If an employee works for you for less than one year and was not part of an incident-specific health monitoring and surveillance program and you provide the records to them when they leave employment, you do not have to keep their medical records. ...

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Rule, Need, Effect and Examples	Suggested Language
296-802-20010. Keep employee exposure records. • Proposed revisions are consistent with proposed systemic revisions to this chapter. • Proposed revision to the **Note** is consistent with the need to maintain a complete dataset for an incident-specific health monitoring and surveillance program for the duration of the program.	**-802-20010. Keep employee exposure records.** **IMPORTANT:** You do not need to keep employee exposure records for exposure to toxic substances, mixtures, or health hazards when they are: ... (1) You must keep employee exposure records for at least thirty years from the date the exposure record was made. ... Note: You do not have to keep the actual background data for more than one year if you keep a summary of the data for thirty years UNLESS the data are part of an incident-specific response under WAC 173-182, Oil spill contingency plan. (2) You must keep a record, for at least thirty years, of the identity of any toxic substance, mixture, or health hazard used in your workplace, meaning within the scope of chapter 296-800 WAC.
296-802-20015. Keep analyses of medical or exposure records. • Proposed revisions clarify that analyses using medical records or exposure records or both must be kept as required.	**-802-20015. Keep analyses of medical and/or exposure records.** You must keep each analysis using medical and/or exposure records for at least thirty years.
296-802-40005. Provide access to employee medical records, exposure records, and analyses. • Proposed revisions are needed to better protect dedicated and nondedicated employees and responders (skilled support personnel type II) who have a right-to-know and understand potential cumulative health harm from repeated exposures to toxic substances, mixtures, or health hazards in the workplace.	**-802-40005. Provide access to employee medical records, exposure records, and analyses.** ... **Exemption**: You do not have to provide analyses that are currently being worked on or have not been reported to you UNLESS the analyses are part of an incident-specific response (see WAC 173-182) in which case, the analyses must be reported when completed or reported to you.

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Rule, Need, Effect and Examples	Suggested Language
296-802-40015. Provide employee exposure records. • Proposed revisions are consistent with proposed systemic revisions and the rationale for the proposed revision to section 40005 in this chapter.	**-802-40015. Provide employee exposure records.** (1) You must provide requested exposure records that show the type and amount of toxic substances, mixtures, health hazards, or harmful physical agents to which the employee is or has been exposed, for an employee's current or transfer work assignment. ...
296-802-50010. Respond to WISHA access orders for employee medical records. • Proposed revision accommodates the need of other agencies to verify compliance with medical monitoring and surveillance requirements for incident-specific health monitoring and surveillance programs during all-hazard emergency response.	**-802-50010. Respond to WISHA access orders for employee medical records.** ... **Note:** WISHA does not need a written access order for the following types of employee medical records: ... • Examination of records to verify compliance with the medical monitoring and surveillance requirements of another occupational health and safety rule or relating to emergency response including oil spill response.

TABLE 4. WAC 296-800. Safety and Health Core Rules.	
Rule, Need, Effect and Examples	**Suggested Language**
WAC 296-800-099. Definitions. • Proposed revisions are consistent with proposed systemic revisions in WAC chapters 296-824 (Table 1), 173-182 (Table 2), and 296-802 (Table 3) and are identical to the proposed definition in Table 3. • The term "**emergency medical service**" is used in WAC 206-800-15020 in reference to first-aid treatment and in WAC 296-824-20005 in reference to developing an emergency response plan but is not defined in either of these chapters. Any use of emergency medical services during emergency response should be accounted for as part of an employee's medical record. The proposed definition was adopted from the proposed emergency response standard § 1910.156(b) (89 FR 7774). • Note: In this chapter, the term includes the provision of first aid unlike in WAC 296-802-099.	**800-099. Definitions** **Employee exposure record.** A record containing any of the following kinds of information: • Environmental (workplace) monitoring or measuring of a toxic substance, mixture, health hazard, or harmful physical agent... • Biological monitoring results which directly assess the absorption of a toxic substance, mixture, health hazard, or harmful physical agent by body systems (e.g., the level of a chemical in the blood, urine, breath, hair, or fingernails, etc.) but not including results which assess the biological effect of a substance, mixture, health hazard, or agent or which assess an employee's use of alcohol or drugs; • Safety data sheets (WAC 296-901-14014) indicating that the material may pose a hazard to human health; and In addition to the above: • A chemical inventory or any other record which reveals where, when, and how much was used and the identity (e.g., chemical, common or trade name) of a toxic substance, mixture, health hazard, or harmful physical agent. • (ii) Exposure records of other employees with past or present job duties or related working conditions. **Emergency medical service.** The provision of employee treatment, such as basic life support, advanced life support, and other pre-hospital procedures, that may include transportation to a medical facility. It includes the provision of first aid within the scope of this chapter.

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Rule, Need, Effect and Examples	Suggested Language
WAC 296-800-099. Definitions. • Changes to definition are identical to proposed language in Table 3.	**800-099.** (continued) **Exposure or exposed.** The contact an employee has with a hazardous chemical, toxic substance, mixture, health hazard, or harmful physical agent such as an oxygen deficient condition while working. Exposure can occur through various routes, such as inhalation, ingestion, skin contact, or skin absorption. (Consistent with use in Hazard communication, WAC 296-901-140, and Safety data sheets, WAC 206-901-14014.) The terms exposure and exposed only cover workplace exposure involving harmful chemical or physical agents in the workplace different from typical nonoccupational situations in the way it is: • Used. • Handled. • Stored. • Generated. • Present.
296-800-180. Safety data sheets (SDSs) as exposure records. • Proposed revisions are consistent with proposed **systemic revisions** in WAC chapters 296-824 (Table 1), 173-182 (Table 2), and 296-802 (Table 3). • Safety data sheets are part of an employee's exposure record, but they also need to be **accessible to the public**. When toxic substances or mixtures like pesticides or oil spill dispersants or dilbit (a tar sands mixture) are intentionally broadcast sprayed or accidentally released into the environment or brought home in "take-home exposures", the exposed public may experience signs and symptoms of exposure. The public has a right-to-know and understand what is in their environment for the same reasons as employees. Proposed revisions accommodate both these needs. • There is a need to require employers to **obtain** Safety data sheets in addition to preserving and providing access to them. This proposed revision accommodates the proposed revision in this chapter to expand access to SDSs to state agencies responsible for protecting the environment and public health and welfare.	**-800-180. Safety data sheets (SDSs) as exposure records.** Important: Exposure records contain information about employees' exposure to hazardous substances, mixtures, health hazards, or harmful physical agents or conditions. Safety data sheets (SDSs) are one type of exposure record but, unlike other types, they contain no personal information and can be made public. The preservation of and access to exposure records is necessary to improve detection, treatment, and prevention of occupational diseases. This rule supplements the hazard communication rule by extending access to SDSs and additional records to the public and after employment and after the hazardous substance, mixture, health hazard or harmful physical agent is no longer used in the workplace. **Your responsibility**: You must obtain, preserve, and provide access to safety data sheets (SDSs) and any additional records concerning a substance, mixture, health hazard or harmful physical agent as exposure records.

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Ingestion.¶
Skin contact.¶
Absorption.¶
Related means.¶

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Rule, Need, Effect and Examples	Suggested Language
296-800-18005. Preserve exposure records for at least thirty years. • Proposed revisions provide consistency in this chapter. Safety data sheets are designed to communicate the nature of and consequences from exposure to chemicals in the workplace. This is a different purpose than a chemical inventory and exposure records of individual employees. The latter cannot be a substitute or an "alternative record" for the former.	**-800-18005. Preserve exposure records for at least thirty years.** You must keep safety data sheets (SDSs) and analysis using SDSs for at least thirty years, including current, former, and future employers receiving transferred records. Preserve SDSs in any form, as long as the information is not altered and is retrievable. You may keep additional records concerning the identity of a substance. The additional record must also be kept for thirty years and contain the following information: (1) Some record of the identity (chemical name, if known) of a substance or agent. (2) Where the substance or agent was used. (3) When the substance or agent was used. (4) How much of the substance was used. (5) Exposure records of employees with past or present job duties or related working conditions.
296-800-18010. Inform current employees of exposure records. • Proposed revisions are consistent with proposed **systemic revisions** throughout this petition.	**-800-18010. Inform current employees of exposure records.** (1) You must inform current employees who are, or will be exposed to a toxic or hazardous chemical, a hazardous substance, a chemical mixture, or a health hazard of: Note: A chemical is toxic if: • The latest printed edition of the ... (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) lists the substance... • Testing by or known to the employer has shown positive evidence that the substance is an acute or chronic health hazard. • A safety data sheet (SDS) shows the material may be a hazard to human health. a) The existence, location, and availability of SDSs and additional records, and any other records covered by this rule. ...

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Rule, Need, Effect and Examples	Suggested Language
296-800-18015. Provide access to exposure records. • There is a need to **expand access** to SDSs to state agencies responsible for protecting the environment and public health and welfare. • Specific to this joint petition, the proposed revision accommodates the proposed revision to WAC 173-182-180 to require plan holders to provide SDSs for products anticipated to be used during oil spill response as part of their oil spill contingency plan.	**-800-18015. Provide access to exposure records.** … (4) You must provide any state agency a copy of a safety data sheet immediately upon request.

TABLE 5. WAC 173-182. Oil Spill Contingency Plan.	
Rule, Need, Effect and Examples	**Suggested Language**
WAC 173-182-120. Submitting a contingency plan. • U.S. EPA requires a Safety data sheet as part of the submittal package to register product for use during oil spill response. § 300.915(a)(5). This makes Safety data sheets part of the public record. • For decades (at least since the *Exxon Valdez* oil spill in 1989), Safety data sheets for dispersants commonly used in oil spill response have been publicly available and readily accessible. Then EPA changed it rules governing dispersant use to require truthful, current, and accurate reporting the impacts or potential impacts of the product to human health or the environment. § 300.970(a)(4). And dispersant SDSs vanished from the public domain (the worldwide web)—even the ones for products that are currently listed on EPA's Product Schedule for use during oil spill response. https://www.epa.gov/emergency-response/ncp-product-schedule-products-available-use-oil-spills • In preparation for oil spills in state marine waters, states must decide whether to use dispersants in response and, if so, the quantities that may be used and the waters where they can be used safely, as mandated by the Clean Water Act. 33 USC § 1321(d)(2)(G)(iii). To make these determinations, states need access to Safety data sheets—as do regional response teams, primary response contractors, Tribes, and the public who participate in the decision-making process. • Proposed revisions would require plan holders to include copies of Safety data sheets for any dispersant or other products anticipated for use during oil spill response as part of their submittal package for an oil spill contingency plan.	**-120. Submitting a contingency plan.** (1) Plan holders shall submit plans and safety data sheets for any dispersants or other products anticipated for use to ecology no less than sixty-five days prior to their planned date for beginning of operations in Washington. Note: Safety data sheets, as part of exposure records, may be requested by a state agency (WAC 296-800-18015, Provide access to exposure records). (2) The plan holder shall submit two copies of the plan and all appendices and any safety data sheets. ... ...