

Environmental Performance Partnership Agreement between the Department of Ecology and the Environmental Protection Agency

Effective: July 1, 2023, to June 30, 2025

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Department of Ecology's Regional Offices

Map of Counties Served



	Southw 360-4	vest Region 07-6300	Northwest Region 206-594-0000	Centra 509-57	l Region 75-2490	Eastern Regio 509-329-3400	n)	
Regi	ion		Counties served		Mailir	ng Address	I	Phone
Southw	vest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum		P.O. Box 47775 Olympia, WA 98504		360-	407-6300	
Northwest Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom		P.O. Box 330316 Shoreline, WA 98133		206-	·594-0000			
Central		Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima		1250 West Alder Street Union Gap, WA 98903		509-	·575-2490	
Eastern		Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman		4601 North Monroe Spokane, WA 99205		509-	·329-3400	
Headqu	arters Statewide		P.O. Box 46700 Olympia, WA 98504		360-	·407-6000		

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Washington State Department of Ecology Olympia, WA

May 2023 | Publication 23-01-003



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Environmental Performance Partnership Agreement For July 1, 2023-July 30, 2025

Between the Washington State Department of Ecology and the U.S. Environmental Protection Agency – Region 10

We, the undersigned, Laura Watson, Director of the Washington State Department of Ecology and Casey Sixkiller, Regional Administrator for the United States Environmental Protection Agency, Region 10, enter into this Environmental Performance Partnership Agreement for the protection of Washington's air quality and water quality and sound management of hazardous waste.

This Agreement reflects the relationship between Ecology and EPA Region 10. It is a partnership with each other and with the people of Washington in protecting, enhancing, and restoring our natural environment. In this Agreement, we have identified clear environmental priorities and desired results.

Both Ecology and EPA Region 10 will exert their best efforts in the performance of this Agreement. Disputes regarding the performance of either party to this Agreement will be resolved, consistent with applicable regulatory dispute resolution procedures, at the lowest level possible within our organizations. If this is not feasible or successful, the next level for dispute resolution will be the managers responsible for the program area in question. The final level of appeal will be the Director of Ecology and Regional Administrator for EPA Region 10.

It is our belief that this Agreement will improve environmental protection in Washington State. In addition, we hope that Agreement communicates to local communities, tribal governments, and citizens our mutual goals and priorities for the 2023-2025 state biennium.

Signed,

Digitally signed by Watson. Watson, Laura (ECY) Date: 2023.06.22 χ Laura (EC) 09:58:41 -07'00'

Laura Watson Director, WA State Department of Ecology



Casey Sixkiller Regional Administrator, US EPA Region 10

Chapter 1 - Performance Partnership Overview

Introduction

Established in 1995, the National Environmental Performance Partnership System (NEPPS) was designed to improve the efficiency and effectiveness of EPA partnerships. NEPPS offers states, tribes, and territories the opportunity to set joint priorities, strategically leverage resources, and assess environmental conditions. Performance Partnership Agreements and Performance Partnership Grants (PPGs) are two tools that can be used to accomplish these goals.¹

Purpose²

This Performance Partnership Agreement (Agreement) documents the goals, objectives, and commitments between the Washington State Department of Ecology (Ecology) and the U.S. Environmental Protection Agency (EPA). It describes:

- Clean Air Act and Clean Water Act activities EPA "delegates" to Ecology and funds with the Performance Partnership grant.
- Resource Conservation and Recovery Act (RCRA) activities to manage hazardous waste, including Ecology activities, "authorized" by EPA and funded with a RCRA grant (see Chapter 8.)
- EPA-funded activities carried out by Ecology programs that address:
 - a. Water quality
 - b. Air quality
 - c. Hazardous waste 3
 - d. Nuclear waste

Effective date and legal authority

This Agreement is effective July 1, 2023, to June 30, 2025, and does not restrict EPA's or Ecology's legal oversight or enforcement authority. All aspects of this Agreement regarding EPA are managed through EPA Region 10, Seattle, Washington. Decisions made by Ecology and EPA are the basis for the commitments and plans in this Agreement.

¹ <u>https://www.epa.gov/sites/default/files/2020-11/documents/nepps_brochure.pdf</u>

² For the remainder of this Agreement, the terms "delegated" and "authorized" are considered the same for general purposes, respecting there is a legal distinction between the two terms.

³Washington law uses the term *dangerous* waste. Federal law uses the term *hazardous* waste. Washington's definition of dangerous waste includes some wastes that are not included in the federal definition. For this Agreement A, the term *hazardous waste* is used, resecting the distinction between the two terms.

Tribal relations

Ecology and EPA have important relationships with federally recognized Indian tribes. The federally recognized tribes are sovereign nations with regulatory authority within Indian Country. Their rights and resources are reserved by their treaties or by other means. The U.S. government has a unique trust responsibility to these tribal governments through:

- Treaties
- State and federal laws
- Executive orders
- Court decisions

Relationships with Indian groups and communities that are not federally recognized as tribes are also important to our agencies but do not include the same trust or treaty agreements or equivalent laws.

Indian Country and tribal trust resources are not addressed within this Agreement. This Agreement is not intended to define or modify tribal relationships. Ecology and EPA have, and will continue to develop, separate environmental agreements with individual tribes outside of this Agreement. However, in mutual recognition of tribal collaboration, as part of this Agreement, EPA and Ecology will continue to provide each other with copies of our respective environmental agreements with tribes upon request.

EPA Indian Policy established in 1984 commits EPA to operate in a government-to-government relationship with Indian tribes. The policy supports the self-governance principle for tribes that manage federal environmental programs in Indian Country. When other agencies implement environmental programs, EPA emphasizes the importance of working with tribes.

EPA also encourages cooperation between state, tribal, and local governments to resolve environmental issues of mutual concern. It is very important for Ecology and EPA to work with tribes to address Endangered Species Act issues related to the current and proposed listings of several species in Washington State.

Under the 1989 State/Tribal Centennial Accord⁴ and Government-To-Government Relationship With Indian Tribes law⁵, Ecology maintains a relationship with tribes. Ecology is fully committed to the principles of government-to-government consultation and cooperation with tribes consistent with our mission to protect, preserve, and enhance Washington's environment, for current and future generations.⁶

⁴ <u>https://goia.wa.gov/relations/centennial-accord</u>

⁵ <u>https://app.leg.wa.gov/rcw/default.aspx?cite=43.376&full=true</u>

⁶ <u>https://ecology.wa.gov/About-us/Who-we-are/Strategic-plan</u>

Environmental Protection Agency grants to Ecology

Ecology receives EPA funds through the Performance Partnership Grant and Resource Conservation and Recovery Act Grant.

The purpose of the Performance Partnership Grant is to:

- Reduce administrative burden by consolidating several air and water grants into one.
- Increase the flexibility to reallocate resources between grants and programs to meet the highest environmental priorities in the state.

Funding sources for the Performance Partnership Grant include the:

- Surface Water 106 Grant (Base Water Grant).
- Groundwater 106 Base Grant.
- Underground Injection Control Grant.
- Clean Air Act Section 105 Base Grant.

The purpose of the Resource Conservation and Recovery Act Grant is to fund hazardous waste activities described in this Agreement.

The table below lists the grants included in this Agreement (not including Ecology matching funds).

Table 1. Agreement Grants – State Fiscal Years 2024-2025

Grant Number and Title	Estimated Two Year EPA Grant Amount	End Date
FB00 – Air Grants 66.605 – Performance Partnership Grant	\$7,535,000	6/30/25
M221 – Hazardous Waste RCRA 66.801 – Hazardous Waste Management Support	\$3,400,000	6/30/25
FB00 – Water Grants 66.605 – Performance Partnership Grant	\$11,430,990	6/30/25

State and federal budgets, for the effective dates of this Agreement, are not final when it is signed by EPA and Ecology. To address the time lag, both agencies agree to meet by the end of the calendar year 2023 to address specific budgets for each program area and how they may affect the plans and commitments in this Agreement. If other budget adjustments are needed during the effective dates of this Agreement, both agencies will meet to coordinate related impacts, activities, and deliverables.

Progress assessment process

All elements of this Agreement are important to Ecology and EPA. Both agencies are open to assessing, enhancing, and updating the Agreement.

Ecology and EPA will regularly, together and independently, assess the progress of the specific activities covered in this Agreement. These assessments will focus on activities subject to the air quality, water quality, and hazardous waste elements funded by the grants noted above. Other parts of the Agreement will be open to assessment as the need arises.

Ecology and EPA will use the regular assessments to identify any actions needed to assure success and compliance, consider work adjustments, and, if necessary, amend the Agreement. If a formal amendment is needed, there will be a public review and comment period before both parties sign the amendment.

The midterm assessment will include the following elements:

- Compliance: Are Ecology and EPA in compliance with this Agreement?
- Budget implications: Are budget constraints impairing the activities in this Agreement?
- **Effectiveness:** Does the work covered in this Agreement apply resources to the highest environmental priorities and improve environmental outcomes?
- **Public access to review and engage:** Does the work covered in this Agreement advance environmental justice, community access, and public engagement related to that work?
- Fiscal soundness and program accountability: Are the funds used for this Agreement managed in an efficient, legal, effective, and economical manner?
- Accomplishments and changes: Are significant accomplishments or critical changes needed relative to this Agreement?

In early 2025, both agencies' assessments will form the basis for negotiating the priorities in the July 1, 2025, to June 30, 2027, Agreement. That will help ensure accountability for completing activities in this Agreement and continuity with the next agreement's priorities.

The specific midterm assessments, combined with the next public review/comment process in 2025, provide annual (at least) assessments relative to this Agreement. As always, both agencies welcome questions about activities in this Agreement, at any time.

Public comment period

Before both parties sign this Agreement, the Department of Ecology will conduct a 30-day public comment period. Comments received during this period, and responses, will be included as an appendix in the final Agreement.

Goals and objectives

EPA and Ecology recognize the following goals and objectives for this Agreement:

Goal 1: Conduct joint strategic planning that reflects performance partnership principles.

- Identify opportunities for enhanced work sharing, resource and workload flexibility, and phased implementation of program requirements.
- Identify and pursue collaborations to improve Ecology-EPA business processes. Promote continuous improvement by applying the Lean Management System or similar techniques.
- Use this Agreement to organize and articulate mutual compliance and enforcement priorities and plans.
- Advance performance partnership principles through effective collaboration on policy and implementation issues, making full use of the issue resolution process to ensure requests for flexibility and innovation are addressed and resolved at the highest levels needed.

Goal 2: Support EPA's strategic goals.

- Tackle the Climate Crisis.
- Take Decisive Action to Advance Environmental Justice and Civil Rights.
- Enforce Environmental Laws and Ensure Compliance.
- Ensure Clean and Healthy Air for All Communities.
- Ensure Clean and Safe Water for All Communities.
- Safeguard and Revitalize Communities.
- Ensure Safety of Chemicals for People and the Environment.

Goal 3: Support Ecology's strategic framework goals.

- Support and engage our communities, customers, and employees.
- Reduce and prepare for climate impacts.
- Prevent and reduce toxic threats and pollution.
- Protect and manage our state's waters.

Goal 4: Foster programmatically sound and fiscally responsible grant management practices.

Ecology's primary programs covered in this agreement

Three Ecology programs are the primary recipients of EPA grant funds:

- Air Quality
- Water Quality
- Hazardous Waste and Toxics Reduction

EPA either delegates or authorizes these programs pursuant to the following respective federal laws:

- The Clean Air Act
- The Clean Water Act
- The Resource Conservation and Recovery Act (RCRA)

Ecology's Industrial Section, within the Solid Waste Management Program, and the Nuclear Waste Program also conduct activities covered by these same federal laws. Those activities are also covered by this Agreement.

Ecology programs carry out many other activities and administer many other laws that are not covered by this Agreement. Those activities are funded by other means, including some from EPA, but not by the Performance Partnership Grants specific to this Agreement.

Commitments

Ecology and EPA work together on many other commitments, referenced in this Agreement, but they are not considered part of this Agreement. Those commitments include, but are not limited to:

- Requirements under the Endangered Species Act
- Approval of the National Pollutant Discharge Elimination System (NPDES) Program
- State Revolving Loan Fund Operating Agreement
- State Revolving Loan Fund Intended Use Plan
- National Estuary Programs
- Nonpoint Source Annual Report
- Water Quality Management Plan to Control Nonpoint Source Pollution
- Operating Agreement for Clean Water Act Section 319 Nonpoint Source Grants Management
- Enforcement Response Policy for Resource Conservation and Recovery Act
- Resource Conservation and Recovery Act Memorandum of Agreement

Performance management priorities

Ecology and EPA agree to prioritize the following performance management priorities when planning their work:

- Increasing efficiencies and minimizing wasted efforts.
- Exploring improved ways to partner.
- Making timely decisions.
- Maintaining open, creative, and positive communication.
- Accurately measure performance and communicate results to the public.
- Ensuring transparency and accountability.
- Applying flexible and innovative strategies to achieve environmental results.
- Using EPA-provided trainings and webinars as opportunities to learn and collaborate.

Ecology's and Environmental Protection Agency's planning processes

Ecology's and EPA's planning processes start with broad strategic goals and end with specific work plans to implement those goals. The chart below shows each step and how they relate to each other.



Figure 1. Ecology and EPA planning process

Chapter 2 – Quality Assurance

Introduction

It is critical for the Department of Ecology (Ecology) to produce and use environmental information⁷ that meets quality standards, as we assess and report on the condition of the air, water, and land to understand problems and take corrective actions. This is necessary to support the joint agency priorities identified in the Mutual Priorities chapter of this agreement.

Quality assurance requirements for grants and cooperative agreements to state and local governments are implemented in 40 CFR Part 31.45 (2023). The law states:

"If the grantee's project involves environmentally related measurements or data generation, the grantee shall develop and implement quality assurance practices consisting of policies, procedures, specification, standards, and documentation sufficient to produce data of quality adequate to meet project objectives and to minimize loss of data due to out-of-control conditions or malfunctions."

To meet the federal requirements Ecology uses:

- Quality assurance policies
- Quality management plan
- Standard operating procedures
- Quality assurance project plans

Quality assurance policies

Ecology Policy 22-01 – Establishing Quality Assurance

This policy ensures the consistent application of quality assurance principles to the planning and execution of all activities that acquire and use environmental measurement data.

Ecology Policy 22-02 – Requiring the use of Accredited Environmental Laboratories

This policy ensures all environmental data used by Ecology for decision-making is generated by laboratories capable of providing accurate and legally defensible data, shown by their successful participation in Ecology's Lab Accreditation Program.

⁷ EPA's Quality Policy and Procedure Directives were updated in 2022 to include an expanded definition of environmental information requiring an approved QAPP. Environmental programs encompass the collection, production, evaluation, or use of environmental information and the design, construction, operation or application of environmental technology. Collectively these activities are referred to as environmental information operations.

Water Quality Program Policy 1-11 Chapter 2 Ensuring Credible Data for Water Quality Management

This policy describes the Quality Assurance measures, guidance, regulations, and existing policies that help ensure the credibility of data and other information used in agency actions based on the quality of state surface waters. Agency actions include:

- Water quality standards
- 303(d) and 305(b) assessments
- Total Maximum Daily Load (TMDL) allocations

Quality Management Plan

The Quality Management Plan (QMP) is Ecology's regulatory framework for applying EPA's quality system to environmental programs. The quality system is a structured and documented management system that provides the framework for (1) planning, implementing, documenting, and assessing environmental data operations, and (2) carrying out required quality assurance and quality control activities.

Ecology's QMP is based largely on requirements set out by EPA in their *Requirements for Quality Management Plans* (EPA, 2001, 2006). Ecology revised the QMP in 2020. EPA Region 10's Quality Assurance Manager and the director of the Washington Operations Office approved the QMP the same year. The approved QMP delegates EPA's authority to Ecology to review and approve Quality Assurance Project Plans (QAPPs), using the approved procedures in the QMP.

Ecology can revise the QMP and submit it to EPA for review and approval every five years. Ecology expects to submit the next revision to EPA in December 2025.

Standard operating procedures

Ecology uses many standard operating procedures (SOPs) that describe detailed field sampling methods, field measurement techniques, and laboratory analysis methods. On average, Ecology tracks about 300 SOPs which are usually recertified on a three-year cycle.

Following Ecology's QMP, the Quality Assurance (QA) Officer tracks all SOPs across the agency, but the individual program QA Coordinators recertify their program SOPs. In cases where a program QA Coordinator is the author of the SOP, the QA Officer recertifies the SOP.

Quality Assurance Project Plans

If Ecology uses federal grant funds for any project that involves the collection, production, evaluation, or use of environmental information a Quality Assurance Project Plan (QAPP) must be developed and implemented before project work starts. The QAPP ensures the millions of dollars spent on sampling and analyzing environmental information results in products and services that meet quality standards appropriate to the goals and scope of the project.

Ecology continues to use and maintain the agency standard QAPP template and review checklist making it available on the agency's internal website. Continuously improving the template and checklist is part of the standard work. Some programs develop QAPP templates customized for specific projects (e.g. National Estuary Program (NEP) and water quality). The agency QA Officer reviews all custom templates to ensure consistency and conformance with QMP requirements.

National Estuary Program activities

In 2019, Ecology approved an addendum to its 2015 Quality Management Plan. This addendum describes the QA program for NEP funded activities.

For the two-year period ending on or about October 15, 2022, the NEP Quality Coordinator (QC):

- Reviewed, commented on, and facilitated approval of 60 QAPPs and 19 QAPP waivers (79 QA documents total).
- Created a quick start guide of EPA's Water Quality eXchange (WQX) database for NEP grantees.
- Created a guidance document for NEP Pollution Identification and Correction (PIC) projects on the use of the water quality bacteria criteria.
- Commented on two final project reports.

It is difficult to estimate the NEP QC workload for the next two years of the agreement. However, based on results from the four years ending October 2022, and the growing knowledge of upcoming projects, we estimate the NEP QC will need to facilitate about 80 QAPP approvals during the period of the agreement. The NEP QC is also expected to:

- Provide technical assistance and QA training to grantees.
- Shepherd the approval of about 6 QAPP waivers.
- Audit projects.
- Comment on final reports.

All NEP QC activities, e.g., number of QAPPs approved and QA challenges, are documented in biannual reports, as has been the practice since 2012.

Status reports

Ecology's QMP specifies the agency QA Officer must prepare a status report for management every three years. This status report also includes recommendations for improvements to the QMP and its implementation. The most recent report is *Washington State Department of Ecology Quality Report to Management (QRM)*⁸ July 2018–June 2021. Ecology expects to issue the next QRM in mid-2024.

EPA quality system review

EPA Region 10's Quality Assurance Manager and QA Team audits approved state environmental programs within the region. EPA's quality reviewer's audits were suspended because of required protocols related to the public health emergency of the pandemic. EPA 's quality reviewer expects to audit Ecology in mid-2024.

Quality assurance training

Ecology supports staff training related to program-specific topics, such as:

- Air quality monitoring.
- Freshwater monitoring field methods.
- Hazardous waste sampling.
- Wetland delineation.

The agency and individual programs promote and conduct new-employee training, but the emphasis on the agency's QA system varies between trainings. Resources to provide more indepth QA training are more limited. Opportunities to send staff to comprehensive QA training outside the agency, e.g., EPA, are rare.

Within Ecology, the agency QA Officer is responsible for coordinating more detailed QA training. This is typically comprised of seminar presentations and lengthier workshops that are held at irregular intervals. A comprehensive QA Training Plan (see above), expected late 2023, will feature proposals such as:

- Onboarding all new staff that includes key QA topics.
- An annual self-certifying, web-based, QA basics course for all staff.
- A more extensive set of web-based QA materials for annual review by all staff who are directly involved in generating or using environmental information.

QA training conducted by the QA Officer and Ecology programs will be documented in the QRM.

⁸ <u>https://ecology.wa.gov/Issues-and-local-projects/Investing-in-communities/Scientific-services/Quality-assurance</u>

Chapter 3 – Information Management

Introduction

Ecology and EPA recognize that easy access to quality information plays an important role in helping both agencies achieve their environmental goals. Finding solutions to current environmental problems require the accurate and efficient capture, query, presentation, and sharing of data. It is also important to secure this data.

Data sharing

Ecology and EPA will continue to develop and support common architectures and data standards to better organize, manage, integrate, secure, and share the region's environmental data. These efforts will help ensure the data is easily accessible for cross-program and cross-agency analysis.

Ecology's work will continue through the Information Technology (IT) Governance process, which is responsible for:

- IT strategic planning, policies, and priorities.
- Ongoing development of enterprise architecture.
- Ongoing implementation and support of the Exchange Network (EN).

Data coordination

EPA headquarters created a new Regional Data Officer position to support the Agency Data Officer. Each Regional Data Officer will be responsible for coordinating the environmental and administrative data stewards across their region to advance and manage the FAIR principles:

- Findability
- Accessibility
- Interoperability
- Reuse

EPA Region 10 will designate its data officer in 2023 and start coordinating the data stewards across their region, in coordination with the Agency Data Officer in HQ. Ecology and EPA will continue to integrate the data between the systems in Table 1.

Table 2. Data sharing systems between Ecology and EPA

Ecology System	EPA System
Facility Site	Facility Registry Service
TurboWaste ⁹	RCRA Info
TurboPlan	TRIDEX
Water Quality Assessment Tracking System (WATS) ¹⁰	The Assessment, Total Maximum Daily Load (TMDL) Tracking and Implementation System (ATTAINS)
Water Quality Portal/Paris ¹¹	Enforcement and Compliance History Online website (ECHO) via the Integrated Compliance Information System- National Pollutant Discharge Elimination System (ICIS-NPDES)
EIM ¹²	WQX
EIM	National Ground-Water Monitoring Network (NGWMN)

Ecology will also continue to use the EPA approved CROMERR (Cross Media Electronic Reporting Rule) tool to electronically sign the water quality, air quality, and hazardous waste permit compliance data and share it with EPA.

Both agencies will continue to promote more data sharing with tribes, communities, and local and regional governments to advance environmental justice. See Ecology's website for the many publicly accessible databases.¹³

Since the last agreement, Ecology applied for and received an Exchange Network Grant to complete a refactor of our existing Nodeflow between the Environmental Information Management system (EIM) and the Water Quality Exchange (WQX). This work uses newer web and API services to flow data through the Central Data Exchange (CDX). This project is on schedule and estimated to complete November 2024.

Ecology also completed a refactor of our previous Nodeflow of facility integration information from Ecology's Facility/Site system to EPA's Facility Registry Service (FRS) using the same web and API services workflow.

⁹ TurboWaste data generally flows weekly. On occasion, a physical check of a paper file is required to provide accurate data, but data still flows at least monthly. On occasion, a physical check of a paper file is required to provide accurate data, but data still flows at least monthly.

¹⁰ Ecology completed this project as part of the 2021-2023 agreement to expand data flows through the National Environmental Information Exchange Network.

¹¹ Ecology flows PARIS data into ICIS-NPDES nightly.

¹² Ecology completed this project as part of the 2021-2023 agreement to expand data flows through the National Environmental Information Exchange Network.

¹³ <u>https://ecology.wa.gov/About-us/Online-tools-publications/Online-tools-databases</u>

National Environmental Information Exchange Network

The National Environmental Information Exchange Network (EN) is a partner-inspired, developed, implemented and governed information network. It facilitates environmental data sharing among EPA, states, tribes and territories.

EPA's goal is for all of Ecology's national data flows to EPA's Priority National Data Systems through the National Environmental Information Exchange Network (NEIEN).

EPA is committed to providing resources to Ecology to develop the protocols needed to meet EPA's goal. Ecology is also committed to prioritizing resources toward meeting EPA's goal.

Ecology is still considering the use of E-Enterprise Digital Strategy (EEDS) which prioritizes building a modern environmental protection enterprise that is information-centric and based on shared platforms. As part of this strategy, the EN will evolve to keep pace with new business requirements and technologies. The EN data flows will continue to serve as critical mechanisms for sharing large volumes of programmatic data among states, tribes, and EPA. As programs and systems modernize, agencies can take advantage of new technological capabilities and new patterns of data exchange. Large, infrequent data payloads may be replaced by smaller, real-time exchanges of data.

The next generation of the EN will make use of REST-based Application Programming Interfaces (APIs) to help make this transition possible. The EN is actively developing an API Management Framework that will include new guidance, standards, and tools for developers of APIs and other services.

Chapter 4 – Environmental Justice

Introduction

The Department of Ecology (Ecology) is committed to environmental justice and shares the Environmental Protection Agency's (EPA) goal to provide all people:

- The same degree of protection from environmental and health hazards.
- Equal access to the decision-making process.
- A healthy environment in which to live, learn, and work.

Environmental justice means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.¹⁴ This includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities, equitably distributing resources and benefits, and eliminating harm¹⁵.

Practices and principles of this definition are supported by Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," and Washington's Environmental Justice Law (RCW 70A.02). The agencies will consult on effective practices to integrate environmental justice into programs, policies, and activities to ensure the involvement and protection of everyone in Washington.

Both agencies agree to collaborate on identifying strategies to prioritize and advance environmental justice and seek input from communities in Washington State. The environmental justice offices of each agency will lead this ongoing effort and administer the activities described in this chapter with available resources.

Accountability

- Develop metrics for measuring environmental justice and Title VI progress on commitments in this Agreement within Ecology programs.
- Quarterly updates from Ecology to EPA's Environmental Justice Coordinator on environmental justice and Title VI progress on commitments in this Agreement, including but not limited to:
 - Data and tools sharing.
 - Community engagement strategies.
 - Budget equity under HEAL Act goals.
 - Best practices for EJ analysis.

¹⁴ <u>https://www.epa.gov/environmentaljustice</u>

¹⁵ <u>https://app.leg.wa.gov/RCW/default.aspx?cite=70A.02&full=true#70A.02.010</u>

Authorities

- Title VI of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- Section 504 of the Rehabilitation Act of 1973
- Age Discrimination Act of 1975
- Federal Water Pollution Control Act Amendments of 1972
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- Executive Order 14008, Tackling the Climate Crisis at Home and Abroad
- Executive Order 13166, Improving Access to Services for Persons with Limited
- English Proficiency
- Executive Order 13990, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis
- Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government

For more information about environmental justice work in the respective agencies, contact:

Ecology

Courtney Cecale, PhD Environmental Justice Senior Policy Advisor Phone: (360) 480-6270 E-mail: <u>courtney.cecale@ecy.wa.gov</u>

EPA Alessandro Molina Environmental Justice Coordinator Phone: 206-553-2724 E-mail: Molina.Alessandro@epa.gov

Environmental justice activities

Title VI compliance

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, and national origin, including limited English proficiency, by recipients of federal financial assistance.

Executive Order 13166,¹⁶ "Improving Access to Services for Persons with Limited English Proficiency," requires federal agencies to:

- Examine the services they provide.
- Identify any need for services to those with limited English proficiency (LEP).
- Develop and implement a system to provide those services so LEP persons can have meaningful access to them.
- Ensure recipients of federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.¹⁷

To comply with Title VI, Washington's environmental justice law, and the Executive Order, EPA, and Ecology will continue to develop clear, compliant, and trackable practices, including requirements for recipients of Ecology funding directly received from EPA.

Ecology will continue to engage in activities that raise awareness and build capacity around Title VI compliance and non-discrimination best practices. This includes:

- Strengthening compliance with the Title VI Procedural Safeguards Checklist.18
- Using mapping tools to examine demographic, environmental, and health data for communities affected by agency activities.
- Training employees on providing meaningful access for people with limited English proficiency, including when to consider translation and interpretation services and how to research population language data.
- Developing guidance on communication strategies that are culturally effective and responsive, linguistically appropriate, and address barriers to access. This includes the use of:
 - Infographics.
 - Representative images.
 - Social media and ethnic media.
 - Virtual communications options.

 $^{^{16}\} https://www.federalregister.gov/documents/2000/08/16/00-20938/improving-access-to-services-for-persons-with-limited-english-proficiency$

¹⁷ https://www.govinfo.gov/content/pkg/FR-2000-08-16/pdf/00-20938.pdf,

¹⁸ https://www.epa.gov/sites/production/files/2020-

^{02/}documents/procedural_safeguards_checklist_for_recipients_2020.01.pdf

- Providing meaningful access for people with disabilities, including:
 - Accessible in person meeting spaces.
 - Appropriate auxiliary aids.
 - Accessible electronic information technology.

Regional coordination

EPA and state environmental agency environmental justice leads in Region 10 (Washington, Oregon, Alaska, and Idaho) will participate in monthly meetings to share information about current environmental justice issues, activities, training, and resources. Ecology will convene the meetings and participants facilitate the meetings on a rotating basis.

EPA will convene and facilitate a quarterly meeting for Western States' environmental justice leads.

The goals of both meetings are to share resources to increase our knowledge and collaborate and coordinate our environmental justice activities. This will include focused discussions on:

- Communities in areas with potential and recognized environmental justice concerns.
- Emerging environmental justice tools, policies, and practices.
- National developments and intergovernmental environmental justice activities.
- Funding and technical assistance opportunities.
- Regional environmental justice grant recipients.

Data and tools sharing

Each agency will share data and access to tools that help better identify environmental justice considerations in Washington's communities. A primary goal of this effort is to improve tracking and assessing environmental justice progress across the state. This includes using screening and mapping tools such as EPA's Environmental Justice Screening and Mapping Tool (EJScreen)¹⁹ and the Washington Tracking Network²⁰ to identify populations potentially at higher risk of negative environmental and health impacts.

EPA and Ecology will coordinate best practices for:

- Integrating available demographic and environmental data into agency decision-making and adjusting work efforts accordingly to better address the needs of overburdened communities and vulnerable populations.
- Ensuring houseless people, migrant or temporary workers, incarcerated people, and other populations not geographically defined are considered in EJ analyses.

¹⁹ www.epa.gov/EJScreen

²⁰ https://www.doh.wa.gov/DataandStatisticalReports/EnvironmentalHealth/WashingtonTrackingNetworkWTN

Priority efforts include integrating environmental justice analysis into programs, such as:

- Compliance and enforcement.
- Site cleanup.
- Rulemaking.
- Grant and loan processes.
- Development of remedial actions.

Training

When available, EPA will provide training on EJScreen and guidance on integrating environmental justice data and mapping into Ecology's work. The agencies will also share best practices to ensure that houseless populations, migrant/temporary workers, incarcerated people, and other populations that are not geographically defined are considered in EJ analyses.

Transparency

Ecology and EPA are committed to government transparency and strengthening meaningful community engagement and partnerships by making the data they collect easier to understand and more accessible to the public.

Environmental justice learning partnerships

Ecology and EPA will promote environmental justice networking and learning events to strengthen the understanding of environmental justice and Title VI among Ecology sub-recipients and delegated authorities.

Both agencies will work together to build partnerships, educate, and collaborate to strengthen compliance and eliminate harm to overburdened communities. Activities may include hosting events on issues and best practices related to:

- Environmental Justice and Title VI.
- Climate change and resiliency.
- Data access and mapping.
- Environmental health equity.
- Equitable budgeting and participatory budget practices.
- Community engagement.

These events will not replace or substitute statewide or site-specific public outreach, permitting, rulemaking, or similar public engagement activities required by either agency.

Environmental justice training

EPA and Ecology recognize the value of coordinating and sharing environmental justice training opportunities. Both agencies will welcome participation from their:

- Environmental justice staff.
- General workforce.
- Management.

Training content may include:

- Environmental justice analysis best practices, lessons learned (for example, see National Environmental Policy Act's promising practices document from 2016).²¹
- Tools and resources to:
 - Explore and support environmental justice analysis and review, including the application of social vulnerability mapping, health, equity measures, and EJScreen.
 - Support community engagement to:
 - Influence environmental justice outcomes.
 - access grants and funding,
 - strengthen technical capacity,
 - improve public comments, and
 - provide environmental reporting.
- Employee and subrecipient responsibilities related to Title VI of the Civil Rights Act of 1964.

These trainings will promote compliance with federal laws and mandates. Additionally, these trainings will strengthen agency, subrecipient, and delegated authority awareness of responsibilities related to environmental justice, and proper management of federal resources. Agencies will also track and alert counterparts to other environmental justice training opportunities (such as those sponsored by local communities, academic institutions, organizations, and other agencies).

²¹ <u>https://www.epa.gov/sites/production/files/2016-08/documents/nepa_promising_practices_document_2016.pdf</u>

Climate justice Climate change and resiliency

The 2021 Presidential Executive Order 14008 Tackling the Climate Crisis at Home and Abroad emphasizes the federal role in addressing environmental justice, and underscores the disproportionately high and adverse human health, environmental, climate-related and other cumulative impacts on disadvantaged communities.

Communities with environmental justice concerns are typically under-supported and the least able to prepare for, respond to, or recover from climate change related environmental, health, and economic impacts.

Ecology and EPA will coordinate agency climate and environmental justice initiatives. This includes:

- Building a common understanding of expected impacts to communities most at risk.
- Identifying practices to address those inequitable impacts within our scope of work.
- Focusing strategic planning and resource allocation to the areas and people most vulnerable.

Both agencies will build on existing tools, datasets, and studies that integrate climate related data, such as the Department of Health's Washington Tracking Network map layer on Climate Change Projections and EJScreen's climate change data.

Chapter 5 – Compliance Assurance

Introduction

To get improved environmental benefits, Ecology and EPA rely on both traditional regulatory approaches and innovative methods for ensuring compliance. Ecology and EPA share a desire for a strong compliance assurance program that achieves environmental protection by:

- Identifying compliance problems.
- Providing technical assistance.
- Returning facilities to compliance.
- Taking appropriate actions against violators.
- Deterring future violations.

Enforcement and compliance principles

EPA selects national initiatives every four years to focus resources on serious and widespread environmental problems where federal enforcement can make a difference. The primary objective of these initiatives is to protect human health and the environment by holding polluters accountable and compelling regulated entities to return to compliance. Starting in the federal fiscal year (FY) 2024, these initiatives will be called National Enforcement and Compliance Initiatives (NECIs).

EPA aims to align all existing and proposed NECIs with two overarching Strategic Plan goals:

- Goal 1: Tackle the Climate Crisis
- Goal 2: Take Decisive Action to Advance Environmental Justice

Specifically, EPA has incorporated climate resiliency considerations where appropriate in the current initiatives, and as discussed below, is proposing a new NECI that would focus on mitigating climate change by reducing non-compliance with applicable requirements, such as the Clean Air Act and the American Innovation and Manufacturing Act. ²²²³

Promoting environmental justice, on the other hand, is not specific to any one program or statute; it is a core principle of all our enforcement and compliance work. Therefore, rather than proposing a separate Environmental Justice NECI, EPA has fully incorporated environmental justice considerations into every existing and proposed NECI intended to reduce environmental harm in vulnerable and overburdened communities.

²² https://www.epa.gov/clean-air-act-overview

²³ https://www.epa.gov/climate-hfcs-reduction/aim-act

For Fiscal Years 2024-2027, EPA will prioritize enforcement work in support of these four NECIs:

- 1. Creating Cleaner Air for Communities by Reducing Excess Emissions of Harmful Pollutants.
- 2. Reducing Risks of Accidental Releases at Industrial and Chemical Facilities.
- 3. Reducing Significant Non-Compliance with National Pollutant Discharge Elimination System Permits.
- 4. Reducing Non-Compliance with Drinking Water Standards at Community Water Systems.

EPA is also considering adding additional NECIs that focus on:

- 1. Mitigating Climate Change
- 2. Addressing PFAS Contamination
- 3. Reducing Exposure to Lead
- 4. Addressing Coal Combustion Residuals

Final decisions on new NECIs focus areas will be made before the start of FY2024.

Compliance coordination

Ecology and EPA Region 10 will coordinate their respective compliance and enforcement efforts to maximize results with available state and federal resources. Coordination will occur through:

- Collaborative planning on inspections and compliance initiatives.
- Information sharing and data responsibilities.
- Work and technology sharing, where appropriate.
- Recognizing and respecting the state as the preferred implementing entity for national regulatory programs for which the local or state agency has delegation or authority.
- Periodic joint work planning with state and local partners.

Consideration of economic benefits of non-compliance

When issuing environmental penalties, EPA is directed to consider the economic benefit of noncompliance when making a penalty assessment. EPA's policy on issuing environmental penalties includes directing regulators to recoup the economic benefit of noncompliance in penalty assessments.

EPA expects Ecology, as a matter of course, to consider economic benefit as part of penalty calculations, and to assess and collect economic benefit when deemed significant as defined in policy. EPA will evaluate Ecology on its implementation of this policy under the State Review Framework. EPA has a computer program called BEN²⁴ Ecology can use as a model to calculate the economic benefits of non-compliance. To support EPA's expectations, Ecology's Compliance

²⁴ <u>https://www.epa.gov/enforcement/penalty-and-financial-models</u>

Assurance Manual (July 2021) includes a statement that Ecology should consider economic benefit in their penalty calculations when appropriate to do so.

Alternative methods of achieving compliance

Ecology is involved in many activities intended to assure compliance with applicable environmental laws and rules. Consistent with our national strategic plan, EPA supports the full use of the enforcement toolkit to address issues that might arise. These include traditional enforcement and compliance activities such as inspections, administrative orders, fines, and other types of penalties along with:

- Educational programs
- Compliance assistance initiatives
- Public engagement
- Technical assistance
- Pollution prevention

Evaluating compliance assurance programs

EPA and the Environmental Council of States (ECOS) developed a process and method, called the State Review Framework (SRF), for evaluating state compliance and enforcement programs for air, water, and hazardous waste. Each year, EPA reviews Ecology's enforcement programs under the SRF using data metrics. Full SRF reviews, with both data metric analysis and file reviews, occur about every four to five years.

EPA works with Ecology to develop plans to address any necessary improvements to compliance assurance programs. EPA issued a fourth round final SRF report in 2022 and is working with Ecology to address areas of improvement in 2023 and 2024.

Chapter 6 – Mutual Priorities for EPA and Ecology

Introduction

This chapter focuses on major strategic priorities for Ecology and EPA over the next two years. Recognizing there are many other mutual priorities, these are highlighted because of their unique complexities, substantial challenges, and because they rely on strategic, multi-agency coordination to achieve success. These priorities require focused energy and creative leadership by both agencies, along with our many partners, to make real progress on protecting human health and the environment and improving our quality of life. The mutual priorities are:

- 1. Reduce and prepare for climate impacts.
- 2. Prevent and reduce toxic threats and pollution.
- 3. Protect and manage Washington's waters.
- 4. Protect and restore Puget Sound and the Columbia River Basin.
- 5. Lead the effective and efficient cleanup of Hanford.
- 6. Support and engage our communities for right-to-know.
- 7. Ensure scientific integrity in decision-making.
- 8. Address environmental and health inequities by incorporating environmental justice considerations into our work and decisions.

For more information about these and other high priorities, please see the agency websites.

- U.S. Environmental Protection Agency, Region 10²⁵
- Washington State Department of Ecology²⁶

1. Reduce and prepare for climate impacts²⁷

Rising levels of carbon dioxide and other greenhouse gases (GHG) have warmed the earth and are changing the chemistry of the oceans. Washington State is already experiencing impacts consistent with a warming climate and changing ocean conditions. Observed and projected impacts of GHG emissions include:

- Warmer temperatures and more severe heat waves.
- Larger and more intense wildfires.
- Drier summers, and wetter autumns and winters.
- Decreased snowpack and loss of natural water storage.
- More frequent and severe drought.

²⁵ <u>https://www.epa.gov/aboutepa/epa-region-10-pacific-northwest</u>

²⁶ <u>https://ecology.wa.gov/</u>

²⁷ https://ecology.wa.gov/Air-Climate/Climate-change

- More severe winter flooding.
- Sea level rise.
- More extreme weather events.
- Decreased ocean pH.

These environmental changes are affecting resources vital to Washington's economy, communities, and environment. These resources include, but are not limited to:

- Forests
- Agriculture
- Water resources
- Air resources
- Coasts
- Infrastructure
- Shellfish and fisheries

The extent and duration of the effects will largely be determined by our collective success in reducing future GHG emissions and adapting to changing conditions. We need to anticipate and address the implications of a changing climate for our programs, policies, rules, and operations.

Washington State is addressing the challenge of climate change by taking responsible and thoughtful legislative and executive actions. The state is taking a comprehensive approach to develop and implement practical and coordinated policies and solutions to:

- Meet the GHG emissions reduction levels adopted into law in 2020.
- Increase energy efficiency and transition to energy sources that do not emit GHGs.
- Phase out the use of hydrofluorocarbons (HFCs).
- Transition to a zero-emissions transportation system, including investing in zeroemissions fueling infrastructure and requiring automakers to sell greater numbers of zero-emission vehicles in Washington.
- Encourage innovation, investment, and job creation.

Washington also developed comprehensive and integrated strategic responses to enable state and local agencies, public and private businesses, nongovernmental organizations, and individuals to prepare for, address, and respond to the effects of climate change.

Broad coalitions of leaders, stakeholders, and the public have offered their thoughts and ideas as the state leads the way in reducing GHG emissions and responding to the effects of climate change.

Reducing GHG emissions and taking action to respond to a changing climate are high priorities for Ecology and EPA. Ecology is working with the Governor's Office, legislators, and various interested parties on advancing policies to reduce GHG emissions from transportation, electricity, and industrial uses. Through the Climate Pollution Reduction Grants program, other funding from the Inflation Reduction Act, and Bipartisan Infrastructure Law, EPA will support this work through grants to states and local governments. EPA and Ecology will continue to forge a strong and effective partnership to build on the work done so far to reduce GHG emissions and respond to the environmental challenges from changing climate and ocean conditions.

2. Prevent and reduce toxic threats and pollution²⁸

Washington is a national leader when it comes to enacting and implementing policies to clean up, manage, and prevent problems caused by the ongoing use of, and exposure to, toxic substances. Yet toxic substances and pollutants continue to pose risks to human health and the environment. They are in our air, water, and soil, and in our bodies. Some toxic chemicals:

- Impair development.
- Affect reproduction.
- Disrupt our body chemistry.
- Cause cancer.

Some chemicals have limited impacts on humans but can be devastating to fish or other wildlife. Tribal communities in Washington have long advocated for increased attention on toxics in fish due to high tribal fish consumption. Of the tens of thousands of chemicals in use today, we know the toxicity of very few. And we know even less about the combined effects of all these chemicals.

Ecology and EPA are working to reduce toxic threats in several ways. We have wellestablished and effective programs to clean up and manage toxic substances. However, these programs were not designed to prevent many of the point or nonpoint releases of toxins we are now finding to be problematic. While EPA has some authority to regulate toxic substances in products through the Toxic Substance Control Act (TSCA), it is used infrequently. Efforts will be made to track and mitigate the release of toxic pollutants in our most vulnerable communities within Washington.

At the state level, Ecology is integrating three strategies for reducing toxic threats to human health and the environment:

- Preventing the use of toxic substances and identifying safer alternatives.
- Limiting or reducing the amount of toxic substances released into the environment.
- Cleaning up after toxic substances have polluted air, land, water, or sediment.

²⁸ <u>https://ecology.wa.gov/Waste-Toxics</u>

In the area of prevention, Ecology works with the Washington Department of Health to implement a 2019 law through a program called Safer Products for Washington²⁹. The law aims to reduce the use of toxic chemicals in consumer products by restricting the use of those toxic chemicals when safer alternatives are available and feasible. With a focus on sensitive species and populations, the first five-year cycle is underway to address priority chemical classes and priority products.

EPA and Ecology will mutually support and coordinate children's environmental health activities regarding state consumer product laws, including:

- Washington's Children's Safe Products Act.³⁰
- Children's environmental health rules and guidance.
- Related grant opportunities.
- Related activities with a potential for joint or coordinated involvement.
- Networking with other state agencies.

Ecology continues to refine the National Pollutant Discharge Elimination System (NPDES) permitting and compliance work to improve our ability to limit or reduce ongoing toxic releases. Both agencies continue to address the legacy left behind by the release of toxic substances through our cleanup programs. Releases of toxic chemicals contained in products and used in industrial processes may occur during use or at end-of-life, increasing risks to the environment and human health. Preventing the unnecessary use of toxic chemicals in the first place can reduce these risks, and the economic and regulatory burdens of hazardous waste management and cleaning up contamination.

While continuing the investments in cleanup and management, Ecology adopted the following goals for preventing toxic contamination:

- Improve our ability to protect the most vulnerable human and wildlife populations.
- Avoid preventable future impacts and costs.
- Promote a strong, protective federal chemical policy and preserve the state's ability to innovate in this area.
- Create an effective, fair, and economically feasible systems approach to reducing toxic threats.
- Reduce and phase out the use of the worst of these toxic substances, known as persistent, bioaccumulative, and toxic substances.
- Promote technological innovation and solutions.
- Increase compliance and enforcement of laws to limit or manage the use of toxic substances.

²⁹ <u>https://ecology.wa.gov/Waste-Toxics/Reducing-toxic-chemicals/Safer-products</u>

³⁰ <u>https://app.leg.wa.gov/RCW/dispo.aspx?cite=70.240</u>
- Pursue innovative cleanup.
- Educate the public.

Both agencies are involved in remediating pollution at many toxic cleanup sites around the state. In addition to this work, both parties look forward to continuing coordination where there are opportunities to minimize exposure to toxic threats in Washington's environment, including:

- Sharing data on hazards and risks of emerging toxic chemicals, including overburdened communities.
- Participating in developing and implementing Chemical Action Plans.
- Continuing support for the U.S. Department of Energy to establish a national elemental mercury repository.
- Encouraging research and identification of safer alternatives to chemicals or chemical classes of concern, including per- and polyfluoroalkyl substances (PFAS), polychlorinated biphenyls (PCBs), plasticizers, 6 p-phenylenediamine (6PPD)-quinone, flame-retardants, and other priority chemicals.
- Developing incentives to encourage manufacturers to reduce the use of toxic chemicals in consumer products, including EPA's Safer Choice consumer products recognition program.
- Continuing leadership on the Columbia River Basin Restoration Program Working Group.
- Monitoring implementation of the Frank R. Lautenberg Chemical Safety for the 21st Century Act.³¹

³¹ https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21stcentury-act

3. Protect and manage Washington's waters^{32 33}

Water management issues and their related challenges continue to be a high priority for this Agreement. Both agencies are committed to collaborating on the progress to clean up and protect Washington waters.

EPA's website, specific to Washington State, lists priority topics. Many of the topics are about some aspect of managing Washington's waters. Likewise, Ecology's website also provides information on many water-related topics managed by the agency. While much of the cited work and priorities on the Ecology website are not directly tied to work carried out under this Agreement, many are impacted by or subject to program-specific activities covered in this Agreement. For all of these reasons and issues, cleaning up and protecting Washington's waters will remain a priority for EPA and Ecology during the period of this Agreement.

4. Protect and restore Puget Sound and the Columbia River Basin³⁴

EPA and Ecology are dedicated to the protection, cleanup, and restoration of Puget Sound. Puget Sound was the first estuary of national significance named in EPA's National Estuary Program (NEP)³⁵ in 1987 and is one of the few estuaries in the United States with a dedicated appropriation in the federal budget. In December 2022, Congress amended the Clean Water Act to establish a Puget Sound Recovery National Program Office within EPA and a Puget Sound Federal Leadership Task Force.³⁶ This statutory recognition enables EPA to dedicate federal funds to Puget Sound cleanup goals and restoration efforts.

Washington State established the Puget Sound Partnership³⁷ in 2007 to reinvigorate the restoration and protection of Puget Sound. In August 2022, the Puget Sound Partnership finalized, and EPA approved, the 2022-2026 Action Agenda³⁸ charting the course for Puget Sound recovery over the next 4 years.

Puget Sound National Estuary Program Partnership

EPA and Ecology jointly agree to focus resources to restore and protect water quality in the Puget Sound Watershed. EPA selected Ecology as the Strategic Initiative Lead (SIL), through 2028, to manage the stormwater efforts for Puget Sound, in coalition with the Washington Stormwater Center and the Washington Department of Commerce. Ecology will also continue as the lead agency for toxics and nutrients prevention, reduction, and protecting and restoring freshwater streams. EPA provides funding to Ecology annually, as

³² <u>https://ecology.wa.gov/Water-Shorelines/Water-supply</u>

³³ https://www.epa.gov/aboutepa/epa-washington

³⁴ <u>www.ecy.wa.gov/puget_sound/index.html</u>

³⁵ <u>https://www.epa.gov/nep</u>

³⁶ https://www.epa.gov/puget-sound/puget-sound-federal-leadership-task-force

³⁷ <u>https://www.psp.wa.gov/index.php</u>

³⁸ <u>https://www.psp.wa.gov/2022AAupdate.php</u>

appropriations allow, under the authority of the NEP to support the priorities of the Action Agenda.

Starting in 2016, the Puget Sound Partnership updated the Puget Sound Action Agenda and EPA updated the NEP funding model to focus on stormwater, shellfish, and habitat. Ecology, working with local, tribal, federal, state, private, and nonprofit partners continue to help EPA and the Puget Sound Partnership implement the Action Agenda by:

- Developing implementation strategies
- Supporting science and monitoring for Puget Sound.
- Engaging members of the broader Puget Sound NEP Management Conference.
- Employing a One Puget Sound approach to look across Ecology programs for how ongoing programs can best operationalize Puget Sound protection and restoration.

Discussed in the following text are summaries of some of the major Puget Sound programspecific projects EPA and Ecology have agreed to work on together, including some expected actions and outcomes.

Stormwater National Estuary Partnership work

Along with Ecology's role as the SIL for stormwater, Ecology, EPA, and the Puget Sound Partnership and Management Conference are working together to address stormwater impacts on Puget Sound, but more efforts are required. Stormwater priorities for the next two years include:

- Assisting western Washington jurisdictions with implementing new Phase I and II NPDES municipal stormwater permits, including low-impact development requirements.
- Watershed-scale stormwater planning and using creative approaches to help balance stormwater.
- Technical assistance for local government staff and private industry on low-impact development design, inspection, and construction.
- Social marketing and/or environmental education.
- Leading the state and others in translating cutting-edge stormwater science related to road runoff to reduce impacts on salmon (Toxics in Fish Implementation Strategy).
- Leading on addressing 6PPD via stormwater science and mitigation practices.

Science and monitoring for Puget Sound

Ensuring appropriate science and monitoring are in place to support Puget Sound restoration and protection is essential. EPA will continue to work with Ecology and the other SILs along with the Puget Sound Partnership and Puget Sound Institute to prioritize science and monitoring needs and look for ways to fund and support them. This includes developing implementation strategies for priority vital signs of the Action Agenda.

No discharge zone for Puget Sound

Ecology finalized the Puget Sound No Discharge Zone³⁹ in 2018 and continues to work with partners on full-scale implementation, using NEP and other funding as appropriate.

Puget Sound toxics prevention, reduction, and control

EPA and Ecology have worked together over the past few years to collect the information needed to guide decisions about toxic chemical control strategies for Puget Sound. In 2011, Ecology released a report that estimated the amount and sources of toxic chemicals entering Puget Sound. Ecology used this report, and other information on toxics, to set priorities for the NEP grant for Puget Sound. EPA and Ecology have a successful history for large urban sediment cleanups (e.g., Commencement Bay).

EPA and Ecology have an existing source control strategy for the Lower Duwamish Waterway and will continue to implement it concurrent with EPA's Superfund and Ecology's Model Toxics Control Act sediment investigation and cleanup plans, respectively. This work will rely on an integrated approach between Ecology's water quality and toxics cleanup programs, as well as EPA's water quality and Superfund programs. The effort will consider innovative approaches to deal with the challenges in this watershed.

Columbia River Basin and Lower Columbia National Estuary Program Partnership

Columbia River Basin Restoration Program

Congress amended the Clean Water Act in 2016, adding a new Section 123, which required EPA to establish a Columbia River Basin Restoration Program. This amendment authorized EPA to establish the Columbia River Basin Restoration Working Group⁴⁰ that is representative of states, tribal governments, industry, and other entities.

Section 123 also directed EPA to develop the Columbia River Basin Restoration Funding Assistance Program⁴¹, a voluntary, competitive grants program for environmental protection and restoration programs throughout the Basin. The legislation provides a framework for future funding of toxic reduction, monitoring, and outreach actions.

EPA is coordinating with tribal, state, federal and other partners, as well as other regional Columbia River Basin restoration work efforts. In October 2019, Governor Inslee committed participation by the State of Washington in the Columbia River Basin Restoration Working Group.

³⁹ <u>https://ecology.wa.gov/Water-Shorelines/Puget-Sound/No-discharge-zone</u>

⁴⁰ <u>https://www.epa.gov/columbiariver/columbia-river-basin-restoration-working-group</u>

⁴¹ <u>https://www.epa.gov/columbiariver/columbia-river-basin-restoration-funding-assistance-program</u>

Lower Columbia Estuary Partnership

The National Estuary Program provides money to local communities, who leverage those resources to:

- Improve habitat.
- Find solutions to difficult ecological issues.
- Support our coastal economies.
- Engage community members to care for their waterways.

The Lower Columbia Estuary Partnership (LCEP) is one of 28 estuaries of national significance. EPA and Ecology will continue to provide funding resources and collaborative support for the LCEP. EPA and Ecology, together with representatives from the Governor's office and the Washington Department of Fish and Wildlife, sit on the LCEP Board.

Statewide nutrients reduction, control, and prevention

Ecology is working to address human sources of nutrients throughout the State. And engaging in educational outreach to communicate the impacts associated with nutrient pollution and what to do to stop that pollution.

Other efforts to address nutrient pollution include the following:

- 1. Continue efforts to achieve water quality standards (WQS) that are response indicators for nutrient pollution, such as dissolved oxygen WQS, and systematically identify nutrient thresholds for implementation in CWA programs.
- 2. Implement actions described in Washington's 2022 Nonpoint Plan to address nonpoint sources of nutrients (nitrogen and phosphorus).

The nonpoint submittal is specifically focused on addressing nonpoint pollution and does not single out each contaminant. The foundation of Ecology's nonpoint program is to provide technical assistance, provide funding and define the best management practices that meet Washington State's Water Quality standards. These Best Management Practices are our AKART for nonpoint and when implemented according to our guideline will protect Washington waters from many pollutants including nutrients (nitrogen and phosphorus). More specific information on our next set of best management practices that will address nutrients can be found in the nonpoint section of this performance partnership agreement.

Our 319 annual report also highlights key deliverables in our overall nonpoint program which includes our external grant program. Many other federal nonpoint grant programs are not designed to meet state water quality standards and therefore 319 funding is critical to the success of our nonpoint efforts.

3. Develop and implement water cleanup efforts designed to address nutrient sources of pollution.

The Puget Sound Nutrient Reduction Project (PSNRP) is one example of Ecology's work to address nutrient pollution. The goal of the PSNRP is to use the best available science and focus stakeholder engagement to develop a Nutrient Reduction Plan to meet dissolved oxygen criteria in the Sound. As part of the Nutrient Reduction Project Ecology will start developing cleanup plans for nutrients in each of the watersheds that drain to Puget Sound. The Nutrient Reduction Project will help inform the actions needed to meet dissolved oxygen criteria and can provide a foundation for the future development of a TMDL.

In 2021, Ecology issued a general permit for nearly 60 municipal WWTPs that discharge to Puget Sound. The general permit requires optimization of existing treatment processes to reduce nutrients during the permit term and directs each facility to evaluate all known, available and reasonable methods of prevention, control, and treatment (AKART) for nitrogen removal and to submit a report documenting this evaluation to Ecology.

- 4. Ecology is also working to develop other cleanup efforts across the state to address nutrient sources from permitted facilities and nonpoint sources. These specific focused actions are identified in the TMDL and nonpoint sections of this Performance Partnership Agreement.
- In addition to the individual permits that will address nutrient sources that receive load allocations through our TMDL program (such as the Spokane DO TMDL, the Wenatchee DO TMDL, etc.) Ecology has issued general permits that rely on best management practices designed to address a number of pollutants, including nutrients where appropriate.

5. Lead the effective and efficient cleanup of Hanford⁴²

EPA and Ecology are actively working to oversee the cleanup of Hanford's nuclear and hazardous waste legacy. This is a high priority for Ecology and EPA throughout the duration of this Agreement.

Hanford, in southeast Washington, is one of the most contaminated sites in the country. It is uniquely outstanding in technical complexity, cleanup costs, and it will take decades to safely carry out a comprehensive cleanup plan. There are many federal and state environmental rules, projects, plans, schedules, an overarching "Tri-Party Agreement" (TPA)"⁴³, and a federal court consent decree also dedicated to the Hanford cleanup. The U.S. Department of Energy, manager of this site, is the third party of the TPA, along with EPA and Ecology. There are also many other entities (such as governmental, tribal, environmental, economic, and local community) who are directly engaged in the Hanford cleanup.

From a regulatory standpoint, Hanford is considered one site even though it is 586 square miles in size. It contains thousands of contaminated sources and millions of gallons of

⁴² <u>https://ecology.wa.gov/Waste-Toxics/Nuclear-waste</u>

⁴³ https://www.hanford.gov/page.cfm/TriParty

radioactive and hazardous wastes. Ecology's Nuclear Waste Program is almost entirely dedicated to the regulatory management of the Hanford cleanup. Regulatory compliance and coordination are a challenge unlike anywhere else in the country. This includes coordinating with EPA's Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA⁴⁴) Superfund Program.

In subsequent chapters of this Agreement, Hanford specific activities are addressed as they relate to the:

- Clean Air Act
- Clean Water Act
- Federal hazardous waste (RCRA) law

6. Support and engage our communities for right-to-know

EPA and Ecology will continue to work together to ensure industry complies with the requirements of Title III of the Superfund Amendments Reauthorization Act. Our goal is to foster collaborative support for the effective implementation of the federal Emergency Planning and Community Right-to-Know Act (EPCRA) in Washington as resources allow. Primary participants in this effort are:

- EPCRA Non-Toxics Release Inventory (TRI) leadership Enforcement and Compliance Assurance Division (EPA)
- Toxic Release Inventory leadership Office of Pollution Prevention and Toxics (EPA)
- EPCRA leadership (both TRI and non-TRI) Hazardous Waste and Toxics Reduction Program (Ecology)

Primary themes addressed by this collaboration include:

- Support outreach opportunities to EPCRA stakeholders, including regulated facilities and their communities, Local Emergency Planning Communities, and the Washington State Emergency Response Commission (SERC).
- Identify disproportionate impacts in Washington communities using tools like EPA's EJ SCREEN or Washington Department of Health's WTN.
- Prioritize enforcement actions that mitigate environmental harm in communities with disproportionate impacts.
- Facilitate SERC/EPA coordination.
- EPCRA data sharing.
- Updates on EPCRA enforcement.

⁴⁴ <u>https://www.epa.gov/laws-regulations/summary-comprehensive-environmental-response-compensation-and-liability-act</u>

• Quarterly calls or meetings to support mutual understanding of respective EPCRAbased roles, activities, and to foster coordination.

Background

EPCRA is implemented in Washington by the State Emergency Response Commission (SERC). Ecology, as a core member of the SERC, has specific responsibilities that include:

- Providing regulatory support to industry.
- Tracking industry reporting compliance.
- Outreach efforts.

EPA Region 10 serves in a key advisory and support role to the SERC because it provides compliance assistance to industry and has the authority to take enforcement action on facilities that fail to meet the EPCRA reporting and notification requirements. This relationship between Ecology, the SERC, and EPA is fundamental to the success of EPCRA compliance in Washington State.

Executive Order 13650 – Improving Facility Chemical Safety and Security (2013),⁴⁵ reinforces the significance of EPCRA. The Chemical Facility Safety and Security Work Group (co-chaired by the Secretary of Homeland Security, the EPA Administrator, and the Secretary of Labor) have key directives that include:

- Strengthening the state and local infrastructure created by EPCRA for emergency planning and preparedness, such as:
 - State Emergency Response Commissions.
 - Tribal Emergency Response Commissions.
 - Local Emergency Planning Committees.
 - Tribal Emergency Planning Committees.
- Ensuring the participation of key stakeholders.
- Engaging chemical facilities in preventing, preparing for, and responding to chemical accidents.
- Ensuring effective communications and notifications to the community members before, during, and following a chemical incident.

Through this Agreement, EPA and Ecology agree to continue to collaborate on EPCRA-related issues and work together to support and strengthen communities and stakeholders.

⁴⁵ https://www.epa.gov/rmp/executive-order-improving-chemical-facility-safety-and-security

7. Ensure scientific integrity in decision-making

EPA is committed to restoring the public's trust in government through scientific integrity and science-based decision-making. To this end, EPA will strengthen the policies and procedures surrounding scientific integrity and the use of science and evidence to inform agency decision-making and will reaffirm the agency's commitment to fostering open, objective, and honest investigation of scientific activities, data, and conclusions, and to deliver rigorous scientific research and analysis.

EPA and ECY will work to integrate the following scientific integrity objectives as we implement the components of this PPA:

- Scientific integrity will be highly visible within the EPA and ECY partnership.
- All responsible for protecting Washington's land, air, and water will embrace and model scientific integrity.
- Robust mechanisms will ensure objectivity, clarity, and reproducibility, to protect and maintain a shared culture of scientific integrity as we carry out actions under this PPA.

8. Address environmental and health inequities by incorporating environmental justice considerations into our work and decisions.

Ecology is committed to environmental justice and shares EPA's goal to provide all people:

- The same degree of protection from environmental and health hazards.
- Equal access to the decision-making process.
- A healthy environment in which to live, learn, and work.

Environmental justice means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. ⁴⁶ This includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities, equitably distributing resources and benefits, and eliminating harm.

Please refer to the Environmental Justice chapter of this agreement for more information.

⁴⁶ Environmental Justice definition, abridged from, <u>https://www.epa.gov/environmentaljustice</u>

Chapter 7: Enhancing Public Health by Improving Air Quality

Introduction

The air in every community should be safe and healthy to breathe. Because air pollution crosses local, state, tribal, and federal borders, many agencies coordinate their activities to reduce and control air pollution. These agencies have worked together over the years to significantly improve Washington's air quality:

- Washington's seven local clean air agencies⁴⁷
- Washington State Department of Ecology
- United States Environmental Protection Agency
- Federally Recognized Tribes⁴⁸
- State of Washington Energy Facility Site Evaluation Council (EFSEC)

The number of days Washington's air quality violated federal health-based standards has greatly decreased because of these agencies' work.

This Agreement's purpose is to improve environmental quality by strengthening and extending the partnership between local clean air agencies, Ecology, and EPA. To achieve this, partners to the Agreement commit to the mission of protecting and improving air quality in Washington to achieve the vision of clean, healthy air and climate for all of Washington's residents.

This Agreement describes the actions and activities the partners will perform to achieve this mission. Ecology and EPA recognize that some Washington communities are historically overburdened with health, social, and environmental inequities. Through our mutual efforts to ensure safe and healthy air for every Washington community, the following activities will be carried out to advance environmental justice. More information is available about environmental justice priorities as they apply to this Agreement in Chapter 4. The partners commit to:

- Prevent and reduce air pollution, which includes compliance with all air quality laws and rules.
- Reduce emissions of high-priority air pollutants, especially fine particles (PM_{2.5}), ozone precursors, and air toxics.
- Prevent violations of federal air quality standards.

⁴⁷ https://ecology.wa.gov/About-us/Our-role-in-the-community/Partnerships-committees/Clean-air-agencies
⁴⁸ While not a grantee under the Performance Partnership Agreement Public Participation Grant, Ecology, local clean air agencies, and EPA work with Tribes on several fronts, including through the Northwest Air Quality Communicators, smoke management efforts, and particulate matter reduction efforts.

• Increase efficiencies and reduce transaction costs in air quality program administration and implementation.

The Agreement includes outputs and ongoing activities paid for with a combination of state and federal dollars. It does not cover many Ecology and local clean air agency activities funded by state and local sources.

Reductions in state budgets or federal 103 or 105 grant funds would likely impair the ability of Ecology and local clean air agencies to conduct their core work and fully meet their obligations under this Agreement. Some of the outputs and ongoing activities may be adjusted to reflect the final state budget, actual tax revenues received throughout the biennium, and the federal budget.

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Review process

The partners agree to meet as needed to maintain open communication. Washington Air Quality Managers Group meetings provide opportunities for dialogue since all the partners participate in this group. Other inter-agency groups such as the Northwest Air Quality Communicators, Washington Air Permit Writers, and Washington Air Quality Compliance Forum may also be helpful in promoting clear, open communication.

EPA strategic plan alignment

The outcomes and objectives of this chapter correlate directly with EPA's 2022-2026 Strategic Plan under Objective 4.1: *Improve Air Quality and Reduce Localized Pollution and Health Impacts*.

Reduce criteria pollutants and regional haze

Objective

The objective is to meet air quality standards that protect public health and welfare. As part of this objective, emissions and ambient concentrations of criteria pollutants would decrease. The number of exceedances of ambient air quality standards would also decrease. We will also make progress to support EPA's strategic plan goal, that "By September 30, 2026, improve measured air quality in counties not meeting the current National Ambient Air Quality Standards (NAAQS) from the 2016 baseline by 10%."

During periods of poor air quality, Ecology and/or local clean air agencies (in their respective areas) will notify the public and sensitive groups about the health effects of poor air quality, and how wood burning, and other choices affect air quality and health. This includes education about how individual behaviors affect air quality and health.

Outcome Measures

- 1. Number of times PM_{2.5} or ozone exceeds healthy levels.
- 2. Number of residents exposed to pollution measurements above federal standards.
- 3. Number of nonattainment areas.
- Improvement in visibility in federally designated Class I areas (scenic parks and wilderness areas) on the 20 percent worst visibility days, as compared to the 2000 – 2004 baseline.

Outputs

- 1. Ecology will coordinate with local clean air agencies, EPA, and tribes to ensure compliance with all NAAQS.
- 2. Ecology, EPA, and the local clean air agencies will coordinate on designation recommendations and related nonattainment planning.
- 3. Ecology will continue efforts to address the Whatcom County 2010 sulfur dioxide (SO₂) nonattainment area.
- 4. Ecology and the local clean air agencies will submit the New Source Review (NSR) rules to EPA that are federally approvable and consistent with federal rules and guidance.
 - a. Ecology will maintain an up-to-date NSR (both major and minor NSR) program including any necessary rule updates in the State Implementation Plan (SIP).
 - b. Ecology, EPA, and the local clean air agencies will continue to make progress in updating the SIP to reflect local air quality agency rules and jurisdiction.
- 5. Ecology will submit "infrastructure" SIP certifications for NAAQS as required by sections 110(a)(1) and (2) of the Clean Air Act for any future NAAQS revisions.
- 6. Ecology will submit a SIP addressing the "transport" element in section 110(a)(2)(d) of the Act for any future NAAQS revisions.
- Ecology and EPA will continue efforts to address regional haze for the second implementation period (2018-2028). Ecology intends to submit a first update to the regional haze Round 2 SIP in December 2023, and a second update in December 2024. These updates will describe actions and set control requirements for SIP-identified source categories.
- 8. Ecology, EPA, and the local clean air agencies will coordinate to quickly and efficiently address ongoing Clean Air Act (CAA) requirements such as CAA 175A (second 10-year

maintenance plans) and CAA 110(I) plan revisions to maintain a modern, effective, and legally defensible air program reflected in the SIP.

- 9. Ecology, EPA, the local clean air agencies, and the Washington State Department of Natural Resources will coordinate on Smoke Management, including ongoing dialogue with the Department of Natural Resources on the implementation of the Smoke Management Plan in consideration of future updates.
- 10. Ecology will submit a SIP revision(s) to address the Start-up Shutdown and Maintenance SIP Call for the Southwest Clean Air Agency and EFSEC.

Ongoing Activities

- 1. Ecology and the local clean air agencies will seek state and federal funds to address wood stove use in communities where PM2.5 levels from wood smoke are high.
- 2. About 6 months before a significant SIP submittal is due to EPA, Ecology in cooperation with the local clean air agency will develop an initial SIP Development Plan.⁴⁹ The SIP Development Plan will include schedules negotiated with EPA. EPA will review and comment on draft SIP revisions before the public comment period. EPA will generally need at least four weeks to review draft SIP submissions before the public comment period.
- 3. Ecology, EPA, and local clean air agencies will discuss any new PM2.5, sulfur dioxide, or ozone violations and any possible designation recommendations.
- 4. EPA, Ecology, and affected local clean air agencies will communicate about the status of pending SIP submittals when applicable. They will also coordinate on prioritizing SIP reviews and approvals. EPA will share or update the SIP workload status. Ecology will inform EPA of any new SIP submittals in a timely manner.
- 5. Ecology and the local clean air agencies will work with EPA to identify exceptional events with potential regulatory significance in accordance with the Exceptional Event rule, will use appropriate flag codes, and will coordinate with EPA on preparing documentation in accordance with the Exceptional Events rule and guidance documents.
- 6. With EPA's support, Ecology and local clean air agencies will:
 - a. Implement wood stove burn ban programs.
 - b. Advise the public when air quality is poor.
- 7. Ecology and local clean air agencies will:
 - a. Manage their own permit programs.
 - b. Provide public information and education.
 - c. Oversee air quality advisory systems for outdoor burning.

⁴⁹ For less significant or less time critical SIP submissions, Ecology and EPA have successfully used the bi-weekly staff call in lieu of a formal SIP Development Plan.

- d. Revise rules as needed for effective air quality programs.
- e. Submit timely SIP revisions to EPA.
- 8. EPA will:
 - a. Serve as regional smoke coordinator by working with other Northwest states and tribes to improve smoke management coordination and tools.
 - b. Host at least one meeting per year on smoke management issues.
 - c. Provide updates pertinent to approval of Washington's Smoke Management Plan and share relevant information on different states' approaches to managing smoke from prescribed fire.
- 9. Ecology and the local clean air agencies will amend their rules and plans as needed to maintain effective air quality programs and an up-to-date SIP and submit timely SIP revisions to EPA. Ecology will have the Attorney General's Office review Ecology rules for SIP submittals.
- 10. With Ecology and EPA assistance, local clean air agencies will review local rules to be included in the SIP.

Reporting

Ecology and local clean air agencies that submit data directly to EPA will submit criteria pollutant emissions data to EPA according to the federal air emissions reporting rule. To facilitate the compilation of a complete statewide inventory at Ecology, local clean air agencies submitting data directly to EPA are asked to also send the data to Ecology in XML or MS Access Emission Inventory System staging table format.

Air toxics

Objectives

To characterize the health consequences of toxic air pollution in Washington, Ecology will collect and compile data about toxic air pollutants including health effects, and sources of toxic air pollutant emissions. The data will be used to:

- 1. Identify strategies to reduce exposure and health risks from toxic air pollution emissions, focusing on sources or areas that have the greatest health risk.
- 2. Identify emission reduction strategies that focus on reducing health risks from smoke and diesel exhaust that provide the greatest health benefits.
- 3. Better characterize industrial emissions by using more efficient permit processes and improving partnerships with businesses.

As part of this objective, emissions of toxic air pollutants would decrease over time. The percentage of Washington residents at risk from toxic air pollutants would also decrease.

Outcome Measures

- 1. Tons of diesel exhaust emitted statewide.
- 2. Number of diesel engines retrofitted with air pollution control equipment.
- 3. Number of woodstoves changed out.
- 4. Emission levels of toxic air pollutants shown in the National Emission Inventory (NEI) report.

Outputs

- Ecology will review EPA's 2020 NEI and start preparing the 2023 NEI. Ecology will augment the NEI with state-calculated criteria and toxics inventories for significant emissions sources where state data can improve EPA estimates. The point source inventory will include available air toxics data submitted to the state by local clean air agencies. Ecology will complete the work on the 2023 NEI by the end of 2025.
- Ecology will provide EPA with the toxics emissions point source data, submitted by facilities, and tracked in Ecology's Washington Emissions Inventory Reporting System (WEIRS), for the annual NEI. WEIRS contains emissions from major sources in Washington, except those under the jurisdiction of the Olympic Regional Clean Air Agency, Puget Sound Clean Air Agency, and Southwest Clean Air Agency.

Ongoing Activities

- 1. Ecology, in partnership with the local clean air agencies, will:
 - a. Seek state and federal funds to develop and implement diesel reduction projects through the West Coast Diesel Collaborative, National and State Diesel Emissions Reduction Act (DERA) program, and other sources.
 - b. Operate monitoring stations and evaluate field and analytic data to assure quality as outlined in the Technical Assistance Document.
 - c. Collect toxics monitoring data where fully funded by EPA.
 - d. Submit available point source toxics emission inventory data each year; within 12 months of the end of the calendar year.
 - e. Review available NEI data.
 - f. Annually adopt and submit Part 60, 61, and 63 delegation requests to EPA for approval.
- 2. EPA will provide:
 - a. NEI data.
 - b. Guidance about national air toxic policies and programs.
 - c. Background information and outreach from National Air Toxics Assessment and other state and national programs.
 - d. Timely approval of Part 60, 61, and 63 delegation requests.

Reporting

- For major and synthetic minor sources, the local clean air agencies, Ecology, and EPA will enter 40 C.F.R. Parts 60, 61, 62, and 63 sources into the Integrated Compliance Information System (ICIS)-Air. Local clean air agencies will also report the Minimum Data Reporting (MDR) elements.
- 2. Ecology will:
 - a. Annually submit point source emission reports to EPA for the NEI.
 - b. Do an initial submission of 2023 point, mobile, and nonpoint inventories to EPA for the NEI by December 31, 2024.
 - c. Request local clean air agency reporting of toxic air pollutants and submit data received to EPA.
- 3. Local clean air agencies that submit inventory data directly to EPA will:
 - a. Submit annual point source emission reports to EPA for the NEI.
 - b. Submit the same data to Ecology to facilitate Ecology's effort to compile a complete statewide inventory.

Permitting and program delegation

Objective

Reduce, limit, and manage emissions through effective and efficient air quality permitting programs that meet CAA deadlines. This objective describes how Ecology and local clean air agencies will control and track emissions from industrial sources.

Outcome Measures

- 1. Average number of days it takes to process Notice of Construction permit applications.
- 2. Percentage of Title V permits that have been administratively extended past the expiration date.
 - a. As appropriate for each agency, Ecology and local clean air agencies will update rules, delegations, and approvals to reflect new or revised rules under 40 C.F.R. Parts 51, 60, 61, 62, 63, 64 and 70.
 - b. Ecology will maintain an up-to-date Prevention of Significant Deterioration (PSD) program. EPA will work with Ecology on revising the SIP and approving Title V program updates as needed, in a timely manner. Ecology will promote training and discussion with local permitting agencies to help ensure permit writers understand applicability of Major New Source Review.
- 3. Ecology will continue to:
 - a. Enhance WEIRS, a web-based emission inventory system used to track "allowable" emissions data and "actual" emissions data (this system will be used to collect and

track available allowable emissions data from Ecology and local air quality agency permittees).

b. Communicate to permittees and local clean air agencies about the value of allowable emissions data, specifically by requiring PSD applicants to use allowable emissions data in their air quality impact modeling; and communicate to the PSD consulting community that it is the source's responsibility to compile an allowable inventory for impact modeling (although Ecology and local clean air agencies will assist if requested).

Ongoing Activities

Ecology and local clean air agencies will:

- 1. Administer the following air quality permitting programs for commercial and industrial sources:
 - a. Preconstruction permits for new major sources or major modifications (PSD, NAA-NSR)
 - b. Rules under 40 C.F.R. Parts 60, 61, 62, and 63 adopted by the state along with any additional rules under these Parts adopted by local clean air agencies
 - c. Air Operating Permits (AOP) for existing and new sources
- Use EPA-approved models and methods, in accordance with 40 C.F.R. Part 51 Appendix W, for air quality analysis for commercial and industrial source permits or seek EPA approval of alternative models or methods when applicable.
- 3. Ecology will, for PSD permits, conduct Best Available Control Technology (BACT) evaluations in a manner consistent with EPA's top-down, five-step procedure.
- 4. Ecology and the local clean air agencies will consider relevant EPA guidance and interpretations when determining the applicability of PSD and NNSR.
- 5. Ecology and the local clean air agencies will implement SIP pre-construction permitting (PSD, NNSR, and minor permits) as specified in the approved SIP and in state rules.
- 6. As resources and schedules allow, EPA will co-host an in-person workshop with Ecology and the local clean air agencies on the implementation of the NSR program.
- 7. EPA and Ecology will communicate with each other about permitting issues openly, directly, and in a timely manner.
- 8. Ecology will:
 - a. Send EPA each major NSR permit application upon receipt.
 - b. Notify EPA when a major NSR permit application has been determined to be incomplete or complete.
 - c. Informally communicate draft major NSR permits and supporting information to EPA at the start of each public comment period.

- d. Communicate with EPA on modeling protocols at the start of any major NSR permit project.
- e. Ecology will provide EPA with NSR applicability determinations.
- f. Ecology and EPA will periodically discuss policy and program implementation.
- 9. Ecology and local clean air agencies will:
 - a. Send EPA each Title V permit application upon receipt.
 - b. Send EPA each draft Title V permit and supporting information at the start of each public comment period.
 - c. Send EPA each proposed Title V permit and supporting information as required in 40 C.F.R. Part 70.
 - d. Send EPA each final Title V permit and supporting information soon after issuance.
- 10. While the use of Electronic Permit System (EPS) is not required by Ecology or local air agencies, EPA will demonstrate to Ecology how to use the EPS database and will consider enhancing the EPS to download electronic data from state and local databases to EPS. Ecology can use EPS to submit draft permits to EPA for review and track reviews. Use of EPS is voluntary. EPA will offer two training opportunities to Ecology and local air agencies, demonstrating and training on the use of EPS.
- 11. EPA will arrange a discussion with Ecology upon completion of draft permit reviews with the intent of informally providing input to Ecology.

Reporting

Ecology and local clean air agencies will:

- 1. Report AOP activity using the Permit Register and post all final Title V permits to the state's website within 10 days of permit issuance.
- Post Best Available Control Technology (BACT) and Lowest Achievable Emission Reduction (LAER) determinations to the clearinghouse within 30 days of issuing the final permit (for major actions). Specify (a) the date the application was determined to be complete, and (b) the date the final permit was issued.
- 3. Submit major point source emissions data to the NEI within 12 months of the end of the calendar year.
- 4. Submit semi-annual Title V Operating Permit System (TOPS) reports consistent with EPA's deadline for compliance assurance.

Compliance Assurance

Objective

Maintain an effective compliance assurance program that protects human health and the environment by preventing and reducing air pollution. Carry out a balanced program that includes:

- a. Compliance assistance.
- b. Compliance monitoring.
- c. Appropriate enforcement.
- d. Follow-up to ensure return to compliance.

Outcome Measures

To assess the performance of compliance and enforcement programs, EPA uses the:

- e. Quadrennial SRF review.
- f. Annual data metrics analyses.
- g. Quarterly High Priority Violations (HPV) calls.
- h. Annual meeting discussions.
- i. Other EPA oversight efforts.

Outputs

- 1. Ecology, EPA, and local clean air agencies will follow:
 - a. The national "Minimum Data Requirements (MDRs) for CAA Stationary Sources Compliance," January 2012.
 - b. The national "Clean Air Act Stationary Source Compliance Monitoring Strategy (CMS)," October 2016.
 - c. The national HPV policy, "Timely and Appropriate Enforcement Response to High Priority Violations," August 2014.
 - d. The national "Guidance on Federally-Reportable Violations for Clean Air Act Stationary Sources," September 2014 (FRV policy).
- 2. As part of the annual collaborative planning meetings (and the quarterly HPV calls, when needed), EPA, Ecology, and local clean air agencies will review and discuss compliance and enforcement programs for federally-delegated programs, including key activities, emerging issues, and program needs. EPA, Ecology and the local clean air agencies will also connect as necessary in the permit writer's forums and compliance forums.

Ongoing Activities

- 1. Ecology and local clean air agencies will conduct compliance programs according to the 2016 national Compliance Monitoring Strategy for those sources and activities to which the strategy applies.
- 2. Agencies will resolve high priority violations according to EPA's 2014 "Timely and Appropriate Enforcement Response Guidance for HPVs." Ecology, local clean air agencies, and EPA will hold quarterly conference calls to discuss:
 - a. HPVs.
 - b. Policy and strategy issues.
- 3. EPA will conduct compliance monitoring and enforcement on tribal lands.
- 4. For programs not delegated to the state or local clean air agency, EPA has sole authority for:
 - a. Complaint response.
 - b. Inspections.
 - c. Priority enforcement actions.
 - d. Other activities statewide
- 5. EPA retains authority to conduct inspections and enforcement actions under the Clean Air Act and will use this authority for national and regional priority work and as requested by state and local clean air agencies. Both parties adhere to a "no-surprises" policy for compliance activities and enforcement actions. If EPA inspects a facility to determine compliance with a non-delegated program requirement, and the facility is one the state or local agency regularly inspects for delegated program purposes, EPA will notify the state or local agency before EPA takes action. EPA will also provide advance notice of EPA's enforcement for delegated or approved programs.
- 6. Ecology and the local clean air agencies will continue working with EPA to implement recommendations and address areas that need attention as identified in the 2022 State Review Framework review and report.
- Ecology and the local clean air agencies will participate in the annual enforcement data verification process. Each fall EPA headquarters will post the specific set of data verification metrics on the database, "Enforcement and Compliance History Online" (ECHO). Ecology and the local clean air agencies will ensure any necessary data corrections are made in the program data systems.

Reporting

- 1. All agencies will meet timely and accurate reporting requirements contained in the national MDRs⁵⁰, CMS⁵¹, FRV⁵², and HPV⁵³ policies.
- 2. Ecology and local clean air agencies will update their databases, as needed, and enter timely, accurate and complete ICIS-Air data.
- 3. EPA will communicate to Ecology and affected local clean air agencies about EPA's enforcement actions in a timely manner, and before actions are finalized.

Monitoring and assessment

Objective

To characterize the health consequences of air pollution in Washington, agencies will collect data that has the greatest benefit for public health and increase the public understanding of the health effects and costs of pollution.

Outcome Measures

- 1. Air monitoring delegated by EPA to Ecology and local clean air agencies meets all federal requirements. The monitoring will also provide enough information to:
 - a. Collect data that has the most relevance to public health.
 - b. Protect public health.
- 2. Air monitoring data meets EPA requirements for data completeness at each monitor.

Outputs

- 1. Ecology works with local clean air agencies to complete and submit a review of the airmonitoring network to EPA by July 1 of each year. EPA will respond within 120 days of Ecology submitting the monitoring network plan.
- 2. Ecology certifies its prior calendar year of ambient air monitoring to EPA by May 1 of each year.

⁵⁰ MDRs (FRVs are a subset of the MDRs): Minimum Data Requirements for CAA Stationary Sources Compliance, January 2012 <u>http://www2.epa.gov/compliance/guidance-minimum-data-requirements-mdrs-caa-stationary-sources-compliance</u>

⁵¹ CMS Policy: Clean Air Act Stationary Source Compliance Monitoring Strategy, July 2014 <u>http://www2.epa.gov/compliance/clean-air-act-stationary-source-compliance-monitoring-strategy</u>

⁵² FRV Policy: Guidance on Federally-Reportable Violations for Clean Air Act Stationary Sources, September 2014 <u>http://www2.epa.gov/compliance/guidance-federally-reportable-violations-stationary-air-sources</u>

⁵³ HPV Policy: Timely and Appropriate Enforcement Response to High Priority Violations, August 2014 <u>http://www2.epa.gov/enforcement/revised-timely-and-appropriate-t-and-enforcement-response-high-priority-violations-hpvs</u>

- 3. Ecology, EPA, and local clean air agencies will use listservs, e-mails, and web pages to inform the public about air monitoring results.
- 4. Ecology, EPA, and local clean air agencies will use data resources to support communication and understanding about identified air pollution problems.

Ongoing Activities

- 1. Ecology and local clean air agencies will operate the statewide National Air Monitoring Site network, according to 40 C.F.R. Part 58.
- 2. Ecology will:
 - a. Submit monitoring data to Air Quality System (AQS) within 90 days of the end of each quarter.
 - b. Provide a quality assurance program for ambient data as required by 40 C.F.R. Part 58, Appendix A.
 - c. Work with local clean air agencies to collect data, and prepare emission inventory and air monitoring databases to support air quality modeling.
 - d. Complete and report out on any corrective actions identified as part of Technical Systems Audits.
- 3. EPA will:
 - a. Review and approve an annual monitoring network review within 120 days of Ecology's submittal.
 - b. Provide annual quality assurance audits as required by 40 C.F.R. Part 58, Appendix A.
 - c. Review and approve requests to modify the monitoring network outside of the ANP process, if necessary.
 - d. Conduct Technical Systems Audits on a 3-year cycle.
 - e. Provide consistent, transparent criteria and guidance regarding the requirements for any modification to the network.

Reporting

Ecology will:

- 1. Submit AQS data to EPA within 90 days of the end of each quarter.
- 2. Write and submit quarterly data completeness reports to EPA.
- 3. Notify EPA by email as soon as it is evident that any ambient air standards have been exceeded within the Washington State monitoring network.
- 4. Provide ambient data to EPA upon request.

Chapter 8 – Hazardous Waste

Introduction

Ecology implements the EPA authorized Hazardous Waste Program pursuant to the federal Resource Conservation and Recovery Act (RCRA), as amended. As the authorized RCRA Hazardous Waste Program in Washington, Ecology's rules act in lieu of the federal rules. The RCRA program is administered through the Washington State Dangerous Waste Regulations, Chapter 173-303 WAC.⁵⁴

This chapter of the Agreement addresses RCRA implementation in Washington State including, general procedures for assuring compliance, conducting corrective action and permitting, along with additional details on how EPA and Ecology manage RCRA authorization and activities in Washington State are included.

Questions about this work can be directed to:

Ecology

Kerry Graber Hazardous Waste and Toxics Reduction Program 360-407-0241 <u>kerry.graber@ecy.wa.gov</u>

Jon Jennings (*Alternate*) Hazardous Waste and Toxics Reduction Program 360-972-4083 <u>59onathan.jennings@ecy.wa.gov</u>

EPA

Mary Winsor Land, Chemicals, and Redevelopment Division 206-553-1266 winsor.mary@epa.gov

Assuring compliance

Ecology strives to assure generators, transporters, and facilities that treat, store, or dispose of hazardous waste do so properly. This includes minimizing the risk of releases of hazardous wastes into the air, water, and land.

Ecology does this by assuring compliance with state and federal rules and encouraging waste minimization practices. Ecology's RCRA permitting work follows the procedures of the federal laws as specified in 40 C.F.R. § 270.3, when those laws are applicable.

⁵⁴ <u>http://app.leg.wa.gov/WAC/default.aspx?cite=173-303</u>

Ecology and EPA recognize the following RCRA activities will be carried out in a manner consistent with and mindful of advancing environmental justice. More information is available about environmental justice priorities as they apply to this Agreement in Chapter 4.

Ecology's Resource Conservation and Recovery Act activities

Administratively, three of Ecology's organizational units work on RCRA activities as one authorized hazardous waste program:

- Hazardous Waste and Toxics Reduction Program (HWTR)⁵⁵: The HWTR program is responsible for implementing most of the RCRA-based activities in the state.
- Industrial Section,⁵⁶ within the Solid Waste Management Program⁵⁷: The Industrial section has specific RCRA responsibilities for:
 - o Refineries.
 - Pulp and paper mills.
 - o Aluminum smelters.
 - Other specific large industrial sites.
- Nuclear Waste Program (NWP)^{58:} The NWP has specific RCRA responsibilities at Hanford and three other facilities that manage dangerous and/or mixed (radioactive and hazardous) waste:
 - Perma-Fix Northwest Richland Inc.
 - Puget Sound Naval Shipyard
 - Energy Northwest's Columbia Generating Station

EPA's Resource Conservation and Recovery Act activities

EPA Region 10 RCRA Program is managed by the Land, Chemical, and Redevelopment Division and the Enforcement and Compliance Assurance Division.

EPA is responsible for performing oversight of the state's RCRA program implementation including the areas of:

- State corrective action
- Permitting
- Compliance and enforcement activities

⁵⁵ <u>https://ecology.wa.gov/Waste-Toxics</u>

⁵⁶ https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Industrial-facilities-permits

⁵⁷ https://ecology.wa.gov/About-us/Get-to-know-us/Our-Programs/Solid-Waste-Management

⁵⁸ www.ecy.wa.gov/programs/nwp/index.html

Part of this oversight includes in-depth reviews of state programs using the State Review Framework (SRF)⁵⁹, designed to evaluate the state's permitting, compliance, and enforcement programs. EPA conducts SRF reviews every five years.

Region 10 conducted a SRF review with Ecology in 2021-2022 for Fiscal Year 2019. This review focused on Ecology's compliance and enforcement programs.

It should be noted Fiscal Year 2019 was selected for review for the SRF instead of the scheduled 2020 Fiscal Year because the Covid pandemic restrictions reduced Ecology's inspection numbers in 2020. In addition to the flexibilities EPA provided for achieving inspection goals for 2020, EPA selected 2019 as more representative for the purpose of the SRF review. Recommendations from the 2019 SRF year are anticipated for completion by December 2023.

Region 10 anticipates the next SRF cycle for Ecology's compliance and enforcement programs will be in 2025.

For the permitting program, EPA may conduct a Permit Quality Review, in coordination with Ecology, at any time. There are no permitting program reviews scheduled during the effective dates of this Agreement.

Evaluating activity commitments and levels of effort

Ecology's commitments and level of effort, during the period of this Agreement, are presented in the RCRA Work Plan, addressed later in this chapter. Both agencies will review the progress on the activities as part of each RCRA Managers Quarterly meeting, and in other meetings throughout the PPA cycle, to assist Ecology with meeting the goals in its work plan. The RCRA Work Plan may be adjusted as needed by mutual agreement with the adjustments documented in writing.

Ecology and EPA will review this Agreement's commitments and progress at its midpoint. This midpoint review will start in the spring of 2024 culminating with a revised RCRA Work Plan that will become effective July 2024 for the second half of the Agreement. The RCRA Managers Quarterly meetings will be the primary venue to track this review.

Nothing limits EPA's ability to otherwise review decisions made by Ecology, including those subject to review under the *Resource Conservation and Recovery Act – Hazardous Waste Program Memorandum of Agreement* (RCRA MOA), signed in January 2017 between Ecology and EPA Region 10.

⁵⁹ https://www.epa.gov/compliance/state-review-framework

Resource Conservation and Recovery Act objective and performance goals

EPA's Strategic Plan⁶⁰ for federal fiscal years 2022-2026 established goals for strategic planning and budgeting. EPA's overarching national goals and objectives that pertain to the hazardous waste program are outlined below.

Goal	Objective	Performance goals
Goal 3: Enforce Environmental Laws and Ensure Compliance	3.2: Detect Violations and Promote Compliance Ensure high-levels of compliance with federal environmental laws and regulations through effective compliance tools.	By September 30, 2026, send 75% of EPA inspection reports to facilities within 70 days of inspection. By September 30, 2026, conduct 55% of annual EPA inspections at facilities that affect communities with potential environmental justice concerns.
Goal 6: Safeguard and Revitalize Communities	6.1: Clean Up and Restore Land for Productive Uses and Healthy Communities	By September 30, 2026, make an additional 425 RCRA corrective action cleanups Ready for Anticipated Use.
	6.2: Reduce Waste and Prevent Environmental Contamination	By September 30, 2026, increase the percentage of updated permits at RCRA facilities to 80% from the Fiscal Year 2021 baseline of 72.7%.

Table 3. Resource Conservation and Recovery Act objective and performance goals

To support EPA's goals and objectives above and meet state priorities, Ecology will work to achieve the following goals and priorities in state fiscal years 2024-2025:

- 1. Minimize environmental threats caused by mismanagement of hazardous waste by implementing effective compliance assurance activities, including fair and firm enforcement.
- 2. Continue to improve the Dangerous Waste Regulations and maintain an authorized RCRA program, no less stringent than the federal program.
- 3. Implement the State Solid and Hazardous Waste Plan.⁶¹ This includes minimizing or eliminating the use of toxic substances, and the generation of toxic wastes.⁶²
- 4. Accomplish timely permitting to ensure protective and compliant permitting, closure, post-closure, and corrective action.

⁶⁰ <u>https://www.epa.gov/planandbudget/strategicplan</u>

⁶¹ <u>https://ecology.wa.gov/Regulations-Permits/Plans-policies/Washington-state-waste-plan</u>

⁶² <u>https://ecology.wa.gov/Regulations-Permits/Plans-policies/Washington-state-waste-plan/Progress-report</u>

- 5. Improve internal and external access to meaningful, quality information for use in accomplishing RCRA and related work, including collecting information to measure progress and success.
- 6. Work with EPA to minimize duplicative efforts, and coordinate in advance, to streamline EPA's review and approval of state actions when necessary.

Collectively, both agencies will pursue the RCRA priorities and goals through:

- Environmental and performance indicators.
- Grant performance outputs.
- Fund allocation and maximizing employee effectiveness.
- Quarterly reviews and implementation of the RCRA work plan.

Environmental and performance indicators

During the period of this Agreement, core performance measures corresponding to each of the following program elements will be used to assess the success of the RCRA program:

- Environmental compliance monitoring
- Corrective action
- Enforcement
- Pollution prevention and waste minimization activities
- Permitting

Data for these and other measures are available through EPA's RCRAInfo system, Toxics Release Inventory, and Enforcement and Compliance History Online (ECHO) database.

Ecology's TurboPlan supports Ecology's pollution prevention and waste minimization activities. Ecology and EPA will use the core measures listed below to assess performance. All core measures align with Ecology's goals and priorities noted above.

Permitting

- Number of facilities that require either an operating permit, permit lite, permit modification, permit re-issuance, or post-closure permit, where there are approved controls in place, as measured in the RCRAInfo database.
- The number of enforceable documents in lieu of a post-closure permit for facilities subject to post-closure permitting obligations. As defined in 40 CFR §270.1(c)(7) or WAC 173-303-400(3)(a).

Corrective action

- Progress on the number and percentage of sites subject to RCRA corrective action that have (a) current human exposures under control (CA725 YE) and (b) migration of contaminated ground water under control (CA750 YE).
- Percentage of facilities subject to corrective action where a final remedy has been constructed (CA550 or CA550 OF) or an interim measure has been determined to be in place for the facility.
- Percentage of facilities subject to corrective action and where migration of contaminated groundwater is determined to be under control that have a final remedy constructed and the site is determined to be ready for anticipated use (CA800 RAU).
- Percentage of facilities subject to corrective action, where a determination has been made that no further corrective action is required at the facility or where corrective action is complete with or without controls in place (CA900 CR or NC).

Compliance

- Adequacy of inspection coverage, as noted in EPA's Compliance Monitoring Strategy63.
- Number of inspections, violations, percentage of violations returned to compliance, percentage of violations returned to compliance in 30 days, rates of Significant Non-Compliance, and percentage of Significant Non-Compliance facilities that return to compliance.

Toxic release inventory

- Pounds of hazardous waste generated per facility, per year.
- Pounds of toxic chemicals released to air, land, and water per year, as measured by the Toxics Release Inventory.

In addition, Ecology will develop and propose performance measures that focus on permit renewals and the permit renewal schedule.

Grant related activities

For the purposes of EPA monitoring the RCRA grant, Ecology will, in accordance with the RCRA Workplan and the Data Management Agreement:

- Enter all appropriate RCRA information into EPA's national RCRAInfo database as defined in and within the timeframes of the RCRA Data Management Agreement between Ecology and EPA, dated 7/22/2019.
- Collect and process annual dangerous waste reports.
- Collect and process dangerous waste activity notifications and assign EPA/State ID numbers.

⁶³ https://www.epa.gov/compliance/compliance-monitoring-strategy-resource-conservation-and-recovery-act

- Conduct inspections that meet statutory mandates, the National Compliance Monitoring Strategy for RCRA64 and state-priority hazardous waste inspections as specified in the RCRA Work Plan.
- Conduct appropriate follow-up and enforcement activities to address violations.
- Conduct technical assistance and compliance assistance visits.
- Track RCRA closure, post closure, and corrective action work to meet RCRA Workplan commitments necessary for achieving the Government Performance and Results Act (GPRA) goals.
- Conduct permitting work to meet the national GPRA permitting goals for RCRA.
- Maintain RCRA authorization and coordinate with EPA to revise and update regulations.
- Further integrate environmental justice into core RCRA activities, including inspection planning, community outreach, permitting, and technical assistance activities.

Fund allocation and full-time employee summary

Ecology staff will work on Ecology's RCRA activities funded in part by this Agreement's RCRA grant (see Chapter 1). For the purposes of this Agreement, one full-time employee (1 full-time equivalent or FTE) equals \$153,838 per year. Ecology's and EPA's RCRA funding and staffing for this Agreement are based on:

- The total number of Ecology FTEs funded by EPA RCRA grant under this Agreement is 14.7.
- At the time of the request for public comment, funding amounts have not yet been determined. In the previous Agreement, the first-year total project amount was \$2,300,000 which consisted of \$1,700,000 (12.90 FTEs) of federal money and \$578,000 (4.3 FTEs) required State matching funds. Second-year amounts were similar.

Activities, review, FTEs, and the Resource Conservation and Recovery Act Work Plan

Activities in this Agreement apply to EPA's RCRA grant to Ecology for state fiscal years 2024 and 2025, which begin July 1, 2023, and July 1, 2024, respectively. This Agreement expires June 30, 2025. During this period, Ecology and EPA will review the RCRA activities and make necessary adjustments as described below.

Resource Conservation and Recovery Act Work Plan

Ecology's RCRA commitments are described in the RCRA Work Plan. Ecology will write an RCRA Work Plan for each year of this Agreement. The RCRA Work Plan includes commitments for the HWTR program, the NWP, and the Industrial section. The RCRA Work Plan will be mutually

⁶⁴

tracked during the Agreement. The RCRA Work Plan may be adjusted as needed by mutual agreement with the adjustments documented in writing.

Moving Washington beyond waste and toxics (Ecology)

Ecology updated the state's Solid and Hazardous Waste Plan as required by state law (Chapters 70A.300.310 and 70A.205.210 RCW). COVID-19 disruptions delayed the 2020 update, but Ecology published the updated state plan: *Moving Washington Beyond Waste and Toxics* in December 2021.

To move "beyond waste and toxics" is defined in the state plan's vision statement:

"We can transition to a society where waste is viewed as inefficient and where most wastes and toxic substances have been eliminated. This will contribute to economic, social, and environmental vitality."

The plan identifies goals and actions aimed at reducing waste and the use of toxic chemicals through policies and programs designed to protect the environment, human health, and economic health. ^{65 66}

Ecology submitted a notice of intent to participate in the Solid Waste Infrastructure for Recycling (SWIFR) grant program for states and territories, which is funded by the Investment in Infrastructure and Jobs Act of 2021. EPA will support Ecology in developing its SWIFR work plan and managing the grant award.

Resource Conservation and Recovery Act authorization

Ecology will maintain an authorized program in compliance with federal requirements under Chapter 40 CFR Part 271.21.

Ecology will coordinate with EPA during any RCRA-related state rule modification to ensure the state RCRA program is at least as stringent as the federal RCRA program. This is necessary to maintain state RCRA authorization. Ecology and EPA will also work cooperatively throughout the development of Ecology's draft and final authorization revision application, which is anticipated during the period of this Agreement.

⁶⁵ <u>http://www.governor.wa.gov/sites/default/files/exe_order/eo_05-01.pdf</u>

⁶⁶ https://www.governor.wa.gov/sites/default/files/exe_order/18-

^{01%20}SEEP%20Executive%20Order%20%28tmp%29.pdf

Resource Conservation and Recovery Act information management

Ecology will enter all appropriate RCRA data into EPA's national hazardous waste database, RCRAInfo. Each of the Ecology programs conducting RCRA work will be responsible for their respective data quality and data entry. Ecology's RCRA data and information management-related activities include:

- Inspections and any resulting violations
- Enforcement actions, including penalty data
- Return to compliance information
- Financial assurance reviews
- Permit milestones
- Closure and post-closure milestones
- Corrective action milestones
- Any other data necessary to track environmental and performance indicators in the RCRAInfo data system

Ecology and EPA will continue to collaborate on EPA's national e-Manifest tracking system as needed during the period of this Agreement.

Ecology's and EPA's specific responsibilities and timelines for maintaining RCRA data are described in the RCRA Data Management Agreement dated May 22, 2019.

Ecology will:

- Maintain procedures to assure data quality and timely data entry. Inspection, compliance monitoring, and enforcement data will be entered/updated monthly in RCRAInfo. Within 30 days of the conclusion of a site visit, data will be entered in RCRAInfo, including at least the inspection type, date, and initial assessment of any compliance issues observed. Additional compliance and enforcement data entry will occur within 30 days of completion of inspection reports, issuance of enforcement actions, or finalization of other documentation.
- Review all other facility-specific RCRAInfo data (including permitting, closure, corrective action, and facility status). Data will be reviewed for accuracy and entered into RCRAInfo according to the RCRA Data Management Agreement between Ecology and EPA, dated 5/22/2019. The data will also be reviewed and discussed as needed at the RCRA Managers' Quarterly meetings.
- 3. **Collect and process annual reports.** Information from Ecology's TurboWaste data system, which supports all handler information, will be added to the RCRAInfo database. This information must be translated into RCRAInfo at least monthly as defined in the RCRA Data Management Agreement between Ecology and EPA, dated 5/22/2019. All information required for the biennial report must meet EPA's biennial report deadline.

- 4. **Maintain Ecology's TurboWaste Application and participate in the Region 10 RCRAInfo Workgroup.** This involves supporting data sharing and compatibility with RCRAInfo as needed. Examples include receipt of annual dangerous waste reports and withdrawing EPA/State ID#'s when appropriate. It also includes the translation of handler data from Ecology's TurboWaste system into RCRAInfo. Participation in the RCRAInfo Workgroup helps ensure collaboration and data quality between TurboWaste and RCRAInfo.
- 5. **Collect and process notifications of dangerous waste activity forms.** Forms will be collected and processed for all reported Washington hazardous waste activities where Ecology has jurisdiction.
- 6. **Participate in national RCRAInfo Version 6 (V6) implementation.** This involves participating and engaging in monthly national calls regarding implementation and updates to RCRAInfo V6.

EPA will:

- Assist in maintaining EPA's national RCRAInfo database. EPA is responsible for collecting and entering data regarding hazardous waste activity on Tribal lands, including the Puyallup Reservation. This work includes keeping data current and participating in the RCRAInfo Workgroup. However, Ecology is responsible for data on the Puyallup Reservation under the following conditions:
 - a. The site is within the Puyallup Reservation boundaries.
 - b. The property owner or operator is non-tribal.
 - c. The land is classified as non-trust or fee land.

These sites were identified in the 1873 Survey Area of the Puyallup Reservation and the August 27, 1988, Settlement Agreement.

- 1. **Maintain and provide Ecology access to RCRAInfo.** EPA will maintain the RCRAInfo report system and allow Ecology staff access.
- 2. **Provide RCRAInfo training.** This includes guidance and support for changes and new features in RCRAInfo.
- 3. **Refer the assignment of EPA/State ID numbers to Ecology.** Ecology will assign all EPA /State ID numbers except for those on non-Puyallup Tribal Indian lands. This includes the assignment of EPA/State ID numbers for superfund sites and EPA spill sites.
- 4. EPA will be responsible for extracting and using the RCRAInfo data to inform regional and national reporting needs.

Compliance assurance

Ecology will:

- Address violations and compliance issues in a manner consistent with the Compliance Section of the RCRA MOA.
- Conduct the type and number of inspections committed to in the RCRA.
- Record the following data in RCRAInfo according to EPA's Hazardous Waste Civil Enforcement Response Policy⁶⁷:
 - The date a site is classified as significant non-compliance (SNC) including the standard evaluation data.
 - Inspections characterizing sites as secondary violators including appropriate evaluation and enforcement data.
 - Economic benefits businesses accrued through non-compliance, in its penalty calculations, as guided by EPA's RCRA Civil Penalty Policy, "BEN" software, or other type of analysis tool.
- Review SNC records in RCRAInfo for quality assurance monthly.
- Complete inspection reports within 150 days.

EPA will coordinate with Ecology on compliance issues, inspections, and enforcement actions that EPA will lead in Washington. EPA will implement compliance activities in Indian Country in coordination with the various tribal governments and Ecology, where applicable.

Corrective action

Ecology and EPA are working toward meeting the goals set by the federal Government Performance and Results Act (GPRA).⁶⁸ GPRA establishes goals for the corrective action program using EPA's "2030 Corrective Action Progress Track," which includes:

- Facilities on EPA's 2008 corrective action universe list. This includes 42 sites within the State of Washington.
- Other facilities that Ecology and EPA agree are appropriate to address under corrective action.

⁶⁷ https://www.epa.gov/enforcement/hazardous-waste-civil-enforcement-response-policy

⁶⁸ https://www.performance.gov/about/performance-framework/

RCRA Corrective Action Program

Through 2030, the RCRA Corrective Action Program will ensure RCRA cleanups are initiated and completed efficiently and quickly. EPA and Ecology commitments regarding what work is planned and what progress is made will be visible to the public. An ambitious universe of cleanups will be identified for completion by 2030., Ecology and EPA will use the relevant Corrective Action Program measures below to measure cleanup progress. ⁶⁹

Ecology's corrective action work contributes toward the achievement of the nationwide goals established in EPA's strategic plans and EPA Region 10's specific commitments. Ecology's specific commitments for federal fiscal years 2024-2025 are identified in the RCRA Work Plan.

EPA Region 10's commitments for these measures and nationwide goals are made each year after consultation with Ecology and other authorized Region 10 states. Ecology's RCRA Work Plan will address the specific sites, which will assist EPA in meeting these commitments and goals.

Corrective action program measures Ecology and EPA will use the corrective measures below to identify cleanup progress.

- Human Exposures Under Control (CA725)
- Migration of Contaminated Groundwater Under Control (CA750)
- Remedy Construction Complete (CA550 OF70)
- Cleanup Complete (CA900 or CA999)
- Ready for Anticipated Use (CA 800 RAU⁷¹)

Ecology and EPA will use Washington's Model Toxics Control Act (MTCA)⁷², the state's cleanup authority) to regulate corrective action requirements, including the issuance of enforcement orders. Both agencies will continue to use a permit lite process that incorporates by reference the MTCA enforcement order as a permit condition.

This process eliminates duplication of work and allows the use of the MTCA process, which is generally faster than RCRA corrective action. It may also be more stringent and is familiar to the business community in Washington. A list of permits both agencies will work on during this Agreement will be included in the RCRA Work Plan. Data for milestones achieved will be entered into RCRAInfo.

When an enforceable document is used in place of a permit, Ecology will notify EPA in advance of sending it over for review.

⁶⁹ https://www.epa.gov/hw/learn-about-corrective-action

⁷⁰ Operating Facility

⁷¹ Ready for Anticipated Use

⁷² https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Rules-directing-our-cleanup-work/Model-Toxics-Control-Act

Quarterly and annual updates

Ecology will maintain and regularly update RCRAInfo with respect to the corrective action work described above. In addition to the RCRAInfo updates, Ecology and EPA will continue to work together on ways to stay better informed of corrective action progress. This could include updates on their RCRA Work Plan progress at the RCRA Managers Quarterly meetings as well as more in-depth discussions on-site status.

Permitting and closure work commitments

Ecology and EPA will strive to meet EPA's national baseline for Treatment, Storage, and Disposal (TSD) facility permitting. The goal for TSD permitting for federal fiscal years 2024 and 2025 is for 100 percent of the hazardous waste management facilities to have controls in place to prevent toxic releases to air, soil, surface water, and groundwater.

EPA also sets nationwide goals for issuing permit renewals within its 2022 – 2026 strategic plan⁷³. Ecology's permit renewals combined with EPA Region 10's renewals contribute towards the national goals.

Under EPA's new National Permit Oversight Policy, EPA will meet with Ecology to discuss the state's progress in reducing the permit renewal backlog.

Ecology will:

- Invest in the designated level of effort to ensure environmental protection at TSD facilities.
- Negotiate site-specific priorities, tools, and expectations with EPA at the RCRA Managers' Quarterly meetings and facility-specific discussions.
- Work on re-issuing storage and treatment permits for facilities listed in the RCRA Work Plan paying specific attention to facilities with expired permits.
- Develop a measure of permit renewal timeliness.

Ecology and EPA will continue to use a permit lite process to impose corrective action at facilities with no operating RCRA dangerous waste management units, as described in the EPA-approved program description.

Specific duties and responsibilities of Ecology and EPA for permitting and work sharing will be determined through annual program planning for both agencies, which may include the RCRA Work Plan, and discussions at the RCRA Managers' Quarterly meetings, in accordance with the RCRA MOA.

Ecology intends to work on "Permit Lite" and accompanying MTCA enforcement order negotiations, during the period of this Agreement, for facilities named in the RCRA Work Plan.

^{73 &}lt;u>https://www.epa.gov/system/files/documents/2022-03/fy-2022-2026-epa-strategic-plan.pdf</u>

Issuing a new Hanford Facility RCRA Permit, Dangerous Waste Portion, Revision 9, for the Treatment, Storage, and Disposal of Dangerous Waste (Site-wide Permit), WA7890008967 will continue to be the focus for both agencies during the period of this agreement. EPA will continue to provide oversight, technical, and programmatic support for permit re-issuance.

The NWP is currently working with EPA and HWTR, on reissuing the Hanford Site-wide Dangerous Waste permit in the following ways:

- Requiring the Department of Energy to submit revised permit application information.
- Modifying the 2012 draft Hanford Site-wide permit to address substantive comments and issues.
- Preparing a revised draft Hanford Site-wide permit that is scheduled for public comment in 2024.
- Responding to public comments.
- Issuing the final Hanford Site-wide permit with all renewals in place by 2026.

Ecology will also continue to address the permit backlog to determine the appropriate next steps and move forward with the facility closure(s) or permit re-issuance action(s).

Technical assistance from Ecology

Ecology will provide technical assistance for compliance, waste minimization, and pollution prevention through:

- Site visits.
- Phone calls, emails, and video conferences.
- Outreach tools.

HWTR will assess outreach needs and use the tools appropriate for the audience. Outreach may include:

- Publications.
- Web pages.
- Videos.
- Webinars.
- Blog articles.
- Social media.
- Email distribution lists.
- Mailers.
- Other materials.
Ecology implements RCRA compliance on the premise that greater compliance results when technical assistance is available as a core element of the program.

Technical assistance from the Environmental Protection Agency

EPA will provide technical assistance to Ecology. This work will include technical and regulatory consultation as resources allow.

The Environmental Protection Agency's coordination

State review framework

The most recent state review process was initiated in 2021. Many of the areas identified as needing attention have already been addressed. The remainder Ecology is working on and providing periodic updates to EPA as needed. Ecology and EPA will continue to address issues identified in the 2019 state review year process until they are verified and closed.

Ecology will participate in the annual national enforcement data verification process. EPA headquarters will post the specific set of data verification metrics on its "Enforcement and Compliance History Online (ECHO)" database in the last quarter of each calendar year. To support ECHO data accuracy, Ecology will ensure related data corrections are made in the RCRAInfo data system.

Program coordination

EPA Region 10 State Coordinators provide general program coordination to assure open communication between Ecology and EPA related to:

- Joint inspections
- Oversight work
- Program reviews
- Grant administration
- Planning
- Training

Chapter 9 - Water Quality

Introduction

Ecology administers most of the federal Clean Water Act (CWA) based programs throughout Washington State. EPA's role is to:

- Oversee the implementation of State-authorized programs.
- Provide technical and analytical support for state-authorized programs.
- Directly implement non-authorized programs, in most cases with state assistance.

This Agreement reflects the mutual understanding between Ecology and EPA for program implementation and the extent of oversight.

The objectives and activities listed in this Agreement cover many aspects of water quality protection in Washington State. However, EPA grants only fund a subset of these activities.

One of EPA's grants to Ecology is the Performance Partnership Grant (PPG) which is provided in accordance with Section 106 of the CWA. This Agreement will also serve as the work plan for PPG funds provided to Ecology. The specific activities in this work plan, funded by the PPG, are identified at the end of each numbered section below.

The total project amount for water quality projects and activities over the two years of the Agreement is still being finalized. During the last biennium, the EPA water quality grant funded 50 full-time Ecology employees. Refer to the PPG and its associated detail for funding categories and specific amounts, such as the number of Ecology full-time employees (FTE) funded.

1. Administrative

Ecology Becca Conklin 360-407-6499 becca.conklin@ecy.wa.gov

EPA Michelle Wilcox 360-753-9469 wilcox.michelle@epa.gov

Objectives

- The Performance Partnership Agreement is managed for efficiency and accountability.
- Electronic data sharing is the preferred mechanism to transfer information.

Activities and Measures

- 1A. Ecology will develop water quality performance measures and will provide a written status report to EPA on a semi-annual basis by January 31 and July 31 of each year.
- 1B. Ecology and EPA water quality managers will meet annually to discuss key water quality issues and progress in meeting the commitments in this Agreement. Ecology will organize and host the annual meeting in odd years, and EPA will organize and host in even years.
- 1C. EPA will participate in Water Quality Program management meetings when necessary to coordinate an effective water quality program. EPA will provide Ecology with relevant information on implementing water quality regulatory programs including water quality protection programs of other states to assist Ecology. EPA will notify Ecology of any federal law, rule change, or policy interpretation that would necessitate a change in state law to maintain a delegated program. Ecology will work with EPA to develop appropriate responses to such notification.

2. Nonpoint Source Pollution Control

Ecology Ben Rau

360-407-6551 ben.rau@ecy.wa.gov

EPA

Michelle Wilcox 360-753-9469 wilcox.michelle@epa.gov

Objectives

- Programs are designed to prevent and clean up nonpoint source pollution and protect water quality.
- Programs are designed to prevent habitat alteration and restore aquatic habitats.
- Financial assistance is provided to water quality partners and is targeted to the highest environmental needs.

Activities and Measures

- 2A. Ecology will implement the Ecology actions identified in the current EPA-approved Water Quality Management Plan to Control Nonpoint Source Pollution (also known as the Washington State Nonpoint Plan), depending on available funds.
- 2B. Ecology will submit to EPA an annual program report by April 15 of each calendar year. If more time is needed to complete the annual report, Ecology will notify EPA and set a mutually agreed date to submit the report. At a minimum, the report shall contain a summary of progress, including rationale/evidence, in meeting the schedule of milestones in the approved management program and reductions in NPS pollutant loading and

improvements in water quality that has resulted from the implementation of the NPS management program. The report will also include a section that pertains to non-grant-related Best Management Practices (BMP) adoption and efforts identified related to the previous year's priority watersheds and will include the following information:

- Update about the status and progress of BMP guidance development.
- Description of updates to Washington funding guidelines based on BMP guidance development.
- Use of BMP guidance for technical assistance.
- Use of BMP guidance in new Water Quality Improvement Plans, also known as Total Maximum Daily Loads, including implementation plans, and Total Maximum Daily Load alternatives.
- BMP outreach and training materials developed and provided to field staff.
- Number of watershed evaluations conducted per watershed.
- Number of complaints received and summary of complaint types.

EPA will use this report, along with other materials, as the basis for determining continued eligibility for future CWA Section 319 grants.⁷⁴

- 2C. Per the settlement, Ecology will submit a Washington State Nonpoint Plan update to EPA by the end of 2025.⁷⁵ The update should include incorporation of the agricultural BMPs identified to date, and a commitment to use the BMPs for Washington's CWA section 319 grant funding program, to develop and implement Total Maximum Daily Loads (TMDL) and other advanced restoration projects, including but not limited to Straight to Implementation projects, with nonpoint components, and for technical assistance work. Ecology shall complete the development of all chapters of the agricultural BMP guidance on or before December 31, 2025.
- 2D. EPA will provide technical expertise to Ecology's process to develop the voluntary Clean Water Guidance for Agriculture.
- 2E. Ecology and EPA will submit and award the CWA Section 319 grant on a biennial basis rather than an annual basis. For the years in which Ecology applies for the grant, Ecology will submit a grant proposal no later than March 31 and EPA will process the grant and provide funding no later than July 1 of that same year. Annually Ecology will identify the priority watersheds in which Ecology will focus its non-grant implementation efforts (e.g., TMDL implementation, other nonpoint source control implementation) and will include a description of priority actions to be conducted in each priority watershed. Ecology will include this information with the grant proposal in the years in which Ecology applies for

⁷⁴ CWA §319(h)(8) and EPA's Nonpoint Source Program and Grants Guidelines for States and Territories issued April 12, 2013

⁷⁵ Settlement Case 2:16-cv-01866-JCC, Document 175, filed 01/08/21

the grant. For years that Ecology does not submit a grant proposal Ecology will provide this information in a memo by July 1.

- 2F. Ecology will enter the data for all 319 projects, including load reduction estimates, as applicable, into the Grants Reporting and Tracking System (GRTS). Reports are due semiannually in the fall and spring of each year, according to deadlines specified by EPA. Mandatory yearly load reduction data is due February 15 each year. Ecology will enter all other data for funded projects no later than March 31 each year.
- 2G. Ecology will continue to work with EPA to develop success stories. Ecology and EPA will meet at least once per year to discuss potential success stories and identify if past success stories need to be modified. The stories will show progress toward, or achievement of, water quality standards under EPA PAM WQ-10 guidance, as a result of nonpoint source (NPS) implementation measures. EPA will assist Ecology with entering success stories into GRTS.
- 2H. Ecology will coordinate with EPA on the implementation of the Washington State Nonpoint Plan. This work is funded by a combination of grants from EPA including Section 319 and NEP. Key focus areas include:
 - Work on the voluntary Clean Water Guidance for Agriculture (guidance on BMPs).
 - Support for the nonpoint compliance work of inspectors and other regional staff (complaint response, priority watershed clean-up projects, and enforcement actions).
 - Refinement of internal guidance on how we conduct nonpoint compliance work to improve consistency between regions.
- 21. EPA will actively support Ecology as it implements its nonpoint strategy. EPA will make sure their strategies in other areas such as the NEP program do not conflict with the nonpoint efforts and the Washington State's Nonpoint Plan to the extent practicable.
- 2J. EPA will continue to track the progress and decisions of the Forest Practices Board committees and workgroups, particularly the Timber, Fish and Wildlife Policy Committee and the Cooperative Monitoring, Evaluation and Research Committee. Ecology and EPA will continue to work with the Washington State Department of Natural Resources and other agencies to ensure forest practices rules are implemented to comply with the Habitat Conservation Plan, state water quality standards, and the Clean Water Act.
- 2K. EPA will assist Ecology and the Adaptive Management Program to achieve this objective where feasible.

3. Point Source Pollution Control

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EPA

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EPA Jeff Kenknight (Compliance) 206-553-6641 kenknight.jeff@epa.gov

Objectives

- All discharge permits are current, protect water quality, human health, and aquatic habitat; and include water conservation and pollution prevention measures.
- All discharges comply with permits, water quality standards, best management practices, and other requirements to protect Washington's waters.
- All discharge permits implement applicable Waste Load Allocations from EPA-approved Total Maximum Daily Loads.
- Water quality laws are firmly and fairly enforced to ensure compliance.
- Requirements and procedures are clear and predictable.
- The National Pollutant Discharge Elimination System (NPDES) program is implemented effectively and in accordance with the current Memorandum of Agreement and Compliance Assurance Agreement.

Activities and Measures: Pretreatment

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EPA Michael Le 206-553-1099 Le.Michael@epa.gov

- 3A. Ecology will conduct an audit of each delegated pretreatment program at least every five years and a pretreatment compliance inspection (PCI) or audit of each pretreatment Publicly Owned Treatment Works (POTW) at least every two years. If Ecology is unable to complete the required audits and inspections, then Ecology must provide a plan to EPA addressing issues preventing completion of the requirements. The plan will outline proactive steps and a schedule Ecology will follow to meet audit and inspection targets. If Ecology has not fully met the requirements of audit and inspection frequency, then Ecology must submit the plan no later than December 31 (for the previous state fiscal year⁷⁶). The plan must be submitted in a report with Section 3C and 3D elements as well.
- 3B. Ecology will forward copies of pretreatment compliance inspection and pretreatment audit reports (EPA Form 3560-3) for Pretreatment POTW to the EPA Region 10 Pretreatment Coordinator.

Ecology may e-mail a link to where the document has been added to PARIS or email a scanned copy of each report to <u>Le.Michael@epa.gov</u>.

- 3C. Ecology will evaluate the compliance status of all approved programs for non-compliance and report the facility names and permit numbers of POTWs with approved pretreatment programs in non-compliance to the Region 10 Pretreatment Coordinator by December 31 each year. The report will cover the previous state fiscal year.
- 3D. Ecology will report the facility names and permit numbers of Significant Industrial Users (SIUs) discharging to NPDES POTWs without approved pretreatment programs and Categorical Industrial Users discharging to non—NPDES POTWs; and will identify the SIUs of that universe that have been determined to be in significant noncompliance to the Region 10 Pretreatment Coordinator by December 31 each year. The report will cover the previous state fiscal year.
- 3E. Ecology will enter all data and/or reports required under activities 3A 3D into Ecology's Permit and Reporting Information System (PARIS). Ecology will continue to work to standardize documentation into PARIS with available data fields. In addition, Ecology will work with EPA to implement the pretreatment-related elements of the NPDES electronic reporting rule⁷⁷ By December 31, 2025. Both parties recognize activities 3A 3E relate to the State's implementation of federal pretreatment program requirements, and information reported under activities 3A, 3B, and 3C does not include non-NPDES POTW pretreatment programs authorized only by state law and rules.

⁷⁶ Washington's state fiscal year is July 1-June 30, while the federal fiscal year is October 1-September 30.

⁷⁷ 40 CFR part 127

Activities and Measures: Compliance and Enforcement

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EPA Brian Levo 206-553-1816 Levo.Brian@epa.gov

- 3F. On an as-needed basis, EPA and Ecology managers will communicate to provide updates and discuss inspection and enforcement targeting. As needed, additional topics will include:
 - Priorities and goals.
 - Performance expectations.
 - Enforcement program improvements.
 - Roles and responsibilities.
 - Work sharing.
 - Avoiding duplication of efforts.
- 3G. Ecology will continue its inspection program of major and minor facilities. Ecology will implement the Clean Water Compliance Monitoring Strategy (CMS) to ensure adequate coverage of regulated entities. The CWA CMS is part of an ongoing compliance monitoring strategy developed by EPA to allow for more flexible use of resources for states performing inspections. Ecology will use the Region 10 National Pollutant Discharge Elimination System (NPDES) Compliance Monitoring spreadsheet for its annual CMS plan/report to be submitted to EPA by December 31 of each year for the previous state fiscal year. This CMS submittal is both a planning document for activities planned for the upcoming year and a reporting document to report on what occurred in the previous state fiscal year. Ecology will ensure that each inspection report has a Quality Assurance review. This review could be done by a peer or a supervisor.
- 3H. Ecology will continue to work with EPA to ensure the upload of data from PARIS to the Integrated Compliance Information System (ICIS)-NPDES. Any errors that occur are to be resolved in a timely manner.
- 31. Ecology will continue to focus on corrective actions for the remaining "Area for Improvement" findings associated with the 2022 (Round 4) State Review Framework (SRF).
- 3J. Significant noncompliance (SNC) reduction is a nationwide effort. Ecology has worked with EPA over the past two years to address issues with the flow of data from the State data system to ICIS. Ecology will continue to ensure the corrected data flow to ICIS is properly

maintained and updated as needed. The maintenance of the data flow will include ensuring the information sent to ICIS is accurate and complete in accordance with the 2015 NPDES Electronic Reporting Rule and all other applicable standards.

- 3K. Ecology will participate in regular meetings with EPA to discuss progress on reducing actual SNC at NPDES-permitted facilities.
- 3L. Ecology will regularly evaluate compliance at permitted facilities and adequately respond to violations based upon the principles contained in the agency and program Compliance Assurance Manual.
- 3M. EPA will choose someone to be an ex officio member of the Water Quality Program's Enforcement Workgroup, which meets quarterly.
- 3N. Ecology will support and engage our communities, customers, and employees on Environmental Justice issues. Ecology will integrate Title VI (Civil Rights Act) and the Americans with Disabilities Act and will support environmental justice priorities in compliance and enforcement decisions.

Activities and Measures: National Pollution Discharge Elimination System Permits

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EPA

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- 30. Ecology will share its NPDES permitting plan with EPA by June 30 of each year, for the upcoming state fiscal year. The plan will list the permits Ecology intends to issue, reissue, or modify.
- 3P. EPA will share its NPDES permitting plan with Ecology by October 1 of each year, for the upcoming federal fiscal year. The plan will list the permits EPA intends to issue, reissue, or modify.
- 3Q. EPA will attempt to review at least one Ecology permit per month, on average, subject to availability and EPA's draft permit review selection process.
 - EPA reviews permits programmatically for consistency with state and federal rules and policies.
 - EPA reviews major permits, with emphasis on larger facilities and dischargers with the potential to significantly impact the environment.
 - EPA also reviews permits as requested by Ecology.

When possible, EPA's review rotates among Ecology regions. EPA's review will ensure that NPDES permits issued by Ecology comport with the CWA and federal rules.

- 3R. Ecology will improve permit and fact sheet shells and other tools through its Permit Writer's Workgroup. Ecology will continue to invite EPA to participate as a guest on the Permit Writer's Workgroup to give them the opportunity to comment on Ecology's proposed changes to the permitting process.
- 3S. Ecology will participate in EPA's Permit Quality Review (PQR) of Ecology's NPDES Program. Ecology will report to EPA the status and completion of PQR action items semi-annually by March 30 and September 30 each year until action items are complete.
- 3T. Ecology and EPA will review and implement procedures for designating major NPDES facilities including both industrial and domestic wastewater facilities.
- 3U. Permitting representatives from both EPA and Ecology will meet monthly to discuss substantive permit issues and coordinate permit issuance efforts.
- 3V. Ecology and EPA will coordinate their work for the timely review and processing of requests for state CWA 401 certification for NPDES permits under EPA's authority.

4. Water Cleanup Plans, Standards, Assessments

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EPA - Water Cleanup Plans (TMDLs) David White 206-553-0060 white.david@epa.gov

EPA - Water Quality Standards and Assessment Hanh Shaw 206-553-0171 shaw.hanh@epa.gov

Objectives

- Water cleanup plans also known as Total Maximum Daily Loads are scheduled, completed, implemented, and their success is evaluated.
- Ecology will move straight to implementation (STI) or other types of alternative restoration approaches (in advance of developing a TMDL) in the appropriate watersheds.
- Develop, maintain, and implement surface water quality standards that protect beneficial uses.

Comprehensively assess water bodies in Washington to assign categories according to water quality, to meet CWA requirements in sections 303(d) and 305(b).

Activities and Measures: Total Maximum Daily Loads

Ecology - Water Cleanup Plans (TMDLs) Ben Rau 360-407-6551

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EPA - Water Cleanup Plans (TMDLs) Gunnar Johnson 360-753-9543 johnson.gunnar@epa.gov

- 4A. Ecology will report and track Total Maximum Daily Loads (TMDLs) completed as well as Straight to Implementation (STI) plans and Advance Restoration Plans (ARPs) that are developed to result in clean water. Ecology will prioritize and work on those TMDLs and other restoration approaches (STIs and ARPs) that Ecology has identified for EPA's Vision 2.0 Bridge Metric performance measure (EPA FY22-24). Projects anticipated to be in progress or complete by 2025 include:
 - Ecology Headquarters:
 - Puget Sound Nutrient Reduction Project (in progress)
 - Central Regional Office:
 - White Salmon River Bacteria STI (in progress)
 - Wide Hollow Creek Multiparameter TMDL (complete)
 - Eastern Regional Office:
 - o Alkali Flat Creek Multiparameter STI (complete)
 - Almota & Little Almota Creeks Multiparameter STI (in progress)
 - Hangman (Latah) Creek Multiparameter ARP (in progress)
 - Hawk Creek Multiparameter STI (complete)
 - Spring Flat Creek Multiparameter STI (in progress)
 - Upper Colville River Multiparameter STI (in progress)
 - Northwest Regional Office:
 - Drayton Harbor Bacteria TMDL (complete)
 - French Creek Multiparameter ARP (in progress)
 - Soos Creek Multiparameter TMDL (in progress)
 - Soos Creek Fine Sediment TMDL (in progress)

Whatcom Creek Bacteria TMDL (complete)

- Southwest Regional Office:
 - Burnt Bridge Creek Multiparameter ARP (in progress)
 - o Lacamas Creek Multiparameter ARP (in progress)

Ecology will report standardized status updates on Vision 2.0 Bridge Metric performance priority projects quarterly to EPA (projects listed above). The status updates Ecology provides will be consistent with tracking key milestones in our water quality improvement projects within each region.

- 4B. Ecology will lead data entry of TMDL, STI, and ARP information (Action data) into EPA ATTAINS database. EPA will help with data entry, where requested.
- 4C. Ecology and EPA will meet once in July or August after Ecology's Environmental Assessment Program has finalized its annual resource planning to conduct workload planning and evaluation for the development and implementation of TMDLs, STIs, and ARPs. Ecology will provide EPA with information about the TMDLs, STIs, and ARPs Ecology anticipates will be completed for the upcoming year.

EPA will provide Ecology with information on EPA lead for TMDLs, STIs, and ARPs impacting federal facilities and tribal lands for ongoing coordination. At this meeting, EPA will also provide Ecology with updates on key interpretations that change how EPA has been reviewing and commenting on TMDLs, STIs, and ARPs. The goal is to keep Ecology abreast of changes at EPA in the TMDL program and how TMDL, STIs, and ARPs submittals should be reviewed. EPA and Ecology will coordinate on any TMDLs that EPA proposes to develop before EPA begins work.

- 4D. Ecology will update the TMDL workload assessment. The workload assessment will identify and prioritize future TMDL, STI, and ARP water cleanup work.
- 4E. Where Washington is engaged in a TMDL that crosses jurisdictions; EPA will provide leadership to bring any issues that arise to resolution. EPA will report to Ecology on TMDLs from Idaho or Oregon that may impact Washington waters and work to help ensure those states' TMDLs are written to meet Washington's downstream standards.
- 4F. Ecology will continue to monitor the progress of the Spokane River Regional Toxics Task Force (Task Force) and any successor organization as they implement the 2016 Comprehensive Plan to Reduce Polychlorinated Biphenyls (PCBs) in the Spokane River (Comprehensive Plan), by providing recommendations and periodic status reports. The Task Force will be discontinuing most operations in July but has agreed to continue as a formal organization until a successor organization has been constituted to satisfy the obligations of members whose participation in such an organization is mandated. Ecology has been a signatory to the Task Force since 2012, serving as a resource by providing professional, technical, and financial support. Ecology will continue in this role through the Task Force's sunsetting and final dissolution and anticipates a similar role with respect to

any successor organization which strategically addresses toxics issues and maximizes Ecology's ability to achieve water quality standards in the Spokane River.

Ecology will continue to support the Task Force and any successor organization as they implement the control actions identified. These actions may come from the existing Comprehensive Plan or another equivalent future planning document. Ecology will also continue to periodically measure progress in reducing PCBs and other toxics in the Spokane River and towards achieving the applicable water quality criteria for PCBs and other toxics.

- 4G. Ecology and EPA will continue the cleanup and restoration of the Duwamish River. Restoration of this high-priority watershed involves multiple programs in both agencies, each utilizing their respective regulatory authorities, to address water quality impairments as measured in sediment, water, fish tissue, and consumption advisories. The Agencies' shared long-term vision includes obtaining the lowest contaminant levels possible in sediments to reduce contamination in fish tissue so that the Washington State Department of Health could minimize reliance on fish consumption advisories. While some, but not all impairments, will be addressed by the ongoing and planned sediment cleanups to occur under CERCLA and MTCA/SMS, other federal and state programs are essential for realizing this long-term goal. This includes using respective water program tools and authorities in the continued implementation of the Lower Duwamish Waterway (LDW) Source Control Strategy (2016). Specifically:
 - Ecology will utilize NPDES permitting strategies to address LDW near-term source control.
 - EPA will seek resources to support Ecology's continued development of a Pollutant Loading Assessment of toxics in the Green-Duwamish watershed, including the Lower Duwamish Waterway and the East and West Waterways.
 - Ecology will assess water quality impairments that remain following the active sediment cleanup actions under a water cleanup plan, and any necessary load and wasteload allocations can be made, and other water quality standards provisions can be applied if warranted.
 - EPA and Ecology will utilize the coordination and elevation framework identified in the 2014 LDW MOA between the agencies, convening executive/steering committee members and functions no less frequently than annually.
- 4H. EPA will be issuing TMDLs for all PCB-impaired (Category 5) assessment units of the Spokane and Little Spokane Rivers no later than September 30, 2024, to satisfy conditions of a 2022 litigation consent decree. Ecology will continue to monitor EPA's progress in anticipation of developing the implementation plan for those TMDLs. EPA will coordinate with Ecology as implementation actions are identified and will support Ecology in conversations and collaborations with the state of Idaho and Tribal governments.
- 41. Ecology will continue to move the Puget Sound Nutrient Source Reduction Project forward with the Salish Sea modeling to evaluate scenarios designed to meet standards and our stakeholder and tribal engagement through the Nutrient Forum. Ecology will also continue

work on developing an associated watershed modeling strategy for watersheds that drain to Puget Sound.

EPA will continue to provide expertise and evaluation of Puget Sound modeling work and to the extent possible prioritize funding to support the modeling needs of the project (SSM and watershed work). EPA will make sure their strategies in other areas such as the National Estuary Program (NEP) supports and is coordinated with the Puget Sound Nutrient Source Reduction Project.

- 4J. EPA has re-issued the Columbia and Lower Snake River Temperature TMDL. Ecology will continue to work with EPA as the implementation plan is developed for the Columbia/Lower Snake River Temperature TMDL. EPA will coordinate with the states of Oregon and Washington as implementation actions are identified. EPA will support Ecology in conversations and collaborations with federal dam agencies.
- 4K. EPA and Ecology will work together to determine how to best address new impairment listings identified within a watershed with an existing TMDL for the same pollutants. EPA and Ecology will collaborate on strategies, including best practices for writing watershedbased TMDLs and revisions, updates, or addenda to previously approved TMDLs, to maximize the effectiveness and future applicability of TMDLs.

Activities and Measures: Water Quality Standards

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EPA - Water Quality Standards Lindsay Guzzo 206-553-0268 guzzo.lindsay@epa.gov

For activities related to the review and development of rules, Ecology's timeline commitments are subject to current staffing to complete these projects. Any significant changes in staff or resources may delay these timelines.

- 4L. Ecology will update the water quality standards guidance manual to include new standards as EPA approves them. The manual is intended to instruct agency staff working on CWA programs by providing documentation of the proper application of the Water Quality Standards within these programs including documentation of institutional knowledge, impact of legal decisions, and interpretation of commonly applied water quality standards language.
- 4M. Ecology will initiate a triennial review of all applicable water quality standards and conduct a public hearing by Spring 2025. Ecology will develop a responsiveness summary and work plan for addressing updates to the surface water quality standards, including explaining why revisions are not appropriate.

- 4N. Ecology will work with EPA to propose rulemaking (CR-102) to update scientifically defensible aquatic life toxics criteria by Spring 2024. EPA Region 10 will facilitate discussions between Ecology and EPA's Health & Ecological Criteria Division to ensure the criteria development strategies align with EPA's scientific methodologies. Consistent with section 7 of the Endangered Species Act, EPA will develop a biological evaluation to facilitate consultation with the U.S. Fish and Wildlife Service on the aquatic life criteria. EPA will share the ESA consultation workplan with Ecology, including a target completion date for the biological evaluation.
- 40. Ecology will work with EPA to propose rulemaking (CR-102) for scientifically defensible natural conditions provisions applicable to aquatic life criteria by Spring 2024 with the intention to adopt the rule by Fall 2024. Consistent with section 7 of the Endangered Species Act, EPA will develop a biological evaluation to facilitate consultation with the Services. EPA will share the ESA consultation workplan with Ecology, including a target completion date for the biological evaluation.
- 4P. Ecology will move forward to propose rulemaking (CR-102) to remove Washington State human health criteria where there is a corresponding criterion from the 2023 federally promulgated rule for Washington with the intention to adopt the rule by December 2024.
- 4Q. EPA will finalize the biological evaluation on Ecology's Chelan UAA rule and initiate ESA consultation with the Services in fall 2023.
- 4R. Ecology will provide technical assistance to stakeholders during the development of use attainability analyses, variances, and other tools where a change in a standard appears appropriate. Ecology and EPA will work together throughout the development of such water quality standard revisions. EPA will provide timely review of use attainability analyses, variance submittals, and other water quality standards submittals from Ecology that require EPA action.
- 4S. EPA will take the lead in coordinating a process to resolve conflicts created when different standards are adopted for shared waters (tribal and state jurisdictional boundaries). EPA will coordinate with Ecology on pending agency decisions regarding tribal water quality standards in a timely manner and will encourage the tribes to collaborate with the state.
- 4T. Washington will update the 2012 nutrient paper for EPA discussing all actions that the state is implementing to address nutrient pollution. This discussion will include information on the use of dissolved oxygen as an indicator and driver of addressing nutrients.
- 4U. EPA and Ecology will regularly share information and meet on an as-needed basis, at least once a year, to discuss the status of ongoing and future water quality standard projects.

Activities and Measures: Water Quality Assessment

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EPA - Water Quality Assessment Jill Fullagar 206-553-2582 fullagar.iill@epa.gov

- 4V. Ecology will assess data for the 2020 and 2022 Assessment. The need to combine assessment reports is due to staff turnover, and the completion of the water quality standards spatial dataset including the assessment unit GIS layer. We expect some changes to the current list of impaired waters due to updated, more accurate assessment units. Ecology will include a tally and justification for Assessment Units that will be moved from the Integrated Reporting (IR) Categories 4 or 5 (impaired waters) to other Categories.
- 4W. Ecology will offer an EPA review period in tandem with a tribal review period. EPA will commit to reviewing and providing informal comments during this review period. EPA's formal comments will be provided during the public review period. After review of the 2020 and 2022 Washington State Water Quality Assessment by tribes, EPA, and the public, Ecology will submit the Candidate 303(d) list and the 305(b) listings to ATTAINS by fall 2024 for EPA Region 10 review and action. Ecology will also update and maintain the State's Water Quality Atlas and WQ Assessment Search web tools for tribal, EPA, and public review. EPA will act on the submission via ATTAINS and will pull data directly from ATTAINS to calculate Measure WQ-35, Watershed Area Restored. The public will be able to view the final IR results in either the state database or EPA's How's My Waterway website.
- 4X. EPA will provide technical support as needed, including training for ATTAINS.
- 4Y. Ecology will continue to continuously accept water quality monitoring data in its Environmental Information Management (EIM) database for use in the IR. Following EPA action on the 2020 and 2022 IR, Ecology will issue a public call for data to begin the next assessment, which will include the date ranges of data considered for that assessment.
- 4Z. Ecology will finalize draft 303(d) assessment methodologies for recently adopted dissolved oxygen and fine sediment criteria. Upon EPA approval of these adopted criteria, Ecology will hold a tribal review period and then put out a public notice for review of the new fine sediment and updated dissolved oxygen assessment methodologies.

5. Stormwater (including combined sewer overflow and sanitary sewer overflows)

Ecology

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EPA - Compliance/Enforcement Stacey Kim (Stormwater) 206-553-1380 kim.stacey@epa.gov

EPA – Permits Misha Vakoc (Stormwater) 206 -553-6650 <u>Vakoc.Misha@epa.gov</u>

Objectives

- Provide best available science, information, and tools to local governments and industry to manage stormwater.
- Expedite stormwater project review and delivery.
- Provide a compliance pathway for federal stormwater permit requirements to businesses, industries, local governments, and others.
- Implement a municipal stormwater permitting program for Phase I and Phase II that is consistent with federal permitting requirements and protects water quality and is consistent with other environmental programs such as Superfund and National Estuary Program Management Plans.
- All discharge permits implement applicable Waste Load Allocations from EPA- approved TMDLs.

Activities and Measures

- 5A. Ecology will continue to manage the Phase I and Phase II stormwater permit program. This includes construction, industrial and municipal stormwater permits.
- 5B. Ecology will continue to implement Ecology's combined sewer overflow (CSO) reduction rule (Chapter 173-245 WAC)⁷⁸ in all NPDES permits issued to facilities that operate a combined sewer system (CSS). Per Ecology's rule, such permittees have approved CSO Reduction Plans in place. NPDES permits for CSS facilities include requirements for the submission of Annual CSO Reports and a CSO Reduction Plan Amendment at the end of each permit cycle.
 - Permits may also include a compliance schedule for the implementation of projects during the permit cycle. To comply with EPA's 1994 CSO Control Policy, Ecology will incorporate into NPDES permits the requirements to implement the Nine Minimum Controls (NMC), and Long-Term Control Plan (LTCP) elements including:
 - Public participation in the planning process.
 - No feasible alternatives analysis for permits with authorized bypass language where appropriate.
 - Post-construction compliance monitoring as appropriate.

EPA will recognize the similarities, differences, and seniority of Ecology's CSO reduction rule (filed 1/27/87) as compared to EPA's 1994 CSO Control Policy (codified in the Wet Weather Water Quality Act of 2000). EPA and Ecology will work together to resolve differences so permittees can securely implement CSO reduction projects to reach the level of control. EPA will perform some inspections of the CSO facilities in Washington.

- 5C. Ecology's Municipal Separate Storm Sewer (MS4) permit managers will continue to implement an audit/ inspection program plan for targeted MS4 facilities. Inspections will occur on a schedule per the Compliance Monitoring Schedule Ecology develops in Section 3G.
- 5D. Ecology will implement the industrial stormwater general permit by providing technical assistance and enforcement.
- 5E. EPA will work with Ecology to target industrial stormwater and/or construction stormwater facilities where EPA compliance monitoring and enforcement would address potential violations. EPA and Ecology will ensure that facilities identified for EPA involvement are agreed upon by both agencies.

⁷⁸ <u>https://apps.leg.wa.gov/WAC/default.aspx?cite=173-245</u>

6. Groundwater and Underground Injection Control

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Ecology – Underground Injection Control Eugene Radcliff (360) 688-3586 erad461@ecy.wa.gov

EPA – Surface Water, Groundwater Michelle Tucker 206- 553-1414 tucker.michelle@epa.gov

EPA – Underground Injection Control James Robinson 907-271-6627 Robinson.James@epa.gov

Objectives

- Protect groundwater quality, beneficial uses and safe drinking water by ensuring that groundwater quality standards are met. All groundwater in Washington State is classified and protected as a potential source of drinking water.
- Provide groundwater quality technical assistance to the public; local, state and federal government; as well as permitted facility operators and permit applicants.

Activities and Measures: Groundwater – Base

Ecology has a comprehensive groundwater protection program and strategy whose goal is to protect Washington groundwater quality, beneficial uses, and safe drinking water by ensuring that the groundwater standards are met. This Program relies on:

- Designating all waters as a drinking water beneficial use.
- Developing protective groundwater standards.
- Developing source control programs.
- Implementing source control programs.
- Implementing groundwater protection through the State Waste Discharge program.
- Implementing the federal Underground Injection Control (UIC) Program.
- Providing technical assistance and enforcement where needed.

This program consists of many staff spread across the program at headquarters and in the regions to develop and implement the program, including the following activities and measures.

- 6A. Ecology will develop and implement source control protection programs for land uses that generate pollution but are not addressed through a permit program. The land uses are Forestry, Agriculture, and unregulated stormwater. Ecology reports on these activities in the nonpoint portion of this Agreement.
- 6B. Ecology will implement groundwater protection efforts on an Ecology region basis through the Washington State Waste Discharge program designed to protect groundwater and provide help for other groundwater discharge projects. This includes issuing groundwater permits and managing those permits.
- 6C. Ecology will protect safe drinking water through continued work with the Washington Department of Health (DOH), including incorporating the results of source water assessments of drinking water systems into education, technical assistance and enforcement efforts as resources allow.
- 6D. Ecology will provide technical and educational services to local jurisdictions as they implement actions for protections of groundwater necessary to comply with the growth management act.
- 6E. Ecology and EPA will coordinate on EPA-funded projects that have the potential to impact state groundwater resources.
- 6F. Ecology will work with DOH and the United States Geological Survey (USGS) to update nitrate data displayed within Ecology's nitrate prioritization storymap at least once within period of this Agreement.

Activities and Measures: Underground Injection Control

6G. Ecology will:

- Protect drinking water and groundwater quality by implementing the Underground Injection Control (UIC) program and associated UIC Rule (WAC 173-218).79
- Implement the UIC rule program by completing outreach activities to better educate the public and private well owners on the rule program, such as developing guidance on UIC well protective measures, and offering training as needed.
- Provide technical assistance to owners of private and publicly owned UIC wells.
- Submit reports to EPA in a timely manner and continue to work with EPA to ensure the appropriate information is provided in a format that meets each agency's needs.
- Ecology will submit inventory, inspection, and closure information to EPA electronically. (Web-based reporting application, if available).

⁷⁹ https://apps.leg.wa.gov/wac/default.aspx?cite=173-218

- If requested, Ecology will conduct joint UIC inspections with EPA. If UIC wells are found to be out of compliance, Ecology and/or EPA will take appropriate actions to correct the situation.
- 6H. Ecology's UIC program will continue to work closely with Ecology's stormwater program to update language in the stormwater manuals that show how the stormwater program and the UIC program work closely together to protect groundwater. Ecology will provide updated outreach material to highlight how these programs work together and provide technical support to the water utility districts on the joint implementation of these programs.

7. Sediments

Ecology Erik Snyder 425-466-6398 erik.snyder@ecy.wa.gov

EPA Erika Hoffman 360-753-9540 hoffman.erika@epa.gov

Objectives

• Cleanup and restore existing contaminated sediments and prevent future sediment contamination.

Activities and Measures

- 7A. Ecology will provide biannual reports online and maintain the Ecology databases to identify the status of identified sediment cleanup sites within Washington State.
- 7B. Sediment Cleanup User's Manual (SCUM), Ecology's main guidance for state sediment management standards, is a living document that Ecology will update as needed.
- 7C. Ecology sediment staff will provide ongoing support to water quality staff for the development of the next 303(d) Impaired Water Bodies list as related to sediment quality. This includes implementing the new policy and procedures for sediment impacted waterbodies.
- 7D. Ecology will continue to participate with the Bellingham Bay Pilot partners in implementing planned Bellingham Bay cleanup and restoration plan actions.
- 7E. Ecology will continue to implement the Lower Duwamish Waterway source control strategy.

8. Financial Assistance

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Ecology- State Revolving Fund Shelly McMurry 360-407-7132 shelly.mccmurry@ecy.wa.gov

EPA – State Revolving Fund David Carcia 206-553-0890 carcia.david@epa.gov

Objectives

- Provide low-interest loans to public bodies for high priority water quality projects that improve and protect the water quality of Washington State.
- Protect the public health and the environment by funding sustainable, efficient, and resilient wastewater infrastructure projects.
- Provide loan subsidy to address the affordability of water quality infrastructure projects in small, financially challenged communities.
- Provide funding for priority nonpoint source projects and for implementation of Washington's comprehensive estuary management plans.
- Effectively administer the additional funding provided through the Bipartisan Infrastructure Law (BIL).
- Provide technical assistance to remove barriers to water quality funding for disadvantaged and environmental justice communities.

Activities and Measures: Clean Water State Revolving Fund Loan Program

- 8A. Ecology will manage the Washington State Water Pollution Control Revolving Fund (SRF) program per Chapter 173-98 WAC, Uses and Limitations of the Washington State Water Pollution Control Revolving Fund.⁸⁰ Ecology will monitor and evaluate key management and policy aspects of the SRF program, including:
 - Interest rate structure.
 - Adequate program management and administration.

⁸⁰ https://apps.leg.wa.gov/wac/default.aspx?cite=173-98

- Water quality outcomes.
- Benefits reporting.
- Perpetuity.
- 8B. Utilizing available funds from the Washington State Water Pollution Control Revolving Fund (SRF) program, including any additional federal capitalization awards and associated state matching funds, the State of Washington, Department of Ecology will:
 - Apply for the Clean Water State Revolving Fund Capitalization Grant no later than May 31 of any given federal fiscal year and provide the Draft and Final Intended Use Plan (IUP) documents when published in January and June, respectively, each year.
 - Submit the SRF data through the National Information Management System (NIMS).
 - Submit SRF Annual Reports to EPA by September 30 of each calendar year.
 - Report project information and environmental outcomes for each SRF funded project through EPA's reporting database.
 - Conduct informal Endangered Species Act consultations for SRF financed treatment works projects as EPA's non-federal representative, in accordance with the 2019 Operating Agreement.

9. Columbia River Basin

Ecology

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EPA

Peter Murchie Geographic Programs Section Manager 206-553-1148 <u>Murchie.Peter@epa.gov</u>

Objectives

- EPA will continue to coordinate with Ecology on the Columbia River Basin Restoration Program.
- Ecology will work with EPA to support the Columbia River Basin Restoration Program including the Working Group and the implementation of the Columbia River Basin Restoration Program grant program.

Activities and measures

- 9A. Ecology will participate in the Columbia River Basin Restoration Program Working Group and support EPA collaboration efforts for the Working Group.
- 9B. Ecology will support CWA Section 123 grants in Washington State, including:
 - Monitoring
 - Pesticide stewardship partnership
 - Green infrastructure
 - Pollution prevention
 - Outreach
- 9C. Ecology will continue to support the Confederated Tribes and Bands of the Yakama Nation's efforts to establish the Columbia River Fish Tissue and Water Quality Monitoring Framework. This will establish a monitoring program for toxic contaminants in the Columbia River main stem from Bonneville Dam to the Canadian Border. Funding is from an EPA CWA Section 123 grant and has support from the USGS.

Appendix A – Response to Comments

Commentor: Communityadvocate.info

Environmental Justice for People and our Wetlands

The topic for this comment is derived from a true story. Many of us are passionate about the environment here in the Northwest and are generally interested its health. When a controversy comes up concerning even a small 2% portion of it, our protective instincts kick in. There is also a portion of the human environment in our State that have specific risks. The combination of cumulative impacts of multiple factors have led legislation to search for answers. There are varying terms to identify this population including Disadvantaged.

Although wetlands are not always looked at as valuable, they play a critical role in safeguarding our nation's streams, rivers, and lakes from chemicals and pollutants that harm the health and wellbeing of children, families, and communities. Wetlands are considered some of "the most productive ecosystems in the world, comparable to rain forests and coral reefs.

Humans modifying wetlands through construction and pollution are major stressors and can drastically change their ability to function or survive.

In the United States, the Clean Air Act and the Clean Water Act have helped to limit both pointsource and nonpoint-source pollution. Thanks to these two legislative initiatives, in effect for some 50 years now. The Supreme Court on May 25, 2023 cut back on the Environmental Protection Agency's ability to regulate wetlands under the Clean Water Act.

The high court also limited the agency's power to regulate greenhouse gas emissions from power plants, dealing a blow to efforts to combat climate change.

So, what does a town in Tacoma, WA have to do with all of this? It's a perfect small town. And because it's such a desirable place, more people want to live here creating development pressures. The town is also defined as Disadvantaged by the environmental justice mapping and screening tool. The details of the story read like any other neighborhood fighting to be heard when permitting, enforcement and compliance, providing safeguards for their community are lacking.

Let's skip directly to a solution. Some of us are embarrassed to say we didn't know what a SEPA was until it was too late. When a large development received the necessary permits to build near our homes, we had the opportunity to comment. We believed the testimony at a public meeting and later to a Hearing examiner would be enough. There was a crucial step that needed our attention and skill to be effective, and we missed it.

Making sure others are well informed about how important SEPA is in defending the home they have worked so hard to acquire, is the heart of this comment. Tying in a potential to save wetlands will be a bonus.

Simon Sinek, author and motivational speaker, explained a process to find real solutions using a golden circle and the question: "Why?" This inspired many of us to sort intentions and step out of our comfort zone.

Why: Informed decisions are the key to real change

What: The SEPA is our States most powerful legal tool. If I had the opportunity to apply funds for a good cause, they would be spent focused on an effective outreach program. The unique flavor would draw communities in who are at the critical intersection of making "a specific factual comment" during the SEPA process. The outreach effort would provide easy to understand analytics and storytelling about relevant legal caselaw. The complicated implications of stormwater runoff created by hard surfaces, pre and post development changes and their right to limit them, traffic and the risk of increased air pollution, are just a few of the topics.

I'm not a mathematician, but I like the concept of using bottom-up forecasting. The Target is restoring the restrictions placed on the CWA one person at a time thus protecting EJ communities. We break the data down into the smallest individual units. Then label each unit as a single member in a community, for the sake of this experiment. We then do a forecast for each unit.

a. One person making a specific factual comment within the strict timeline backed by education, resources and tools to explain their position. Estimate 55-100% chance of the comment being successful in debating a land use activity that would affect the community and the environment.

vs.

b. One person without the benefit of recognizing the seriousness of a SEPA process and lacking the practical knowledge and tools to elaborate. Estimate 0-25% chance at a positive outcome. The forecasted results are added together to generate a total forecast. Community and environmental protection estimate potential= 75% That's great news!

How: Train community advocates in practical areas to serve everyone facing urbanization. Hold events before, during and after the SEPA process to provide support.

EPA is concerned about different land use activities because of their potential effects on the environment and human health. Using indictors collected during our outreach consultations, we can track trends over time to represent or draw attention to underlying condition of the environment. I believe a SEPA Outreach program would further the Environmental Performance Partnership Agreement.

Respectfully,

Kelly Palmer

Ecology response:

Thank you for your comment, and for your interest in the Performance Partnership Agreement.

The Department of Ecology (Ecology) is committed to environmental justice and shares the Environmental Protection Agency's (EPA) goal to provide all people the same degree of protection from environmental and health hazards, equal access to the decision-making process, and a healthy environment in which to live, learn, and work.

The Performance Partnership Agreement (PPA) describes federally funded EPA-funded activities carried out by Ecology. The PPA does not discuss the State Environmental Policy Act (SEPA). SEPA is a state process intended to ensure that environmental values are considered during decision-making by state and local agencies. Ecology oversees the rules and guidance for the state and provides technical assistance to agencies, applicants, and the public as they participate in the SEPA review process. More information is available on Ecology's SEPA page.

While the SEPA process falls outside the scope of the PPA, both Ecology and EPA agree to collaborate on identifying strategies to prioritize and advance environmental justice and seek input from communities in Washington State. The environmental justice offices of each agency will lead this ongoing effort and administer the activities described in the PPA with available resources.