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ECOLOGY
State of Washington

Rule Implementation Plan Outstanding Resource Waters

Chapter 173-201A WAC, Water Quality Standards for Surface Waters of the State of Washington

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Rule Implementation Plan
Chapter 173-201A WAC

Water Quality Program
Washington State Department of Ecology
Olympia, Washington

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Purpose

The Washington State Department of Ecology (Ecology) provides the information in this implementation plan to meet agency and Administrative Procedure Act (RCW 34.05.328) requirements related to rule adoptions.

Introduction

On Dec. 18, 2023, Ecology adopted amendments to Chapter 173-201A WAC Water Quality Standards for Surface Waters of the State of Washington (AO # 22-06). The purpose of this Rule Implementation Plan is to inform those who must comply with chapter 173-201A WAC about how Ecology intends to:

- Implement and enforce the rule;
- Inform and educate persons affected by the rule;
- Promote and assist voluntary compliance for the rule;
- Evaluate the rule; and
- Train and inform Ecology staff about the new or amended rule.

Also included in this plan is information about:

- Supporting documents that may need to be written or revised because of the new rule or amended rule;
- Other resources where more information about the rule is available; and
- Contact information for Ecology employees who can answer questions about the rule implementation.

This document provides implementation guidance for Tier III(A) and Tier III(B) outstanding resource waters (ORWs). When appropriate, implementation guidance is provided for Tier III(A) first, followed by Tier III(B).

Implementation and Enforcement

General goals for outstanding resource waters

The goal of designating outstanding resource waters (ORWs) is to protect waterbodies with exceptional water quality, ecological and recreational value, or regionally unique attributes from degradation. Proposed activities that would result in permanent, new, or expanded sources of pollution in an ORW are prohibited, except in limited cases.

An ORW may be designated as a Tier III(A) or a Tier III(B) water.

A Tier III(A) designation is the highest level of protection. After a waterbody has been designated as a Tier III(A) ORW, no further degradation is allowed.

A Tier III(B) designation is the second highest level of protection. Any new or expanded source of pollution to a Tier III(B) ORW cannot cause a measurable change in water quality. Nonpoint sources must use all applicable structural and nonstructural best management practices (BMPs) with the goal of reducing the degradation of water quality to non-measurable levels where total elimination is not feasible.

In some situations, limited degradation of an ORW-designated waterbody may occur if the activity would not result in permanent or long-term lowering of water quality. Those situations include:

- Temporary actions necessary to protect the public interest;
- Treatment work bypasses for sewage, waste, and stormwater when such a bypass is unavoidable to prevent loss of life, personal injury, or severe property damage; and
- Response actions taken in accordance with the Comprehensive Environmental Response Compensation and Liability Act to alleviate a release into the environment of substances which may pose an imminent and substantial danger to public health or welfare.

Designating outstanding resource waters

Any person can nominate a waterbody as an outstanding resource water. A nomination must include sufficient information to show that the waterbody meets the eligibility criteria listed in WAC 173-201A-330. Ecology then has 60 days after receiving a nomination to determine if the information submitted meets the eligibility criteria. During this time, Ecology notifies tribes, local jurisdictions, and other stakeholders of the nomination.

If Ecology determines that the waterbody is eligible, we schedule a review of the nominated waterbody for designation as an outstanding resource water. The review includes a public process and consultation with tribes. During this review, we gather information on how a nominated waterbody may meet our eligibility criteria. We also discuss implementation questions and concerns with affected landowners, affected local jurisdictions, other agencies, and tribes.

In determining whether to designate an outstanding resource water, we consider factors relating to the difficulty of maintaining the current quality of the water body. Outstanding resource

waters should not be designated where substantial and imminent social or economic impact to the local community will occur, unless local public support is overwhelmingly in favor of the designation. We carefully weigh the level of support from the public and affected governments in assessing whether to designate the water as an outstanding resource water.

Waterbodies affected by this rulemaking

On June 24, 2021, the Pew Charitable Trusts, American Rivers, Cascade Forest Conservancy, Wild Salmon Center, American Whitewater, Washington Wild, and Trout Unlimited submitted a nomination to designate three rivers as Tier III(A) outstanding resource waters.

Based on our review of these nominations provided in the [Technical Support Document](#),¹ and public rulemaking process we have designated the following waterbodies as Tier III(A) ORWs:

- The upper watershed of the Cascade River and tributaries (Skagit County);
- Portions of the Napeequa River and tributaries (Chelan County); and
- The upper watershed of the Green River and tributaries (Skamania County).

On April 2, 2021, the Soap Lake Conservancy and the Confederated Tribes of the Colville Reservation submitted a nomination to designate Soap Lake as a Tier III(B) ORW.

Based on our review of this nomination provided in the [Technical Support Document](#), and public rulemaking process we have designated the following waterbody as a Tier III(B) ORW:

- Soap Lake (Grant County).

Regulated activities applicable to ORW designations

Washington's antidegradation policy is guided by chapter 90.48 Revised Code of Washington (RCW), Water Pollution Control Act, and chapter 90.54 RCW, Water Resources Act of 1971, as well as the Code of Federal Regulations (CFR) at 40 CFR 131.12 developed under the federal Clean Water Act.

Ecology's Water Quality Program has the authority to review and determine whether a proposed activity meets the requirements of the state surface water quality standards, including protecting an ORW designation, through the following permitting programs:

- National Pollutant Discharge Elimination System (NPDES) permits and
- Water Quality 401 Certifications for federal permits and federal licenses that result in a discharge to state waters.

Ecology's Water Resources Program may consider compliance with surface water quality standards, including protecting an ORW designation, through water rights permit decisions.

Other actions may have the potential to impact water quality over which Ecology does not have regulatory authority. This rule can't anticipate all potential actions. However, water quality

¹ <https://apps.ecology.wa.gov/publications/summarypages/2310046.html>

program staff will provide guidance to authorizing entities when requested to review whether there is a nexus between an ORW designation and the proposed activities.

Ecology will coordinate with federal, state, and local permitting authorities and assist as requested to review whether proposed land use actions meet the requirements of an ORW designation.

Implementing changes to permits

Washington's antidegradation requirements, including protection of ORWs, apply to new or expanded Clean Water Act and Washington Water Pollution Control regulated activities.

NPDES permits

Discharge to Tier III(A) waters

Washington has no current NPDES/State Waste Discharge permits issued for discharges within the adopted Tier III(A) outstanding resource water boundaries for the Napeequa, Cascade, and Green rivers.

If Ecology receives a request for a proposed new or expanded activity that would discharge to a Tier III(A) water, that request would have to demonstrate that the discharge would not result in any degradation of water quality. Any proposed discharge that would result in long-term lowering of water quality is prohibited within an ORW.

Discharge to Tier III(B) waters

Washington has no current NPDES/State Waste Discharge permits issued for discharges to Soap Lake. If Ecology receives a permit application for a proposed new or expanded activity that would discharge to Soap Lake, that request would have to demonstrate that the discharge would not result in any measurable degradation of water quality and the unique mineral content of the lake water.

New or expanded point sources of pollution must use applicable advanced waste treatment and control techniques that reasonably represent state of the art and must minimize degradation of water quality to non-measurable levels where total elimination is not feasible.

The outstanding resource water designation for Soap Lake recognizes the unique mineral content of the lake. Therefore, this designation would protect Soap Lake from human activity that would cause the lake to freshen. To protect the natural salinity of the lake, permits are required to ensure no measurable change for Soap Lake, defined below:

- A decrease in conductivity of 639 microsiemens per centimeter ($\mu\text{S}/\text{cm}$) or greater; and²
- Human actions must not cause lake conductivity to decrease below 19,843 $\mu\text{S}/\text{cm}$, as calculated as a seasonal average, more than once in 10 years.

² https://pubs.usgs.gov/tm/09/a6.3/tm9-a6_3.pdf

Section 401 Water Quality Certifications

States and Tribal governments have the authority to review and approve, condition, or deny proposed Federal projects, actions, and activities directly affecting waters of the United States. In Washington, Ecology is the certifying authority for projects is responsible for issuing Section 401 water quality certifications to ensure federal projects meet Washington's water quality standards.

Under Section 401 of the Clean Water Act, federal agencies can't issue a license or permit before the state makes a determination on a water quality certification request or waives our action to certify.

To protect designated ORWs from degradation, a Section 401 water quality certification may require conditions that will become part of the license or permit.

Water Rights permits

The Water Resources Act of 1971 requires that enough water is kept in rivers and streams to protect and preserve instream resources and values such as fish, wildlife, recreation, aesthetics, water quality, and navigation (RCW 90.54.020). Water rights permits are managed by the Water Resources program and will be reviewed and approved in accordance with state rule.

Potential irrigation impacts to Soap Lake

Ecology's Water Resources Program manages water rights permits within the Quincy Basin. In the Quincy Groundwater Subarea, Ecology manages both the Artificially Stored Ground Water program,³ which allows Ecology to issue permits for US Bureau of Reclamation artificially stored groundwater within the Quincy Basin, in accordance with chapter 173-134A Quincy Groundwater Subarea Management Policy and changes and transfers of State groundwater rights. For areas outside the Quincy subbasin, Ecology issues state water rights for groundwater.

Water right withdrawals that are used to irrigate land upgradient of Soap Lake have the potential to increase fresh groundwater flow to the lake. Soap Lake Protective Works currently withdraws irrigation water from the ground before it enters Soap Lake. Ecology will require new water resources permit applicants and change applicants to demonstrate that the use of water will not contribute to an increase in groundwater flow beyond the capacity of the Soap Lake Protective Works. Source wells will not be approved that are in hydraulic continuity with Soap Lake. If an outstanding resource water Tier III(B) designation is adopted for Soap Lake, then future permits may be provisioned to minimize the impacts to Soap Lake and the introduction of groundwater to Soap Lake.

Implementing the ORW designations in Ecology's Nonpoint Program

Chapter 90.48 RCW, Water Pollution Control Act, regulates nonpoint source pollution and prohibits any discharge of a pollutant into a water of the state.

³ Artificially stored groundwater means waters beneath the land surface within an area, subarea, or zone which are the subject of the declaration by the Bureau of Reclamation and accepted by the Department of Ecology.

For Tier III(B) outstanding resource waters, nonpoint sources must use all applicable structural and nonstructural best management practices. The goal is to reduce the degradation of water quality to non-measurable levels where total elimination is not feasible.

Specific best management practices that Washington State has in place for addressing nonpoint pollution can be found in the following documents. These documents define the known best management practices for addressing nonpoint pollution from stormwater, agriculture runoff, and forestry.

- [The Department of Ecology Stormwater Manual for Western Washington⁴](#)
- [The Department of Ecology Stormwater Manual for Eastern Washington⁵](#)
- The forest prescriptions found in the [Forest and Fish rules⁶](#)
- [Washington States Nonpoint Plan appendix K. Clean Water Guidance for Agriculture⁷](#)

⁴ <https://fortress.wa.gov/ecy/ezshare/wq/Permits/Flare/2019SWMMWW/2019SWMMWW.htm>

⁵ <https://fortress.wa.gov/ecy/ezshare/wq/Permits/Flare/2019SWMMEW/2019SWMMEW.htm>

⁶ https://www.dnr.wa.gov/publications/bc_rules_title222wac_032021.pdf

⁷ <https://apps.ecology.wa.gov/publications/documents/2210025.pdf>

Informing and Educating Persons Affected by the Rule

ORW nomination outreach

After we received each nomination in 2021, we notified Tribes, affected landowners, and elected officials in the region of each nominated waterbody, including legislative representatives, county commissioners, and the Soap Lake City Council.

Rule development outreach

On August 30, 2022, Ecology filed a preproposal statement of inquiry (CR-101 Form) to notify the public that we started a rulemaking to consider designating the four nominated waterbodies as outstanding resource waters. We also notified Tribes and elected officials in the region of each waterbody, including legislative representatives, county commissioners, and the Soap Lake City Council. During the rule development phase, we reached out to entities through email, water quality email distribution lists, website notices, and virtual and in-person meetings to discuss implementation questions and concerns for this rulemaking.

Specifically, during this phase we:

- Met with Tribal staff in the fall of 2022 and spring of 2023. Participating tribes and tribal entities include

Confederated Tribes of the Chehalis Reservation	Port Gamble S’Klallam Tribe
Columbia River Inter-Tribal Fish Commission	Quinault Indian Nation
Hoh India Tribe	Skokomish Indian Tribe
Kalispel Tribe of Indians	Snoqualmie Indian Tribe
Lower Elwha Klallam Tribe	Spokane Tribe of Indians
Makah Tribe	Squaxin Island Tribe
Muckleshoot Indian Tribe	Suquamish Tribe
Nez Perce Tribe	Swinomish Indian Tribal Community
Nooksack Indian Tribe	Tulalip Tribes
Northwest Indian Fisheries Commission	Yakama Nation

- Held public webinars on November 16 and 17, 2022, to provide background on the rulemaking, gather implementation questions, and provide information on how to participate in the rulemaking;
- Met with U.S. Forest Service staff throughout 2021, 2022, and 2023, and met with National Parks Service staff in 2021 to discuss management priorities and implementation strategies to protect the high water quality and values of the Cascade River, Green River, and Napeequa River and tributaries;
- Presented in a public forum to the Skagit County Commissioners, Grant County Commissioners, Soap Lake City Council, and Skamania County Commissioners to discuss implementation questions and concerns for this rulemaking;
- Met with the Bureau of Reclamation and Quincy-Columbia Basin Irrigation District to discuss irrigation and groundwater management operations around Soap Lake;
- Met with Chelan County to discuss rulemaking for the Napeequa River;
- Met with WA State Department of Transportation to talk about rule implementation for Soap Lake; and
- Met with Department of Natural Resources to discuss jurisdiction and land management for Soap Lake.

Rule proposal outreach

On July 18, 2023, Ecology proposed outstanding resource water designations for public comment. Ecology accepted comment on the proposed designations until September 27, 2023. During the public comment period, we held public hearings at the following dates and locations:

- Thursday, September 7, online webinar
- Tuesday, September 12, Kalama, WA
- Thursday, September 14, Mount Vernon, WA
- Tuesday, September 19, Soap Lake, WA
- Wednesday, September 20, Leavenworth, WA

More information on this rulemaking, including information on how to comment, can be found on our [rulemaking webpage](https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-201A-Outstanding-Resource-Waters).⁸

⁸ <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-201A-Outstanding-Resource-Waters>

Promoting and Assisting Voluntary Compliance

Ecology will coordinate with local permitting authorities and provide assistance as requested to review whether proposed land use actions impact the ORW designation. The decision to permit or otherwise authorize such actions remains the responsibility of the authorizing agent.

Coordinating with federal agencies

Federal agencies must ensure that their activities do not cause pollution that violates a state's water quality standards, including the state's antidegradation policy. Some activities on federal lands may require federal permits or licenses. If those situations occur Ecology can assist federal agencies who apply for permits that require Section 401 Water Quality Certifications from Ecology to understand whether that action is within an ORW boundary.

The US Forest Service conducts regular maintenance activities on Forest Service land within the adopted ORW boundaries for the Cascade, Green, and Napeequa rivers. These maintenance activities include, but are not limited to, road and trail maintenance, temporary culvert placement, temporary road construction and deconstruction, invasive species management, and wildfire suppression activities. Ecology considers these activities temporary actions necessary to protect the public interest as allowed under WAC 173-201A-330(4)(a).

When conducting land management activities, management actions on federal public lands should not degrade water quality and should be conducted so that Washington water quality standards are met. This is a current requirement that will continue with these adopted ORW rules.

Coordinating with local governments

Three of the four adopted ORWs are located within federal lands. Soap Lake is within city and county jurisdiction. Local permitting authority may need to ensure that a permitted activity affecting surface water quality gets the appropriate permits and does not pollute state waters. Ecology will coordinate with local permitting authorities and provide assistance as requested to review whether proposed land use actions impact the ORW designation. The decision to permit or otherwise authorize such actions remains the responsibility of the authorizing agent. We note that only one ORW, Soap Lake, is outside federal land.

Evaluating the Rule

The purpose of designating a waterbody as an ORW is to protect and maintain the exceptional qualities of the waterbody. For the Cascade, Green, and Napeequa Rivers, these qualities include their high water quality and pristine condition, exceptional ecological significance and recreational value.

As part of protecting Soap Lake from degradation, a goal of the ORW designation is to maintain the unique mineral properties of the water. Ecology's Water Quality Program will continue to evaluate the salinity levels of the lake through annual reports created by the Quincy-Columbia Basin Irrigation District. If the average seasonal surface water conductivity of Soap Lake is below 19,843 microsiemens per centimeter ($\mu\text{S}/\text{cm}$) more than once in a span of 10 years, we will determine if it is necessary to evaluate whether the low conductivity value is caused by human actions and if additional protective measures are needed.

Ecology will evaluate all NPDES permits and Section 401 Water Quality Certifications to ensure they meet the antidegradation requirements for an adopted ORW designation. Other permitting activities not directly tied to state water quality standards should consider potential impacts to an ORW in the same manner that they already review state water quality standards.

Training and Informing Ecology Staff

Water quality standards staff will reach out to all Ecology staff who may need to consider ORW designations within the implementation of our state regulatory programs. This includes staff within the Water Resources Program, Shorelands and Environmental Assistance Program, and Water Quality Program.

Water quality standards staff provide technical assistance to Ecology staff to explain the Clean Water Act and state water pollution control law basis for this rule. We will help permit writers understand how to review ORW designations to determine any effects to future permit-related policies and decisions.

List of Supporting Documents that May Need to be Written or Revised

None.

More Information

[Federal regulation at 40 CFR 131.12](#)⁹

[Federal Antidegradation Guidance](#)¹⁰

[Washington State Tier III Antidegradation Rule](#)¹¹

[Technical Support Document](#)¹²

[Ecology news release on the ORW rulemaking](#)¹³

[Ecology's ORW rulemaking webpage](#)¹⁴

⁹ <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-D/part-131#131.12>

¹⁰ <https://www.epa.gov/sites/default/files/2014-10/documents/handbook-chapter4.pdf>

¹¹ <https://app.leg.wa.gov/WAC/default.aspx?cite=173-201A-330>

¹² <https://apps.ecology.wa.gov/publications/summarypages/2310046.html>

¹³ <https://ecology.wa.gov/Blog/Posts/August-2022/Ecology-considers-putting-outstanding-waters-in-a>

¹⁴ <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-201A-Outstanding-Resource-Waters>

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APPENDIX A –Tier III Implementation Guidance

According to the federal Antidegradation Policy, “The State shall develop methods for implementing the antidegradation policy that are, at a minimum, consistent with the State's policy and with paragraph (a) of this section. The State shall provide an opportunity for public involvement during the development and any subsequent revisions of the implementation methods, and shall make the methods available to the public” (40 C.F.R. 131.12(b)). The purpose of this document is to provide guidance on how the state implements our Tier III Antidegradation Policy.

Outstanding resource waters are designated under Tier III of Washington’s Antidegradation Policy, in WAC 173-201A-330 of the Water Quality Standards for Surface Waters of the State of Washington. This rule was revised in 2003, and approved by EPA in 2007, in accordance with federal regulations at 40 CFR 131.12.

Eligibility criteria

ORWs possess one or more of the following characteristics listed under WAC 173-201A-330(1):

- Pristine or possessing exceptional water quality and in a protected area such as a state or federal park, monument, preserve, wilderness area, or wild and scenic river designation;
- Unique aquatic habitat types that are not considered high water quality by conventional standards, such as dissolved oxygen, temperature, or sediment, but are unique and regionally rare;
- High water quality and regionally unique recreational value;
- Exceptional statewide ecological significance; or
- Cold water thermal refuges critical to the protection of aquatic life.

After an ORW is designated, the water quality and values of the waterbody are to be maintained and protected from future sources of degradation. For Tier III(A) waters, any new or expanded discharge to a waterbody that would lower water quality is prohibited. For Tier III(B) waters, any new or expanded source of pollution to a Tier III(B) ORW cannot cause a measurable change in water quality. New or expanded point sources of pollution in Tier III(B) waters must use applicable advanced waste treatment and control techniques that reasonably represent the state of the art and must minimize the degradation of water quality to nonmeasurable levels where total elimination is not feasible. Nonpoint sources must use all applicable structural and nonstructural BMPs with the goal of reducing the degradation of water quality to nonmeasurable levels where total elimination is not feasible.

Exceptions to no degradation

Tier III designation may allow limited degradation on a case-by-case basis if that activity doesn't result in permanent or long-term lowering of water quality. For example, allowed actions include:

- Temporary actions necessary to protect the public interest;
- Treatment work bypasses for sewage, waste, and stormwater when such a bypass is unavoidable to prevent loss of life, personal injury, or severe property damage; and
- Response actions taken in accordance with the Comprehensive Environmental Response Compensation and Liability Act to alleviate a release into the environment of substances which may pose an imminent and substantial danger to public health or welfare.

Tier III designation also does not protect a waterbody from sources of pollution that come from the air.

Temporary actions are considered those which take place over days, weeks, or months, not years. Example actions may include, but are not limited to, road or trail maintenance, culvert repair or replacement, invasive species management, or other actions that are needed to support the public use and enjoyment of an ORW. The authorizing agency should review proposed activities on a case-by-case basis to determine if the action qualifies under the listed exceptions. The review should consider the proposed activity's impact to water quality and designated uses. This review may include the magnitude, duration, and frequency of water quality impacts including the timing of the activity to minimize impacts.

If an activity that qualifies under one of the exceptions listed above, the activity should use all applicable means of limiting water quality impacts to an ORW. Ecology will implement these allowances in our regulatory programs. Other authorizing agents may ask Ecology for a review of proposed actions for compliance with these allowances.

Nomination procedures

Washington State's antidegradation policy allows anyone to nominate a waterbody or portion of a waterbody as an outstanding resource water. A nomination must be submitted in writing and provide sufficient information to show how the waterbody meets at least one of the eligibility criteria listed under WAC 173-201A-330(1). Anyone can nominate a waterbody at any time, though proponents are encouraged to nominate a waterbody during a Water Quality Standards Triennial Review.

Ecology has 60 days after receiving a nomination to determine if the information submitted meets the eligibility criteria. During this time, Ecology notifies tribes, local jurisdictions, and other stakeholders of the nomination, as well as members of the public subscribed to our water quality email list. Ecology also posts the nomination and Ecology's decision on the waterbody's eligibility as an ORW on the agency's [Antidegradation webpage](https://ecology.wa.gov/Water-Shorelines/Water-quality/Water-quality-standards/Antidegradation).¹⁵ While reviewing a

¹⁵ <https://ecology.wa.gov/Water-Shorelines/Water-quality/Water-quality-standards/Antidegradation>

nomination, we meet with the proponents to discuss the nomination and any outreach the proponents have conducted as part of the information gathering process.

Ecology review of ORW nominations

If the Water Quality Program determines that the waterbody meets one or more of the eligibility criteria, we request approval from the Director of Ecology or their designee to schedule a rulemaking to review the nominated water for designation as an outstanding resource water. The review includes a public process and consultation with tribes. During this review, we gather and assess information relevant to the waterbody's eligibility as an ORW. We may also discuss implementation questions and concerns with area landowners, state and local elected officials, state and federal agencies, and tribes.

Public participation for evaluating an ORW designation

As part of the formal rulemaking process to consider ORW designations, Ecology provides maps and supporting information for each proposed ORW for public review and comment. Ecology holds at least one public hearing in the geographic vicinity of a proposed ORW where feasible.

In determining whether to designate an outstanding resource water, we consider factors relating to the difficulty of maintaining the current quality of the water body. Outstanding resource waters should not be designated where substantial and imminent social or economic impact to the local community will occur, unless local public support is overwhelmingly in favor of the designation. We carefully weigh the level of support from the public and affected governments in assessing whether to designate the water as an outstanding resource water.

When evaluating any proposed rule, including for the designation of ORWs, Ecology must follow requirements under Washington's Administrative Procedures Act and the Regulatory Fairness Act Chapters 34.05 RCW and 19.85 RCW.

The Washington Administrative Procedure Act (APA; RCW 34.05.328(1)(d)) requires Ecology to evaluate significant legislative rules to "determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the law being implemented."

The APA also requires Ecology to "determine, after considering alternative versions of the rule...that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives" of the governing and authorizing statutes.

The Washington Regulatory Fairness Act (RFA; Chapter 19.85 RCW) requires Ecology to evaluate the relative impact of proposed rules that impose costs on businesses in an industry. It compares the relative compliance costs for small businesses to those of the largest businesses affected.

All determinations are based on the best available information at the time of publication. Ecology makes available for public comment these analyses, and publishes a final Regulatory Analyses based on public feedback during the public comment period.

When such impacts to the local community are reported in the PRA, the local community has an opportunity to provide support for the rule notwithstanding the social and economic impacts identified. Ecology will evaluate the benefits of the ORW designation identified in the PRA, as well as the information provided in support of the designation by entities in the local community to determine if the support meets that required by the ORW rule. Staff will then make a recommendation to Ecology's Director on whether the ORW designation should be adopted considering all information provided. The rule, if adopted, is then open to appeal from any entity who believes the Ecology's evaluation of the support for the designation was inaccurate.

Along with the adoption of an ORW designation, Ecology publishes a rule implementation plan. The rule implementation plan includes information on how Ecology will implement and enforce the rule, notify and educate those affected by the rule, and promote and assist voluntary compliance with the rule.