



WAC 173-201A-240, Toxic Substances Human Health Criteria Rulemaking

**An Environmental Justice Assessment (per RCW
70A.02.060)**

Water Quality Program

Washington State Department of Ecology
Olympia, Washington

November 2024, Publication 24-10-066

Publication information

This document is available on the Department of Ecology's website at:

<https://apps.ecology.wa.gov/publications/summarypages/2410066.html>

Contact Information

Water Quality Program

P.O. Box 47600

Olympia, WA 98504-7600

Phone: 360-407-6600

Website¹: [Washington State Department of Ecology](http://www.ecology.wa.gov)

ADA Accessibility

The Department of Ecology is committed to providing people with disabilities access to information and services by meeting or exceeding the requirements of the Americans with Disabilities Act (ADA), Section 504 and 508 of the Rehabilitation Act, and Washington State Policy #188.

To request an ADA accommodation, contact Ecology by phone at 360-407-6600 or email at swqs@ecy.wa.gov. For Washington Relay Service or TTY call 711 or 877-833-6341. Visit Ecology's website for more information.

¹ www.ecology.wa.gov/contact

Language Access

Under the state Environmental Justice law (RCW 70A.02), Ecology is required to conduct Environmental Justice Assessments during development of certain significant actions. This Assessment provides information about the potential impacts to overburdened communities and vulnerable populations, and strategies to mitigate identified harms and fairly distribute known benefits. For translation, interpretation, or accessibility assistance, please contact Courtney Cecale at courtney.cecale@ecy.wa.gov or (360) 480-6270.

Bajo la ley estatal de Justicia Medioambiental (RCW 70A.02), Ecología está obligada a realizar Evaluaciones de Justicia Medioambiental durante el desarrollo de ciertas medidas importantes. Esta evaluación proporciona información sobre los posibles impactos en las comunidades sobrecargadas y las poblaciones vulnerables, y las estrategias para mitigar los daños identificados y distribuir justamente los beneficios conocidos. Para asistencia de traducción, interpretación o accesibilidad, por favor póngase en contacto con Courtney Cecale escribiendo a courtney.cecale@ecy.wa.gov o llamando al (360) 480-6270.

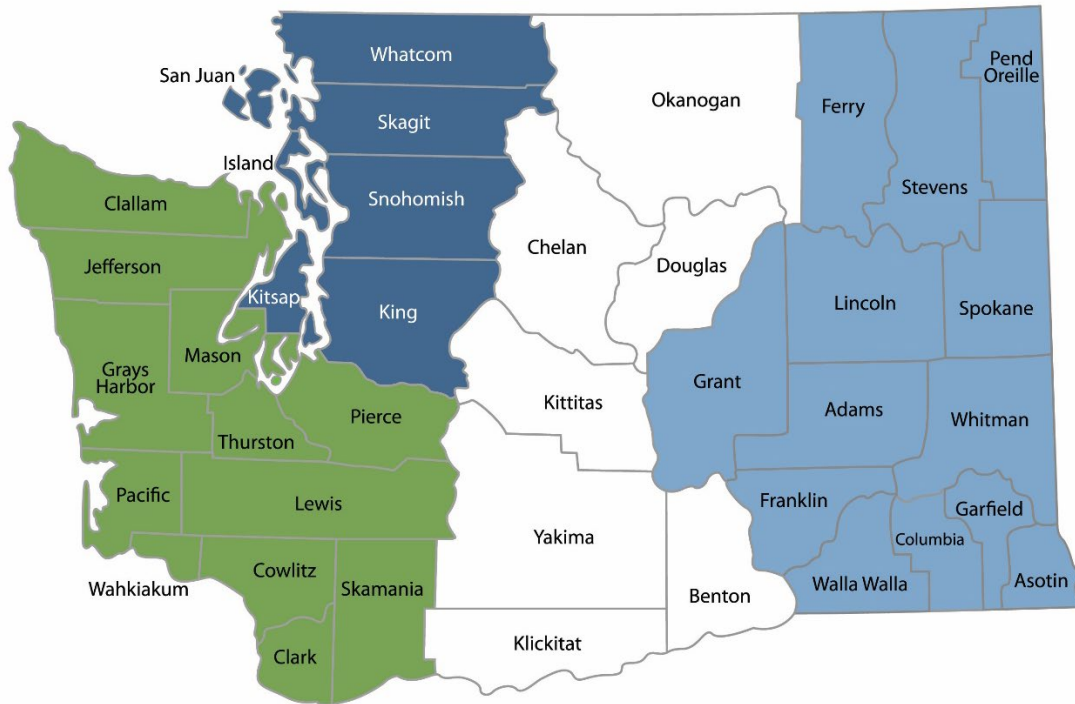
根据华盛顿州环境正义法(RCW 70A.02), 生态管理署在制定某些重大行动时必须进行环境正义评估。该评估需提供对负担过重社区和弱势群体潜在影响的信息, 以及减轻已明确的危害和公平分配已知利益的策略。如需笔译、口译或无障碍协助, 请联系 Courtney Cecale, 电子邮件: courtney.cecale@ecy.wa.gov或电话 (360) 480-6270.

Theo luật Công Bằng Môi Trường của tiểu bang (RCW 70A.02), Bộ Môi Sinh được yêu cầu tiến hành Đánh Giá Công Bằng Môi Trường trong quá trình triển khai một số hành động quan trọng. Đánh giá này cung cấp thông tin về các tác động tiềm ẩn đối với các cộng đồng đang chịu tổn hại và các nhóm dân cư dễ bị tổn hại cũng như các chiến lược nhằm giảm thiểu tác hại đã xác định và phân chia công bằng các lợi ích đã biết. Để được hỗ trợ về thông dịch, giải thích hoặc sự giúp đỡ cho người khuyết tật, vui lòng liên hệ với Courtney Cecale theo địa chỉ courtney.cecale@ecy.wa.gov hoặc (360) 480-6270.

주 환경부는 중요한 조치를 계획할 때 환경 정의 평가를 수행해야 합니다. 이 평가는 취약계층 지역사회와 취약인구에 대한 잠재적 영향 관련 정보와, 확인된 피해를 완화하고 알려진 혜택을 공정하게 분배하기 위한 전략을 제공합니다. 번역, 통역, 또는 장애인 서비스 지원은 담당자 (Courtney Cecale)에게 이메일 courtney.cecale@ecy.wa.gov 또는 전화 (360) 480-6270으로 문의하십시오.

Department of Ecology's Regional Offices

Map of Counties Served



Southwest Region 360-407-6300	Northwest Region 206-594-0000	Central Region 509-575-2490	Eastern Region 509-329-3400
---	---	---------------------------------------	---------------------------------------

Region	Counties served	Mailing Address	Phone
Southwest	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
Headquarters	Statewide	P.O. Box 46700 Olympia, WA 98504	360-407-6000

WAC 173-201A-240, Toxic Substances Human Health Criteria Rulemaking

An Environmental Justice Assessment (per RCW 70A.02.060)²

Water Quality Program
Washington State Department of Ecology
Olympia, WA

November 2024 | Publication 24-10-066



DEPARTMENT OF
ECOLOGY
State of Washington

² <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.02&full=true#70A.02.010>

Table of Contents

Executive Summary	7
Environmental Justice Assessment	8
<i>Purpose of the Environmental Justice Assessment</i>	8
Section 1: Background	9
Section 2: Notification that an Environmental Justice Assessment has been Initiated	11
Section 3: Identify Affected Tribes	12
<i>Preparing for Tribal Consultation</i>	12
Section 4: Offer Consultation:	14
Section 5: Summary of Tribal Consultation & Engagement	15
<i>Summary of Tribal Consultation</i>	15
Section 6: Identification of Overburdened Communities & Vulnerable Populations	17
<i>Identify Overburdened Communities and Vulnerable Populations</i>	17
Section 7: Summary of Community Engagement	20
<i>Summarizing Community Engagement</i>	20
Section 8: Potential Environmental Benefits & Harms from Action	23
<i>Identify Potential Environmental Benefits & Harms from Action</i>	23
Section 9: Options to Eliminate, Reduce, or Mitigate Harms and Equitably Distribute Benefits	25
<i>Identify Options to Eliminate, Reduce, or Mitigate Harms & Equitably Distribute Benefits</i>	25
Section 10: Executive Summary	26
Section 11: Notification of Completed Assessment	27

Executive Summary

The purpose of this action is for the Department of Ecology to complete a statewide rulemaking to place the numeric human health criteria that the federal government adopted for Washington into Washington State's Water Quality standards. This rulemaking is administrative and would not change any requirements in Washington.

- **This action would apply to all Washington communities.** This rulemaking does not change benefits to overburdened communities or vulnerable populations in Washington nor does it change environmental protections for human health.
- **Community engagement in this action** took place between September and October 2024. Ecology provided focused engagement opportunities for overburdened communities near the Duwamish River in Seattle and the Spokane River in Spokane as well as community-serving organizations statewide. Members of overburdened communities and individuals with vulnerabilities did not provide recommendations nor identify potential impacts related to this rulemaking.
- **Ecology invited Tribal consultation** with 30 Tribal governments and discussed this rulemaking with Tribal water quality staff. We have not received requests for formal consultation. We did receive formal comments in support of the rulemaking from Tribal governments and Tribal organizations. We are conducting this rule in response to a direct request from six Tribes.

Ecology did not identify environmental harms from this action.

Ecology assessed administrative benefits from this action.

- Provide consistency and clarity for the public on what human health criteria are used in Washington.
- Create a single location for the criteria that are in effect for Washington.
- State law will provide people with the same degree of protection they already receive from Federal law.
- Minimize any additional future federal changes to the current criteria since these values will be in state rule.

Overall, Ecology supports this rulemaking to adopt the federal human health criteria for Washington into state rule, in support of providing consistency and clarity for the public on what human health criteria are used in Washington and in response to direct Tribal requests.

Environmental Justice Assessment

Purpose of the Environmental Justice Assessment

The Environmental Justice (EJ) Assessment process helps assess the environmental justice impacts of Significant Agency Actions (SAAs). The assessment informs and supports consideration of overburdened communities and vulnerable populations when making decisions. This information assists with the equitable distribution of environmental benefits, the reduction of environmental harms, and the identification and reduction of health disparities.

The EJ assessment process aligns with Washington’s Environmental Justice law called the Healthy Environment for All (HEAL) Act ([RCW 70A.02³](#)), as well as federal commitments in the [Performance Partnership Agreement⁴](#) with the EPA. The assessment process draws on best practices established in [Technical Guidance for Assessing Environmental Justice in Regulatory Analysis⁵](#) and [Promising Practices for EJ Methodologies in NEPA Reviews⁶](#).

Environmental justice assessments are to be completed for the following actions:

- The development and adoption of significant legislative rules as defined in RCW.05.328⁷
- The development and adoption of any new grant or loan program that a covered agency is explicitly authorized or required by statute to carry out
- A capital project, grant, or loan award of at least \$12,000,000 or a transportation project, grant, or loan of at least \$15,000,000
- The submission of agency request legislation to the office of the governor or the office of financial management for approval
- (Covered actions are expected to expand in 2025)

This assessment is not required to be a comprehensive or an exhaustive examination of all potential impacts of a significant agency action and does not require novel quantitative or economic analysis of the proposed significant agency action.

The time and resource investment, and depth of assessment, will be influenced by the reasonable applicability of the questions to the agency action.

Ecology plans to update this document and incorporate what we learn through practice, community engagement, Tribal consultation, and any guidance we may receive from the Environmental Justice Council.

This Environmental Justice Assessment is adapted for publication and does not include internal agency process instructions.

³ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.02&full=true>

⁴ <https://ecology.wa.gov/About-us/Accountability-transparency/Government-coordination/Partnering-with-the-EPA>

⁵ <https://www.epa.gov/environmentaljustice/technical-guidance-assessing-environmental-justice-regulatory-analysis>

⁶ https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf

⁷ <http://app.leg.wa.gov/RCW/default.aspx?cite=34.05.328>

Section 1: Background

The information in this section is provided for the Office of Financial Management's [dashboard](#)⁸ which includes all covered agency's Environmental Justice Assessment notices.

Important to know

- The outcome of this section will be a public notification that an Environmental Justice Assessment has been initiated.
- This section should be brief and based on information available at hand.
- Do not conduct new quantitative or economic analyses.

Background Information

1. Descriptive title of project/action:

Human Health Criteria rulemaking

2. Date EJ Assessment initiated:

September 17, 2024

3. Ecology Program/Office:

Water Quality Program

4. Point of contact for EJ Assessment:

Marla Koberstein, Rule lead planner

Faith Wimberley, Water Quality Program Environmental Justice Planner

5. Significant Agency Action type, select one or more:

- Rulemaking
- New grant or loan program
- New capital project, grant, or loan of \$12 million or more
- Request legislation
- Other, explain:

⁸ <https://ofm.wa.gov/budget/budget-related-information/agency-activities/environmental-justice-assessment-notices>

6. Write a short summary of the action.

Ecology is conducting the Human Health Criteria rulemaking which adopts already existing federal human health criteria into state rules. Ecology currently implements the federal standards and this rulemaking updates the Washington Administrative Code to include these adopted federal standards. The agency is pursuing this to provide clarity on the water pollution limits that protect human health and are used in clean water programs in Washington state. This action would not change any of the existing human health criteria for Washington. The human health criteria protect people, particularly those who eat fish and shellfish and drink untreated water, from experiencing long-term health effects from pollution in rivers, lakes and marine water in Washington.

This is a unique rulemaking as it does not change the pollution limits that are already in place for Washington. In 2016 and 2022, the U.S. Environmental Protection Agency (EPA) set some of the human health criteria for Washington, so those limits are in federal rule, instead of state rule like the rest of Washington's pollution limits. Ecology aims to provide clarity on the regulations by adopting the federal human health criteria. Tribes, immigrant fishers, and some people who are vulnerable to pollution in water shared with Ecology in prior rulemakings that this change should be a priority for the state.

This rulemaking is a shorter process than most. Because this rulemaking will adopt federal regulations without changing them, this rulemaking is exempt from the usual requirements to complete a pre-proposal statement of inquiry (CR-101) and will instead move starting to the rule proposal (CR-102).

7. Identify the method(s) for the public to comment on this proposed action for this assessment.

For this rulemaking action, Ecology provided opportunities for general public comment, Tribal consultation, and focused discussions with Tribal water quality staff and people who consume fish or drink untreated water from local sources or who are especially vulnerable to pollution risks in water.

We hosted presentations and discussions for community serving organizations and individuals who identify as vulnerable to impacts from pollution in water at both a community meeting in Spokane as well as an online listening session.

We held a public comment period and public hearing, public webinar to receive public input on the rule proposal. We accepted comments from 12 a.m. on Sept. 17, 2024, until 11:59 p.m. on Oct. 25, 2024.

8. Create/provide an Ecology webpage with information about this proposed action.

Provide link here: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-201A-hhc>

Section 2: Notification that an Environmental Justice Assessment has been Initiated

This section instructs Ecology staff to notify OFM about the initiation of the action.

Section 3: Identify Affected Tribes

This section summarizes preliminary planning for Tribal Consultation. Ecology must offer consultation with Tribes on significant agency actions that affect federally recognized Tribes' rights and interest in their tribal lands.

Preparing for Tribal Consultation

1. Is the proposed action likely to have any local or regional impacts to federally reserved Tribal rights and resources, including but not limited to, those protected by treaty, executive order, or federal law? Choose one of the following:

Yes

2. List any federally recognized Tribes that are expected to be affected by the proposed action. If it is determined during consultation that Tribes do not wish to be included, then do not include them.

This is a statewide action that does not change the existing human health criteria for Washington state, but this rulemaking is of particular interest to some Tribes. Because of this, Ecology has determined that 30 Tribes may be impacted by the action, including:

- Coeur d'Alene Tribe
- Confederated Tribes and Bands of the Yakama Nation
- Confederated Tribes of the Chehalis Reservation
- Confederated Tribes of the Colville Reservation
- Confederated Tribes of the Umatilla Indian Reservation
- Cowlitz Indian Tribe
- Hoh Indian Tribe
- Jamestown S'Klallam Tribe
- Kalispel Tribe of Indians
- Lower Elwha Klallam Tribe
- Lummi Nation
- Makah Tribe
- Muckleshoot Indian Tribe
- Nez Perce Tribe
- Nisqually Indian Tribe
- Port Gamble S'Klallam Tribe
- Puyallup Tribe
- Quileute Tribe
- Quinault Indian Nation
- Samish Indian Nation
- Shoalwater Bay Indian Tribe
- Skokomish Indian Tribe
- Snoqualmie Indian Tribe
- Spokane Tribe of Indians
- Squaxin Island Tribe
- Stillaguamish Tribe of Indians
- Suquamish Tribe
- Swinomish Indian Tribal Community
- Tulalip Tribes
- Upper Skagit Indian Tribe

3. If it is determined at any other point in the process of the assessment that Tribes have self-identified as being potentially impacted by the action, then include them in the assessment and offer consultation.

Several Tribes have self-identified as interested and supportive of the rulemaking. The following Tribes formally asked for us to adopt this rule:

- Lower Elwha Klallam Tribe
- Port Gamble S'Klallam Tribe
- Puyallup Tribe of Indians
- Makah Indian Tribe
- Quinault Indian Nation
- Suquamish Tribe

In addition, the Northwest Indian Fisheries Commission has asked Ecology to adopt this rule for Washington as soon as possible.

4. Describe plans to offer consultation to identified Tribes.

Ecology invited consultation to all the Tribes identified as impacted by this rulemaking. Additionally, the agency met with groups of Tribal staff twice to discuss this rule. To date, the agency has not received a request for formal consultation, but we will continue to openly communicate about this rulemaking, including sending a second offer for consultation on November 27, 2024, when the rule is adopted.

Section 4: Offer Consultation:

This section directs Ecology staff to offer consultation with Tribes on significant agency actions that affect federally recognized Tribes' rights and interest in their tribal lands.

Section 5: Summary of Tribal Consultation & Engagement

Tribal consultation is intended to inform the answers to all questions in this section.

Summary of Tribal Consultation

1. Describe potential impacts (including harms and benefits) to federally recognized Tribal rights and interests in their tribal lands.
 - Do not share sensitive data or location information attributable to individual sites.
 - Do not share any information that Tribes have requested that you not share.

This rulemaking is administrative and would not change any requirements for Tribes, nor would it result in any environmental changes, including changes to water quality or the health of Tribal natural resources.

This action's effect on Tribes is that State law will provide them with the same degree of protection they already receive from Federal law. This action will provide clarity on which criteria are in use in Washington and consistency between state and federal law.

Changing the state criteria to reflect the federal requirements that are in place for Washington will have two primary benefits to Tribes:

- create a single place where people can find the criteria that are in effect for Washington.
 - minimize any additional future federal changes to the current criteria since these values will be in state rule.
2. Describe potential impacts related to Tribal rights and interests that are not in Tribal lands?

See answer above.

3. Summarize recommendations from Tribes to:
 - a. Mitigate or eliminate potential harms from the action

Six Tribal governments have requested that we adopt these federal criteria into our state rule. They specifically asked for this rule in a June 13, 2024, letter to Director Watson stating:

“Following reinstatement of the protective HHC, some of the undersigned Tribes wrote a letter to you on December 7, 2022, requesting that the Washington State Department of Ecology (Ecology) take immediate action to remove the prior HHC from the Washington Administrative Code at WAC 173201A-240 (Table 240). As we indicated, taking this action would reduce the risk of confusion to the public that could arise from allowing superseded water quality standards to remain in the Washington Administrative Code when the effective HHC can instead be found in the Code of Federal Regulations at 40 C.F.R. § 131.45(b). See 87 Fed. Reg. at 69,198.

Importantly, it would also protect the more stringent federally promulgated HHC from the potential threat of rollbacks to the less protective superseded state HHC currently found in the WAC by a future administration or through litigation. In turn, we noted that this would serve our common goal of protecting the health and safety of Washingtonians, including the ability of tribal members to safely exercise their treaty fishing rights.”

The Northwest Indian Fisheries Commission also recommended this rulemaking to Ecology and submitted formal comment supporting it.

b. Equitably distribute benefits from the action

See answer to 3.a. above.

4. Describe how consultation, engagement, and analyses of impacts to Tribes has informed the development of the action. If it has not, explain why.

Ecology is pursuing this rulemaking as a direct response to requests from Tribes to change state rules to align with current practice and federal standards.

5. Describe any plans to continue consultation or engagement with Tribes related to this action.

Ecology plans to invite Tribal consultation to the 30 identified Federally Recognized Tribes again on November 27, 2024, when this rule is adopted.

Section 6: Identification of Overburdened Communities & Vulnerable Populations

This section identifies overburdened communities and vulnerable populations, as identified in the [definitions of RCW 70A.02](#)⁹ who will be affected by the action.

Identify Overburdened Communities and Vulnerable Populations

1. Identify the geographic area(s) anticipated to be affected by the action.

This administrative change is a statewide action that is not expected to create new impacts to overburdened communities and vulnerable populations, as these regulations are already in place at the federal level, and they are already implemented by Ecology.

2. When applicable, using the [Washington State Department of Health's Environmental Health Disparities Map \(EHD Map\)](#)¹⁰, identify the EHD Map rankings for all census tracts likely to be impacted by the action.

Because there are no impacts from this action other than administrative clarity, Ecology has not identified any census tracts, overburdened communities, or vulnerable populations that will be impacted by this action.

3. From the rankings identified in question 2, are there any census tracts ranked 9 and 10?

Yes. Because there are no impacts from this action other than administrative clarity, Ecology has not identified any census tracts, overburdened communities, or vulnerable populations that will be impacted by this action.

4. Please describe additional cumulative health considerations relevant to this action.

Because this action does not change the standards used in Washington nor how they are implemented, Ecology has not identified any additional impacts related to cumulative health considerations.

5. When applicable, using the [EPA's Environmental Justice Screening and Mapping Tool \(EJScreen\)](#)¹¹, identify areas likely to be impacted by the action that are at or above the 80th percentile¹ (in state) for the "People of color" and "Low income" socioeconomic indicators.

⁹ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.02.010>

¹⁰ <https://fortress.wa.gov/doh/wtnibl/WTNIBL/>

¹¹ <https://ejscreen.epa.gov/mapper/>

Because there are no impacts from this action other than administrative clarity, Ecology has not identified any areas, overburdened communities, or vulnerable populations that will be impacted by this action.

6. Identify other EJScreen “Socioeconomic” and “Health Disparities” indicators at or above 80th percentile (in state) that are most relevant to this action.

Because there are no impacts from this action other than administrative clarity, Ecology has not identified any areas, overburdened communities, or vulnerable populations that will be impacted by this action.

7. Using EJScreen, identify additional anticipated impacts from climate change in the impacted area, if relevant.

Ecology has not identified any impacts from climate change relevant to this action.

8. Using the federal [Climate and Economic Justice Screening Tool \(CEJST\)](#)¹², identify if the potentially affected area is considered disadvantaged for climate risks for additional indicators (as relevant).

Because there are no impacts from this action other than administrative clarity, Ecology has not identified any areas that will be impacted by this action.

9. Identify additional overburdened communities and vulnerable populations that are likely to be affected by the action.

Because there are no impacts from this action other than administrative clarity, Ecology has not identified any census tracts, overburdened communities, or vulnerable populations that will be impacted by this action.

Ecology did not identify any overburdened communities and vulnerable populations that are likely to be affected by the action.

10. Through community engagement, were additional overburdened communities and vulnerable populations identified who are likely to be affected by the action? Describe additional communities or populations identified, and the reasons they would be considered overburdened and vulnerable.

Ecology did not identify any overburdened communities and vulnerable populations likely to be affected by the action through community engagement.

11. Through Tribal Consultation, were additional overburdened communities and vulnerable populations identified who are likely to be affected by the action? Describe additional

¹² <https://screeningtool.geoplatform.gov/en/#3/33.47/-97.5>

communities or populations identified, and the reasons they would be considered overburdened and vulnerable.

Ecology did not identify any overburdened communities and vulnerable populations through Tribal consultation.

Section 7: Summary of Community Engagement

This section summarizes community engagement activities. Community Engagement should be tailored to specifically reach overburdened communities and vulnerable populations. Community engagement is required for all significant agency actions, but the engagement methods will vary depending on the size, scope, and topic of the project. The level, type, and form of engagement is based on the likelihood that the actions may cause environmental harm or may affect the equitable distribution of environmental benefits to an overburdened community or a vulnerable population.

Summarizing Community Engagement

1. Describe the engagement activities with identified overburdened communities and vulnerable populations.

Ecology sought opportunities to engage specifically with people who may have environmental justice related interests in this rulemaking. We offered focused engagement with people in the following situations:

- Individuals who are especially vulnerable to pollution risks in the water.
- People who are not usually involved with Ecology's work.
- Community members who are directly affected by this topic.
- Those who consume fish or drink untreated water from local sources.

Ecology offered to engage on this rulemaking in a variety of contexts including:

- Presented and discussed the action to the Spokane River Toxics Advisory Committee where we invited fishers and two community-serving organizations.
- Invited engagement with the overburdened communities near the Duwamish River in Seattle.
- Hosted an environmental justice listening session for vulnerable populations and community-serving organizations from across the state.

We held our environmental justice listening session on October 23, 2024. The session included a presentation on the rulemaking, an informal question and answer period, and a structured feedback session designed to solicit input on participants perceptions, interests, and possible impacts from the rulemaking. We shared the announcement on the Lower Duwamish Waterways monthly email newsletter and directly invited the following organizations to this meeting:

- Asian & Pacific Islander Coalition of Washington (APIC-WA)
- Asian Pacific Islander Coalition Advocating Together (APICAT)
- Basilica Bio
- The Northwest Toxic Community Coalition
- Environmental health educator with PHSKC, Public Health Seattle and King County Just Health

- Action Pacific Shellfish Institute
- Puget Soundkeeper Alliance
- Washington Conservation Action
- Spokane Riverkeeper
- The Lands Council

Additionally, Ecology provided the following opportunities for public engagement.

- A public comment period between 12 a.m. on Sept. 17, 2024, until 11:59 p.m. on Oct. 25, 2024.
- Hosted a public webinar to ask questions about the rule, followed by a public hearing.

2. What actions were taken to help address barriers to meaningful engagement?

Ecology planned our outreach to reduce known barriers and maximize opportunities for participation from vulnerable populations and communities.

- We used a variety of communication methods to allow for diverse interactions and input.
- We shared information on the rulemaking engagement opportunities through existing newsletters to reduce mail and email communications with interested parties.
- We offered to speak at standing community meetings, to reduce the impact of needing to schedule additional time with Ecology.
- We hosted web-based meetings to limit transportation burdens.
- We provided both formal public comment and informal input and discussion in a dialogue-based listening session.
- We shared contact information to communicate directly with a staff point of contacts.
- We translated the rulemaking notice into the following five languages: Russian, Spanish, Vietnamese, Korean, and Chinese.

3. Identify overburdened communities or vulnerable populations potentially affected by the action who were not engaged and explain why not.

Ecology did not identify overburdened communities or vulnerable populations affected by this action.

4. Summarize recommendations from members of overburdened communities and vulnerable populations to mitigate or eliminate potential harms from the action and/or equitably distribute benefits from the action.

We did not receive input or recommendations from members of overburdened communities and vulnerable populations on this rulemaking action.

5. Describe any plans for ongoing engagement with overburdened communities and vulnerable populations related to this action.

Since these federal Human Health Criteria will be a part of our Washington’s water quality standards, they will be incorporated into ongoing engagement related to Ecology’s clean water work – this includes our assessment of state waters, which helps us prioritize where to devote resources to clean up polluted water and in water quality permits. These actions include their own engagement efforts, which will include outreach to overburdened communities and vulnerable populations.

In addition, we regularly review the state’s water quality standards when we perform our triennial review under the Federal Clean Water Act. This happens every three years, and we expect to begin our next Triennial Review in 2025. The Triennial Review is a public process that includes an informational webinar, a public comment period and public hearing. We will invite Tribal governments to engage with us in this process, as well as develop opportunities with members of overburdened communities and vulnerable populations.

Section 8: Potential Environmental Benefits & Harms from Action

The purpose of this section is to identify any anticipated benefits and harms from the potential action, and to assess impacts on overburdened communities and vulnerable populations. The level, type, and form of engagement is based on the likelihood that the actions may cause environmental harm or may affect the equitable distribution of environmental benefits to an overburdened community or a vulnerable population. Answers to the questions in this section may help you strategize your approach to engagement.

Identify Potential Environmental Benefits & Harms from Action

1. Describe the anticipated benefits (direct and/or indirect) from this action.

This rulemaking is administrative and would not change any requirements in Washington, nor would it result in any environmental changes, including changes to water quality or the health of natural resources.

Anticipated benefits from this action are that State law will provide people with the same degree of protection they already receive from Federal law. This action provides clarity on which criteria are in use in Washington and consistency between state and federal law.

Changing the state criteria to reflect the federal requirements that are in place for Washington will have two primary benefits to Tribes:

- create a single place where people can find the criteria that are in effect for Washington.
- minimize any additional future federal changes to the current criteria since these values will be in state rule.

2. Who will primarily benefit from this action?

All people that use Ecology's water quality standards will only have one place to look for the applicable human health criteria.

3. How is the action expected to benefit specifically overburdened communities or vulnerable populations? If there is no benefit, identify potential barriers to benefitting from the action.

This rulemaking does not change benefits to overburdened communities or vulnerable populations in Washington nor does it change environmental protections for human health. These values are already in effect and being implemented.

4. Describe anticipated harms (direct and/or indirect) from this action.

Ecology does not anticipate any harms resulting from this rule action since these rules are already in effect for Washington under federal regulations.

5. Who will primarily experience the harms?

Ecology does not anticipate anyone will be harmed by this action.

6. Describe how the action may harm overburdened communities or vulnerable populations? Be as specific as possible.

Ecology does not anticipate any harms from this action. As a result, we do not anticipate this rulemaking will result in harms to overburdened communities or vulnerable populations.

7. Describe how the action would address environmental and health disparities.

Ecology does not expect this rulemaking to address or impact environmental and health disparities.

Section 9: Options to Eliminate, Reduce, or Mitigate Harms and Equitably Distribute Benefits

This section summarizes options identified for eliminating, reducing, or mitigating harms, as well as options for equitably distributing anticipated benefits. The answers in this section should be informed by engagement, answers from the previous subsections, and any legislative or regulatory boundaries that limit possible decision making.

Identify Options to Eliminate, Reduce, or Mitigate Harms & Equitably Distribute Benefits

1. Describe options to reduce, mitigate, or eliminate the identified probable harms to overburdened communities and vulnerable populations; and options to equitably distribute the benefits.

Ecology has not identified any harms from this action. The benefits from this action are available statewide.

The benefits from this action are administrative and include providing consistency and clarity for the public on what human health criteria are used in Washington's clean water programs. These benefits are available to all people in Washington as this rule is a statewide action.

2. Describe methods chosen for this action to reduce, mitigate, or eliminate the identified probable harms to overburdened communities and vulnerable populations; and methods chosen to equitably distribute the benefits.

Ecology does not anticipate any harms from this action and the anticipated benefits are administrative clarity and ongoing consistency.

3. If the agency determines it does not have the ability or authority to eliminate, reduce, or mitigate environmental harms caused by the action, or address the equitable distribution of environmental benefits, explain why that determination was made.

Section 10: Executive Summary

The purpose of this action is for the Department of Ecology to complete a statewide rulemaking to place the numeric human health criteria that the federal government adopted for Washington into Washington State's Water Quality standards. This rulemaking is administrative and would not change any requirements in Washington.

- **This action would apply to all Washington communities.** This rulemaking does not change benefits to overburdened communities or vulnerable populations in Washington nor does it change environmental protections for human health.
- **Community engagement in this action** took place between September and October 2024. Ecology provided focused engagement opportunities for overburdened communities near the Duwamish River in Seattle and the Spokane River in Spokane as well as community-serving organizations statewide. Members of overburdened communities and individuals with vulnerabilities did not provide recommendations nor identify potential impacts related to this rulemaking.
- **Ecology invited Tribal consultation** with 30 Tribal governments and discussed this rulemaking with Tribal water quality staff. We have not received requests for formal consultation. We did receive formal comments in support of the rulemaking from Tribal governments and Tribal organizations. We are conducting this rule in response to a direct request from six Tribes.

Ecology did not identify environmental harms from this action.

Ecology assessed administrative benefits from this action.

- Provide consistency and clarity for the public on what human health criteria are used in Washington.
- Create a single location for the criteria that are in effect for Washington.
- State law will provide people with the same degree of protection they already receive from Federal law.
- Minimize any additional future federal changes to the current criteria since these values will be in state rule.

Overall, Ecology supports this rulemaking to adopt the federal human health criteria for Washington into state rule, in support of providing consistency and clarity for the public on what human health criteria are used in Washington and in response to direct Tribal requests.

Section 11: Notification of Completed Assessment

This section summarizes processes for staff to take once they have completed their assessment, including steps for sharing the final product. Learn more about all ongoing and completed Environmental Justice Assessments on our [agency webpage](#)¹³.

¹³ <https://ecology.wa.gov/About-us/Who-we-are/Environmental-Justice/HEAL/EJ-Assessments>