



# Rulemaking for Chapters 173-400, General Regulations for Air Pollution Sources and Chapter 173-401, Operating Permit Regulation

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

Prepared by

**Air Quality Program**

Washington State Department of Ecology  
Olympia, Washington

February 2025, Publication 25-02-007

## Contact Information

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To request an ADA accommodation, contact Melanie Forster by phone at 360-742-4558 or email at [melanie.forster@ecy.wa.gov](mailto:melanie.forster@ecy.wa.gov). For Washington Relay Service or TTY call 711 or 877-833-6341. Visit Ecology's website for more information.

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<sup>1</sup> [www.ecology.wa.gov/contact](http://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](mailto: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](mailto:courtney.cecale@ecy.wa.gov) o llamando al (360) 480-6270.

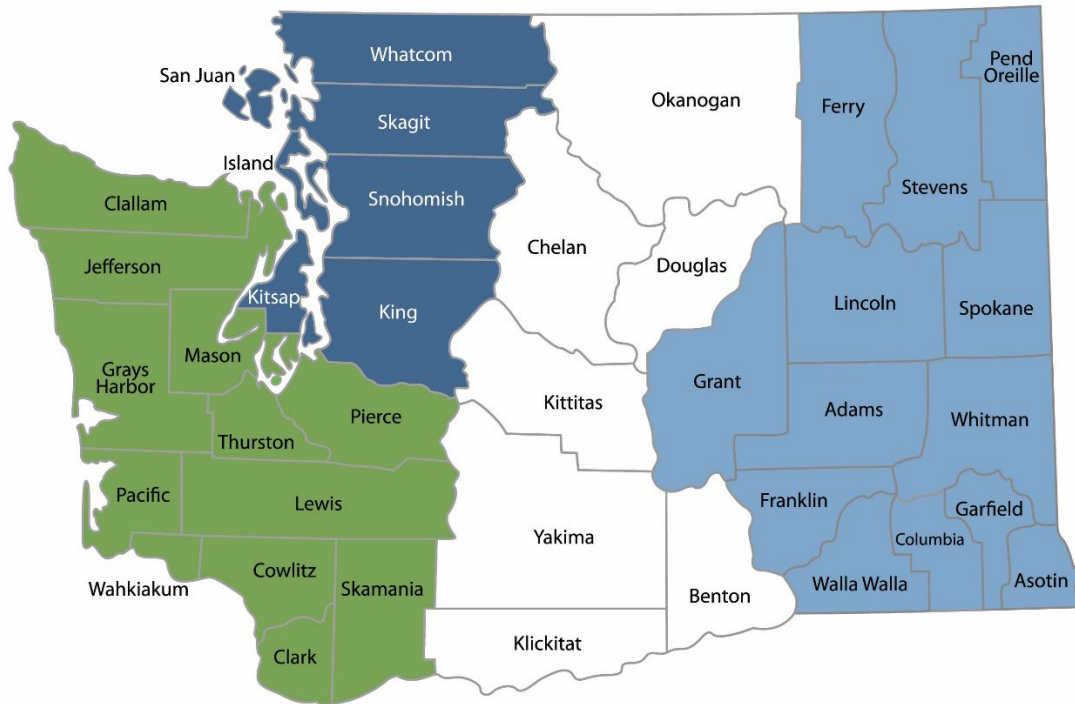
根据华盛顿州环境正义法(RCW 70A.02), 生态管理署在制定某些重大行动时必须进行环境正义评估。该评估需提供对负担过重社区和弱势群体潜在影响的信息, 以及减轻已明确的危害和公平分配已知利益的策略。如需笔译、口译或无障碍协助, 请联系 Courtney Cecale, 电子邮件: [courtney.cecale@ecy.wa.gov](mailto:courtney.cecale@ecy.wa.gov)或电话 (360) 480-6270。

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](mailto: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](mailto:courtney.cecale@ecy.wa.gov) 또는 전화 (360) 480-6270으로 문의하십시오.

# Department of Ecology's Regional Offices

## Map of Counties Served



<b>Southwest Region</b> 360-407-6300	<b>Northwest Region</b> 206-594-0000	<b>Central Region</b> 509-575-2490	<b>Eastern Region</b> 509-329-3400
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Region	Counties served	Mailing Address	Phone
<b>Southwest</b>	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	P.O. Box 47775 Olympia, WA 98504	360-407-6300
<b>Northwest</b>	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	P.O. Box 330316 Shoreline, WA 98133	206-594-0000
<b>Central</b>	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 West Alder Street Union Gap, WA 98903	509-575-2490
<b>Eastern</b>	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 North Monroe Spokane, WA 99205	509-329-3400
<b>Headquarters</b>	Statewide	P.O. Box 46700 Olympia, WA 98504	360-407-6000

# Rulemaking for Chapter 173-400 WAC, General Regulations for Air Pollution Sources and Chapter 173-401, Operating Permit Regulation

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**An Environmental Justice Assessment (per RCW 70A.02.060)<sup>2</sup>**

Air Quality Program  
Washington State Department of Ecology  
Olympia, WA

**February 2025 | Publication 25-02-007**



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

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## Executive Summary

This action is a rulemaking that updates references in Chapter 173-400 WAC to a new publication date for a technical manual used in source testing and certification. This rulemaking also removes the section in Chapter 173-401 WAC that provides emergency affirmative defense provisions to regulated sources of air pollution.

This rulemaking is administrative and applies statewide. The rule amendments do not make policy changes or changes to requirements or practices in Washington that are not already in effect.

- **Chapter 173-400 WAC (General Regulations for Air Pollution Sources).** This rulemaking updates references in the rule to a new publication date for Ecology’s Source Test Manual – Procedures for Compliance Testing. Ecology staff removed outdated and unused testing methods and updated the existing methods to reflect current testing practices.
- **Chapter 173-401 WAC (Operating Permit Regulation).** This rulemaking removes the section containing emergency affirmative defense provisions. The provisions had allowed sources of air pollution to avoid liability for an exceedance of a federal standard if it was caused by a qualifying “emergency.” EPA removed these provisions from federal operating permit regulations in July 2023 and directed state permitting authorities to remove the same provisions from their rules. These provisions were no longer available in Washington once they were removed from the federal regulations in 2023.

**Ecology did not identify any environmental harms from this action.** Because this rulemaking is administrative and applies statewide, Ecology approached this Environmental Justice Assessment with the objective of increasing awareness about Ecology’s air quality work and encouraging public participation in the rulemaking process.

**Ecology identified administrative benefits from this action.** The benefits are regulatory clarity and consistency. The general air quality rule will refer the reader to current industry testing practices and the operating permit rule will align with federal operating permit rules relating to affirmative defense.

**Ecology provided opportunities for public comment and Tribal consultation.** We also provided translated notices about the rulemaking in Spanish, Korean, Vietnamese, Chinese, Russian, and Ukrainian. Because this rulemaking is administrative and applies statewide, our approach to community engagement focused on increasing awareness about air quality protection and encouraging public participation in the rulemaking process.

- Ecology invited Tribal consultation with 30 federally recognized Tribal governments. We sent a letter to the Tribal Chairs and Natural Resource Directors of all federally recognized Tribes in Washington to notify them of the rulemaking and offer consultation. We sent these letters for the rulemaking announcement in January 2024

and when we proposed the rules in September 2024. We did not receive any requests for consultation. We will offer consultation for the rule adoption in February 2025.

- Ecology invited public input during two online public workshops in April and May 2024 and during an informal public comment period during that same timeframe. We received comments from two members of the public.

Ecology invited public comment during the formal comment period held September 18, 2024, through October 31, 2024, and during an online public hearing on October 22, 2024. We did not receive any public comments during the formal comment period or at the public hearing.



# 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.02](#)<sup>3</sup>), as well as federal commitments in the [Performance Partnership Agreement](#)<sup>4</sup> with the EPA. The assessment process draws on best practices established in [Technical Guidance for Assessing Environmental Justice in Regulatory Analysis](#)<sup>5</sup> and [Promising Practices for EJ Methodologies in NEPA Reviews](#)<sup>6</sup>.

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

- The development and adoption of significant legislative rules as defined in RCW.05.328<sup>7</sup>
- 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.

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

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

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

<sup>6</sup> [https://www.epa.gov/sites/default/files/2016-08/documents/nepa\\_promising\\_practices\\_document\\_2016.pdf](https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf)

<sup>7</sup> <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](#)<sup>8</sup> which includes all covered agency's Environmental Justice Assessment notices.

## Background Information

1. Descriptive title of project/action:

Rulemaking on two air quality rules:

- General Regulations for Air Pollution Sources, Chapter 173-400 WAC
- Operating Permit Regulation, Chapter 173-401 WAC

2. Date EJ Assessment initiated:

January 18, 2024

3. Ecology Program/Office:

Air Quality Program

4. Point of contact for EJ Assessment:

Linda Kildahl, linda.kildahl@ecy.wa.gov

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:

6. Write a short summary of the action.

This action is a rulemaking that updates references in Chapter 173-400 WAC to incorporate an updated version of a technical manual used in source testing and certification. This rulemaking also removes the section in Chapter 173-401 WAC that provides emergency affirmative defense provisions to regulated sources of air pollution, as directed by EPA.

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

This rulemaking is administrative and applies statewide. The rule amendments do not make policy changes or changes to requirements or practices in Washington that are not already in effect.

- **Chapter 173-400 WAC (General Regulations for Air Pollution Sources).** This chapter establishes standards to control and prevent pollution from air contaminant sources. This rulemaking updates references in the rule to a new publication date for Ecology’s Source Test Manual – Procedures for Compliance Testing. Ecology staff removed outdated and unused testing methods and updated the existing methods to reflect current testing practices.
- **Chapter 173-401 WAC (Operating Permit Regulation).** This chapter establishes Washington’s air operating permit program under Title V of the federal clean Air Act. This rulemaking removes the section containing emergency affirmative defense provisions. The provisions had allowed sources of air pollution to avoid liability for an exceedance of an emissions standard if it was caused by a qualifying “emergency.” EPA removed these provisions from federal operating permit regulations in July 2023 and directed state permitting authorities to remove the same provisions from their rules. These provisions were no longer available in Washington once they were removed from the federal regulations in 2023.

The rulemaking also makes minor administrative updates that includes updating references to two citations of the Revised Code of Washington that were recodified in 2020.

Ecology identified administrative benefits from this action. These benefits included regulatory clarity and consistency. The general air quality rule will refer the reader to current industry testing practices and the operating permit rule will align with federal operating permit rules related to affirmative defense.

For this rulemaking, Ecology provided opportunities for public comment and Tribal consultation. We also provided translated notices about the rulemaking in Spanish, Korean, Vietnamese, and Chinese. Because this rulemaking is administrative and applies statewide, our approach to community engagement in overburdened communities focused on increasing awareness about air quality protection in general and encouraging public participation in the rulemaking process. In August 2024, our environmental justice and communication staff participated in a community street fair event in Tacoma, Washington to share information about work the Air Quality Program is doing under the Climate Commitment Act, including increasing the number of air sensors ([SenWA](#)) in overburdened communities.

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

Ecology held online public meetings in April and May to share information with the public and obtain input on the draft changes to the *Source Test Manual – Procedures for Compliance Testing*. We held an informal public comment period from April 18 to May 31, 2024, and invited the public to comment on the rule and Source Test Manual updates. The Source Test Manual offers methods for testing and certification of air pollution sources. It is a technical manual used by air pollution sources and local clean air agencies.

Ecology also invited the public to submit comments during a formal comment period held from September 18, 2024, to October 31, 2024, and during the public hearing held on October 22, 2024.

8. Create/provide an Ecology webpage with information about this proposed action.  
Provide link here:

[Rulemaking webpage for Chapters 173-400 and 173-401 WAC](#)

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

This section instructs Ecology staff to notify the Office of Financial Management 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
  - No
  - Unsure
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.

Ecology did not identify any Tribes expected to be affected by this rulemaking. This rulemaking is administrative and applies statewide. The rule amendments do not make policy changes or changes to requirements or practices in Washington that are not already in effect.

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.
4. Describe plans to offer consultation to identified Tribes.

Ecology did not identify any Tribes expected to be affected by this rulemaking. Ecology will offer consultation on this rulemaking to all federally recognized Tribes in Washington when the rule is adopted in February 2025.

## **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 applies statewide. It does not change any requirements for Tribes, nor would it result in any environmental impacts or changes to the health of Tribal natural resources.

Ecology sent a letter to the Tribal Chairs and Natural Resource Directors of all federally recognized Tribes in Washington to notify them of the rulemaking and offer consultation. We sent these letters for in January 2024 for the rulemaking announcement in September 2024 for the rule proposal. We did not receive any requests for consultation.

2. Describe potential impacts related to Tribal rights and interests that are not in Tribal lands?

Ecology did not identify any impacts to Tribal rights and interests.

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

Ecology did not receive any recommendations from Tribes or requests for formal consultation.

- b. Equitably distribute benefits from the action

Ecology did not receive any recommendations from Tribes or requests for formal consultation.

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 did not receive any recommendations from Tribes or requests for formal consultation.

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

Ecology plans to offer consultation to Tribes in February 2025 when the 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](#), 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 rulemaking action that is not expected to create environmental or public health impacts to any specific areas or populations. The amendments do not make policy changes or changes to requirements or practices in Washington that are not already in effect.

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

Ecology did not identify specific areas or populations likely to be impacted by this action. This rulemaking is administrative and applies statewide. It does not make policy changes or changes to requirements or practices in Washington that are not already in effect.

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

No. This rulemaking does not have impacts other than administrative clarity and consistency with federal rules.

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

Ecology did not identify any additional cumulative health considerations relevant to this action. This rulemaking does not make policy changes or changes to requirements or practices in Washington that are not already in effect.

5. When applicable, using the [EPA’s Environmental Justice Screening and Mapping Tool \(EJScreen\)](#), identify areas likely to be impacted by the action that are at or above the 80<sup>th</sup> percentile<sup>9</sup> (in state) for the “People of color” and “Low income” socioeconomic indicators.

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<sup>9</sup> The EPA identified the 80th percentile as an initial starting point and potential indicator of environmental justice considerations. <https://www.epa.gov/ejscreen/frequent-questions-about-ejscreen>

Ecology did not identify specific areas or populations likely to be impacted by action. This rulemaking does not make policy changes or changes to requirements or practices in Washington that are not already in effect.

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

Ecology did not identify specific areas or populations likely to be impacted by this action. This rulemaking does not make policy changes or changes to requirements or practices in Washington that are not already in effect.

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

Ecology did not identify specific areas or populations likely to be impacted by this action. This rulemaking does not make policy changes or changes to requirements or practices in Washington that are not already in effect.

8. Using the federal [Climate and Economic Justice Screening Tool \(CEJST\)](#)<sup>10</sup>, identify if the potentially affected area is considered disadvantaged for climate risks for additional indicators (as relevant).

Ecology did not identify any impacts to overburdened communities or vulnerable populations resulting from this action. This rulemaking does not make policy changes or changes to requirements or practices in Washington that are not already in effect.

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

Ecology did not identify any impacts to overburdened communities or vulnerable populations resulting from this action. This rulemaking does not make policy changes or changes to requirements or practices in Washington that are not already in effect.

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 impacts to overburdened communities or vulnerable populations, or other communities or populations, resulting from this action. This rulemaking does not make

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<sup>10</sup> This is a national tool and may provide relevant information and understanding of the climate related context of the action. Learn more about the methodology for identifying if a community is disadvantaged for climate risks here: [Methodology & data - Climate & Economic Justice Screening Tool \(geoplatform.gov\)](#)

policy changes or changes to requirements or practices in Washington that are not already in effect.

11. Through Tribal Consultation, 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 impacts to overburdened communities or vulnerable populations, or other communities or populations, resulting from this action. This rulemaking does not make policy changes or changes to requirements or practices in Washington that are not already in effect.

## 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.

Because this rulemaking is administrative and applies statewide, our approach to community engagement in overburdened communities focused on increasing awareness about air quality protection in general and encouraging public participation in the rulemaking process. In August 2024, members of our environmental justice and communication teams participated in a local street fair in Tacoma, Washington to share information about work the Air Quality Program is doing under the Climate Commitment Act, including increasing the number of air sensors (SenWA) in overburdened communities.

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

Ecology provided translated notices about this rulemaking in Spanish, Korean, Vietnamese, 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 any overburdened communities or vulnerable populations that will be affected by this action. The rule amendments do not make policy changes or changes to requirements or practices in Washington that are not already in effect.

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.

Ecology did not identify any overburdened communities or vulnerable populations that will be affected by this action. Ecology did not receive recommendations from members of overburdened communities or vulnerable populations on this action.

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

Ecology plans to continue to work on informational materials about air quality protection and about participating in the rulemaking process to share at community events and other forums. Our objective is to create meaningful information to share for statewide rulemakings that do not have a direct environmental impact.

## Section 8: Potential Environmental Benefits & Harms from Action

This section summarizes 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.

### Identify Potential Environmental Benefits & Harms from Action

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

Ecology anticipates an administrative and regulatory benefit of clarity and consistency for regulated entities. The general air quality rule will refer the reader to current industry testing practices and the operating permit rule will align with federal operating permit rules relating to affirmative defense.

2. Who will primarily benefit from this action?

The entities regulated under these rules and local clean air agencies will benefit from increased regulatory clarity and consistency. This rulemaking removes discrepancies between Washington's rules and federal operating permit requirements already in place and source testing methods currently in use.

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.**

Ecology does not anticipate benefits specific to overburdened communities or vulnerable populations because the benefits of this action are administrative. The rule amendments do not make policy changes or changes to requirements or practices in Washington that are not already in effect.

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

Ecology does not anticipate any harms to overburdened communities or vulnerable populations. This rulemaking does not make policy changes or changes to requirements or practices in Washington that are not already in effect.

5. Who will primarily experience the harms?

Ecology does not anticipate harm to anyone from this action.

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

Ecology does not anticipate harm to anyone from this action. As a result, we do not anticipate this rulemaking to result in harms to overburdened communities or vulnerable populations. This rulemaking does not make policy changes or changes to requirements or practices in Washington that are not already in effect.

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

This rulemaking does not address environmental or health disparities as it administrative and applies statewide. This rulemaking does not make policy changes or changes to requirements or practices in Washington that are not already in effect.

## 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 did not identify any harms from this action. The benefits include administrative clarity and consistency for regulated entities and clean air agencies. This rulemaking provides an updated technical manual used in source testing and certification and removes a discrepancy between Ecology's operating permit rule and federal operating permit regulations relating to affirmative defense.

2. 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.

Ecology determined that this action does not cause environmental harm. This rulemaking is administrative and applies statewide. The rule amendments do not make policy changes or changes to requirements or practices in Washington that are not already in effect.



## Section 10: Executive Summary

This action is a rulemaking that updates references in Chapter 173-400 WAC to a new publication date for a technical manual used in source testing and certification. This rulemaking also removes the section in Chapter 173-401 WAC that provides emergency affirmative defense provisions to regulated sources of air pollution.

This rulemaking is administrative and applies statewide. The rule amendments do not make policy changes or changes to requirements or practices in Washington that are not already in effect.

- **Chapter 173-400 WAC (General Regulations for Air Pollution Sources).** This rulemaking updates references in the rule to a new publication date for Ecology’s Source Test Manual – Procedures for Compliance Testing. Ecology staff removed outdated and unused testing methods and updated the existing methods to reflect current testing practices.
- **Chapter 173-401 WAC (Operating Permit Regulation).** This rulemaking removes the section containing emergency affirmative defense provisions. The provisions had allowed sources of air pollution to avoid liability for an exceedance of a federal standard if it was caused by a qualifying “emergency.” EPA removed these provisions from federal operating permit regulations in July 2023 and directed state permitting authorities to remove the same provisions from their rules. These provisions were no longer available in Washington once they were removed from the federal regulations in 2023.

**Ecology did not identify any environmental harms from this action.** Because this rulemaking is administrative and applies statewide, Ecology approached this Environmental Justice Assessment with the objective of engaging with communities to increase awareness about Ecology’s air quality work and encourage public participation in the rulemaking process.

**Ecology identified administrative benefits from this action.** The benefits are regulatory clarity and consistency. The general air quality rule will refer the reader to current industry testing practices and the operating permit rule will align with federal operating permit rules related to affirmative defense.

**Ecology provided opportunities for public comment and Tribal consultation.** We also provided translated notices about the rulemaking in Spanish, Korean, Vietnamese, and Chinese. Because this rulemaking is administrative and applies statewide, our approach to community engagement focused on increasing awareness about air quality protection and encouraging public participation in the rulemaking process.

- Ecology invited Tribal consultation with 30 federally recognized Tribal governments. We sent a letter to the Tribal Chairs and Natural Resource Directors of all federally recognized Tribes in Washington to notify them of the rulemaking and offer consultation. We sent these letters for the rulemaking announcement in January 2024 and for the rule proposal in September 2024. We did not receive any requests for consultation. We will offer consultation for the rule adoption in February 2025.
- Ecology invited public input during two online public workshops in April and May 2024 and during an informal public comment period during that same timeframe. We received comments from two members of the public.
- Ecology invited public comment during the formal comment period held September 18, 2024, through October 31, 2024, and during an online public hearing on October 22, 2024. We did not receive any public comments during the formal comment period or at the public hearing.

## 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](#)<sup>11</sup>.

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<sup>11</sup> <https://ecology.wa.gov/About-us/Who-we-are/Environmental-Justice/HEAL/EJ-Assessments>