



**Environmental Performance Partnership
Agreement Between
the Department of Ecology and
the Environmental Protection Agency:
State Fiscal Years 2026–2027**

Effective: July 1, 2025, to June 30, 2027

Washington State Department of Ecology
Olympia, Washington

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¹ ecology.wa.gov/accessibility

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**Environmental Performance Partnership Agreement
for July 1, 2025 – June 30, 2027**

*Between Washington State Department of Ecology and
United States Environmental Protection Agency—Region 10*

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

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

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

It is our belief that this Agreement will improve environmental protection in Washington State. In addition, we hope the Agreement communicates to local communities, Tribal governments, and citizens our mutual goals and priorities for State Fiscal Years 2026–2027.

Signed,

Casey D. Sixkiller
Director
Washington State Department of Ecology

Emma Pokon
Regional Administrator
U.S. EPA Region 10

Date 6/17/25

Date 6/12/2025

Chapter 1 – Performance Partnership Overview

Introduction

Established in 1995, the National Environmental Performance Partnership System was designed to improve the efficiency and effectiveness of U.S. Environmental Protection Agency (EPA) partnerships. This partnership system offers states, Tribes, and territories the opportunity to set joint priorities, strategically leverage resources, and assess environmental conditions. Performance Partnership Agreements and Performance Partnership Grants are two tools that can be used to accomplish these goals.²

Purpose

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

- Clean Air Act and Clean Water Act activities that EPA delegates³ to Ecology and funds with the Performance Partnership Grant.
- Resource Conservation and Recovery Act (RCRA) activities to manage hazardous waste, including Ecology activities, authorized by EPA and funded with a RCRA grant (see Chapter 6).
- EPA-funded activities carried out by Ecology programs that address:
 - a. Water quality.
 - b. Air quality.
 - c. Hazardous waste.⁴
 - d. Radioactive mixed-waste.

Effective date and legal authority

This Agreement is effective July 1, 2025, to June 30, 2027, and doesn't restrict EPA's or Ecology's legal oversight or enforcement authority. All aspects of this Agreement regarding EPA

² [National Environmental Performance Partnership System](https://www.epa.gov/sites/default/files/2020-11/documents/nepps_brochure.pdf)

(https://www.epa.gov/sites/default/files/2020-11/documents/nepps_brochure.pdf)

³ For the remainder of this Agreement, the terms “delegated” and “authorized” are considered the same for general purposes, respecting there is a legal distinction between the two terms.

⁴ Washington law uses the term **dangerous waste**. Federal law uses the term **hazardous waste**. Washington's definition of dangerous waste includes some wastes that are not included in the federal definition. For this Agreement, the term **hazardous waste** is used, respecting the distinction between the two terms.

are managed through EPA Region 10, Seattle, Washington. Decisions made by Ecology and EPA are the basis for the commitments and plans in this Agreement.

Tribal relations

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

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

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

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

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

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

Under the 1989 State–Tribal [Centennial Accord](https://goia.wa.gov/relations/centennial-accord)⁵ and state law ([Chapter 43.376 RCW: Government-To-Government Relationship With Indian Tribes](https://leg.wa.gov/rcw/default.aspx?cite=43.376&full=true)),⁶ Ecology maintains a relationship with Tribes. Ecology is fully committed to the principles of government-to-government consultation and cooperation with Tribes consistent with our mission to protect, preserve, and enhance Washington’s environment, for current and future generations.⁷

⁵ <https://goia.wa.gov/relations/centennial-accord>

⁶ <https://app.leg.wa.gov/rcw/default.aspx?cite=43.376&full=true>

⁷ [Our strategic plan](https://ecology.wa.gov/About-us/Who-we-are/Strategic-plan) (<https://ecology.wa.gov/About-us/Who-we-are/Strategic-plan>)

Environmental Protection Agency grants to Ecology

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

The purpose of the Performance Partnership Grant is to:

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

Funding sources for the Performance Partnership Grant include the:

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

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

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

Table 1. Agreement Grants – State Fiscal Years 2026-2027

Grant Number and Title	Estimated Two Year EPA Grant Amount	End Date
FB00 – Air Grants 66.605 – Performance Partnership Grant	\$7,535,000	6/30/27
M221 – Hazardous Waste RCRA 66.801 – Hazardous Waste Management Support	\$3,400,000	6/30/27
FB00 – Water Grants 66.605 – Performance Partnership Grant	\$11,430,990	6/30/27

State and federal budgets are not final when this Agreement is signed by EPA and Ecology. To address the time lag, both agencies agree to meet by the end of the calendar year 2025 to address specific budgets for each program area and how they may affect the plans and commitments in this Agreement. If other budget adjustments are needed during the effective

dates of this Agreement, both agencies will meet to coordinate related impacts, activities, and deliverables.

Progress assessment process

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

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

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

The midterm assessment will include the following elements:

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

In early 2027, both agencies' assessments will form the basis for negotiating the priorities in the July 1, 2027, to June 30, 2029, Agreement. This will help ensure accountability for completing activities in this Agreement and continuity with the next agreement's priorities.

The specific midterm assessments, combined with the next public review/comment process in 2027, provide annual (at least) assessments relative to this Agreement. As always, both agencies welcome questions about activities in this Agreement, at any time.

Public comment period

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

Goals and objectives

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

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

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

Goal 2: Support EPA's strategic priorities.

- Enforce Environmental Laws and Ensure Compliance.
- Ensure Clean and Healthy Land for All Communities.
- Ensure Clean and Healthy Air for All Communities.
- Ensure Clean and Safe Water for All Communities.
- Safeguard and Revitalize Communities.
- Ensure Safety of Chemicals for People and the Environment.
- Promote Permitting Reform, Cooperative Federalism, and Cross-Agency Partnership.

Goal 3: Support Ecology's strategic framework goals.

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

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

Ecology's primary programs covered in this agreement

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

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

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

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

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

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

Commitments

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

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

Performance management priorities

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

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

Chapter 2 – Quality Assurance

Introduction

It is critical for Ecology to produce and use environmental information⁸ that meets quality standards, as we assess and report on the condition of the air, water, and land. Quality data are necessary to understand problems, take corrective actions, and support joint agency priorities. EPA and Ecology will continue to ensure scientific integrity objectives are reflected within our work. Robust mechanisms will ensure objectivity, clarity, and reproducibility to protect and maintain a shared culture of scientific integrity as we carry out actions under this PPA.

Quality assurance requirements for grants and cooperative agreements to state and local governments are implemented in 2 CFR Part 1500.12 Quality Assurance. The law states:

Quality assurance applies to all assistance agreements that involve environmentally related data operations, including environmental data collection, production or use. Recipients shall develop a written quality assurance system commensurate with the degree of confidence needed for the environmentally related data operations.

To meet the federal requirements Ecology uses:

- Quality assurance policies.
- A quality management plan.
- Standard operating procedures.
- Quality assurance project plans.

Quality assurance policies

Ecology Policy 22-01 – Establishing Quality Assurance

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

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

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

⁸ EPA's Quality Policy and Procedure Directives were updated in 2022 to include an expanded definition of environmental information requiring an approved Quality Assurance Project Plan (QAPP).

Environmental programs encompass the collection, production, evaluation, or use of environmental information and the design, construction, operation, or application of environmental technology.

Collectively these activities are referred to as environmental information operations.

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

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

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

Quality Management Plan

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

Ecology's current QMP is based largely on requirements set out by EPA in their [Requirements for Quality Management Plans](#) (EPA, 2001, 2006).⁹ Ecology revised the QMP in 2020. EPA Region 10's Quality Assurance Manager and the director of the Washington Operations Office approved the QMP the same year. The approved QMP delegates EPA's authority to Ecology to review and approve Quality Assurance Project Plans (QAPPs), using the approved procedures in the QMP.

Ecology can revise the QMP and submit it to EPA for review and approval every five years. Ecology expects to submit the next revision to EPA in December 2025. This update will incorporate the requirements established in EPA's IT/IM Directive Standard CIO- 2105-S-1.1.

Standard operating procedures

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

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

⁹ <https://www.epa.gov/quality/epa-qar-2-epa-requirements-quality-management-plans>

Quality Assurance Project Plans

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

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

Status report

Ecology's QMP specifies the agency QA Officer must prepare a status report for management every three years. This status report also includes recommendations for improvements to the QMP and its implementation. The most recent report is *Washington State Department of Ecology Quality Report to Management (QRM)*¹⁰ July 2018–June 2021. Ecology expects to issue the next QRM in mid-2025.

EPA quality system review

EPA Region 10's Quality Assurance Manager and QA Team audits approved state environmental programs within the region. EPA performed an audit of Ecology's quality systems in May 2024. This audit resulted in no findings and four observations.

Quality assurance training

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

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

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

¹⁰ [Quality assurance](https://ecology.wa.gov/Issues-and-local-projects/Investing-in-communities/Scientific-services/Quality-assurance) (https://ecology.wa.gov/Issues-and-local-projects/Investing-in-communities/Scientific-services/Quality-assurance)

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

- Onboarding for all new staff that includes key QA topics.
- Comprehensive QA training for program QA Coordinators, with emphasis on QMP requirements. The goal is to provide QA Coordinators the tools to support program staff.
- Ecology-wide QMP training to impart the new requirements outline in the up-coming update of the QMP.
- A more extensive set of web-based QA materials for annual review by all staff who are directly involved in generating or using environmental information.

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

Chapter 3 – Information Management

Introduction

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

Data sharing

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

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

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

In accordance with RCW 39.34.240, Ecology and EPA will enter into data sharing agreements when sharing confidential information to ensure that personal and sensitive information is secured and handled appropriately.

Data coordination

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

- Findability.
- Accessibility.
- Interoperability.
- Reuse.

EPA Region 10 data officer will continue to coordinate the data stewards across their region, in coordination with the Agency Data Officer in headquarters. Ecology and EPA will continue to integrate the data between the systems in Table 2.

Table 2. Data sharing systems between Ecology and EPA

Ecology System	EPA System
Facility Site	Facility Registry Service
TurboWaste/RCRAInfo ¹¹	RCRAInfo
TurboPlan	TRIDEX
Water Quality Assessment Tracking System (WATS) ¹²	The Assessment, Total Maximum Daily Load (TMDL) Tracking and Implementation System (ATTAINS)
Water Quality Portal/PARIS ¹³	Enforcement and Compliance History Online website (ECHO) via the Integrated Compliance Information System- National Pollutant Discharge Elimination System (ICIS-NPDES)
EIM ¹⁴	WQX
EIM	National Ground-Water Monitoring Network (NGWMN)

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

Both agencies will continue to promote more data sharing with Tribes, communities, and local and regional governments. See Ecology's website for the many [publicly accessible databases](https://ecology.wa.gov/About-us/Online-tools-publications/Online-tools-databases).¹⁵

Since the last agreement, Ecology completed the awarded Exchange Network Grant project. This project was completed on schedule and resulted in a modern data flow integration between Ecology's Environmental Information Management (EIM) and the Water Quality Exchange (WQX).

Ecology established a new Enterprise Data Section with two new data leadership roles. The newly established Chief Data and Privacy officer and Enterprise Data Steward positions will focus on governance, privacy, and data management while supporting data efforts across the agency, with a goal to establish a One Ecology approach to data and information.

¹¹ TurboWaste data generally flows weekly. On occasion, a physical check of a paper file is required to provide accurate data, but data still flows at least monthly. TurboWaste was retired after the 2024 reporting period that ended in March 2025. Generators will be able to report for reporting years 2024 and prior in TurboWaste. All future reporting will be submitted in RCRAInfo's reporting modules.

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

¹³ Ecology flows PARIS data into ICIS-NPDES nightly.

¹⁴ Ecology completed this project as part of the 2021-2023 agreement to expand data flows through the National Environmental Information Exchange Network.

¹⁵ <https://ecology.wa.gov/About-us/Online-tools-publications/Online-tools-databases>

Environmental Information Exchange Network

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

EPA's goal is for all of Ecology's data to flow to EPA's Priority National Data Systems through the Exchange Network.

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

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

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

Chapter 4 – Compliance Assurance

Introduction

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

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

Enforcement and compliance principles

EPA focuses its enforcement and compliance assurance resources on the most serious environmental violations by developing and implementing national program priorities, called National Enforcement and Compliance Initiatives (NECIs). The NECIs are in addition to the EPA's core enforcement work, including protecting clean and safe water, reducing air pollution, and protecting safe and healthy land.

Compliance coordination

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

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

Consideration of economic benefits of non-compliance

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

EPA expects Ecology, as a matter of course, to consider economic benefit as part of penalty calculations, and to assess and collect economic benefit when deemed significant as defined in

policy. EPA will evaluate Ecology on its implementation of this policy under the State Review Framework. EPA has a financial model called [BEN](#)¹⁶ that Ecology can use to calculate the economic benefits of non-compliance. Ecology has used this tool, for example, to assess the potential economic benefit of deferred maintenance. Ecology's [Compliance Assurance Manual](#)¹⁷ (July 2021) includes a statement that Ecology should consider economic benefit in their penalty calculations when appropriate to do so.

Alternative methods of achieving compliance

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

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

Evaluating compliance assurance programs

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

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

¹⁶ <https://www.epa.gov/enforcement/penalty-and-financial-models>

¹⁷ <https://apps.ecology.wa.gov/publications/SummaryPages/2101001.html>

Chapter 5 – Enhancing Public Health by Improving Air Quality

Introduction

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

- Washington’s seven local [clean air agencies](#).¹⁸
- Washington State Department of Ecology.
- United States Environmental Protection Agency.
- Federally Recognized Tribes.¹⁹
- State of Washington Energy Facility Site Evaluation Council.

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

This Agreement’s purpose is to improve environmental quality through partnership between local clean air agencies, Ecology, and EPA. Partners to this Agreement commit to the mission of protecting and improving air quality to achieve clean, healthy air for all of Washington.

This Agreement describes the actions and activities the partners will perform to achieve this mission. Ecology and EPA recognize that needs vary across the state, and some Washington communities bear the burden more than others. Through our mutual efforts to ensure safe and healthy air for every Washington community, the partners commit to:

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

¹⁸ <https://ecology.wa.gov/About-us/Our-role-in-the-community/Partnerships-committees/Clean-air-agencies>

¹⁹ While not a grantee under the Performance Partnership Grant, Ecology, local clean air agencies, and EPA work with Tribes on several fronts, including through the Northwest Air Quality Communicators, smoke management efforts, and particulate matter reduction efforts.

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

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

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Review process

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

Objectives, outputs, and measures

Reduce criteria pollutants and regional haze

Objective

The objective is to meet air quality standards that protect public health and welfare. As part of this objective, emissions and ambient concentrations of criteria pollutants would decrease. The number of exceedances of ambient air quality standards would decrease. We will also work toward a September 30, 2026, goal of improving measured air quality in counties not meeting the current National Ambient Air Quality Standards (NAAQS) from the 2016 baseline by 10 percent.

During periods of poor air quality, Ecology and/or local clean air agencies will notify the public and sensitive groups about the health effects of poor air quality. This will include information about how wood burning and other individual choices affect air quality and health.

Outcome Measures

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

Outputs

1. Ecology will coordinate with local clean air agencies, EPA, and Tribes to ensure compliance with all NAAQS.
2. Ecology, EPA, and the local clean air agencies will coordinate on designation recommendations and related nonattainment planning.
3. When required, Ecology and the local clean air agencies will submit the New Source Review (NSR) rules to EPA that are federally approvable and consistent with federal rules and guidance.
 - a. Ecology, in coordination with Washington State’s Energy Facility Site Evaluation Council and the local clean air agencies, will maintain an up-to-date NSR program (both major and minor NSR, as applicable), including any necessary rule updates in the State Implementation Plan (SIP).
4. Ecology, EPA, and the local clean air agencies will update the SIP as needed to reflect local air quality agency rules and jurisdiction.
5. Ecology will submit “infrastructure” SIP certifications for NAAQS as required by sections 110(a)(1) and (2) of the Clean Air Act for 2024 annual particulate matter and any other NAAQS revisions.
6. Ecology will submit a SIP addressing the “transport” element in section 110(a)(2)(d) of the Act for the 2024 annual particulate matter NAAQS and any other NAAQS revisions.
7. Ecology submitted a SIP revision to address the second planning period of the Regional Haze Program on January 26, 2022. Ecology and EPA will continue to collaborate on SIP development to address the third planning period, with a SIP revision deadline extension proposal by EPA to July 2031.
8. Ecology, EPA, and the local clean air agencies will coordinate to quickly and efficiently address ongoing Clean Air Act (CAA) requirements such as CAA 175A (second 10-year maintenance plans) and CAA 110(l) plan revisions to maintain a modern, effective, and legally defensible air program reflected in the SIP.

9. Ecology, EPA, the local clean air agencies, and the Washington State Department of Natural Resources will coordinate on smoke management, including ongoing multi-agency regional efforts to address wildfire risk using prescribed fire to reduce fuels while protecting public health.

Ongoing Activities

10. Ecology and local clean air agencies will seek state and federal funds to address wood stove use in communities where PM_{2.5} levels are high due to the use of residential wood stoves.
11. Ecology will implement funding programs and seek additional funds to address sources of criteria air pollution in communities across Washington.
12. About six months before a significant SIP submittal is due to EPA, Ecology, in cooperation with the local clean air agency, will develop an initial SIP Development Plan.²⁰ The SIP Development Plan will include schedules negotiated with EPA. EPA will review and comment on draft SIP revisions before the public comment period. EPA will generally need at least four weeks to review draft SIP submissions before the public comment period.
13. Ecology, EPA, and local clean air agencies will discuss any new PM_{2.5}, sulfur dioxide, or ozone violations and any possible designation recommendations.
14. EPA, Ecology, and affected local clean air agencies will communicate about the status of pending SIP submittals when applicable. They will also coordinate on prioritizing SIP reviews and approvals. EPA will share or update the SIP workload status. Ecology will inform EPA of any new SIP submittals in a timely manner.
15. Ecology and the local clean air agencies will work with EPA to identify exceptional events with potential regulatory significance in accordance with the Exceptional Event rule, will use appropriate flag codes, and will coordinate with EPA on preparing documentation in accordance with the Exceptional Events rule and guidance documents.
16. With EPA's support, Ecology and local clean air agencies will:
 - a. Implement wood stove burn ban programs.
 - b. Advise the public when air quality is poor.
17. Ecology and local clean air agencies will:
 - a. Manage their own permit programs.
 - b. Provide public information and education.
 - c. Oversee air quality advisory systems for outdoor burning.

²⁰ For less significant or less time critical SIP submissions, Ecology and EPA have successfully used the bi-weekly staff call in lieu of a formal SIP Development Plan.

- d. Revise rules as needed for effective air quality programs.
- e. Submit timely SIP revisions to EPA.

18. EPA will:

- a. Serve as regional smoke coordinator by working with federal agencies, other Northwest states, and Tribes to improve smoke management coordination and tools.
- b. Host at least one meeting per year on smoke management issues.
- c. Provide updates and share information on relevant states' approaches to managing smoke from prescribed fire as Region 10 staff become aware of it.
- d. With the U.S. Forest Service Region 6, convene and host the Pacific Northwest Prescribed Fire and Smoke Management Executive Task Force and Regional Implementation Team to support pilot projects.

19. Ecology and the local clean air agencies will amend their rules and plans as needed to maintain effective air quality programs and an up-to-date SIP and submit timely SIP revisions to EPA. Ecology will have the Attorney General's Office review Ecology rules for SIP submittals.

20. With Ecology and EPA assistance, local clean air agencies will review local rules to be included in the SIP.

Reporting

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

Air toxics

Objectives

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

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

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

Outcome Measures

1. Tons of diesel exhaust emitted statewide.
2. Number of diesel engines replaced with cleaner technologies.
3. Number of woodstoves changed out.
4. Emission levels of toxic air pollutants shown in the National Emission Inventory (NEI) report.

Outputs

1. Ecology will continue to review the EPA's 2022 Emissions Modeling Platform and coordinate with EPA to prepare the 2023 NEI. Ecology will continue to submit activity data to EPA for the 2023 NEI so that EPA-calculated criteria and toxics inventories can be improved using state data. Ecology will complete the work on the 2023 NEI in 2025.

Ongoing Activities

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

Reporting

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

Permitting and program delegation

Objective

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

Outcome Measures

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

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

Ongoing Activities

Ecology and local clean air agencies will:

1. Administer the following air quality permitting programs for commercial and industrial sources:
2. Preconstruction permits for new major sources or major modifications (PSD, NAA-NSR).
 - a. Rules under 40 CFR Parts 60, 61, 62, and 63 adopted by the state along with any additional rules under these Parts adopted by local clean air agencies.
 - b. Air Operating Permits for existing and new sources.
3. Use EPA-approved models and methods, in accordance with 40 CFR Part 51 Appendix W, for air quality analysis for commercial and industrial source permits or seek EPA approval of alternative models or methods when applicable.
4. Ecology will, for PSD permits, conduct Best Available Control Technology evaluations in a manner consistent with EPA's top-down, five-step procedure.
5. Ecology and the local clean air agencies will consider relevant EPA guidance and interpretations when determining the applicability of PSD and Nonattainment New Source Review.
6. Ecology and the local clean air agencies will implement SIP pre-construction permitting (PSD, Nonattainment New Source Review, and minor permits) as specified in the approved SIP and in state rules.
7. As resources and schedules allow, EPA will participate in quarterly Permit Writers Workgroup meetings and co-host permitting workshops in Region 10 on the implementation of the NSR or Title V programs.
8. EPA and Ecology will communicate with each other about permitting issues openly, directly, and in a timely manner.
9. Ecology will:
 - a. Send EPA each major NSR permit application upon receipt.
 - b. Notify EPA when a major NSR permit application has been determined to be incomplete or complete.
 - c. Informally communicate draft major NSR permits and supporting information to EPA at the start of each public comment period.

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

Reporting

Ecology and local clean air agencies will:

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

Compliance Assurance

Objective

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

- Compliance assistance.
- Compliance monitoring.
- Appropriate enforcement.
- Follow-up to ensure return to compliance.

Outcome Measures

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

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

Outputs

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

Ongoing Activities

1. Ecology and local clean air agencies will conduct compliance programs according to the 2016 national Compliance Monitoring Strategy for those sources and activities to which the strategy applies.
2. Agencies will resolve high priority violations according to EPA’s 2014 “Timely and Appropriate Enforcement Response Guidance for HPVs.” Ecology, local clean air agencies, and EPA will hold quarterly conference calls to discuss:
 - a. HPVs.
 - b. Policy and strategy issues.

3. EPA will conduct compliance monitoring and enforcement on Tribal lands.
4. For programs not delegated to the state or local clean air agency, EPA has sole authority for:
 - a. Complaint response.
 - b. Inspections.
 - c. Priority enforcement actions.
 - d. Other activities statewide.
5. EPA retains authority to conduct inspections and enforcement actions under the Clean Air Act. EPA will use this authority for national and regional priority work and as requested by state and local clean air agencies. Both parties adhere to a “no-surprises” policy for compliance activities and enforcement actions. If EPA inspects a facility to determine compliance with a non-delegated program requirement, and the facility is one the state or local agency regularly inspects for delegated program purposes, EPA will notify the state or local agency before EPA takes action. EPA will also provide advance notice of EPA’s enforcement for delegated or approved programs.
6. Ecology and the local clean air agencies will continue working with EPA to implement recommendations and address areas that need attention as identified in the 2022 State Review Framework review and report.
7. Ecology and the local clean air agencies will participate in the annual enforcement data verification process. Each fall EPA headquarters will post the specific set of data verification metrics on the database “Enforcement and Compliance History Online” (ECHO). Ecology and the local clean air agencies will ensure any necessary data corrections are made in the program data systems.

Reporting

1. All agencies will meet timely and accurate reporting requirements contained in the national MDRs,²¹ CMS,²² FRV,²³ and HPV²⁴ policies.

²¹ MDRs (FRVs are a subset of the MDRs): [Minimum Data Requirements for CAA Stationary Sources Compliance](http://www.epa.gov/compliance/guidance-minimum-data-requirements-mdrs-caa-stationary-sources-compliance), January 2012 (<http://www.epa.gov/compliance/guidance-minimum-data-requirements-mdrs-caa-stationary-sources-compliance>)

²² CMS Policy: [Clean Air Act Stationary Source Compliance Monitoring Strategy](http://www.epa.gov/compliance/clean-air-act-stationary-source-compliance-monitoring-strategy), July 2014 (<http://www.epa.gov/compliance/clean-air-act-stationary-source-compliance-monitoring-strategy>)

²³ FRV Policy: [Guidance on Federally-Reportable Violations for Clean Air Act Stationary Sources](http://www.epa.gov/compliance/guidance-federally-reportable-violations-stationary-air-sources), September 2014 (<http://www.epa.gov/compliance/guidance-federally-reportable-violations-stationary-air-sources>)

²⁴ HPV Policy: [Revised Timely and Appropriate \(T and A\) Enforcement Response to High Priority Violations \(HPVs\) Policy](http://www.epa.gov/enforcement/revised-timely-and-appropriate-t-and-enforcement-response-high-priority-violations-hpvs), August 2014 (<http://www.epa.gov/enforcement/revised-timely-and-appropriate-t-and-enforcement-response-high-priority-violations-hpvs>)

2. Ecology and local clean air agencies will update their databases, as needed, and enter timely, accurate, and complete ICIS-Air data.
3. EPA will communicate to Ecology and affected local clean air agencies about EPA's enforcement actions in a timely manner, and before actions are finalized.

Monitoring and assessment

Objective

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

Outcome Measures

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

Outputs

1. Ecology works with local clean air agencies to complete and submit a review of the air-monitoring network to EPA by July 1 of each year. EPA will respond within 120 days of Ecology submitting the monitoring network plan.
2. Ecology certifies its prior calendar year of ambient air monitoring to EPA by May 1 of each year.
3. Ecology, EPA, and local clean air agencies will use a wide variety of communication tools, such as listservs, emails, social media, and web pages to inform the public about air monitoring results.
4. Ecology, EPA, and local clean air agencies will use data resources to support communication and understanding about identified air pollution problems.

Ongoing Activities

1. Ecology and local clean air agencies will operate the statewide network of State and Local Air Monitoring Station sites, according to 40 CFR Part 58.
2. Ecology will:
 - a. Submit monitoring data to Air Quality System within 90 days of the end of each quarter.
 - b. Provide a quality assurance program for ambient data as required by 40 CFR Part 58, Appendix A.

- c. Work with local clean air agencies to collect data and prepare emission inventory and air monitoring databases to support air quality modeling.
 - d. Complete and report on any corrective actions identified as part of Technical Systems Audits.
3. EPA will:
- a. Review and approve an annual monitoring network review within 120 days of Ecology's submittal.
 - b. Provide annual quality assurance audits as required by 40 CFR Part 58, Appendix A.
 - c. Review and approve requests to modify the monitoring network outside of the ANP process, if necessary.
 - d. Conduct Technical Systems Audits on a 3-year cycle.
 - e. Provide consistent, transparent criteria and guidance regarding the requirements for any modification to the network.

Reporting

Ecology will:

- 1. Submit Air Quality System data to EPA within 90 days of the end of each quarter.
- 2. Write and submit quarterly data completeness reports to EPA.
- 3. Provide hourly near-real-time data to the public via Ecology's website and EPA's AirNow system.
- 4. Provide ambient data to EPA upon request.

Chapter 6 – Hazardous Waste

Introduction

Ecology implements the EPA-authorized Hazardous Waste Program pursuant to the federal Resource Conservation and Recovery Act (RCRA), as amended. As the authorized RCRA Hazardous Waste Program in Washington, Ecology's rules act in lieu of the federal rules. The RCRA program is administered through the Washington State Dangerous Waste Regulations, [Chapter 173-303 WAC](#).²⁵

This chapter of the Agreement addresses RCRA implementation in Washington State, including general procedures for assuring compliance, conducting hazardous waste cleanup (corrective action) and permitting. Additional details on how EPA and Ecology manage RCRA authorization and activities in Washington State are included.

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Compliance Assurance

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

Ecology does this by assuring compliance with state and federal rules and encouraging waste minimization practices. Ecology's RCRA permitting work follows the procedures of the federal laws as specified in 40 CFR Part 270.

²⁵ <http://app.leg.wa.gov/WAC/default.aspx?cite=173-303>

Ecology's Resource Conservation and Recovery Act activities

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

- Hazardous Waste and Toxics Reduction Program (HWTR):²⁶ The HWTR program is responsible for implementing most of the RCRA-based activities in the state.
- Industrial Section,²⁷ within the Solid Waste Management Program:²⁸ The Industrial Section has specific RCRA responsibilities for:
 - Refineries.
 - Pulp and paper mills.
 - Aluminum smelters.
 - Other specific large industrial sites.
- Nuclear Waste Program (NWP):²⁹ The NWP has specific RCRA responsibilities at the United States Department of Energy—Hanford Site and three other facilities that manage dangerous and/or mixed (radioactive and hazardous) waste:
 - Perma-Fix Northwest Richland, Inc.
 - Puget Sound Naval Shipyard.
 - Energy Northwest's Columbia Generating Station.

EPA's Resource Conservation and Recovery Act activities

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

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

- State hazardous waste cleanup (corrective action).
- Permitting.
- Compliance and enforcement activities.

²⁶ [Hazardous Waste & Toxics Reduction](https://ecology.wa.gov/Waste-Toxics) (https://ecology.wa.gov/Waste-Toxics)

²⁷ [Industrial facility permits and regulation](https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Industrial-facilities-permits) (https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Industrial-facilities-permits)

²⁸ [Solid Waste Management](https://ecology.wa.gov/About-us/Get-to-know-us/Our-Programs/Solid-Waste-Management) (https://ecology.wa.gov/About-us/Get-to-know-us/Our-Programs/Solid-Waste-Management)

²⁹ [Nuclear waste oversight](http://www.ecy.wa.gov/programs/nwp/index.html) (www.ecy.wa.gov/programs/nwp/index.html)

Part of this oversight includes in-depth reviews of state programs using the State Review Framework (SRF),³⁰ designed to evaluate the state's permitting, compliance, and enforcement programs. EPA historically conducts SRF reviews every five years.

Region 10 conducted a SRF review with Ecology in 2021–2022 for Fiscal Year 2019.

Fiscal Year 2019 was selected for review for the SRF instead of the scheduled 2020 fiscal year because the COVID-19 pandemic restrictions reduced Ecology's inspection numbers in 2020. EPA also selected 2019 as more representative for the purpose of the SRF review. In an April 26, 2024, email from the EPA Region 10 Enforcement and Compliance Division Director, EPA determined the RCRA component of the June 2022 State Review Framework Final Report was adequately addressed.

EPA may conduct a Permit Quality Review, in coordination with Ecology, at any time. In addition, EPA will hold an annual permitting program coordination meeting.

Evaluating commitments and levels of effort

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

Ecology and EPA will review this Agreement's commitments and progress at its midpoint. This midpoint review will start in the spring of 2026, culminating with a revised RCRA Work Plan that will become effective July 2026 for the second half of the Agreement. The RCRA Managers Quarterly meetings will be the primary venue to track this review.

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

To meet state priorities, Ecology will work to achieve the following goals and priorities in state fiscal years 2026–2027:

1. Minimize environmental threats caused by mismanagement of hazardous waste by implementing effective compliance assurance activities, including fair and firm enforcement.
2. Continue to improve the Dangerous Waste Regulations and maintain an authorized RCRA program, no less stringent than the federal program.

³⁰ <https://www.epa.gov/compliance/state-review-framework>

3. Accomplish timely permitting to ensure protective and compliant permitting, closure, post-closure, and hazardous waste cleanup (corrective action).
4. Improve internal and external access to meaningful, quality information for use in accomplishing RCRA and related work, including collecting information to measure progress and success.
5. Work with EPA to minimize duplicative efforts, and coordinate in advance to streamline EPA's review and approval of state actions when necessary.

Collectively, both agencies will assess progress towards RCRA priorities and goals through:

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

Environmental and performance indicators

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

- Permitting.
- Hazardous waste cleanup (corrective action).
- Compliance.

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

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

Permitting

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

Hazardous waste cleanup (corrective action)

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

Compliance

- Adequacy of inspection coverage, as noted in [EPA's Compliance Monitoring Strategy](#).³¹
- Number of inspections, violations, percentage of violations returned to compliance, percentage of violations returned to compliance in 30 days, rates of significant noncompliance, and percentage of significant noncompliance facilities that return to compliance.

Grant related activities

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

- Enter all appropriate RCRA information into EPA's national RCRAInfo database as defined in and within the timeframes of the RCRA Data Management Agreement between Ecology and EPA, dated May 22, 2019.
- Collect and prepare annual dangerous waste reports.
- Collect and process dangerous waste activity notifications and assign EPA/State ID numbers.
- Conduct inspections that meet statutory mandates, the National Compliance Monitoring Strategy for RCRA³² and state-priority evaluations as specified in the RCRA Work Plan.
- Conduct appropriate follow-up and enforcement activities to address violations.

³¹ <https://www.epa.gov/compliance/compliance-monitoring-strategy-resource-conservation-and-recovery-act>

³² <https://www.epa.gov/system/files/documents/2021-12/rcracms.pdf>

- Track RCRA closure, post closure, and corrective action work to meet RCRA Work Plan commitments necessary for achieving the Government Performance and Results Act goals.
- Conduct permitting work to meet the national Government Performance and Results Act permitting goals for RCRA.
- Maintain RCRA authorization and coordinate with EPA to update state regulations.

Fund allocation and full-time employee summary

Ecology staff works on Ecology's RCRA activities funded in part by the RCRA grant (see Chapter 1). For the purposes of this Agreement, one full-time employee (1 full-time equivalent or FTE) equals \$156,934 per year. Ecology's and EPA's RCRA funding and staffing for this Agreement are based on the following:

- The total number of Ecology FTEs funded by EPA RCRA grant is 14.7.
- At the time of the request for public comment, funding amounts have not yet been determined. In the previous EPA RCRA grant, the first-year total project amount was \$2,306,933, which consisted of \$1,730,199 (11.04 FTEs) of federal money and \$576,733 (3.66 FTEs) required state matching funds. Second-year amounts were similar.

Resource Conservation and Recovery Act Work Plan

Ecology's RCRA commitments under the EPA RCRA grant are described in the Annual RCRA Work Plan according to Ecology's State Fiscal Year (July 1 through June 30). Ecology will write a RCRA Work Plan for each year of this Agreement, which includes commitments for the HWTR Program, the NWP, and the Industrial Section. The RCRA Work Plan will be mutually tracked during the Agreement, and it may be adjusted as needed by mutual agreement documented in writing.

Resource Conservation and Recovery Act Authorization

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

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

Resource Conservation and Recovery Act Information Management

Ecology will enter all appropriate RCRA data into EPA's national hazardous waste database, RCRAInfo. Each of the Ecology programs conducting RCRA work will be responsible for their

respective data quality and data entry. Ecology's RCRA data and information management-related activities include:

- Inspections and any resulting violations.
- Enforcement actions, including penalty data.
- Return to compliance information.
- Financial assurance reviews.
- Permit milestones.
- Closure and post-closure milestones.
- Hazardous Waste Cleanup Program (Corrective Action) milestones.
- Other data necessary to track environmental and performance indicators.
- Collection and maintenance of dangerous waste notifications and annual reporting documents.

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

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

Ecology will:

1. **Maintain procedures to assure data quality and timely data entry.** Inspection, compliance monitoring, and enforcement data will be entered/updated monthly in RCRAInfo. Within 30 days of the conclusion of a site visit, data will be entered in RCRAInfo, including at least the inspection type, date, and initial assessment of any compliance issues observed. Additional compliance and enforcement data entry will occur within 30 days of completion of inspection reports, issuance of enforcement actions, or finalization of other documentation.
2. **Review all other facility-specific RCRAInfo data** (including permitting, closure, corrective action, and facility status). Data will be reviewed for accuracy and entered into RCRAInfo according to the RCRA Data Management Agreement between Ecology and EPA dated May 22, 2019. The data will also be reviewed and discussed as needed at the RCRA Managers' Quarterly meetings.
3. **Collect and process annual reports.** Information from the RCRAInfo data system supports all handler information. All information required for the biennial report must meet EPA's biennial report deadline.
4. **Continue to participate in the Region 10 RCRAInfo Workgroup.** This involves supporting data sharing and compatibility with RCRAInfo as needed. Examples include receipt of annual dangerous waste reports and withdrawing EPA/State ID numbers when appropriate. It also includes the translation of handler data from Ecology's historical

TurboWaste system to RCRAInfo. Participation in the RCRAInfo Workgroup helps ensure collaboration and data quality assurance.

5. **Collect and process notifications of dangerous waste activity forms.** Forms will be collected and processed for all reported Washington hazardous waste activities where Ecology has jurisdiction.
6. **Participate in national RCRAInfo workgroup.** This involves participating and engaging in monthly national calls regarding implementation and updates to RCRAInfo.

EPA will:

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

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

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

Compliance Assurance

Ecology will:

- Address violations and compliance issues in a manner consistent with the Compliance Section of the RCRA MOA.
- Conduct the type and number of inspections committed to in the RCRA Work Plan.

- Record the following data in RCRAInfo according to EPA’s [Hazardous Waste Civil Enforcement Response Policy](#).³³
 - The date a site is classified as in significant noncompliance, including the standard evaluation data.
 - Inspections characterizing sites as secondary violators, including appropriate evaluation and enforcement data.
 - Economic benefits businesses accrued through noncompliance, in its penalty calculations, as guided by EPA’s RCRA Civil Penalty Policy, BEN software, or other type of analysis tool.
- Review significant noncompliance records in RCRAInfo for quality assurance monthly.
- Complete inspection reports within 150 days.

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

Hazardous Waste Cleanup (Corrective Action)

Ecology and EPA are working toward meeting the goals set by the federal [Government Performance and Results Act](#).³⁴ This act establishes goals for the corrective action program using EPA’s “2030 Corrective Action Progress Track,” which includes:

- Facilities on EPA’s 2030 corrective action progress track (CAPT). This includes 53 sites within the state of Washington.
- Other facilities that Ecology and EPA agree are appropriate to address under corrective action.

Through 2030, the Hazardous Waste Cleanup Program will ensure RCRA cleanups are initiated and completed efficiently and quickly. EPA and Ecology commitments regarding what work is planned and what progress is made will be visible to the public. An ambitious universe of cleanups will be identified for completion by 2030. Ecology and EPA will use the relevant Hazardous Waste Cleanup Program measures below to measure cleanup progress.³⁵

Ecology’s specific commitments for federal fiscal years 2026–2027 are identified in the RCRA Work Plan.

Ecology and EPA will use the Hazardous Waste Cleanup Program measures below to identify cleanup progress.

- Human Exposures Under Control (CA725).

³³ <https://www.epa.gov/enforcement/hazardous-waste-civil-enforcement-response-policy>

³⁴ <https://www.performance.gov/about/performance-framework/>

³⁵ <https://www.epa.gov/hw/learn-about-corrective-action>

- Migration of Contaminated Groundwater Under Control (CA750).
- Remedy Construction Complete (CA550 OF³⁶).
- Cleanup Complete (CA900 or CA999).
- Ready for Anticipated Use (CA 800 RAU³⁷).

Ecology and EPA will use Washington’s [Model Toxics Control Act \(MTCA\)](#),³⁸ the state’s cleanup authority, to regulate corrective action requirements, including the issuance of enforcement orders. Both agencies will continue to use a permit lite process that incorporates by reference the MTCA legal mechanisms (for example, MTCA enforcement orders, agreed orders, and consent decrees) as a permit condition.

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

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

Quarterly and Annual Updates

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

Permitting and Closure Work Commitments

Ecology and EPA will strive to meet EPA’s national baseline for treatment, storage, and disposal facility permitting. The goal for treatment, storage, and disposal permitting for federal fiscal years 2026 and 2027 is for 100 percent of the hazardous waste management facilities to have controls in place to prevent toxic releases to air, soil, surface water, and groundwater.

Ecology’s permit renewals combined with EPA Region 10’s renewals contribute towards the national goals.

³⁶ Operating Facility

³⁷ Ready for Anticipated Use

³⁸ <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Rules-directing-our-cleanup-work/Model-Toxics-Control-Act>

Ecology will:

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

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

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

Ecology intends to work on permit lite and accompanying MTCA legal mechanism negotiations, during the period of this Agreement, for facilities named in the RCRA Work Plan.

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

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

- Requiring the United States Department of Energy to submit revised permit application information.
- Modifying the 2012 draft Hanford Site-wide permit to address substantive comments and issues.
- Preparing a revised draft Hanford Site-wide permit that is scheduled for public comment in 2025.
- Responding to public comments.
- Issuing the final Hanford Site-wide permit with all renewals in place by 2026.

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

Technical assistance from the Environmental Protection Agency

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

The Environmental Protection Agency's coordination

State Review Framework

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

Program Coordination

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

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

Chapter 7 – Water Quality

Introduction

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

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

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

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

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

The total project amount for water quality projects and activities over the two years of the Agreement is still being finalized. During the last biennium, the EPA water quality grant funded 42 full-time Ecology employees. Refer to the PPG and its associated detail for funding categories and specific amounts, such as the number of Ecology full-time employees (FTEs) funded.

1. Administrative

Ecology

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EPA

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Objectives

- The Agreement is managed for efficiency and accountability.

- Electronic data sharing is the preferred mechanism to transfer information.

Activities and Measures

- 1A. Ecology will develop water quality performance measures and will provide a written status report to EPA on a semi-annual basis by January 31 and July 31 of each year.
- 1B. Ecology and EPA water quality managers will meet annually to discuss key water quality issues and progress in meeting the commitments in this Agreement. Ecology will organize and host the annual meeting in odd years, and EPA will organize and host in even years.
- 1C. EPA will participate in Water Quality Program management meetings when necessary to coordinate an effective water quality program. EPA will provide Ecology with relevant information on implementing water quality regulatory programs including water quality protection programs of other states to assist Ecology. EPA will notify Ecology of any federal law, rule change, or policy interpretation that would necessitate a change in state law to maintain a delegated program. Ecology will work with EPA to develop appropriate responses to such notification.
- 1D. Ecology's Environmental Assessment Program will update the 2005 Clean Water Act Monitoring Strategy by June 30, 2027. The purpose of this document is to (1) describe the elements of Washington State's water monitoring program, (2) articulate the state's programmatic and resource needs, and (3) serve as a tool to help EPA and the state determine whether the monitoring program meets the prerequisites of CWA Section 106(e)(1).

2. Nonpoint Source Pollution Control

Ecology

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EPA

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Objectives

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

Activities and Measures

- 2A. Ecology will implement the Ecology actions identified in the current EPA-approved Water Quality Management Plan to Control Nonpoint Source Pollution (also known as the Washington State Nonpoint Plan), depending on available funds.
- 2B. Ecology will submit to EPA an annual program report by April 30 of each calendar year. If more time is needed to complete the annual report, Ecology will notify EPA and set a mutually agreed date to submit the report. At a minimum, the report shall contain a summary of progress in implementing the program, including information about the schedule of milestones in the approved Washington State Nonpoint Plan. The report will also include a discussion of the following:
- Update about the status and progress of best management practices (BMP) guidance development.
 - Description of updates to Washington funding guidelines based on BMP guidance development.
 - Use of BMP guidance for technical assistance.
 - Use of BMP guidance in new Water Quality Improvement Plans, also known as Total Maximum Daily Loads, including implementation plans, and Total Maximum Daily Load alternatives.
 - BMP outreach and training materials developed and provided to field staff.
 - Implementation actions related to the previous year's priority watersheds.
 - Number of watershed evaluations conducted per watershed.
 - Number of complaints received and summary of complaint types.

EPA will use this report, along with other materials, as the basis for determining continued eligibility for future CWA Section 319 grants.³⁹

- 2C. Per the settlement, Ecology will submit a Washington State Nonpoint Plan update to EPA by the end of 2025.⁴⁰ The update should incorporate the agricultural BMPs identified to date, and include a commitment to:
- Use the BMPs for Washington's CWA Section 319 grant funding program.
 - Develop and implement Total Maximum Daily Loads (TMDLs) and other advanced restoration projects, including but not limited to Straight to Implementation projects, with nonpoint components.
 - Provide technical assistance.

³⁹ CWA Section 319(h)(8) and EPA's Nonpoint Source Program and Grants Guidelines for States and Territories issued April 12, 2013.

⁴⁰ Settlement Case 2:16-cv-01866-JCC, Document 175, filed 01/08/21

Ecology shall complete the development of all chapters of the agricultural BMP guidance on or before December 31, 2025.

- 2D. EPA will provide technical expertise to Ecology's process to develop the voluntary Clean Water Guidance for Agriculture.
- 2E. Ecology and EPA will submit and award the CWA Section 319 grant on a biennial basis rather than an annual basis. For the years in which Ecology applies for the grant, Ecology will submit a grant proposal no later than March 31 and EPA will process the grant and provide funding no later than July 1 of that same year. Annually Ecology will identify the priority watersheds in which Ecology will focus its non-grant implementation efforts (for example, TMDL implementation, other nonpoint source control implementation) and will include a description of priority actions to be conducted in each priority watershed. Ecology will include this information with the grant proposal in the years in which Ecology applies for the grant. For years that Ecology doesn't submit a grant proposal, Ecology will provide this information in a memo or the annual report by July 1.
- 2F. Ecology will enter the data for all 319 projects, including load reduction estimates, as applicable, into the Grants Reporting and Tracking System. Reports are due semi-annually in the fall and spring of each year, according to deadlines specified by EPA. Mandatory yearly load reduction data is due February 15 each year. Ecology will enter all other data for funded projects no later than March 31 each year.
- 2G. Ecology will continue to work with EPA to develop success stories as described by EPA guidance. Ecology and EPA will meet at least once per year to discuss potential success stories and identify if past success stories need to be modified. EPA will assist Ecology with entering success stories into the Grants Reporting and Tracking System.
- 2H. EPA will actively support Ecology as it implements its nonpoint strategy. EPA will work to ensure that EPA efforts in other areas, such as the National Estuary Program, do not conflict with the nonpoint efforts and Washington State's Nonpoint Plan to the extent practicable.
- 2I. EPA will continue to track the progress and decisions of the Forest Practices Board committees and workgroups, particularly the Timber, Fish and Wildlife Policy Committee and the Cooperative Monitoring, Evaluation and Research Committee. Ecology and EPA will continue to work with the Washington State Department of Natural Resources and other agencies to ensure forest practices rules are implemented to comply with the Habitat Conservation Plan, state water quality standards, and the Clean Water Act. EPA will assist Ecology and the [Forest Practices Adaptive Management Program](https://www.dnr.wa.gov/programs-and-services/forest-practices/adaptive-management)⁴¹ to achieve this objective where feasible.

⁴¹ <https://www.dnr.wa.gov/programs-and-services/forest-practices/adaptive-management>

3. Point Source Pollution Control

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Objectives

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

Activities and Measures: Pretreatment

Ecology

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EPA

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- 3A. Ecology will conduct an audit of each delegated pretreatment program at least every five years and a pretreatment compliance inspection or audit of each pretreatment Publicly

Owned Treatment Works (POTW) at least every two years. If Ecology is unable to complete the required audits and inspections, then Ecology must provide a plan to EPA addressing issues preventing completion of the requirements. The plan will outline proactive steps and a schedule Ecology will follow to meet audit and inspection targets. If Ecology has not fully met the requirements of the audit and inspection frequency, then Ecology must submit the plan no later than December 31 (for the previous state fiscal year⁴²). The plan must be submitted in a report with Section 3C and 3D elements as well.

- 3B. Ecology will forward copies of pretreatment compliance inspection and pretreatment audit reports (EPA Form 3560-3 or similar format) for Pretreatment POTW to the EPA Region 10 Pretreatment Coordinator.

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

- 3C. Ecology will evaluate the compliance status of all approved programs for noncompliance and report the facility names and permit numbers of POTWs with approved pretreatment programs in noncompliance to the Region 10 Pretreatment Coordinator by December 31 each year. The report will cover the previous state fiscal year.

- 3D. By December 31 each year, Ecology will:

- Report the facility names and active permit numbers of Significant Industrial Users (SIUs) discharging to NPDES POTWs without approved pretreatment programs and Categorical Industrial Users discharging to non-NPDES POTWs, and
- Identify the SIUs of that universe that have been determined to be in significant noncompliance to the Region 10 Pretreatment Coordinator.
- The report will cover the previous state fiscal year (that is, as of July 1).

- 3E. Ecology will enter all data and/or reports required under activities 3A–3D into Ecology’s Permit and Reporting Information System (PARIS). Both parties recognize activities 3A–3E relate to the State’s implementation of federal pretreatment program requirements, and information reported under activities 3A, 3B, and 3C doesn’t include non-NPDES POTW pretreatment programs authorized only by state law and rules.

Activities and Measures: Compliance and Enforcement

Ecology

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⁴² Washington’s state fiscal year is July 1-June 30, while the federal fiscal year is October 1-September 30.

EPA

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- 3F. On an as-needed basis, EPA and Ecology managers will communicate to provide updates and discuss inspection and enforcement targeting. As needed, additional topics will include:
- Priorities and goals.
 - Performance expectations.
 - Enforcement program improvements.
 - Roles and responsibilities.
 - Work sharing.
 - Avoiding duplication of efforts.
- 3G. Ecology will continue its inspection program of major and minor facilities. Ecology will implement the Clean Water Compliance Monitoring Strategy (CMS) to ensure adequate coverage of regulated entities. The CWA CMS is part of an ongoing compliance monitoring strategy developed by EPA to allow for more flexible use of resources for states performing inspections. Ecology will use the Region 10 NPDES Compliance Monitoring spreadsheet for its annual CMS plan/report to be submitted to EPA by December 31 of each year for the previous state fiscal year (July-June). This CMS submittal is both a planning document for activities planned for the upcoming year and a reporting document to report on what occurred in the previous state fiscal year. Ecology will ensure that each inspection report has a quality assurance review. This review could be done by a peer or a supervisor.
- 3H. Ecology will continue to work with EPA to ensure the upload of data from PARIS to the Integrated Compliance Information System (ICIS)-NPDES (or future EPA data system of record). Any errors that occur are to be resolved in a timely manner.
- 3I. Ecology will continue to focus on any remaining corrective actions for the “Area for Improvement” findings associated with the 2022 (Round 4) State Review Framework (SRF).
- 3J. EPA will work with Ecology to target permitted municipal wastewater, industrial wastewater, stormwater (including industrial stormwater and construction stormwater), and CSO facilities where EPA compliance monitoring and enforcement would address potential violations. EPA and Ecology will ensure that facilities identified for EPA involvement are agreed upon by both agencies.
- 3K. Ecology will participate in quarterly meetings with EPA to discuss progress on reducing actual significant noncompliance at NPDES-permitted facilities.
- 3L. Ecology will regularly evaluate compliance at permitted facilities and adequately respond to violations based upon the principles contained in the agency and program Compliance Assurance Manual.

3M. EPA will choose someone to be an ex officio member of the Water Quality Program's Enforcement Workgroup, which meets quarterly.

Activities and Measures: National Pollutant Discharge Elimination System Permits

Ecology

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EPA

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

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

- 3Q. Ecology will improve permit and fact sheet shells and other tools through its Permit Writer's Workgroup. Ecology will continue to invite EPA to participate as a guest on the Permit Writer's Workgroup to give them the opportunity to comment on Ecology's proposed changes to the permitting process.
- 3R. Ecology will participate in EPA's Permit Quality Review (PQR) of Ecology's NPDES Program. Ecology will report to EPA the status and completion of PQR action items semi-annually by March 30 and September 30 each year until action items are complete.
- 3S. Ecology and EPA will review and implement procedures for designating major NPDES facilities including both industrial and domestic wastewater facilities.

- 3T. Permitting representatives from both EPA and Ecology will meet monthly to discuss substantive permit issues and coordinate permit issuance efforts.
- 3U. Ecology and EPA will coordinate their work for the timely review and processing of requests for state CWA 401 certification for NPDES permits under EPA's authority.
- 3V. Ecology will continue to ensure the corrected data flow to ICIS (or future EPA data system of record) is properly maintained and updated as needed. The maintenance of the data flow will include ensuring the information sent to ICIS is accurate and complete in accordance with the 2015 NPDES Electronic Reporting Rule and all other applicable standards. This includes, but is not limited to, the pretreatment-related elements of the NPDES electronic reporting rule.⁴³

4. Water Cleanup Plans, Standards, Assessments

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Objectives

- Schedule, complete, implement, and evaluate the success of water cleanup plans, also known as Total Maximum Daily Loads (TMDLs).
- Ecology will move straight to implementation (STI) or use other types of alternative restoration approaches (in advance of developing a TMDL) in the appropriate watersheds.
- Develop, maintain, and implement surface water quality standards that protect beneficial uses.
- Comprehensively assess water bodies in Washington to assign categories according to water quality, to meet CWA requirements in sections 303(d) and 305(b).

⁴³ 40 CFR Part 127

Activities and Measures: Total Maximum Daily Loads

Ecology—Water Cleanup Plans (TMDLs)

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EPA—Water Cleanup Plans (TMDLs)

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4A. Ecology (Environmental Assessment Program [EAP] and Water Quality Program [WQP]) will report and track TMDLs completed as well as Straight to Implementation (STI) plans and Advance Restoration Plans (ARPs) that are developed to result in clean water. Ecology will prioritize and work on those TMDLs and other restoration approaches (STIs and ARPs) that Ecology has identified for EPA’s Vision Metric performance measure’s first reporting period (10/1/24–9/30/26). Projects identified for that reporting period include:

- Ecology Headquarters:
 - Puget Sound Nutrient Reduction Project (in progress) (WQP’s Watershed Management Section and EAP’s Western Operations Section).
- Central Region:
 - White Salmon River Bacteria ARP (in progress) (WQP’s Central Region Office and EAP’s Eastern Operations Section).
 - Wide Hollow Creek Multiparameter TMDL (complete) (WQP’s Central Region Office and EAP’s Eastern Operations Section).
 - Bonaparte Creek ARP (in progress) (WQP’s Central Region Office).
- Eastern Region:
 - Alkali Flat Creek Multiparameter STI (complete) (WQP’s Eastern Region Office).
 - Almota & Little Almota Creeks Multiparameter STI (in progress) (WQP’s Eastern Region Office).

- Hangman (Latah) Creek Multiparameter ARP (complete) (WQP's Eastern Region Office and EAP's Eastern Operations Section).
- Hawk Creek Multiparameter STI (complete) (WQP's Eastern Region Office).
- Upper Colville River Multiparameter STI (complete) (WQP's Eastern Region Office).
- Pataha Creek Bacteria, dissolved oxygen and pH TMDL (in progress) (WQP's Eastern Region Office and EAP's Eastern Operations Section).
- Northwest Region:
 - Drayton Harbor Bacteria TMDL (complete) (WQP's Northwest Region Office).
 - Soos Creek Multiparameter TMDL (in progress) (WQP's Northwest Region Office and EAP's Western Operations Section).
 - Soos Creek Fine Sediment TMDL (complete) (WQP's Northwest Region Office and EAP's Western Operations Section).
- Southwest Region Office:
 - Burnt Bridge Creek Multiparameter ARP (complete) (WQP's Southwest Region Office and EAP's Western Operations Section).
 - Lacamas Creek Multiparameter ARP (in progress) (WQP's Southwest Region Office and EAP's Western Operations Section).

Ecology will report standardized status updates on Vision Metric performance priority projects quarterly to EPA (projects listed above). The status updates Ecology provides will be consistent with tracking key milestones in our water quality improvement projects within each region. Ecology will update the Vision Metric commitments by September 30, 2026, for the second reporting period (10/1/26–9/30/28).

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

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

- 4D. Ecology will update the TMDL workload assessment. The workload assessment will identify and prioritize future TMDL, STI, and ARP water cleanup work.
- 4E. Where Washington is engaged in a TMDL that crosses jurisdictions; EPA will provide leadership to bring issues that arise to resolution. EPA will report to Ecology on TMDLs from Idaho or Oregon that may impact Washington waters and work to help ensure those states' TMDLs are written to meet Washington's downstream standards.
- 4F. Ecology's Eastern Water Quality Program Section will write an Implementation Plan and implement EPA's PCB TMDL, in collaboration with the Spokane River Toxics Advisory Committee (SRTAC), the successor to the Spokane River Regional Toxics Task Force (SRRTTF). Ecology will use the EPA PCB TMDL, the [2016 Comprehensive Plan to Reduce Polychlorinated Biphenyls \(PCBs\) in the Spokane River](https://srtrtf.org/wp-content/uploads/2016/04/2016_Comp_Plan_Final_Approved.pdf),⁴⁴ and other guidance as the basis for the work. The SRTAC will continue as a successor organization to the SRRTTF to satisfy the obligations of members whose participation in such an organization is mandated. Ecology will continue to serve as a resource by providing professional, technical, and financial support. Ecology will also continue to periodically measure progress in reducing PCBs and other toxics in the Spokane River and towards achieving the applicable water quality criteria for PCBs and other toxics.

EPA will continue to recognize that implementing this TMDL project and meeting PCB allocations requires a long-term, regional effort and continue its support of the Columbia River Basin Restoration Program Lead Entity project. EPA will work with Ecology as Ecology works with regional partners and stakeholders and the Spokane Tribe to implement this TMDL project, including commitments referenced in the TMDL response to comments:

EPA:

- Agrees that it is important to play a role in assisting Ecology to implement this TMDL project (including the Washington-Idaho and Washington-Spokane Tribe borders) in coordination with regional partners, stakeholders, and the Spokane Tribe. EPA intends to be an active and long-term partner.⁴⁵
 - Will continue supporting state, Tribal, and stakeholder efforts to implement TMDLs, including continued support of the Columbia River Basin Restoration Program Lead Entity project and continued funding to Ecology's 319 Nonpoint Source program, which funds nonpoint source projects.
- 4G. Ecology's Northwest Water Quality Program Section and EPA will continue the cleanup and restoration of the Duwamish River. Restoration of this high-priority watershed involves multiple programs in both agencies, each utilizing their respective regulatory authorities, to address water quality impairments as measured in sediment, water, fish tissue, and consumption advisories. The Agencies' shared long-term vision includes obtaining the lowest contaminant levels possible in sediments to reduce contamination in fish tissue so

⁴⁴ https://srtrtf.org/wp-content/uploads/2016/04/2016_Comp_Plan_Final_Approved.pdf

⁴⁵ [Spokane River PCB TMDLs | US EPA](https://www.epa.gov/tmdl/spokane-river-pcb-tmdls) (<https://www.epa.gov/tmdl/spokane-river-pcb-tmdls>)

that the Washington State Department of Health could minimize reliance on fish consumption advisories. While some, but not all impairments, will be addressed by the ongoing and planned sediment cleanups to occur under CERCLA and MTCA/SMS, other federal and state programs are essential for realizing this long-term goal. This includes using respective water program tools and authorities in the continued implementation of the Lower Duwamish Waterway Source Control Strategy (2016). Specifically:

- Ecology will utilize NPDES permitting strategies to address Lower Duwamish Waterway near-term source control.
- EPA will seek resources to support Ecology's continued development of a Pollutant Loading Assessment of toxics in the Green-Duwamish watershed, including the Lower Duwamish Waterway and the East and West Waterways.
- Ecology will assess water quality impairments that remain following the active sediment cleanup actions under a water cleanup plan, and any necessary load and wasteload allocations that can be made, and other water quality standards or provisions that can be applied if warranted.
- EPA and Ecology will utilize the coordination and elevation framework identified in the 2014 Lower Duwamish Waterway MOA between the agencies, convening executive/steering committee members and functions no less frequently than annually.

4H. EPA will issue a program review of the Ecology's TMDL program no later than December 18, 2025, to satisfy conditions of a settlement agreement. Ecology will consider the final report and decide which recommendations to implement.

4I. Ecology will continue to move the Puget Sound Nutrient Source Reduction Project forward with the Salish Sea modeling to evaluate scenarios designed to meet standards and our stakeholder and Tribal engagement through the Nutrient Forum. Ecology will also continue developing an associated watershed modeling strategy for watersheds that drain to Puget Sound.

EPA will continue to provide expertise and evaluation of Puget Sound modeling work and to the extent possible prioritize funding to support the modeling needs of the project (Salish Sea model and watershed work). EPA will work to ensure that efforts in other areas, such as the National Estuary Program, supports and is coordinated with the Puget Sound Nutrient Source Reduction Project.

4J. EPA has re-issued the Columbia and Lower Snake River Temperature TMDL. Ecology will continue to work with EPA as the implementation plan is developed for the Columbia/Lower Snake River Temperature TMDL. EPA will coordinate with the states of Oregon and Washington as implementation actions are identified. EPA will support Ecology in conversations and collaborations with federal dam agencies.

4K. EPA and Ecology will work together to determine how to best address new impairment listings identified within a watershed with an existing TMDL for the same pollutants. EPA

and Ecology will collaborate on strategies, including best practices for writing watershed-based TMDLs and revisions, updates, or addenda to previously approved TMDLs, to maximize the effectiveness and future applicability of TMDLs.

Activities and Measures: Water Quality Standards

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EPA—Water Quality Standards

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

- 4L. Ecology will continue to update the internal water quality standards guidance manual to include new standards as EPA approves them and other key water quality standards interpretations. The manual is intended to instruct agency staff working on CWA programs by providing documentation of the proper application of the Water Quality Standards within these programs. The manual includes documentation of institutional knowledge, impact of legal decisions, and interpretation of commonly applied water quality standards language.
- 4M. Based on comments received during the 2025–2027 WQS Triennial Review process, Ecology will begin work on prioritized projects in Fall 2025 and will initiate rulemaking as appropriate.
- 4N. Ecology will submit the final performance-based approach for calculating natural conditions criteria for marine dissolved oxygen, as well as Washington’s adopted natural conditions provisions in Summer 2025. After EPA action on the marine dissolved oxygen performance-based approach, Ecology will consider whether to begin drafting an additional chapter for freshwater temperature.
- 4O. EPA will continue to communicate with Ecology on the status of Endangered Species Act consultation and final federal approval of Washington’s submitted water quality standards. Ecology will provide updated information to the public and programs that implement these criteria. This is especially important as it relates to the Water Quality Assessment work schedule. The State will support EPA’s efforts to develop Biological Evaluations if requested.
- 4P. Endangered Species Act consultations:

- EPA will finalize the biological evaluation on Ecology’s cyanide criteria, including fresh and marine waters and the Puget Sound site-specific criteria, and initiate Endangered Species Act consultation with the Services in February 2026.
 - The following WQS packages subject to EPA’s 303(c) action are subject to Endangered Species Act Section 7 consultation. EPA plans to develop biological evaluations to initiate consultation with the Services prior to taking 303(c) action on the following submittals:
 - Aquatic life criteria for toxics that Ecology submitted for 303(c) action in August 2024.
 - Aquatic life criteria for dissolved oxygen and fine sediment that Ecology submitted for 303(c) action in March 2022.
 - Natural conditions criteria for aquatic life that Ecology plans to submit for 303(c) action in 2025.
 - EPA initiated Endangered Species Act consultation on the Chelan Use Attainability Analysis in September 2024 and plans to work with the Services to conclude the consultation on this action prior to EPA 303(c) action.
- 4Q. Ecology will provide technical assistance to stakeholders when requesting use attainability analyses, variances, and other tools where a change in a standard is documented as needed. Ecology and EPA will work together throughout the development of such water quality standard revisions. EPA will provide timely review of use attainability analyses, variance submittals, and other water quality standards submittals from Ecology that require action by EPA.
- 4R. EPA will lead in coordinating a process to resolve conflicts created when different standards are adopted for shared waters (for example, Tribal and state jurisdictional boundaries). EPA will coordinate with Ecology on pending agency decisions regarding Tribal water quality standards in a timely manner and will encourage the Tribes to collaborate with the state.
- 4S. Ecology anticipates working on the Puget Sound Nutrient Source Reduction Plan to identify nitrogen load reductions needed to meet Washington’s marine dissolved oxygen criteria. Ecology will continue to identify and implement Best Management Practices to address nonpoint nutrient loading.
- 4T. Ecology is considering a rulemaking to revise Washington’s Water Quality Standards to adopt protective nutrient criteria for lakes and reservoirs. As part of this process, Ecology would consider requesting technical assistance from EPA through the N-STEPS program.
- 4U. EPA will provide assistance, when requested, to Ecology for implementation questions and support needs associated with meeting the requirements of EPA’s Tribal Reserved Rights Rule.
- 4V. EPA and Ecology will regularly share information and meet on an as-needed basis, at least once a year, to discuss the status of ongoing and future water quality standard projects.

Activities and Measures: Water Quality Assessment

Ecology

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For activities related to Water Quality Assessment (WQA), Ecology's timeline commitments are subject to current staffing to complete these projects. Any significant changes in staff or resources may delay these timelines.

4W. In 2024, Ecology and EPA came together to engage in a Lean process to improve the timeliness of the WQA. Ecology and EPA will continue to work together to implement the outcomes of the Lean event, identified in the Action Registry. This work spans across four programs at Ecology: the Water Quality Program (WQP), the Toxics Cleanup Program (TCP), the Environmental Assessment Program (EAP), and the Information Technology Services Office (ITSO). Washington has one of the largest and most complex WQAs in the nation. The current draft WQA evaluated over 85 million data points.

- 4X. Ecology’s program managers will meet quarterly with the Deputy Director to discuss key items on the action registry that have been accomplished and to understand and address any challenges to improve the timeliness of this work.
- 4Y. WQP will continue as the lead Ecology program and coordinate with EAP, TCP, and ITSO to continue progress on all elements of the WQA. All four Ecology programs and EPA spent significant time and resources to find areas that could be improved. Programs will continue to support the WQA in the following ways:
- WQP will coordinate with EPA and manage the assessment. WQP will also be responsible for assessing conventional pollutant data.
 - EAP will continue to implement the monitoring programs listed below. Additionally, EAP will assess data for toxic pollutants and biological integrity and support policy decisions and updates associated with these parameters.
 - **River and Stream Ambient Water Quality Monitoring:** This program relies predominantly on a fixed-station monitoring design and collects samples monthly from approximately 62 long-term (core), 12 rotating “basin stations,” and 8 sentinel stations (82 total). Parameters include temperature, dissolved oxygen, pH, and conductivity. This program also collects continuous temperature data across the state and maintains seven multi-parameter continuous water quality stations in the Puget Sound region.
 - **Marine Water Quality Ambient Monitoring:** Water column data are collected monthly at 39 core stations in Puget Sound, the Strait of Juan de Fuca, Willapa Bay, and Grays Harbor on the Washington coast. Parameters include temperature, dissolved oxygen, salinity, and ocean acidification data such as alkalinity.
 - **Watershed Health Monitoring:** This project collects physical, chemical, and biological data from randomly selected sites (50 per year) across the state. The focus areas for the Fiscal Year 2025–2027 period will be the Snake River region and the Upper Columbia region.
 - **Freshwater Fish Contaminant Monitoring Program:** This project analyzes fish tissue from lakes and rivers, testing fish for various toxic chemicals including heavy metals, pesticides, PCBs, mercury, and dioxins, along with other priority chemicals. We repeat fish sampling from key locations every 8–12 years, with samples collected from 170 sites in total. The focus areas for the Fiscal Year 2025–2027 period will be the Columbia River Gorge (Bonneville Dam to McNary Dam) and Middle Columbia River (McNary Dam to Vantage). Results are shared with environmental and public health partners.
 - TCP will assess toxic sediment data and support policy decisions and updates associated with sediment data.
 - ITSO will manage and update the WQA automation tool.

- All Ecology programs will assist in the response to comments, contribute to the workload to ensure that key tasks are on schedule for the next WQA submittal, and actively participate in operational activities associated with maintaining the WQA IT infrastructure.
- 4Z. EPA will act on the submission of the 2022 Water Quality Assessment via ATTAINS and will pull data directly from ATTAINS to calculate Measure WQ-35, Watershed Area Restored. The public will be able to view the final IR results in either the state database or EPA's How's My Waterway website.
- 4AA. EPA will provide technical support as needed, including training for ATTAINS.
- 4BB. Ecology will continuously accept water quality monitoring data in its Environmental Information Management (EIM) database for use in the WQA. Following submission of the 2020 and 2022 Assessment to EPA, Ecology will issue a public call for data to begin the 2024/2026 Assessment, which will include data from 2015 through 2024.
- 4CC. Ecology will analyze data for the 2024/2026 assessment, with a cross-program approach (see bullet 4Y above). Ecology will move the assessment forward, with attention to timeliness and quality, with a goal of submitting the Water Quality Assessment to EPA within the PPA reporting period.
- 4DD. EPA will communicate anticipated timelines for rule approvals and coordinate the announcement of the approvals with Ecology. Coordinating rule approval announcements will ensure the WQA team can appropriately plan for incorporating new rules into Policy 1-11 and integrate new methodologies into the assessment. Since integrating new methods will significantly slow down the 2024/2026 assessment, Ecology will integrate them into the next assessment cycle.
- 4EE. Ecology will continue to draft new assessment methodologies for rules submitted to EPA, including Natural Conditions Criteria and Aquatic Life Toxics Criteria. If these, or other rules (Salmon Spawning Sediment and Dissolved Oxygen) are approved by EPA, Ecology will incorporate them into the next WQA cycle policy update.
- 4FF. EPA and Ecology will meet quarterly to discuss items on the Lean process action registry, review accomplishments, and plan for action items yet to be completed.
- 4GG. Ecology commits to providing EPA with early draft documents as soon as practicable for review. EPA commits to reviewing draft documents and providing feedback to Ecology by the requested deadline.

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

Ecology

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Objectives

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

Activities and Measures

- 5A. Ecology will continue to manage the Phase I and Phase II stormwater permit program. This includes construction, industrial, and municipal stormwater permits.
- 5B. Ecology will continue to implement Ecology’s combined sewer overflow (CSO) reduction rule ([Chapter 173-245 WAC](#))⁴⁶ in all NPDES permits issued to facilities that operate a combined sewer system (CSS). Per Ecology’s rule, such permittees have approved CSO Reduction Plans in place. NPDES permits for CSS facilities include requirements for the submission of Annual CSO Reports and a CSO Reduction Plan Amendment at the end of each permit cycle.

Permits may also include a compliance schedule for the implementation of projects during the permit cycle. To comply with EPA’s 1994 CSO Control Policy, Ecology will incorporate

⁴⁶ <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-245>

into NPDES permits the requirements to implement the Nine Minimum Controls and Long-Term Control Plan elements including:

- Public participation in the planning process.
- No feasible alternatives analysis for permits with authorized bypass language where appropriate.
- Post-construction compliance monitoring as appropriate.

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

- 5C. Ecology's Municipal Separate Storm Sewer (MS4) permit managers will continue to implement an audit/inspection program plan for targeted MS4 facilities. Inspections will occur on a schedule per the Compliance Monitoring Schedule Ecology develops in Section 3G.
- 5D. Ecology will implement the industrial stormwater general permit by providing technical assistance and enforcement.

6. Groundwater and Underground Injection Control

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Objectives

- Protect groundwater quality, beneficial uses, and safe drinking water by ensuring that groundwater quality standards are met. All groundwater in Washington State is classified and protected as a potential source of drinking water.

- Provide groundwater quality technical assistance to the public, local, state, and federal government, as well as permitted facility operators and permit applicants.

Activities and Measures: Groundwater—Base

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

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

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

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

Activities and Measures: Underground Injection Control

6G. Ecology will:

- Protect drinking water and groundwater quality by implementing the Underground Injection Control (UIC) program and associated UIC Rule (Chapter 173-218 WAC).⁴⁷
- Implement the UIC rule program by completing outreach activities to better educate the public and private well owners on the rule program, such as developing guidance on UIC well protective measures and offering training as needed.
- Provide technical assistance to owners of private and publicly owned UIC wells.
- Submit reports to EPA in a timely manner and continue to work with EPA to ensure the appropriate information is provided in a format that meets each agency's needs.
- Ecology will submit inventory, inspection, and closure information to EPA electronically (web-based reporting application, if available).
- If requested, Ecology will conduct joint UIC inspections with EPA. If UIC wells are found to be out of compliance, Ecology and/or EPA will take appropriate actions to correct the situation.

6H. Ecology's UIC program will continue to work closely with Ecology's stormwater program to update language in the stormwater manuals that show how the stormwater program and the UIC program work closely together to protect groundwater. Ecology will provide updated outreach material to highlight how these programs work together and provide technical support to the water utility districts on the joint implementation of these programs.

6I. EPA will provide quarterly updates to Ecology if EPA starts to process any permits for Class VI UIC wells to be used for carbon sequestration in Washington State.

7. Sediments

Ecology

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⁴⁷ <https://apps.leg.wa.gov/wac/default.aspx?cite=173-218>

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Objectives

- Clean up and restore existing contaminated sediments and prevent future sediment contamination.

Activities and Measures

- 7A. Ecology will provide biannual reports online and maintain the Ecology databases to identify the status of identified sediment cleanup sites within Washington State.
- 7B. Sediment Cleanup User's Manual (SCUM), Ecology's main guidance for state sediment management standards, is a living document that Ecology will update as needed. An update is in progress. A draft will undergo a public comment period May through July 2025 and the revised SCUM will be published in December 2025.
- 7C. Ecology sediment staff will provide ongoing support to water quality staff for the development of the next 303(d) Impaired Water Bodies list as related to sediment quality. This includes implementing the new policy and procedures for sediment impacted water bodies. The 303(d) sediment list for the 2020–2022 WQA is currently being finalized for submittal to EPA. These results are expected to be reviewed by EPA sometime in 2025.
- 7D. Ecology will continue to participate with the Bellingham Bay Pilot partners in implementing planned Bellingham Bay cleanup and restoration plan actions. Design of final cleanup actions continue at six sites and cleanup construction began at one cleanup site. Cleanup construction at two additional sites and feasibility studies for two habitat restoration projects are expected to begin this year.
- 7E. Ecology will continue to implement the Lower Duwamish Waterway source control strategy. Progress continues to be made at 24 cleanup sites, including completing public comment periods for remedial investigation, feasibility study, and cleanup action plan documents. The city, county, and port continue to conduct source control inspections and tracing as required under their NPDES permit conditions. Ecology's water quality program conducts inspections and requires corrective actions under NPDES permit compliance. Ecology and TCP have initiated source control evaluation efforts for the middle and lower reaches and anticipate finalizing a report for the middle reach in 2025 that will address both WQP and TCP source control work.

8. Financial Assistance

Ecology

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Objectives

- Provide low-interest loans to public bodies for high-priority water quality projects that improve and protect the water quality of Washington State.
- Protect the public health and the environment by funding sustainable, efficient, and resilient wastewater infrastructure projects.
- Provide loan subsidy to address the affordability of water quality infrastructure projects in small, financially challenged communities.
- Provide funding for priority nonpoint source projects and for implementation of Washington’s comprehensive estuary management plans.
- Provide technical assistance to remove barriers to water quality funding.

Activities and Measures: Clean Water State Revolving Fund Loan Program

8A. Ecology will manage the Washington State Water Pollution Control Revolving Fund (SRF) program per Chapter 173-98 WAC, Uses and Limitations of the Washington State Water Pollution Control Revolving Fund.⁴⁸ Ecology will monitor and evaluate key management and policy aspects of the SRF program, including:

- Interest rate structure.
- Adequate program management and administration.
- Water quality outcomes.
- Benefits reporting.

⁴⁸ [Chapter 173-98 WAC](https://apps.leg.wa.gov/wac/default.aspx?cite=173-98) (<https://apps.leg.wa.gov/wac/default.aspx?cite=173-98>)

- Perpetuity.
- 8B. Utilizing available funds from the Washington State Water Pollution Control Revolving Fund (SRF) program, including any additional federal capitalization awards and associated state matching funds, Ecology will:
- Apply for the Clean Water State Revolving Fund Capitalization Grant no later than May 31 of any given federal fiscal year and provide the Draft and Final Intended Use Plan (IUP) documents when published in January and June, respectively, each year.
 - Submit the SRF data through the SRF Data Reporting System by deadline set by EPA HQ.
 - Submit SRF Annual Reports to EPA by deadline approved by EPA Region 10.
 - Report project information and environmental outcomes for each SRF-funded project through EPA's reporting database.
 - Conduct informal Endangered Species Act consultations for SRF-financed treatment works projects as EPA's non-federal representative, in accordance with the 2020 Operating Agreement.

9. Columbia River Basin Restoration Program

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Objectives

- Congress amended the Clean Water Act in 2016 by adding Section 123 (33 U.S.C. 1275), which required EPA to establish a [Columbia River Basin Restoration Program](#).⁴⁹
- EPA will continue to coordinate with Ecology on the Columbia River Basin Restoration Program.
- Ecology will work with EPA to support the Columbia River Basin Restoration Program, including the Working Group and the implementation of the Columbia River Basin Restoration Funding Assistance Program.

⁴⁹ <https://www.epa.gov/columbiariver/about-epas-work-columbia-river-basin#crbrp>

Activities and measures

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

10. Puget Sound Recovery National Program Office

Ecology

Tom Buroker – Regional Director, Northwest Region Office
425-647-3581
tom.buroker@ecy.wa.gov

EPA

Mathew Martinson
206-553-6334
martinson.mathew@epa.gov

Objectives

- Congress amended the Clean Water Act in December 2022 by adding section 126 (33 U.S.C. 1251 et seq.) requiring EPA to establish a Puget Sound Recovery National Program Office. This statutory recognition enables EPA to dedicate federal funds to Puget Sound cleanup goals and restoration efforts.
- EPA will continue to coordinate with Ecology on the Puget Sound recovery program.
- Ecology will work with EPA to support the Puget Sound recovery program, including participation in the State Advisory Committee.

Activities and measures

- 10A. Ecology will participate in the Puget Sound Leadership Council and support EPA collaboration efforts with the Puget Sound Partnership.

11. Lower Columbia National Estuary Program

Ecology

Bobbak Talebi – Regional Director, Southwest Region Office

360-789-9500

bobbak.talebi@ecy.wa.gov

EPA

Catherine Gockel – Geographic Programs Section Manager

206-553-1148

gockel.catherine@epa.gov

Objectives

- Congress authorized the National Estuary Program under section 320 of Clean Water Act as a non-regulatory program in 1987. The Lower Columbia Estuary Partnership was designated by EPA as an NEP site in 1995.
- EPA will continue to coordinate with Ecology on the Lower Columbia Estuary Partnership and implementation of the Comprehensive Conservation and Management Plan.
- Ecology will work with EPA to support the Lower Columbia River recovery program, including participation on the Lower Columbia Estuary Partnership Board.

Activities and measures

11A. Ecology will participate in the Lower Columbia Estuary Partnership and support EPA collaboration efforts to improve Lower Columbia River habitat, find solutions to difficult ecological issues, support our coastal economies, and engage community members.

Appendix A. Response to Comments

The [Draft Environmental Performance Partnership Agreement Between the Department of Ecology and the Environmental Protection Agency: State Fiscal Years 2026–2027](#)⁵⁰ was available for public comment from April 17, 2025, 12 a.m. PT through May 17, 2025, 11:59 p.m. PT. We received six comment submissions. This appendix records the comments received and responses from Ecology and the U.S. Environmental Protection Agency.

Commentor: Matthew Moore

Comment

I heard the Trump administration wants to degrade the definition of the Endangered Species Act to effectively allow for anything that isn't directly killing living things covered under the definition. It is clear that "independent" agencies under the executive branch are compromised, and I believe we in Washington will need to hold the line for environmental protection - this includes protecting National Forests.

Response

Thank you for your comment.

The U.S. Fish and Wildlife Service and the National Marine Fisheries Service (collectively referred to as the Services) have proposed rescinding the regulatory definition of “harm” in the federal Endangered Species Act regulations. The existing regulatory definition of “harm” includes significant habitat modification or degradation which injures or kills threatened or endangered species. The public notice period concluded on May 19, 2025. The Services are considering public input prior to making a final determination. It is difficult to speculate on the outcome of the ongoing rule making process or the impact it may have. EPA and Ecology will continue to uphold environmental protections in accordance with the authorities granted in state and federal law.

⁵⁰ <https://apps.ecology.wa.gov/publications/SummaryPages/2504014.html>

Commentor: Paul Allen

Comment

My concern is that EPA will be dismantled or otherwise weakened to the point that WA State will need to take control of protecting our own state environment despite weaker rules and oversight from the EPA.

If WA State can override EPA rules and regulations to better protect our WA State environment, then I favor an ongoing performance partnership agreement.

If this agreement will potentially weaken Ecology, then I am not in favor of the PPA at this time.

Response

Thank you for your comment.

In Washington state, Ecology is delegated or authorized to manage state programs under the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act (RCRA). This means Ecology writes our own rules that are equally or more stringent than federal rules. Our state receives federal funding to help us administer environmental programs in our state. As a result, Ecology will continue to protect Washington state's environment.

Commentor: Friends of Toppenish Creek

Comment

Dear WA State Dept. of Ecology and U. S. Environmental Protection Agency,

Friends of Toppenish Creek is a 501 C (3) non-profit organization located in the Lower Yakima Valley. Our mission:

Friends of Toppenish Creek is dedicated to protecting the rights of rural communities and improving oversight of industrial agriculture. FOTC operates under the simple principle that all people deserve clean air, clean water and protection from abuse that results when profit is favored over people. FOTC works through public education, citizen investigations, research, legislation, special events, and direct action.

Friends of Toppenish Creek (FOTC) welcomes this opportunity to comment on the Draft Environmental Performance Partnership Agreement Between the Department of Ecology and the Environmental Protection Agency: State fiscal Years 2026 – 2027. Going from front to back of the document, we will share some perceptions of how this agreement might impact the Lower Yakima Valley (LYV).

Page 9: The Draft Agreement states: *It is very important for Ecology and EPA to work with Tribes to address Endangered Species Act issues related to the current and proposed listings of several species in Washington State.*

FOTC agrees with the Yakama Nation regarding the over-riding importance of salmon for the Yakima Valley. Consequently, we ask both Ecology and the EPA to pay close attention to FOTC concerns about diminished replenishment of the Yakima River in the LYV near the City of Mabton where endangered salmon need a healthy river to survive during migration. FOTC has filed a complaint about conditional use permit violations by concentrated animal feeding operations (CAFOs) in that area with Yakima County Code Enforcement.¹ We calculate that CAFOs pump over a million gallons of water per day from wells within three miles of Mabton. This is too much withdrawal from land that receives seven inches of precipitation per year. Groundwater should replenish the Yakima River, but it is diverted, and salmon suffer. Aquifers fall. Wells run dry. We hope EPA and Ecology will uphold the laws, especially the Endangered Species Act, as we pursue this complaint.

¹ Friends of Toppenish Creek has asked Yakima County Planning to review whether a Lower Yakima Valley Calf Ranch violates terms of a Conditional Use Permit (CUP). [Friends of Toppenish Creek - Protecting the rights of rural communities and improving oversight of industrial agriculture](https://www.friendsoftoppenishcreek.org/index.html)
[https://www.friendsoftoppenishcreek.org/index.html]

Response

Thank you for your comments.

Water resources and water rights are not part of this Performance Partnership Agreement between Ecology and EPA. Water rights are issued solely by Washington State.

The U.S. Fish and Wildlife Service and the National Marine Fisheries Service (collectively referred to as the Services) have proposed rescinding the regulatory definition of “harm” in the federal Endangered Species Act regulations. The existing regulatory definition of “harm” includes significant habitat modification or degradation which injures or kills threatened or endangered species. The public notice period concluded on May 19, 2025. The Services are considering public input prior to making a final determination. It is difficult to speculate on the outcome of the ongoing rule making process or the impact it may have. EPA and Ecology will continue to uphold environmental protections in accordance with the authorities granted in state and federal law.

Comment

Page 11: The Draft Agreement summarizes the *Progress Assessment Process*. The Agreement says:

Effectiveness: Does the work covered in this Agreement apply resources to the highest environmental priorities and improve environmental outcomes?

Public access to review and engage: Does the work covered in this Agreement advance community access and public engagement related to that work?

Fiscal soundness and program accountability: Are the funds used for this Agreement managed in an efficient, legal, effective, and economical manner?

FOTC points out difficulties accomplishing these priorities for air quality in the Lower Yakima Valley (LYV) where there are 23 industrial dairies with over 2,000 milk cows per facility. According to FOTC calculations dairies of this size emit air pollutants in quantities that should require classification as Title V sources of pollution. But neither the Yakima Regional Clean Air Agency (YRCAA) nor Ecology regulate air pollution from these dairies or require reporting of toxic or hazardous air pollutants. Resources are not applied to this source of air pollution. Since the agencies do not dedicate resources to the largest source of air pollution in the LYV, funds are not managed in an efficient, effective, and economical manner.

FOTC has complained to the EPA External Civil Rights Compliance Office regarding failure of the YRCAA to engage with marginalized populations in the LYV.² The investigation is ongoing. We are concerned that the YRCAA accepts federal monies but fails to use those monies to engage and educate.

² FOTC Civil Rights Complaint, February 6, 2023. [ECRCO Dear EPA ECRCO V.pdf](https://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20Dear%20EPA%20ECRCO%20V.pdf)

[[https://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO Dear EPA ECRCO V.pdf](https://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20Dear%20EPA%20ECRCO%20V.pdf)]

FOTC Civil Rights Complaint, March 6, 2023. [ECRCO Civil Rights Complaint March 2023 VI.pdf](https://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20Civil%20Rights%20Complaint%20March%202023%20VI.pdf)

[[https://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO Civil Rights Complaint March 2023 VI.pdf](https://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20Civil%20Rights%20Complaint%20March%202023%20VI.pdf)]

Response

The Yakima Regional Clean Air Agency (YRCAA) is an independent air authority and has been operational since July 1967. YRCAA is delegated to enforce certain federal regulations, the Washington Clean Air Act, State Regulations and YRCAA Regulations, within the boundaries of

Yakima County. Ecology encourages the Friends of Toppenish Creek to work with YRCAA in enhancing public health by improving air quality in YRCAA's jurisdiction.

Within regulatory authority, air jurisdiction, and consistent with this agreement, Ecology commits to working collaboratively with EPA, Yakama Nation, and YRCAA for improved air quality in Yakima County.

Comment

Page 15: The Draft Agreement states, *EPA and Ecology will continue to ensure scientific integrity objectives are reflected within our work.*

Page 19: The Draft Agreement states, *Finding solutions to current environmental problems requires the accurate and efficient capture, query, presentation, and sharing of data.*

FOTC is concerned that Ecology surreptitiously protects the dairy industry in Washington State. To this end, Ecology has modified scientific documents in ways that shield dairy pollution from scrutiny.

In 2023 Ecology and the WA State Dept. of Health commissioned a study in the LYV on behalf of the LYV Groundwater Management Area Implementation Team that mapped the target area for groundwater nitrate contamination. The maps said that nitrate levels in an area where the EPA had found some of the highest nitrate levels in the state were in the safe drinking water level.³ This is totally false. Ecology has repeated this misinformation in a video entitled *Eyes Underground*.⁴

³ Tetra Tech Nitrate Mapping. [Tetra Tech Nitrate Mapping | Yakima County, WA](https://www.yakimacounty.us/2842/Tetra-Tech-Nitrate-Mapping)
[https://www.yakimacounty.us/2842/Tetra-Tech-Nitrate-Mapping]

⁴ WA Ecology. Eyes Underground. [Eyes Underground: Lower Yakima Valley](https://storymaps.arcgis.com/stories/75dbce15a4c04b0e8e54dc633efa5f99)
[https://storymaps.arcgis.com/stories/75dbce15a4c04b0e8e54dc633efa5f99]

Response

Ecology did not commission the described study above. The Washington State Department of Health commissioned this study with grants under the Safe Drinking Water Act. This agreement does not include activity under the Safe Drinking Water Act, which is not administered by Ecology.

Comment

Page 22: The Draft Agreement states: *Ecology and EPA share a desire for a strong compliance assurance program that achieves environmental protection by:*

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

This does not happen in the LYV with respect to dairies. Non-compliance is the norm. The EPA found it necessary to go to court to enforce compliance by three LYV dairies in 2024.⁵ Meanwhile, Ecology participates on a LYV GWMA Implementation Team that badmouths the EPA efforts.

There is a dairy conglomerate in the LYV that applied for a conditional use permit to set up a calf feeding operation in 2015. There were many concerns including Ecology's statement that a facility with 5,000 calf hutches on 30 acres would withdraw too much water from falling aquifers and would diminish groundwater flow to the Yakima River.⁶

The dairy withdrew their application and resubmitted an application with a "reduced footprint" in 2016 that was approved in 2017. Today the facility has 7,000 calf hutches on 100 acres. The calf ranch has not created a required conservation easement, has not secured a required air quality permit, has not written a required nutrient management plan, has not complied with monitoring agreements for groundwater withdrawal and never asked for permission to expand. FOTC has filed a complaint regarding these permit violations. We have shared concerns with Ecology, but Ecology has said and done nothing so far. It is discouraging when Ecology signs on to agreements with EPA that purport to address environmental violations but does not follow through.

⁵ EPA Region X. Lower Yakima Valley Groundwater. [Lower Yakima Valley Groundwater US | EPA](https://www.epa.gov/wa/lower-yakima-valley-groundwater)
[<https://www.epa.gov/wa/lower-yakima-valley-groundwater>]

⁶ Friends of Toppenish Creek has asked Yakima County Planning to review whether a Lower Yakima Valley Calf Ranch violates terms of a Conditional Use Permit (CUP). [Friends of Toppenish Creek – Protecting the rights of rural communities and improving oversight of industrial agriculture](https://www.friendsoftoppenishcreek.org/index.html)
[<https://www.friendsoftoppenishcreek.org/index.html>]

Response

We are continuously working with Concentrated Animal Feeding Operation (CAFO) permittees to achieve compliance with permit conditions. This includes enforcement actions and technical assistance. We hired an additional CAFO full time employee at the end of 2024 to assist with compliance and encouraging and, when necessary, ordering unpermitted CAFOs to apply for coverage.

Comment

Pages 24: The Draft Agreement states,
... *the partners commit to:*

- *Prevent and reduce air pollution, which includes compliance with all air quality laws and rules.*
- *Reduce emissions of high-priority air pollutants, especially fine particles (PM2.5), ozone precursors, and air toxics.*
- *Prevent violations of federal air quality standards.*
- *Increase efficiencies and reduce transaction costs in air quality program administration and implementation.*

Page 28: *The Draft Agreement states,*

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

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

Page 32: *The Draft Agreement states, Ecology and local clean air agencies will maintain an effective compliance assurance program that protects human health and the environment by preventing and reducing air pollution. Carry out a balanced program that includes:*

- Compliance assistance.*
- Compliance monitoring.*
- Appropriate enforcement.*
- Follow-up to ensure return to compliance.*

These actions do not take place in the LYV because the YRCAA and Ecology ignore impacts from industrial dairies. The agencies only monitor for PM 2.5, and not for ammonia, hydrogen sulfide, sulfur dioxide, volatile organic compounds, ozone, or other air pollutants.

The EPA had an opportunity to sample LYV air for these pollutants when the EPA brought mobile monitoring to the LYV in 2024. The EPA chose to set up the monitor in Wapato, about thirty miles upwind from the LYV dairies. Why did this happen?

In September of 2024 the EPA conducted a first-round of inspections for YRCAA administration of the Title V program.⁷ The EPA listed seventeen points of concern that the YRCAA should address. However, the EPA noted that there was only one permit writer at the agency with the experience and qualifications to address these problems. This person has left the agency and has not been replaced. The YRCAA currently operates with a staff of six when the number should be at least ten and ideally twelve.

FOTC strongly believes that the YRCAA is currently incapable of performing mandated duties and that both Ecology and the EPA should address this problem.

⁷ Yakima Regional Clean Air Agency Title V Program Review (1st Round) [yrcaa-2024-round-1-final-report.pdf](https://www.epa.gov/system/files/documents/2024-10/yrcaa-2024-round-1-final-report.pdf)
[<https://www.epa.gov/system/files/documents/2024-10/yrcaa-2024-round-1-final-report.pdf>]

Response

EPA's mobile monitoring study in the Lower Yakima Valley, which was conducted independently from Ecology, is outside the scope of this Performance Partnership Agreement.

Ecology passes through EPA funding to the Yakima Regional Clean Air Agency (YRCAA) to conduct air monitoring on the following:

- PM_{2.5} at Yakima-S. 4th and Sunnyside
- PM₁₀ at Yakima-S. 4th
- Chemical components of PM_{2.5} at Yakima-S. 4th
 - Analytes include nitrate, sulfate, ions of ammonium, and several metals.
 - You can [access the full list of analytes here](#).⁵¹

Ecology used EPA funding to conduct an exploratory study of ozone in Yakima (also at the Yakima-S. 4th Ave. location) in summer of 2024. The results of that study indicate that the area is likely not at risk for nonattainment of the current ozone NAAQS. Ozone concentrations are unlikely to reach the Unhealthy for Sensitive Groups (>70 ppb) range where the Air Quality Index is more urgent for public health protection. However, we are considering further ozone monitoring in Yakima in the future, particularly if there is a strong interest from the community.

Finally, outside the scope of this agreement, Ecology is using state funding to conduct additional air monitoring, including in the Lower Yakima Valley.

YRCAA manages compliance assurance for sources in Yakima County. For counties in Ecology's jurisdiction, Ecology implements its Performance Partnership Agreement compliance assurance commitments in accordance with the Ecology Compliance Assurance Manual and the Air Quality Compliance Assurance Manual. We use a variety of monitoring tools, described in Washington Administrative Code (WAC) 173-400-105, to determine compliance with enforceable permit conditions.

The Title V program is not funded through the Performance Partnership Grant and is therefore out of scope of this Performance Partnership Agreement.

Comment

Page 53: The Draft Agreement states, regarding Point Source Pollution:

Objectives

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

⁵¹ https://www.epa.gov/sites/default/files/2020-07/documents/csn_aqs_parameters_july_2020.pdf

FOTC concerns and comments:

The Port of Sunnyside in the LYV has an Industrial Wastewater NPDES permit that has not been reviewed since 2015. Ecology simply rolls over the permit every five years. The Port of Sunnyside has a groundwater monitoring system that shows increasing nitrate contamination of groundwater, yet the port continues to allow LYV dairies to apply manure to spray fields. FOTC has asked Ecology to put this permit up for review and renewal to no avail.⁸

⁸ FOTC Letter to WA Ecology Water Quality Division. Available on request

Response

Ecology is currently working on the Port of Sunnyside Industrial Wastewater Permit. The public will have the opportunity to review the new permit during the public comment period. The Port of Sunnyside permit has been administratively extended and is currently in place until a new permit is issued. Ecology recently hired new staff to address the permit backlog and decrease the number of permits that are administratively extended.

Comment

There are no Ecology approved best management practices for non-point agricultural sources as required by Washington law.⁹ Ecology and EPA cannot ensure compliance with BMPs when no one knows what they are.

⁹ Western Environmental Law Center. Agricultural Pollution of Puget Sound - The Quest for the Holy Grail: Agricultural BMPs In Washington. [Agricultural Pollution in Puget Sound: Inspiration to Change Washington's Reliance on Voluntary Incentive Programs to Save Salmon](https://westernlaw.org/wp-content/uploads/Agricultural%20Pollution%20in%20Puget%20Sound%20-%20April%202016%20-%20Web.pdf) [https://westernlaw.org/wp-content/uploads/Agricultural Pollution in Puget Sound - April 2016 - Web.pdf]

Response

Ecology and EPA agree with the commenter that there is a need for clear and transparent best management practice (BMP) guidance for agriculture. Ecology is in the process of developing the Voluntary Clean Water Guidance for Agriculture. Ecology has completed several chapters of the guidance and submitted them to EPA along with the 2022 Nonpoint Plan update. Section 2C of the PPA includes the commitment that “Ecology shall complete the development of all chapters of the agricultural BMP guidance on or before December 31, 2025.” Ecology will submit the remaining guidance chapters to EPA as a part of the 2025 Nonpoint Plan Update. Ecology encourages the commenter to review the drafts of the guidance when they are released for public comment.

Comment

Concentrated Animal Feeding Operations (CAFOs) are point sources of pollution. There are no waste load allocations for CAFOs in any of Washington’s approved TMDLs. Consequently, there is no way to enforce compliance.

Response

Water quality discharges to surface water are required to meet water quality standards, regardless of whether there is a total maximum daily load (TMDL) or Waste Load Allocations. Ecology writes permit limits to achieve water quality standards. Ecology enforces the permit limits.

Comment

The National Pollutant Discharge Elimination System program for CAFOs is not fully implemented in Washington State. Less than 10% of Washington CAFOs have NPDES permits despite clear evidence of discharge. EPA has offered to assist Ecology in bringing more CAFOs under permit.¹⁰ Apparently, this offer has been ignored.

¹⁰ Letter from Daniel Opalski to Vincent McGowan. August 17, 2022.

Response

Ecology has developed priorities to identify potential new CAFO permits.

Comment

These are just a few occasions in which environmental laws are poorly implemented in Washington State. There are many more.

The Friends of Toppenish Creek respectfully request the addition of a citizen enforcement clause in the *Environmental Performance Partnership Agreement Between the Department of Ecology and the Environmental Protection Agency: State fiscal Years 2026 – 2027*, that would provide a path by which citizens can make sure that both parties comply with this agreement.

Response

The purpose of this Performance Partnership Agreement is to describe how EPA and Ecology will work together to protect Washington's air quality and water quality and ensure sound management of hazardous waste. The inclusion of a citizen enforcement clause is outside the scope of this Performance Partnership Agreement.

Commentor: Interagency Team

Comment

The [Interagency Team](#)⁵² (IAT) is comprised of stormwater professionals and is well positioned to inform and support many of the “Activities and Measures” in Chapter 7, Section 4 of the PPA. The IAT appreciates the opportunity to provide this comment on the PPA:

Chapter 1 of the PPA recognizes the importance of public engagement, partnerships, and coordination.

Recommendation: We propose that Activity 4H on page 61 include the commitment to solicit input to help inform the development of the implementation recommendations for Ecology’s TMDL program. Meaningful public engagement opportunities set the stage for soliciting constructive insights and feedback, such as that led by Ecology during the 2016 public workshops for improving Water Quality Policy 1-11.

Thank you, The Interagency Team

Response

Thank you for your comment.

EPA and Ecology will make the recommendations available to the public after EPA transmits them to Ecology. EPA and Ecology are always open to ideas on how to improve the Total Maximum Daily Load (TMDL) process, and we encourage the commenter and others to continue to have dialogue with us on how to improve it.

⁵² <https://www.wastormwatercenter.org/permit-assistance/municipal/interagency-project/>

Commentor: Katelyn Scott – Spokane Riverkeeper

Comment

Thank you for the opportunity to comment on the Performance Partnership Agreement for 2026-2027. We submit the following comments for your review and consideration.

Spokane Riverkeeper is a non-profit, advocacy organization that works to protect the Spokane River Watershed. The mission of the organization is to protect and restore the health of the Spokane River watershed. On behalf of Spokane Riverkeeper we submit the following comments for your consideration in regards to the provision regarding the Spokane River PCB TMDL implementation.

Water Quality Section 4F - regarding Spokane River PCB TMDL Implementation

Ecology Must Retain Full Responsibility for Implementing the Spokane River PCB TMDL

We urge the Department of Ecology to retain full responsibility for implementing the Spokane River and Little Spokane River PCB TMDL. While collaborative engagement with stakeholders is appropriate in developing the implementation plan, it is not acceptable to delegate or effectively subrogate Ecology's statutory obligations to the Spokane River Toxics Advisory Committee (SRTAC), a group dominated by dischargers.

Mandating implementation through SRTAC shifts primary authority and accountability away from Ecology. The TMDL is a regulatory tool designed to meet water quality standards, and its success depends on strong leadership by the agency. While coordination with SRTAC may be valuable during plan development, final responsibility for implementation, oversight, and enforcement must rest squarely with Ecology.

Limitations of the Advisory Committee

SRTAC's composition and structure are inadequate for leading TMDL implementation. Membership is heavily skewed toward point source dischargers—more than 50% of the participants represent wastewater dischargers, their consultants, and legal representatives. The committee lacks requirements for balanced stakeholder input, public transparency, or Indigenous and community participation.

This structure results in a bias toward protecting discharge permits, minimizing liability, and delaying enforceable action. Discharger participants have repeatedly challenged the applicability of Washington's PCB water quality standards before the Pollution Control Hearings Board—demonstrating a conflict between their interests and the goals of the TMDL.

Historical Precedent of Ineffectiveness

The Spokane River Regional Toxics Task Force (SRRTTF), the precursor to SRTAC, struggled for nearly a decade without making measurable progress in reducing PCB levels in the river. The final comprehensive plan emphasized education and additional studies but failed to achieve concrete reductions in discharges or address legacy contamination. Ecology should not repeat this ineffective model. Instead, it must establish a clear framework for action, led by the agency itself.

Measurable Goals and Accountability

This agreement should explicitly include implementation goals aligned with the TMDL's purpose: achieving water quality standards. We urge Ecology and EPA to adopt a two-year implementation milestone that includes specific metrics, such as reductions in PCB loading and progress toward downstream compliance with applicable water quality standards. Adopting a strong measurable goal in this agreement will demonstrate that both agencies are committed to seeing real progress toward meeting the standards set out in the PCB TMDL.

Environmental Justice and Subsistence Fishing

Deferring implementation to a group led by dischargers also undermines Ecology's obligation to uphold environmental justice. PCB contamination disproportionately affects communities who rely on fish from the Spokane River, including the Spokane Tribe—whose fish consumption rate is 865 grams/day—and immigrant and low-income communities in urban Spokane. Walleye, a species consumed by many anglers and promoted by local sport fishing groups, is particularly prone to PCB bioaccumulation.

Ecology must ensure that TMDL implementation protects these communities, not the regulated dischargers. Environmental justice requires proactive agency leadership, not delegation.

We urge Ecology to uphold its regulatory responsibilities and ensure that the implementation of the Spokane River PCB TMDL is led by the agency, not delegated to a discharger-dominated advisory group. The people and ecosystems that depend on a clean Spokane River deserve a plan that is transparent, accountable, and centered on measurable progress toward water quality standards. By committing to a clear implementation goal and retaining direct responsibility, Ecology can fulfill its duty to protect public health, ensure environmental justice, and restore the river for future generations.

We appreciate your attention to these concerns and welcome the opportunity for continued dialogue.

Respectfully submitted. Katelyn Scott, Esq. Water Protector

Response

Thank you for your comment.

Ecology agreed to write an Implementation Plan that implements EPA's PCB total maximum daily load. The Spokane River Toxics Advisory Committee (SRTAC) was established as one way to address some of the concerns raised in this comment. We are open to suggestions on process improvement. SRTAC is one way, but not the only way, to gather public input. As we develop the implementation plan, we welcome continued engagement by Spokane Riverkeeper and any other interested parties.

Commentor: Bob Danson, General Manager - Olympic View Water & Sewer District

Comment

Dear Washington Department of Ecology and U.S. Environmental Protection Agency, As General Manager of Olympic View Water & Sewer District, I am submitting the following comment on the draft 2026–2027 Performance Partnership Agreement (PPA) between the Washington State Department of Ecology and the U.S. Environmental Protection Agency.

While we recognize that the PPA sets broad programmatic goals rather than specific permitting guidance, we believe it is essential that the agreement acknowledge the need for greater alignment between the implementation of the Underground Injection Control (UIC) program and the core requirements of the Safe Drinking Water Act (SDWA). Specifically, the non-endangerment standard requires that UIC wells "shall not endanger underground sources of drinking water" and prohibits injection activity that may endanger such sources, not only those that are already known to cause harm.

In our District, we raised concerns with Ecology when they allowed UIC wells to be permitted and installed within a designated Critical Aquifer Recharge Area and near Group A drinking water wells without sufficient hydrogeologic analysis or coordination with the local water system.

Ecology's insufficient action to protect the District's aquifer is inconsistent with the non-endangerment standard and with the intended purpose of the UIC program under federal law.

We respectfully recommend the following actions be reflected in the spirit and execution of the PPA:

- EPA and Ecology should reaffirm that protection of underground sources of drinking water, including shallow, vulnerable aquifers—remains a core objective of the UIC program in Washington.
- The PPA should support stronger cross-program coordination between UIC oversight and local source water protection planning, especially within CARAs and wellhead protection zones.
- Ecology should commit, under this partnership, to ensuring that infiltration systems proposed in sensitive groundwater areas are evaluated not only for compliance with surface water goals, but also for potential groundwater endangerment—even in the absence of documented contamination.
- Finally, Group A water systems should be explicitly recognized as critical stakeholders in UIC decision-making near their sources of supply.

These improvements would better align Washington's implementation of the UIC program with federal standards and reflect the shared priorities of the EPA and local utilities in protecting public health. Thank you for the opportunity to comment.

Sincerely,
Bob Danson
General Manager
Olympic View Water & Sewer District

Response

Thank you for your comment.

Ecology appreciates that Olympic View Water and Sewer District (OVSWD) is concerned about drinking water safety and the potential risks from underground injection control (UIC) wells. Ecology personnel met with OVSWD several times to understand concerns on this topic. We have also met with UIC owners to identify sources of contaminants and provide guidance on source control.

Ecology administers the UIC program in accordance with state and federal laws. Our state rules are written to ensure that UIC wells are constructed and maintained in a way that protect groundwater, drinking water, and surface water from endangerment. We thoroughly review each UIC application to ensure that the non-endangerment standard is met.

The Performance Partnership Agreement commits Ecology to protecting drinking water and groundwater when implementing our UIC program. As you've said, the PPA is a broad programmatic agreement between Ecology and EPA. As such, it does not speak to specific details of program implementation. The core objective of our UIC program is the protection of underground sources of drinking water.

Ecology has responded to previous requests from OVWSD and the Washington Association of Sewer & Water Districts to improve protection of groundwater resources through a formal Memorandum of Understanding (Memorandum of Understanding Between The Washington State Department of Ecology and The Washington Association of Sewer and Water Districts Regarding Underground Injection Control Wells, 2021) to revise the UIC Program Guidelines in the [2024 Washington Stormwater Manuals](#)⁵³ (see Volume I, Section 4.1-4.17 of the SWMM for Western Washington). This action was documented in the *2023-2025 Biennium Environmental Performance Partnership Agreement between the Department of Ecology and the Environmental Protection Agency*:

"6H. Ecology's UIC program will continue to work closely with Ecology's stormwater program to update language in the stormwater manuals that show how the stormwater program and the UIC program work closely together to protect groundwater. Ecology will provide updated outreach material to highlight how these programs work together and provide technical support to the water utility districts on the joint implementation of these programs."

⁵³ <https://ecology.wa.gov/regulations-permits/guidance-technical-assistance/stormwater-permittee-guidance-resources/stormwater-manuals>

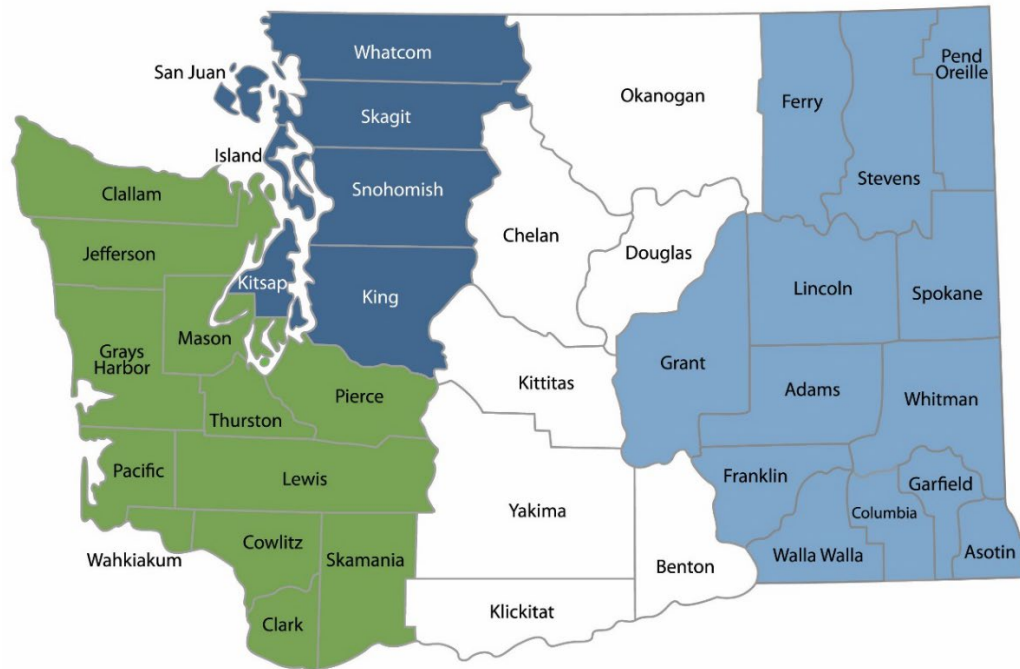
The work to update the UIC requirements in the Western and Eastern Stormwater Manuals included a series of at least 15 meetings over a year and a half. OVWSD and WASWD provided input and reviewed the revisions to improve groundwater protections within the UIC rule authorization program.

Among the revisions were the following:

- New prohibitions on where UIC wells can be located depending on the activities and land use that drain to a UIC well.
- New prohibitions and/or further restrictions to the use of UIC wells and deep UIC wells within 1-year, 5-year, and 10-year time of travel areas from any drinking water well.
- New requirements for UIC well proponents to notify Water District and well owners in the vicinity of the proposed UIC wells as part of the registration and request for rule authorization from Ecology.

Department of Ecology's Region 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	PO Box 47775 Olympia, WA 98504	360-407-6300
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	PO Box 330316 Shoreline, WA 98133	206-594-0000
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 W Alder St Union Gap, WA 98903	509-575-2490
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 N Monroe Spokane, WA 99205	509-329-3400
Headquarters	Across Washington	PO Box 47600 Olympia, WA 98504	360-407-6000