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Re: Preliminary Draft Rule Language, Chapter 173-448 WAC, Air Quality in Overburdened Communities

The Washington Forest Protection Association (WFPA) represents large and small forest landowners managing nearly four million acres of working forests across Washington. Our members support rural and urban communities through the sustainable growth and harvest of timber and other forest products for domestic and international markets. WFPA appreciates the opportunity to comment on the Department of Ecology's preliminary draft rule language for Chapter 173-448 WAC, *Air Quality in Overburdened Communities*. WFPA supports the Legislature's intent in RCW 70A.65.020 to address disproportionate air quality impacts in overburdened communities. We also recognize the substantial analytical effort reflected in Ecology's 2025 report, *Overburdened Communities Highly Impacted by Air Pollution*, which provides an important foundation for this rulemaking.

That report, however, highlights a fundamental concern with the proposed rule: the dominant contributors to air quality impacts in overburdened communities, wildfire smoke, residential wood smoke, agricultural activities, dust, and transportation-related emissions, are largely outside the scope of the draft regulatory framework, while the rule focuses primarily on permitted and registered stationary sources that, in most cases, are not the primary drivers of community-level exposure. In addition, the draft rule represents a significant shift from traditional source-based air regulation toward a place-based regulatory framework that relies heavily on agency discretion and unresolved policy choices embedded in technical provisions.

WFPA offers the following comments to encourage better alignment between Ecology's findings, existing state policy, and a workable, effective regulatory approach.

Alignment with Identified Pollution Drivers
Ecology's 2025 report documents:

- Wildfire smoke is the greatest source of air pollution in Washington, the largest source of $PM_{2.5}$ pollution, and the primary driver of unhealthy air quality days in overburdened communities;

- Other contributors to $PM_{2.5}$ include residential wood combustion, particularly in colder months, and agricultural activities, such as tilling and harvesting.
- Transportation and other mobile sources are major contributors to nitrogen oxides and ozone formation.

Despite these findings, the draft rule is structured entirely around permitted and registered stationary sources, with no comparable framework for addressing wildfire-driven smoke or mobile-source emissions. While WFPA recognizes that wildfire and transportation emissions present complex management challenges, a rule intended to achieve meaningful air quality improvements should at a minimum acknowledge and account for these dominant sources. Absent that alignment, there is a significant risk the rule will impose substantial new regulatory burdens without delivering commensurate improvements in community-level air quality.

Consistency with State Wildfire Risk Reduction and Forest Health Policy
The increasing influence of wildfire smoke on air quality underscores the importance of active forest management, prescribed fire/controlled burning, and fuel reduction treatments as long-term strategies to reduce catastrophic wildfire risk and associated smoke impacts. These approaches are widely recognized in state wildfire, forest health, and climate resilience policy. The proposed rule does not address how its emission reduction framework interacts with these policies. As drafted, the rule could inadvertently:

- Discourage facilities that utilize forest residuals and support fuel reduction efforts;
- Create uncertainty for prescribed burning and forest management activities essential to long-term air quality improvement and sustainable forest management; or
- Penalize short-term, managed emissions without accounting for avoided catastrophic wildfire emissions.

WFPA strongly encourages Ecology to ensure that implementation of Chapter 173-448 WAC does not conflict with or undermine state policies promoting active forest management and wildfire risk reduction, and that the rule explicitly recognizes the role these activities play in reducing long-term $PM_{2.5}$ exposure.

Woody Biomass Utilization and Carbon-Neutral Energy Considerations
Markets for woody biomass, including pellets, bioenergy, and paper products, support multiple state policy objectives: reducing wildfire risk through utilization of forest residuals, supporting rural economies, and providing renewable energy and materials that displace fossil-based alternatives. From an energy and climate policy perspective, woody biomass is widely recognized as carbon neutral over the forest growth and harvest cycle, particularly when it utilizes residual material and displaces fossil fuels. Washington's climate and energy policy frameworks have historically reflected this understanding. The draft rule does not meaningfully account for these lifecycle considerations. By focusing regulatory attention on permitted facilities that process or utilize biomass, which already operate under stringent air permits, the rule risks discouraging continued operation or future investment in infrastructure that supports forest health and climate goals.

WFPA urges Ecology to explicitly consider these interactions and to ensure emission reduction strategies do not unintentionally penalize facilities that provide net environmental benefits.

Residential Wood Heating and Rural Equity
Ecology's 2025 report identifies residential wood combustion as a contributor to wintertime $PM_{2.5}$. For many Washington residents, particularly in rural areas, wood is a primary or backup source of home heating, relied upon for affordability, local availability, and resilience during power outages and severe weather events. Rural communities often face economic, housing, and infrastructure constraints similar to those experienced by Ecology-identified overburdened communities, including limited access to natural gas, high electricity costs, and fewer viable heating alternatives. Policies that restrict or discourage residential wood heating before viable, affordable, and reliable alternatives are available risk increasing energy insecurity, imposing disproportionate costs on lower-income households, and exacerbating existing social inequities.

WFPA encourages Ecology to carefully consider these realities and ensure that any future regulatory actions affecting residential heating are aligned with the availability of practical, affordable replacement options.

Treatment of Permitted and Registered Air Pollution Sources
The draft rule does not adequately distinguish between permitted and registered air pollution sources, despite the fundamentally different regulatory frameworks that apply to each. As a result, the rule risks treating sources with substantially different compliance histories, emission profiles, and regulatory oversight as functionally equivalent for purposes of designation and enforcement.

Permitted sources operate under individualized, enforceable air permits issued pursuant to the Washington Clean Air Act. These permits include source-specific emission limits, control technology requirements, monitoring and reporting obligations, public notice, and appeal rights. Permitted facilities represent the most heavily regulated segment of stationary sources in the state, and their emissions are already quantified, capped, and subject to ongoing regulatory oversight.

Registered sources, by contrast, are generally lower-emitting facilities that do not require pre-construction or operating permits. Registration is intended as a streamlined mechanism to provide regulatory visibility and basic compliance oversight, not as a substitute for individualized permitting or enforceable emission limits. By allowing both permitted and registered sources to be designated as "high priority emitters" and subject to similar compliance pathways, the draft rule blurs this critical distinction. Doing so raises several policy and regulatory concerns:

- It undermines the purpose of existing permitting programs by failing to account for the extensive controls and enforceable limits already imposed on permitted sources;
- It risks imposing duplicative or disproportionate regulatory burdens on facilities that are already in full compliance with state and federal air quality requirements; and
- It reduces regulatory predictability by subjecting permitted sources to additional, discretionary requirements untethered from their permitted emission limits or demonstrated proportional contribution to community-level air quality conditions.

A regulatory framework that does not meaningfully differentiate between permitted and registered sources risks both inequitable outcomes and diminished effectiveness. WFPA encourages Ecology to clearly recognize and account for these differences in the rule's structure and implementation, and to ensure that permitted sources are not treated as functionally interchangeable with registered sources

for purposes of designation, baseline setting, or emission reduction obligations. These concerns are compounded by the draft rule's heavy reliance on discretionary determinations and unresolved policy choices, as discussed below.

Regulatory Certainty, Proportionality, and Due Process
As proposed, the draft rule relies heavily on subjective and discretionary determinations, including:

- What data are "representative" of community conditions;
- Which sources "cause or contribute" to community-level pollution;
- How overburdened communities are compared to "neighboring communities;"
- What defines a "neighboring community;"
- Which statistical measures define compliance with air quality targets; and
- Whether emissions are "not decreasing sufficiently."

At the same time, major policy decisions, including air quality targets, emission baselines, and reduction thresholds, are embedded within technical provisions and remain unresolved through placeholders. Appeals are limited to enforceable orders, not the earlier discretionary determinations that shape regulatory outcomes. These unresolved elements create substantial compliance uncertainty and administrative burden for regulated entities. Further, facilities may be designated as "high priority emitters" and subject to escalating obligations despite full compliance with existing federal and state air permits, raising concerns about proportionality, internal consistency, and due process.

This is highlighted by the fact that permitted and regulated entities generally represent a small fraction of Washington's total emissions for each criteria pollutant. According to Ecology's Comprehensive Emissions Inventory, permitted and regulated entities account for ~5% of statewide $PM_{2.5}$, ~2% of statewide VOC, and ~22% of statewide NOx emissions. Ecology's 2025 report finds that six communities experienced an annual average of at least three days of unhealthy air quality between 2022 and 2024. Yet the vast majority of large emitters are not located in the counties that encompass these overburdened communities. Of the total $PM_{2.5}$ emissions from large point sources, <20% of these emissions occurred in the counties that experienced the highest share of unhealthy air quality. Ecology should demonstrate that the High Priority Emitters it designates are actually capable of producing meaningful air quality improvements in overburdened communities. The current draft rule does not appear to require Ecology to demonstrate that effect, nor does it articulate a clear pathway for achieving measurable reductions in criteria pollutants through regulating High Priority Emitters. Ecology should be required to demonstrate a clear, evidence-based link between the sources it designates and the air quality problems the rule is intended to address. This could mean establishing that a High Priority Emitter contributes meaningfully to elevated concentrates in the overburdened community and that the required emission reductions are expected to produce measurable improvements in the criteria air pollutant. Without this requirement, the rule is likely to impose expensive and unnecessary obligations on permitted and regulated entities without ensuring that the costs will improve health outcomes.

Environmental justice objectives are best served by clear, objective, achievable standards and a regulatory framework that targets emissions where meaningful exposure reductions can be achieved.

Conclusion
WFPA supports efforts to improve air quality in overburdened communities and appreciates Ecology documenting the drivers of air pollution in its 2023 and 2025 reports. Those analyses, together with the concerns outlined above, underscores the importance of aligning this rulemaking with real-world pollution sources, particularly wildfire smoke and transportation emissions, while avoiding unintended conflicts with forest health, wildfire risk reduction, biomass utilization, rural energy resilience, and established air quality frameworks.

We respectfully request that Ecology revisit and refine the proposed rule to improve alignment, effectiveness, regulatory certainty, and procedural fairness. Thank you again for the opportunity to comment, WFPA looks forward to continued engagement as this rulemaking advances.

Sincerely,

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