February 15, 2026

Anthony Bruma
Washington Dept. of Ecology

Re: WAC 173-448, Preliminary Draft (November 2025)

Dear Mr. Bruma:

I am writing on behalf of the Association of Washington Business (AWB) to comment on the November 2025 preliminary draft of WAC 173-448, Air Quality in Overburdened Communities Highly Impacted by Air Pollution ("the Proposal"). The Proposal has some unprecedented features, and AWB appreciates Ecology's effort to solicit public comment on it at an early stage in the rule development process. The opportunity for stakeholders to contribute early in the process should lead to adoption of a program that meaningfully improves air quality in overburdened communities while aligning with the requirements of RCW 70A.65.020.

AWB members have comments on several areas of the Proposal, but our main concerns are regarding the effectiveness of the Proposal in improving air quality in overburdened communities, as well as consistency with legislative intent.

To start, the Proposal appears to assume that air quality in overburdened communities is degrading, and that more controls on stationary sources is the solution to this problem. These assumptions conflict with Ecology's own analysis of ambient air quality trends and the policies the legislature codified in the Climate Commitment Act (CCA) to protect emissions-intensive, trade exposed industries (EITEs), prevent leakage, and to focus control strategies for overburdened communities on the greatest contributors in those communities. The Proposal must be consistent with the legislative intent expressed in RCW 70A.65.005(6) and (7):

> The legislature intends to create climate policy that recognizes the special nature of emissions-intensive, trade-exposed industries by minimizing leakage and increased life-cycle emissions associated with product imports.[1]

[1] RCW 70A.65.005(6).

> [T]he legislature intends to identify overburdened communities where the highest concentrations of criteria pollutants occur, *determine the sources of those emissions and pollutants,* and pursue significant reductions of emissions and pollutants in those communities.[2]

AWB recommends that the Proposal follows RCW 70A.65.020 regarding how Ecology will achieve these mandates. RCW 70A.65.020(2)(a) directs Ecology to first determine the level of criteria pollutants in an overburdened community. Ecology should then set air quality targets, based either on the NAAQS or air quality in neighboring communities. RCW 70A.65.020(2)(b)(i). Ecology then should identify the stationary ***and mobile*** sources that are "the greatest contributors of those emissions that are either increasing or not decreasing." RCW 70A.65.020(2)(b)(ii). For those sources, Ecology must adopt "emission control strategies or other methods" to achieve the air quality targets established for that area. RCW 70A.65.020(2)(b)(iii), (iv).

While it is understood by AWB that regulation of non-point sources is often challenging, it is imperative that mobile and area sources are included and addressed in the rule. Regulatory strategies to reduce emissions from mobile and area sources may look different from strategies used with point sources, but the history of Washington's State Implementation Plan (SIP) program shows implementation of measures such as woodstove performance standards, agricultural burning restrictions, automotive inspection programs and clean fuel standards.[3] These show that Ecology does have the authority to engineer reductions in non-point sources. Furthermore, the statute states that "[a]ctions imposed under this section may not impose requirements on a permitted stationary source that are disproportionate to the permitted source's contribution to air pollution compared to other permitted stationary sources and other sources of criteria pollutants in the overburdened community." RCW 70A.65.020(2)(c). Thus, Ecology must find mechanisms to proportionally reduce pollution from all source types if it hopes to accomplish the goals of the statute.

Ecology has also long recognized that mobile and area source emissions dominate emissions inventories for criteria pollutants, state-wide and in (former) nonattainment areas. Ecology's most recent state-wide air emission inventory showed that mobile sources made up over 30% of criteria pollutant emissions, while stationary sources

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[2] RCW 70A.65.005(7) (emphasis added).

contributed only 4.4%.[4] The remaining emissions are from other area sources such as residential wood combustion, agriculture, wildfires, and natural emissions from soil.[5] Stationary sources make up a similarly small fraction of $PM_{2.5}$ emissions, only 4.6%.[6]

Similar source contributions occur in overburdened communities. For example, Ecology found that large industry contributed two percent of fine particle emissions in the Tacoma nonattainment area in winter 2008[7]:

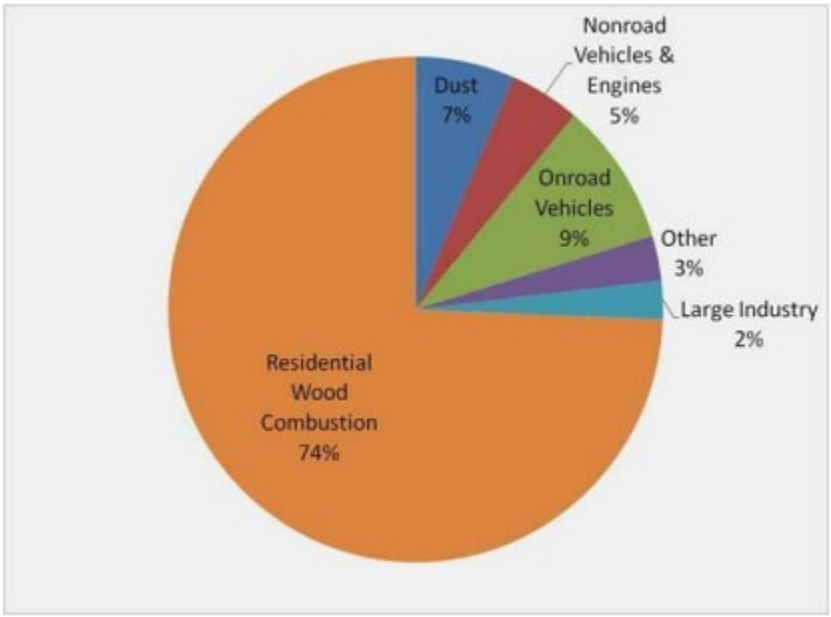

Figure 5: Tacoma-Pierce County Nonattainment Area Winter Day Fine Particle Emissions by Source Category, 2008

[4] Ecology, *2020 Washington Comprehensive Emissions Inventory*, Publication 20-02-012, Tables 4-1 and 4-2, July 2023 (updated October 2024). The stationary and mobile source categories aggregate emissions from several source categories broken out with more specificity in Tables 4-1 and 4-2.

[5] *Id.*

[6] *Id.*

[7] State Implementation Plan Revision - Tacoma-Pierce County Nonattainment Area, November 2012, Publication no. 12-02-016

https://apps.ecology.wa.gov/publications/documents/1202016.pdf

Ecology considers $PM_{2.5}$ as the primary pollutant of concern in overburdened communities highly impacted by air pollution.[8] Emissions and ambient concentrations of criteria pollutants are falling in most areas, including most overburdened communities. Ecology's 2025 overburdened community report notes that year-to-year decreases in average daily $PM_{2.5}$ values have occurred in most communities with longer established monitoring sites.[9] Decreases are likely due to cleaner fuels, lower vehicle emissions and previous control strategies. As described in the SIP revision proposal to redesignate the former Tacoma-Pierce nonattainment area to maintenance, reductions in residential wood combustion and motor vehicle emissions account for the majority of $PM_{2.5}$ improvement in this former nonattainment area.[10] These ambient air quality trends are also highly influenced by fine PM concentrations in many areas spiking during forest fires,[11] a troubling trend that has nothing to do with stationary source emissions generated in overburdened communities. Ecology wisely has proposed to exclude "exceptional events" from the data used to set design values and assess achievement of these values for "identified communities." WAC 173-448-040(3).

To comply with RCW 70A.65.020 Ecology needs to regulate the sources that contribute to impaired air quality in each overburdened community, not just stationary sources. AWB agrees with Ecology's proposal to establish the NAAQS as the initial air quality targets. WAC 173-448-050(2). The comprehensive emissions inventory and associated contributions to ambient air concentrations for the overburdened community should be used to identify "the stationary and mobile sources that are the greatest contributors of those emissions that are either increasing or not decreasing." RCW 70A.65.020(2)(b)(ii). Where available, Ecology should conduct or review source apportionment studies to determine the greatest contributors to ambient air pollution concentrations. For example, Ecology's 2025 source apportionment study found that at Tacoma-L St, residential wood combustion contributes the majority of $PM_{2.5}$ air concentrations (53% on average), and

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[8] Ecology, *2025 Report: Overburdened Communities Highly Impacted by Air Pollution*, Publication 25-02-037 at page 23, December 2025.

[9] *Id.* at page 65.

[10] Ecology, *Proposed State Implementation Plan Revision, Tacoma-Pierce County PM2.5 Redesignation Request and Maintenance Plan*, Publication No. 14-02-021 at pages 28-32, October 2014.

[11] *2025 Report: Overburdened Communities Highly Impacted by Air Pollution*, at page 17.

much higher levels in winter months when exceedances occur (approximately 90% contribution on exceedance days, followed by vehicles and aged wood smoke).[12]

Similarly, the initial data from a similar study at the Toppenish-Ward (Yakama Tribe) monitoring site found major contributors to be residential wood combustion, agricultural and silvicultural burning, and wildfires, with primary contributors in wintertime listed as agricultural and motor vehicle emissions sources.[13] The source apportionment study cited by Ecology for two sites in Seattle found that diesel/gasoline contributions to $PM_{2.5}$ concentrations averaged 29% at one site and 50% at the other.[14] In all three of these examples, important sources were identified as significant contributors. It is worth noting that none of the studies identified stationary sources as a significant contributor.

Another concern from AWB members is that the Proposal appears to skip over the data collection and analysis tasks that the legislature prescribed to determine which sources and source categories contribute to impaired air quality in identified communities. Specifically, the Proposal (WAC 173-448-040) discusses development of design values in overburdened communities, but it does not discuss development of a comprehensive emissions inventory for each overburdened community. Ecology needs that information to identify the sources that are the greatest contributors to impaired air quality in each community.

AWB suggests that Ecology also reconsider its definitions for "high priority emitters," which in the Proposal are assigned without regard to the contributions of those sources to design values in the community. Proposed WAC 173-448-070(3) would define "high priority emitters" as stationary sources that emit threshold levels of criteria pollutants. These threshold levels, drawn from the PSD program, are not reasonable surrogates for the sources that cause or contribute to ambient air quality problems in overburdened communities. In addition, WAC 173-448-100 proposes a detailed reduction program for "high priority emitters," without regard to their contribution to impaired air quality in overburdened communities. This approach contradicts the statutory mandate to ensure that reductions at a source are not "disproportionate to the permitted source's contribution to air pollution compared to other permitted stationary sources and other sources of

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[12] Ecology, *2025 Washington Ambient Air Monitoring Network Assessment*, Publication 25-02-019 at pages 79, 81-82, June 2025.

[13] *Id.* at page 84.

[14] Beth Friedman (2020). Source apportionment of PM2.5 at two Seattle chemical speciation sites, Journal of the Air & Waste Management Association, 70:7, 687-699.

criteria pollutants in the overburdened community." RCW 70A.65.020(2)(c). AWB suggests that "high priority emitters" be considered a subset of "greatest contributors" and that sources not appear on this list until data collection and analysis has occurred.

Overall, a program that does not focus on reducing emissions from the biggest contributors to impaired air quality in an overburdened community would fail in three respects. First, it would not mitigate the disparities between air quality in overburdened communities and neighboring communities because the draft does not address reducing emissions from the vast majority of emission sources (non-permitted sources, which contribute over 95% of state-wide emissions). Second, it would conflict with the legislature's instructions in RCW 70A.65.020, especially the directive to target the stationary and mobile sources that are the greatest contributors to impaired air quality. Third, it would undercut the intent of the CCA to protect EITEs and to prevent leakage.

AWB recommends that the next version of 173-448 include a process to develop and propose for public comment a design value for each criteria pollutant which causes an area to be "highly impacted by air pollution." RCW 70A.65.020(1). 173-448 also should include a timeline to publish a complete emissions inventory for each overburdened community, covering the pollutants that make the community "highly impacted by air pollution" and which are not decreasing. Ecology should analyze air quality data, conduct or review source apportionment studies, or conduct other modeling studies to determine the greatest contributors to ambient air pollution concentrations rather than rely only on emission release data. Based on the inventory and available ambient results, the Proposal should include procedures to establish control measures and/or emission reduction programs for the stationary and mobile sources that are "the greatest contributors of those emissions that are either increasing or not decreasing."[15] The program should not rely on arbitrary percent reduction thresholds like those described in WAC 173-448-100(4)(d), that bear no relationship to the contributions of specific sources, and that undercut the legislative intent to protect EITEs and prevent leakage.

In addition to these core recommendations, AWB has a few other suggestions to improve the next version of the Proposal:

1. The Proposal aims to establish "air quality targets" for overburdened communities, based on the monitored air quality in a neighboring community. WAC 173-448-050(2). "Neighboring Communities" is a defined term, but the definition ("areas

[15] RCW 70A.65.020(2)(b)(ii).

located within the same region as the identified community") is vague, and the term "community" has no definition. The proposal provides no criteria to guide the establishment of the air quality targets that Ecology plans to use to establish emission control strategies in overburdened communities. The next version of the Proposal should include a process for selection of "neighboring communities," and definitional criteria that describe the minimum size, air quality characteristics and proximity of a neighboring community to which conditions in the overburdened community will be compared.

2. WAC 173-448-040(4) describes the process for setting design values. AWB supports Ecology's proposal to adopt the concept of a "design value" for an area, because it includes proven methods to calculate air quality targets from a large set of monitor data from multiple locations. However, Ecology should strike subsection 040(4)(b) from the Proposal. That subsection endorses an alternative process to estimate design values "using non-regulatory monitor or sensor data if regulatory data are not available." Ecology should follow EPA protocols in setting design values, and should not base those key determinations on informal measurements from unvalidated monitor devices. In 2025 the Puget Sound Clean Air Agency operated a program to distribute 800 low cost air quality sensors to track fine PM emissions in neighborhoods in the four counties that PSCAA regulates.[16] PSCAA emphasized that "[a]lthough air sensors are less expensive than a regulatory air monitor, they are also less accurate."[17] For SIP development and attainment demonstrations, Ecology has used only EPA-reference method monitor data to measure ambient air quality. Ecology should follow the same safeguards in developing data used to support control strategy decisions in the overburdened communities program. Ecology should delete references to "sensors" from the Proposal.

3. WAC 173-448-040 correctly addresses the establishment of design values for pollutants in an identified community on a pollutant-specific basis. WAC 173-448-050 prescribes the development of air quality targets on a pollutant-specific basis. In WAC 173-448-070, however, the Proposal states that "Ecology will determine the sources constituting the greatest contributors of criteria air pollution in each identified community . . ." The term "criteria air pollution" is misleading because

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[16] *See* Puget Sound Clean Air Agency, *Air Quality Sensors*, available at https://pscleanair.gov/539/Air-Quality-Sensors (last accessed February 10, 2026).

[17] *Id*.

ambient concentrations of pollutants and control strategies to reduce those concentrations are specific to each pollutant and each overburdened community. Contributors and control strategies should be developed on a pollutant-specific basis, and the Proposal should not use a term that suggests otherwise.

4. RCW 70A.65.020(2)(b)(ii) limits the scope of the control strategy for a specific overburdened community to pollutants for which emissions "are either increasing or not decreasing." Ecology should incorporate this limitation into section 050 (air quality targets) so that the program focuses on the areas and the pollutants that the legislature targeted for reductions.

5. The next version of 173-448 should omit WAC 173-448-070(3) and should rewrite WAC 173-448-100 to include the statutory restriction that requirements imposed on a permitted stationary source must not be "disproportionate" to that source's contribution to air pollution compared to all other sources in the overburdened community. To ensure compliance with this restriction, the next version of the rule should include a step for Ecology to evaluate the proportionality of reductions mandated or achieved for greatest contributors in each overburdened community.

AWB truly appreciates the opportunity to comment on the Proposal, and looks forward to working with Ecology to further develop the rule.

Very truly yours,

Peter Godlewski

Government Affairs Director Energy, Environment, Water

Association of Washington Business