WSPA
Jessica Spiegel
Vice President, Northwest Region

November 17, 2026

Sent via email to: linda.kildahl@ecy.wa.gov

Linda Kildahl
Rulemaking Lead
Washington State Department of Ecology
Air Quality Program
P.O. Box 47696
Olympia, WA 98504-7696

Re: WSPA Comments on Rulemaking (WSR-25-23-111) – Amendments to Chapter 173-400 and 173-476 WAC – Air Quality Standards and Impact Levels

Dear Ms. Kildahl:

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide the Washington State Department of Ecology (Ecology) with our comments on the agency's proposed rulemaking, amending Chapter 173-400 and Chapter 173-476 of the Washington Administrative Code (WAC), Air Quality Standards and Impact Levels. Ecology proposed amendments to Chapter 173-476 WAC to align with the National Ambient Air Quality Standards (NAAQS) under 40 CFR Part 50 for $PM_{2.5}$ and SO_2, and amendments to Chapter 173-400 WAC to align with updated EPA recommended values. WSPA provided comments during the informal public comment periods. Based on the proposal issued September 24, 2026, we identified additional comments that we believe are important for Ecology to consider in this phase.

WSPA is a non-profit trade association that represents companies that safely explore for, produce, refine, transport and market petroleum, petroleum products, natural gas, and other energy supplies in California, Washington, Oregon, Nevada, and Arizona.

We support Ecology's objective of maintaining alignment with federal Clean Air Act requirements. The comments below are offered to help ensure the rule remains consistent, workable, and effective.

Alignment with Federal Standards
Ecology proposed to update Washington's ambient air quality standards to reflect recent EPA changes, including the $PM_{2.5}$ annual standard of 9 µg/m³. WSPA understands the goal of maintaining consistency with federal standards. However, EPA has already signaled that federal standards may be revisited in response to evolving policy priorities. If the federal standard were to revert to 12 µg/m³, Washington would retain a more stringent state-only standard, contrary to the stated goal of alignment.

This potential outcome would result in regulatory inconsistency, implementation complexity, and a potential competitive disadvantage for Washington facilities relative to other states.

We had recommended the following considerations to support long-term alignment, and Ecology indicated that neither of the following will be implemented. However, we believe that alignment is critical to avoiding confusion and preventing a competitive disadvantage for Washington facilities, particularly with respect to $PM_{2.5}$. Therefore, WSPA urges Ecology to reconsider one or both of

these recommendations to maintain long-term consistency with federal standards.

- Including provisions that automatically track federal NAAQS updates, or
- Establishing a mechanism to promptly revisit state standards in the event of federal changes.

In addition, we identified a difference between the proposed language for the SO_2 standard and the NAAQS related to averaging periods: The proposed rule specifies calendar year while the NAAQS specifies the average over three years. The federal language is copied below for refence:

> *The annual secondary standard is met when the 3-year average of the annual SO_2 concentration is less than or equal to 10 ppb, as determined in accordance with appendix T of this part.*[1]

This difference appears to be an unintentional carryover from the existing rule. The rule language be updated to reflect the averaging period consistent with the federal NAAQS.

Chapter 173-476 WAC – Ambient Air Quality Standards
Ecology proposed the more stringent $PM_{2.5}$ standard of 9 µg/m^3. However, we urge Ecology to reconsider. A more stringent $PM_{2.5}$ standard will result in narrow compliance margins in areas where ambient levels are influenced by regional and background sources, such as wildfire smoke, wood combustion, and commercial cooking. In these settings, small increases from individual projects can appear significant, even when those projects are not meaningful contributors to overall air quality conditions.

Chapter 173-400 WAC – "Cause or Contribute" Thresholds (SILs)
Ecology proposed the more stringent $PM_{2.5}$ significant impact level (SIL) / "cause or contribute" threshold value. However, we urge Ecology to reconsider. The proposed updates to SILs warrant careful consideration given their central role in the permitting process. SILs are intended to function as screening tools to identify projects with negligible impacts. If thresholds are set too low, however, they can trigger detailed modeling requirements for projects that have minimal real-world impact.

There is a concern that the proposed thresholds may capture relatively small projects, resulting in increased reliance on cumulative modeling without a corresponding environmental benefit. This effect is magnified when combined with a more stringent $PM_{2.5}$ standard.

In a cumulative modeling context, even a small increase that slightly exceeds a low screening threshold may be difficult to reconcile with the ambient standard in areas where background concentrations are already elevated due to regional sources. In such cases, modeling outcomes may be driven primarily by background conditions rather than the project itself, making it challenging to demonstrate compliance even for minor emission increases.

Taken together, these factors could complicate permitting for routine projects. Maintaining SILs at levels that preserve their intended role as effective screening tools is therefore important to ensuring a workable and appropriately focused permitting program.

Revised SIL Applicability Language
Ecology made changes to the language related to "cause or contribute" between the first and

[1] 40 CFR 50.21(b)
https://www.ecfr.gov/current/title-40/part-50/section-50.21#p-50.21(b)

second draft and made further updates in the proposed rule. We appreciate Ecology's updates to indicate that a modeled result exactly equal to the SIL can also be considered not to "cause or contribute" to a violation of the air quality standard and to provide additional clarification that exceeding the SIL does not indicate the project causes or contributes to a violation if there is no predicted exceedance the standard itself.

Cumulative Impact Analysis

In addition to the threshold levels themselves, other proposed revisions remain in place related to the applicability language governing "cause or contribute" determinations and remain problematic. The proposed rule still states that a permitting authority may require a cumulative impact analysis even when modeled concentrations are below the SIL values if there is information suggesting that impacts, when combined with nearby sources or background concentrations, could contribute to a violation. This language gives vague and overly broad discretion to the permitting authority and risks undermining the intended role of SILs as a clear and predictable screening tool. Ecology communicated that they believed the latter half of the sentence would limit a permitting authority's ability to request a cumulative analysis in questionable situation. However, we still believe it is important to add some bounds to this authority.

As WSPA noted in its comments on Ecology's overburdened communities rulemaking[2], source-apportionment analysis provides a scientific basis for evaluating relative contributions to ambient pollution and focusing regulatory requirements on sources that meaningfully affect air quality, rather than simply those that are easier to regulate. By allowing cumulative modeling to be required even when a project screens below established thresholds, the provision introduces additional uncertainty into the permitting process and makes it more difficult for applicants to determine compliance obligations in advance.

As written, this approach could make SIL thresholds effectively non-determinative, resulting in case-by-case decisions that are less transparent and more difficult to implement consistently across jurisdictions. This uncertainty may place Washington facilities at a competitive disadvantage by reducing applicants' ability to make informed project investment and development decisions. This situation is particularly concerning when combined with low SIL values and a more stringent ambient standard, which together may already increase the number of projects subject to detailed review.

WSPA reiterates that Ecology should clarify and appropriately narrow this provision so that SILs retain their intended function as a reliable screening mechanism. If discretion to require additional review for cases below or equal to the SIL is included in future rule revisions, it should be only in clearly defined and limited circumstances.

[2] *Comments on Preliminary Draft Rule Language – WAC 173-448, Air Quality in Overburdened Communities* (Feb. 14, 2026), Appendix A, *Washington OBC PSAT Analysis* (Feb. 13, 2026), prepared by Alpine Geophysics, LLC.

Conclusion

On behalf of WSPA and its member companies, I would like to express our thanks for considering our public input on this rulemaking. If you have any questions regarding our comments, please do not hesitate to contact me directly at (360) 918-2178 or via email at jspiegel@wspa.org.

Sincerely,

Jessica Spiegel
Vice President, Northwest Region
WSPA

Commented [GF1]: Can you make this more of a narrative vs bullets.