



STATE OF WASHINGTON  
**DEPARTMENT OF HEALTH**

OFFICE of ENVIRONMENTAL HEALTH and SAFETY

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September 14, 2018

Becca Conklin  
Department of Ecology  
P.O. Box 47600  
Olympia, WA 98504-7600

Dear Ms. Conklin:

Thank you for the opportunity to comment on proposed amendments to [Chapter 173-201A WAC, Water Quality Standards for Surface Waters of the State of Washington](#) which updates fresh and marine water quality standards for the protection of water contact recreational uses in state waters.

WAC 173-201A-210(2) governs shellfish harvesting water quality standards. The Department of Health's Shellfish Program, acting as the state designated Shellfish Authority by the U.S. Food and Drug Administration, implements federal rules to classify commercial shellfish harvesting areas and equivalent state rules to classify recreational shellfish harvesting areas. We follow strict marine water quality standards under Chapter 246-282 WAC, Sanitary control of shellfish, to assure areas are classified appropriately and, unfortunately, the standards in chapter 246-282 WAC differ significantly from those in Chapter 173-201A, WAC. We would like the opportunity to work with the Department of Ecology to ensure language in WAC 173-201A-210(2) is updated to reflect required National Shellfish Sanitation Program standards followed by our Shellfish Program.

As the Shellfish Strategic Initiative Lead, we pass through federal National Estuary Program (NEP) funds for bacteria pollution identification and correction (PIC) program work across Puget Sound counties to improve water quality to recover safe, year-round shellfish harvest. PIC work primarily addresses nonpoint sources of bacteria pollution. We are concerned the proposed rule language and draft rule implementation plan does not clearly spell out that nonpoint source pollution from properties without permits can cause exceedances of recreational use bacteria criteria. Additionally, we would like to see the rule's applicability to determining compliance for nonpoint sources of bacteria pollution included.

Rule language:

The proposed rule language definition of “ambient water quality” applies to a “surface water of the state.” Does this mean the recreation use criteria apply to nonpoint source discharges to waters of the state consistent with WAC 173-201A-600(1)?

If the proposed new recreation use criteria apply to nonpoint source discharges to waters of the state, Please clarify that criteria to protect recreation use apply to all water tributaries to the waters where the recreation use exists (e.g., applies to field or roadside ditch, ephemeral waterway, or a receiving water not listed in Table 602).

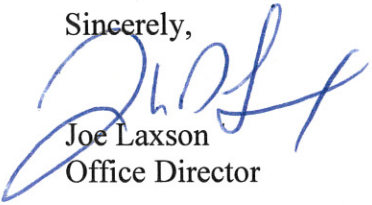
Draft Rule Implementation Plan:

Similar to the rule language, the [Draft Rule Implementation Plan](#) does not recognize the rule’s applicability to nonpoint bacteria pollution compliance work. The *Implementation and Enforcement* section does not include how this rule meets the needs of monitoring and compliance programs addressing nonpoint sources from properties without permits. Language in the *Promoting and Assisting Voluntary Compliance* section refers only to permitted discharges/effluent limits in permits and laboratory accreditation. The *Training and Informing Ecology Staff* section does not include, for example, Water Quality Specialists hired to address nonpoint bacteria pollution sources from un-permitted, non-dairy agricultural properties. We encourage including recognition and support of nonpoint compliance work to reduce bacteria pollution in the final Implementation Plan.

In addition, we are concerned with the transition from fecal coliform bacteria to *E. coli* as it may relate to point sources discharging to freshwater that potentially impact shellfish growing areas. It is important to our Shellfish Program that these facilities continue monitoring for fecal coliform bacteria and that the new rule maintains this requirement.

We appreciate the working relationship our agencies have developed to improve water quality in the state.

Sincerely,



Joe Laxson  
Office Director