



UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY
REGION 10

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WATER
DIVISION

Marla Koberstein

Washington State Department of Ecology
Water Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

RE: EPA's Comments on the Proposed Chelan Use Attainability Analysis

Dear Ms. Koberstein:

Thank you for the opportunity to provide comments on the Washington State Department of Ecology's proposed amendments to chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington, filed on March 24, 2021. Specifically, Ecology is proposing revisions to the following chapters:

- Changing WAC 173-201A-020 (Definitions)
- Changing WAC 173-201A-440 (Use Attainability Analysis)
- Changing the designated use for the Chelan River in WAC 173-201A-602 (Table 602—Use designations for fresh waters by water resource inventory area (WRIA)) and adding requirements for temperature and dissolved oxygen levels that will only apply to the Chelan River

EPA has reviewed Ecology's proposed rule revisions and additions and offers the following comments for your consideration:

I. Comments on the proposed Rule Language:

The proposed language at WAC 173-201A-602, Table 602: WRIA 47 – Chelan, Note 4, “*No anthropogenic heat source inputs are allowed downstream of the Lake Chelan Dam outlet to the Chelan River confluence with the Columbia River.*”

EPA recommends providing additional clarity regarding the meaning of the statement, “no anthropogenic heat source inputs” as the language is vague. Suggest more specific language, for example “no heat inputs controlled by the state,” to specify what is being controlled by this statement.

II. Comments on the Draft Chelan River Use Attainability Analysis and Site Specific Criteria: Technical Support Document (TSD):

1. Discussions regarding site specific criteria in the TSD refer to the criteria that protect the revised designated use, or the highest attainable use (HAU). This distinction is discussed in the proposed rule preamble at 78 FR 54524,¹ and excerpted below:

¹ <https://www.govinfo.gov/content/pkg/FR-2013-09-04/html/2013-21140.htm>

The concept of HAU should not to be confused with “site-specific criteria.” A site-specific criterion is designed to protect the current unchanged designated use, but the criterion value may be different from the statewide or otherwise applicable criterion because it is tailored to account for site-specific conditions that may cause a given chemical concentration to have a different effect on one site than on another. By contrast, the criterion supporting a newly established highest attainable use is designed to protect the revised use associated with a different aquatic community expected in the water body.

EPA recommends revising the TSD to clarify that the proposed criteria is the HAU instead of site specific criteria.

2. Because the factor used to determine the need for a use change is at 40 CFR 131.10(g)(1), *Naturally occurring pollutant concentrations prevent the attainment of the use*, the HAU for the waterbody should only include the naturally warmer temperatures and not additional temperature increases associated with anthropogenic sources, such as climate change effects. EPA recommends modifying the HAU to only include the natural effects on the river.
3. Figure citations are off in the TSD starting with Figure 5. Please revise to ensure accuracy.
4. Table 2, Water quality criteria for the Chelan River (WAC 173-201A-200), states the duration for temperature as *“7-day average of the daily minimum.”* Please revise to say, *“7-day average of the daily maximum.”*
5. Table 4, Current and proposed aquatic life uses for the Chelan River. Column heading *“Proposed Existing Aquatic Life Use2,”* should be changed to say, *“Proposed Aquatic Life Use2”* as the draft language could cause confusion over what is *“attainable”* vs what is an *“existing”* use.

EPA appreciates Ecology’s commitment to update Washington’s water quality standards. We look forward to continuing to engage with you throughout this process. If you have any questions, please contact me at (206) 553-0268 or Guzzo.Lindsay@epa.gov.

Sincerely,

Lindsay Guzzo
Water Quality Standards Coordinator