



**UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY
REGION 10**

1200 Sixth Avenue, Suite 155
Seattle, WA 98101

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 Outstanding Resource Waters Designated for Soap Lake and Portions of the Cascade, Napeequa, and Green Rivers

Dear Ms. Koberstein:

Thank you for the opportunity to provide comments on the Washington State Department of Ecology's proposed amendments to WAC chapter 173-201A – Water Quality Standards for Surface Waters of the State of Washington, filed on July 18, 2023. Specifically, Ecology is proposing revisions to or additions of the following chapters:

- WAC 173-201A-020 (Definitions)
- WAC 173-201A-330 (Tier III—Protection of outstanding resource waters)
- WAC 173-201A-332 (Table 332—Outstanding resource water designations by water resource inventory area (WRIA))
- WAC 173-201A-602 (Table 602—Use designations for fresh waters by water resource inventory area (WRIA))

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

1. The proposed measurable change for Soap Lake is defined as a decrease in conductivity of 639 microsiemens per centimeter ($\mu\text{S}/\text{cm}$) or greater.

EPA recommends providing additional clarity as to how this change will be measured.

2. The Technical Support Document (TSD) states: In addition, human actions are not to cause lake conductivity to decrease below 19,843 $\mu\text{S}/\text{cm}$ as calculated as an annual average more than once in 10 years. This value is based on the combined distribution function of the annual means of conductivity from 1968-2021 and represents the 10th percentile of those means. Annual average conductivity is calculated as the arithmetic average of seven or more samples collected April through October. Samples should be distributed throughout the sampling period.

It seems that this excerpt explains that the long-term average conditions are to be the target conditions. EPA recommends providing a rationale on how this target condition supports the designated uses/unique habitat condition. The rationale should include an

explanation of why a seasonal target is protective, and why a separate target is not needed to protect the designated use from November through March.

3. The proposed language in Appendix A of the Implementation Plan: Outstanding resource waters should not be designated where substantial and imminent social or economic impact to the local community will occur, unless local public support is overwhelmingly in favor of the designation.

EPA recommends adding guidance on how “substantial and imminent social or economic impact to the local community” and “overwhelmingly in favor of the designation” will be assessed or determined.

4. The use of the term “annual average” seems confusing throughout the rule and supporting documents. Consider using the term “seasonal” or defining annual to clarify that it is only effective from April through October.
5. As a reminder EPA views Tier III(B) as Tier 2.5 (see language from R10’s May 2, 2007 action letter below). Tier III prohibits degradation, so having a Tier III category that allows degradation can be a bit confusing. EPA’s forthcoming WQS Handbook will have a discussion on Tier 2.5 that would support WA’s choice to have such a category in the Tier 2 section. EPA suggests revising this section accordingly in a future rulemaking.

Excerpt from EPA’s May 2, 2007 action letter:

Washington's provision also contains a Tier III(B), which allows de minimis degradation. This tier is analogous to a "Tier II ½", which is a more stringent application of the Tier II provisions of the antidegradation policy but slightly less stringent than the prohibition against any lowering in Tier III (A). This extra tier in the State's antidegradation policy is acceptable because it is a more stringent application of the Tier II provisions of the antidegradation policy, and therefore, permissible under Section 510 of the Clean Water Act (Water Quality Standards Handbook: Second Edition, EPA-823-B-94-00Sa, August 1994).

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