



Roza-Sunnyside Board of Joint Control (RSBOJC)

P.O. Box 810 ■ Sunnyside, WA 98944 ■ (509) 837-5141 Roza Irrigation District
P.O. Box 239 ■ Sunnyside, WA 98944 ■ (509) 837-6980 Sunnyside Valley Irrigation

RSBOJC Board Committee Members

May 6th, 2024

Washington State Department of Ecology
Water Quality Program
Attn: Marla Koberstein
P.O. Box 47696
Olympia, WA 98504-7696
(360) 628-6376
Marla.koberstein@ecy.wa.gov

Dear Ms. Koberstein,

On behalf of the Roza-Sunnyside Board of Joint Control (RSBOJC), we have attached the following public comments on the Department of Ecology's (Ecology) rule proposal to revise Chapter 173-201A WAC, Water Quality Standards for Surface Waters of the State of Washington. RSBOJC also supports all public comments on this rulemaking proposal update provided by the Washington State Water Resources Association (WSWRA) Executive Committee and its members, irrigation districts and water companies in the State of Washington, Roza Irrigation District (Roza), and Sunnyside Valley Irrigation District (SVID). There are a few chemicals under the Aquatic Life Toxics Criteria section either being added or updated which irrigation districts in the State of Washington utilize as management tools to carry out the fundamental purpose of delivering irrigation water to landowners in an efficient manner at the lowest possible cost while consistent with good management practices. In addition, through sound stewardship practices and continued usage of herbicides for aquatic vegetation management, RSBOJC members will maintain the ability to enhance water supplies by improving water conveyance and quality, supporting storage development, and increasing management efficiency throughout the Lower Yakima River Basin.

Managing aquatic vegetation in an irrigation conveyance system only by physical and mechanical control methods is and would be unfeasible due to the massive size and scale of the infrastructure. The requirements for these methods involve costly labor and expenses, and even risk additional unintended consequences, such as check structure failure, canal lining damage, and/or overtopping. Meanwhile, the implementation of chemical control methods will eliminate virtually all aquatic vegetation and pose no risk of damage to critical irrigation facilities.

RSBOJC takes pride in our accomplishments as being responsible and strong environmental stewards. We appreciate you and Ecology allowing us the opportunity to provide public comments and/or input on this important matter. The ability for us to all work together as partners during this rulemaking process will provide future generations with sustainability of water resources, and support the viability of agricultural production.

Sincerely,

Handwritten signature of David Felman
David Felman
Treasurer

Attachments: #1 RSBOJC Public Comments on Rule Proposal to Revise Chapter 173-201A WAC (May 2024)

Ric Valicoff
Chairman

Doug Simpson
Vice Chairman

Scott Revell
Secretary/ Auditing Officer

David Felman
Treasurer

Roza-Sunnyside Board of Joint Control (RSBOJC) Public Comments on the Rule Proposal to Revise the Aquatic Life Toxics Criteria of Chapter 173-201A WAC, Water Quality Standards for Surface Waters in the State of Washington (May 2024)

- 1. Establishment of new aquatic life toxics criteria for Acrolein in freshwater** – We earnestly request Ecology to reconsider establishing both the acute and chronic toxicity criteria for acrolein at 3.0 µg/L (or ppb). Many irrigation districts and water companies in the State of Washington rely on the usage of this chemical tool for aquatic vegetation management in their respective irrigation conveyance systems. There is major concern that the establishment of these newly low standards will have an enormous impact(s) on the current discharge effluent limit allowed under the NPDES and SWD General Permit: Irrigation System Aquatic Weed Control (ISAWC). This chemical is the most effective and reliable herbicide tool on the market that provides broad spectrum control of large vascular plants and algae in irrigation conveyance systems throughout the western United States and worldwide. When applied in accordance with the product labels and manual this herbicide will provide results in a short time frame of hours opposed to days, and its non-selective mode of action will eliminate all types of aquatic vegetation pests such as pondweeds, elodea, watermilfoil, and algae. Irrigation Districts and water companies have the responsibility to deliver satisfactory water supply to landowners and/or growers when they need it. The ability to control overgrowth of aquatic weeds and algae with acrolein must be available to operate the conveyance system(s) efficiently and economically as possible. By setting very low WA state surface water quality standards (and potentially lowering future NPDES and SWD effluent limits) for acrolein, it will cause major disruption on the sustainability of designated agricultural water uses and the continued viability of agricultural production in the State of Washington.

These proposed low standards do not align with the practicable usage of an EPA and WSDA registered herbicide product and its FIFRA and SLN approved labels: Magnacide H™ (EPA Reg. No. 10707-9 and EPA SLN WA-040017) which contains the active ingredient acrolein. The Magnacide H™ (or acrolein) federal FIFRA label was approved for reregistration by EPA in 2014, and the WA State SLN label was approved by WSDA in 2022. Since the mid-1970s, RSBOJC members have worked very hard to follow and comply with all the state and federal product label requirements when applying Magnacide H™ (or acrolein). Many best management and operational practices, such as closing spillway gates or rediverting treated irrigation water, are implemented by irrigation districts to contain acrolein within the conveyance system and protect the water quality of receiving waterbodies. RSBOJC has always been very diligent and responsible when it comes to preventing acrolein discharges and/or meeting its NPDES and SWD General Permit requirements with Ecology. Please consider the amount of current and past operational and/or compliance efforts performed by the RSBOJC members and other permittees which have resulted in positive impacts on the water quality and aquatic life throughout the State of Washington. Establishing a 3.0 µg/L standard for acrolein will only lead to additional economic and operational costs for managing the aquatic vegetation within an irrigation district's vast irrigation conveyance system.

Lastly, it is also important to highlight that EPA has issued an interpretive statement and regional guidance in the past to clarify that the application of an aquatic herbicide consistent with the FIFRA label to ensure the passage of irrigation return flow is a nonpoint source discharge not subject to NPDES permit requirements under the CWA. The current federal FIFRA and WA State SLN label requirements for Magnacide H™ (or acrolein) already serve to prevent unreasonable adverse effects on the environment. Therefore, as long as all current product label requirements are met by RSBOJC members when applying Magnacide H™ (or acrolein) within their respective irrigation conveyance system, it should not be necessary to include additional water quality regulations on acrolein in return flows from irrigated agriculture.

2. **Revision of existing aquatic life toxics criteria for Copper in freshwater** – First, 1) We are requesting Ecology clarify the frequency (i.e., term “concurrently”) of sampling water pH, hardness, and dissolved organic carbon (DOC) that would need to occur in order to calculate (or adjust) acute and chronic criteria for copper at a site-specific location or water body. How often and for how long does sampling data for pH, hardness, and DOC need to be collected. 2) Also, please explain what DOC is when talking about water quality in freshwater and explain its relationship or correlation to copper. 3) Please elaborate on the rulemaking process if adjusted acute and chronic criteria for copper at a site-specific location or water body is established and a request is made to use these criteria instead of the default criteria. Will these adjusted criteria be applied to WA State Surface Water Quality Standards (Chapter 173-201A WAC) only? Can they be applied to discharge effluent limits in NPDES and SWD permits? or both?

Second, RSBOJC members, as well as many other irrigation districts in the State of Washington, greatly value the usage of copper as an aquatic herbicide tool. Copper is one of the most abundant products on the market within the irrigation and agricultural industries. It is very effective at controlling aquatic weeds, mainly algae species that constantly thrive in irrigation conveyance systems. Revising the copper criteria in Eastern Washington to a default value of 2.5 µg/L (or 0.0025 mg/L) will have significant impact(s) on the current discharge effluent limit allowed under the NPDES and SWD General Permit: Irrigation System Aquatic Weed Control (ISAWC). By restricting the permitted copper effluent discharges it will remove the ability to use copper algaecide products that RSBOJC members rely on to manage and eliminate specific aquatic weed species in its conveyance system(s), which actively grow every year during the warm irrigation season months. We request that Ecology reconsider setting the Eastern Washington default copper acute criteria at 2.5 µg/L and default copper chronic criteria at 1.8 µg/L as these such low standards are going to make irrigation water conveyance more difficult to support agricultural growers and production in the State of Washington.

Finally, it is also important to highlight that EPA has issued an interpretive statement and regional guidance in the past to clarify that the application of an aquatic herbicide consistent with the FIFRA label to ensure the passage of irrigation return flow is a nonpoint source discharge not subject to NPDES permit requirements under the CWA. The current federal FIFRA label requirements for copper herbicide and algaecide products already serve to prevent unreasonable adverse effects on the environment. Therefore, as long as all current product label requirements are met by RSBOJC members when applying copper within its irrigation conveyance system, it should not be necessary to include additional water quality regulations on copper in return flows from irrigated agriculture.