



May 7, 2024
Marla Koberstein
Washington Department of Ecology
P.O. Box 47696
Olympia, WA 98504

RE: Aquatic Life Toxics Criteria

Dear Marla Koberstein and Department of Ecology staff,

On behalf of the Jamestown S'Klallam Tribe, I am responding to the request for comment on amending WAC 173-201A-240 by updating the aquatic life toxics criteria. The Tribe appreciates the opportunity to participate in this update and generally supports updating Washington's water quality standards to reflect new science and impacts to sensitive species that the Tribe relies upon for subsistence and commercial enterprises.

Staff at the Jamestown S'Klallam Tribe have reviewed the proposed changes and are submitting the following comments for your consideration.

Sincerely,

Alex Scagliotti
Environmental Planner
Jamestown S'Klallam Tribe
1033 Old Blyn Highway
Sequim, WA 98382

1. General updates: We support the majority of criteria changes that Ecology is proposing whether those be adopting new EPA recommendations or updating state-specific criteria that account for Endangered Species Act (ESA) impacts, new science or site-specific conditions. Updated criteria for organics and metals like copper and zinc, are important steps that are long past due in order to reduce harm to aquatic resources that are critical to tribal interests.
2. Specific Criteria:
 - a. 6PPD-Q: We are pleased that Ecology recognizes the importance of regulating this toxic due to its outsized impact on *Oncorhynchus kisutch* and other salmonids which are important treaty resources to the Tribe. Freshwater acute criteria is the most pressing factor to regulate and we are hopeful that Ecology will adopt the other criteria as soon as sufficient data requirements are met. Using alternative methods to determine the freshwater acute criterion seems appropriate due the single-species sensitivity.
 - b. PFOS/PFOA: We suggest that Ecology consider alternative methods to developing PFOS and PFOA criteria to be at least as stringent, if not more, than the EPA's recommendations. Similar to recognizing the need to address 6PPD-Q, the impacts of these substances to aquatic life at all trophic levels due to their bioaccumulation properties are harmful for wildlife and by extension, tribal citizens that consume high levels of fish. If other states (Oregon, Idaho or any other state) that have similar ESA-listed species have approved criteria for these that can pass the ESA consultation process, we strongly suggest exploring these alternative options for Washington.
3. Unadopted EPA criteria:
 - a. We agree that narrative criteria for iron and hydrogen sulfide should continue to be used until minimum data requirements can be met.
 - b. We suggest that Ecology consider alternative methods for developing heptachlor epoxide criteria. The technical support document cites that this metabolite may behave differently than its parent component though there is documentation that their toxicity effects are very similar¹ but with heptachlor epoxide being more stable in the environment for a longer period of time. While the use of heptachlor has been largely curtailed in the U.S., its limited use and potential concentration in waste disposal sites can still pose a hazard to aquatic life.

¹ US EPA 1980. Ambient Water Quality Criteria for Heptachlor. Available at <https://www.epa.gov/sites/default/files/2019-03/documents/ambient-wqc-heptachlor%201980.pdf>

WHO 1984. Environmental Health Criteria 38 Heptachlor. Available at <https://iris.who.int/bitstream/handle/10665/37298/9241540982-eng.pdf>

EU 2011. Heptachlor/Heptachlor epoxide EQS dossier 2011. Available at <https://circabc.europa.eu/sd/a/53641c85-d467-4c03-9100-b5fddf8bbfce/Heptachlor%20EQS%20dossier%202011.pdf>