

Nine organizations committed to clean water for people and wildlife

On behalf of Duwamish River Community Coalition, Friends of the San Juans, Seattle Aquarium, Communities for a Healthy Bay, Olympic Environmental Council, RE Sources, Zero Waste Washington, Puget Soundkeeper, and Washington Conservation Action, please see the attached comment letter.



June 28, 2024

Marla Koberstein
Department of Ecology, Water Quality Program
PO Box 47696
Olympia, WA 98504-7696

Dear Ms. Koberstein:

Thank you for the opportunity to comment on Ecology’s **Natural Conditions Proposed Rule under Chapter 173-201A WAC, Water Quality Standards for Surface Waters of the State of Washington**. Ecology is proposing a new method to determine when fresh and marine waters of the State naturally are warmer than the numerical standards and/or naturally lower oxygen than the numerical standards. This resulted from EPA’s 2021 Reconsideration of its prior approval of Ecology’s 2003/2006 water quality standards regarding natural conditions.

First and foremost, we remind Ecology that under Chapter 90.48 of the Revised Code of Washington, “...***it is the public policy of the state of Washington to maintain the highest possible standards to insure the purity of all waters of the state consistent with public health and public enjoyment thereof, the propagation and protection of wild life, birds, game, fish and other aquatic life, and the industrial development of the state....***” **Under no circumstances should Ecology weaken the state water quality standards for dissolved oxygen or temperature**, which are both critical to the survival and future of salmon and other aquatic life. Ecology has been managing waters of the state using the human allowances of 0.2 mg/L dissolved oxygen and 0.3°C temperature using known and reasonable technologies for decades. Any increase in the allowance would be inconsistent with Chapter 90.48 RCW.

Secondly, **Ecology should not risk a jeopardy finding under the Endangered Species Act**. In 2008, both the National Marine Fisheries Service and US Fish and Wildlife Service found that human allowances of 0.2 mg/L of oxygen or 0.3°C for temperature when natural conditions are worse than the numerical standards would be insignificant and unlikely to harm endangered species. Any process that deviates from those values would require additional Biological Opinions. A jeopardy finding would cause significant delays in the adoption of these water quality standards. The most efficient path that still protects species is to maintain the current levels of 0.2 mg/L dissolved oxygen and 0.3°C when natural conditions are worse than the numeric values in the water quality standards.

Third, **Ecology must factor climate change into the human allowances**. Climate change will warm waters through a variety of processes, and warmer water holds less oxygen. This means there is less capacity for impacts from current human activities, which will result in more stringent regulatory requirements.

Finally, we urge Ecology to **streamline the process to ensure that the state’s waters are protected efficiently**. EPA included options to Ecology, including the performance-based process proposed by Ecology as well as developing site-specific dissolved oxygen and temperature criteria a priori through extensive modeling of the state’s waters. Ecology has completed this modeling on only a small fraction of the waters on the Clean Water Act Section 303(d) list to date, and it would require decades to develop models of the rest. We cannot wait – Ecology



needs strong approaches for temperature and dissolved oxygen now. **We urge you to reject any efforts that would delay implementation of stringent water quality standards across the state.**

Thank you,

Jamie Hearn, Director of Environmental Law and Climate Policy, Duwamish River Community Coalition

Nora Nickum, Senior Ocean Policy Manager, Seattle Aquarium



Level Pratt, Marine Protection and Policy Director, Friends of the San Juans

Logan Danzek, Policy Manager, Communities for a Healthy Bay



Darlene Schanfeld, Secretary, Olympic Environmental Council

Kelsey Furman, Associate Attorney, Puget Soundkeeper Alliance



Kirsten McDade, North Sound Waterkeeper, RE Sources

Mindy Roberts, Puget Sound Program Director, Washington Conservation Action



Heather Trim, Executive Director, Zero Waste Washington

