

October 25, 2024



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RE: Human Health Criteria Rulemaking, Chapter 173-201A WAC

Thank you for the opportunity to submit comments on the Human Health Water Quality Criteria (HHWQC) Rulemaking. We understand this rulemaking seeks to codify federally imposed HHWQC currently in effect for the State of Washington. **The City of Spokane (City) believes that the HHWQC initially adopted by Washington in 2016 are appropriate for Washington's waters and should be maintained.** Further discussions should be had with the EPA on the feasibility of implementing the proposed HHWQC before Ecology codifies these standards for Washington State.

#### ***Committed and Invested***

Protecting the Spokane River continues to be a priority for the City. **The Spokane River is the center of our community as it runs through our downtown core, an integral part of our culture and quality of life, and a major draw for recreation** of all kinds. The City recently completed **\$450 million in infrastructure projects designed to protect and improve water quality** in the Spokane River. These projects included controls within the Combined Sewer Overflows (CSOs) system, reduction of stormwater runoff, upgrades to our Riverside Park Water Reclamation Facility (RPWRF) with state-of-the-art tertiary membrane treatment, and other improvements. The City has made generational investments in these systems and is proud of this work and the benefits it will have for future generations.

#### ***Rulemaking Inconsistencies***

**Of particular concern in this rulemaking is the HHWQC for Total Polychlorinated Biphenyls (PCBs).** We believe the 2016 HHWQC adopted by Washington State strikes a more appropriate balance of managing discharges and still protecting human health within the State. On December 21, 2015, the Washington State Department of Ecology (Ecology) explained, in detail, the science and policy supporting the State's current HHWQC for PCBs of 170 ppq. EPA promulgated a PCB HHWQS for Washington of 7 ppq on December 28, 2016, which superseded the State's HHWQC of 170 ppq. EPA then reconsidered and approved the State's PCB HHWQS of 170 ppq on May 10, 2019. EPA then reinstated the 7 ppq standard for PCBs on November 18, 2022. Against this backdrop, it is obvious that at the federal level **there is uncertainty about what the right PCB standard should be** for Washington State.

#### ***Unattainable Regulations***

The HHWQC for PCBs of 7 ppq is not achievable nor feasible with any currently available treatment technology. **The City has one of the most advanced treatment systems in the state and nation;** our current advanced tertiary membrane system is very effective at removing PCBs. However, even with PCB removal rates greater than 99%, meeting the 7 ppq standard has not been possible. One issue is that

available testing methodology simply is not accurate enough to quantify PCBs at these extremely low levels. It is **imprudent to promulgate HHWQC that cannot reliably be measured**. Adopting **criteria with no clear path to compliance is a recipe for failure for regulators and the regulated community alike**.

The City continues to see the use of permitting tools such as HHWQC variances as potential options to address the challenges with treating PCBs. The **City duly completed a variance application for PCBs** in early 2019, at the request of Ecology. **Ecology underwent rulemaking to pursue the use of variances** in the Spokane River watershed, but **paused the rulemaking before finalizing a decision, creating further uncertainty** for the City and its ratepayers. Given Ecology's reluctance to take action on the City's prior application for a variance, the **City is left with few options**. Ecology should decide how it intends to move forward with variances on the Spokane River, prior to codifying the proposed updates to the HHWQC. **Regardless of what happens with this rulemaking**, with a PCB TMDL being finalized soon for the Spokane River by the EPA (with wasteload allocations currently set at 1.3 pg/L), the **City will need a path forward to address these unachievable standards**.

#### ***Concerns Moving Forward***

The **City does not believe 7 ppq for PCBs will be realistically achieved in the Spokane River or in other water bodies** across the State in the **foreseeable future**. PCBs continue to be introduced into the environment under the Toxic Substances Control Act (TSCA). TSCA currently allows up to 50 ppm of PCBs to be contained in products. This is 7 billion times less restrictive than the proposed HHWQC. Additionally, the State of Washington's Model Toxics Control ACT (MTCA) regulates cleanup sites at much less stringent levels than the current or proposed PCB WQC. The PCB cleanup level for groundwater is 100 ppt and for unrestricted land use soils is 1 ppm (WAC 173-340-900); 14 thousand and 140 million times less restrictive than the proposed HHWQC of 7 ppq, respectively. These **inconsistencies within EPA and Ecology regulations need to be resolved before promulgating a new HHWQC** for PCBs.

Once again, thank you for the opportunity to comment on this rule-making effort. Should you have questions, comments or require additional information, please feel free to contact me.

Sincerely,



Jeff Donovan  
Environmental Program Manager