



REGION 10
SEATTLE, WA 98101

October 25, 2024

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

Dear Ms. Koberstein:

Thank you for the opportunity to provide comments on the Washington State Department of Ecology's proposed amendments to Washington Administrative Code, chapter 173-201A – Water Quality Standards for Surface Waters of the State of Washington, filed on September 17, 2024. According to the CR-102 notice, Ecology is proposing updates to the human health criteria and associated footnotes in Table 240 of WAC 173-201A-240, Toxic substances, to remove state-adopted human health criteria that the Environmental Protection Agency disapproved and adopt as state law federal human health criteria that the EPA promulgated for Washington.¹

The EPA has reviewed Ecology's proposed rule revisions and additions and offers the following comments for your consideration.

1. Revised Footnotes A and D

Revised footnote A (applicable to arsenic) reads: These criteria were promulgated for Washington in the National Toxics Rule at 40 C.F.R. 131.36 and are moved to 40 C.F.R. 131.45 to have one comprehensive human health criteria rule for Washington.

Revised footnote D (applicable to mercury) reads: EPA has removed Washington from the National Toxics Rule at 40 C.F.R. 131.36 for mercury and promulgated new human health criteria for methylmercury in the EPA's final federal rule at 40 C.F.R. 131.45

Since Ecology is proposing to adopt arsenic and methylmercury criteria equal to the federally promulgated HHC, footnotes A and D are no longer needed. To avoid having duplicative HHC in state and federal regulations, the EPA may withdraw the federal rule at 40 C.F.R. 131.45. As such,

¹ <https://ecology.wa.gov/getattachment/a1d8ed2b-42ca-4226-bea6-38a5a70df014/WSR-24-19-075.pdf>

the references in proposed footnotes A and D to the federal rule may become obsolete. For clarity, the EPA recommends removing these footnotes from the state's rule.

2. 1,3-Dichloropropene criteria values

The state's proposed rule includes a "Water & Organisms" criterion of 0.24 µg/L and "Organisms Only" criterion of 2.0 µg/L for 1,3-Dichloropropene.

If Ecology's intent is to adopt the federal HHC that EPA promulgated for Washington, the EPA recommends revising the "Water & Organisms" criterion to 0.22 µg/L and "Organisms Only" criterion to 1.2 µg/L.

3. Bis(2-Chloro-1-Methylethyl) Ether CAS number

The state's proposed rule includes an incorrect CAS registry number for Bis(2-Chloro-1-Methylethyl) Ether. The EPA recommends revising the rule to include the correct CAS registry number for Bis(2-Chloro-1-Methylethyl) Ether of 108601.

4. Butylbenzyl Phthalate criteria values

The state's proposed rule includes a "Water & Organisms" criterion of 0.000022 µg/L and "Organisms Only" criterion of 0.000022 µg/L for Butylbenzyl Phthalate.

If Ecology's intent is to adopt the federal HHC that EPA promulgated for Washington, the EPA recommends revising the "Water & Organisms" criterion to 0.013 µg/L and "Organisms Only" criterion to 0.013 µg/L.

5. Chlorodibromomethane "Water & Organisms" criterion

The state's proposed rule includes a "Water & Organisms" criterion of 0.060 µg/L for chlorodibromomethane.

If Ecology's intent is to adopt the federal HHC that EPA promulgated for Washington, the EPA recommends revising the "Water & Organisms" criterion to 0.60 µg/L.

6. Hexachloroethane criteria

The state's proposed rule includes a "Water & Organisms" criterion of 0.20 µg/L and "Organisms Only" criterion of 0.20 µg/L for hexachloroethane.

If Ecology's intent is to adopt the federal HHC that EPA promulgated for Washington, the EPA recommends revising the "Water & Organisms" criterion to 0.02 µg/L and "Organisms Only" criterion to 0.02 µg/L.

7. Deleted Footnote F for Vinyl Chloride

The state's proposed rule removed footnote F applicable to vinyl chloride.

~~F. This criterion was derived using the cancer slope factor of 1.4 (linearized multistage model with a twofold increase to 1.4 per mg/kg-day to account for continuous lifetime exposure from birth).~~

Though the footnote is not relevant to the "Organisms Only" criterion for vinyl chloride which Ecology is proposing to adopt and was developed using a cancer slope factor of 1.5 per mg/kg-day, the footnote may still be relevant to the state's "Water and Organisms" criterion which is not being revised.

The state's "Water & Organisms" criterion for vinyl chloride was approved by the EPA in 2016. Since this footnote describes the cancer slope factor used by Ecology to derive the "Water & Organisms" criterion for vinyl chloride, the EPA is flagging this footnote for Ecology's awareness in case it was inadvertently removed from the application to the "Water and Organisms" criterion.

8. Significant Figures

The significant figures in the state's proposed rule differ from the federal criteria for several pollutants. If Ecology's intent is to adopt the federal HHC that EPA promulgated for Washington, the EPA recommends revising the following values to the same significant figures as the federal criteria indicated in the table below.

Pollutant	Water & Organisms	Organisms Only
Antimony	6	
Methylmercury		0.03
1,1,2,2-Tetrachloroethane	0.1	0.3
1,2-Diphenylhydrazine	0.01	0.02
1,3-Dichlorobenzene	2	2
2-Methyl-4,6-Dinitrophenol (4,6-dinitro-o-cresol)	3	7
alpha-Endosulfan	6	7
Cyanide	9	
Di-n-Butyl Phthalate	8	8
Endosulfan Sulfate	9	
Endrin	0.002	0.002
Fluoranthene	6	6
Hexachlorobutadiene	0.01	0.01
Hexachlorocyclopentadiene	1	1
Pentachlorophenol (PCP)	0.002	0.002
Polychlorinated Biphenyls (PCBs)	0.000007	0.000007

Pyrene	8	8
Trichloroethylene	0.3	0.7

9. Aquatic life criteria and previously approved human health criteria revisions

The state’s proposed rule includes several revisions to aquatic life criteria and previously approved human health criteria. These amendments appear to be changes related only to the significant figures for criteria that were adopted on August 14, 2024 (for aquatic life criteria that are not yet EPA-approved), or August 1, 2016 (for previously approved human health criteria). The EPA recommends providing a rationale or basis for the amendments.

The 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
Water Division