Water Quality Standards Rule

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DEPARTMENT OF
ECOLOGY
State of Washington

Proposed Amendments to Surface Water Quality Standards Chapter 173-201A WAC

Proposal addresses:

Human Health Criteria (HHC)

Implementation tools, including clarification on Combined Sewer Overflows (CSOs)

Overview of Human Health Criteria

Water quality standards protect surface waters so they are safe to drink and it's safe to eat fish living in those waters

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EPA promulgated HHC standards for Washington in the federal National Toxics Rule, in place since 1992

Federal rule is out of date, does not reflect current Washington fish consumers or new toxicity information

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Washington is in the best position to adopt rules that are protective and approvable by EPA

Rule Proposal Timeline

- **January 2015** – Ecology's initial proposed rule, combined with toxics legislation, created a strong package to submit to EPA for approval
- **July 2015** – Proposed rule paused because the toxics reduction package failed in the Legislature
- **September 2015** – EPA issued a rule proposing HHC applicable to Washington's waters
- **October 2015** – Governor Inslee announced a new direction for the State rule
- **February 2016** – Ecology proposed a new rule, incorporating Governor Inslee's directives

State's New 2016 Proposed Rule

New proposed rule released for
public review and comment on February 3, 2016

1. Fish consumption rate stays the same – 175 g/day
2. 1-in-1 million additional lifetime risk of cancer
3. Retains implementation tools for wastewater dischargers
4. Clarifies how HHC apply to CSO discharges
5. "Hold-the-line" not part of this proposal

EPA's Proposed Rule for Washington

Proposes 1-in-1 million additional lifetime cancer risk rate & 175 g/day fish consumption rate

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Contains no implementation tools for Washington dischargers

Creates more stringent criteria for arsenic, PCBs

Sets new criteria for methyl mercury

How Does EPA's Rulemaking Impact Washington?

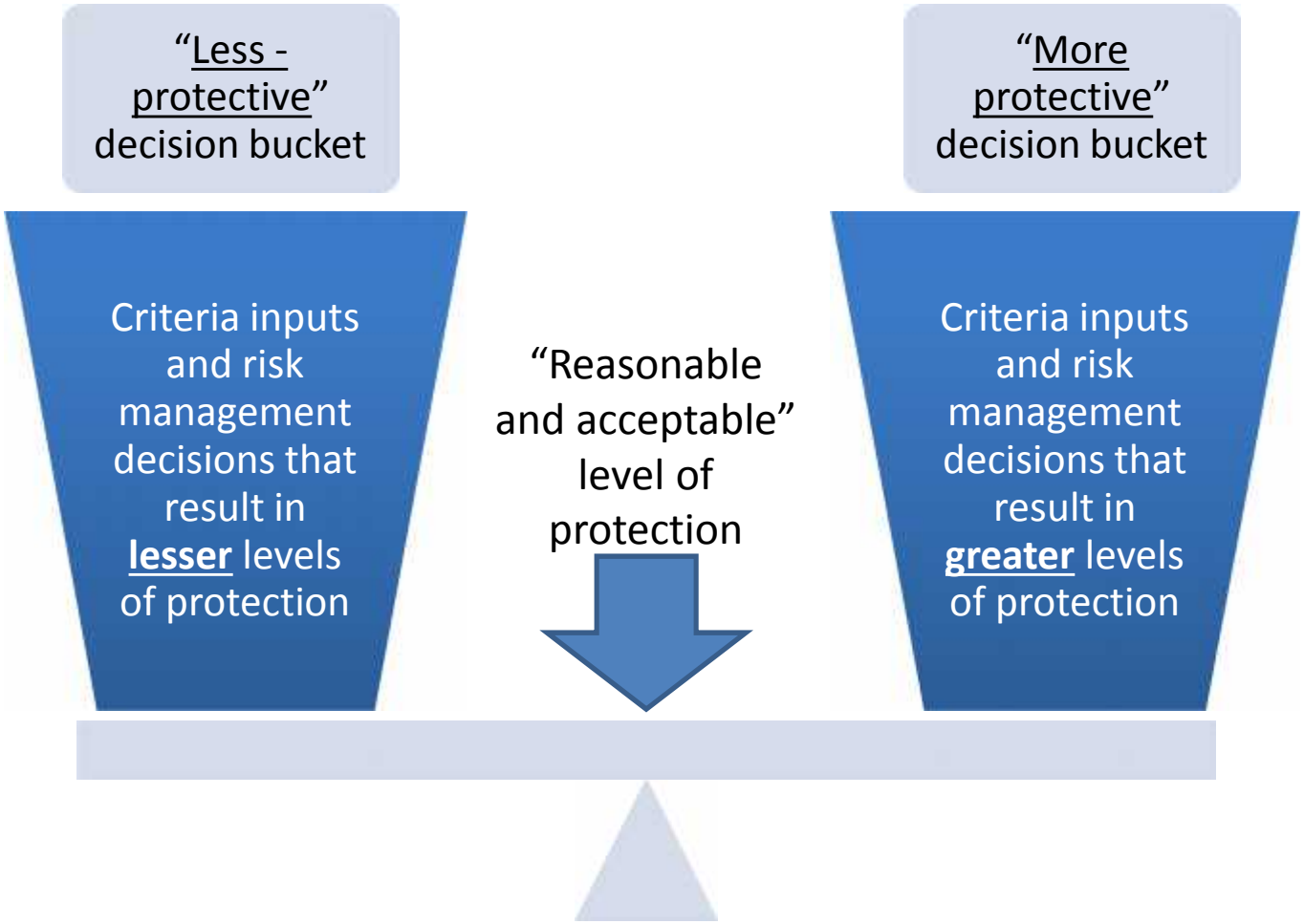
Washington needs EPA federal approval before state rules become effective for federal actions.

If EPA issues a disapproval, Washington has 90 days to resubmit or EPA will start federal promulgation.

Similarities and Differences of Proposed Rules

	Initial 2015 state proposed rule	New 2016 state proposed rule	EPA proposed rule
Fish consumption rate	175 grams per day	175 grams per day	175 grams per day
Additional lifetime risk rate for cancer causing chemicals	10^{-5} (1 in 100,000)	10^{-6} (1 in 1,000,000)	10^{-6} (1 in 1,000,000)
Relative Source Contribution value for non-carcinogenic chemicals	1	1	Values ranging from 0.2 to 0.8
Drinking water intake	2 liters/day	2.4 liters/day	2.4 liters/day
Cancer slope factor and reference doses for specific chemicals	Used EPA IRIS values and other sources	Used updated values in EPA IRIS and updated EPA criteria guidance document.	Updated EPA criteria guidance document.

Washington's Approach to Criteria Calculation



States make state-specific decisions to fit their own unique needs and circumstances

New Proposed Rule: Summary Statistics

	State Proposed Criteria		
	Number of criteria with a **lower** concentration of pollutant than current **National Toxics Criteria**	Number of criteria with a **higher** concentration of pollutant than current **National Toxics Criteria**	Number of criteria **lower** concentration of pollutant than **proposed EPA** criteria
Fresh Water (98 proposed criteria)	**58**	**24**	**13**
Marine Water (96 proposed criteria)	**66**	**11**	**13**

Challenging Chemicals: PCBs

Criteria calculated at a risk level of 4×10^{-5}

Risk level of four additional occurrences of cancer, after 70 years of daily exposure, in 100,000 people

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Resulting calculated PCB criteria would be 0.00029 ppb

Apply the hold-the-line decision

Challenging Chemicals: Arsenic

Washington has high levels of naturally occurring arsenic

Adopt Safe Drinking Water Act regulatory level of 10 parts-per-billion total arsenic

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Accompany with pollution prevention requirements

Adopted in other states, approved by EPA

Reduces human-derived sources of arsenic pollution

Challenging Chemicals: Mercury

Current federal standards are for total mercury

EPA's approach uses methylmercury in tissue

Sources of mercury outside scope Clean Water Act tools

Defer adoption of new mercury criteria

After EPA approves WA rule, develop and adopt comprehensive mercury rule

PCBs, Arsenic and Mercury

	Initial 2015 state proposed rule	New 2016 state proposed rule	EPA proposed rule
PCBs	**0.00017 ug/L** (same as current National Toxics Rule)	**0.00017 ug/L** (same as current National Toxics Rule)	**0.0000073 ug/L**
Arsenic	**10 ug/L** and pollution minimization requirements (total arsenic)	**10 ug/L** and pollution minimization requirements (total arsenic)	freshwater: **0.0045 ug/L** marine: **0.0059 ug/L** (inorganic arsenic)
Mercury	Will not adopt criteria values for mercury. Will remain under the NTR	Will not adopt criteria values for mercury. Will remain under the NTR	Would promulgate a brand new criteria value for **methyl mercury** (not mercury) at **0.033 mg/kg in tissue**. **This would replace the mercury criteria in the NTR.**

Compliance Schedules

Ensures compliance is achieved as soon as possible

Describes when a compliance schedule can go beyond the term of a permit

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Authorizes compliance schedules for longer periods of time where a total maximum daily load (TMDL) exists

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Describes circumstances when more time is needed but no TMDL exits

Variance

Establishes a process for considering a variance

Establishes minimum qualifications for granting variances for individual dischargers, stretches of waters, or application to multiple dischargers

Intake Credits

Addresses situations where facilities discharge background pollutants contained in the intake water

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Clarifies conditions where intake credits would be allowed for determining reasonable potential and water quality-based effluent limits

Combined Sewer Overflow Treatment Plants

Provides clarification, but does not change any current practices for permit requirements

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Outlines means of criteria compliance through best management practices, rules, orders and directives

Public Involvement and Hearings

Public comment period: February 3 - April 22, 2016

In-person and Webinar Hearings

- **Seattle**: April 5 at 6:30 p.m.
- **Spokane**: April 6 at 6:30 p.m.
- **Webinar**: April 7 at 1:30 – 4:30 p.m.
- **Webinar**: April 7 at 6:30 p.m.

We will accept written comments on the proposed rule using an online form, email, physical mail, or fax.

Contact:
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Next Steps to a Final Rule

Public comment period ends April 22, 2016

Comments considered

Intended adoption date is August 1, 2016.

Read more at www.ecy.wa.gov

(Photo credit: Kidron Cool)

Questions?

DEPARTMENT OF ECOLOGY
State of Washington