



## *Final Withdrawal of Certain Federal Aquatic Life Water Quality Criteria Applicable to Wisconsin*

### Summary

The EPA is withdrawing certain federal aquatic life water quality criteria for copper, nickel, endrin and selenium applicable to waters of the Great Lakes System in Wisconsin. Wisconsin's revised criteria adequately protect waters of the State designated for aquatic life use at a level consistent with the federal requirements. The withdrawal will enable Wisconsin to implement its EPA-approved aquatic life criteria for Clean Water Act (CWA) purposes.

### Regulatory Context

In 1995, the EPA published the final "Water Quality Guidance for the Great Lakes System" (Guidance) as part of a comprehensive plan to restore the health of the Great Lakes System. Great Lakes states including Wisconsin, were required to adopt provisions consistent with the Guidance into their water quality standards and National Pollutant Discharge Elimination System (NPDES) permit programs within two years of the Guidance publication (CWA Section 118(c)(2)).

40 CFR 132.5(f) provides that, once the EPA completes its review of a State's water quality standards submission, it must either publish notice of approval of the State's submission in the Federal Register or issue a letter notifying the State that the EPA has determined that all or part of its submission is inconsistent with the CWA and/or the Guidance, and identify any changes needed to obtain EPA approval. In the case of EPA disapproval, the State then had 90 days to make the necessary changes. If the State failed to make the necessary changes, the EPA was required to publish a document in the Federal Register identifying the approved and disapproved elements of the submission and a final rule identifying the provisions of the Guidance that will apply to the State.

### Historical Background

In 1997, Wisconsin adopted revised water quality standards to comply with the Guidance requirements at 40 CFR Part 132. In October 2000, the EPA disapproved six of Wisconsin's revised aquatic life criteria, including chronic and acute criteria for copper and nickel, and chronic criteria for endrin and selenium. Subsequently the EPA published a final rule effective February 5, 2001, making the following aquatic life criteria in 40 CFR 132.6 effective for waters of the Great Lakes System in the State of Wisconsin: 1) chronic and acute copper and nickel in Tables 1 and 2 of 40 CFR 132.6(f); 2) chronic endrin in Table 2 of 40 CFR 132.6(f); and 3) chronic selenium in Table 2 of 40 CFR 132.6(g).

In December 2008, Wisconsin revised its water quality standards to address the EPA's disapproval. In July 2009, the EPA determined that Wisconsin's revised criteria adequately protect all waters of the State designated for aquatic life uses at a level consistent with CWA requirements, with the exception of the chronic aquatic life criterion for selenium in waters designated as Limited Forage Fish aquatic life use. While the EPA approved Wisconsin's revised chronic aquatic life criteria for endrin, due to a transcription error the number published in Wisconsin's regulations at NR 105.06 (0.05 µg/L) for Warm Water Sportfish and Warm Water Forage Fish is not identical to the revised and EPA-approved criterion (0.036 µg/L). Therefore, the EPA is not withdrawing the chronic endrin aquatic life use criterion for these designated uses at this time.

### About this Action

The EPA's approval of Wisconsin's revised aquatic life criteria makes the federal criteria no longer necessary for compliance with the CWA.

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Therefore, the EPA is withdrawing the following federal aquatic life criteria applicable to waters of the Great Lakes System in Wisconsin designated for aquatic life use:

- chronic and acute copper and nickel,
- chronic endrin (with the exception of the aquatic life criteria for waters of the Great Lakes System in Wisconsin designated as Warm Water Forage Fish and Warm Water Sportfish), and
- chronic selenium (with the exception of the aquatic life criteria for waters of the Great Lakes System in Wisconsin designated as Limited Forage Fish).

The withdrawal of the federal criteria will enable Wisconsin to implement its EPA-approved aquatic life criteria for CWA purposes.

### **For More Information**

For more information about this action, contact Sara Hilbrich (hilbrich.sara@epa.gov) at 202-564-0441 or Francine Norling (norling.francine@epa.gov) at 312-886-0271.

Read the full text of the Federal Register notice, which provides information about how to review the complete administrative record. The docket is available online at [www.regulations.gov](http://www.regulations.gov) (docket number EPA-HQ-OW-2010-0492).