

Proposed Withdrawal of Federally Promulgated Human Health Water Quality Criteria in Washington

Summary

EPA is proposing a rule that would withdraw certain federal human health water quality criteria that are no longer needed due to EPA's May 10, 2019 approval of corresponding state human health criteria after the Agency reconsidered its 2016 disapproval.

Background

Clean Water Act (CWA) section 101(a)(2) establishes the national goal that water quality should provide for the protection and propagation of fish, shellfish, and wildlife, and recreation in and on the water. To protect people from cancer and non-cancer effects from pollutants in public water supplies ("water only") and in fish and shellfish ("water plus organism"), states must establish human health criteria for their waters that are designated for such uses. EPA periodically publishes ambient water quality criteria recommendations under CWA section 304(a) for states to consider adopting into their water quality standards to protect these uses.

CWA section 303(c)(2)(B) requires states to adopt numeric water quality criteria for all priority toxic pollutants for which EPA has published CWA section 304(a) criteria recommendations. In 1992, EPA promulgated the National Toxics Rule (NTR) at 40 CFR 131.36, establishing chemical-specific numeric criteria for 14 states and territories, including

Washington, that were not in compliance with CWA section 303(c)(2)(B).

On November 28, 2016, EPA promulgated a final rule titled "Revision of Certain Federal Water Quality Criteria Applicable to Washington" at 40 CFR 131.45.¹ This rule revised certain human health criteria applicable to Washington's waters that EPA had initially promulgated for Washington in 1992 as part of the NTR. EPA promulgated the November 2016 rule after partially disapproving certain human health criteria the state had submitted to EPA.

In February 2017, EPA received a petition from several organizations to reconsider the Agency's November 2016 partial disapproval. In August 2018, EPA decided to reconsider its 2016 partial disapproval of Washington's human health criteria. Upon reconsideration, EPA determined that Washington's 2016 human health criteria were scientifically sound and protective of the applicable designated uses in the state. On May 10, 2019, EPA reversed its 2016 partial disapproval of certain human health criteria (excluding arsenic).

Proposed Withdrawal

Because EPA approved the corresponding water quality criteria adopted by Washington that meet the requirements of the CWA and EPA's implementing regulations at 40 CFR part 131, the EPA is now proposing a rulemaking to withdraw

¹ *Revision of Certain Water Quality Standards Applicable to Washington*, 81 FR 85417 (November 28, 2016).

certain corresponding federal criteria applicable to Washington. The withdrawal, once finalized, will enable Washington to implement its EPA-approved human health criteria, submitted on August 1, 2016, and approved on May 10, 2019, as applicable criteria for CWA purposes.

This action proposes to amend the federal regulations to withdraw all federal human health criteria promulgated for Washington in November 2016 with the exception of criteria for arsenic, methylmercury, and bis(2-chloro-1-methylethyl) ether. On May 10, 2019, EPA reaffirmed its November 2016 disapproval of the two criteria that Washington submitted for arsenic (one for waters designated for public water supply plus fishing and shellfish harvesting, and another for waters designated only for fishing and shellfish harvesting), and therefore the federal arsenic criteria for Washington at 40 CFR 131.45 will remain in place. For methylmercury and bis(2-chloro-1-methylethyl) ether, Washington did not submit criteria for those pollutants and therefore the federally promulgated criteria are the only criteria in effect for those pollutants in the state. Although EPA is proposing to maintain the federally promulgated criteria for these pollutants, the Agency is also soliciting comment on whether to withdraw the federally promulgated criteria for methylmercury and bis(2-chloro-1-methylethyl) ether.

Public Hearings and Soliciting Comments on EPA's Proposed Rule

EPA welcomes comments concerning the proposed rule and requests any additional information for consideration by the Agency.

In addition to accepting written comments from the public, EPA is offering one online public hearing and one in-person hearing on the proposed rule so that interested parties may provide oral comments. The online hearing will be on August 28, 2019 from 9am to 11am Pacific Time. The in-person hearing will be on September 25, 2019 from 3pm to 5pm Pacific Time and will be held in the EPA Region 10 office in Seattle, Washington. The EPA's Region 10 office is located at 1200 6th Avenue, Seattle, WA 98101.

Please note the August 27th, 2019, online public hearing that the EPA previously announced has been rescheduled to the September 25, 2019 in-person hearing; interested parties who registered for the August 27, 2019 online hearing are encouraged to either register for the August 28, 2019 online hearing or the September 25, 2019 in-person hearing.

Where can I find more information?

Contact Erica Fleisig at (202) 566-1057, fleisig.eric@epa.gov or Matthew Szelag at (907) 271-1208, szelag.matthew@epa.gov. To access the proposed rule, Federal Register notice, and supporting documents, visit EPA's Water Quality Standards website at:

<https://www.epa.gov/wqs-tech/water-quality-standards-regulations-washington>.
