

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

Summary

On May 10, 2019, EPA approved a suite of Clean Water Act (CWA) human health criteria (HHC) that were developed by the state of Washington through a lengthy stakeholder process. EPA had originally disapproved many of those criteria. However, upon reconsideration, the agency found the state's standards to be based on sound science and protective of the state's designated uses. Because EPA approved the state of Washington's criteria, on April 16, 2020 the agency finalized its withdrawal of federally-promulgated HHC for waters under the state of Washington's jurisdiction. As a result, the state of Washington's criteria will be effective for CWA purposes. EPA is respectful of the state's primary role in determining its water quality standards and its discretion in making resource- and risk-management decisions related to protecting the health of its citizens. This action restores the balance mandated by the CWA, in which the states lead the standards-setting process.

Federal HHC will remain in place for Washington State for three pollutants: methylmercury, bis (2-chloro-1-methylethyl) ether, and arsenic. The state of Washington did not submit criteria for methylmercury and bis (2-chloro-1-methylethyl) ether. Therefore, the federally promulgated criteria are the only criteria in effect for those pollutants in the state. Additionally, on May 10, 2019, EPA reaffirmed its November 2016 disapproval of the two criteria that the state of 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). The federal arsenic criteria for the state of Washington will remain in place.

For more information, visit

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

Background

After partially disapproving certain HHC that the state of Washington submitted to EPA in August 2016, 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 In February 2017, EPA received a petition from several organizations to reconsider the Agency's 2016 partial disapproval.

In August 2018, EPA decided to reconsider its partial disapproval of the state of Washington's HHC and on May 10, 2019, EPA approved a suite of HHC that were submitted by the state in 2016. As a result of this approval action, on July 23, 2019, EPA issued a proposed rule to withdraw certain federal HHC for waters under the state of Washington's jurisdiction. EPA provided 60 days for public comment on its proposal and received more than 5,000 comments. The agency's final rule reflects comments received on the proposal.

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