



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 17, 2021

TIME: 10:34 AM

WSR 21-19-097

Agency: Department of Ecology AO # 20-01

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The Department of Ecology is adopting amendments to the Water Quality Standards for Surface Waters of the State of Washington, Chapter 173-201A Washington Administrative Code (WAC).

We are adopting the following changes to:

- WAC 173-201A-020 (Definitions)
- WAC 173-201A-440 (Use attainability analysis)
- WAC 173-201A-602 (Table 602—Use designations for fresh waters by water resource inventory area (WRIA)) to change the designated use and water quality criteria for temperature and dissolved oxygen for the Chelan River

We changed the aquatic life designated use in the Chelan River from “salmonid spawning, rearing, and migration,” which currently applies to all sections of the river, to “migration for naturally limited waters” in the upper reaches of the river (reaches 1-3), and to “salmonid spawning, rearing, and migration for naturally limited waters” to the lower part of the river (reach 4).

We also added corresponding water quality criteria for temperature and dissolved oxygen, to align with the highest achievable water quality.

We have added definitions of the new designated uses to WAC 173-201A-020 Definitions.

We made these changes to the aquatic life designated use of salmonid spawning, rearing, and migration on the Chelan River using a use attainability analysis (UAA). A UAA is an approved water quality tool in Washington’s surface water quality standards (WAC 173-201A-440) and is used for removing or revising a designated use for a water body only if that use is not existing or attainable. A UAA is a scientific assessment of the physical, chemical, biological, and economic factors that may affect the attainment of the use.

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: Chapter 173-201A-WAC
- Suspended:

Statutory authority for adoption: RCW 90.48.035 provides clear and direct authority to Ecology to revise the Surface Water Quality Standards (SWQS). Additionally, 40 CFR 131.20 requires states and tribes with Federal Clean Water Act authority to periodically review and update the SWQS

Other authority: 40 CFR 131.20 requires states and tribes (with primacy for clean water actions) to periodically review and update the Water Quality Standards

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 21-07-144 on March 24, 2021 (date).

Describe any changes other than editing from proposed to adopted version:

Differences between the proposed and adopted version are reflected below in ~~strikeout~~ and underlined text.

Changes to WAC 173-201A-602, Table 602: WRIA 47 – Chelan:

- Note 1: The temperature criterion is 17.5°C as a 7-DADMax. When water temperature is greater than 17.5°C as a daily maximum at the end of the canyon (compliance point), the temperature within the water body segment may not exceed a 7-DADMax increase of ~~3.75°C~~ 3.50°C above temperature measured at the dam outlet. The dissolved oxygen criteria are 8.0 mg/L or 90% saturation. The 7-DADMax temperature increase and dissolved oxygen criteria are not to be exceeded at a frequency of more than once every ten years on average.
- Note 3: The temperature criterion is 17.5°C as a 7-DADMax. When water temperature is greater than 17.5°C as a daily maximum above the confluence with powerhouse channel (compliance point), the temperature within the water body segment may not exceed a 7-DADMax increase of ~~4.25°C~~ 1.20°C above temperature measured at the end of canyon. The dissolved oxygen criteria are 8.0 mg/L or 95% saturation. The 7-DADMax temperature increase and dissolved oxygen criteria are not to be exceeded at a frequency of more than once every ten years on average.
- Note 4: No ~~anthropogenic~~ further point or nonpoint heat source inputs are allowed downstream of the Lake Chelan Dam outlet to the Chelan River confluence with the Columbia River.
- Added a new Note 5 for Reach 4: Lake Chelan Dam tailrace waters must be cooler than Chelan River when the river water temperature is greater than 17.5°C as a daily maximum above the confluence with powerhouse channel.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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 Water Quality Program
 PO Box 47600
 Olympia, WA 98504

Phone: 360-407-6600

Fax: N/A

TTY: People with speech disability may call TTY at 877-833-6341. People with impaired hearing may call Washington Relay Service at 711)

Email: swqs@ecy.wa.gov

Web site: <https://apps.ecology.wa.gov/publications/SummaryPages/2110034.html>

Other: N/A

**Note: If any category is left blank, it will be calculated as zero.
 No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
 A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

| | | | | | | |
|----------------------------------|-----|-----|---------|----------|----------|-----|
| Federal statute: | New | ___ | Amended | 1 | Repealed | ___ |
| Federal rules or standards: | New | ___ | Amended | <u>1</u> | Repealed | ___ |
| Recently enacted state statutes: | New | ___ | Amended | ___ | Repealed | ___ |

The number of sections adopted at the request of a nongovernmental entity:

| | | | | | |
|-----|-----|---------|----------|----------|-----|
| New | ___ | Amended | <u>1</u> | Repealed | ___ |
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The number of sections adopted on the agency's own initiative:

| | | | | | |
|-----|-----|---------|----------|----------|-----|
| New | ___ | Amended | <u>2</u> | Repealed | ___ |
|-----|-----|---------|----------|----------|-----|

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

| | | | | | |
|-----|-----|---------|----------|----------|-----|
| New | ___ | Amended | <u>1</u> | Repealed | ___ |
|-----|-----|---------|----------|----------|-----|

The number of sections adopted using:

| | | | | | | |
|--------------------------------|-----|-----|---------|-----|----------|-----|
| Negotiated rule making: | New | ___ | Amended | ___ | Repealed | ___ |
| Pilot rule making: | New | ___ | Amended | ___ | Repealed | ___ |
| Other alternative rule making: | New | ___ | Amended | ___ | Repealed | ___ |

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|--------------------------------|---|
| Date Adopted: 9/17/2021 | Signature:  |
| Name: Laura Watson | |
| Title: Director | |