



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
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WAC 197-11-980 Determination of significance and scoping notice (DS).

Revision to the Water Quality Standards for Surface Waters of the State of Washington,
([Chapter 173-201A WAC](#))

**DETERMINATION OF SIGNIFICANCE
AND REQUEST FOR COMMENTS ON SCOPE OF EIS**

Description of proposal

The State Environmental Policy Act (SEPA, Chapter 43.21C RCW) and SEPA rules (Chapter 197-11 WAC) require that an Environmental Impact Statement (EIS) be prepared for proposed rulemaking that has probable significant adverse effects on the quality of the environment. *Without determining whether there are probable significant adverse effects on the quality of the environment from this proposal, Ecology determined in its discretion that due to the controversial nature of this rule making and in order to provide as much information as possible to aid in decision making, an Environmental Impact Statement will be prepared.* The purpose of the EIS is to assess the impacts associated with Ecology's proposal to adopt human health criteria and new implementation tools under Washington's Water Quality Standards (173-201A WAC).

In accordance with the Administrative Procedures Act (APA), Ecology filed two pre-proposal statements of inquiry (CR 101) in September 2012 to notify the public about Ecology's intent to begin rule-making for the Water Quality Standards for Surface Waters of the State of Washington (Chapter 173-201A WAC). The two CR 101 statements addressed development of human health criteria and revisions to implementation tools, respectively. These two CR 101 statements are being merged into one formal proposed rule-making (CR 102) process.

This rule-making activity will:

1. **Establish new human health criteria to protect designated uses.** Human health criteria are limits set for toxic substances to protect people who consume water, fish, and shellfish from Washington's water bodies. They address substances such as metals, pesticides, and other organic compounds. Washington's surface water quality standards currently lack human health criteria. Therefore, Ecology is required to operate under the federal criteria established in EPA's 1992 National Toxics Rule (NTR). The NTR is out-of-date because more recent nationally recommended criteria have been established for states. Rather than update the NTR, the Environmental Protection Agency has encouraged Washington to use new science and information to adopt updated human health criteria into our state's surface

water quality standards. See the following link:

<http://www.ecy.wa.gov/programs/wq/swqs/EcologyFCRLetter.pdf>

The process of developing new human health criteria will take into account factors used to calculate each chemical criterion including risk and more accurate data about how much fish and shellfish people eat in Washington State. This will involve developing numeric criteria for up to 96 chemicals. Those criteria are then used to implement the permitting program, to identify impaired waters, and clean up impaired waters under the Clean Water Act. Key policy decisions include fish and shellfish consumption rates for focus populations, risk levels for carcinogens, and relative source contribution for non carcinogen chemicals.

The rule will also develop specific criteria and alternative control strategies for the following challenging chemicals: arsenic and Polychlorinated Biphenyls (PCBs).

- 2. Provide predictable regulatory implementation tools to help dischargers comply with existing and new source control requirements or discharge limits. The changes will allow for compliance with requirements while they effectively work toward meeting permit limits and controlling sources of pollutants.**

Ecology recognizes the need to expand options on the compliance and implementation tools available for dischargers to effectively address increasingly smaller concentration limits for contaminants. New human health criteria may result in revised discharge permit limits for industries and municipalities. They may be challenging to achieve in the short term because technology has not yet caught up with the science and some of the chemicals are ubiquitous and naturally occurring. Recognizing this, Ecology is clarifying and expanding the regulatory tools to be available for all Water Quality Standards. Successful use of these tools will allow dischargers to remain in compliance as they effectively work to implement pollutant reduction actions and works towards technology improvements.

Proponent

Department of Ecology

Location of proposal

Statewide

Lead agency

Department of Ecology

EIS to be prepared. Ecology has not determined this proposal is likely to have a significant adverse impact on the environment. However, as discussed above, given the controversial nature of this rule making, and in order to provide as much information as possible to aid in decision making, Ecology will exercise its discretion and prepare an environmental impact statement.

The lead agency has identified the following areas for discussion in the EIS. A discussion and background material on the rule and these items can be found at

www.ecy.wa.gov/programs/wq/swqs/Currsqwqruleactiv.html:

The EIS will evaluate the potential environmental impacts associated with:

A - The adoption of new human health criteria

B - The adoption of new Implementation Tools

1. Intake Credits
2. Compliance Schedules
3. Variances

Scoping. *Agencies, affected tribes, and members of the public are invited to comment on the scope of the EIS. You may comment on alternatives, mitigation measures, probable significant adverse impacts, and licenses or other approvals that may be required. The method and deadline for giving us your comments follow.*

Submit your comments on this scoping by October 24, 2014

Your comments can be submitted in the following ways:

1. **Email your comments to:** swqs@ecy.wa.gov
2. **Mail your comments to:**
Water Quality Program, Surface Water Quality Standards
Department of Ecology
Water Quality Program
PO Box 47600
Olympia, WA 98504-7600

Responsible official: Heather Bartlett
Position/title: Water Quality Program Manager
360-407-6405

Address:
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Date: _____ Signature _____