



Water Quality Standards Case

Background: In 2014 Northwest Environmental Advocates (NWEA) brought a series of claims against EPA for actions (or lack of action) on past Washington water quality standards submittals. Ecology intervened in the lawsuit and joined discussions to settle parts of the complaint. Negotiations led to two agreements. These agreements were finalized with the courts in October 2018.

The first agreement is between Ecology, EPA and NWEA. This agreement commits Washington to complete actions within three years of the agreement being final with the courts.

The federal government and NWEA have a separate agreement for the remaining issues. This agreement commits EPA to complete actions within three years of the agreement being final with the courts.

Commitment	Part of WQ Standards	Lead Agency
Propose change to remove WAC 173-201A-200(1)(c)(ii)(B) <i>(Fresh Water)</i>	Incremental temp increases resulting from the combined effect of all nonpoint source activities in the water body must not exceed 2.8°C	Ecology
Propose change to remove WAC 173-201A-210(1)(c)(ii)(B) <i>(Marine)</i>	Incremental temp increases resulting from the combined effect of all nonpoint source activities in the water body must not exceed 2.8°C	Ecology
Propose Fine sediment criteria to protect salmonid redds	If the rule is a narrative criterion, ECY will concurrently issue draft guidance on how it will interpret and apply the criterion, including its use in 303(d) listing.	Ecology
Propose change to amend footnote dd to Table 240(3).	Amendment must state that an adjustment of metals criteria pursuant to footnote dd requires EPA approval pursuant to 33 U.S.C. § 1313(c).	Ecology
Initiate ESA consultation on WA’s freshwater ammonia criteria	<p>Freshwater Acute: WA uses EPA’s 1999 304(a) recommendations for both salmonids present and salmonids absent. In general, these numbers are the same as the 2013 304(a) recommendations, until temperatures get warmer – between approximately 15C-20C. Around that temperature range, the 2013 recommendations are more stringent than WA’s criteria.</p> <p>Freshwater Chronic: WA uses EPA’s 1985 304(a) recommendations for salmonid habitat. WA uses EPA’s 1999 304(a) recommendations for no salmonid habitat/no other fish early life stage as well as no salmonid habitat/other fish early life stage present. WA’s criteria are more stringent than the 2013 recommendations in waters that are designated for salmonid use.</p> <p>Marine Acute & Chronic: Ecology uses EPA’s 304(a) recommendations from 1989 which are the most current values EPA has published.</p>	EPA



Commitment	Part of WQ Standards	Lead Agency
Reconsider WAC 173-201A-410	Short Term Modifications	EPA
Reconsider WAC 173-201A-210(2)(b)(i) <i>(Marine Shellfish Harvesting Compliance)</i>	Shellfish growing areas approved for unconditional harvest by the state dept. of health are fully supporting the shellfish harvest goals of this chapter, even when the comparison with other criteria contained in this chapter suggest otherwise	EPA
Reconsider WAC 173-201A-210(2)(b)(ii) <i>(Marine Bacteria Averaging Narrative for Shellfish Harvesting Use)</i>	When averaging bacteria sample data for comparison to the geometric mean criteria, it is preferable to average by season and include 5 or more data collection events within each period.....	EPA
Reconsider WAC 173-201A-210(3)(b)(i) <i>(Marine Bacteria Averaging Narrative for Recreational Uses)</i>	When averaging bacteria sample data for comparison to the geometric mean criteria, it is preferable to average by season and include 5 or more data collection events within each period.....	EPA
Reconsider WAC-201A-200(1)(c)(vii) <i>(Fresh water temp guidelines)</i>	preventing acute lethality and barriers to migration of salmonids	EPA-
Reconsider WAC 173-201A-210(1)(c)(v) <i>(Marine temp guidelines)</i>	preventing acute lethality and barriers to migration of salmonids	EPA
Reconsider WAC-201A-200(1)(c)(i) <i>(Fresh water Allowable Temp Increase Above Natural Conditions)</i>	When a water body’s temp is warmer than the criteria in Table 200 (1)(c) (or within 0.3°C of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the 7-DADMax temp of that water body to increase more than 0.3°C.	EPA
Reconsider WAC 173-201A-210(1)(c)(i)	When a water body’s temp is warmer than the criteria in Table 210 (1)(c) (or within 0.3°C of the criteria) and that condition is due to natural	EPA

Commitment	Part of WQ Standards	Lead Agency
<i>(Marine Allowable Temp Increase Above Natural Conditions)</i>	conditions, then human actions considered cumulatively may not cause the 7-DADMax temp of that water body to increase more than 0.3°C.	
Reconsider WAC 173-201A-200(1)(c)(v) <i>(Narrative Temp Criteria for Lakes)</i>	For lakes, human actions considered cumulatively may not increase the 7-DADMax temp more than 0.3°C above natural conditions	EPA
Reconsider WAC 173-201A-200(1)(d)(i) <i>(Fresh water Narrative Dissolved Oxygen Criteria)</i>	When a water body’s DO is lower than the criteria in Table 200 (1)(d) (or within 0.2 mg/L of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the DO of that water body to decrease more than 0.2 mg/L.	EPA
Reconsider WAC 173-201A-210(1)(d)(i) <i>(Marine Narrative Dissolved Oxygen Criteria)</i>	When a water body’s DO is lower than the criteria in Table 210 (1)(d) (or within 0.2 mg/L of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the DO of that water body to decrease more than 0.2 mg/L.	EPA
Reconsider WAC 173-201A-200(1)(d)(ii) <i>(Narrative Dissolved Oxygen Criteria for Lakes)</i>	For lakes, human actions considered cumulatively may not decrease the dissolved oxygen concentration more than 0.2 mg/L below natural conditions.	EPA
Reconsider WAC 173-201A-260(1) <i>(Natural and Irreversible Human Conditions)</i>	a) It is recognized that portions of many water bodies cannot meet the assigned criteria due to the natural conditions of the water body. When a water body does not meet its assigned criteria due to natural climatic or landscape attributes, the natural conditions constitute the water quality criteria.	EPA