



Rule Adoption Notification

Water Quality Standards, Chapter 173-201A WAC

As a result of legislation passed in 2003 (ESSB 5766,) Ecology is required to notify businesses affected by rule adoptions. To comply with this law and to keep the regulated community better informed of Ecology rule adoptions, you are receiving this notification of a rule adoption.

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Requirements of the rule

The water quality standards (Chapter 173-201A WAC) establish numeric criteria and narrative directives designed to protect the quality of the state's surface waters. These standards establish regulatory requirements that are translated into specific restrictions in waste discharge permits and are used as a basis for nonpoint source pollution control programs and Ecology enforcement actions.

The water quality standards consist of three main elements: 1) uses that are designated for protection in specific water bodies in the state, 2) numeric and narrative criteria that assist in protecting the designated uses, and 3) an antidegradation program that provides additional protection for existing high quality waters. The regulation also contains provisions on how to use mixing zones, compliance schedules, use attainability analyses, and other assorted tools to achieve compliance with the standards.

Summary of the rule changes adopted on November 20, 2006

This corrective rule:

- Changed the designated uses for many rivers from “*spawning and noncore rearing*” to “*core summer salmonid habitat*” and changed rule text to support the basis for these changes. These changes resulted in many rivers going from a 7-day average daily maximum temperature of 17.5°C to a 7-day average daily maximum of 16°C. They also resulted in having the dissolved oxygen criteria go from a 1-day minimum of 8.0 mg/l to 9.5 mg/l.
- Changed a small number of rivers to the “*char spawning and rearing*” designated use type and changed rule text to support the basis for these changes. These changes resulted in some rivers going to a 7-day average daily maximum of 12°C from the old daily 7-day average maximum of 16°C or 17.5°C.
- Added spawning locations and timing windows where explicit spawning/incubation temperature criteria would apply for salmonids. These changes apply a 7-day average daily maximum criterion of 13°C to protect spawning and incubation of salmon and trout and a 9°C criterion for the spawning of bull trout.
- Corrected miscellaneous minor (typographic) errors introduced during the 2003 rule making.

Effective December 21, 2006

This amendment to Chapter 173-201A WAC becomes effective on December 21, 2006. To be used as federal water quality standards the revisions must first be approved by the U.S. Environmental Protection Agency (EPA) as complying with the Clean Water Act and the Endangered Species Act. That EPA decision, once made, will also be subject to formal consultation with the federal fisheries services (National Marine Fisheries Services and the U.S. Fish and Wildlife Service). The services will be consulted to see if they concur that the rule complies with the Endangered Species Act.

While the 2006 rule cannot be used as federal water quality standards under the Clean Water Act until EPA approves it, Ecology will implement the 2006 rule beginning December 21, 2006, to the fullest extent possible under existing state authority.

Once EPA receives the state's rule package, it will have 60 days to approve or 90 days to disapprove it, as required by the Clean Water Act.

Appeal procedures

This adoption can be appealed under procedures described in the Administrative Procedure Act (RCW 34.05.330). For additional information about appealing this adoption, please contact Jerry Thielen, Ecology's Regulatory Affairs Manager at 360-407-7551, or by email at jthi461@ecy.wa.gov.

Response to Public Comments

Ecology has prepared responses to the written comments and oral testimony provided in the public review process for this rule. Responses are contained in Section III of the Concise Explanatory Statement and Responsiveness Summary document which can be found online at: <http://www.ecy.wa.gov/pubs/0610070.pdf>. Paper copies of the response to comments can be requested by contacting Ann Kahler (360) 407-6404 and referring to Ecology publication 06-10-070.

If you require special accommodations or need this publication in an alternate format, please call the Water Quality Program 360-407-6404. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341