



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

## **Rule Implementation Plan WAC 173-201A-240, Toxic Substances**

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### *Human Health Criteria*

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## Publication and Contact Information

This document is available on the Department of Ecology's website at:  
<https://apps.ecology.wa.gov/publications/SummaryPages/2410065.html>

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## **Implementation Plan**

# **WAC 173-201A-240 Toxic Substances – Human Health Criteria**

Water Quality Program

Washington State Department of Ecology

Olympia, Washington

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## **Purpose**

The Washington State Department of Ecology (Ecology) provides the information in this implementation plan to meet agency and Administrative Procedure Act (RCW 34.05.328) requirements related to rule adoptions.

# Introduction

On November 27, 2024, Ecology adopted amendments to the human health criteria in Washington Administrative Code (WAC) 173-201A-240 WAC Toxic Substances (AO # 24-11), under Chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington. The purpose of this rule implementation plan is to inform those who must comply with Chapter 173-201A-240 WAC about how Ecology intends to:

- Implement and enforce the rule.
- Inform and educate persons affected by the rule.
- Promote and assist voluntary compliance for the rule.
- Evaluate the rule.
- Train and inform Ecology staff about the new or amended rule.

Also included in this plan is information about:

- Supporting documents that may need to be written or revised because of the new rule or amended rule.
- Other resources where more information about the rule is available.
- Contact information for Ecology employees who can answer questions about the rule implementation.

## Implementation and Enforcement

This rulemaking removes certain human health criteria from WAC 173-201A-240 that the U.S. Environmental Protection Agency (EPA) previously disapproved and replaced the disapproved criteria with the limits and associated footnotes that EPA put in place for Washington's waters under 40 Code of Federal Regulations (CFR) §131.45, Revision of certain Federal water quality criteria applicable to Washington.

These federal criteria are currently in effect for our Clean Water Act Programs. Implementation of these numeric criteria is already occurring because the federal criteria superseded state criteria. Ecology will implement and enforce the adopted rule in the same way the current human health criteria for Washington are implemented and enforced. Ecology must receive approval from the Environmental Protection Agency on these adopted criteria.

In 2016 and again in 2022, the EPA set specific human health criteria for Washington State. This means that anyone needing to look at our human health criteria values needs to look to federal toxics regulation for Washington and our state Water Quality Standards. In August 2024, we added a formal citation in our standards to reference those federal regulations. With this rulemaking we are adopting the actual federal numeric criteria into our rules.

These criteria are currently used for our federal Clean Water Act implementation activities, including permitting, water quality assessments, and water clean up work. The only changes that will need to occur will be references to state Water Quality Standards versus federal regulations for these criteria and Clean Water Act actions.



# **Informing and Educating Persons Affected by the Rule**

## **Rule proposal outreach**

During the rule proposal phase, we:

- Spoke at a Spokane River Toxics Advisory Committee meeting on Sept. 25, 2024, to discuss the proposed rule
- Met with Tribal water quality staff on Sept. 30, 2024, to discuss the proposed rule
- Held an environmental justice listening session on Oct. 23, 2024, inviting overburdened and vulnerable communities to discuss the proposed rule with Ecology

We also held an online public hearing on Oct. 22, 2024, to discuss the proposed rule and to collect formal comments. The public hearing consisted of a presentation of the proposed changes to the water quality standards followed by a question-and-answer session. After questions, we then provided the opportunity for formal testimony on the proposed changes. We considered and responded to all comments we received during the rule proposal phase.

## **Future outreach**

Ecology will inform and educate affected parties by ongoing outreach through public webinars, holding requested meetings, outreach via email distribution lists, through Ecology's website, and updating existing guidance to reflect these changes.

Since this rule will only bring the existing federal criteria that are currently being implemented into state water quality standards there is little need to change implementation. The key implementation will be making sure all those who use these criteria understand the state has adopted all applicable criteria into state rule.

## **Promoting and Assisting Voluntary Compliance**

Ecology will provide direct technical assistance to any entity that requests it. Ecology will continue to work with entities that are regulated by the state water quality standards. Ecology continues to encourage voluntary compliance with the water quality standards and supports numerous water quality programs that, at least in part, promote voluntary compliance:

- Nonpoint pollution programs
- Federal and state grants and loans
- Ongoing technical assistance from permit writers and compliance staff.

These programs provide financial and technical support to entities to help them comply with the water quality standards.

## Evaluating the Rule

The purpose of the surface water quality standards is to restore and maintain the chemical, physical, and biological integrity of Washington's waters. More specifically, the water quality standards are designed to protect public health, public recreation in the water, and the propagation of fish, shellfish, and wildlife. The numeric and narrative criteria in the water quality standards are intended to protect those beneficial uses.

The purpose of this rule update was to place all applicable criteria into the State Water Quality Standards versus having applicable criteria in two separate locations: federal and state regulations. This rule can be evaluated by the ease by which people can find the correct criteria. This rule action should result in fewer requests for help finding the federal regulations that apply. All applicable criteria will now be in the State Water Quality Standards.

We can further evaluate the rule by the benefit of establishing durability for our regulated community. With this rule adoption, the regulated community does not need to rely on EPA regulations that could change with different federal administrations.

## **Training and Informing Ecology Staff**

Ecology will notify all Water Quality Program staff, as well as staff from other programs, who use the Human Health Criteria to implement clean water programs. Currently, staff need to go to two separate locations to find the correct criteria to use. We will notify them that with the adoption of this rule all the correct values are now located in Chapter 173-201A WAC Water Quality Standards for Surface Waters of the State of Washington.

## **List of Supporting Documents that May Need to be Written or Revised**

We will need to update all documents that point to the EPA federally promulgated human health criteria at 40 CFR §131. 45. Those documents will need to cite Water Quality Standards for Surface Waters of the State of Washington at Chapter 173-201A WAC.

This will be a simple update to make sure practitioners know that these federal values are now adopted into state rule.

The list of documents that should be updated could include:

- Ecology's Water Quality Program Permit Writer's Manual
- Permit templates, Fact Sheet templates, and permit application forms that cite to the federal regulations
- Materials available to the public (e.g., webpages, focus sheets).

## More Information

[Water Quality Standards webpage<sup>1</sup>](#)

[Rulemaking webpage<sup>2</sup>](#)

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<sup>1</sup> <https://ecology.wa.gov/water-shorelines/water-quality/water-quality-standards>

<sup>2</sup> <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-201a-hhc>

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