Overview of this Rule-making

WAC 173-210A-240

What are the Washington Water Quality Standards?

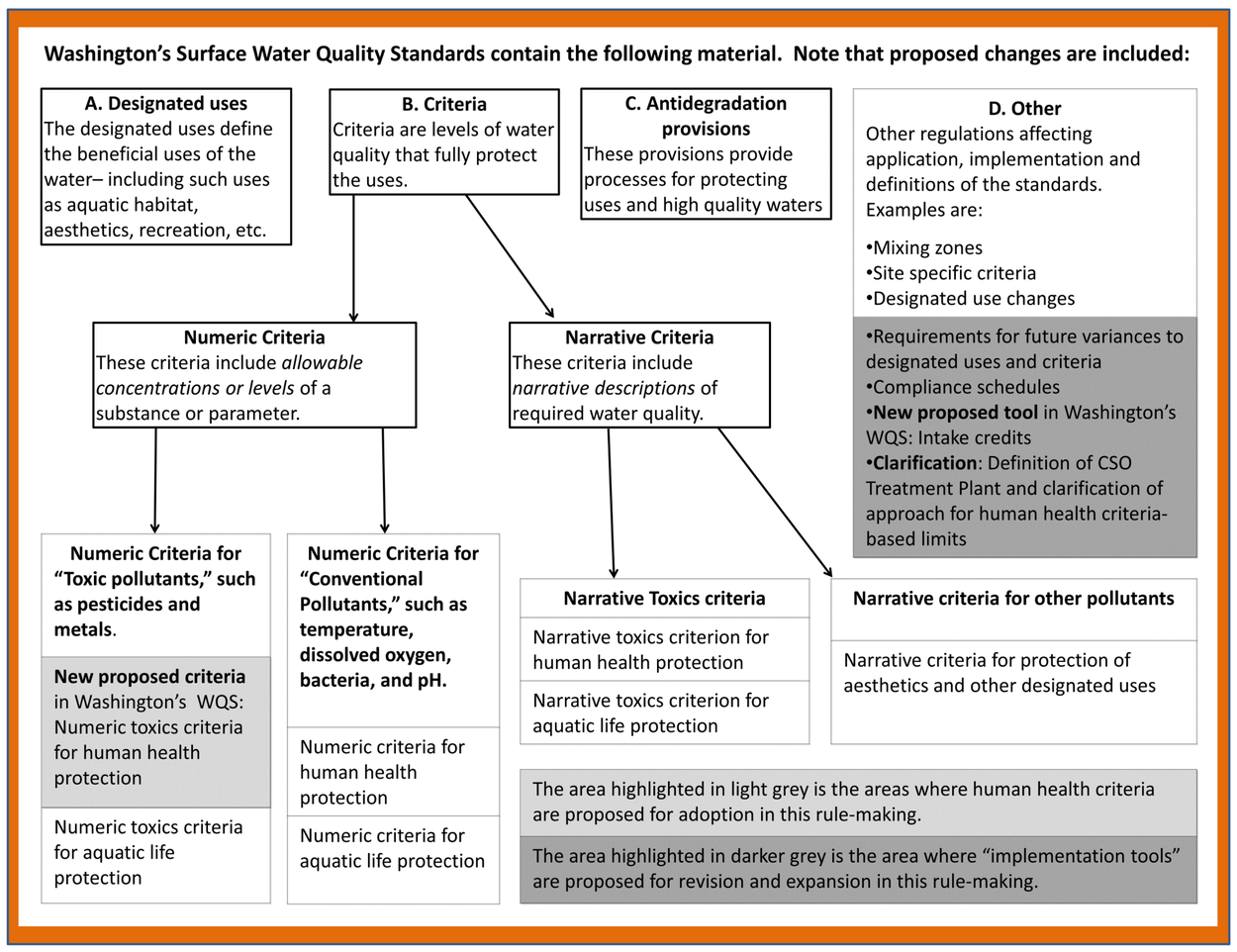
This state rulemaking is a revision to the Water Quality Standards for Surface Waters of the State of Washington (Chapter 173-201A WAC).

All states are required to adopt surface water quality standards by a federal law: the Federal Water Pollution Control Act (also called the Clean Water Act or CWA). Surface waters include (among others) streams, lakes, river, bays, and marine waters. States adopt water quality standards to:

- Protect public health or welfare.
- Enhance the quality of water.
- Serve the purposes of the Clean Water Act.

The water quality standards define:

- Designated uses for aquatic life, recreation, harvest, and other uses (often called "beneficial uses").
- Numeric and narrative water quality criteria limits to protect the designated uses.
- Antidegradation provisions to protect waters from being further degraded.
- Other provisions that direct the implementation and future changes to the standards.



What is the purpose of this rule revision proposal?

This rulemaking addresses two specific areas of the water quality standards:

1. New human health criteria (light grey highlighted area in the figure at left), and
2. Revision and expansion of tools in the standards that help in criteria implementation (darker grey highlighted area in the figure at left).

Proposed New Human Health Criteria

The human health criteria are numeric water concentrations for toxic substances that protect people who consume fish and shellfish from local waters and who drink untreated water from fresh surface waters. These criteria are calculated from a variety of different factors, including chemical-specific toxicity to humans, how chemicals move from water into fish and shellfish and then into humans, and other factors.

The development and adoption of new human health criteria includes consideration of new science on toxicity factors and new information on body weight and Washington-specific fish consumption. The factors that are included in the criteria calculations are a mix of average and higher percentile values, and are consistent with EPA guidance and practice. This approach results in high levels of consumer protection from pollutants that could be found in untreated surface water, fish, and shellfish from Washington.

Revised and Expanded Implementation Tools

The water quality standards contain a number of tools for implementing the criteria. We are proposing revisions to two of the tools (compliance schedules and variance requirements) that are already in rule. In addition, intake credits are being proposed as a new tool and implementation of criteria for combined sewer overflow (CSO) treatment plants is clarified.

Public Discussion

Since October 2012, we have held many public meetings in a variety of formats to encourage public discussions around state adoption of human health criteria and revisions to implementation tools. Materials and information from these meetings can be found on Ecology's rule website. Ecology has also met many times with various interested groups, including business, municipalities, environmental groups, counties, USEPA, and Tribes.

The public process for these proposed rules has included:

- Educational Public Policy Forums held between Oct. 2012–Sept. 2013.
- Delegates' Table stakeholder meetings held Oct. 2012–Feb. 2014.
- Governor Inslee announced his direction for reducing toxic threats in July 2014, including development of human health criteria.
- A rule proposal package was filed in January 2015, but was withdrawn August 2015 in accordance with Governor Inslee's directive after his toxics reduction legislation did not pass.
- Ecology proposed a second rule in February 2016.
- Adoption of a final rule into the Washington Administrative Code is anticipated to occur in summer 2016.

After the final rule is adopted, we will submit the rule to the USEPA for Clean Water Act approval. The new water quality standards do not become effective until approved by the USEPA.

Risk Management Decisions

This rulemaking also includes several risk management decisions that affect the final criteria values. Governor Inslee announced directions to the Department of Ecology on specific risk management decisions that enable the calculation of criterion values. These included:

1. An updated fish consumption rate that is part of the calculations for carcinogens and non-carcinogens (a new proposed average fish consumption rate of 175 g/day), and
2. A risk level of one-in-one million additional lifetime risk of developing a cancer used in the criteria calculations for carcinogens

Challenging chemicals

PCBs: Criteria were calculated at a chemical-specific risk level of 4 x 10^{-5}, but resultant criteria were higher then the current NTR values, so a risk management decision was made to stay at the current criteria.

Mercury: Defer adoption of new mercury criteria (stay under the NTR in interim). After EPA approves the revised standards from this rule adoption, develop and adopt a comprehensive mercury rule, including new criteria, variances if appropriate, and new mercury control measures.

Arsenic: Proposing adoption of the Safe Drinking Water Act level of 10 parts per billion, combined with required arsenic pollution minimization efforts.