



UTILITIES DIVISION

KEVIN R. COOKE, P.E., DIRECTOR
A DIVISION OF THE PUBLIC WORKS DEPARTMENT

Via Email – Hard Copy to be Mailed

March 23, 2015

Ms. Cheryl Niemi
Washington State Department of Ecology
Water Quality Program
P.O. Box 47600
Olympia, WA 98504-7600
swgs@ecy.wa.gov

Re: Spokane County Comments to Proposed Revisions to WAC 173-201A
Proposed Human Health Criteria and Implementation Tools Rulemaking

Dear Ms. Niemi:

Spokane County appreciates the opportunity to provide these comments to Ecology's proposed revisions to WAC 173-20A (Proposed Human Health Criteria and Implementation Tools Rulemaking). The County has demonstrated its commitment to improving the quality of the Spokane River through its investment in the new, state-of-the-art Spokane County Regional Water Reclamation Facility.

The County's commitment to clean water is also demonstrated through its leadership and participation in the Spokane River Regional Toxics Task Force. The County has devoted significant resources to cleaning up water quality in the Spokane River and is prepared to continue to do so; however, we have concerns that, in some respects, the tools proposed by Ecology may not provide the County with a realistic path towards complying with the standards Ecology proposes.

Of particular concern is the fact that the Spokane River is impaired for multiple parameters, including PCBs. The County, through its NPDES Permit and participation in the Regional Toxics Task Force has been diligently working to monitor, identify sources, and implement actions to remove those sources of PCBs from the River. And, by virtue of its state-of-the-art water reclamation facility, the County is able to remove a very high percentage of PCBs from its wastewater. But, regardless of anything the County does, PCBs will continue to accumulate in the environment through legally manufactured products and by virtue of air deposition.

Consequently, we know that PCBs will continue to exist and find their way into the County's sewage collection system for years into the future. The same is true for other ubiquitous pollutants that simply cannot be "removed" entirely from our environment at this time. If the revised water quality standards result in criteria that are unachievable when adopted, then the tools that are provided to the County (and other dischargers) must be tools that can be accessed in a reasonable fashion and utilized to fill the gap in time between rule adoption and a) the availability of reasonable treatment technology, and/or b) changes in the laws to eliminate these types of chemicals from being released into the environment.

The following comments are provided based on these concerns and are offered to assist Ecology in its rulemaking process:

1) The County appreciates the tools Ecology has proposed in its rulemaking, which must continue to be included in any rulemaking revising human health criteria. One concern the County has, however, is that the proposed language does not appear to provide adequate flexibility to account for legacy and pervasive pollutants, which cannot be entirely eliminated at the source (such as PCBs). Our suggestion is that the tools allow for ambient background concentrations of these types of legacy and pervasive pollutants to be considered in the calculation or evaluation associated with the tools proposed by Ecology. This will provide a level of flexibility that does not appear to be sufficiently encompassed in the proposed rule.

2) Thank you for the enhanced variance sections in the proposed revisions to WAC 173-201A. However, we believe that the hurdles associated with the variance procedure, as currently written, are significant and could prove infeasible. Among other things, requiring variances to be granted through rulemaking imposes burdensome and time consuming requirements that may not be necessary, given that most variances will be incorporated into NPDES permits. Moreover, the rulemaking process falls largely outside of the County's control and can be subject to budgetary constraints that could impact the ability of the County and other dischargers to utilize this tool. Finally, the County requests that Ecology consider whether it could reduce some of the burdens associated with the variance tool. For example, the County suggests that the rule allow for longer timeframes, or allow for variances to be administratively extended.

3) The County also appreciates the intake credit provisions. However, the proposed rule should include specific provisions that allow offsets for ambient background concentrations of legacy and pervasive pollutants, such as PCBs, that exist in municipal water supplies.

Again, thank you for the opportunity to provide these comments to Ecology. We look forward to continuing to work with Ecology to improve water quality in the Spokane watershed.

Very truly yours,



Kevin R. Coeke, P.E.
Utilities Director