

WA Ecology Water Quality Standards Delegates' Table Report — DRAFT NOT YET REVIEWED BY DELEGATES —

I. Introduction

Background on Water Quality Standards Rulemakings

In October 2011, the Washington State Department of Ecology (Ecology) began a formal rulemaking process to amend portions of the Water Quality Standards (WQS) for Surface Waters of the State of Washington, [Chapter 173-201A WAC](#). This rulemaking was focused on improving the implementation and compliance tools provided by the rules. In September 2012, Ecology modified its approach by withdrawing the initial notice of rulemaking and issuing a new notice of rulemaking that provided greater clarity about the focus of the rulemaking on implementation tools, and coordinated it with a second, simultaneous rulemaking focusing on establishing new human health criteria in Washington's WQS. These two rulemaking efforts are running concurrently, and in general are considered a single process referred to as the Human Health Criteria and Implementation Tools rulemaking. Specifically, this rule-making activity is intended to:

1. **Establish new human health criteria.** Human health criteria are concentrations of toxic substances in surface waters that protect people who consume water, fish, and shellfish taken from Washington water bodies. They address substances such as metals, pesticides, and other organic compounds. Currently Washington does not have human health criteria adopted in state rule, so Ecology is required to operate under the federal criteria established in EPA's 1992 National Toxics Rule. These criteria are out of date, and EPA has requested (and Ecology agrees) that Washington should use new science and information to adopt human health criteria at the state level. Among other things, this process likely will result in an updated fish consumption rate, which is one of the factors used to calculate the human health criteria. It is also likely this will result in more stringent discharge limits for many substances based on lower criterion concentrations, while other criterion concentrations will go up and may result in less stringent discharge requirements. (See [rulemaking documents](#).)
2. **Provide new implementation and compliance tools for dischargers.** Implementation and compliance tools are needed to help dischargers effectively address increasingly smaller concentration limits for contaminants. This may be the case, particularly, when technology to treat effluent, or even measure constituents, has not yet caught up with the new human health criteria levels. It also is the case that some contamination in discharge effluents may come from more distributed sources of toxics, such as from non-point sources, products in use (e.g., roofing materials, brake pads), natural occurrence, or legacy contamination (See [rulemaking documents](#).)

II. Ecology's public process

To support these concurrent rulemaking processes, Ecology established an extensive public process to engage stakeholders and key parties. In particular, Ecology set up a series of meetings and webinars, called the Water Quality Policy Forum, to enable all people interested in the rulemaking to learn about and participate in the rule development process; and Ecology convened a group of stakeholders, the Water Quality Delegates' Table, to offer perspectives and advice during the rulemaking process.

What is the Policy Forum?

The Policy Forum was a process that gave interested persons an opportunity to learn about the complex technical and policy issues involved in adopting human health criteria, to ask questions, and to provide input to the process. All interested persons were invited to attend any or all of the Policy Forum meetings/webinars. The Policy Forums were initiated in October 2012 and concluded in September 2013. Policy Forum presentations and meeting materials are available on the [Rule Activity Timeline](#). Participation at Policy Forum meetings varied from meeting to meeting, but all were well attended.

What is the Delegates' Table?

Under the umbrella of the Policy Forum, Ecology also established a group known as the Delegates' Table, consisting of specific individuals representing the interests of their respective communities. With defined membership, the Delegates' Table made it possible to have a continuous dialogue from meeting to meeting that was not possible in the Policy Forums. The Delegates' Table also (1) allowed time for more dialogue between delegates and Ecology on the complex issues, (2) ensured that participating interest groups were represented at each meeting, and (3) provided an opportunity for different interest groups to interact with each other and better understand other participating interests.

Convening the Delegates' Table

In August 2012, Ecology sent letters of invitation to multiple groups, including Tribes, businesses, environmental groups, local governments, and agricultural industries, asking them to identify persons to represent their communities and convey ways their community might be affected by potential rule changes.

In response to these invitations, most Tribes declined to participate in the process. Other invitees, including the Washington Waterkeepers and the Northwest Environmental Advocates, also declined to participate. Representatives from cities, counties, ports, shellfish growers, the business community, and the Confederated Tribes of the Grand Ronde accepted the invitation to participate. EPA also was present for Delegates' Table meetings to offer their perspective on issues and ideas. Delegate invitation letters and responses are available on Ecology's website.¹ The list of Delegates who participated in the process is shown below.

¹ <http://www.ecy.wa.gov/programs/wq/swqs/delegatetable.html>

Ecology held the first meeting of the Delegates' Table in conjunction with the first Policy Forum in October 2012. Feedback from Delegates during and after this meeting led Ecology to suspend the Delegates' Table meetings until more of the Policy Forums had occurred. This was to avoid using Delegates' time for educational presentations that most found unnecessary. Delegates were, of course, invited to attend the Policy Forums if desired, and many did.

In May 2013, when Ecology was half-way through the series of Policy Forums, it re-started the Delegates' Table process. At that time, Ecology also contracted with an independent professional facilitator for the Delegates' Table process. Ecology prepared a draft Charter for the group which was discussed and finalized at the first Delegates' Table meeting following the re-start. As defined in the charter, the purpose of the Delegates' Table was to provide Ecology with advice on how best to move forward with surface water quality standards updates and to act as a sounding board for discussion of policy and regulatory options. Delegates were requested to:

- Represent their community/sponsoring organization.
- Actively engage in discussion and bring constituent concerns to the table, as well as seek an increased understanding of other's views.
- Speak candidly and bring their ideas and expertise to the table to help inform Ecology's choices.
- Communicate back to their communities/sponsoring organizations.²

List of delegates

Association of Washington Business rep: Gary Chandler - Association of Washington Business (Alternate: Brandon Housekeeper)
Association of Washington Business rep: Bruce Hope - Western States Petroleum Association
Tribal representative: Brandy Humphreys - Confederated Tribes of Grand Ronde ; Michael Karnosh - Confederated Tribes of Grand Ronde
Association of Washington Business rep: Ken Johnson - Weyerhaeuser
Association of Washington Business rep: Nancy Judd - Association of Washington Business
Association of Cities rep: Heather Kibbey - City of Everett
Association of Counties rep: Sandra Kilroy - King County (Alternate: Josh Weiss)
Irrigators Association rep: Tom Myrum - Washington State Water Resources Association
Ports Association rep: Gerry O'Keefe - Washington Public Ports Association
Association of Counties rep: Bruce Rawls - Spokane County (Alternate: Josh Weiss)
Association of Cities rep: Carl Schroeder - Association of Washington Cities
Shellfish Growers Association rep: David Steele - Pacific Coast Shellfish Growers (Alternate: Margaret Barrette)
Agriculture rep: John Stuhlmiller - Washington Farm Bureau (Alternate: Evan Sheffels)

² Charter, Section III. See [Appendix \[X\]](#) for full text of the Charter.

III. Delegates' Table – Feedback on Principles

Throughout the Delegates' Table process participants identified a number of principles that they thought should guide Ecology's decision making about WQS and implementation tools. These are:

- **Be protective.** Delegates acknowledge and support that updated standards are needed.
- **Be clear on risk.** Realistically communicate and describe the risk context for WQS.
 - While a decision might be taken to set standards based on a particular risk level, recognize that because of different exposure patterns, this never will equate to a single level of protection for all residents.
 - Present risk implications in context of other risks.
- **Don't leave permittees hanging.** If it is known that a new WQS will be technologically unattainable, or that background levels of toxics already exceed new standards, provide a clear path to compliance for the regulated community through implementation tools that are effective at the same time as new standards.
- **Put other sources on the hook.** As part of creating implementation tools, as much as possible create tools that address non-point and other distributed sources of toxics in water; recognize that the point source discharges regulated by NPDES permits are an important, but often relatively small, part of the total source of toxic contamination in watersheds.
- **Be creative.** This is particularly important to establishing new implementation tools.

IV. Delegates' Table Feedback on Implementation Tools

Delegates spent a lot of their meeting time discussing implementation tools. One of the key messages from the Delegates' Table is their emphasis that predictable, efficient implementation tools are needed and should be available at the same time that new water quality standards become effective. Delegates repeatedly and strongly expressed concern over the idea that new WQS might become effective before new implementation tools, or that EPA might approve new WQS without taking action (or even disapproving) implementation tools. Delegates observed that would place permittees in the untenable circumstance of being unable to comply with new WQS and forcing the curtailment of operations and/or precluding expansion. Delegates emphasized the need for implementation tools to provide a clear path to compliance in situations where new water quality standards likely are beyond the capacity of current technologies and where the sources of contamination are beyond the control of permitted entities, such as with legacy and non-point contaminants.

In this context, Delegates offered a number of thematic comments on implementation tools. Delegates offered that implementation tools should:

- Be legally defensible.
- Result in measurable toxic reduction.
- Result in facility being able to stay in compliance while they work on toxic reduction activities.
- Be able to be issued and administered in a timely way without over burdensome administrative costs.
- Be predictable, and durable across multiple permit cycles.
- Have opportunities to include new science (over time).

Delegates encouraged Ecology to keep as many effective, legal, and flexible implementation tools on the table as possible. Delegates also encouraged Ecology to consider implementation tools that are “outside the box.”

Use of Other Programs

Much of Delegates' discussion of “outside the box” implementation tools centered on use of other programs, such as implementation of Chemical Action Plans, to achieve measurable, predictable toxics reduction and Clean Water Act (CWA) goals.

There are two options for using other pollution control programs as an alternative to the traditional TMDL process to address water quality issues. These options come about as a result of two special categories in the Clean Water Act 303(d) reporting system. They are: (1) **Category 5m**, created by EPA in cooperation with states to address mercury contamination in waterbodies where the mercury is derived mainly from atmospheric sources; and (2) **Category 4b**, which is available when other required control measures are expected to result in the attainment of an applicable water quality standard in a reasonable period of time.

Delegates were very supportive of using these special CWA categories to address widespread contamination, and for legacy toxics and other problem chemicals such as mercury, arsenic, and PCBs, where the source of contamination often is beyond the control of the permittee. Delegates noted that:

- Tools outside the framework of the CWA, e.g., chemical action plans, may be a more effective method of toxics reduction than developing a CWA-based standard.
- Tools outside the framework of the CWA are fairer; they bring more of the community responsible for toxics into the work of reducing /addressing toxics.
- A pollution control plan or chemical action plan is a pathway that addresses the water quality issue more holistically. For municipal wastewater treatment plants this would help address upstream dischargers.
- Reductions in CWA discharge limits hit municipal treatment facilities hard because they may be getting contaminants in their receiving water, something over which they can have very little control.
 - For example, Ecology did a study of PCB loading in the Spokane River and found 8% from treatment plants, 20% from stormwater, and 58% from unidentified sources.
 - There needs to be accountability for pollutants already in the water and that the rule should not hold point-source discharges accountable for legacy, background, and non-point sources of contamination.
- Once a determination is made that a waterbody is impaired and there is a pathway for the best corrective actions (e.g., a chemical action plan for arsenic or mercury) then that pathway should be the solution for all dischargers in that waterbody, with adaptive management over time.
- The ultimate goal is to reduce toxic loading into the environment and sometimes, for some chemicals, dischargers are a very small percent of the source. If they are the main focus then the state is missing an opportunity to have conversations around other sources and develop policies that would ultimately help reduce loading from those sources and reduce the overall impact on regulated dischargers.
- Regulated entities want to operate in the state with confidence, comply with the Clean Water Act, and ultimately help clean up surface waters.

Delegates acknowledged that if use of other programs is interpreted by other stakeholders as, in part, reducing requirements on permittees (or “letting permittees off the hook”) it must be made very clear who will be accountable for the needed toxics reduction, and how that accountability will be enforced (“putting other people on the hook”). The following questions were identified by Delegates to be addressed when developing programs that could take the place of (or be used to comply with) some CWA requirements:

- What would a plan/program have to look like and what targets must it achieve to be used in this way?
- Who will be accountable for achieving these targets?
- What processes need to be in place to guarantee compliance with the plan/program?

- Are there specific check-in points that should be identified? What steps are triggered if targets are not met?
- Who has the authority to enforce a plan/program used to meet CWA standards?
 - In Oregon they put the burden on the permittees.
 - Municipal utilities often do not have the authority to tell upstream sources to stop discharging.
- How would this type of approach affect other state programs, like clean-up efforts?

Ecology noted that it has thought about chemical action plans and other toxics reduction programs largely in the context of reasons that a chemical-specific or waterbody wide variance or schedule of compliance might be appropriate. Delegates were supportive of this idea, but also supported broader use of other programs and the special CWA categories.

Variations

A variance is a temporary change to the water quality standards for a single discharger, a group of dischargers, or a waterbody. Variations establish a time-limited set of temporary requirements that apply instead of the otherwise applicable water quality standards and related water quality criteria. Variations may be used where attaining the designated use and criteria is not feasible immediately, but may be feasible in the longer term. They can be targeted to specific pollutants, sources, and/or waterbody segments. Variations are one of three implementation tools that Ecology has indicated it is planning to include in the implementation tools portion of the rulemaking.

Because a variance establishes a temporary set of requirements that apply instead of the otherwise applicable water quality criteria, EPA has specified that variations are appropriate only under the same circumstances that a Use Attainability Analysis might be undertaken to change a designated use for a waterbody. This means there are six circumstances under which a variance might be appropriate. They are:

1. Naturally occurring pollutant concentrations prevent attainment of the use.
2. Natural, ephemeral, intermittent or low flow conditions or water levels prevent attainment of the use, unless these conditions may be compensated for by discharge of sufficient volume of effluent discharges without violating state water conservation requirements to enable uses to be met.
3. Human-caused conditions or sources of pollution prevent attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place.
4. Dams, diversions, or other types of hydrologic modifications preclude attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in attainment of the use.

5. Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses.
6. Controls more stringent than those required by Sections 301(b) and 306 of the Clean Water Act would result in substantial and widespread economic and social impact.

Delegates were supportive of variances generally and of the use of state-wide pollutant specific and/or waterbody wide variances to address legacy contaminants and other difficult toxics and/or situations. At the same time, Delegates' expressed concern with a number of features of variances including:

- **Time limits.** Delegates believe that implementation tools should give confidence over a reasonable time period, potential of up to 20 years, or more, with regular review/renewal points built in along the way. EPA's new proposed federal rule for variances specifies a 10-year timeframe, with opportunities to renew. Some Delegates asked if states were using rolling variances, on a 5- or 10-year interval. EPA noted that Idaho has a variance policy that allows them to issue administrative variances with a State Attorney General certification and without a requirement that the every variance is written into the rule language.
- **Difficulty/administrative burden to obtain.** Variances require administrative procedures on par with rulemaking and they require EPA approval either on an individual variance-by-variance basis or programmatically through review and approval of a state's variance regulations. Delegates asked about streamlined procedures for variance renewals if the underlying circumstances that prompted a variance have not changed. EPA offered that in three municipalities in the Coeur d'Alene basin EPA found that the initial analysis to receive the variance was robust enough that the renewal process was straightforward and used the same data along with new data collected during the five year period. Given the amount of data required for an initial variance this may be the case for many permittees.
- **Uncertainty.** Variances are subject to a variety of administrative and legal challenges; the lack of experience with issuing variances generally and in Washington State specifically, along with the protracted review and decision-making time frames associated with challenges, make some dischargers hesitant to rely on variances to solve compliance problems.

Delegates also discussed the pros and cons of an individual variance-by-variance EPA approval process or a process where Ecology would seek EPA approval for state regulations on variances, and then issue individual variances through an administrative process. While the idea of an administrative process to make decisions on variances was appealing, Delegates also expressed some concern over how an administrative variance would be implemented. There were questions about what would happen if Ecology developed a package of implementation tools for chemicals like mercury and PCBs that included availability of administrative variances and EPA approved the underlying new WQS standards but not the variances.

Finally Delegates discussed a number of expansions of the variance concept, including:

- **The potential for variances to be broader than what would otherwise be implemented in a permit—described as a “let’s see how far we can get” variance.** In this scenario a permittee would have a set time period where the final outcome isn’t known and a suit of options and tools they are required to implement to get as close to the standard as possible. Once the variance time period is over Ecology would provide a new variance or a Use Attainability Analysis (UAA) would be pursued.
- **Phased implementation for variances where the standard cascades lower over a set period of time.** This would acknowledge the steps required to meet the standard but provide a longer timeframe than a typical compliance schedule.

Compliance Schedules

A compliance schedule is an enforceable tool used as part of a permit, order, or directive to achieve compliance with applicable effluent standards and limitations, water quality standards, or other legally applicable requirements. Compliance schedules include a sequence of interim requirements such as actions, operations, or milestone events to achieve the stated goals. Compliance schedules are a broadly-used tool for achieving state and federal regulations; compliance schedules under the Clean Water Act are defined federally at CWA 502(17) and 40 CFR Section 122.2. At the state level, a general allowance for compliance schedules in the water quality standards is defined at WAC 173-210A-510(4). Ecology was directed by the Legislature to extend the maximum length of compliance schedules to more than 10 years when a compliance schedule is appropriate, the base requirements for compliance schedules are met (i.e., compliance “as soon as possible”), and a permittee is not able to meet its TMDL waste load allocations only by controlling and treating its own effluent.

Compliance schedules are the second of three implementation tools Ecology has indicated it plans to include in the implementation tools rulemaking. The Department currently is focusing on a 20-year timeframe for compliance schedules.

Delegates were supportive of extending the time period for and expanding the use of compliance schedules; however, Delegates also believe that compliance schedules may have limited applicability particularly for toxics where sources are not under the control of permittees.

Intake Credits

Intake credits may be available when pollutants are present in a permittee’s intake water and are discharged back into the same water, without any increase in mass or physical or chemical alternations that would cause adverse water quality impacts to occur that would not occur if the pollutants were left in stream. The idea of intake credits is pollutants simply pass through the facility essentially unchanged. Intake credits are the third of the three implementation tools Ecology has indicated it plans to include in the implementation tools rulemaking.

Delegates were supportive of the use of intake credits, but recognized their very limited applicability and therefore utility.

Other Implementation Tools

Delegates also discussed a number of additional implementation tools they recommended for Ecology consideration and use. These include:

- Mixing zones.
- The use of the “natural conditions” provisions to address issues like background levels of Arsenic.
- Narrative effluent limits (such as are in use for PCBs in the Spokane River).
- Water quality offsets and pollutant trading programs similar to what are used on the Spokane River.
- Removing WQS criteria when use of certain chemicals is banned in the state (or federally). This approach has been taken in Florida. Delegates noted that banning chemicals in many ways is the ultimate source control. (Note, Delegates had a range of views on the advisability of chemical bans, and also generally thought that, if used at all, they should be reserved for the most extreme cases.)
- Use Attainability Analysis to change a waterbody’s designated use.

Ken Johnson, Weyerhaeuser, gave a presentation on types of implementation tools that may be options. A table of specific example tools and their potential applicability based on his presentation is included in Appendix XX.

V. Delegates' Table Feedback on WQS Standard Setting

Delegates spent more time discussing implementation tools (above) than they spent discussing WQS standard setting; however, in their discussions on standard setting, Delegates returned to a number of themes:

- Realistically and accurately communicate risk from exposure to toxics in water and through consumption of fish and shellfish and place these risks in the context of other risks.
- Recognize that while a single risk level/population may be selected for use in the WQS equations, because of differences in actual patterns of consumptions among individuals, there never will be a single exposure scenario/risk level.
- Consider probabilistic methods of populating some of the equation variables to better account for the range of exposure patterns among individuals and communities.
- Look at all the elements of the WQS equations as a package, and be attentive to magnified conservatism through selection of conservative options for multiple variables. Using the most conservative estimate for every variable will create criteria that are much more conservative than may be necessary to adequately protect human health.

Delegates also noted that discussion of the WQS equation raises a set of practical issues having to do with understanding what policy decisions are within a state's preview and where EPA would specify approaches that must be taken.

Delegates also offered perspectives on a number of the individual variables in the WQS equations as follows.

Relative Source Contribution (RSC)

The relative source contribution is a way to account for the fraction of chemical exposure from sources regulated under the CWA and for other sources. If the RSC is 1 (current Washington rule), 100% of exposure is assumed from fish, shellfish, and surface water. If the RSC is <1 it is assumed there are exposures/sources not controlled by the CWA. The way the factor flows through the calculation means that the CWA standard then needs to be more protective to provide for the sources outside control.

Delegates noted:

- Oregon used the EPA-calculated RSC for the 17 identified chemicals it is available for (except Mercury and Endrin) and an RSC of 1 for everything else.
- California completed a study of RSC and calculated values for 70 chemicals that presume knowledge of other sources of contamination.
- An RSC of 1 (100%) made sense because making a case that all sources for all chemicals are understood well enough to calculate an RSC would be difficult.
- To create an empirical RSC for all constituents would require an understanding of all the possible pathways to exposure for every chemical, which may be insurmountable.

- Some Delegates recommended using the EPA-established RSC for the 17 chemicals it is available for and choosing 20, 80, or 100% for everything else.
- Delegates emphasized that Ecology should not reinvent the wheel for studies already completed by EPA.

Fish Consumption Rate (FCR)

Ecology presented fish consumption rate ideas/alternatives to Delegates on November 6th. These ideas were designed to bookend a range focused on highly exposed populations. The FCR of 125 g/day was calculated by pooling the data from three tribal studies and determining the mean consumption rate. The 175 g/day rate, which generated the most questions, was based off Oregon's data using the 95th percentile of the CRITFC consumption study and the 90th–95th percentile of Oregon high consumers study. The FCR of 225 g/day was calculated using the mean of highly exposed populations in the tribal consumption studies and the mean of the recreational fisherman studies.

Delegates discussed the types of surveys included in the FCR estimates and individual Delegates made a variety of comments, as follows.

- Recreational fishermen studies should be evaluated for relevance, as most use Creel surveys which may not capture an accurate picture of fish consumption.
- The tribal surveys are focused on salmon and shellfish which, except for Chinook, may not bioaccumulate some toxins as much as other fish sources.
- A definition of “general population” should be included in Ecology's guidance. EPA requires the general population to be protected at a risk level of 10^{-6} and highly exposed populations at 10^{-4} . This process needs to protect highly exposed populations and that should be done at 10^{-4} but it is unclear what that means for the rest of the population who may consume only 7.5 g/day. Taking a conservative approach on every aspect of the equation will lead to a more conservative overall criterion which may not be cost effective.
- Only fish consumers should be included when calculating the average for the general population. (Non-consumers would inappropriately skew the consumption rates.)
- Fish consumption studies show varying ranges of consumption for different regions of the state. One study shows a difference based on the available local resources and is worth consideration (e.g., an east-west split in the rate). A fish consumption rate that varies for different parts of the state is worth consideration. (Some other Delegates responded that even though there were different consumption rates found across the state, the water (and the toxics contained within) flows everywhere and the idea of different rates was not appealing.)
- For some types of fish and in some geographic areas the CWA will not be a good tool and it would be helpful to begin identifying these locations. For example—for some chemicals some types of fish respond quickly to reductions in discharge concentrations; for other chemicals (particularly bio-accumulative chemicals and persistent chemicals) the response to reductions in discharge concentrations is much slower, because current discharges aren't driving the contamination in the environment; it is from past releases.

Delegates also discussed the health benefits of eating fish and the associated messaging to the public. Many studies have shown that eating fish provides a variety of health benefits but these are not considered when setting WQS. The Department of Health considers these benefits. Many Delegates encouraged Ecology to consider them too.

Other variables

- Average weight. There is data for the state that shows average weight has risen from 70 kg to 80 Kg.
- Drinking water consumption. The drinking water metric is currently set at 2 L/day of untreated surface water which seems high.
- Lipid content. The lipid content in fish/shellfish varies from 1%–12% so using an average of 3% is likely picking up the decreased content in shellfish. It would be worth investigating a change for how shellfish are included in the calculation, or if the 3% already covers the difference.

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VI. Delegate Feedback on PCBs, Arsenic, and Mercury – Special Case Chemicals of Concern

Delegates were very concerned about PCBs, arsenic, and mercury, which have also been identified by Ecology as chemicals of special concern. In general these chemicals are already widely present in Washington State waters at concentrations that likely will exceed new WQS, they are persistent, and to the extent there are ongoing sources, those sources often are not under the control of permittees.

- PCBs are a problem in the Spokane River and throughout Washington State even though people believe they have been banned since the 1970s. In reality the ban is not complete and PCBs remain legal in some products. To improve public health regulations have to address upstream sources of toxics, many of which are not regulated under the CWA or at all; treatment plants and point source dischargers alone cannot solve the problem. New analytic methods under development by EPA (1668c) will increase the number of detections across the State.
- Arsenic is present in many areas of Washington at natural background concentrations that likely will exceed any new WQS.
- Mercury is _____.
- PBDE flame retardants behave much like PCBs and should potentially be considered along with PCBs for special consideration. (PBDEs currently do not have human health criteria in Washington State.)

Delegates emphasized the need for clear and effective paths to compliance for these chemicals. Options discussed include developing a different risk level, creating a statewide or waterbody variance process, creating a new category under 303 similar to the 303 for legacy toxics, similar to the 303 5m category that already exists for air deposition of mercury. Delegates also discussed the need for careful messaging around these toxics, even if the number of impaired waters increases dramatically with new WQS (which it is likely to do), this increase in impairment does not necessarily equate with increased toxics in fish and shellfish products.

Appendices

1. Invitation to delegates
2. Delegate table meeting dates and process timeline
3. Flowcharts
4. Chad's table (big table)
5. Ken Johnson Implementation Tools (only have a PDF – Todd working on converting)
6. Whitepapers (need to determine which ones to include, if any)

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