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w/ request for
analysis of best
practices from other
states in briefing
for the Governor.
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**Select Summary of State Human Health Toxics Water Quality Standards Revisions
Fish Consumption Rates (FCR) and Agency Development Processes
March 12, 2012**

EPA Region / State	Toxics WQS FCR (Grams per Day)	Revised FCR Under State Consideration (Grams per Day)	State Agency Development Process (Years)	Process Status / Comments (See Notes)
Region 10				
Washington	6.5	157-267 Ecology's 2011 Draft TSD range	Dec. 2011 – ?	Washington stakeholder meeting process started Dec. 2011. Current rate is 6.5. WA was subject to the National Toxics Rule. http://www.ecy.wa.gov/programs/wq/swqs/RuleRev2011.html http://www.ecy.wa.gov/toxics/fish.html
Oregon	175	None	2006 – 2011	OR triennial review development process for 17.5 rate was 1999-2004. EPA disapproved Oregon's 2004's 17.5 rate in June 2010. Agency review reinitiated on <i>rate only</i> in 2006-2011 and EPA approved 175 rate with 10 ⁻⁶ risk rate for carcinogens in Oct. 2011 except arsenic that had changes to formula including at 10 ⁻⁴ risk rate. Prior to 2004, Oregon adopted rate was 6.5 and July 2010 to July 2011. http://www.deq.state.or.us/wq/standards/humanhealthrule.htm
Idaho	6.5	17.5	2005 – 2006 See Status	ID adopted 88 criteria based on 17.5 rate in 2006 with at 10 ⁻⁶ risk rate for carcinogens. 17.5 rate at EPA for approval action. EPA 10 in litigation on approval action. http://www.deq.idaho.gov/water-quality/surface-water/standards/standards-awaiting-epa-action.aspx Prior rate was 6.5. ID was originally subject to National Toxics Rule. http://www.deq.idaho.gov/water-quality/surface-water/water-quality-criteria/toxic-substances-criteria.aspx
Alaska	6.5	None	None	AK was subject to the National Toxics Rule (NTR) and later AK adopted 10 ⁻⁵ risk level for carcinogens. See 2011 Triennial Review Issue discussion, p. 3: http://dec.alaska.gov/water/wqsar/trireview/pdfs/current_issues.pdf See AK's 2008 Toxics Manual: http://dec.alaska.gov/water/wqsar/wqs/index.htm For comparison of state standards and those approved by EPA as of 2011: http://dec.alaska.gov/water/wqsar/wqs/pdfs/Comparison_of_State_and_Federally_Approved_WQS_7-12-11.pdf

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Region 1				
Maine	32.4	None	1990 – 1993 ¹	¹ 32.4 rate agency process was approximately 1990-1993. Agency process to revise arsenic standard with lower carcinogenic risk level started in 2011. http://www.maine.gov/dep/water/wqs/index.html
Connecticut	6.5	20 was proposed in 2009 and dropped in 2011 ²	2002 – 2011	² 20 rate was proposed in agency process from 2002-2009. 20 rate dropped after 2009 rulemaking comments and reduced rule package moved forward. http://www.ct.gov/dep/cwp/view.asp?A=2719&Q=452434&depNav_GID=1654 In 2011 final rulemaking, only several select toxics were revised. http://www.ct.gov/dep/cwp/view.asp?A=2719&Q=471444
Region 2				
New York	33	None	Completed 2008	NY state adopted 33 rate in 2008. EPA approved 33 rate. http://www.dec.ny.gov/regs/4590.html
Region 4				
Alabama	30	None	Completed 2010	AL adopted 30 rate in 2010. EPA approved 30 rate. Previous rate was 6.5. AL site: http://www.adem.state.al.us/alEnviroRegLaws/files/Division6Vol1.pdf (see pages 10-8 to 10-10). EPA site: http://water.epa.gov/scitech/swguidance/standards/wqslibrary/al_index.cfm
Florida	6.5	32 or 47	1995 – Present	FL agency process in work considering higher rate. Agency: http://www.dep.state.fl.us/water/wqssp/tr_review.htm EPA site: http://water.epa.gov/lawsregs/rulesregs/florida_index.cfm
Georgia	17.5	None	Completed 2008	GA process adopted 17.5 in 2008. EPA approved 17.5 rate. Previous rate was 6.5. Georgia later revised one toxic pollutant based on 17.5 rate in 2011. GA site: http://www.gaepd.org/Documents/index_water.html

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Region 5				
Great Lakes Initiative (GLI) Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania & New York	15 ³	None	1987 – 1998 EPA then state process revising toxic standards in closed lake system ³	<p>³ Clean Water Act GLI amendments addressing toxics adopted 1987. EPA later adopted GLI standards and methods for 29 toxics in 1995 and process for more (Fed. Reg. 60:15366-15425, March 23, 1995 See page 15374 for 15 rate discussion). http://www.epa.gov/gliclearinghouse/docs/usepa_fr_notice_2.pdf States then adopted EPA standards and in the next several years and developed implementation and variance rules in 1996-1998 period. EPA site: http://www.epa.gov/region5/water/wqs5/</p> <p>EPA Region 4 standards actions including variance approvals: http://www.epa.gov/region5/water/wqs5/decisions.htm</p>
Minnesota	30	None	Completed in 1990 ⁴	<p>⁴ 30 rate adopted in 1990. Affirmed in EPA's GLI EPA 1995 adoption (see GLI). Changes to formula <i>only</i> not rate proposed in current Minnesota in Triennial Review 2008-12. http://www.pca.state.mn.us/index.php/water/water-permits-and-rules/water-rulemaking/proposed-water-quality-standards-rule-review.html See attached excerpt from draft 2011 document below pp. 128-137: http://www.pca.state.mn.us/index.php/view-document.html?gid=14984</p>
Region 8				
Wyoming	6.5	17.5	Initiated Sept. 2011	<p>WY triennial review outreach process started Sept. 2011. http://deq.state.wy.us/wqd/watershed/surfacestandards/index.asp</p>

DISCLAIMER: This is a summary of state and federal websites discussing toxics water quality standards revisions with coastal locations and/or sovereign nation interests. For more specific information contact the state and federal agencies.

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NOTES:

Water Quality Standards (e.g. fish consumption rates for people for use in mathematical formula calculating human health toxics standards) can be adopted by states in rule or legislation for use in state programs – but must be approved by EPA for use in federal Clean Water Act programs. The fish consumption rate is one of several variables in the mathematical formula subject to EPA guidance documents noted below.

REFERENCES:

EPA State and Tribal Standards Reference Site

<http://water.epa.gov/scitech/swguidance/standards/wqslibrary/links.cfm>

EPA Regional Water Information Map

<http://water.epa.gov/>

EPA National Toxics Rule Updates (CFR 131.36 as of July 2011)

See Page 493 for documentation of Alaska's 10^{-5} risk level and Washington's 10^{-6} risk level for carcinogens for human health toxics standards.

<http://www.gpo.gov:80/fdsys/pkg/CFR-2011-title40-vol22/pdf/CFR-2011-title40-vol22-sec131-36.pdf>

EPA National Recommended Water Quality Criteria. U.S. Environmental Protection Agency Office of Water. Office of Science and Technology. EPA. 2009.

<http://water.epa.gov/scitech/swguidance/standards/current/upload/nrwqc-2009.pdf>

Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health. U.S. Environmental Protection Agency, Office of Water, EPA-822-B-00-004. EPA. 2000.

<http://www.epa.gov/waterscience/criteria/humanhealth/method/complete.pdf>

Water Quality Criterion for the Protection of Human Health: Methylmercury. U.S. Environmental Protection Agency, Office of Water, Washington, D.C. EPA 823-R-01-001. EPA. 2001.

<http://www.epa.gov/waterscience/criteria/methylmercury/document.html>

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ATTACHMENTS:

Excerpt detailing Minnesota approach to setting fish consumption rate, pages 128-137.

Minnesota Pollution Control Agency, Human Health-based Water Quality Standards Technical Support Document
Triennial Water Quality Standard Amendments – Minn. R. chs. 7050 and 7052 June 2011 DRAFT External Version 2011
<http://www.pca.state.mn.us/index.php/view-document.html?gid=14984>

Excerpt detailing Connecticut's review of a 20 rate and decisions to postpone raising the rate for human health toxics standards.

<http://www.ct.gov/dep/cwp/view.asp?A=2719&Q=471444>