

# ***APPENDIX A***

## ***Water Quality Standards Regulation***

**APPENDIX A**

**WATER QUALITY STANDARDS HANDBOOK**

**SECOND EDITION**

## Water Quality Standards Regulation

(40 CFR 131; 48 FR 51405, Nov. 8, 1983; Revised through July 1, 1991; amended at 56 FR 64893, Dec. 12, 1991; 57 FR 60910, Dec. 22, 1992)

### TITLE 40—PROTECTION OF ENVIRONMENT

#### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

#### SUBCHAPTER D—WATER PROGRAMS

#### PART 131—WATER QUALITY STANDARDS

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[Amended at 56 FR 64893, Dec. 12, 1991; 57 FR 60910, Dec. 22, 1992]

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##### Subpart A—General Provisions

###### §131.1 Scope.

This part describes the requirements and procedures for developing, reviewing, revising and approving water quality standards by the States as authorized by section 303(c) of the Clean Water Act. The reporting or recordkeeping (information) provisions in this rule were approved by the Office of Management and Budget under 3504(b) of the Paperwork Reduction Act of 1980, U.S.C. 3501 *et seq.* (Approval number 2040-0049).

###### §131.2 Purpose.

A water quality standard defines the water quality goals of a water body, or portion thereof, by designating the use or uses to be made of the water and by setting criteria necessary to protect the uses. States adopt water quality standards to protect public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act (the Act) "Serve the purposes of the Act" (as defined in sections 101(a)(2) and 303(c) of the Act) means that water quality standards should, wherever attainable, provide water quality for the protection and propagation of fish, shellfish and wildlife and for recreation in and on the water and take into consideration their use and value of public water supplies, propagation of fish, shellfish, and wildlife, recreation in and on the water, and agricultural, indus-

trial, and other purposes including navigation

Such standards serve the dual purposes of establishing the water quality goals for a specific water body and serve as the regulatory basis for the establishment of water-quality-based treatment controls and strategies beyond the technology-based levels of treatment required by sections 301(b) and 306 of the Act.

###### §131.3 Definitions.

(a) *The Act* means the Clean Water Act (Pub. L. 92-500, as amended, (33 U.S.C. 1251 *et seq.*))

(b) *Criteria* are elements of State water quality standards, expressed as constituent concentrations, levels, or narrative statements, representing a quality of water that supports a particular use. When criteria are met, water quality will generally protect the designated use.

(c) *Section 304(a) criteria* are developed by EPA under authority of section 304(a) of the Act based on the latest scientific information on the relationship that the effect of a constituent concentration has on particular aquatic species and/or human health. This information is issued periodically to the States as guidance for use in developing criteria.

(d) *Toxic pollutants* are those pollutants listed by the Administrator under section 307(a) of the Act.

(e) *Existing uses* are those uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards.

(f) *Designated uses* are those uses specified in water quality standards for each

water body or segment whether or not they are being attained

(g) *Use attainability analysis* is a structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in §131.10(g)

(h) *Water quality limited segment* means any segment where it is known that water quality does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards, even after the application of the technology based effluent limitations required by sections 301(b) and 306 of the Act

(i) *Water quality standards* are provisions of State or Federal law which consist of a designated use or uses for the waters of the United States and water quality criteria for such waters based upon such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water and serve the purposes of the Act

[§131.3(j)-(l) added at 56 FR 64893, Dec 12, 1991]

(j) *States* include: The 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and Indian Tribes that EPA determines qualify for treatment as States for purposes of water quality standards

(k) *Federal Indian Reservation, Indian Reservation, or Reservation* means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation

(l) *Indian Tribe or Tribe* means any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation

#### §131.4 State authority.

(a) States (as defined in §131.3) are responsible for reviewing, establishing, and revising water quality standards. As recognized by section 510 of the Clean Water Act, States may develop water quality standards more stringent than required by this regulation. Consistent with section

101(g) and 518(a) of the Clean Water Act, water quality standards shall not be construed to supersede or abrogate rights to quantities of water

(b) States (as defined in §131.3) may issue certifications pursuant to the requirements of Clean Water Act section 401. Revisions adopted by States shall be applicable for use in issuing State certifications consistent with the provisions of §131.21(c).

(c) Where EPA determines that a Tribe qualifies for treatment as a State for purposes of water quality standards, the Tribe likewise qualifies for treatment as a State for purposes of certifications conducted under Clean Water Act section 401

[§131.4 revised at 56 FR 64893, Dec 12, 1991]

#### §131.5 EPA authority.

[§131.5 former paragraphs (a)-(e) redesignated as new (a) and (a)(1)-(a)(5) at 56 FR 64893, Dec 12, 1991]

(a) Under section 303(c) of the Act, EPA is to review and to approve or disapprove State-adopted water quality standards. The review involves a determination of:

(1) Whether the State has adopted water uses which are consistent with the requirements of the Clean Water Act;

(2) Whether the state has adopted criteria that protect the designated water uses;

(3) Whether the State has followed its legal procedures for revising or adopting standards;

(4) Whether the State standards which do not include the uses specified in section 101(a)(2) of the Act are based upon appropriate technical and scientific data and analyses, and

(5) Whether the State submission meets the requirements included in §131.6 of this part. If EPA determines that State water quality standards are consistent with the factors listed in paragraphs (a) through (e) of this section, EPA approves the standards. EPA must disapprove the State water quality standards under section 303(c)(4) of the Act, if State adopted standards are not consistent with the factors listed in paragraphs (a) through (e) of this section. EPA may also promulgate a new or revised standard where necessary to meet the requirements of the Act

(b) Section 401 of the Clean Water Act authorizes EPA to issue certifications pursuant to the requirements of section 401 in any case where a State or interstate agency has no authority for issuing such certifications.

[§131.5(b) added at 56 FR 64893, Dec 12, 1991]

#### §131.6 Minimum requirements for water quality standards submission.

The following elements must be included in each State's water quality standards submitted to EPA for review

(a) Use designations consistent with the provisions of sections 101(a)(2) and 303(c)(2) of the Act

(b) Methods used and analyses conducted to support water quality standards revisions.

(c) Water quality criteria sufficient to protect the designated uses.

(d) An antidegradation policy consistent with §131.12.

(e) Certification by the State Attorney General or other appropriate legal authority within the State that the water quality standards were duly adopted pursuant to State law.

(f) General information which will aid the Agency in determining the adequacy of the scientific basis of the standards which do not include the uses specified in section 101(a)(2) of the Act as well as information on general policies applicable to State standards which may affect their application and implementation.

#### §131.7 Dispute resolution mechanism.

(a) Where disputes between States and Indian Tribes arise as a result of differing water quality standards on common bodies of water, the lead EPA Regional Administrator, as determined based upon OMB circular A-105, shall be responsible for acting in accordance with the provisions of this section

(b) The Regional Administrator shall attempt to resolve such disputes where

(1) The difference in water quality standards results in unreasonable consequences;

(2) The dispute is between a State (as defined in §131.3(j) but exclusive of all Indian Tribes) and a Tribe which EPA has determined qualifies to be treated as a State for purposes of water quality standards;

(3) A reasonable effort to resolve the dispute without EPA involvement has been made;

(4) The requested relief is consistent with the provisions of the Clean Water Act and other relevant law;

(5) The differing State and Tribal water quality standards have been adopted pursuant to State and Tribal law and approved by EPA; and

(6) A valid written request has been submitted by either the Tribe or the State.

(c) Either a State or a Tribe may request EPA to resolve any dispute which satisfies the criteria of paragraph (b) of this section. Written requests for EPA involvement should be submitted to the lead Regional Administrator and must include:

(1) A concise statement of the unreasonable consequences that are alleged to have arisen because of differing water quality standards;

(2) A concise description of the actions which have been taken to resolve the dispute without EPA involvement;

(3) A concise indication of the water quality standards provision which has resulted in the alleged unreasonable consequences;

(4) Factual data to support the alleged unreasonable consequences; and

(5) A statement of the relief sought from the alleged unreasonable consequences.

(d) Where, in the Regional Administrator's judgment, EPA involvement is appropriate based on the factors of paragraph (b) of this section, the Regional Administrator shall, within 30 days, notify the parties in writing that he/she is initiating an EPA dispute resolution action and solicit their written response. The Regional Administrator shall also make reasonable efforts to ensure that other interested individuals or groups have notice of this action. Such efforts shall include but not be limited to the following:

(1) Written notice to responsible Tribal and State Agencies, and other affected Federal Agencies;

(2) Notice to the specific individual or entity that is alleging that an unreasonable consequence is resulting from differing standards having been adopted on a common body of water;

(3) Public notice in local newspapers, radio, and television, as appropriate,

(4) Publication in trade journal newsletters, and

(5) Other means as appropriate.

(e) If in accordance with applicable State and Tribal law an Indian Tribe and State have entered into an agreement that resolves the dispute or establishes a mechanism for resolving a dispute, EPA shall defer to this agreement where it is consistent with the Clean Water Act and where it has been approved by EPA.

(f) EPA dispute resolution actions shall be consistent with one or a combination of the following options:

(1) *Mediation.* The Regional Administrator may appoint a mediator to mediate the dispute. Mediators shall be EPA employees, employees from other Federal agencies, or other individuals with appropriate qualifications.

(i) Where the State and Tribe agree to participate in the dispute resolution process, mediation with the intent to establish Tribal-State agreements, consistent with Clean Water Act section 518(d) shall normally be pursued as a first effort.

(ii) Mediators shall act as neutral facilitators whose function is to encourage communication and negotiation between all parties to the dispute.

(iii) Mediators may establish advisory panels, to consist in part of representatives from the affected parties, to study the problem and recommend an appropriate solution.

(iv) The procedure and schedule for mediation of individual disputes shall be determined by the mediator in consultation with the parties.

(v) If formal public hearings are held in connection with the actions taken under this paragraph, Agency requirements at 40 CFR 25.5 shall be followed.

(2) *Arbitration.* Where the parties to the dispute agree to participate in the dispute resolution process, the Regional Administrator may appoint an arbitrator or arbitration panel to arbitrate the dispute. Arbitrators and panel members shall be EPA employees, employees from other Federal agencies, or other individuals with appropriate qualifications. The Regional administrator shall select as arbitrators and arbitration panel members individuals who are agreeable to all parties, are knowledgeable concerning the requirements of the water quality standards program, have a basic understanding of the political and economic interests of

Tribes and States involved, and are expected to fulfill the duties fairly and impartially.

(i) The arbitrator or arbitration panel shall conduct one or more private or public meetings with the parties and actively solicit information pertaining to the effects of differing water quality permit requirements on upstream and downstream dischargers, comparative risks to public health and the environment, economic impacts, present and historical water uses, the quality of the waters subject to such standards, and other factors relevant to the dispute such as whether proposed water quality criteria are more stringent than necessary to support designated uses, more stringent than natural background water quality or whether designated uses are reasonable given natural background water quality.

(ii) Following consideration of relevant factors as defined in paragraph (f)(2)(i) of this section, the arbitrator or arbitration panel shall have the authority and responsibility to provide all parties and the Regional Administrator with a written recommendation for resolution of the dispute. Arbitration panel recommendations shall, in general, be reached by majority vote. However, where the parties agree to binding arbitration, or where required by the Regional Administrator, recommendations of such arbitration panels may be unanimous decisions. Where binding or non-binding arbitration panels cannot reach a unanimous recommendation after a reasonable period of time, the Regional Administrator may direct the panel to issue a non-binding decision by majority vote.

(iii) The arbitrator or arbitration panel members may consult with EPA's Office of General Counsel on legal issues, but otherwise shall have no *ex parte* communications pertaining to the dispute. Federal employees who are arbitrators or arbitration panel members shall be neutral and shall not be predisposed for or against the position of any disputing party based on any Federal Trust responsibilities which their employers may have with respect to the Tribe. In addition, arbitrators or arbitration panel members who are Federal employees shall act independently from the normal hierarchy within their agency.

(iv) The parties are not obligated to abide by the arbitrator's or arbitration

panel's recommendation unless they voluntarily entered into a binding agreement to do so.

(v) If a party to the dispute believes that the arbitrator or arbitration panel has recommended an action contrary to or inconsistent with the Clean Water Act, the party may appeal the arbitrator's recommendation to the Regional Administrator. The request for appeal must be in writing and must include a description of the statutory basis for altering the arbitrator's recommendation.

(vi) The procedure and schedule for arbitration of individual disputes shall be determined by the arbitrator or arbitration panel in consultation with parties.

(vii) If formal public hearings are held in connection with the actions taken under this paragraph, Agency requirements at 40 CFR 25.5 shall be followed.

(3) *Dispute Resolution Default Procedure.* Where one or more parties (as defined in paragraph (g) of this section) refuse to participate in either the mediation or arbitration dispute resolution processes, the Regional Administrator may appoint a single official or panel to review available information pertaining to the dispute and to issue a written recommendation for resolving the dispute. Review officials shall be EPA employees, employees from other Federal agencies, or other individuals with appropriate qualifications. Review panels shall include appropriate members to be selected by the Regional Administrator in consultation with the participating parties. Recommendations of such review officials or panels shall, to the extent possible given the lack of participation by one or more parties, be reached in a manner identical to that for arbitration of disputes specified in paragraphs (f)(2)(i) through (f)(2)(vii) of this section.

(g) *Definitions.* For the purposes of this section:

(1) *Dispute Resolution Mechanism* means the EPA mechanism established pursuant to the requirements of Clean Water Act section 518(e) for resolving unreasonable consequences that arise as a result of differing water quality standards that may be set by States and Indian Tribes located on common bodies of water.

(2) *Parties* to a State-Tribal dispute include the State and the Tribe and may, at the discretion of the Regional Administra-

tor, include an NPDES permittee, citizen, citizen group, or other affected entity.

[§131.7 added at 56 FR 64893, Dec. 12, 1991]

#### **§131.8 Requirements for Indian Tribes to be treated as States for purposes of water quality standards.**

(a) The Regional Administrator, as determined based on OMB Circular A105, may treat an Indian Tribe as a State for purposes of the water quality standards program if the Tribe meets the following criteria:

(1) The Indian Tribe is recognized by the Secretary of the Interior and meets the definitions in §131.3(k) and (l).

(2) The Indian Tribe has a governing body carrying out substantial governmental duties and powers.

(3) The water quality standards program to be administered by the Indian Tribe pertains to the management and protection of water resources which are within the borders of the Indian reservation and held by the Indian Tribe, within the borders of the Indian reservation and held by the United States in trust for Indians, within the borders of the Indian reservation and held by a member of the Indian Tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of the Indian reservation, and

(4) The Indian Tribe is reasonably expected to be capable, in the Regional Administrator's judgment, of carrying out the functions of an effective water quality standards program in a manner consistent with the terms and purposes of the Act and applicable regulations.

(b) Requests by Indian Tribes for treatment as States for purposes of water quality standards should be submitted to the lead EPA Regional Administrator. The application shall include the following information:

(1) A statement that the Tribe is recognized by the Secretary of the Interior.

(2) A descriptive statement demonstrating that the Tribal governing body is currently carrying out substantial governmental duties and powers over a defined area. The statement shall:

(i) Describe the form of the Tribal government;

(ii) Describe the types of governmental functions currently performed by the Tribal governing body such as, but not

limited to, the exercise of police powers affecting (or relating to) the health, safety, and welfare of the affected population, taxation, and the exercise of the power of eminent domain; and

(iii) Identify the source of the Tribal government's authority to carry out the governmental functions currently being performed.

(3) A descriptive statement of the Indian Tribe's authority to regulate water quality. The statement shall include:

(i) A map or legal description of the area over which the Indian Tribe asserts authority to regulate surface water quality;

(ii) A statement by the Tribe's legal counsel (or equivalent official) which describes the basis for the Tribes assertion of authority;

(iii) A copy of all documents such as Tribal constitutions, by-laws, charters, executive orders, codes, ordinances, and/or resolutions which support the Tribe's assertion of authority; and

(iv) an identification of the surface water for which the Tribe proposes to establish water quality standards.

(4) A narrative statement describing the capability of the Indian Tribe to administer an effective water quality standards program. The narrative statement shall include:

(i) A description of the Indian Tribe's previous management experience including, but not limited to, the administration of programs and services authorized by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*), the Indian Mineral Development Act (25 U.S.C. 2101 *et seq.*), or the Indian Sanitation Facility Construction Activity Act (42 U.S.C. 2004a);

(ii) A list of existing environmental or public health programs administered by the Tribal governing body and copies of related Tribal laws, policies, and regulations;

(iii) A description of the entity (or entities) which exercise the executive, legislative, and judicial functions of the Tribal government;

(iv) A description of the existing or proposed, agency of the Indian Tribe which will assume primary responsibility for establishing, reviewing, implementing and revising water quality standards;

(v) A description of the technical and administrative capabilities of the staff to

administer and manage an effective water quality standards program or a plan which proposes how the Tribe will acquire additional administrative and technical expertise. The plan must address how the Tribe will obtain the funds to acquire the administrative and technical expertise.

(5) Additional documentation required by the Regional Administrator which, in the judgment of the Regional Administrator, is necessary to support a Tribal request for treatment as a State.

(6) Where the Tribe has previously qualified for treatment as a State under a Clean Water Act or Safe Drinking Water Act program, the Tribe need only provide the required information which has not been submitted in a previous treatment as a State application.

(c) Procedure for processing an Indian Tribe's application for treatment as a State.

(1) The Regional Administrator shall process an application of an Indian Tribe for treatment as a State submitted pursuant to 131.8(b) in a timely manner. He shall promptly notify the Indian Tribe of receipt of the application.

(2) Within 30 days after receipt of the Indian Tribe's application for treatment as a State, the Regional Administrator shall provide appropriate notice. Notice shall:

(i) Include information on the substance and basis of the Tribe's assertion of authority to regulate the quality of reservation waters; and

(ii) Be provided to all appropriate governmental entities.

(3) The Regional Administrator shall provide 30 days for comments to be submitted on the Tribal application. Comments shall be limited to the Tribe's assertion of authority.

(4) If a Tribe's asserted authority is subject to a competing or conflicting claim, the Regional Administrator, after consultation with the Secretary of the Interior, or his designee, and in consideration of other comments received, shall determine whether the Tribe has adequately demonstrated that it meets the requirements of 131.8(a)(3).

(5) Where the Regional Administrator determines that a Tribe meets the requirements of this section, he shall promptly provide written notification to the Indian Tribe that the Tribe has qualified to be treated as a State for purposes

of water quality standards and that the Tribe may initiate the formulation and adoption of water quality standards approvable under this part.

[§131.8 added at 56 FR 64893, Dec. 12, 1991]

### Subpart B—Establishment of Water Quality Standards

#### §131.10 Designation of uses.

(a) Each State must specify appropriate water uses to be achieved and protected. The classification of the waters of the State must take into consideration the use and value of water for public water supplies, protection and propagation of fish, shellfish and wildlife, recreation in and on the water, agricultural, industrial, and other purposes including navigation. In no case shall a State adopt waste transport or waste assimilation as a designated use for any waters of the United States.

(b) In designating uses of a water body and the appropriate criteria for those uses, the State shall take into consideration the water quality standards of downstream waters and shall ensure that its water quality standards provide for the attainment and maintenance of the water quality standards of downstream waters.

(c) States may adopt sub-categories of a use and set the appropriate criteria to reflect varying needs of such sub-categories of uses, for instance, to differentiate between cold water and warm water fisheries.

(d) At a minimum, uses are deemed attainable if they can be achieved by the imposition of effluent limits required under sections 301(b) and 306 of the Act and cost-effective and reasonable best management practices for nonpoint source control.

(e) Prior to adding or removing any use, or establishing sub-categories of a use, the State shall provide notice and an opportunity for a public hearing under §131.20(b) of this regulation.

(f) States may adopt seasonal uses as an alternative to reclassifying a water body or segment thereof to uses requiring less stringent water quality criteria. If seasonal uses are adopted, water quality criteria should be adjusted to reflect the seasonal uses, however, such criteria shall not preclude the attainment and maintenance of a more protective use in another season.

(g) States may remove a designated use which is *not* an existing use, as defined in §131.3, or establish sub-categories of a use if the State can demonstrate that attaining the designated use is not feasible because:

(1) Naturally occurring pollutant concentrations prevent the attainment of the use; or

(2) Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State water conservation requirements to enable uses to be met; or

(3) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; or

(4) Dams, diversions or other types of hydrologic modifications preclude the 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 the attainment of the use; or

(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; or

(6) Controls more stringent than those required by sections 301(b) and 306 of the Act would result in substantial and widespread economic and social impact.

(h) States may not remove designated uses if:

(1) They are existing uses, as defined in §131.3, unless a use requiring more stringent criteria is added; or

(2) Such uses will be attained by implementing effluent limits required under sections 301(b) and 306 of the Act and by implementing cost-effective and reasonable best management practices for nonpoint source control.

(i) Where existing water quality standards specify designated uses less than those which are presently being attained, the State shall revise its standards to reflect the uses actually being attained.

(j) A State must conduct a use attainability analysis as described in §131.3(g) whenever:

(i) The State designates or has designated uses that do not include the uses specified in section 101(a)(2) of the Act, or

(j) The State wishes to remove a designated use that is specified in section 101(a)(2) of the Act or to adopt subcategories of uses specified in section 101(a)(2) of the Act which require less stringent criteria.

(k) A State is not required to conduct a use attainability analysis under this regulation whenever designating uses which include those specified in section 101(a)(2) of the Act

#### §131.11 Criteria.

##### (a) *Inclusion of pollutants*

(1) States must adopt those water quality criteria that protect the designated use. Such criteria must be based on sound scientific rationale and must contain sufficient parameters or constituents to protect the designated use. For waters with multiple use designations, the criteria shall support the most sensitive use.

(2) *Toxic pollutants.* States must review water quality data and information on discharges to identify specific water bodies where toxic pollutants may be adversely affecting water quality or the attainment of the designated water use or where the levels of toxic pollutants are at a level to warrant concern and must adopt criteria for such toxic pollutants applicable to the water body sufficient to protect the designated use. Where a State adopts narrative criteria for toxic pollutants to protect designated uses, the State must provide information identifying the method by which the State intends to regulate point source discharges of toxic pollutants on water quality limited segments based on such narrative criteria. Such information may be included as part of the standards or may be included in documents generated by the State in response to the Water Quality Planning and Management Regulations (40 CFR part 35).

(b) Form of criteria. In establishing criteria, States should

(1) Establish numerical values based on

- (i) 304(a) Guidance; or
- (ii) 304(a) Guidance modified to reflect site-specific conditions; or
- (iii) Other scientifically defensible methods.

(2) Establish narrative criteria or criteria based upon biomonitoring methods

where numerical criteria cannot be established or to supplement numerical criteria.

#### §131.12 Antidegradation policy.

(a) The State shall develop and adopt a statewide antidegradation policy and identify the methods for implementing such policy pursuant to this subpart. The antidegradation policy and implementation methods shall, at a minimum, be consistent with the following

(1) Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.

(2) Where the quality of the waters exceed levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the State finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the State's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the State shall assure water quality adequate to protect existing uses fully. Further, the State shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control.

(3) Where high quality waters constitute an outstanding National resource, such as waters of National and State parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

(4) In those cases where potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy and implementing method shall be consistent with section 316 of the Act

#### §131.13 General policies.

States may, at their discretion, include in their State standards, policies generally affecting their application and implementation, such as mixing zones, low flows and variances. Such policies are subject to EPA review and approval

### Subpart C—Procedures for Review and Revision of Water Quality Standards

#### §131.20 State review and revision of water quality standards.

(a) *State review.* The State shall from time to time, but at least once every three years, hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards. Any water body segment with water quality standards that do not include the uses specified in section 101(a)(2) of the Act shall be re-examined every three years to determine if any new information has become available. If such new information indicates that the uses specified in section 101(a)(2) of the Act are attainable, the State shall revise its standards accordingly. Procedures States establish for identifying and reviewing water bodies for review should be incorporated into their Continuing Planning Process.

(b) *Public participation.* The State shall hold a public hearing for the purpose of reviewing water quality standards, in accordance with provisions of State law, EPA's water quality management regulation (40 CFR 130.3(b)(6)) and public participation regulation (40 CFR part 25). The proposed water quality standards revision and supporting analyses shall be made available to the public prior to the hearing.

(c) *Submission to EPA.* The State shall submit the results of the review, any supporting analysis for the use attainability analysis, the methodologies used for site-specific criteria development, any general policies applicable to water quality standards and any revisions of the standards to the Regional Administrator for review and approval, within 30 days of the final State action to adopt and certify the revised standard, or if no revisions are made as a result of the review, within 30 days of the completion of the review.

#### §131.21 EPA review and approval of water quality standards.

(a) After the State submits its officially adopted revisions, the Regional Administrator shall either:

(1) Notify the State within 60 days that the revisions are approved, or

(2) Notify the State within 90 days that the revisions are disapproved. Such

notification of disapproval shall specify the changes needed to assure compliance with the requirements of the Act and this regulation, and shall explain why the State standard is not in compliance with such requirements. Any new or revised State standard must be accompanied by some type of supporting analysis.

(b) The Regional Administrator's approval or disapproval of a State water quality standard shall be based on the requirements of the Act as described in §§131.5, and 131.6.

(c) A State water quality standard remains in effect, even though disapproved by EPA, until the State revises it or EPA promulgates a rule that supersedes the State water quality standard.

(d) EPA shall, at least annually, publish in the FEDERAL REGISTER a notice of approvals under this section.

**§131.22 EPA promulgation of water quality standards.**

(a) If the State does not adopt the changes specified by the Regional Administrator within 90 days after notification of the Regional Administrator's disapproval, the Administrator shall promptly propose and promulgate such standard.

(b) The Administrator may also propose and promulgate a regulation, applicable to one or more States, setting forth a new or revised standard upon determining such a standard is necessary to meet the requirements of the Act.

(c) In promulgating water quality standards, the Administrator is subject to the same policies, procedures, analyses, and public participation requirements established for States in these regulations.

**Subpart D—Federally Promulgated Water Quality Standards**

**§131.31 Arizona.**

(a) Article 6, Part 2 is amended as follows:

(1) Reg. 6-2-6.11 shall read:

*Reg. 6-2-6.11 Nutrient Standards.* A. The mean annual total phosphate and mean annual total nitrate concentrations of the following waters shall not exceed the values given below nor shall the total phosphate or total nitrate concentrations of more than 10 percent of the samples in any year exceed the 90 percent values given below. Unless otherwise specified, indicated values also apply to tributaries to the named waters.

	Mean 90 pct annual value	
	Total phosphates as PO <sub>4</sub> mg/l	Total nitrates as NO <sub>3</sub> mg/l
1 Colorado River from Utah border to Willow Beach (main stem)	0.04-0.06	4-7
2 Colorado River from Willow Beach to Parker Dam (main stem)	0.06-0.10	5
3 Colorado River from Parker Dam to Imperial Dam (main stem)	0.08-0.12	5-7
4 Colorado River from Imperial Dam to Morelos Dam (main stem)	0.10-0.10	5-7
5 Gila River from New Mexico border to San Carlos Reservoir (excluding San Carlos Reservoir)	0.50-0.80	
6 Gila River from San Carlos Reservoir to Ashurst Hayden Dam (including San Carlos Reservoir)	0.30-0.50	
7 San Pedro River	0.30-0.50	
8 Verde River (except Granite Creek)	0.20-0.30	
9 Salt River above Roosevelt Lake	0.20-0.30	
10 Santa Cruz River from international boundary near Nogales to Sahuarita	0.50-0.80	
11 Little Colorado River above Lyman Reservoir	0.30-0.50	

B. The above standards are intended to protect the beneficial uses of the named waters. Because regulation of nitrates and phosphates alone may not be adequate to protect waters from eutrophication, no substance shall be added to any surface water which produces aquatic growth to the extent that such growths create a public nuisance or interference with beneficial uses of the water defined and designated in Reg. 6-2-6.5.

(2) Reg. 6-2-6.10 Subparts A and B are amended to include Reg. 6-2-6.11 in series with Regs. 6-2-6.6, 6-2-6.7 and 6-2-6.8.

**§131.33 [Reserved]**

**§131.34 [Reserved]**

**§131.35 Colville Confederated Tribes Indian Reservation.**

The water quality standards applicable to the waters within the Colville Indian Reservation, located in the State of Washington.

(a) *Background.*

(1) It is the purpose of these Federal water quality standards to prescribe minimum water quality requirements for the surface waters located within the exterior boundaries of the Colville Indian Reserva-

tion to ensure compliance with section 303(c) of the Clean Water Act.

(2) The Colville Confederated Tribes have a primary interest in the protection, control, conservation, and utilization of the water resources of the Colville Indian Reservation. Water quality standards have been enacted into tribal law by the Colville Business Council of the Confederated Tribes of the Colville Reservation, as the Colville Water Quality Standards Act, CTC Title 33 (Resolution No. 1984-526 (August 6, 1984) as amended by Resolution No. 1985-20 (January 18, 1985)).

(b) *Territory Covered.* The provisions of these water quality standards shall apply to all surface waters within the exterior boundaries of the Colville Indian Reservation.

(c) *Applicability, Administration and Amendment.*

(1) The water quality standards in this section shall be used by the Regional Administrator for establishing any water quality based National Pollutant Discharge Elimination System Permit (NPDES) for point sources on the Colville Confederated Tribes Reservation.

(2) In conjunction with the issuance of section 402 or section 404 permits, the Regional Administrator may designate mixing zones in the waters of the United States on the reservation on a case-by-case basis. The size of such mixing zones and the in-zone water quality in such mixing zones shall be consistent with the applicable procedures and guidelines in EPA's Water Quality Standards Handbook and the Technical Support Document for Water Quality Based Toxics Control.

(3) Amendments to the section at the request of the Tribe shall proceed in the following manner.

(i) The requested amendment shall first be duly approved by the Confederated Tribes of the Colville Reservation (and so certified by the Tribes Legal Counsel) and submitted to the Regional Administrator.

(ii) The requested amendment shall be reviewed by EPA (and by the State of Washington, if the action would affect a boundary water).

(iii) If deemed in compliance with the Clean Water Act, EPA will propose and promulgate an appropriate change to this section.



(4) Amendment of this section at EPA's initiative will follow consultation with the Tribe and other appropriate entities. Such amendments will then follow normal EPA rulemaking procedures.

(5) All other applicable provisions of this part 131 shall apply on the Colville Confederated Tribes Reservation. Special attention should be paid to §§131.6, 131.10, 131.11 and 131.20 for any amendment to these standards to be initiated by the Tribe.

(6) All numeric criteria contained in this section apply at all in-stream flow rates greater than or equal to the flow rate calculated as the minimum 7-consecutive day average flow with a recurrence frequency of once in ten years (7Q10); narrative criteria ( §131.35(e)(3)) apply regardless of flow. The 7Q10 low flow shall be calculated using methods recommended by the U.S. Geological Survey.

(d) *Definitions.*

(1) "Acute toxicity" means a deleterious response (e.g., mortality, disorientation, immobilization) to a stimulus observed in 96 hours or less.

(2) "Background conditions" means the biological, chemical, and physical conditions of a water body, upstream from the point or non-point source discharge under consideration. Background sampling location in an enforcement action will be upstream from the point of discharge, but not upstream from other inflows. If several discharges to any water body exist, and an enforcement action is being taken for possible violations to the standards, background sampling will be undertaken immediately upstream from each discharge.

(3) "Ceremonial and Religious water use" means activities involving traditional Native American spiritual practices which involve, among other things, primary (direct) contact with water.

(4) "Chronic Toxicity" means the lowest concentration of a constituent causing observable effects (i.e., considering lethality, growth, reduced reproduction, etc.) over a relatively long period of time, usually a 28-day test period for small fish test species.

(5) "Council" or "Tribal Council" means the Colville Business Council of the Colville Confederated Tribes.

(6) "Geometric mean" means the "nth" root of a product of "n" factors.

(7) "Mean retention time" means the time obtained by dividing a reservoir's mean annual minimum total storage by the non-zero 30-day, ten-year low-flow from the reservoir.

(8) "Mixing Zone" or "dilution zone" means a limited area or volume of water where initial dilution of a discharge takes place; and where numeric water quality criteria can be exceeded but acutely toxic conditions are prevented from occurring.

(9) "pH" means the negative logarithm of the hydrogen ion concentration.

(10) "Primary contact recreation" means activities where a person would have direct contact with water to the point of complete submergence, including but not limited to skin diving, swimming, and water skiing.

(11) "Regional Administrator" means the Administrator of EPA's Region X.

(12) "Reservation" means all land within the limits of the Colville Indian Reservation, established on July 2, 1872 by Executive Order, presently containing 1,389,000 acres more or less, and under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

(13) "Secondary contact recreation" means activities where a person's water contact would be limited to the extent that bacterial infections of eyes, ears, respiratory, or digestive systems or urogenital areas would normally be avoided (such as wading or fishing).

(14) "Surface water" means all water above the surface of the ground within the exterior boundaries of the Colville Indian Reservation including but not limited to lakes, ponds, reservoirs, artificial impoundments, streams, rivers, springs, seeps and wetlands.

(15) "Temperature" means water temperature expressed in Centigrade degrees (C).

(16) "Total dissolved solids" (TDS) means the total filterable residue that passes through a standard glass fiber filter disk and remains after evaporation and drying to a constant weight at 180 degrees C. It is considered to be a measure of the dissolved salt content of the water.

(17) "Toxicity" means acute and/or chronic toxicity.

(18) "Tribe" or "Tribes" means the Colville Confederated Tribes.

(19) "Turbidity" means the clarity of water expressed as nephelometric turbidity units (NTU) and measured with a calibrated turbidimeter.

(20) "Wildlife habitat" means the waters and surrounding land areas of the Reservation used by fish, other aquatic life and wildlife at any stage of their life history or activity.

(e) *General considerations.* The following general guidelines shall apply to the water quality standards and classifications set forth in the use designation Sections.

(1) *Classification Boundaries.* At the boundary between waters of different classifications, the water quality standards for the higher classification shall prevail.

(2) *Antidegradation Policy.* This antidegradation policy shall be applicable to all surface waters of the Reservation.

(i) Existing in-stream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.

(ii) Where the quality of the waters exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the Regional Administrator finds, after full satisfaction of the inter-governmental coordination and public participation provisions of the Tribes' continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the Regional Administrator shall assure water quality adequate to protect existing uses fully. Further, the Regional Administrator shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control.

(iii) Where high quality waters are identified as constituting an outstanding national or reservation resource, such as waters within areas designated as unique water quality management areas and waters otherwise of exceptional recreational or ecological significance, and are designated as special resource waters, that water quality shall be maintained and protected.

(iv) In those cases where potential water quality impairment associated with a thermal discharge is involved, this anti-degradation policy's implementing method shall be consistent with section 316 of the Clean Water Act.

(3) *Aesthetic Qualities.* All waters within the Reservation, including those within mixing zones, shall be free from substances, attributable to wastewater discharges or other pollutant sources, that:

(i) Settle to form objectionable deposits;

(ii) Float as debris, scum, oil, or other matter forming nuisances;

(iii) Produce objectionable color, odor, taste, or turbidity;

(iv) Cause injury to, are toxic to, or produce adverse physiological responses in humans, animals, or plants; or

(v) Produce undesirable or nuisance aquatic life

#### (4) *Analytical Methods*

(i) The analytical testing methods used to measure or otherwise evaluate compliance with water quality standards shall to the extent practicable, be in accordance with the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" (40 CFR part 136) When a testing method is not available for a particular substance, the most recent edition of "Standard Methods for the Examination of Water and Wastewater" (published by the American Public Health Association, American Water Works Association, and the Water Pollution Control Federation) and other or superseding methods published and/or approved by EPA shall be used.

(f) *General Water Use and Criteria Classes* The following criteria shall apply to the various classes of surface waters on the Colville Indian Reservation:

#### (1) *Class I (Extraordinary)*—

(i) *Designated uses.* The designated uses include, but are not limited to, the following:

(A) Water supply (domestic, industrial, agricultural).

(B) Stock watering.

(C) Fish and shellfish. Salmonid migration, rearing, spawning, and harvesting, other fish migration, rearing, spawning, and harvesting.

(D) Wildlife habitat.

(E) Ceremonial and religious water use.

(F) Recreation (primary contact recreation, sport fishing, boating and aesthetic enjoyment).

(G) Commerce and navigation.

#### (ii) *Water quality criteria.*

(A) *Bacteriological Criteria*—The geometric mean of the enterococci bacteria densities in samples taken over a 30 day period shall not exceed 8 per 100 milliliters, nor shall any single sample exceed an enterococci density of 35 per 100 milliliters. These limits are calculated as the geometric mean of the collected samples approximately equally spaced over a thirty day period.

(B) *Dissolved oxygen*—The dissolved oxygen shall exceed 9.5 mg/l.

(C) *Total dissolved gas*—concentrations shall not exceed 110 percent of the saturation value for gases at the existing atmospheric and hydrostatic pressures at any point of sample collection.

(D) *Temperature*—shall not exceed 16.0 degrees C due to human activities. Temperature increases shall not, at any time, exceed  $t=23/(T+5)$ .

(1) When natural conditions exceed 16.0 degrees C, no temperature increase will be allowed which will raise the receiving water by greater than 0.3 degrees C

(2) For purposes hereof, "t" represents the permissive temperature change across the dilution zone; and "T" represents the highest existing temperature in this water classification outside of any dilution zone.

(3) Provided that temperature increase resulting from nonpoint source activities shall not exceed 2.8 degrees C, and the maximum water temperature shall not exceed 10.3 degrees C.

(E) pH shall be within the range of 6.5 to 8.5 with a human-caused variation of less than 0.2 units.

(F) Turbidity shall not exceed 5 NTU over background turbidity when the background turbidity is 50 NTU or less, or have more than a 10 percent increase in turbidity when the background turbidity is more than 50 NTU.

(G) Toxic, radioactive, nonconventional, or deleterious material concentrations shall be less than those of public health significance, or which may cause acute or chronic toxic conditions to the aquatic biota, or which may adversely affect designated water uses.

#### (2) *Class II (Excellent)*.—

(i) *Designated uses.* The designated uses include but are not limited to, the following.

(A) Water supply (domestic, industrial, agricultural).

(B) Stock watering

(C) Fish and shellfish. Salmonid migration, rearing, spawning, and harvesting, other fish migration, rearing, spawning, and harvesting; crayfish rearing, spawning, and harvesting

(D) Wildlife habitat

(E) Ceremonial and religious water use.

(F) Recreation (primary contact recreation, sport fishing, boating and aesthetic enjoyment).

(G) Commerce and navigation

#### (ii) *Water quality criteria.*

(A) *Bacteriological Criteria*—The geometric mean of the enterococci bacteria densities in samples taken over a 30 day period shall not exceed 16/100 ml, nor shall any single sample exceed an enterococci density of 75 per 100 milliliters. These limits are calculated as the geometric mean of the collected samples approximately equally spaced over a thirty day period

(B) *Dissolved oxygen*—The dissolved oxygen shall exceed 8.0 mg/l

(C) *Total dissolved gas*—concentrations shall not exceed 110 percent of the saturation value for gases at the existing atmospheric and hydrostatic pressures at any point of sample collection

(D) *Temperature*—shall not exceed 18.0 degrees C due to human activities. Temperature increases shall not, at any time, exceed  $t=28/(T+7)$ .

(1) When natural conditions exceed 18 degrees C no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3 degrees C.

(2) For purposes hereof, "t" represents the permissive temperature change across the dilution zone; and "T" represents the highest existing temperature in this water classification outside of any dilution zone.

(3) Provided that temperature increase resulting from non-point source activities shall not exceed 2.8 degrees C, and the maximum water temperature shall not exceed 18.3 degrees C

(E) pH shall be within the range of 6.5 to 8.5 with a human-caused variation of less than 0.5 units

(F) Turbidity shall not exceed 5 NTU over background turbidity when the background turbidity is 50 NTU or less, or have more than a 10 percent increase in turbidity when the background turbidity is more than 50 NTU.

(G) Toxic, radioactive, nonconventional, or deleterious material concentrations shall be less than those of public health significance, or which may cause acute or chronic toxic conditions to the aquatic biota, or which may adversely affect designated water uses.

(3) *Class III (Good)*

(i) *Designated uses* The designated uses include but are not limited to, the following:

- (A) Water supply (industrial, agricultural)
- (B) Stock watering.
- (C) Fish and shellfish: Salmonid migration, rearing, spawning, and harvesting; other fish migration, rearing, spawning, and harvesting; crayfish rearing, spawning, and harvesting
- (D) Wildlife habitat
- (E) Recreation (secondary contact recreation, sport fishing, boating and aesthetic enjoyment)
- (F) Commerce and navigation

(ii) *Water quality criteria*

(A) Bacteriological Criteria—The geometric mean of the enterococci bacteria densities in samples taken over a 30 day period shall not exceed 33/100 ml, nor shall any single sample exceed an enterococci density of 150 per 100 milliliters. These limits are calculated as the geometric mean of the collected samples approximately equally spaced over a thirty day period.

(B) Dissolved oxygen

	Early life stages <sup>1</sup> <sup>2</sup>	Other life stages
7 day mean	9.5 (6.5)	NA
1 day minimum <sup>4</sup>	8.0 (5.0)	6.5

<sup>1</sup> These are water column concentrations recommended to achieve the required intergravel dissolved oxygen concentrations shown in parentheses. The 3 mg/L differential is discussed in the dissolved oxygen criteria document (EPA 440/5-86-003 April 1986). For species that have early life stages exposed directly to the water column, the figures in parentheses apply.

<sup>2</sup> Includes all embryonic and larval stages and all juvenile forms to 30-days following hatching.

<sup>3</sup> NA (not applicable).

<sup>4</sup> All minima should be considered as instantaneous concentrations to be achieved at all times.

(C) Total dissolved gas concentrations shall not exceed 110 percent of the saturation value for gases at the existing atmospheric and hydrostatic pressures at any point of sample collection.

(D) Temperature shall not exceed 21.0 degrees C due to human activities. Temperature increases shall not, at any time, exceed  $t=34/(T+9)$ .

(1) When natural conditions exceed 21.0 degrees C no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3 degrees C.

(2) For purposes hereof, "t" represents the permissive temperature change across the dilution zone; and "T" represents the highest existing temperature in this water classification outside of any dilution zone.

(3) Provided that temperature increase resulting from nonpoint source activities shall not exceed 2.8 degrees C, and the maximum water temperature shall not exceed 21.3 degrees C.

(E) pH shall be within the range of 6.5 to 8.5 with a human-caused variation of less than 0.5 units.

(F) Turbidity shall not exceed 10 NTU over background turbidity when the background turbidity is 50 NTU or less, or have more than a 20 percent increase in turbidity when the background turbidity is more than 50 NTU.

(G) Toxic, radioactive, nonconventional, or deleterious material concentrations shall be less than those of public health significance, or which may cause acute or chronic toxic conditions to the aquatic biota, or which may adversely affect designated water uses.

(4) *Class IV (Fair)*—

(i) *Designated uses* The designated uses include but are not limited to, the following:

- (A) Water supply (industrial).
- (B) Stock watering.
- (C) Fish (salmonid and other fish migration).
- (D) Recreation (secondary contact recreation, sport fishing, boating and aesthetic enjoyment).
- (E) Commerce and navigation.

(ii) *Water quality criteria*.

(A) Dissolved oxygen.

	During periods of salmonid and other fish migration	During all other time periods
30 day mean	6.5	5.5
7 day mean	NA	NA
7 day mean minimum	5.0	4.0

	During periods of salmonid and other fish migration	During all other time periods
1 day minimum <sup>4</sup>	4.0	3.0

<sup>1</sup> NA (not applicable).

<sup>2</sup> All minima should be considered as instantaneous concentrations to be achieved at all times.

(B) Total dissolved gas—concentrations shall not exceed 110 percent of the saturation value for gases at the existing atmospheric and hydrostatic pressures at any point of sample collection.

(C) Temperature shall not exceed 22.0 degrees C due to human activities. Temperature increases shall not, at any time, exceed  $t=20/(T+2)$ .

(1) When natural conditions exceed 22.0 degrees C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3 degrees C.

(2) For purposes hereof, "t" represents the permissive temperature change across the dilution zone; and "T" represents the highest existing temperature in this water classification outside of any dilution zone.

(D) pH shall be within the range of 6.5 to 9.0 with a human-caused variation of less than 0.5 units.

(E) Turbidity shall not exceed 10 NTU over background turbidity when the background turbidity is 50 NTU or less, or have more than a 20 percent increase in turbidity when the background turbidity is more than 50 NTU.

(F) Toxic, radioactive, nonconventional, or deleterious material concentrations shall be less than those of public health significance, or which may cause acute or chronic toxic conditions to the aquatic biota, or which may adversely affect designated water uses.

(5) *Lake Class*

(i) *Designated uses* The designated uses include but are not limited to, the following:

- (A) Water supply (domestic, industrial, agricultural).
- (B) Stock watering.
- (C) Fish and shellfish: Salmonid migration, rearing, spawning, and harvesting; other fish migration, rearing, spawning, and harvesting; crayfish rearing, spawning, and harvesting
- (D) Wildlife habitat
- (E) Ceremonial and religious water use

(F) Recreation (primary contact recreation, sport fishing, boating and aesthetic enjoyment).

(G) Commerce and navigation.

(ii) *Water quality criteria.*

(A) **Bacteriological Criteria.** The geometric mean of the enterococci bacteria densities in samples taken over a 30 day period shall not exceed 33/100 ml, nor shall any single sample exceed an enterococci density of 150 per 100 milliliters. These limits are calculated as the geometric mean of the collected samples approximately equally spaced over a thirty day period.

(B) Dissolved oxygen—no measurable decrease from natural conditions.

(C) Total dissolved gas concentrations shall not exceed 110 percent of the saturation value for gases at the existing atmospheric and hydrostatic pressures at any point of sample collection.

(D) Temperature—no measurable change from natural conditions.

(E) pH—no measurable change from natural conditions.

(F) Turbidity shall not exceed 5 NTU over natural conditions.

(G) Toxic, radioactive, nonconventional, or deleterious material concentrations shall be less than those which may affect public health, the natural aquatic environment, or the desirability of the water for any use.

(6) *Special Resource Water Class (SRW)*—

(i) *General characteristics.* These are fresh or saline waters which comprise a special and unique resource to the Reservation. Water quality of this class will be varied and unique as determined by the Regional Administrator in cooperation with the Tribes.

(ii) *Designated uses.* The designated uses include, but are not limited to, the following:

(A) Wildlife habitat.

(B) Natural foodchain maintenance.

(iii) *Water quality criteria.*

(A) Enterococci bacteria densities shall not exceed natural conditions.

(B) Dissolved oxygen—shall not show any measurable decrease from natural conditions.

(C) Total dissolved gas shall not vary from natural conditions.

(D) Temperature—shall not show any measurable change from natural conditions.

(E) pH shall not show any measurable change from natural conditions.

(F) Settleable solids shall not show any change from natural conditions.

(G) Turbidity shall not exceed 5 NTU over natural conditions.

(H) Toxic, radioactive, or deleterious material concentrations shall not exceed those found under natural conditions.

(g) *General Classifications.* General classifications applying to various surface waterbodies not specifically classified under §131.35(h) are as follows:

(1) All surface waters that are tributaries to Class I waters are classified Class I, unless otherwise classified.

(2) Except for those specifically classified otherwise, all lakes with existing average concentrations less than 2000 mg/L TDS and their feeder streams on the Colville Indian Reservation are classified as Lake Class and Class I, respectively.

(3) All lakes on the Colville Indian Reservation with existing average concentrations of TDS equal to or exceeding 2000 mg/L and their feeder streams are classified as Lake Class and Class I respectively unless specifically classified otherwise.

(4) All reservoirs with a mean detention time of greater than 15 days are classified Lake Class.

(5) All reservoirs with a mean detention time of 15 days or less are classified the same as the river section in which they are located.

(6) All reservoirs established on pre-existing lakes are classified as Lake Class.

(7) All wetlands are assigned to the Special Resource Water Class.

(8) All other waters not specifically assigned to a classification of the reservation are classified as Class II.

(h) *Specific Classifications.* Specific classifications for surface waters of the Colville Indian Reservation are as follows:

(1) *Streams*

Alice Creek	Class III
Anderson Creek	Class III
Armstrong Creek	Class III
Barnaby Creek	Class II
Bear Creek	Class III
Beaver Dam Creek	Class II
Bridge Creek	Class II
Brush Creek	Class III
Buckhorn Creek	Class III
Cache Creek	Class III
Canteen Creek	Class I
Capoose Creek	Class III
Cobbs Creek	Class III
Columbia River from Chief Joseph Dam to Wells Dam	

Columbia River from northern Reservation boundary to Grand Coulee Dam (Roosevelt Lake)

Columbia River from Grand Coulee Dam to Chief Joseph Dam

Cook Creek	Class I
Cooper Creek	Class III
Cornstalk Creek	Class III
Cougar Creek	Class I
Coyote Creek	Class II
Deerhorn Creek	Class III
Deck Creek	Class III
Dry Creek	Class I
Empire Creek	Class III
Faye Creek	Class I
Forty Mile Creek	Class III
Gibson Creek	Class I
Gold Creek	Class II
Granite Creek	Class II
Grizzly Creek	Class III
Haley Creek	Class III
Hall Creek	Class II
Hall Creek West Fork	Class I
Iron Creek	Class III
Jack Creek	Class III
Jarrod Creek	Class I
Joe Moses Creek	Class III
John Tom Creek	Class III
Jones Creek	Class I
Kartar Creek	Class III
Kincaid Creek	Class III
King Creek	Class III
Klondyke Creek	Class I
Lime Creek	Class III
Little Jim Creek	Class III
Little Nespelem	Class II
Louie Creek	Class III
Lynx Creek	Class II
Manila Creek	Class III
McAlister Creek	Class III
Meadow Creek	Class III
Mill Creek	Class II
Mission Creek	Class III
Nespelem River	Class II
Nez Perce Creek	Class III
Nine Mile Creek	Class II
Nineteen Mile Creek	Class III
No Name Creek	Class II
North Nanamkin Creek	Class III
North Star Creek	Class III
Okanogan River from Reservation north boundary to Columbia River	Class II
Olds Creek	Class I
Ormak Creek	Class II
Onion Creek	Class II
Parmenter Creek	Class III
Peel Creek	Class III
Peter Dan Creek	Class III
Rock Creek	Class I
San Poi River	Class I
Sanpoi, River West Fork	Class II
Seventeen Mile Creek	Class III
Silver Creek	Class III
Sitdown Creek	Class III
Six Mile Creek	Class III
South Nanamkin Creek	Class III
Spring Creek	Class III
Stapaloop Creek	Class III
Stepstone Creek	Class III
Stranger Creek	Class II
Strawberry Creek	Class III
Swampkin Creek	Class III
Three Forks Creek	Class I
Thirteen Mile Creek	Class III
Thirteen Mile Creek	Class II
Thirty Mile Creek	Class III
Trail Creek	Class III
Twentyfive Mile Creek	Class III
Twentyone Mile Creek	Class III
Twentythree Mile Creek	Class III
Wannacot Creek	Class III

Wells Creek	Class I	LaFleur Lake	LC
Whiteaw Creek	Class III	Little Goose Lake	LC
Wamont Creek	Class II	Little Owhi Lake	LC
(2) Lakes		McGinnis Lake	LC
Apex Lake	LC	Nichols Lake	LC
Big Goose Lake	LC	Omak Lake	SRW
Bourgeau Lake	LC	Owhi Lake	SRW
Buffalo Lake	LC	Penley Lake	SRW
Cody Lake	LC	Rebecca Lake	LC
Crawfish Lakes	LC	Round Lake	LC
Camille Lake	LC	Simpson Lake	LC
Elbow Lake	LC	Soap Lake	LC
Fish Lake	LC	Sugar Lake	LC
Gold Lake	LC	Summit Lake	LC
Great Western Lake	LC	Twin Lakes	SRW
Johnson Lake	LC		

**§131.36 Toxics criteria for those states not complying with Clean Water Act section 303(c)(2)(B).**

(a) *Scope.* This section is not a general promulgation of the section 304(a) criteria for priority toxic pollutants but is restricted to specific pollutants in specific States.

(b) (1) *EPA's Section 304(a) Criteria for Priority Toxic Pollutants*

A		B		C		D		
#	COMPOUND	CAS Number	FRESHWATER		SALTWATER		HUMAN HEALTH (10 <sup>-6</sup> risk for carcinogens)	
			Criterion Maximum Conc. d (ug/L)	Criterion Continuous Conc. d (ug/L)	Criterion Maximum Conc. d (ug/L)	Criterion Continuous Conc. d (ug/L)	For Consumption of: Water & Organisms (ug/L)	
			B1	B2	C1	C2	D1	D2
1	Antimony	7440360					14 a	4300 a
2	Arsenic	7440382	360 m	190 m	69 m	36 m	0.018 a,b,c	0.14 a,b,c
3	Beryllium	7440417					n	n
4	Cadmium	7440439	3.9 e,m	1.1 e,m	43 m	9.3 m	n	n
5a	Chromium (III)	16065831	1700 e,m	210 e,m			n	n
b	Chromium (VI)	18540299	16 m	11 m	1100 m	50 m	n	n
6	Copper	7440508	18 e,m	12 e,m	2.9 m	2.9 m		
7	Lead	7439921	82 e,m	3.2 e,m	220 m	8.5 m	n	n
8	Mercury	7439976	2.4 m	0.012 i	2.1 m	0.025 i	0.14	0.15
9	Nickel	7440020	1400 e,m	160 e,m	75 m	8.3 m	610 a	4600 a
10	Selenium	7782492	20	5	300 m	71 m	n	n
11	Silver	7440224	4.1 e,m		2.3 m			
12	Thallium	7440280					1.7 a	6.3 a
13	Zinc	7440666	120 e,m	110 e,m	95 m	86 m		
14	Cyanide	57125	22	5.2	1	1	700 a	220000 a,j
15	Asbestos	1332214					7,000,000 fibers/L	k
16	2,3,7,8-TCDD (Dioxin)	1746016					0.00000013 c	0.00000014 c
17	Acrolein	107028					320	780
18	Acrylonitrile	107131					0.059 a,c	0.66 a,c
19	Benzene	71432					1.2 a,c	71 a,c
20	Bromoform	75252					4.3 a,c	360 a,c
21	Carbon Tetrachloride	56235					0.25 a,c	4.4 a,c
22	Chlorobenzene	108907					680 a	21000 a,j
23	Chlorodibromomethane	124481					0.41 a,c	34 a,c
24	Chloroethane	75003						
25	2-Chloroethylvinyl Ether	110758						
26	Chloroform	67663					5.7 a,c	470 a,c
27	Dichlorobromomethane	75274					0.27 a,c	22 a,c

A			B		C		D	
#	COMPOUND	CAS Number	FRESHWATER		SALTWATER		HUMAN HEALTH (10 <sup>-6</sup> risk for carcinogens)	
			Criterion Maximum Conc. d (ug/L)	Criterion Continuous Conc. d (ug/L)	Criterion Maximum Conc. d (ug/L)	Criterion Continuous Conc. d (ug/L)	For Consumption of: Water & Organisms (ug/L)	
			B1	B2	C1	C2	D1	D2
28	1,1-Dichloroethane	75343						
29	1,2-Dichloroethane	107062					0.38 a,c	99 a,c
30	1,1-Dichloroethylene	75354					0.057 a,c	3.2 a,c
31	1,2-Dichloropropane	78875						
32	1,3-Dichloropropylene	542756					10 a	1700 a
33	Ethylbenzene	100414					3100 a	29000 a
34	Methyl Bromide	74839					48 a	4000 a
35	Methyl Chloride	74873					n	n
36	Methylene Chloride	75092					4.7 a,c	1600 a,c
37	1,1,2,2-Tetrachloroethane	79345					0.17 a,c	11 a,c
38	Tetrachloroethylene	127184					0.8 c	8.85 c
39	Toluene	108883					6800 a	200000 a
40	1,2-Trans-Dichloroethylene	156605						
41	1,1,1-Trichloroethane	71556					n	n
42	1,1,2-Trichloroethane	79005					0.60 a,c	42 a,c
43	Trichloroethylene	79016					2.7 c	81 c
44	Vinyl Chloride	75014					2 c	525 c
45	2-Chlorophenol	95578						
46	2,4-Dichlorophenol	120832					93 a	790 a, j
47	2,4-Dimethylphenol	105679						
48	2-Methyl-4,6-Dinitrophenol	534521					13.4	765
49	2,4-Dinitrophenol	51285					70 a	14000 a
50	2-Nitrophenol	88755						
51	4-Nitrophenol	100027						
52	3-Methyl-4-Chlorophenol	59507						
53	Pentachlorophenol	87865	20 f	13 f	13	7.9	0.28 a,c	8.2 a,c, j
54	Phenol	108952					21000 a	4600000 a, j
55	2,4,6-Trichlorophenol	88062					2.1 a,c	6.5 a,c
56	Acenaphthene	83329						

A		B		C		D		
#	COMPOUND	CAS Number	FRESHWATER		SALTWATER		HUMAN HEALTH (10 <sup>-6</sup> risk for carcinogens)	
			Criterion Maximum Conc. d (ug/L)	Criterion Continuous Conc. d (ug/L)	Criterion Maximum Conc. d (ug/L)	Criterion Continuous Conc. d (ug/L)	For Consumption of: Water & Organisms (ug/L)	
			B1	B2	C1	C2	D1	D2
57	Acenaphthylene	208968						
58	Anthracene	120127					9600 a	110000 a
59	Benzidine	92875					0.00012 a,c	0.00054 a,c
60	Benzo(a)Anthracene	56553					0.0028 c	0.031 c
61	Benzo(a)Pyrene	50328					0.0028 c	0.031 c
62	Benzo(b)Fluoranthene	205992					0.0028 c	0.031 c
63	Benzo(ghi)Perylene	191242						
64	Benzo(k)Fluoranthene	207089					0.0028 c	0.031 c
65	Bis(2-Chloroethoxy)Methane	111911						
66	Bis(2-Chloroethyl)Ether	111444					0.031 a,c	1.4 a,c
67	Bis(2-Chloroisopropyl)Ether	108601					1400 a	170000 a
68	Bis(2-Ethylhexyl)Phthalate	117817					1.8 a,c	5.9 a,c
69	4-Bromophenyl Phenyl Ether	101553						
70	Butylbenzyl Phthalate	85687						
71	2-Chloronaphthalene	91587						
72	4-Chlorophenyl Phenyl Ether	7005723						
73	Chrysene	218019					0.0028 c	0.031 c
74	Dibenzo(a,h)Anthracene	53703					0.0028 c	0.031 c
75	1,2-Dichlorobenzene	95501					2700 a	17000 a
76	1,3-Dichlorobenzene	541731					400	2600
77	1,4-Dichlorobenzene	106467					400	2600
78	3,3'-Dichlorobenzidine	91941					0.04 a,c	0.077 a,c
79	Diethyl Phthalate	84662					23000 a	120000 a
80	Dimethyl Phthalate	131113					313000	2900000
81	Di-n-Butyl Phthalate	84742					2700 a	12000 a
82	2,4-Dinitrotoluene	121142					0.11 c	9.1 c
83	2,6-Dinitrotoluene	606202						
84	Di-n-Octyl Phthalate	117840						
85	1,2-Diphenylhydrazine	122667					0.040 a,c	0.54 a,c



A		B		C		D		
(#)	COMPOUND	CAS Number	FRESHWATER		SALTWATER		HUMAN HEALTH (10 <sup>-6</sup> risk for carcinogens)	
			Criterion Maximum Conc. d (ug/L) B1	Criterion Continuous Conc. d (ug/L) B2	Criterion Maximum Conc. d (ug/L) C1	Criterion Continuous Conc. d (ug/L) C2	For Consumption of: Water & Organisms (ug/L) D1	Organisms Only (ug/L) D2
86	Fluoranthene	206440					300 a	370 a
87	Fluorene	86737					1300 a	14000 a
88	Hexachlorobenzene	118741					0.00075 a,c	0.00077 a,c
89	Hexachlorobutadiene	87683					0.44 a,c	50 a,c
90	Hexachlorocyclopentadiene	77474					240 a	17000 a,j
91	Hexachloroethane	67721					1.9 a,c	8.9 a,c
92	Indeno(1,2,3-cd)Pyrene	193395					0.0028 c	0.031 c
93	Isophorone	78591					8.4 a,c	600 a,c
94	Naphthalene	91203						
95	Nitrobenzene	98953					17 a	1900 a,j
96	N-Nitrosodimethylamine	62759					0.00069 a,c	8.1 a,c
97	N-Nitrosodi-n-Propylamine	621647						
98	N-Nitrosodiphenylamine	86306					5.0 a,c	16 a,c
99	Phenanthrene	85018						
100	Pyrene	129000					960 a	11000 a
101	1,2,4-Trichlorobenzene	120821						
102	Aldrin	309002	3 g		1.3 g		0.00013 a,c	0.00014 a,c
103	alpha-BHC	319846					0.0039 a,c	0.013 a,c
104	beta-BHC	319857					0.014 a,c	0.046 a,c
105	gamma-BHC	58899	2 g	0.08 g	0.16 g		0.019 c	0.063 c
106	delta-BHC	319868						
107	Chlordane	57749	2.4 g	0.0043 g	0.09 g	0.004 g	0.00057 a,c	0.00059 a,c
108	4,4'-DDT	50293	1.1 g	0.001 g	0.13 g	0.001 g	0.00059 a,c	0.00059 a,c
109	4,4'-DDE	72559					0.00059 a,c	0.00059 a,c
110	4,4'-DDD	72548					0.00083 a,c	0.00084 a,c
111	Dieldrin	60571	2.5 g	0.0019 g	0.71 g	0.0019 g	0.00014 a,c	0.00014 a,c
112	alpha-Endosulfan	959988	0.22 g	0.056 g	0.034 g	0.0087 g	0.93 a	2.0 a
113	beta-Endosulfan	33213659	0.22 g	0.056 g	0.034 g	0.0087 g	0.93 a	2.0 a

A		B		C		D		
		FRESHWATER		SALTWATER		HUMAN HEALTH (10 <sup>-6</sup> risk for carcinogens)		
(#)	COMPOUND	CAS Number	Criterion Maximum Conc. d (ug/L)	Criterion Continuous Conc. d (ug/L)	Criterion Maximum Conc. d (ug/L)	Criterion Continuous Conc. d (ug/L)	For Consumption of:	
			B1	B2	C1	C2	Water & Organisms (ug/L)	Organisms Only (ug/L)
			B1	B2	C1	C2	D1	D2
114	Endosulfan Sulfate	1031078					0.93 a	2.0 a
115	Endrin	72208	0.18 g	0.0023 g	0.037 g	0.0023 g	0.76 a	0.81 a,j
116	Endrin Aldehyde	7421934					0.76 a	0.81 a,j
117	Heptachlor	76448	0.52 g	0.0038 g	0.053 g	0.0036 g	0.00021 a,c	0.00021 a,c
118	Heptachlor Epoxide	1024573	0.52 g	0.0038 g	0.053 g	0.0036 g	0.00010 a,c	0.00011 a,c
119	PCB-1242	53469219		0.014 g		0.03 g	0.000044 a,c	0.000045 a,c
120	PCB-1254	11097691		0.014 g		0.03 g	0.000044 a,c	0.000045 a,c
121	PCB-1221	11104282		0.014 g		0.03 g	0.000044 a,c	0.000045 a,c
122	PCB-1232	11141165		0.014 g		0.03 g	0.000044 a,c	0.000045 a,c
123	PCB-1248	12672296		0.014 g		0.03 g	0.000044 a,c	0.000045 a,c
124	PCB-1260	11096825		0.014 g		0.03 g	0.000044 a,c	0.000045 a,c
125	PCB-1016	12674112		0.014 g		0.03 g	0.000044 a,c	0.000045 a,c
126	Toxaphene	8001352	0.73	0.0002	0.21	0.0002	0.00073 a,c	0.00075 a,c
Total No. of Criteria (h) =			24	29	23	27	91	90

Footnotes

a. Criteria revised to reflect current agency  $q_1^*$  or RFD, as contained in the Integrated Risk Information System (IRIS). The fish tissue bioconcentration factor (BCF) from the 1980 criteria documents was retained in all cases.

b. The criteria refers to the inorganic form only.

c. Criteria in the matrix based on carcinogenicity ( $10^{-6}$  risk). For a risk level of  $10^{-5}$ , move the decimal point in the matrix value one place to the right.

d. Criteria Maximum Concentration (CMC) = the highest concentration of a pollutant to which aquatic life can be exposed for a short period of time (1-hour average) without deleterious effects. Criteria Continuous Concentration (CCC) = the highest concentration of a pollutant to which aquatic life can be exposed for an extended period of time (4 days) without deleterious effects,  $\mu\text{g/L}$  = micrograms per liter.

e. Freshwater aquatic life criteria for these metals are expressed as a function of total hardness (mg/L), and as a function of the pollutant's water effect ratio, WER, as defined in §131.36(c). The equations are provided in matrix at §131.36(b)(2). Values displayed above in the matrix correspond to a total hardness of 100 mg/L and a water effect ratio of 1.0.

f. Freshwater aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the matrix correspond to a pH of 7.8.

$$\text{CMC} = \exp(1.005(\text{pH}) - 4.830) \quad \text{CCC} = \exp(1.005(\text{pH}) - 5.290)$$

g. Aquatic life criteria for these compounds were issued in 1980 utilizing the 1980 Guidelines for criteria development. The acute values shown are final acute values (FAV) which by the 1980 Guide-

lines are instantaneous values as contrasted with a CMC which is a one-hour average.

h. These totals simply sum the criteria in each column. For aquatic life, there are 30 priority toxic pollutants with some type of freshwater or saltwater, acute or chronic criteria. For human health, there are 91 priority toxic pollutants with either "water + fish" or "fish only" criteria. Note that these totals count chromium as one pollutant even though EPA has developed criteria based on two valence states. In the matrix, EPA has assigned numbers 5a and 5b to the criteria for chromium to reflect the fact that the list of 126 priority toxic pollutants includes only a single listing for chromium.

i. If the CCC for total mercury exceeds 0.012  $\mu\text{g/L}$  more than once in a 3-year period in the ambient water, the edible portion of aquatic species of concern must be analyzed to determine whether the concentration of methyl mercury exceeds the FDA action level (1.0 mg/kg). If the FDA action level is exceeded, the State must notify the appropriate EPA Regional Administrator, initiate a revision of its mercury criterion in its water quality standards so as to protect designated uses, and take other appropriate action such as issuance of a fish consumption advisory for the affected area.

j. No criteria for protection of human health from consumption of aquatic organisms (excluding water) was presented in the 1980 criteria document or in the 1986 Quality Criteria for Water. Nevertheless, sufficient information was presented in the 1980 document to allow a calculation of a criterion, even though the results of such a calculation were not shown in the document.

k. The criterion for asbestos is the MCL (56 FR 3526, January 30, 1991).

l. This letter not used as a footnote.

m. Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in 40 CFR 131.36(c).

$$\text{CMC} = \text{column B1 or C1 value} \times \text{WER} \\ \text{CCC} = \text{column B2 or C2 value} \times \text{WER}$$

n. EPA is not promulgating human health criteria for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the State's existing narrative criteria for toxics.

General Notes:

1. This chart lists all of EPA's priority toxic pollutants whether or not criteria recommendations are available. Blank spaces indicate the absence of criteria recommendations. Because of variations in chemical nomenclature systems, this listing of toxic pollutants does not duplicate the listing in Appendix A of 40 CFR Part 423. EPA has added the Chemical Abstracts Service (CAS) registry numbers, which provide a unique identification for each chemical.

2. The following chemicals have organoleptic based criteria recommendations that are not included on this chart (for reasons which are discussed in the preamble): copper, zinc, chlorobenzene, 2-chlorophenol, 2,4-dichlorophenol, acenaphthene, 2,4-dimethylphenol, 3-methyl-4-chlorophenol, hexachlorocyclopentadiene, pentachlorophenol, phenol.

3. For purposes of this rulemaking, freshwater criteria and saltwater criteria apply as specified in 40 CFR 131.36(c).

(2) Factors for Calculating Metals Criteria

$$\text{CMC} = \text{WER} \exp\{m_A[\ln(\text{hardness})] + b_A\} \\ \text{CCC} = \text{WER} \exp\{m_C[\ln(\text{hardness})] + b_C\}$$

$$CMC = WER \exp[m_A \ln(\text{hardness}) + b_A] \quad CCC = WER \exp[m_C \ln(\text{hardness}) + b_C]$$

	$m_A$	$b_A$	$m_C$	$b_C$
Cadmium	1.128	-3.828	0.7852	-3.490
Copper	0.9422	-1.464	0.8545	-1.465
Chromium (III)	0.8190	3.688	0.8190	1.561
Lead	1.273	-1.460	1.273	-4.705
Nickel	0.8460	3.3612	0.8460	1.1645
Silver	1.72	-6.52		
Zinc	0.8473	0.8604	0.8473	0.7614

Note: The term  $\exp$  represents the base e exponential function.

### (c) Applicability

(1) The criteria in paragraph (b) of this section apply to the States' designated uses cited in paragraph (d) of this section and supersede any criteria adopted by the State, except when State regulations contain criteria which are more stringent for a particular use in which case the State's criteria will continue to apply.

(2) The criteria established in this section are subject to the State's general rules of applicability in the same way and to the same extent as are the other numeric toxics criteria when applied to the same use classifications including mixing zones, and low flow values below which numeric standards can be exceeded in flowing fresh waters.

(i) For all waters with mixing zone regulations or implementation procedures, the criteria apply at the appropriate locations within or at the boundary of the mixing zones; otherwise the criteria apply throughout the waterbody including at the end of any discharge pipe, canal or other discharge point.

(ii) A State shall not use a low flow value below which numeric standards can be exceeded that is less stringent than the following for waters suitable for the establishment of low flow return frequencies (i.e., streams and rivers):

Aquatic Life	
Acute criteria (CMC)	1 Q 10 or 1 B 3
Chronic criteria (CCC)	7 Q 10 or 4 B 3
Human Health	
Non-carcinogens	30 Q 5
Carcinogens	Harmonic mean flow

### Where:

CMC—criteria maximum concentration—the water quality criteria to protect against acute effects in aquatic life and is the highest instream concentration of a priority toxic pollutant consisting of a one-hour average not to be exceeded more

than once every three years on the average;

CCC—criteria continuous concentration—the water quality criteria to protect against chronic effects in aquatic life is the highest instream concentration of a priority toxic pollutant consisting of a 4-day average not to be exceeded more than once every three years on the average;

1 Q 10 is the lowest one day flow with an average recurrence frequency of once in 10 years determined hydrologically;

1 B 3 is biologically based and indicates an allowable exceedence of once every 3 years. It is determined by EPA's computerized method (DFLOW model);

7 Q 10 is the lowest average 7 consecutive day low flow with an average recurrence frequency of once in 10 years determined hydrologically;

4 B 3 is biologically based and indicates an allowable exceedence for 4 consecutive days once every 3 years. It is determined by EPA's computerized method (DFLOW model);

30 Q 5 is the lowest average 30 consecutive day low flow with an average recurrence frequency of once in 5 years determined hydrologically; and the harmonic mean flow is a long term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows.

(iii) If a State does not have such a low flow value for numeric standards compliance, then none shall apply and the criteria included in paragraph (d) of this section herein apply at all flows.

(3) The aquatic life criteria in the matrix in paragraph (b) of this section apply as follows:

(i) For waters in which the salinity is equal to or less than 1 part per thousand 95% or more of the time, the applicable criteria are the freshwater criteria in Column B;

(ii) For waters in which the salinity is equal to or greater than 10 parts per thousand 95% or more of the time, the appli-

cable criteria are the saltwater criteria in Column C; and

(iii) For waters in which the salinity is between 1 and 10 parts per thousand as defined in paragraphs (c)(3) (i) and (ii) of this section, the applicable criteria are the more stringent of the freshwater or saltwater criteria. However, the Regional Administrator may approve the use of the alternative freshwater or saltwater criteria if scientifically defensible information and data demonstrate that on a site-specific basis the biology of the waterbody is dominated by freshwater aquatic life and that freshwater criteria are more appropriate; or conversely, the biology of the waterbody is dominated by saltwater aquatic life and that saltwater criteria are more appropriate.

### (4) Application of metals criteria

(i) For purposes of calculating freshwater aquatic life criteria for metals from the equations in paragraph (b)(2) of this section, the minimum hardness allowed for use in those equations shall not be less than 25 mg/l, as calcium carbonate, even if the actual ambient hardness is less than 25 mg/l as calcium carbonate. The maximum hardness value for use in those equations shall not exceed 400 mg/l as calcium carbonate, even if the actual ambient hardness is greater than 400 mg/l as calcium carbonate. The same provisions apply for calculating the metals criteria for the comparisons provided for in paragraph (c)(3)(iii) of this section.

(ii) The hardness values used shall be consistent with the design discharge conditions established in paragraph (c)(2) of this section for flows and mixing zones.

(iii) The criteria for metals (compounds #1-#13 in paragraph (b) of this section) are expressed as total recoverable. For purposes of calculating aquatic life criteria for metals from the equations in footnote M, in the criteria matrix in paragraph (b)(1) of this section and the equations in paragraph (b)(2) of this section, the water-effect ratio is computed as a

specific pollutant's acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. The water-effect ratio shall be assigned a value of 1.0, except where the permitting authority assigns a different value that protects the designated uses of the water body from the toxic effects of the pollutant, and is derived from suitable tests on sampled water representative of conditions in the affected water body, consistent with the design discharge conditions established in paragraph (c)(2) of this section. For purposes of this paragraph, the term acute toxicity value is the toxicity test results, such as the ~~Concentration Limit~~ one-half of the test organisms (i.e., LC50) after 96 hours of exposure (e.g., fish toxicity tests) or the effect concentration to one-half of the test organisms, (i.e., EC50) after 48 hours of exposure (e.g., daphnia toxicity tests). For purposes of this paragraph, the term chronic value is the result from appropriate hypothesis testing or regression analysis of measurements of growth, reproduction, or survival from life cycle, partial life cycle, or early life stage tests. The determination of acute and chronic values shall be according to current standard protocols (e.g., those published by the American Society for Testing Materials (ASTM)) or other comparable methods. For calculation of criteria using site-specific values for both the hardness and the water effect ratio, the hardness used in the equations in paragraph (b)(2) of this section shall be as required in paragraph (c)(4)(ii) of this section. Water hardness shall be calculated from the measured calcium and magnesium ions present, and the ratio of calcium to magnesium shall be approximately the same in standard laboratory toxicity testing water as in the site water.

(d) *Criteria for Specific Jurisdictions—*

(1) *Rhode Island, EPA Region 1.*

(i) All waters assigned to the following use classifications in the Water Quality Regulations for Water Pollution Control adopted under Chapters 46-12, 42-17.1, and 42-35 of the General Laws of Rhode Island are subject to the criteria in paragraph (d)(1)(ii) of this section, without exception:

6 21 Freshwater	6 22 Saltwater
Class A	Class SA
Class B	Class SB
Class C	Class SC

(ii) The following criteria from the matrix in paragraph (b)(1) of this section apply to the use classifications identified in paragraph (d)(1)(i) of this section:

Use classification	Applicable criteria
Class A	These classifications are assigned the criteria in: Column D1—all
Class B waters where water supply use is designated	
Class B waters where water supply use is not designated.	Each of these classifications is assigned the criteria in: Column D2—all
Class C.	
Class SA.	
Class SB.	
Class SC	

(iii) The human health criteria shall be applied at the  $10^{-5}$  risk level, consistent with the State policy. To determine appropriate value for carcinogens, see footnote c in the criteria matrix in paragraph (b)(1) of this section.

(2) *Vermont, EPA Region 1.*

(i) All waters assigned to the following use classifications in the Vermont Water Quality Standards adopted under the authority of the Vermont Water Pollution Control Act (10 V.S.A., Chapter 47) are subject to the criteria in paragraph (d)(2)(ii) of this section, without exception:

- Class A
- Class B
- Class C

(ii) The following criteria from the matrix in paragraph (b)(1) of this section apply to the use classifications identified in paragraph (d)(2)(i) of this section:

Use classification	Applicable criteria
Class A	This classification is assigned the criteria in: Column B1—all Column B2—all Column D1—all
Class B waters where water supply use is designated	
Class B waters where water supply use is not designated	
Class C	These classifications are assigned the criteria in: Column B1—all Column B2—all Column D2—all

(iii) The human health criteria shall be applied at the State-proposed  $10^{-6}$  risk level.

(3) *New Jersey, EPA Region 2.*

(i) All waters assigned to the following use classifications in the New Jersey Administrative Code (N.J.A.C.) 7:9-4.1 et seq., Surface Water Quality Standards, are subject to the criteria in paragraph (d)(3)(ii) of this section, without exception.

- N.J.A.C. 7:9-4.12(b): Class PL
- N.J.A.C. 7:9-4.12(c): Class FW2
- N.J.A.C. 7:9-4.12(d): Class SE1
- N.J.A.C. 7:9-4.12(e): Class SE2
- N.J.A.C. 7:9-4.12(f): Class SE3
- N.J.A.C. 7:9-4.12(g): Class SC
- N.J.A.C. 7:9-4.13(a): Delaware River Zones 1C, 1D, and 1E
- N.J.A.C. 7:9-4.13(b): Delaware River Zone 2
- N.J.A.C. 7:9-4.13(c): Delaware River Zone 3
- N.J.A.C. 7:9-4.13(d): Delaware River Zone 4
- N.J.A.C. 7:9-4.13(e): Delaware River Zone 5
- N.J.A.C. 7:9-4.13(f): Delaware River Zone 6

(ii) The following criteria from the matrix in paragraph (b)(1) of this section apply to the use classifications identified in paragraph (d)(3)(i) of this section:

Use classification	Applicable criteria
PL (Freshwater Pine-lands), FW2	These classifications are assigned the criteria in: Column B1—all except #102, 105, 107, 108, 111, 112, 113, 115, 117, 118. Column B2—all except #105, 107, 108, 111, 112, 113, 115, 117, 118, 119, 120, 121, 122, 123, 124, and 125 Column D1—all at a $10^{-6}$ risk level except #23, 30, 37, 38, 42, 68, 89, 91, 93, 104, 105, #23, 30, 37, 38, 42, 68, 89, 91, 93, 104, 105, at a $10^{-5}$ risk level. Column D2—all at a $10^{-6}$ risk level except #23, 30, 37, 38, 42, 68, 89, 91, 93, 104, 105, 23, 30, 37, 38, 42, 68, 89, 91, 93, 104, 105, at a $10^{-6}$ risk level.
PL (Saline Water Pine-lands), SE1, SE2, SE3, SC	These classifications are assigned the criteria in

**Use classification**      **Applicable criteria**

Column C1—all except #102, 105, 107, 108, 111, 112, 113, 115, 117, and 118

Column C2—all except #105, 107, 108, 111, 112, 113, 115, 117, 118, 119, 120, 121, 122, 123, 124, and 125.

Column D2—all at a 10<sup>-6</sup> risk level except #23, 30, 37, 38, 42, 68, 89, 91, 93, 104, 105, #23, 30, 37, 38, 42, 68, 89, 91, 93, 104, 105, at a 10<sup>-6</sup> risk level

**Delaware River zones 1C, 1D, 1E, 2, 3, 4, 5 and Delaware Bay zone 6**      These classifications are assigned the criteria in

Column B1—all

Column B2—all

Column D1—all at a 10<sup>-6</sup> risk level except #23, 30, 37, 38, 42, 68, 89, 91, 93, 104, 105, #23, 30, 37, 38, 42, 68, 89, 91, 93, 104, 105, at a 10<sup>-6</sup> risk level.

Column D2—all at a 10<sup>-6</sup> risk level except #23, 30, 37, 38, 42, 68, 89, 91, 93, 104, 105, #23, 30, 37, 38, 42, 68, 89, 91, 93, 104, 105, at a 10<sup>-6</sup> risk level.

**Delaware River zones 3, 4, and 5, and Delaware Bay zone 6**      These classifications are assigned the criteria in

Column C1—all

Column C2—all

Column D2—all at a 10<sup>-6</sup> risk level except #23, 30, 37, 38, 42, 68, 89, 91, 93, 104, 105, #23, 30, 37, 38, 42, 68, 89, 91, 93, 104, 105, at a 10<sup>-6</sup> risk level

(iii) The human health criteria shall be applied at the State-proposed 10<sup>-6</sup> risk level for EPA rated Class A, B<sub>1</sub>, and B<sub>2</sub> carcinogens; EPA rated Class C carcinogens shall be applied at 10<sup>-5</sup> risk level. To determine appropriate value for carcinogens, see footnote c, in the matrix in paragraph (b)(1) of this section.

**(4) Puerto Rico, EPA Region 2.**

(i) All waters assigned to the following use classifications in the Puerto Rico Water Quality Standards (promulgated by Resolution Number R-83-5-2) are sub-

ject to the criteria in paragraph (d)(4)(ii) of this section, without exception.

Article 2.2.2—Class SB

Article 2.2.3—Class SC

Article 2.2.4—Class SD

(ii) The following criteria from the matrix in paragraph (b)(1) of this section apply to the use classifications identified in paragraph (d)(4)(i) of this section:

Use classification	Applicable criteria
Class SD	This Classification is assigned the criteria in: Column B1—all, except: 10, 102, 105, 107, 108, 111, 112, 113, 115, 117, and 126 Column B2—all, except: 105, 107, 108, 112, 113, 115, and 117 Column D1—all, except: 6, 14, 105, 112, 113, and 115 Column D2—all, except: 14, 105, 112, 113, and 115
Class SB, Class SC	This Classification is assigned the criteria in: Column C1—all, except 4, 5b, 7, 8, 10, 11, 13, 102, 105, 107, 108, 111, 112, 113, 115, 117, and 126 Column C2—all, except 4, 5b, 10, 13, 108, 112, 113, 115, and 117 Column D2—all, except: 14, 105, 112, 113, and 115.

(iii) The human health criteria shall be applied at the State-proposed 10<sup>-5</sup> risk level. To determine appropriate value for carcinogens, see footnote c, in the criteria matrix in paragraph (b)(1) of this section.

**(5) District of Columbia, EPA Region 3.**

(i) All waters assigned to the following use classifications in chapter 11 Title 21 DCMR, Water Quality Standards of the District of Columbia are subject to the criteria in paragraph (d)(5)(ii) of this section, without exception:

**1101.2 Class C waters**

(ii) The following criteria from the matrix in paragraph (b)(1) of this section apply to the use classification identified in paragraph (d)(5)(i) of this section:

Use classification	Applicable criteria
Class C	This classification is assigned the additional criteria in Column B2—#10, 118, 126 Column D1—#15, 16, 44, 67, 68, 79, 80, 81, 88, 114, 116, 118 Column D2—all

(iii) The human health criteria shall be applied at the State-adopted 10<sup>-6</sup> risk level.

**(6) Florida, EPA Region 4.**

(i) All waters assigned to the following use classifications in Chapter 17-301 of the Florida Administrative Code (i.e., identified in Section 17-302.600) are subject to the criteria in paragraph (d)(6)(ii) of this section, without exception:

Class I

Class II

Class III

(ii) The following criteria from the matrix paragraph (b)(1) of this section apply to the use classifications identified in paragraph (d)(6)(i) of this section:

Use classification	Applicable criteria
Class I	This classification is assigned the criteria in Column D1—#16
Class II <i>and</i>	This classification is assigned the criteria in Column D2—#16
Class III (marine)	This classification is assigned the criteria in. Column D2—#16
Class III (fresh water)	

(iii) The human health criteria shall be applied at the State-adopted 10<sup>-6</sup> risk level.

**(7) Michigan, EPA Region 5.**

(i) All waters assigned to the following use classifications in the Michigan Department of Natural Resources Commission General Rules, R 323.1100 designated uses, as defined at R 323.1043. Definitions; A to N, (i.e., identified in Section (g) "Designated use") are subject to the criteria in paragraph (d)(7)(ii) of this section, without exception:

Agriculture

Navigation

Industrial Water Supply

Public Water Supply at the Point of Water Intake

Warmwater Fish

Other Indigenous Aquatic Life and Wildlife

Partial Body Contact Recreation

(i) The following criteria from the matrix in paragraph (b)(1) of this section apply to the use classifications identified in paragraph (d)(7)(i) of this section

Use classification	Applicable criteria
Public Water supply	This classification is assigned the criteria in Column B1—all, Column B2—all, Column D1—all
All other designations	These classifications are assigned the criteria in Column B1—all, Column B2—all, and Column D2—all

(iii) The human health criteria shall be applied at the State-adopted 10<sup>-5</sup> risk level. To determine appropriate value for carcinogens, see footnote c in the criteria matrix in paragraph (b)(1) of this section.

(8) *Arkansas, EPA Region 6*

(i) All waters assigned to the following use classification in section 4C (Waterbody uses) identified in Arkansas Department of Pollution Control and Ecology's Regulation No. 2 as amended and entitled, "Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas" are subject to the criteria in paragraph (d)(8)(ii) of this section, without exception

Extraordinary Resource Waters  
Ecologically Sensitive Waterbody  
Natural and Scenic Waterways  
Fisheries

- (1) Trout
- (2) Lakes and Reservoirs
- (3) Streams

- (a) Ozark Highlands Ecoregion
  - (b) Boston Mountains Ecoregion
  - (c) Arkansas River Valley Ecoregion
  - (d) Ouachita Mountains Ecoregion
  - (e) Typical Gulf Coastal Ecoregion
  - (f) Spring Water-influenced Gulf Coastal Ecoregion
  - (g) Least-altered Delta Ecoregion
  - (h) Channel-altered Delta Ecoregion
- Domestic Water Supply

(ii) The following criteria from the matrix in paragraph (b)(1) of this section apply to the use classification identified in paragraph (d)(8)(i) of this section

Use classification	Applicable criteria
Extraordinary Resource Waters Ecologically Sensitive Waterbody Natural and Scenic Waterways Fisheries	(1) Trout (2) Lakes and Reservoirs (3) Streams (a) Ozark Highlands Ecoregion (b) Boston Mountains Ecoregion (c) Arkansas River Valley Ecoregion (d) Ouachita Mountains Ecoregion (e) Typical Gulf Coastal Ecoregion (f) Spring Water-influenced Gulf Coastal Ecoregion (g) Least-altered Delta Ecoregion (h) Channel-altered Delta Ecoregion
	These uses are each assigned the criteria in Column B1— #4 5a 5b 6 7 8 9 10 11 13, 14 Column B2— #4 5a, 5b, 6, 7 8 9, 10, 13, 14

(9) *Kansas, EPA Region 7*

(i) All waters assigned to the following use classification in the Kansas Department of Health and Environment regulations, K.A.R. 28-16-28b through K.A.R. 28-16-28f, are subject to the criteria in paragraph (d)(9)(ii) of this section, without exception

Section 28-16-28d

- Section (2)(A)—Special Aquatic Life Use Waters
- Section (2)(B)—Expected Aquatic Life Use Waters
- Section (2)(C)—Restricted Aquatic Life Use Waters
- Section (3)—Domestic Water Supply
- Section (6)(c)—Consumptive Recreation Use

(ii) The following criteria from the matrix in paragraph (b)(1) of this section apply to the use classifications identified in paragraph (d)(9)(i) of this section

Use classification	Applicable criteria
Sections (2)(A) (2)(B), (2)(C) (6)(C)	These classifications are each assigned all criteria in Column B1 all except #9, 11, 13, 102, 105, 107, 108, 111-113, 115, 117 and 126. Column B2, all except #9, 13, 105, 107, 108, 111-113, 115, 117, 119-125, and 126 and Column D2 all except #9, 112, 113 and 115
Section (3)	This classification is assigned all criteria in Column D1, all except #9, 12, 112, 113 and 115

(iii) The human health criteria shall be applied at the State-proposed 10<sup>-6</sup> risk level

(10) *California, EPA Region 9*

(i) All waters assigned any aquatic life or human health use classifications in the Water Quality Control Plans for the various Basins of the State ("Basin Plans"), as amended, adopted by the California State Water Resources Control Board ("SWRCB"), except for ocean waters covered by the Water Quality Control Plan for Ocean Waters of California ("Ocean Plan") adopted by the SWRCB with resolution Number 90-27 on March 22, 1990, are subject to the criteria in paragraph (d)(10)(ii) of this section, without exception. These criteria amend the portions of the existing State standards contained in the Basin Plans. More particularly these criteria amend water quality criteria contained in the Basin Plan Chapters specifying water quality objectives (the State equivalent of federal water quality criteria) for the toxic pollutants identified in paragraph (d)(10)(ii) of this section. Although the State has adopted several use designations for each of these waters, for purposes of this action, the specific standards to be applied in paragraph (d)(10)(ii) of this section are based on the presence in all waters of some aquatic life designation and the presence or absence of the MLN use designation (Municipal and domestic supply) (See Basin Plans for more detailed use definitions.)

**Other Indigenous Aquatic Life and Wildlife**

**Partial Body Contact Recreation**

(ii) The following criteria from the matrix in paragraph (b)(1) of this section apply to the use classifications identified in paragraph (d)(7)(i) of this section

Use classification	Applicable criteria
Public Water supply	This classification is assigned the criteria in Column B1—all, Column B2—all, Column D1—all
All other designations	These classifications are assigned the criteria in: Column B1—all, Column B2—all, and Column D2—all

(iii) The human health criteria shall be applied at the State-adopted  $10^{-5}$  risk level. To determine appropriate value for carcinogens, see footnote c in the criteria matrix in paragraph (b)(1) of this section.

**(8) Arkansas, EPA Region 6.**

(i) All waters assigned to the following use classification in section 4C (Waterbody uses) identified in Arkansas Department of Pollution Control and Ecology's Regulation No. 2 as amended and entitled, "Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas" are subject to the criteria in paragraph (d)(8)(ii) of this section, without exception:

- Extraordinary Resource Waters
- Ecologically Sensitive Waterbody
- Natural and Scenic Waterways
- Fisheries
- (1) Trout
- (2) Lakes and Reservoirs
- (3) Streams
  - (a) Ozark Highlands Ecoregion
  - (b) Boston Mountains Ecoregion
  - (c) Arkansas River Valley Ecoregion
  - (d) Ouachita Mountains Ecoregion
  - (e) Typical Gulf Coastal Ecoregion
  - (f) Spring Water-influenced Gulf Coastal Ecoregion
  - (g) Least-altered Delta Ecoregion
  - (h) Channel-altered Delta Ecoregion
- Domestic Water Supply

(ii) The following criteria from the matrix in paragraph (b)(1) of this section apply to the use classification identified in paragraph (d)(8)(i) of this section:

**Use classification**

- Extraordinary Resource Waters
- Ecologically Sensitive Waterbody
- Natural and Scenic Waterways
- Fisheries

- (1) Trout
- (2) Lakes and Reservoirs
- (3) Streams
  - (a) Ozark Highlands Ecoregion
  - (b) Boston Mountains Ecoregion
  - (c) Arkansas River Valley Ecoregion
  - (d) Ouachita Mountains Ecoregion
  - (e) Typical Gulf Coastal Ecoregion
  - (f) Spring Water-influenced Gulf Coastal Ecoregion
  - (g) Least-altered Delta Ecoregion
  - (h) Channel-altered Delta Ecoregion

**Applicable criteria**

These uses are each assigned the criteria in—  
Column B1— #4,  
5a, 5b, 6, 7, 8, 9,  
10, 11, 13, 14  
Column B2— #4,  
5a, 5b, 6, 7, 8, 9,  
10, 13, 14

**(9) Kansas, EPA Region 7.**

(i) All waters assigned to the following use classification in the Kansas Department of Health and Environment regulations, K.A.R. 28-16-28b through K.A.R. 28-16-28f, are subject to the criteria in paragraph (d)(9)(ii) of this section, without exception.

- Section 28-16-28d
  - Section (2)(A)—Special Aquatic Life Use Waters
  - Section (2)(B)—Expected Aquatic Life Use Waters
  - Section (2)(C)—Restricted Aquatic Life Use Waters
- Section (3)—Domestic Water Supply
- Section (6)(c)—Consumptive Recreation Use.

(ii) The following criteria from the matrix in paragraph (b)(1) of this section apply to the use classifications identified in paragraph (d)(9)(i) of this section:

**Use classification**

- Sections (2)(A), (2)(B), (2)(C) (6)(C)

**Section (3)**

**Applicable criteria**

These classifications are each assigned all criteria in:

- Column B1 all except #9, 11, 13, 102, 105, 107, 108, 111, 113, 115, 117, and 126.
- Column B2, all except #9, 13, 105, 107, 108, 111-113, 115, 117, 119-125, and 126, and
- Column D2 all except #9, 112, 113, and 115

This classification is assigned all criteria in:

- Column D1 all except #9, 12, 112, 113, and 115

(iii) The human health criteria shall be applied at the State-proposed  $10^{-6}$  risk level

**(10) California, EPA Region 9**

(i) All waters assigned any aquatic life or human health use classifications in the Water Quality Control Plans for the various Basins of the State ("Basin Plans"), as amended, adopted by the California State Water Resources Control Board ("SWRCB"), except for ocean waters covered by the Water Quality Control Plan for Ocean Waters of California ("Ocean Plan") adopted by the SWRCB with resolution Number 90-27 on March 22, 1990, are subject to the criteria in paragraph (d)(10)(i) of this section, without exception. These criteria amend the portions of the existing State standards contained in the Basin Plans. More particularly these criteria amend water quality criteria contained in the Basin Plan Chapters specifying water quality objectives (the State equivalent of federal water quality criteria) for the toxic pollutants identified in paragraph (d)(10)(ii) of this section. Although the State has adopted several use designations for each of these waters, for purposes of this action, the specific standards to be applied in paragraph (d)(10)(ii) of this section are based on the presence in all waters of some aquatic life designation and the presence or absence of the MUN use designation (Municipal and domestic supply). (See Basin Plans for more detailed use definitions.)



(ii) The following criteria from the matrix in paragraph (b)(1) of this section apply to the water and use classifications defined in paragraph (d)(10)(i) of this section and identified below

Water and use classification	Applicable criteria
Waters of the State defined as bays or estuaries except the Sacramento-San Joaquin Delta and San Francisco Bay	<p>These waters are assigned the criteria in</p> <ul style="list-style-type: none"> <li>Column B1—pollutants 5a and 14</li> <li>Column B2—pollutants 5a and 14</li> <li>Column C1—pollutant 14</li> <li>Column C2—pollutant 14</li> <li>Column D2—pollutants 1, 12, 17, 18, 21, 22, 29, 30, 32, 33, 37, 38, 42-44, 46, 48, 49, 54, 59, 66, 67, 68, 78-82, 85, 89, 90, 91, 93, 95, 96, 98</li> </ul>
Waters of the Sacramento—San Joaquin Delta and waters of the State defined as inland (i.e., all surface waters of the State not bays or estuaries or ocean) that include a MUN use designation	<p>These waters are assigned the criteria in</p> <ul style="list-style-type: none"> <li>Column B1—pollutants 5a and 14</li> <li>Column B2—pollutants 5a and 14</li> <li>Column D1—pollutants 1, 12, 15, 17, 18, 21, 22, 29, 30, 32, 33, 37, 38, 42-48, 49, 59, 66, 68, 78-82, 85, 89, 90, 91, 93, 95, 96, 98</li> </ul>
Waters of the State defined as inland without an MUN use designation	<p>These waters are assigned the criteria in:</p> <ul style="list-style-type: none"> <li>Column B1—pollutants 5a and 14</li> <li>Column B2—pollutants 5a and 14</li> <li>Column D2—pollutants 1, 12, 17, 18, 21, 22, 29, 30, 32, 33, 37, 38, 42-44, 46, 48, 49, 54, 59, 66, 67, 68, 78-82, 85, 89, 90, 91, 93, 95, 96, 98</li> </ul>
Waters of the San Joaquin River from the mouth of the Merced River to Vernahs	<p>In addition to the criteria assigned to these waters elsewhere in this rule, these waters are assigned the criteria in</p> <ul style="list-style-type: none"> <li>Column B2—pollutant 10</li> </ul>
Waters of Salt Slough, Mud Slough (north) and the San Joaquin River, Sack Dam to the mouth of the Merced River	<p>In addition to the criteria assigned to these waters elsewhere in this rule, these waters are assigned the criteria in</p> <ul style="list-style-type: none"> <li>Column B1—pollutant 10</li> <li>Column B2—pollutant 10</li> </ul>
Waters of San Francisco Bay upstream to and including Suisun Bay and the Sacramento-San Joaquin Delta	<p>These waters are assigned the criteria in</p> <ul style="list-style-type: none"> <li>Column B1—pollutants 5a, 10<sup>1</sup> and 14</li> <li>Column B2—pollutants 5a, 10<sup>1</sup> and 14</li> <li>Column C1—pollutant 14</li> <li>Column C2—pollutant 14</li> <li>Column D2—pollutants 1, 12, 17, 18, 21, 22, 29, 30, 32, 33, 37, 38, 42-44, 46, 48, 49, 54, 59, 66, 67, 68, 78-82, 85, 89, 90, 91, 93, 95, 96, 98</li> </ul>
All inland waters of the United States or enclosed bays and estuaries that are waters of the United States that include an MUN use designation and that the State has either excluded or partially excluded from coverage under its Water Quality Control Plan for Inland Surface Waters of California, Tables 1 and 2, or its Water Quality Control Plan for Enclosed Bays and Estuaries of California, Tables 1 and 2, or has deferred applicability of those tables (Category (a), (b), and (c) waters described on page 6 of Water Quality Control Plan for Inland Surface Waters of California or page 6 of its Water Quality Control Plan for Enclosed Bays and Estuaries of California)	<p>These waters are assigned the criteria for pollutants for which the State does not apply Table 1 or 2 standards. These criteria are</p> <ul style="list-style-type: none"> <li>Column B1—all pollutants</li> <li>Column B2—all pollutants</li> <li>Column D1—all pollutants except #2</li> </ul>
All inland waters of the United States that do not include an MUN use designation and that the State has either excluded or partially excluded from coverage under its Water Quality Control Plan for Inland Surface Waters of California, Tables 1 and 2, or has deferred applicability of these tables (Category (a), (b), and (c) waters described on page 6 of Water Quality Control Plan for Inland Surface Waters of California)	

Water and use classification

Applicable criteria

*that do not include an MUD designation*

All enclosed bays and estuaries that are waters of the United States and that the State has either excluded or partially excluded from coverage under its Water Quality Control Plan for Inland Surface Waters of California, Tables 1 and 2, or its Water Quality Control Plan for Enclosed Bays and Estuaries of California, Tables 1 and 2, or has deferred applicability of those tables (Category (a), (b), and (c) waters described on page 6 of Water Quality Control Plan for Inland Surface Waters of California or page 6 of its Water Quality Control Plan for Enclosed Bays and Estuaries of California)

These waters are assigned the criteria for pollutants for which the State does not apply Table 1 or 2 standards. These criteria are  
 Column B1—all pollutants  
 Column B2—all pollutants  
 Column D2—all pollutants except #2

These waters are assigned the criteria for pollutants for which the State does not apply Table 1 or 2 standards. These criteria are  
 Column B1—all pollutants  
 Column B2—all pollutants  
 Column C1—all pollutants  
 Column C2—all pollutants  
 Column D2—all pollutants except #2

\* The fresh water selenium criteria are included for the San Francisco Bay estuary because high levels of bioaccumulation of selenium in the estuary indicate that the salt water criteria are underprotective for San Francisco Bay

(iii) The human health criteria shall be applied at the State-adopted  $10^{-6}$  risk level.

(11) Nevada, EPA Region 9.

(i) All waters assigned the use classifications in Chapter 445 of the Nevada Administrative Code (NAC), Nevada Water Pollution Control Regulations, which are

referred to in paragraph (d)(11)(ii) of this section, are subject to the criteria in paragraph (d)(11)(ii) of this section, without exception. These criteria amend the existing State standards contained in the Nevada Water Pollution Control Regulations. More particularly, these criteria amend or supplement the table of numerical standards in NAC 445.1339 for the

toxic pollutants identified in paragraph (d)(11)(ii) of this section

(ii) The following criteria from matrix in paragraph (b)(1) of this section apply to the waters defined in paragraph (d)(11)(i) of this section and identified below

Water and use classification

Applicable criteria

Waters that the State has included in NAC 445 1339 where Municipal or domestic supply is a designated use

These waters are assigned the criteria in  
 Column B1—pollutant #118  
 Column B2—pollutant #118  
 Column D1—pollutants #15, 16, 18, 19, 20, 21, 23, 26, 27, 29, 30, 34, 37, 38, 42, 43, 55, 58-62, 64, 66, 73, 74, 78, 82, 85, 87-89, 91, 92, 96, 98, 100, 103, 104, 105, 114, 116, 117, 118

Waters that the State has included in NAC 445 1339 where Municipal or domestic supply is not a designated use

These waters are assigned the criteria in  
 Column B1—pollutant #118  
 Column B2—pollutant #118  
 Column D2—all pollutants except #2

(iii) The human health criteria shall be applied at the  $10^{-5}$  risk level, consistent with State policy. To determine appropriate value for carcinogens, see footnote c in the criteria matrix in paragraph (b)(1) of this section.

(12) Alaska, EPA Region 10.

(i) All waters assigned to the following use classifications in the Alaska Administrative Code (AAC), Chapter 18 (i.e., identified in 18 AAC 70.020) are subject to the criteria in paragraph (d)(12)(ii) of this section, without exception.  
 70.020 (1) (A) Fresh Water  
 70.020 (1) (A) Water Supply

(i) Drinking, culinary, and food processing,  
 (iii) Aquaculture;  
 70.020 (1) (B) Water Recreation  
 (i) Contact recreation,  
 (ii) Secondary recreation,  
 70.020 (1) (C) Growth and propagation of fish, shellfish, other aquatic life, and wildlife  
 70.020 (2) (A) Marine Water  
 70.020 (2) (A) Water Supply  
 (i) Aquaculture,  
 70.020 (2) (B) Water Recreation  
 (i) contact recreation,  
 (ii) secondary recreation.

70.020 (2) (C) Growth and propagation of fish, shellfish, other aquatic life, and wildlife;  
 70.020 (2) (D) Harvesting for consumption of raw mollusks or other raw aquatic life

(ii) The following criteria from the matrix in paragraph (b)(1) of this section apply to the use classifications identified in paragraph (d)(12)(i) of this section

Use classification	Applicable criteria
(1)(A) (i)	Column B1—all Column B2—#10 Column D1

Use classification	Applicable criteria						
(1)(A) iii	# s 2, 16, 18-21, 23, 26, 27, 29, 30, 32, 37, 38, 42-44, 53, 55, 59-62, 64, 66, 68, 73, 74, 78, 82, 85, 88, 89, 91-93, 96, 98, 102-105, 107-111, 117-126 Column B1—all Column B2—#10 Column D2 # s 2, 14, 16, 18-21, 22, 23, 26, 27, 29, 30, 32, 37, 38, 42-44, 46, 53, 54, 55, 59-62, 64, 66, 68, 73, 74, 78, 82, 85, 88-93, 95, 96, 98, 102-105, 107-111, 115-126	(iii) The human health criteria shall be applied at the State-proposed risk level of $10^{-5}$ . To determine appropriate value for carcinogens, see footnote c in the criteria matrix in paragraph (b)(1) of this section. (13) <i>Idaho, EPA Region 10</i> (i) All waters assigned to the following use classifications in the Idaho Administrative Procedures Act (IDAPA), Chapter 16 (i.e., identified in IDAPA 16.01.2100.02-16.01.2100.07) are subject to the criteria in paragraph (d)(13)(ii) of this section, without exception: 16.01.2100.01.b Domestic Water Supplies 16.01.2100.02.a Cold Water Biota 16.01.2100.02.b Warm Water Biota 16.01.2100.02.c Salmonid Spawning 16.01.2100.03.a Primary Contact Recreation 16.01.2100.03.b Secondary Contact Recreation					
	(1)(B) i, (1)(B) ii, (1)(C)	Column B1—all Column B2—#10 Column D2 # s 2, 14, 16, 18-21, 22, 23, 26, 27, 29, 30, 32, 37, 38, 42-44, 46, 53, 54, 55, 59-62, 64, 66, 68, 73, 74, 78, 82, 85, 88-93, 95, 96, 98, 102-105, 107-111, 115-126	(ii) The following criteria from the matrix in paragraph (b)(1) of this section apply to the use classifications identified in paragraph (d)(13)(i) of this section: Use classification      Applicable criteria 01 b      This classification is assigned the criteria in Column D1—all except #14 and 115 02 a 02 b 02 cc      These classifications are assigned the criteria in Column B1—all, Column B2—all, Column D2—all 03 a      This classification is assigned the criteria in Column D2—all 03 b      This classification is assigned the criteria in Column D2—all				
		(2)(A), (2)(B), and (2)(B) iii, (2)(C), (2)(D)	Column C1—all Column C2—#10 Column D2 # s 2, 14, 16, 18-21, 22, 23, 26, 27, 29, 30, 32, 37, 38, 42-44, 46, 53, 54, 55, 59-62, 64, 66, 68, 73, 74, 78, 82, 85, 88-93, 95, 96, 98, 102-105, 107-111, 115-126	(iii) The human health criteria shall be applied at the $10^{-6}$ risk level, consistent with State policy. (14) <i>Washington, EPA Region 10</i> (i) All waters assigned to the following use classifications in the Washington Administrative Code (WAC), Chapter 173-201 (i.e., identified in WAC 173-201-045) are subject to the criteria in paragraph (d)(14)(ii) of this section, without exception: 173-201-045 Fish and Shellfish Fish Water Supply (domestic) Recreation (ii) The following criteria from the matrix in paragraph (b)(1) of this section apply to the use classifications identified in paragraph (d)(14)(i) of this section: Use classification      Applicable criteria Fish and Shellfish, Fish      These classifications are assigned the criteria in Column B1 and B(2)—#2-10, Column C1—#2-10, Column D2—#2, 6, 10, 14 Water Supply (domestic)      These classifications are assigned the criteria in Column D1—all Recreation      This classification is assigned the criteria in Column D2—Marine waters and freshwaters not protected for domestic water supply			(iii) The human health criteria shall be applied at the State-proposed risk level of $10^{-6}$ . [§131.36 added at 57 FR 60910, Dec. 22, 1992]

*(Aquatic life criteria for arsenic and selenium withdrawn July 6, 1993 58 FR 36141)*

Column B1 and B(2)—#2-10  
 Column C1—#2-10  
 Column D2—#2, 6, 10, 14