

action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a temporary special local regulation for a 7 hour duration on 3 days that would prohibit entry into the race area or buffer zone, and prohibit vessels from transiting at speeds that cause wake within the spectator area. Normally such actions are categorically excluded from further review under paragraph L61 in Table 3-1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

#### V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <https://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online

docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 100 as follows:

#### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05-1.

■ 2. Add a temporary § 100.799-0631 to read as follows:

#### § 100.799-0631 Special Local Regulation; RWO World Championship, Key West, FL.

(a) *Locations*. The following regulated areas are established as special local regulations. All coordinates are North American Datum 1983.

(1) *Race and Safety Buffer Area*. Waters of the Atlantic Ocean of Key West, FL that are encompassed within the following points: Starting at Point 1 in position 24°32.506' N, 81°49.984' W; thence southwest to Point 2 in position 24°32.455' N, 81°49.040' W; thence northwest to Point 3 in position 24°32.559' N, 81°49.584' W; thence northwest to Point 4 in position 24°32.608' N, 81°49.628' W; thence northwest to Point 5 in position 24°33.095' N, 81°49.265' W; thence northeast to Point 6 in position 24°33.518' N, 81°48.902' W; thence northeast to Point 7 in position 24°33.908' N, 81°48.448' W; thence east to Point 8 in position 24°33.898' N, 81°48.364' W; thence southeast back to origin.

(2) *Spectator Area*. All waters of the Atlantic Ocean in Key West, FL that are encompassed within the following points: Starting at Point 1 in position 24°33.123' N, 81°49.290' W; thence northeast to Point 2 in position 24°33.545' N, 81°48.923' W; thence east to Point 3 in position 24°33.518' N, 81°48.902' W thence southwest to point 4 in position 24°33.095' N, 81°49.265' W thence west back to origin.

(b) *Definition*. As used in this section, the term “designated representative” means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a

Federal, State, and local officer designated by or assisting the Captain of the Port Key West in the enforcement of the safety zone.

(c) *Regulations*. (1) All non-participant persons and vessels, except those persons and vessels participating in the high-speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within the regulated areas described in paragraph (a) of this section unless authorized by the Captain of the Port Key West or their designated representative.

(2) All persons are prohibited from entering the water or swimming in the spectator area described in paragraph (a)(2) of this section.

(3) All vessels are prohibited from transiting at speeds that cause wake within the spectator area described in paragraph (a)(2) of this section.

(4) To seek permission to enter, contact the Captain of the Port Key West or a designated representative by telephone at (305) 433-0954, or via VHF radio on channel 16. If authorization is granted by the Captain of the Port Key West or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Key West or a designated representative.

(5) The Coast Guard will provide notice of the regulated area by Broadcast Notice to Mariners and on-scene designated representatives.

(d) *Enforcement Period*. This section will be enforced from 9:30 a.m. until 4:30 p.m. on November 6, 8, and 10, 2019.

Dated: July 31, 2019.

**A.A. Chamie,**

*Captain, U.S. Coast Guard, Captain of the Port Key West.*

[FR Doc. 2019-16740 Filed 8-5-19; 8:45 am]

**BILLING CODE 9110-04-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 131

[EPA-HQ-OW-2015-0174; FRL-9997-42-OW]

RIN 2040-AF94

#### Withdrawal of Certain Federal Water Quality Criteria Applicable to Washington

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to amend the

federal regulations to withdraw certain human health criteria applicable to waters in Washington because Washington adopted, and the EPA approved, human health criteria that the EPA determined are protective of Washington's designated uses for its waters. The EPA is providing an opportunity for public comment on this proposed withdrawal of certain federally promulgated human health criteria. The withdrawal will enable Washington to implement its EPA-approved human health criteria, submitted on August 1, 2016, and approved on May 10, 2019, as applicable criteria for Clean Water Act (CWA or the Act) purposes.

**DATES:** Comments must be received on or before October 7, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OW-2015-0174, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

The EPA is offering two public hearings so that interested parties may also provide oral comments on this proposed rulemaking. For more details on the public hearings and to register to attend the hearings, please visit <https://www.epa.gov/wqs-tech/water-quality-standards-regulations-washington>.

**FOR FURTHER INFORMATION CONTACT:**

Erica Fleisig, Office of Water, Standards and Health Protection Division (4305T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 566-1057; email address: [fleisig.eric@epa.gov](mailto:fleisig.eric@epa.gov).

**SUPPLEMENTARY INFORMATION:** This proposed rule is organized as follows:

- I. General Information
  - Does this action apply to me?
- II. Background
  - A. What are the applicable federal statutory and regulatory requirements?
  - B. What are the applicable federal water quality criteria that the EPA is proposing to withdraw?
- III. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
  - B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
  - C. Paperwork Reduction Act (PRA)
  - D. Regulatory Flexibility Act (RFA)
  - E. Unfunded Mandates Reform Act (UMRA)
  - F. Executive Order 13132: Federalism
  - G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  - I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
  - J. National Technology Transfer and Advancement Act of 1995
  - K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

**I. General Information**

*Does this action apply to me?*

This proposed action is proposing to withdraw certain federal human health criteria that are no longer needed due to the EPA's approval of corresponding state human health criteria on May 10, 2019. Entities discharging in Washington waters, citizens, as well as the state of Washington may be interested in this rulemaking, as after the completion of this rulemaking Washington's EPA-approved human health criteria, rather than the federal human health criteria, will be the applicable water quality standards in Washington waters for CWA purposes. If you have questions regarding the applicability of this action to a particular entity, consult the person identified in the preceding **FOR FURTHER INFORMATION CONTACT** section.

**II. Background**

*A. What are the applicable federal statutory and regulatory requirements?*

Consistent with the CWA, the EPA's water quality standards (WQS) program assigns to states and authorized tribes the primary authority for adopting

WQS.<sup>1</sup> After states adopt WQS, they must be submitted to the EPA for review and action in accordance with the CWA. The Act authorizes the EPA to promulgate federal WQS following the EPA's disapproval of state WQS or an Administrator's determination that new or revised WQS are "necessary to meet the requirements of the Act."<sup>2</sup>

On September 14, 2015, the EPA proposed a federal rule to establish updated human health criteria in Washington based on an Administrator's determination that new or revised WQS were necessary to meet the requirements of the Act. Specifically, in its 2015 proposed rulemaking, the EPA considered data representing regional and local fish consumption that reflected consumption levels much higher than the National Toxics Rule (NTR) fish consumption rate of 6.5 grams/day, and accordingly "determined that the federal human health criteria in the NTR as applied to Washington no longer protect the relevant designated uses of Washington's waters."<sup>3</sup> To address the Administrator's determination pursuant to its section 303(c) authority, the EPA's proposed rulemaking established human health criteria using a fish consumption rate of 175 grams/day.<sup>4</sup> As explained in the EPA's May 10, 2019, letter, the EPA also used all of the inputs from the EPA's recently updated 2015 CWA section 304(a) recommendations to calculate the proposed federal criteria.<sup>5</sup>

Following the EPA's 2015 proposed rulemaking, on August 1, 2016, Washington submitted human health criteria for the EPA's review.<sup>6</sup> Washington's criteria were based on a fish consumption rate of 175 grams/day and incorporated most of the components of the EPA's updated 2015 CWA section 304(a) recommendations.<sup>7</sup> By using a fish consumption rate of 175 grams/day which is consistent with the EPA's proposed rulemaking,

<sup>1</sup> 33 U.S.C. 1313(a), (c).

<sup>2</sup> 33 U.S.C. 1313(c)(4).

<sup>3</sup> *Revision of Certain Water Quality Standards Applicable to Washington*, 80 FR 55063, 55066 (September 14, 2015).

<sup>4</sup> *Id.* at 55066-55067.

<sup>5</sup> May 10, 2019. Letter and enclosed Technical Support Document from Chris Hladick, Regional Administrator, EPA Region 10 to Maia Bellon, Director, Department of Ecology, Re: The EPA's Reversal of the November 15, 2016 Clean Water Act Section 303(c) Partial Disapproval of Washington's Human Health Water Quality Criteria and Decision to Approve Washington's Criteria, at 7.

<sup>6</sup> Department of Ecology. *Washington State Water Quality Standards: Human health criteria and implementation tools. Overview of key decisions in rule amendment*. August 2016. Ecology Publication no. 16-10-025.

<sup>7</sup> *Id.*

Washington's human health criteria addressed the basis for the EPA's 2015 Administrator's determination—that it is necessary to adopt new or revised human health criteria based on a higher fish consumption rate.

For the reasons explained in the EPA's 2016 disapproval letter and final federal rule, the EPA partially disapproved certain human health criteria that Washington submitted to the EPA.<sup>8</sup> The EPA's final federal rule was issued concurrent with its partial disapproval letter.<sup>9</sup> In explaining the rationale underlying the partial disapproval of Washington's August 1, 2016, submittal, the EPA "agree[d] with Washington's decision to derive the human health criteria using a FCR of 175 g/day," noting that that value was consistent with the EPA's final federal rule,<sup>10</sup> however the EPA disagreed with the risk management decisions the State made during the development of its human health criteria and its decision not to incorporate all components of the updated 2015 CWA section 304(a) recommendations.<sup>11</sup>

Although the EPA promulgated human health criteria for Washington in the NTR, and subsequently in November 2016, the EPA prefers that states maintain primary responsibility and establish their own WQS. In response to a February 21, 2017, petition from several entities asking the EPA to reconsider the partial disapproval of Washington's August 2016 human health criteria,<sup>12</sup> the EPA issued a letter

<sup>8</sup> November 15, 2016. Letter (EPA Partial Disapproval Letter) and enclosed Technical Support Document (Partial Disapproval TSD) from Daniel D. Opalski, Director, Office of Water and Watersheds, EPA Region 10 to Maia Bellon, Director, Department of Ecology, Re: EPA's Partial Approval/Disapproval of Washington's Human Health Water Quality Criteria and Implementation Tools; 81 FR at 85417 ("Concurrent with this final rule, EPA is taking action under CWA 303(c) to approve in part, and disapprove in part, the human health criteria submitted by Washington.").

<sup>9</sup> *Revision of Certain Water Quality Standards Applicable to Washington*, 81 FR 85417 (November 28, 2016). Contrary to at least one comment letter EPA received prior to its May 10, 2019 Decision to Approve Washington's criteria, the EPA did not provide the State with 90 days to remedy the partial disapproval, as envisioned in section 303(c)(3) of the Act. See May 7, 2019 Letter from the Lower Elwha Klallam Tribe to Administrator Andrew Wheeler, EPA, Re: Washington State Water Quality Standards at 4.

<sup>10</sup> Partial Disapproval TSD at 16.

<sup>11</sup> May 10, 2019. Letter and enclosed Technical Support Document from Chris Hladick, Regional Administrator, EPA Region 10 to Maia Bellon, Director, Department of Ecology, Re: The EPA's Reversal of the November 15, 2016 Clean Water Act Section 303(c) Partial Disapproval of Washington's Human Health Water Quality Criteria and Decision to Approve Washington's Criteria, at 7–9.

<sup>12</sup> February 21, 2017. *Petition for Reconsideration of EPA's Partial Disapproval of Washington's August 1, 2016 submission on Human Health Water*

on August 3, 2018 stating its intent to reconsider its partial disapproval of Washington's human health criteria and its subsequent promulgation of federal criteria.<sup>13</sup> After a thorough review of the State's 2016 submittal and applicable provisions of the CWA, implementing regulations and longstanding EPA guidance, on May 10, 2019, the EPA reconsidered its partial disapproval of Washington's human health criteria and approved all but two of the criteria that the EPA previously disapproved.<sup>14</sup>

As provided in 40 CFR 131.21(c), federally promulgated WQS that are more stringent than EPA-approved state WQS remain applicable for purposes of the CWA until the EPA withdraws the federal standards. Accordingly, the EPA is proposing to amend the federal regulations to withdraw those federally promulgated human health criteria for which the EPA has approved Washington's criteria and is providing an opportunity for public comment on this proposed action.

The EPA's proposal to withdraw federal criteria following approval of state criteria is consistent with the federal and state roles contemplated by the CWA. Consistent with the cooperative federalism structure of the CWA, once the EPA approves state WQS addressing the same pollutants for which the EPA has promulgated federal WQS, it is incumbent on the EPA to withdraw the federal WQS to enable the EPA-approved state WQS to become the applicable WQS for CWA purposes. That is what the EPA is proposing to do in this proposed rulemaking. This proposal is consistent with the EPA's withdrawal of other federally promulgated WQS following the EPA's

*Quality Criteria and Implementation Tools, and Repeal of the Final Rule Revision of Certain Federal Water Quality Standards Applicable to Washington*, 81 Fed. Reg. 85,417 (Nov. 28, 2016) submitted by Northwest Pulp & Paper Association, American Forest and Paper Association, Association of Washington Business, Greater Spokane Incorporated, Treated Wood Council, Western Wood Preservers Institute, Utility Water Act Group and Washington Farm Bureau.

<sup>13</sup> August 3, 2018. Letter from David P. Ross, Assistant Administrator, Office of Water, EPA to Penny Shamblin, Counsel for Utility Water Act Group, Re: Petition for Reconsideration of the Environmental Protection Agency's (EPA) Partial Disapproval of Washington's Human Health Water Quality Criteria and Implementation Tools submitted by the State of Washington on August 1, 2016, and Repeal of the Final Rule Revision of Certain Federal Water Quality Standards Applicable to Washington.

<sup>14</sup> May 10, 2019. Letter and enclosed Technical Support Document from Chris Hladick, Regional Administrator, EPA Region 10 to Maia Bellon, Director, Department of Ecology, Re: The EPA's Reversal of the November 15, 2016 Clean Water Act Section 303(c) Partial Disapproval of Washington's Human Health Water Quality Criteria and Decision to Approve Washington's Criteria.

approval of state-adopted WQS.<sup>15</sup> Further, although the state of Washington opposes the EPA withdrawing the 2016 federal human health criteria, the State remains free to promulgate the federal standards into state law if it so chooses.<sup>16</sup>

Shortly before taking its action to approve Washington's human health criteria, the EPA received several letters expressing concerns about the EPA revising or repealing the federal criteria and the EPA's authority under the CWA to "propose new standards" for a state.<sup>17</sup> As described herein, the EPA reconsidered the human health criteria that Washington submitted to the EPA in 2016 and approved the majority of those criteria. In light of that approval, the EPA proposes to amend federal regulations to withdraw the federal criteria the EPA previously promulgated for Washington. Thus, in this proposed rulemaking, the EPA is not proposing to promulgate any new or revised federal criteria for Washington. The EPA's authority to promulgate new or revised federal criteria is not at issue in this proposal to withdraw the federal criteria.

#### *B. What are the applicable federal water quality criteria that the EPA is proposing to withdraw?*

This action proposes to amend federal regulations to withdraw all federal human health criteria promulgated for Washington in November 2016 at 40 CFR 131.45,<sup>18</sup> with the exception of

<sup>15</sup> See e.g., *Withdrawal of Certain Federal Water Quality Criteria Applicable to California: Lead, Chlorodibromomethane, and Dichlorobromomethane*, 83 FR 52163 (Oct. 16, 2018); *Water Quality Standards for the State of Florida's Lakes and Flowing Waters; Withdrawal*, 79 FR 57447 (Sept. 25, 2014); *Withdrawal of Certain Federal Water Quality Criteria Applicable to California, New Jersey and Puerto Rico*, 78 FR 20252 (Apr. 4, 2013).

<sup>16</sup> See May 7, 2019. Letter from Maia D. Bellon, Director, Washington Department of Ecology, to Hon. Andrew R. Wheeler, Administrator, EPA, Re: EPA's Intention to Reconsider Washington State's Water Quality Standards for Human Health Criteria.

<sup>17</sup> May 8, 2019. Letter from Bob Ferguson, Attorney General, Washington, to Hon. Andrew R. Wheeler, Administrator, EPA; see also May 7, 2019. Letter from Maia D. Bellon, Director, Washington Department of Ecology, to Hon. Andrew R. Wheeler, Administrator, EPA, Re: EPA's Intention to Reconsider Washington State's Water Quality Standards for Human Health Criteria; May 7, 2019. Letter from Frances G. Charles, Chairwoman, to Hon. Andrew R. Wheeler, Administrator, EPA, Re: Washington State Water Quality Standards (Human Health Criteria); May 3, 2019. Letter from Justin Parker, Executive Director, Northwest Indian Fisheries Commission, to Hon. Andrew R. Wheeler, Administrator, and Mr. David Ross, Assistant Administrator, Office of Water, EPA, Re: EPA Action Regarding Washington's Human Health Water Quality Criteria.

<sup>18</sup> *Revision of Certain Water Quality Standards Applicable to Washington*, 81 FR 85417 (November 28, 2016).

criteria for arsenic, methylmercury, and bis(2-chloro-1-methylethyl) ether. For arsenic, on May 10, 2019, the EPA reaffirmed its November 2016 disapproval of the two criteria Washington submitted for arsenic (water + organism and organism only), and therefore the federal arsenic criteria for Washington at 40 CFR 131.45 will remain in place.<sup>19</sup> For methylmercury and bis(2-chloro-1-methylethyl) ether, Washington did not submit criteria for those pollutants and therefore the federally promulgated criteria are the only criteria in effect for those pollutants in the State. Although the EPA is proposing to maintain the federally promulgated criteria for these pollutants, the EPA is also soliciting comment on whether to withdraw the federally promulgated criteria for methylmercury and bis(2-chloro-1-methylethyl) ether.

1. Washington Human Health Criteria That the EPA Approved on May 10, 2019

On May 10, 2019, the EPA revised its disapproval of 141 of Washington's human health criteria and approved

those criteria. In addition, the EPA approved four criteria for two pollutants (thallium and 2,3,7,8-TCDD [dioxin]) that the EPA previously deferred action on in November 2016.<sup>20</sup>

Because Washington now has 145 additional human health criteria approved by the EPA for CWA purposes, the EPA has determined that the 141 corresponding federally promulgated human health criteria are no longer needed in Washington. As noted in the EPA's May 10, 2019, action, the EPA determined upon reconsideration that Washington's 2016 human health criteria are scientifically sound and protective of the applicable designated uses in the state.<sup>21</sup> More information on the EPA's action to approve Washington's human health criteria upon reconsideration, including the EPA's approval letter and associated Technical Support Document, can be accessed at <https://www.epa.gov/wqs-tech/water-quality-standards-regulations-washington> and in the docket for this proposed rulemaking.

As explained above, the EPA seeks public comment before withdrawing the federally promulgated criteria. Although

the EPA has determined that these state criteria are scientifically sound and protective of the applicable designated uses for waters in the state and otherwise meet the requirements of the CWA and EPA's implementing regulations at 40 CFR 131, the EPA recognizes that many of Washington's human health criteria are less stringent than the EPA's federally promulgated criteria which are based on the EPA's CWA section 304(a) criteria (see Table 1). However, as explained in the EPA's May 10, 2019, approval and Technical Support Document, the EPA's CWA section 304(a) criteria are national recommendations and states retain discretion to adopt different criteria, that may be less stringent, if the state's criteria are based on sound science and protect the designated use. In issuing the May 10, 2019, approval, the EPA determined that Washington's human health criteria meet the requirements of the CWA and the EPA's regulations because the State's inputs are based on sound science and the resulting criteria protect the designated uses.

TABLE 1—COMPARISON OF FEDERALLY PROMULGATED CRITERIA AND EPA-APPROVED WASHINGTON CRITERIA

Chemical	CAS No.	Washington's criteria that EPA approved on May 10, 2019		EPA Federally promulgated criteria at 40 CFR 131.45 that EPA is proposing to withdraw	
		Water & organisms (µg/L)	Organisms only (µg/L)	Water & organisms (µg/L)	Organisms only (µg/L)
1. 1,1,1-Trichloroethane	71556	47000	160000	20000	50000.
2. 1,1,2,2-Tetrachloroethane	79345	0.12	0.46	0.1	0.3.
3. 1,1,2-Trichloroethane	79005	0.44	1.8	0.35	0.90.
4. 1,1-Dichloroethylene	75354	1200	4100	700	4000.
5. 1,2,4-Trichlorobenzene	120821	0.12	0.14	0.036	0.037.
6. 1,2-Dichlorobenzene	95501	2000	2500	700	800.
7. 1,2-Dichloroethane	107062	9.3	120	8.9	73.
8. 1,2-Dichloropropane	78875	(*)	(*)	(*)	(*).
9. 1,2-Diphenylhydrazine	122667	0.015	0.023	0.01	0.02.
10. 1,2-Trans-Dichloroethylene	156605	600	5800	200	1000.
11. 1,3-Dichlorobenzene	541731	13	16	2	2.
12. 1,3-Dichloropropene	542756	0.24	2.0	0.22	1.2.
13. 1,4-Dichlorobenzene	106467	460	580	200	200.
14. 2,3,7,8-TCDD (Dioxin)	1746016	0.000000064	0.000000064	0.000000013	0.000000014.
15. 2,4,6-Trichlorophenol	88062	(*)	(*)	(*)	(*).
16. 2,4-Dichlorophenol	120832	25	34	10	10.
17. 2,4-Dimethylphenol	105679	(*)	(*)	(*)	(*).
18. 2,4-Dinitrophenol	51285	60	610	30	100.
19. 2,4-Dinitrotoluene	121142	(*)	(*)	(*)	(*).
20. 2-Chloronaphthalene	91587	170	180	100	100.
21. 2-Chlorophenol	95578	(*)	(*)	(*)	(*).
22. 2-Methyl-4,6-Dinitrophenol	534521	7.1	25	3	7.
23. 3,3'-Dichlorobenzidine	91941	(*)	(*)	(*)	(*).
24. 3-Methyl-4-Chlorophenol	59507	(*)	(*)	(*)	(*).
25. 4,4'-DDD	72548	0.000036	0.000036	0.0000079	0.0000079.

<sup>19</sup> May 10, 2019. Letter and enclosed Technical Support Document from Chris Hladick, Regional Administrator, EPA Region 10 to Maia Bellon, Director, Department of Ecology, Re: The EPA's Reversal of the November 15, 2016 Clean Water Act Section 303(c) Partial Disapproval of Washington's Human Health Water Quality Criteria and Decision to Approve Washington's Criteria.

<sup>20</sup> May 10, 2019. Letter and enclosed Technical Support Document from Chris Hladick, Regional Administrator, EPA Region 10 to Maia Bellon, Director, Department of Ecology, Re: The EPA's Reversal of the November 15, 2016 Clean Water Act Section 303(c) Partial Disapproval of Washington's Human Health Water Quality Criteria and Decision to Approve Washington's Criteria.

<sup>21</sup> May 10, 2019. Letter and enclosed Technical Support Document from Chris Hladick, Regional Administrator, EPA Region 10 to Maia Bellon, Director, Department of Ecology, Re: The EPA's Reversal of the November 15, 2016 Clean Water Act Section 303(c) Partial Disapproval of Washington's Human Health Water Quality Criteria and Decision to Approve Washington's Criteria.

TABLE 1—COMPARISON OF FEDERALLY PROMULGATED CRITERIA AND EPA-APPROVED WASHINGTON CRITERIA—  
Continued

Chemical	CAS No.	Washington's criteria that EPA approved on May 10, 2019		EPA Federally promulgated criteria at 40 CFR 131.45 that EPA is proposing to withdraw	
		Water & organisms (µg/L)	Organisms only (µg/L)	Water & organisms (µg/L)	Organisms only (µg/L)
26. 4,4'-DDE .....	72559	0.000051 .....	0.000051 .....	0.00000088 .....	0.00000088.
27. 4,4'-DDT .....	50293	0.000025 .....	0.000025 .....	0.0000012 .....	0.0000012.
28. Acenaphthene .....	83329	110 .....	110 .....	30 .....	30.
29. Acrolein .....	107028	(*) .....	(*) .....	(*) .....	(*).
30. Acrylonitrile .....	107131	(*) .....	(*) .....	(*) .....	(*).
31. Aldrin .....	309002	0.0000057 .....	0.0000058 .....	0.000000041 .....	0.000000041.
32. alpha-BHC .....	319846	0.0005 .....	0.00056 .....	0.000048 .....	0.000048.
33. alpha-Endosulfan .....	959988	9.7 .....	10 .....	6 .....	7.
34. Anthracene .....	120127	3100 .....	4600 .....	100 .....	100.
35. Antimony .....	7440360	12 .....	180 .....	6 .....	90.
36. Arsenic .....	7440382	Disapproved .....	Disapproved .....	N/A .....	N/A.
37. Asbestos .....	1332214	(*) .....	(*) .....	(*) .....	(*).
38. Benzene .....	71432	(*) .....	(*) .....	(*) .....	(*).
39. Benzidine .....	92875	(*) .....	(*) .....	(*) .....	(*).
40. Benzo(a) Anthracene .....	56553	0.014 .....	0.021 .....	0.00016 .....	0.00016.
41. Benzo(a) Pyrene .....	50328	0.0014 .....	0.0021 .....	0.000016 .....	0.000016.
42. Benzo(b) Fluoranthene .....	205992	0.014 .....	0.021 .....	0.00016 .....	0.00016.
43. Benzo(k) Fluoranthene .....	207089	0.014 .....	0.21 .....	0.0016 .....	0.0016.
44. beta-BHC .....	319857	0.0018 .....	0.002 .....	0.0013 .....	0.0014.
45. beta-Endosulfan .....	33213659	(*) .....	(*) .....	(*) .....	(*).
46. Bis(2-Chloroethyl) Ether .....	111444	(*) .....	(*) .....	(*) .....	(*).
47. Bis(2-Chloro-1-Methylethyl) Ether <sup>a</sup> .	108601	Not submitted .....	Not submitted .....	See explanation below.	See explanation below.
48. Bis(2-Ethylhexyl) Phthalate ...	117817	0.23 .....	0.25 .....	0.045 .....	0.046.
49. Bromoform .....	75252	5.8 .....	27 .....	4.6 .....	12.
50. Butylbenzyl Phthalate .....	85687	0.56 .....	0.58 .....	0.013 .....	0.013.
51. Carbon Tetrachloride .....	56235	(*) .....	(*) .....	(*) .....	(*).
52. Chlordane .....	57749	0.000093 .....	0.000093 .....	0.000022 .....	0.000022.
53. Chlorobenzene .....	108907	380 .....	890 .....	100 .....	200.
54. Chlorodibromomethane .....	124481	0.65 .....	3 .....	0.60 .....	2.2.
55. Chloroform .....	67663	260 .....	1200 .....	100 .....	600.
56. Chrysene .....	218019	1.4 .....	2.1 .....	0.016 .....	0.016.
57. Copper .....	7440508	(*) .....	(*) .....	(*) .....	(*).
58. Cyanide .....	57125	19 .....	270 .....	9 .....	100.
59. Dibenzo(a,h) Anthracene .....	53703	0.0014 .....	0.0021 .....	0.000016 .....	0.000016.
60. Dichlorobromomethane .....	75274	0.77 .....	3.6 .....	0.73 .....	2.8.
61. Dieldrin .....	60571	0.0000061 .....	0.0000061 .....	0.000000070 .....	0.000000070.
62. Diethyl Phthalate .....	84662	4200 .....	5000 .....	200 .....	200.
63. Dimethyl Phthalate .....	131113	92000 .....	130000 .....	600 .....	600.
64. Di-n-Butyl Phthalate .....	84742	450 .....	510 .....	8 .....	8.
65. Endosulfan Sulfate .....	1031078	9.7 .....	(*) .....	9 .....	(*).
66. Endrin .....	72208	0.034 .....	0.035 .....	0.002 .....	0.002.
67. Endrin Aldehyde .....	7421934	(*) .....	(*) .....	(*) .....	(*).
68. Ethylbenzene .....	100414	200 .....	270 .....	29 .....	31.
69. Fluoranthene .....	206440	16 .....	16 .....	6 .....	6.
70. Fluorene .....	86737	420 .....	610 .....	10 .....	10.
71. Gamma-BHC; Lindane .....	58899	15 .....	17 .....	0.43 .....	0.43.
72. Heptachlor .....	76448	0.0000099 .....	0.00001 .....	0.00000034 .....	0.00000034.
73. Heptachlor Epoxide .....	1024573	0.0000074 .....	0.0000074 .....	0.0000024 .....	0.0000024.
74. Hexachlorobenzene .....	118741	0.000051 .....	0.000052 .....	0.0000050 .....	0.0000050.
75. Hexachlorobutadiene .....	87683	0.69 .....	4.1 .....	0.01 .....	0.01.
76. Hexachlorocyclopentadiene ..	77474	150 .....	630 .....	1 .....	1.
77. Hexachloroethane .....	67721	0.11 .....	0.13 .....	0.02 .....	0.02.
78. Indeno(1,2,3-cd) Pyrene .....	193395	0.014 .....	0.021 .....	0.00016 .....	0.00016.
79. Isophorone .....	78591	(*) .....	(*) .....	(*) .....	(*).
80. Methyl Bromide .....	74839	520 .....	(*) .....	300 .....	(*).
81. Methylene Chloride .....	75092	16 .....	250 .....	10 .....	100.
82. Methylmercury .....	22967926	(Not submitted) .....	(Not submitted) .....	See explanation below.	See explanation below.
83. Nickel .....	7440020	150 .....	190 .....	80 .....	100.
84. Nitrobenzene .....	98953	55 .....	320 .....	30 .....	100.
85. N-Nitrosodimethylamine .....	62759	(*) .....	(*) .....	(*) .....	(*).
86. N-Nitrosodi-n-Propylamine ...	621647	(*) .....	(*) .....	(*) .....	(*).
87. N-Nitrosodiphenylamine .....	86306	(*) .....	(*) .....	(*) .....	(*).
88. Pentachlorophenol (PCP) .....	87865	0.046 .....	0.1 .....	0.002 .....	0.002.
89. Phenol .....	108952	18000 .....	200000 .....	9000 .....	70000.

TABLE 1—COMPARISON OF FEDERALLY PROMULGATED CRITERIA AND EPA-APPROVED WASHINGTON CRITERIA—Continued

Chemical	CAS No.	Washington's criteria that EPA approved on May 10, 2019		EPA Federally promulgated criteria at 40 CFR 131.45 that EPA is proposing to withdraw	
		Water & organisms (µg/L)	Organisms only (µg/L)	Water & organisms (µg/L)	Organisms only (µg/L)
90. Polychlorinated Biphenyls (PCBs).	PCB	0.00017	0.00017	0.000007	0.000007.
91. Pyrene	129000	310	460	8	8.
92. Selenium	7782492	120	480	60	200.
93. Tetrachloroethylene	127184	4.9	7.1	2.4	2.9.
94. Thallium	7440280	0.24	0.27	1.7	6.3.
95. Toluene	108883	180	410	72	130.
96. Toxaphene	8001352	(*)	(*)	(*)	(*).
97. Trichloroethylene	79016	0.38	0.86	0.3	0.7.
98. Vinyl Chloride	75014	(*)	0.26	(*)	0.18.
99. Zinc	7440666	2300	2900	1000	1000.

<sup>a</sup> Bis(2-Chloro-1-Methylethyl) Ether was previously listed as Bis(2-Chloroisopropyl) Ether.

<sup>\*</sup> EPA approved Washington's criteria for these pollutants in November 2016 and therefore did not promulgate corresponding federal criteria.

2. Methylmercury and bis(2-chloro-1-methylethyl) ether

Washington did not submit human health criteria for methylmercury or bis(2-chloro-1-methylethyl) ether in August 2016. For methylmercury, Washington explained in its August 2016 submittal documents that it “decided to defer state adoption of [human health criteria] for methylmercury at this time, and plans to schedule adoption of methylmercury criteria and develop a comprehensive implementation plan after the current rulemaking is completed and has received EPA Clean Water Act approval.”<sup>22</sup> To date, the EPA is not aware of any efforts Washington has undertaken since 2016 to adopt methylmercury criteria or develop associated implementation materials, likely because the EPA promulgated a federal criterion. For bis(2-chloro-1-methylethyl) ether (which was previously named ‘bis(2-chloroisopropyl) ether’ in the NTR), Washington explained its position that “bis(2-chloroisopropyl) ether does not have a [CWA section] 304(a) national recommended criteria associated with it, thus the proposed criteria for this chemical were deleted from the [state’s] final rule. Ecology has determined that the older NTR criteria for bis(2-chloroisopropyl) ether were incorrect, and were not developed for that particular priority pollutant. Ecology is adopting criteria only for the priority

pollutants for which EPA has published 304(a) criteria documents.”<sup>23</sup>

CWA section 303(c)(2)(B) requires states to adopt numeric criteria for all toxic pollutants listed pursuant to CWA section 307(a)(1) for which the EPA has published 304(a) criteria, as necessary to protect the states’ designated uses. In 1992, the EPA promulgated the NTR at 40 CFR 131.36, establishing chemical-specific numeric criteria for 85 priority toxic pollutants for 14 states and territories (states), including Washington, that were not in compliance with the requirements of CWA section 303(c)(2)(B). In the proposed NTR, the EPA provided states three options for demonstrating compliance with section 303(c)(2)(B).<sup>24</sup>

- Option 1: Adopt statewide numeric criteria in state WQS for all section 307(a) toxic pollutants for which the EPA has developed criteria guidance, regardless of whether the pollutants are known to be present.

- Option 2: Adopt chemical-specific numeric criteria for priority toxic pollutants that are the subject of the EPA’s section 304(a) criteria guidance, where the state determines based on available information that the pollutants are present or discharged and can reasonably be expected to interfere with designated uses.

- Option 3: Adopt a procedure to be applied to a narrative WQS provision prohibiting toxicity in receiving waters. Such procedures would be used by the

state in calculating derived numeric criteria which must be used for all purposes under section 303(c) of the CWA. At a minimum, such criteria need to be developed for section 307(a) toxic pollutants, as necessary to support designated uses, where these pollutants are discharged or present in the affected waters and could reasonably be expected to interfere with designated uses.

For the NTR in Washington, the EPA applied Option 1, explaining that Washington “has not adopted numeric criteria for any human health based criteria for priority pollutants, and EPA has reason to believe that at least some additional criteria are necessary to comply with section 303(c)(2)(B).”<sup>25</sup> The EPA further explained that it did not attempt “to determine the specific priority pollutants and water bodies that require criteria. However, EPA has determined that at least some Federal criteria are necessary to protect designated uses. This determination is supported by information in the record which demonstrates that priority toxic pollutants are discharged or present in surface waters at levels that can reasonably be expected to interfere with State designated uses. For some priority toxic pollutants, available data clearly demonstrate use impairment and the need for toxics criteria. For most priority toxic pollutants, however, available data on the discharge and presence of priority toxic pollutants are spatially and temporally limited. Nevertheless, EPA believes that the data for many of these pollutants are sufficient to satisfy the ‘reasonable

<sup>23</sup> *Id.*

<sup>24</sup> EPA. 1991. *Amendments to the Water Quality Standards Regulation to Establish the Numeric Criteria for Priority Toxic Pollutants Necessary to Bring All States Into Compliance With Section 303(c)(2)(B)*. 56 FR 58420, November 19, 1991. <https://www.epa.gov/sites/production/files/2015-06/documents/ntr-proposal-1991.pdf>.

<sup>25</sup> *Id.*

<sup>22</sup> Department of Ecology. *Washington State Water Quality Standards: Human health criteria and implementation tools, Overview of key decisions in rule amendment*. August 2016. Ecology Publication no. 16–10–025. Page 80.

expectation' test established in section 303(c)(2)(B).''<sup>26</sup>

In 2016, Washington explained in its submittal that it was following Option 1 outlined in the NTR by adopting human health criteria for all CWA section 307(a) priority toxic pollutants (except mercury/methylmercury) for which the EPA has developed national recommended CWA section 304(a) criteria, regardless of whether the pollutants are known to be present in the state.<sup>27</sup> The EPA followed this same approach in 2016 when promulgating federal human health criteria for Washington.<sup>28</sup> However, while Washington concluded in 2016 that it wanted to retain the 1992 federally promulgated NTR criteria for mercury and adopt methylmercury criteria in the future, the EPA determined that revised criteria for all priority pollutants were necessary in Washington and therefore promulgated a fish tissue methylmercury criterion (replacing the NTR water column mercury criteria) for Washington in 2016. Also, as explained in a memo to the file in the docket for the 2016 rulemaking,<sup>29</sup> the EPA disagreed with Washington's conclusion that bis(2-chloro-1-methylethyl) ether was not a CWA section 307(a) priority pollutant with associated CWA section 304(a) criteria, and therefore the EPA promulgated criteria for bis(2-chloro-1-methylethyl) ether at 40 CFR 131.45. Because the EPA followed the same Option 1 approach in 2016 as it used in the NTR and as Washington used for its submittal in 2016, the EPA did not specifically conduct a search for available information indicating that any of the priority pollutants, including methylmercury and bis(2-chloro-1-methylethyl) ether, are present or discharged in Washington and can reasonably be expected to interfere with Washington's designated uses.

However, as Washington noted in its 2016 submittal, mercury contamination is widespread across all 50 states, and Washington has listed waters as impaired and issued fish advisories due to mercury.<sup>30</sup> Additionally,

Washington's 2016 cost-benefit analysis for its human health criteria rulemaking identified mercury as one of the five most detected chemicals in three discharger categories (wastewater treatment plants, pulp and paper mills, and resource extraction).<sup>31</sup> For its final rulemaking in 2016, the EPA identified reasonable potential for certain industrial dischargers in the state to cause or contribute to exceedances of the federally promulgated methylmercury criterion.<sup>32</sup> Therefore, the available evidence indicates that mercury is present and discharged in Washington and can reasonably be expected to interfere with Washington's designated uses.

The available data on bis(2-chloro-1-methylethyl) ether are more limited. The EPA did not identify reasonable potential for any dischargers in Washington to cause or contribute to exceedances of the federally promulgated criteria for bis(2-chloro-1-methylethyl) ether. Washington did not evaluate bis(2-chloro-1-methylethyl) ether in its cost-benefit analysis because it did not include this pollutant in the state rulemaking. Therefore, the EPA is not aware of evidence on whether bis(2-chloro-1-methylethyl) ether is present or discharged in Washington and can reasonably be expected to interfere with Washington's designated uses.

Given the information outlined above, the EPA proposes to retain (*i.e.*, not withdraw) the methylmercury and bis(2-chloro-1-methylethyl) ether human health criteria promulgated for Washington at 40 CFR 131.45 (81 FR 85417, November 28, 2016). This is consistent with the Option 1 approach and will ensure that Washington has CWA-effective human health criteria for these two pollutants that may be present in Washington's waters. The EPA specifically solicits any additional information on whether mercury/methylmercury and/or bis(2-chloro-1-methylethyl) ether are present or discharged in Washington and can reasonably be expected to interfere with Washington's designated uses. Based on the public comments received, the EPA may consider withdrawing the federally promulgated criteria for one or both of these pollutants. If the EPA withdraws the federal criteria for methylmercury and/or bis(2-chloro-1-methylethyl) ether, there would be no applicable

numeric criteria for CWA purposes. Washington may, at any time adopt and submit to the EPA human health criteria for either pollutant, consistent with CWA section 303(c) and the EPA's implementing regulations at 40 CFR part 131.

### III. Statutory and Executive Order Reviews

#### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

It has been determined that this proposed rule is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is, therefore, not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). The proposed rule does not establish any requirements directly applicable to regulated entities or other sources of toxic pollutants.

#### B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is expected to be an Executive Order 13771 deregulatory action.

#### C. Paperwork Reduction Act (PRA)

This action does not impose any new information-collection burden under the Paperwork Reduction Act (PRA) because it is administratively withdrawing federal requirements that are no longer needed in Washington. It does not include any information collection, reporting, or recordkeeping requirements. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations 40 CFR part 131 and has assigned OMB control number 2040-0286.

#### D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (RFA). This action will not impose any requirements on small entities. Small entities, such as small businesses or small governmental jurisdictions, are not directly regulated by this rule.

#### E. Unfunded Mandates Reform Act (UMRA)

This action contains no unfunded federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. As

<sup>26</sup> *Id.*

<sup>27</sup> Department of Ecology. *Washington State Water Quality Standards: Human health criteria and implementation tools, Overview of key decisions in rule amendment*. August 2016. Ecology Publication no. 16-10-025. Page 20.

<sup>28</sup> *Revision of Certain Water Quality Standards Applicable to Washington*, 81 FR 85417 (November 28, 2016).

<sup>29</sup> EPA. 2016. Bis chem CAS 108-60-1 Memo to File clean. <https://www.regulations.gov/document?D=EPA-HQ-OW-2015-0174-0301>.

<sup>30</sup> Department of Ecology. *Washington State Water Quality Standards: Human health criteria and implementation tools, Overview of key decisions in rule amendment*. August 2016. Ecology Publication no. 16-10-025. Page 80.

<sup>31</sup> Department of Ecology. *Final Cost-Benefit and Least-Burdensome Alternative Analyses*. July 2016. Ecology Publication no. 16-10-019. Page 27.

<sup>32</sup> Abt Associates. *Economic Analysis for Water Quality Standards Applicable to the State of Washington*. October 21, 2016. <https://www.regulations.gov/document?D=EPA-HQ-OW-2015-0174-0300>.

this action proposes to withdraw certain federally promulgated criteria, the action imposes no enforceable duty on any state, local, or tribal governments, or the private sector.

*F. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. This rule imposes no regulatory requirements or costs on any state or local governments. Thus, Executive Order 13132 does not apply to this action.

*G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action may have tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. In the state of Washington, there are 29 federally recognized Indian tribes.

The EPA initiated consultation with federally recognized tribal officials under the EPA's Policy on Consultation and Coordination with Indian tribes early in the process of developing this proposed rule to allow meaningful and timely input into its development. The EPA initially offered tribal consultation on this rule making on May 21, 2019. EPA staff then offered two informational calls for tribal staff on June 4 and 5, 2019, to assist tribes with the consultation process, including the tribes' decisions on whether to accept the offer to consult. Many tribes have expressed dissatisfaction that EPA did not offer consultation prior to its May 10, 2019, decision and have questioned how meaningful the EPA's offer for consultation is on this rule making as a result. To the extent tribes have been interested in consulting on this rulemaking, they have emphasized the importance of consultation occurring prior to publication of a proposed rule.

A number of tribes expressed the need for more time prior to the proposed rule publication to conduct consultation, for more information provided in advance to prepare for and engage in consultation and for the actual EPA decision-maker to be present.

Input received from tribes during consultation, meetings and through letters received thus far, indicates tribes are opposed to this proposed action. Tribes have raised health, economic and implementation concerns, as well as the EPA's trust responsibility, treaty obligations and consultation practices. While the EPA acknowledges it may not satisfy the tribal consultation expectations of each tribe, the EPA will continue to offer the opportunity to consult up to the point of finalizing this rule and will evaluate the input received before making a final decision.

*H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This rule is not subject to Executive Order 13045, because it is not economically significant as defined in Executive Order 12866, and because the environmental health or safety risks addressed by this action do not present a disproportionate risk to children.

*I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

*J. National Technology Transfer and Advancement Act of 1995*

This proposed rulemaking does not involve technical standards.

*K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs

federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. The EPA concludes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The EPA has previously determined that Washington's adopted and EPA-approved criteria are protective of human health.

**List of Subjects in 40 CFR Part 131**

Environmental protection, Indians-lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control.

Dated: July 23, 2019.

**Andrew R. Wheeler,**  
*Administrator.*

For the reasons set forth in the preamble, the EPA proposes to amend 40 CFR part 131 as follows:

**PART 131—WATER QUALITY STANDARDS**

- 1. The authority citation for part 131 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

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

- 2. Amend § 131.45 by revising paragraph (b) to read as follows:

**§ 131.45 Revision of certain Federal water quality criteria applicable to Washington.**

\* \* \* \* \*

(b) *Criteria for priority toxic pollutants in Washington.* The applicable human health criteria are shown in Table 1 to paragraph (b).



TABLE 1 TO PARAGRAPH (b)—HUMAN HEALTH CRITERIA FOR WASHINGTON

A		B					C	
Chemical	CAS No.	Cancer Slope factor, CSF (per mg/kg-d)	Relative source contribution, RSC (-)	Reference dose, RfD (mg/kg-d)	Bio-accumulation factor (L/kg tissue)	Bio-concentration factor (L/kg tissue)	Water & organisms (µg/L)	Organisms only (µg/L)
		(B1)	(B2)	(B3)	(B4)	(B5)	(C1)	(C2)
1. Arsenic**	7440382	1.75				44	<sup>a</sup> 0.018	<sup>a</sup> 0.14
2. Bis(2-Chloro-1-Methylethyl) Ether*	108601		0.50	0.04	10		400	900.
3. Methylmercury	22967926		2.7E-05	0.0001				<sup>b</sup> 0.03 (mg/kg).

<sup>a</sup> This criterion refers to the inorganic form of arsenic only.  
<sup>b</sup> This criterion is expressed as the fish tissue concentration of methylmercury (mg methylmercury/kg fish). See *Water Quality Criterion for the Protection of Human Health: Methylmercury* (EPA-823-R-01-001, January 3, 2001) for how this value is calculated using the criterion equation in the EPA's 2000 Human Health Methodology rearranged to solve for a protective concentration in fish tissue rather than in water.

\* Bis(2-Chloro-1-Methylethyl) Ether was previously listed as Bis(2-Chloroisopropyl) Ether.  
 \*\* These criteria were promulgated for Washington in the National Toxics Rule at 40 CFR 131.36, and are moved into 40 CFR 131.45 to have one comprehensive human health criteria rule for Washington.

\* \* \* \* \*  
 [FR Doc. 2019-16700 Filed 8-5-19; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 721**

[EPA-HQ-OPPT-2019-0359; FRL-9996-62]

RIN 2070-AB27

**Significant New Use Rules on Certain Chemical Substances (19-2.F)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 31 chemical substances which were the subject of premanufacture notices. 7 of these chemical substances are subject to Orders issued by EPA pursuant to TSCA section 5(e). This action would require persons who intend to manufacture (defined by statute to include import) or process any of these 31 chemical substances for an activity that is proposed as a significant new use to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the use, under the conditions of use for that chemical substance, within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required by that determination.

**DATES:** Comments must be received on or before September 5, 2019.

**ADDRESSES:** Submit your comments, identified by docket identification (ID)

number EPA-HQ-OPPT-2019-0359, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:**

*For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 564-9232; email address: [moss.kenneth@epa.gov](mailto:moss.kenneth@epa.gov).

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this proposed rule. The following list of North American

Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to final SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this proposed rule on or after September 5, 2019 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see 40 CFR 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

*B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or