

Exhibit	559
Date	2/15/02
Witness	Willing
Diane Mills, Court Reporter	

Cascades Ecoregion:		
Trophic State	If Ambient TP (µg/l) Range of Lake is:	Then criteria should be set at:
Ultra-oligotrophic	0-4	4 or less
Oligotrophic	>4-10	10 or less
	<u>Action value</u>	
	>10	lake specific study may be initiated.
Columbia Basin Ecoregion:		
Trophic State	If Ambient TP (µg/l) Range of Lake is:	Then criteria should be set at:
Ultra-oligotrophic	0-4	4 or less
Oligotrophic	>4-10	10 or less
Lower mesotrophic	>10-20	20 or less
Upper mesotrophic	>20-35	35 or less
	<u>Action value</u>	
	>35	lake specific study may be initiated.

Lakes in the Willamette, East Cascade Foothills, or Blue Mountain ecoregions do not have recommended values and need to have lake-specific studies in order to receive criteria as described in (c)(i) of this subsection.

(b) The following actions are recommended if ambient monitoring of a lake shows the epilimnetic total phosphorus concentration, as shown in Table 1 of this section, is below the action value for an ecoregion:

(i) Determine trophic status from existing or newly gathered data. The recommended minimum sampling to determine trophic status is calculated as the mean of four or more samples collected from the epilimnion between June through September in one or more consecutive years. Sampling must be spread throughout the season.

(ii) Propose criteria at or below the upper limit of the trophic state; or

(iii) Conduct lake-specific study to determine and propose to adopt appropriate criteria as described in (c) of this subsection.

(c) The following actions are recommended if ambient monitoring of a lake shows total phosphorus to exceed the action value for an ecoregion shown in Table 1 of this section or where recommended ecoregional action values do not exist:

(i) Conduct a lake-specific study to evaluate the characteristic uses of the lake. A lake-specific study may vary depending on the source or threat of impairment. Phytoplankton blooms, toxic phytoplankton, or excessive aquatic plants, are examples of various sources of impairment. The following are examples of quantitative measures that a study may describe: Total phosphorus, total nitrogen, chlorophyll-a, dissolved oxygen in the hypolimnion if thermally stratified, pH, hardness, or other measures of existing conditions and potential changes in any one of these parameters.

(ii) Determine appropriate total phosphorus concentrations or other nutrient criteria to protect characteristic lake uses. If the existing total phosphorus concentration is protective of characteristic lake uses, then set criteria at existing total phosphorus concentration. If the existing total phosphorus concentration is not protective of the existing characteristic lake uses, then set criteria at a protective concentration. Proposals to adopt appropriate total phosphorus criteria to protect characteristic uses must be developed by considering

technical information and stakeholder input as part of a public involvement process equivalent to the Administrative Procedure Act (chapter 34.05 RCW).

(iii) Determine if the proposed total phosphorus criteria necessary to protect characteristic uses is achievable. If the recommended criterion is not achievable and if the characteristic use the criterion is intended to protect is not an existing use, then a higher criterion may be proposed in conformance with 40 CFR part 131.10.

(d) The department will consider proposed lake-specific nutrient criteria during any water quality standards rule making that follows development of a proposal. Adoption by rule formally establishes the criteria for that lake.

(e) Prioritization and investigation of lakes by the department will be initiated by listing problem lakes in a watershed needs assessment, and scheduled as part of the water quality program's watershed approach to pollution control. This prioritization will apply to lakes identified as warranting a criteria based on the results of a lake-specific study, to lakes warranting a lake-specific study for establishing criteria, and to lakes requiring restoration and pollution control measures due to exceedance of an established criterion. The adoption of nutrient criteria are generally not intended to apply to lakes or ponds with a surface area smaller than five acres; or to ponds wholly contained on private property owned and surrounded by a single landowner; and nutrients do not drain or leach from these lakes or private ponds to the detriment of other property owners or other water bodies; and do not impact designated uses in the lake. However, if the landowner proposes criteria the department may consider adoption.

(f) The department may not need to set a lake-specific criteria or further investigate a lake if existing water quality conditions are naturally poorer (higher TP) than the action value and uses have not been lost or degraded, per WAC 173-201A-070(2).

[Statutory Authority Chapter 90.48 RCW and 40 CFR 131.97-23.064 (Order 94-19), § 173-201A-030, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW 92-24-037 (Order 92-29), § 173-201A-030, filed 11/25/92, effective 12/26/92.]

WAC 173-201A-040 Toxic substances. (1) Toxic substances shall not be introduced above natural background lev-

els in waters of the state which have the potential either singularly or cumulatively to adversely affect characteristic water uses, cause acute or chronic toxicity to the most sensitive biota dependent upon those waters, or adversely affect public health, as determined by the department.

(2) The department shall employ or require chemical testing, acute and chronic toxicity testing, and biological assessments, as appropriate, to evaluate compliance with subsection (1) of this section and to ensure that aquatic communities and the existing and characteristic beneficial uses of waters are being fully protected.

(3) The following criteria shall be applied to all surface waters of the state of Washington for the protection of aquatic life. The department may revise the following criteria on a statewide or waterbody-specific basis as needed to protect aquatic life occurring in waters of the state and to increase the technical accuracy of the criteria being applied. The department shall formally adopt any appropriate revised criteria as part of this chapter in accordance with the provisions established in chapter 34.05 RCW, the Administrative Procedure Act. The department shall ensure there are early opportunities for public review and comment on proposals to develop revised criteria. Values are µg/L for all substances except Ammonia and Chloride which are mg/L:

Substance	Freshwater		Marine Water	
	Acute	Chronic	Acute	Chronic
Aldrin/Dieldrin	2.5a	0.0019b	0.71a	0.0019b
Ammonia (un-ionized NH ₃) hb	f,c	g,d	0.233h,c	0.035h,d
Arsenic dd	360.0c	190.0d	69.0c,1l	36.0d, cc,1l
Cadmium dd	i,c	j,d	42.0c	9.3d
Chlordane	2.4a	0.0043b	0.09a	0.004b
Chloride (Dissolved) k	860.0h,c	230.0h,d	-	-
Chlorine (Total Residual)	19.0c	11.0d	13.0c	7.5d
Chlorpyrifos	0.083c	0.041d	0.011c	0.0056d
Chromium (Hex) dd	15.0c,1i,r	10.0d,j	1,100.0c,1,1l	50.0d,1l
Chromium (Tri) gg	m,c	n,d	-	-
Copper dd	o,c	p,d	4.8c,1l	3.1d,1l
Cyanide ee	22.0c	5.2d	1.0c,mm	-
DDT (and metabolites)	1.1a	0.001b	0.13a	0.001b
Dieldrin/Aldrin e	2.5a	0.0019b	0.71a	0.0019b
Endosulfan	0.22a	0.056b	0.034a	0.0087b
Endrin	0.18a	0.0023b	0.037a	0.0023b
Heptachlor	0.52a	0.0038b	0.053a	0.0036b
Hexachlorocyclohexane (Lindane)	2.0a	0.08b	0.16a	-
Lead dd	q,c	r,d	210.0c,1l	8.1d,1l
Mercury s	2.1c,kk,dd	0.012d,ff	1.8c,1l,dd	0.025d,ff
Nickel dd	t,c	u,d	74.0c,1l	8.2d,1l
Parathion	0.065c	0.013d	-	-
Pentachlorophenol (PCP)	w,c	v,d	13.0c	7.9d
Polychlorinated Biphenyls (PCBs)	2.0b	0.014b	10.0b	0.030b
Selenium	20.0c,ff	5.0d,ff	290c,1l,dd	71.0d, x,1l,dd
Silver dd	y,a	-	1.9a,1l	-
Toxaphene	0.73c,z	0.0002d	0.21c,z	0.0002d
Zinc dd	aa,c	bb,d	90.0c,1l	81.0d,1l

Notes to Table.

- a An instantaneous concentration not to be exceeded at any time.
- b A 24-hour average not to be exceeded
- c A 1-hour average concentration not to be exceeded more than once every three years on the average
- d A 4-day average concentration not to be exceeded more than once every three years on the average

(200) Ed)

e. Aldrin is metabolically converted to Dieldrin. Therefore, the sum of the Aldrin and Dieldrin concentrations are compared with the Dieldrin criteria

f. Shall not exceed the numerical value given by:

where: $FT = \frac{0.52 - (FT)(FPH)(2)}{10^{(0.0320 - TCAP)}}; TCAP \leq T \leq 30$
 $FT = 10^{(0.0320 - T)}; 0 \leq T \leq TCAP$
 $FPH = 1, 8 \leq pH \leq 9$
 $FPH = (1 + 10^{(7 - pH)}) - 1.25; 6.5 \leq pH \leq 8.0$
 $TCAP = 20^\circ C; \text{Salmonids present.}$
 $TCAP = 25^\circ C; \text{Salmonids absent.}$

g. Shall not exceed the numerical value given by

$0.80 + (FT)(FPH)(RATIO)$
 where: $RATIO = 13.5, 7.7 \leq pH \leq 9$
 $RATIO = \frac{(20.25 \times 10^{(7 - pH)}) + (1 + 10^{(7 - pH)})}{10^{(7 - pH)}}; 6.5 \leq pH \leq 7.7$
 where: FT and FPH are as shown in (f) above except.
 $TCAP = 15^\circ C, \text{Salmonids present.}$
 $TCAP = 20^\circ C, \text{Salmonids absent.}$

h. Measured in milligrams per liter rather than micrograms per liter.

i. $\leq (0.944)(e^{(1.128[\ln(\text{hardness})] - 3.828)})$ at hardness= 100. Conversion factor (CF) of 0.944 is hardness dependent. CF is calculated for other hardnesses as follows: $CF = 1.136672 - [(\ln \text{hardness})(0.041838)]$

j. $\leq (0.909)(e^{(0.7852[\ln(\text{hardness})] - 3.490)})$ at hardness= 100. Conversion factor (CF) of 0.909 is hardness dependent. CF is calculated for other hardnesses as follows: $CF = 1.101672 - [(\ln \text{hardness})(0.041838)]$

k. Criterion based on dissolved chloride in association with sodium. This criterion probably will not be adequately protective when the chloride is associated with potassium, calcium, or magnesium, rather than sodium.

l. Salinity dependent effects. At low salinity the 1-hour average may not be sufficiently protective

m. $\leq (0.316)(e^{(0.8190[\ln(\text{hardness})] + 3.688)})$

n. $\leq (0.860)(e^{(0.8190[\ln(\text{hardness})] + 1.561)})$

o. $\leq (0.960)(e^{(0.9422[\ln(\text{hardness})] - 1.464)})$

p. $\leq (0.960)(e^{(0.8545[\ln(\text{hardness})] - 1.465)})$

q. $\leq (0.791)(e^{(1.273[\ln(\text{hardness})] - 1.460)})$ at hardness= 100. Conversion factor (CF) of 0.791 is hardness dependent. CF is calculated for other hardnesses as follows: $CF = 1.46203 - [(\ln \text{hardness})(0.145712)]$.

r. $\leq (0.791)(e^{(1.273[\ln(\text{hardness})] - 1.705)})$ at hardness= 100. Conversion factor (CF) of 0.791 is hardness dependent. CF is calculated for other hardnesses as follows: $CF = 1.46203 - [(\ln \text{hardness})(0.145712)]$.

s. If the four-day average chronic concentration is exceeded more than once in a three-year period, the edible portion of the consumed species should be analyzed. Said edible tissue concentrations shall not be allowed to exceed 1.0 mg/kg of methylmercury

t. $\leq (0.998)(e^{(0.8460[\ln(\text{hardness})] + 3.2612)})$

u. $\leq (0.997)(e^{(0.8460[\ln(\text{hardness})] + 1.1645)})$

v. $\leq e^{(1.005(pH) - 5.290)}$

w. $\leq e^{(1.005(pH) - 4.830)}$

x. The status of the fish community should be monitored whenever the concentration of selenium exceeds 5.0 µg/l in salt water.

y. $\leq (0.85)(e^{(1.72[\ln(\text{hardness})] - 6.52)})$

z. Channel Catfish may be more acutely sensitive.

aa. $\leq (0.978)(e^{(0.8473[\ln(\text{hardness})] - 0.8604)})$

bb. $\leq (0.986)(e^{(0.8473[\ln(\text{hardness})] - 0.7614)})$

cc. Nonlethal effects (growth, C-14 uptake, and chlorophyll production) to diatoms (*Thalassiosira aestivalis* and *Skeletonema costatum*) which are common to Washington's waters have been noted at levels

below the established criteria. The importance of these effects to the diatom populations and the aquatic system is sufficiently in question to persuade the state to adopt the USEPA National Criteria value (36 µg/L) as the state threshold criteria, however, wherever practical the ambient concentrations should not be allowed to exceed a chronic marine concentration of 21 µg/L.

- dd. These ambient criteria in the table are for the dissolved fraction. The cyanide criteria are based on the weak acid dissociable method. The metals criteria may not be used to calculate total recoverable effluent limits unless the seasonal partitioning of the dissolved to total metals in the ambient water are known. When this information is absent, these metals criteria shall be applied as total recoverable values, determined by back-calculation, using the conversion factors incorporated in the criterion equations. Metals criteria may be adjusted on a site-specific basis when data are made available to the department clearly demonstrating the effective use of the water effects ratio approach established by USEPA, as generally guided by the procedures in USEPA Water Quality Standards Handbook, December 1983, as supplemented or replaced. Information which is used to develop effluent limits based on applying metals partitioning studies or the water effects ratio approach shall be identified in the permit fact sheet developed pursuant to WAC 173-220-060 or 173-226-110, as appropriate, and shall be made available for the public comment period required pursuant to WAC 173-220-050 or 173-226-130(3), as appropriate.
- ee. The criteria for cyanide is based on the weak and dissociable method in the 17th Ed. Standard Methods for the Examination of Water and Wastewater, 4500-CN I, and as revised (see footnote dd, above)
- ff. These criteria are based on the total-recoverable fraction of the metal.
- gg. Where methods to measure trivalent chromium are unavailable, these criteria are to be represented by total-recoverable chromium.
- hh. Tables for the conversion of total ammonia to un-ionized ammonia for freshwater can be found in the USEPA's Quality Criteria for Water, 1986. Criteria concentrations based on total ammonia for marine water can be found in USEPA Ambient Water Quality Criteria for Ammonia (Saltwater)-1989, EPA440/5-88-004, April 1989.
- ii. Conversion factor to calculate dissolved metal concentration is 0.982
- jj. Conversion factor to calculate dissolved metal concentration is 0.962.
- kk. Conversion factor to calculate dissolved metal concentration is 0.85.
- ll. Marine conversion factors (CF) used for calculating dissolved metals concentrations. Conversion factors are applicable to both acute and chronic criteria for all metals except mercury. CF for mercury is applicable to the acute criterion only. Conversion factors are already incorporated into the criteria in the table. Dissolved criterion = criterion x CF

Metal	CF
Arsenic	1.000
Cadmium	0.994
Chromium (VI)	0.993
Copper	0.83
Lead	0.951
Mercury	0.85
Nickel	0.990
Selenium	0.998
Silver	0.85
Zinc	0.946

mm. The cyanide criteria are: 9.1µg/l chronic and 2.8µg/l acute and are applicable only to waters which are east of a line from Point Roberts to Lawrence Point, to Green Point to Deception Pass; and south from Deception Pass and of a line from Partridge Point to Point Wilson.

(4) USEPA Quality Criteria for Water, 1986 shall be used in the use and interpretation of the values listed in subsection (3) of this section.

(5) Concentrations of toxic, and other substances with toxic propensities not listed in subsection (3) of this section shall be determined in consideration of USEPA Quality Criteria for Water, 1986, and as revised, and other relevant information as appropriate. Human health-based water quality

[Title 173 WAC—p. 482]

criteria used by the state are contained in 40 CFR 131.36 (known as the National Toxics Rule).

(6) Risk-based criteria for carcinogenic substances shall be selected such that the upper-bound excess cancer risk is less than or equal to one in one million.

[Statutory Authority: Chapter 90.48 RCW and 40 CFR 131. 97-23-064 (Order 94-19), § 173-201A-040, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW 92-24-037 (Order 92-29), § 173-201A-040, filed 11/25/92, effective 12/26/92.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 173-201A-050 Radioactive substances. (1) Deteriorous concentrations of radioactive materials for all classes shall be as determined by the lowest practicable concentration attainable and in no case shall exceed:

(a) 1/12.5 of the values listed in WAC 246-221-290 (Column 2, Table II, effluent concentrations, rules and regulations for radiation protection); or

(b) USEPA Drinking Water Regulations for radionuclides, as published in the Federal Register of July 9, 1976, or subsequent revisions thereto.

(2) Nothing in this chapter shall be interpreted to be applicable to those aspects of governmental regulation of radioactive waters which have been preempted from state regulation by the Atomic Energy Act of 1954, as amended, as interpreted by the United States Supreme Court in the cases of *Northern States Power Co. v. Minnesota* 405 U.S. 1035 (1972) and *Train v. Colorado Public Interest Research Group*, 426 U.S. 1 (1976).

[Statutory Authority: Chapter 90.48 RCW and 40 CFR 131. 97-23-064 (Order 94-19), § 173-201A-050, filed 11/18/97, effective 12/19/97. Statutory Authority: Chapter 90.48 RCW 92-24-037 (Order 92-29), § 173-201A-050, filed 11/25/92, effective 12/26/92.]

WAC 173-201A-060 General considerations. The following general guidelines shall apply to the water quality criteria and classifications set forth in WAC 173-201A-030 through 173-201A-140 hereof:

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

(2) In brackish waters of estuaries, where the fresh and marine water quality criteria differ within the same classification, the criteria shall be applied on the basis of vertically averaged salinity. The freshwater criteria shall be applied at any point where ninety-five percent of the vertically averaged daily maximum salinity values are less than or equal to one part per thousand. Marine criteria shall apply at all other locations; except that the marine water quality criteria shall apply for dissolved oxygen when the salinity is one part per thousand or greater and for fecal coliform organisms when the salinity is ten parts per thousand or greater.

(3) In determining compliance with the fecal coliform criteria in WAC 173-201A-030, averaging of data collected beyond a thirty-day period, or beyond a specific discharge event under investigation, shall not be permitted when such averaging would skew the data set so as to mask noncompliance periods.

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