

April 1, 2014

The Honorable Jay Inslee
Governor, Washington State
PO Box 40002
Olympia, WA 98504-0002

RE: Washington's Update to Human Health Water Quality Criteria

Dear Governor Inslee:

On behalf of the cosignatories of this letter, we would like to thank you and your staff for the continued effort and time you have personally invested in the effort to update human health-based water quality standards. We trust you share our view on the two necessary outcomes of this regulation development effort: to derive standards that protect public health, and encourage economic growth and regulatory certainty with reasonable discretionary policy choices.

To this end, we are particularly encouraged by the state's direction in addressing three ubiquitous pollutants in the environment: PCBs, arsenic and mercury. These pollutants require customized solutions, and we look forward to reviewing the specific regulation proposal in the near future.

As you are aware, the policy choices being considered for excess cancer risk rate and the fish consumption rate will have significant ramifications for NPDES permittees. We all support the state's responsibility to protect public health through updated water quality criteria. We are convinced this can be accomplished in a balanced manner consistent with EPA guidance, protective of NPDES permittees interests, and with a lessened risk to long-term economic growth prospects in Washington state.

Establishing human health-based water quality criteria on an incremental excess carcinogen risk level of $10e-6$ is unacceptable. We anticipate that this risk level, coupled with a high fish consumption rate, will result in largely unattainable ultra-low numeric criteria, unmeasurable incremental health benefits, and predictable economic turmoil. The long-term regulatory implications of this scenario have been shared repeatedly.

Acknowledging the state will propose more stringent water quality numeric criteria, Washington must also advance a package of tools that have been intentionally designed to achieve success and compliance with an updated water quality rule. The state package must include the following:

- An incremental excess cancer rate of less than 10e-6. EPA guidance notes that risk levels between 10e-4 and 10e-6 are acceptable risk policy choices and has approved differing general population risk levels in many states. EPA guidance is clear in acknowledging the health protectiveness within this range for all population groups.
- Robust implementation tools – as shared with Ecology staff – that are comprehensive and provide confidence to the permitted community. These administrative mechanisms need to be co-adopted with revised numeric criteria and approved by EPA as a package.
- Assurance that EPA will approve the state’s approach to the three ubiquitous pollutants PCBs, mercury and arsenic, as detailed in Ecology’s presentation on Nov. 6, 2013.
- A specific timeline to evaluate and update the state 303(d) listing policy for categorizing water bodies. Adjusting the listing criteria is necessary to remove redundancy with the human health criteria on fish tissues. Doing so will provide necessary flexibility for permittees to implement creative approaches to accomplish toxics reductions more efficiently and at lower cost.

The Clean Water Act and federal regulation specify that states have the authority to design a water quality standards program that best achieves the state’s objectives. We strongly encourage the State of Washington to exercise the discretion it has on policy matters to accomplish the health protection goal and at the same time creates a confident and compliant path for long-term economic growth.

Thank you again for your time and attention on this important policy discussion. Please let us know if we can help provide any additional resources or answer any questions.

Sincerely,



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Association of Washington Business



Mike McCarty, Chief Executive Officer
Association of Washington Cities



Larry Brown, Legislative & Political Director
Aerospace Machinists 751



Maud Daudon, President & CEO
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cc: The Honorable Patty Murray
 The Honorable Maria Cantwell
 The Honorable Suzan Delbene
 The Honorable Rick Larsen
 The Honorable Jamie Herrera Beutler
 The Honorable Richard Hastings
 The Honorable Cathy McMorris Rodgers
 The Honorable Derek Kilmer
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