

**Public Hearing for Proposed Withdrawal of Federally Promulgated Human Health
Criteria in Washington
August 28, 2019 9:00 – 11:00 am Pacific Daylight Time
Public Hearing Transcript**

>>Gemma Kite:

Hello and welcome to today's online public hearing titled: Public Hearing for Proposed Withdrawal of Certain Federal Water Quality Criteria Applicable to Washington. This public hearing is sponsored by the United States Environmental Protection Agency's, or EPA, Office of Science and Technology and EPA Region 10. The purpose of today's public hearing is for EPA to provide background on the proposed rulemaking and then for interested parties to provide oral comments on the proposed rules.

I am Gemma Kite of the Horsley Witten Group, contractor to EPA, and I will be moderating today's hearing. Thank you for joining us.

Let's start by going over a few housekeeping items. We are now on slide 2 of this presentation. If you hear an echo from your computer speakers, please close all browser windows except for the webcast presentation. Alternatively, you can press the speaker icon on the lower left-hand corner of your screen. When the speaker button turns red, you have muted your computer's audio.

If your slides are not advancing, please make sure that Flash is enabled in your browser. You may need to refresh your browser to do this.

If you are experiencing technical difficulties, you can type your issue into the white box at the bottom of your screen and click the Ask button. The responses from our technical team will appear below the white box. Since the response area is small, you may not see all of the questions or answers. Use the scroll bar on the right side of your screen to scroll up and down to see additional text. If you cannot see the white box at the bottom of your screen, change your screen resolution by clicking on Tools in your web browser and selecting Zoom Out.

If you would like to make an oral comment, we will provide a call in number in just a few minutes. You will need to use a phone to call in and provide your oral comment. Once you call into the phone line, please mute your computer speakers. Directions on how to make an oral comment will be provided after the speakers have introduced the proposed rule.

Today's presentation is available to download in the Download tab. To view the presentation, each viewer of today's online public hearing must click on the blue

Download tab on top of your screen. Scroll down to the item titled Presentation Slides and click the hyperlink to initiate the download. To return from the Download tab back to the presentation slide of today's online public hearing, click on the Slides tab on the top of your screen.

Today's public hearing will be recorded and transcribed, and all oral comments will be considered part of the official record for this rule. As such, when developing the official response to public comments and finalizing the rule, the oral comments provided today will become part of the official record along with the written public comments submitted via the docket for this rulemaking. If you provide an oral comment during today's online hearing, you do not have to submit the same comment in writing in order for it to be included in the official record. If you are interested in making a written comment, directions will be provided during this hearing.

EPA will not respond to comments today, however, EPA will respond to oral comments received at this hearing along with all comments received during the Comment Period in EPA's Response to Comments document accompanying the final rulemaking.

EPA will not be responding to questions today.

Today's presentation for the online public hearing has been reviewed by EPA staff for technical accuracy, however, the views of those making an oral comment and their organization and any supporting visual aids provided by commenters are their own and do not necessarily reflect the views of EPA. Mention of commercial enterprises, products or publications does not mean that EPA endorses them.

Now that we have completed the discussion of housekeeping items, let's start today's online public hearing. We are now on slide 3 of this presentation.

The Environmental Protection Agency is proposing a rule that would serve to withdraw certain federal human health criteria that are no longer needed due to EPA's May 10th, 2019 approval of corresponding state human health criteria after the agency reconsidered its 2016 disapproval. Public comments on the proposed rule must be received on or before October 7, 2019.

We are now on slide 4 of this presentation. EPA is offering this online public hearing so that interested parties may provide oral comments on EPA's proposed rule. Following a brief presentation from EPA, the agency will accept oral comments that will be limited to three minutes per commenter so that each commenter has an opportunity to present his or her views. During this brief presentation from EPA, we will hear from our speakers, Erica Fleisig and Matt Szelag.

Erica is with Water Quality Standards Program at EPA Headquarters and is one of the rule managers. Matt Szelag is a Water Quality Standards Coordinator from EPA Region 10 and is the other rule manager.

With that, we will begin the presentation by EPA. I will now turn it over to Matt and Erica to provide a brief overview of the proposed rule. Matt?

>>Matt Szelag:

Thank you. I will begin the presentation with some statutory background. Clean Water Act Section 101(a)(2) establishes the national goal that water quality should provide for the protection and propagation of fish, shellfish and wildlife and recreation in and on the water. To protect people from cancer and noncancer effects from pollutants in drinking water and fish and shellfish, states and authorized tribes must establish human health criteria for their waters.

Next slide, slide 6.

EPA periodically publishes national criteria recommendations under Clean Water Act Section 304(a) for states to consider using to meet these Clean Water Act Section 101(a)(2) goals. For more information on EPA's National 304(a) recommendations for human health, see the link on this slide.

Clean Water Act Section 303(c)(2)(B) requires that states adopt numeric water quality criteria for all priority toxic pollutants for which EPA has published Clean Water Act Section 304(a) criteria recommendations. However, states are not required to adopt EPA's national recommendations.

Next slide, slide 7.

In establishing criteria, states may adopt EPA's 304(a) recommended criteria, a modified version of EPA's 304(a) recommended criteria that reflects site-specific conditions or criteria based on other scientifically defensible methods.

In 2015, EPA published updated 304(a) national recommendations for states to consider when deriving human health criteria.

Next slide, slide 8.

EPA recommends that states derive human health criteria for carcinogenic effects using the following inputs: cancer slope factor, cancer risk level, body weight, drinking water intake rate, fish consumption rate, and a bioaccumulation factor or factors.

For pollutants with noncancer effects, EPA recommends states use a reference dose in place of a cancer slope factor and cancer risk level, as well as a relative source contribution.

Next slide, slide 9.

This slide shows the equations and associated inputs as just mentioned in the previous slide that EPA recommends using to calculate criteria for carcinogens and noncarcinogens.

Next slide, slide 10.

In 1992, EPA promulgated the National Toxics Rule, establishing chemical-specific numeric criteria for 14 states and territories, including Washington, that were not in compliance with Clean Water Act 303(c)(2)(B).

EPA derived the human health criteria in the 1992 National Toxics Rule based on available national data at the time which indicated that people ate, on average, 6.5 grams per day of fish.

Next slide, slide 11.

Starting in 2010, Washington engaged in extensive public outreach, held numerous meetings with stakeholders, and worked collaboratively with the EPA and tribes to develop and adopt human health criteria.

Washington first proposed new criteria in January 2015. These criteria were based on a cancer risk level of 1 in 100,000 or 10 to the minus 5th, a fish consumption rate of 175 grams per day and a mandate that none of the State's human health criteria except for arsenic would be a higher concentration than the National Toxics Rule that was in place at the time.

Washington's new criteria were intended to be coupled with a toxics reduction bill, but the Legislature failed to enact the bill, which delayed Washington's human health criteria rulemaking efforts.

On August 1, 2016, Washington adopted updated human health criteria that were not linked to any proposed legislation and submitted them to EPA for review.

Next slide, slide 12.

Washington's August 1, 2016 submission consisted of 192 new human health criteria for 97 priority toxic pollutants applicable to all surface waters under jurisdiction of the State. Washington's criteria were based on a cancer risk level of 1 in 1 million or 10 to

the minus 6th, a fish consumption rate of 175 grams per day and chemical-specific approaches for arsenic and PCBs. Washington's criteria incorporated some, but not all, of the inputs from EPA's latest 2015 national 304(a) criteria recommendations.

Next slide, slide 13.

To evaluate Washington's criteria, EPA compared the State's criteria values against a set of criteria that EPA calculated based on its latest national 304(a) recommendations, combined with Washington's selected fish consumption rate of 175 grams per day. EPA's 2015 304(a) recommendations include a fish consumption rate of 22 grams per day.

Because Washington incorporated some of the inputs from EPA's national 304(a) recommendations and EPA's criteria incorporated all inputs from the national 304(a) recommendations, except for the fish consumption rate of 22 grams per day, the resulting criteria were different.

Some of the State's criteria were more stringent than EPA's criteria and some were less stringent. On November 15, 2016, EPA partially approved and partially disapproved Washington's human health criteria based on this comparison.

Next slide, slide 14.

EPA approved 45 of Washington's criteria that were as stringent or more stringent than EPA's calculated values. EPA disapproved 143 of Washington's criteria that were less stringent. The main reasons included the State calculated criteria using bioconcentration factors instead of using the national default bioaccumulation factors from EPA's latest national 304(a) recommendations, and the State used a relative source contribution value of 1 for noncarcinogens instead of the EPA's recommended range of 0.2 to 0.8.

Bioconcentration factors account for pollutant accumulation in fish from uptake from the water column, whereas, bioaccumulation factors account for accumulation from all surrounding media such as water column, food and sediment. Relative source contribution values less than 1 account for nonwater sources of exposure to noncarcinogens.

EPA took no action on four of the State's criteria for two pollutants, thallium and dioxin.

Next slide, slide 15.

At the same time as EPA issued the partial disapproval of Washington's criteria, EPA promulgated federal criteria for Washington at 40 CFR 131.45. EPA's federal criteria

incorporated all inputs from EPA's national 304(a) recommendations and Washington's fish consumption rate of 175 grams per day.

Next slide, slide 16.

This slide is a table showing a side-by-side comparison of the inputs that Washington used versus input that EPA used in its federal rule.

At this point, I will turn the presentation over to Erica to continue.

>>Erica Fleisig:

Thanks, Matt. I'm going to talk about EPA's reconsideration and give an overview of the proposed rule. Moving on to slide 17 now.

On February 21, 2017, several groups filed a petition requesting that EPA reconsider its disapproval action on Washington's criteria and repeal or withdraw the federal rule.

On August 3, 2018, EPA provided notice of its intent to reconsider its action in response to the February 2017 petition.

Slide 18.

On May 10, 2019, after a detailed review of the State's 2016 submittal, applicable provisions of the Clean Water Act, implementing regulations, and longstanding EPA policy and guidance, EPA reconsidered its partial disapproval of Washington's human health criteria and approved all but two of the criteria that the EPA previously disapproved.

EPA reaffirmed its November 15, 2016 decision to disapprove Washington's two criteria for arsenic.

EPA approved Washington's human health criteria for thallium and dioxin, after deferring action on the criteria for these two pollutants in November 2016.

Slide 19.

Upon reconsideration, the EPA undertook a holistic review of Washington's criteria and evaluated the protectiveness of the criteria based on the suite of risk-management decisions, the totality of the inputs into the criteria equations, and the resulting numeric criteria.

EPA also reconsidered Washington's lengthy and thoughtful process wherein the State considered the health and safety of its citizens and the appropriateness of applying the EPA's new national recommendations to the State's resources.

Slide 20.

EPA also recognizes that states and authorized tribes will use discretion in making resource and risk-management decisions related to the protection of human health. Section 101(b) of the Clean Water Act explains that one of the Act's foundational policies is to recognize, preserve, and protect the primary responsibilities and rights of states.

Slide 21.

In light of EPA's May 10, 2019 approval of Washington's criteria upon reconsideration, EPA published a Notice of Proposed Rulemaking on August 6, 2019, to withdraw the federally promulgated human health criteria at 40 CFR 131.45 with the exception of arsenic, methylmercury, and bis(2-chloro-1-methylethyl) ether.

Slide 22.

For arsenic, on May 10, 2019, EPA reaffirmed its November 2016 disapproval of the two criteria Washington submitted, and therefore, the federal arsenic criteria for Washington at 40 CFR 131.45 will remain in place.

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.

Although EPA is proposing to maintain the federally promulgated criteria for these pollutants, EPA is also soliciting comment on whether to withdraw.

Slide 23.

EPA's proposal to withdraw federal criteria following approval of state criteria is consistent with the federal and state roles contemplated by the Clean Water Act. Once EPA approves state criteria addressing the same pollutants for which EPA has promulgated federal criteria, it is incumbent on EPA to withdraw the federal criteria to enable the EPA-approved State criteria to become the applicable criteria for Clean Water Act purposes.

That concludes my portion of the presentation and so, Gemma, I will turn it back to you.

>>Gemma Kite:

Thank you, Erica and Matt, for providing an overview of the Proposed Rule. As a reminder, you can access the Proposed Rule and supporting documents by visiting EPA's website listed on this slide. Please note that written comments must be received on or before October 7, 2019.

EPA will be hosting an in-person hearing on September 25, 2019, in EPA's Seattle office for interested parties to provide comment. For more information on this in-person hearing, please go to EPA's Water Quality Standards website listed on this slide.

I will pause here for a few moments to allow time to record this information.

If listeners would like to contact our speakers following today's presentation, their contact information is on this slide. I will pause here for a few moments to allow time to record this contact information.

In a moment, we will provide instructions for making an oral comment today by using your telephone, but first we will provide instructions for submitting written comments in one of the following ways.

You can submit a written comment through the website [regulations.gov](https://www.regulations.gov), email your written comment, mail your comment or submit a written comment via hand delivery. The instructions for submitting a written comment through these mechanisms are explained in more detail on this slide. In addition, you can also obtain this information if you navigate to the Downloads tab in this webinar, find the document titled Comments Submittal Instructions and download it as needed. Remember, when submitting a written comment, please make sure to reference the Docket ID number EPA-HQ-OW-2015-0174. I will pause here for a few moments to allow time to record this information.

We will now open the hearing for interested parties to make an oral comment. Oral comments will be taken by telephone only. Before calling, please make sure to mute your computer speakers to avoid an echo. Do not worry about losing the public hearing audio when you mute your computer speakers. All call-in participants will still be able to hear the audio portion of this public hearing through the conference phone line after computer speakers have been muted.

Remember, EPA will not respond to comments today, however, EPA will respond to oral comments received at this hearing along with all comments received during the Comment Period in EPA's Response to Comments document accompanying EPA's final rule.

In addition, EPA will not be answering any questions during the hearing today.

Now for the call-in information. If you would like to make an oral comment, please dial 877-407-4035 on your telephone keypad and enter the following passcode: 13694027 and then the pound sign. Again, the call-in information is to dial 877-407-4035 on your telephone keypad and enter the following passcode: 13694027 and then the pound sign. Once you have joined the conference, press star, one to be placed in queue to speak. Participants will be prompted to record their names and affiliation. Please speak clearly as this audio will be used in the public record along with your comment.

If you missed the call-in details, the phone number and passcode will be provided on multiple slides throughout the online public hearing. Each commenter will be announced before providing an oral comment. Each commenter will have a maximum of three minutes to make an oral comment. A timer will appear on the screen indicating approximately how much time each caller had left. Commenters are responsible for watching their own time. At the three-minute mark, the slide will read time is up and the phone line will automatically be disconnected. After you have made your comment, please hang up the phone and unmute your computer speakers to listen to the rest of the hearing.

If there are a number of callers wishing to make a public comment, your call may be placed in a queue to speak. Again, once you have joined the conference, press star, one to be placed in queue to speak. Please wait patiently as others provide their oral comment. When it is your time to make an oral comment, your name will be announced and your phone line will be opened. At this point, your three-minute time will start.

If you provide one oral comment and would like to provide a second comment, you may do so after all commenters have provided their first comment. I will announce at this time when it is ready to do this. Please call back into the call in number at that time.

At this time, if you are calling the number to make a verbal comment, please mute your computer speakers to avoid an echo. Again, you must mute your speakers while providing your verbal comment or the entire audience will hear an echo. Please listen as the operator announces your name to ensure that your name and affiliation are pronounced correctly.

We will now hear from our commenters. There may be a short pause before the first caller is introduced.

Operator, do we have any commenters on the line?

>>Operator:

Yes. Our first commenter comes from Ryan Pessah at Western Wood Preserves. Please proceed with your comment.

>>Ryan Pessah:

Western Wood Preservers Institute.

Good morning. My name is Ryan Pessah and I'm the Director of Government Relations for a nonprofit trade association called Western Wood Preservers Institute. We were founded in 1947 and are located here in Vancouver, Washington. We provide information to assist in the proper manufacturing, selection, use and disposal of preserved wood products. WWPI, Western Wood Preservers Institute, ensures that critical infrastructures such as electricity, communication, transportation, agriculture and building structures are built with wood that lasts to safeguard the sustainability of our forests, the results of low environmental impact and provide public safety.

We support attainable water standards that protect human health and provide for a vibrant economy in the Washington State. Your decision to withdraw the federal water quality criteria recognizes that they represent standards that are unattainable using existing or foreseeing technology. The regulated community must see that their investments in improved water treatment technology provide a path to compliance because unattainable standards do not provide such an opportunity for compliance, they do not result in meaningful improvement in water quality here in the state of Washington. Instead, they result in regulatory, permitting and legal scrutiny, which just makes everything a lot worse for the State.

These State criteria balance rigor with attainability and they will help keep compliance costs for businesses and local governments manageable.

Before I close, I would like to share a quote by Governor Jay Inslee from 2014. In 2014, Governor Inslee said, 'If we had to go to the current 1 in 1 million number, it would have resulted in some extremely tough standards resulting in an unacceptable level of uncertainty for businesses and local governments with little corresponding benefit for human health.' I think that quote is very telling to the current situation.

In conclusion, the EPA decision to withdraw its federal rule will allow the implementation of a rigorous but attainable State-developed rule, provide greater certainty for regulated entities like myself, and contribute to a more vibrant community economy that benefits the citizens of the State of Washington.

I really appreciate your time for commenting on this and I really urge you guys to move forward. Thank you.

>>Gemma Kite:

Thank you for providing your comment. You may now hang up and listen to the online hearing audio through your computer speakers.

Let's hear from our next commenter. Operator, do we have another commenter in the queue?

>>Operator:

Yes. Our next comment comes from Kathryn VanNatta with Northwest Pulp & Paper Association. Please proceed with your comment.

>>Kathryn VanNatta:

Thank you for the opportunity to comment on Docket EPA-HQ-OW-2015-174. For the record, my name is Kathryn VanNatta, Director of Regulatory Affairs for the Northwest Pulp & Paper Association. NWPPA is a 63-year-old trade association representing 11 Washington pulp and paper mills and various Oregon and Idaho paper and forest product facilities. NWPPA members employ over 6,000 predominantly union workers providing family wage jobs in rural Washington areas. Our members hold Clean Water Act wastewater permits issued by the Washington State Department of Ecology, are regulated by this EPA rulemaking and will be affected by this rulemaking decision. NWPPA participated in both Ecology's and EPA's prior rulemakings as a regulated stakeholder.

NWPPA supports attainable State-developed water quality standards that improve water quality, protect human health and provide vibrant economies, especially in rural Washington. NWPPA supports EPA's 2019 decision to correct their federal overreach on Washington's Human Health Water Standards. EPA's 2016 aspirational standards promulgated for Washington State are wholly unattainable and cannot be met with existing or reasonably foreseeable tertiary wastewater treatment technology. NWPPA specifically supports EPA's decisions to reconsider and adopt Ecology's 2016 State-developed rule, rescind their 2016 federal water standards for Washington that provide no meaningful additional protection to public health and instead approve Ecology's 2016 water standards developed through extensive stakeholder involvement and scientific review between 2010 and 2016. NWPPA agrees with Ecology that Washington's 2016 standards provide a high level of protection for all populations of fish consumers and meet EPA's Section 304(a) guidance for standards. NWPPA believes that the federal rule withdrawal helps Washington facilities by allowing stable, long-range planning by using technically available wastewater treatment technology to consistently provide clean water.

NWPPA supports EPA's proposal to reduce facilities regulatory uncertainty, the uncertainty of not being able to comply with ultralow standards and the risk of unintended consequences by threatening current operations and jobs.

Again, NWPPA supports EPA's May 2019 standards approval action and rules proposed in the docket.

Thank you for today's opportunity to comment.

>>Gemma Kite:

Thank you for providing your comment. You may now hang up and listen to the online hearing audio through your computer speakers.

Let's hear from our next commenter. Operator, do we have another commenter in the queue?

>>Operator:

Yes. Our next comment comes from Heather Bartlett with Washington Department of Ecology. Please proceed with your comment.

>>Heather Bartlett:

My name is Heather Bartlett. I am a Water Quality Program Manager for Washington State's Department of Ecology. I am speaking on behalf of Ecology today to oppose your proposal to change our State's human health criteria standards, also known as the Fish Consumption Rule.

Department of Ecology Director Maia Bellon will attend the September 25th hearing in Seattle to present her oral testimony.

Washington State was not consulted on this proposal that uniquely affects only our state, so I am here today to represent the voices of those who work so hard on our State's existing solution and path forward for these water quality standards.

Since EPA started this process to reconsider its 2016 decision following a petition from some industry groups, we have objected. We have repeatedly objected and here's why. We object because EPA's actions are illegal under the Clean Water Act and we filed a lawsuit to stop EPA's overreach. We object because today's water quality standards in Washington State are working. For three years we have engaged with businesses, tribes, local governments and all stakeholders to build consensus on how to implement those standards. We object because if you roll back the water quality standards you set for us in 2016, you also roll back a decade of delicate negotiations and hard-fought compromises, compromises that gave us flexibility on implementation and compromises that find the balance of allowing industries to make progress toward cleaner water until they fully meet the new higher standards.

If you rollback today's standards, you undo those compromises and the flexibility that industries need. This is why we say changing course now creates regulatory uncertainty. You put implementation at risk and invite third-party lawsuits and litigation puts any progress on clean water at risk.

In short, this unwanted and unnecessary change will make it harder for us to achieve the cleanest possible water in our state and we all lose. Everyone who engaged for a decade to create solutions and make compromises, from the cities and towns, businesses in need of discharge permits, Native American tribes, the public, the environmental community, everyone who lives in Washington and here's what our communities and businesses need most: predictability, certainty and flexibility to continue to meet one of the most critically important water quality rules in our State.

We don't need different standards. We don't need our communities and businesses spending their time and resources on lawsuits instead of on progress toward protecting our state's waters.

Our mission is to focus our time and resources on implementation and helping everyone comply with our current rule, a rule that is working for all of Washington. What EPA is proposing is a rule that will not work in our state. It will halt progress on clean water and it will result in years of legal battles. It won't make our communities -- it won't work for our communities and it won't work for our industries, so I ask EPA to withdraw this rulemaking and keep the current rules in place. Thank you.

>>Gemma Kite:

Thank you for providing your comment. You may now hang up and listen to the online hearing audio through your computer speakers.

Let's hear from our next commenter. Operator, do we have another commenter in the queue?

>>Operator:

Yes. Our next comment comes from Fred Andes with Federal Water Quality Coalition. Please proceed with your comment.

>>Fred Andes:

Thank you for the opportunity. This is Fred Andes at the law firm of Barnes & Thornburg. I manage the activities of the Federal Water Quality Coalition. The coalition is a group of regulated parties with members all across the country including in Washington State, which participates in federal and state activities, regulatory activities on Clean Water Act issues. We have filed comments several times regarding the Washington State Water Quality Standards for Human Health and consistent with those comments we support the proposed EPA action.

When EPA originally decided to reject the state standards, we opposed that. We felt that the state standards were supportable and that EPA should not come in and take over that process. Now that EPA has reconsidered that and decided that its earlier action was an error, we support them. We think that they are doing the right thing by

going back to the standards that the State proposed originally and allowing the State to implement those rather than the federal standards that were imposed earlier.

We think that the federal standards that were adopted pose major legal technical and policy concerns, did not significantly advance environmental protection beyond the state standards that were earlier adopted, and reflected a federal override of state primacy in this area. We support the fact that EPA is now encouraging state primacy, moving back toward the state standards that were adopted originally and allowing those to drive the process. Thank you very much.

>>Gemma Kite:

Thank you for providing your comment. You may now hang up and listen to the online hearing audio through your computer speakers.

Let's hear from our next commenter. Operator, do we have another commenter in the queue?

>>Operator:

Yes. Our next comment comes from Brian Wood with Nippon Dynawave Packaging. Please proceed with your comment.

>>Brian Wood:

Thank you. My name is Brian Wood. I work as the Director of Support Services for Nippon Dynawave Packaging Company in Longview, Washington. On behalf of Nippon Dynawave Packaging, I speak to offer our support for EPA's decision to withdraw certain water quality criteria that the federal government imposed on Washington State in 2016 and instead take action to approve the criteria that had been developed and proposed through State rulemaking under the Clean Water Act.

Our organization directly employs more than 500 skilled papermakers, operators, engineers and technicians and managers. We provide effluent treatment services to several ancillary businesses which easily double the number of employees directly dependent upon our ability to compliantly treat and discharge wastewater. In a press release offered yesterday, Governor Inslee applauded the commitment of one of those companies that we support for their continued commitment to Washington State, which showed that sustainability is an economic winner. We fully agree with the Governor's assessment of those efforts, but we would remind him and the EPA that unattainable standards imposed by EPA in 2016 put such efforts at risk. Private employers and public water agencies both must be able to see that investments in improved water treatment technologies provide a path to reliable compliance.

Unattainable standards do not provide such an opportunity for compliance, rather they result in regulatory, permitting and legal uncertainty. By removing the federally imposed criteria, the current proposed action will put in place criteria that were and are the result of over four years of scientific analysis and stakeholder input and will provide some of the most strongest protections for water quality in the nation.

Most importantly, these criteria will balance the rigor necessary with their attainability. They will provide regulatory certainty needed for organizations such as Nippon Dynawave Packaging to confidently continue to invest and grow in Washington State. Thank you.

>>Gemma Kite:

Thank you for providing your comment. You may now hang up and listen to the online hearing audio through your computer speakers.

Let's hear from our next commenter. Operator, do we have another commenter in the queue?

>>Operator:

Yes. Our next comment comes from Jerry Schwartz with American Forest and Paper Association. Please proceed with your comment.

>>Jerry Schwartz:

Good afternoon. My name is Jerry Schwartz. I'm the Senior Director of Energy and Environmental Policy at the American Forest and Paper Association. We're the national trade association for the forest products industry. I'm speaking today to support EPA's proposed withdrawal of federal human health water quality criteria for the State of Washington.

It is important to understand exactly what EPA is proposing to do in this rulemaking. There have been numerous press reports and others have characterized EPA's action as a rollback or alleging that EPA's action will result in unsafe water or fish for Washington consumers, but nothing could be further from the truth. EPA is proposing to withdraw the federal rule it imposed on Washington in 2016 after it disapproved of Washington's Water Quality Standards. But those state standards were developed by state regulators over the course of more than 40 years of scientific analysis and stakeholder input from tribes, environmental groups, employers and local governments. Those criteria were attainable and improved Washington's waters. They protected human health and provided a vibrant economy in the state. At the time, the Governor and the Department of Ecology supported those standards and asked for EPA to approve them, but EPA refused and imposed the federal standards.

EPA did this because they said the state standards were actually not protective enough, not because the state had used the wrong fish consumption rate, for example, which have been the focus of these proceedings. It didn't. It used 175 grams per day, the same fish consumption rate in the federal rule, but rejected the standards because the State departed from some of the other aspects of the formula that EPA uses for developing criteria.

EPA's regulations are clear that state's can do just that as long as the resulting criteria will meet the designated uses of the State's waters, which the state criteria do.

So, in response to a petition for reconsideration that AFPA joined, EPA in May of this year did what the State had previously asked it to do, it approved most of -- almost all of the state's standards. Once EPA approved those standards, it was important that EPA withdraw the federal rule and that is the proposed action on which we are commenting today.

We support EPA's decision to rescind the 2016 federal rule imposed by the agency on the State of Washington. This will change unachievable and what have often been referred to as aspirational water quality standards and allow Washington to utilize a still highly protective but achievable standard.

The federal rule being withdrawn set water quality standards that could not be achieved by existing or foreseen technologies. An unachievable standard does not drive meaningful improvements in water quality; instead, it just simply results in lawsuits and uncertainty.

When EPA did what the State had previously asked, the State sued EPA saying it was unlawful and it created uncertainty in the ongoing permit process, but it was the federal rule that created the uncertainty and because of that, because of the difficult technologies that needed to be imposed to comply with the federal rule -- none that exist at the time -- and because of this no permits have been issued with the federal standards and any permits that are issued will have to rely on variances, which the...

>>Gemma Kite:

Thank you for providing your comment. You may now hang up and listen to the online hearing audio through your computer speakers.

Let's hear from our next commenter. Operator, do we have another commenter in the queue?

>>Operator:

Yes. Our next comment comes from Sam Phillips with Port Gamble. Please proceed with your comment.

>>Sam Phillips:

Hi. My name is Sam Phillips. I'm an environmental scientist with the Port Gamble S'Klallam Tribe. I am speaking on behalf of the Port Gamble S'Klallam Tribe to oppose EPA's repeal of the final rule titled Revisions of Certain Water Quality Standards Applicable to Washington.

The human health water quality standards now in place in Washington State are the result of years of debate and were resolved through a lengthy rulemaking and public process. These standards are science based and legally defensible. EPA's decision to reverse its prior disapproval upon industry's request was made without adequate public process. Tribal consultation did not occur prior to the May 10th decision and we object to inadequate tribal consultation as well as attempts by EPA to now provide a sham public process in the form of this after-the-fact public hearing. Thank you.

>>Gemma Kite:

Thank you for providing your comment. You may now hang up and listen to the online hearing audio through your computer speakers.

Let's hear from our next commenter. Operator, do we have another commenter in the queue?

>>Operator:

Yes. Our next comment comes from Steve Shestag with Boeing Company. Please proceed with your comment.

>>Steven Shestag:

Hello. My name is Steve Shestag. I am the Director of Environment for The Boeing Company. At Boeing we work every day for cleaner water, cleaner air and cleaner land. We are making great progress in improving the environmental performance of our products, services and operations. With innovation at the heart of everything we do, we are committed to a more sustainable future.

That same commitment extends to the communities where we live, work and play. We too support the need for clean water and understand the importance of protecting Puget Sound's waters.

Through this commitment, we have gained considerable experience in water management, ranging from advanced treatment like reverse osmosis to sustainable green infrastructure such as biofilters. We take great pride in working with community partners and universities to help develop and implement watershed based approaches and nature based solutions that protect the health of the environment and the health of our communities. Through these experiences we have gained considerable

understanding of what it takes to make meaningful improvements in water quality and to protect human health and the environment.

Some examples of the great strides that we have made in advancing stormwater management, habitat protection that help improve water quality include advancing the science and application of permeable pavement, demonstrating the effectiveness of green infrastructure at our facilities in Seattle, Auburn and South Park, and partnering with local environmental organizations to support critical community projects such as the biosoils for the Aurora Bridge Project. In 2018 alone, Boeing invested \$2.5 million in environmental organizations to help support stormwater and reforestation projects that are helping to improve water quality in the Puget Sound.

Through these efforts we know that sound science and stakeholder engagement are critical when making decisions about how best to protect our environment. The State of Washington began efforts to develop human health water quality standards in 2009 and spent many years developing background information and technical documents to support its role. Ecology's regulatory process was extensive and took into account the concerns of stakeholders including environmental groups, tribes, cities, counties and industry. Ecology's rulemaking process culminated in the issuance of the 2016 Human Health Water Quality Standards. At that time, Ecology firmly and unequivocally stated its proposed standards met the requirements of the Clean Water Act, would be fully protective of human health and the environment, and work for Washington State. Ecology also provided tools and a pathway for compliance that fostered a level of certainty for permittees.

EPA has now recognized that that prior decision on Washington State's standards was both unnecessary and infringed on the State's role of adopting standards that are protective and tailored to work for Washington State. EPA's decision to approve the standards adopted by Washington State in 2016, which is based on sound science and an inclusive approach of stakeholder engagement is the right decision and provides a viable path forward to protect our precious water resources.

Thank you for this opportunity to comment and we encourage EPA to move forward with this rulemaking.

>>Gemma Kite:

Thank you for providing your comment. You may now hang up and listen to the online hearing audio through your computer speakers.

Let's hear from our next commenter. Operator, do we have another commenter in the queue?

>>Operator:

Yes. Our next comment comes from Mike Martinez with Northwest Indian Fisheries Commission. Please proceed with your comment.

>>Michael Martinez:

Thank you. Good morning. I did not intend to participate in this hearing today but I need to inform EPA of technical flaws in its public hearing process. Online participants, several of us lost audio after 30 minutes. We ask EPA to do what is necessary to restore the audio to this online public hearing so everybody can participate, and also to convey any information shared with those who are online through any means necessary. Thank you.

>>Gemma Kite:

Thank you for providing your comment. You may now hang up and listen to the online hearing audio through your computer speakers.

Let's hear from our next commenter. Operator, do we have another commenter in the queue?

>>Operator:

We have no more commenters in the queue at this time.

>>Gemma Kite:

Thank you, Operator. We will pause here to wait for more commenters.

If you are calling in at this time to make an oral comment, please follow the directions on this slide. Once you have joined the teleconference, you must press star, one to be placed in queue to speak. Again, once you have dialed the phone number and entered the passcode, please press star, one to be placed in queue to speak. Participants will be prompted to record their names and affiliations. Please speak clearly as this audio will be used in the public record along with your comment.

Operator, do we have any commenters in the queue?

>>Operator:

Our next comment comes from Alyssa Barton. Please proceed with your comment.

>>Alyssa Barton:

Hi, thank you. Yes, this is Alyssa Barton and I work for Puget Soundkeeper Alliance. Soundkeeper will provide comment at the September 25th hearing and formal written comments prior to the October 7th deadline.

Washington's Water Quality Standards are our frontline for defense against water pollution. As a resident of Seattle I care deeply for the waters of the Puget Sound region and enjoy swimming, kayaking and fishing here, including eating shellfish and fish from this watershed. As the policy manager for Puget Soundkeeper Alliance, it is my job to identify threats to the waters of Puget Sound and take action where possible to defend them.

Soundkeeper and our 3,000 members plus thousands more supporters and volunteers are deeply concerned about EPA's announced rollback of our Water Quality Standards for which we have fought for over a decade. Eating fish is the main way people in Washington State are exposed to toxic chemicals such as mercury, PCBs and DDT. In 2016, EPA implemented protective water quality standards that would allow less toxic pollution into our waters, including PCBs and mercury. PCBs are known to cause cancer, reproductive issues and other serious health problems. Mercury is a potent neurotoxin that causes neurological damage and interferes with brain development in fetuses and children. These two pollutants cause the majority of fish consumption advisories in our state where we are warned not to eat fish because contamination is too serious, and our Southern Resident Killer Whales, which are endangered, are some of the most toxic animals on the planet due to PCB contamination. Even though they are banned in the 70s, PCBs and mercury are still present in many of our waste streams and can be created inadvertently in chemical reactions, so facilities statewide are still discharging these toxins into our waters.

EPA's 2016 standards included more protective standards for PCBs and mercury.

Before 2016, our Water Quality Standards were based on 40-year-old data. They relied on the weakest fish consumption standards in the country and they did not comply with the Clean Water Act. The fish consumption rate was previously set at 6.5 grams of fish per day. This means that the water quality standards for allowable levels of toxic pollutants in our waters, including PCBs and mercury, were based on an assumption that people only eat about one fish meal per month, but the Department of Ecology did research on fish consumption that revealed that many tribal members eat over 700 grams of fish per day and up to 380,000 adults in Washington eat over 250 grams per day. So, on November 15, 2016, when EPA promulgated a stronger set of Water Quality Standards, they were based on that stronger fish consumption rate of 175 grams per day, which is more realistic and more protective of tribes, and based on a cancer risk rate of 1 in a million and other factors. At that time EPA opined that the Water Quality Standards set an appropriate level of protection for all Washington citizens including tribal members with treaty protected fishing rights. There are no facts, data or evidence that have come to light since that time that merit backtracking.

By rescinding its decision, EPA will expose Washingtonians to more toxic chemicals, and the reason? Because several polluters have petitioned EPA to rollback the

standards because they say it will cost too much to reduce their pollution. This is an instance where EPA has caved to corporate interests against the best interests and wishes of the public in violation of the Clean Water Act and this illegal rollback will impact everyone in Washington who uses or relies on our waters.

Most importantly, this is an environmental justice issue. It hurts those who consume the most fish, our tribes and our fisher communities. EPA should rescind its misguided and unlawful May 10, 2019 reversal of our Water Quality Standards.

>>Gemma Kite:

Thank you for providing your comment. You may now hang up and listen to the online hearing audio through your computer speakers.

Let's hear from our next commenter. Operator, do we have another commenter in the queue?

>>Operator:

We have no more commenters in the queue at this time.

>>Gemma Kite:

Thank you. We will pause here to wait for more commenters.

This is the moderator. Thank you for joining us at the online public hearing titled Public Hearing for Proposed Withdrawal of Certain Federal Water Quality Criteria Applicable to Washington. This public hearing is sponsored by the United States Environmental Protection Agency's Office of Science and Technology and EPA Region 10. The phone lines are open if you would like to provide oral comments on EPA's proposed rule. All oral comments will be considered part of the official record for this rule.

If you would like to make an oral comment, please follow the directions on this slide and call in using your telephone keypad. Please dial 877-407-4035 and enter the following passcode: 13694027 and then the pound sign. Once you have joined the conference, press star, one to be placed in queue to speak. Again, you may need to wait a few seconds before pressing star, one to be placed in queue to speak. When prompted, please record your name and organization or affiliation. You may hear silence while we wait for the operator to introduce the next commenter. If you have already provided one oral comment and would like to provide a second comment, you may do so at this time.

>>Erica Fleisig:

Hey everyone, this is Erica Fleisig with EPA. I apologize for the audio issues we were having today. I think we heard from folks that the audio cut off around 30 minutes in. I wanted to assure people that EPA folks heard all the commenters because we were calling in on a presenter line but understand that a lot of people didn't hear everyone.

I wanted to just say we're confirming but we should have everybody recorded and we should be able to post a transcript of the hearing to EPA's website shortly. I think people stopped hearing the audio either during or just after Fred Andes' comment, so anyone who is concerned that their comment wasn't heard or anyone else who might like to make a comment, please use this opportunity now. We still have 45 minutes left in the hearing and we'd appreciate hearing from anybody who hasn't made a comment or would like to make their comment again just to make sure we hear everyone and everyone else has a chance to hear everyone.

I apologize again, but please use this time if you want to call back in and make another comment.

>>Gemma Kite:

This is the online public hearing titled: Public Hearing for Proposed Withdrawal of Certain Federal Water Quality Criteria Applicable to Washington. This public hearing is sponsored by the United States EPA Office of Science and Technology and EPA Region 10. The phone lines are open for interested parties to provide oral comments on EPA's proposed rule. All oral comments will be considered part of the official record for this rule.

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After you have made your comment you can hang up your phone and unmute your computer speakers.

If you have already provided one oral comment and would like to provide a second comment, you may do so at this time. You may hear silence until the operator introduces the next caller.

>>Operator:

Our next comment comes from Jody Brown. Please proceed with your comment.

>>Jody Brown:

Hello. This is Jody Brown with the Stillaguamish Tribe of Indians. We are just calling to state that we oppose any repeal of EPA's final rule titled: Revisions of the Certain Water Quality Standards Applicable to Washington State, or what we consider the consolidated rule.

I would like to point to the letter that the Stillaguamish Tribe sent EPA Administrator Wheeler on June 6, 2019. In that letter the Stillaguamish Tribe issued a number of reasons why we did not -- why we are opposed to any repealing of the water quality rule.

>>Gemma Kite:

That commenter just disconnected. We'll try and get him back here in a second. In the meantime, the directions to call in and make an oral comment are on this slide. Please dial 877-407-4035 and enter the passcode 13694027 and then the pound sign. Once you have joined the conference, please press star, one to be placed in queue to speak. You will be prompted to record your name and affiliation. You may hear some silence as we wait for the operator to introduce our next commenter.

This is the moderator, while we are waiting let's talk about how to submit a written comment on the rule. As previously mentioned, if you would like to submit a written comment, there are several ways that you can do this. If you provide an oral comment, you do not have to submit the same comment in writing in order for it to be included in the official record. You can submit a written comment through regulations.gov, email your written comment, mail your comment or submit a written comment via hand delivery. The information for submitting a written comment through these mechanisms is explained in more detail on this slide. In addition, you can also obtain this information if you navigate to the Downloads tab in this webinar, find the document titled Comment Submittal Instructions and download it as needed. Remember, when submitting a written comment, please make sure to reference the Docket ID number listed on this slide, EPA-HQ-OW-2015-0174.

The phone lines are open if you would like to make an oral comment. To make a comment, please dial 877-407-4035 on your telephone keypad and enter the following passcode: 13694027 and then the pound sign. Once you have joined the conference, press star, one to be placed in queue to speak. Participants will be prompted to record their name and affiliation. Please speak clearly as this audio will be used in the public record along with your comment.

If you have already provided one oral comment today and would like to provide a second comment, you may do so at this time. You may hear silence until the operator introduces the next caller.

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If you have already provided one oral comment and would like to provide a second comment, you may do so at this time. You may hear silence as we wait for the operator to introduce the next caller.

This is the moderator. At this time I'd like to conclude today's public hearing. Thank you to everyone who joined us and provided an oral comment.

We understand there were some audio issues for the audience during this hearing, however, as Erica mentioned previously, EPA has heard all comments today and EPA will be posting a transcript of today's hearing to EPA's website in the next few weeks.

Remember, if you would like to provide a comment you can submit a written comment to the docket.

That ends our hearing for today. Thank you again for joining us.