

This document does not substitute for EPA regulations; nor is it a regulation itself. Thus, it does not and cannot impose legally binding requirements on the EPA, the states, tribes or the regulated community, and may not apply to a particular situation based on the circumstances. If there are any differences between this web document and the statute or regulations related to this document, the statute and/or regulations govern. The EPA may change this guidance in the future.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE:

28 AUG 1981

Memorandum:

November 28, 1980 Toxic Criteria Recommendations

FROM:

Joseph A. Krivak, Director
Criteria and Standards Division 10-585

TO:

Water Quality Standards Coordinators
Regions I - X

Criteria and Standards IM 81-10

Purpose: To describe the application of water quality criteria in State water quality standards programs.

Discussion

We have received many inquiries regarding State's use of the water quality criteria for 64 toxic pollutants that were published on November 28, 1980 (45 FR 79318) for possible inclusion in standards.

First, it should be clearly understood that the policy of presumptive applicability has been rescinded and no longer applies to any water quality criteria adopted by a State. Presumptive applicability meant that a State had to adopt a criterion for a particular water quality parameter at least as stringent as the recommendation in the Red Book. Presumptive applicability was rescinded in the November 28, 1980 Federal Register notice because it had proved to be too inflexible in actual practice. Second, in certain circumstances, the criteria recommendations listed in the FR were generally derived upon laboratory experiments and may not accurately reflect the toxicity of a pollutant because of the effect of local water quality chemistry or varying sensitivities of local populations. Third, EPA is encouraging States, if a water quality problem with one of these toxic pollutants exists, to appropriately modify the criteria values to reflect local conditions. That is, the State should take into account various physical and biological factors which are characteristic of the stream or streams in question. As you are aware, we are currently testing protocols for criteria modification in several selected States and we can provide limited onsite assistance to you and the States on this activity. Fourth, the State should also consider the overall environmental and economic impacts of any standards setting action so that reasonable, site-specific standards can be developed. The last point to be considered is that the criteria are to be used "as appropriate". This suggests selective application of criteria based on need, and could lead to a different criterion for the same chemical for different stream segments within a State.

Regional offices should work closely with the States to assure that States understand how to apply the water quality criteria in standards and to offer available assistance.