REGION 10
SEATTLE, WA 98101

November 21, 2024

Roma Call
Natural Resources Director
Port Gamble S'Klallam Tribe
181 Resort Drive
Neah Bay, Washington 98357

Re: The EPA's Clean Water Act Action on the July 17, 2024, Submittal of the Port Gamble S'Klallam Tribe New and Revised Water Quality Standards for Surface Waters

Dear Ms. Call:

The U.S. Environmental Protection Agency has completed its review of the new and revised water quality standards adopted by the Port Gamble S'Klallam Tribe and submitted to the EPA on July 17, 2024. Pursuant to section 303(c) of the Clean Water Act, 33 U.S.C. § 1313(c), states and authorized Tribes must submit new or revised WQS to the EPA for review and action, and the EPA must ensure that those WQS are consistent with the CWA and the EPA's implementing regulations. The details of the EPA's action are outlined below and are further described in the enclosed Technical Support Document.

The EPA's action applies to waters within the boundaries of the Port Gamble S'Klallam Reservation and trust lands. Today's action does not apply to waters outside of the Port Gamble S'Klallam Reservation and trust land boundaries which are under Washington State's jurisdiction. CWA section 518(e), 33 U.S.C. § 1377(e), authorizes the EPA to treat an Indian Tribe in a similar manner as a state to manage and protect water resources "within the borders of an Indian reservation," provided certain requirements are satisfied. The Tribe received approval for TAS for the purpose of developing and administering WQS and water quality certification programs, CWA sections 303(c) and 401, 33 U.S.C. §§ 1313(c) and 1341, respectively, on September 24, 2003.

I. Summary of the EPA's Action

The Port Gamble S'Klallam Tribe amended the Tribe's Water Quality Standards for Surface Waters by adopting revised human health criteria for toxic substances, revised recreational criteria, revisions to the Tribe's antidegradation policy and new antidegradation implementation methods, and other non-substantive changes. Pursuant to the EPA's authority under CWA section 303(c) and the implementing regulations at 40 C.F.R. Part 131, the EPA is approving the following new and revised WQS:

- **Section 2**. Definitions, new and revised definitions.
- **Section 6**. Narrative criteria, new provisions (1) General requirements and (8) Downstream protection.
- **Section 7.** Toxic Substances (Numeric criteria), revised provision (7) which references the reformatting of Table 1 and 2.
    - **Section 7(7), Table 1**. Human Health Criteria
- **Section 8**. Specific water quality criteria for use classification, revised provision (3)(a) recreational bacteria criteria to protect the recreational and cultural use and (3)(b) criteria for microcystins and cylindrospermopsin.
- **Section 9**. Radioactive substances, addition of (2)(f) Uranium.
- **Section 13**. Revisions to provisions (1)(b)(i) and (1)(b)(ii) on the antidegradation policy and new subsection (2) on antidegradation implementation methods.
- **Section 19.** Enforcement, renumbering of provisions (1) to (5)

The EPA is approving non-substantive revisions of the following sections:

- **Section 1.** Introduction, Provisions (1) to (5)
- **Section 3.** Designated uses. Provisions (1) and (3)
- **Section 4.** General Conditions, Provisions (1), (2) and (4)
- **Section 5.** Site-Specific Criteria, Provisions (1) to (3)
- **Section 10.** Biological Criteria, Provisions (1) and (2)
- **Section 11.** Wildlife Criteria
- **Section 14.** Mixing Zones
- **Section 15.** Implementation, Provisions (1) and (5)
- **Section 17.** Short-term Modifications, revised provision (2)
- **Section 18.** Public Involvement
- **Section 19.** Enforcement, Provisions (1) to (5)

II. Provisions the EPA is Taking No Action On

The EPA is taking no action on the following provisions adopted and submitted by the Tribe because the EPA has determined that they are not new or revised WQS that the EPA has the authority to review and approve or disapprove pursuant to CWA section 303(c), 33 U.S.C. § 1313(c)(3).

- **Section 7**. Toxic Substances (Numeric criteria), revised provisions (3) Reference to develop toxic substances criteria and (5) Human health criteria inputs.
- **Section 12.** Wetlands, revised provision (1)
- **Section 16.** Allowance for compliance schedule, revised provisions (2)(a), (b) and (c)

The EPA appreciates the efforts you and your staff have dedicated to providing updated protections for waters under the Tribe's jurisdiction and we look forward to continuing our close collaborations with the Port Gamble S'Klallam Tribe.

If you have any questions, please contact me at (206) 553-0171 or Andrea Ramirez, the EPA staff lead, at (206) 553-1058 or ramirezpuentes.andrea@epa.gov.

Sincerely,

Hanh Shaw, Manager
Standards, Assessment and Watershed
Management Branch
Water Division

Enclosure: Technical Support Document

U.S. ENVIRONMENTAL PROTECTION AGENCY – REGION 10

Technical Support Document

The EPA's Clean Water Act Action on the Port Gamble S'Klallam Tribe's New and Revised Water Quality Standards

Submitted July 17, 2024

November 21, 2024

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Table of Contents

I. Introduction

This Technical Support Document provides the basis for the U.S. Environmental Protection Agency's (EPA) approval action under section 303(c) of the Clean Water Act (CWA), 33 U.S.C. § 1313(c), and the federal water quality standards (WQS) regulations at 40 C.F.R. Part 131, on the new and revised WQS submitted to the EPA by the Port Gamble S'Klallam Tribe ("PGST" or "Tribe"). Previously, the Tribe received approval for "treatment in a similar manner as a state" (TAS) for administering a WQS program on September 24, 2003, and the EPA approved the PGST's initial WQS on September 27, 2005. The revisions to the Port Gamble S'Klallam Tribe Water Quality Standards for Surface Waters were duly adopted pursuant to Tribal Law on July 9, 2024 (Resolution No. 24-A-092).[1,2]

This document is organized as follows:

- Part II – Provides background information about CWA requirements and the Tribe's new and revised WQS submittal. It also includes the scope of the EPA's action.
- Part III – Describes the EPA's action and the basis for the action under CWA section 303(c) and the implementing regulations at 40 C.F.R. Part 131.
- Part IV – Summarizes the rule provisions that the EPA is taking no action on.

II. Background

A. Clean Water Act Requirements for Water Quality Standards

The objective of the CWA is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters with an interim goal, where attainable, to achieve water quality that provides for the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water. Under section 303(c) of the CWA, and federal implementing regulations at 40 C.F.R. § 131.4, states and authorized Tribes[3] have the primary responsibility for reviewing, establishing, and revising WQS. These standards include the designated uses of a waterbody or waterbody segment, the water quality criteria necessary to protect those designated uses, and an antidegradation policy. This statutory and regulatory framework allows states and authorized Tribes to work with local communities to adopt appropriate designated uses (as required at 40 C.F.R. § 131.10(a)), criteria to protect those designated uses (as required at 40 C.F.R. § 131.11(a)), and an antidegradation policy to protect existing uses and high quality waters (as required in 40 C.F.R. § 131.12(a)).

States and authorized Tribes are required to hold public hearings for the purpose of reviewing applicable WQS periodically, but at least once every three years, and, as appropriate, modifying these standards (40 C.F.R. § 131.20). Each state or Tribe must follow applicable legal procedures for revising

[1] Letter dated July 12, 2024, to Casey Sixkiller, Regional Administrator EPA Region 10, from Steven Moe, Deputy Directing Attorney Port Gamble S'Klallam Tribe.

[2] Resolution No. 24-A-092 of the Port Gamble S'Klallam Tribal Council of the Port Gamble S'Klallam Tribe, *Revised Port Gamble S'Klallam Tribe Water Quality Standards for Surface Waters*, dated July 9, 2024.

[3] The term "authorized Tribe" means a tribe eligible under CWA section 518(e) and 40 C.F.R. § 131.8 for treatment in a similar manner as a state (TAS) for the purpose of administering a WQS program.

or adopting such standards (40 C.F.R. § 131.5(a)(6)) and is required to submit a certification by the appropriate legal authority within the state or Tribe, that the WQS were duly adopted pursuant to state or Tribal law (40 C.F.R. § 131.6(e)). The EPA's review authority and the minimum requirements for state and Tribal WQS submittals are described at 40 C.F.R. §§ 131.5 and 131.6, respectively.

Section 303(c) of the CWA requires states and authorized Tribes to submit new or revised WQS to the EPA for review and action. The EPA reviews these changes and approves the WQS if they meet the requirements of the CWA and the EPA's implementing regulations.

The EPA considers four questions (listed below) when evaluating whether a particular provision is a new or revised WQS. If the answer to all four questions is "yes," then the provision would likely constitute a new or revised WQS that the EPA has the authority and duty to approve or disapprove under CWA section 303(c)(3).[4]

1. Is it a legally binding provision adopted or established pursuant to state or tribal law?
2. Does the provision address designated uses, water quality criteria (narrative or numeric) to protect designated uses, and/or antidegradation requirements for waters of the United States?
3. Does the provision express or establish the desired condition (e.g., uses, criteria) or instream level of protection (e.g., antidegradation requirements) for waters of the United States immediately or mandate how it will be expressed or established for such waters in the future?
4. Does the provision establish new WQS or revise existing WQS?

If the EPA approves a state or Tribe's WQS submission, such standard(s) shall thereafter be the applicable standard for CWA purposes (33 U.S.C. § 1313(c)(3)). When the EPA disapproves a state or Tribe's WQS, the EPA shall notify the state or Tribe and specify why the WQS is not in compliance with the requirements of the CWA and federal WQS regulations, and specify any changes that are needed to meet such requirements (*Id*.; 40 C.F.R. § 131.21).

Finally, the EPA considers non-substantive edits to existing WQS to constitute new or revised standards that the EPA has the authority to approve or disapprove under CWA section 303(c)(3). While such edits and changes do not substantively change the meaning or intent of the existing WQS, the EPA believes it is reasonable to treat such edits and changes in this manner to ensure public transparency as to which provisions are applicable for CWA purposes. The EPA notes that the scope of its review and action on non-substantive edits or editorial changes extend only to the non-substantive edits or changes themselves. The EPA does not re-open or reconsider the underlying WQS that are the subject of the non-substantive edits or editorial changes.

B. Overview of the Port Gamble S'Klallam Tribe's submittal

The Tribe's July 17, 2024 submittal to the EPA included the adoption of new and revised WQS for

[4] See What is a New or Revised Water Quality Standard under 303(c)(3) Frequently Asked Questions, U.S. Environmental Protection Agency, EPA Pub. No. 820F12017 (Oct. 2012). Hereafter referred to as 303(c) FAQs. *Available at* https://www.epa.gov/sites/production/files/2014-11/documents/cwa303faq.pdf

surface waters of the Tribe. The PGST revised the general definitions, human health criteria, recreational criteria, antidegradation policy and implementation methods, and made formatting edits to its WQS. The Tribe provided a public comment period on the draft WQS revisions from April 4 through May 24, 2024, and held a public hearing on May 23, 2024 at the Port Gamble S'Klallam Long House. The public notice and supporting documents were posted electronically on the Tribe's website, social media, internal communication channels, local bulletin boards, and hard copies were made available at the library. The Washington Department of Ecology, the EPA, and other local authorities were notified via email. Aside from the EPA's comments on the Tribe's draft WQS revisions, the Tribe did not receive comments from the public.

The Port Gamble S'Klallam Tribal Council adopted the new and revised WQS during a regular Council meeting held on July 9, 2024, pursuant to Resolution No. 24-A-092. The Tribe's WQS submission included a certification by the Tribe's Deputy Directing Attorney that the revisions were duly adopted pursuant to Tribal Law (40 C.F.R. § 131.6(e)).

The Tribe's July 17, 2024 submittal package includes:

1) WQS submittal cover letter to Casey Sixkiller, EPA Region 10 Regional Administrator, from Roma Call, PGST Natural Resources Director, dated July 15, 2024.
2) Port Gamble S'Klallam Tribe Resolution No. 24-A-092 and redlined copy of revisions to PGST WQS for Surface Waters, approved by the EPA in 2005.
3) PGST WQS for Surface Waters, revised and adopted under Tribal law on July 9, 2024.
4) Summary of basis.
5) Summary of public comment period, which was open from April 4 to May 24, 2024.
6) Copy of notice of public comment period and public hearing.
7) Attorney's Certification directed to Casey Sixkiller, EPA Region 10 Regional Administrator, certifying that the rule was duly adopted pursuant to Tribal law, describing the revision of the PGST WQS, its justification, and a description of the public participation process, dated July 12, 2024.

C. Summary of EPA's Action

As described in this technical support document, the EPA is approving the following new and revised WQS under CWA section 303(c):

- Section 2. Definitions – 2 definitions removed, 17 new, 10 revised.
- Section 6. Narrative criteria, Provisions (1), (2), (7), and (8)
- Section 7. Toxic Substances (Numeric Criteria), Provision (7).
    - Table 1 – Human Health Criteria
- Section 8. Specific Water Quality Criteria for Use Classifications, provisions (3) Recreational and Cultural Use, (a) Table with Recreational Bacteria Criteria and provision (b).
- Section 9. Radioactive Substances, (2)(f) Uranium

- Section 13. Antidegradation, (1) Antidegradation Policy (revised) and (2) Antidegradation Implementation Methods

The EPA is approving the editorial revisions made to the following provisions:

- Section 1. Introduction, Provisions (1) to (5)
- Section 3. Designated uses. Provisions (1) and (3) Includes renumbering of previous section 20. General Classifications to be Section 3, subsection (3) Nondesignated Surface Waters
- Section 4. General Conditions, Provisions (1), (2) and (4)(contains errata edit)
- Section 5. Site-Specific Criteria, Provisions (1) to (3)
- Section 10. Biological Criteria, Provisions (1) and (2)
- Section 11. Wildlife Criteria
- Section 14. Mixing Zones
- Section 15. Implementation, Provisions (1) and (5)
- Section 17. Short-term Modifications, Provision (2)
- Section 18. Public Involvement
- Section 19. Enforcement, Provisions (1) to (5)

The EPA is taking no action on the following provisions because the EPA has determined they are not WQS that the EPA has authority to review and approve or disapprove pursuant to its CWA authority:

- Section 7. Toxic Substances (Numeric Criteria), Provisions (3) and (5).
    - Table 2 – Aquatic Life Criteria (Edits according to errata sheet)
- Section 12. Wetlands, Provision (1)
- Section 16. Allowance for Compliance Schedules, Provisions (2)(a), (b) and (c)

D. Scope of the EPA's Action

The EPA is only acting on the new and revised WQS adopted into regulation by the Tribe and identified in the Tribe's July 17, 2024 submittal. In addition, the Tribe's July 17, 2024 submission included the adoption of certain provisions that are not WQS that EPA has the authority to review and act on under CWA section 303(c) and 40 C.F.R. Part 131. These non-WQS provisions are discussed in the section titled "Provisions that the EPA is Taking No Action On."

Today's action applies only to waters under the jurisdiction of the Port Gamble S'Klallam Tribe, as defined in 18 U.S.C. § 1151. Nothing in this decision document shall constitute an approval or disapproval of a WQS that applies to waters under the jurisdiction of the state of Washington.

III. The EPA's Action on New and Revised Port Gamble S'Klallam Tribe Water Quality Standards

The EPA has completed its review and is acting on the Tribe's July 17, 2024 submittal as described

below. The following section summarizes the EPA's action and rationale for each provision. Please refer to the PGST WQS for the complete text of the new and revised WQS. The underlined portions of the text indicate the new and revised language and the strikeout portions indicate the deleted or reformatted language that are the subject of the EPA's action.

A. Introduction, Section 1

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the editorial revisions in Section 1, paragraphs (1) to (5) of the PGST WQS. The EPA notes that the approval of these editorial changes does not alter the EPA's prior approval of the provisions. The underlined portions of the text indicate the new and revised language and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's action.

(1) The Port Gamble S'Klallam Tribal Council hereby establishes these water quality standards covering the surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe. These standards shall provide a mechanism for managing and regulating the quality and use of said waters by establishing the water quality goals for surface waters of the Port Gamble S'Klallam Tribe ~~specific waterbodies~~ and providing a legal basis for regulatory controls.

(2) These standards have been adopted pursuant to Sections 303 and 518 of the Clean Water Act and the Port Gamble Tribal Constitution as adopted on September 7, 1939. These standards shall serve to protect the public health and welfare, enhance the quality of waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe, and serve the purposes of the Clean Water Act.

(3) The purposes of these water quality standards are to restore, maintain, and protect the chemical, physical, biological, and cultural integrity of the surface waters of the Port Gamble S'Klallam Tribe; to promote the health, social welfare, and economic well-being of the Port Gamble S'Klallam Tribe, its people, and all the residents of the Port Gamble S'Klallam ~~Reservation~~ Tribe; to achieve a level of water quality that provides for all cultural uses of the water, the protection and propagation of fish and wildlife, for recreation in and on the water, and all existing and designated uses of the water; to promote the holistic watershed approach to management of tribal waters; and to provide for protection of threatened and endangered species.

(4) These standards are designed to establish the uses for which the surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe shall be protected, to prescribe water quality standards (narrative and numeric) to sustain the designated uses, and to protect existing water quality.

(5) The water use and quality criteria set forth herein are established in conformance with water uses of the surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe and in consideration of the natural water quality potential and limitations of the same.

EPA Rationale

The EPA considers non-substantive edits to existing WQS to constitute revised WQS that the EPA has

the authority to approve or disapprove under the CWA section 303(c)(3).[5] The EPA's action on non-substantive edits ensures public transparency as to which provisions are effective for purposes of the CWA. The EPA's action on these editorial revisions to previously approved WQS do not constitute an action on the underlying previously approved WQS.

B. Definitions, Section 2

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the new and revised definitions for the following terms in Section 2 of the PGST WQS. The underlined portions of the text indicate the new and revised language and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's action.

~~"Acute toxicity" is a relatively short term lethal or other adverse effect to an organism caused by pollutant, and usually defined as occurring within 4 days for fish and large invertebrates and shorter times for smaller organisms.~~
"Acute" refers to a stimulus severe enough to rapidly induce an effect; in aquatic toxicity tests, an effect observed in 96-hours or less is typically considered acute. When referring to aquatic toxicology or human health, an acute effect is not always measured in terms of lethality.

"Aquatic community" is an association of interacting populations of aquatic organisms in a given water body or habitat.

"Averaging period" is the period of time over which the receiving water concentration is averaged for comparison with criteria concentrations. This specification limits the duration of concentrations above the criteria.

"Biological integrity" is the condition of the aquatic community inhabiting unimpaired water bodies of a specified habitat as measured by community structure and function.

~~"Chronic toxicity" means a fairly long term adverse effect to an organism (when compared to the life span of the organism) caused by or related to changes in feeding, growth, metabolism, reproduction, a pollutant, genetic mutation, etc. Short term test methods for detecting chronic toxicity may be used.~~
"Chronic" defines a stimulus that lingers or continues for a relatively long period of time, often one tenth of the life span or more. Chronic should be considered a relative term depending on the life span of an organism. The measurement of a chronic effect can be reduced growth, reduced reproduction, etc., in addition to lethality.

[5] What Is a New or Revised WQS Under CWA 303(c)(3)? FAQs, October 2012. Available at https://www.epa.gov/sites/default/files/2014-11/documents/cwa303faq.pdf

"Compliance schedule" means a schedule of remedial measures, including an enforceable sequence of actions or operations, leading to compliance with an effluent limitation or other limitation, prohibition or standard.

~~"Created wetlands" means those wetlands intentionally created from a non-wetland site to produce or replace natural wetland habitat.~~

"Criteria continuous concentration" (CCC) is the highest instream concentration of a toxicant or an effluent to which organisms can be exposed indefinitely without causing unacceptable effect.

"Criteria maximum concentration" (CMC) is the highest instream concentration of a toxicant or an effluent to which organisms can be exposed for a brief period of time without causing an acute effect.

"Design flow" is the flow used for steady-state waste load allocation modeling.

"E. coli or Escherichia coli" is the name of a specific bacterium used as an indicator of fecal (pathogen) pollution in freshwater environments and is expressed as colony forming units (cfu) per 100 milliliters or most probable number (mpn) per 100 milliliters. Analytic procedures include multiple-tube fermentation and membrane filter techniques. Elevated levels can be an indicator of the presence of pathogens that can cause human health problems.

"Enterococci" is the name of a group of bacteria used as an indicator of fecal (pathogen) pollution in saline water environments and is expressed as colony forming units (cfu) per 100 milliliters or most probable number (MPN) per 100 milliliters. Analytic procedures include multiple-tube fermentation and membrane filter techniques. Elevated levels can be an indicator of the presence of pathogens that can cause human health problems.

"Ephemeral stream" means a waterway that has flowing water only during, and for a short duration after, precipitation events in a typical year.

"Frequency" is how often criteria can be exceeded without unacceptably affecting the community.

"Magnitude" is how much of a pollutant (or pollutant parameter such as toxicity), expressed as a concentration or toxic unit is allowable.

"Outstanding Resource Water" is a high quality water that constitutes an outstanding Tribal resource due to its extraordinary water quality or ecological values, or where special protection is needed to maintain critical habitat areas.

"Practicable" means technologically possible, able to be put into practice, and economically viable.

"Site-specific criterion" is a water quality criterion that has been derived to be specifically appropriate to the water quality characteristics and/or species composition at a particular location.

"Statistical threshold value" (STV) refers to the approximation of the 90th percentile of the water quality distribution and is intended to be a value that should not be exceeded by more than 10 percent of the samples taken.

"Use attainability analysis" (UAA) is a structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in 40 C.F.R. section 131.10(g).

~~"Zone of initial dilution" means the region of initial mixing surrounding or adjacent to the outfall pipe or diffuser port, in which dilution is caused by the momentum and buoyancy of the discharge.~~

EPA Rationale

The new and revised definitions explain the terms used in the Tribe's WQS, and therefore provide additional information needed for the application and implementation of the WQS. The new and revised definitions are consistent with general scientific and technical concepts, definitions in the CWA and/or the EPA's implementation regulations, EPA guidance, or otherwise appropriately convey the interpretation of a term. Therefore, in accordance with the CWA, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA is approving the Tribe's new and revised definitions in Section 2 of the PGST WQS.

C. Designated Uses, Section 3

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the editorial revisions in Section 3, paragraph (1), (2), and (3) of the PGST WQS. The EPA notes that the approval of these editorial changes does not alter the EPA's prior approval of the provisions. The underlined portions of the text indicate the new and revised language and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's action.

Water quality standards regulations require the Port Gamble S'Klallam Tribe to specify appropriate water uses to be achieved and protected. ~~Section~~ 40 C.F.R. § 131.10 ~~of 40 CFR~~ requires that the Tribe take into consideration the use and value of water for public water supplies; protection and propagation of fish, shellfish, and wildlife; recreation in and on the water; agricultural, industrial, and other purposes including navigation. The Tribe must also take into consideration the water quality standards of downstream waters, and ensure that its water quality standards provide for the attainment and maintenance of the water quality standards of downstream waters.

(1) The designated uses for which the fresh surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe are to be protected include, but are not limited to, the following:

(2) The designated uses for which the marine surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe are to be protected include, but are not limited to, the following:

~~GENERAL CLASIFICATIONS~~

(3) Nondesignated Surface Waters

(a) All surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe shall be designated, at a minimum, for the protection of cold water biota and for recreational and cultural uses, unless a Use Attainability Analysis has first been performed in accordance with water quality standards regulations at 40 ~~CFR~~ C.F.R. § 131.10(g).

(b) All fresh surface waters not specifically classified shall be designated for cold water biota and for recreational and cultural uses.

(c) All marine surface waters not specifically classified shall be designated for salmonid and other fish migration, rearing, spawning, and harvesting; shellfish and crustacean spawning, rearing, and harvesting; and recreational and cultural uses.

(d) All waters must be of sufficient quality to ensure that downstream uses are fully protected.

(e) All surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe shall also be designated for the uses of aesthetics, and wildlife habitat. Water quality criteria for those uses will be generally satisfied by implementation of the General Conditions in Section ~~3~~4, and the Narrative Criteria in Section ~~5~~6.

EPA Rationale

The EPA considers non-substantive edits to existing WQS to constitute revised WQS that the EPA has the authority to approve or disapprove under the CWA section 303(c)(3).[6] The EPA's action on non-substantive edits ensures public transparency as to which provisions are effective for purposes of the CWA. The EPA's action on these editorial revisions to previously approved WQS do not constitute an action on the underlying previously approved WQS.

D. General Conditions, Section 4

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the editorial revisions in Section 4, paragraphs (1), (2), (4)(a), and (4)(c) of the PGST WQS. The EPA notes that the approval of these editorial changes does not alter the EPA's prior approval of the provisions. The underlined portions of the text indicate the new and revised language and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's

[6] What Is a New or Revised WQS Under CWA 303(c)(3)? FAQs, October 2012. Available at https://www.epa.gov/sites/default/files/2014-11/documents/cwa303faq.pdf

action.

> (1) All surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe shall be free from pollutants in concentrations or combinations that do not protect the most sensitive use of the water body.
>
> (2) Whenever the natural conditions of surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe are of a lower quality than the criteria assigned, the Department may determine that the natural conditions shall constitute the water quality criteria, following the procedures set forth in Section ~~4~~ 5.
>
> (4) In brackish water of estuaries, where the fresh and marine water quality criteria differ for the same designated uses, the aquatic life criteria apply as follows:
>
> > (a) For waters in which the salinity is equal to or less than one part per thousand 95 percent or more of the time, the applicable criteria are the ~~fresh water~~ freshwater criteria.
> >
> > (b) For waters in which the salinity is ~~equal to or less~~ more than ten parts per thousand 95 percent or more of the time, the applicable criteria are the marine water criteria.
> >
> > (c) For waters in which the salinity is between one and ten parts per thousand, the applicable criteria are the more stringent of the ~~fresh water~~ freshwater or marine water criteria.

EPA Rationale

The revision made to Section 4(4)(b) was made according to the 2005 errata sheet submitted by the Tribe and part of the EPA's 2005 action which is further discussed in Section IV of this document. As for the editorial revisions, the EPA considers non-substantive edits to existing WQS to constitute revised WQS that the EPA has the authority to approve or disapprove under the CWA section 303(c)(3).[7] The EPA's action on non-substantive edits ensures public transparency as to which provisions are effective for purposes of the CWA. The EPA's action on these editorial revisions to previously approved WQS do not constitute an action on the underlying previously approved WQS.

E. Site-Specific Criteria, Section 5

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the editorial revisions in Section 5, paragraphs (1) to (3) of the PGST WQS. The EPA notes that the approval of these editorial changes does not alter the EPA's prior approval of the provisions. The underlined portions of the text indicate the new and revised language and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's action.

[7] What Is a New or Revised WQS Under CWA 303(c)(3)? FAQs, October 2012. Available at https://www.epa.gov/sites/default/files/2014-11/documents/cwa303faq.pdf

(1) The Department will, in its discretion, establish a site-specific water quality criterion that modifies a water quality criterion set out in Section ~~19~~ 8:

(2) If the Department finds that a natural condition of a waterbody is demonstrated to be of lower quality than a water quality criterion for the use classes in Section ~~18~~ 3 and that the natural condition will fully protect designated uses in Sections ~~18~~ 3 and ~~20~~ 8, the natural condition constitutes the applicable water quality criterion. Upon application or on its own initiative, the Department will determine whether a natural condition of a waterbody should be approved as a site-specific water quality criterion in a permit, certification, or approval issued by the Department. Before making the determination, the Department will issue public notice of a proposed approval under this subsection and provide opportunity for public comment. If a natural condition of a waterbody varies with time, the natural condition will be determined to be the prevailing highest quality natural condition of the waterbody measured during an annual, seasonal, or shorter time-period before discharge or operation, or as the actual natural condition of the waterbody measured concurrent with discharge or operation. The Department will, in its discretion:

(3) Upon application, or on its own initiative, the Department will, in its discretion, set site-specific criteria in regulation if the Department finds that the evidence reasonably demonstrates that the site-specific criterion will fully protect designated uses in Section ~~18~~ 3 and that:

(a) For reasons specific to a certain site, a criterion in Section ~~19~~ 8 is more stringent or less stringent than necessary to ensure full protection of the corresponding use class; or

(b) A criterion would be better expressed in terms different from those used in Section ~~19~~ 8.

EPA Rationale

The EPA considers non-substantive edits to existing WQS to constitute revised WQS that the EPA has the authority to approve or disapprove under the CWA section 303(c)(3).[8] The EPA's action on non-substantive edits ensures public transparency as to which provisions are effective for purposes of the CWA. The EPA's action on these editorial revisions to previously approved WQS do not constitute an action on the underlying previously approved WQS.

F. Narrative Criteria, Section 6

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the new narrative criteria provisions in Section 6, paragraphs (1) and (8) of the PGST WQS along with the editorial revisions made to paragraphs (2) to (7). The underlined portions of the text indicate the

[8] What Is a New or Revised WQS Under CWA 303(c)(3)? FAQs, October 2012. Available at https://www.epa.gov/sites/default/files/2014-11/documents/cwa303faq.pdf

new language that is the subject of the EPA's action.

(1) General requirements. All surface waters of the Port Gamble S'Klallam Tribe shall be free from toxic, radioactive, conventional, non-conventional, deleterious or other polluting substances in amounts that will prevent attainment of the designated uses.

~~(1)~~ (2) Floating Solids, Oil and Grease. All surface waters of the Port Gamble S'Klallam Tribe shall be free from visible oils, scum, foam, grease, and other floating materials and suspended substances of a persistent nature resulting from other than natural causes.

~~(2)~~ (3) Color~~:~~. True color-producing materials resulting from other than natural causes shall not create an aesthetically undesirable condition; nor should color inhibit photosynthesis or otherwise impair the existing and designated uses of the water.

~~(3)~~ (4) Odor and Taste~~:~~. Water contaminants from other than natural causes shall be limited to concentrations that will not impart unpalatable flavor to fish, or result in offensive odor or taste arising from the water, or otherwise interfere with the existing and designated uses of the water.

~~(4)~~ (5) Nuisance Conditions~~:~~. Nutrients or other substances from anthropogenic causes shall not be present in concentrations which will produce objectionable algal densities or nuisance aquatic vegetation, result in a dominance of nuisance species, or otherwise cause nuisance conditions.

~~(5)~~ (6) Turbidity~~:~~. Turbidity shall not be at a level to potentially impair designated uses or aquatic biota.

~~(6)~~ (7) Bottom Deposits~~:~~. All surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe shall be free from anthropogenic contaminants that may settle and have a deleterious effect on the aquatic biota or that will significantly alter the physical and chemical properties of the water or the bottom sediments.

(8) Downstream protection. All surface waters of the Port Gamble S'Klallam Tribe shall maintain a level of water quality that provides for the attainment and maintenance of the water quality standards of downstream waters, including the downstream waters of a state or another federally-recognized tribe.

EPA Rationale

The regulations at 40 C.F.R. § 131.11(a) require states and authorized Tribes to adopt water quality criteria that contain sufficient parameters or constituents to protect designated uses. In accordance with 40 C.F.R. § 131.11(b)(2), in adopting water quality criteria, states and Tribes should "establish narrative criteria or criteria based on biomonitoring methods where numeric criteria cannot be established or to supplement narrative criteria." The regulations at 40 C.F.R. § 131.10(b) require states and Tribes to take into consideration the WQS of downstream waters when designating uses and the appropriate criteria for those uses and ensure that their WQS provide for the attainment and maintenance of downstream WQS. The narrative criteria in Section 6 are consistent with the regulations at 40 C.F.R. §§ 131.10(b) and 131.11.

The EPA considers non-substantive edits, such as the editorial revisions made to paragraphs (2) to (7) to existing WQS to constitute revised WQS that the EPA has the authority to approve or disapprove under the CWA section 303(c)(3).[9] The EPA's action on non-substantive edits ensures public transparency as to which provisions are effective for purposes of the CWA. The EPA's action on these editorial revisions to previously approved WQS do not constitute an action on the underlying previously approved WQS. Therefore, in accordance with the CWA, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA is approving the Tribe's new provisions at Section 6 of the PGST WQS.

G. Toxic Substances (Numeric Criteria), Section 7

i. Editorial revisions

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the editorial revisions made to provision in Section 7, paragraph (7) of the PGST WQS. The EPA notes that the approval of these editorial changes does not alter the EPA's prior approval of the provisions. The underlined portions of the text indicate the new and revised language and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's action.

> (7) The criteria in ~~the following tables~~ Tables 1 and 2 shall be applied to surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe for the protection of aquatic life and human health. Aquatic life criteria (chronic and acute) and human health criteria based on consumption of organisms only shall apply to all surface waters. In addition to these criteria, human health criteria based on consumption of both water and organisms shall apply to all surface waters whose designated uses include domestic water supply.

EPA Rationale

The separation of the human health criteria and aquatic life criteria, previously Table 1, into Table 1 and 2, respectively, is considered a non-substantive formatting edit. The EPA's action for the human health criteria is discussed below. The changes made to Table 2, are discussed in Section IV of this document. The EPA considers non-substantive edits to existing WQS to constitute revised WQS that the EPA has the authority to approve or disapprove under the CWA section 303(c)(3).[10] The EPA's action on non-substantive edits ensures public transparency as to which provisions are effective for purposes of the CWA. The EPA's action on these editorial revisions to previously approved WQS do not constitute an action on the underlying previously approved WQS.

ii. Section 7 (7) Table 1. Human Health Criteria

EPA Action

[9] Ibid.
[10] Ibid.

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the new and revised human health criteria in Section 7, (7) Table 1 and associated footnotes 'a' to 'k' of the PGST WQS. The underlined portions of the text and numeric values indicate the 16 new pollutants (29 criteria) and associated footnotes, the bold numeric values indicate the 198 revised numeric criteria values (100 pollutants), and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's action. Six pollutants (asbestos, dichlorodifluoromethane (Organism only), iron, manganese, mercury, and nitrates) remain unchanged from the PGST 2005 CWA effective WQS and are therefore not subject to the EPA's current action.

~~Water Quality~~ **Table 1. Human Health Criteria** ~~for Toxic Pollutants~~

~~The concentration for each compound listed in this table is a criterion for aquatic life or human health protection. Selecting values for regulatory purposes will depend on the most sensitive beneficial use to be protected and the level of protection necessary for aquatic life and human health as specified within this table. All concentrations, except asbestos, are micrograms per liter (µg/L).~~

Pollutant	CAS Number	Water + Organism (µg/L)	Organism Only (µg/L)
1,1,1-Trichloroethane [a]	**71556**	**12,000**	**20,000**
1,1,2,2-Tetrachloroethane	79345	~~0.13~~ **0.07**	~~0.49~~ **0.1**
1,1,2-Trichloroethane [a]	79005	~~0.47~~ **0.24**	~~1.9~~ **0.40**
1,1-Dichloroethylene [a]	75354	~~0.042~~ **600**	~~0.15~~ **1,800**
1,2,4,5-Tetrachlorobenzene	**95943**	**0.0024**	**0.0024**
1,2,4-Trichlorobenzene [a]	120821	~~38~~ **0.0031**	~~43~~ **0.0031**
1,2-Dichlorobenzene [a]	95501	~~640~~ **350**	~~800~~ **380**
1,2-Dichloroethane [a]	107062	~~0.35~~ **7.5**	~~4.5~~ **29**
1,2-Dichloropropane	78875	~~0.41~~ **0.55**	~~1.8~~ **1.4**
1,2-Diphenylhydrazine	122667	~~0.016~~ **0.0077**	~~0.025~~ **0.0094**
1,2-Trans-Dichloroethylene [a]	156605	~~630~~ **190**	~~6200~~ **420**
1,3-Dichlorobenzene	541731	~~95~~ **1.6**	~~120~~ **1.7**
~~1,3-Dichloropropylene~~ **1,3-Dichloropropene**	542756	~~9.2~~ **0.18**	~~77~~ **0.52**

Pollutant	CAS Number	Water + Organism (µg/L)	Organism Only (µg/L)
1,4-Dichlorobenzene [a]	106467	~~95~~ **100**	~~120~~ **110**
2,4,5-Trichlorophenol [b]	**95954**	**63**	**65**
2,4,6-Trichlorophenol [b]	88062	~~0.27~~ **0.12**	~~0.3~~ **0.13**
2,4-Dichlorophenol [b]	120832	~~27~~ **5.7**	~~36~~ **6.4**
2,4-Dimethylphenol [b,k]	105679	~~91~~ **85**	~~105~~ **97**
2,4-Dinitrophenol	51285	~~63~~ **18**	~~660~~ **37**
2,4-Dinitrotoluene	121142	~~0.088~~ **0.03**	~~0.41~~ **0.075**
2-Chloronaphthalene	91587	~~180~~ **34**	~~190~~ **35**
2-Chlorophenol [b,k]	95578	~~17~~ **15**	~~18~~ **17**
2-Methyl-4,6-Dinitrophenol	534521	~~9.8~~ **1.9**	~~35~~ **3.0**
3,3'-Dichlorobenzidine [k]	91941	~~0.0034~~ **0.0031**	~~0.0035~~ **0.0033**
3-Methyl-4-Chlorophenol [k]	**59507**	**36**	**36**
4,4'-DDD	72548	~~0.000038~~ **0.0000058**	~~0.000038~~ **0.0000058**
4,4'-DDE	72559	~~0.000027~~ **6.9e-7**	~~0.000027~~ **6.9e-7**
4,4'-DDT	50293	~~0.000027~~ **0.000001**	~~0.000027~~ **0.000001**
Acenaphthene [b]	83329	~~115~~ **9.5**	~~122~~ **9.6**
Acrolein [k]	107028	~~33~~ **1**	~~36~~ **1.1**
Acrylonitrile [k]	107131	~~0.02~~ **0.019**	~~0.03~~ **0.028**
Aldrin	309002	~~0.000006~~ **3.4e-8**	~~0.000006~~ **3.4e-8**
alpha-BHC	319846	~~0.0005~~	~~0.0006~~

Pollutant	CAS Number	Water + Organism (µg/L)	Organism Only (µg/L)
		0.000016	**0.000016**
alpha-Endosulfan	959988	~~10~~ **3.0**	~~11~~ **3.1**
Anthracene	120127	~~3350~~ **40**	~~4920~~ **40**
Antimony [a,c,d]	7440360	~~13~~ **5.5**	~~197~~ **33**
Arsenic [c, j]	7440382	~~0.005~~ **0.0019**	~~0.006~~ **0.0021**
Asbestos [a,c,e]	1332214	7 million fibers/L	--
Barium [a,c,e,f]	**7440393**	**1000**	--
Benzene [a]	71432	~~0.88~~ **0.33**	~~3.3~~ **0.71**
Benzidine [k]	92875	0.00002	0.000023
Benzo(a) Anthracene	56553	~~0.0015~~ **0.000057**	~~0.0022~~ **0.000057**
Benzo(a) Pyrene [a]	50328	~~0.0015~~ **0.0000057**	~~0.0022~~ **0.0000057**
Benzo(b) Fluoranthene	205992	~~0.0015~~ **0.000057**	~~0.0022~~ **0.000057**
Benzo(k) Fluoranthene	207089	~~0.0015~~ **0.00057**	~~0.0022~~ **0.00057**
beta-BHC (beta-HCH)	319857	~~0.0018~~ **0.00063**	~~0.0021~~ **0.00065**
beta-Endosulfan	33213659	~~10~~ **4.6**	~~11~~ **4.9**
~~Chloroisopropyl Ether (Bis 2)~~ **Bis(2-Chloro-1-Methylethyl) Ether**	108601	~~1200~~ **100**	~~8000~~ **200**
Bis(2-Chloroethyl) Ether [k]	**111444**	**0.02**	**0.06**
Bis(2-Ethylhexyl) Phthalate [a]	117817	~~0.24~~ **0.016**	~~0.27~~ **0.016**
Bis(Chloromethyl) Ether	542881	~~0.00015~~ **0.00013**	~~0.0035~~ **0.00074**

Pollutant	CAS Number	Water + Organism (µg/L)	Organism Only (µg/L)
Bromoform [a]	75252	~~3.5~~ **3**	~~17~~ **5.2**
Butylbenzyl Phthalate	85687	~~230~~ **0.0045**	~~240~~ **0.0045**
Carbon Tetrachloride [a]	56235	~~0.12~~ **0.14**	~~0.20~~ **0.21**
Chlordane [a]	57749	~~0.0001~~ **0.000017**	~~0.0001~~ **0.000017**
Chlorobenzene [a,b]	108907	~~400~~ **74**	~~950~~ **95**
Chlorodibromomethane [a]	124481	~~0.33~~ **0.44**	~~1.6~~ **0.94**
Chloroform [a]	67663	~~4.5~~ **100**	~~21~~ **250**
Chlorophenoxy Herbicide (2,4,5-TP) [Silvex] [a]	**93721**	**10**	**11**
Chlorophenoxy Herbicide (2,4-D) [a]	**94757**	**960**	**1300**
Chrysene [a]	218019	~~0.0015~~ **0.0057**	~~0.0022~~ **0.0057**
Copper [a,b,c,e]	**7440508**	**1300**	--
Cyanide [a]	57125	~~650~~ **8.3**	~~9,800~~ **49**
Di-n-Butyl Phthalate	84742	~~480~~ **2.8**	~~550~~ **2.8**
Dibenzo(a,h) Anthracene	53703	~~0.0015~~ **0.0000057**	~~0.0022~~ **0.0000057**
Dichlorobromomethane [a]	75274	~~0.45~~ **0.54**	~~2.1~~ **1.2**
Dichlorodifluoromethane [m]	--	~~5,500~~ **5,600**	26,000
Dieldrin	60571	~~0.0000066~~ **5.8e-8**	~~0.0000066~~ **5.8e-8**
Diethyl Phthalate	84662	~~4,500~~ **71**	~~5,400~~ **71**
Dimethyl Phthalate	131113	~~98,000~~ **200**	~~140,000~~ **200**
Dinitrophenols	**25550587**	**25**	**110**

Pollutant	CAS Number	Water + Organism (µg/L)	Organism Only (µg/L)
Dioxin [c]	1746016	~~6.0e-10~~ **2.1e-10**	~~6.0e-10~~ **2.1e-10**
Endosulfan Sulfate	1031078	~~10~~ **4.3**	~~11~~ **4.5**
Endrin	72208	~~0.037~~ **0.001**	~~0.037~~ **0.001**
Endrin Aldehyde [a, k]	7421934	~~0.037~~ **0.034**	~~0.037~~ **0.035**
Ethylbenzene [a]	100414	~~950~~ **14**	~~1,300~~ **14**
Fluoranthene	206440	~~17~~ **2.2**	~~17~~ **2.2**
Fluorene	86737	~~450~~ **7.6**	~~660~~ **7.7**
Gamma-BHC (HCH); Lindane [a]	58899	~~0.0026~~ **0.22**	~~0.0029~~ **0.22**
Heptachlor [a]	76448	~~0.0000097~~ **2.8e-7**	~~0.0000097~~ **2.8e-7**
Heptachlor Epoxide [a]	1024573	~~0.0000048~~ **0.0000017**	~~0.0000048~~ **0.0000017**
Hexachlorobenzene [a]	118741	~~0.000035~~ **0.0000034**	~~0.000035~~ **0.0000034**
Hexachlorobutadiene [a]	87683	~~0.38~~ **0.0003**	~~2.3~~ **0.0003**
Hexachlorocyclohexane (HCH) - Technical	**608731**	**0.00045**	**0.00046**
Hexachlorocyclopentadiene [a,b]	77474	~~190~~ **0.53**	~~790~~ **0.53**
Hexachloroethane	67721	~~0.35~~ **0.0043**	~~0.40~~ **0.0044**
Indeno(1,2,3-cd) Pyrene	193395	~~0.0015~~ **0.000057**	~~0.0022~~ **0.000057**
Iron [m]	--	300	--
Isophorone	78591	~~28~~ **25**	~~120~~ **82**
Manganese [b,c,e,g]	7439965	50	100

Pollutant	CAS Number	Water + Organism (µg/L)	Organism Only (µg/L)
Mercury [m]	7439976	0.002	0.002
Methoxychlor [a]	72435	~~40~~ **0.0006**	**0.00061**
Methyl Bromide	74839	~~39~~ **270**	~~185~~ **1300**
Methylene Chloride [a, k]	75092	~~4.4~~ **10**	~~73~~ **55**
Methylmercury [c, h]	**22967926**	--	**0.01 *mg/kg***
N-Nitrosodi-n-Propylamine [c]	621647	~~0.0046~~ **0.0039**	~~0.062~~ **0.021**
N-Nitrosodimethylamine [c]	62759	~~0.00069~~ **0.00065**	~~0.37~~ **0.12**
N-Nitrosodiphenylamine [c]	86306	~~0.67~~ **0.24**	~~0.74~~ **0.25**
Nickel [c,d]	7440020	~~160~~ **32**	~~210~~ **35**
Nitrates [a,c,e]	14797558	10000	--
Nitrobenzene [b]	98953	~~15~~ **22**	~~85~~ **62**
Nitrosamines [c]	**--**	**0.00074**	**0.019**
Nitrosodibutylamine [c]	**924163**	**0.0036**	**0.0089**
Nitrosodiethylamine [c]	**55185**	**0.00074**	**0.019**
Nitrosopyrrolidine [c]	930552	~~0.016~~ **0.015**	~~4.3~~ **1.4**
Pentachlorobenzene	608935	~~0.18~~ **0.01**	~~0.19~~ **0.01**
Pentachlorophenol (PCP) [a,b]	87865	~~0.16~~ **0.0017**	~~0.37~~ **0.0017**
pH [c,e]	--	~~6.5-8.5~~ **5-9**	--
Phenol [b]	108952	~~19,000~~ **7500**	~~210,000~~ **30000**
Polychlorinated Biphenyls (PCBs) [a,c,i]	1336363	~~0.000008~~ **0.0000026**	~~0.000008~~ **0.0000026**
Pyrene	129000	~~330~~ **2.8**	~~490~~ **2.9**

Pollutant	CAS Number	Water + Organism (µg/L)	Organism Only (µg/L)
Selenium [a,c]	**7782492**	**42**	**85**
Solids Dissolved and Salinity [c,e]	**--**	**250000**	**--**
Tetrachloroethylene [a]	127184	~~0.28~~ **1.2**	~~0.40~~ **1.3**
Thallium [c]	7440280	~~0.25~~ **0.05**	~~0.28~~ **0.05**
Toluene [a]	108883	~~4,000~~ **43**	~~9,200~~ **58**
Toxaphene [a, k]	8001352	~~0.000034~~ **0.000032**	~~0.000034~~ **0.000032**
Trichloroethylene [a]	79016	~~1.6~~ **0.2**	~~3.7~~ **0.3**
Vinyl Chloride [a]	75014	~~1.9~~ **0.017**	~~24~~ **0.07**
Zinc [b,c]	**7440666**	**470**	**520**

Footnotes:

a. EPA has issued a Maximum Contaminant Level (MCL) for this chemical which may be more stringent. Refer to EPA's National Primary Drinking Water Regulations.

b. The criterion for organoleptic (taste and odor) effects may be more stringent. Refer to National Recommended Water Quality Criteria - Organoleptic Effects.

c. EPA did not update its National Recommended Human Health Water Quality Criteria for this pollutant in 2015. This table's criteria values are calculated using the 2015 revised inputs for body weight, drinking water intake rate, and a fish consumption rate of 489 g/day (refer to 2015 EPA Updated Ambient Water Quality Criteria for the Protection of Human Health). The criteria values in this table therefore may not match the values in EPA's National Recommended Water Quality Criteria - Human Health Criteria Table developed under Section 304(a) of the Clean Water Act, which are based on pre-2015 inputs.

d. This criterion was revised to reflect EPA's q1* or RfD as contained in the Integrated Risk Information System (IRIS) as of May 17, 2002. The fish tissue bioconcentration factor (BCF) is from the 1980 Ambient Water Quality Criteria document.

e. Criteria for these pollutants are from the National Recommended Water Quality Criteria - Human Health Criteria Table. They are not calculated based on this table's inputs for fish consumption rate and cancer risk level.

f. This human health criterion is the same as originally published in the Quality Criteria for Water, 1976 ("Red Book") which predates the 1980 methodology and did not utilize the fish ingestion

BCF approach. This same criterion value is published in the Quality Criteria for Water, 1986 ("Gold Book").

g. The Human Health for the consumption of Water + Organism criterion for manganese is not based on toxic effects, but rather is intended to minimize objectionable qualities such as laundry stains and objectionable tastes in beverages.
h. This fish tissue residue criterion for methylmercury is based on the total fish consumption rate.
i. This criterion applies to total PCBs (*e.g.*, the sum of all congener or all isomer or homolog or Aroclor analyses).
j. This criterion for arsenic refers to the inorganic form only.
k. Criteria are based on more stringent Washington State human health criteria (WAC 173-201A-240 and 40 C.F.R. § 131.45).
l. This letter is not used as a footnote.
m. Criteria for this pollutant have not been updated.

EPA Rationale

The input parameters that the Tribe used to derive the revised human health criteria were informed by the EPA's 2000 Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health (2000 Human Health Methodology),[11] the EPA's 2015 CWA section 304(a) human health criteria recommendations (EPA's 2015 recommendations),[12] and values sourced from Washington State criteria (WAC 173-201A-240).[13] The Tribe used the input values described below to derive human health criteria that are scientifically defensible and protective of the PGST designated uses. Once the Tribe obtained the criteria using these inputs, the values were compared to Washington's human health criteria and the more stringent values were adopted by the PGST.

The input parameters used to derive the human health criteria are:

- **Fish consumption rate (FCR)** of 489 grams/day, revised from the previous version of the Tribe's WQS which used a FCR of 142.4 g/day. The Tribe used the 90th percentile consumption rate for fish and shellfish included in the Suquamish Tribe's fish consumption survey,[14] as presented in the Washington Department of Ecology's Fish Consumption Rates Technical Support Document.[15]

[11] USEPA. October 2000. Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health. U.S. EPA, Office of Water, Washington D.C. EPA-822-B-00-004. Available at https://nepis.epa.gov/Exe/ZyPDF.cgi/20003D2R.PDF?Dockey=20003D2R.PDF

[12] USEPA. June 2015. Final Updated Ambient Water Quality Criteria for the Protection of Human Health. U.S Environmental Protection Agency. 80 FR 36986.

[13] Washington's human health criteria for 2,4-Dimethylphenol, 2-Chlorophenol, 3,3'-Dichlorobenzidine, 3-Methyl-4-Chlorophenol, acrolein, acrylonitrile, benzidine, Bis(2-Chloroethyl) Ether, endrin aldehyde, and toxaphene were approved by the EPA and considered CWA effective as part of the November 15, 2016 EPA's Partial Approval/Partial Disapproval of Washington's Human Health Water Quality Criteria and Implementation Tools.

[14] August 2000. *Fish Consumption Survey of the Suquamish Indian Tribe of the Port Madison Indian Reservation, Puget Sound Region*. The Suquamish Tribe. 15838 Sandy Hook Road, Post Office Box 498, Suquamish, WA 98392.

[15] Washington Department of Ecology. January 2013. *Fish Consumption Rates Technical Support Document, A Review of Data and Information about Fish Consumption in Washington*. Version 2.0. Publication No. 12-09-058.

    - For the pollutants where the criteria from Washington State were incorporated (footnote 'k'), the FCR used is 175 g/day.
- **Bioaccumulation Factors (BAFs)** for trophic-levels 2, 3, and 4 informed by the EPA's 2015 recommendations and paired with trophic level-specific FCRs. The overall fish and shellfish consumption rate was broken down by species trophic level,[16] based on the Suquamish Tribe's fish consumption survey.
    - The Washington State criteria adopted by the Tribe (footnote 'k') were developed by the State using pollutant-specific BCFs, which together with other inputs into the human health criteria equations result in protective and more stringent criteria.[17]
- **Toxicity factors** informed by the EPA's 2015 recommendations. For contaminants not updated in the EPA's 2015 recommendations, toxicity factors were based on the EPA's 2002 Human Health Calculation Matrix.[18]
- **Cancer Risk Level** of 10^{-6} (or one in one million) for carcinogenic pollutants, within the acceptable range for the protection of the general population (i.e., 10^{-7}-10^{-5}), as described in the EPA's 2000 Human Health Methodology.
- **Relative source contribution (RSC)** for non-carcinogens, an RSC of 0.5 was used in most cases, which is consistent with the EPA's 2000 Human Health Methodology.
    - The Washington State criteria adopted by the Tribe (footnote 'k') were developed by the State using an RSC of 1, which together with other inputs into the human health criteria equations result in protective and more stringent criteria.[19]
- A **drinking water intake** of 2.4 liters per day informed by the EPA's 2015 recommendations.
- A **body weight** input of 80 kg informed by the EPA's 2015 recommendations.

The EPA's 2000 Human Health Methodology recognizes the variability of FCRs among population groups and geographic region. The EPA urges states and authorized Tribes to use a FCR derived from local or regional data instead of the national default recommendation to ensure the fish intake level chosen is protective of highly exposed subpopulations. The 2000 Methodology includes a four-preference hierarchy concerning the use of FCR data: (1) use of local data; (2) use of data reflecting similar geography/population groups; (3) use of data from national surveys; and (4) use of the EPA's default FCR. In addition, Region 10 Tribal human health criteria often utilize FCRs greater than those of the general population because:

- Tribes have higher FCRs than the general population.
- Consistent with discretion afforded to states and Tribes under the EPA's guidance and section

[16] The trophic level-based fish consumption rates used to calculate the Tribe's criteria were TL 2: 279 g/day, TL 3: 19 g/day and TL 4: 191 g/day.

[17] USEPA. 2019. *Technical Support Document: The EPA's Reversal of the November 15, 2015 CWA Section 303(c) Partial Disapproval of Washington's Human Health Criteria Submitted on August 1, 2016 and Decision to Approve Washington's Criteria.*

[18] USEPA. 2002. National Recommended Water Quality Criteria: 2002, Human Health Criteria Calculation Matrix. EPA-822-R-02-012. Available at https://www.epa.gov/sites/default/files/2018-12/documents/hh-criteria-calculation-matrix-2002.pdf

[19] USEPA. 2019. *Technical Support Document: The EPA's Reversal of the November 15, 2015 CWA Section 303(c) Partial Disapproval of Washington's Human Health Criteria Submitted on August 1, 2016 and Decision to Approve Washington's Criteria.*

510 of the CWA, Tribes often elect to target and protect the higher fish consumers within the population.

The fish consumption survey of the Suquamish Tribe had the purpose of determining seafood consumption rates, patterns, and habits of members of the Suquamish Tribe along with identifying cultural practices and attributes which affect consumption rates, patterns and habits of Tribal members. The study provides consumption rates by individual type of finfish and shellfish as well as by seafood groups. Survey respondents were selected using the Suquamish Tribal enrollment database and it was aimed at Tribal members living on or near the Port Madison Indian Reservation. This study was funded by the Agency of Toxic Substances and Disease Registry, U.S. Department of Health and Human Services through the Washington State Department of Health and had technical review and oversight from external entities. The technical defensibility of the survey is further discussed in the Washington Department of Ecology technical support document for fish surveys,[20] which also includes an analysis of other fish consumption survey studies. The PGST utilized the 90th percentile of the Suquamish Tribe fish survey to derive the Tribal human health criteria, as presented in Ecology's statistical analysis of the Suquamish dietary data for Suquamish Tribal adult fish consumers.

The Port Gamble S'Klallam Reservation and Port Madison Indian Reservation are both located in the Central Puget Sound Region of Washington State on the Kitsap Peninsula. Therefore, the EPA considers the Suquamish Tribe of the Port Madison Indian Reservation fish consumption survey to be representative of the geographical area where the Port Gamble S'Klallam Reservation is located and along with the technical defensibility of the fish consumption survey, the use of the survey to derive the FCR for the PGST is considered to be consistent with the EPA's recommendation to use local data or data reflecting similar geography/population groups for the FCR, as discussed above.

The Tribe adopted criteria for barium, copper, pH, and dissolved salinity (Footnote 'e') for consumption of water and aquatic organisms as recommended by the EPA under CWA section 304(a), pollutants for which the EPA did not update its national human health criteria recommendations in 2015. Since the PGST relied on the scientifically defensible CWA section 304(a) human health criteria recommendations for these pollutants,[21] the EPA is approving the human health criteria for these pollutants. Unless noted by a footnote in Section 7, Table 1 of the PGST WQS and as described above, the vast majority of the new and revised human health criteria were developed using the FCR of 489 g/day as well as the other inputs discussed above.

a. Human Health Criteria based on Washington State WQS (Footnote 'k')

The EPA evaluated the PGST's human health criteria against criteria that the EPA determined would be protective of the Tribe's designated uses and scientifically defensible (i.e., calculated based on inputs provided in the EPA's 2015 recommendations and 2000 Methodology). The PGST adopted numeric

[20] Washington Department of Ecology. January 2013. *Fish Consumption Rates Technical Support Document, A Review of Data and Information about Fish Consumption in Washington*. Version 2.0. Publication No. 12-09-058.
[21] National Recommended Water Quality Criteria – Human Health Criteria Table. https://www.epa.gov/wqc/national-recommended-water-quality-criteria-human-health-criteria-table

human health criteria for 2,4-Dimethylphenol, 2-Chlorophenol, 3,3'-Dichlorobenzidine, 3-Methyl-4-Chlorophenol, acrolein, acrylonitrile, benzidine, Bis(2-Chloroethyl) Ether, endrin aldehyde, and toxaphene (as noted by footnote 'k', see Table 1 below) based on Washington State's human health criteria (WAC 173-201A-240)[22] where the State's criteria resulted in more stringent criteria than the criteria calculated using the EPA's national criteria recommendations and the inputs mentioned above. The methylene chloride (Water + Organism) criterion adopted by the Tribe is the only pollutant that was part of the EPA's restoration of protective human health criteria in Washington (87 F.R. 69183, 40 C.F.R. 131.45).[23] When compared to the value obtained using the Tribe's FCR (489 g/day), the methylene chloride criterion resulted in the same number when rounded (10 µg/L), nonetheless, the Tribe opted to include this pollutant under footnote 'k'. The criteria for these pollutants were derived using:

- **Fish consumption rate (FCR)** used by Washington State is 175 g/day. The State adopted this value based on highly exposed populations.[24]
- **Bioconcentration Factors (BCFs).** The Washington State criteria adopted by the Tribe (footnote 'k') were developed by the State using pollutant-specific BCFs, which together with other inputs into the human health criteria equations result in protective criteria.
- **Relative source contribution (RSC)** for non-carcinogens pollutants where the criteria from Washington State was incorporated (footnote 'k'). The Washington State criteria adopted by the Tribe (footnote 'k') were developed by the State using an RSC of 1, which together with other inputs into the human health criteria equations result in protective criteria.

The remaining input parameters (toxicity factors, CRL, body weight, and drinking water intake) used were the same as described above. The combination of the inputs used into the human health criteria equations result in criteria that are protective of the Tribe's designated uses. The EPA's regulations at 40 C.F.R. § 131.11(a) provide that new or revised criteria "must be based on sound scientific rationale and must contain sufficient parameters or constituents to protect the designated use." States and authorized Tribes may adopt criteria that are more or less stringent than those recommended by the EPA, as long as they meet the requirements at 40 C.F.R. § 131.11(a). Therefore, in accordance with the CWA, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA is approving the Tribe's new and revised human health criteria toxics in Section 7, Table 1.

Table 1. List of pollutants adopted by the PGST (as noted by footnote 'k') based on Washington State's human health criteria (WAC 173-201A-240).

Pollutant	Water + Organism (µg/L)	Organism Only (µg/L)

[22] Washington's human health criteria for 2,4-Dimethylphenol, 2-Chlorophenol, 3,3'-Dichlorobenzidine, 3-Methyl-4-Chlorophenol, acrolein, acrylonitrile, benzidine, Bis(2-Chloroethyl) Ether, endrin aldehyde, and toxaphene were approved by the EPA and considered CWA effective as part of the November 15, 2016 EPA's Partial Approval/Partial Disapproval of Washington's Human Health Water Quality Criteria and Implementation Tools.

[23] Environmental Protection Agency, December 19, 2022. Docket numbers EPA-HQ-OW-2015-0174; FRL-7253. 1-02-OW.

[24] USEPA. 2019. *Technical Support Document: The EPA's Reversal of the November 15, 2015 CWA Section 303(c) Partial Disapproval of Washington's Human Health Criteria Submitted on August 1, 2016 and Decision to Approve Washington's Criteria.*

2,4-Dimethylphenol	85	97
2-Chlorophenol	15	17
3,3'-Dichlorobenzidine	0.0031	0.0033
3-Methyl-4-Chlorophenol	36	36
Acrolein	1	1.1
Acrylonitrile	0.019	0.028
Benzidine	0.00002	0.000023
Bis(2-Chloroethyl) Ether	0.02	0.06
Endrin Aldehyde	0.034	0.035
Methylene Chloride	10	--
Toxaphene	0.000032	0.000032

The EPA has determined that the FCR and other variables used in revising the criteria resulted in human health criteria that are protective of the Tribe's designated uses indicated in Section 3 of the PGST WQS. The PGST's new and revised human health criteria are as stringent or more stringent than scientifically defensible criteria that the EPA determined would be protective of the Tribe's designated uses, consistent with CWA requirements and the EPA's implementing regulations. Therefore, in accordance with the CWA, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA is approving the Tribe's new and revised human health criteria toxics in Section 7, Table 1.

H. Specific Water Quality Criteria for Use Classifications, Section 8

i. Editorial revisions

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the editorial revisions in Section 8, paragraph (1)(d) and (2)(d) of the PGST WQS. The EPA notes that the approval of these editorial changes does not alter the EPA's prior approval of the underlying provisions. The underlined portions of the text indicate the new and revised language and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's action.

> (1) (d) Bacterial Waste. Livestock, pet, and human sewage are not allowed to drain or be discharged into surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe unless controlled or treated with best management practices or waste treatment technology appropriate and approved by the Department or the U.S. Environmental Protection Agency.
>
> (2) (d) Bacterial Waste. Livestock, pet, and human sewage are not allowed to drain or be discharged into surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe unless controlled or treated with best management practices or waste treatment technology appropriate and approved by the Department or the U.S. Environmental Protection Agency.

EPA Rationale

The EPA considers non-substantive edits to existing WQS to constitute revised WQS that the EPA has the authority to approve or disapprove under the CWA section 303(c)(3).[25] The EPA's action on non-substantive edits ensures public transparency as to which provisions are effective for purposes of the CWA. The EPA's action on these editorial revisions to previously approved WQS do not constitute an action on the underlying previously approved WQS.

ii. Section 8. (3)(a) Bacteria Criteria

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the new and revised Recreational and Cultural Use criteria as well as the editorial revisions indicated by the underlined text at Section 8, paragraph (3)(a) of the PGST WQS. The underlined portions of the text indicate the new and revised language and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's action.

(3) Recreational and Cultural Use

~~(a) Waters designated for recreational and cultural use shall not contain concentrations of E. Coli bacteria exceeding a 30-day geometric mean of 126 per 100 ml, based on a minimum of 5 samples.~~

(a)

Criteria Elements	Estimated Illness Rate: 32 per 1,000 primary contact recreators Magnitude	
Indicator	GM (cfu/100 mL)[a]	STV (cfu/100 mL)
Enterococci (marine and fresh water)	30	110
E. Coli (fresh water)	100	320
[a] *EPA Method 1600*, or another equivalent method shall be used to measure culturable enterococci. *EPA Method 1603* (U.S. EPA, 2002b), or another equivalent method, shall be used to measure E. Coli.		
Duration and Frequency: The water body GM should not be greater that the selected GM magnitude in any 30-day interval. There should not be greater than a ten percent excursion frequency of the selected STV magnitude in the same 30-day interval.		

*Definitions not included as part of the PGST WQS: GM = Geometric Mean; STV = Statistical Threshold Value;

[25] What Is a New or Revised WQS Under CWA 303(c)(3)? FAQs, October 2012. Available at https://www.epa.gov/sites/default/files/2014-11/documents/cwa303faq.pdf

cfu = Colony Forming Units; MPN = Most Probable Number

EPA Rationale

Based on the EPA's review, the revisions to the Tribe's recreational water quality criteria in Section 8, subsection (3)(a) are based on a sound scientific rationale and protective of the PGST Recreational and Cultural use, as explained in EPA's 2012 Recreational Water Quality Criteria recommendations.[26] A comparison of the Tribe's recreational water quality criteria for primary contact recreation and EPA's recommendations is presented below.

The EPA's action on non-substantive edits ensures public transparency as to which provisions are effective for purposes of the CWA. The EPA's action on these editorial revisions to previously approved WQS do not constitute an action on the underlying previously approved WQS.

Table 2. Comparison of the Tribe's Primary Contact Recreation Revised Criteria with EPA's 2012 Recreational Water Quality Criteria Recommendations.

Criteria Component	**EPA's 2012 Recommendations**	**Port Gamble S'Klallam Tribe's Revisions**
Indicator	Enterococci (marine & fresh) or *E. coli* (fresh)	Enterococci (marine & fresh water) and *E. coli* (fresh water)
Magnitude (CFU or MPN/100 mL)	Recommendation 1 – Illness Rate of 36/1,000 Enterococci: GM = 35; STV = 130 *E. coli*: GM = 126; STV = 410 Recommendation 2 – Illness Rate of 32/1,000 Enterococci: GM = 30; STV = 110 *E. coli*: GM = 100; STV = 320	**Adopted EPA's Recommendation 2 for Enterococci and *E. coli*:** Illness Rate of 32/1,000 Enterococci: GM = 30; STV = 110 *E. coli*: GM = 100; STV = 320
Duration and Frequency – GM	Not to be exceeded in any 30-day interval	The Tribe uses a 30-day interval
Duration and Frequency – STV	Not to be exceeded more than 10% of the time in the same 30-day interval assessed for the GM	Not to be exceeded more than 10% of the time in the same 30-day interval

GM = Geometric Mean; STV = Statistical Threshold Value;
CFU = Colony Forming Units; MPN = Most Probable Number

As shown in Table 1, the Tribe adopted Enterococci as an indicator of bacterial contamination in fresh and marine waters and *E. coli* as an indicator for fresh water, which is consistent with the EPA's 2012

[26] USEPA. 2012. Recreational Water Quality Criteria. Office of Water 820-F-12-058. Available at https://www.epa.gov/sites/default/files/2015-10/documents/rwqc2012.pdf. Further referenced as 2012 RWQC.

Recreational Water Quality Criteria recommendations regarding use of Enterococci and *E. coli* as indicator of bacterial contamination in marine and fresh waters.[27] The Tribe adopted a GM of 30 CFU/100 mL and a STV of 110 organisms/100 mL for enterococci and a GM of 100 CFU/100mL and a STV of 320 CFU/100mL for *E. coli* for all waters designated for recreational and cultural use, which are the same as the EPA's recommended magnitudes for both indicators at an illness rate of 32/1,000 primary contact recreators. The Tribe specified that for enterococci and *E. coli*, the GM should not be exceeded over a 30-day interval and the STV must not be exceeded more than 10% of the time within the same 30-day period. In accordance with the CWA, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA is approving the Tribe's new and revised Recreational and Cultural Use criteria at Section 8, paragraph 3(a) of the PGST WQS.

iii. Section 8. (3)(b) Total Microcystins and cylindrospermopsin criteria

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the new Recreational and Cultural Use criteria at Section 8, paragraph (3)(b) indicated by the underlined text of the PGST WQS.

> (b) Additionally, the concentration of total microcystins shall not exceed 8 µg/L in more than three ten-day periods per recreational season, for more than one recreational season, over a five-year period and the concentration of total cylindrospermopsin shall not exceed 15 µg/L in more than three ten-day periods per recreational season, for more than one recreational season, over a five-year period.

EPA Rationale

The Tribe's criteria (magnitude, frequency, and duration) adopted for microcystins and cylindrospermopsin in Section 8, paragraph (4)(b) are consistent with the EPA's 2019 Recommended Human Health Criteria for Microcystins and Cylindrospermopsin.[28] The Tribe's microcystins and cylindrospermopsin criteria protect the Tribe's Recreational and Cultural Use and are based on a sound scientific rationale, as explained in the EPA's 2019 recommendations. Therefore, in accordance with the CWA, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA is approving the Tribe's new Recreational and Cultural Use criteria at Section 8, paragraph 3(b) of the PGST WQS.

I. Radioactive Substances, Section 9

EPA Action

[27] 2012 RWQC.

[28] USEPA. 2019. Recommended Human Health Recreational Ambient Water Quality Criteria or Swimming Advisories for Microcystins and Cylindrospermopsin. EPA 822-R-19-001. Available at https://www.epa.gov/sites/default/files/2019-05/documents/hh-rec-criteria-habs-document-2019.pdf

In accordance with its CWA authority, 33 U.S.C. section 1313(c)(3) and 40 C.F.R. section 131, the EPA approves the addition of a numeric criterion for the radioactive substance uranium indicated by the underlined text at Section 9(2)(f) of the PGST WQS.

(2) Concentrations of radioactive materials for all waters shall not exceed the following:
(f) Uranium – 30 µg/L

EPA Rationale

This section contains numeric criteria for radioactive materials[29] which are to apply to all waters of the Reservation for the protection of human health and aquatic life. Currently, the EPA does not have recommended human health criteria or aquatic life criteria for uranium published under CWA section 304(a). The criterion concentration for uranium adopted by the Tribe is consistent with the EPA's National Primary Drinking Water Regulations (40 C.F.R. Part 141) which put forth maximum contaminant levels (MCLs) for this and other pollutants established to protect the public from contaminants in drinking water that present a risk to human health in public water systems. MCLs are set to be as close to the public health goal as the EPA determines to be achievable with the use of the best available technology, taking cost into consideration.

Some states and authorized Tribes have chosen to apply Safe Drinking Water Act MCLs to surface waters for the protection of public water supply designated uses under the CWA. The adoption of the MCL for uranium to limit radioactive materials in surface waters would provide additional protection for the Tribe's Recreational and Cultural Use, in which the ingestion of small quantities of water is likely to occur as a result of prolonged contact with the water (as described in Section 3(1)(c) of the Tribe's WQS). Therefore, in accordance with the CWA, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA is approving the Tribe's addition of radioactive substance uranium at Section 9 of the PGST WQS.

J. Biological Criteria, Section 10

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the editorial revisions in Section 10, paragraphs (1) and (2) of the PGST WQS. The EPA notes that the approval of these editorial changes does not alter the EPA's prior approval of the underlying provisions. The underlined portions of the text indicate the new and revised language and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's action.

[29] The EPA notes that radioactive materials as defined in 40 C.F.R. 122.2 do not include materials that are regulated under the Atomic Energy Act of 1954. Thus, the EPA's action does not extend to radioactive materials regulated under the Atomic Energy Act of 1954.

(1) Surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe shall be of sufficient quality to support aquatic biota without detrimental changes in the resident aquatic communities.

(2) Surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe shall be free from substances, whether attributable to point source discharges, nonpoint sources, or instream activities, in concentrations or combinations which would impair the structure or limit the function of the resident aquatic community as it naturally occurs.

EPA Rationale

The EPA considers non-substantive edits to existing WQS to constitute revised WQS that the EPA has the authority to approve or disapprove under the CWA section 303(c)(3).[30] The EPA's action on non-substantive edits ensures public transparency as to which provisions are effective for purposes of the CWA. The EPA's action on these editorial revisions to previously approved WQS do not constitute an action on the underlying previously approved WQS.

K. Wildlife Criteria, Section 11

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the editorial revisions in Section 11 of the PGST WQS. The EPA notes that the approval of these editorial changes does not alter the EPA's prior approval of the underlying provisions. The underlined portions of the text indicate the new and revised language and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's action.

Surface waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe shall be of sufficient quality to protect and support all life stages of resident and/ or migratory wildlife species which live in, on, or near the waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe.

EPA Rationale

The EPA considers non-substantive edits to existing WQS to constitute revised WQS that the EPA has the authority to approve or disapprove under the CWA section 303(c)(3).[31] The EPA's action on non-substantive edits ensures public transparency as to which provisions are effective for purposes of the CWA. The EPA's action on these editorial revisions to previously approved WQS do not constitute an action on the underlying previously approved WQS.

L. Antidegradation, Section 13

EPA Action

[30] What Is a New or Revised WQS Under CWA 303(c)(3)? FAQs, October 2012. Available at https://www.epa.gov/sites/default/files/2014-11/documents/cwa303faq.pdf
[31] Ibid.

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the Tribe's revisions to the antidegradation policy at Section 13 paragraph (1)(b), paragraphs (1)(b)(i) and (ii) and new antidegradation methods at Section 12(2) of the PGST WQS, which are consistent with CWA section 303(c) and 40 C.F.R. § 131.12. The underlined portions of the text indicate the new and revised language that are the subject of the EPA's action.

(1) Antidegradation Policy

(b) ~~(2)~~ Where the quality of the waters exceeds levels necessary to support protection and propagation of fish, including shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the Tribe finds, after the Tribe's intergovernmental coordination and public participation provisions have been met, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the Tribe shall assure water quality adequate to fully protect existing uses. Further, the Tribe shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all approved, cost-effective, and reasonable best management practices for nonpoint source control.

(i) Identification of reservation waters for protections described in the paragraph above will be made on a parameter-by-parameter basis.

(ii) Before allowing any lowering of high quality water, the Tribe shall find, after an analysis of alternatives, that such a lowering is necessary to accommodate important economic or social development in the area in which the waters are located. The analysis of alternatives shall evaluate a range of practicable alternatives that would prevent or lessen the degradation associated with the proposed activity. When the analysis of alternatives identifies one or more practicable alternatives, the Tribe shall only find that a lowering is necessary if one such alternative is selected for implementation.

(2) Antidegradation Implementation Methods

(a) Applicability. The antidegradation policy in Section 13, paragraph (1) and these antidegradation implementation methods shall be applied to all surface waters of the Port Gamble S'Klallam Tribe.

(i) The antidegradation policy and implementation requirements shall be followed when considering all requests to authorize new or expanded regulated activities. Regulated activities include, but are not limited to, any activity that requires a permit, license, or water quality certification pursuant to sections 401, 402, and 404 of the CWA.

(ii) Antidegradation protections will be addressed in new or reissued general permits authorized, implemented, or administered by the permitting authority either at the time the permitting authority develops and issues the general permit or upon review of an applicant's request to be covered by a general permit. The permitting authority will describe, in writing in the permit fact sheet, how the general permit is consistent with the antidegradation requirements of this paragraph and the antidegradation policy.

(b) Existing instream use protection. For all waters, the Tribe shall ensure that the level of water

quality necessary to protect existing uses is maintained. In order to achieve this requirement, the Tribe shall consider whether a regulated activity would lower the water quality to the extent that it would no longer be sufficient to protect and maintain the existing uses of that water body. If the lowering of water quality would not protect and maintain the existing uses of that water body, then the Tribe will not allow the lowering of water quality. Such consideration shall be based on all existing and readily available water quality-related data and information, as well as any additional water-quality related data and information submitted during the public comment period for the authorization.

(c) High Quality Water Protection. In determining which waters will receive high quality water protection, the Tribe will identify high quality water on a parameter-by-parameter basis. Each parameter that is determined to be high quality shall be considered and evaluated independently, at the time an applicant requests authorization to lower high water quality. A parameter is high quality if its water quality level exceeds its water quality criterion. The Tribe shall ensure that no regulated activity that results in a lowering of water quality occurs unless the components outlined below in paragraph (2)(c)(i) are available to the Tribe and the Tribe has made a finding that the lowering of water quality is necessary to accommodate important social and economic development in the area in which the water is located consistent with the below process in paragraph (2)(c)(ii). The entity seeking to lower water quality is responsible for preparing and submitting the components and information, and demonstrating the requirements have been met.

(i) When determining whether to authorize a lowering of water quality for one or more parameters that exceeds levels necessary to support the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water, the Tribe will consider the following components and information:

(1) Identifying Information. Name of the applicant, a description of the nature of the applicant's business and the pollutants to be discharged, location of the discharge, the name of and any water quality data for the receiving water body, daily maximum and average flow to be discharged, and effluent characterization.

(2) Analysis of alternatives. Identification and evaluation of a range of practicable alternatives that would prevent or lessen the degradation associated with the proposed activity to determine whether the degradation of water quality is necessary. When the analysis of alternatives identifies one or more practicable alternatives, the Tribe shall only find that a lowering of high water quality is necessary if one such alternative is selected for implementation.

(3) Socio-economic analysis. Identification and evaluation of the social and economic development benefits to the area in which the waters are located that will be foregone if the lowering of water quality is not allowed. Along with the analysis of alternatives, the socio-economic analysis is used to determine whether the lowering of high water quality will accommodate important economic and social development in the area in which the water is located. The “area in which the waters are located” shall be determined on a case-by-case basis and shall include all areas directly impacted by the proposed regulated activity. Factors that must be considered in the socio-economic analysis include, but are not limited to, the

ecological and economic importance of the affected waters, the importance of the development to the affected community, and the socio-economic health of the affected community as determined by appropriate analytical methods.

(4) Any additional documentation requested by the Tribe which, in the judgment of the Tribe, is needed to decide whether to find that a lowering of water quality is necessary to accommodate important economic and social development in the area in which the water is located.

(ii) Once the Tribe has the components and information required in paragraph (2)(c)(i), the Tribe shall use that information to make a finding as to whether the lowering of water quality is necessary to accommodate important social and economic development in the area in which the water is located.

(1) If the proposed lowering of high water quality is either not necessary, or not important to accommodate social and economic development, the Tribe shall deny the request to lower water quality.

(2) If the lowering of high water quality is necessary to accommodate important social and economic development goals, the Tribe may allow a lowering to the high quality water as long as one of the practicable alternatives identified in paragraph (2)(c)(i)*(2)* is selected for implementation and incorporated into the authorization for the activity. If no practicable alternative was identified by the analysis of alternatives, but the lowering of high water quality will accommodate important social or economic development the Tribe may allow the lowering of high water quality. If a non-degrading practicable alternative is selected, no lowering of the high quality water will occur, and the Tribe does not need to allow the lowering.

(3) In no event will the Tribe allow water quality to be lowered below the level required to fully protect existing and designated uses.

(4) To ensure the opportunity for public involvement, the Tribe shall provide public notice and request public comment on the preliminary decision to allow a lowering of high water quality. The preliminary decision will provide relevant information regarding the lowering of high water quality, including the alternatives analysis, socio-economic analysis, the estimated amount of assimilative capacity available in the water body, and the estimated amount of assimilative capacity to be utilized by the proposed activity. To the extent possible, public notice regarding the finding to allow a lowering of water quality will be coordinated with other required notices for public review.

(5) To fulfill intergovernmental coordination, the Tribe shall notify local, state, and federal agencies that operate in the area impacted by the activity and request comment on the preliminary decision to allow a lowering of water quality in a high quality water based on whether it is necessary to accommodate important

social and economic development in the area of the waters impacted by the activity.

(6) Before allowing any degradation of water quality, the Tribe shall identify point sources and tribal-regulated nonpoint sources that discharge to, or otherwise impact, the receiving water. The Tribe shall coordinate with other agencies, as necessary, to assure compliance with the highest statutory and regulatory requirements for all new and existing point sources and/or all tribal required cost-effective and reasonable best management practices for non-point source control. If compliance with the highest statutory and regulatory requirements for all new and existing point sources and all tribal-regulated cost-effective and reasonable best management practices for non-point sources cannot be assured, the Tribe will not allow a lowering of high water quality.

(d) Outstanding resource water protection. For reservation waters assigned as outstanding Tribal resource water, the Tribe shall ensure, through the application of appropriate controls on point and tribal regulated nonpoint pollutant sources, that water quality is maintained and protected. No new or expanded point source discharges will be allowed to an outstanding resource water unless it is on a short term and temporary basis.

(i) Any person or entity may nominate a specific reservation water to be assigned as an outstanding Tribal resource water. The person or entity may transmit a written nomination to the Tribe, at any time, including why the reservation water warrants outstanding resource water protection. The Tribe shall determine whether the nominated water qualifies as an outstanding resource water as described in paragraph (2)(d).

(ii) The Tribe shall issue a public notice regarding the decision to assign a water as an outstanding resource water. The Tribe will maintain a comprehensive list of the reservation waters that have been assigned as an outstanding resource water at the Natural Resources Department.

(iii) The Tribe may allow short-term, temporary water quality degradation in an outstanding resource water only if the short-term, temporary degradation is limited to the shortest possible time, does not impact existing uses, and does not alter the essential or special characteristics that make the reservation water an outstanding resource water. Short-term shall be considered any period that is measured in the context of weeks to months, not years.

EPA Rationale

The EPA's WQS regulation at 40 C.F.R. § 131.12(a) requires states and authorized Tribes to adopt an antidegradation policy and to identify methods for implementing that policy. Both the policy and implementation methods must be consistent with 40 C.F.R. § 131.12. The new provisions at Sections 13(1)(b)(i) and (ii) address the process of identifying Reservation waters where the quality of the waters exceeds levels necessary to support protection and propagation of fish, shellfish, and wildlife and recreation in and on the water (as described in Section 13(1)(b)).

The EPA's regulation at 40 C.F.R. § 131.12(a)(2) provides that states and authorized Tribes may identify high quality waters on either a "parameter-by-parameter basis" or on a "water body-by-water body basis." The Tribe opted to use the parameter-by-parameter basis as specified in Section 13(1)(b)(i). Section 13(1)(b)(ii) provides the requirement of an analysis of alternatives before allowing any lowering of high quality waters. It states the requirement of evaluating a range of practicable alternatives that would prevent or lessen the degradation of water quality as a result of an important economic or social development. The revisions to the antidegradation policy in Section 13(1)(b)(i) and (ii) provide additional requirements for the protection of high quality waters consistent with 40 C.F.R. § 131.12(a)(2).

While the antidegradation policy must be adopted in a binding form, the antidegradation implementation methods may be either binding in regulation or in guidance outside of regulation (68 F.R. 58775). The Antidegradation Implementation Methods, which were adopted in regulation at Section 13(2), provide the antidegradation implementation methods for the antidegradation policy at Section 13(1). The EPA reviewed the antidegradation implementation methods for consistency with 40 C.F.R. § 131.12. The implementation methods at Section 13(2) include the following components:

- Section 13(2)(a) Applicability lists the types of regulated activities and identifies the waters that are subject to the implementation methods. The section also outlines how antidegradation protections will be addressed and administered in new and revised permits.
- Section 13(2)(b) Methods to ensure the protection of existing uses and instream use protection when permitting a new regulated activity. The Tribe will evaluate water quality data and information to decide if the proposed regulated activity will be permitted ensuring the water quality is maintained.
- Section 13(2)(c) Methods to implement the various components of high quality water protection on a parameter-by-parameter basis. Including a method for considering and evaluating each parameter to determine if a lowering of water quality is necessary, a method for determining if the activity that would lower water quality would provide important social or economic development, assurance that the water quality will be adequate to protect existing and designated uses, a method to ensure public participation and intergovernmental coordination, and a method to assure compliance with the highest statutory and regulatory requirements for point sources and Tribal-regulated nonpoint sources.
- Section 13(2)(d) Methods to implement outstanding Tribal resource water (OTRW) protection. Including the process to designate the OTRW, public participation process, and a method to ensure that the water quality of the OTRW will be maintained and protected.

The EPA has concluded that the Tribe's revised antidegradation policy and new implementation methods make for a more robust antidegradation policy consistent with regulations at 40 C.F.R. § 131.12. Therefore, in accordance with the CWA, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA is approving the Tribe's revisions to the antidegradation policy and new implementation methods in Section 13 of the PGST WQS.

M. Mixing Zones, Section 14

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the editorial revisions in Section 14 of the PGST WQS. The EPA notes that the approval of these editorial changes does not alter the EPA's prior approval of the underlying provisions. The underlined portions of the text indicate the new and revised language and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's action.

> Mixing zones are defined as limited areas or volumes of water where initial dilution of a point source discharge takes place, and where numeric water quality criteria can be exceeded. Mixing zones are not permitted in waters of the Port Gamble S'Klallam ~~Reservation~~ Tribe.

EPA Rationale

The EPA considers non-substantive edits to existing WQS to constitute revised WQS that the EPA has the authority to approve or disapprove under the CWA section 303(c)(3).[32] The EPA's action on non-substantive edits ensures public transparency as to which provisions are effective for purposes of the CWA. The EPA's action on these editorial revisions to previously approved WQS do not constitute an action on the underlying previously approved WQS.

N. Implementation, Section 15

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the editorial revisions in Section 15, paragraphs (1) and (5) of the PGST WQS. The EPA notes that the approval of these editorial changes does not alter the EPA's prior approval of the underlying provisions. The underlined portions of the text indicate the new and revised language and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's action.

> (1) The requirements of these water quality standards shall be met for all waters of the ~~Community~~ Port Gamble S'Klallam Tribe. No person shall engage in any activity that violates or causes the violation of these standards. All discharges from point sources, all instream activities, and all activities which generate nonpoint source pollution shall be conducted so as to comply with these Standards. Compliance shall be determined by the Department.
>
> (5) Sample collection, preservation, and analytical procedures to determine compliance with these standards shall conform to the guidelines of 40 ~~CFR~~ C.F.R., Part 136. If guidance does not

[32] What Is a New or Revised WQS Under CWA 303(c)(3)? FAQs, October 2012. Available at https://www.epa.gov/sites/default/files/2014-11/documents/cwa303faq.pdf

exist, procedures shall conform with other methods accepted by the scientific community and deemed appropriate by the Department.

EPA Rationale

The EPA considers non-substantive edits to existing WQS to constitute revised WQS that the EPA has the authority to approve or disapprove under the CWA section 303(c)(3).[33] The EPA's action on non-substantive edits ensures public transparency as to which provisions are effective for purposes of the CWA. The EPA's action on these editorial revisions to previously approved WQS do not constitute an action on the underlying previously approved WQS.

O. Short-term Modifications, Section 17

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the editorial revisions in Section 17, provision (2) of the PGST WQS. The EPA notes that the approval of these editorial changes does not alter the EPA's prior approval of the underlying provisions. The underlined portions of the text indicate the new and revised language and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's action.

(2) Short-term modifications shall be kept ~~as short~~ to a limited duration as feasible.

EPA Rationale

The EPA considers non-substantive edits to existing WQS to constitute revised WQS that the EPA has the authority to approve or disapprove under the CWA section 303(c)(3).[34] The EPA's action on non-substantive edits ensures public transparency as to which provisions are effective for purposes of the CWA. The EPA's action on these editorial revisions to previously approved WQS do not constitute an action on the underlying previously approved WQS.

P. Public Involvement, Section 18

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the editorial revisions in Section 18 PGST WQS. The EPA notes that the approval of these editorial changes does not alter the EPA's prior approval of the underlying provisions. The underlined portions of the text indicate the new and revised language and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's action.

From time to time, but at least once every three years, the Department shall hold public hearings

[33] Ibid.
[34] Ibid.

for the purpose of reviewing the water quality standards and, as appropriate, modifying and adopting standards. The Department will issue public notice of proposed changes and provide opportunity for public comment. Public participation, including time periods for public notice and commenting, will follow federal regulations for public participation in programs under the Clean Water Act defined in 40 ~~CFR~~ C.F.R. Part 25.

EPA Rationale

The EPA considers non-substantive edits to existing WQS to constitute revised WQS that the EPA has the authority to approve or disapprove under the CWA section 303(c)(3).[35] The EPA's action on non-substantive edits ensures public transparency as to which provisions are effective for purposes of the CWA. The EPA's action on these editorial revisions to previously approved WQS do not constitute an action on the underlying previously approved WQS.

Q. Enforcement, Section 19

EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 C.F.R. Part 131, the EPA approves the editorial revisions in Section 19, (1) to (5) of the PGST WQS. The EPA notes that the approval of these editorial changes does not alter the EPA's prior approval of the underlying provisions. The underlined portions of the text indicate the new and revised language and the strikeout portions in red text indicate the deleted or reformatted language that are the subject of the EPA's action.

These Standards shall be enforced through all methods available to the Department including, but not limited to: ~~issuance of permits; regulatory orders; court actions; review and approval of plans and specifications; evaluation of compliance with best management practices and all reasonable methods of prevention, control, and treatment of wastes prior to discharge; and coordination with other departments and regulatory agencies.~~

(1) Issuance of permits and certifications;

(2) Coordination with other departments and regulatory agencies;

(3) Issuances of notices of violation and regulatory orders;

(4) Levying of civil penalties; and

(5) Initiations of actions requesting injunctive or other appropriate relief in tribal or federal court.

EPA Rationale

The EPA considers non-substantive edits to existing WQS to constitute revised WQS that the EPA has

[35] Ibid.

the authority to approve or disapprove under the CWA section 303(c)(3).[36] The EPA's action on non-substantive edits ensures public transparency as to which provisions are effective for purposes of the CWA. The EPA's action on these editorial revisions to previously approved WQS do not constitute an action on the underlying previously approved WQS.

IV. Provisions that the EPA is Not Taking Action On

The EPA has reviewed provisions that were revised and adopted by the PGST at Sections 7, 12, and 16, included in the July 17, 2024 submittal. These revisions are shown with red strikeouts and underlined:

a. 7. TOXIC SUBSTANCES (NUMERIC CRITERIA)

(3) Criteria for toxic, and other substances not listed shall be determined with consideration of *US EPA Quality Criteria for Water, 1986,* as revised, US EPA's website, https://www.epa.gov/wqc/national-recommended-water-quality-criteria-tables ~~https://www.epa.gov/wqc/national-recommended-water-quality-criteria-aquatic-life-criteria-table,~~ which contains the most current aquatic life and human health criteria, and other relevant information as appropriate. *US EPA Quality Criteria for Water, 1986,* as revised, shall also be used in the use and interpretation of the values listed in this subsection.

(5) Except where noted, the human health criteria in Table 1 were calculated based on a fish consumption rate of 489 grams per day, a cancer risk level of 1 in 1,000,000 (10^{-6}) for carcinogens, and a relative source contribution of 50 percent (0.5) for noncarcinogens. ~~The aquatic organism consumption rate utilized in determining the human health criteria shall be 142.4 grams per day. A more accurate rate may be substituted following the completion of a statistical survey of Tribal members.~~

(7) Table 1. Human Health Criteria. Footnotes for Table 1.
l. This letter is not used as a footnote.
m. Criteria for this pollutant have not been updated.

Paragraph (3) is being revised to include more recent EPA resources and guidance for developing criteria for toxics and other substances that lack existing numeric criteria. Any new aquatic life or human health criteria developed using these inputs and adopted by the Tribe are subject to future action by the EPA. Paragraph (5) provides explanatory information on the inputs that were used for the revisions to the human health criteria in Table 1, except where noted. It specifies the fish consumption rate, cancer risk level for carcinogens, and the relative source contribution for noncarcinogens.

The EPA is taking no action on Table 1, footnotes 'l' and 'm'. Footnote 'l' states that it is not used as a footnote, the footnote was carried over from the previous version of Table 1. According to the PGST WQS, footnote 'm' corresponds to the human health pollutants (Table 1) that were not updated as part of this revision. Footnote 'm' was not applied to all the pollutants (asbestos, dichlorodifluoromethane

[36] What Is a New or Revised WQS Under CWA 303(c)(3)? FAQs, October 2012. Available at https://www.epa.gov/sites/default/files/2014-11/documents/cwa303faq.pdf

(Organism only), iron, manganese, mercury, and nitrates) that remain unchanged from the PGST 2005 CWA effective WQS. The EPA will work with the Tribe to eliminate footnote 'l' and resolve the footnote 'm' discrepancy during the next WQS revision. The EPA is taking no action on these revisions to Section 7, paragraphs (3), (5), and footnotes 'l' and 'm' because they are not new or revised WQS that the EPA has the authority to review and approve or disapprove pursuant to CWA section 303(c), 33 U.S.C. § 1313(c)(3).

b. 12. WETLANDS

(1) All wetlands within the exterior boundaries of the Port Gamble S'Klallam Reservation, and within all other lands under the jurisdiction of the Port Gamble S'Klallam Tribe which are not constructed wetlands shall be subject to the Narrative Criteria (section ~~5~~6), Antidegradation (section ~~6~~13), and Narrative Toxic Substances ~~Criteria~~ narrative provision (section 7(1)) provisions within these Standards.

The revisions made to Section 12 provide further clarification on jurisdiction over wetlands within the exterior boundaries and other lands under the jurisdiction of the Tribe. The PGST jurisdiction to administer WQS remains as described in the Tribe's Treatment as a State application[37] and as approved by the EPA on September 24, 2003. Therefore, the EPA is taking no action on these revisions (Section 12(1)) because they are not new or revised WQS that the EPA has the authority to review and approve or disapprove pursuant to CWA section 303(c), 33 U.S.C. § 1313(c)(3).[38]

c. 16. ALLOWANCE FOR COMPLIANCE SCHEDULES

(2) For the period of time during which compliance with water quality criteria is deferred, interim limitations and/or other conditions may be formally established, based on the best professional judgement of the permitting agency and the Department.

(a) Interim dates: If a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

(b) The time between interim dates shall not exceed 1 year, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six months.

(c) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than 1 year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected

[37] Port Gamble S'Klallam Tribe's application for Treatment as a State for administering a water quality standards program pursuant to Section 303(c) of the CWA, dated February 28, 2003.
[38] What Is a New or Revised WQS Under CWA 303(c)(3)? FAQs, October 2012. Available at https://www.epa.gov/sites/default/files/2014-11/documents/cwa303faq.pdf

completion date.

The EPA previously approved Section 16 (previously Section 15) authorizing the use of permit compliance schedules for water-quality based limits in NPDES permits to Tribal waters, consistent with 40 C.F.R. § 131.15. The revisions to Section 16(2)(a), (b) and (c) provide further specifications for Section 16, paragraph (2) on the period of time for compliance schedules, specifically discussing interim dates and the time necessary for completion of interim requirements in compliance schedules. The revisions to this provision do not express the desired condition or level of instream protection for waters of the Reservation and are permitting provisions, not WQS. Therefore, the EPA is taking no action on these revisions (Section 16(2)(a), (b) and (c)) because they are not new or revised WQS that the EPA has the authority to review and approve or disapprove pursuant to CWA section 303(c), 33 U.S.C. § 1313(c)(3).

A. Edits consistent with the August 31, 2005 errata sheet

On August 31, 2005, the EPA received an errata sheet[39] to the March 6, 2003 PGST WQS submittal to the EPA for action. The items corrected by the Tribe under the errata sheet were considered and incorporated in the EPA's September 27, 2005 approval of the Tribe's initial WQS, therefore these edits are already in effect for CWA purposes. For consistency and transparency, the Tribe has incorporated the edits from the errata sheet into the main body of the PGST WQS, Section 4, Section 7 Table 2, and Section 9.

The EPA is not taking action on the items presented below because they have already been acted on as part of the 2005 action and are in effect for CWA purposes. Therefore, they do not constitute new or revised WQS that the EPA has authority to review and approve or disapprove pursuant to CWA section 303(c), 33 U.S.C. § 1313(c)(3).[40] The information below is being presented for transparency purposes.

1. General Conditions, Section 4

   Marine waters, Section 4(4)(b) should read: "(b) For waters in which the salinity is ~~equal to or less~~ **more** than ten parts per thousand 95 percent or more of the time, the applicable criteria are the marine water criteria.

2. Toxic Substances, Section 7, Table 2. Aquatic Life Criteria and footnotes

   i. Addition of footnote 'e' to chlordane, DDT, 4,4', endosulfan-Alpha, endosulfan-Beta, heptachlor, heptachlor epoxide, (FW/SW CCC) and silver (FW/SW CMC).

[39] Letter dated August 31, 2005, to Mike Gearheard, Director Office of Water and Watersheds, EPA Region 10, from Ronald G. Charles, Tribal Chairman, Port Gamble S'Klallam Tribe. Re: Letter with errata to the Tribe's water quality standards that correct minor typographical errors and editing oversights, as well as incorporate EPA-recommended administrative changes.

[40] See question 4 of What Is a New Or Revised Water Quality Standard Under CWA 303(C)(3)? Frequently Asked Questions, October 2012.

ii. Addition of footnote ‘p’ for cyanide: “These criteria are expressed as ug free cyanide (as CN)/L.”
iii. Removal of footnote ‘e’ to dieldrin and endrin FW/SW CMC, it does apply to SW CCC.
iv. Withdrawal of chronic aquatic life criteria for mercury and selenium.
v. Standards apply for all PCBs, removed the list.
vi. Addition of footnote ‘j’ to all zinc criteria.
vii. Footnote ‘e’ should read: “This criterion is based on the 304(a) aquatic life criterion issued in 1980. The Minimum Data Requirements and derivation procedures were different in the 1980 Guidelines than in the 1985 Guidelines. For example, a “CMC” derived using the 1980 Guidelines were derived to be used as an instantaneous maximum. If assessment is to be done using an averaging period, the values given should be divided by 2 to obtain a value that is more comparable to a CMC derived using the 1985 Guidelines.”
viii. Arsenic footnote ‘h’ should read: “This water quality criterion was derived from data for arsenic (III), but is applied here to total arsenic, which might imply that arsenic (III) and arsenic (V) are equally toxic to aquatic life and that their toxicities are additive. In the arsenic criteria document (EPA 440/5-84-033, January 1985), Species Mean Acute Values are given for both arsenic (III) and arsenic (V) for five species and the ratios of the SMAVs for each species range from 0.6 to 1.7. Chronic values are available for both arsenic (III) and arsenic (V) for one species; for the fathead minnow, the chronic value for arsenic (V) is 0.29 times the chronic value for arsenic (III). No data are known to be available concerning whether the toxicities of the forms of arsenic to aquatic organisms are additive.”
ix. The formulas in footnote ‘n’ for pentachlorophenol were intended to be:

CMC = exp(1.005(pH)-4.869);
CCC = exp(1.005(pH)-5.134)

3. Radioactive substances, Section 9

The Tribe opted to withdraw the Radium 226 (3 pCi/L) and Radon (300 pCi/L) criteria from Section 9. In addition to the numeric criteria for the other radioactive materials, the Tribe relies on the Section 9(1) narrative to ensure protection to human health and aquatic life from radioisotope concentrations.