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**Evaluation of New or Revised Recommended Section 304(a) Criteria for Incorporation into the**

**Hoopa Valley Indian Reservation’s Water Quality Control Plan**

6/24/2020

This document addresses revisions to the federal Water Quality Standards (WQS) regulations that require states and authorized tribes to consider for adoption as WQS new or updated water quality criteria recommendations published by the United States Environmental Protection Agency (U.S. EPA).

Federal Water Quality Standards (WQS) are contained in 40 C.F.R. Part 131, including requirements for the periodical review of and, as appropriate, modification and adoption of water quality standards applicable to waters of the U.S. In federal terminology, this review of water quality standards is known as the “triennial review.”

On August 21, 2015, revisions to the federal WQS regulations at 40 C.F.R. Part 131 went into effect. The final 40 CFR 131.20(a) rule[[1]](#footnote-1) addressed certain key WQS program areas including triennial reviews pursuant to Clean Water Act (CWA) section 303(c)(1). Per the final rule, during their next triennial review, states and authorized tribes were to consider for adoption as WQS new or updated CWA section 304(a) water quality criteria recommendations[[2]](#footnote-2) published by the U.S. EPA since May 30, 2000.

U.S. EPA approved the Hoopa Valley Tribe’s (HVT) amendments to the HVT water quality control plan (WQCP) on May 29, 2020, marking the end of the recent triennial review period. These amendments included updating two beneficial uses, establishing a natural conditions provision for dissolved oxygen (DO), and modifying the inter-gravel DO criteria in the HVT’s surface waters. The HVT did not become aware of the revisions to 40 CFR 131.20(a) until the triennial review process was nearly complete. Evaluating and incorporating additional new or revised water quality criteria into the WQCP would have extended the recent triennial review and delayed adoption of the WQCP amendments which had already been in progress for several years. The HVT did not have the resources, funding, and staffing to undertake that substantial task. Rather than prolonging the recent triennial review and delaying adoption of the amendments to the WQCP, the HVT decided to prioritize moving forward with completion of the WQCP amendments.

In the next triennial review, the HVT intends to consider all of the CWA section 304(a) water quality criteria recommendations that have been published by the U.S. EPA since May 30, 2000, as listed in the tables below. These include Aquatic Life Criteria and Human Health Criteria. Most the numeric water quality criteria in the current version of the HVT WQCP are derived from the 2000 California Toxics Rule (CTR). As an alternative to updating each individual pollutant in the CTR table (appendix D of the HVT WQCP), the HVT may consider replacing the CTR table with the most recent tables of Aquatic Life Criteria and Human Health Criteria from U.S. EPA’s website[[3]](#footnote-3), with additional revisions as appropriate. For example, some recommended criteria (e.g., copper and aluminum) require context, data analysis, or calculators to set criteria based on local conditions. One pollutant of particular interest is methylmercury, for which the HVT will consider U.S. EPA’s 2001 recommendation, California’s statewide mercury provisions adopted in 2017, and mercury criteria from other Tribes in the Pacific Northwest who consume substantial quantities of fish including salmon. Accurate estimates of how much fish people eat is an important component of setting properly protective mercury criteria, so the HVT may consider implementing a fish consumption study as preparation for setting mercury criteria.

Table 1. List of pollutants with Aquatic Life Criteria recommendations published by the U.S. EPA since May 30, 2000. P denotes pollutants included in Priority Pollutant List.

|  |  |
| --- | --- |
| **Pollutant** | **Publication Year** |
| Acrolein (P) | 2009 |
| Aluminum | 2018 |
| Ammonia (freshwater) | 2013 |
| Cadmium (P) | 2016 |
| Carbaryl | 2012 |
| Copper (P) | 2007 |
| Diazinon | 2005 |
| Nonylphenol | 2005 |
| Selenium (freshwater) (P) | 2016 |
| Tributyltin | 2004 |

Table 2. List of pollutants with Human Health Criteria recommendations published by the U.S. EPA since May 30, 2000. P denotes pollutants included in Priority Pollutant List. Table continues for several pages.

| **Pollutant** | **Publication Year** |
| --- | --- |
| [Acenaphthene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0234) | 2015 |
| [Acrolein (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0211) | 2015 |
| [Acrylonitrile (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0162) | 2015 |
| [Aldrin (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0163) | 2015 |
| [alpha-Hexachlorocyclohexane (HCH) (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0164) | 2015 |
| [alpha-Endosulfan (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0235) | 2015 |
| [Anthracene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0236) | 2015 |
| [Benzene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0165) | 2015 |
| [Benzidine (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0166) | 2015 |
| [Benzo(a)anthracene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0176) | 2015 |
| [Benzo(a)pyrene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0177) | 2015 |
| [Benzo(b)fluoranthene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0178) | 2015 |
| [Benzo(k)fluoranthene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0179) | 2015 |
| [beta-Hexachlorocyclohexane (HCH) (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0167) | 2015 |
| [beta-Endosulfan (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0237) | 2015 |
| [Bis(2-Chloro-1-methylethyl) Ether (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0212) | 2015 |
| [Bis(2-Chloroethyl) Ether (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0180) | 2015 |
| [Bis(2-Ethylhexyl) Phthalate (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0168) | 2015 |
| [Bis(Chloromethyl) Ether](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0181) | 2015 |
| [Bromoform (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0192) | 2015 |
| [Butylbenzyl Phthalate (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0213) | 2015 |
| [Carbon Tetrachloride (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0182) | 2015 |
| [Chlordane (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0183) | 2015 |
| [Chlorobenzene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0214) | 2015 |
| [Chlorodibromomethane (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0193) | 2015 |
| [Chloroform (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0215) | 2015 |
| [Chlorophenoxy Herbicide (2,4-D)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0238) | 2015 |
| [Chlorophenoxy Herbicide (2,4,5-TP) [Silvex]](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0216) | 2015 |
| [Chrysene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0184) | 2015 |
| [Cyanide (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0239) | 2015 |
| [Dibenzo(a,h)anthracene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0185) | 2015 |
| [Dichlorobromomethane (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0195) | 2015 |
| [Dieldrin (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0171) | 2015 |
| [Diethyl Phthalate (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0240) | 2015 |
| [Dimethyl Phthalate (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0241) | 2015 |
| [Di-n-Butyl Phthalate (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0242) | 2015 |
| [Dinitrophenols](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0217) | 2015 |
| [Endosulfan Sulfate (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0243) | 2015 |
| [Endrin (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0218) | 2015 |
| [Endrin Aldehyde (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0219) | 2015 |
| [Ethylbenzene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0244) | 2015 |
| [Fluoranthene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0220) | 2015 |
| [Fluorene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0221) | 2015 |
| [gamma-Hexachlorocyclohexane (HCH) [Lindane] (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0222) | 2015 |
| [Heptachlor (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0196) | 2015 |
| [Heptachlor Epoxide (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0197) | 2015 |
| [Hexachlorobenzene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0198) | 2015 |
| [Hexachlorobutadiene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0199) | 2015 |
| [Hexachlorocyclohexane (HCH) -Technical](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0172) | 2015 |
| [Hexachlorocyclopentadiene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0245) | 2015 |
| [Hexachloroethane (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0186) | 2015 |
| [Indeno(1,2,3-cd)pyrene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0187) | 2015 |
| [Isophorone (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0188) | 2015 |
| [Methylmercury (P)](https://www.epa.gov/wqc/human-health-criteria-methylmercury) | 2001 |
| [Methoxychlor](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0223) | 2015 |
| [Methyl Bromide (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0224) | 2015 |
| [Methylene Chloride (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0200) | 2015 |
| [Nitrobenzene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0246) | 2015 |
| [Nitrosodibutylamine](https://www.epa.gov/sites/production/files/2018-12/documents/hh-criteria-calculation-matrix-2002.pdf) | 2002 |
| [Nitrosodiethylamine](https://www.epa.gov/sites/production/files/2018-12/documents/hh-criteria-calculation-matrix-2002.pdf) | 2002 |
| [Nitrosopyrrolidine](https://www.epa.gov/sites/production/files/2018-12/documents/hh-criteria-calculation-matrix-2002.pdf) | 2002 |
| [N-Nitrosodimethylamine (P)](https://www.epa.gov/sites/production/files/2018-12/documents/hh-criteria-calculation-matrix-2002.pdf) | 2002 |
| N-Nitrosodi-n-Propylamine (P) | 2002 |
| N-Nitrosodiphenylamine (P) | 2002 |
| [Pathogen and Pathogen Indicators](https://www.epa.gov/wqc/recreational-water-quality-criteria-and-methods) | 2012 |
| [Pentachlorobenzene](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0225) | 2015 |
| [Pentachlorophenol (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0201) | 2015 |
| [Phenol (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0247) | 2015 |
| Polychlorinated Biphenyls (PCBs) (P) | 2002 |
| [Pyrene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0248) | 2015 |
| [Selenium (P)](https://www.epa.gov/sites/production/files/2018-12/documents/hh-criteria-calculation-matrix-2002.pdf) | 2002 |
| [Tetrachloroethylene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0189) | 2015 |
| [Thallium (P)](https://www.federalregister.gov/documents/2003/12/31/03-32211/national-recommended-water-quality-criteria-for-the-protection-of-human-health) | 2003 |
| [Toluene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0226) | 2015 |
| [Toxaphene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0202) | 2015 |
| [Trichloroethylene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0173) | 2015 |
| [Vinyl Chloride (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0174) | 2015 |
| Zinc (P) | 2002 |
| [1,1,1-Trichloroethane (P)](https://www.epa.gov/wqc/update-human-health-final-documents) | 2015 |
| [1,1,2,2-Tetrachloroethane (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0175) | 2015 |
| [1,1,2-Trichloroethane (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0156) | 2015 |
| [1,1-Dichloroethylene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0204) | 2015 |
| [1,2,4,5-Tetrachlorobenzene](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0227) | 2015 |
| [1,2,4-Trichlorobenzene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0205) | 2015 |
| [1,2-Dichlorobenzene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0206) | 2015 |
| [1,2-Dichloroethane (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0190) | 2015 |
| [1,2-Dichloropropane (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0157) | 2015 |
| [1,2-Diphenylhydrazine (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0158) | 2015 |
| [Trans-1,2-Dichloroethylene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0249) | 2015 |
| [1,3-Dichlorobenzene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0207) | 2015 |
| [1,3-Dichloropropene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0191) | 2015 |
| [1,4-Dichlorobenzene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0208) | 2015 |
| [2,3,7,8-TCDD (Dioxin) (P)](https://www.epa.gov/sites/production/files/2018-12/documents/hh-criteria-calculation-matrix-2002.pdf) | 2002 |
| [2,4,5-Trichlorophenol](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0228) | 2015 |
| [2,4,6-Trichlorophenol (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0159) | 2015 |
| [2,4-Dichlorophenol (P)](https://www.epa.gov/wqc/update-human-health-final-documents) | 2015 |
| [2,4-Dimethylphenol (P)](https://www.epa.gov/wqc/update-human-health-final-documents) | 2015 |
| [2,4-Dinitrophenol (P)](https://www.epa.gov/wqc/update-human-health-final-documents) | 2015 |
| [2,4-Dinitrotoluene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0160) | 2015 |
| [2-Chloronaphthalene (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0209) | 2015 |
| [2-Chlorophenol (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0210) | 2015 |
| [2-Methyl-4,6-Dinitrophenol (P)](https://www.epa.gov/wqc/update-human-health-final-documents) | 2015 |
| [3,3'-Dichlorobenzidine (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0161) | 2015 |
| [3-Methyl-4-Chlorophenol (P)](https://www.epa.gov/wqc/update-human-health-final-documents) | 2015 |
| [p,p′-Dichlorodiphenyldichloroethane (DDD) (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0169) | 2015 |
| [p,p′-Dichlorodiphenyldichloroethylene (DDE) (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0194) | 2015 |
| [p,p′-Dichlorodiphenyltrichloroethane (DDT) (P)](https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0135-0170) | 2015 |

1. Federal register notice: <https://www.federalregister.gov/documents/2015/08/21/2015-19821/water-quality-standards-regulatory-revisions>. Excerpt of section 131.20(a): “In addition, if a State does not adopt new or revised criteria for parameters for which EPA has published new or updated CWA section 304(a) criteria recommendations, then the State shall provide an explanation when it submits the results of its triennial review to the Regional Administrator consistent with CWA section 303(c)(1) and the requirements of paragraph (c) of this section.” Excerpt of the rule’s preamble: “An important component of triennial reviews is meaningful and transparent involvement of the public and intergovernmental coordination with local, state, federal, and tribal entities. Communication with EPA (and the public) about these decisions provides opportunities to assist states and authorized tribes in improving the scientific basis of its WQS and can build support for state and authorized tribal decisions. Such coordination ultimately increases the effectiveness of the state and authorized tribal water quality management processes. Following this rulemaking, when states and authorized tribes conduct their next triennial review they must provide an explanation for why they did not adopt new or revised criteria for parameters for which EPA has published new or updated CWA section 304(a) criteria recommendations since May 30, 2000. During the triennial reviews that follow, states and authorized tribes must do the same for criteria related to parameters for which EPA has published CWA section 304(a) criteria recommendations since the states' or authorized tribes' most recent triennial review. This requirement applies regardless of whether new or updated CWA section 304(a) criteria recommendations are more stringent or less stringent than the state's or authorized tribe's applicable criteria because all stakeholders should know how the state or authorized tribe considered the CWA section 304(a) criteria recommendations when determining whether to revise their own WQS following a triennial review. A state's or authorized tribe's explanation may be situation-specific and could involve consideration of priorities and resources. EPA will not approve or disapprove this explanation pursuant to CWA section 303(c) nor will the explanation be used to disapprove new or revised WQS that otherwise meet the requirements of the CWA. Rather, it will inform both the public and EPA of the state's or authorized tribe's plans with respect to adopting new or revised criteria in light of the latest science. EPA strongly encourages states and authorized tribes to include their explanation on a publicly accessible Web site or some other mechanism to inform the public of their decision.” [↑](#footnote-ref-1)
2. Section 304(a)(1) of the Clean Water Act (CWA) requires U.S. EPA to develop and publish, and from time to time revise, recommended criteria for the protection of water quality that accurately reflect the latest scientific knowledge. U.S. EPA’s recommended section 304(a) criteria provide technical information for states and authorized tribes to consider and use in adopting water quality standards that ultimately provide the basis for assessing water body health and controlling discharges of pollutants into waters of the United States. [↑](#footnote-ref-2)
3. <https://www.epa.gov/wqc/national-recommended-water-quality-criteria-aquatic-life-criteria-table> and <https://www.epa.gov/wqc/national-recommended-water-quality-criteria-human-health-criteria-table> [↑](#footnote-ref-3)