Petition for Rulemaking Under the Clean Water Act
Water Quality Criteria for Toxics in the State of Washington

Table of Contents

I. Introduction ........................................................... 1

II. Jurisdiction and Authority of the Environmental Protection Agency ............ 6

III. Toxics Contaminating Fish Tissue Threaten the Designated Uses Pertaining to Protection of Human Health in Washington State ........................................... 8
A. Toxic Contamination is Widespread in Washington’s Waterbodies ............... 9
   1. CWA Section 305(b) Reports .................................. 9
   2. CWA Section 303(d) Lists of Impaired Waters .................... 11
   3. Toxics Release Inventory Data .................................. 12
   4. Special Studies on Toxics in Washington Waters ....................... 14
   5. Washington Fish Consumption Advisories ............................... 22
B. Lack of Protective Human Health Criteria Hampers Toxic Clean Up Efforts for Widespread Toxic Contamination in Washington’s Waters ........................ 23

IV. Washington’s Water Quality Standards ................................ 28
A. State-Adopted Water Quality Standards ....................................... 29
B. EPA’s National Toxics Rule for Washington ................................... 31
   1. The 1987 Clean Water Act Amendments .............................. 31
   2. EPA’s Promulgation of the National Toxics Rule ....................... 33
   3. Two Decades Later, Washington State Remains Under the NTR ......... 40

V. EPA’s Current Methodology for Establishing Water Quality Criteria for the Protection of Human Health ......................................................... 41
A. EPA 304(a) Recommended Criteria ....................................... 42
B. State Adoption of Human Health Criteria; Use of the Four-Preference Hierarchy for Fish Consumption Rates .......................................................... 43

VI. Washington Fish Consumption and Establishment of Fish Consumption Rates in Washington ................................................................. 45
A. Fish Consumption in Washington ............................................. 46
B. Fish Consumption Studies of Washington Populations .......................... 48

VII. Pollutants for Which Toxic Criteria Have Not Been Updated Since 1992 .... 55

VIII. Long-Delayed Efforts to Adopt Human Health Criteria for Washington Require EPA Action ................................................................. 60
A. Washington’s Efforts to Adopt Adequate Human Health Criteria Have Been and Continue to be Stalled by Political Concerns .............................. 60
B. EPA’s Efforts to Encourage an Update to Washington’s Fish Consumption Rates Have Failed ................................................................. 70
C. EPA Promulgated Federal Standards in Similar Circumstances in California . 74

IX. EPA Region 10 Actions on State Human Health Criteria ........................ 77
A. EPA’s Disapproval of Oregon’s Proposed Human Health Criteria .......... 78
B. EPA’s Disapproval of Idaho’s Proposed Human Health Criteria ............. 80

X. Relief Requested by This Petition ........................................... 82

Conclusion ................................................................. 82