



REGION 10 ADMINISTRATOR

SEATTLE, WA 98101

Dear Honorable Leader:

On June 5, 2024, the U.S. Environmental Protection Agency issued an Administrator's Determination that new and revised water quality standards for Alaska are needed to protect the health of Alaska residents. The EPA's Determination is an important step towards ensuring that Alaska's human health criteria are informed by science and reflect the needs of Alaska residents. Though the Determination does not prevent and should not discourage the state of Alaska from adopting and submitting its own rule to address the Determination, the EPA is prepared to put revised standards in place for Alaska if the state does not take sufficient steps to do so. Therefore, the EPA is inviting government-to-government consultation and coordination with federally recognized Tribes in Alaska so that we can fully consider Tribal interests as we prepare to potentially evaluate a state water quality standards submission and/or proceed with a federal rulemaking process.

The EPA's action applies only to water bodies under the jurisdiction of the state of Alaska and does not apply to waters that are within Indian Country, as defined in 18 U.S.C. § 1151.

It is the EPA's policy to consult on a government-to-government basis with federally recognized Tribal governments when the Agency's actions and decisions may affect Tribes. The consultation process will be conducted consistent with the [EPA Policy on Consultation with Indian Tribes](#). The EPA invites you and/or your designated consultation representative(s) to participate in this process. Additionally, the EPA has an obligation to ensure that its actions are consistent with treaties, statutes and Executive Orders reflecting Tribal reserved rights. During consultation on water quality standards rulemakings and other actions, the EPA welcomes and appreciates input from affected Tribes regarding Tribal reserved rights, following the EPA [Guidance for Discussing Tribal Treaty or Similar Rights](#) and [Water Quality Standards Regulatory Revisions to Protect Tribal Reserved Rights](#), as applicable.

Background

The majority of Alaska's water quality standards for the protection of human health were established through a combination of the federally promulgated 1992 National Toxics Rule and a 2003 state rulemaking, which the EPA approved in 2004. Alaska's existing human health criteria are derived based on a fish consumption rate of 6.5 grams per day (g/day), which was the EPA's national default rate for the general population in 1992. Alaska-specific regional and local data are now available which indicate rates of fish consumption higher than 6.5 g/day, particularly in rural areas where residents depend on subsistence practices for sustenance and where such practices represent a traditional way of life with societal and cultural significance.

In late 2015, the EPA received two petitions from the Southeast Alaska Conservation Council/Inside Passage Waterkeeper and the Chickaloon Village Traditional Council requesting that the EPA promulgate new and revised human health criteria for Alaska. In reviewing these petitions, the EPA has determined that new and revised human health criteria that more accurately represent actual fish consumption are needed to protect the health of Alaska’s residents.

The June 5, 2024, Determination, issued pursuant to Clean Water Act section 303(c)(4)(B), establishes that new and revised human health criteria are needed to protect against adverse human health effects related to pollutants in Alaska’s surface waters. The EPA’s Determination is based on available information indicating that Alaska’s human health criteria do not protect the state’s designated uses and that additional human health criteria are needed for certain toxic pollutants for which Alaska currently lacks any human health criteria. The EPA believes that 6-12 months is a reasonable timeframe for the Agency to propose federal human health criteria for Alaska that meet the requirements of the Clean Water Act.

The EPA understands that Alaska may develop its own rule to strengthen the state’s water quality standards in parallel with the federal promulgation process and will continue to engage with the state in its efforts. If and when the state submits new and revised human health criteria to the EPA, we will conduct the review in accordance with the Clean Water Act and invite Tribal consultation on the Agency action.

For more information on the EPA’s enclosed June 5, 2024 Determination, please visit the EPA website at <https://www.epa.gov/wqs-tech/federally-promulgated-water-quality-standards-specific-states-territories-and-tribes>.

Opportunities for Tribal Consultation and Engagement

The EPA will hold two informational webinars with the same content for interested Tribal governments and staff to discuss the status of the state’s efforts as well as the EPA’s federal rulemaking proposal process and to answer any questions you or your staff may have. The informational webinars will be held on **June 13, 2024, from 12:00-1:30pm Alaska Time** and **June 20, 2024, from 12:00-1:30pm Alaska Time**.

The following provides access information for the informational webinar on **June 13, 2024**:

Microsoft Teams meeting, join on your computer or mobile app.

Web link: [Link](#)

Or, Call-in (audio only): +1 (206) 800-4483 ID: 653 438 006#

The following provides access information for the informational webinar on **June 20, 2024**:

Microsoft Teams meeting, join on your computer or mobile app.

Web link: [Link](#)

Or, Call-in (audio only): +1 (206) 800-4483, ID: 436 055 974#

These informational webinars are intended to assist in your decision regarding consultation and are not a substitute for government-to-government consultation.

If you would like to request government-to-government consultation on the matters described in this letter, please have your staff contact Rachael Renkens, Alaska Water Quality Standards Coordinator, at Renkens.Rachael@epa.gov, by Wednesday, **June 26, 2024**. Please also identify a Tribal representative to serve as a point of contact for planning purposes. As you consider whether you would like to consult on this matter, please consider the high likelihood of a remote consultation (e.g., via telephone or video conference). The EPA will work with your staff to schedule the consultation meetings with your Tribal government as requests are received. I am designating the Region 10 Water Division Director as the regional consulting official on this matter. We also anticipate a representative from the EPA's national office in Washington, D.C. will participate in the consultations.

The EPA must conclude consultation meetings by **Friday, August 9, 2024**, so that input from Tribal governments can be reviewed and considered in advance of publication of a potential proposed rule in the Federal Register. Following an EPA proposal of new and revised human health criteria for Alaska or a final water quality standards submittal from the state, there will be opportunity for further Tribal consultation and coordination.

Thank you for your interest in this upcoming Clean Water Act action. If you have questions or wish to discuss further, please contact Caleb Shaffer, Acting Water Division Director, at (503) 326-5015 or Shaffer.Caleb@epa.gov.

Sincerely,

Casey Sixkiller
Regional Administrator

ENCLOSURE

1. Clean Water Act section 303(c)(4)(B) Determination new and revised human health criteria are needed to protect against adverse human health effects related to pollutants in Alaska's surface waters.