

Limited Revisions to the Kalispel Tribe's Water Quality Standards

Summary of Basis

January 2022

The Kalispel Tribe (Tribe) has been working closely with EPA Region 10 water program staff to obtain approval of the Tribe's water quality standards (WQS) submitted on October 27, 2017. The EPA provided a partial approval of the Tribe's WQS that included the human health criteria on March 21, 2019 but deferred the review of aquatic life criteria pending Endanger Species Act consultation with the U.S. Fish and Wildlife Service. The subsequent EPA review of the Kalispel aquatic life criteria resulted in a few recommended language modifications and incorporation of new recommended criteria before EPA can formally approve the Tribe's standards in their entirety.

To prevent further delay of the WQS approval, the Tribe voluntarily withdrew submission of some disputed criteria from Tribe's original 2017 WQ standards submittal with the intent to revise them at a later date. Withdrawal of the disputed criteria allowed EPA to approve the remainder of the 2017 WQS submittal, which was formally completed on September 27, 2021.

The currently proposed limited WQS revisions are designed to correct minor typographical errors, clarify terms, and correct the criteria previously withdrawn by the Tribe and make them consistent with the National Recommended Water Quality Criteria of Section 304(a) of the Clean Water Act. Once the revisions are incorporated into the Tribe's WQS and a public review is completed, subsequent approval by EPA should be attainable.

The redline version of the Tribe's revised WQS with specific changes with margin notes is attached with an explanation of the proposed revisions as follows.

1. The language was modified related to the frequency and magnitude of criteria exceedances by replacing the use of "should" in five instances to clarify that the language pertaining to the applicable criteria is more than a recommendation.
2. Reinstated the aquatic life criteria for Mercury and Atrazine with associated footnotes (Table 2. Toxic Substances) that were originally in the Kalispel 2004 WQS and inadvertently omitted from the 2017 revision.
3. The aquatic life criteria for Aluminum, Selenium, Cadmium, and Silver were updated, along with the relevant footnotes (Table 2. Toxic Substances) to be consistent with the EPA 304(a) recommended criteria.
4. Language was added to the dissolved oxygen standard for protection of cold-water fish in Section 12(a)(2) to clarify that the numeric criterion (8 mg/L) applies to the inter-gravel water during the spawning and incubation season, and in the overlying water column at other times of the year.
5. The language was modified in the turbidity standard of WQS Section 12(a)(3), clarifying that the allowable increase in turbidity is in reference to the natural background condition.