

WAC 173-200-050 Enforcement limit. (1) An enforcement limit is a value assigned to any contaminant for the purposes of regulating that contaminant to protect existing groundwater quality and to prevent groundwater pollution.

(2) Enforcement limits shall be defined on a case-by-case basis and shall be met at the point of compliance as defined in WAC 173-200-060. When the point of compliance is established at or in close proximity to the property boundary, enforcement limits shall be established sufficiently below criteria to provide an adequate margin of safety to ensure pollution does not extend beyond the property boundary.

(3) All enforcement limits shall, at a minimum, be based on all known, available, and reasonable methods of prevention, control, and treatment.

(a) The department shall consider all of the following in establishing enforcement limits:

(i) The antidegradation policy;

(ii) Establishment of an enforcement limit as near the natural groundwater quality as practical;

(iii) Overall protection of human health and the environment;

(iv) Whether the potentially affected area has been designated as a special protection area;

(v) Protection of existing and future beneficial uses;

(vi) Effects of the presence of multiple chemicals, multiple exposure pathways in accordance with subsection (5) of this section, and toxicity of individual contaminants;

(vii) Federal, state, tribal, and local land use plans, policies, or ordinances including wellhead protection programs;

(viii) Pollution of other media such as soils or surface waters; and

(ix) Any other considerations the department deems pertinent to achieve the objectives of this chapter.

(b) Where a criterion is established for a given contaminant, the enforcement limit shall not exceed the criterion except as follows:

(i) When the natural groundwater quality for a contaminant exceeds the criterion, the enforcement limit for that contaminant shall be equal to the natural level.

(ii) When the background groundwater quality exceeds a criterion, the enforcement limit at the point of compliance shall not exceed the background groundwater quality for that criterion. Enforcement limits based on elevated background groundwater quality shall in no way be construed to allow continued pollution of the receiving groundwater.

(iii) When a criterion is less than the practical quantification level, the enforcement limit shall be established in an alternate location to provide a realistic estimate that the criterion shall not be exceeded in the groundwater. Evaluation for such enforcement limits shall be performed in accordance with WAC 173-200-080(5).

(iv) When naturally nonpotable groundwater exceeds a secondary contaminant criterion, an enforcement limit for a secondary contaminant may exceed a criterion when it can be demonstrated to the department's satisfaction that:

(A) The environment is protected;

(B) Human health is protected in consultation with the Washington state department of health;

(C) Existing and future beneficial uses are not harmed; and

(D) All known, available, and reasonable methods of prevention, control, and treatment will not result in concentrations less than the secondary contaminant criteria.

(v) Enforcement limits may exceed criteria in isolated artificial or seasonal groundwaters when all of the following conditions exist:

(A) The isolated artificial or seasonal groundwaters are of insufficient quantity for use as a drinking water source;

(B) Established enforcement limits will not cause harm to existing and future beneficial uses including support of seasonal wetlands;

(C) Accumulation of contaminants will not cause adverse acute or chronic effects to human health as determined in consultation with the Washington state department of health;

(D) Accumulation of contaminants will not cause adverse acute or chronic effects to the environment.

(vi) In rare circumstances the department may allow an enforcement limit to exceed a criterion for an activity for a period not to exceed five years without reconsideration of the evidence presented in subitems (A), (B), and (C) of this subdivision, and if all of the following conditions are met:

(A) The permit holder or responsible person demonstrates to the department's satisfaction that an enforcement limit that exceeds a criterion is necessary to provide greater benefit to the environment as a whole and to protect other media such as air, surface water, soil, or sediments;

(B) The activity has been demonstrated to be in the overriding public interest of human health and the environment;

(C) The department selects, from a variety of control technologies available for reducing and eliminating contamination from each potentially affected media, the technologies that minimize impacts to all affected media; and

(D) The action has been approved by the director of the department or his/her designee.

(4) Where a criterion is not established for a contaminant, the enforcement limit in groundwater shall not exceed the practical quantification level except:

(a) Where there is evidence that a lower concentration would better protect human health and the environment (based on published health advisories, risk assessments, and other available information), the department shall establish a more stringent enforcement limit;

(b) If clear and convincing evidence can be provided to the department that an alternative concentration will provide protection to human health and the environment, the department may establish an enforcement limit higher than the practical quantification level.

Protection of human health shall be determined in consultation with the Washington state department of health.

(5) For multiple contaminants and multiple routes of exposure, enforcement limits shall be addressed as follows:

(a) Estimated doses of individual contaminants from one or more routes of exposure are assumed to be additive unless evidence is available to suggest otherwise.

(b) Adverse effects of multiple contaminants with similar types of toxic responses are assumed to be additive unless evidence is available to suggest otherwise.

(c) Human cancer risks associated with multiple carcinogens are assumed to be additive unless evidence is available to suggest otherwise and shall not exceed a total incremental human cancer risk of 1 in 1,000,000.

(6) The enforcement limit for a specific activity may be established through, but not limited to the following mechanisms: A state administrative rule, a state waste discharge permit, other department permit, or administrative order.

(7) The groundwater quality at the point of compliance for an activity may temporarily exceed an enforcement limit while the activity is under an enforceable schedule of compliance.

[Statutory Authority: RCW 90.48.035. WSR 90-22-023, § 173-200-050, filed 10/31/90, effective 12/1/90.]