



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

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OFFICE OF THE  
REGIONAL  
ADMINISTRATOR

SEP 14 2012

The Honorable Chairman Billy Frank, Jr.  
Northwest Indian Fisheries Commission  
6730 Martin Way East  
Olympia, Washington 98516

Dear Chairman *Billy* Frank:

Thank you for your correspondence dated August 24, 2012, sent on behalf of the Northwest Indian Fisheries Commission and its member tribes. The letter outlines a number of concerns regarding the Washington Department of Ecology's recent changes in their rulemaking approach for a revised fish consumption rate, including Ecology's planned revisions to the technical support document and removal of a FCR from the proposed revisions to the State's Sediment Management Standards. Furthermore, the letter expresses frustration with the length of time it has taken for Ecology to adopt a protective FCR in Washington's Water Quality Standards and requests further engagement from the Environmental Protection Agency.

As you know I have recently written Ted Sturdevant to state that the EPA expects the State of Washington to move forward with timely adoption of revised water quality standards for toxic pollution. The EPA's recent actions in Idaho and Oregon provide strong precedent for the process in Washington. While establishing an FCR is a very complex process with difficult policy considerations, we have been clear that the EPA Region 10 expects timely action by the state on this issue.

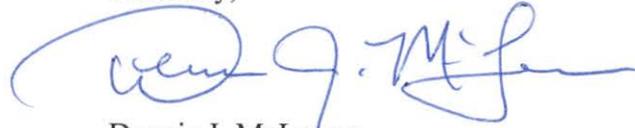
The EPA is committed to working with Ecology to adopt protective human health criteria, and we will help provide Ecology the support and resources to accomplish this goal. We strongly support adoption of human health criteria that are derived using scientifically sound data, including applicable regional and local fish consumption rate surveys. These surveys demonstrate that tribal and other high fish consuming residents are eating fish at rates significantly higher than the current default rates. We have been clear with the State that when there is regional or local data showing higher fish consumption rates, it needs to be considered for derivation of the State's human health criteria.

Also, the tribes have a very important role in ensuring Ecology's successful adoption of human health criteria that address tribal fish consumption concerns. I appreciate your efforts thus far and hope that you will continue to provide the clear message that an accurate FCR is not only important to the tribal community and for tribal rights, but also for the general health of the people of Washington. The EPA looks forward to continued collaboration with you and Ecology for a successful outcome.

Again, thank you for your letter and for providing the detailed information as to your concerns. I also look forward to talking more with NWIFC on September 20, in follow-up to the meeting request in your August letter. We look forward to continuing an open dialogue with you regarding Washington's FCR as the process moves forward.

If you have questions or would like to discuss this issue in greater detail, please feel free to call me at (206) 553-1234 or have your staff contact Angela Chung, EPA's Water Quality Standards Unit Manager, at (206) 553-6511.

Sincerely,



Dennis J. McLerran  
Regional Administrator

cc: Ms. Fran Wilshusen, Assistant Director  
Northwest Indian Fisheries Commission

Mr. Ted Sturdevant, Director  
Washington State Department of Ecology

Mr. Mike Grayum, Executive Director  
North West Indian Fisheries Commission