

From: [Lizon, Patrick \(ECY\)](#)
To: [Braley, Susan \(ECY\)](#)
Subject: FW: Policy 1-11 scoping
Date: Thursday, April 14, 2016 12:57:15 PM
Attachments: [SMS consultation final comments.pdf](#)
[Three-leaders-ltr to Gov GIAG March-14-2014.pdf](#)
[NWIFC-to-EPA re SMS-CWA-review Sept25-2013.pdf](#)

From: Bolster, Todd [mailto:tbolster@nwifc.org]
Sent: Thursday, March 31, 2016 7:41 PM
To: Lizon, Patrick (ECY) <pliz461@ECY.WA.GOV>
Cc: Fran Wilshusen <FWilshus@nwifc.org>; Denice Taylor <dtaylor@suquamish.nsn.us>
Subject: Policy 1-11 scoping

Hi Patrick,

Below are a couple of issue that member tribes of the NWIFC have been tracking/concerned about. As a result, please flag these issues in your scoping process for the water quality assessment listing policy 1-11. I have also attached some relevant documents where the tribes have formally raised these issues related to listing policies and procedures with either Ecology or EPA.

- 1. Listings based upon part V of the sediment management standards should remain in category 5.** Ecology has requested that EPA no longer review and approve certain provisions of the sediment management standards (SMS). There are numerous category 5 listings based on Part V of the SMS. The tribes have suggested that these listings should not disappear from the list, simply because Ecology has requested and EPA has granted, a different treatment of the standards that both agencies previously treated as water quality standards for over 20 years. These waters/sediments are polluted and must be adaptively managed through appropriate clean up efforts to ensure protection of the designated uses. (see attached letters)
- 2. Category 4b listings based upon part V of the SMS should be moved to Category 5.** There are also numerous category 4b listings that were taken out of category 5, because they were deemed to have a plan in place sufficient to ensure water quality standard compliance. However, as mentioned above, Ecology has revised part V of the standards (to which those clean up plans were based upon) in such a way that no longer provides assurances that clean ups will in fact achieve water quality standards. Without the adequate legal authority to ensure that cleanups under part v will achieve water quality standards, Ecology can no longer ensure that those listings are: 1) not polluted; 2) clean up is adequate; and 3) that a TMDL is not necessary. Therefore, category 4b listings should be placed into category 5. (see letter from Suquamish to EPA re: final consultation on the SMS.)
- 3. Use of fish tissue data must remain an approved method for listing.** Tissue-based listings are one of the surest ways to detect bio-accumulative toxics entrained in the aquatic trophic system. The tribes have worked diligently over the last decade to ensure that human health criteria are revised to more accurately reflect both the likely exposure and potential toxicity of numerous toxic pollutants, and thereby resulting in adequately protective water quality standards. However, for water quality standards to be relevant and protect the designated uses, they must, as a practical matter, be monitored and

implemented. Given that many of the human health criteria pollutant parameters are lipophilic and/or bioaccumulative they are best detected when stored in tissue, and may go undetected. Therefore, it is absolutely essential that the Department of Ecology maintain and increase their fish tissue analysis and subsequent water quality assessment listing process, in order to effectively address these pollutants through the federal Clean Water Act and state Water Pollution Control Act regulatory processes. See Letter from Suquamish, Swinomish, Jamestown S'Klallam to Governor Jay Inslee, re: Washington State Water Quality Standards, dated March 14, 2014, page 5, bullet point 3.