



March 30, 2016

Mr. Patrick Lizon
Water Quality Program
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

RE: WSDOT Feedback on Water Quality Policy 1-11 Scoping Process

Dear Mr. Lizon:

The Washington State Department of Transportation (WSDOT) Environmental Services Office appreciates the opportunity to provide scoping level feedback on Ecology's Water Quality Policy 1-11¹ (Policy).

WSDOT's main interest in the Policy is that it be technically accurate and result in listings based on empirical science using credible information. This will provide the public and regulated community with verifiable and reproducible Water Quality Assessment (WQA) listing decisions that improve confidence in Clean Water Act administration and implementation.

To achieve this result, a comprehensive review and update of both Chapters 1 and 2 is necessary and we request Ecology take adequate time to do so. We are committed to working with Ecology on this effort. We can provide more detailed feedback on the following key topics:

1) Perform a technical accuracy review of Chapters 1 and 2

i. Specific criteria to determine data credibility is lacking

The Policy lacks specific criteria defining the state's requirements for water quality data, yet specifications have been established for sediment². In order to meet the Legislature's intent in the Water Quality Data Act³, requirements for data quality must be established.

ii. Widespread use/misuse of terminology lacking definition creates ambiguity. Evaluate the use of terminology throughout the Policy to eliminate vague or incorrect descriptions. Ensure terminology aligns with legal and scientifically accepted definitions, in conformance with Ecology's Quality Management Plan⁴ requirements and associated glossary. Include applicable definitions in the Policy.

¹ Washington State Department of Ecology. Water Quality Program Policy 1-11, Chapters 1 and 2. Chapter 1 last revised: July 2012; Chapter 2 established: September 2006.

² Washington State Department of Ecology. Sediment Cleanup User's Manual II. Publication No. 12-09-057. March 2015.

³ Washington State Legislature. Water Pollution Control. Water Quality Data Act. RCW 90.48.570 - 590. 2004.

⁴ Washington State Department of Ecology. Quality Management Plan. Publication No. 15-03-030. December 2015.

- iii. **Widespread use of best professional judgment or determinations on a case-by-case basis reduces consistency and predictability for stakeholders.** Institute use of standardized processes (see bullet i) to improve decision making and repeatability of listing decisions by reducing reliance on subjectivity.
 - iv. **Use of conflicting statements**
Review and address all conflicting statements in Chapters 1 and 2.
 - v. **Bias toward Category 5 listings**
Information necessary to qualify a waterbody for Category 5 listing (for many if not all pollutants) are significantly inequitable compared to information necessary for other categories. This creates a bias toward impaired listings and in the absence of a de-listing process, results in an ever expanding Category 5 list. Uniform, scientifically defensible, and objective listing criteria and processes should be developed to evaluate information equitability within and amongst categories.
 - vi. **Use of laboratories lacking accreditation and non-standardized test methods**
Allowing use of non-accredited laboratories and alternative/non-standard test methods outside of rigor and performance criteria established by 40 CFR 136 creates data inconsistency in WQA decision making, if the approval process for using alternative test methods does not meet or exceed applicable requirements of 40 CFR 136.4 through 136.6. Modification of Ecology's process is recommended to: 1) require and verify adequate documentation exists for the use of data generated by methods other than those listed in 40 CFR 136, and 2) ensure documentation exists that demonstrates conformance with applicable requirements.
 - vii. **Lack of standard methodology describing how to use non-detect information**
The Policy should provide reference to, or include, standard methodology applied to non-detect data such that stakeholders and Ecology are consistently assessing data.
- 2) **Clarify that implementation of, and adherence to, the Policy is required**
Applicability descriptions of Policy requirements are inconsistent and unclear. Additionally, only required and current Agency documents, for use in the WQA evaluation process, should be referenced.
- 3) **Develop and include de-listing procedures**
The Policy establishes listing procedures but omits de-listing procedures. Uniform, scientifically defensible, and objective parameter specific de-listing methods should be developed and included in the Policy.
- 4) **Address bioassessment concerns previously provided**
Please refer to the Interagency Team's July 31, 2015 letter to EPA for a comprehensive set of issues and recommendations (attached).

Thank you for considering our feedback. If you have questions or wish to discuss, please contact me or WSDOT's Municipal Stormwater Permit Coordinator, Jana Ratcliff, at 360-570-6649 (office), 360-701-6353 (cell), or ratclij@wsdot.wa.gov.

Mr. Patrick Lizon
March 30, 2016
Page 3 of 3

Sincerely,



Kenneth M. Stone
Resource Programs Branch Manager
Environmental Services Office

KMS:jr
Attachment

