

**From:** [Richard Smith](#)  
**To:** [ECY RE SWQS](#)  
**Subject:** comments on proposed wqs rule change  
**Date:** Monday, March 23, 2015 4:07:18 PM

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I have three comments:

1) I support the increase in the fish consumption rate, but not the change in the risk factor. All of the toxics numeric criteria should be revised downward (i.e., made more stringent) to protect all of our state's populations, not least Native Americans.

2) Provisions for interim effluent limitations in variances (-420(7)(a)) and compliance schedules (-510(4)(c)) should require numeric effluent limitations. Allowing non-numeric effluent limitations opens the door to inclusion of inadequate effluent limitations (i.e., "do your best" narrative effluent limitations). This is inadequate and fails to implement the strong mandates of state and federal law.

3) For variance "requirements", -420(3)(b) requires "a demonstration that attaining the wqs is not feasible for the requested duration of the variance based on one or more of the conditions found in 40 CFR 131.10." This reference to 131.10 is unclear and needs to be rewritten more precisely. First, only subpart (g) of 131.10 appears to list conditions in which a variance may be appropriate, and the unrestricted reference to 131.10 is confusing. Second, 131.10(g) requires that the infeasibility be caused by one of the enumerated reasons to qualify for variance, not merely "based on" a conditions. Please clarify Ecology's intent and draft the rule language to reflect it.

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