



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

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OFFICE OF THE  
REGIONAL  
ADMINISTRATOR

OCT 30 2012

Mr. Terry Williams  
Commissioner Fisheries and Natural Resources  
The Tulalip Tribes  
6406 Marine Drive  
Tulalip, Washington 98271

Dear Commissioner Williams:

Thank you for your correspondence dated September 18, 2012, which outlines a number of concerns regarding recent changes by the Washington Department of Ecology in their rulemaking approach for a revised fish consumption rate, including 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 to derive human health criteria within Washington's Water Quality Standards, and requests intervention from the U.S. Environmental Protection Agency.

Establishing an accurate FCR is an incredibly complex process with difficult policy considerations. However, I assure you that the adoption of human health criteria that reflect an appropriate FCR for Washington's waters and that address the EPA's desire for regional consistency remains a high priority for the EPA. Our recent actions in Idaho and Oregon provide strong precedent for the current process in Washington.

The EPA is committed to working with Ecology to adopt protective human health criteria in an efficient and timely manner, and we will help provide Ecology the support and resources to accomplish this goal. At this time, we believe it's appropriate for Ecology to lead this work with the EPA's assistance, and we are pleased to see that Ecology has shown its commitment to adopt new human health criteria by issuing a formal notice for rule-making activities on September 21.

The EPA strongly supports 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. If and when there is regional or local data showing higher fish consumption rates, it needs to be considered for derivation of Washington's human health criteria. The study, *A Fish Consumption Survey of the Tulalip and Squaxin Island Tribes of the Puget Sound Region* (Toy et al., 1996), is an example of scientifically sound local fish consumption information that Ecology should consider when establishing a default fish consumption rate.

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 and protective 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.

If you have further questions please contact Angela Chung, EPA's Water Quality Standards Unit Manager, at (206) 553-6511 or Dan Opalski, our Director for the Office of Water and Watersheds, at (206) 553-1855.

Sincerely,



Dennis J. McLerran  
Regional Administrator

cc: Mr. Ted Sturdevant, Director  
Washington State Department of Ecology