



# Northwest Indian Fisheries Commission

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October 25, 2024

Marla Koberstein, Water Quality Projects Manager  
WA Department of Ecology  
P.O. Box 47696  
Olympia, WA 98504

Re: NWIFC Support for Updates to Human Health Criteria in WAC 173-201A-240

Dear Ms. Koberstein:

The Northwest Indian Fisheries Commission (NWIFC) supports the proposal from the Washington Department of Ecology (Ecology) to replace the state-adopted human health criteria with the federal human health criteria numbers the U.S. Environmental Protection Agency (EPA) set for Washington in 2016 and 2022.

The NWIFC is comprised of 20 treaty Indian tribes in western Washington, each of which retain constitutionally protected, treaty-reserved rights to harvest, consume, and otherwise manage fish, shellfish, and other treaty reserved resources within their usual and accustomed areas.<sup>1</sup> As natural resource co-managers with the state of Washington, the tribes have a vested interest in all policies that affect their treaty-reserved resources and the protection and restoration of habitat critical to their recovery and long-term sustainability.

Ecology proposes to update Table 240 of WAC 173-201A-240 to adopt as state law human health criteria for 75 pollutants and associated footnotes that EPA promulgated in place of state criteria the EPA had previously disapproved. Ecology also proposes to adopt three criteria for two pollutants that the EPA put in place for Washington in 2016 that were not adopted in the original state criteria. As you know, the NWIFC and its member tribes have long advocated for these changes and we support this efficient and targeted rule-making process Ecology has undertaken as part of the work necessary to incorporate these criteria into the state's own standards.

We support Ecology's use of the 175 grams per day consumption rate and the 70-year life expectancy to calculate the criteria for these toxins. By adopting these criteria, Ecology is integrating best available science and is responding to greater protection for tribal and non-


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<sup>1</sup> The NWIFC member tribes are the Hoh, Jamestown S'Klallam, Lower Elwha Klallam, Lummi, Makah, Muckleshoot, Nisqually, Nooksack, Port Gamble S'Klallam, Puyallup, Quileute, Quinault, Sauk-Suiattle, Skokomish, Squaxin Island, Stillaguamish, Suquamish, Swinomish, Tulalip, and Upper Skagit.

tribal communities that consume large amounts of finfish and shellfish from a plethora of toxic pollutants that are, unfortunately, ubiquitous in many of the waterways where tribal treaty resources are harvested. Additionally, updating the criteria removes any potential confusion caused to those unaware that state criteria has been superseded by more stringent federal criteria.

Should you have any questions, please contact Greg Haller, Legal Advisor at [ghaller@nwifc.org](mailto:ghaller@nwifc.org) or Fran Wilshusen, Director of Environmental Protection at [fwilshus@nwifc.org](mailto:fwilshus@nwifc.org).

Sincerely,

A handwritten signature in blue ink that reads "Justin R. Parker". The signature is written in a cursive, flowing style.

Justin R. Parker  
Executive Director

cc: Laura Watson, Director, Ecology  
Dan Opalski, Deputy Regional Administrator, EPA Region 10  
NWIFC Commissioners