

30 SEP 2008

**LUMMI NATION
WATER QUALITY STANDARDS
RESOLUTION 112-106**

SUMMARY OF EPA'S ACTION

This enclosure provides a summary of Environmental Protection Agency's (EPA) action. EPA is approving provisions of the Makah Tribe Water Quality Standards (submitted to EPA on September 25, 2006) as identified below.

PROVISIONS WHICH ARE APPROVED

The following provisions are approved for purposes of CWA Section 303(c):

17 LAR 07.030 Designated Uses

- subsections (a)(1), (b)(1), (c)(1), and (d)(1) 4(1)(a) to (c), 4(1)(f) narrative general characteristics
- subsections (a)(2)(A), (a)(2)(B), (b)(2)(A), (b)(2)(B), (c)(2)(A), (c)(2)(B), (d)(2)(A), and (d)(2)(B) 4(2)(g) water supply; recreation (primary contact recreation and secondary contact recreation); fish and shellfish harvest; and tribal cultural,
- subsections (a)(2)(C), (b)(2)(C), (c)(2)(C), and (d)(2)(C), fish and shellfish harvesting uses
- subsections (a)(2)(E), (a)(2)(G), (b)(2)(E), (b)(2)(G), (c)(2)(E), (c)(2)(G), (d)(2)(E), (d)(2)(G) primary and secondary contact recreation uses and the tribal cultural
- subsections (a)(2)(F), (b)(2)(F), (c)(2)(F), and (d)(2)(F) commerce and navigation use

17 LAR 07.030 Criteria

- subsections (a)(3)(A), (b)(3)(A), (c)(3)(A), and (d)(3)(A) fecal coliform for freshwater and marine waters for salmon and shellfish harvesting use
- subsections (a)(3)(B), (b)(3)(B), (c)(3)(B), and (d)(3)(B) enterococci bacteriological criteria for the protection of primary and secondary recreation
- subsections (a)(3)(H), (b)(3)(H), (c)(3)(H), and (d)(3)(H) narrative criterion for the protection of biota and public health from exposure to toxic, radioactive or deleterious substances.
- subsections (a)(3)(I), (b)(3)(I), (c)(3)(I), and (d)(3)(I) narrative criterion for the protection of public health from exposure to materials which offend the human senses of sight, smell, touch or taste.
- subsection (f) Table 2 summarizes the human health uses in each class
- subsection (g) Table 3 summary of the applicability of human health criteria to fresh and marine water use classifications

17 LAR 07.040 Toxic Substances

- subsection (a – c)
- Table 4 human health criteria and the associated footnotes

17 LAR 07.050 - Radioactive Substances - all provisions

17 LAR 07.070 – Antidegradation - all provisions

17 LAR 07.080 - Outstanding Resource Waters- all provisions

17 LAR 07.150 – General Classification

17 LAR 07.160 – Specific Classifications – Fresh Water

17 LAR 07.170 – Specific Classifications – Marine Water

- The default and water body specific harvesting, primary and secondary recreation, commerce and navigation, and tribal cultural uses.

**PROVISIONS WHICH ARE APPROVED SUBJECT TO COMPLETION OF
ENDANGERED SPECIES ACT CONSULTATION**

These provisions are approved for purposes of CWA Section 303(c), subject to completion of consultation under Section 7(a)(2) of the Endangered Species Act:

17 LAR 07.020 Definitions all provisions

17 LAR 07.030 - General Water Use

- subsections (a)(1), (b)(1), (c)(1), and (d)(1) general characteristics
- subsections (a)(2)(C & D), (b)(2)(C & D), (c)(2)(C & D) fresh and marine water aquatic life uses

17 LAR 07.030 – General Water Criteria

- subsections (a)(3)C), (b)(3)(C), (c)(3)(C), (d)(3)(C) dissolved oxygen criteria,
- subsections (a)(3)D), (b)(3)(D), (c)(3)(D), (d)(3)(D) total dissolved gas criteria,
- subsections (a)(3)E), (b)(3)(E), (c)(3)(E), (d)(3)(E) temperature criteria,
- subsections (a)(3)F), (b)(3)(F), (c)(3)(F), (d)(3)(F) pH criteria,
- subsections (a)(3)G), (b)(3)(G), (c)(3)(G), (d)(3)(G) turbidity criteria,
- subsections (a)(3)(H), (b)(3)(H), (c)(3)(H), (d)(3)(H) a narrative criterion for the protection of aquatic life from exposure to toxic, radioactive or deleterious substances.
- subsection d)(3)(J) lake nutrient criteria.
- subsection (e) narrative criteria for: floating solids, oil and grease; color; odor and taste; nuisance conditions; bottom deposits; and erosion.
- subsection (f) Table 2 summarizes the aquatic life uses in each class
- subsection (g) Table 3 presents a summary of the applicability of aquatic life criteria to fresh and marine water use classifications

17 LAR 07.040 – Toxic Substances

- subsections (a – c)
- Table 4 aquatic life criteria and the associated footnotes

17 LAR 07.060 - General Considerations

- subsections (a),(c), (d), (e), (f) and (g)

17 LAR 07.090 - Mixing Zones- all provisions

17 LAR 07.110 – Variances – all provisions

17 LAR 07.120 – Site Specific Criteria – all provisions

17 LAR 07.130 - Use Attainability Analysis – all provisions

17 LAR 07.150 – General Classification

17 LAR 07.160 – Specific Classifications – Fresh Water

17 LAR 07.170 – Specific Classifications – Marine Water

- The default aquatic life and water body specific aquatic life use designations (salmon spawning and egg incubation, salmon rearing and migration, shellfish spawning and rearing, and wildlife habitat) for fresh and marine waters.

17 LAR 07.190(f) – Allowance for Compliance Schedules

**PROVISIONS WHICH DO NOT CONSTITUTE WATER QUALITY STANDARDS
(EPA IS TAKING NO ACTION)**

Many State and Tribal WQS regulations contain provisions that specify the terms of National Pollutant Discharge Elimination System (NPDES) permits, address Section 303(d) impaired waters listing requirements, and/or enforcement provisions or provide general language that describes the purpose of the water quality standards. Because all of these programs are related to the implementation, maintenance and protection of water quality it makes sense to include them in a single regulatory package. However, many of these provisions are beyond the scope of Section 303(c) and therefore are not reviewable under Section 303(c) of the Clean Water Act.

EPA has identified several sections of the Tribe's WQS regulations that EPA has determined are not water quality standards under Section 303(c) of the CWA. However, these provisions are applicable and enforceable under Tribal law.

17 LAR 07.010 Introduction

17 LAR 07.060 General Considerations [subsection (b)]

- compliance with the fecal coliform criteria

17 LAR 07.100 Short-Term Exceedences

17 LAR 07.140 Water Quality Offsets

17 LAR 07.180 Achievement Considerations

17 LAR 07.190 Implementation [(a)-(e) and (g)]

17 LAR 07.200 Surveillance

17 LAR 07.210 Enforcement

