Message

From: Wirick, Holiday [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CB8297D55F314BDD8AE914EED7EF14E5-HWIRICK]
Sent: 9/28/2020 9:34:17 PM
To: Fish, Tonya [Fish.Tonya@epa.gov]
Subject: RE: MT language

Tonya, you are awesome!! Thank you so much!!! And yes the letter is very much appreciated!!

From: Fish, Tonya <Fish.Tonya@epa.gov>
Sent: Monday, September 28, 2020 3:27 PM
To: Wirick, Holiday <wirick.holiday@epa.gov>
Subject: RE: MT language

Holly,

Of course! That language is below, but I attached the Word doc for the complete letter in case there are other sections you want to use like providing an explanation for new 304(a) criteria.

Tonya

Downstream Use Protection

Pursuant to sections 303 and 101(a) of the Clean Water Act, 40 CFR § 131.10(b) requires that "In designating uses of a water body and the appropriate criteria for those uses, the State shall take into consideration the water quality standards of downstream waters and shall ensure that its water quality standards provide for the attainment and maintenance of the water quality standards of downstream waters." This provision requires states and authorized tribes to consider and ensure the attainment and maintenance of downstream[1] WQS during the establishment of designated uses and water quality criteria in upstream[2] waters. In 2014, the EPA developed Frequently Asked Questions and a Decision Tool that includes customizable templates for narrative downstream protection criteria to assist states/tribes with this effort.[3] These templates may be used to develop a narrative provision that applies to all waters in the state as well as a variety of tailored narratives that can be developed to address specific water bodies, pollutants, and/or water body types.

The EPA acknowledges that Montana made progress in this area in 2014 when it adopted a downstream use provision applicable to numeric nutrient criteria (DEQ-12A, Section 3.0, Endnotes 2). The EPA recommends Montana develop downstream use provisions to protect uses for other parameters as well.

From: Wirick, Holiday <wirick.holiday@epa.gov>
Sent: Monday, September 28, 2020 3:04 PM
To: Fish, Tonya <Fish.Tonya@epa.gov>
Subject: MT language

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[1] The EPA interprets the term "downstream" to include both intra- and interstate waters, as well as waters that form a boundary between adjacent jurisdictions. See EPA "Protection of Downstream Waters in Water Quality Standards: Frequently Asked Questions" (June 2014) page 1, FN 1 available at: www.epa.gov/sites/production/files/2018-10/documents/protection-downstream-wqs-faqs.pdf.
[2] The term "upstream" includes "instream" when referring to the water body(ies) for which states/tribes are developing designated uses/water quality criteria that will ensure the attainment and maintenance of downstream WQS. See id. at page 1, FN 2.
[3] www.epa.gov/wqs-tech/decision-tool-downstream-water-quality-protection.

Hi Tonya, in discussion with Erin this morning Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Would you be willing to share the letter you provided to MT during the WQS public comment period?

Thanks,
Holly