Fw: WER PSNS email

Matthew Szelag to: Niemi, Cheryl (ECY) 01/03/2011 04:16 PM
Cc: Lisa Macchio

Cheryl,
Sorry for the second email, but I think we may have tracked it down. I just want to be sure this the email you were thinking of. Please let me know when you have a chance.

Thanks!

Matthew Szelag
US EPA Region 10
1200 Sixth Ave, Suite 900
Seattle, WA 98101
Phone: 206-553-5171

----- Forwarded by Matthew Szelag/R10/USEPA/US on 01/03/2011 04:14 PM -----

From: Lisa Macchio/R10/USEPA/US
To: Matthew Szelag/R10/USEPA/US@EPA
Date: 01/03/2011 04:02 PM
Subject: no, this email has the attachments

----- Forwarded by Lisa Macchio/R10/USEPA/US on 01/03/2011 04:02 PM -----

From: Susan Poulsom/R10/USEPA/US
To: Lisa Macchio/R10/USEPA/US@EPA
Date: 01/03/2011 03:59 PM
Subject: Fw: Water Effect Ratios in Washington

----- Forwarded by Susan Poulsom/R10/USEPA/US on 01/03/2011 03:59 PM -----

Lisa Macchio /R10/USEPA/US

09/05/2007 09:41 AM

To cnie461@ecy.wa.gov
cc Rebecca Chu/R10/USEPA/US@EPA, Jannine Jennings/R10/USEPA/US@EPA, Susan Poulsom/R10/USEPA/US@EPA
Subject Water Effect Ratios in Washington

Cheryl - I'd like to follow up with you on a committment I made during the conference call between Ecology and EPA on the PSNS proposed WER. I agreed that EPA would look into the Ecology statement/position made on the call regardging WERs and EPA approval.

If I remember correctly, Ecology staff were of the opinion that individual WERs do not go through State rulemaking and are not submitted to EPA for review and approval.

I have looked into EPA's past approval actions (March 18, 1993 approval, February 22, 1998 approval)

in Washington which are relevant and which reveal whether EPA had taken a position consistent with Ecology's opinion. Attached are those letters:

WA 1993 Approval.pdf 1998approval.pdf

Our review of these actions along with EPA guidance on WERs has led us to the following conclusion:
It is our opinion that Washington's language regarding WERs, as contained in footnote "dd" to your toxics criteria table, does not satisify the requirements laid out in option 2 in EPA's 1994 guidance memo and therefore Washington should be submitting each individual WER determination to EPA for review and approval.

For some background -

In 1994, EPA issued guidance on use of the WER in WQS. This document laid out the following two options for States for WERs:
(1) A State may derive and submit each individual WER determination to EPA for review and approval.
(2) A State can include in its WQS a formal procedure which includes derivation of WERs, appropriate definition of sites, and enforceable monitoring provisions to assure that designated uses are protected. Both this procedure and the resulting criteria would be subject to full public participation requirements. Public review of a site-specific criterion could be accomplished in conjunction with the public review required for permit issuance. EPA would act on this protocol as a revised standard. For public information, we recommend that once a year the State publish a list of site specific criteria.

Here is a part of that document:

Tudor 1994 WER Guidance.pdf

Based on our review of EPA's past actions and EPAs guidance, we are not in agreement with Ecology's opinion regarding the process for WERs. Therefore, if a WER were developed for PSNS it would have to be adopted by Washington into rule and submtited and approved by EPA prior to use in an EPA issued permit.

If Ecology would like to pursue an approach consistent with option (2), EPA and Ecology will need to have discussions as to what is needed in order for that approach to be in effect.

Let us know how you would like to proceed.