

NORTHWEST ENVIRONMENTAL ADVOCATES V. EPA
WASHINGTON WATER QUALITY STANDARDS
No. 2:14-cv-00196-RSM

U.S. ENVIRONMENTAL PROTECTION AGENCY agrees to:

- **Evaluate its approval of Washington’s December 8, 2006 ammonia criteria and request an Endangered Species Act (ESA) consultation** with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service within three years of signing. If, instead, Washington revises its ammonia criteria, EPA will take this ESA action within one year of Washington’s submission or within three years of signing, whichever is later.
- **Reconsider its approval of water quality standards for temperatures and dissolved oxygen that are not based on the biological needs of salmon, steelhead, and bull trout** but instead are based on agency predictions of natural historical conditions. Similar provisions were twice overturned by federal courts in Oregon. Based on the premise that salmon and steelhead could survive in historically warm waters, states have used these provisions to predict temperatures in which salmon cannot survive and claimed they were natural. Water temperatures are key to salmon survival.
- **Reconsider its decision to take no action on the following water quality standards:** Short Term Modifications, Marine Shellfish Harvesting Compliance, Marine Water Bacteria Averaging Narrative, and Temperature Guidelines (for increases over purported natural conditions).

WASHINGTON DEPARTMENT OF ECOLOGY agrees to:

- **Propose a criterion for fine sediments to protect salmonid redds** within three years of signing and a final rule no later than one year of the proposal. If the proposal is a narrative criterion, Washington will concurrently issue draft guidance regarding how it will interpret and apply its fine sediment criterion, including how it will use the new criterion for identifying waters as “impaired” on Washington’s 303(d) list. Ecology agrees to issue final guidance no later than 18 months following the final rule.
- **Propose to remove two rules pertaining to Short Term Modifications** within three years and issue a final rule within one year of the proposal.
- **Propose to amend a provision making clear that any adjustment to metals criteria requires EPA approval** within three years of signing, with a final rule not later than one year following the proposal.