



*Northwest
Environmental
Advocates*

January 18, 2012

Ted Sturdevant, Director
Martha Hankins
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
Via email: fishconsumption@ecy.wa.gov

RE: Draft Fish Consumption Rates Technical Support Document: A Review of Data and Information about Fish Consumption in Washington

Dear Director Sturdevant and Ms. Hankins,

Thank you for the opportunity to provide comments on the *Fish Consumption Rates Technical Support Document: A Review of Data and Information about Fish Consumption in Washington (Publication no. 11-09-050, dated September 2011.*

People for Puget Sound is a nonprofit, citizens' organization whose mission is to protect and restore the health of Puget Sound and the Northwest Straits. Northwest Environmental Advocates was established in 1969 to protect and restore water quality, wetlands, and wildlife habitat in the Pacific Northwest.

Fish are an essential component of healthy diet and, in addition, they play an important cultural role. Unfortunately, PCBs (polychlorinated biphenyls), dioxins, mercury, and other persistent chemicals can accumulate in fish tissue and so it is important that the correct (default) fish consumption rates are used in water and sediment cleanup standard determinations (Washington Administrative Code (WAC) 173-204, 173-201A, 173-340 parts of which are being updated by Ecology in the next year)). A significant number of Washington residents likely consume fish and shellfish at rates higher than the rates used in current regulations.

Current regulations are:

- The MTCA Cleanup Regulation have a default fish consumption rate of 54 grams (1.9 ounces) per day, established in 1991 and based on a survey of Washington recreational anglers in Commencement Bay.

- The Water Quality Standards for Surface Waters reference the National Toxics Rule, which includes water quality standards for human health protection based on a fish consumption rate of 6.5 grams (0.22 ounces) per day. This value is based on technical evaluations completed by the U.S. Environmental Protection Agency in the mid-1980s.

Oregon recently adopted standards of 175 grams per day.

Our comments follow:

- **Report overall.** Overall, the report is excellent. We appreciate the level of technical detail and the clarity of the report. We generally agree with the conclusions.
- **An update must occur.** Currently, the default rates in place do not protect either the general population or the high user groups. This is contrary to both state and federal law that standards must adequately protect human health. For this reason, we urge a speedy process to update the default fish consumption rates for both sediment and water quality standards. Further, we strongly recommend that Ecology bundle the fish consumption/human health criteria rulemaking with the “implementation tools” rulemaking rather than loosening regulatory controls prior to adopting appropriate fish consumption rate-based criteria.
- **Rate.** Based on the technical assessment, Ecology has concluded that available scientific studies support the use of a default fish consumption rate in the range of 157 to 267 grams per day (g/day). We support a rate that is at least this high. Fish consumption rates should seek to protect no less than the 90 percentile of any affected population. As has been pointed out in comment letters to you from tribes, the fish consumption rates proposed by Ecology are not high enough to provide adequate protection for all tribes, some of whom will likely set their own standards. We also support the inclusion of salmon in the rate as was done by Oregon because contaminants in salmon contribute to the human health risks experienced by Washington fish consumers.
- **Range versus single number.** We are concerned that Ecology will seek to promulgate a range of rates rather than a single minimum default rate. A range of rates will end up with legal challenges and extended fights for each cleanup or permit. We support a single minimum default rate, not a range of rates.
- **Number of fish consumers.** The low end number of general population consumers is based on EPA’s national information. This does not seem to reflect the Washington population well, as shown by the DOH survey. We believe that the number used should be the DOH number with a statistical range associated with that number rather than a range using the EPA number as the low end of the range.
- **Subsistence fishers.** The lack of studies of subsistence fish consumption rates is disappointing. The rates being considered by Ecology, therefore, exclude this population which historically has been ignored.
- **Suppression effects.** Similarly, suppression effects are not being incorporated. Reduction of habitat, toxic contamination, loss of access, and other factors have artificially reduced consumption. We believe that suppression effects should be included.
- **Fish consumption surveys.** We support the use of tribal and community fish consumption surveys including the 1994 Umatilla, Nez Perce, Yakama, and Warm Springs Tribes survey, the 1996 Tulalip and Squaxin Island Tribes survey, the 2000 Suquamish Indian Tribe of the Port Madison Indian Reservations,

Puget Sound Region and the 1994 Asian and Pacific Islander Study. It would be preferable that there would be even more studies conducted and especially those done by the tribes themselves to ensure that in the future Washington's fish consumption assumptions reflect the real health risks posed by fish consumption. We do not suggest that Ecology should postpone a timely resolution to a long overdue revision to Washington's standards but, rather, that Ecology not see this needed step as necessarily resolving the issue.

Thank you for your consideration. You can reach Heather at (206) 382-7007 (X172)/htrim@pugetsound.org or Nina at (503) 295-0490/nbell@advocates-nwea.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Trim". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Heather Trim
Director of Policy
People For Puget Sound

A handwritten signature in black ink, appearing to read "Nina Bell". The signature is cursive and somewhat compact, with a loop at the end.

Nina Bell
Executive Director
Northwest Environmental Advocates