

**From:** [Newlon, Thomas A.](#)  
**To:** [ECY RE Fish Consumption](#)  
**Subject:** Comments on consumption rate issues  
**Date:** Wednesday, January 18, 2012 4:31:08 PM  
**Attachments:** [LT Andrea Matzke.pdf](#)

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Dear Ecology --

I am writing to provide limited comments on the seafood consumption rate issues that Ecology is currently evaluating. My primary comment relates to the linkage between consumption rates and risk range. In the past, Ecology has recognized that a consumption rate that is more representative of what the general population consumes may be appropriately used when it is paired with a 10-6 risk level. This is because higher consumers are likely protected within the risk range recognized as protective (e.g., 10-5 to 10-6 in the Clean Water Act, and 10-4 to 10-6 in CERCLA). Ecology has opted to use the more protective end of those risk ranges in MTCA and in its water quality standard-setting efforts, but has in the past recognized that a consumption rate representative of the general population can then be used because sub-populations that consume at higher rates will still be protected within the risk range generally accepted as "safe" nationally.

The current effort related to seafood consumption rates decouples the risk range/consumption rate questions and takes as a given that 10-6 is the only acceptable risk level. This is a profoundly important decision, as it will invariably result in standards that will result in large portions of the state's waters being deemed "impaired" for water quality, and large areas of sediments being defined as unacceptably contaminated. Standards that result in a significant portion of the entire state's waters and sediments being deemed contaminated (and contaminated by a very large margin) will not result in those waters being cleaned up. In fact, the combination of a 10-6 risk level and generally using consumption rates applicable to a subset of the population will instead result in regulatory gridlock and less, rather than more, cleanup. Ecology should rethink its approach of determining risk level and consumption rates as independent exercises and return to an overall evaluation of risk that evaluates the appropriateness of different consumption rates and risk levels in tandem. I am not opposed to consumption rates that more accurately reflect use by Tribes and others; I would simply like Ecology to include an evaluation of the appropriate risk level to use at the same time as it evaluates changes to consumption rates.

I have attached a comment letter submitted to the Oregon Department of Environmental Quality when they were going through a similar exercise. The basic points made in the attached letter are pertinent to Ecology's efforts as well.

In addition to the risk level issue, it is very important that Ecology not set one default state-wide consumption rate. The circumstances involved across the state are so varied that a default consumption rate will necessarily be far off the mark for what one could reasonably expect to occur at most sites.

Thanks you for allowing for comments early in this important process. Tom

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