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THE SUQUAMISH TRIBE
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Washington State Department of Ecology
Toxics Cleanup Program/Water Quality Program
fishconsumption@ecy.wa.gov

RE: (Draft) Fish Consumption Rates Technical Support Document
September, 2011
Publication Number 11-09-050

Thank you for providing the Suquamish Tribe (the Tribe) the opportunity to review the draft Fish Consumption Rates Technical Support Document (referred to as the “FCR document” in this letter). The Tribe recognizes the effort of Ecology to consider tribal concerns in the process of updating state environmental regulations and policies to be protective of all the people of Washington. The following comments are provided to assist Ecology in this effort.

The Need to Revise the Fish Consumption Rate (FCR)

The Suquamish Tribe agrees that the current fcr should be revised to reflect data demonstrating that a significant number of Washington residents consume fish and shellfish at higher rates than those currently used for regulatory purposes. Failure to act on this issue subjects all Washington residents to potentially increased risks associated with contaminated fish and shellfish and is not consistent with Ecology’s mission to protect, preserve and enhance Washington’s environment and promote the wise management of our air, land and water for the benefit of current and future generations.

Ecology Proposed FCR Range

Ecology is recommending the use of default fish consumption rates in the range of 150-275 grams per day (gpd), based on evaluation of recent consumption surveys and departmental choices regarding risk management.

The Suquamish Tribe agrees that the proposed range represents a more protective approach for Washington residents in general. The Tribe notes that the highest value in the proposed range will be protective of Suquamish tribal members at less than the 75% fcr (284 gpd) documented in the Suquamish survey. For Suquamish tribal members, this is not consistent with reasonable maximum exposure (RME) scenarios based on 90-95th percentile population distributions.

The Tribe also notes that the proposed range encompasses the 90th percentile of the estimated national per capita fish consumption rate for adults (250 gpd), which is used in the FCR document to define “high fish consumers”. The FCR document, however, offers seemingly contradictory statements regarding whether this is an appropriate reference for Washington State:

Page 25: “It is reasonable to assume that the dietary habits and patterns for Washington fish consumers are similar to those reported for the U.S. fish consumers.”

Page 26: “Moya (2004) reports that people living in coastal states tend to consume fish and shellfish at a higher frequency and at higher rates than people living in inland states. This suggests that the distribution of fish consumption rates (including the 90th percentile value) may be higher in Washington than a distribution based on national survey statistics.”

Please clarify the definition of “high fish consumers” in Washington.

Suquamish Consumption Survey

Please correct the summary survey results for Suquamish adult fish consumers presented in tables throughout the FCR document and cite the Suquamish survey as the source:

Number of adults surveyed = 92

75th percentile rate = 284 gpd

95th percentile rate = 797 gpd

On page 65, Table 20, correct the description of the Suquamish survey to indicate that it pertains to Suquamish tribal members.

Consideration of Salmon

In the FCR document, Ecology raises the question of whether salmon should be included in the total fcr considering the life cycles and biology of different salmon species.

As stated in the Suquamish survey, “The Suquamish culture finds its fullest expression in the acknowledged relationship of the people with the land, air, water and all forms of life found within the natural system.” The importance of salmon to tribal members is further established with 92 percent of survey respondents reporting that they eat salmon at ceremonies, gatherings and community events throughout the year. The Suquamish survey reports a 95th percentile consumption rate for salmon (Group A) of 172 gpd.

Given the cultural significance of salmon to Northwest tribes, and considering tribal treaty-reserved rights to safely access and harvest resources, Ecology’s regulatory decisions and policies should protect tribal members who consume salmon, as well as prevent degradation of water quality and fish habitat essential to salmon populations.

Habitat Evaluation/Suppression Effect

In the FCR document, Ecology states that, consistent with EPA guidance (the Framework) and policy and precedence established by Ecology for the cleanup of contaminated site (Port Angeles – ITT Rayonier), fish and shellfish habitat quality and abundance must be evaluated and considered when establishing a site-specific fcr for clean up purposes.

The Suquamish Tribe disagreed with EPA when this policy decision was included in the Framework and does not support its inclusion as general practice in Ecology’s regulatory decisions.

In cases where specific tribal consumption survey is available, or if recommended by a tribe as representative of tribal consumption patterns, regulatory assessments and decisions should incorporate that survey information. This approach is consistent with the hierarchy of preferred data sources that is the basis of the AWQC methodology. Fish and shellfish consumption surveys of local watersheds representative of the people being addressed for the particular water body are recognized as the highest preferred source of data.

The Suquamish survey was conducted with the expectation that the reported rates would be utilized in risk assessments to result in clean up levels protective of human health as well as of benefit to the natural resources upon which Suquamish tribal members continue to depend. As recognized by both EPA and Ecology, the Suquamish survey is a technically defensible study, representing actual tribal consumption patterns, at the time of the survey (2000). Section 6 of the FCR document should be clarified to incorporate tribal consumption survey data when evaluating RME scenarios and establishing site specific consumption rates pertaining to tribes

It should be noted, however, that it is likely the reported Suquamish consumption rates are suppressed. Tribal members have already reduced or changed their consumption rates. According to the survey, about 50% of respondents who said that they eat less seafood now reported the cause as pollution, including red tides, and related restrictions and regulations concerning harvesting. The following harvest data from areas of Dyes Inlet which have been reopened since 2003 demonstrate that Suquamish consumption rates are likely to be suppressed and that tribal harvest will increase as water quality and habitat improve:

Dyes Inlet Harvested Manila Clam Totals:

Year	Harvests	Total lbs.
2005	18	116,810
2006	5	25,784
2007	13	78,353
2008	5	44,153
2009	7	34,985
2010	12	34,209
2011	16	48,674

(Source: Suquamish tribal harvest records.)

Despite its policy decision in the Framework, EPA recognizes that if cleanup levels are based on suppressed rates related to impaired habitat, such decisions may not be protective of future beneficial uses. From the 2002 report on fish consumption and environmental justice by the National Environmental Justice Advisory Council (NEJAC), "...When agencies set environmental standards using a fish consumption rate based upon an artificially diminished consumption level, they may set in motion a downward spiral whereby the resulting standards permit further contamination and/or depletion of the fish and aquatic resources."

Habitat evaluations should not be used to justify lower consumption rates in tribal U&A.

Additional Factors to Be Considered in Selecting FCRs in Tribal U&A

Treaty-reserved rights to safely access and harvest seafood are legal obligations.

The safe harvest of seafood is a reasonably anticipated future use in tribal U&A.

To ensure protectiveness, Ecology risk assessments should incorporate a "resource switching" approach that holds constant the total fcr.

Other risk assessment parameters and risk management levels, including exposure duration, fraction ingested and cancer/non-cancer thresholds, should not effectively reduce the total fcr.

Sincerely,

Denice Taylor
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Squamish Tribe