

October 26, 2012

Adrienne Dorrah
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-47600

Dear Ms. Dorrah:

This letter is in response to the Department of Ecology's request for comments on its *Fish Consumption Rates Technical Support Document: A Review of Data and Information about Fish Consumption in Washington (Version 2.0)* (TSD). The Association of Washington Business (AWB) appreciates the opportunity to review and provide comments on the revised TSD.

As you know, Washington uses fish consumption rates (FCR) as part of the basis for environmental cleanup and pollution control. The current rates provide default values used in setting regulatory standards. Thus, all actions taken by the Department of Ecology (Department) to update the FCR should be based on credible science and avoid absurd results.

AWB supports Ecology's efforts to separate policy considerations from the technical/scientific information on fish consumption and to remove a default FCR rate or range from the TSD. Policy discussions or opinions do not belong in a "technical" support document. Rather, the TSD should identify what the Department knows about local/regional fish consumption and what additional information is needed for the Department to develop a revised and defensible FCR.

While the revised TSD is a significant improvement on the original draft, there are still opportunities for revision. AWB offers the following general comments on the revised TSD.

- 1. The TSD should be technical in nature and avoid discussion of broader legal or policy issues.**

The Department has indicated that the TSD is designed to compile and evaluate available information on fish consumption in Washington. AWB agrees. The TSD should not be used to resolve policy issues associated with the FCR. Rather, the TSD should establish the

factual and scientific foundation on fish consumption, which will be used by the Department to inform subsequent rule-making efforts.

Since the Department intends to use the TSD to develop new water quality standards, it is imperative that the TSD presents information that is accurate, comprehensive, and unbiased. The TSD should avoid making conclusions that are blended statements of both science and policy. For example, the TSD continues to state that the current FCRs do not accurately reflect how much fish people in Washington eat. Such statements are policy conclusions.

The Department is well aware that selecting a default FCR requires a much more thorough analysis of several policy considerations. In fact, the TSD has an entire chapter (Chapter 6) devoted to some, but not all, of the policy questions that must be addressed before revising the current FCR. If the TSD is to be credible, the Department cannot start with the conclusion that the current FCRs are inaccurate or fail to adequately protect fish consumers. Rather, the TSD should present all relevant scientific/technical information concerning what is currently known about fish consumption in Washington.

2. The TSD should acknowledge that information relevant to selecting an appropriate FCR is missing or incomplete.

While the revised TSD fills some of the data gaps that were in the original draft, the TSD fails to acknowledge that critical information is still missing. The TSD presents information gathered in fish consumption surveys of Native Americans and Asian and Pacific Islanders. The TSD acknowledges that recreational fishers may consume more fish than the general Washington population. Additionally, the TSD states “some population groups consume especially large amounts of finfish and shellfish as part of traditionally influenced diets.” (*TSD, Page xiv*).

Despite the Department’s acknowledgement that some population groups consume higher-than-average amounts of fish, the TSD has no data concerning fish consumption among Washington’s general population. There is no data concerning fish consumption among Washington’s general population because no survey has been conducted. At a minimum, the Department and the TSD should acknowledge that the lack of a general population fish consumption survey is a significant data gap.

Further, the TSD should be more exact when discussing currently available fish consumption studies. The TSD frequently refers to individual tribal surveys as “regional” fish consumption data without defining the term “regional.” The use of the term “regional” is imprecise and misleading since the TSD relies on surveys of high-consuming population subgroups and surveys of individual tribal populations.

3. The TSD includes many references to Oregon but fails to consider approaches taken by other states.

The TSD includes several references to Oregon and some discussion of the policy questions faced by Oregon when it revised its FCR. First, the Department should consider whether these references or discussion of Oregon's process is appropriate within a technical document concerning Washington's fish consumers.

If the Department determines that references to Oregon's process are relevant and appropriate for inclusion in the TSD, the TSD should also include references to and analysis of other states' processes. For example, Idaho is currently reviewing its FCR and performing analysis of available fish consumption surveys. Notably, Idaho is also considering whether to conduct an Idaho-specific general population fish consumption survey prior to revising its FCR. Florida has also produced a technical support document on fish consumption which uses a different approach than Washington and Oregon to avoid compounding levels of conservatism when determining exposure risks to the general population. If the references to Oregon remain in the TSD, other states that have evaluated their FCRs should be included in the TSD.

Finally, AWB continues to encourage the Department to consider how it communicates with the public on fish consumption and the process to revise the FCR. The Department must be cautious when discussing the current risk, if any, to public health. Clear communication is necessary to provide a context for any revision to water quality criteria and also protect against misinformation about the risks and benefits of consuming fish or shellfish.

We thank you for the opportunity to submit comments on the revised TSD for your consideration. We will continue to closely monitor the efforts of the Department in revising the FCR and adopting related regulations.

Sincerely,

A handwritten signature in black ink that reads "Gary Chandler". The signature is written in a cursive, flowing style.

Gary Chandler
Vice President Government Affairs
Association of Washington Business