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Cheryl Niemi  
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Dear Ms. Niemi and Washington State Department of Ecology:

I am writing to comment on the proposed draft rule on water quality for Washington State, Chapter 173-201A WAC. I am a King County resident, writer, and teach both English and English as a second language. I have been certified as an Urban Naturalist; lead hikes in the region, and have volunteered on local restoration projects at Seward Park and in the Mt. Baker-Snoqualmie National Forest. I have also served as a Salmon Watcher volunteer observing a freshwater creek near Lake Washington (Taylor Creek).

I am happy to see the Department of Ecology making efforts to update our water quality standards. There are improvements in this document, but overall the proposal has some big issues. Specifically, the draft EIS misses the mark on four key areas: protecting the most vulnerable populations, reducing the impact of legacy pollutants like PCBs, protecting state residents from cancer, and sharing economic burdens appropriately, not solely on the fishing industry and taxpayers.

First, the proposal sets the Fish Consumption Rate at levels far lower than the actual FCR for local communities, including tribal, Asian-Pacific, and recent immigrants. While the change from 6 to 175/gr of local fish per day is an improvement, a 2012 Dept. of Ecology study found that tribal populations eat as much as 797 gr/day (Department of Ecology, "Fish Consumption Rates," Publication No. 12-09-058). It is reasonable to infer that historic averages were likely even higher. The EPA guidelines encourage protecting the most vulnerable populations, and 175 gr/day is not protective.

Related to this, the proposal *increases* the cancer risk rate from the common standard of 1 in 1 million to 1 in 100,000. This is unacceptable. Since 2004, cancer is the leading cause of death in Washington (The Collaborative in Health and the Environment, [washington.chenw.org](http://washington.chenw.org), "Adult Cancer"). Knowingly adding to this public health crisis is the wrong way to go. As Sara Mackenzie, Assistant Dean at the UW School of Public Health, notes in the Seattle Human Rights Commission hearing on the topic of the DEIS,

there is no science to back a shift toward an increased cancer risk-rate (Mackenzie, comments in “Public Hearing: Safe Fish Consumption,” video recording, [seattlechannel.org](http://seattlechannel.org). Comments at appx. 42:50). In my assessment, the shift is perhaps being made for reasons that are not quite about protecting water quality. Protecting or ‘helping’ polluting industries appears to be the goal. This is an outdated mode of thinking that is unwise.

Why unwise? Why not help industry, and protect economic growth as well? Lorraine Loomis, chair of the Northwest Indian Fisheries Commission, writes in a recent editorial that “an economy built on pollution cannot be sustained” (Loomis, “Eating Fish Shouldn’t be Risky,” [NWIFC.org](http://NWIFC.org), 2/3/2015). She’s right. It is indeed a myth that we can continue to absorb pollution (in some cases, literally) while maximizing economic growth indefinitely. Economic growth will stall *because* of pollution, and climate change is the premier example: see drought in California for economic effects of an event with a high probability of occurring due to carbon pollution. The environment is a linked system; there is no way around this. Examples abound: the local fishing industry, for one, clearly suffered even as heavy industry grew in Washington over the past century. It is purely a matter of favoring certain industries over others for as long as possible. Easing pollution standards in order to “protect” economic growth is an approach completely dependent on delayed negative effects for an appearance of lasting social benefits. There are biased economic benefits in the short term, but they weaken in the long term. And we now live in “the long term”— we already have an accumulation of pollutants in our waters. This has placed cost burdens on current economic activities. These cost burdens then lead industries to clamor for more leniencies, ad infinitum. Shifting costs in this way onto the taxpayer should not be the mission of the Department of Ecology. Protecting ordinary citizens should be (part of) that mission.

Related to these economic burdens, the proposal also extends compliance schedules indefinitely. Preferred Alternative 3 allows an unlimited timeframe for meeting permit limits (while holding the permits to an ‘as-soon-as-possible’ standard). The reasoning given is that flexibility in permitting requires a case-by-case assessment, and in some cases processes may take more than ten years. The DEIS also notes the unfortunate directive from the WA state legislature to extend the maximum length of compliance in certain cases. While the case-by-case assessment can set fast time limits per case, the proposed rule nevertheless sends a signal of no time limit. It is an invitation for polluting industries to work loopholes in ownership or other situations. For example, if limits must be extended (according to the legislature) if “a permittee is not able to meet its TMDL waste load allocations only by controlling and treating its own effluent” (DEIS, p. 25), what happens in the case of a sale of companies or land?

Even if such a scenario is not of concern under the law, the message that an unlimited time frame sends is still problematic. If an industry can request permits that literally require unlimited time frames for clean-up, then preventative time limits should be established to avoid such actions. The example of logging along creek beds is instructive. A greater than 20 year control strategy may be necessary, in order to replace tree shade along streams. But shouldn’t an event with such long-term consequences be more

vigorously avoided? Setting strict time limits for permits sends a better signal to polluters: avoid such activities. Streamside logging now has stricter limits in the state than it used to, but given the concerns with climate change, water temperature and threatened salmon and trout species, there should be *no* further logging along edges of fish-bearing streams and no such permits should need to be granted beyond existing violations. Climate change again is the premier example of a free pass, unlimited ‘permit’ for carbon pollution. Therefore I recommend changing the preferred alternative to assign an actual time limit. To determine the timeframe, perhaps survey exceptions to date and consider likely scenarios. 12 years may be a reasonable compromise, retaining the case-by-case assessment.

Last, the DEIS permits chronic pollutants like PCBs in state waters at existing levels. Many toxins like PCBs and mercury would remain the same because the cancer-risk rate and the 175gr/day Fish Consumption Rate counterbalance each other. As I understand it, fish advisories are most specifically about PCBs and mercury, and these pollutants must be addressed. Weak laws invite *further* contamination from activities like overseas coal burning via proposed state coal terminals. To protect human and ecosystem health, and to avoid further build-up of toxins, these levels must be reduced, not remain at a steady state.

Washington State has a unique blend of cultures, and fish consumption has always been part of it, pre-dating statehood. Treaty rights should be honored and rulemaking should reflect those agreements. Moreover, communities that eat the most amounts of fish should be the basis for setting standards. The erosion of the local salmon fishery is one of the biggest blunders accompanying the industrial influence in the region to date. Salmon is an amazing food source and a strong basis for healthy humans and healthy cultures. Moreover, King County and other areas in the state have thriving restaurant and farmer’s market communities based on the premise of access to fresh, local foods. We should vigorously fight to protect our local fisheries by updating our water quality standards in a way that sets a progressive example under the Clean Water Act, and as soon as possible.

Thank you very much for hearing my comments.

Best Regards,

Susan Parr