

Cherry Point Aquatic Reserve Citizen Stewardship Committee  
c/o Bob Cecile, Chair  
4806 Beach Way  
Ferndale WA 98248  
Via e-mail: [cparstewrads@gmail.com](mailto:cparstewrads@gmail.com)

Cheryl Niemi  
Washington State Department of Ecology  
Water Quality Program  
P.O. Box 47600, Olympia, WA 98504-7600  
Via e-mail: [swqs@ecy.wa.gov](mailto:swqs@ecy.wa.gov)

March 23, 2015

Dear Ms. Niemi,

The Cherry Point Aquatic Reserve Citizens Stewardship Committee, CPARCSC, is submitting these comments regarding the State of Washington proposed amendments to the Water Quality Standards for human health criteria and implementation tools. This proposed rule-making would amend Chapter 173-201A of the WAC, as given here: <http://www.ecy.wa.gov/laws-rules/wac173201a/p1203.pdf>.

**Who We Are:**

The Cherry Point Aquatic Reserve Citizens Stewardship Committee is an all-volunteer group which works to ensure that the Cherry Point Aquatic Reserve is supported and protected through education and outreach, citizen science projects that help inform and engage the community about the assets of the reserve and analyzing and tracking policy actions that can affect the reserve.

**Why We Feel These Rule Changes are Important to the Cherry Point Aquatic Reserve:**

As noted on the Washington State Department of Natural Resources website:

*"In 2000, DNR recognized the need to protect the significant environmental resource of aquatic lands at Cherry Point and designated those state-owned lands not already under a lease agreement, as the Cherry Point Aquatic Reserve. To ensure long-term environmental protection, DNR and its partners established a 90-year-management plan for the area, outlining specific goals that will protect the health and unique aquatic environment within Cherry Point"*

[http://www.dnr.wa.gov/ResearchScience/Topics/AquaticHabitats/Pages/aqr\\_rsve\\_cherry\\_point.aspx](http://www.dnr.wa.gov/ResearchScience/Topics/AquaticHabitats/Pages/aqr_rsve_cherry_point.aspx).

The Cherry Point Aquatic Reserve plays a significant role in maintaining the overall ecological health of the Salish Sea. It is a key environmental resource for all of us in the State of Washington.

In particular, the Cherry Point Aquatic Reserve is the spawning grounds for a unique population of forage fish, the Cherry Point stock of Pacific Herring. The Cherry Point stock play a key role in the Salish Sea food chain, as a key forage fish for salmon and other species, which are then consumed by other fish as well as by marine mammals and by humans

#### **Scope of Water Quality Standards Rule Changes:**

CPARCSC recognizes that the Scope of comments is limited under this Rulemaking to two specific areas of the WQS: (1) development and adoption of new human health criteria, and (2) revision and expansion of some of the tools in the standards that help in criteria implementation.  
<https://fortress.wa.gov/ecy/publications/publications/1410058.pdf> p7

#### **Fish Consumption Rates, Cancer Risks and Water Quality:**

In the State of Washington, the daily fish-consumption rate and the acceptable risk of cancer are key components that are a part of equations that determine how policy makers regulate discharges by industry and municipalities into our waterways. Setting a chemical contamination pollution level based on an anticipated human cancer rate is a risk management and policy decision. Fish consumption and acceptable cancer rates thus become a significant component of the mechanism that is used to regulate Salish Sea water quality. This water includes the stormwater and wastewater effluent from industries at Cherry Point as well as that of marine vessels.

Washington State water quality standards have been quite weak. They rely on data that is outdated and inaccurate. We know that tribal, subsistence and sport fishers eat much more fish and shellfish than 6.5 grams/ day, yet our current standard is based on that number.

Under the plan proposed by the Washington Department of Ecology, the fish consumption rate would increase from a very low 6.5 grams per day to 175 grams per day. This increases the serving size from a small forkful, to a meal serving size that is the same as that used by the State of Oregon. But this proposal would effectively cancel out that improvement by decreasing our protection under the cancer risk rate by increasing the acceptable cancer rate 10 fold, from one in a million to one in a hundred thousand. Thus, the two changes work against each other, with the increase in allowable cancers significantly negating the health improvement that would have been gained by the increased allowable fish consumption rate.

This also leaves the concentrations of many of the chemical pollutants much the same as they were before the new rules. In addition to economic justice issues for human individuals and cultural groups that consume higher than average amounts of Salish Sea fish, this could pose health issues for marine life that is higher on the food chain. In the process of consumption of one marine species by another, chemical contaminants become bioconcentrated. The one in 100,000 human cancer risk is not as protective of the marine environment as the one in a million risk level would be.

***The 175 grams per day fish consumption rate is a step in the right direction, but the allowable average anticipated human cancer risk rate should remain at one in a million. This will be more protective of not only humans, but also marine life in the Salish Sea and Cherry Point.***

### ***Toxics Substances Criteria***

The proposed rule changes, <http://www.ecy.wa.gov/laws-rules/wac173201a/p1203.pdf>, in table 240, call for revising standards for 167 chemicals that the Federal Clean Water Act requires states to monitor in fresh and marine waters. But standards for 58 of these will remain the same as before. While 70 percent of the standards would be somewhat enhanced, impacts to chemical pollutant generating facilities, and thus to water quality improvement, seems to be minimal. Page 41 of the Preliminary Cost Benefit and Least Burdensome Alternative Analysis,

<https://fortress.wa.gov/ecy/publications/publications/1410056.pdf> notes:

After reviewing, filtering, and assessing real cases of existing effluent data for dischargers using existing analytical methods and permitting practices, we conclude that while it is theoretically possible for existing facilities to be impacted by a change in criteria values, based on the reasonable potential determination and resulting from the proposed rule amendments, no such existing facility will be impacted, based on the analysis we conducted.

***Our Washington Water Quality Standards need to move us forward towards greater protections, not to maintain a level comfortably close to the status quo.***

### **Toxics Reduction Program:**

Washington Governor Jay Inslee's proposed linkage of the new water quality standards with a toxic pollution reduction program could be a step in the right direction. Pollution prevention should be the focus of our state efforts. But this would depend on legislative approval to grant the Department of Ecology more authority to regulate toxic chemicals and enactment of funding to make that regulation possible.

According to <http://www.ecy.wa.gov/water/standards/Gov-Dec2014-ReducingToxicPollution.pdf>, the proposed toxics reduction legislation would provide a process to address the most problematic toxic chemicals. It would build on Washington's well-established system for developing chemical action plans by:

- Identifying the most problematic toxic chemicals.
- Developing chemical action plans, in conjunction with multi-stakeholder advisory committees, to recommend actions to reduce or eliminate the use of a toxic chemical.
- Restricting use of a chemical only if a safer alternative is available.
- Taking steps to reduce the impact of a chemical's use when no viable alternative is available.
- Ensuring the state buys safer products.

We are concerned about the potential to use chemicals that are not safe. The potential of reducing the impact of an unsafe chemical is unclear and needs to be better defined. We believe that the use, sale, and production of all unsafe chemicals should be restricted.

***Please amend the toxics reduction program to restrict all unsafe chemicals. If a restricted chemical is necessary for an essential public function, impact reduction of the chemical needs to be well-defined.***

**Conclusion:**

In conclusion, we believe that our State of Washington Water Quality Standards need to move us forward towards greater protections, not maintain a level comfortably close to the status quo. Water quality standards should protect us and other animals in Puget Sound, including apex predators.

Therefore, we ask that the state of Washington, do the following:

- ***Approve the proposed 175 grams per day fish consumption rate as part of the water quality standard.***
- ***Do not approve the proposed 1 in 100,000 cancer risk, but retain the more protective 1 in 1 million cancer risk.***
- ***Restrict the use of all unsafe chemicals.***

Sincerely,

The Cherry Point Aquatic Reserve Citizen Stewardship Committee

Bob Cecile, Chair  
Kim Clarkin, Vice Chair  
Ben Albers  
Lyle Anderson  
Bill Beers  
Laura-Leigh Brakke  
John Bremer  
Marie Hitchman  
Gaythia Weis