

ATTACHMENT 1



Boeing's pollution worries are becoming Olympia's policy worries

The company fears troubles from changes in state assumptions about water quality and the amount of fish state residents eat.

By John Stang

September 24, 2013.

The question hits the crossroads between science and public policy: What numbers should be plugged into formulas to determine whether industrial pollution will increase the chances of someone developing cancer from eating the state's fish?

Washington's Department of Ecology is in the preliminary stage of finding some answers and setting some rules. And the Washington Senate's Energy & Environment Committee expects to chew over that issue in the 2014 legislative session.

Kelly Susewind, manager of Ecology's water quality program, briefed the committee on the issue Monday in Olympia. The briefing was prompted by a peripheral budget deadlock in the 2013 legislative session in which the Boeing Co. did not like an upcoming change in state regulations on the level of pollutants that industrial facilities are allowed to discharge into the water. The stricter discharge requirements could lead to expensive upgrades to discharge systems.

Boeing sought a study on the numbers and types of fish consumed in Washington, and an accounting of who caught the fish and where. (InvestigateWest ran a story on Boeing's opposition to the new regulations in March.) House Democrats wanted the new regulations installed because of concerns about Boeing's discharges potentially affecting the health of the fish eaten by local tribes, whose diets are heavily fish-oriented. Eventually, Republicans and Democrats decided to put that dispute aside in order to reach a compromise on the 2013-2015 operating budget.

Now, the issue has resurfaced in anticipation of the 2014 legislative session.

"It seems to me that you'd want the answers to the questions first before you make the rules," said Sen. Doug Ericksen, R-Ferndale and chairman of the Senate Energy & Environment Committee.

Ecology's Susewind told the committee that 36 states have their own specific standards on carcinogen-laced discharges and fish consumption. Washington currently one of 14 states without such standards — meaning the state follows federal limits set in 1992. Washington is in the preliminary stage of putting together its own standards and rules on this subject.

The feds have been using the assumption that the average person — crunching fish eaters and non-fish eaters together for a yearly estimated and dividing that by 365 days — eats 6.5 grams of fish a day or a little less one-fourth of 1 ounce. The feds are in the process of shifting that estimate to 17.5 grams per day. That will still be well less than an ounce a day, and it translates to nearly 14 pounds of fish a year.

Native Americans with their fish-heavy diets are assumed to each eat 142 grams per day. That estimate is in the process of being shifted up to 175 grams daily, if not more.

Oregon assumes a person eats an average of 175 grams a day of fish for state residents, while Idaho currently assumes much less: 17.5 grams of fish a day per person.

Washington is collecting data and figuring out numbers to plug into its formulas in order to set new limits. Variables include comparing the ratios of chemicals inside aquatic creatures to the ratios of same chemical in the surrounding waters, the carcinogenic potency of individual chemicals (126 chemicals, some cancer-causing, have been identified in state waters), fish consumption and whether the state wants to limit the increased risk of cancer due to exposure to 1-in-1 million, or 1-in-10,000, or something in between.

Because they migrate between the ocean and the state's fresh waters, salmon create a tricky problem in figuring out where their toxic chemicals come from, Susewind said. And different numbers can come from different species of salmon.

"Each parameter that goes into the equations is a policy choice. ... Every time I think I've gotten to the bottom layer, there's another layer," Susewind said.

Ericksen expects to hold public hearings on the issue early in the 2014 session. He is unsure whether legislation will be introduced, saying the committee's 'primary mission in this matter is to provide oversight of the Ecology Department's rules-making process.

Meanwhile, several environmental organizations have filed a 60-day notice of intent to file a lawsuit against the U.S. Environmental Protection Agency to force it to provide stricter standards. That 60th day was Monday, meaning a lawsuit can now be filed anytime.

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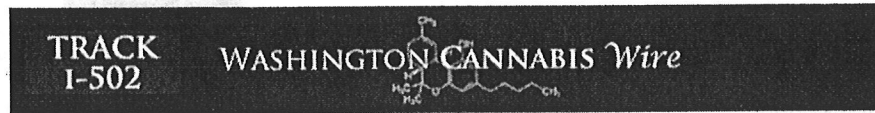
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Fish Consumption Battle Set to Resume Next Session – Ecology Still Contemplating Water Quality Standard No One Can Meet (<http://washingtonstatewire.com/blog/fish-consumption-battle-set-to-resume-next-session-ecology-still-contemplating-water-quality-standard-no-one-can-meet/>)

Hearing Lays Ground for Debate -- Ecology Explains Plans to Adopt More Stringent Rules Next Year

By Erik Smith
Washington State Wire ()

OLYMPIA, Sept. 24.—Everyone's favorite fish fight is looking like a front-and-center issue for next year's legislative session as the state Department of Ecology plugs ahead with a plan to adopt a water quality standard so stringent no one can meet it.

Known in statehouse circles as the "fish consumption" battle, it centers on a radical increase for the state's estimate of human fish consumption. But this isn't about salmon and tartar sauce. The estimate, due to be adopted next year, is expected to ratchet up water quality standards for industry, municipal wastewater treatment plants, stormwater runoff and every other activity that requires a discharge permit. What it means is that right now Washington is contemplating the most stringent set of water-quality regs in the country, requiring discharges to be cleaner than the waterways into which they are discharged, with standards so tough they cannot be measured by modern science, and cannot be attained with current technology.

To hear some describe it, this isn't about fish — it's about Armageddon. A hearing Monday before the Senate Energy, Environment and Telecommunications Committee set the stage as officials of the Department of Ecology laid out their logic. Afterward, Chairman Doug Ericksen, R-Ferndale, said the Legislature will have to decide next year whether to take on the agency and demand that it prove the science before adopting new rules. That was **one proposal that surfaced** (<http://washingtonstatewire.com/blog/fish-consumption-issue-is-hangup-as-lawmakers-hammer-out-budget-deal/>) in the final days of this year's legislative session, in the form of a Senate budget proviso offered by the Boeing Co. It would have launched a study more comprehensive than anything done by Ecology and would have required that it be completed before rules are adopted. But Gov. Jay Inslee nixed that idea when he threatened a veto, and lawmakers were unwilling to hold up the session's adjournment for debate on a single issue.

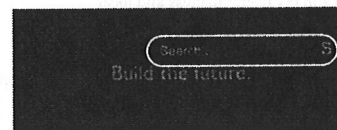


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The Senate Energy, Environment and Telecommunications Committee hears testimony from Kelly Susewind of the Department of Ecology.

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Ericksen said lawmakers are going to have to consider doing something next session because the rules will have an enormous effect on business and local governments. "By definition you have to comply, or you have to move to South Carolina," he said.

One key point brought out by the hearing: Nothing says Washington has to adopt new regulations.

Could Shut Down Puget Sound Development

Right now Washington uses a 6.5-gram-a-day estimate for fish consumption, and that assumption underlies the state's water-quality standards. Tribal interests and other critics, primarily in the recreational fishing industry, call it ridiculously low. That's about a half-pound per month, and it is generally acknowledged there are many who eat many times that amount. The state uses a substantially higher figure for its sediment-management standards, 54 grams a day, or 3.5 pounds a month. What regulators are talking about adopting is a radical increase for both sets of rules — as high as 267 grams a day under one early proposal, or 17.6 pounds a month.

Hue and cry from business and local governments **prompted the Gregoire Administration**

(<http://washingtonstatewire.com/blog/fish-consumption-battle-delayed-until-next-year/>) to put the brakes on the process in 2012. But the hold wasn't permanent. Ecology says it expects to adopt a draft rule early next year, with a final rule to be adopted by the end of 2014. Testimony at Monday's hearing appeared to indicate the agency is contemplating a somewhat lower number — the 175-gram estimate adopted by Oregon in 2011, currently the highest standard in the country, nearly 12 pounds a month. From there it would develop water-quality regulations for each contaminant that is discharged, using a complicated estimate of risk factors.

"This is an unusual process where there is a tremendous push for Washington to do what Oregon did," said James Tupper, an attorney representing private clients in the Department of Ecology rulemaking process. "It is unusual to see such passion around particular numbers. From the regulated-community perspective for industry and local governments, when we look at the water quality criteria applied in the state of Washington, there are tremendous concerns about the ability to manage and comply with that.

"Based on Ecology's water quality monitoring data, most of Puget Sound, Cape Flattery all the way down to Olympia, would be below the Oregon criteria, which would mean most of the Puget Sound basin would be subject to listing on what is called the 303d list for water bodies. That is a significant result or regulatory posture for Washington state to be in. It would mean that within the basin, based on the listing, there could be no new or expanded discharges of processed water or storm water in that basin until the basin was subject to cleanup plans. And I doubt that there are enough resources for Ecology and the Environmental Protection Agency to develop that kind of plan."

Big Impact on Industry, Taxpayers

Planning is one thing — that's a matter for government to worry about. Compliance costs are a different thing altogether. Those costs are borne by the commercial enterprises that are subject to the rules — reason for Boeing's concern — or by the taxpayers who are ultimately responsible for the municipal wastewater treatment plants. In Oregon, for example, the 175-gram level is estimated by the pulp and paper industry to require a \$500 million investment in state-of-the-art pollution-control devices, plus a \$90 million annual cost for maintenance and operations — and still the water-quality standards won't be met. In this state, as in Oregon, regulators say dischargers will be able to apply for "variances" if costs are prohibitive or standards can't be achieved. Kelly Susewind, director of the Ecology water-quality



(<http://washingtonstatewire.com/blog/fish-consumption-battle-set-to-resume-next-session-ecology-still-contemplating-water-quality-standard-no-one-can-meet/190212-doug-ericksen-2/>)

Doug Ericksen, R-Ferndale, chairman of the Senate Energy, Environment and Telecommunications Committee.



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Kelly Susewind, director of the Department of Ecology water-quality program, and agency director Maia Bellon speak with reporters after hearing.



Will Fish You Eat Factor into Boeing's 777X Decision?

(<http://heraldnet.com/article/20130924/NEV-fish-you-eat-factor-into-Boeing's-777X-decision>)

Ecology Pursuing Stringent Water-Quality Standards Boeing Hates

By JERRY CORNFIELD | THE (EVERETT) HERALD
([HTTP://HERALDNET.COM/ARTICLE/20130924/NEWS01/7C-FISH-YOU-EAT-FACTOR-INTO-BOEINGS-777X-DECISION](http://heraldnet.com/article/20130924/NEWS01/7C-FISH-YOU-EAT-FACTOR-INTO-BOEINGS-777X-DECISION))



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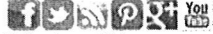
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Will fish you eat factor into Boeing's 777X decision?

By Jerry Cornfield, Herald Writer

OLYMPIA -- Three months after a dispute over how much fish Washington state residents eat nearly derailed the state budget, a panel of lawmakers revisited the controversial subject Monday in a more peaceful fashion.

But that doesn't mean the fighting is over.

Members of the Senate Energy, Environment and Telecommunications Committee got a progress report on revising the state's water quality standards, a process that ties the amount of fish each resident eats with the levels of contaminants allowed in water discharged from industrial facilities.

This matter ignited a political tiff in the second special session in June when Senate Republicans insisted a comprehensive study of individual fish-eating habits be done before serious work began on rewriting the rules.

They were acting at the behest of the Boeing Co., which is concerned an increase in the consumption rate could lead to stricter discharge rules. That could require the company to spend millions of dollars in renovations at its facilities, and some Republicans contend it will convince Boeing to undertake its 777X program in another state.

Senate Republicans, who ultimately conceded on the study, organized Monday's hearing partly to send a message to the Department of Ecology,

- Boeing's opposition to fish study a sticking point in budget
- Gregoire sided with Boeing on water quality rules
- Concern over pollution drives fight over eating fish

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which is writing the rules.

"We want to let them know we're paying attention," said Sen. Doug Ericksen, R-Ferndale, who led Monday's 90-minute work session. "I think the people of South Carolina are paying

attention to this rule, too."

He said he may push again for a comprehensive study in the 2014 legislative session.

"My feeling is we're going to work with the department because we have to," he said, adding that he wants another update in November. "We'll take a look and see what's happened."

Environmental groups are watching closely, too, though none was allowed to speak to the committee during Monday's work session.

Two months ago, a coalition filed a notice of its intent to sue the federal Environmental Protection Agency to force the state to enact more stringent standards.

Kelly Sussewind, water quality program manager for the state Department of Ecology, said the threat of a lawsuit "keeps the pressure on us" to stick to the timeline for making a decision.

Under the timeline, the department would propose changes early next year, hold hearings and adopt changes at the end of the year.

The standards are to ensure rivers and major bodies of water are clean enough to support fish that are safe for humans to eat, Sussewind explained. Whatever is adopted needs to be approved by the federal government.

Since 1992, the state has assumed the average amount of fish eaten each day is 6.5 grams, which works out to about a quarter of an ounce per day or 5.2 pounds per year.

Regulators are considering an increase to at least 17.5 grams a day, or about 14 pounds a year, to be in line with current federal guidelines.

Sussewind told lawmakers the state is not required to do anything, but the federal government might not approve the new rules without a higher rate.

A Seattle attorney who did testify Monday said the state is going to have to do a good job explaining itself.

"There is a lot of emotion around this issue," said attorney James Tupper, who said he represents firms which would be affected by the changes. "I think Ecology and the state have some really difficult policy choices to make. "The question is how will they come down on them?"

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