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## **Fish-Consumption Decision Being Kicked Upstairs – Governor’s Office Will Make Call on Controversial Water Quality Rule**

### **Will Washington Head Down Oregon Trail? – Green Groups Urge Standard Higher Than Technology Can Attain**

**By Erik Smith**

**Washington State Wire**



Simpson Tacoma Kraft Co. plant, one of the Washington paper mills that will be affected by the fish-consumption decision.

OLYMPIA, March 20.—One of the biggest environmental questions in ages is being kicked upstairs to the governor’s office — how much fish do Washingtonians eat?

Might sound like a silly thing for the Inslee Administration to be deciding, or for that matter anyone in politics or government. Yet this little matter of diet is something that gives the shakes to industry, local governments and anyone else that operates under a water permit from the state Department of Ecology. The figure that the state adopts for “fish consumption” will drive a raft of environmental water quality regulation. All indications are that the state will adopt a figure so high that it will increase water-cleanliness standards 25-fold. That will push water-pollution regulations to the infinitesimal level, beyond the point where contaminants can be measured, and where no cleanup

technology can possibly go. That's what Oregon did when it adopted the most stringent fish consumption standard in the country in 2011.

"We know what doesn't work, and that is Oregon," said Chris McCabe, executive director of the Northwest Pulp and Paper Association. "That was our message to the governor the other day. Please don't repeat Oregon's mistake."

Meanwhile, Indian tribes and green groups are urging the state to go even higher. Now it appears that after years of agitation a preliminary decision will come sometime in the next couple of months. It is a decision that will drive billions of dollars of spending by business and by taxpayers, for upgrades to wastewater plants, industrial facilities and plain old stormwater drainage from culverts and parking lots. Whether it will make waterways any cleaner or fish any safer or human health any better doesn't appear to be the main concern – it is more a dispute over regulatory processes and assumptions. Nor does there appear to be much of a real-world balancing factor. Business groups say they fear it will shut down economic development statewide; local governments warn of \$200-a-month sewer bills. "The human health and water quality rule has huge implications for the economic vitality of industries and businesses in this state," says Brandon Houskeeper of the Association of Washington Business. If only Washington could wait and see how things are going to shake out south of the border, he says – it might think twice.

### **Decided at Highest Level**



Around the statehouse, they call it the fish-consumption issue, but it really is a battle over a possible 25-fold increase in water-quality standards.

In a big-picture sense there really isn't much new about this story. The water-quality issue has loomed ominously over the statehouse for much of the last three years, the subject of furious lobbying efforts on both sides. At one point during last year's budget negotiations Boeing pushed an effort to study whether new regs would do any good, at what cost, and whether there was a scientific case to be made. That proposal foundered due to opposition from the governor's office. A state

decision has been **repeatedly delayed**. Now it finally appears to be nigh. The Department of Ecology said earlier that it hoped to release a draft rule by March 31, and while it now does not expect to hit that mark, stakeholder groups are saying they expect to see it by late April or early May. A final rule is expected to be by the end of the year. The rule will stipulate a final fish consumption number and the level of carcinogenic risk that must be protected for. The figures will drive standards for about 100 pollutants, including hard-to-eliminate contaminants like PCBs and arsenic.



Buck stops here: Gov. Jay Inslee.

Ecology appears to be acknowledging that the matter is a bit hotter than it would like to handle on its own. Washington State Wire asked where the decision is being made. “This is really the Department of Ecology’s draft rule,” said agency spokeswoman Sandy Howard. “That said, the governor is highly involved, and Ecology will not be going out with a draft rule that the governor does not support. So we are still on track and we are a cabinet agency – that is how I can answer that question.”

And here’s what the governor’s office is saying, via communications director David Postman. “The governor is very involved in finding a plan that would work for the entire state. But this is Ecology’s draft and they are taking the lead on developing the policy with input from the governor and his team.”

Suffice it to say that right now all the players are training their attention on the governor’s office. McCabe says the assumption is that Inslee will make the call. “We’re not going to know what the governor has chosen until the draft rule comes out.”

### **Sort of Driven by Feds**



Most talk at legislative hearings has focused on adoption of Oregon standards: Kelly Susewind, water quality manager for the Department of Ecology, makes an appearance at statehouse with Ecology director Maia Bellon. The whole thing might be described as sorta-driven by the feds and sorta-not. The state right now estimates that the average Washingtonian eats 6.5 grams of fish a day, a national standard endorsed by the Environmental Protection Agency two decades ago. Since 1992 Washington water-quality regulations have been designed around that figure. But 6.5 grams really isn't much, an amount that might fit on a Ritz cracker. That daily ration is the equivalent of about a half-pound a month. Tribal interests and environmental groups argue the state ought to adopt an estimate that reflects the consumption of the highest fish consumers in the state, members of Indian tribes. That way you get max protection. Oregon already has done so, relying on studies of tribal fish consumption in Washington state. Its standards are pegged around a number of 175 grams a day, or about 12 pounds a month.

Here's where the waters get rather murky. Correspondence shows that regulators in the regional office of the federal Environmental Protection Agency have been urging Washington to adopt a standard based on fish-eating by the populations with the greatest amount of fish in their diets. But they haven't come right out and said the state has to do it. A coalition of environmental groups **sued the EPA** last October to require it to impose a higher fish-consumption standard in Washington. That suit is still a long way from being decided – an initial hearing has yet to be held. But the basic contention is that federal regulators have decided that the state standards are inadequate, and the agency ought to make it official. A second, more expansive lawsuit was filed in February by Nina Bell of the Northwest Environmental Advocates. "The state is still in charge of its destiny here," said Chris Wilke, executive director of the Puget Soundkeeper Alliance, one of the groups behind last fall's litigation. "If the state doesn't want the EPA to come and do this, they can move forward at any time."

Regulators at the state Department of Ecology haven't tipped their hand, but most talk at legislative hearings over the last six months has been about the possible adoption of the Oregon standard.

Environmental groups have been a bit reluctant to name the figure they'd like the state to adopt – 225 grams a day might be even more reflective of the highest levels of fish consumption, Wilke says. The state at one point was considering an even higher number, 267 grams a day, or 17.6 pounds a month. Advocates for higher standards note that the Environmental Protection Agency can approve or disapprove any new fish-consumption estimate – it rejected a recent proposal from Idaho for 17.5 grams a day, one-tenth of Oregon's level. But at least technically speaking, at this point there is **no requirement** that Washington do anything at all.

### **Will it Do Any Good?**



Chris Wilke, executive director of the Puget Soundkeepers Alliance.

The funny thing about this debate is that it doesn't seem to have much to do with human health. No one is claiming that people are getting sick from eating fish. And while there is a bellyful of studies about the amount of fish that people eat, that isn't the only issue involved. The study Boeing proposed last year would have raised some rather fundamental questions that do not appear to have been considered, like what sort of fish people are eating, where the fish are caught, and whether a dramatic increase in Washington water-quality standards will have any significant impact on salmon that spend most of their lives in the ocean. Nor have any state studies determined whether increased standards will significantly improve human health. **Boeing's proposal** was incorporated in a Senate budget bill last year, but was quietly dropped when the Inslee Administration threatened to veto that section of the measure. While some in the business community hoped Boeing would press the point during this year's just-finished legislative session, the idea evaporated when the jetmaker settled with the Machinists Union in January and announced it would build its next aircraft plant in Washington.

All of which means there has not been a rigorous analysis of whether the standards are a good idea, nor does there seem to be any political pressure for one. Argument for the policy appears to be a matter of anecdote: Environmental groups argue that these things are never simple, and that even incremental improvements in water quality are worth pursuing, even if the effect is hard to discern. “It used to be that you could go out on a sunny summer evening and catch a chinook salmon in Elliot Bay,” Wilke says. “Now you catch a chinook salmon, and there is a health advisory on it from the Department of Health that we shouldn’t eat more than two meals a month from that fish, and if it is a 12-pound fish, if you have an eight-ounce meal, it is going to take you an entire year to eat that fish just to stay within Department of Health guidelines.”

Keeping a half-eaten fish in the refrigerator for a full year might seem to push the boundaries of absurdity if not sanitation. But the business and local-government side can point to absurdities of their own. Discharges would have to be cleaner than the waterways into which they flow. That’s a big issue for some 500 or so industrial concerns and municipal wastewater plants with individual discharge permits from the state. Meanwhile 5,000 or so businesses have general permits covering runoff from their properties – think rain gutters, drainage from blacktop parking lots – and they would be responsible for making rainwater cleaner than when it hits their roofs.

One Association of Washington Cities analysis indicates that if the very most advanced technologies are deployed in sewage treatment plants, taxpayers in the greater Puget Sound area will have to pay \$7.4 billion. Yet because PCBs, the trickiest of all pollutants, find their way into the Sound by other means, the total reduction in contamination will be a miniscule 6 percent over 25 years. The city of Bellingham has estimated that the average sewer bill will rise from \$35 a month to \$200. Meanwhile, **a study** commissioned by AWB and city and county lobbying organizations concluded that additional electricity required to operate advanced wastewater filtration systems – based on technologies yet unproven – would increase power consumption two to four times. That increases greenhouse-gas emissions, another big bugaboo these days.

### **Environmental Devastation**



Chris McCabe, executive director of the Northwest Pulp and Paper Association.

Of course opponents are going to say disaster is coming when environmental rules are proposed, Wilke says. “We always hear these claims and they never prove to be true.” But industrial and local-government groups say there is something different about the current fish fight: After four decades of federal water regulation, the country has finally reached the point where the vast majority of big, easy improvements have been made. Now environmental groups and regulators are chasing after improvements that cost plenty and offer very little improvement at all, argues McCabe of the Pulp and Paper Association.

In Oregon, the full effect of the rule is just beginning to be felt, he says, because of long delays in implementation. Now environmental groups are threatening third-party lawsuits that would deny permits for continued operation of municipal wastewater treatment plants. Permit-renewal battles for paper plants are just around the corner. In this state, new and existing business are looking at environmental compliance costs in the hundreds of millions, and the possibility that they might be hauled into court at any time. Some sort of increase in water-quality standards is probably inevitable, McCabe says, but the state ought to stay with rules that can be attained with current technology. “There aren’t going to be any new pulp and paper plants built in the Pacific Northwest anytime soon, but for anyone who wants to come into Washington state and make something, this will effectively close the door.”