

In-water Finfish Aquaculture Questions for Ecology

Per Jefferson BoCC discussion on 12/19/2011 , 1/3/2012 and 1/17/2012

Goals for the workshop:

- A. Understand each other; and
- B. If agreement can't be found, consider exploring conditions that would adequately protect the environment, would be acceptable to Ecology, and avoid duplication of existing state/federal regulations.

Questions for Ecology:

1. What are the legal and scientific justifications for considering finfish aquaculture to be a water-dependant use when there are clear examples of finfish aquaculture operations located with no connection to surface waters in non-coastal/shoreline regions?
2. Would the State consider a prohibition on in-water finfish aquaculture as acceptable and legally defensible if there were detailed analysis and rationale to show where and why it is not an appropriate use in every reach of marine shoreline?
3. What documents does Ecology rely upon for the determination that in-water finfish aquaculture can be operated with no unmitigatable impacts to surrounding resources?
 - a. How can in-water finfish aquaculture operations prevent the release of viruses?
 - b. What documents are contained in the record?
 - c. Can the record be expanded – does it require additional public review?
 - d. Does exploring existing regulations constitute expanding the record?
 - e. Are there limits to what information the County and Ecology can consider?
4. What level of review does Ecology anticipate for the finfish provisions given their request for both ecological and feasibility assessment?
5. Do State water quality regulations require all discharge be treated or is there some level that is allowed as exempt?
 - a. Does Ecology have evidence that shows fully-contained in-water tank systems adequately treat discharge?
 - b. How does Ecology propose protecting water quality and shoreline resources from the infectious salmon anemia (ISA) virus?
6. WAC 173-26-201(2)(d) Preferred Uses puts ecological protection as prioritized ahead of the allowance of water-dependent uses. How does Ecology reconcile this order of priority with its decision regarding prohibition of in-water finfish aquaculture?
7. In what specific areas of Jefferson County marine shorelines does Ecology believe it is both ecologically safe and practically feasible to allow in-water finfish aquaculture?
8. In what specific ways and locations are Jefferson County marine shorelines distinctly different from Whatcom County marine shorelines?

9. Can Ecology/NOAA better explain the data regarding geographic distribution patterns of sea lice in the Salish Sea?
10. Should in-water finfish aquaculture be allowed as a conditional use in Jefferson County, what permit conditions or criteria does Ecology believe must be addressed (fish density, tracking of fish from 'farm to table', treatment of water before discharge, etc.)?
11. Does Ecology foresee any legal risks resulting from delay of final SMP adoption?
12. If Jefferson County submits a locally adopted SMP ordinance that includes a prohibition of in-water finfish aquaculture and is not willing to change, will Ecology begin rule-making?
 - a. Would Ecology consider adopting all the other SMP segments/parts as consistent and focus rule-making only on the finfish aquaculture segment/part (per RCW 90.58.090(3) and WAC 173-26-120(7))?
 - b. What other segments/parts besides finfish aquaculture might Ecology anticipate using the rule-making process to change?
 - c. What is the timeline for rule-making, and how soon would final SMP adoption be anticipated?
13. If the County took the affirmative step of informing Ecology in writing that it no longer wishes to engage in the iterative process with respect to in-water finfish aquaculture and by doing so declares that no further progress in this regard will occur would Ecology accept such a letter as proof of a "stalemate" and proceed to rulemaking with respect to in-water finfish aquaculture?