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# Battle over fish, pollution reaches court

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SEATTLE — A fight over how much fish people eat in Washington — and thus, how much toxic pollution they consume — has landed in federal court.

Conservation and commercial fishing groups sued the U.S. Environmental Protection Agency last week, saying the agency has for too long let state officials underestimate fish consumption, resulting in weaker anti-pollution standards than are needed to protect the public.

The groups, including Puget Soundkeeper Alliance, Columbia Riverkeeper and the Pacific Coast Federation of Fishermen's Associations, reason that if the estimates were more realistic, the state would have to more strictly regulate emissions of mercury, lead, copper

and other toxins — a prospect that concerns industry groups and that emerged as a sticking point in budget talks in Olympia last spring.

Businesses must obtain permits before they can discharge pollutants into the state's waters under the federal Clean Water Act, and increasing the estimate of how much fish people eat could result in those permits becoming more restrictive.

The state Ecology Department has worked for years on updating the fish consumption estimates, but Janette Brimmer, an attorney with the environmental law firm Earthjustice, which filed the lawsuit, said it has amounted only to so much dithering. The EPA's failure to make the state update its consumption estimates is a violation of the Clean

Water Act, she said.

"Washington has known for years their estimates are inappropriate and inaccurate," she said. "They keep having task forces and roundtables, and nothing is happening. My clients finally said enough is enough."

The EPA could not be reached for comment because of the federal government shutdown.

Washington's estimate is that average fish consumption amounts to 8 ounces — roughly one fillet — per person, per month.

That figure originally came from federal guidelines published in 1990, but the EPA began backing away from that more than a decade ago and urging states to adopt more realistic estimates.

Surveys show that actual fish

consumption rates in Washington are vastly higher, especially among certain populations such as Native American tribes, sport and commercial fishermen, Asians, and Pacific Islanders — some of which average as much as the equivalent of a moderate-sized fillet per day, rather than per month.

Last month, Washington and Oregon officials announced that people should limit how much nonmigratory fish, such as bass, bluegill and perch, they eat from a 150-mile stretch of the Columbia River, based on new data about contamination from mercury and polychlorinated biphenyls, or PCBs.

That prompted an angry response from some tribes, who said the states should focus on cleaning up the river rather than telling people to limit what they eat.