

**Whidbey Environmental Action Network  
Restoration Education Preservation**

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*Dedicated to the preservation and restoration of the native biological diversity  
of Whidbey Island and the Pacific Northwest*

**Feb. 24, 2019**

**TO: Washington Dept. of Ecology**  
**FROM: Steve Erickson, Litigation Coordinator**  
**RE: Cooke Aquaculture Marine Finfish Feedlots**  
**NPDES Draft Permits:**  
**WA0031526,**  
**WA0031534**  
**WA0031542**  
**WA0031593**

On behalf of Whidbey Environmental Action Network, I submit the following comments regarding the renewal/re-issuance of these NPDES permits.

1. WEAN is a member of Our Sound Our Salmon (OSOS) and we include by reference the comments submitted by that coalition.
2. Ecology must apply "all known available and reasonable methods" (AKART) to the introduction and discharge of contagious pathogens which may infect native aquatic life, particularly salmonids.

As discussed in the OSOS submission, net pens provide an ideal situation for amplification of contagious pathogens once inevitable (because of the unhealthy crowded conditions occurring in confined feedlots) disease outbreaks occur. Those pathogens are biological pollutants and as such are regulated under the Clean Water Act. In the conditions attendant in the feedlots, the pollutant pathogens are discharged to regulated waters in at least four ways as discussed below.

a. First, they are directly discharged when the pens are stocked with diseased fish. While the Pollution Control Hearings Board (PCHB) has found that the non-native Atlantic Salmon do not become biological pollutants until they are outside the net pens, disease organisms they are carrying have no such allowance. Introduction of the pathogens into any waters of the state constitutes discharge of a pollutant. When diseased fish are placed in the feedlots, the pathogen has been discharged into regulated waters. As such, it is subject to the requirements for use of AKART to eliminate the pollutant.

b. Second, the polluting pathogens may be discharged when native fish that are small enough to pass through the net mesh come into direct or close enough contact with the diseased

fish for transfer of the pathogen. The now infected fish can then exit the pens and act as long distance vectors for further pathogen dispersal into regulated waters.

c. Third, "leakage" and escape of the diseased fish themselves can also function as a mechanism for the long distance dispersal and discharge of pathogens. Even without obvious escape events, there is "leakage" of fish from the feedlots. When diseased Atlantic Salmon are outside the feedlots, it is an additional discharge of pollutants in addition to the escaped Atlantic Salmon themselves (per the PCHB's finding that once out of the feedlots the net pen fish are themselves biological pollutants).

d. Fourth, these marine feedlots provide ideal situations for amplification of disease outbreaks; that is, diseases become epidemic and the load of the pathogens in that environment becomes greatly amplified. When pathogens are shed by the infected fish and dispersed in the water in and outside of the feedlots, there is discharge of these pollutants to regulated waters.

*Ecology must address this problem by requiring use of AKART.* The use of "all known available and reasonable methods" to prevent and control pollution is required by Chapters 90.48, 90.52, and 90.54 RCW. In this situation, the correct AKART is zero discharge of pathogens contagious to native organisms. This can be nearly achieved by conditioning the NPDES as follows:

i. Juvenile fish proposed for stocking must be tested multiple times for the presence of any pathogen potentially contagious to native aquatic organisms. The testing must be done in a statistically robust manner sufficient to determine with a high confidence (i.e. 99%) that no such pathogens are present. If such pathogens are detected, the polluted fish may not be introduced into regulated waters.

ii. The fish in the net pens must be similarly tested on a monthly basis. If potentially contagious pathogens are detected, the infected feedlot must be promptly (i.e. in < 1 week) emptied and disinfected. The situation after the Bainbridge feedlot outbreak in 2012 when over a month was taken to remove the diseased fish is simply unacceptable. The applicant must have demonstrated capacity to achieve rapid removal of all the fish in infected pens and post a bond sufficient to allow the State to act immediately if infected pens where disease is present are not completely emptied within a week.

iii. All testing (including taking of samples) must be conducted by third parties chosen by Ecology with all costs borne by the applicant.

We urge Ecology to condition these NPDES permits as discussed above.