

Regulatory Tracking

Discovery Clean Water Alliance

April, 2020

Item	Name	Description	Potential/Likely Outcome	Potential Impact	Parties	Legal Action	Status	Expected Next Action	Timing of Action	Reference
1	Columbia River Temperature TMDL	In 2003, the U.S. Environmental Protection Agency (EPA) released a Preliminary Draft Temperature Total Maximum Daily Load (TMDL) for the Columbia and Snake River Basins.	Columbia River Temperature Water Quality Standards TMDL.	SCTP NPDES Permit discharge requirements including thermal load limits during dry season could lead to alternative discharge requirements (land application), or effluent cooling.	Oregon, Washington, Idaho, EPA	Yes	On March 30, 2020, the 9th U.S. Circuit Court of Appeals ruled that the EPA must finish the TMDL for the Columbia and Snake River Basins, rejecting EPA's request for court to reconsider December 2019 ruling. EPA could appeal this ruling to the US Supreme Court.	EPA to develop and publish a Draft Temperature TMDL for the Columbia and Snake Rivers. Public reviews and legal challenges to the TMDL will follow.	Probable Draft TMDL release in 2020 for public review.	https://www.epa.gov/columbiariver/managing-water-temperatures-columbia-and-lower-snake-rivers
2	Columbia & Snake River Dams NPDES Permit	Ecology has been pursuing the implementation of state water quality criteria, including temperature, at the nine federal dams on the Columbia and Snake Rivers under the Clean Water Act. EPA is responsible for NPDES permits.	NPDES Permits issued for each dam.	None.	Columbia Riverkeepers, U.S. Army Corps of Engineers, EPA	Yes	EPA published draft permits for public comment March 18, 2020 through May 4, 2020.	EPA will review public comments and develop revised permits. Potential legal challenges once final permits issued.	2020-2021	https://www.epa.gov/npdes-permits/proposed-discharge-permits-federal-hydroelectric-projects-lower-columbia-river
3	Columbia River Cold Water Refuges Project	EPA Region 10 established the Columbia Cold Water Refuges Project staffed by EPA and NMFS. Project goal is to develop and issue a Columbia River Cold Water Refugia Plan as described in the 2015 NMFS Biological Opinion and Reasonable and Prudent Alternative (RPA) for the Oregon water quality standards.	Columbia River Cold Water Refuges Plan	None. The EPA's Draft CWR Plan (October 2019) identifies the Lewis River as the nearest CWR to the SCTP outfall discharge site in the Columbia River. No CWR sites were identified within 4 miles of the SCTP diffuser. Salmon Creek was not identified as a Cold Water Refuge for salmon.	EPA, NOAA Fisheries, Washington, Oregon, tribes and others.	No	EPA issued the Draft Columbia River Cold Water Refuges Plan on October 1, 2019.	EPA to complete development of Columbia River Cold Water Refuges Plan in 2020.	2020	https://www.epa.gov/columbiariver/columbia-river-cold-water-refuges
4	Columbia River Toxics Reduction	EPA Region 10 and other federal agencies, states, tribes, and nonprofit environmental groups established the Columbia River Toxics Reduction Working Group to share information, coordinate activities, and develop strategies to identify and reduce toxics in the Columbia River Basin.	Potential new requirements in SCTP NPDES permit to implement toxics reductions in wastewater discharges. The human health water quality criteria will be the basis for implementing stricter influent and effluent controls.	Additional capital or operational costs to sample and/or remove toxics. Target toxics could include PFAS, PBDEs, pharmaceuticals, and personal care products.	EPA Region 10 and other federal agencies, states, tribes, and nonprofit environmental groups.	No	Ongoing.	See each topic below.	Ongoing.	https://www.epa.gov/columbiariver/columbia-river-toxics-reduction-working-group
4.1	Strategy for Measuring, Documenting and Reducing Chemicals of Emerging Concern	This document is an outline for a research and monitoring strategy, and a characterization of the biological impacts of Contaminants of Emerging Concern (CECs) on aquatic and terrestrial wildlife in the Columbia River Basin. Key CECs discussed include PBDEs, Perfluorinated Compounds, Estrogens, Pharmaceuticals, and Personal Care Products.	Same	Same	EPA Region 10 and other federal agencies, states, tribes, and nonprofit environmental groups.	No	Complete.	None.	NA	https://www.epa.gov/sites/production/files/2014-07/documents/columbia-river-cec-strategy-july2014.pdf
4.2	Toxics Reduction Action Plan	EPA Region 10 and the Columbia River Toxics Reduction Working Group issued a Toxics Reduction Action Plan in 2010 that seeks governments, nonprofits, industries, and citizens to help reduce toxics in the Columbia River basin. This plan identifies 61 actions.	Same	Same	EPA Region 10 and other federal agencies, states, tribes, and nonprofit environmental groups.	No.	Complete.	None.	NA	https://www.epa.gov/sites/production/files/documents/columbia_river_toxics_action_plan_sept2010.pdf
4.3	Polycyclic aromatic hydrocarbons (PAHs) Story Map	The workgroup developed a "story map" providing background information on polycyclic aromatic hydrocarbons (PAHs) and locations of water and sediment data throughout the basin. The lower Willamette River is called out as a highly impacted area.	Same	Same	EPA Region 10 and other federal agencies, states, tribes, and nonprofit environmental groups.	No.	Complete.	None.	NA	http://nwcouncil.maps.arcgis.com/apps/MapJournal/index.html?appid=99e5965fe1ac4dd38001e784d7c6aac6
5	Freshwater Aluminum Water Quality Criteria	In December 2018, EPA released the final aquatic life ambient water quality criteria for aluminum for freshwater under Section 304(a)(1) of the Clean Water Act. Ecology will need to develop or accept EPA aluminum criteria.	Effluent (and river) monitoring of aluminum will be required in the next NPDES permit. Replacement diffuser dilutions should avoid aluminum as an effluent constituent of concern, as long as background river aluminum are low (providing assimilative capacity).	Aluminum will be added to future permit-required effluent testing at minimal additional cost. Potential for river water testing for aluminum.	EPA and Ecology	No.	Federal criteria complete and state water quality criteria to be developed and adopted.	Ecology Draft Aluminum Water Quality Criteria	Unknown	https://www.epa.gov/wqc/2018-final-aquatic-life-criteria-aluminum-freshwater
6	Copper Biotic Ligand Model (BLM)	EPA published aquatic life freshwater quality criteria for copper based on the Biotic Ligand Model (BLM) in 2007. Ecology will need to develop or accept EPA's copper criteria based on BLM.	After Ecology develops/adopts copper BLM criteria - NPDES required monthly effluent and receiving water sampling for analysis of the BLM input parameters. Data collected are applied in the BLM to derive site-specific copper water quality criteria for use in RPAs for NPDES permit development	Limited to monitoring costs for effluent (and potentially river). Unlikely that a BLM analysis would exceed the acute or chronic water quality criteria for copper for a Columbia River discharge.	EPA and Ecology	No.	Federal criteria complete and state water quality criteria to be developed and adopted.	Ecology Draft Copper BLM Water Quality Criteria	Unknown	https://www.epa.gov/wqc/aquatic-life-criteria-copper
7	Ecology 303d Listing and Water Quality Assessment	303d listing including Category 5 (requiring TMDL) for Dissolved Oxygen (Listing 49047), Temperature (Listing 7884), Bacteria (Listing 6705), Category 4c (requires action plan) for Invasive Exotic Species (Milfoil) (Listing 4858), and Category 2 (continued monitoring) for pH (Listing 51515).	Dissolved oxygen listing expected to be recategorized to Category 1 in 2020 based on 2018-2019 Columbia River Monitoring Program data submitted to Ecology. Temperature is addressed above. No concern with the other listings.	If Ecology does not recategorize dissolved oxygen listing from Category 5 to 1, then it would require additional capital costs for the Phase 5 expansion or lower permitted capacity at SCTP.	Ecology, EPA	No.	Sampling complete and data submitted to Ecology to request change of the DO listing.	Ecology reviewing data and developing 2020 Draft 303(d) listings.	Spring 2020 Ecology should release Draft 303(d) listings. DO listing expected to be removed by fall 2020.	https://ecology.wa.gov/Water-Shorelines/Water-quality/Water-improvement/Assessment-of-state-waters-303d

8	Recreational Water Quality Criteria for Coliphage	The Salmon Creek NPDES permit is currently based on a bacterial indicator standard to limit pathogen discharge to the receiving stream. EPA has been developing ambient water quality criteria (AWQC) for viruses and has been proceeding with coliphage as the indicator organism.	Addition to the current bacterial standard.	Additional capital and operational costs to sample and/or remove wastewater viruses detected by coliphage testing and standards.	EPA, Ecology	No.	No work by EPA on this since 2017.	Unknown.	Unknown.	https://www.epa.gov/wqc/recreational-water-quality-criteria-and-methods
9	Washington's Water Quality Criteria for the Protection of Human Health	Ecology promulgated a revised human health criteria (HHC) rule on December 30, 2019 to align with EPA direction to Ecology in May 2019. Revised human health criteria (HHC) are same as Ecology proposed in August 1, 2016.	Less stringent HHC and eliminates NPDES discharge issues for arsenic, phthalates, and other compounds.	No change to NPDES permit limits. Additional and specific effluent monitoring analytical requirements in next permit.	EPA, Ecology	Yes.	State of Washington filed a lawsuit in District Court - Western District of Washington challenging the EPA decision to reverse the 2016 ruling on HHC. Since Ecology accepted EPA direction in Dec. 2019, this may no longer be an active lawsuit.	Unknown.	Unknown.	https://www.epa.gov/wqs-tech/water-quality-standards-regulations-washington
10	Reclaimed Water Rule	In February 2019, Ecology released a Reclaimed Water Facilities Manual (aka Purple Book) and a new chapter E1 in the Criteria for Sewage Works Design (aka Orange Book) covering Water Reclamation and Reuse.	Permitting for NPDES permit renewals and DNR easement renewal (5-yr updates) likely to require an alternatives evaluation that includes reuse and/or upland disposal (e.g., wetland restoration).	Additional management costs to renew NPDES permit and DNR easement for outfall in river.	Ecology, DNR	No.	On January 23, 2018 Ecology adopted a new rule, Chapter 173-219 WAC, Reclaimed Water. DNR requirement exists now and NPDES requirements are speculative at this point.	Unknown.	Unknown.	https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Closed-rulemaking/WAC-173-219-Jun14
11	Puget Sound Nutrient Source Reduction Project	The Puget Sound Nutrient Source Reduction Project (PSNRP) is an Ecology project to improve Puget Sound water quality by reducing nutrient loading.	The Puget Sound Nutrients General Permit currently being developed, or other requirements for the Puget Sound could be expanded to be applied statewide.	Potential for additional capital costs for future plant nutrient reductions in a decade or more.	Ecology	Yes	February 2019 - Northwest Environmental Advocates (NWEA) sued Ecology to challenge January 2019 refusal to update its rules on treatment requirements for nutrient removal at Puget Sound sewage treatment plants. Ecology agreed to freeze nutrient loads for Puget Sound dischargers and is now developing a draft Puget Sound Nutrients General Permit to apply to all PS dischargers by regions.	Ecology will develop and issue a Draft General Permit for public review in 2020, and legal challenges are likely to forestall this General Permit for some time.	Uncertain	https://ecology.wa.gov/Water-Shorelines/Puget-Sound/Helping-Puget-Sound/Reducing-Puget-Sound-nutrients/Puget-Sound-Nutrient-Reduction-Project