

[date]

David Ponganis, Director, Programs
United States Army Corps of Engineers,
Northwestern Division
P.O. Box 2870
Portland, OR 97208-2870

Order Docket #	[docket number]		
Site Locations	Lower Granite Dam	Snake River	Facility Site ID 82325793
	Little Goose Dam	Snake River	Facility Site ID 22549544
	Lower Monumental Dam	Snake River	Facility Site ID 62721416
	Ice Harbor Dam	Snake River	Facility Site ID 33523579
	McNary Dam	Columbia River	Facility Site ID 68252197
	John Day Dam	Columbia River	Facility Site ID 25415376
	The Dalles Dam	Columbia River	Facility Site ID 44557699
	Bonneville Dam	Columbia River	Facility Site ID 45971835

Re: Administrative Order to Modify Adjusted Total Dissolved Gas Criteria

Dear David Ponganis:

The Department of Ecology (Ecology) has issued the enclosed Administrative Order (Order) requiring the Army Corps of Engineers to comply with:

1. Chapter 90.48 Revised Code of Washington (RCW) - Water Pollution Control Act
2. Chapter 173-201A Washington Administrative Code (WAC) – Surface Water Quality Standards

If you have questions please contact Bryson Finch at (360)407-7158 or bryson.finch@ecy.wa.gov.

Sincerely,

Heather Bartlett
Program Manager
Water Quality Program
Headquarters

Enclosures: Administrative Order Docket #[docket number]

By certified mail [number]

cc:

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE)
Short-Term Modification of Total)
Dissolved Gas Criteria at Chapter 173)
-201A-200(1)(f)(ii) WAC, Applicable to)
Lower Columbia River and Snake River)
U.S. Army Corps of Engineers)
David Ponganis)

ADMINISTRATIVE ORDER
DOCKET # [docket number]

To: David Ponganis
Director, Programs
United States Army Corps of Engineers,
Northwestern Division
P.O. Box 2870
Portland, OR 97208-2870

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The Department of Ecology (Ecology) has issued this Administrative Order (Order) requiring the U.S. Army Corps of Engineers to comply with:

3. Chapter 90.48 Revised Code of Washington (RCW) - Water Pollution Control Act
4. Chapter 173-201A Washington Administrative Code (WAC) – Surface Water Quality Standards

This is an Administrative Order associated with the total dissolved gas (TDG) criteria in the Surface Water Quality Standard. WAC 173-201A-200(1)(f)(ii) allows an adjustment of the TDG criteria to aid fish passage over hydroelectric dams including special fish passage exemptions for those applicable dams in the Snake and Columbia rivers.

Chapter 90.48 RCW gives Ecology the authority to issue Administrative Orders whenever it determines there is a substantial potential to violate Chapter 90.48 RCW.

This Administrative Order is a short-term modification of the adjusted criteria in WAC 173-201A-200(1)(f)(ii) and is issued in accordance with the short-term modification procedures in WAC 173-201A-410.

This short-term modification modifies the total dissolved gas (TDG) criteria for areas on the lower Snake and lower Columbia rivers during the spring spill season that typically occurs April 3 through June 20 (April 3 – June 20 on the lower Snake River and April 10 – June 15 on the Columbia River)

FINDINGS

A Flexible Spill Agreement (herein referred to as Spill Agreement) regarding 2019-2021 spill operations at the eight federal dams on the lower Snake and Columbia rivers has been signed by the states of Washington and Oregon, the Nez Perce Tribe, the Bonneville Power Administration, U.S. Army Corps of Engineers (USACE), and the Bureau of Reclamation. The Spill Agreement is supported by the states of Idaho and Montana and the Columbia River Inter-Tribal Fish Commission.

The focus and intent of the Spill Agreement is to further improve juvenile salmon and steelhead survival rates as they travel downriver through the eight federal dams on the lower Snake and Columbia rivers. The Spill Agreement seeks benefits to salmonid survival in concert with managing the Columbia River system for multiple congressionally authorized purposes, including power generation to ensure the Pacific Northwest of an adequate, efficient, economical, and reliable power supply.

The Spill Agreement is contingent on the implementation of a flexible spill operation that increases spill beyond the levels ordered by a federal court for the 2018 salmon migration season at the times of day when regional energy demand is lower, and reduces spill during times of peak energy demand (early morning and late afternoon/evening) and highest energy market values. The federal court ordered spill was limited to the current allowable adjusted TDG criteria provided in Chapter 173-201A WAC to aid fish passage at these dams.

The flexible spill operations included in the Spill Agreement are contingent on Washington providing a short-term modification to the adjusted TDG criteria at WAC 173-201A-200(1)(f)(ii). Additionally, Ecology is acting on the request from the USACE to allow the duration and averaging methods of the criteria to match those currently required by Oregon, (that is the 12 hour chronic TDG averaging method, and the 2 hour acute maximum averaging method as measured in the dam tailrace).

In accordance with the adjusted TDG criteria, the USACE must submit a Gas Abatement Plan (GAP) to the Washington State Department of Ecology for approval prior to applying higher TDG criteria allowed to aid fish passage. On January 25, 2019 Ecology issued an approval of the *U.S. Army Corps of Engineers 2018 Update to the Total Dissolved Gas Abatement Plan – Lower Columbia River and Snake River Projects* submitted on November 19, 2018. The GAP approval remains in effect and allows the lower Columbia River and lower Snake River dams to apply the adjusted TDG criteria. This Order issued to the USACE is a short-term modification of the adjusted TDG criteria for which the USACE received approval to apply when increasing spill to aid fish passage. The January 25, 2019 approval remains in effect until December 31, 2021 and shall comply with the modified adjusted criteria herein.

ORDER TO COMPLY

It is ordered that this short-term modification of the Surface Water Quality Standards be issued to the USACE to aid fish passage during the spring spill season that typically occurs April 3 through June 20 (April 3 – June 20 on the lower Snake River and April 10 – June 15 on the Columbia River). This Administrative Order is effective for the spring spill seasons in 2019, 2020, and 2021 unless and until the short term modification is superseded by a rulemaking or other action that revises WAC 173-201A-200(1)(f) TDG criteria prior to the end of the 2021 spring spill season.

The conditions listed below are under the authority of Chapter 90.48 RCW and Chapter 173-201A WAC and are intended to allow short-term modification of the state water quality standards. Except as specifically authorized below, all applicable provisions of the Chapter 173-201A WAC must be met.

A. General Conditions:

1. This order does not authorize direct, indirect, permanent, or temporary impact to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
2. This Order does not exempt and is conditioned upon compliance with other statutes and codes administered by federal, state, and local agencies.
3. Ecology retains continuing jurisdiction to make modifications to this Order if it appears necessary to further protect the public interest.
4. The USACE must provide access to the project sites upon request by Ecology for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.

5. Copies of this Order and all related permits, approvals, and documents must be kept on the project site or readily available via online database for reference by Ecology and USACE personnel.
6. The USACE must operate and maintain the project in a manner consistent with the USACE 2018 Update to the Total Dissolved Gas Abatement Plan and the 2019 Fish Operating Plan (FOP) or any subsequent annual FOP.
7. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto if additional impact due to increased spill operations are identified, or if additional conditions are necessary to further protect the public interest.

B. Monitoring and compliance with Water Quality Standards

1. Ecology's letter to the USACE on January 25, 2019 approving the Gas Abatement Plan remains in effect until December 31, 2021 and shall comply with the modified adjusted criteria herein.
2. The fixed-site monitoring (FSM) locations in the forebay and tailrace of each hydropower dam must be maintained throughout the duration of the Fish Operating Plan and spill operations to aid fish passage.
3. Forebay FSM monitoring location data shall be monitored for purposes of completing USACE Northwestern Division Water Quality Annual Reports. Real-time total dissolved gas measurements at the forebay FSM locations shall not be used for compliance purposes while this Order is in effect.
4. Total dissolved gas shall be measured as a percent of total gas pressure relative to atmospheric pressure at each monitoring location.
5. The annual FOPs, insofar as they are designed and implemented to meet Washington TDG standards, shall rely only on tailrace FSM location data for TDG compliance purposes.
6. The TDG criteria for dam tailrace FSM locations shall be as follows:
 - a. The water quality compliance for TDG established in this Order shall not apply when the stream flow exceeds the seven-day, ten-year frequency flood calculated for each dam in the lower Columbia and lower Snake rivers.
 - b. TDG must not exceed an average of one hundred twenty percent as measured in the tailraces fixed-monitoring sites in the tailrace of each dam. These averages shall be measured as an average of the twelve highest hourly readings in a calendar day.

- c. TDG must not exceed a two-hour average of one hundred twenty-five percent as measured in the tailraces fixed-monitoring sites in the tailrace of each dam. These averages shall be measured as an average of the two highest hourly readings in any consecutive 2 hour period.

FAILURE TO COMPLY WITH THIS ORDER

Failure to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do both of the following within 30 days of the date of receipt of this Order:

7. File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
8. Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Bryson Finch
Department of Ecology
P.O. Box 47600
Lacey, WA 98504-7600
Phone: (360) 404-7158
Email: bryson.finch@ecy.wa.gov

MORE INFORMATION

9. Pollution Control Hearings Board Website
<http://www.eluho.wa.gov/Board/PCHB>
10. Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
11. Chapter 371-08 WAC – Practice And Procedure
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
12. Chapter 34.05 RCW – Administrative Procedure Act
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>

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13. Ecology's Laws, rules, & rulemaking website

<https://ecology.wa.gov/About-us/How-we-operate/Laws-rules-rulemaking>

SIGNATURE

Heather Bartlett,
Program Manager
Water Quality Program
Headquarters

Date

DRAFT