

Draft Tualatin Subbasin TMDL

Appendix 2A Temperature Criteria (as of March 2004)



State of Oregon
Department of
Environmental
Quality

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Oregon Administrative Rule (OAR) 340-041-0028:

- (1) Background: Water temperatures affect the biological cycles of aquatic species and are a critical factor in maintaining and restoring healthy salmonid populations throughout the State. Water temperatures are influenced by solar radiation, stream shade, ambient air temperatures, channel morphology, groundwater inflows, and stream velocity, volume, and flow. Surface water temperatures may also be warmed by anthropogenic activities such as discharging heated water, changing stream width or depth, reducing stream shading, and water withdrawals.
- (2) Policy: It is the policy of the Environmental Quality Commission (Commission) to protect aquatic ecosystems from adverse warming and cooling caused by anthropogenic activities. The Commission intends to minimize the risk to cold-water aquatic ecosystems from anthropogenic warming, to encourage the restoration and protection of critical aquatic habitat, and to control extremes in temperature fluctuations due to anthropogenic activities. The Commission recognizes that some of the State's waters will, in their natural condition, not provide optimal thermal conditions at all places and at all times that salmonid use occurs. Therefore, it is especially important to minimize additional warming due to anthropogenic sources. In addition, the Commission acknowledges that control technologies, best management practices and other measures to reduce anthropogenic warming are evolving and that the implementation to meet these criteria will be an iterative process. Finally, the Commission notes that it will reconsider beneficial use designations in the event that man-made obstructions or barriers to anadromous fish passage are removed and may justify a change to the beneficial use for that water body.
- (3) Purpose: The purpose of the temperature criteria in this rule is to protect designated temperature-sensitive, beneficial uses, including specific salmonid life cycle stages in waters of the State.
- (4) Biologically Based Numeric Criteria: Unless superseded by the natural conditions criteria described in section (8) of this rule, or by subsequently adopted site-specific criteria approved by EPA, the temperature criteria for State waters supporting salmonid fishes are as follows:
 - (a) The seven-day-average maximum temperature of a stream identified as having salmon and steelhead spawning use on subbasin maps and tables set out in OAR 340-041-0101 to OAR 340-041-0340: Tables 101B, and 121B, and Figures 130B, 151B, 160B, 170B, 220B, 230B, 271B, 286B, 300B, 310B, 320B, and 340B, may not exceed 13.0 degrees Celsius (55.4 degrees Fahrenheit) at the times indicated on these maps and tables;
 - (b) The seven-day-average maximum temperature of a stream identified as having core cold water habitat use on subbasin maps set out in OAR 340-041-101 to OAR 340-041-340: Figures 130A, 151A, 160A, 170A, 220A, 230A, 271A, 286A, 300A, 310A, 320A, and 340A, may not exceed 16.0 degrees Celsius (60.8 degrees Fahrenheit);
 - (c) The seven-day-average maximum temperature of a stream identified as having salmon and trout rearing and migration use on subbasin maps set out at OAR 340-041-0101 to OAR 340-041-0340: Figures 130A, 151A, 160A, 170A, 220A, 230A, 271A, 286A, 300A, 310A, 320A, and 340A, may not exceed 18.0 degrees Celsius (64.4 degrees Fahrenheit);
 - (d) The seven-day-average maximum temperature of a stream identified as having a migration corridor use on subbasin maps and tables OAR 340-041-0101 to OAR 340-041-0340: Tables 101B, and 121B, and Figures 151A, 170A, and 340A, may not exceed 20.0 degrees Celsius (68.0 degrees Fahrenheit). In addition, these water bodies must have coldwater refugia that's sufficiently distributed so as to allow salmon and steelhead migration without significant adverse effects from higher water temperatures elsewhere in the water body. Finally, the seasonal thermal pattern in Columbia and Snake Rivers must reflect the natural seasonal thermal pattern;
 - (e) The seven-day-average maximum temperature of a stream identified as having Lahontan cutthroat trout or redband trout use on subbasin maps and tables set out in OAR 340-041-0101 to OAR 340-041-0340: Tables 120B, 140B, 190B, and 250B, and Figures 180A, 201A, and 260A may not exceed 20.0 degrees Celsius (68.0 degrees Fahrenheit);
 - (f) The seven-day-average maximum temperature of a stream identified as having bull trout spawning and juvenile rearing use on subbasin maps set out at OAR 340-041-0101 to OAR 340-041-0340:

Figures 130B, 151B, 160B, 170B, 180A, 201A, 260A, 310B, and 340B, may not exceed 12.0 degrees Celsius (53.6 degrees Fahrenheit). From August 15 through May 15, in bull trout spawning waters below Clear Creek and Mehlhorn reservoirs on Upper Clear Creek (Pine Subbasin), below Laurance Lake on the Middle Fork Hood River, and below Carmen reservoir on the Upper McKenzie River, there may be no more than a 0.3 degrees Celsius (0.5 Fahrenheit) increase between the water temperature immediately upstream of the reservoir and the water temperature immediately downstream of the spillway when the ambient seven-day-average maximum stream temperature is 9.0 degrees Celsius (48 degrees Fahrenheit) or greater, and no more than a 1.0 degree Celsius (1.8 degrees Fahrenheit) increase when the seven-day-average stream temperature is less than 9 degrees Celsius.

- (5) Unidentified Tributaries: For waters that are not identified on the fish use maps and tables referenced in section (4) of this rule, the applicable criteria for these waters are the same criteria as is applicable to the nearest downstream water body depicted on the applicable map.
- (6) Natural Lakes: Natural lakes may not be warmed by more than 0.3 degrees Celsius (0.5 degrees Fahrenheit) above the ambient condition unless a greater increase would not reasonably be expected to adversely affect fish or other aquatic life.
- (7) Oceans and Bays: Except for the Columbia River above river mile 7, ocean and bay waters may not be warmed by more than 0.3 degrees Celsius (0.5 degrees Fahrenheit) above the ambient condition unless a greater increase would not reasonably be expected to adversely affect fish or other aquatic life.
- (8) Natural Conditions Criteria. Where the Oregon Department of Environmental Quality (Department) determines that the natural thermal potential of all or a portion of a water body exceeds the biologically-based criteria in section (4) of this rule, the natural thermal potential temperatures supersede the biologically-based criteria, and are deemed to be the applicable temperature criteria for that water body.
- (9) Cool Water Species: Waters that support cool water species may not be warmed by more than 0.3 degrees Celsius (0.5 degrees Fahrenheit) above the ambient condition unless a greater increase would not reasonably be expected to adversely affect fish or other aquatic life. Cool waters of the State are described on subbasin tables set out in OAR 340-041-0101 to OAR 340-041-0340: Tables 140B, 180B, 201B, and 250B.
- (10) Borax Lake Chub: State waters in the Malheur Lake Basin supporting the borax lake chub may not be cooled more than 0.3 degrees Celsius (0.5 degrees Fahrenheit) below the ambient condition.
- (11) Protecting Cold Water:
 - (a) Except as described in subsection (c) of this rule, waters of the State that have summer seven-day-average maximum ambient temperatures that are colder than the biologically based criteria in section (4) of this rule, may not be warmed by more than 0.3 degrees Celsius (0.5 degrees Fahrenheit) above the colder water ambient temperature. This provision applies to all sources taken together at the point of maximum impact where salmon, steelhead or bull trout are present.
 - (b) A point source that discharges into or above salmon & steelhead spawning waters that are colder than the spawning criterion, may not cause the water temperature in the spawning reach where the physical habitat for spawning exists during the time spawning through emergence use occurs, to increase more than the following amounts after complete mixing of the effluent with the river:
 - (A) If the rolling 60 day average maximum ambient water temperature, between the dates of spawning use as designated under subsection (4)(a) of this rule, is 10 to 12.8 degrees Celsius, the allowable increase is 0.5 Celsius above the 60 day average; or
 - (B) If the rolling 60 day average maximum ambient water temperature, between the dates of spawning use as designated under subsection (4)(a) of this rule, is less than 10 degrees Celsius, the allowable increase is 1.0 Celsius above the 60 day average, unless the source provides analysis showing that a greater increase will not significantly impact the survival of

salmon or steelhead eggs or the timing of salmon or steelhead fry emergence from the gravels in downstream spawning reach.

- (c) The cold water protection narrative criteria in subsection (a) does not apply if:
 - (A) There are no threatened or endangered salmonids currently inhabiting the water body;
 - (B) The water body has not been designated as critical habitat; and
 - (C) The colder water is not necessary to ensure that downstream temperatures achieve and maintain compliance with the applicable temperature criteria.

(12) Implementation of the Temperature Criteria:

- (a) Minimum Duties. There is no duty for anthropogenic sources to reduce heating of the waters of the State below their natural condition. Similarly, each anthropogenic point and nonpoint source is responsible only for controlling the thermal effects of its own discharge or activity in accordance with its overall heat contribution. In no case may a source cause more warming than that allowed by the human use allowance provided in subsection (b) of this rule.
- (b) Human Use Allowance. Insignificant additions of heat are authorized in waters that exceed the applicable temperature criteria as follows:
 - (A) Prior to the completion of a temperature TMDL or other cumulative effects analysis, no single NPDES point source that discharges into a temperature water quality limited water may cause the temperature of the water body to increase more than 0.3 degrees Celsius (0.5 Fahrenheit) above the applicable criteria after mixing with either twenty five (25) percent of the stream flow, or the temperature mixing zone, whichever is more restrictive; or
 - (B) Following a temperature TMDL or other cumulative effects analysis, waste load and load allocations will restrict all NPDES point sources and nonpoint sources to a cumulative increase of no greater than 0.3 degrees Celsius (0.5 Fahrenheit) above the applicable criteria after complete mixing in the water body, and at the point of maximum impact.
 - (C) Point sources must be in compliance with the additional mixing zone requirements set out in OAR 340-041-0053(2)(d).
 - (D) A point source in compliance with the temperature conditions of its NPDES permit is deemed in compliance with the applicable criteria.
- (c) Air Temperature Exclusion. A water body that only exceeds the criteria set out in this rule when the exceedance is attributed to daily maximum air temperatures that exceed the 90th percentile value of annual maximum seven-day average maximum air temperatures calculated using at least 10 years of air temperature data, will not be listed on the section 303(d) list of impaired waters and sources will not be considered in violation of this rule.
- (d) Low Flow Conditions. An exceedance of the biologically-based numeric criteria in section (4) of this rule, or an exceedance of the natural condition criteria in section (8) of this rule will not be considered a permit violation during stream flows that are less than the 7Q10 low flow condition for that water body.
- (e) Forestry on State and Private Lands. For forest operations on State or private lands, water quality standards are intended to be attained and are implemented through best management practices and other control mechanisms established under the Forest Practices Act (ORS 527.610 to 527.992) and rules thereunder, administered by the Oregon Department of Forestry. Therefore, forest operations that are in compliance with the Forest Practices Act requirements are (except for the limits set out in ORS 527.770) deemed in compliance with this rule. ODEQ will work with the Oregon Department of Forestry to revise the Forest Practices program to attain water quality standards.
- (f) Agriculture on State and Private Lands. For farming or ranching operations on State or private lands, water quality standards are intended to be attained and are implemented through the Agricultural Water Quality Management Act (ORS 568.900 to 568.933) and rules thereunder, administered by the Oregon Department of Agriculture. Therefore, farming and ranching operations that are in compliance with the Agricultural Water Quality Management Act requirements will not be subject to ODEQ enforcement under this rule. ODEQ will work with the Oregon Department of Agriculture to revise the Agricultural Water Quality Management program to attain water quality standards.
- (g) Agriculture and Forestry on Federal Lands. Agriculture and forestry activities conducted on federal land must meet the requirements of this rule and are subject to the department's

- jurisdiction. Pursuant to Memoranda of Agreement with the U.S. Forest Service and the Bureau of Land Management, water quality standards are expected to be met through the development and implementation of water quality restoration plans, best management practices and aquatic conservation strategies. Where a Federal Agency is a Designated Management Agency by the Department, implementation of these plans, practices and strategies is deemed compliance with this rule.
- (h) Other Nonpoint Sources. The department may, on a case-by-case basis, require nonpoint sources (other than forestry and agriculture), including private hydropower facilities regulated by a 401 water quality certification, that may contribute to warming of State waters beyond 0.3 degrees Celsius (0.5 degrees Fahrenheit), and are therefore designated as water-quality limited, to develop and implement a temperature management plan to achieve compliance with applicable temperature criteria or an applicable load allocation in a TMDL pursuant to OAR 340-042-0080.
- (A) Each plan must ensure that the nonpoint source controls its heat load contribution to water temperatures such that the water body experiences no more than a 0.3 degrees Celsius (0.5 degree Fahrenheit) increase above the applicable criteria from all sources taken together at the maximum point of impact.
- (B) Each plan must include a description of best management practices, measures, effluent trading, and control technologies (including eliminating the heat impact on the stream) that the nonpoint source intends to use to reduce its temperature effect, a monitoring plan, and a compliance schedule for undertaking each measure.
- (C) The Department may periodically require a nonpoint source to revise its temperature management plan to ensure that all practical steps have been taken to mitigate or eliminate the temperature effect of the source on the water body.
- (D) Once approved, a nonpoint source complying with its temperature management plan is deemed in compliance with this rule.
- (i) Compliance Methods. Anthropogenic sources may engage in thermal water quality trading in whole or in part to offset its temperature discharge, so long as the trade results in at least a net thermal loading decrease in anthropogenic warming of the water body, and does not adversely affect a threatened or endangered species. Sources may also achieve compliance, in whole or in part, by flow augmentation, hyporheic exchange flows, outfall relocation, or other measures that reduce the temperature increase caused by the discharge.
- (ii) Release of Stored Water. Stored cold water may be released from reservoirs to cool downstream waters in order to achieve compliance with the applicable numeric criteria. However, there can be no significant adverse impact to downstream designated beneficial uses as a result of the releases of this cold water, and the release may not contribute to violations of other water quality criteria. Where the Department determines that the release of cold water is resulting in a significant adverse impact, the Department may require the elimination or mitigation of the adverse impact.
- (13) Site-Specific Criteria: The Department may establish, by separate rulemaking, alternative site-specific criteria for all or a portion of a water body that fully protects the designated use.
- (a) These site-specific criteria may be set on a seasonal basis as appropriate.
- (b) The Department may use, but is not limited by the following considerations when calculating site-specific criteria:
- (A) Stream flow;
- (B) Riparian vegetation potential;
- (C) Channel morphology modifications;
- (D) Cold water tributaries and groundwater;
- (E) Natural physical features and geology influencing stream temperatures; and
- (F) Other relevant technical data.
- (c) ODEQ may consider the thermal benefit of increased flow when calculating the site-specific criteria.
- (d) Once established and approved by EPA, the site-specific criteria will be the applicable criteria for the water bodies affected.

OAR 340-041-0053**Mixing Zones**

(1) The Department may allow a designated portion of a receiving water to serve as a zone of dilution for wastewaters and receiving waters to mix thoroughly and this zone will be defined as a mixing zone;

(2) The Department may suspend all or part of the water quality standards, or set less restrictive standards in the defined mixing zone, provided that the following conditions are met:

(a) A point source for which the mixing zone is established may not cause or significantly contribute to any of the following:

(A) Materials in concentrations that will cause acute toxicity to aquatic life as measured by a Department approved bioassay method. Acute toxicity is lethal to aquatic life as measured by a significant difference in lethal concentration between the control and 100 percent effluent in an acute bioassay test. Lethality in 100 percent effluent may be allowed due to ammonia and chlorine only when it is demonstrated on a case-by-case basis that immediate dilution of the effluent within the mixing zone reduces toxicity below lethal concentrations. The Department may on a case-by-case basis establish a zone of immediate dilution if appropriate for other parameters;

(B) Materials that will settle to form objectionable deposits;

(C) Floating debris, oil, scum, or other materials that cause nuisance conditions; and

(D) Substances in concentrations that produce deleterious amounts of fungal or bacterial growths.

(b) A point source for which the mixing zone is established may not cause or significantly contribute to any of the following conditions outside the boundary of the mixing zone:

(A) Materials in concentrations that will cause chronic (sublethal) toxicity. Chronic toxicity is measured as the concentration that causes long-term sublethal effects, such as significantly impaired growth or reproduction in aquatic organisms, during a testing period based on test species life cycle. Procedures and end points will be specified by the Department in wastewater discharge permits;

(B) Exceedances of any other water quality standards under normal annual low flow conditions.

(c) The limits of the mixing zone must be described in the wastewater discharge permit. In determining the location, surface area, and volume of a mixing zone area, the Department may use appropriate mixing zone guidelines to assess the biological, physical, and chemical character of receiving waters, effluent, and the most appropriate placement of the outfall, to protect instream water quality, public health, and other beneficial uses. Based on receiving water and effluent characteristics, the Department will define a mixing zone in the immediate area of a wastewater discharge to:

(A) Be as small as feasible;

(B) Avoid overlap with any other mixing zones to the extent possible and be less than the total stream width as necessary to allow passage of fish and other aquatic organisms;

(C) Minimize adverse effects on the indigenous biological community, especially when species are present that warrant special protection for their economic importance, tribal significance, ecological

uniqueness, or other similar reasons determined by the Department and does not block the free passage of aquatic life;

(D) Not threaten public health;

(E) Minimize adverse effects on other designated beneficial uses outside the mixing zone.

(d) Temperature Thermal Plume Limitations. Temperature mixing zones and effluent limits authorized under 340-041-0028(12)(b) will be established to prevent or minimize the following adverse effects to salmonids inside the mixing zone:

(A) Impairment of an active salmonid spawning area where spawning redds are located or likely to be located. This adverse effect is prevented or minimized by limiting potential fish exposure to temperatures of 13 degrees Celsius (55.4 Fahrenheit) or less for salmon and steelhead, and 9 degrees Celsius (48 degrees Fahrenheit) for bull trout;

(B) Acute impairment or instantaneous lethality is prevented or minimized by limiting potential fish exposure to temperatures of 32.0 degrees Celsius (89.6 degrees Fahrenheit) or more to less than 2 seconds);

(C) Thermal shock caused by a sudden increase in water temperature is prevented or minimized by limiting potential fish exposure to temperatures of 25.0 degrees Celsius (77.0 degrees Fahrenheit) or more to less than 5 percent of the cross section of 100 percent of the 7Q10 low flow of the water body; the Department may develop additional exposure timing restrictions to prevent thermal shock; and

(D) Unless the ambient temperature is 21.0 degrees of greater, migration blockage is prevented or minimized by limiting potential fish exposure to temperatures of 21.0 degrees Celsius (69.8 degrees Fahrenheit) or more to less than 25 percent of the cross section of 100 percent of the 7Q10 low flow of the water body.

(e) The Department may request the applicant of a permitted discharge for which a mixing zone is required, to submit all information necessary to define a mixing zone, such as:

(A) Type of operation to be conducted;

(B) Characteristics of effluent flow rates and composition;

(C) Characteristics of low flows of receiving waters;

(D) Description of potential environmental effects;

(E) Proposed design for outfall structures.

(f) The Department may, as necessary, require mixing zone monitoring studies and/or bioassays to be conducted to evaluate water quality or biological status within and outside the mixing zone boundary;

(g) The Department may change mixing zone limits or require the relocation of an outfall, if it determines that the water quality within the mixing zone adversely affects any existing beneficial uses in the receiving waters.

(h) Alternate requirements for mixing zones: For some existing or proposed discharges to some receiving streams, it may not be practical to treat wastewater to meet instream water quality standards at the point

of discharge or within a short distance from the point of discharge. Some of these discharges could be allowed without impairing the overall ecological integrity of the receiving streams, or may provide an overall benefit to the receiving stream. This section specifies the conditions and circumstances under which a mixing zone may be allowed by the Department that extends beyond the immediate area around a discharge point, or that extends across a stream width. An alternate mixing zone may be approved if the applicant demonstrates to the Department's satisfaction that the discharge (A) creates an overall environmental benefit, or (B) is to a constructed water course, or (C) is insignificant. The three circumstances under which alternate mixing zones may be established are described further below.

(A) Overall environmental benefit.

(i) Qualifying for alternate mixing zone based on overall environmental benefit: In order to qualify for an alternate mixing zone based on a finding of overall environmental benefit, the discharger must demonstrate to the Department's satisfaction the following:

(I) All practical strategies have been, or will be, implemented to minimize the pollutant loads in the effluent; and

(II) For proposed increased discharges, the current actual discharge and mixing zone does not meet the requirements of a standard mixing zone; and

(III) Either that, on balance, an environmental benefit would be lost if the discharge did not occur, or that the discharger is prepared to undertake other actions that will mitigate the effect of the discharge to an extent resulting in a net environmental benefit to the receiving stream.

(IV) For the purposes of this rule, the term "practical" must include environmental impact, availability of alternatives, cost of alternatives and other relevant factors.

(ii) Studies required and evaluation of studies: In order to demonstrate that, on balance, an environmental benefit will result from the discharge, the following information must be provided by the applicant:

(I) The effluent flow and pollutant loads that are detected or expected in the effluent, by month, both average and expected worst case discharges: The parameters to be evaluated include at a minimum: temperature, biochemical oxygen demand, total suspended solids, total dissolved solids, pH, settleable solids, *E. coli* bacteria, oil and grease, any pollutants listed in Table 20 of this rule division, and any pollutant for which the receiving stream has been designated by the Department as water quality limited; and

(II) Receiving stream flow, by month; and

(III) The expected impact of the discharge, by month, on the receiving stream for the entire proposed mixing zone area for all of the pollutants listed above. Included in this analysis must be a comparison of the receiving stream water quality with the discharge and without the discharge; and

(IV) A description of fish, other vertebrate populations, and macroinvertebrates that reside in, or are likely to pass through, the proposed mixing zone, including expected location (if known), species identification, stage of development, and time of year when their presence is expected. For existing discharges, the applicant must provide the same information for similar nearby streams that are unaffected by wastewater discharges. In addition, any threatened or endangered species in the immediate vicinity of the receiving stream must be identified; and

(V) The expected impact of the discharge on aquatic organisms and/or fish passage, including any expected negative impacts from the effluent attracting fish, where that is not desirable; and

(VI) A description of the expected environmental benefits to be derived from the discharge or other mitigation measures proposed by the applicant, including but not limited to improvements in water quality, improvements in fish passage, and improvements in aquatic habitat. If the applicant proposes to undertake mitigation measures designed to provide environmental benefits (e.g., purchasing water or water conservation rights to increase stream flows or establishing stream cover to decrease temperature), the applicant must describe the mitigation measures in detail, including a description of the steps it will take to ensure that the benefits of the mitigation measures are attained and are not lost or diminished over time.

(VII) Some or all of the above study requirements may be waived by the Department, if the Department determines that the information is not needed. In the event that the Department does waive some or all of the above study requirements, the basis for waiving the requirements will be included in the permit evaluation report upon the next permit renewal or modification relating to the mixing zone.

(VIII) Upon request of the Department, the applicant must conduct additional studies to further evaluate the impact of the discharge, which may include whole effluent toxicity testing, stream surveys for water quality, stream surveys for fish and other aquatic organisms, or other studies as specified by the Department.

(IX) In evaluating whether an existing or proposed increase in an existing discharge would result in a net environmental benefit, the applicant must use the native biological community in a nearby, similar stream that is unaffected by wastewater discharges. The Department will consider all information generated as required in this rule and other relevant information. The evaluation will only consider benefits to the native aquatic biological community.

(iii) Permit conditions: Upon determination by the Department that the discharge and mitigation measures (if any) will likely result in an overall environmental benefit, the Department will include appropriate permit conditions to ensure that the environmental benefits are attained and continue. Such permit conditions may include, but not be limited to:

(I) Maximum allowed effluent flows and pollutant loads;

(II) Requirements to maintain land ownership, easements, contracts, or other legally binding measures necessary to assure that mitigation measures, if any, remain in place and effective;

(III) Special operating conditions;

(IV) Monitoring and reporting requirements; and

(V) Studies to evaluate the effectiveness of mitigation measures.

(B) Constructed water course: A mixing zone may be extended through a constructed water course and into a natural water course. For the purposes of this rule, a constructed water course is one that was constructed for irrigation, site drainage, or wastewater conveyance, and has the following characteristics:

(i) Irrigation flows, stormwater runoff, or wastewater flows have replaced natural streamflow regimes;

(ii) The channel form is greatly simplified in lengthwise and cross sectional profiles;

(iii) Physical and biological characteristics that differ significantly from nearby natural streams;

(iv) A much lower diversity of aquatic species than the diversity found in nearby natural streams; and

(v) Effective fish screens if the constructed water course is an irrigation canal.

(C) Insignificant discharges: Insignificant discharges are those that either by volume, pollutant characteristics, and/or temporary nature are expected to have little if any impact on beneficial uses in the receiving stream, and for which the extensive evaluations required for discharges to smaller streams are not warranted. For the purposes of this rule, only filter backwash discharges and underground storage tank cleanups are considered insignificant discharges.

(D) Other requirements for alternate mixing zones: The following are additional requirements for dischargers requesting an alternate mixing zone:

(i) Most discharges that qualify for an alternate mixing zone will extend through the receiving stream until a larger stream is reached, where thorough mixing of the effluent can occur and where the edge of the allowed mixing zone will be located. The portion of the mixing zone in the larger stream must meet all of the requirements of the standard mixing zone, including not blocking aquatic life passage; and

(ii) An alternate mixing zone may not be granted if a municipal drinking water intake is located within the proposed mixing zone, and the discharge has a significant adverse impact on the drinking water source; and

(iii) The discharge will not pose an unreasonable hazard to the environment or pose a significant health risk, considering the likely pathways of exposure; and

(iv) The discharge may not be acutely toxic to organisms passing through the mixing zone; and

(v) An alternate mixing zone may not be granted if the substances discharged may accumulate in the sediments or bioaccumulate in aquatic life or wildlife to levels that adversely affect public health, safety or welfare, aquatic life, wildlife, or other designated beneficial uses; and

(vi) In the event that the receiving stream is water quality limited, the requirements for discharges to water quality limited streams supersede this rule.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035, 468B.048

Stats. Implemented: ORS 468B.030, 468B.035, 468B.048

Hist.: ODEQ 17-2003, f. & cert. ef. 12-9-03

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