Implementation tools

COMPLIANCE SCHEDULES

WAC 173-210A-510(4)

What is a Compliance Schedule?

Short description: A schedule of required actions that must be done at specified times in order to get to compliance with a discharge limit. These are enforceable requirements.

Definition: A compliance schedule is a regulatory tool used in a permit, order, or directive to achieve compliance with applicable effluent standards and limitations, water quality standards, or other legally applicable requirements.

Compliance schedules have existed in Ecology regulations at WAC 173-220-140 for the NPDES permit program since 1974, and were incorporated into the state water quality standards in 1992. They are built into a permit, order, or directive from Ecology and do not require a rule change. The current Water Quality Standards contain a limit of ten years on any compliance schedule.

When are Compliance Schedules used?

Compliance schedules are used when a permittee cannot meet permit limits when the permit is issued, but can meet limits within a reasonable time period ("as soon as possible"), and are **a commonly used tool to make improvements in discharge quality and to keep dischargers in compliance while work is being done**. The compliance schedule allows **existing** dischargers time to come into compliance as new requirements are developed over time and/or as treatment plants need upgrades because of aging equipment, increases in user base, and other reasons. **Compliance schedules are not allowed for new discharges**.

Compliance schedules must include:

- An enforceable sequence of actions and a final limit, and
- Interim actions with milestones if the schedule is longer than one year.

Why is Ecology proposing a change to the Compliance Schedule language in the Surface Water Quality Standards?

In 2009 the state legislation recognized there are circumstances where extending a compliance schedule would be appropriate. Compliance schedules must still meet requirements in state NPDES regulations at WAC 173-220-140, which includes specific timeframes within the schedule of compliance and enforceable provisions. *The new 2009 law, RCW 90.48.605, focuses on instances when a total maximum daily load (TMDL*) exists on the receiving water, and describes a* **four part test that must be established and that is part of the proposed new compliance schedule language**:

1. The permittee is meeting its requirements under the TMDL as soon as possible.
2. The actions proposed in the compliance schedule are sufficient to achieve water quality standards as soon as possible.
3. A compliance schedule is appropriate.
4. The permittee is not able to meet its waste load allocation solely by controlling and treating its own effluent.

Ecology has also added language that takes into consideration circumstances where a TMDL does not exist, but a compliance schedule would be the most appropriate tool to bring the permittee into compliance with the discharge limit in the shortest timeframe possible. In this case, the actions must be identified that will bring the discharger into compliance with the effluent limits, but more time is needed than the term of the permit.

* ***A TMDL is a formalized water quality improvement plan***. TMDLs describe the type, amount, and sources of water pollution in a particular water body; they analyze how much the pollution needs to be reduced or eliminated to meet water quality standards; and they provide targets and strategies to control the pollution.

Proposed rule language on Compliance Schedules

1. Ecology proposes to **add a new definition** in WAC 173-201A-020 to define "Compliance Schedule" or "Schedule of Compliance". The current standards do not have a definition of compliance schedule in the definitions section. This is considered clarifying language.
2. Language has been proposed to **authorize compliance schedules for longer periods of time** in accordance with RCW 90.48.605**, where a total maximum daily load (TMDL) exists.** In response to the legislature's direction, Ecology added the four-part test described above to the proposed language on compliance schedules.
3. Ecology proposes to revise language in WAC 173-201A-510(4) that deletes the specific period of time for the compliance schedule (currently ten years) and adds language to describe circumstances when a compliance schedule can go beyond the term of a permit. **Proposed language emphasizes that compliance schedules must be completed as soon as possible and should generally not exceed the term of the permit. The proposed revisions remove the ten-year limit for compliance schedules to allow flexibility on a permit-by-permit basis. This applies even where a TMDL does not exist.**