

## DRAFT

Supplemental material: Policy Forum #3, February 8, 2013.

The table below was prepared to assist with Policy Forum discussions surrounding adoption of human health-based surface water criteria and revised implementation tools. The table summarizes the application of variances and compliance schedules to existing, new, and expanding dischargers/discharges.

The point of discharge is into a waterbody segment with...						
Discharge/r type	...no 303(d) listing		...a 303(d) listing and no TMDL		...a 303(d) listing and a completed TMDL	
	Can this discharger be granted a Variance?	Can this discharger be granted a Compliance schedule?	Can this discharger be granted a Variance for the pollutant causing the impairment?	Can this discharger be granted a Compliance schedule for the pollutant causing the impairment?	Can this discharger be granted a Variance for the pollutant causing the impairment?	Can this discharger be granted a Compliance schedule for the pollutant causing the impairment?
Existing Discharger	Yes	Yes	Yes	Yes	Yes	Yes
New Discharge	No	No	No	No	No	No
Expanding Discharge = existing discharger + new discharge	Depending on the circumstances: Yes for the existing capacity, although without an impairment there would generally be no reason to need a compliance schedule or a variance. No for the expansion. (Expansion treated as a new discharge)		Depending on the circumstances: Yes for the existing capacity. No for the expansion. (Expansion treated as a new discharge)		Depending on the circumstances: Yes for the existing capacity. No for the expansion. (Expansion treated as a new discharge)	
<b>Question: Could Ecology permit a new discharge or an expansion of an existing discharge into a 303(d) listed waterbody segment if the discharge contains the pollutant causing the impairment?</b>	NA		<b>Answer: Yes. Ecology could permit the discharge if the discharge would not cause or contribute to a violation of the WQS.</b>		<b>Answer: Yes. Ecology could permit the discharge if (1) the TMDL indicates that there are sufficient remaining pollutant load allocations for the discharge of the pollutant causing the impairment, and (2) all discharges that need compliance schedules to get the waterbody segment back into compliance are under compliance schedules.</b>	

Please refer to the following material to supplement use of this chart:

- WAC 173-201A-510(4) General allowance for compliance schedules.
- 40 CFR 122.4(i) - (this is part of the prohibitions section of the NPDES regulations)
- Pinto Creek Decision: <http://cdn.ca9.uscourts.gov/datastore/opinions/2007/10/03/0570785.pdf>