



# Oregon

Kate Brown, Governor

**Department of Fish and Wildlife**  
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September 26, 2019

Susan Braley  
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Water Quality Program  
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Submitted at: [ws.ecology.commentinput.com](http://ws.ecology.commentinput.com)

Re: Comments on Chapter 173-201A WAC Water Quality Standard Rulemaking on  
Numeric Criteria for Total Dissolved Gas in the Snake and Columbia rivers

Dear Ms. Braley:

In addition to the oral testimony given on Monday September 16, 2019, the Oregon Department of Fish and Wildlife (ODFW) submits these written comments in response to the State of Washington's proposed rule amending the total dissolved gas (TDG) criteria in portions of the Snake and Columbia rivers. This amendment is vital for the successful implementation of the Columbia River Flexible Spill and Power Agreement (Agreement) supported by all regional state, tribal, and federal management partners. While the State of Oregon remains a strong proponent of this rule change, we have some concerns about language in chapter 173-201A, as outlined below. As always, the State of Oregon appreciates the opportunity to contribute to this important process.

First, Oregon requests that Ecology revise **WAC 173-201A-200 (1)(f)(ii)(A) (second bullet)** as follows:

TDG must not exceed: ... A maximum TDG saturation level of one hundred twenty-five percent calculated as an average of the ~~two~~ **twelve** highest hourly TDG measures in a calendar day during spillage for fish passage.

Oregon is concerned that using a two-hour average for calculating TDG saturation daily will effectively preclude implementation of the Agreement as intended (i.e., spill to 125% TDG). The Agreement was founded on the three principles that operations: 1) are cost neutral to Bonneville Power Administration relative to 2018 injunctive spill, 2) can be implemented effectively by the U.S. Army Corps of Engineers (USACE), and 3) provide an increased salmon survival benefit over what was seen during 2018 injunctive spill and 2019 Flex Spill operations.

The fish benefits modeled, and necessary for successful implementation of the Agreement, were estimated under observed conditions reflecting a TDG threshold calculated as the average of the 12-highest hours. A two-hour average maximum is inconsistent with the supporting analyses and TDG monitoring for the Agreement. It is a much lower threshold and will undoubtedly result in reduced spill. The potential spill reductions associated with changing the spill management approach will likely result in significantly less fish benefits than were anticipated in the Agreement. Oregon is concerned that, as written, the language could result in undercutting those necessary benefits and the fish benefit principle of the Agreement. Without all three principles whole Oregon is worried that the agreement is in danger of failing.

Second, Oregon requests that Ecology revise **WAC 173-201A-200 (1)(f)(ii)(B)(I)** as follows:

In addition to complying with the requirements of this chapter, the tailrace maximum TDG criteria applied at dams operated by the U.S. Army Corps of Engineers must be in accordance with legally ~~valid~~ **operative** Endangered Species Act consultation documents on Columbia River system operations, including operations for fish passage.

This revision is necessary to ensure consistency with the Agreement, which provides that no party—including Washington, Oregon, and the Nez Perce Tribe —“makes any concessions regarding ... the legal validity...of any biological opinion NOAA issues on the Columbia River System.”

Third, Oregon requests that Ecology revise **WAC 173-201A-200 (1)(f)(ii)(B)(III)** as follows:

(III) TDG must be reduced to allowances specified in (f)(ii)(A) of this subsection if the calculated incidence of gas bubble trauma in salmonids (with a minimum sample size of ~~fifty~~ **100** fish required ~~weekly~~ **daily**) or nonsalmonids (with a minimum sample size of fifty fish required weekly)...”

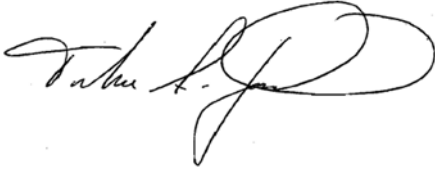
Oregon recommends any assessment of Gas Bubble Trauma be based on data collected as part of the Smolt Monitoring Program (SMP). The sampling goal under the SMP is 100 examinations per day; a far greater sampling rate than 50 fish per week. A sample rate of 50 fish per week would substantially increase the likelihood of a false-positive (i.e., observations indicate a GBT threshold has been exceeded when it has not at the population-level).

Fourth, Oregon requests that Ecology further revise **WAC 173-201A-200 (1)(f)(ii)(B)(III)** to add language specifying that **gas bubble trauma levels occurring during and seven (7) days post uncontrolled spill conditions (>125% TDG) are excluded.**

This additional language is necessary to account for incidence of GBT that occur under involuntary spill but are observed during periods of controlled conditions. Discounting this transition could overestimate the impact of increased spill resulting from implementation of the Agreement.

Again, thank you for the opportunity to comment on the proposed rule amending the total dissolved gas (TDG) criteria in portions of the Snake and Columbia rivers. On behalf of the state of Oregon, we look forward to continuing to work with the state of Washington to ensure the Agreement is implemented successfully.

Sincerely,

A handwritten signature in black ink, appearing to read "Tucker A. Jones". The signature is fluid and cursive, with a large loop at the end.

Tucker A. Jones  
Manager, Ocean Salmon and Columbia River Program  
Oregon Department of Fish and Wildlife

Cc: Jason Miner, Natural Resources Policy Advisor, Governor's Office  
Curt Melcher, Director, Oregon Department of Fish and Wildlife  
Richard Whitman, Director, Oregon Department of Environmental Quality