



EPA to Issue Second Draft of Regional Water Temperature Guidance For Public Review

After reviewing nearly 700 comments from the public on its draft guidance for water quality standards for temperature in Idaho, Oregon and Washington, the U.S. Environmental Protection Agency (EPA) Region 10 has decided to revise the guidance and issue a second draft for public review this fall. EPA plans to allow another 45-day comment period on the revised draft and expects to issue the final guidance in early 2003.

In October 2001, EPA released its first draft of the temperature guidance. The guidance is intended to be used by states and tribes to establish water quality standards for temperature which will protect native salmonids (salmon, steelhead, bull trout and cutthroat trout). The public comment period extended through February 22, 2002. EPA received 681 comments, including 117 letters from organizations and 464 individual post cards, e-mails, and letters.

EPA will issue a revised draft of the guidance this fall for public review. Prior to issuing the second draft, EPA plans to talk with the various stakeholder groups that commented on the first draft and get their input on the proposed changes to the guidance. EPA plans to issue the final temperature guidance in early 2003 after reviewing and responding to public comments on the second draft.

Review Comments on the First Draft

A summary of the public comments on the first draft of the guidance can be viewed at EPA's website: www.epa.gov/r10earth/water.htm. When the second draft is released this fall, EPA will also provide a generalized response to comments explaining the major changes and differences between the first and second drafts.

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Brief Summary of What We Heard

General Comments

- EPA needs to more clearly demonstrate that human-elevated water temperature is a problem for salmonids;
- Concern that EPA has not allowed for sufficient stakeholder input in the development of the guidance;
- Concern that Region 10 cannot develop guidance that differs from EPA's national 304(a) criteria;
- Concern that the guidance is prescriptive and should go through formal rule-making;
- Concern that EPA is going beyond its authority under the Clean Water Act.

Comments on Thermal Potential Criteria

People expressed serious concerns about the recommendation to establish numeric criteria based on thermal potential and about the recommended methodology in particular (Appendix B of the guidance). Comments included:

- Concerns about the costs and length of time for implementation, specifically modeling and rule-making;
- Concern that the guidance would not protect salmonids because the allowance for irreversible human impacts is not well enough defined;
- Some people commented that the criteria should be based on the biological needs of the fish - not on what temperatures are attainable;
- People expressed concern that EPA's recommended approach is new and untested and would need to be pilot tested first.

Comments on Species-Life-Stage Criteria

There was a wide range of views on EPA's recommended "interim" species-life-stage (SLS) numeric criteria. Comments included:

- Some people felt the temperatures in the SLS criteria were appropriate;
- Some people felt the temperatures were too warm and therefore would not protect salmonids and that using "warm optimal" as a target does not allow for a margin of safety for these threatened and endangered fish;
- Some people felt the temperatures were too cold, would not be attainable in many places and are unnecessary to protect these fish. People argued that historically water temperatures were not always optimal for salmonids;
- Some people were concerned that the notion of the SLS temperatures being "interim" is misleading since they would likely be in effect for an extended period because of the time it would take to develop thermal potential numeric criteria;
- Some people felt that the SLS should apply to salmonid's historical range;
- Some people felt the SLS should not apply beyond the Clean Water Act defined "existing uses" (*i.e.*, where fish are since 1975).

Comments on Temperature Management Plans

There were serious concerns about EPA's recommended Temperature Management Plan provisions. Comments included:

- Concern that this would improperly set defacto NPDES end-of-pipe effluent limits;
- Concern about improperly assuming temperature mixing zones are not permissible in 303(d) listed waters;
- Concern that these plans would allow for less stringent requirements for point sources;
- Concern that the offset provisions were too complicated to implement.

Comments on Protecting Existing Cold Water

There were a variety of opinions about EPA's recommendations to protect existing cold water. Comments included:

- Concern that designating "cold water refugia" as outstanding natural resource waters and requiring offsets for new sources in Tier 2 waters (waters currently colder than SLS criteria) is inappropriate;
- Some people felt that EPA should not place as much emphasis on anti-degradation measures to protect salmonids because they feel that current anti-degradation programs are not being adequately implemented by the states.

Possible Changes to the Draft Guidance to Address Public Comments

- Add more information about human-elevated water temperatures as a factor in salmonid decline;
- Add more information about the relationship of this guidance to national 304(a) criteria;
- Clarify which recommendations in the guidance are linked to EPA, National Marine Fisheries Services and U.S. Fish and Wildlife Service assurances for streamlined review of State/Tribal temperature water quality standards and which recommendations are either "good ideas" or relate to implementation programs (e.g., TMDLs, NPDES);
- De-emphasize establishing numeric criteria based on thermal potential; keep this as optional if States/Tribes want to pursue it; note that thermal potential modeling is a useful TMDL tool; replace Appendix B in the draft guidance with general description of "good" temperature modeling methodology;
- Species-Life-Stage (SLS) numeric criteria becomes centerpiece of the guidance, not "interim" criteria;

- Appropriately modify SLS criteria and expand guidance on application of the SLS criteria (e.g., when/where the temperatures would apply) to design an overall framework that protects the fish, recognizes the natural potential and limitations of streams, and can be implemented by States and Tribes;
- Expand Appendix A describing the rationale for the recommended SLS numeric criteria;
- Replace Temperature Management Plan recommendation with a recommended water quality standard provision to minimize plume impacts when mixing zones are issued; under the "good idea" category, recommend off-site mitigation requirements for new sources in Tier 2 waters (waters currently colder than SLS) and for existing sources that currently have large mixing zones in temperature impaired waters (water currently higher than the SLS);
- Replace the cold water protection recommendations with the following: recommend a water quality standard narrative provision that restricts added temperature loads in streams that support threatened and endangered salmonids (similar to Oregon's narrative standard); recommend a temperature diversity narrative criteria; and under the "good idea" category, recommend states designate cold water refugia with added protections.

For More Information

Go to EPA's website:

www.epa.gov/r10earth/water.htm

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