

Pollution limits in Spokane River prompt city officials to seek reprieve from EPA

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Mayor David Condon has been in discussions with federal officials about the possibility of a reprieve on new standards for the discharge of polychlorinated biphenyls, or PCBs, into the Spokane River. (Jesse Tinsley / The Spokesman-Review)

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New limits on the amount of carcinogenic chemicals that can be discharged into the Spokane River have the city talking with Trump administration officials about a potential workaround.

Environmental groups warn the strategy could undo work to make fish taken from the river safer to eat, and trade groups have proposed another path that would eliminate the new federal rule altogether and return to a standard state regulators had deemed safe.

Mayor David Condon traveled to Washington, D.C., earlier this month to share concerns with the Environmental Protection Agency about water quality standards for polychlorinated biphenyls, commonly known as PCBs, approved late last year in the waning days of the Obama administration. The standard adopted by the EPA is 25 times more restrictive than what was proposed by the state's Department of Ecology as part of a permit process governments and businesses must go through to discharge waste into the river.

It's also at a level that is currently undetectable in laboratory tests, and trying to meet that standard could cost city taxpayers a substantial amount above what has already been invested in cleanup efforts, the mayor said.

Condon told the City Council this week the new rule contradicts the water quality levels in place as Spokane has embarked on a \$340 million effort to reduce pollutants in the river. That work includes construction of massive underground stormwater tanks to prevent untreated sewage from reaching the river, as well as new technology being installed at the city's wastewater treatment plant to remove PCBs and other chemicals.

"This is an area we're going to have to grapple with, because our whole plan was based on the previous standard," Condon said.

Top EPA officials, including Lee Forsgren, deputy assistant administrator for water, have suggested the city apply for what is known as a variance from the new federal standard, according to the city. That would allow the city to continue discharging PCBs at “the highest level of water quality achievable,” which could be stricter or looser than both the federal or state standards.

Spokane would have to demonstrate it’s making progress toward cleaning up the river for the length of the variance, which could last until the city pays off so-called “green bonds” it purchased in 2014 to fund construction of the tanks and new treatment devices at the wastewater plant. That’s scheduled to happen in 2034.

The meeting between Condon and the EPA set off alarms in the environmental community, who believed the mayor was asking the agency to disregard its new rule. Brian Coddington, a spokesman for the mayor, said that wasn’t the case.

“That wasn’t an accurate characterization of the purpose of the meeting,” Coddington said. The mayor and Public Works Director Scott Simmons were discussing with EPA the process of seeking a variance and the problems of trying to meet a pollution standard that modern technology can’t detect, Coddington said.

There still are concerns about the city pursuing a variance from groups working to clean up the river.

Rick Eichstaedt, executive director of the Center for Justice, said even if city officials pursued a variance, there’s no guarantee it would be granted. If it were, the permit would be up for re-evaluation again in five years, and political changes at the federal level could put the city back in the same situation under a new president and new environmental agency leaders.

“Why don’t we stop fighting about what the standard should be and come up with a plan that says, what can you meet in the short term?” Eichstaedt said.

Aside from a variance, the city could establish a long-term plan to meet the standard that was set by the EPA. That’s the route the city took with phosphorus in the river, agreeing to a 10-year schedule in 2011. The plan sets milestones for elimination of the chemical element present in fertilizers and animal droppings that can lead to a buildup of algae.

Eichstaedt said if the city is concerned about standards below testing levels, there’s also an option to agree to what is known as a “non-detect” standard. The city would agree to meet a standard that is below the level of detection in lab tests, a threshold that would be less stringent than the EPA rule but would not open the limit of PCBs in the river to renegotiation.

Those options would work within the current EPA standard, which is the approach Jerry White, the Spokane Riverkeeper, said would be preferable to the uncertainty of the variance process.

“It could actually create an alternate water quality standard,” White said. “And what we’re saying is, hey, those standards are sacrosanct. How do we meet that really high bar?”

No variances for any watershed have been issued in Washington, according to the Department of Ecology. Doing so would set a precedent that could spread throughout the state and country, Eichstaedt said.

Trade organizations also are concerned about the prospect of a variance, but they argue the EPA should do away with its rule altogether and go back to the less-stringent standard adopted by the Department of Ecology. A group of eight organizations, including the Northwest Pulp & Paper Association and Greater Spokane Incorporated, sent a petition to the EPA in February asking to rescind its PCB limit.

Christian McCabe, executive director of the Northwest Pulp & Paper Association, said the petition wasn’t inspired by monetary concerns. Because the technology doesn’t exist to test for the levels of PCBs the EPA is requiring, no one is sure how much it would cost to comply, he said.

“It’s not about money, it’s whether we can spend money and meet the standard,” McCabe said.

The Northwest Pulp & Paper Association represents 10 pulp and paper mills in the region, including the Inland Empire Paper Co. That firm is a subsidiary of the Cowles Co., which also publishes The Spokesman-Review.

McCabe said the EPA has acknowledged receipt of the petition, but his group is unsure of its status in Washington, D.C. Meanwhile, the Department of Ecology is hoping to begin the permitting process under the new federal standard as early as the beginning of next year, said Brook Beeler, an ecology spokeswoman, in an email.

“Our next step is to further evaluate the potential options available and how they may apply. We expect to share a permitting strategy with all the interests in early 2018,” Beeler wrote.

The EPA field office in Seattle issued a statement in response to questions for this story, saying the agency was committed to working with state officials and the city to come up with a river cleanup plan.

Condon told the council this week the city needed to act quickly in deciding whether to pursue the variance because it could affect Spokane’s construction budget, which is scheduled for approval by the end of next month.

Meeting the new EPA standard, versus seeking a variance closer to the PCB limit set by the state, could add significantly to the price tag of public works projects aimed at further reducing contamination, including potentially increasing the utility rates that the

city just approved for three years at an annual growth rate of 2.9 percent, the mayor said.

But City Council President Ben Stuckart, who said he was surprised to learn the city was investigating a variance, said city lawmakers should be involved in the discussions moving forward and dismissed the notion that the budget needed to be revised before investigating other methods of complying with the new EPA rules. There's no pending court order, he said, and the city needs to see what the potential costs are before amending the spending plan.

"We have plenty of time, and we're not in some sort of rush," Stuckart said.

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