



Topics for Discussion

Antidegradation Workshop

May 13 - 14, 2015

Alaska Department of Environmental Conservation
Division of Water
Water Quality Standards
Alaska Pollutant Discharge Elimination System



Division of Water

Mission Statement:

- Improve and protect water quality

How?

- Establishes standards for water cleanliness
- **Regulates discharges to waters and wetlands**
- Provides financial assistance for water and wastewater facility construction and waterbody assessment and remediation
- Trains, certifies, and assists water and wastewater system operators
- Monitors and reports on water quality



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Introduction

- Public response to first round of regulation publication raised questions
- The purpose of this presentation is to create a forum to discuss topics that generated public interest





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401 Certs of 404 Permits

Concerns:

- Delay obtaining 404 permits/401 certifications
- Block or delay small projects
- Duplicative of the federal 404(b)(1)



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401 Certs of 404 Permits

Concerns (continued):

- Sets a “significance threshold”
- Account for cumulative degradation
- Adequate public participation



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401 Certs of 404 Permits

Questions:

- Clarify proposed regulations
- Ensure adequacy of the 401 certifications of 404 permit process
 - Antidegradation (AD) analysis
 - Public participation

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401 Certs of 404 Permits

Discussion:



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Alternative Analysis

Concerns:

- Alternatives not directly tied to discharge/ upstream of discharge point
- Applicants determine the least degrading practicable alternative
- Require/do not require least degrading practicable alternative to be selected/implemented



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Alternative Analysis

Concerns (continued):

- Range of practicable alternatives for new facilities vs. existing facilities
- Definition of “cost effectiveness” and/or “practicable”
- Specific regulatory acceptance of NEPA, other federal documents



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Alternative Analysis

Questions:

- Clarify the alternatives analysis process:
 - Information accepted for an alternatives analysis
 - Clarify the range of alternatives for new vs. existing facilities
 - Determination of least degrading practicable alternative
 - Cost effectiveness



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Alternative Analysis

Questions (continued):

- Selection/implementation of alternative:
 - Least degrading practicable alternative required/not required?
 - Need to remain compliant with the Clean Water Act, Federal rules/policies
 - Protective of the environment

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Alternative Analysis

Discussion:



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De Minimis provision

Concerns:

- Not an AD Workgroup recommendation
- No exemption for de minimis discharges from AD analysis
- Too narrow/restrictive or not narrow/restrictive enough
- Some specified pollutants and bioaccumulatives not considered



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De Minimis provision

Concerns (continued):

- Unclear on how to implement, track and maintain (especially multiple discharges to the same water)
- *De minimis* provision unnecessary – only need existing use protection



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De Minimis provision

Questions:

- What would be the disadvantage of taking the *de minimis* option?
- Would the *de minimis* option be a time/resource savings, if many are eligible - or apply to so few permittees, that it makes no difference?

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De Minimus provision

Discussion:



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AD Analysis for General Permit (GP)

Concerns:

- GP not applicable to unique waters - AD analysis is waterbody specific
- AD analysis at the time of GP issuance
- Public participation at NOI level not present
- Individual AD analysis for discharges seeking coverage under a GP
- *De minimis* provision in GPs



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AD Analysis for General Permits

Questions:

- What would prevent an AD analysis from being adequately performed on a GP permit?
- How can ADEC clarify at the NOI stage, if the proposed discharge does not meet the AD analysis criteria, the NOI will not be approved?
- What specifically is proposed to revise the GP – AD process to provide environmental protections and public transparency?



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Antidegradation Analysis for General Permits

Discussion:



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Complexity of Regulations

Concerns:

- Draft AD regulations - seen as imposing a new set of conditions onto an already established set of permitting requirements
- Regulations are not needed; interim guidance is sufficient



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Complexity of Regulations

Questions:

- What changes in the permitting process would the AD regulations cause?
- What specific revisions or alternatives are proposed to clarify the proposed regulations and still remain compliant with the Clean Water Act?



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Complexity of Regulations

Questions (continued):

- What (ADEC) assistance needed to make AD regulations less burdensome/ complex, while remaining compliant/ protective?
- What clarification would alleviate the perception that the AD regulations are too burdensome for permittees, or are insufficiently protective?



Summary

Suggestions?

The Division of Water is always interested in improving our process!



Questions?
Thank you for your time!