

Issue #6: Application of Tiers

Question for the Workgroup

- How are waters ranked as Tier 1 or Tier 2?
 - Waterbody by waterbody
 - Pollutant by pollutant
 - Hybrid approaches
- When waters are near the water quality criteria, how are they classified?

Waterbody by Waterbody

- Assigns waterbody (or specific portion) to a particular tier of protection from degradation
 - Based on overall water quality
- Favored by aquatic ecologists
- Lends itself to use of biological/biomonitoring data

Waterbody by Waterbody

Pros

- Weighted assessment (biological, physical, & chemical)
- Coincides best with bioassessment
- Focuses resources on high quality waters

Cons

- Some waters may not be adequately protected
- Must decide what data is needed to make assessment
- Front-loaded work need
- Delay in implementation and need for procedures to address antidegradation before listing decisions are made
- More potential for disputes, challenges and litigation

Pollutant by Pollutant

- Level of antidegradation protection and review is decided for each pollutant separately
 - Case by case basis
 - As new discharges arise
- No assignment of waterbodies to tiers up front, no list for Tier II protection

Pollutant by Pollutant

Pros

- More waters receive higher protection
- Little or no upfront workload
- More conventional, straightforward when it comes to analysis of degradation
- Avoids disputes involved in making a decision on overall water quality
- Can be immediately implemented, as new or increased discharges arise

Cons

- Potentially more reviews, more work in the long run
- Water column data needed, uncertain how biological data can be used
- No list (advanced placement), case by case placement of waters makes planning more difficult
- More difficult to track because of the numerous pollutant-water body combinations
- May not focus implementation efforts on truly high quality waters

Hybrid approaches

- Assign waterbodies to tiers up front, but still analyze degradation on a pollutant-by-pollutant basis when confronted with a proposal for a new or increased discharge
- Assign waterbodies for Tier III and Tier I protection, leave all others at Tier II
- Maintain several lists of Tier II waters, for each pollutant of concern
 - Analysis would be pollutant-by-pollutant, with an up front list of waters

Hybrid approaches

Pros

- Identifies waters that need to be protected and allows for some flexibility for water bodies that aren't supporting a beneficial use
- Best accommodates all three tiers of protection, allowing blended approach
- Seems to be most common and practicable among states

Cons

- Could be confusing
- Carries several of the con's from both Waterbody-by-Waterbody and Pollutant-by-Pollutant approaches

State Examples

- Florida
 - Hybrid
 - Extensive list of Tier III waters/locations, decides on new or expanded discharges on a case-by-case basis
- Alabama
 - Hybrid
 - Does not list specific Tier III waters, but designates their locations (National Parks, etc). If a waterbody is not on the 303(d) list (Tier I), then it is protected as a Tier II
- Georgia
 - Pollutant-by-Pollutant
 - No list of Tier III waters
 - Allows for limited degradation on case-by-case basis
 - Determines protection level on case-by-case basis

State Examples

- Washington
 - Hybrid
 - Waters listed in certain “classes” for protection
 - Include entire river/creek/tributary, or certain reach locations
 - Some areas allow for limited temperature and DO exceedances, on a case-by-case basis
- Kentucky
 - Waterbody-by-Waterbody
 - Allows for “de minimus” alteration
 - Has had many problems in writing the regulations and implementation standards
 - Both from EPA and the general public