



THE STATE  
*of* **ALASKA**  
GOVERNOR BILL WALKER

**Department of  
Environmental Conservation**  
DIVISION OF WATER

Director's Office  
410 Willoughby Avenue, Suite 303  
Juneau, Alaska 99811-1800  
Main: 907.465.5180  
Fax: 907.465.5177  
dec.alaska.gov

February 6, 2017

Dear Interested Party:

You are receiving this letter because we are interested in hearing from Alaskans as we work to establish a statewide process for nominating and designating Outstanding National Resource Waters, or Tier 3 waters. A Tier 3 designation requires that a waterbody be maintained and protected in its current state, with no new discharges of pollution allowed.

Over the past few years, Alaska's Department of Environmental Conservation (DEC) has drafted regulations and legislation related to Tier 3 and antidegradation, resulting in a considerable amount of public interest. Governor Bill Walker asked us to reach out across the state to provide additional information to the public, municipalities, tribes, industry, and others who might be interested in this topic, and have more discussion before any further action is taken.

First, a little background. The federal Clean Water Act uses the term "antidegradation" to describe the process and requirements a state will follow before it issues a permit allowing the discharge of wastewater into waters of the state, including rivers, lakes, streams, bays, harbors, and oceans. One element of antidegradation is the requirement that a state have a method for creating a special class of waters known as Tier 3 waters. Once a water is designated as a Tier 3 water, the only additional pollutants that are allowed to be added to the water would be temporary or limited in nature, such as those that would result from a construction project. In other words, the quality of the water must be maintained and protected.

The Clean Water Act requires that states have a process for designating Tier 3 waters, but does not require that states actually designate any waters. Once the process is established, the designation of waters is driven by state, not federal, law.

### **Outreach on Tier 3**

We'd like to hear from you about what kind of process Alaska should use for nominating and designating Tier 3 waters. The process needs to work well for all Alaskans and for all waters of the state, now and in the future. The process should be transparent and allow any Alaskan to submit a nomination. The process should provide opportunity for local input, and for the thorough evaluation and vetting of a nomination using defined criteria.

To start the conversation, we have developed a website with background information, including three possible alternative nomination and designation processes, at

<http://dec.alaska.gov/water/wqsar/Antidegradation/Tiers123.html>. Please note that in providing these three alternative processes we are in no way trying to limit the discussion. We expect the public will propose more alternatives, perhaps taking pieces from these three options they like. For hard copies of this information, please contact KJ Hillgren at [kristen.hillgren@alaska.gov](mailto:kristen.hillgren@alaska.gov) or 907-465-4728.

We welcome written comments and suggestions on the Tier 3 process. We also plan to conduct four public workshops. These will be “roll-up-the-sleeves” workshops rather than formal hearings – we’re hoping to achieve a full sharing of ideas across different interest groups.

- Monday, March 20<sup>th</sup> in Juneau: 1-4pm
- Tuesday, March 21<sup>st</sup> in Anchorage: 1-4pm
- Wednesday, March 22<sup>nd</sup> in Fairbanks: 9am-12pm
- Thursday, March 23<sup>rd</sup> by teleconference: 4-7pm

You may register for the workshops through our web site at:

<http://dec.alaska.gov/water/wqsar/Antidegradation/Tiers123.html>. While we encourage pre-registration, you are welcome to attend even if you haven’t registered.

### **Antidegradation Regulations**

Finally, DEC initially described a proposed Tier 3 process as part of a broader set of draft regulations that were released for public notice in 2014. Those draft regulations generally addressed how DEC would implement the State’s antidegradation policy as a whole, and included many other aspects besides those relating to Tier 3 waters. Because there has been so much public interest in developing a Tier 3 nomination and designation process, we decided to separate Tier 3 from the discussion of other aspects of antidegradation that had less public interest. We feel this will allow for a focused discussion solely on the issue of Tier 3 waters. We do still plan to go out for a subsequent public comment period on the remainder of the antidegradation draft regulations after the public workshops on Tier 3 have concluded. We want to focus our efforts on getting the Tier 3 discussion off to a good start first.

Thank you for your interest. We very much look forward to working with you on this matter of great importance to Alaska.

Sincerely,



Michelle Hale  
Director