

Tier 2 Water Quality Baseline Information Proposal (revised)

The presumption of this proposal is if the water body is Tier 2 no baseline information is required. [This document is a proposed process focused on allowing an applicant to make a case for changing a water from Tier 2 (default) to Tier 1 protection. Should this also be used for other steps in antidegradation and/or permitting such as *de minimis* and assimilative capacity?]

POINT 1: For purposes of establishing baseline water quality under 18 AAC 70.015, the Department will presume that any waters not identified as Tier 3 (outstanding national resource waters) or as impaired under §303(d) of the Clean Water Act (i.e., Tier 1), will be protected at the Tier 2 level. The applicant may request protection at the Tier 1 level by submitting sufficient and credible information that the Tier 1 designation is appropriate for the parameters of concern in the waterbody segment being considered, including information from one or more of the following sources:

- (1) existing and readily available data from federal, state, tribal or local agencies, including superfund site records of decision and Safe Drinking Water Act source water assessments, data contained in the United States Environmental Protection Agency's STORET system, and other sources;
- (2) local knowledge of current and past waterbody characteristics and attributes;
- (3) reports of dilution calculations or appropriate predictive models;
- (4) characterizations of the waters in reports prepared by the Department under §305(b) and §303(d) of the Clean Water Act;
- (5) classifications of the waters under the Alaska Clean Water Actions program;
- (6) water quality data from other representative waters;
- (7) inferences drawn from riparian areas, land uses, and upland conditions;
- (8) site-specific water quality data gathered by others, including the person seeking to rebut the presumption established by this section; or

Tier 2 Water Quality Baseline Information Proposal (revised)

(9) any other information deemed necessary by the Department.

POINT 2: In determining whether the information sources listed in subsection (a) of this section are sufficient and credible to determine the antidegradation tier, to inform an Tier 2 analysis or to complete other antidegradation review procedures for parameters of concern in the waterbody segment being considered, the Department, at its discretion, will consider all relevant factors, including:

- (1) the general magnitude, characteristics and likely environmental effects of the proposed discharge;
- (2) the remoteness and infrastructure of the affected area;
- (3) the location and sensitivity of the receiving waters;
- (4) the degree to which representative waters likely exhibit similar water quality characteristics to the waters under review;
- (5) whether any water quality findings are based on data collected under a quality assurance protection plan (QAPP) that meets DEC QAPP sampling, monitoring and other requirements;
- (6) the age, quantity, and spatial and temporal scope of any data relied upon by the source; and
- (7) whether any report or finding was prepared by persons with the requisite professional background in the field.