

Issue #4: Requirements for Determining Important Social and Economic Development

Overview

The federal and Alaska state antidegradation policies both state that lowering of water quality in Tier 2 waters due to a proposed activity may be allowed if the state finds that lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. This statement implies that the social or economic benefits of the proposed activity outweigh the potential social, economic, or water quality degradation impacts. To address the terms “necessary” and “important,” an alternatives analysis and a socioeconomic justification (SEJ) are often required of the applicant. An SEJ would be necessary if the alternatives analysis indicated that the least degrading, practicable alternative identified will likely result in the lowering of baseline water quality in the Tier 2 water. Therefore, some states (e.g., South Carolina, Idaho) consider the alternatives analysis prior to evaluating the SEJ. Note that an activity does not need to demonstrate important social and economic development in the affected area; at least one aspect, social or economic development, needs to be demonstrated.

While several states have specific, quantitative economic approaches that are used in the SEJ – including conventional cost/benefit analyses – many rely on a more narrative approach. The SEJ evaluation is necessarily site-specific and is therefore done on a case-by-case basis, with the inclusion of social development information as well if available, especially if the applicant is proposing a project that would degrade water quality based on projected social development(s) deemed to be “important.”

The Straw person for this issue is organized by the questions posed to the Workgroup, which include:

1. What factors should be considered?
2. How should DEC evaluate whether the economic and social development is important?
3. How should DEC consider other point and non-point source (NPS) discharges?
 - a. What about future needs?
4. What level of review and documentation is needed?
5. Should level of review and documentation vary based on potential risk?

Straw person

What Factors Should Be Considered?

Several types of economic indicators are used by states to document social or economic development or impacts of a proposed activity. Beneficial or negative changes in these indicators can often be quantified or modeled, which makes them attractive for SEJ evaluations. Factors that some other states use include:

- Median household income
- Community unemployment rate
- Percent of households below the poverty line

- Community development potential
- Property values
- Tax base
- Availability of affordable housing
- Correction of an environmental or public health problem
- Indirect effects on other businesses
- Provision or improvement of necessary public services (e.g., schools, roads, drinking water, wastewater treatment)

In addition to the economic indicators above, other factors that may be less amenable to quantification are also used, including:

- Potential environmental impacts on beneficial uses (e.g., fishing, recreation, tourism) that may occur as a result of the proposed activity
- Benefits associated with the activity, such as increased fishing, recreation, and tourism
- Demonstration of innovative pollution control and management approaches
- Effects on social or historical values

The indicators that are relevant in an SEJ demonstration will depend on the proposed activity and other site-specific factors.

Is the Economic or Social Benefit Important?

Demonstrating the social or economic importance of a proposed activity should start with identifying the affected community – i.e., the geographical area where the affected waters and proposed activity are located. Also included should be a description of the social or economic development associated with the activity (e.g., Missouri and Idaho implementation methods). An activity that is socially justified as important should either address a service need of the affected community (e.g., improved sewage treatment, access to a new health care facility) or provide some other social benefit (e.g., job opportunities, development of cultural resources). An activity claimed to be economically important should have a positive effect on economic development, such as employment or an increased economic base of the local community.

Consideration of Other Point and NonPoint (NPS) Discharges and Future Needs

In evaluating the SEJ of a proposed activity, it may be necessary to consider direct and indirect effects on other pollution sources, as well as nonpoint sources (NPS). One consideration for other (or future) point sources, is the remaining assimilative capacity should the proposed activity be approved. Idaho, for example, identifies the amount of assimilative capacity for future industry and development as a factor in SEJ evaluations. In terms of nonpoint sources of pollution, the following could be considered:

- NPSs are considered in compliance with antidegradation rules as long as appropriate and adequate BMPs are installed
- NPS discharges are NOT exempt from additional antidegradation measures

- NPSs are not regulated by permits but are controlled by voluntary application of cost-effective and reasonable BMPs

Level of Review in Relation to Potential Risk and Level of Information Required for Review

The question regarding the level of review needed for a given proposed activity, and whether the level of review should vary based on potential risk, is relevant to all aspects of Tier 2 analysis, including the SEJ evaluation. Many states use some form of de minimus threshold, typically based on a percentage of the remaining assimilative capacity, to identify those activities needing a more in-depth level of review, including more comprehensive documentation of the SEJ.

Some states use a standard form for the SEJ analysis – which could even include the alternatives analysis (e.g., Kentucky coal permits) – while others require the applicant to respond to SEJ issues through a narrative organized under a standardized format or outline. The length, amount of detail, and degree of sophistication in the narrative and supporting analyses/information is typically tied directly to the overall scope and impact of the project; i.e., smaller projects that propose relatively minor degradation in a limited area require less detail and sophistication than larger projects that will have a more significant impact on the receiving waters. This topic is discussed in detail under Issue #7 dealing specifically with de minimus.