



Antidegradation in Alaska

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History and Status

- Alaska's antidegradation policy was adopted into the ***Alaska Water Quality Standards*** (18 AAC 70) in February 1996.
- State policy is essentially identical to federal policy.
- Follows the same 3-tier structure.
- EPA approved Alaska's policy in April 1997.
- EPA noted that Alaska needed to adopt implementation methods.



Interim Guidance

- In 1997, EPA suggested using antidegradation implementation guidance in the 1993 ***Water Quality Standards Handbook***.
- In July 2010, DEC published ***Interim Antidegradation Implementation Methods***



DEC Interim Methods

- Describes the methods that ADEC staff should follow to implement the existing policy.
 - The terms of the policy itself always govern.
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DEC Interim Methods

When the Policy Applies

- Any time someone proposes an operation or activity that could have the effect of lowering the quality of a waterbody
- Even if a discharge that meets the water quality standards
- Permit or certification triggers analysis
- Document analysis in permit fact sheet or certification



DEC Interim Methods

How the policy works

- Three “tiers” – ascending levels of protection
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DEC Interim Methods

How to decide what tier applies

- Use available information
- Default assumption is high quality – tier 2
- Parameters determined by “Reasonable Potential Analysis”
- Parameter-by-parameter basis
- No currently designated ONRWs in Alaska



DEC Interim Methods

How to do a "tier I" analysis

- Maintain and protect existing uses and water quality necessary to support them
- Uses actually attained in a water body on or after November 28, 1975
- This level of protection applies regardless of whether the proposed discharge would allow lower water quality



DEC Interim Methods

How to do a "tier 2" analysis

- A. Lowering water quality is necessary to accommodate important economic or social development in the area.
- B. Lowering water quality is necessary to accommodate important economic or social development in the area.
- C. Resulting water quality will fully protect existing uses.



DEC Interim Methods

How to do a "tier 2" analysis (cont.)

- D. The most effective and reasonable methods of pollution prevention control and treatment will be applied to all wastes and other substances to be discharged.
- E. Wastes and other substances discharged will be treated and controlled to achieve the highest statutory and regulatory requirements.



DEC Interim Methods

Public notice and comment

- Include antidegradation analysis and finding in draft permit fact sheet or certification
- Goes to public notice with permit



DEC Interim Methods

General permits

- In some cases, analysis is done when the permit is issued
- In other cases, may have to complete the analysis when each operation is authorized
- No tier 3 waters should be covered under a general permit



Workplan, December 2011

Phase I – Workgroup

- a. Review alternative approaches
- b. Compare and evaluate options
- c. Identify preferred elements for Alaska
- d. Assemble elements into a preferred conceptual approach
- e. Prepare draft and final reports describing the preferred approach
- f. Parse conceptual approach into regulatory and statutory elements

Up to monthly meetings during 2012



Workplan, December 2011

Phase 2

- a. Draft regulations and (if needed) legislation
 - b. Rulemaking and (if needed) legislative processes
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Anticipated by mid 2013.



Key Issues

Issue #1: What triggers an antidegradation review?

- Only new and increased discharge permit and certification reviews?
- How does this apply to general permits? 404 wetland permit certifications? BMPs?
- Other CWA decisions, e.g. impaired water listing, TMDLs?



Key Issues

Issue #2: What information is needed to determine baseline water quality?

- How much information is needed to make the determination?
- Is statistical analysis needed?
- How do water quality exceedances determine the tier?
- How is seasonal variation in water quality addressed?
- How can costs be minimized?



Key Issues

Issue #3: How are Outstanding National Resource Waters (ONRW) done?

- What protections apply to ONRWs?
- Should existing permits be grandfathered?
- What process should be used to nominate, evaluate and designate an ONRW?
- Who decides? Not EPA.
- Should Alaska adopt an intermediate level of protection or Tier 2.5?



Key Issues

Issue #4: Tier 2 - How do we do economic/social benefit?

- What information is readily available?
- What factors should be considered?
- How much information? Case by case?
- How can DEC address future needs?



Key Issues

Issue #5: Tier 2 – How do we do alternatives analysis?

- How does pollution prevention differ from the “highest statutory and regulatory requirements” and BMPs?
- How can economic and technical feasibility of alternatives be considered?
- Can other documents (Environmental Impact Statements, etc.) meet the need?



Key Issues

Issue #6: How are waters ranked as low (tier 1) and high quality (tier 2)?

- Level of tier ranking:
 - Parameter-by-parameter
 - waterbody as a whole
 - by designated use
- What protections apply to waters in Tiers 1 and 2?



Key Issues

Issue #7: Should DEC define significant and de minimus degradation?

- How can assimilative capacity be calculated in Alaska?
- What about cumulative degradation?
- Presumptive compliance – should certain categories of facilities be exempt?
- Should the level of detail be tied to the level of potential degradation?