

Antidegradation Implementation Regulations

ALASKA WATER QUALITY STANDARDS



Fact Sheet

What is Antidegradation?

Antidegradation is a tool used by the Department of Environmental Conservation (DEC) to protect Alaska's water quality. Antidegradation implementation is the method or process for determining whether and to what extent the water quality may be lowered or degraded.

The federal Clean Water Act requires states to have an antidegradation policy and implementation methods. Federal legislation specifies that states must have an antidegradation policy that:

- Protects existing uses
- Authorizes the lowering of water quality in high quality waters, where necessary for social or economic importance
- Establishes mechanisms to provide additional protection for waters of exceptional ecological or recreational significance. These waters are often called Outstanding National Resource Waters or ONRWs.

The antidegradation requirement is primarily designed to require states to look carefully during the wastewater discharge permitting process at the advantages and disadvantages of authorizing a discharge of pollutants that will lower the quality of a water of the state. Among other factors, states are to look at: (1) water quality degradation from both point and nonpoint sources of pollution, (2) whether there are cost effective practicable alternatives to a new or increased discharge, and (3) what social or economic benefits or services are present in the area of the receiving water.

Alaska's current antidegradation policy, adopted in 1997, is found in the Water Quality Standards regulations at 18 AAC 70.015. The U.S. Environmental Protection Agency approved DEC's policy with the stipulation that Alaska write implementation guidance. DEC adopted interim implementation methods in July 2010 but has yet to adopt final implementation procedures in regulation.

Why Is This Important?

- The Antidegradation policy and implementation methods are protective of Alaska's waters.
- The Antidegradation policy and implementation methods assure that activities that lower or have the potential to lower water quality in the state are permitted only if those activities are necessary, important and protect existing uses.
- The Antidegradation policy directly affects the Alaska Pollutant Discharge Elimination System application and permit development process.

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Website:

<http://dec.alaska.gov/water/wqsar/Antidegradation/index.html>

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What Has DEC Done So Far?

DEC hosted a public conference on antidegradation issues in December 2009. The purpose of the conference was to inform policy makers, wastewater discharge permittees, permit writers, and interested public regarding options for implementing procedures. Information from the conference is posted on the DEC Antidegradation website at:

<http://dec.alaska.gov/water/wqsar/wqs/antidegconference.htm>

DEC adopted “Interim Antidegradation Implementation Methods” in July 2010. A copy can be found at: http://dec.alaska.gov/water/wqsar/Antidegradation/docs/P&P-Interim_Antidegradation_Implemenation_Methods.pdf

In January 2012, DEC assembled a stakeholder workgroup to evaluate implementation options and to provide recommendations to DEC. The report was finalized in January 2013. All documents pertinent to this process are available on the DEC Antidegradation website at:

<http://dec.alaska.gov/water/wqsar/Antidegradation/index.html>.

Stakeholder-specific and general public informational teleconferences were held in April 2012. An open call line for additional questions was available on June 19, 2012. The teleconferences were held to educate interested parties on antidegradation issues and were not part of the workgroup meetings or a formal public comment process.

DEC presented information on antidegradation policy, implementation, and the workgroup process as part of the Alaska Forum on the Environment in Anchorage in 2013 and 2014. The presentations are available on the DEC Antidegradation website.

DEC Division of Water staff drafted antidegradation implementation method regulations, which were noticed for public comment on January 17, 2014 for 60 days. The comment period was extended for an additional 30 days, and closed April 16, 2014. The Division received comments and based on the public feedback decided to hold additional workshop(s) in 2015 to discuss and evaluate select issues that were raised during the comment period.

The Division held a public workshop May 13-14, 2015, to discuss issues identified during the initial public comment period on the Draft Antidegradation Implementation Method regulations. The Division evaluated the recommendations and information provided at the workshop for possible future regulation revisions.

During the 2016 legislative session, the Governor introduced legislation to establish a Tier 3 or ONRW nomination and designation process. After significant interest in and opposition to the legislation, the Governor requested the bills be set aside and committed to more dialog with Tribes and stakeholders before offering another proposal.

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DEC held a series of public workshops around the state in the spring of 2017 to invite discussion with the public and Tribes on this topic, particularly the process for nominating and designating Tier 3 waters. The Workshop Outreach Report, *Developing a Tier 3 Water Nomination and Designation Process in Alaska*, is available on the DEC Antidegradation Tiers 1, 2 and 3 Water Quality Standards website at <http://dec.alaska.gov/water/wqsar/Antidegradation/Tiers123.html>.

DEC's DOW proceeded with proposed regulations specifically addressing Tier 1 and Tier 2 requirements, and a section addressing the analysis of discharges requiring permits to Tier 3 waters. This section on Tier 3 waters in the proposed regulations only applies after a water has been designated Tier 3. The proposed regulations were posted for public comment June 2, 2017 – August 7, 2017, after the additional Tier 3 outreach efforts were completed. With the proposed regulations, the antidegradation implementation methods will be included as part of the state's Water Quality Standards at 18 AAC 70.016.

What is DEC Doing Now?

DEC's DOW is in the process of reviewing the comments it received on the proposed regulations and drafting a response to comments document. DEC plans to make any changes resulting from the public comments and submit the regulation package for final legal review and adoption this fall. Adopting this set of new state regulations demonstrates that DEC is making progress on antidegradation implementation methods as required by federal law.

DEC continues to work on the high priority topic of a final Tier 3 nomination and designation process that will work well for all Alaskans and for all waters of the state, now and in the future.

If you have questions on the proposed regulations or would like more information please contact Earl.Crapps@alaska.gov or go to the Division of Water Antidegradation web page at <http://dec.alaska.gov/water/wqsar/Antidegradation/index.html>.