

List of Antidegradation Issues with Questions

Issue #1: What triggers an antidegradation review?

- Is a review needed for only new and increased discharge permit and certification reviews? Should reissued permits require antidegradation analysis if the analysis was not performed previously, and if there is no change to the discharge?
- How does this apply to general permits? 404 wetland permit certifications? Stormwater best management practices (BMPs)?
- Which waters does this review apply to (i.e., surface waters, groundwaters, State waters, or federal waters)?
- What about other CWA decisions, e.g. impaired water listing, TMDLs?

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

- How much information is needed to make the determination?
- What is the obligation of the permittee to acquire baseline data? Does it depend on whether reasonable potential exists? Or the level of risk to water quality?
- Is statistical analysis needed?
- How do water quality exceedances determine the tier? What percentage of samples exceed? Is the exceedance persistent? How does this relate to the water quality criteria averaging period?
- How is seasonal variation in water quality addressed?
- How can costs be minimized?

Issue #3: How are Outstanding National Resource Waters (ONRW) or Tier 3 waters designated?

- What protections apply to ONRWs?
- Should Alaska adopt an intermediate level of protection, i.e. Outstanding State Resource Waters (OSRW) or Tier 2.5?
- Should existing permits be grandfathered?
- What waters are eligible for ONRW status?
- What criteria should ONRWs meet?
- Who can nominate?
- What process should be used to decide?
- Who makes the final decision?

Issue #4: Tier 2 analysis: How should DEC evaluate the economic/social benefits of a project?

- What factors should be considered?
- How should DEC evaluate whether the economic and social benefit is important?
- How should DEC consider other point and non-point source discharges? What about DEC future needs?
- What level of review and documentation is needed?
- Should level of review and documentation vary based on potential risk?

Issue #5: Tier 2 analysis: What level of alternatives analysis is necessary?

- What is needed to quantify the lowering of water quality and whether it is necessary?
- What standards are used to determine whether the methods of pollution prevention, control, and treatment are the most effective and reasonable?
- How should economic and technical feasibility of alternatives be considered?
- When do alternatives go beyond the “highest statutory and regulatory requirements”?
- Can other alternative evaluations , e.g. NEPA environmental impact statements, CWA 404 permit reviews, meet the need?

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

- What is the basis for tier ranking?
 - Waterbody by waterbody
 - Pollutant by pollutant
 - Hybrid approaches
- When a waterbody/parameter is near the water quality criteria, how is this designated? or should this be addressed in the Tier 2 analysis?

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

- How can assimilative capacity be calculated given the limited water quality data in Alaska?
- What about cumulative degradation from multiple discharges?
- Presumptive compliance – should certain categories of facilities be exempt from analysis?
- As an alternative to de minimus exemptions, could the level of detail in the analysis be tied to the level of potential degradation?