

Water Quality Standards (WQS)

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- Designated uses
 - Water quality criteria
 - Antidegradation policy and implementation methods, 40 CFR 131.12

Antidegradation Origins

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- First policy issued 1968, by Dept of Interior
 - Included in the first WQS Reg. Nov. 28, 1975
 - Re-promulgated with refinements in the current WQS Reg of November 8, 1983

Antidegradation Origins

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- Conceived as being consistent with the objective of the CWA at Sec. 101(a) to restore and maintain the chemical, physical, and biological integrity of the nations waters.

Federal Antidegradation Policy in short...

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- Protects Existing Uses
 - Attempts to protect water quality that **exceeds** that necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, i.e., Protect "High Quality Waters"
 - Provides a mechanism to protect waters of exceptional ecological or recreational significance as outstanding national resources "ONRWS"

Applicability to State and Tribal WQS

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- States and Tribes are to adopt, as part of water quality standards, an antidegradation policy consistent with 40 CFR 131.12
 - Identify implementation methods for this policy

Implementation Methods

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- In addition to adopting an antidegradation policy, states and tribes are to identify implementation methods consistent with their policy
 - Such methods should describe how the State or Tribe will implement the required elements of the federal antidegradation policy
 - Such methods may be part of the WQS regulation, or in other documents

Antidegradation Applicability

- Like uses and criteria, antidegradation policies should apply to the waters in general and be implemented to address both point and non-point source discharges, and other activities that could effect those waters
- However, federal antidegradation requirements do not create, or require the creation of, state or tribal regulatory authorities over otherwise unregulated activities

What Are The Elements Of An Antidegradation Policy Consistent With 40 CFR 131.12 ?

Water Quality for:



Water Quality For Existing Uses

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- Existing uses and the level of water quality necessary to protect existing uses shall be maintained and protected.
 - Existing uses are those uses actually attained in the water body on or after 11/28/75, whether or not they are included in the WQS

High Quality Waters

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- Seeks to maintain and protect existing water quality that is better than necessary to support the 101(a)(2) “goal uses” of the CWA, but...

High Quality Waters - Cont.

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- Allows the lowering of such water quality if the State or Tribe finds, after full satisfaction of the intergovernmental coordination and public participation provisions of its continuing planning process, that lowering of water quality is necessary to accommodate important economic and social development in the area of the water

High Quality Waters - Cont.

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- Will the proposed activity provide important economic and social development?
 - if so, is a lowering of water quality necessary to accommodate that development?

Alternatives Analysis

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- Are there alternatives, such as in the case of a proposed new or increased NPDES discharge?
 - alternative methods of production
 - wastewater minimization technologies
 - new wastewater treatment technologies
 - non-discharge alternatives
 - alternative sites

Alternatives Analysis - Cont.

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- Intergovernmental Coordination and Public Participation can assist in identifying alternatives.
 - Local, State, and Federal economic development and resource agencies, for example, may be able to contribute important information that the State or Tribal environmental agency is not aware of.

High Quality Waters - Cont.

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- Also, in allowing a lowering of water quality, the State or Tribe shall assure achievement of the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for non-point source control.

High Quality Waters - Review If lowering water quality...

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- Does the activity support important economic or social development?
 - Is a lowering of water quality necessary?
 - Has the public been involved? Intergovernmental Coordination?
 - Will existing uses be protected?
 - Appropriate Technology and BMPs required for point and non-point sources, respectively?

Outstanding National Resource Waters (ONRWs)

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- Where high quality waters constitute an outstanding National resource, such as waters of National and State parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

ONRWs - Cont.

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- States and Tribes are to provide an ONRW level of protection in their antidegradation policies, but...
 - No federal requirement that any waterbody be so designated

ONRWs - Cont.

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- “Maintain and Protect” generally means no new or increased discharge, except for those of short term and temporary nature
 - Existing Uses must be protected
 - Existing discharges or other activities do not preclude designation, but the spirit of ONRW protection could lead to managing for reduction or removal of the activity over time

"Advanced Antideg Topics"

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- "Tier 2.5" provisions, between high quality water protection and ONRW protection, have been adopted by some states.
 - Some states distinguish between significant and "insignificant" ("de minimis") degradation in determining the extent of review for proposals to lower high quality water.

EPA's Review Of Antidegradation Policies And Implementation Methods



- Is the antidegradation policy consistent with §131.12(a)(1)-(3)?
 - Are existing uses, high quality waters and ONRWs protected?
 - Are implementation methods identified and consistent with the policy?