December 3, 2009

Water Quality Antidegradation Implementation Conference
Alaska Department of Environmental Conservation (ADEC), Division of Water & Tetra Tech
Anchorage Alaska - December 2-3, 2009
Anchorage Marriott Downtown – Anchorage Room
AGENDA

Information and Registration: Please contact Carl Reese, ADEC, at (907) 465-5018, Carl.Reese@alaska.gov.

Conference Objectives:

1. To share information about US EPA antidegradation policy, the pros and cons of various state approaches, lessons learned, and legal challenges and precedents.
2. To provide a forum for stakeholders to discuss the implementation programs adopted by other states and approaches that might work best in Alaska.

Wednesday, December 2

Morning Presentations – Background & Legal Foundation			
Check in and Coffee		9:30am – 10:00	30 min
Welcome & Introductions	Larry Hartig, Commissioner, ADEC	10:00am –10:15	15 min
State and Federal Antidegradation Policy	Jim Powell, Chief, Water Quality Standards, ADEC Bill Beckwith, EPA R10	10:15 – 10:45	30 min
Key Antidegradation Concepts & Current Policy Issues	Jerry Diamond, Tetra Tech Barry Tonning, Tetra Tech	10:45 – 11:45	50 min + 10 min Q&A
BREAK		11:45– 12:00	15 min
Antidegradation - The Law	Cam Leonard, Assistant Attorney General, Alaska Department of Law	12:00 – 12:30	30 min
Lunch		12:30 –1:30	60 min
Afternoon Presentations – State Case Studies			
Oklahoma Water Resources Board	Derek Smithee, Chief, Water Quality Programs Division	1:30 – 2:10	30 min + 10 min Q+A
Minnesota Pollution Control Agency	Bill Cole, Research Scientist, Water Quality Standards Unit, Environmental Analysis & Outcomes Division	2:10 – 2:50	30 min + 10 min Q+A
Break		2:50 – 3:05	15 min
Case studies in Antidegradation from South Carolina	Mike Montebello, South Carolina Department of Health and Environmental Control	3:05 – 3:45	30 min + 10 min Q+A
Case studies in Antidegradation from Kentucky	Albert Ettinger, Environmental Law and Policy Center, Chicago	3:45 – 4:25	30 min + 10 min Q+A
Day 1 Wrap Up	Jerry Diamond, Tetra Tech Barry Tonning, Tetra Tech	4:25 – 4:45	20 min

Thursday, December 3

Review of Day 2 Agenda	Jerry Diamond, Tetra Tech Barry Tonning, Tetra Tech	8:30am – 8:45	15 min
Key Points from State Case Studies	Jerry Diamond, Tetra Tech Barry Tonning, Tetra Tech	8:45 – 9:15	30 min
Panel Discussion of States' Implementation Approaches	Barry Tonning, Tetra Tech	9:15 – 10:00	45 min
Break		10:00 – 10:15	15 min
Stakeholder Perspectives Panel Presentations and Discussion			
Timber	Jon Tillinghast, Representing Sealaska Corporation	10:15 – 10:25	10 min
Stormwater	Bill Cole, Research Scientist, Minnesota	10:25 – 10:35	10 min
Mining Industry	Robert Napier, Environmental Coordinator Red Dog Mine, Teck	10:35 – 10:45	10 min
Environmental	Albert Ettinger, Environmental Law and Policy Center, Chicago	10:45 – 10:55	10 min
Oil & Gas	Sharmon Stambaugh, Program Manager, Waste Water Discharge Authorization, ADEC	10:55 – 11:05	10 min
Panel Q&A and Discussion (Stakeholders & States)	Jerry Diamond, Tetra Tech Barry Tonning, Tetra Tech	11:05 – 12:00	55 min
Lunch		12:00 – 1:00	60 min
Facilitated Small Group Discussions: Options for Implementing Antidegradation Policy	Barry Tonning, Tetra Tech	1:00 – 2:00	60 min
Break		2:00 – 2:15	15 min
Facilitated Report Back and Full Group Discussion: Options for Implementing Antidegradation Policy	Barry Tonning, Tetra Tech	2:15 – 3:00	45 min
Wrap Up	Jerry Diamond, Tetra Tech Jim Powell, Chief, Water Quality Standards, ADEC	3:00 – 3:30	30 min

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Alaska's Antidegradation Policy

18 AAC 70.015. Antidegradation policy. (a) It is the state's antidegradation policy that

(1) existing water uses and the level of water quality necessary to protect existing uses must be maintained and protected;

(2) if the quality of a water exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality must be maintained and protected unless the department, in its discretion, upon application, and after compliance with (b) of this section, allows the reduction of water quality for a short-term variance under 18 AAC 70.200, a zone of deposit under 18 AAC 70.210, a mixing zone under 18 AAC 70.240, or another purpose as authorized in a department permit, certification, or approval; the department will authorize a reduction in water quality only after the applicant submits evidence in support of the application and the department finds that

(A) allowing lower water quality is necessary to accommodate important economic or social development in the area where the water is located;

(B) except as allowed under this subsection, reducing water quality will not violate the applicable criteria of 18 AAC 70.020 or 18 AAC 70.235 or the whole effluent toxicity limit in 18 AAC 70.030;

(C) the resulting water quality will be adequate to fully protect existing uses of the water;

(D) the methods of pollution prevention, control, and treatment found by the department to be the most effective and reasonable will be applied to all wastes and other substances to be discharged; and

(E) all wastes and other substances discharged will be treated and controlled to achieve

(i) for new and existing point sources, the highest statutory and regulatory requirements; and

(ii) for nonpoint sources, all cost-effective and reasonable best management practices;

(3) if a high quality water constitutes an outstanding national resource, such as a water of a national or state park or wildlife refuge or a water of exceptional recreational or ecological significance, the quality of that water must be maintained and protected; and

(4) if potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy described in this section is subject to 33 U.S.C. 1326 (commonly known as sec. 316 of the Clean Water Act).

(b) An applicant for a permit, certification, or approval who seeks to reduce water quality as described in (a) of this section shall provide to the department all information reasonably necessary for a decision on the application, including the information and demonstrations required in (a) of this section and other information that the department finds necessary to meet the requirements of this section.

(c) An application received under (a) of this section is subject to the public participation and intergovernmental review procedures applicable to the permit, certification, or approval sought, including procedures for applications subject to the Alaska Coastal Management Program in AS 46.40 and 6 AAC 50, and applications subject to 18 AAC 15. If the department certifies a federal permit, the public participation and intergovernmental review procedures followed by the federal agency issuing that permit will meet the requirements of this subsection. (Eff. 11/1/97, Register 143)

Authority: AS 46.03.010 AS 46.03.080 AS 46.03.110
AS 46.03.020 AS 46.03.090 AS 46.03.710
AS 46.03.050 AS 46.03.100 AS 46.03.720
AS 46.03.070

Resources

- ADEC's Water Quality Standards: http://www.dec.state.ak.us/water/wqsar/wqs/index.htm
- Antidegradation Conference Information: The DEC plans to link the agenda to the presentations after the conference. http://www.dec.state.ak.us/water/wqsar/wqs/index.htm
- The Environmental Protection Agency's Antidegradation Policy: http://www.epa.gov/waterscience/standards/about/adeg.htm
- Evaluation of Options for Antidegradation Implementation Guidance, Tetra Tech 2008 http://www.dec.state.ak.us/water/wqsar/wqs/pdfs/Antidegradation_tetratech_final.pdf