

Nondegradation Stakeholder Meeting Notes
January 26 and 30, 2009
Additional Compiled Comments

Issue Paper 8 How should nondegradation be applied to NPDES-permitted stormwater activities?

The comments below are numbered only for reference. The order of the comments is **not** in order of priority or concern.

1. We urge the MPCA to prepare a separate issue paper covering the following topics relevant to antidegradation:
 - the differences between applying antidegradation to point sources and stormwater runoff,
 - the cost and complexity of monitoring stormwater runoff with sufficient detail and rigor to provide meaningful information for antidegradation analysis and review, and
 - the number of water bodies in the State of Minnesota (as compared to other states) and the meaning of this number in light of the analytic and review processes involved in antidegradation.

These issues are significant and affect all aspects of applying Antidegradation to stormwater. These issues mean that a number of techniques for analysis and review that may be appropriate for point sources and other states simply are not feasible for stormwater in Minnesota. These issues should be addressed directly and formally. This should be done in a separate issue paper that deals with only these issues.

In describing the cost and complexity of monitoring stormwater runoff, we recommend referring to the following document: "Monitoring to Demonstrate Environmental Results: Guidance to Develop Local Stormwater Monitoring Studies Using Six Example Study Designs", Center for Watershed Protection, August 2008.

2. If Tier 2 waters are described as any water that exceeds the water quality standards for any single parameter, it would appear that all waters will be classified as either Tier 2 or Tier 3 waters. It is difficult to imagine how the water quality in any water body would not exceed the water quality standards for at least one parameter. Is this correct?
3. In the case of cities that have MS4 Permit coverage, it appears that the application of antidegradation is closely linked to the MS4 Permit coverage. In some aspects, MS4 Permit coverage is extended for the entire jurisdiction of a permitted city. In others, the Permit requirements are only applied to land areas that are served by the city's conveyance system. For every city (based on Federal regs), there is an exemption for land that is used for agriculture or forestry. Will antidegradation be applied (for analysis and review) to MS4 cities on the basis of their entire jurisdictional area or just the area served by their conveyance system and not used for agriculture or forestry? This is a significant question. Please provide a definitive answer, including an opinion from the USEPA, to this question as soon as possible.
4. Under the current MS4 Permit, thirty Minnesota cities were required to perform a nondegradation loading assessment and prepare a nondegradation report. The submittals from these cities represent a significant effort to address antidegradation for stormwater. Please describe how these submittals will be used to inform this antidegradation rulemaking process. Also, please provide a description of the relationship between the review of these submittals, the generation of a comprehensive report on the information in these submittals, and the schedule for this aspect of the antidegradation rulemaking process.

5. The meeting presentation include the following language: “Antidegradation is generally only actively enforced where there is regulatory authority (control document).” Does the MPCA have functions other than active enforcement that enable it to apply antidegradation to situations where there are no NPDES permits or other control documents? For example:
 - Should the MPCA apply antidegradation to every drainage area that receives State grant funding for water quality improvements?
 - Should antidegradation be applied to every drainage area covered by a TMDL and included in all TMDL implementation plans?
 - Should antidegradation be linked to shoreland management?
 - Should antidegradation be addressed during environmental reviews (AUARs)?

The title of Rule 7050.0185 is “Nondegradation for All Waters”. Is it fair to apply antidegradation only in situations where NPDES permits are in effect when the MPCA may be able to use other authorities to apply antidegradation in other locations and situations? Agriculture and forestry may be exempted from NPDES permitting, but does that exemption include antidegradation?

6. Will antidegradation be applied to farms with permitted feedlots and/or manure management plans? Agriculture and forestry may be exempted from NPDES permitting, but does that exemption include antidegradation?
7. Will wetlands be viewed as receiving waters for the purposes of antidegradation? It should be noted that if the answer is “yes”, this will add an immense workload and regulatory burden to this program.
8. Please formally consider an approach based on land use, rather than receiving waters, for applying antidegradation to stormwater. Please add this discussion to the rulemaking stakeholder process.