



## WATER RESOURCES DIVISION POLICY AND PROCEDURE

### WRD-PS-001 – Antidegradation/Antibacksliding

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#### ISSUE

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The purpose of this document is to provide guidance to the Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD), staff regarding certain jurisdictional issues relating to Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). It is the goal of the WRD that decisions made by staff regarding the use of this document be legally correct and consistent, and complements the requirements of the federal Clean Water Act (CWA).

This guidance is intended to clarify certain provisions of Part 31 of the NREPA and provide information to encourage consistent administration of these provisions by WRD staff. It is not intended to modify the provisions of Part 31, and should there be any apparent inconsistency between this guidance and statutory and administrative rule requirements, the language in the statute and rules should obviously guide staff decisions.

#### DEFINITIONS

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“Antidegradation” - Rule 98 of Part 4, Water Quality Standards (WQS) (Part 4 Rules), promulgated under Part 31 of the NREPA; Title 40 of the Code of Federal Regulations (CFR), Section 131.12; and 40 CFR, Part 132, Appendix E apply to any National Pollutant Discharge Elimination System (NPDES) permit action that is anticipated to result in a new or increased loading of pollutants to the surface waters of the state. If the designated uses of the receiving water are not attained, then there shall be no lowering in water quality with respect to those pollutants causing the nonattainment. For individual pollutants, if the water quality is better than that prescribed by WQS, those waters are considered “high quality.” All waters of the state are probably high quality waters for at least one parameter; therefore, any increased loading of pollutants requires that the applicant demonstrate that the discharge is exempt under Subrule (8) or (9) of Rule 98, or provide a demonstration identifying the social or economic development and benefits that will be foregone to the area in which the waters are located if the lowering of water quality is not allowed.

“Antibacksliding” - is the retention of an effluent limitation which otherwise may be appropriately made less stringent. If the limits are relaxed consistent with the antibacksliding regulations, this relaxation will also need to meet the requirements of the antidegradation rule.

## **POLICY**

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### Antibacksliding

Antibacksliding is a statutory provision that prohibits the renewal, reissuance, or modification of an existing permit that contains limitations or requirements that are less stringent than those established in the previous permit. With some exceptions, a permit may not be reissued or modified to contain effluent limitations that are less stringent than those in the existing permit. In no case may the permit contain an effluent limitation which is less stringent than that required by effluent guidelines in effect at the time the permit is renewed, nor can the implementation of such a limitation result in a violation of WQS. The exceptions for making a limit less restrictive are as follows:

- Material/substantial alterations at a facility after permit issuance. (*We consider an increase in production or change in production to fit this category.*)
- New information received that was not available at the time of permit issuance (other than revised regulations, guidance, and test methods) that would have justified the different limits at the time of permit issuance. (*We consider this to include new information used in determining water quality-based effluent limitations [WQBEL].*)
- New regulations (revised effluent limit guidelines [ELG] or promulgated WQS). In order to qualify under this exception, certain requirements must be met (see 40 CFR, Section 122.62).
- Correction of technical mistakes or mistaken interpretations of law.
- The occurrence of events over which the permittee has no control and for which there is no reasonably available remedy.
- The permittee had installed equipment to meet the old limitations and was operating it properly, but was still unable to meet the limitations. The new limitations can be set to reflect the level of control actually achieved.
- Request for variance under the CWA filed by the permittee within the authorized time frame.

Limits based on best professional judgment (BPJ) cannot be raised based on a promulgation of categorical standards subsequent to the original issuance, except for the following causes:

- Material/substantial alterations at a facility after permit issuance that justifies less stringent limits. (*We consider an increase in production or change in production to fit this category, and in this case, they would get an increased load based on the promulgated standards but only for the net increase in production.*)
- New information not available at the time of issuance (other than revised regulations, guidance, or test methods) that would have justified the different limits at the time of issuance; or to correct technical mistakes or mistaken interpretations of law.
- Less stringent limits necessary because of events beyond the control of the permittee for which there is no reasonably available remedy.
- The permittee has received a permit modification for a variance under the CWA.
- The discharger cannot meet the BPJ limits and has met the other requirements of this exception.

In **all** cases, limits **cannot** be raised above the categorical standards as listed in 40 CFR or the WQS, whichever is the most stringent, and an Antidegradation Demonstration will be required. Some examples of how antibacksliding requirements can be applied are as follows:

### **1. WQBELs for Receiving Waters Not Meeting WQS:**

Currently, all waters of the state are not meeting WQS for mercury or polychlorinated biphenyls (PCB). In many cases, this is due to nonpoint sources of these pollutants. For mercury and PCBs, if there is a relaxed WQBEL, it may be used as the effluent limit in reissued or modified permits based on the following reasons:

- According to 40 CFR, Sections 122.44(l)(1) and 122.62(a)(2), new information can be considered in raising these limits. The recalculation of the Rule 57 levels was based on new information.
- Waters of the state are not meeting WQS for mercury or PCB. Consistent with CWA, Section 303(d)(4), because the new WQBEL is the Rule 57 level, it will not affect whether the receiving waters are meeting WQS and will be consistent with any Total Maximum Daily Load that is developed now or in the future.
- Since waters are not meeting the WQS, an antidegradation evaluation is not needed for mercury or PCBs.

For other pollutants where the receiving water is not meeting the WQS due to nonpoint sources, the same reasoning could apply to establishing a higher permit limit.

### **2. WQBELs for Receiving Waters Meeting WQS:**

The justification for incorporating less restrictive WQBELs into reissued or modified permits may include:

- According to 40 CFR, Sections 122.44(l)(1) and 122.62(a)(2), new information may be considered in relaxing limits. New information includes recalculation of Rule 57 levels, dissolved metals approach, new factors (slope) in dissolved oxygen modeling, higher flow rate for receiving stream or effluent, etc. Note: If a discharge involved in a wasteload allocation eliminated its wastewater discharges, this would not result in higher limits for the remaining dischargers. This is not considered new information.
- For these pollutants, water quality will be attained; therefore, CWA, Section 303(d)(4) (standards attained), must be considered and any increase must be consistent with antidegradation.
- For higher limits to be allowed by antidegradation, the higher limits must be justified for important economic or social development.

### **3. Dropping a Current Permit Limit (which was a WQBEL):**

Dropping of WQBELs is not subject to antibacksliding or antidegradation since we are not permitting a higher level. The effluent concentration must be lower than the new theoretical WQBEL and not have a reasonable potential to exceed the new theoretical WQBEL.

### **4. Allowing Less Restrictive Treatment Technology-Based Effluent Limits (TTBEL):**

The following justification may be used for allowing less restrictive TTBELs:

- When limits are based on promulgated ELGs, TTBELs may be raised based on production increase (this is an allowed exception under antibacksliding) but is subject to antidegradation.
- When limits are based on BPJ, TTBELs can be raised based on production increase (this is an allowed exception under antibacksliding). This is subject to an antidegradation determination. However, BPJ-based TTBELs cannot be raised based on only promulgation of an ELG.

## **PROCEDURE**

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*A series of steps to be followed as a consistent and repetitive approach to accomplish an end result. Policies translated into actions are procedures. A procedure describes who does what and when. Please use the following table to format your procedure.*

This procedure details the necessary steps that will allow WRD staff to determine if antidegradation and/or antibacksliding are applicable to an NPDES permitting action.

As the Permit Writer is evaluating the application for the proposed discharge, all determinations should be documented on the Antidegradation Demonstration Checklist.

Step	Who	Does What
1.	WRD Staff	<p>Determine if an increase in mass loading to the receiving water will be included in the draft permit (<b>all</b> new discharges are considered to be increased loadings). If there is no increase in loading, then no further action is necessary with regards to antidegradation. Any significant increase in discharge flow <u>or</u> mass loading (either specifically authorized load limit or load based on calculation from a concentration limit and flow), will require an Antidegradation Demonstration or exemption to be provided by the applicant. This includes instances when EGLE makes a determination that a higher load is appropriate (based on a revised WQBEL or TTBEL, for instance).</p> <p>The following examples are considered to be an increase in loading, and thus, an Antidegradation Demonstration or statement of exemption is required:</p> <ul style="list-style-type: none"> <li>• A new use.</li> <li>• An increase in flow.</li> <li>• An increase in a mass limit.</li> <li>• An increase in a concentration limit with no change in flow.</li> <li>• The addition of a new waste stream that will not require an authorization to increase the flow of the discharge.</li> <li>• An existing discharger that has never received an effective NPDES permit for discharges at a particular site.</li> </ul> <p>The following examples are not considered to be increases in loading, and thus, an Antidegradation Demonstration would <u>not</u> be needed:</p> <ul style="list-style-type: none"> <li>• A change in the WQBEL for mercury or PCBs due to a change in the WQS.</li> <li>• A newly-established limit for a parameter when there has been no action on the part of the permittee to increase the mass loading.</li> <li>• Limits that are eliminated.</li> </ul>

Step	Who	Does What
2.	WRD Staff	<p>Determine if there are additional existing uses that require greater protection than the WQS provides for the designated uses. The following examples are considered to be existing uses that may require greater protection:</p> <ul style="list-style-type: none"> <li>• The receiving water is a habitat or breeding ground for an endangered, threatened, or sensitive species.</li> <li>• The existence of a trout population in a stream that has been designated as a warmwater stream.</li> </ul> <p>The determination can be made by requesting an evaluation and recommendation from the Water Quality and Aquatic Nuisance Control Unit. Any applicable information received during the public comment period can and should be considered prior to a decision being made as to whether or not the Antidegradation Demonstration complies with all the requirements of the rule.</p>
3.	WRD Staff	<p>Determine if the receiving water meets the WQS. A determination can be made by reviewing the Sections 303(d) and 305(b) reports. If the proposed discharge is to be directed to an impaired waterway, it should be documented on the <u>Antidegradation Demonstration Checklist</u>. If the proposed discharge cannot meet WQS or the requirements for an exemption, then denial of the application should be proposed.</p>
4.	WRD Staff	<p>Determine if the receiving water is an Outstanding State Resource Water (OSRW). OSRWs are listed in Rule 98, Subrule 6(a). If a water body is a designated OSRW, the water quality cannot be lowered. A short-term or temporary (weeks or months) lowering of the water quality may be permitted by EGLE on a case-by-case basis (refer to Rule 98, Subrule (6), for the list of OSRWs). If the proposed discharge will lower water quality and the requirements for an exemption cannot be met, then denial of the application should be proposed.</p>

Step	Who	Does What
5.	WRD Staff	<p>If the applicant submitted a statement of exemption from the Antidegradation Demonstration requirement, the exemption must comply with Rule 98, Subrules 8 and 9. The following examples do <u>not</u> constitute a lowering of water quality and are, therefore, exempt from the antidegradation requirements:</p> <ul style="list-style-type: none"> <li>• Short-term (weeks to months) or temporary lowering of water quality.</li> <li>• Bypasses that are not prohibited by regulations set forth in 40 CFR, Section 122.41(m).</li> <li>• Response actions undertaken to alleviate a release of pollutants into the environment that may pose an imminent and substantial danger to the public health or welfare.</li> <li>• Discharges of pollutant quantities from the intake water at a facility, if the intake and discharge are on the same body of water.</li> <li>• Increases in flow, if the increase is within the design flow of the facility, it is not specifically limited in the current permit, and there is no significant change expected in the characteristics of the wastewater collected.</li> <li>• Intermittent increased loading related to wet weather conditions.</li> <li>• New or increased loading due to EGLE-approved controls related to wet weather conditions.</li> <li>• Discharges authorized by certificates of coverage and notices of coverage, except where it has been determined that an Antidegradation Demonstration is necessary for an individual permit.</li> <li>• Increased loadings within the authorized levels of a limit in an existing control document, except loadings that result from actions by the permittee that would otherwise require submittal of an increased use request.</li> <li>• Increased loadings of a pollutant that does not involve a bioaccumulative chemical of concern (BCC) and that uses less than 10 percent of the unused loading capacity that exists at the time of the request.</li> </ul> <p>If the applicant submits a claim of exemption similar to the aforementioned examples, please evaluate the rule for all details. If the exemption is determined to comply with the rules, continue with the NPDES permit process. If it is determined that the proposed discharge is not exempt from the antidegradation requirement, inform the applicant that they must submit an appropriate demonstration. If the applicant fails to produce an Antidegradation Demonstration, propose to deny the applicant an NPDES permit.</p>

6.	WRD Staff	<p>Was an Antidegradation Demonstration submitted? If it is determined that the proposed discharge is not exempt from the antidegradation requirement and an Antidegradation Demonstration was not submitted with the application, inform the applicant that they must submit an appropriate demonstration. If the applicant fails to produce an Antidegradation Demonstration, propose to deny the applicant an NPDES permit.</p> <p>Rule 98, Subrule 4(a), requires the applicant to identify the social and economic development and the benefits that would be forgone if the new or increased loading of pollutant is not allowed. Examples of social or economic development and benefits may include:</p> <ul style="list-style-type: none"> <li>• Employment increases.</li> <li>• Production level increases.</li> <li>• Employment reduction avoidance.</li> <li>• Efficiency increases.</li> <li>• Industrial, commercial, or residential growth.</li> <li>• Environmental or public health problem corrections.</li> <li>• Economic or social benefits to the community.</li> </ul> <p>The applicant needs to provide a thorough and specific identification of the benefits that would be foregone if the lowering of water quality was not allowed. Demonstration of important economic or social development entails two steps. First, the applicant should describe and analyze the current state of economic and/or social development in the area that would be affected. The purpose of this step is to determine the “baseline” economic and/or social status of the affected community; i.e., the measure against which the effect of the water quality downgrade is judged. The following factors should be considered for inclusion in the baseline analysis: population, area employment (numbers employed, earnings, and major employers), area income (earnings from employment and transfer payments, if known), manufacturing profile (types, value, employment, and trends), residential housing available, and government fiscal base (revenues by source – employment and sales taxes, etc.).</p> <p>Second, the applicant should then demonstrate the incremental increase in the rate of economic or social development. The applicant should provide an analysis, along with the supporting data used in its preparation, showing the extent to which the factors listed above will benefit from the important economic or social development. The following factors may be included in the analysis: expected plant expansion, employment growth, direct and indirect income effects, increases in residential housing, and increases in the community tax base.</p> <p>The United States Environmental Protection Agency has provided some guidance for this in their publication “Economic Guidance</p>
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Step	Who	Does What
		<p>for Water Quality Standards” (EPA, 1995; EPA-823-B-95-002) that should be consulted when preparing this demonstration. EGLE will use the information the applicant provides, in part, to determine if the lowering of water quality is necessary to support important social and economic development in the area. The applicant may also wish to provide a statement as to what the current zoning of the property is as an indication of the importance of the development to the area. An Antidegradation Worksheet is attached to provide some guidance to applicants for their demonstrations.</p> <p>Once the Antidegradation Demonstration has been evaluated for important social or economic benefits to the area, it needs to be documented on the <u>Antidegradation Demonstration Checklist</u>. If the submitted demonstration does not thoroughly and specifically depict the benefits that will be foregone if the proposed discharge is not allowed, inform the applicant that such a demonstration needs to be submitted to allow EGLE to complete its evaluation of the demonstration.</p>
7.	WRD Staff	<p>If the proposed discharge has the potential for water quality impairment associated with a thermal discharge, the Antidegradation Demonstration shall be consistent with Section 316 of the CWA. If the proposed discharge appears to have the potential to affect water quality, then a WQBEL request should be made to the Water Quality and Aquatic Nuisance Control Unit.</p>

Step	Who	Does What
8.	WRD Staff	<p>If the applicant identified any BCC in their proposed wastewater, then a thorough review of Rule 98, Section 4(b), should be conducted. The applicant shall identify the alternatives evaluated and the alternatives to be implemented to comply with Rule 98. The discharger shall implement any cost-effective pollution prevention alternatives or techniques that have been adequately demonstrated to eliminate or significantly reduce the loading of the BCC. If the proposed alternatives or techniques do not eliminate the loading of the BCC, then the discharger shall evaluate alternatives or enhanced treatment techniques that would eliminate the loading of the BCC at a cost that is reasonable relative to the cost of treatment necessary to achieve applicable effluent limitations.</p> <p>If the loading of a BCC is a point source discharge to a Lake Superior Basin-Outstanding International Resource Water, the discharger shall evaluate and implement the best technology in process and treatment (BTPT) that would eliminate or reduce the loading of the BCC. The BTPT shall be the most advanced treatment techniques which have been adequately demonstrated and which are reasonably available to the discharger. Innovative and experimental technologies shall also be considered if proposed by the discharger. Upon demonstration by the applicant, the requirement to implement the BTPT may be waived by EGLE if the BCC occurs as trace contaminants in naturally occurring raw material at the facility. <b>IN NO EVENT MAY THIS DECISION ALLOW WATER QUALITY TO BE LOWERED BELOW THE MINIMUM LEVEL REQUIRED TO FULLY SUPPORT THE DESIGNATED USES.</b> Be sure to provide a thorough explanation of the situation on the Antidegradation Demonstration Checklist.</p>

Step	Who	Does What
9.	WRD Staff	<p>Evaluate whether or not alternatives to the proposed surface water discharge have been explored. An approvable Antidegradation Demonstration must provide some explanation as to why the discharge is necessary. If the applicant has not looked at other options, they cannot claim that the discharge is necessary. The applicant shall demonstrate that alternatives to a surface water discharge are not feasible. Alternatives to a surface water discharge may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Groundwater discharges.</li> <li>• Discharges to available sewerage systems.</li> <li>• Water reuse.</li> <li>• Water recycling.</li> <li>• Pollution prevention alternatives and techniques (including new and innovative technologies) that would minimize or prevent the lowering of water quality.</li> <li>• Alternative or enhanced treatment techniques that would minimize or prevent the lowering of water quality.</li> </ul> <p>A thorough explanation should be provided as to why discharge alternatives are or are not viable.</p>
10.	WRD Staff	<p>Is connection to a municipal sewer a viable alternative to a surface water discharge? If a municipal sewer exists and has available capacity, then efforts should be made to direct the proposed discharge to the existing treatment system. Since a viable option to a surface water discharge exists, the application should be prepared for a permit denial.</p>
11.	WRD Staff	<p>If the application is for a privately-owned treatment system serving the public for the treatment of domestic wastewater from two or more residences (i.e. separate owners), then the application is required to include documentation of the methods established for the ongoing operation and maintenance of the collection and treatment system as required under Section 4107 of Part 41 of the NREPA. The applicant will need a resolution from the local unit of government (LUG) or will need to establish alternate means to ensure proper operation and maintenance of the system. If the applicant cannot obtain an agreement from the LUG or establish an alternate means to ensure proper operation and maintenance of the system, then it may indicate that the LUG does not believe that the proposed discharge is considered necessary for important social or economic benefits. The applicant for the proposed facility shall provide an explanation as to why neither of these requirements was met. The explanation will need to comply with the requirements of the Part 41 and 31 Rules. If the applicant cannot comply with these requirements, then the Antidegradation Demonstration should be proposed for denial.</p>

Step	Who	Does What
12.	WRD Staff	An evaluation of the impact to the high quality water as a result of the proposed lowering of water quality needs to be completed by the WRD. This evaluation may be qualitative and should consider the impacts to any designated uses. In many cases, there will be minimal, if any, impacts to the designated uses. However, there may be some instances where the proposed discharge will cause substantial impact on certain designated uses, such as important spawning areas or high quality inland lakes, even though the designated uses continue to be fully supported. This evaluation will be compared to the benefits foregone as identified in the demonstration submitted by the applicant, and a recommendation made as to whether the lowering of water quality is necessary to support important social and economic development in the area. Discuss this recommendation with your supervisor and, if appropriate, proceed to public notice the Antidegradation Demonstration and the draft permit.
13.	WRD Staff	During the public comment period, the public may submit comments that relate to the proposed permit or the submitted Antidegradation Demonstration. Any comments relating to the requirements of Rule 98 should be evaluated and considered. If comments are received, they should be documented on the Antidegradation Demonstration Checklist, along with a response addressing the concern.
14.	WRD Staff	After a thorough review of the submitted Antidegradation Demonstration or exemption, a recommendation to the Permit Decision Maker must be made as to whether or not the requirements of Rule 98 have been met.  If it is determined that the requirements to the rule were not satisfied, then the decision should be documented, either on or attached to the Antidegradation Demonstration Checklist. A letter should then be sent to the applicant, explaining that the submitted demonstration did not satisfy the requirements of Rule 98 and, therefore, EGLE is preparing to propose a denial of the application for an NPDES permit. Include a statement that explains to the applicant that their due process rights provide them 60 days to challenge the decision of EGLE.

### LINKS TO ADDITIONAL INFORMATION

- Part 4 Rules, Rule 98: Antidegradation
- 40 CFR 122.44(l): Reissued Permits
- 40 CFR 122.62: Modification or Revocation and Reissuance of Permits
- 40 CFR 131.12: Antidegradation Policy
- 40 CFR 132: Great Lakes Water Quality Initiative Antidegradation Policy
- CWA Section 303, Water Quality Standards (WQS) - (specifically 303(d)(4), Standards Not Attained and Standards Attained)
- Clean Water Act (CWA), Section 402(o), Antibacksliding

## APPENDICES

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1. Antidegradation Worksheet
2. Antidegradation Checklist
3. Antidegradation Flowchart

## APPROVING AUTHORITY

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Christine Alexander, Manager  
Permits Section

## HISTORY

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Policy No.	Action	Date	Title
Water Bureau Permits Section Procedure No. 14	Created	April 12, 2005	Antidegradation / Antibacksliding
WRD-PS-001	Reformatted	February 3, 2021	Antidegradation / Antibacksliding

## CONTACT/UPDATE RESPONSIBILITY

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Any questions or concerns regarding this policy and procedure should be directed to the Permits Section Manager, WRD.

*An EGLE policy and procedure cannot establish regulatory requirements for parties outside of EGLE. This document provides direction to EGLE staff regarding the implementation of rules and laws administered by EGLE. It is merely explanatory, does not affect the rights of or procedures and practices available to the public, and does not have the force and effect of law. EGLE staff shall follow the directions contained in this document.*

### **Antidegradation Worksheet**

This worksheet has been developed to assist the applicant in addressing the pertinent issues for the demonstration required in Rule 98, Antidegradation, of Part 4, Water Quality Standards, promulgated under Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. The worksheet is derived from guidance provided by the United States Environmental Protection Agency in The Economic Guidance for Water Quality Standards – Workbook, and from various rules and procedures from other states. The following steps provide an outline of the pertinent issues to be considered in developing an Antidegradation Demonstration.

**Step 1. Define the Relevant Geographical Area:** The geographical area in which the impacts from the development will occur needs to be defined as part of the demonstration. In the case of municipal pollution control projects, the affected community is most often the immediate municipality. The relevant geographic area for evaluating the importance of a private sector development varies with each situation. The area will typically be determined by the area in which the majority of its workers live and where most of the businesses that depend on it are located. In all cases, the geographical area considered must include the area in which the waters are located.

**Step 2. Demonstrate that the Discharge is Necessary:** Rule 98 allows the Department of Environmental Quality to determine that a lowering of water quality is necessary to accommodate important economic or social developments in the area in which the waters are located. Before an applicant can address the issues as to whether or not the discharge will accommodate any important economic or social developments, the applicant must first demonstrate that the discharge is necessary. To complete this part of the demonstration, the applicant needs to provide an alternative analysis regarding the proposed surface water discharge. The applicant should also address all alternatives to a surface water discharge. Alternatives could include pollution prevention measures, reduction in the scale of a project, water recycling or reuse, process changes, innovative or advanced treatment technologies, seasonal or controlled discharge options, improved operation or maintenance of existing treatment systems, or alternative discharge locations. The alternatives analysis needs to identify the relative proximity of the facility to any existing wastewater collection and treatment systems in the area. The applicant should provide a detailed explanation as to why the surface water discharge has been determined to be the best available option for wastewater disposal.

**Step 3. General Considerations:** There are no economic ratios per se that determine whether a development would be considered important. Instead, the relative magnitudes of indicators, such as decreases in unemployment, gains to the local economy, changes in household income, changes in tax revenues, and indirect effects on other businesses should be taken into account. The term “important” is intended to convey a general concept regarding the level of social and economic development used to justify a change in high quality waters.

**Step 4. Determine the Baseline Economic and/or Social Status:** The purpose of this step is to determine the baseline economic and/or social status of the affected community; i.e., the measure against which the effect of any water quality degradation is judged. The following factors should be considered for inclusion in the baseline analysis, depending on the development and benefits to be demonstrated in Step 5: population, area employment (number

employed, earnings, and major employers), area income, manufacturing profile (types, value, employment, and trends), residential housing available, and government fiscal base.

Step 5. Demonstrate the Incremental Increase as a Result of the Development: This demonstration should include the incremental increase in the rate of economic or social development, along with supporting data used in the analysis. The following items should be considered for this portion of the worksheet, considering if the proposed activity:

- a. Creates or expands employment?
- b. Reduces the unemployment rate?
- c. Increases median family income?
- d. Reduces the number of households below the poverty line?
- e. Increases needed housing supply?
- f. Increases property values?
- g. Increases the community tax base?
- h. Provides necessary public services (e.g., fire department, school, and infrastructure)?
- i. Corrects a public health or environmental problem?
- j. Improves the quality of life for residents in the area?

For each item that is applicable to the activity, there should be an indication as to whether the impact is positive or negative, and a description of the impact, including the magnitude of the impact, including a comparison to the baseline estimate for the defined geographical area.

**Antidegradation Demonstration Checklist**

Permit Processor: (%\_pmt[signature\_name]\_%) Designated Name: (%\_info[designated\_name]\_%)

Permit No.: (%\_nondate[permit\_no]\_%) Permit Action: (%\_type[dm\_memo\_action2]\_%)

Permit ID.v: (%\_type\_case[permit\_id]\_%)(%\_nondate[version]\_%) Priority: (%\_type[priority\_cd]\_%)

1. Application is for a:       New Use                       Increased Discharge
  
2. Are there existing uses that require greater protection than the designated uses?  
 No                       Yes – Provide explanation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. Does the receiving water meet Water Quality Standards?  
 Yes                       No – Provide explanation as to what parameter is in nonattainment: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
4. Is the proposed discharge directed to an Outstanding State Resource Water?  
 No                       Yes – If the proposed discharge cannot meet Water Quality Standards, propose denial of application. Provide explanation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
5. Is applicant exempt from Rule 98 requirements?  
 No                       Yes – Provide explanation, and then skip to signature line: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
6. Identify the social or economic development and benefits to the area that are addressed in the submitted antidegradation statement (check all that apply).  
 (I)      Employment Increases  
 (II)      Production Level Increases  
 (III)      Employment Reduction Avoidance  
 (IV)      Efficiency Increases  
 (V)      Industrial, Commercial, or Residential Growth  
 (VI)      Environmental or Public Health Problem Corrections  
 (VII)      Economic or Social Benefits to the Community  
 Other – Provide explanation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Did the applicant provide a thorough and specific identification of benefits that would be foregone if the lowering of water quality was not allowed?       Yes                       No – Inform the applicant that additional information will be needed or the application will be considered incomplete.

Does the information submitted by the applicant appear to support the notion that the proposed discharge will provide important social or economic benefits?       Yes                       No – Provide an explanation as to why the submitted information is contradictory to the proposed demonstration: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Is there a potential for lowering of the water quality associated with a thermal discharge?  
 No                       Yes – Provide explanation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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8. Does the application indicate the presence of any Bioaccumulative Chemicals of Concern (BCC)?  
 No  Yes – Provide explanation as to what implications Rule 98 may have on this proposed discharge with regards to the BCC: \_\_\_\_\_  
\_\_\_\_\_
9. Did the applicant provide an explanation as to why the proposed discharge is necessary over other alternatives?  
 No – Inform applicant that alternatives need to be addressed.  
 Yes – Provide explanation: \_\_\_\_\_  
\_\_\_\_\_
10. Is connection to an existing municipal treatment system a viable alternative to a surface water discharge (i.e., distance, available capacity, etc.)?  Yes – Advise applicant to connect to the existing treatment system.  
 No – Provide explanation: \_\_\_\_\_  
\_\_\_\_\_
11. Is the application for a privately-owned treatment system serving the public for the treatment of domestic wastewater from two or more residences?  No, proceed to #12  Yes  
**If Yes** – Has the applicant provided a resolution for continuation of service from the local unit of government (LUG) or have alternate means to ensure proper operation and maintenance of the treatment system been established?  
 Yes – If alternate means, explain: \_\_\_\_\_  
\_\_\_\_\_  
 No – Contact LUG and provide brief explanation of circumstances behind the decision: \_\_\_\_\_  
\_\_\_\_\_
12. Will the proposed discharge cause substantial impact on certain designated uses, such as important spawning areas or high quality inland lakes, even though the designated uses continue to be fully supported?  
 No  Yes – Provide an explanation as to which uses will be impacted. Discuss the situation with your supervisor and document what decisions were made: \_\_\_\_\_  
\_\_\_\_\_
13. Were any comments received from the public regarding Antidegradation? PN date: \_\_\_\_\_  
 No  Yes – Provide brief description of comments: \_\_\_\_\_  
\_\_\_\_\_
14. Does the submitted demonstration satisfy the requirements of Rule 98?  
 Yes  No – Provide explanation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Sign and Submit with Decision Maker Packet]

Antidegradation Demonstration reviewed by:

\_\_\_\_\_  
Permit Processor

\_\_\_\_\_  
Date

[Sign Prior to Issuance or Denial]

Antidegradation Demonstration approved by:

\_\_\_\_\_  
Christine Alexander, Manager  
Permits Section

\_\_\_\_\_  
Date

**Antidegradation Demonstration Procedural Flow Chart**







