

# Alaska Department of Environmental Conservation

## Outstanding National Resource Waters

### Frequently Asked Questions



#### What is an Outstanding National Resource Water (ONRW), or Tier 3 water?

ONRWs or Tier 3 waters are provided the highest level of protection under the antidegradation policy of the State of Alaska, which is required by the Clean Water Act. The purpose of an ONRW designation is to offer special protection for waters of "exceptional recreational or ecological significance."<sup>1</sup> ONRWs are often regarded as the highest quality waters of a state, though that is not a prerequisite characteristic.

#### What are the effects of an ONRW designation?

No new or increased discharges to an ONRW or its tributaries are permitted if the discharges would result in permanent lowering of water quality in the water (i.e., cause degradation). There are exceptions to allow activities that result only in a temporary, short-term, and limited change in the water quality of an ONRW; for example, for construction activities.

#### What type of discharges would not be allowed if there was an ONRW designation?

Discharges that would not be permitted into an ONRW include municipal storm water runoff, domestic wastewater (i.e., treated sewage) discharges, and any wastewater discharges from industrial operations such as mining projects.

#### How are land-use activities affected by an ONRW designation?

Projects that result in a long term lowering of ONRW water quality, through a discharge or other activity, would not be allowable. There are potential long-term, if not permanent, land-use consequences to designating ONRWs.

#### How are ONRWs designated?

There currently exists ambiguity in whether the Department of Environmental Conservation (DEC) or the Legislature has the authority to designate an ONRW. The Constitution says the Legislature makes land use designations (Article VIII Sect. VII), while Alaska Statute gives DEC general authority to set water quality standards (AS 46.03.080). The bill clarifies that authority. The bill creates a process by which nominations can be submitted to and compiled by DEC, then transmitted to the Legislature, with the Legislature making the final designation of ONRWs.

#### Why doesn't the bill direct DEC to designate ONRWs?

DEC already has tools for protecting water quality: Water quality standards, effluent limits in permits, methods for identifying and cleaning up impaired waters. An ONRW designation bypasses all of those tools. Given the far-reaching consequences of an ONRW designation, DEC believes the final authority should rest with the Legislature. The Legislature already has the authority to make other types of land use designations, including designation of state parks, marine protected areas, or special management areas.

#### Who can nominate or propose an ONRW?

Any resident of the state may nominate a water for ONRW designation.

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<sup>1</sup> 18 AAC 70.015(a)(3)

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#### **What Alaska waters are currently designated as ONRWs?**

Currently, there are no designated ONRWs in Alaska.

#### **What waters in Alaska have been nominated for ONRW designation?**

The Chilkat River, Kookutli River, and the Bristol Bay Watershed have been nominated for ONRW designation.

#### **What are the processes used by other states to designate ONRWs?**

The process for ONRW designation is left to the states to define. Methods used by other states range from legislative designation to designation by a board or commission, to designation by a state agency.

#### **What are examples of ONRW designations in other states?**

Examples from other states include waters that are part of national or state parks, wildlife refuge or wilderness areas, special trout waters, federal Wild and Scenic Rivers or other unique. States including Washington, Oregon, Idaho, and Nevada have not designated any ONRWs; California has designated two, Lake Tahoe and Mono Lake; all waters in national parks are ONRWs in Montana, and Arizona has designated 22 waters as ONRWs.

#### **What is “antidegradation?”**

Antidegradation is a tool used to protect the water quality in the State of Alaska, determining whether and to what extent water quality may be lowered. The federal Clean Water Act requires states to have an antidegradation policy and implementation methods that:

- Protect existing uses
- Authorize the lowering of water quality in high quality waters, where necessary for social or economic importance
- Provide a mechanism to provide additional protection for water of exceptional ecological or recreational significance (ONRWs)

Alaska adopted an antidegradation policy in 1997, but has not yet established final accompanying implementation procedures. This bill will fulfill that requirement for ONRWs and with regulations scheduled for public notice in the summer of 2016 for the remaining implementation procedure requirements, bring Alaska into compliance with federal law.

For more information on Alaska’s antidegradation policy, visit:

<http://dec.alaska.gov/water/wqsar/Antidegradation/index.html>.