

WHAT IS THE MONTANA NONDEGRADATION POLICY & HOW DOES IT APPLY TO MY PERMITTED FACILITY?

The Montana nondegradation policy comes from MCA 75-5-303 and is intended to protect all high-quality state ground and surface waters. Sources deemed to be either new or increased as defined in ARM 17.30.702(17) are subject to a formal nondegradation determination. New or increased sources are defined as discharges occurring on or after April 29, 1993, that may cause a change in existing water quality (ARM 17.30.702(17)). The definition does not include activities considered 'non-significant' under ARM 17.30.670, 17.30.715, 17.30.716, 75-5-301(5)(d) MCA or 75-5-317 MCA. It should be noted that new or increased in this context refers to the load or total amount of discharged pollutants, not simply the volume of wastewater flow. Moreover, existing facilities may be considered a new or increased source if there is a change in discharge location, an increase in the load of pollutants discharged, or a change in the type of treatment system used.

If a given facility is deemed to be either a new or increased source, the Department is required to determine whether discharges from the facility are considered either significant or non-significant according to specific criteria in the nondegradation policy. Non-significant activities (discharges) are those considered to have a low potential to harm human health, a beneficial use, or the environment (MCA 75-5-317).

Examples of non-significant activities may include: discharges from a facility using an advanced treatment system when the concentration of nitrate in the effluent is at or below 7.5mg/L either prior to discharge or at the end of a standard 500' mixing zone, discharges from a facility granted a source specific mixing zone when modeling demonstrates that dilution and attenuation will result in a nitrate concentration of no more than 7.5mg/L at the end of the mixing zone, or facilities using conventional treatment if the concentration of nitrate at the end of the mixing zone does not exceed 5.0 mg/L (ARM 17.30.715).

However, if the discharge from a given facility is determined to be a 'significant' activity, the activity will be prohibited unless additional steps are taken by the applicant to meet non-significance criteria (and thereby making the facility non-significant). This may include the use of additional treatment of the effluent prior to discharge or additional work to characterize the site (hydrogeology, soils, etc.). If a facility is not able to meet applicable non-significance criteria, an authorization to degrade state waters would be required before the facility could discharge. Importantly, an authorization to degrade is not an authorization to pollute; water quality standards still apply and must not be exceeded.

Figure 1 below illustrates the distinction between water quality standards, nonsignificance, and nondegradation.

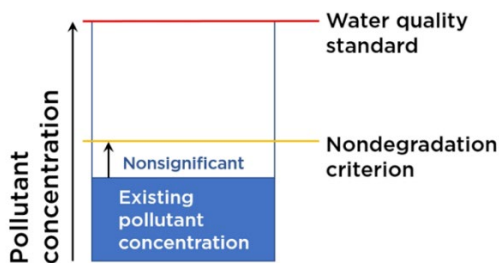


Figure 1. Relationship between water quality standards, nondegradation criteria, and existing pollutant concentrations.