

**TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD**

**PART 302
WATER QUALITY STANDARDS**

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APPENDIX A References to Previous Rules

APPENDIX B Sources of Codified Sections

AUTHORITY: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13 11(b), and 27]

SOURCE: Filed with the Secretary of State January 1, 1978; amended at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 3 Ill. Reg. 25, p. 190, effective June 21, 1979; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg. 11161, effective September 7, 1982; amended at 6 Ill. Reg. 13750, effective October 26, 1982; amended at 8 Ill. Reg. 1629, effective January 18, 1984; peremptory amendments at 10 Ill. Reg. 461, effective December 23, 1985; amended at R87-27 at 12 Ill. Reg. 9911, effective May 27, 1988; amended at R85-29 at 12 Ill. Reg. 12082, effective July 11, 1988; amended in R88-1 at 13 Ill. Reg. 5998, effective April 18, 1989; amended in R88-21(A) at 14 Ill. Reg. 2899, effective February 13, 1990; amended in R88-21(B) at 14 Ill. Reg. 11974, effective July 9, 1990; amended in R94-1(A) at 20 Ill. Reg. 7682, effective May 24, 1996; amended in R94-1(B) at 21 Ill. Reg. 370, effective December 23, 1996; expedited correction at 21 Ill. Reg. 6273, effective December 23, 1996; amended in R97-25 at 21 Ill. Reg. 1356, effective December 24, 1997; amended in _____ at _____ Ill. Reg. _____, effective _____.

Section 302.105 Antidegradation

The purpose of this Section is to maintain high quality waters and to prevent unnecessary deterioration of waters of the State.

a) Existing Uses

Uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards, must be maintained and protected. Examples of degradation of existing uses of the waters of the State include but are not limited to:

- 1) an action that would result in the deterioration of the existing aquatic community, such as a shift from a community of predominantly pollutant-sensitive species to pollutant-tolerant species or a loss of species diversity; or
- 2) an action that would result in a loss of a resident or indigenous species whose presence is necessary to sustain commercial or recreational activities.

b) Outstanding Resource Waters

- 1) Waters that are classified as an Outstanding Resource Water (ORW) pursuant to 35 Ill. Adm. Code 303.205 must not be lowered in quality except as provided below:
 - A) An activity that results in short-term, temporary (i.e., weeks or months) lowering of water quality; or
 - B) Existing site stormwater discharges that comply with applicable federal and state storm water management regulations and do not result in a violation of any water quality standards; and
 - C) The proponent of any activity requiring a National Pollutant Discharge Elimination System (NPDES) or a Clean Water Act (CWA) Section 401 certification must also submit a demonstration to the Agency meeting the requirements of subsections b(2) and c(2) of this Section.

- 2) Any activity listed in subsection (b)(1) or proposed increase in pollutant loading must also meet the following requirements:
 - A) All existing uses of the water will be fully protected;
 - B) The proposed increase in pollutant loading is necessary for an activity that will improve water quality in the ORW; and
 - C) The improvement could not be practicably achieved without the proposed increase in pollutant loading.
- 3) Any proposed increase in pollutant loading requiring an NPDES permit or a CWA 401 certification for an ORW must be assessed pursuant to 35 Ill. Adm. Code Part 354 to determine compliance with this Section.

c) High Quality Waters

- 1) Except as otherwise provided in subsection (d) of this Section, waters of the State whose existing quality exceeds established standards of this Part must be maintained in their present high quality, unless the proponent can demonstrate pursuant to subsection (c)(2) of this Section, that allowing the lowering of water quality, is necessary to accommodate important economic or social development.
- 2) Any proposed increase in pollutant loading subject to a NPDES permit or CWA Section 401 certification must be assessed pursuant to 35 Ill. Adm. Code Part 354 to determine compliance with this Section.
 - A) The Agency shall consider the fate and effect of any parameters proposed for an increased pollutant loading.
 - B) The proponent of an increased pollutant loading shall demonstrate the following:
 - i) The applicable numeric or narrative water quality standard must not be exceeded as a result of the proposed activity;
 - ii) All existing uses must be fully protected;

- iii) All technically and economically reasonable measures to avoid or minimize the extent of the proposed load increase have been incorporated into the proposed activity; and
- iv) The activity that results in an increased pollutant loading must benefit the community at large.

d) Activities Not Subject to an Antidegradation Demonstration

The following activities will not be subject to an antidegradation demonstration pursuant to subsection (c) of this Section.

- 1) Short-term, temporary (i.e., weeks or months) lowering of water quality;
- 2) Bypasses that are not prohibited at 40 CFR 122.41(m);
- 3) Response actions pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, or similar federal or State authority, taken to alleviate a release into the environment of hazardous substances, pollutants or contaminants which may pose a danger to public health or welfare;
- 4) A thermal discharge that has been approved through a CWA Section 316(a) demonstration;
- 5) New or increased discharges of a non-contact cooling water, without additives, returned to the same body of water from which it was taken as defined by 35 Ill. Adm. Code 352.104, provided that the discharge complies with applicable Illinois thermal standards; or
- 6) Discharges permitted under a current general NPDES permit as provided by 415 ILCS 5/39(b), are not subject to facility-specific antidegradation review.

e) Lake Michigan Basin

Waters in the Lake Michigan basin as identified in 35 Ill. Adm. Code 303.443 are also subject to the requirements applicable to bioaccumulative chemicals of concern found at Section 302.521 of this Part.

Section 302.105 Nondegradation

~~Except as otherwise provided in Section 302.520, waters whose existing quality is better than the established standards at their date of their adoption will be maintained in their present high quality. Such waters will not be lowered in quality unless and until it is affirmatively demonstrated that such change will not interfere with or become injurious to any appropriate beneficial uses made of, or presently possible in, such waters and that such change is justifiable as a result of necessary economic or social development.~~