

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Introduction
- 2) Code Citation: 35 Ill. Adm. Code 301
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
301.247	New
301.282	New
301.307	New
301.323	New
301.324	New
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: This proposal would establish the recreational use designations for the Chicago Area Waterway System (CAWS) and the Lower Des Plaines River (LDPR) as proposed by the Illinois Environmental Protection Agency (IEPA) with no alterations. The record demonstrates that the CAWS and the LDPR cannot attain the Clean Water Act recreational use goal of recreating on and in the water at this time. However, the Board's thorough examination of the record in this proceeding provides clear evidence of existing recreational uses in the CAWS and LDPR that must be protected. Therefore, the Board sends to First Notice a proposal that individual reaches of the CAWS and LDPR will be designated either as incidental contact recreation, non-contact recreation, or non-recreational waters.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking:
 - A. Lower Des Plaines River Use Attainability Analysis Final Report. AquaNova International, Ltd. and Hey & Associates, Inc., prepared for Illinois EPA (December 2003).
 - B. Chicago Area Waterway System Use Attainability Analysis Final Report. Camp, Dresser and McKee, prepared for Illinois EPA (August 2007).
 - C. Interim Economic Guidance for Water Quality Standards Workbook (Appendix M to the Water Quality Standards Handbook—Second Edition, EPA-823-B-94-005b). U.S. EPA Office of Water (EPA-823-B-95-002) (March 1995).
 - D. Illinois Sanitary Water Board Rules and Regulations SWB-8 Water Quality

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Standards, Interstate Waters, Illinois River and Lower Section of Des Plaines River (REF. 348.025 ISWB SWB-8 C.2) (Criteria Adopted December 1, 1966; Implementation Plan Submitted August 10, 1967; Approved by U.S. Dept. of Interior January 27, 1968; Sanitary Water Board Reapproved March 5, 1968).

Illinois Sanitary Water Board Rules and Regulations SWB-15 Water Quality Standards, Interstate Waters, Chicago River and Calumet River System and Calumet Harbor Basin (REF. 348.025 ISWB SWB-15 C.2) (Adopted by Board June 28, 1967; Approved by U.S. Dept. of Interior January 27, 1968; Sanitary Water Board reapproval March 5, 1968).

- E. Ordinance: Code of Forest Preserve District of Cook County, Title 2: Forest Preserve District Lands and Properties, Chapter 4: Recreation in the Forest Preserve.
- F. Inventory of Public Access Locations along the Chicago Area Waterway System. Illinois EPA, Bureau of Water (May 15, 2007).
- G. Description of the Chicago Waterway System: Use Attainability Analysis Study Conducted by Illinois EPA Bureau of Water in Cooperation with MWRDGC. MWRDGC, Research and Development (May 2002).
- H. Minutes from the June 23, 2005 Dispersal Barrier Advisory Panel. Philip B. Moy, University of Wisconsin Sea Grant Institute (June 23, 2005).
- I. Chicago Area Waterways Health Precautions Pamphlet. MWRDGC, Illinois Department of Public Health, U.S. EPA, Illinois EPA (October 2003).
- J. Ambient Water Quality Criteria for Bacteria – 1986. U.S. EPA Office of Water (EPA440/5-84-002) (January 1986).
- K. Analysis of Physical Habitat Quality and Limitations to Waterways in the Chicago Area. Center for Applied Bioassessment and Biocriteria, prepared for U.S. EPA Region 5 (2004).
- L. Aquatic Life and Habitat Data Collected in 2006 on the Illinois and Des Plaines Rivers. Midwest Biodiversity Institute, prepared for U.S. EPA Region 5 (2006).
- M. Biological Criteria for the Protection of Aquatic Life: Volume II: Users Manual for Biological and Field Assessment of Ohio Surface Waters. Ohio

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Environmental Protection Agency, Surface Water Section (Updated January 1, 1988).

- N. Interpreting Illinois Fish-IBI Scores, DRAFT: January 2005. Illinois EPA, Bureau of Water (January 2005).
- O. Quality Criteria for Water 1986 (gold book). U.S. EPA Office of Water (EPA 440/5-86-001) pp. 17-21, 34, 76-79, 168-171 and 253-261 (May 1, 1986).
- P. 2001-2006 Effluent Sample Results for Temperature at Water Reclamation Plants, 2005 and 2006 Water Quality Sample Results for Temperature, pH, Alkalinity and Chloride, and Calculations of H_2CO_3 (soluble CO_2) in Chicago Area Waterways in 2005 and 2006. MWRDGC, Research and Development (June 4, 2007).
- Q. Ambient Water Quality Criteria for Dissolved Oxygen. U.S. EPA Office of Water Regulations and Standards. Criteria and Standards Division. Washington, D.C (EPA 440/5-86-003) (April 1986).
- R. 1995 Updates: Water Quality Criteria Documents for the Protection of Aquatic Life in Ambient Water. U.S. EPA Office of Water 4301 (EPA-820-B-96-001) (September 1996).
- S. The Metals Translator: Guidance for Calculating A Total Recoverable Permit Limit From A Dissolved Criterion. U.S. EPA Office of Water 4305 (EPA-823-B-96-007) (June 1996).
- T. 2001 Update of Ambient Water Quality Criteria for Cadmium. U.S. EPA Office of Water 4304 (EPA-822-R-01-001) (April 2001).
- U. 2005 and 2006 Water Quality Sample Results for Hardness, Cadmium, Nickel and Zinc and Calculated Compliance Rates with Proposed Chronic Standards for the Respective Metals. MWRDGC, Research and Development (April 25, 2007).
- V. 2005 and 2006 Effluent Sample Results for Hardness and Cadmium at Calumet, North Side, and Stickney Water Reclamation Plants. MWRDGC, Research and Development (May 1, 2007).
- W. Quality Criteria for Water. U.S. EPA (PB-263 943) pp. 152-159 (1976).

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- X. Ambient Water Quality for Silver. U.S. EPA Office of Water (EPA 440/5-80-071) (October 1980).
- Y. Derivation of a Colorado State Manganese Table Value Standard for the Protection of Aquatic Life. William A. Stubblefield and James R. Hockett. ENSR Corporation (July 2000).
- Z. Temperature Criteria Options for the Lower Des Plaines River. Chris O. Yoder, Research Director. Midwest Biodiversity Institute, Columbus, Ohio (October 11, 2005).
- AA. Letter from Chris Yoder, Midwest Biodiversity Institute, to Toby Frevert, Illinois EPA Bureau of Water (July 11, 2007).
- BB. 1999 Update of Ambient Water Quality Criteria for Ammonia. U.S. EPA Office of Water (EPA-822-R-99-014) (December 1999).
- CC. The Upper Illinois Waterway Study Interim Report. 1994 Ichthyoplankton Investigation RM 276.2-321.7. EA Engineering, Science, and Technology, prepared for Commonwealth Edison Co. (April 1995).
- DD. 2004 Lower Des Plaines River Fisheries Investigation RM 274.4-285.5. EA Engineering, Science, and Technology, prepared for Midwest Generation, EME, LLC (November 2005).
- EE. Master Plan North Side Water Reclamation Plant and Surrounding Chicago Waterways, Technical Memorandum 1WQ: Disinfection Evaluation. Consoer Townsend Envirodyne Engineers, Inc., prepared for MWRDGC (August 26, 2005).
- FF. Technical Memorandum 4WQ Supplemental Aeration of the North and South Branches of the Chicago River MWRDGC North Side Water Reclamation Plant, Project No. 04-014-2P. Consoer Townsend Envirodyne Engineers, Inc., prepared for MWRDGC (January 12, 2007).
- GG. Technical Memorandum 5WQ Flow Augmentation of the Upper North Shore Channel MWRDGC North Side Water Reclamation Plant, Project No. 04-014-2P. Consoer Townsend Envirodyne Engineers, Inc., prepared for MWRDGC (January 12, 2007).

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- HH. Technical Memorandum 6WQ Flow Augmentation and Supplemental Aeration of the South Fork of the South Branch of the Chicago River MWRDGC North Side Water Reclamation Plant, Project No. 04-014-2P. Consoer Townsend Envirodyne Engineers, Inc., prepared for MWRDGC (January 12, 2007).
- II. Memorandum of Understanding By and Between Midwest Generation LLC and Illinois Environmental Protection Agency, Revised 12/10/2006 3:21:06 PM.
- JJ. A River is Reborn—Use Attainability Analysis for the Lower Des Plaines River, Illinois. Vladimir Novotny, Neal O'Reilly, Timothy Ehlinger, Toby Frevert and Scott Twait. Water Environment Research, Volume 79, Number 1, pp. 68-80.

Statutes and Regulations

Federal Water Pollution Control Act (Clean Water Act) 33 USC 1251 *et seq.*

Beaches Environmental Assessment and Coastal Health Act 2000 (Beach Act), 33 USC 1313

Illinois Environmental Protection Act [415 ILCS 5]

40 CFR 131 (Water Quality Standards)

35 Ill. Adm. Code Subtitle C: Water Pollution

U.S. EPA Guidance Documents

Water Quality Standards Handbook: Second Edition, EPA-823-B-94-005a, U.S. EPA Office of Water (4305)(August 1994).

Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses, PB85-227049, U.S. EPA Office of Research and Development, Environmental Research Laboratories (1985)(reproduced by National Technical Information Service, U.S. Department of Commerce).

Board Opinions

In the Matter of: Water Quality Triennial Review: Amendments to 35 Adm. Code 302.105, 302.208(e)-(g), 302.504(a), 302.575(d), 309.141(h); and Proposed 35 Ill. Adm. Code 301.267, 301.313, 301.413, 304.120, and 309.157, R02-11

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(December 19, 2002).

In the Matter of: Proposed Amendments to Ammonia Nitrogen Standards 35 Ill. Adm. Code 302.100, 302.212, 302.213, and 304.122, R02-19 (October 17, 2002).

In the Matter of: Petition of Commonwealth Edison Company for an Adjusted Standard from 35 Ill. Adm. Code 302.211(d) and (e), AS96-10 (October 3, 1996) and (March 16, 2000).

In the Matter of: Triennial Water Quality Review: Amendments to 35 Ill. Adm. Code 302.208 and 302.407 (Lead and Mercury), R94-1(A), (May 16, 1996).

Commonwealth Edison Company v. Illinois EPA, PCB 91-29 (Variance – Water)(November 21, 1991).

In the Matter of: Proposed Amendments to Title 35, Subtitle C (Toxins Control), R88-21 – Docket B (June 21, 1990).

In the Matter of: Proposed Amendments to Title 35, Subtitle C (Toxins Control), R88-21 – Docket A (January 25, 1990).

In the Matter of: Proposed Determination of No Significant Ecological Damage for the Joliet Generating Station, PCB 87-93 (November 15, 1989).

In the Matter of: Water Quality and Effluent Standards Applicable to the Chicago River System and Calumet River System, R87-27 (May 19, 1988).

Commonwealth Edison v. Illinois EPA, PCB 87-40 (dismissed August 20, 1987).

Commonwealth Edison Company v. Illinois EPA, PCB 84-33 (Variance – Water) (December 20, 1984).

Commonwealth Edison Company v. Illinois EPA, PCB 81-34 (Variance – Water) (June 10, 1981).

Commonwealth Edison Company v. Illinois EPA, PCB 78-79 (Variance – Water) (May 25, 1978).

In the Matter of: Water Quality Standards Revisions, R72-4 (November 8, 1973).

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In the Matter of: Water Quality Standards Revisions, R71-14 (Consolidated with R70-8 and R71-20) (March 7, 1972).

- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R08-09(A) and be addressed to:

John Therriault
Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

Interested persons may request copies of the Board's opinion and order in R08-09(A) by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Marie Tipsord at 312/814-4925 or e-mail at tipsorm@ipcb.state.il.us.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: As this rulemaking codifies existing recreational uses for the waterways, there should be no impact on small businesses, small municipalities and not for profit corporations.

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- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2010

The full text of the Proposed Amendments begins on the next page:

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

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301.340 Pollutant
 301.341 Pollutant Minimization Program
 301.345 Population Equivalent
 301.346 Preliminary Effluent Limitation
 301.350 Pretreatment Works
 301.355 Primary Contact
 301.356 Projected Effluent Quality
 301.360 Public and Food Processing Water Supply
 301.365 Publicly Owned Treatment Works
 301.370 Publicly Regulated Treatment Works
 301.371 Quantification Level
 301.372 Reasonable Potential Analysis
 301.373 Same Body of Water
 301.375 Sanitary Sewer
 301.380 Secondary Contact
 301.385 Sewage
 301.390 Sewer
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 301.400 Standard of Performance
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 301.421 Wasteload Allocation
 301.425 Wastewater
 301.430 Wastewater Source
 301.435 Watercraft
 301.440 Waters
 301.441 Water Quality Based Effluent Limitation
 301.442 Wet Weather Point Source
 301.443 Whole Effluent Toxicity
 301.APPENDIX A References to Previous Rules

AUTHORITY: Implementing Section 13 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/13 and 27].

SOURCE: Filed with the Secretary of State January 1, 1978; amended at 3 Ill. Reg. 25, p. 190, effective June 21, 1979; amended at 5 Ill. Reg. 6384, effective May 28, 1981; codified at 6 Ill. Reg. 7818; amended in R88-1 at 13 Ill. Reg. 5984, effective April 18, 1989; amended in R88-21(A) at 14 Ill. Reg. 2879, effective February 13, 1990; amended in R99-8 at 23 Ill. Reg. 11277, effective August 26, 1999; amended in R02-11 at 27 Ill. Reg. 158, effective December 20, 2002; amended in R08-9(A) at 34 Ill. Reg. _____, effective _____.

Section 301.247 Chicago Area Waterway System

"Chicago Area Waterway System" means Calumet River, Grand Calumet River, Little Calumet River downstream from the confluence of Calumet River and Grand Calumet River, Calumet-Sag Channel, Lake Calumet, Chicago River and its branches downstream from their confluence with North Shore Channel, North Shore Channel and Chicago Sanitary and Ship Canal.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 301.282 Incidental Contact Recreation

"Incidental Contact Recreation" means any recreational activity in which human contact with the water is incidental and in which the probability of ingesting appreciable quantities of water is minimal, such as fishing; commercial boating; small craft recreational boating; and any limited contact associated with shoreline activity such as wading.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 301.307 Lower Des Plaines River

"Lower Des Plaines River" means Des Plaines River from the confluence with Chicago Sanitary and Ship Canal to the Interstate 55 Bridge.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 301.323 Non-Contact Recreation

"Non-contact Recreation" means any recreational or other water use in which human contact with the water is unlikely, such as pass through commercial or recreational navigation, and where physical conditions or hydrologic modifications make direct human contact unlikely or dangerous.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 301.324 Non-Recreational

"Non-recreational" means a water body where the physical conditions or hydrologic modifications preclude primary contact, incidental contact and non-contact recreation.

(Source: Added at 34 Ill. Reg. _____, effective _____)

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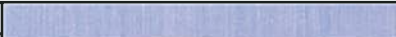



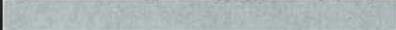
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Insertions	12
Deletions	8
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Style change	0
Format changed	0
Total changes	20

1 TITLE 35: ENVIRONMENTAL PROTECTION
2 SUBTITLE C: WATER POLLUTION
3 CHAPTER I: POLLUTION CONTROL BOARD
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5 PART 301
6 INTRODUCTION
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50	301.315	Modification
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67	301.370	Publicly Regulated Treatment Works
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72	301.380	Secondary Contact
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83	301.421	Wasteload Allocation
84	301.425	Wastewater
85	301.430	Wastewater Source
86	301.435	Watercraft

- 87 301.440 Waters
- 88 301.441 Water Quality Based Effluent Limitation
- 89 301.442 Wet Weather Point Source
- 90 301.443 Whole Effluent Toxicity
- 91 301.APPENDIX A References to Previous Rules

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93 AUTHORITY: Implementing Section 13 and authorized by Section 27 of the Environmental
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96 SOURCE: Filed with the Secretary of State January 1, 1978; amended at 3 Ill. Reg. 25, p. 190,
97 effective June 21, 1979; amended at 5 Ill. Reg. 6384, effective May 28, 1981; codified at 6 Ill.
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103 **Section 301.247 Chicago Area Waterway System**

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112 **Section 301.282 Incidental Contact Recreation**

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121 **Section 301.307 Lower Des Plaines River**

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137 **Section 301.324 Non-Recreational**

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1) Heading of the Part: Water Use Designations and Site-Specific Water Quality Standards

2) Code Citation: 35 Ill. Adm. Code 303

<u>Section Numbers:</u>	<u>Proposed Action:</u>
303.102	Repeal
303.204	Amend
303.220	New
303.225	New
303.227	New
303.441	Repeal

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- E. Ordinance: Code of Forest Preserve District of Cook County, Title 2: Forest Preserve District Lands and Properties, Chapter 4: Recreation in the Forest Preserve.
- F. Inventory of Public Access Locations along the Chicago Area Waterway System. Illinois EPA, Bureau of Water (May 15, 2007).
- G. Description of the Chicago Waterway System: Use Attainability Analysis Study Conducted by Illinois EPA Bureau of Water in Cooperation with MWRDGC. MWRDGC, Research and Development (May 2002).
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- I. Chicago Area Waterways Health Precautions Pamphlet. MWRDGC, Illinois Department of Public Health, U.S. EPA, Illinois EPA (October 2003).
- J. Ambient Water Quality Criteria for Bacteria – 1986. U.S. EPA Office of Water (EPA440/5-84-002) (January 1986).
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- R. 1995 Updates: Water Quality Criteria Documents for the Protection of Aquatic Life in Ambient Water. U.S. EPA Office of Water 4301 (EPA-820-B-96-001) (September 1996).
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- T. 2001 Update of Ambient Water Quality Criteria for Cadmium. U.S. EPA Office of Water 4304 (EPA-822-R-01-001) (April 2001).
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- CC. The Upper Illinois Waterway Study Interim Report. 1994 Ichthyoplankton Investigation RM 276.2-321.7. EA Engineering, Science, and Technology, prepared for Commonwealth Edison Co. (April 1995).
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- FF. Technical Memorandum 4WQ Supplemental Aeration of the North and South Branches of the Chicago River MWRDGC North Side Water Reclamation Plant, Project No. 04-014-2P. Consoer Townsend Envirodyne Engineers, Inc., prepared for MWRDGC (January 12, 2007).
- GG. Technical Memorandum 5WQ Flow Augmentation of the Upper North Shore Channel MWRDGC North Side Water Reclamation Plant, Project No. 04-014-2P. Consoer Townsend Envirodyne Engineers, Inc., prepared for MWRDGC (January 12, 2007).

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- HH. Technical Memorandum 6WQ Flow Augmentation and Supplemental Aeration of the South Fork of the South Branch of the Chicago River MWRDGC North Side Water Reclamation Plant, Project No. 04-014-2P. Consoer Townsend Envirodyne Engineers, Inc., prepared for MWRDGC (January 12, 2007).
- II. Memorandum of Understanding By and Between Midwest Generation LLC and Illinois Environmental Protection Agency, Revised 12/10/2006 3:21:06 PM.
- JJ. A River is Reborn—Use Attainability Analysis for the Lower Des Plaines River, Illinois. Vladimir Novotny, Neal O'Reilly, Timothy Ehlinger, Toby Frevert and Scott Twait. Water Environment Research, Volume 79, Number 1, pp. 68-80.

Statutes and Regulations

Federal Water Pollution Control Act (Clean Water Act) 33 USC 1251 *et seq.*

Beaches Environmental Assessment and Coastal Health Act 2000 (Beach Act), 33 USC 1313

Illinois Environmental Protection Act [415 ILCS 5]

40 CFR 131 (Water Quality Standards)

35 Ill. Adm. Code Subtitle C: Water Pollution

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Water Quality Standards Handbook: Second Edition, EPA-823-B-94-005a, U.S. EPA Office of Water (4305)(August 1994).

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Board Opinions

In the Matter of: Water Quality Triennial Review: Amendments to 35 Adm. Code 302.105, 302.208(e)-(g), 302.504(a), 302.575(d), 309.141(h); and Proposed 35

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Ill. Adm. Code 301.267, 301.313, 301.413, 304.120, and 309.157, R02-11
(December 19, 2002).

In the Matter of: Proposed Amendments to Ammonia Nitrogen Standards 35 Ill. Adm.
Code 302.100, 302.212, 302.213, and 304.122, R02-19 (October 17, 2002).

In the Matter of: Petition of Commonwealth Edison Company for an Adjusted Standard
from 35 Ill. Adm. Code 302.211(d) and (e), AS96-10 (October 3, 1996) and
(March 16, 2000).

In the Matter of: Triennial Water Quality Review: Amendments to 35 Ill. Adm. Code
302.208 and 302.407 (Lead and Mercury), R94-1(A), (May 16, 1996).

Commonwealth Edison Company v. Illinois EPA, PCB 91-29 (Variance –
Water)(November 21, 1991).

In the Matter of: Proposed Amendments to Title 35, Subtitle C (Toxins Control), R88-21
– Docket B (June 21, 1990).

In the Matter of: Proposed Amendments to Title 35, Subtitle C (Toxins Control), R88-21
– Docket A (January 25, 1990).

In the Matter of: Proposed Determination of No Significant Ecological Damage for the
Joliet Generating Station, PCB 87-93 (November 15, 1989).

In the Matter of: Water Quality and Effluent Standards Applicable to the Chicago River
System and Calumet River System, R87-27 (May 19, 1988).

Commonwealth Edison v. Illinois EPA, PCB 87-40 (dismissed August 20, 1987).

Commonwealth Edison Company v. Illinois EPA, PCB 84-33 (Variance – Water)
(December 20, 1984).

Commonwealth Edison Company v. Illinois EPA, PCB 81-34 (Variance – Water) (June
10, 1981).

Commonwealth Edison Company v. Illinois EPA, PCB 78-79 (Variance – Water) (May
25, 1978).

In the Matter of: Water Quality Standards Revisions, R72-4 (November 8, 1973).

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In the Matter of: Water Quality Standards Revisions, R71-14 (Consolidated with R70-8 and R71-20) (March 7, 1972).

- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period should reference Docket R08-09(A) and be addressed to:

John Therriault
Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

Interested persons may request copies of the Board's opinion and order in R08-09(A) by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Marie Tipsord at 312/814-4925 or e-mail at tipsorm@ipcb.state.il.us.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: As this rulemaking codifies existing recreational uses for the waterways, there should be no impact on small businesses, small municipalities and not for profit corporations.

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NOTICE OF PROPOSED AMENDMENTS

- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2010

The full text of these Proposed Amendments begins on the next page:

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

PART 303
WATER USE DESIGNATIONS AND SITE-SPECIFIC
WATER QUALITY STANDARDS

SUBPART A: GENERAL PROVISIONS

Section
303.100 Scope and Applicability
303.101 Multiple Designations
303.102 Rulemaking Required (Repealed)

SUBPART B: NONSPECIFIC WATER USE DESIGNATIONS

Section
303.200 Scope and Applicability
303.201 General Use Waters
303.202 Public and Food Processing Water Supplies
303.203 Underground Waters
303.204 Chicago Area Waterway System and Lower Des Plaines River ~~Secondary-~~
~~Contact and Indigenous Aquatic Life~~ Waters
303.205 Outstanding Resource Waters
303.206 List of Outstanding Resource Waters
303.220 Incidental Contact Recreation Waters
303.225 Non-Contact Recreation Waters
303.227 Non-Recreational Waters

SUBPART C: SPECIFIC USE DESIGNATIONS AND SITE
SPECIFIC WATER QUALITY STANDARDS

Section
303.300 Scope and Applicability
303.301 Organization
303.311 Ohio River Temperature
303.312 Waters Receiving Fluorspar Mine Drainage
303.321 Wabash River Temperature
303.322 Unnamed Tributary of the Vermilion River
303.323 Sugar Creek and Its Unnamed Tributary
303.326 Unnamed Tributary of Salt Creek, Salt Creek, and Little Wabash River
303.331 Mississippi River North Temperature
303.341 Mississippi River North Central Temperature
303.351 Mississippi River South Central Temperature
303.352 Unnamed Tributary of Wood River Creek
303.353 Schoenberger Creek; Unnamed Tributary of Cahokia Canal
303.361 Mississippi River South Temperature
303.400 Bankline Disposal Along the Illinois Waterway/River
303.430 Unnamed Tributary to Dutch Creek
303.431 Long Point Slough and Its Unnamed Tributary
303.441 Secondary Contact Waters (Repealed)
303.442 Waters Not Designated for Public Water Supply
303.443 Lake Michigan Basin
303.444 Salt Creek, Higgins Creek, West Branch of the DuPage River, Des
Plaines River

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- 303.445 Total Dissolved Solids Water Quality Standard for the Lower Des
Plaines River
- 303.446 Boron Water Quality Standard for Segments of the Sangamon River and
the Illinois River
- 303.447 Unnamed Tributary of the South Branch Edwards River and South Branch
Edwards River
- 303.448 Mud Run Creek

SUBPART D: THERMAL DISCHARGES

Section

- 303.500 Scope and Applicability ~~303.501~~
- 303.502 Lake Sangchris Thermal Discharges

- 303.APPENDIX A References to Previous Rules
- 303.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. 27, p. 221, effective July 5, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 5 Ill. Reg. 11592, effective October 19, 1981; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg. 11161, effective September 7, 1982; amended at 7 Ill. Reg. 8111, effective June 23, 1983; amended in R87-27 at 12 Ill. Reg. 9917, effective May 27, 1988; amended in R87-2 at 13 Ill. Reg. 15649, effective September 22, 1989; amended in R87-36 at 14 Ill. Reg. 9460, effective May 31, 1990; amended in R86-14 at 14 Ill. Reg. 20724, effective December 18, 1990; amended in R89-14(C) at 16 Ill. Reg. 14684, effective September 10, 1992; amended in R92-17 at 18 Ill. Reg. 2981, effective February 14, 1994; amended in R91-23 at 18 Ill. Reg. 13457, effective August 19, 1994; amended in R93-13 at 19 Ill. Reg. 1310, effective January 30, 1995; amended in R95-14 at 20 Ill. Reg. 3534, effective February 8, 1996; amended in R97-25 at 22 Ill. Reg. 1403, effective December 24, 1997; amended in R01-13 at 26 Ill. Reg. 3517, effective February 22, 2002; amended in R03-11 at 28 Ill. Reg. 3071, effective February 4, 2004; amended in R06-24 at 31 Ill. Reg. 4440, effective February 27, 2007; amended in R09-8 at 33 Ill. Reg. ~~7903~~7903, effective May 29, 2009; amended in R09-11 at 33 Ill. Reg. 12258, effective August 11, 2009; amended in R08-9(A) at 34 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 303.102 Rulemaking Required (Repealed)

~~Designation of waters to meet secondary contact and indigenous aquatic life standards is governed by Part 102 of Subtitle A.~~

(Source: Repealed at 34 Ill. Reg. _____, effective _____)

SUBPART B: NONSPECIFIC WATER USE DESIGNATIONS

Section 303.204 Chicago Area Waterway System and Lower Des Plaines River
~~Secondary Contact and Indigenous Aquatic Life~~ Waters

The Chicago Area Waterway System and Lower Des Plaines River Waters ~~which~~ are designated to protect for incidental contact or non-contact recreational uses, except where designated as non-recreational waters; ~~commercial~~ Commercial

activity, including navigation and industrial water supply uses, is limited only by the physical condition of these waters and hydrologic modifications to these waters. These waters are required to meet the secondary contact and indigenous aquatic life standards contained in ~~of~~ 35 Ill. Adm. Code 302, Subpart D, ~~of Part 302~~, but are not required to meet the general use standards or the public and food processing water supply standards of ~~Subparts~~ 35 Ill. Adm. Code 302, Subpart B and C, of Part 302. Designated recreational uses for each segment of the Chicago Area Waterway System and Lower Des Plaines River are identified in this Subpart.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 303.220 Incidental Contact Recreation Waters

The following waters are designated as Incidental Contact Recreation waters and must protect for incidental contact recreational uses as defined in 35 Ill. Adm. Code 301.282.

- a) North Shore Channel;
- b) North Branch Chicago River from its confluence with North Shore Channel to its confluence with South Branch Chicago River and Chicago River;
- c) Chicago River;
- d) South Branch Chicago River and its South Fork;
- e) Chicago Sanitary and Ship Canal from its confluence with South Branch Chicago River to its confluence with Calumet-Sag Channel;
- f) Calumet River, from Torrence Avenue to its confluence with Grand Calumet River and Little Calumet River;
- g) Lake Calumet;
- h) Lake Calumet Connecting Channel;
- i) Grand Calumet River;
- j) Little Calumet River from its confluence with Calumet River and Grand Calumet River to its confluence with Calumet-Sag Channel;
- k) Calumet-Sag Channel; and
- l) Lower Des Plaines River from the Brandon Road Lock and Dam to the Interstate 55 bridge.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 303.225 Non-Contact Recreation Waters

Calumet River from Lake Michigan to Torrence Avenue is designated as a Non-Contact Recreation water and must protect for non-contact recreational uses as defined in 35 Ill. Adm. Code 301.323.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 303.227 Non-Recreational Waters

The following waters are designated as Non-Recreational waters as defined in 35 Ill. Adm. Code 301.324.

- a) Chicago Sanitary and Ship Canal from its confluence with the Calumet-Sag Channel to its confluence with Des Plaines River; and
- b) Lower Des Plaines River from its confluence with Chicago Sanitary and Ship Canal to the Brandon Road Lock and Dam.

(Source: Added at 34 Ill. Reg. _____, effective _____)

SUBPART C: SPECIFIC USE DESIGNATIONS AND SITE
SPECIFIC WATER QUALITY STANDARDS

Section 303.441 Secondary Contact Waters (Repealed)

~~The following are designated as secondary contact and indigenous aquatic life waters and must meet the water quality standards of 35 Ill. Adm. Code 302.Subpart D:~~

- ~~a) The Chicago Sanitary and Ship Canal;~~
- ~~b) The Calumet-Sag Channel;~~
- ~~c) The Little Calumet River from its junction with the Grand Calumet River to the Calumet-Sag Channel;~~
- ~~d) The Grand Calumet River;~~
- ~~e) The Calumet River, except the 6.8 mile segment extending from the O'Brien Locks and Dam to Lake Michigan;~~
- ~~f) Lake Calumet;~~
- ~~g) The South Branch of the Chicago River;~~
- ~~h) The North Branch of the Chicago River from its confluence with the North Shore Channel to its confluence with the South Branch;~~
- ~~i) The Des Plaines River from its confluence with the Chicago Sanitary and Ship Canal to the Interstate 55 bridge; and~~
- ~~j) The North Shore Channel, excluding the segment extending from the North Side Sewage Treatment Works to Lake Michigan. The dissolved oxygen in said Channel shall be not less than 5 mg/l during 16 hours of any 24 hour period, nor less than 4 mg/l at any time.~~

at 34 Ill. Reg. _____, effective _____)

(Source: Repealed)



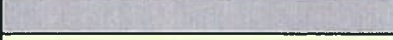
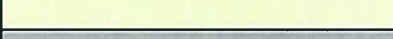

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~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

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1 TITLE 35: ENVIRONMENTAL PROTECTION
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14 303.102 Rulemaking Required (Repealed)
15

16 SUBPART B: NONSPECIFIC WATER USE DESIGNATIONS
17

- 18 Section
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24 ~~and Indigenous Aquatic Life Waters~~
25 303.205 Outstanding Resource Waters
26 303.206 List of Outstanding Resource Waters
27 303.220 Incidental Contact Recreation Waters
28 303.225 Non-Contact Recreation Waters
29 303.227 Non-Recreational Waters
30

31 SUBPART C: SPECIFIC USE DESIGNATIONS AND SITE
32 SPECIFIC WATER QUALITY STANDARDS
33

- 34 Section
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38 303.312 Waters Receiving Fluorspar Mine Drainage
39 303.321 Wabash River Temperature
40 303.322 Unnamed Tributary of the Vermilion River
41 303.323 Sugar Creek and Its Unnamed Tributary
42 303.326 Unnamed Tributary of Salt Creek, Salt Creek, and Little Wabash River
43 303.331 Mississippi River North Temperature

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- 44 303.341 Mississippi River North Central Temperature
- 45 303.351 Mississippi River South Central Temperature
- 46 303.352 Unnamed Tributary of Wood River Creek
- 47 303.353 Schoenberger Creek; Unnamed Tributary of Cahokia Canal
- 48 303.361 Mississippi River South Temperature
- 49 303.400 Bankline Disposal Along the Illinois Waterway/River
- 50 303.430 Unnamed Tributary to Dutch Creek
- 51 303.431 Long Point Slough and Its Unnamed Tributary
- 52 303.441 Secondary Contact Waters (Repealed)
- 53 303.442 Waters Not Designated for Public Water Supply
- 54 303.443 Lake Michigan Basin
- 55 303.444 Salt Creek, Higgins Creek, West Branch of the DuPage River, Des Plaines River
- 56 303.445 Total Dissolved Solids Water Quality Standard for the Lower Des Plaines River
- 57 303.446 Boron Water Quality Standard for Segments of the Sangamon River and the
- 58 Illinois River
- 59 303.447 Unnamed Tributary of the South Branch Edwards River and South Branch
- 60 Edwards River
- 61 303.448 Mud Run Creek

SUBPART D: THERMAL DISCHARGES

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- 65 Section
- 66 303.500 Scope and Applicability
- 67 303.502 Lake Sangchris Thermal Discharges
- 68
- 69 303.APPENDIX A References to Previous Rules
- 70 303.APPENDIX B Sources of Codified Sections

71

72 AUTHORITY: Implementing Section 13 and authorized by Sections 11(b) and 27 of the

73 Environmental Protection Act [415 ILCS 5/13, 11(b) and 27].

74

75 SOURCE: Filed with the Secretary of State January 1, 1978; amended at 2 Ill. Reg. 27, p. 221,

76 effective July 5, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 5 Ill.

77 Reg. 11592, effective October 19, 1981; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg.

78 11161, effective September 7, 1982; amended at 7 Ill. Reg. 8111, effective June 23, 1983;

79 amended in R87-27 at 12 Ill. Reg. 9917, effective May 27, 1988; amended in R87-2 at 13 Ill.

80 Reg. 15649, effective September 22, 1989; amended in R87-36 at 14 Ill. Reg. 9460, effective

81 May 31, 1990; amended in R86-14 at 14 Ill. Reg. 20724, effective December 18, 1990; amended

82 in R89-14(C) at 16 Ill. Reg. 14684, effective September 10, 1992; amended in R92-17 at 18 Ill.

83 Reg. 2981, effective February 14, 1994; amended in R91-23 at 18 Ill. Reg. 13457, effective

84 August 19, 1994; amended in R93-13 at 19 Ill. Reg. 1310, effective January 30, 1995; amended

85 in R95-14 at 20 Ill. Reg. 3534, effective February 8, 1996; amended in R97-25 at 22 Ill. Reg.

86 1403, effective December 24, 1997; amended in R01-13 at 26 Ill. Reg. 3517, effective February

87 22, 2002; amended in R03-11 at 28 Ill. Reg. 3071, effective February 4, 2004; amended in R06-
88 24 at 31 Ill. Reg. 4440, effective February 27, 2007; amended in R09-8 at 33 Ill. Reg. 7903,
89 effective May 29, 2009; amended in R09-11 at 33 Ill. Reg. 12258, effective August 11, 2009;
90 amended in R08-9(A) at 34 Ill. Reg. _____, effective _____.

91
92 SUBPART A: GENERAL PROVISIONS

93
94 **Section 303.102 Rulemaking Required (Repealed)**

95
96 ~~Designation of waters to meet secondary contact and indigenous aquatic life standards is~~
97 ~~governed by Part 102 of Subtitle A.~~

98 ~~(Note: Prior to codification, Part II of Chapter I: Procedural Rules.)~~
99

100 (Source: Repealed at 34 Ill. Reg. _____, effective _____)

101
102 SUBPART B: NONSPECIFIC WATER USE DESIGNATIONS

103
104 **Section 303.204 Chicago Area Waterway System and Lower Des Plaines River ~~Secondary~~**
105 **~~Contact and Indigenous Aquatic Life Waters~~**

106
107 ~~The Chicago Area Waterway System and Lower Des Plaines River Waters which are designated~~
108 ~~to protect for incidental contact or non-contact recreational uses, except where designated as~~
109 ~~non-recreational waters. Commercial activity, including navigation and industrial water supply~~
110 ~~uses, is limited only by the physical condition of these waters and hydrologic modifications to~~
111 ~~these waters. These waters are required to meet the secondary contact and indigenous aquatic~~
112 ~~life standards contained in 35 Ill. Adm. Code 302, Subpart D of Subpart D, Part 302, but are not~~
113 ~~required to meet the general use standards or the public and food processing water supply~~
114 ~~standards of 35 Ill. Adm. Code 302, Subpart B and C Subparts B and C, Part 302. Designated~~
115 ~~recreational uses for each segment of the Chicago Area Waterway System and Lower Des~~
116 ~~Plaines River are identified in this Subpart.~~

117
118 (Source: Amended at 34 Ill. Reg. _____, effective _____)

119
120 **Section 303.220 Incidental Contact Recreation Waters**

121
122 The following waters are designated as Incidental Contact Recreation waters and must protect
123 for incidental contact recreational uses as defined in 35 Ill. Adm. Code 301.282.

- 124
125 a) North Shore Channel;
126
127 b) North Branch Chicago River from its confluence with North Shore Channel to its
128 confluence with South Branch Chicago River and Chicago River;
129

- 130 c) Chicago River;
- 131
- 132 d) South Branch Chicago River and its South Fork;
- 133
- 134 e) Chicago Sanitary and Ship Canal from its confluence with South Branch Chicago
- 135 River to its confluence with Calumet-Sag Channel;
- 136
- 137 f) Calumet River from Torrence Avenue to its confluence with Grand Calumet
- 138 River and Little Calumet River;
- 139
- 140 g) Lake Calumet;
- 141
- 142 h) Lake Calumet Connecting Channel;
- 143
- 144 i) Grand Calumet River;
- 145
- 146 j) Little Calumet River from its confluence with Calumet River and Grand Calumet
- 147 River to its confluence with Calumet-Sag Channel;
- 148
- 149 k) Calumet-Sag Channel; and
- 150
- 151 l) Lower Des Plaines River from the Brandon Road Lock and Dam to the Interstate
- 152 55 bridge.

153
154 (Source: Added at 34 Ill. Reg. _____, effective _____)

155
156 **Section 303.225 Non-Contact Recreation Waters**

157
158 Calumet River from Lake Michigan to Torrence Avenue is designated as a Non-Contact

159 Recreation water and must protect for non-contact recreational uses as defined in 35 Ill. Adm.

160 Code 301.323.

161
162 (Source: Added at 34 Ill. Reg. _____, effective _____)

163
164 **Section 303.227 Non-Recreational Waters**

165
166 The following waters are designated as Non-Recreational waters as defined in 35 Ill. Adm. Code

167 301.324.

- 168
- 169 a) Chicago Sanitary and Ship Canal from its confluence with the Calumet-Sag
- 170 Channel to its confluence with Des Plaines River; and
- 171

- b) Lower Des Plaines River from its confluence with Chicago Sanitary and Ship Canal to the Brandon Road Lock and Dam.

(Source: Added at 34 Ill. Reg. _____, effective _____)

SUBPART C: SPECIFIC USE DESIGNATIONS AND SITE
SPECIFIC WATER QUALITY STANDARDS

Section 303.441 Secondary Contact Waters (Repealed)

~~The following are designated as secondary contact and indigenous aquatic life waters and must meet the water quality standards of 35 Ill. Adm. Code 302. Subpart D:~~

- ~~a) The Chicago Sanitary and Ship Canal;~~
- ~~b) The Calumet Sag Channel;~~
- ~~e) The Little Calumet River from its junction with the Grand Calumet River to the Calumet Sag Channel;~~
- ~~d) The Grand Calumet River;~~
- ~~e) The Calumet River, except the 6.8 mile segment extending from the O'Brien Locks and Dam to Lake Michigan;~~
- ~~f) Lake Calumet;~~
- ~~g) The South Branch of the Chicago River;~~
- ~~h) The North Branch of the Chicago River from its confluence with the North Shore Channel to its confluence with the South Branch;~~
- ~~i) The Des Plaines River from its confluence with the Chicago Sanitary and Ship Canal to the Interstate 55 bridge; and~~
- ~~j) The North Shore Channel, excluding the segment extending from the North Side Sewage Treatment Works to Lake Michigan. The dissolved oxygen in said Channel shall be not less than 5 mg/l during 16 hours of any 24 hour period, nor less than 4 mg/l at any time.~~

(Source: Repealed at 34 Ill. Reg. _____, effective _____)