

**Section 352.900 Antidegradation Provisions for Bioaccumulative Chemicals of Concern (BCCs)**

Whenever a new or increased loading of any BCC is proposed from an existing or new facility or activity, either point or nonpoint source, that is subject to NPDES permitting, Clean Water Act Section 401 water quality certification, or Lake Michigan dredge and fill permits under Section 39(n) of the Illinois Environmental Protection Act [415 ILCS 5/39(n)], the Agency shall require an antidegradation demonstration.

- a) Exceptions

- 1) Changes in loading of a BCC within the existing capacity and processes that are covered by the existing permit including but not limited to:
    - A) Normal operational variability including but not limited to intermittent increased discharges due to wet weather conditions;
    - B) Changes in intake water pollutants not caused by the discharger;
    - C) Increasing the production hours of the facility;
    - D) Increasing the rate of production.
  - 2) New limits for an existing permitted discharge or activity that are not the result of changes in pollutant loading, and will not allow an increase in pollutant loading, including new limits that are a result of the following:
    - A) New or improved monitoring data;
    - B) New or improved analytical methods;
    - C) New or modified water quality criteria or values;
    - D) New or modified effluent limitations guidelines, pretreatment standards, or control requirements for POTWs.
  - 3) Those actions listed in 35 Ill. Adm. Code 302.512(c), if determined to be exempt by the Agency, including:
    - A) Short term, temporary consisting of weeks or months lowering of water quality;
    - B) Bypasses that are not prohibited at 40 CFR 122.41(m); and
    - C) Response actions pursuant to the comprehensive Environmental Response and Liability Act (CERCLA), as amended, or similar federal or State authority undertaken to alleviate a release into the environment of hazardous substances, pollutants or contaminants which may pose an imminent and substantial danger to public welfare.
- b) Antidegradation Demonstrations
- 1) An entity seeking new or increased loading allowance for a BCC into the Lake Michigan Basin must complete and submit an antidegradation demonstration adequate to substantiate the important economic or social development expected to result and to specify the pollutant minimization plan to accompany any allowable increase in BCC loading for Agency review. The Agency will consult with such entities regarding the scope of the demonstration if requested. A demonstration will address the following elements pertaining to anticipated important economic and social development:
    - A) The extent to which employment will be increased in the area;
    - B) The extent to which production levels will increase in the area;
    - C) The extent to which the proposed change will avoid otherwise anticipated reduction in employment or production levels;
    - D) The extent to which the activity will be providing economic or social benefit to the area;
    - E) The extent to which the activity will be correcting an environmental or public health problem.
  - 2) The demonstration must also address the sources of the BCC and include a comprehensive assessment of pollution

prevention alternatives and alternative or enhanced treatment techniques. This analysis and any other relevant information will form the basis for a pollutant minimization plan to accompany any permissible increased loading allowance.

- 3) If the Agency tentatively determines that increased BCC loading is allowable pursuant to 35 Ill. Adm. Code 302.520(a), such determination, including any conditions of the allowance such as but not limited to pollutant minimization steps, monitoring and reporting requirements, and special restrictions on operation, shall be fully described and subject to the public notice provisions of 35 Ill. Adm. Code 309 for NPDES permits, 35 Ill. Adm. Code 395 and the federal procedures established for the issuance of Clean Water Act Section 404 permits, or the procedures of Section 18 of the Rivers, Lakes and Streams Act [615 ILCS 5/18] for permits under Section 39(n) of the Illinois Environmental Protection Act [415 ILCS 5/39(n)]. Final action that would approve increased BCC loading shall not be taken until completion of the public participation process.