**Section 104.565 Opinion and Order**

a) When the Board adopts a TLWQS, the Board will maintain, in its water quality standards, the underlying designated use and criterion addressed by the TLWQS, unless the Board adopts and USEPA approves a revision to the underlying designated use and criterion consistent with 40 CFR 131.10 and 131.11.

b) A TLWQS will not be adopted if the designated use and criterion addressed by the TLWQS can be achieved by implementing technology based effluent limits required under sections 301(b) and 306 of the Clean Water Act and 35 Ill. Adm. Code 304.

c) The Board will not adopt a TLWQS if the petitioner fails to make its demonstration as set forth in Section 104.560.

d) All orders adopting a TLWQS will include:

1) Identification of the pollutant or water quality parameter;

2) Applicability

A) Watershed, Water Body, Waterbody Segment and Multiple Discharger

i) Identification of the watershed, water body, or waterbody segment to which the TLWQS applies;

ii) Eligibility criteria that may be used by new or existing dischargers or classes of dischargers to obtain coverage under the TLWQS during its duration; and

iii) The list of persons covered under the TLWQS at the time of the Board's adoption.

B) Single Discharger

i) Identification of the water body or waterbody segment to which the TLWQS applies; and

ii) The person covered under the TLWQS.

3) The TLWQS requirements and conditions that apply throughout the term of the TLWQS:

A) Will represent the highest attainable condition of the watershed, water body, or waterbody segment applicable throughout the term of the TLWQS based on petitioner's demonstration required by Section 104.560; and

B) Will not result in any lowering of the currently attained ambient water quality, unless the petitioner demonstrates that a TLWQS is necessary for restoration activities under Section 104.560(a)(7).

4) The highest attainable condition of the water body or waterbody segment as a quantifiable expression of one of the following:

A) For a single discharger and a multiple discharger TLWQS:

i) The highest attainable interim criterion;

ii) The interim effluent condition that reflects the greatest pollutant reduction achievable; or

iii) If no additional feasible pollutant control technology can be identified, the interim criterion or interim effluent condition that reflects the greatest pollutant reduction achievable with the pollutant control technologies installed at the time the Board adopts the TLWQS and with the adoption and implementation of a Pollutant Minimization Program.

B) For a TLWQS applicable to a watershed, water body, or waterbody segment:

i) The highest attainable interim use and interim criterion; or

ii) If no additional feasible pollutant control technology can be identified, the interim use and interim criterion that reflect the greatest pollutant reduction achievable with the pollutant control technologies installed at the time the Board adopts the TLWQS and with the adoption and implementation of a Pollutant Minimization Program.

5) A statement providing that the requirements of the TLWQS are either the highest attainable condition identified at the time of the adoption of the TLWQS, or the highest attainable condition later identified during any re-evaluation consistent with Section 104.580, whichever is more stringent.

6) The term of the TLWQS, expressed as an interval of time from the date of USEPA approval or a specific date.

7) For a TLWQS with a term greater than five years, a specified frequency to re-evaluate the highest attainable condition under Section 104.580. The re-evaluation must occur no less frequently than every five years after both the Board and USEPA approve the TLWQS.

8) A provision that the TLWQS will no longer be the applicable water quality standard for purposes of the Clean Water Act if the petitioner does not conduct a re-evaluation consistent with the frequency specified in the TLWQS or the results are not submitted to USEPA as required by Section 104.580.

e) The Board order adopting or declining to adopt a TLWQS is a final order. Any participant may file a motion for reconsideration, under 35 Ill. Adm. Code 101.520, of a final Board order entered under this Section.

(Source: Added at 42 Ill. Reg. 7922, effective April 27, 2018)