**Section 302.521 Supplemental Antidegradation Provisions for BCCs**

a) Notwithstanding the provisions of Section 302.105, waters within the Lake Michigan Basin must not be lowered in quality due to new or increased loading of substances defined as BCCs in Section 302.501 from any source or activity subject to the NPDES permitting, Section 401 water quality certification provisions of the Clean Water Act (33 U.S.C. 1341), or joint permits from the Agency and the Illinois Department of Natural Resources under Section 39(n) of the Act [415 ILCS 5/39(n)] until and unless it can be affirmatively demonstrated that the change is necessary to accommodate important economic or social development.

1) Where ambient concentrations of a BCC are equal to or exceed an applicable water quality criterion, no increase in loading of that BCC is allowed.

2) Where ambient concentrations of a BCC are below the applicable water quality criterion, a demonstration to justify increased loading of that BCC must include the following:

A) Pollution Prevention Alternatives Analysis. Identify any cost-effective reasonably available pollution prevention alternatives and techniques that would eliminate or significantly reduce the extent of increased loading of the BCC.

B) Alternative or Enhanced Treatment Analysis. Identify alternative or enhanced treatment techniques that are cost-effective and reasonably available to the entity that would eliminate or significantly reduce the extent of increased loading of the BCC.

C) Important Social or Economic Development Analysis. Identify the social or economic development and the benefits that would be forgone if the increased loading of the BCC is not allowed.

3) In no case will increased loading of BCCs result in exceeding applicable water quality criteria or concentrations exceeding the level of water quality necessary to protect existing uses.

4) Changes in loadings of any BCC within the existing capacity and processes of an existing NPDES authorized discharge, certified activity under Section 401 of the Clean Water Act, or joint permits from the Agency and the Illinois Department of Natural Resources under Section 39(n) of the Act are not subject to the antidegradation review of subsection (a). These changes include:

A) normal operational variability, including intermittent increased discharges due to wet weather conditions;

B) changes in intake water pollutants;

C) increasing the production hours of the facility; or

D) increasing the rate of production.

5) Any determination to allow increased loading of a BCC based on a demonstration of important economic or social development need must satisfy the public participation requirements of 40 CFR 25 before final issuance of the NPDES permit, Section 401 water quality certification, or joint permits from the Agency and the Illinois Department of Natural Resources under Section 39(n) of the Act.

b) The following actions are not subject to the provisions of subsection (a) unless the Agency determines the circumstances of an individual situation warrant application of those provisions to adequately protect water quality:

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), incorporated by reference in 35 Ill. Adm. Code 301.106; or

3) Response actions under the Comprehensive Environmental Response, Compensation, 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 that pose danger to public health or welfare.

(Source: Amended at 47 Ill. Reg. 4437, effective March 23, 2023)