
40 C.F.R. § 131.42

Antidegradation Implementation Methods for the Commonwealth of Puerto Rico.

(a) *General Policy Statement.* (1) All point sources of pollution are subject to an antidegradation review.

(2) An antidegradation review shall be initiated as part of the Section 401—“Water Quality Certification Process” of the Clean Water Act.

(3) The 401 Certification Process shall follow the procedures established by the February 2, 1989 Resolution R-89-2-2 of the Governing Board of the Puerto Rico Environmental Quality Board (EQB).

(4) The following are not subject to an antidegradation review due to the fact that they are nondischarge systems and are managed by specific applicable Puerto Rico regulations:

(i) All nonpoint sources of pollutants.

(ii) Underground Storage Tanks.

(iii) Underground Injection Facilities.

(5) The protection of water quality shall include the maintenance, migration, protection, and propagation of desirable species, including threatened and endangered species identified in the local and federal regulations.

(b) *Definitions.* (1) All the definitions included in Article 1 of the Puerto Rico Water Quality Standards Regulation (PRWQSR), as amended, are applicable to this procedure.

(2) High Quality Waters:

(i) Are waters whose quality is better than the mandatory minimum level to support the CWA Section 101(a)(2) goals of propagation of fish, shellfish, wildlife and recreation in and on the waters. High Quality Waters are to be identified by EQB on a parameter-by-parameter basis.

(ii) [Reserved]

(3) Outstanding National Resources Waters (ONRWs):

(i) Are waters classified as SA or SE in the PRWQSR, as amended, or any other water designated by Resolution of the Governing Board of EQB. ONRWs are waters that are recreationally or ecologically important, unique or sensitive.

(ii) [Reserved]

(c) *Antidegradation Review Procedure.* (1) The antidegradation review will commence with the submission of the CWA Section 401 water quality certification request. EQB uses a parameter-by-parameter approach for

the implementation of the anti-degradation policy and will review each parameter separately as it evaluates the request for certification. The 401 certification/antidegradation review shall comply with Article 4(B)(3) of the Puerto Rico Environmental Public Policy Act (Law No. 416 of September 22, 2004, as amended (12 LPRA 8001 *et seq.*)). Compliance with Article 4(B)(3) shall be conducted in accordance with the Reglamento de la Junta de Calidad Ambiental para el Proceso de Presentación, Evaluación y Trámite de Documentos Ambientales (EQB's Environmental Documents Regulation). As part of the evaluation of the Environmental Document an alternatives analysis shall be conducted (12 LPRA 8001(a)(5), EQB's Environmental Documents Regulation, e.g., Rules 211E and 253C), and a public participation period and a public hearing shall be provided (12 LPRA 8001(a), EQB's Environmental Documents Regulation, Rule 254).

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