

## CHAPTER 62-302 SURFACE WATER QUALITY STANDARDS

### 62-302.400 Classification of Surface Waters, Usage, Reclassification, Classified Waters.

(1) All surface waters of the State have been have been classified according to designated uses as follows:

CLASS I	Potable Water Supplies
CLASS II	Shellfish Propagation or Harvesting
CLASS III	<u>Fish Consumption; Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife</u>
<u>CLASS III-Limited</u>	<u>Fish Consumption; Recreation or Limited Recreation; Propagation and Maintenance of a Limited Population of Fish and Wildlife</u>
CLASS IV	Agricultural Water Supplies
CLASS V	Navigation, Utility and Industrial Use

(2) Classification of a ~~waterbody~~ ~~water body~~ according to a particular designated use or uses does not preclude use of the water for other purposes.

(3) The specific water quality criteria corresponding to each surface water classification are listed in Rules 62-302.500 and 62-302.530, F.A.C.

(4) Water quality classifications are arranged in order of the degree of protection required, with Class I water having generally the most stringent water quality criteria and Class V the least. However, Class I, II, and III surface waters share water quality criteria established to protect fish consumption, recreation and the propagation and maintenance of a healthy, well-balanced population of fish and wildlife.

(5) Class III-Limited surface waters share the same water quality criteria as Class III except for site specific alternative criteria that have been established for the waterbody under Rule 62-302.800, F.A.C. Class III-Limited waters are restricted to waters with human-induced physical or habitat conditions that prevent attainment of Class III uses. Class III-Limited waters are either:

(a) Wholly artificial waterbodies that were created by excavation; or

(b) Altered waterbodies that were dredged or filled prior to November 28, 1975. For purposes of this section, "altered waterbodies" are those portions of natural surface waters that were dredged or filled prior to November 28, 1975, to such an extent that they exhibit separate and distinct hydrologic and environmental conditions from any waters to which they are connected.

(6) ~~(5)~~ Criteria applicable to a classification are designed to maintain the minimum conditions necessary to assure the suitability of water for the designated use of the classification. In addition, applicable criteria are generally adequate to maintain minimum conditions required for the designated uses of less stringently regulated classifications. Therefore, unless clearly inconsistent with the criteria applicable, the designated uses of less stringently regulated classifications shall be deemed to be included within the designated uses of more stringently regulated classifications.

~~(7)~~ (6) Any person regulated by the Department or having a substantial interest in a surface waterbody ~~this Chapter~~ may seek reclassification of the subject waters of the State by filing a petition with the Department in accordance with Rule 28-103.006, F.A.C. Secretary in the form required by Section 120.57, F.S.

~~(8)~~ (7) A petition for reclassification shall reference and be accompanied by the information necessary to support the affirmative findings required in this ~~s~~Section, as described in the DEP document titled, "Process for Reclassifying the Designated Uses of Florida Surface Waters" (DEP/SAS/02/10), incorporated by reference herein. Copies of the Process document may be obtained from the Department's internet site at <http://www.dep.state.fl.us/water/wgssp/index.htm>, or by writing to the Florida Department of Environmental Protection, Standards and Assessment Section, 2600 Blair Stone Road, MS 6511, Tallahassee, FL 32399-2400. ~~to support the proposed reclassification.~~

~~(9)~~ (8) All reclassifications of waters of the State shall be adopted, after public notice (including notification to affected local governments ) and public hearing, only upon ~~an~~ affirmative findings by the Environmental Regulation Commission that:

(a) The proposed reclassification will establish the present and future most beneficial use of the waters; ~~and~~

(b) Such a reclassification is clearly in the public interest after considering public input, including special consideration of input submitted by elected city or county governing bodies, who represent the public interest where the waters, and affected upstream and downstream waters, are located;

(c) The proposed reclassification does not allow for the lowering of existing water quality nor result in the nonattainment of water quality standards in downstream waters;

(d) The demonstrations required under subsections (10) – (12) below are met as applicable; and

(e) The requirements contained in Rule 62-302.400, F.A.C., are satisfied.

~~(10)~~ (9) Reclassification of waters of the State which establishes more stringent criteria than presently established by this ~~c~~Chapter shall be adopted, only upon additional affirmative finding by the Environmental Regulation Commission that the proposed designated use is attainable, upon consideration of environmental, technological, social, economic, and institutional factors. The assessment of attainability shall address upstream effects of reclassification.

~~(11)~~ If rulemaking is initiated for a less stringent classification, the petitioner or the Department shall include in the reclassification documentation appropriate and scientifically defensible water quality, biological, hydrological, and habitat studies and analyses, as well as environmental, technological, social, and economic studies, including costs to small businesses and local governments, as necessary to establish the present and future most beneficial use by demonstrating that:

(a) No existing uses are being removed and the less stringent criteria associated with the designation will not result in the nonattainment of water quality standards in downstream waters;

(b) The designated uses being removed cannot be attained by implementing effluent limits required by sections 301(b) and 306 of the Federal Clean Water Act in

conjunction with implementation of cost-effective and reasonable best management requirements for nonpoint source pollution control; and

(c) One or more of the following situations occur:

1. Concentrations of naturally occurring substances prevent the attainment of the use;

2. Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State water conservation requirements to enable uses to be met;

3. Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place;

4. Dams, diversions, or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the waterbody to its original condition or to operate such modification in a way that would result in the attainment of the use;

5. Physical conditions related to the natural features of the waterbody, such as the lack of a proper substrate, cover, flow, depth, pool, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses; or

6. Controls more stringent than those required by sections 301(b) and 306 of the Federal Clean Water Act would result in substantial and widespread economic and social impact.

(12) The petition for a Class III-Limited classification shall include appropriate Site Specific Alternative Criteria proposals that are protective of the most beneficial use as determined by the demonstration in subsection (9) above. Site Specific Alternative Criteria established to support the Class III-Limited designated use are restricted to numeric criteria for any or all of the following parameters: nutrients (including nutrient response variables), bacteria, dissolved oxygen, alkalinity, specific conductance, transparency, turbidity, biological integrity, or pH. Site Specific Alternative Criteria for these parameters shall not be set at levels less stringent than water quality conditions at the time of reclassification. Proposed site specific alternative criteria for other parameters must fully protect Class III uses.

(13) Nothing contained in subsections (8) through (12) above shall be deemed to pre-empt or prohibit the regulatory implementation, adoption, continuation or enforcement of more stringent criteria that are established by a local government through a local pollution control program.

(14)-(10) The surface waters of the State of Florida are classified as Class III - Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife, except for certain waters which are described in subsection Rule 62-302.400(16), F.A.C. 62-302.400(12), F.A.C. A waterbody water body may also be designated as an Outstanding Florida Water or an Outstanding National Resource Water in addition to being classified as Class I, Class II, or Class III. Outstanding Florida Waters and Outstanding National Resource Waters are not designated use classifications. A waterbody water body may also have special standards applied to it. However, notwithstanding any provision of this section, no classification action or change in designated use shall result in degradation of water quality in Outstanding

Florida Waters or Outstanding National Resource Waters. Outstanding Florida Waters and Outstanding National Resource Waters are listed in Rule 62-302.700, F.A.C.

(15) ~~(14)~~ Unless otherwise specified, the following shall apply:

(a) The landward extent of a classification shall coincide with the landward extent of waters of the state, as defined in Rule 62-340.600, F.A.C.

(b) Water quality classifications shall be interpreted to include associated water bodies such as tidal creeks, coves, bays and bayous.

(16) ~~(12)~~ Exceptions to Class III:

(a) All secondary and tertiary canals wholly within agricultural areas are classified as Class IV and are not individually listed as exceptions to Class III.

"Secondary and tertiary canals" shall mean any wholly artificial canal or ditch which is behind a control structure and which is part of a water control system that is connected to the works (set forth in Section 373.086, F.S.) of a water management district created under Section 373.069, F.S., and that is permitted by such water management district pursuant to Section 373.103, Section 373.413, or Section 373.416, F.S. Agricultural areas shall generally include lands actively used solely for the production of food and fiber which are zoned for agricultural use where county zoning is in effect. Agricultural areas exclude lands which are platted and subdivided or in a transition phase to residential use;

(b) The following listed waterbodies ~~water bodies~~ are classified as Class I, Class II, Class III-Limited, or Class V:

1. through 67. No change.

Rulemaking Specific Authority 403.061, 403.062, 403.087, 403.088, 403.504, 403.704, 403.804 FS. Law Implemented 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.504, 403.702, 403.708 FS. History - Formerly 28-5.06, 17-3.06, Amended and Renumbered 3-1-79, Amended 1-1-83, 2-1-83, Formerly 17-3.081, Amended 4-25-93, Formerly 17-302.400, Amended 12-26-96, 8-24-00, 12-7-06, - -10.