

**ILLINOIS COAL ASSOCIATION**

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**STATE OF ILLINOIS  
Pollution Control Board**

November 28, 2000

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Clerk of the Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph  
Suite 11-500  
Chicago, IL 60601

*PC # 19*  
*201-13*

**RE: Comments on the Revisions to the Antidegradation Rules**

The Illinois Coal Association (ICA) submits the following comments on the Illinois Environmental Protection Agency's (IEPA's) draft antidegradation rules distributed to the Antidegradation Workgroup under cover dated June 14, 2000. The ICA is a trade association formed to foster, promote and defend the interests of the Illinois coal industry. Our members operate coal mines and preparation plants in the state of Illinois, and could be affected by the proposed amendments as permittees under the national Pollutant Discharge Elimination System (NPDES).

The proposed rules would revise the existing antidegradation standard at 35 Ill. Adm. Code 302.105, establish a new "Outstanding Resource Waters" category to the existing designated uses classification in 35 Ill. Adm. Code 303.205, and establish procedures for IEPA's application of the antidegradation standard in the NPDES and Clean Water Act Section 401 certification programs.

The ICA incorporates its earlier comments on IEPA's antidegradation rule draft, set forth in the letter of Taylor Pensoneau to Toby Frevert dated November 15, 1999. In addition, the ICA submits that NPDES permits issued under 35 Ill. Adm. Code Subtitle D should be exempt from any requirement of antidegradation demonstrations.

IEPA, in implementing the Clean Water Act in Illinois, historically has recognized the need for special provisions to regulate coal mine discharges under the NPDES program. This recognition has led to the adoption of 35 Ill. Adm. Code Parts 405 and 406, governing coal mine NPDES permits and permits for disposal of coal mine waste.

35 Ill. Adm. Code 406.202 generally incorporates the Illinois water quality standards of 35 Ill. Adm. Code Parts 302 and 303 into Part 406, and prohibits discharges which would cause violations of those standards. 35 Ill. Adm. Code 406.203, however,

"sets forth procedures by which water quality-based permit conditions for total dissolved solids, chloride, sulfate, iron and manganese may be established by the Agency for coal mine discharges. These procedures apply instead of Section 406.202 whenever a permit applicant elects to proceed under this Section. A permittee must comply with water quality-based permit conditions for total dissolved solids, chloride, sulfate, iron and manganese established pursuant to this Section instead of Section 406.202."

35 Ill. Adm. Code 406.203(a). Since the antidegradation rule is contained within Part 303 (currently and as proposed), section 406.203(a) by its own terms exempts coal mine NPDES permits issued under that section from any antidegradation requirement in Part 303 (except as to pollutants other than those listed in that section). To avoid confusion, the ICA suggests that proposed 35 Ill. Adm. Code 303.205 be made consistent with section 406.203(a) by the addition of language to the proposed antidegradation rule specifically recognizing this exemption. Please note that the ICA is not requesting a new exemption, but only the explicit recognition in the new antidegradation rule of an exemption which already exists by virtue of the language in section 406.203(a) quoted above.

Additional comments on the draft include:

Section 302.105, b), B) - "existing site" should be eliminated to include future stormwater discharges.

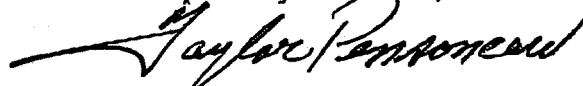
Section 302.105, d) - should add de minimus discharges to this list with de minimus defined as 20 percent of the unused loading capacity. Antidegradation analysis applied to de minimus or stormwater flows is nonproductive and diverts the state's resources from areas that can provide a more significant environmental benefit.

Section 354.103, c) - statewide benefits should be added to this list in order to recognize benefits that extend beyond the local community to the rest of the state.

Section 106.943 - affected property and mineral owners should be provided notice. Absentee owners would not see notice provided in local newspapers. Because the designation can affect property rights and property values, individual notice is critical.

Thank you for this opportunity to submit comments on the draft rules.

Respectfully Submitted,



Taylor Pensoneau  
President