

ILLINOIS POLLUTION CONTROL BOARD
July 9, 1992

IN THE MATTER OF:)
)
GROUNDWATER QUALITY STANDARDS:) R89-14(C)
AMENDMENTS TO 35 ILL. ADM. CODE) (Rulemaking)
303, 616, AND 620)

Proposed Rule Second Notice

OPINION AND ORDER OF THE BOARD (by R.C. Flemal):

In this docket the Board is considering certain amendments necessary to complete rulemaking on groundwater quality standards. The primary rulemaking, in which the groundwater quality standards¹ were established, was completed in November 1991 within docket R89-14(B)².

The instant docket considers the remaining matter of how to address the connection between the new Part 620 groundwater quality regulations and the previously existing general water quality standards of Subtitle C³. In particular, the principal issue for decision is whether:

- (a) All underground waters should be severed from some or part of their association with Subtitle C; or
- (b) Only groundwaters should be severed from their association with Subtitle C.

Among active participants and commenters in this proceeding, the Illinois Environmental Protection Agency (Agency), the Illinois Department of Mines and Minerals (Mines and Minerals), and the Illinois Steel Group have expressed support for

¹ Found at 35 Ill. Adm. Code Part 620.

² In the Matter of: Groundwater Quality Standards (35 Ill. Adm. Code 620), R89-14(B), November 7, 1991; 15 Ill. Reg. 17614 (December 6, 1991), effective November 25, 1991.

³ Subtitle C consists of several parts, of which Part 302 (Water Quality Standards) and Part 303 (Water Use Designations and Site Specific Water Quality Standards) are pertinent to the instant matter. Part 302 is divided into subparts, of which Subpart A (General Water Quality Provisions), Subpart B (General Use Water Quality Standards), and Subpart C (Public and Food Processing Water Supply Standards) are the pertinent subparts.

alternative (a)⁴. The McHenry County Defenders, Citizens for a Better Environment, and the Illinois Chapter of the Sierra Club (collectively as "Defenders") have expressed support for alternative (b)⁵.

A subsidiary matter that the Board also today addresses is an amendment to Part 616 at Section 616.104 necessary to correct a typographical error in that section (see following discussion).

Today the Board adopts for second notice the amendments as proposed at first notice on April 23, 1992⁶.

BACKGROUND

Prior to adoption of 35 Ill. Adm. Code: Part 620, certain groundwaters were subject to the water quality standards found in 35 Ill. Adm. Code: Subtitle C. This connection occurs in Subtitle C at Section 303.203. This section currently reads as follows:

Section 303.203 Underground Waters

The underground waters of Illinois which are a present or a potential source of water for public or food processing supply shall meet the general use and public and food processing water supply standards of Subparts B and C, Part 302, except due to natural causes.

The matter of amending Section 303.203 has been one of the issues addressed in the general groundwater rulemaking proceedings from the very beginning⁷. However, it was not until the larger matters surrounding groundwater standards were decided in Docket B that much focus has come to the Section 303.203 matter. It is generally agreed that to allow Section 303.203 to exist unaltered is to allow for conflict and confusion. The

⁴ See Public Comments #67 and #75 (Agency), #70 (Mines and Minerals), #69 and #74 (Illinois Steel Group), and #71 (joint comment of Agency, Mines and Minerals, and Illinois Steel Group).

⁵ See Public Comment #76.

⁶ In the Matter of: Groundwater Quality Standards (35 Ill. Adm. Code 303, 616, and 620), R89-14(C), April 23, 1992; Notice of withdrawal published at 16 Ill. Reg. 7511 (May 8, 1992); First Notice publication of amendments for Parts 303, 616, and 620 at 16 Ill. Reg. 7302, 7295, and 7286, respectively, (May 8, 1992).

⁷ An expanded history of this issue is given in the April 23, 1992 first notice opinion (see reference at footnote Ibid).

question is how to eliminate this circumstance and in particular how to address underground waters that are not groundwaters.

It is to be first understood that not all underground waters are groundwaters. "Underground water" is defined in the Illinois Groundwater Protection Act (IGPA)⁸:

"UNDERGROUND WATER" MEANS ALL WATER BENEATH THE LAND SURFACE. (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 7453(k).)

"Groundwater" is defined in both the Illinois Environmental Protection Act (Act) and the IGPA:

"GROUNDWATER" MEANS UNDERGROUND WATER WHICH OCCURS WITHIN THE SATURATED ZONE AND GEOLOGIC MATERIALS WHERE THE FLUID PRESSURE IN THE PORE SPACE IS EQUAL TO OR GREATER THAN ATMOSPHERIC PRESSURE. (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1003.64 and par. 7453(g).)

Pursuant to these definitions, "groundwater" is a subset of "underground waters". Among other matters, it is that subset that occurs within the saturated zone. Not included within groundwater are underground waters that occur in unsaturated portions of the subsurface, such as within the aerated portions of the soil. This would also include water normally found in the root zone of crops, since the roots of most crops do not propagate into the saturated zone.

The solution that the Board proposed at first notice, and that it today adopts for second notice, is to replace existing Section 303.203 with the following:

Section 303.203 Underground Waters

35 Ill. Adm. Code 302.Subparts B and C do not apply to underground waters, except as provided at 35 Ill. Adm. Code 620.450(b).

The effect is to remove the applicability of the General Use Water Quality Standards (Subpart B) and the Public and Food Processing Water Supply Standards (Subpart C) from all underground waters. Importantly, Subpart A, which includes the

⁸ A similar, and earlier definition occurs in the Boards rules and regulations in the introduction to Subtitle C:

Underground Waters: Any waters of the State located beneath the surface of the earth. (35 Ill. Adm. Code 301.420.)

nondegradation provision at Section 302.105, would continue to apply to all underground waters.

As also noted at first notice, it is additionally necessary that the form of the reference to the Subtitle C standards at Section 620.450(b) be amended to cite directly to the applicable parts rather than to the applicability section, 303.203. This is accomplished as detailed in the attached order.

DISCUSSION

The principal reason why there are now groundwater standards different from the General Use and Public and Food Processing Water Supply Standards of Subtitle C is that the latter standards are not fully relevant to groundwater. This Board has observed at length that groundwaters differ in important regards from surface waters, and that standards based on surface water considerations (as are the Subtitle C standards) often have no basis in groundwater considerations⁹. For example, toxicity to aquatic organisms is the factor that most often controls the General Use Standards¹⁰; toxicity to aquatic organisms is not a relevant groundwater matter.

The necessary distinction between surface water and groundwater is further recognized in the mandate of the IGPA that water quality standards specific to groundwater be developed. In particular, the legislature has declared:

... the Board shall promulgate the water quality standards for groundwater. In promulgating these regulations, the Board shall ... consider the following:

⁹ See, for example, In the Matter of: A Plan for Protecting Illinois Groundwater R86-8 (August 28, 1986). This a report prepared by the Board for the Illinois General Assembly pursuant to P.A. 83-1268 and 13.1 of the Act. Particularly pertinent sections include: Groundwater versus Underground Water Protection (p. III-1 to III-2), Dissimilarities between Surface Waters and Groundwaters (p. III-2 to III-6), Existing Standards for Groundwater Protection (p. IV-1 to IV-6), Rationale for Water Quality Standards (p. IV-6 to IV-7), Recommendations for Groundwater Standards (p. IV-7 to IV-18)

¹⁰ It should be noted that during the pendency of the groundwater rulemakings, the Subtitle C standards were amended to place even greater emphasis on toxicity to aquatic organisms than had previously been the case. See In the Matter of: Amendments to Title 35, Subtitle C (Toxics Control) R88-21 (January 25, 1990), final opinion and order.

1. recognition that groundwaters differ in many important respects from surface waters, including water quality, rate of movement, direction of flow, accessibility, susceptibility to pollution, and use ...

(Ill. Rev. Stat. 1991, ch 111½,
par. 7458)

Although much of what has been said on this topic both in this proceeding and earlier has focused solely on groundwater, almost all is also pertinent to the broader matter of underground water. In particular, there is little in the General Use and Public and Food Processing Water Supply Quality Standards that seems to be germane to underground waters. The prohibition against offensive conditions of sludge, bottom deposits, floating debris, algal growth, etc. of Section 302.203 is not germane; the aquatic toxicity standards of Sections 302.208 and 302.210 are not germane; the reversion and lake phosphorus standard of Section 302.205 is not germane; the fecal coliform standards of Sections 302.208 and 302.306 and the river temperature limitations of Section 302.211 are not germane; the algicide permits of Section 302.302 and the finished water standards of Section 302.303 are not germane. The pH and dissolved oxygen standards of Sections 302.204 and 302.206 are, at best, of questionable relevance.

Some of the Subtitle C standards, if applied to underground waters, would have fully unacceptable consequences. For example, Section 302.212 restricts ammonia concentrations to the low levels necessary to protect sensitive aquatic life in surface waters. These levels are far below those that result in the unsaturated zone due to application of ammonia fertilizers. Thus, application of the Section 302.212 ammonia limitations to underground waters in the unsaturated zone would be tantamount to a prohibition against application of ammonia fertilizer!

In sum, the Board can see no rationale for continuing the applicability of the General Use or Public and Food Processing Water Supply Quality Standards to underground waters in general. These standards were originally designed to protect surface waters. Moreover, they have evolved even more strongly in support of this sole mission as the result of recent rulemakings. A general severance is now warranted.

The Board notes that the Defenders object to this course of action. (PC #76.) Among the Defenders' observations is that the IGPA mandate directs the Board to address groundwater standards, not underground water standards. From this point the implication is left that the Board lacks authority for today's action. The Board disagrees. The Board has authority to generally amend its regulations pursuant to Title VII of the Act.

Additionally, the Board notes that the Defenders contest the allegation of the Agency, Mines and Minerals, and the Steel Group that Part 620 regulations were "intended to replace the existing water quality standards 'with respect to the saturated and unsaturated zones of underground waters'". (PC #76 at 3 quoting PC #71 at 1-2; emphasis added.) The Board agrees with the Defenders to the extent that it finds no support for the contention that the Part 620 regulations are or were intended to have application to underground waters within the unsaturated zone; the record is indeed replete with pleadings and explicit Board findings to the contrary.

CORRECTIONS

The Board notes that the Joint Committee on Administrative Rules alerted it to a typographical error in Section 616.104(b). The error consists of a phrase inadvertently dropped from the subsection. The subsection quotes statutory language. The Board proposes to correct this oversight in this docket so as to make the correction as expeditiously as possible.

The Board notes that the Agency suggests corrections of two typographical errors it has found within Sections 620.210 and 620.410. (PC #75 at 2-4.) Unfortunately, the Board cannot reopen these sections without publishing the changes for first notice in the Illinois Register, an action which would cause delay in this proceeding. The Agency is requested to repropose these amendments in a new docket as soon as it finds it practicable.

ORDER

The Board hereby directs that second notice of the following proposed amendments be submitted to the Joint Committee on Administrative Rules.

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 303
WATER USE DESIGNATIONS AND SITE SPECIFIC
WATER QUALITY STANDARDS

SUBPART B: NONSPECIFIC WATER USE DESIGNATIONS

Section 303.203 Underground Waters

35 Ill. Adm. Code 302.Subparts B and C do not apply to underground waters, except as provided at 35 Ill. Adm. Code 620.450(b)~~The underground waters of Illinois which are a present~~

~~or a potential source of water for public or food processing supply shall meet the general use and public and food processing water supply standards of Subparts B and C, Part 302, except due to natural causes.~~

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 616

NEW ACTIVITIES IN A SETBACK ZONE OR REGULATED RECHARGE AREA

SUBPART A: GENERAL

Section 616.104 Exceptions to Prohibitions

- a) THE OWNER OF A NEW POTENTIAL PRIMARY SOURCE OR A POTENTIAL SECONDARY SOURCE MAY SECURE A WAIVER FROM THE prohibitions specified in Sections 616.402(a), 616.422(a), 616.442, 616.462(a), 616.602, 616.622, 616.702 or 616.722(a) against construction or operation within the setback zone FOR A POTABLE WATER SUPPLY WELL OTHER THAN A COMMUNITY WATER SUPPLY. A WRITTEN REQUEST FOR A WAIVER SHALL BE MADE TO THE OWNER OF THE WATER WELL AND THE AGENCY. SUCH REQUEST SHALL IDENTIFY THE NEW OR PROPOSED POTENTIAL SOURCE, SHALL GENERALLY DESCRIBE THE POSSIBLE EFFECT OF SUCH POTENTIAL SOURCE UPON THE WATER WELL AND ANY APPLICABLE TECHNOLOGY-BASED CONTROL WHICH WILL BE UTILIZED TO MINIMIZE THE POTENTIAL FOR CONTAMINATION, AND SHALL STATE WHETHER, AND UNDER WHAT CONDITIONS, THE REQUESTOR WILL PROVIDE AN ALTERNATIVE POTABLE WATER SUPPLY. WAIVER MAY BE GRANTED BY THE OWNER OF THE WATER WELL NO LESS THAN 90 DAYS AFTER RECEIPT UNLESS PRIOR TO SUCH TIME THE AGENCY NOTIFIES THE WELL OWNER THAT IT DOES NOT CONCUR WITH THE REQUEST. (Section 14.2(b) of the Act)
- b) THE AGENCY SHALL NOT CONCUR WITH ANY SUCH REQUEST WHICH FAILS TO ACCURATELY DESCRIBE REASONABLY FORESEEABLE EFFECTS OF THE POTENTIAL SOURCE OR POTENTIAL ROUTE UPON THE WATER WELL OR ANY APPLICABLE TECHNOLOGY-BASED CONTROLS. SUCH NOTIFICATION BY THE AGENCY SHALL BE IN WRITING, AND SHALL INCLUDE A STATEMENT OF REASONS FOR THE NONCONCURRENCE. WAIVER OF THE MINIMUM SETBACK ZONE SHALL EXTINGUISH THE WATER WELL OWNER'S RIGHTS UNDER SECTION 6b OF THE ILLINOIS WATER WELL CONSTRUCTION CODE BUT SHALL NOT PRECLUDE ENFORCEMENT OF ANY LAW REGARDING WATER POLLUTION. IF THE OWNER OF THE WATER WELL HAS NOT GRANTED A WAIVER WITHIN 120 DAYS AFTER RECEIPT OF THE REQUEST OR THE AGENCY HAS NOTIFIED THE OWNER THAT IT DOES NOT CONCUR WITH THE REQUEST, THE OWNER OF A POTENTIAL SOURCE OR POTENTIAL ROUTE MAY FILE A PETITION FOR AN EXCEPTION WITH THE BOARD AND THE AGENCY PURSUANT TO subsection (b) OF THIS SECTION. (Section 14.2(b) of the Act)
- c) NO WAIVER UNDER THIS SECTION IS REQUIRED WHERE THE POTABLE WATER SUPPLY WELL IS PART OF A PRIVATE WATER SYSTEM AS DEFINED IN THE ILLINOIS GROUNDWATER PROTECTION ACT, AND THE OWNER OF SUCH WELL WILL ALSO BE THE OWNER OF A NEW POTENTIAL SECONDARY SOURCE OR A POTENTIAL ROUTE. IN SUCH INSTANCES, A PROHIBITION OF 75 FEET SHALL APPLY AND THE OWNER SHALL

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NOTIFY THE AGENCY OF THE INTENDED ACTION SO THAT THE AGENCY MAY PROVIDE INFORMATION REGARDING THE POTENTIAL HAZARDS ASSOCIATED WITH LOCATION OF A POTENTIAL SECONDARY SOURCE OR POTENTIAL ROUTE IN CLOSE PROXIMITY TO A POTABLE WATER SUPPLY WELL. (Section 14.2(b) of the Act)

- d) THE BOARD MAY GRANT AN EXCEPTION FROM THE SETBACK REQUIREMENTS OF THIS SECTION AND SECTION 14.3 TO THE OWNER OF A NEW POTENTIAL PRIMARY SOURCE OTHER THAN LANDFILLING OR LAND TREATING, OR A NEW POTENTIAL SECONDARY SOURCE. THE OWNER SEEKING AN EXCEPTION WITH RESPECT TO A COMMUNITY WATER SUPPLY WELL SHALL FILE A PETITION WITH THE BOARD AND THE AGENCY. THE OWNER SEEKING AN EXCEPTION WITH RESPECT TO A POTABLE WATER SUPPLY WELL SHALL FILE A PETITION WITH THE BOARD AND THE AGENCY, AND SET FORTH THEREIN THE CIRCUMSTANCES UNDER WHICH A WAIVER HAS BEEN SOUGHT BUT NOT OBTAINED PURSUANT TO subsection (a) OF THIS SECTION. A PETITION SHALL BE ACCOMPANIED BY PROOF THAT THE OWNER OF EACH POTABLE WATER SUPPLY WELL FOR WHICH SETBACK REQUIREMENTS WOULD BE AFFECTED BY THE REQUESTED EXCEPTION HAS BEEN NOTIFIED AND BEEN PROVIDED WITH A COPY OF THE PETITION. A PETITION SHALL SET FORTH SUCH FACTS AS MAY BE REQUIRED TO SUPPORT AN EXCEPTION, INCLUDING A GENERAL DESCRIPTION OF THE POTENTIAL IMPACTS OF SUCH POTENTIAL SOURCE OR POTENTIAL ROUTE UPON GROUNDWATERS AND THE AFFECTED WATER WELL, AND AN EXPLANATION OF THE APPLICABLE TECHNOLOGY-BASED CONTROLS WHICH WILL BE UTILIZED TO MINIMIZE THE POTENTIAL FOR CONTAMINATION OF THE POTABLE WATER SUPPLY WELL. (Section 14.2(c) of the Act)
- e) THE BOARD SHALL GRANT AN EXCEPTION, WHENEVER IT IS FOUND UPON PRESENTATION OF ADEQUATE PROOF, THAT COMPLIANCE WITH THE SETBACK REQUIREMENTS OF THIS SECTION WOULD POSE AN ARBITRARY AND UNREASONABLE HARDSHIP UPON THE PETITIONER, THAT THE PETITIONER WILL UTILIZE THE BEST AVAILABLE TECHNOLOGY CONTROLS ECONOMICALLY ACHIEVABLE TO MINIMIZE THE LIKELIHOOD OF CONTAMINATION OF THE POTABLE WATER SUPPLY WELL, THAT THE MAXIMUM FEASIBLE ALTERNATIVE SETBACK WILL BE UTILIZED, AND THAT THE LOCATION OF SUCH POTENTIAL SOURCE OR POTENTIAL ROUTE WILL NOT CONSTITUTE A SIGNIFICANT HAZARD TO THE POTABLE WATER SUPPLY WELL. (Section 14.2(c) of the Act)
- f) A DECISION MADE BY THE BOARD PURSUANT TO THIS SUBSECTION SHALL CONSTITUTE A FINAL DETERMINATION. (Section 14.2(c) of the Act)
- g) THE GRANTING OF AN EXCEPTION BY THE BOARD SHALL NOT EXTINGUISH THE WATER WELL OWNER'S RIGHTS UNDER SECTION 6b OF THE ILLINOIS WATER WELL CONSTRUCTION CODE IN INSTANCES WHERE THE OWNER HAS ELECTED NOT TO PROVIDE A WAIVER PURSUANT TO subsection (a) OF THIS SECTION. (Section 14.2(a) of the Act)

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 620
GROUNDWATER QUALITY

Section 620.450 Alternative Groundwater Quality Standards

a) Groundwater Quality Restoration Standards

- 1) Any chemical constituent in groundwater within a groundwater management zone is subject to this Section.
- 2) Except as provided in subsections (a)(3) or (a)(4) below, the standards as specified in Sections 620.410, 620.420, 620.430, and 620.440 apply to any chemical constituent in groundwater within a groundwater management zone.
- 3) Prior to completion of a corrective action described in Section 620.250(a), the standards as specified in Sections 620.410, 620.420, 620.430, and 620.440 are not applicable to such released chemical constituent, provided that the initiated action proceeds in a timely and appropriate manner.
- 4) After completion of a corrective action as described in Section 620.250(a), the standard for such released chemical constituent is:
 - A) The standard as set forth in Section 620.410, 620.420, 620.430, or 620.440, if the concentration as determined by groundwater monitoring of such constituent is less than or equal to the standard for the appropriate class set forth in those sections; or
 - B) The concentration as determined by groundwater monitoring, if such concentration exceeds the standard for the appropriate class set forth in Section 620.410, 620.420, 620.430, or 620.440 for such constituent, and:
 - i) To the extent practicable, the exceedence has been minimized and beneficial use, as appropriate for the class of groundwater, has been returned; and

- ii) Any threat to public health or the environment has been minimized.
- 5) The Agency shall develop and maintain a listing of concentrations derived pursuant to subsection (a)(4)(B) above. This list shall be made available to the public and be updated periodically, but no less frequently than semi-annually. This listing shall be published in the Environmental Register.
- b) Coal Reclamation Groundwater Quality Standards
- 1) Any inorganic chemical constituent or pH in groundwater, within an underground coal mine, or within the cumulative impact area of groundwater for which the hydrologic balance has been disturbed from a permitted coal mine area pursuant to the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1989, ch. 96 1/2, pars. 7901.1 et seq., as amended) and 62 Ill. Adm. Code 1700 through 1850, is subject to this Section.
 - 2) Prior to completion of reclamation at a coal mine, the standards as specified in Sections 620.410(a) and (d), 620.420(a) and (e), 620.430 and 620.440 are not applicable to inorganic constituents and pH.
 - 3) After completion of reclamation at a coal mine, the standards as specified in Sections 620.410(a) and (d), 620.420(a), 620.430, and 620.440 are applicable to inorganic constituents and pH, except:
 - A) The concentration of total dissolved solids (TDS) must not exceed:
 - i) The post-reclamation concentration or 3000 mg/L, whichever is less, for groundwater within the permitted area; or
 - ii) The post-reclamation concentration of TDS must not exceed the post-reclamation concentration or 5000 mg/L, whichever is less, for groundwater in underground coal mines and in permitted areas reclaimed after surface coal mining if the Illinois Department of Mines and Minerals and the Agency have determined that no significant resource groundwater

existed prior to mining (62 Ill. Adm. Code 1780.21(f) and (g)); and

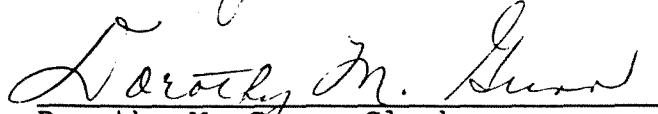
- B) For chloride, iron, manganese and sulfate, the post-reclamation concentration within the permitted area must not be exceeded.
 - C) For pH, the post-reclamation concentration within the permitted area must not be exceeded within Class I: Potable Resource Groundwater as specified in Section 620.210(a)(4).
- 4) A refuse disposal area (not contained within the area from which overburden has been removed) is subject to the inorganic chemical constituent and pH requirements of:
- A) 35 Ill. Adm. Code ~~303.203~~ 302.Subparts B and C, except due to natural causes, for such area that was placed into operation after February 1, 1983, and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing;
 - B) Section 620.440(c) for such area that was placed into operation prior to February 1, 1983, and has remained in continuous operation since that date; or
 - C) Subpart D of this Part for such area that is placed into operation on or after the effective date of this Part.
- 5) For a refuse disposal area (not contained within the area from which overburden has been removed) that was placed into operation prior to February 1, 1983, and is modified after that date to include additional area, this Section applies to the area that meets the requirements of subsection (b)(4)(C) and the following applies to the additional area:
- A) 35 Ill. Adm. Code ~~303.203~~ 302.Subparts B and C, except due to natural causes, for such additional refuse disposal area that was placed into operation after February 1, 1983, and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing; and

- B) Subpart D for such additional area that was placed into operation on or after the effective date of this Part.
- 6) A coal preparation plant (not located in an area from which overburden has been removed) which contains slurry material, sludge or other precipitated process material, is subject to the inorganic chemical constituent and pH requirements of:
- A) 35 Ill. Adm. Code ~~303.203~~ 302.Subparts B and C, except due to natural causes, for such plant that was placed into operation after February 1, 1983, and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing;
 - B) Section 620.440(c) for such plant that was placed into operation prior to February 1, 1983, and has remained in continuous operation since that date; or
 - C) Subpart D for such plant that is placed into operation on or after the effective date of this Part.
- 7) For a coal preparation plant (not located in an area from which overburden has been removed) which contains slurry material, sludge or other precipitated process material, that was placed into operation prior to February 1, 1983, and is modified after that date to include additional area, this Section applies to the area that meets the requirements of subsection (b)(6)(C) and the following applies to the additional area:
- A) 35 Ill. Adm. Code ~~303.203~~ 302.Subparts B and C, except due to natural causes, for such additional area that was placed into operation after February 1, 1983, and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing; and
 - B) Subpart D for such additional area that was placed into operation on or after the effective date of this Part.

IT IS SO ORDERED.

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I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 9th day of July, 1992, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board