

EPA'S RATIONALE FOR APPROVAL OF AMENDMENTS TO THE EXISTING ILLINOIS POLLUTION CONTROL BOARD REGULATION, 35 ILL. ADM. CODE 302.102, 302.208, 309.103, 405.109, 406.100, 406.203, and 407. REVISED WATER QUALITY CRITERIA FOR SULFATE AND TOTAL DISSOLVED SOLIDS. (WQSTS IL2008-274)

Date: MAR 18 2009

I. INTRODUCTION

On October 18, 2006, the Illinois Environmental Protection Agency (IEPA) proposed revisions to Illinois' water quality standards (WQS) for sulfate and total dissolved solids (TDS). EPA received the submittal on December 9, 2008. On January 21, 2009, EPA received a letter from the Illinois Attorney General's office certifying that the rulemaking met all State legal requirements. This certification completed the requirements of State WQS submissions as specified in 40 CFR 131.21 and section 303(c) of the Clean Water Act (CWA).

Documents submitted to EPA by IEPA included the following:

- A. Action Letter from Marcia T. Willhite on December 9, 2008 which included:
 - Copies of the *Illinois Register* publications of the proposed and adopted regulations.
 - A copy of the Illinois EPA's Regulatory Proposal, dated October 18, 2006.
 - A copy of the Illinois Pollution Control Board's acceptance for hearing, first notice opinion, second first notice opinion, second notice opinion and adopting opinion in R07-009, which detail the rulemaking process and which responds to comments made during first notice.
 - A copy of the public notices for the hearings in R07-009.
 - Copies of the transcripts of the two hearings in R07-009.
- B. Certification letter from The Illinois Attorney General's Office on January 21, 2009.
- C. Copy of "Facts in Support of Changing Water Quality Standards for Sulfate, Total Dissolved Solids and Mixing Zones" along with Exhibits A through V received on February 1, 2007.

This review documents the basis for EPA's action on the components of Illinois' revised water rules.

A. EPA's review for consistency with the CWA and Federal Regulations

Water quality standards requirements of CWA sections 101(a)(2), 118, and 303(c)(2) are implemented through federal regulations at 40 CFR Part 131 and 40 CFR Part 132. Federal regulations at 40 CFR §131.21 require EPA to review and approve or disapprove new and revised water quality standards adopted by states and tribes. This authority has been delegated to the ten EPA Regional Administrators and, in Region 5, further delegated to the Director of the Water Division. In making this determination, EPA must consider the following requirements for 40 CFR §131.5:

- whether state-adopted uses are consistent with CWA requirements;
- whether the state has adopted criteria are protective of the adopted uses;
- whether the state has followed legal procedures for revising its standards;
- whether these standards are based on appropriate technical and scientific data and analyses;
- whether the state's submission includes certain basic elements as specified in 40CFR131.6, including use designations that are consistent with the provisions of Sections 101(a)(2) and 303(c)(2) of the CWA; and,
- whether, for water quality standards that apply within the Great Lakes basin, the state submission meets the requirements of 40 CFR Part 132.

B. EPA's consultation requirements under the Endangered Species Act

Consistent with section 7(a)(2) of the Endangered Species Act (ESA), 16 U.S.C. § 1536(a)(2), and federal regulations at 50 CFR Part 402, EPA is generally required to consult with the U.S. Fish and Wildlife Service (FWS) and/or the National Oceanic and Atmospheric Administration's Fisheries Service (for marine species), on EPA actions that may affect federally-listed threatened or endangered species or designated critical habitat (generally referred to as "listed species" in the remainder of this document). EPA's approval of new or revised State water quality standards under Section 303 of the CWA is generally an action requiring consultation where such approvals may affect listed species or designated critical habitat.

In a June 6, 2008 letter, EPA initiated informal consultation with the Rock Island Field Office of FWS. Consultation was not completed prior to EPA's statutory deadline for action on Illinois' revised water quality standards. EPA's approval of Illinois' revised water quality standards provisions identified below, is subject to the results of consultation under Section 7(a)(2) of the ESA. EPA will continue to work with FWS to complete consultation on EPA's approval of Illinois' revised water quality standards.

EPA believes that proceeding with approval of Illinois' revised water quality standards is consistent with section 7(d) of the ESA. EPA's approval decisions do not foreclose either formulation by FWS, or the implementation by EPA, of any alternatives that might be determined in the consultation to be needed to comply with section 7(a)(2). By approving the standards subject to the result of consultation under section 7(a)(2) of the ESA, EPA has explicitly stated that it retains its discretion to take appropriate action if the consultation identifies deficiencies in the standards requiring remedial action by EPA. EPA retains the full range of options available under section 303(c) of the CWA for ensuring the water quality standards are protective. EPA can, for example, work with Illinois to ensure that Illinois revises its standards as needed to ensure listed species protection, initiate rulemaking to promulgate federal standards to supersede Illinois' water quality standards or, in appropriate circumstances, change EPA's approval to disapproval. Moreover, EPA believes that approval of the State's water quality standards revisions summarized below will not result in any impacts of concern prior to the conclusion of consultation.

II. SUMMARY OF SUBMITTED RULE REVISIONS

A. Description of rule revisions

The changes to Illinois water rules consist of editorial and substantive changes to multiple rules. The changes are summarized below:

Title 35: Environmental Protection
Subtitle C: Water Pollution
Chapter I: Pollution Control Board
Part 302: Water Quality Standards

- Section 302.102 Allowed Mixing, Mixing Zones and ZIDs
 - Eliminates the requirement for a zone of passage in receiving streams that have zero flow for at least seven consecutive days recurring on average in nine years out of ten.
 - Allows for up to 50% of the volume of a stream to be used for mixing where the dilution ratio is less than 3:1 and eliminates the prohibition on mixing in streams with a zero minimum seven day low flow which occurs once in ten years.

- Section 302.208 Numeric Standards for Chemical Constituents
 - Illinois made editorial changes to the table of aquatic life criteria at 302.208 (e) consisting of replacing the term “exp” with the mathematical symbol “e.”
 - Illinois struck the existing criteria for TDS and sulfate. These criteria are replaced by the new sulfate criterion at 302.208(h).

Part 309: Permits

- Section 309.103 Application – General
 - Illinois made editorial to Illinois’ rules on NPDES permit applications

Subtitle D: Mine Related Water Pollution

Part 405: State and NPDES Permits

- Section 405.109 Abandonment Plan
 - Eliminates provisions allowing exemptions from water quality standards for dissolved solids, sulfates and chlorides for coal mines
 - Editorial changes

Part 406: Mine Waste Effluent and Water Quality Standards

- Section 406.100(d), Mine Waste Effluent and Water Quality Standards
 - Exemption from Illinois’ water quality standards for mine discharges is eliminated.
- Section 406.203 TDS Related Permit Conditions (Repealed)
 - Repeals rule for establishing TDS limits in permits for coal mines in NPDES permits.
- Section 406.209 Expiration of Former Exemptions (Repealed)
 - Repeals rule expiring exemptions from WQS granted prior to the effective date of 406.203.

Part 407, Compliance and Effective Dates (REPEALED)

B. Rule Development and Submittal History

- Illinois EPA proposed revisions to 35 Ill. Adm. Code 302.102, 302.208, 309.103, 405.109, 406.100, 406.203, and 407 to the IBCB on October 18, 2006, docketed as R07-009.
- The IPCB held two hearing on the proposal.
 - The first hearing was held in Springfield on March 7, 2007.
 - The second in Chicago on April 23, 2007.
- The IPCB issued its First Notice Opinion on September 20, 2007.
- On May 1, 2008, the IPCB adopted a proposed Second Notice Opinion to allow for Submissions of State Regulations 35 Ill. Adm. Code 302.102, 302.208, 309.103, 405.109, 406.100, 406.203, and 407 requesting comments on the proposed second notice.

- On June 19, 2008, the IPCB adopted the rule for second notice and filed the rule with JCAR.
- On August 19, 2008, JCAR voted a certificate of no objection to the rule.
- On September 4, 2008, the IPCB adopted the final amendments to the rule.

The complete record of the public comments received on the proposed rules and the responses to those comments may be found in the IPCB case file for this rulemaking, R2007-009, available at <http://www.ipcb.state.il.us/Cool/External/CaseView2.asp?referer=coolsearch&case=13086>.

III. EPA ACTIONS

A. Possible EPA actions on Illinois revised water quality standards include:

- **Approval** – where EPA has concludes that approval of certain revisions will have no effect on listed species, or is otherwise not subject to ESA consultation;
- **Approval subject to ESA consultation** – where EPA has concluded that certain revisions may affect listed species (including beneficial effects);
- **Disapproval** – where EPA has concluded that certain revisions do not meet the requirements of the CWA or Federal regulations; and
- **No EPA Action** – where EPA has concluded that the changes to Illinois’ rules are not revisions to Illinois’ designated uses of Illinois surface waters, new or revised water quality criteria to protect the uses of Illinois surface waters, new or revised antidegradation policies or implementation procedures, or new or revised policies generally affecting implementation of Illinois water quality standards. Such changes do not require EPA approval under section 303(c)(2)(A) of the CWA. EPA will update EPA’s docket of Illinois’ water quality standards rules to reflect these revisions and the revised rules are effective pursuant to Illinois law.

B. EPA actions on Illinois’ revised rules

Title 35: Environmental Protection
Subtitle C: Water Pollution
Chapter I: Pollution Control Board
Part 302: Water Quality Standards

Section 302.102 Allowed Mixing, Mixing Zones and ZIDs

• CHANGES TO ILLINOIS’ RULES:

b) The portion, volume and area of any receiving waters within which mixing is allowed pursuant to subsection (a) shall be limited by the following:

6) Mixing must allow for a zone of passage for aquatic life in which water quality standards are met. *However, a zone of passage is not required in receiving streams that have zero flow for at least seven consecutive days recurring on average in nine years out of ten.*

8) The area and volume in which mixing occurs, alone or in combination with other areas and volumes of mixing must not contain more than 25% of the cross-sectional area or volume of flow of a stream except for those streams where the dilution ratio is less than

3:1. In streams where the dilution ratio is less than 3:1, the volume in which mixing occurs, alone or in combination with other volumes of mixing must not contain more than 50 % of the volume flow unless an applicant for an NPDES permit demonstrates pursuant subsection (d) of this section that an adequate zone of passage is provided for pursuant to Section 302.102(b)(6). Mixing is not allowed in receiving waters which have a zero minimum seven-day low flow which occurs once in ten years.

10) No body of water may be used totally for mixing of single outfall or combination of outfalls, except as provided in Section 302.102(b)(6).

- ILLINOIS' RATIONAL FOR THESE REVISIONS:

These revisions amend the mixing regulations to allow mixing in 7Q1.1 zero flow streams; provided there is adequate upstream dilution. Prior to these changes, 302.202 (b)(8) prohibited mixing in streams that have a zero flow for a minimum of seven consecutive days at a recurrence frequency of once in ten years ("zero 7Q10 flow"). This is set in order to protect aquatic life from discharges during drought conditions. The new changes would allow mixing during wet weather events such as rainfall or snowmelt where smaller streams receive significant storm water runoff from the watershed.

During these events, flows may exist where they don't occur under non-wet weather occurrences. Illinois is proposing changes to Section 302.102(b)(6) to allow mixing in very small streams without imposing the zone of passage requirement. These small streams are zero flow streams in dry weather and they are also, by nature, narrow streams. The mixture of effluent and stream water will quickly encompass the entire width of the stream bed since the stream flows present when effluents are discharged are often high velocity, typical of runoff events. The Agency is proposing changes to 302.102(b)(10) to ensure consistency with the changes made to Sections 302.102(b)(6) and (b)(8). Illinois' proposal provides that no body of water may be used in its entirety for mixing purposes unless it is a 7Q1.1 zero flow stream [1].

- EPA'S REVIEW OF ILLINOIS' REVISED RULES FOR CONSISTENCY WITH THE CWA AND FEDERAL REGULATIONS:

Approve subject to ESA consultation. EPA reviewed Illinois' rule revisions and Illinois' rationale for making these changes. EPA accepts Illinois' rationale and agrees that these changes will protect the designated uses of Illinois surface waters because the new rules will only allow mixing in streams with zero 7Q10 flow for discharges that occur when there actually is dilution flow.

Section 302.208 Numeric Standards for Chemical Constituents

- CHANGES TO ILLINOIS' RULES:

302.208(e) Numeric Water Quality Standards for the Protection of Aquatic Organisms:

Summary of changes made: Illinois made editorial changes to the table of aquatic life criteria at 302.208 (e) consisting of replacing the term "exp" with the mathematical symbol "e."

- ILLINOIS' RATIONALE FOR THESE REVISIONS:

These changes are editorial in nature. The use of the commonly-accepted symbol "e" in lieu of "exp" makes the mathematical equations easier to read and understand.

- EPA'S REVIEW OF ILLINOIS' REVISED RULES FOR CONSISTENCY WITH THE CWA AND FEDERAL REGULATIONS:

No EPA Action – EPA reviewed the changes to 302.208 (e) to determine whether or not the revisions made by Illinois to these rules that are part of Illinois' water quality standards constituted new or revised designated uses of Illinois surface waters, new or revised water quality criteria to protect the uses of Illinois surface waters, new or revised antidegradation policies or implementation procedures, or new or revised policies generally affecting implementation of Illinois water quality standards. EPA concluded that the editorial changes to this rule are not revisions to the State's water quality standards because they do not consist of any of the types of changes described above. Therefore EPA determined that the changes to 302.208 (e) do not require EPA approval under section 303(c)(2)(A) of the CWA. EPA has updated EPA's docket of Illinois' water quality standards rules to reflect these revisions and the revised rules are effective pursuant to Illinois law.

- CHANGES TO ILLINOIS' RULES:

302.208(g) Concentrations of the following chemical constituents shall not be exceeded except in waters for which mixing is allowed pursuant to Section 302.102.

Summary of changes made: Illinois struck the existing criteria for TDS and sulfate. These criteria are replaced by the new sulfate criterion adopted at 302.208(h), summarized below. 302.208(g) and 302.208(h) are reviewed together.

g) Concentrations of the following chemical constituents shall not be exceeded except in waters for which mixing is allowed pursuant to Section 302.102.

Constituent	Unit	STORET Number	Standard
Barium (total)	mg/L	01007	5.0
Boron (total)	mg/L	01022	1.0
Chloride (total)	mg/L	00940	500
Fluoride	mg/L	00951	1.4
Iron (dissolved)	mg/L	01046	1.0
Manganese (total)	mg/L	01055	1.0
Phenols	mg/L	32730	0.1
Selenium (total)	mg/L	01147	1.0
Silver (total)	µg/L	01077	5.0
Sulfate	mg/L	00945	500
Total Dissolved Solids	mg/L	70300	1000

where: mg/L = milligram per liter and

µg/L = microgram per liter

New 302.208 (h):

(h) The following concentrations for sulfate must not be exceeded except in receiving waters for which mixing are allowed pursuant to Section 302.102:

1) At any point where water is withdrawn or accessed for purposes of livestock watering, the average of sulfate concentrations must not exceed 2,000 mg/L when measured at a representative frequency over a 30 day period.

2) The results of the following equations provide sulfate water quality standards in mg/L for the specified ranges of hardness (in mg/L as CaCO₃) and chloride (in mg/L) and must be met at all times:

A) If the hardness concentration of receiving waters is greater than or equal to 100 mg/L but less than or equal to 500 mg/L, and if the chloride concentration of waters is greater than or equal to 25 mg/L but less than or equal to 500 mg/L, then:

$$C = [1276.7 + 5.508 (\text{hardness}) - 1.457 (\text{chloride})] * 0.65$$

where: C = sulfate concentration

B) If the hardness concentration of waters is greater than or equal to 100 mg/L but less than or equal to 500 mg/L, and if the chloride concentration of waters is greater than or equal to 5 mg/L but less than 25 mg/L, then:

$$C = [-57.478 + 5.79 (\text{hardness}) + 54.163 (\text{chloride})] * 0.65$$

where: C = sulfate concentration

3) The following sulfate standards must be met at all times when hardness (in mg/L as CaCO₃) and chloride (in mg/L) concentrations other than specified in (h)(2) are present:

A) If the hardness concentration of waters is less than 100 mg/L or chloride concentration of waters is less than 5 mg/L, the sulfate standard is 500 mg/L.

B) If the hardness concentration of waters is greater than 500 mg/L and the chloride concentration of waters is 5 mg/L or greater, the sulfate standard is 2,000 mg/L.

C) If the combination of hardness and chloride concentrations of existing waters are not reflected in subsection (h)(3)(A) or (B), the sulfate standard will be determined on a case-by-case basis in conjunction with an applicable NPDES permitting process.

ILLINOIS' RATIONALE FOR THESE REVISIONS:

Sulfate Aquatic Life Water Quality Standard: The technical support for Illinois' revised sulfate criterion is described in detail in Attachment I, Exhibits K -V of Illinois EPA's proposal to the Illinois Pollution Control Board. To summarize, the Illinois water quality standards for sulfate and TDS that existed prior to these revisions were adopted in 1972 to protect aquatic life and agricultural uses, prior to EPA's 1985 guidelines for calculating aquatic life criteria. The new criterion for sulfate was calculated the EPA's 1985 guidelines to protect aquatic life with a maximum value to protect use of Illinois surface waters for livestock watering.

The new criterion for sulfate is expressed as an equation with the criterion dependent upon the hardness and chloride concentrations in the receiving water. The criterion consists of two equations that provide water quality criteria for sulfate that shall not be exceeded in all surface waters outside the mixing zone based on ranges of chloride (in mg/L) or hardness (in mg/L as CaCO₃). The relationship between sulfate toxicity, hardness, and chloride is different at low and high ranges; therefore, two equations are necessary. A series of toxicity tests run under a range of hardness and chloride concentrations for *Hyalella azteca* and *Ceriodaphnia dubia* provide the scientific basis of these equations.

Sulfate Livestock Watering Water Quality Standard: The technical support for Illinois' revised sulfate criterion is described in detail in Attachment I, Exhibits E - J of Illinois EPA's proposal to the Illinois Pollution Control Board. The result of an extensive literature search also prompted Illinois to revise its sulfate standard for livestock. It was found that livestock are capable withstanding sulfate concentration higher than the current aquatic life criterion. Studies suggest that chronic exposures to drinking waters high in sulfate may lead to weight loss, diseases, and livestock mortality. Illinois is therefore proposing a sulfate standard of 2,000 mg/L where livestock use is present. Illinois considers this to be protective. To verify the suitability of this proposed standard, Dr. Gavin Meerdink from the Department of Veterinary Medicine at University of Illinois Champaign-Urbana was contacted. Dr. Meerdink stated that a 2,000 mg/L sulfate standard would adequately protect livestock.

TDS Water Quality Standard: Illinois is proposing to delete the TDS water quality standard from Section 302.208 of the IPCB regulations. TDS represent the sum of dissolved substances in water; sulfate, chloride, sodium, calcium, carbonate, and magnesium are the major components. Illinois believes that the existing TDS standard is unnecessary as the toxicity of the individual components, most significantly sulfate and chloride, is impacting aquatic life as opposed to all the components together. Therefore, with a toxicity based sulfate and chloride standards in effect, a TDS standard is not necessary.

- **EPA'S REVIEW OF ILLINOIS' REVISED RULES FOR CONSISTENCY WITH THE CWA AND FEDERAL REGULATIONS:**

Approve subject to ESA consultation – EPA has reviewed Illinois' revised sulfate and TDS criteria and the technical basis for Illinois' revised sulfate and TDS criteria. EPA's review consisted of determining whether or not the data gathered and generated by Illinois were acceptable, whether or not the data satisfied EPA's minimum data requirements for deriving a water quality criterion, whether or not the criterion derived by Illinois is scientifically-defensible, and whether or not the criterion will protect the uses of Illinois surface waters. Based on this review of the data gathered and generated by Illinois and the criterion derived from the data, EPA concludes that the new Illinois sulfate criterion and the existing chloride criterion is sufficient to

protect the uses of Illinois surface waters, and that the removal of the existing TDS standard is no longer needed to protect the aquatic life use.

Part 309: Permits

Section 309.103 Application – General

- **CHANGES MADE TO ILLINIOS' RULES:**

309.103(a) Application Forms

3) Effluent toxicity monitoring

A) In addition to the above application forms, the Agency may require, pursuant to Section 39 of the Act, the installation, use, maintenance and reporting of results from monitoring equipment and methods, including biological monitoring. The Agency may require, pursuant to Section 39 of the Act, effluent toxicity testing to show compliance with 35 Ill. Adm. Code 302.621 and 302.630. If this toxicity testing shows the effluent to be toxic, the Agency may require pursuant to Section 39 of the Act further testing and identification of the toxicants ~~toxicant(s)~~ pursuant to 35 Ill. Adm. Code 302.210(a).

C) In addition to the POTWs listed in subsection (a)(3)(B), the Agency may require other POTWs to submit the result of toxicity tests with their permit applications, based on consideration of the following factors.

D) The POTWs required under subsection ~~subsections~~ (a)(3)(B) or (a)(3)(C) to conduct toxicity testing shall use the methods prescribed at 35 Ill. Adm. Code 302.Subpart F. Such testing must have been conducted since the later of the last NPDES permit reissuance or permit modification pursuant to Section 309.182, 309.183 or 309.184 for any of the reasons listed at 40 CFR 122.62(a) (1994), as amended at 60 Fed. Reg. 33926 effective June 29, 1995, herein incorporated by reference (including no later amendments or editions).

309.103(c) Mining Activities

3) As provided by 35 Ill. Adm. Code 406.100, except to the extent provided in 35 Ill. Adm. Code: Subtitle D, Chapter I, the effluent and water quality standards of 35 Ill. Adm. Code ~~302, 303 and~~ 304 are inapplicable to mine discharges and non-point source mine discharges.

309.109(d) New Discharges

Any person whose discharge will begin after the effective date of this Subpart A or any person having an NPDES Permit issued by the U.S. Environmental Protection Agency for an existing discharge which will substantially change in nature, or increase in volume or frequency, must apply for an NPDES Permit either:

2) In sufficient time prior to the anticipated commencement of the discharge to insure compliance with the requirements of Section 306 of the Clean Water Act (CWA) (33 USC ~~U.S.C.~~ 1251 et seq), or with any other applicable water quality standards and applicable effluent standards and limitations.

- ILLINOIS' RATIONALE FOR THESE REVISIONS:

The changes in this section are either editorial or changes necessary to conform with the changes made to Illinois mining permitting rules in Subpart D (described below).

- EPA'S REVIEW OF ILLINOIS' REVISED RULES FOR CONSISTENCY WITH THE CWA AND FEDERAL REGULATIONS:

No EPA Action – EPA reviewed the changes to 309 to determine whether or not the revisions made by Illinois to these rules that are part of Illinois' water quality standards constituted new or revised designated uses of Illinois surface waters, new or revised water quality criteria to protect the uses of Illinois surface waters, new or revised antidegradation policies or implementation procedures, or new or revised policies generally affecting implementation of Illinois water quality standards. EPA concluded that the editorial changes to this rule are not revisions to the State's water quality standards because they do consist of any of the types of changes described above. Therefore EPA determined that the changes to 309 do not require EPA approval under section 303(c)(2)(A) of the CWA. Since the revisions may be covered by other EPA authorities, the revisions were forwarded to the NPDES Branch for consideration and possible action.

Subtitle D: Mine Related Water Pollution

Part 405: State and NPDES Permits and Part 406: Mine Waste Effluent and Water Quality Standards

Section 405.109 Abandonment Plan

- CHANGES MADE BY ILLINOIS:

b) An abandonment plan shall be incorporated into the permit by reference if it:

2) Shows that the mine related facilities and mining activities will be abandoned so as not to cause a violation of the Act or this Chapter.;

~~A) If the plan includes a discharge which will remain after abandonment which will not meet the requirements of 35 Ill. Adm. Code 406.202, and if the permit included water quality based conditions under 35 Ill. Adm. Code 406.203 during active mining, the discharge shall be deemed to meet 35 Ill. Adm. Code 406.202 with respect to total dissolved solids, chloride, sulfate, iron and manganese if it will meet the requirements of 35 Ill. Adm. Code 406.106 and 406.203(e)(1) and (e)(2); or~~

~~B) If the plan includes impoundments which will remain after abandonment and which will not meet the water quality standards of 35 Ill. Adm. Code 302.204 or 302.208, with respect to total dissolved solids, chloride, sulfate, iron, manganese and pH, such fact shall not prevent approval of the plan if the impoundment will meet the requirements of 35 Ill. Adm. Code 406.106 and 406.203(e)(1) and (e)(2).~~

c) If the abandonment plan does not meet the standard of *paragraph* subsection (b) the Agency may either deny the permit or issue it with an abandonment plan modified by conditions subject to Section 405.101.

d) The time limit provided by *paragraph subsection* (b)(1) is inapplicable to abandonment plans for surface coal mines which are approved as reclamation plans under the Surface Coal Mining Land Conservation and Reclamation Act, [225 ILCS 720] (Ill. Rev. Stat. 1983, ch. 96 1/2, par. 7902.03).

e) Any abandonment plan constituting a substantial change from the permitted abandonment plan is a revised abandonment plan.

f) A permittee shall apply for a new or revised or supplemental NPDES or *State* state permit prior to implementation of a revised abandonment plan within the time limits provided by 35 Ill. Adm. Code 403.104(c).

~~g) An abandonment plan incorporated into a permit pursuant to showing under 35 Ill. Adm. Code 406.203 shall include conditions pursuant to 35 Ill. Adm. Code 406.203(e)(1) and (e)(2).~~

Section 406.100, Mine Waste Effluent and Water Quality Standards

d) Except to the extent provided in this Part 406, ~~Part Parts 302, 303 and 304~~ of subtitle C ~~is~~ are inapplicable to mine discharges and non-point source mine discharges.

Section 406.203 TDS Related Permit Conditions (Repealed)

[Repeals rule for establishing TDS limits in permits for coal mines]

Section 406.209 Expiration of Former Exemptions (Repealed)

[Repeals rule expiring exemptions from WQS granted prior to the effective data of 406.203.]

- **ILLINOIS' RATIONALE FOR THESE REVISIONS:**

Illinois deleted the provisions of Subtitle D that address water quality requirements for sulfates and chlorides. Under the revised rules, limits in mine permits are based on the Subtitle C water quality standards for sulfates and chlorides.

- **EPA'S REVIEW OF ILLINOIS' REVISED RULES FOR CONSISTENCY WITH THE CWA AND FEDERAL REGULATIONS:**

No EPA Action – EPA reviewed the changes to Parts 405 and 406 of Illinois' rules to determine whether or not the revisions made by Illinois to these rules that are part of Illinois' water quality standards constituted new or revised designated uses of Illinois surface waters, new or revised water quality criteria to protect the uses of Illinois surface waters, new or revised antidegradation policies or implementation procedures, or new or revised policies generally affecting implementation of Illinois water quality standards. EPA concluded that the changes to these rules are not revisions to the State's water quality standards because they do consist of any of the types of changes described above. Therefore EPA determined that the changes to Parts 405 and 406 do not require EPA approval under section 303(c)(2)(A) of the CWA. Since the revisions may be covered by other EPA authorities, the revisions were forwarded to the NPDES Branch for consideration and possible action.

Part 407: Compliance and Effective Dates (REPEALED)

- **CHANGES MADE BY ILLINOIS:**

The Part 407 rules were repealed.

- **ILLINOIS' RATIONALE FOR THESE REVISIONS:**

The repealed rules were outdated.

- **EPA'S REVIEW OF ILLINOIS' REVISED RULES FOR CONSISTENCY WITH THE CWA AND FEDERAL REGULATIONS:**

No EPA Action – EPA reviewed the changes to Part 407 of Illinois' rules to determine whether or not the revisions made by Illinois to these rules that are part of Illinois' water quality standards constituted new or revised designated uses of Illinois surface waters, new or revised water quality criteria to protect the uses of Illinois surface waters, new or revised antidegradation policies or implementation procedures, or new or revised policies generally affecting implementation of Illinois water quality standards. EPA concluded that the changes to these rules are not revisions to the State's water quality standards because they do not consist of any of the types of changes described above. Therefore EPA determined that the changes to Parts 407 do not require EPA approval under section 303(c)(2)(A) of the CWA. Since the revisions may be covered by other EPA authorities, the revisions were forwarded to the NPDES Branch for consideration and possible action.