



Idaho Association of
Commerce & Industry
The Voice of Business in Idaho®

April 28, 2010

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 North Hilton
Boise, ID 83706-1255

**Re: Preliminary Draft Negotiated Rule, Antidegradation
Implementation Procedures
Docket No. 58-0102-1001**

Dear Paula:

The Idaho Association of Commerce and Industry (IACI) submits these preliminary comments to the referenced draft rulemaking. IACI is Idaho's largest and most diverse business association and has over three hundred (300) members that own properties and conduct business in Idaho. Many of our members are likely to be affected by the subject rule. Due to the complexity of the preliminary draft rule and the short time to provide comments to the first draft, IACI is not prepared to submit detailed comments to the rule by April 28, 2010. However, we would like to highlight a few areas of support and concern with respect to the preliminary draft rule.

1. IACI supports IDEQ's effort to retain jurisdiction over anti-degradation implementation procedures. IACI supports any final rule or procedure which can be approved by EPA which exercises the maximum flexibility allowed each state under the Clean Water Act to implement antidegradation.
2. We are concerned that the "parameter by parameter" approach in the preliminary draft rule is over-inclusive, and includes all surface waters, intermittent streams, wetlands, canals and water quality limited segments for at least some pollutants. It seems the "water body by water body approach" might be more flexible and result in less marginal waters being treated as high quality waters. IACI will be providing specific changes to the draft rule on this issue prior to the next rulemaking meeting.
3. IACI supports the idea of exempting "insignificant" discharges from Tier II review so that IDEQ focuses its resources on activities that truly result in lowering of water quality. Accordingly, IACI supports a 10% lowering of water quality as "insignificant." IACI also questions why all industrial discharges no matter how small should be subject to a full Tier II review. We will be providing specific changes to the draft rule on these issues prior to the next rulemaking meeting.
4. We are concerned that general NPDES permits are not adequately addressed in the preliminary draft. We are concerned that if this issue is not appropriately addressed, then obtaining general NPDES permits in Idaho will become a much lengthier and expensive process. IACI will be providing specific comments to IDEQ on this issue prior to the next rulemaking meeting.

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5. The detail required of an applicant as part of Tier II review to demonstrate that lowering of water quality is “necessary” as well as the showing required to demonstrate that “important social and economic development in the area” specific seems overly prescriptive. We are concerned that the level of detail and information required by a permit applicant to gather and submit to IDEQ will be expensive and cause substantial delays in obtaining permits. We also question whether IDEQ has the resources to timely evaluate this information. IACI will be providing specific comments to IDEQ on these issued prior to the next rulemaking meeting.
6. Finally, we question whether it is necessary to make special resource waters “Tier II and 1/2” waters. IACI will provide specific comments to IDEQ on this issue prior to the next rulemaking meeting.

IACI appreciates the opportunity to comment on the subject preliminary rule and we look forward to working with IDEQ in the coming months to come up with a final rule or procedure which is consistent with the requirements of the Clean Water Act.

Sincerely,



Alan L. Prouty
Chair, Environmental Committee

cc: Ms. Toni Hardesty
Director, Department of Environmental Quality