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JUN 14 2011

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD  
June 14, 2011

IN THE MATTER OF:	)	
	)	
TRIENNIAL REVIEW OF WATER	)	R 11-18
QUALITY STANDARDS FOR BORON,	)	(Rulemaking - Water)
FLUORIDE AND MANGANESE:	)	
AMENDMENTS TO 35 ILL. ADM. CODE	)	
302.SUBPARTS B, C, E, F AND 303.312	)	

ORIGINAL

**HEARING OFFICER ORDER**

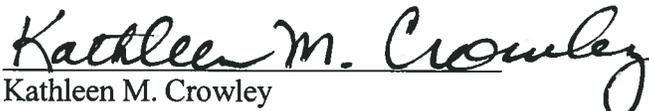
The first hearing in this matter is scheduled for June 21, 2011 in Springfield. Attached to this order are questions Board staff will pose to the proponent's witness.

In response to the hearing officer order of May 3, 2011 concerning the prefilings of testimony and questions in advance of that hearing, testimony was prefiled by the rule proponent, the Illinois Environmental Protection Agency (IEPA or Agency) (Testimony of Brian Koch, Toxicologist in the Water Quality Standard section of IEPA Division of Water Pollution Control filed May 23, 2011). Testimony was also prefiled by Marathon Petroleum Co. (Testimony of James L. Machin, P.E. filed May 23, 2011; tables revised May 26, 2011).

On June 13, 2011, the City of Springfield, Office of Public Utilities (Springfield) prefiled questions to be asked of the Agency's witness. As of the writing of this order, no other prefiled questions have been received. As Springfield prefiled the first set of questions, Springfield will be the first participant to question the Agency witness.

Board staff has also examined these participants' filings, and has developed questions for the Agency witness. To facilitate hearing efficiency and participants' ability to provide information, these questions are attached to this hearing officer order, beginning at p. 2. As the hearing date is fast approaching, the hearing officer will e-mail this order to IEPA today, in addition to having the Clerk's Office make usual mail service.

IT IS SO ORDERED.



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**R11-18**  
**ATTACHMENT**  
**To Hearing Officer Order of June 14, 2011**  
**Board Staff Questions for IEPA**

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**1. STORET Numbers**

The Agency states that “STORET is defined in 35 Ill. Adm. Code 301.405 as “the national water quality data system of the federal Environmental Protection Agency [USEPA]” The Agency proposes to delete the STORET codes because they are no longer maintained and updated by USEPA. 12/2/2010 Statement. of Reasons (SR) at 10-11.

On USEPA’s webpage for the “STORET Legacy Data Center” (<http://www.epa.gov/storet/legacy/purpose.htm>), USEPA notes, as does the Agency, that “EPA no longer updates this information, but it may be useful as a reference or resource.” However, USEPA also states,

As part of the STORET modernization project...[s]ome of the data [from the legacy STORET system] will then be migrated to New STORET.” The bottom of the web page contains a link to both the new “STORET Data Warehouse” and the old “Legacy STORET Data Center”.  
<http://www.epa.gov/STORET/dbtop.html>

USEPA describes the old “STORET Legacy Data Center” as “data supplied to EPA before 1999”.

The new “STORET Data Warehouse is described as “data supplied to EPA since January 1, 1999”. USEPA states

The STORET Data Warehouse is currently receiving new data on a regular basis,...” The link to the introduction page for the new system is:  
<http://www.epa.gov/STORET/about.html>

USEPA’s current brochure on the STORET system states:

The original STORET was developed in the 1960s, and today the system continues to serve as EPA’s principal repository for marine, freshwater, and biological monitoring data.” (See [http://www.epa.gov/STORET/archive/storet\\_brochure.pdf](http://www.epa.gov/STORET/archive/storet_brochure.pdf))

It appears that USEPA is continuing the use of a modernized STORET system.

Please comment on the appropriateness of continuing to use STORET numbers within the new STORET system, and the compatibility with the existing STORET numbers in the existing and proposed rules at 35 Ill. Adm. Code 302.

**2. 35 Ill. Adm. Code 302.208 Numeric Standards for Chemical Constituents**

- (a) What is a typical hardness value for Illinois streams?
- (b) Based on this typical hardness value, please calculate the proposed Acute and Chronic Water Quality Standards (WQS) for fluoride, manganese, and zinc in 302.208(e).
- (c) What is the highest hardness value for the proposed fluoride chronic standard in 35 Ill. Adm. Code 302.208(e) yielding a result that does not exceed 4.0 milligrams per liter (mg/L)?
- (d) The Agency indicates “critical hardness concentrations in Illinois waters are rarely less than 90 milligrams per liter and no ambient water quality monitoring network stations are known to possess a critical hardness of less than 45 milligrams per liter.” SR at 28. Generally speaking, what number or percentage of the monitoring network stations would exhibit a hardness value yielding a result under Section 302.208(e) that does not exceed 4.0 mg/L fluoride?
- (e) By correcting the derivation of the zinc water quality standard in Section 302.208(e), does the Agency expect zinc standards to yield higher values?
- (f) Proposed Sections 302.208(e) and 302.504(a) list the Acute and Chronic Standards for cyanide as being the same for either the weak acid dissociable (WAD) or the available form. Analytically speaking, is there a difference in the results for the “WAD” and “available” forms for an identical sample? If so, should there be different compliance standards depending on the method used?

**3. 35 Ill. Adm. Code 302.304 Public and Food Processing Water Supply Standards**

In the Statement of Reasons, the Agency states

because manganese often occurs in Illinois at concentrations above the existing water quality standards, the Public and Food Processing Water Supply [PWS] standard is exceeded in many surface waters with public water supply intakes and the Illinois EPA has been forced to list these waters on the Clean Water Act Section 303(d) list”. SR at 5.

- (a) Would it be possible for the Agency to provide a list of water segments with PWS intakes that exceed the current manganese water quality standard?

- (b) Please comment on whether the Agency believes that all of the affected waterways would no longer be listed as impaired for manganese with the adoption of the proposed manganese standard.
- (c) As to public water supplies drawing water from waters impaired for manganese, is the Agency aware of whether these PWS treat their intake waters to meet the drinking water maximum contaminant level (MCL) for manganese? If so, please comment on whether the proposed manganese changes would in any way affect the treatment operations of the affected public water supplies.

4. **35 Ill. Adm. Code 302.504(c) Water Quality Standards for the Open Waters of Lake Michigan**

In the Statement of Reasons, the Agency states:

relocating the existing Lake Michigan Basin Standards of 1.0 mg/L boron and 1.4 mg/L fluoride into the Open Waters of Lake Michigan standards will provide a measure of protection against harmful loadings of these substances within these waters, and will continue to allow protection of these waters for Public and Food Processing Water Supply uses. SR. at 5.

- (a) Is the Agency aware of whether there is a need for any formal interstate or federal cooperation on setting standards for the Open Waters of Lake Michigan?
- (b) Is the Agency aware of whether boron and/or fluoride are currently being discharged into the Open Waters of Lake Michigan? If so, please comment on the identity or characteristics of such sources of boron and/or fluoride discharges.
- (c) The Agency states that the Open Waters of Lake Michigan Standards are based on the background conditions rather than protection of human health or aquatic life. SR at 5. Is the Agency aware of the background levels of boron and fluoride in the Open Waters of Lake Michigan? If so, please comment on how the proposed standards for boron and fluoride relate to these background levels.

5. **35 Ill. Adm. Code 302.595 Listing of Bioaccumulative Chemicals of Concern, Derived Criteria and Values**  
**35 Ill. Adm. Code 302.669 Listing of Derived Criteria**

In Sections 302.595 and 302.669, the Agency proposes to change the requirement from publishing the list in the *Illinois Register* to “the Agency’s website.”

- (a) What does the Agency believe is the proposed benefit to the Agency and to the public of the proposed rule change?

- (b) If the change is adopted, does the Agency plan to include some direction to the public on how to find this list on the Agency's website? Could the Agency's general internet address be included in the proposed rule?
- (c) Has the Agency determined what term or phrase persons must use to search the Agency's website for the list (e.g. "Listing of Bioaccumulative Chemicals of Concern"? "Listing of Derived Criteria"?)?
- (d) If the rule is adopted as proposed, does the Agency intend to give some sort of public notice when the Agency's website is updated? Does, or would, the website contain an archive showing the list as it existed in previous quarters?

Instead of replacing publication in the *Illinois Register* with publication on the Agency's website, would it be acceptable to the Agency to publish in both locations, thereby continuing the requirement for publication in the *Illinois Register* so that public notice is given and a public archive is maintained?

**6. Site Specific Relief No Longer Needed**

Has the Agency already, or can it easily, identify any current adjusted standards, variances, or site specific rules that would become moot as a result of the proposed amendments? If so, what if any measures does the Agency typically take to notify such affected parties of the affect of rule changes on Board orders covering them? Is the Agency planning to take any measures to inform such sources affected in R11-18?

**7. Testimony Filed by Marathon Petroleum Company, LP re Compliance Schedule**

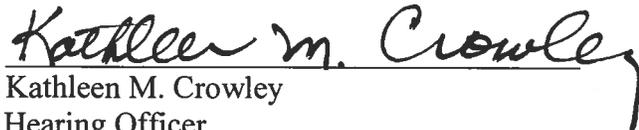
James L. Machin submitted prefiled testimony on behalf of Marathon supporting amendments and urging the Board to proceed as expeditiously as possible. Mr. Machin indicates Marathon's National Pollutant Discharge Elimination System (NPDES) permit provides a 15-month compliance schedule. Would the Agency please comment on whether the time provided in Marathon's NPDES permit for compliance can be extended by the Agency if this rule is not adopted before Marathon's compliance requirement goes into effect?

## CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on June 14, 2011, to each of the persons on the attached list requesting service by mail. A copy was also e-mailed to the IEPA, and to participants who agreed to e-mail service.

It is also hereby certified that a true copy of the foregoing order was hand delivered on June 14, 2011 to:

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R2011-018

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