ILLINOIS POLLUTION CONTROL BOARD
July 24, 2003

IN THE MATTER OF:	)	
	)	
SITE SPECIFIC RULE FOR CITY OF	)	R03-11
EFFINGHAM TREATMENT PLANT	)	(Site-Specific
FLUORIDE DISCHARGE, 35 ILL. ADM.	)	Rulemaking – Water)
CODE 304.233	)	

Proposed Rule. First Notice.

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On October 22, 2002, the City of Effingham (City), Blue Beacon International, Inc. (BBI) and Truckomat Corporation (Truckomat) (referred to collectively as "petitioners") filed a proposal for rulemaking under Section 27 of the Environmental Protection Act (Act) (415 ILCS 5/27 (2002)), to change regulations governing fluoride found in the Board's rules at 35 Ill. Adm. Code 302.208(g). On April 11, 2003, a hearing was held in this matter at the City Hall Council Chambers, 201 E. Jefferson, Effingham, Effingham County.

By today's action the Board adopts the proposed amendments for the purpose of first notice, pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1-1). The proposal will be published in the *Illinois Register* whereupon a 45-day public comment period will begin during which interested persons may file additional public comments with the Board.

BACKGROUND

BBI and Truckomat operate truck washes in Effingham, Effingham County. The wastewater from the truck washes contains fluoride resulting from the brighteners used in washing the trucks. Petitioners state that there are no alternative replacements for these brighteners, and discontinuing their use would cause a severe negative economic impact. Pet. at 2. Petitioners further state that the site-specific fluoride level proposed will be protective of aquatic life, human health, and the environment as a whole. Pet. at 2.

The truck washes discharge wastewater produced from their operations into the City's publicly owned treatment works (POTW). Pet. at 3. The POTW discharges treated effluent into an unnamed tributary of Salt Creek, which flows into the Little Wabash River, 37 miles upstream from the City of Flora. Pet. at 4, 7, 9. The City's current daily fluoride effluent limit is 1.4 mg/L, the same as the 1.4 mg/L water quality standard. Pet. at 4. The City seeks an effluent limit of 4.5 mg/L subject to the averaging rule of 35 Ill. Adm. Code 304.104. Pet. at 2.

On November 7, 2002, the Board opened a new regulatory docket for this matter, and directed that a hearing be scheduled on the proposal. At the April 11, 2003 hearing, David M. Walter appeared and participated on behalf of the petitioners; Matthew R. Hortenstine appeared on behalf of the City of Effingham; and Deborah J. Williams appeared and participated on behalf

of the Illinois Environmental Protection Agency (Agency). No members of the public attended the hearing.

As proposed, the site-specific effluent standard requested by the petitioners would provide as follows:

> Section 304.326 City of Effingham Treatment Plant Discharge
>
> This section applies to the discharge from the POTW located at 903 E. Eichie Avenue in Effingham, Illinois, owned by the City of Effingham, to an unnamed tributary of Salt Creek, said point being located in Effingham County, T8N, R6E, Sec. 28, Lat: 39°06'24", Long: 88°31'55". Such discharge shall not be subject to Section 304.105 as it applies to the water quality standard for fluoride at 35 Ill. Adm. Code 302.208(g). Such discharge must meet a fluoride effluent standard of 4.5 mg/L, subject to the averaging rule of Section 304.104. Pet. at 2.

PRELIMINARY MATTERS

On April 3, 2003, Chairman Johnson sent a letter to the Illinois Department of Commerce and Economic Opportunity (DCEO), formerly the Department of Commerce and Community Affairs, requesting an economic impact study on this rulemaking. On April 17, 2003, DCEO responded to the Chairman's April 3, 2003 request for an economic impact study stating that no studies will be performed.

On June 12, 2003, a notice that a hearing will be held on July 18, 2003, to fulfill the requirements of Section 27(b) of the Environmental Protection Act (Act) (415 ILCS 5/27(b) (2002)) was issued. Section 27(b) of the Act requires the Board to request DCEO to conduct an economic impact study (EcIS) on certain proposed rules prior to adoption of those rules. If DCEO chooses to conduct the EcIS, they have 30 to 45 days after such request to produce a study of the economic impact of the proposed rules. The Board must then make the EcIS, or DCEO's explanation for not conducting the study, available to the public at least 20 days before a public hearing on the economic impact of the proposed rules.

On July 18, 2003 the EcIS hearing was held. At the hearing, the Board made available copies of the Board's April 3, 2003 letter and DCEO's April 17, 2003 response. The Board received no comments on the letters. Both the letter and response are available for review at the Board's Chicago Office, James R. Thompson Center, 100 West Randolph, Suite 11-500, Chicago, Illinois.

APRIL 11, 2003 HEARING

On April 11, 2003, a hearing was held in this matter at the City Hall Council Chambers, 201 E. Jefferson, Effingham, Effingham County. David M. Walter appeared and participated on behalf of the petitioners. Matthew R. Hortenstine appeared on behalf of the city of Effingham. Deborah J. Williams appeared and participated on behalf of the Illinois Environmental Protection Agency (Agency). No members of the public attended the hearing.

At the hearing, Greg Bright, Steve Miller, Mike Rose, and Max Shepard submitted written and oral testimony for the petitioners. Scott Twait presented testimony for the Agency. The transcript was received at the Board on April 18, 2003. Public comments were due on or before May 19, 2003. The petitioners and the Agency both filed post-hearing comments. However, to date, no additional public comments have been received.

PETITIONERS' TESTIMONY

Greg Bright

Bright is the director of Commonwealth Biomonitoring, Inc. (CBI) based in Indianapolis, Indiana. Bright at 1. He testified concerning the available data on the toxicity of fluoride to aquatic life in general, the effect of hardness on fluoride toxicity, and actual bioassessments of the site. Bright testified that bioassesments from the Agency and CBI demonstrate that fluoride from the City's wastewater treatment plant (WWTP) discharge is not causing any harm to aquatic life. Bright at 5. Bright said that the historical data shows only two occasions in the last three years where the City's effluent has achieved the 1.4 mg/L standard for fluoride, but that the fluoride levels in the City's discharge are not having an adverse impact on the fluoride levels downstream. Bright at 2.

Bright testified that CBI conducted a scientific assessment of the effects of fluoride on the water downstream from the City's WWTP, and that the lowest fluoride concentration where short term (acute) toxic effect of exposure to freshwater animal species was observed was 17 mg/L for the caddisfly *Ceratopsych bronta*. Bright at 2. He states that the lowest concentration of fluoride determined in laboratory tests to have a long-term (chronic) effect on freshwater animals present in Illinois is 3 mg/L, but that this determination was made in very soft water. *Id*.

Bright testified that scientific studies demonstrate that sensitive aquatic species can exist in water with higher fluoride concentrations than those proposed by petitioners. Bright at 5. Bright testified that the scientific literature demonstrates that there is a relationship between hardness values for water and the concentration at which fluoride is toxic to aquatic life. Bright at 2-3. He further testified that additional tests have demonstrated that concentrations of fluoride significantly higher than 3 mg/L are not toxic to aquatic life in the characteristically much harder water of Central Illinois. Bright at 3.

According to Bright, the water in the Little Wabash River downstream from the City is very hard, with a hardness value of more than 300 mg/L during low flow conditions. Bright at 3. Thus, testified Bright, he assumed a hardness value of 300 mg/L in the evaluation of fluoride toxicity by using a method developed by the United States Environmental Protection Agency. Bright asserts that the resulting data demonstrates that fluoride in the water downstream from the City would not be detrimental to aquatic life at concentrations at or below 10 mg/L. *Id*. At hearing, Bright agreed to recalculate the values based on the stream-specific hardness of 130 to 143 mg/L provided by the Agency. Tr. at 40-41, 75-76. These recalculations resulted in chronic fluoride values of 4.7 and 5.2 mg/L. Pet. Com. at 11. Bright concluded that the proposed site-

specific fluoride limit of 4.5 mg/L would protect aquatic life even at the lower hardness values. Pet. Com., Attach. C at 1.

Bright testified that net-spinning caddisflies are known to be very sensitive to fluoride, yet flourish in the receiving stream of the City's WWTP. Bright at 4. Further, CBI completed an additional bioassesment on June 20, 2002, and concluded that there is no evidence that the fluoride in the City's WWTP effluent is harming the aquatic community immediately downstream from the discharge. *Id.* Bright testified that site-specific relief requested can be granted without any harm to either aquatic life or the environment. Bright at 5.

Steve Miller

Miller is the city engineer for the City. Miller at 1. He testified that the City's current treatment plant was constructed in 1980 and upgraded in 2001. Miller at 2. The plant employs five full-time personal and serves approximately 4,600 residential and 250 commercial customers. Miller at 2-3. Miller stated the plant has a design average flow of 3.75 million gallons per day and a maximum hydraulic flow of 9.375 million gallons per day. Miller at 3. The plant utilizes an oxidation ditch treatment system with tertiary rapid sand filtration, but is not designed to remove soluble inorganic anions such as fluoride. *Id.*

The City's WWTP discharges to an unnamed tributary of Salt Creek pursuant to National Pollutant Discharge Elimination System (NPDES) permit No. IL0028622, issued on March 30, 2000. Miller at 3. The permit is set to expire on October 31, 2003. *Id.* The permit establishes a daily maximum fluoride discharge limit for the plant of 8.6 mg/L until the new plant attained an operational level, at which time the maximum fluoride discharge limit would become 1.4 mg/L pursuant to 35 Ill. Adm. Code 302.208(g). Miller at 3. The new plant became operational in June 2001. Miller at 4.

Miller testified that the background concentration of fluoride in the City's wastewater is 1.0 mg/L since fluoride is added to the City's public water supply for dental health reasons. Miller at 4. He stated that only a small amount of fluoride for industrial loading can be allowed if the City is to comply with the general use water quality standard of 1.4 mg/L. *Id.* As a result, the City calculated a preliminary pretreatment discharge limit of 2.54 mg/L for each of the City's four industrial sources of fluoride. *Id.*

Miller testified that no feasible treatment option for the fluoride in the discharge from BBI and Truckomat exists. Miller at 5. He stated that in order for the City to meet its fluoride limit, these businesses would be severely hampered, if not eliminated, and that the loss of those industries could have a severe negative economic impact on the City. *Id.* Miller testified that the site-specific effluent limit proposed is protective of health and the environment. Miller at 5.

Mike Rose

Mike Rose is the director of environmental research and development for BBI. He testified that adoption of the proposed standard will allow socially and economically valuable services located in the City to continue. Rose at 1. Rose said that the City derives much of its

income from services provided to persons traveling along the two major interstates intersecting at the City. Rose at 2.

Rose testified that the brightener used to wash trucks at BBI's two washes contains hydrofluoric acid (HF), and that each BBI truck wash facility generates approximately 24,000 gallons per day of wastewater with a fluoride concentration from 40 to 130 mg/L. Rose at 2. The wastewater pretreatment at the BBI truck washes is accomplished by providing retention in a three-stage settling pit located inside each truck wash bay. *Id.* Rose testified that the HF brightener chemically removes the aluminum oxide coating that forms on the exposed aluminum surface of the over-the-road trucks, and that despite significant efforts by the truck wash industry, no alternative producing the wash quality of the HF-based brightener has been discovered. Rose at 3.

Rose stated that the brightener constitutes a significant portion of the truck wash operational cost and the facilities are driven by operational costs to use no more brightener than necessary to achieve the desired finished product. Rose at 3. Therefore, posits Rose, economic incentives already prevent excess use of the brightener chemical. Rose at 4.

After working with Shepard Engineering to complete bench testing of different methods to reduce fluoride, Rose testified that the lowest practicable fluoride removal level for the truck washes is significantly greater than the pretreatment discharge limit of 2.54 mg/L proposed by the City, and that it is not technically feasible for BBI or Truckomat to achieve such a limit. Rose at 4. Rose stated that even though tests did not achieve fluoride reduction sufficient to comply with the discharge limit, cost estimates were developed for wastewater treatment systems for the three truck wash operations in the City. *Id.* He stated that the estimated total capital cost for this equipment is $1.5 million, based on a design wastewater flow rate of 30,000 gallons per day at each location. *Id.* Rose estimated that the chemicals, operating labor, sludge disposal, maintenance and depreciation associated with such a system would cost $600,000 annually. Rose at 4-5. To recoup the annual operating cost, the price of a wash would have to increase 13% - by $5.00. Rose at 5. Rose concluded that even if it were technically feasible to achieve the fluoride standard currently imposed, the costs of such technology would be prohibitively expensive. Rose at 5.

Rose stated that the loss of the use of the HF brightener would result in an annual economic loss of $900,000 in the City based on the decrease of truck wash revenue alone, and that this loss would be compounded by lost revenue for associated businesses as well as loss of employment. Rose at 5. Rose projected the loss of the HF brightener would result in the loss of seven to eight employees per truck wash location – a total of 21–24 jobs in the City. *Id.*

Max Shepard

Max Shepard is a chemical engineer, a licensed professional engineer in four states, and the president of Shepard Engineering. Shepard at 1. He testified that the fluoride levels proposed by the petitioners will be protective of aquatic life, human health, and the environment as a whole; and will also allow socially and economically valuable services located in the City to continue. Shepard at 2.

Shepard stated that waters from the City's POTW are discharged to an unnamed tributary of Salt Creek, and the potentially affected waters include Salt Creek and the Little Wabash River into which Salt Creek flows. Shepard at 2. Shepard testified that the City of Flora receives its water from the Little Wabash River through a water supply intake located approximately 37 miles downstream from the City. Shepard at 2–3.

According to Shepard, the seven-day, ten-year low-flow value for the unnamed tributary is zero, and there can be periods where the stream flow in the unnamed tributary is comprised entirely of the discharge flow from the City. Shepard at 3, Response to HO Questions at 5. Shepard noted that the City's POTW effluent has achieved the 1.4 mg/L standard for fluoride on only two occasions over the last three years, and that the average discharge fluoride concentration for 45 sampling events during that time period was 2.73 mg/L. *Id*. However, Shepard stated that based on empirical data, the fluoride levels in the City's discharge are not having an adverse impact on the City of Flora's water supply fluoride levels. *Id*. Specifically, the average and maximum fluoride concentrations at the Flora intake were 0.26 mg/L and 0.77 mg/L, respectively, from June 1994 through September 2001. Shepard at 4.

Shepard testified that there does not appear to be any significant sources of fluoride in the subject streams, other than Effingham, BBI and Truckomat. Shepard at 4. Shepard provided water balance and fluoride balance calculations that demonstrate that under the proposed standards, the fluoride concentration in the City of Flora's water supply will not exceed 2.0 mg/L even under low-flow conditions and taking evaporation into consideration. Shepard at 5-6.

Shepard testified that tests using varying dosages and combinations of calcium hydroxide, calcium chloride and alum revealed that the lowest practicable fluoride removal level for the truck facilities was in the range of 10 mg/L – significantly greater than the preliminary pretreatment discharge limit of 2.54 mg/L proposed by the city. Shepard at 7. Accordingly, asserts Shepard, it is not technically feasible for BBI or Truckomat to achieve the 2.54 mg/L fluoride limit. *Id*. Further, Shepard stated that despite the addition of wastewater from other sources, the lowest practicable fluoride removal level that could be achieved by the City still greatly exceeds the current fluoride effluent limit. *Id*.

Shepard stated that the three truck washes all utilize the industry standard for brighteners that contain HF. Shepard at 8. Shepard found that although other truck washes across the country are able to mix wastewater with other users and the receiving stream, Effingham is a relatively small community (population 12,022) that discharges to an extremely low-flow stream so that no mixing is available with respect to the City's POTW discharge. Shepard at 8-9.

Shepard concluded that the proposed fluoride effluent standard will be protective of the waters of the state located downstream,. Shepard stated that calculations revealed that from the point of discharge to the confluence of Salt Creek with the Little Wabash River, the fluoride levels would be less than or equal to 5.0 mg/L; from the confluence of Salt Creek with Little Wabash River to a point on the Little Wabash River 2.8 miles downstream of Louisville, the fluoride levels would be less than or equal to 3.2 mg/L; and from that point to the confluence of

Buck Creek and the Little Wabash River (approximately 9.8 miles downstream of Louisville) the fluoride levels would be less than or equal to 2.0 mg/L. Shepard at 9–10.

Finally, Shepard testified that bioassessments from CBI and the Agency demonstrate that fluoride from the City's discharge is not causing any harm to aquatic life. Shepard at 10. Shepard also testified to measures the City of Effingham would take to protect the City of Flora's water supply intake. Procedures included measuring stream flow, sampling water at the intake during times of low flow, and temporarily lowering Effingham's effluent standard until flow increased again. Tr. at 60, 63.

AGENCY TESTIMONY

The attorney for the Agency, Deborah Williams, filed pre-hearing testimony on the Agency's behalf. The Agency is substantially in agreement that the proposed rulemaking change is necessary and contains sufficient conditions to safeguard the environment now, and in the future. Agency at 1-2. However, the Agency argues that the relief should be granted from the water quality standard, rather than simply as an alternative effluent standard as proposed by the petitioners. Agency at 6. The Agency asserts that there are important technical and legal reasons that the Board should not grant relief solely from 304.105 in cases where the relief granted will cause the general use standard to be violated. Agency at 7.

The Agency argues that granting the relief requested to the City protects the discharger from enforcement, but does nothing to prevent the violation of the water quality standard. Agency at 7. The Agency believes that if the Board grants relief from 35 Ill. Adm. Code 304.105 instead of the water quality standard, it would be inconsistent with federal law because the Board is essentially granting a discharger indefinite or permanent permission to violate a water quality standard. Agency at 7-8. The Agency believes it lacks authority to issue an NPDES permit to the City that would cause a violation of the existing water quality standard for fluoride. Agency at 8. The Agency concludes that it is preferable to set site specific water quality standards rather than to grant license to violate those standards and that do otherwise is inconsistent with the Clean Water Act. Agency at 9.

The Agency argues that it would be an absurd result to the Board's regulatory relief process if, following a favorable recommendation by the Agency in a site specific proceeding, the Agency would subsequently be legally required to list a given water body as impaired for a given substance because it does not meet the standard of general applicability for that substance. Agency at 11.

The Agency proposes alternate relief that changes the water quality standard for the receiving stream to reflect the concentrations of fluoride present. Agency at 13. Specifically, the Agency proposes the following language:

> Section 303.326 Unnamed Tributary of Salt Creek, Salt Creek, and Little Wabash River. The fluoride general use water quality standard of Section 302.208(g) shall not apply to the waters of the State which are located from the point of discharge of the POTW located at 903 E. Eichie Avenue in Effingham,

Illinois, owned by the City of Effingham, to an unnamed tributary of Salt Creek, said point being located in Effingham County, T8N, R6E, Sec. 28, Lat: 39°06'24", Long: 88°31'55", to the confluence of said unnamed tributary with Salt Creek; to the confluence of Salt Creek with the Little Wabash River; to the confluence of Buck Creek and the Little Wabash River. Fluoride levels in such waters shall meet a water quality standard for fluoride (STORET Number 00951) as set forth below:

a) From the point of discharge of the City of Effingham POTW to the unnamed tributary to the confluence of the unnamed tributary with Salt Creek and from the confluence of the unnamed tributary with Salt Creek to the confluence of Salt Creek with the Little Wabash River, the fluoride water quality standard shall be 5.0 mg/L.

b) From the confluence of Salt Creek with the Little Wabash River to a point on the Little Wabash River located 2.8 miles downstream of Louisville, Illinois, the fluoride water quality standard shall be 3.2 mg/L.

c) From a point on the Little Wabash River located 2.8 miles downstream of Louisville, Illinois to the confluence of Buck Creek and the Little Wabash River, a point on the Little Wabash River located approximately 9.8 miles downstream of Louisville, Illinois, the fluoride water quality standard shall be 2.0 mg/L. Agency at 13-14.

The Agency acknowledges the Board's concern that relief from the fluoride limits will be unfairly granted to other discharges who have not presented the Board with sufficient evidence of the need for relief. Agency at 10. The Agency asserts this concern is somewhat misplaced since the Agency only recommends that the Board grant relief in site-specific rulemakings or adjusted standards when a thorough technical evaluation has revealed the requested relief is adequate to protect all existing and potential uses of the water body in question. *Id.* However, the Agency suggests that the Board could place as a condition to establishing the site-specific water quality standard that any party wishing to take advantage of the new water quality standard must also come to the Board to request such relief. Agency at 12. As an added safeguard, the Agency noted that through the permit renewal process, the Agency can require petitioners to review any new information on replacement brighteners to reduce fluoride in the wastewater. Agency at 14. At hearing, the Agency also referred to a proposed special condition in the permit meant to protect the City of Flora's water supply during low flows that would require monitoring and sampling of stream flow and slow down of production at the truck washes. Tr. at 64-65.

PUBLIC COMMENTS

Both the petitioners and the Agency filed post-hearing comments that addressed issues raised by the Board at hearing and provided additional argument on the proper avenue of relief. Of specific note, the petitioners assert that the City of Flora was notified of the petitioners' intent to file the instant petition with the Board via a voicemail message left by petitioners' attorney with the Flora city administrator. Pet. Com. at 11. In addition, Agency consultation with the

Illinois Department of Natural Resources confirmed there are no threatened or endangered species in the receiving waters. Pet. Com. at 12, Ag. Com. at 4. BBI also contacted the Illinois Waste Management and Research Center regarding possible alternatives to the HF brightener. Pet. Com. at 12. BBI examined several alternative brighteners and tested eight, but none were nearly as effective as BBI's current HF brightener. Pet. Com. at 12, Exh. E and F.

The Agency's comments reiterated that the appropriate relief is in the form of a site-specific water quality standard that would be sent to USEPA for approval. Ag. Com. at 2. The Agency asserted that it does not believe any reason to limit the term of relief granted with a sunset provision. Ag. Com. at 3. In this regard, the Agency notes that if, at some point, review of the water quality standard indicates the science underlying this rulemaking was faulty or outdated, the Agency and the Board would be obligated to revisit this case. Ag. Com. at 3. The Agency also added, that if the passage of time reveals the proposed water quality standards are not being met, they would revisit this issue. Ag. Com. at 3. As to notification to the City of Flora if the water quality standard of 2.0 mg/L is exceeded at the public water supply intake, the Agency indicated it was willing to implement or require Effingham to implement appropriate notification to the City of Flora if requested by the Board. Ag. Com. at 4.

The Agency further asserts that technical reasons in this case will limit the opportunity for other discharges to take advantage of the recommended relief, and, regardless, the Agency's obligation to review the technical information submitted by any would be discharger during the permitting stage would further assure that the fluoride water quality standard will continue to be met. Ag. Com. at 8,12.

DISCUSSION

The Board may adopt regulations specific to individual persons or sites. In promulgating regulations under the Act, the Board shall take into consideration the physical conditions and character of the surrounding areas, the nature of existing air quality as well as the technical feasibility and economic reasonableness of reducing the pollution. *See* 415 ILCS 5/27 (2000).

The petitioners and the Agency are in substantial agreement that the rulemaking change is necessary and contains sufficient conditions to safeguard the environment now and in the future. Further, the parties agree, and it is evident from the record, that compliance with the existing regulations governing fluoride is not technically feasible or economically reasonable. However, the parties differ on the proper avenue of relief in this instance.

The petitioners seek a regulation providing a new fluoride effluent limit of 4.5 mg/L applicable to the City's POTW effluent subject to the averaging rule of 35 Ill. Adm. Code 304.104. The Agency argues that in order to comply with federal law, the Board should grant petitioners relief from the water quality standards rather than effluent limitations.

The Board has recently addressed this issue. *In re* Petition of Exelon Generation Company for an Adjusted Standard from 35 Ill. Adm. Code 302.208, AS 03-1 (June 19, 2003). In that case, the Board found that an adjusted standard from the effluent limits rather than from

the water quality standard could lead to inconsistent results and leave the petitioner vulnerable to federal action. Exelon, (June 19, 2003) slip op. at 8.

The Board agrees with the Agency that granting relief from 35 Ill. Adm. Code 304.105 instead of the water quality standard may lead to inconsistencies with federal law. For example, the Agency could designate the stream segment at issue in this rulemaking as impaired for fluoride because it does not meet the standard of general applicability even after the Board has already granted the petitioners site-specific relief from the fluoride effluent limits on that same segment of stream. Further, the Agency may not have the authority to issue an NPDES permit to the City because doing so would cause a violation of the existing water quality standard for fluoride. Accordingly, the Board will propose a site-specific water quality standard rather than a new effluent limit in this instance.

In addition, the Board requests the Agency to require Effingham to implement appropriate notification to the City of Flora if the water quality standard of 2.0 mg/L is exceeded at the water supply intake.

The Board finds that petitioners have presented information indicating that compliance with at 35 Ill. Adm. Code 302.208(g) is not economically reasonable or technically feasible. In addition, petitioners have presented evidence regarding the nature of existing water quality and consistency with federal regulations. Further, the Board finds that the water quality data presented by the petitioners indicate that the requested relief is protective of the aquatic life and environment. However, for the reasons set forth above, the Board will proceed with the language for a site-specific rule proposed by Agency.

CONCLUSION

Based on the record developed to date in this matter, the Board finds that adoption of the proposed site-specific rule for the purposes of first notice is warranted.

ORDER

The Board directs the Clerk to cause the filing of the following with the Secretary of State for first-notice publication in the *Illinois Register*.

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

PART 303
WATER USE DESIGNATIONS AND SITE SPECIFIC WATER QUALITY STANDARDS

SUBPART A: GENERAL PROVISIONS

Section
303.100 Scope and Applicability

SUBPART B: NONSPECIFIC WATER USE DESIGNATIONS

SUBPART C: SPECIFIC USE DESIGNATIONS AND SITE SPECIFIC WATER QUALITY STANDARDS

SUBPART D: THERMAL DISCHARGES

APPENDIX B Sources of Codified Sections

AUTHORITY: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b), and 27].

SOURCE: Filed with the Secretary of State January 1, 1978; amended at 2 Ill. Reg. 27, p. 221, effective July 5, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 5 Ill. Reg. 11592, effective October 19, 1981; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg. 11161 effective September 7, 1982; amended at 7 Ill. Reg. 8111, effective June 23, 1983; amended in R87-27 at 12 Ill. Reg. 9917, effective May 27, 1988; amended in R87-2 at 13 Ill. Reg. 15649, effective September 22, 1989; amended in R87-36 at 14 Ill. Reg. 9460, effective May 31, 1990; amended in R86-14 at 14 Ill. Reg. 20724, effective December 18, 1990; amended in R89-14(C) at 16 Ill. Reg. 14684, effective September 10, 1992; amended in R92-17 at 18 Ill. Reg. 2981, effective February 14, 1994; amended in R91-23 at 18 Ill. Reg. 13457, effective August 19, 1994; amended in R93-13 at 19 Ill. Reg. 1310, effective January 30, 1995; amended in R95-14 at 20 Ill. Reg. 3534, effective February 8, 1996; amended in R97-25 at 22 Ill. Reg. 1403, effective December 24, 1997; amended in R01-13 at 26 Ill. Reg. 3517, effective February 22, 2002; amended in R03-11, at_____Ill. Reg____,effective_____.

SUBPART C: SPECIFIC USE DESIGNATIONS AND SITE SPECIFIC WATER QUALITY STANDARDS

Section 303.326 Unnamed Tributary of Salt Creek, Salt Creek, and Little Wabash River.

The fluoride general use water quality standard of 35 Ill. Adm. Code 302.208(g) does not apply to the waters of the State which are located from the point of discharge of the POTW located at 903 E. Eichie Avenue in Effingham, Illinois, owned by the City of Effingham, to an unnamed tributary of Salt Creek, said point being located in Effingham County, T8N, R6E, Sec. 28, Lat: 39°06'24", Long: 88°31'55", to the confluence of said unnamed tributary with Salt Creek; to the confluence of Salt Creek with the Little Wabash River; to the confluence of Buck Creek and the Little Wabash River. Fluoride levels in such waters must meet a water quality standard for fluoride (STORET Number 00951) as set forth below.

a) From the point of discharge of the City of Effingham POTW to the unnamed tributary to the confluence of the unnamed tributary with Salt Creek and from the confluence of the unnamed tributary with Salt Creek to the confluence of Salt Creek with the Little Wabash River, the fluoride water quality standard is 5.0 mg/L.

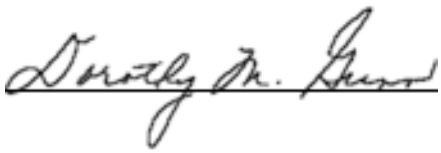
b) From the confluence of Salt Creek with the Little Wabash River to monitoring station C-19 located on the Little Wabash River approximately 2.8 miles downstream of Louisville, Illinois, the fluoride water quality standard is 3.2 mg/L.

c) From monitoring station C-19 located on a point on the Little Wabash River approximately 2.8 miles downstream of Louisville, Illinois to the confluence of Buck Creek and the Little Wabash River, a point on the Little Wabash River located approximately 9.8 miles downstream of Louisville, Illinois, the fluoride water quality standard is 2.0 mg/L.

(Source: Added at 27 Ill Reg _____, effective _____)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 24, 2003, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board