

ILLINOIS POLLUTION CONTROL BOARD  
July 22, 1993

IN THE MATTER OF: )  
 )  
THE PETITION OF SYCAMORE ) AS 93-6  
FOR ADJUSTED STANDARD FROM ) (Adjusted Standard)  
35 ILL. ADM. CODE 306.305(b) )  
AND 304.121 )

ORDER OF THE BOARD (by B. Forcade):

On July 13, 1993, the City of Sycamore filed a petition for an adjusted standard. The petition seeks an adjusted standard from the excess flow disinfection requirements of the Board's water pollution regulations at 35 Ill. Adm Code 304.121 and 306.305(b). The granting of the requested relief would allow Sycamore to discharge the effluent from its Excess Flow Treatment Facility to the receiving stream without providing disinfection.

Section 28.1(c) of the Environmental Protection Act (Act) (415 ILCS 5/28.1(c) (1992)) requires a petitioner for an adjusted standard to prove that:

1. factors relating to that petitioner are substantially and significantly different from the factors relied upon by the Board in adopting the general regulation applicable to that petitioner;
2. the existence of those factors justifies an adjusted standard;
3. the requested standard will not result in environmental or health effects substantially and significantly more adverse than the effects considered by the Board in adopting the rule of general applicability; and
4. the adjusted standard is consistent with any applicable federal law.

In addition, 35 Ill. Adm. Code 106.705 requires the petitioner to provide certain information in the petition to the Board.

The petition does not adequately address the informational requirements of 35 Ill. Adm. Code 106.705 and Section 28.1(c). Particularly, the petition does not address the environmental impact of the proposed adjusted standard, as required by 35 Ill. Adm. Code 106.705(g). In this regard, the petitioner has stated that the quantitative impact was not determined since data was not available (Pet. at 9.) The environmental impact of the adjusted standard is one of the key factors that the Board considers in evaluating the petition. The petitioner must provide such information for further consideration or comply with 35 Ill. Adm. Code 106.705(1) in explaining precisely why such

information is not being provided.

In addition, Sycamore's petition does not adequately address the informational requirements at 35 Ill. Adm. Code 106.705 (d) and (h). The following is a brief discussion of the informational deficiencies concerning Sycamore's adjusted standard petition:

1. Section 106.705(d). The petitioner is required to provide a description of the qualitative and quantitative nature of the discharges from the petitioner's activity, i.e. from the excess flow treatment plant (EFTP). The petition and the supporting documents provide adequate information regarding the quantitative nature of the discharge (effluent flow) from the plant, but do not include quantitative data regarding the EFTP effluent in terms of fecal coliform. Such information is needed to evaluate the merits of the proposed adjusted standard.
2. Section 106.705(g). The petitioner is required to provide an assessment of the quantitative and qualitative impact of the proposed adjusted standard on the environment. As noted earlier, the petition does not include an assessment of the quantitative environmental impact of the proposed adjusted standard on the receiving stream. In this regard, the petition does not provide any information regarding the receiving stream in terms of the existing upstream water quality or flow characteristics, which is essential for the assessment of the impact of the proposed adjusted standard on the receiving stream.
3. Section 106.705(h): The petitioner is required by this section to explain how the proposed adjusted standard is justified pursuant to the applicable level of justification. Since the Board's regulations relating to excess flows do not specifically prescribe a level of justification for obtaining an adjusted standard from the disinfection requirement, the petitioner has used the criteria prescribed in 35 Ill. Adm. Code 306.350, which the Board must consider in granting exceptions to the excess flow requirements of 35 Ill. Adm. Code 306.305 and 306.306. The criteria include water quality effects, actual and potential stream uses, and economic considerations. Other than the economic impact, the petition does not address the issues relating to the water quality effects and the stream uses.

The Board finds that the petition does not contain sufficient information to comply with the requirements of Section

28.1(c) of the Act or with 35 Ill. Adm. Code 106.705 regarding the contents of a petition for adjusted standard. Therefore, the Board finds that the petition filed by Sycamore is insufficient for Board consideration and directs Sycamore to file an amended petition in accordance with the requirements of Section 28.1(c) of the Act and 35 Ill. Adm. Code 106.705. In particular, the amended petition shall contain the following information or explain pursuant to 35 Ill. Adm. Code 106.705(1) why such information is not being provided:

1. a description of the qualitative nature of the excess flow treatment plant effluent including fecal coliform, TSS, and BOD<sub>5</sub>;
2. an assessment of the quantitative and qualitative environmental impact of the proposed adjusted standard on the receiving stream. Such an assessment should include a detailed description of the receiving stream in terms of the existing water quality and flow characteristics, an evaluation of the stream ratios, frequency and extent of overflow events, accessibility to stream, and side land use activities (residential, commercial, agricultural, industrial, or recreational).

Concerning the level of justification, the Board notes that Sycamore should justify its petition on the basis of the Section 28.1(c) factors rather than the exception procedure criteria in 35 Ill. Adm. Code 306.350.

If Sycamore does not file an amended petition, addressing the above issues, on or before October 8, 1993, this matter may be subject to dismissal.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the

22<sup>nd</sup> day of July, 1993, by a vote of 7-6.

  
 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board