
Environmental Register

August 2006 - Number 626

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Letter from the Chairman

During August, the Board continued to move forward with rulemaking dockets. On August 17 2006, the Board adopted regulations for clean construction demolition debris (CCDD) operations. In the Matter of: Clean Construction or Demolition Debris Fill Operations Under P.A. 94-272 (35 Ill. Adm. Code Part 1100) (R06-19) proposed adding a new Part 1100 to the Board's regulations. The Illinois Environmental Protection Agency (IEPA) filed this proposal on November 21, 2005.

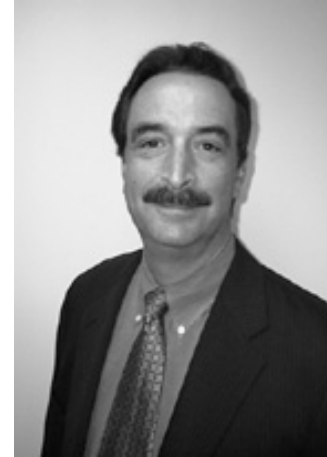
Public Act 94-272, effective July 19, 2005, allows the use of CCDD as fill material in current and former quarries, mines, and other excavations. The proposed Part 1100 establishes a permit program for the use of CCDD as fill material in fill operations. The new rules establish the standards applicable to CCDD facilities, including load inspections, recordkeeping requirements, annual reports, closure and postclosure activities.

The Board's opinion adopting the rule distinguishes CCDD from a broader category of materials known generally as construction and demolition debris (C&D). C&D debris sites are allowed to accept a much greater range of materials. The Board emphasizes the difference between the two terms; the new rules govern only the use of CCDD.

In other rulemaking, the Board began the second hearing in R 06-25, In the Matter of: Proposed new 35 Ill. Adm. Code 225 Control of Emission from Large Combustion Sources (Mercury) on Monday, August 14, 2006. Testimony at that hearing continued day-to-day before concluding on Wednesday, August 23, 2006. The IEPA originally filed this rulemaking proposal on March 14, 2006. Including two weeks of testimony in June, this rulemaking has now had 18 days of public hearing.

The Board also scheduled hearings in R 06-26, In the Matter of: Proposed New Clean Air Interstate Rule (CAIR) SO₂, NO_x Annual and NO_x Ozone Season Trading Programs, 35 Ill. Adm. Code 225. The first hearing will begin at 9:00 AM on Tuesday, October 11, 2006 and will continue day-to-day either until completed or until Friday, October 20, 2006. The first hearing will take place in the Training Room, 1214 West, which is accessible through the north entrance of the IEPA's building at 1021 North Grand Avenue East in Springfield. The second hearing will begin at 9:00 AM on Tuesday, November 28, 2006 and will continue day-to-day either until completed or until Friday, December 8, 2006. The second hearing will take place in Room 2-025 of the Thompson Center at 100 W. Randolph in Chicago.

Information including Board opinions, proposed rules, hearing officer orders, and hearing transcripts, may be viewed on the Board's Website at www.ipcb.state.il.us or by contacting the Clerk's Office. The Clerk's Office On-Line (COOL) provides 24-hour electronic access to the Board's case files and docket information. I invite you to take a closer look at these proceedings and to assist us in the development of sound environmental policy for the people of Illinois.



Sincerely,

A handwritten signature in black ink that reads "G. Tanner Girard". The signature is written in a cursive style.

G. Tanner Girard, Ph.D.
Acting Chairman

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Federal Update

United States Environmental Protection Agency Publishes Notice of Data Availability for Electrical Generating Units NO_x Annual and NO_x Ozone Season Allocations for the Clean Air Interstate Rule Federal Implementation Plan Trading Programs Under the Clean Air Act

On August 4, 2006 (71 Fed. Reg. 44283) the United States Environmental Protection Agency (USEPA) published a Notice of Data Availability (NODA) for Electrical Generating Units (EGU) NO_x annual and NO_x ozone season allocations for the Clean Air Interstate Rule (CAIR) Federal Implementation Plan (FIP) trading programs. This notice relates to the CAIR FIP regulatory text, which indicates that the USEPA will determine by order the CAIR NO_x allowance allocations.

On March 15, 2006, USEPA promulgated FIPs for all States covered by the CAIR. The FIPs will regulate EGUs in the affected States and achieve the emission reductions required by CAIR until each affected State has an approved CAIR State Implementation Plan (SIP) to achieve the reductions. USEPA stated that it promulgated FIPs to provide a federal backstop for CAIR. The USEPA will withdraw a State's FIP in coordination with approval of a SIP implementing the requirements of CAIR.

In the CAIR FIP preamble, USEPA indicated its intention to publish a NODA with NO_x allowance allocations for 2009 through 2014, to provide the public with the opportunity to object to the data; USEPA then plans to publish a final NODA (adjusted if necessary). In this August 4 NODA publication, the USEPA made available to the public the data relating to NO_x annual and NO_x ozone season allocations under the CAIR FIP that USEPA will allocate to individual existing units covered by the CAIR FIP NO_x annual and NO_x ozone season trading programs for 2009-2014. These allocations use data from the USEPA's Clean Air Markets Division's (CAMD) database (which contains data reported under the Acid Rain Program), U.S. Energy Information Administration (EIA) database, and data previously provided to USEPA by sources. The NODA references, or presents in tables, all these data and the NO_x annual and NO_x ozone season allowance allocations calculated using the data and the allocation formulas finalized in the CAIR FIP, for existing units for 2009 through 2014.

The NODA applies to existing units, defined by USEPA as units that commenced operation before January 1, 2001. New units, which commenced operation on or after January 1, 2001, will initially receive allowances through the new unit set aside. USEPA stated that once new units have established a five-year baseline, they will be incorporated into the calculation for allowances for existing units.

USEPA stated that any objections, identified by Docket Number OAR-2004-0076, must be received by USEPA on or before September 5, 2006, and must be submitted by one of the following methods:

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A. Federal Rulemaking Portal: www.regulations.gov. While this action is not a rulemaking, the Federal Rulemaking Portal is available to submit objections to the NODA. To submit objections, follow the online instructions for submitting comments.

B. Mail: Air Docket, ATTN: Docket Number OAR-2004-0076, Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

C. E-mail: A-AND-R-Docket@epa.gov

General questions concerning this action and technical questions concerning heat input or fuel data should be addressed to Brian Fisher, USEPA Headquarters, Ariel Rios Building, 1200 Pennsylvania Ave., Mail Code 6204 J, Washington, DC 20460. Telephone at (202) 343-9633, e-mail at fisher.brian@epa.gov

The Board has a pending rulemaking Proposed New Clean Air Interstate Rules (CAIR) SO₂, NO_x Annual and NO_x Ozone Season Trading Programs, 35 Ill. Adm. Code 225. Subparts A, C, D and E (R06-26) which proposes a new Part 225 to reduce intrastate and interstate transport of SO₂ and NO_x emissions from fossil-fuel-fired electric generating units, on an annual basis and on an ozone season basis of each calendar year to fulfill Illinois' obligation to submit a State SIP for the federal CAIR program. Hearings have been scheduled in this rulemaking for October 10, 2006, in Springfield and November 28, 2006, in Chicago.

Rule Update

Board Adopts Proposal for Public Comment in Wastewater Pretreatment Update, USEPA Amendments (July 1, 2005 through December 31, 2005) R06-13

On August 4, 2006, the Board adopted a proposal for public comment in Wastewater Pretreatment Update, USEPA Amendments (July 1, 2005 through December 31, 2005) (R06-13). The rulemaking proposes amendments to the Illinois regulations that are "identical in substance" to wastewater pretreatment regulations adopted by the United States Environmental Protection Agency (USEPA). See Section 7.2 of the Environmental Protection Act (Act), 415 ILCS 5/7.2. The USEPA rules implement Sections 307(b), (c), and (d) and 402(b)(8) and (b)(9) of the Federal Water Pollution Control Act (33 U.S.C. §§ 1317(b), (c), and (d) and 1342(b)(8) and (b)(9) (2002)).

This rulemaking proposed amendments to 35 Ill. Adm. Code 307 and 310. The principal amendments involve (1) federal standards for filing documents in an electronic format; (2) changes to the general pretreatment standards that USEPA intended to decrease the regulatory burden on industrial users; and (3) changes to the effluent guidelines and wastewater pretreatment requirements applicable to the Iron and Steel Manufacturing Point Source category.

This docket includes federal wastewater pretreatment amendments that USEPA adopted in the period July 1, 2005 through December 31, 2005. The rulemaking proposal was published in the August 18, 2006 issue of the *Illinois Register* at 30 Ill. Reg. 13645 through 13681. The Board will accept public comments for 45 days after publication, through October 2, 2006.

Based on the date of the first USEPA amendment, these rules were due to be filed on or before October 13, 2006. In this order, as allowed under Section 7.2 of the Act, the Board extended the filing deadline until October 30, 2006. (Notice of this extension will be published in the *Illinois Register*, as also required by Section 7.2.) The Board anticipates adopting final rules based on this proposal no later than October 19, 2006, to allow for timely filing on or before October 30, 2006.

In this update, the Board acted on three different federal rulemakings published at 70 Fed. Reg. 59848 (October 13, 2005), 70 Fed. Reg. 60134 (October 14, 2005), and 70 Fed. Reg. 73618 (December 13, 2005).

Cross-Media Electronic Reporting Rule

The October 13, 2006 federal action established the Cross-Media Electronic Reporting Rule (CROMERR). The CROMERR sets standards for the filing of documents in various federal program areas in an electronic format. While the CROMERR does not require the filing of documents in an electronic format, it does impose minimum requirements on documents that are filed in such a format and on the electronic document receiving systems used to receive them. The CROMERR imposes requirements on electronic filings submitted to USEPA and on USEPA's Central Data Exchange (CDX) that receives them, as well as on any electronic document filings submitted to the states and any systems used by the states to receive those filings. These federal amendments are also the subject of proposed rules in two other dockets in which the Board proposed very similar amendments relating to electronic reporting in identical-in-substance amendments: UIC Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-16; RCRA Subtitle D Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-17; and RCRA Subtitle C Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-18 (consolidated) (Apr. 6, 2006), and SDWA Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-15 (July 20, 2006). The Board's proposal for public comment in the consolidated R06-16/17/18 docket was published in the *Illinois Register* at 30 Ill. Reg. 6675 through 7711 (April 21, 2006). On June 1, 2006, the Board adopted an order extending the public comment deadline through June 30, 2006. See the April and June 2006 issues of the *Environmental Register* for a more complete description of the Board's actions in this docket.

The object of the CMERR is to provide for filing of documents in an electronic format and to assure that documents filed in such a format have the same probative effect as a signed paper document. Thus, USEPA's emphasis is on assuring the authenticity, dependability, and integrity of documents filed in an electronic format. To this end, the CROMERR imposes requirements on six aspects of any electronic document receiving system used by a state: (1) system security; (2) the electronic signature method; (3) registration of persons submitting electronic documents; (4) the signature and certification scenario; (5) the generation of a transaction record; and (6) system archives. See 59 Fed. Reg. at 59855. USEPA included a listing for its bases for evaluation of a state electronic document receiving system in the amendments. See 59 Fed. Reg. at 59867-73.

Streamlining Amendments to the General Pretreatment Standards--Subparts A and U of Part 307 and Subparts A, B, C, E, F, G, and H of Part 310

The USEPA action of October 14, 2005 (70 Fed. Reg. 60134) incorporated streamlining amendments into the general wastewater pretreatment standards. USEPA stated that the amendments make the pretreatment standards consistent with the National Pollutant Discharge Elimination System (NPDES) requirements for direct dischargers. USEPA said the amendments would reduce the regulatory burden on industrial users, publicly owned treatment works (POTWs), and States without adverse environmental effects.

The single aspect of the federal amendments warranting specific discussion in the Board's opinion concerned a segment of the federal sludge management rules not previously adopted by the Board. In Pretreatment Update, USEPA Regulations (January 1, 1993 through June 30, 1993), R93-20 (May 5, 1994) the Board determined not to adopt some elements of the federal sludge management rules published at 58 Fed. Reg. 9248 (February 19, 1993). The Board held that adoption of the segments of those rules that affected the wastewater pretreatment requirements related to pollutant removal credits was beyond the scope of the wastewater pretreatment identical-in-substance mandate of Section 13.3 of the Act. 415 ILCS 5/13.3 (2004). In the R06-13 docket, the Board revisited this issue, and decided to add to Board rules a segment of text from the federal sludge management rules.

Under 40 C.F.R. 403.7 (corresponding with Subpart C of 35 Ill. Adm. Code 310) of the pretreatment rules, a Control Authority may grant an industrial user credit for removal of a

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pollutant from its waste stream. The removal credit for that pollutant, based on the percentage of the individual pollutant consistently removed from the industrial user's waste stream, allows the Control Authority to derive proportionately higher discharge limits for that pollutant than those set forth in the applicable pretreatment standard.

The portions of the federal sludge management rule not included by the Board in R93-20 were two tables in appendix G to the wastewater pretreatment rules. *See* 40 C.F.R. 403.7(a)(3)(iv) (2005) (normally corresponding with 35 Ill. Adm. Code 310.303(d)); appendix G to 40 C.F.R. 403 (2005). The two tables list the pollutants for which removal credits are available, based on the mode of use or disposal of the sewage sludge produced by the POTW that receives the industrial user's wastewater. The Illinois pretreatment rules as adopted in 1993 lacked a listing of pollutants for which removal credits are available. The Board found that a reference to this table in the Illinois rules would provide guidance to the regulated community, add definiteness to the rules, and aid implementation of the requirements.

While the adoption of sludge management requirements is beyond the scope of the Board's wastewater pretreatment rules, the Board concluded in R06-13 that the lists of pollutants adopted with the sludge requirements are a necessary segment of the wastewater pretreatment requirements. USEPA adopted the sludge management requirements under section 405(d) and (e) of the Clean Water Act (33 U.S.C. 1345(d) and (e) (2002)), which is outside the scope of the identical-in-substance mandate of Section 13.3 of the Act (415 ILCS 5/13.3 (2004)). *See* 58 Fed. Reg. at 9248. Nevertheless, in the preamble to the adoption of that rule, USEPA discussed the authority of section 307(b) and (c) of the Clean Water Act (33 U.S.C. 1317(d) and (e) (2002)), which are the authority for adoption of the wastewater pretreatment standards, when it adopted the sludge management rule. *See* 58 Fed. Reg. at 9249. Thus, incorporation of the lists of pollutants for which removal credits are available into the Illinois wastewater pretreatment regulations is required under Section 13.3 of the Act. 415 ILCS 5/13.3 (2004). The Board added an incorporation of appendix G to 40 CFR 403 by reference for the purposes of the removal credits provision, Section 310.303(d).

Streamlining Amendments to the General Pretreatment Standards--Subparts A and U of Part 307 and Subparts A, B, C, E, F, G, and H of Part 310

The USEPA action of December 13, 2005 (70 Fed. Reg. 73618) amended the pretreatment standards applicable to the Iron and Steel Manufacturing Point Source Category. USEPA amended the rules to make the "water bubble" concept applicable to oil and grease effluent limitations. This "water bubble" applies exclusively to direct dischargers, not to wastewater pretreatment. A correction included in the federal amendments does affect the federal wastewater pretreatment regulations: USEPA corrected an error in recitations of the effective date of various segments of the rules. USEPA corrected the date from "after November 19, 2012 and before November 18, 2002" to "after November 19, 1992 and before November 18, 2002" in four separate provisions.

Copies of the Board's opinion and order in R06-13 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact Mike McCambridge at 312/814-6924; e-mail address: mccambm@ipcb.state.il.us.

Board Grants Illinois Environmental Protection Agency's Request to Withdraw the Proposed Amendments in Amendments to 35 Ill. Adm. Code 201 (New Section 201.501 PSD Construction Permits) (R06-27)

On August 4, 2006, the Board granted the Illinois Environmental Protection (IEPA) request to withdraw the amendments it had proposed June 20, 2006 in Amendments to 35 Ill. Adm. Code 201 (New Section 201.501 PSD Construction Permits) (R06-27).

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In its request for the withdrawal of this rulemaking, IEPA explained that it had discussed the proposed rulemaking with the United States Environmental Protection Agency (USEPA). As a result of its conversations with USEPA, IEPA concluded that, at this time, the interests of its Prevention of Significant Deterioration (PSD) program would be best served by a withdrawal of the rulemaking proposal.

In response to the request of the IEPA for expedited consideration of IEPA's June 20, 2006 regulatory proposal, the Board had caused publication of the first notice proposal prior to hearing. See 30 Ill. Reg. 11506 (July 7, 2006). Notice of withdrawal of the first notice was published at 30 Ill. Reg. 13932 (August 18, 2006).

Copies of the Board's orders in R06-27 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact John Knittle at 217/278-3111; e-mail address: knittlej@ipcb.state.il.us.

Board Timely Adopts Final Amendments in Clean Construction or Demolition Debris Fill Operations Under P.A. 94-272 (35 Ill. Adm. Code 1100) (R06-19)

On August 17, 2006, the Board adopted a final opinion and order in Clean Construction or Demolition Debris Fill Operations Under P.A. 94-272 (35 Ill. Adm. Code 1100) (R06-19). The Board's action fulfilled its statutory obligation to amend its land pollution control regulations through the addition of standards for clean construction and demolition debris (CCDD) regulations no later than September 1, 2006. The final amendments were filed with the Secretary of State's Index department with an August 22, 2006 effective date and were published in the *Illinois Register* on September 8, 2006 at 30 Ill. Reg. 14534.

This rulemaking adds a new Part 1100 of the Board's regulations to cover CCDD fill operations. The Illinois Environmental Protection Agency (IEPA) proposed the amendments January 26, 2006, pursuant to Public Act 94-272, to allow the use of clean construction or demolition debris as fill material in current and former quarries, mines, and other excavations.

The new Part 1100 establishes a permit program for the use of CCDD in former quarries, mines, or other excavations. According to proposed Section 1100.408, permits issued under Part 1100 will have a term of 10 years.

Subpart A establishes the scope of the regulation, provides definitions, and clarifies the applicability of the permit program. CCDD fill operations at facilities that are permitted as landfills under Sections 35 Ill. Adm. Code 807, or 811 through 814 (municipal, chemical, or putrescible waste landfills) are exempt from the proposed Part 1100 CCDD permitting rules because the landfill permitting rules are more protective of the environment. Facilities permitted under Sections 807 or 811 through 814 can accept CCDD without obtaining a permit under the proposed Section 1100.

Subpart B sets forth the standards applicable to the operation of CCDD facilities, CCDD load inspections, closure and postclosure plans, including recordkeeping requirements and annual reports.

Subpart C identifies what information an applicant must include in the permit application, which includes notification to local and State government officials, location and facility maps, facility description, proof of ownership, surface water controls, and plans for closure and postclosure.

Subpart D includes the procedural rules that both the IEPA and applicants must follow for permitting. These include standards for IEPA permit approval and denial, and deadlines for review of permit applications. The IEPA must make a final decision on an application within 90 days of receiving the application or the permit is deemed issued.

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Copies of the Board's opinion and order in R06-19 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact Amy Antonioli at 312-814-3665; e-mail address antonia@ipcb.state.il.us.

Board Accepts Proposal for Hearing in Proposed Amendments to Solid Waste Landfill Rules, 35 Ill. Adm. Code 810 and 811 (R07-8)

On August 17, 2006, the Board accepted a proposal for hearing in Proposed Amendments to Solid Waste Landfill Rules, 35 Ill. Adm. Code 810 and 811 (R07-8). The proposal, filed with the Board on July 27, 2006 by the Illinois chapter of the National Solid Wastes Management Association (NSWMA), seeks to amend the Board's solid waste regulations at 35 Ill. Adm. Code 810 and 811.

The NSWMA stated that its proposal is intended to update the Board's regulations to reflect current solid waste practices. The proposal is designed to eliminate or modify outdated regulations that are not reflective of current technologies, generate more accurate data, and improve efficiency for both the regulated community and the Illinois Environmental Protection Agency.

In its order accepting the proposal, the Board directed the NSWMA to address two informational deficiencies in its proposal. First, the Board requested that NSWMA provide more detailed information on the testimony that it intends to present at the hearings. Second, the Board requested that NSWMA provide more information on any published studies or reports that it may have relied upon in the development of its proposal. The hearing officer was directed to establish dates for the filing of responsive information, and for hearing.

Copies of the Board's opinion and order in R07-8 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact Tim Fox at 312-814-6085; e-mail address foxt@ipcb.state.il.us.

Board Actions

August 4, 2006

**Via Videoconference
Chicago and Springfield, Illinois**

Rulemakings

R06-13	<u>In the Matter of: Wastewater Pretreatment Update, USEPA Amendments (July 1, 2005 through December 31, 2005)</u> – The Board adopted a proposal for public comment in this “identical-in-substance” rulemaking to amend the Board's wastewater pretreatment regulations.	4-0 R, Water
R06-27	<u>In the Matter of: Amendments to 35 Ill. Adm. Code 201 (New Section 201.501 PSD Construction Permits)</u> – The Board granted the Illinois Environmental Protection Agency's motion to withdraw this rulemaking proposal.	4-0 R, Air

Adjusted Standards

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AS 06-4	<u>In the Matter of: Petition of Big River Zinc for an Adjusted Standard Under 35 Ill. Adm. Code 720.131(c)</u> – The Board granted petitioner’s motion to expedite and accepted this St. Clair County facility’s petition for a “waste delisting” adjusted standard from the Board’s waste rules. The Board reserved ruling on whether to request additional information or to order that a hearing be held despite petitioner’s request for a hearing waiver.	4-0 Land
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Administrative Citations

AC 06-50	<u>IEPA v. Marla Leweis Gates, Mark Gates, and Mark Kingsley Lewis</u> – The Board ordered respondent Mark Gates to file an amended petition to cure noted deficiencies postmarked on or before September 5, 2006, or the matter would be subject to dismissal. The Board also ordered complainant to file proof of service regarding remaining respondents Marla Lewis Gates and Mark Kingsley Lewis on or before September 5, 2006.	4-0
AC 06-52	<u>IEPA v. Charles L. Riggins</u> – The Board found that this Fulton County respondent violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)). Because this is a subsequent violation of Section 21(p), respondent was ordered to pay a civil penalty of \$3,000.	4-0
AC 06-53	<u>County of Ogle v. George C. Heal</u> – The Board accepted for hearing this petition for review of an administrative citation against this Ogle County respondent.	4-0
AC 06-55	<u>County of Wayne v. Julian Buchanan</u> – The Board found that this Wayne County respondent violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)), and ordered respondent to pay a civil penalty of \$1,500.	4-0
AC 06-56	<u>IEPA v. Lake Wildwind Park, L.L.C.</u> – The Board accepted for hearing this petition for review of an administrative citation against this Woodford County respondent.	4-0
AC 06-57	<u>IEPA v. Ron Lawver</u> – The Board found that this Fulton County respondent violated Section 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2004)), and ordered respondents to pay a civil penalty of \$3,000.	4-0

Decisions

PCB 04-7	<u>People of the State of Illinois v. 4832 S. Vincennes, L.P.</u> – In this air enforcement action concerning a Cook County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2004)), and accepted a stipulation and settlement agreement, ordering the respondent to pay a total civil penalty of \$2,500, and to cease and desist from further violations.	4-0 A-E
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PCB 05-181	<u>People of the State of Illinois v. Pattison Associates L.L.C. and 5701 South Calumet L.L.C.</u> – In this air enforcement action concerning a Cook County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2004)), and accepted a stipulation and settlement agreement, ordering the respondents to pay a total civil penalty of \$20,000, and to cease and desist from further violations.	4-0 A-E
PCB 05-215 PCB 06-103 (cons.)	<u>People of the State of Illinois v. First Rockford Group, Inc. and Schlichting & Sons Excavating, Inc.; People of the State of Illinois v. First Rockford Group, Inc.</u> – In this public water supply enforcement action concerning a Winnebago County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2004)), accepted a stipulation and settlement agreement as to Schlichting & Sons Excavating, Inc. (Schlichting) only, ordering Schlichting to pay a total civil penalty of \$10,000, and to cease and desist from further violations.	4-0 PWS-E
PCB 06-191	<u>People of the State of Illinois v. Louie’s Trenching Service, Inc. and City of Galena</u> – In this water enforcement action concerning a Jo Daviess County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2004)), and accepted a stipulation and settlement agreement, ordering the respondents to pay a total civil penalty of \$9,000, and to cease and desist from further violations.	4-0 W-E

Motions and Other Matters

PCB 02-79	<u>People of the State of Illinois v. Walter F. Deemie d/b/a River City Demolition</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Sangamon County facility, the Board ordered publication of the required newspaper notice.	4-0 A-E
PCB 02-215	<u>Perfetti Van Melle USA, Inc. v. IEPA</u> – The Board granted this Lake County facility’s motion for voluntary dismissal of this permit appeal.	4-0 P-A, Air
PCB 04-107	<u>People of the State of Illinois v. Peter Babaniotis</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land and water enforcement action involving a Will County facility, the Board ordered publication of the required newspaper notice.	4-0 L&W-E
PCB 05-203	<u>People of the State of Illinois and Homewood Disposal Service, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	4-0 L-E

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PCB 06-182	<u>People of the State of Illinois v. Kirsea Builders, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Will County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E
PCB 07-4	<u>People of the State of Illinois v. Village of Tinley Park</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E
PCB 07-5	<u>City of Des Plaines (Former A&K Mini Mart) v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.	4-0 UST Appeal 90-Day Ext.
PCB 07-6	<u>J.D. Streett & Company, Inc. v. IEPA</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies postmarked on or before September 5, 2006, or the matter would subject to dismissal.	4-0 UST Appeal
PCB 07-7	<u>People of the State of Illinois v. City of Belvidere and CES, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Boone County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E

August 17, 2006

Chicago, Illinois

Rulemakings

R06-19	<u>In the Matter of: Clean Construction or Demolition Debris Fill Operations Under P.A. 94-272 (35 Ill. Adm. Code 1100)</u> – The Board adopted a final opinion and order in this rulemaking which amends the Board’s land pollution control regulations, timely fulfilling the statutory mandate.	4-0 R, Land
R07-8	<u>In the Matter of: Proposed Amendments to Solid Waste Landfill Rules, 35 Ill. Adm. Code 810 and 811</u> – The Board accepted for hearing petitioner’s February 7, 2006 proposal to amend the Board’s land pollution control regulations. The Board granted petitioner’s motions to waive requirements to submit 200 signatures and to file copies of materials to be incorporated by reference. The Board also requested that petitioner address two informational deficiencies noted in writing prior to any hearing scheduled in this proceeding at such time as	4-0 R, Land

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directed by the hearing officer.

Adjusted Standards

AS 06-4	<u>In the Matter of: Petition of Big River Zinc for an Adjusted Standard Under 35 Ill. Adm. Code 720.131(c)</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies postmarked on or before September 15, 2006, or the matter would be subject to dismissal.	4-0 Land
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Administrative Citations

AC 06-13	<u>IEPA v. Lyndell Heinzmann</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Marion County facility, the Board found that respondent had violated Section 21(p)(3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(3) (2004)) and ordered this respondent to pay a civil penalty of \$1,500. The Board also granted the parties' joint motion to dismiss respondent's petition for review, as well as the violation of 415 ILCS 5/21(p) (1), (p)(2) (2004) alleged in the administrative citation.	4-0
AC 06-51	<u>IEPA v. Clifford Lawson</u> – The Board accepted for hearing this petition for review of an administrative citation against this Macoupin County respondent.	4-0
AC 06-58	<u>County of Ogle v. Francis Case</u> – The Board found that this Ogle County respondent violated Section 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2004)), and ordered respondent to pay a civil penalty of \$3,000.	4-0
AC 07-1	<u>IEPA v. John Spoede</u> – The Board granted complainant's motion for voluntary dismissal of this administrative citation.	4-0
AC 07-3	<u>County of Perry v. Mike Tilley</u> – The Board dismissed this administrative citation for lack of jurisdiction, due to the County's failure to timely serve the administrative citation on respondent.	4-0

Decisions

PCB 06-54	<u>People of the State of Illinois v. Webb AG, Inc.</u> – In this land enforcement action concerning a Fulton County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2004)), and accepted a stipulation and settlement agreement, ordering the respondent to pay a total civil penalty of \$15,000, and to cease and desist from further violations.	4-0 L-E
PCB 06-136	<u>People of the State of Illinois v. D&L Landfill, Inc.</u> – In this land enforcement action concerning a Bond County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2004)), and accepted a stipulation and settlement	4-0 L-E

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agreement, ordering the respondent to pay a total civil penalty of \$13,250, and to cease and desist from further violations.

PCB 06-151	<u>People of the State of Illinois v. Big River Zinc Corporation and Allied Waste Transportation, Inc. d/b/a Midwest Waste</u> – In this land enforcement action concerning a St. Clair County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2004)), accepted a stipulation and settlement agreement as to Big River Zinc Corporation (Big River Zinc) only, ordering Big River Zinc to pay a total civil penalty of \$18,000, and to cease and desist from further violations.	4-0 L-E
PCB 07-2	<u>People of the State of Illinois v. Meijer Stores Limited Partnership and Rockford Construction Co.</u> – In this water enforcement action concerning a DuPage County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2004)), and accepted a stipulation and settlement agreement, ordering the respondents to pay a total civil penalty of \$85,000, and to cease and desist from further violations.	4-0 W-E

Motions and Other Matters

PCB 04-185	<u>Midwest Generation EME, L.L.C v. IEPA</u> – The Board granted the parties’ motion to extend the stay until December 4, 2006.	4-0 T-S Appeal
PCB 04-215	<u>Commonwealth Edison Company v. IEPA</u> – The Board granted the parties’ motion to extend the stay until December 4, 2006.	4-0 T-S Appeal
PCB 04-216	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – The Board granted the parties’ motion to extend the stay until December 4, 2006.	4-0 T-S Appeal
PCB 06-33	<u>People of the State of Illinois v. J&S Companies, Inc. and First Choice Construction, Inc.</u> – In response to complainant’s motion for remedies and civil penalties, the Board entered an opinion and order requiring respondent J&S Companies, Inc. to pay a total civil penalty of \$25,000 and to cease and desist from further violations. This order follows the Board’s order of June 15, 2004, which found that this respondent had violated Sections 21(a), (d)(1), (e), and (1) and (7) of the Environmental Protection Act as alleged in complainant’s two-count complaint (415 ILCS 5/21(a), (d)(1), (e), (p)(1) and (7) (2004)).	3-1 Johnson dissented L-E

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PCB 06-117	<u>People of the State of Illinois v. Saline County Landfill, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Saline County facility, the Board ordered publication of the required newspaper notice.	4-0 L-E
PCB 06-131	<u>Wesley Brazas, Jr. v. Mr. Jeff Magnussen, President, Village of Hampshire and IEPA</u> – The Board acknowledged the filing of objections by the counsel of Charles St. George to the Board’s July 6, 2006 order affirming the permit as issued. But, the Board will not consider or address the merits of the arguments, as Mr. St. George is not a party. The objection does not stay the time for the filing of any party’s appeal under 35 Ill. Adm. Code 101.502(c).	4-0 P-A, Water
PCB 06-183	<u>People of the State of Illinois v. Lazar Brothers Trucking, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Kane County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E
PCB 07-8	<u>People of the State of Illinois v. The City of Harvey</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	4-0 L-E
PCB 07-9	<u>K.A. Steel Chemical, Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Cook County facility.	4-0 P-A, NPDES
PCB 07-10	<u>Citgo Petroleum Corporation v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Will County facility.	4-0 P-A, NPDES

New Cases

August 4, 2006 Board Meeting

07-004 People of the State of Illinois v. Village of Tinley Park – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.

07-005 City of Des Plaines (Former A&K Mini Mart) v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.

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07-006 J.D. Streett & Company, Inc. v. IEPA – The Board ordered petitioner to file an amended petition to cure noted deficiencies postmarked on or before September 5, 2006, or the matter would subject to dismissal.

07-007 People of the State of Illinois v. City of Belvidere and CES, Inc. – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Boone County facility, the Board ordered publication of the required newspaper notice.

AC 07-004 IEPA v. Frank Wilhelm – The Board accepted an administrative citation against this Macon County respondent.

AS 07-001 In the Matter of: Petition of BP Products North America Inc. for an Adjusted Standard Pursuant to 35 Ill. Adm. Code 720.122 – Pending receipt of the certificate of publication, the Board held this Madison County facility's petition for an adjusted standard to delist certain waste the Board's rules under the Resource Conservation and Recovery Act.

R07-008 In the Matter of: Proposed Amendments to Solid Waste Landfill Rules, 35 Ill. Adm. Code 810 and 811 – No action taken.

August 17, 2006 Board Meeting

07-008 People of the State of Illinois v. The City of Harvey – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.

07-009 K.A. Steel Chemical, Inc. v. IEPA – The Board accepted for hearing this permit appeal involving a Cook County facility.

07-010 Citgo Petroleum Corporation v. IEPA – The Board accepted for hearing this permit appeal involving a Will County facility.

AC 07-005 IEPA v. Allen and Lois Noltensmeier – The Board accepted an administrative citation against these Mason County respondents.

AC 07-006 IEPA v. Landfill 33 Ltd., Richard Deibel, and Brian Hayes – The Board accepted an administrative citation against these Effingham County respondents.

AC 07-007 IEPA v. Matthew P. Bailey – The Board accepted an administrative citation against this Wayne County respondent.

Provisional Variances

IEPA 07-7 Exelon Generation Company, L.L.C. Quad Cities Nuclear Power Station v. IEPA – On August 2, 2006, the Illinois Environmental Protection Agency granted Exelon Generation Company, L.L.C. Quad Cities Nuclear Power Station's request for a variance from Special Condition 6A and 6B of NPDES Permit IL0005037 that establish thermal discharge limits for Exelon's nuclear fueled steam electric generating facility located on the Mississippi River at River Mile 506.8 near Cordova. Additionally, 6B allows Exelon's Quad Cities Station excursion hours from these limits. The variance period is for 45 days.

Public Act 93-0152 (Senate Bill 222) amended Sections 35-37 of the Illinois Environmental Act (415 ILCS 5/5(b) (2002)) so that provisional variances are issued by the Illinois Environmental Protection Agency (IEPA). If the IEPA grants a provisional variance, then the IEPA must file a copy of its written decision with the Board. The Board must maintain copies of the provisional variances for public inspection. Copies of provisional variances can be obtained by contacting

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the Clerk's Office at (312) 814-3620, or by visiting the Board's Website at www.ipcb.state.il.us. If the IEPA denies a provisional variance request, then the applicant may initiate a proceeding with the Board for a full variance.

Calendar

9/7/06 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
9/19/06 11:00 AM	PCB 06-6	ESG Watts, Inc. (Taylor Ridge/Andalusia Landfill) v. IEPA	Village Council Chambers 321 W. 2 nd Avenue Milan
9/21/06 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Michael A. Bilandic Building Second Floor, Room N-505 160 N. LaSalle Street Chicago
9/26/06 9:30 AM	PCB 06-185	D & L Landfill, Inc. v. IEPA	Bond County Courthouse County Board Room 1st Floor 200 W. College Greenville
10/5/06 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East (North Entrance) Springfield
10/10/06 9:00 AM	R06-26	In the Matter of: Proposed New Clean Air Interstate Rule (CAIR) SO ₂ , NO _x Annual and NO _x Ozone Season Trading Programs, 35 Ill. Adm. Code 225. Subparts A, C, D and E (to be continued day-to-day until business is completed or until October 20, 2006)	IEPA Office Building Training Room 1214 West 1021 North Grand Avenue East (North Entrance) Springfield
10/19/06 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago

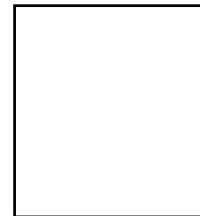
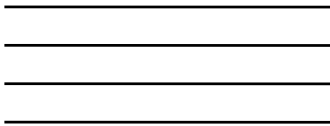
Environmental Register – August 2006

<p>11/2/06 11:00 AM</p>	<p align="center"><u>Illinois Pollution Control Board Meeting</u></p>		<p>Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield</p>
<p>11/2/06 1:30 PM</p>	<p>R04-25</p>	<p>In the Matter of: Proposed Amendments to Dissolved Oxygen Standard 35 Ill. Adm. Code 302.206</p>	<p>Illinois Environmental Protection Agency North Entrance TQM Room 1000 E. Converse Springfield</p>
<p>11/3/06 10:00 AM</p>	<p>R04-25</p>	<p>In the Matter of: Proposed Amendments to Dissolved Oxygen Standard 35 Ill. Adm. Code 302.206</p>	<p>Illinois Environmental Protection Agency North Entrance TQM Room 1000 E. Converse Springfield</p>
<p>11/16 /06 11:00 AM</p>	<p align="center"><u>Illinois Pollution Control Board Meeting</u></p>		<p>James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago</p>
<p>11/28/06 9:00 AM</p>	<p>R06-26</p>	<p>In the Matter of: Proposed New Clean Air Interstate Rule (CAIR) SO₂, NO_x Annual and NO_x Ozone Season Trading Programs, 35 Ill. Adm. Code 225. Subparts A, C, D and E (to be continued day-to-day until business is completed or until December 8, 2006)</p>	<p>James R. Thompson Center Room 2-025 100 W. Randolph Street Chicago</p>
<p>12/7/06 11:00 AM</p>	<p align="center"><u>Illinois Pollution Control Board Meeting</u></p>		<p>Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield</p>
<p>12/21/06 11:00 AM</p>	<p align="center"><u>Illinois Pollution Control Board Meeting</u></p>		<p>James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago</p>

The Illinois Pollution Control Board is an independent five-member board that adopts environmental control standards, rules on enforcement actions, and other environmental disputes for the State of Illinois.

The *Environmental Register* is published monthly by the Board, and contains updates on rulemakings, descriptions of final decisions, the Board's hearing calendar, and other environmental law information.

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