
Environmental Register

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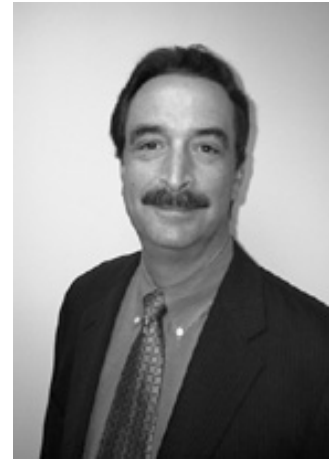
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Letter from the Chairman

In September, the Board acted on rulemakings in two different media (water and air) that generated significant public interest. I will briefly summarize those two rulemakings below. Additional information about these proceedings and the Board's other cases is available on our website (www.ipcb.state.il.us).

On September 20, 2007, the Board adopted for first-notice publication a proposal in Triennial Review of Sulfate and Total Dissolved Solids Water Quality Standards: Proposed Amendments to 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(A), 409.109(b)(2)(B), 406.100(d); Repealer of 35 Ill. Adm. Code 406.203 and Part 407; and Proposed New 35 Ill. Adm. Code 302.208(h) R07-9. The proposal updates existing general use water quality standards for sulfate and total dissolved solids (TDS). The current standards for these two constituents were originally established by the Board in 1972. The Illinois Environmental Protection Agency (IEPA) proposed to update the standards based on a multi-year project researching sulfate toxicity to aquatic life and livestock conducted by IEPA personnel and scientists at the Illinois Natural History Survey (INHS).



The proposal adopts a sulfate standard for general use waters that varies from 500 mg/L to 2,500 mg/L, depending on the associated chloride and hardness levels measured in the water. The sulfate standard in waters used for livestock watering has a maximum value of 2,000 mg/L. Dr. David Soucek of the INHS developed the equations proposed in the rule to determine the sulfate standard. The TDS water quality standard for general use waters is eliminated in the proposal. The proposal also amends the mixing zone regulations to allow mixing in certain small streams when adequate dilution is available. The Board also includes language reflecting the IEPA's policy of allowing mixing in up to 50% of the stream flow when there is less than a 3:1 dilution ratio. Finally, the proposal deletes the provisions addressing separate sulfate and chloride water quality standards for discharges from mining operations. Such discharges will be subject to the general use water quality standards under the proposed regulations.

On September 20, 2007, the Board adopted for final notice the proposal docketed as In the Matter of: Fast-Track Rules Under Nitrogen Oxide (NO_x) SIP Call Phase II: Amendments to 35 Ill. Adm. Code Section 201.146 and Parts 211 and 217, R07-18. The proposal establishes regulations for the control of nitrogen oxides (NO_x) emissions from stationary internal combustion engines affected by the NO_x State Implementation Plan (SIP) Call Phase II. The proposal adds a new Subpart Q to Part 217 of the Board's air regulations. The existing units subject to this rulemaking are specifically listed in Appendix G of Section 217. The list of affected units can be found on pp. 43-44 of the Board's first notice opinion.

The IEPA originally filed the proposed rules under the "fast-track" procedures of Section 28.5 of the Environmental Protection Act. On May 17, 2007, the Board found that Section 28.5 did not apply to IEPA's entire proposal, and the Board divided the proposal by continuing to consider only the portion applicable to engines affected by the NO_x SIP Call Phase II under fast-track procedures in the R07-18 docket. The remainder of the IEPA's original proposal is contained in docket R07-19 and is proceeding under the Board's general rulemaking authority.

Full text of these Board opinions can be found at the Board's website (www.ipcb.state.il.us).

Sincerely,

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

Dr. G. Tanner Girard

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Federal Update

United States Environmental Protection Agency Proposes Amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Iron and Steel Foundries Area Sources

On September 17, 2007 (72 Fed. Reg. 52983), the United States Environmental Protection Agency (USEPA) proposed amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for iron and steel foundries area sources.

The proposed rule establishes different requirements for foundries based on size. Small iron and steel foundries would be required to comply with pollution prevention management practices for metallic scrap, the removal of mercury switches, and binder formulations. Large iron and steel foundries would be required to comply with the same pollution prevention management practices as small foundries in addition to emissions limitations for melting furnaces and foundry operations.

USEPA is also co-proposing two alternatives. One alternative would set a higher size threshold for large foundries. The second alternative proposes that all iron and steel foundries comply with the pollution prevention management practices for metallic scrap, the removal of mercury switches, and binder formulations. USEPA stated that the proposed standards reflect the generally achievable control technology and/or management practices for each subcategory.

Comments must be received on or before October 17, 2007, unless a public hearing is requested by September 27, 2007. If a hearing is requested on this proposed rule, written comments must be received by November 1, 2007. Under the Paperwork Reduction Act, comments on the information collection provisions must be received by OMB on or before October 17, 2007.

Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2006-0359, by one of the following methods:

- 1) Online at www.regulations.gov: Follow the on-line instructions for submitting comments.
- 2) E-mail: a-and-r-Docket@epa.gov.
- 3) Fax: (202) 566-9744.
- 4) Mail: Area Source NESHAP for Iron and Steel Foundries Docket, Environmental Protection Agency, Air and Radiation Docket and Information Center, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.

For further information contact Mr. Conrad Chin, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243-02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-1512; fax number: (919) 541-3207; e-mail address: chin.conrad@epa.gov.

Pursuant to Section 9.1(b) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(b) (2006)), once adopted by the USEPA, NESHAP rules are applicable and enforceable under the Act without further action by the Board.

Rule Update

Board Dismisses 4 Identical in Substance Rulemaking Dockets As Unnecessary: UIC Update, USEPA Amendments (January 1, 2007 through June 30, 2007), R08-1; RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (January 1, 2007 through June 30, 2007), R08-2; RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (January 1, 2007 through June 30, 2007), R08-3; UST Update, USEPA Regulations (January 1, 2006 through June 30, 2006), R08-4;

Every six months the Board reserves a series of dockets, for adoption of Board rules, to accommodate any rules adopted by the United States Environmental Protection Agency (USEPA) to implement various programs. On September 6, 2007, the Board dismissed as unnecessary four dockets reserved to consider rules adopted by USEPA during the period January 1, 2007 through June 30, 2007. In each of the four program areas described below, USEPA adopted no rules during the update period.

UIC Update (R08-1). Section 13(c) of the Environmental Protection Act (Act) (415 ILCS 5/13(c) (2006)) requires the Board to adopt regulations that are “identical in substance” to regulations of the United States Environmental Protection Agency (USEPA). 415 ILCS 5/7.2 (2006). Specifically, Section 13(c) relates to underground injection control (UIC) regulations that USEPA adopted to implement provisions of the Safe Drinking Water Act (42 U.S.C. §§ 300h *et seq.* (2003)). USEPA has codified its UIC regulations at 40 C.F.R. 144 through 148

RCRA Subtitle D (Municipal Solid Waste Landfill) (R08-2). Section 22.40(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.40(a) (2006)) requires the Board to adopt regulations that are “identical in substance” to regulations of the United States Environmental Protection Agency (USEPA). 415 ILCS 5/7.2 (2006). Specifically, Section 22.40(a) relates to municipal solid waste landfill (MSWLF) regulations that USEPA adopted to implement Subtitle D of the Resource Conservation and Recovery Act of 1976 (42 U.S.C §§ 6941-6949 (2003); RCRA Subtitle D). USEPA has codified the federal MSWLF rules as 40 C.F.R. 258.

RCRA Subtitle C (Hazardous Waste) (R08-3). Sections 7.2 and 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/7.2 and 22.4(a) (2006)) require the Board to adopt regulations that are “identical in substance” to hazardous waste regulations adopted by the United States Environmental Protection Agency (USEPA). These USEPA rules implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C) (42 U.S.C. §§ 6921 *et seq.* (2005)). USEPA has codified the federal hazardous waste rules as 40 C.F.R. 260 through 266, 268, 270, 271, 273, and 279.

UST Program (R08-4). Section 22.4(d) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(d) (2006)) requires the Board to adopt regulations which are “identical in substance,” as defined at Section 7.2 of the Act (415 ILCS 5/7.2 (2006)), to underground storage tank (UST) regulations promulgated by the USEPA pursuant to Section 9003 of the federal Resource Conservation and Recovery Act of 1976 (RCRA) as amended, 42 U.S.C. § 6991b (2003), to implement Subtitle I of RCRA (42 U.S.C. §§ 6991 *et seq.* (2003)), with certain limitations. USEPA has codified its UST regulations at 40 C.F.R. 281 through 283.

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Copies of the Board's dismissal orders may be obtained by calling the Clerk's office 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 Adopts Final Opinion and Order in Fast-Track Rules Under Nitrogen Oxide (NO_x) SIP Call Phase II: Amendments to 35 Ill. Adm. Code Section 201.146, Parts 211 and 217 (R07-18)

On September 20, 2007, the Board timely adopted a final opinion and order in Fast-Track Rules Under Nitrogen Oxide (NO_x) SIP Call Phase II: Amendments to 35 Ill. Adm. Code Section 201.146, Parts 211 and 217 (R07-18). The Joint Committee on Administrative Rules (JCAR) considered the amendments at its September 18, 2007 meeting and the Board received a copy of JCAR's Certification of No Objection on September 19, 2008. The final amendments were filed with the Secretary of State's Index department with a September 25, 2007 effective date.

The rulemaking was initiated by an April 4, 2007 proposal by the Illinois Environmental Protection Agency (IEPA), under the fast-track rulemaking provisions of Section 28.5 of the Illinois Environmental Protection Act (Act), 415 ILCS 5/1 *et seq.* The procedural history of this proceeding has previously been reported here in detail, and will not be repeated here. *See, Environmental Register*, No. 638 (August 2007) at 1.

The adopted rules are intended to reduce interstate and intrastate transport of nitrogen oxides (NO_x) emissions on both ozone season and annual bases by reducing NO_x emissions from stationary reciprocating internal combustion engines addressed in the NO_x State Implementation Plan (SIP) Call Phase II. *See* 69 Fed. Reg. 21603 (April 21, 2004). To achieve that end, the Board adopted amendments to Part 211 and 217. The amendments to Part 217 add a new Subpart Q and Appendix G that address the control of NO_x emissions from stationary reciprocating internal combustion engines, including a number of compliance, reporting, and recordkeeping requirements. The adopted amendments contain updates to measurement methods and to the materials that are incorporated by reference in Part 217. The applicability section clarifies that the requirements of Subpart Q are applicable to the engines that are listed in Appendix G. The amendments contain specific requirements regarding testing and monitoring that address both initial performance and ongoing testing requirements.

The control and maintenance requirements of Subpart Q include limits on the discharge of NO_x and offer compliance options to owners and operators through emissions averaging plans (as an alternative to the use of concentration limits). The final amendments include standards and requirements for the emissions averaging plans that include a requirement that units must be located in Illinois and be owned by the same parent company. Additionally, units can only be used in one emissions averaging plan. Further requirements for emissions averaging plans include requiring demonstrations of compliance with the ozone season and calendar year standards, formulas for demonstrating this compliance, and equations to determine the affected units' actual NO_x emissions for the type of fuel that the unit uses. Units included in an emissions averaging plan must undergo testing once every five years.

The amendments also adopt conditions for units that use continuous emissions monitoring systems (CEMS) in lieu of stack testing and portable monitoring. Units that are equipped with CEMS that meet specific federal requirements or that are following alternative procedures that have been approved by the IEPA or the USEPA in a federally enforceable permit are allowed alternative testing and monitoring requirements.

Copies of the Board's opinion and order in R07-18 may be obtained by calling the Clerk's office 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 312-814-6885; e-mail address foxt@ipcb.state.il.us.

Board Adopts First Notice Opinion and Order in Triennial Review of Sulfate and Total Dissolved Solids Water Quality Standards: Proposed Amendments to 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(A), 409.109(b)(2)(B), 406.100(d); Repealer of 35 Ill. Adm. Code 406.203, 406.209, and Part 407; and Proposed New 35 Ill. Adm. Code 302.208(h) (R07-9)

On September 20, 2007, the Board adopted a first notice opinion and order in Triennial Review of Sulfate and Total Dissolved Solids Water Quality Standards: Proposed Amendments to 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(A), 409.109(b)(2)(B), 406.100(d); Repealer of 35 Ill. Adm. Code 406.203, 406.209, and Part 407; and Proposed New 35 Ill. Adm. Code 302.208(h) (R07-9). This rulemaking, based on the October 23, 2006 proposal by the Illinois Environmental Protection Agency (IEPA), would amend the Board's water quality standards (WQS) in Parts 302, 309, 405, 406, and the repeal of Part 407. The first notice proposal was filed with the Secretary of State's Index Department and is scheduled for publication in the *Illinois Register* on October 5, 2007. Based on the scheduled publication date, the Board will accept written public comments for a 45-day period ending November 19, 2007.

This rulemaking is intended to fulfill the requirement of the Federal Water Pollution Control Act, 33 USC §1251-1387, also known as the Clean Water Act (CWA). Every three years, the CWA requires states to revise and update WQS to ensure that they are protective of public health and welfare, enhance the quality of water and promote the purposes of the CWA. This update process is known as the "triennial review".

The first notice proposal is designed to refine the numeric WQS for sulfate based on the best available current scientific knowledge. The Board's WQS include standards for sulfate and total dissolved solids (TDS) that were adopted in 1972 to protect aquatic life and agricultural uses without scientific studies to determine appropriate values. *See Water Quality Standards Revisions*, R71-14 (Mar. 7, 1972). The adopted sulfate water quality standard presented issues for coal mines because the effluents from coal mines are often high in sulfate. To address these issues, the Board adopted standards for sulfate and chloride for mine discharges.

In this R07-9 rulemaking, the IEPA is seeking to remedy the deficiency in the 1972 rulemaking and provide a scientific justification for sulfate water quality standards. To help achieve that end the IEPA engaged in a multi-year project researching the toxicity of sulfate to aquatic life and livestock. Based on the conclusion of these studies, the first notice proposal seeks to:

1. update the sulfate general use water quality standard to be protective of aquatic life and livestock watering uses;
2. repeal the TDS general use water quality standard;
3. amend the mixing regulations at 35 Ill. Adm. Code 302.102 to allow mixing in 7Q1.1 zero flow streams to dischargers that can demonstrate attainment of water quality standards when the discharge occurs; and
4. delete portions of the existing Subtitle D mine waste rules, codified at 35 Ill. Adm. Code 400 *et seq.*, to ensure that sulfate limits in mine National Pollutant Discharge Elimination System (NPDES) permits are based on the general use water quality standards of Subpart C.

Summary of Differences between Board's First Notice Rules and IEPA Proposal

The Board held two hearings in this proceeding on March 7, 2007, in Springfield and on April 23, 2007, in Chicago. The Board's first notice rules differ from, and make some substantive changes to, the initial proposal filed by the IEPA. In summary, the Board updated provisions on mixing zones to reflect current IEPA practice that allows mixing in up to 50% of the stream flow when dilution is less than 3:1. Additionally, the Board added language addressing water quality

situations that may not fall directly under the proposed specifications of hardness and chloride concentrations of existing waters. In those instances, the Board adopted language for first notice that states that the sulfate standard is to be determined on a case-by-case basis in conjunction with an applicable NPDES permitting process.

Sulfate General Use Water Quality Standard

The first notice proposal contains two acute aquatic toxicity criterion equations for sulfate at specified ranges of hardness and chlorides under Section 302.208(h). These equations allow for the calculation of site-specific sulfate standards based on water quality characteristics. In addition, the proposal includes a numeric chronic sulfate standard of 2000 milligrams per liter (mg/L) applicable to areas where water is withdrawn or accessed for livestock watering. This approach will allow for site-specific adjustments to the maximum allowable sulfate levels, while still maintaining protection of aquatic life forms and within the tolerable level for livestock.

Regarding general use WQS, the Board proposed amendments to address the scenario when chloride concentrations exceed 500 mg/L and hardness is less than 500 mg/L. Proposed section 302.208(h)(3)(B) sets a sulfate standard of 2000 mg/L when chlorides are 5 mg/L or greater. This would include chloride values greater than 500 mg/L that violate the chloride WQS, as long as hardness is greater than 500 mg/L. In its comments, the IEPA explained that hardness mitigates the toxicity of sulfate to aquatic life. Although the proposal provides a sulfate standard in high chloride waters with hardness greater than 500 mg/L, no provision was included by the IEPA for waters with hardness less than 500 mg/L. As was noted above, the Board found that the IEPA could utilize the equations and/or other rule provisions to insure the quality of the water through the permit process.

Repeal of the TDS General Use WQS

The IEPA proposed the deletion of the Board's existing TDS water quality standard in lieu of the proposed sulfate water quality standard and the existing chloride water quality standard. As with the sulfate standards, the participants in this rulemaking supported the IEPA's proposal to delete the TDS standard for general use waters. The IEPA asserted that in Illinois waters the toxicity associated with substances comprising major portion of TDS is predominantly due to either chloride or sulfate. The toxicity of other ions that make up TDS, such as sodium, calcium, magnesium and carbonates is insignificant when compared to chloride and sulfate toxicity. The Board agreed with the IEPA that with the adoption of sulfate standard and the existing chloride standard, the water quality standards adequately address toxicity of dissolved salts, and that a TDS standard is not necessary.

Mixing Zones

The Board agreed with the IEPA that allowing mixing when streams are not at drought flow will not result in adverse impact to aquatic life, as long as attainment with water quality standards is demonstrated on a consistent basis. Further, the proposed amendment would allow mixing as a means to achieve attainment of water quality standards for discharges of substances such as sulfate, boron, chloride and fluoride, for which technically feasible and economically reasonable treatment is not available

Additionally, the Board is proposing amendments to the mixing rules in Section 301.102(b)(6), which require a zone of passage when mixing is allowed in receiving streams. A "zone of passage" is an area in the stream not impacted by the mixture of effluent with receiving water that is preserved for use by aquatic life whenever mixing is allowed. The IEPA proposed to allow mixing without requiring a zone of passage in very small streams, defined as streams that have zero flow for at least seven consecutive days recurring on average in nine years out of ten. The IEPA classifies these streams as 7Q1.1 zero flow streams. Generally, these streams have zero flow during dry weather and contain high velocity flow during rainfall or snowmelt events. Usually effluent discharge into these streams coincides with wet weather flows in the streams.

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The IEPA asserted that this change is necessary given the elimination of the TDS standard to allow mines to mix effluent under wet weather conditions

In response to concerns raised by the environmental groups, and as is explained above, the Board included proposed language at first notice to allow mixing in no more than 50% of the flow for streams where the dilution ratio is less than 3 to 1.

Deletion of Portions of the Existing Mine Waste Rules

The IEPA proposed deleting provisions under Subtitle D for Mine Related Water Pollution. These provisions address separate water quality standards for sulfates and chlorides (35 Ill. Adm. Code 406.203), State and NPDES Permits incorporated into mine abandonment plans (35 Ill. Adm. Code 405.109(b)(2)(A) and (B)), and compliance and effective dates for mines (35 Ill. Adm. Code 407).

The first notice proposal adopted by the Board proposes that effluent limits in permits for mines be based on the Subtitle C water quality standards for sulfates and chlorides in lieu of Subtitle D. The IEPA explained that a separate standard for sulfate from mines was set in 1984 because such discharges were characteristically high in sulfate, and many mines were not able to rely on conventional mixing provisions to achieve compliance. The standard was set at 3500 mg/L and was not documented by the same type of studies used in standards development today. The Board found that the new sulfate standards proposed by the IEPA reflect the current scientific understanding and that the amendments to the mixing regulations will allow mixing to achieve compliance for many mine discharges that did not previously qualify for conventional mixing.

Copies of the Board's opinion and order in R07-9 may be obtained by calling the Clerk's office at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact Marie Tipsord at 312-814-4925; e-mail address tipsordm@ipcb.state.il.us

Board Adopts Order Extending the Adoption Deadline in the Identical In Substance Rulemaking RCRA Subtitle C Update, USEPA Amendments (January 1, 2006 though June 30, 2006) R07-5; RCRA Subtitle C Update, USEPA Amendments (July 1, 2006 though December 31, 2006) R07-14 (consolidated)

On September 20, 2007, the Board extended the deadline for completion of amendments in the consolidated docket RCRA Subtitle C Update, USEPA Amendments (January 1, 2006 though June 30, 2006) R07-5; RCRA Subtitle C Update, USEPA Amendments (July 1, 2006 though December 31, 2006) R07-14. The consolidated docket concerns Illinois regulations that are "identical in substance" to hazardous waste regulations adopted by the United States Environmental Protection Agency (USEPA). The USEPA rules implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C) (42 U.S.C. §§ 6921 *et seq.* (2003)).

The final date for Board completion of the amendments was extended from October 1, 2007 to April 14, 2008. The Board stated that it anticipates that it will adopt a proposal for public comment at its December 20, 2007 meeting, and that the proposal will be filed by December 31, 2007 with the Secretary of State's Index Department for publication in the January 11, 2008 *Illinois Register*. If these events timely occur and no additional delay is required to adequately respond to public comments, the Board anticipates adoption of final rules at its March 6, 2008 meeting. Because the Board holds adopted RCRA Subtitle C rulemakings for 30 days for USEPA review, the Board anticipates filing the adopted amendments with the Secretary of State's Index Department by April 14, 2008.

Copies of the Board's opinion and order in R07-5/14 may be obtained by calling the Clerk's office at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

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

Board Actions

September 6, 2007

Chicago, Illinois

Rulemakings

- | | | |
|--------------|--|----------------|
| R08-1 | <u>UIC Update, USEPA Amendments (January 1, 2007 through June 30, 2007)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its underground injection control regulations during the update period of January 1, 2007 through June 30, 2007. | 4-0
R, Land |
| R08-2 | <u>RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (January 1, 2007 through June 30, 2007)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its municipal solid waste landfill regulations during the update period of January 1, 2007 through June 30, 2007. | 4-0
R, Land |
| R08-3 | <u>RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (January 1, 2007 through June 30, 2007)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its hazardous waste regulations during the update period of January 1, 2007 through June 30, 2007. | 4-0
R, Land |
| R08-4 | <u>UST Update, USEPA Amendments (January 1, 2007 through June 30, 2007)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its exemptions from the definition of underground storage tank during the update period of January 1, 2007 through June 30, 2007. | 4-0
R, Land |

Adjusted Standards

- | | | |
|----------------|--|--------------|
| AS 08-1 | <u>In the Matter of: Petition of Illinois Department of Transportation, District 8, Bowman Avenue Pump Station and Deep Well System, for an Adjusted Standard from 35 Ill. Adm. Code 302.208(g) (NPDES Permit No. IL0070955)</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies on or before October 11, 2007, or the petition would be subject to dismissal. | 4-0
Water |
|----------------|--|--------------|

Administrative Citations

AC 06-23	<u>IEPA v. Harold Graves</u> – The Board granted respondent’s motion to withdraw his petition for review. The Board found that this respondent violated Sections 21(p)(1), (4) and (7) of the Act (415 ILCS 5/21(p)(1), (4) and (7) (2006)) and assessed a penalty of \$4,500 in this administrative citation involving a Christian County facility.	4-0
AC 08-1	<u>IEPA v. Carol G. Prieb</u> – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Union County facility.	4-0
AC 08-2	<u>IEPA v. Charles Stuller</u> – The Board found that this respondent violated Sections 21(p)(1), (3) and (7) of the Act (415 ILCS 5/21(p)(1), (3) and (7) (2006)), assessing a penalty of \$4,500 in this administrative citation involving a Macoupin County facility.	4-0
AC 08-3	<u>IEPA v. Swami Oil Company</u> – The Board found that this respondent violated Sections 21(p)(1), (3) and (7) of the Act (415 ILCS 5/21(p)(1), (3) and (7) (2006)), assessing a penalty of \$4,500 in this administrative citation involving a Iroquois County facility.	4-0

Decisions

PCB 05-98	<u>People of the State of Illinois v. Oasis Industries, Inc.</u> – In this air enforcement action concerning a Kane 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) (2006)), and accepted a stipulation and settlement agreement, ordering the respondent to pay a total civil penalty of \$40,000, and to cease and desist from further violations.	4-0 A-E
PCB 05-219	<u>People of the State of Illinois v. Conair Corporation.</u> – In this air and land enforcement action concerning a Champaign 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) (2006)), and accepted a stipulation and settlement agreement, ordering the respondent to pay a total civil penalty of \$60,000, and to cease and desist from further violations.	4-0 L-E

Motions and Other Matters

PCB 07-115	<u>Dynegy Midwest Generation, Inc. (Havana Power Station) v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Mason County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.	4-0 P-A, Air
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PCB 07-119	<u>Mahr's Service & Sales v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Fulton County facility.	4-0 UST Appeal
PCB 07-120	<u>Ruth Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Stark County facility.	4-0 UST Appeal
PCB 08-12	<u>Loretta Thigpen v. Morton Mobile Home Park, LLC, an Illinois limited liability company, d/b/a Edgewood Terrace Mobile Home Park</u> – The Board directed complainant to file proof of service of the complaint on the respondent by October 9, 2007, or the complaint would be subject to dismissal.	4-0 Citizens PWS-E
PCB 08-18	<u>Midwest Generation, LLC - Fisk Generating Station</u> – The Board accepted for hearing this permit appeal involving a Cook County facility. No action was taken on petitioner's motion for partial stay of specified conditions in the construction permit.	4-0 P-A, Air
PCB 08-19	<u>Midwest Generation, LLC - Crawford Generating Station v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Cook County facility. No action was taken on petitioner's motion for partial stay of specified conditions in the construction permit.	4-0 P-A, Air
PCB 08-20	<u>Midwest Generation, LLC - Waukegan Generating Station v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Lake County facility. No action was taken on petitioner's motion for partial stay of specified conditions in the construction permit.	4-0 P-A, Air
PCB 08-21	<u>Lindenhurst Sanitary District (NPDES Permit No. IL0020796) v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Lake County facility.	4-0 P-A, Water

**September 20, 2007
Chicago, Illinois**

Rulemakings

R07-5	<u>RCRA Subtitle C (Hazardous Waste) Update, USEPA</u>	4-0
R07-14	<u>Amendments (January 1, 2006 through December 31, 2006) (Consolidated: R07-05 and R07-14)</u> – The Board extended the deadline for completion of rulemaking in this consolidated docket from October 1, 2007 to April 16, 2008.	R, Land
R07-9	<u>In the Matter of: Triennial Review of Sulfate and Total Dissolved Solids Water Quality Standards: Proposed Amendments to 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(A), 409.109(b)(2)(B).</u>	4-0 R, Water

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406.100(d); Repealer of 35 Ill. Adm. Code 406.203 and Part 407; and Proposed New 35 Ill. Adm. Code 302.208(h) – The Board adopted a first notice opinion and order in this rulemaking to amend the Board’s water and mine-related regulations.

R07-18	<u>In the Matter of: Fast-Track Rules Under Nitrogen Oxide (NOx) SIP Call Phase II: Amendments to 35 Ill. Adm. Code Section 201.146, Parts 211 and 217</u> – The Board adopted a final opinion and order which amends the Board’s air pollution control regulations, specifically to satisfy Illinois’ obligations under the United States Environmental Protection Agency’s nitrogen oxides (NOx) State Implementation Plan Call Phase II.	4-0 R, Air
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Administrative Citations

AC 08-5	<u>County of Macon, Illinois v. Annette Topps and Richard Jones</u> - The Board accepted for hearing Richard Jones’ petition for review of this administrative citation involving a Macon County facility. The Board took no action as to Annette Topps.	4-0
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Adjudicatory Cases

PCB 05-193	<u>Vernon and Elaine Zohfeld v. Bob Drake, Wabash Valley Service Company, Noah D. Horton, and Steve Kinder</u> – The Board granted complainant’s motion for voluntary dismissal as to Bob Drake only.	4-0 A-E
PCB 07-121	<u>Willingham Farms v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Pulaski County facility.	4-0 UST Appeal
PCB 07-125	<u>Lowe Oil (Robert and Tony Thompson) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving an Alexander County facility.	4-0 UST Appeal
PCB 07-126	<u>Gateway FS, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Randolph County facility. No action was taken on petitioner’s motion to consolidate this case with fourteen other UST appeals.	4-0 UST Appeal
PCB 07-127	<u>Pioneer Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Montgomery County facility. No action was taken on petitioner’s motion to consolidate this case with fourteen other UST appeals.	4-0 UST Appeal
PCB 07-128	<u>Jahraus Oil Company, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Marion County facility. No action was taken on petitioner’s motion to consolidate this case with fourteen other UST appeals.	4-0 UST Appeal
PCB 07-129	<u>Yesley Service Company, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Randolph County facility. No action was taken on petitioner’s motion to consolidate this case with fourteen other UST appeals.	4-0 UST Appeal

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PCB 07-130	<u>Gallaher's Shell v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Hancock County facility. No action was taken on petitioner's motion to consolidate this case with fourteen other UST appeals.	4-0 UST Appeal
PCB 07-135	<u>George R. Strunk v. Williamson Energy LLC (Pond Creek Mine #1)</u> – The Board partially granted and partially denied respondent's motion to dismiss. The Board directed complainant to file an amended complaint within 30 days of the date of this order.	4-0 A,N,W-E
PCB 07-137	<u>Russell Oil Company, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Williamson County facility. No action was taken on petitioner's motion to consolidate this case with fourteen other UST appeals.	4-0 UST Appeal
PCB 07-138	<u>Watertower Marina, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a McHenry County facility. No action was taken on petitioner's motion to consolidate this case with fourteen other UST appeals.	4-0 UST Appeal
PCB 07-141	<u>F. A. Stein Oil Company v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this facility located in St. Clair County.	4-0 UST Appeal
PCB 07-142	<u>Big Tony's Lounge v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a McHenry County facility.	4-0 UST Appeal
PCB 07-143	<u>Joe's Midtown Auto Repair v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a McHenry County facility. No action was taken on petitioner's motion to consolidate this case with fourteen other UST appeals.	4-0 UST Appeal
PCB 07-145	<u>Randy Grant, Donald Grant and Patricia Wallace v. Mach Mining (Pond Creek Mine #1)</u> – The Board found this citizen's noise enforcement action involving a Williamson County facility, neither duplicative nor frivolous, and accepted the complaint for hearing.	4-0 N-E, Citizens
PCB 07-149	<u>Biomedical Technology Solutions, Inc. v. IEPA</u> – The Board dismissed this petition for statewide variance as petitioner failed to file an amended petition as directed in the Board's July 26, 2007 order.	4-0 L-V
PCB 08-13	<u>Chad Gifford v. American Metal Fibers, Inc.</u> – The Board denied respondent's motion to dismiss, but struck the allege violation of 415 ILCS 5/25 (2006) of the Act as frivolous. The Board found the remaining alleged violations of 415 ILCS 5/24 (2006) and 35 Ill. Adm. Code 901.102 neither duplicative nor frivolous and accepted this citizen's noise enforcement action involving a Williamson County facility for hearing.	4-0 N-E, Citizens

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PCB 08-18	<u>Midwest Generation, LLC - Fisk Generating Station</u> – The Board granted petitioner’s motion for a partial stay of the construction permit.	4-0 P-A, Air
PCB 08-19	<u>Midwest Generation, LLC - Crawford Generating Station v. IEPA</u> – The Board granted petitioner’s motion for a partial stay of the construction permit. The Board denied the request for stay as to Condition 5(b) only.	4-0 P-A, Air
PCB 08-20	<u>Midwest Generation, LLC - Waukegan Generating Station v. IEPA</u> – The Board granted petitioner’s motion for a partial stay of the construction permit. The Board denied the request for stay as to Condition 5(b) only.	4-0 P-A, Air
PCB 08-22	<u>Midwest Generating, LLC, Will County Generating Station v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Will County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.	4-0 P-A, Air
PCB 08-23	<u>Midwest Generating, LLC, Powerton Generating Station v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Tazewell County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.	4-0 P-A, Air
PCB 08-24	<u>Midwest Generating, LLC, Joliet Generating Station v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Will County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.	4-0 P-A, Air
PCB 08-25	<u>Peoria Disposal Company v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Peoria County facility.	4-0 P-A, Land

New Cases

September 6, 2007 Board Meeting

07-115 Dynegy Midwest Generation, Inc. (Havana Power Station) v. IEPA – The Board accepted for hearing this permit appeal involving a Mason County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

07-119 Mahr’s Service & Sales v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Fulton County facility.

07-120 Ruth Oil Company v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Stark County facility.

08-18 Midwest Generation, LLC - Fisk Generating Station – The Board accepted for hearing this permit appeal involving a Cook County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

08-19 Midwest Generation, LLC - Crawford Generating Station v. IEPA – The Board accepted for hearing this permit appeal involving a Cook County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

08-20 Midwest Generation, LLC - Waukegan Generating Station v. IEPA – The Board accepted for hearing this permit appeal involving a Lake County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

08-21 Lindenhurst Sanitary District (NPDES Permit No. IL0020796) v. IEPA – The Board accepted for hearing this permit appeal involving a Lake County facility.

September 20, 2007 Board Meeting

08-22 Midwest Generating, LLC, Will County Generating Station v. IEPA – The Board accepted for hearing this permit appeal involving a Will County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

08-23 Midwest Generating, LLC, Powerton Generating Station v. IEPA – The Board accepted for hearing this permit appeal involving a Tazewell County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

0824 Midwest Generating, LLC, Joliet Generating Station v. IEPA – The Board accepted for hearing this permit appeal involving a Will County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

08-25 Peoria Disposal Company v. IEPA – The Board accepted for hearing this permit appeal involving a Peoria County facility.

AS 08-2 In the Matter of: Petition of Stericycle, Inc. for an Adjusted Standard from Ill. Adm. Code tit. 35 1422.111(B)(1); 1450.105(A)-(B); 1450.200 (E); and Condition 15 of Permit No. 1997-264-DE/OP, Supplemental Permit No. 2005-182-SP – No action taken.

AS 08-3 In the Matter of: Petition for Adjusted Standard from 35 Ill. Adm. Code 620.420 for Nobel Risley’s Landfill #2 – No action taken.

Provisional Variances

IEPA 08-03 Exelon Generation Company, L.L.C. (Clinton Nuclear Power Station) v. IEPA – On September 11, 2007, the Illinois Environmental Protection Agency (IEPA) granted a request by Exelon Generation Company, L.L.C (Clinton Nuclear Power Station) for a provisional variance from Special Condition 4 of NPDES Permit IL00036919. This condition limits the temperature of the discharge to Clinton Lake from Clinton Power station to a daily average temperature which (1) does not exceed 99 degrees Fahrenheit during more than 90 days in a fixed calendar year running from January 1 through December 31, and (2) does not exceed 110.7 degrees Fahrenheit for any given day. Due to the extremely hot weather conditions, Exelon’s Clinton Station sought the provisional variance, which is effective from September 13, 2007 through October 2, 2007.

IEPA 08-04 Marathon Petroleum Company LLC (Rockford Terminal) v. Illinois Environmental Protection Agency – On September 6, 2007, the Illinois Environmental Protection Agency granted a request from Marathon Petroleum Company LLC (Marathon) for a provisional variance for its Rockford Terminal from limits for total suspended solids and total iron contained in NPDES Permit IL0062782. Marathon sought the provisional variance to complete cleaning and repair work to a detention pond. The provisional variance period is from September 10, 2007 through October 1, 2007.

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 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

10/4/07 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago
10/10/07 1:00 PM	R 07-20	In the Matter of: Procedures Required by PA 94-849 for Reporting Releases of Radionuclides at Nuclear Power Plants: New 35 Ill. Adm. Code Part 1010	Training Room 1214 West IEPA Office Building 1021 N. Grand Ave. (North Entrance) Springfield
10/18/07 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago
10/30/07 10:00 AM	PCB 07-121	Willingham Farms v. IEPA (Incident No. 20040141)	Illinois Pollution Control Board Hearing Room 1021 North Grand Ave. East, North Entrance Springfield
10/30/07 10:00 AM	PCB 07-125	Lowe Oil (Robert and Tony Thompson) v. IEPA	Illinois Pollution Control Board Hearing Room 1021 North Grand Ave. East, North Entrance Springfield
10/30/07 10:00 AM	PCB 07-142	Big Tony's Lounge v. IEPA	Illinois Pollution Control Board Hearing Room 1021 North Grand Ave. East, North Entrance Springfield
10/31/07 10:00 AM	PCB 07-121	Willingham Farms v. IEPA (Incident No. 20040141)	Illinois Pollution Control Board Hearing Room 1021 North Grand Ave. East, North Entrance Springfield
10/31/07 10:00 AM	PCB 07-125	Lowe Oil (Robert and Tony Thompson) v. IEPA	Illinois Pollution Control Board Hearing Room 1021 North Grand Ave. East, North Entrance Springfield

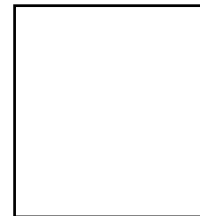
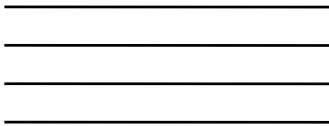
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10/31/07 10:00 AM	PCB 07-142	Big Tony's Lounge v. IEPA	Illinois Pollution Control Board Hearing Room 1021 North Grand Ave. East, North Entrance Springfield
11/1/07 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Videoconference Chicago/Springfield 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
11/6/07 9:00 AM	PCB 08-25	Peoria Disposal Company v. IEPA	Peoria County Board Room 403 324 Main Street Peoria
11/15/07 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago

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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