
Environmental Register

February 2003 - Number 584

The Environmental Register is a Publication of the Illinois Pollution Control Board

Thomas E. Johnson, Chairman

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Letter from the Chairman

The State of Illinois is currently facing a difficult economic situation. The Board has always conducted business in the most cost effective manner possible. In these complex economic times the Board is doing even more with less. During this economic downturn, the Board is striving to reduce expenses while continuing to fulfill its public trust.

Currently, the Board is operating well below its authorized headcount. Additionally, the Board is reviewing its operations budget to determine whether further reductions can be made without adversely affecting operations.

As Chairman, I am working with Board Members and staff to ensure the service provided to the citizens of Illinois does not suffer. Board employees are performing additional duties to make sure that each case in its docket is correctly resolved in a timely manner. The Board is fortunate to have a dedicated, professional staff working diligently to guarantee that the citizens of Illinois have a healthy and safe environment in which to live, work, and to raise a family.

I assure you that the Board Members and staff will continue to work diligently to faithfully fulfill the Board's statutory mission during this difficult period. The Board looks forward to serving you in the future.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial 'T' followed by a horizontal line extending to the right.

Thomas E. Johnson, Chairman



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Federal Update

United States Environmental Protection Agency Announces Availability of Inventory of U.S. Greenhouse Gas Emissions and Sinks for 1990-2001

On February 7, 2003 (68 Fed. Reg. 6450) the United States Environmental Protection Agency (USEPA) announced the availability for public review of the Draft Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2001. Annual U.S. emissions for the period of time from 1990-2001 are summarized and presented by source category and sector. The inventory contains estimates of carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFC), perfluorocarbons (PFC), and sulfur hexafluoride (SF₆) emissions.

The inventory also includes estimates of carbon sequestration in U.S. forests and, new this year, an updated assessment of emissions from the electric power industry. USEPA stated that the technical approach used in this report to estimate emissions and sinks for greenhouse gases is consistent with the methodologies recommended by the Intergovernmental Panel on Climate Change (IPCC) and reported in a format consistent with the United Nations Framework Convention on Climate Change (UNFCCC) reporting guidelines. The Inventory of U.S. Greenhouse Gas Emissions and Sinks is the latest in a series of annual U.S. submissions to the Secretariat of the UNFCCC. The draft report can be obtained by visiting the USEPA's global warming site at <http://www.epa.gov/globalwarming/publications/emissions/>.

Comments should be submitted to Mr. William N. Irving at: Environmental Protection Agency, Clean Air Markets Division (6204N), 1200 Pennsylvania Ave., NW., Washington, DC 20460, Fax: (202) 565-6673, email address irving.bill@epa.gov.

For further information contact: Mr. William N. Irving, Environmental Protection Agency, Office of Air and Radiation, Office of Atmospheric Programs, Clean Air Markets Division, (202) 565-9065, email address irving.bill@epa.gov.

United States Environmental Protection Agency Adopts Final National Pollutant Discharge Elimination System Permit Regulations and Effluent Limitation Guidelines and Standards for Concentrated Animal Feeding Operations Under the Clean Water Act

On February 12, 2003 (68 Fed. Reg. 7175) the United States Environmental Protection Agency (USEPA) adopted final rules for concentrated animal feeding operations (CAFOs). The final rule will ensure that CAFOs take appropriate actions to manage manure effectively in order to protect the nation's water quality. These final regulations are effective on April 14, 2003.

USEPA stated that, despite substantial improvements in the nation's water quality since the inception of the Clean Water Act, nearly 40 percent of the nation's assessed waters show impairments from a wide range of sources. Improper management of manure from CAFOs is among the many contributors to remaining water quality

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problems. Improperly managed manure has caused serious acute and chronic water quality problems throughout the United States.

The rule revises two sections of the Code of Federal Regulations (CFR), the National Pollutant Discharge Elimination System (NPDES) permitting requirements for CAFOs (Sec. 122) and the Effluent Limitations Guidelines and Standards (ELGs) for CAFOs (Sec. 412). The rule establishes a mandatory duty for CAFOs to apply for an NPDES permit and to develop and implement a nutrient management plan. The effluent guidelines establish performance expectations for existing and new sources to ensure appropriate storage of manure, as well as expectations for proper land application practices at the CAFO. The required nutrient management plan would identify the site-specific actions to be taken by the CAFO to ensure proper and effective manure and wastewater management, including compliance with the Effluent Limitation Guidelines. Both sections of the rule also contain new regulatory requirements for dry-litter chicken operations.

Highlights of the new rules include:

- 1) Elimination of the CAFO exemptions for discharges, so that all CAFOs that meet new size criteria (large or medium) are required to obtain NPDES permits. (The prior “25 year/24 hour Stormwater Exception” no longer applies.)
- 2) Effluent Guideline Limitations for existing large beef/dairy/swine/veal/calf/poultry facilities and new beef/dairy CAFOs contain production area best management practices and design requirements that result in zero discharges to waters except in the event of a 25 year/24 hour storm. This is estimated in Illinois to be at least 6 ½ inches of rainfall in a 24- hour period. New large swine/veal/calf/poultry CAFOs have different design requirements with a zero discharge allowance.
- 3) Inclusion of all poultry operations that meet the size criteria regardless of the facility’s manure handling system.
- 4) Elimination of the concept of “Animal Units” from the regulations.
- 5) Specification of manure-handling requirements for permitted managements areas that include feedlots, manure and raw materials storage areas, waste containment areas, and land application areas. The “agriculture or ag exemption” under the Clean Water Act does not apply in cases of over application of waste.
- 6) Requirements for record keeping and reporting, including nutrient management plans, manure transfer procedures, and annual reports to the USEPA detailing facility information.
- 7) Adoption of phosphorous-based land application rates for animal wastes.

While the federal regulations specify certain portions of the new NPDES permit program, USEPA allows individual states some flexibility in their own regulations. Two areas that allow for state flexibility are nutrient management standards and the determination of “no potential to discharge” (NPTD). States must develop standards that will be used to demonstrate that a facility has no potential to discharge wastes. A CAFO with no NPTD will not need to obtain an NPDES permit.

While the permit requirements are effective on April 14, 2003, states have at least one year to adopt their standards and issue permits to CAFOs.

This improved regulatory program is designed to support and complement the array of voluntary and other programs implemented by the United States Department of Agriculture (USDA), USEPA and the States that help the vast majority of smaller animal feeding operations not addressed by this rule.

The administrative record is available for inspection and copying at the Water Docket, located at the EPA Docket Center (EPA/DC) in the basement of the EPA West Building, Room B-102, at 1301 Constitution Ave., NW., Washington, DC. The administrative record is also available via EPA Dockets (Edocket) at <http://www.epa.gov/edocket> under Edocket number OW-2002-0025. The rule and key supporting materials are also electronically available on the Internet at <http://www.epa.gov/npdes/caforule>.

For further information pertaining to the NPDES Regulations (Part 122) contact Gregory Beatty, U.S. EPA, Office of Water, Office of Wastewater Management (4203M), 1200 Pennsylvania Avenue NW., Washington, DC 20460, 202-564-0724, for information pertaining to the Effluent Guideline (Part 412) contact Paul Shriner, U.S. EPA,

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Office of Water, Office of Science and Technology (4303T), 1200 Pennsylvania Avenue NW., Washington, DC 20460, 202-566-1076.

The Board's current agriculture-related pollution rules are codified at 35 Ill. Adm. Code 500 *et seq.*, while its general water pollution control rules are codified at 35 Ill. Adm. Code 300 *et seq.* Both sets of current rules may be affected by the federal CAFO rules. The Board anticipates that portions of the federal program may be proposed to the Board by the Illinois Environmental Protection Agency (IEPA) as federally required rules under Section 28.2 of the Act (415 ILCS 5/28.2(2002)). Additionally, the IEPA may propose portions of the federal program under the general rulemaking authority of the Act (415 ILCS 5/27 & 28(2002)).

Appellate Update

Fourth District Grants Board's Motion to Publish Court's Decision *Illinois Environmental Protection Agency v. Jersey Sanitation Corp.*, No. 4-02-0319 (Jan. 29, 2003) (PCB 00-82).

On February 28, 2003, the Fourth District Appellate Court granted the Board's motion to publish as an Opinion the Court's January 29, 2003 Supreme Court Rule 23 unpublished Order (155 Ill.2d R. 23). The Court's Order was thereby withdrawn and refiled as an Opinion. This means that the Court's determination may now be used as helpful precedent in other cases. *Illinois Environmental Protection Agency v. Jersey Sanitation Corp.*, No. 4-02-0319 (Jan. 29, 2003)

As reported in detail in the Board's last *Environmental Register*, in its January 29, 2003 decision the Fourth District Appellate Court affirmed an important Board decision concerning appealed conditions of a supplemental landfill permit. See *Jersey Sanitation Corp. v. IEPA*, PCB 00-82 (June 21, 2002). This decision addresses several issues of first impression concerning interpretation of 1) substantive Board rules concerning the nature and interrelationship of closure certifications and post-closure care permits issued under the Board's landfill rules at 35 Ill. Adm. Code 807.502 and 807.523, and 2) Board procedural rules for the timely filing and consideration of motions for reconsideration at 35 Ill. Adm. Code 101.202 and 101.520. Among other things, the Court's order also provides useful guidance to the parties in future cases before the Board on issues including the standard of review of the Board's decisions, and the issue of waiver of rights to challenge conditions contained in prior permits. For additional detail, see *Environmental Register* #583 (Jan. 2003), p. 4-6.

Rule Update

Board Adopts Final Opinion and Order in *Proposed Amendments to General Permitting Provisions For Portable Emissions Units, Amendments to 35 Ill. Adm. Code 201, R02-10*

On February 6, 2003, the Board adopted a final opinion and order in *Proposed Amendments to General Permitting Provisions For Portable Emissions Units, Amendments to 35 Ill. Adm. Code 201, R02-10*. The final rulemaking amends the State's Part 201 general air permitting provisions. The new rules exempt owners and operators of certain smaller emissions units from requirements that they obtain new construction and "lifetime" permits when their units are moved to a new site. The adopted amendments will become effective when filed with the Secretary of State's Index Department, and will then be published in the *Illinois Register*.

In brief, the Illinois Environmental Protection Agency (IEPA) proposed the rules to create the exemption to cover about 500 emission units, including equipment such as rock crushers, concrete batch plants, debris grinders, portable generators, and certain solvent recovery or tank cleaning operations. Under these rules, IEPA may issue a single permit authorizing emission from similar operations by the same source owner or operator at multiple temporary locations, except for sources that are affected sources for acid deposition under Title IV of the federal Clean Air Act. (see 415 ILCS 39.5(21)(a)).

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To obtain this exception, the equipment owner or operator must meet specific eligibility conditions in Section 201.170: (1) emissions from the emission unit or units are expected to occur for less than one year at any one site, (2) the emission unit or units of air pollution is subject to the requirements of Section 201.169 (which contains conditions for special permits), (3) the emission unit or group of emission units that will be changing sites is permitted to emit less than 25 tons per year of any combination of regulated air pollutants, (4) the emission unit or units is mounted on a chassis or skids and is designed to be moveable, and (5) the emission unit or units is not used as a thermal desorption system or as an incinerator system. Additionally, the owner or operator must notify IEPA by certified mail, at least three days prior to moving a unit to a new location.

The Board held two hearings on the proposal. The first hearing was held in Springfield on March 20, 2002 and the second hearing was held in Chicago on April 9, 2002. No public comments were received following its Illinois Register publication at 26 Ill. Reg. 12537 (August 16, 2002).

For additional information contact William Murphy at 312/814-6062; e-mail address: murphyw@ipcb.state.il.us

Board Dismisses 4 Identical in Substance Rulemaking Dockets As Unnecessary:

UST Update, USEPA Regulations (July 1, 2002 through December 31, 2002), R03-12; Exemptions from the Definition of VOM Update, USEPA Regulations (July 1, 2002 through December 31, 2002), R03-14; UIC Update, USEPA Regulations (July 1, 2002 through December 31, 2002), R03-16; RCRA Subtitle D Update, USEPA Regulations (July 1, 2002 through December 31, 2002), R03-17

Every six months, the Board reserves a series of dockets for adoption of Board rules, to any rules adopted by the United States Environmental Protection Agency to implement various programs. On February 6, 2003, the Board dismissed as unnecessary four dockets reserved to consider any rules adopted by USEPA during the period July 1, 2002 through December 31, 2002. As described in detail below, in each of four program areas either USEPA adopted no rules during the update period, or the Board was not required to amend the Illinois regulations.

UST Program (R03-12). Section 22.4(d) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(d) (2002)) 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 (2000)), 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. § 6993 (2001), to implement Subtitle I of RCRA (42 U.S.C. §§ 6991 *et seq.* (2001)), with certain limitations. USEPA has codified its UST regulations at 40 C.F.R. 281 through 283.

During the period July 1, 2002 through December 31, 2002, the USEPA did not amend its UST regulations. Therefore, no action was necessary, and the Board dismissed the docket.

VOM Program (R03-14). Section 9.1(e) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(e) (2002)) requires the Board to adopt regulations that are “identical in substance,” as defined at Section 7.2 of the Act (415 ILCS 5/7.2 (2001)), to exemptions from the definition of “volatile organic material” (VOM), those compounds that the United States Environmental Protection Agency (USEPA) has found to be exempted from regulation under state implementation plans for ozone due to negligible photochemical reactivity. USEPA has codified these exemptions as part of its definitions at 40 C.F.R. 51.100(s).

During the period July 1, 2002 through December 31, 2002, USEPA did not amend its definition of VOM. Therefore, no action is necessary, and the Board dismissed the docket.

UIC Program (R03-16). Section 13(c) of the Environmental Protection Act (Act) (415 ILCS 5/13(c) (2002)) 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 (2002). 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.* (2001)). USEPA has codified its UIC regulations at 40 C.F.R. 144 through 148.

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During the time period July 1, 2002 through December 31, 2002, USEPA did not amend its UIC regulations. Therefore, no action is necessary, and the Board dismissed this docket.

RCRA, Subtitle D (Non-hazardous Waste Program (R03-17)). Section 22.40(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.40(a) (2002)) requires the Board to adopt regulations that are “identical in substance,” as defined at Section 7.2 of the Act (415 ILCS 5/7.2 (2002)), 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 (2001)). USEPA has codified the federal MSWLF rules as 40 C.F.R. 258.

During the period July 1, 2002 through December 31, 2002, USEPA did not amend its MSWLF rules. Therefore, no action was necessary, and the Board dismissed the docket.

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 Proposed Horween Leather Company Site-Specific Air Rule, 35 Ill. Adm. Code 218.112 and 218.929, R02-20

On February 20, 2003, the Board adopted a final opinion and order in adopting a site-specific air rule Proposed Horween Leather Company Site-Specific Air Rule, 35 Ill. Adm. Code 218.112 and 218.929, R02-20. The adopted amendments will become effective when filed with the Secretary of State’s Index Department, and will then be published in the *Illinois Register*.

The new air emissions rule was proposed by the Horween Leather Company (Horween) of Chicago, Illinois to allow it to lawfully produce a small amount of new specialty leathers at its facility at 2015 North Elston Avenue in Chicago. The rule sets new volatile organic material (VOM) control requirements solely for the Horween operation.

The adopted rulemaking amends 35 Ill. Adm. Code 218, “Organic Material Emission Standards and Limitations for the Chicago Area” by adding a new Section 218.929 and amending Section 218.112. The new Section 218.929 limits Horween’s VOM emissions to 24 lbs. VOM per 1000 square feet for waterproof leather (12 month rolling average) and 14 lbs. for non-waterproof leather with an annual cap of the total emissions at 20 tons. Other changes include the addition of definitions for the specialty leathers covered by this rulemaking, standard operating and maintenance procedures, and reporting and record keeping requirements.

The Board held a hearing on this proposal June 26, 2002. No public comments were received following its Illinois Register publication at 26 Ill. Reg. 13772 (September 20, 2002).

For additional information contact William Murphy at 312/814-6062; e-mail address: murphyw@ipcb.state.il.us

Board Adopts Proposal for Public Comment in Proposed New and Updated Rules for Measurement and Numerical Sound Emissions Standards; Amendments to 35 Ill. Adm. Code 901 and 910, (R03-09)

On February 20, 2003, the Board adopted a proposal for public comment in Proposed New and Updated Rules for Measurement and Numerical Sound Emissions Standards; Amendments to 35 Ill. Adm. Code 901 and 910, (R03-09). The Board intends to schedule two public hearings on the proposal soon.

The Board itself opened this rulemaking to propose updated regulations governing noise found in 35 Ill. Adm. Code Subtitle H. Many of the sound measurement definitions and techniques in the Board’s current rules do not reflect present scientific standards. The Board intends to update the definitions and sound measurement techniques to reflect current standards.

More specifically, the proposal revises outdated numerical sound emission standards for property line noise sources found at 35 Ill. Adm. Code Parts 901. In Part 901, the Board proposes to replace the references to the Standard Land Use Coding System (SLUCM) codes with the more appropriate Land-Use Based Classification System. In

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addition, the proposal adds new Part 910 to the Board's rules to incorporate noise measurement techniques currently contained only in Illinois Environmental Protection Agency (IEPA) rules at 35 Ill. Adm. Code 951.

This rulemaking is closely associated with recently opened docket Noise Rule Update Amendments to 35 Ill. Adm. Code 900 and 903, (R03-8) that defines acoustical terms, pollution sources and sound measurement procedures. R03-8 is also based on updated science, including pertinent American National Standards Institute updates from 1998-2001, and other current scientific publications. See Noise Rule Update Amendments to 35 Ill. Adm. Code 900 and 903, R03-08 (Dec. 19, 2002).

For more information contact William Murphy at 312/ 814-6062 or email at murphyw@ipcb.state.il.us.

Board Accepts Proposal for Hearing in Brownfields Site Restoration Program; Amendments to 35 Ill. Adm. Code 740, (R03-20)

On February 20, 2003, the Board accepted a proposal for hearing filed by the Illinois Environmental Protection Agency (IEPA) in Brownfields Site Restoration Program; Amendments to 35 Ill. Adm. Code 740, (R03-20).

The IEPA's proposal, filed with the Board on February 18, 2003, implements changes to the Board's existing Site Remediation Program (SRP) regulations based on recent legislative changes. See 415 ILCS 5/58.15 as amended by Public Act 92-715, effective July 23, 2002. The IEPA's petition notes that the legislation is very detailed, and that most of its proposed changes mirror the statute.

The rulemaking proposes a new Subpart H to establish procedures for persons to request a review and payment of costs incurred under the Brownfields Site Restoration Program. This program will be administered jointly by IEPA and the Department of Commerce and Community Affairs, now known as the Department of Commerce and Economic Opportunity.

The Board found that the petition met the content requirements of 35 Ill. Adm. Code 102.202 in the Board's procedural rules. Hearings in this rulemaking have been scheduled in Springfield on April 30, 2003 in Room 403, 600 S. Second Street, and in Chicago on May 14, 2003 in the James R. Thompson Center Room 2-025, 100 W. Randolph Street.

Public Act 92-715 required IEPA to file its proposal by February 23, 2002. The Board must adopt rules for second notice within 9 months after receipt of the proposal. The Board intends to adopt its second notice opinion and order no later than November 6, 2003.

For more information contact Amy Antonioli at 312/ 814-3665 or email at antonioa@ipcb.state.il.us.

Board Actions

February 6, 2003 Via Video Conference Between Springfield and Chicago, Illinois

Rulemakings

R98-11	<u>In the Matter of: Amendments to 35 Ill. Adm. Code 501 through 504 : Agriculture Related Pollution (Management of Livestock Waste)</u> – On its own motion, the Board dismissed this docket to amend the Board's livestock waste rules.	7-0 R, Land
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R02-10	<u>In the Matter of: Amendments to General Permitting Provisions for Portable Emission Units: Amendments to 35 Ill. Adm. Code 201</u> – The Board adopted a final opinion and order in this matter to amend the Board’s air regulations.	7-0 R, Air
R03-12	<u>In the Matter of: UST Update, USEPA Amendments (July 1, 2002 through December 31, 2002)</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 regulations during the update period of July 1, 2002 through December 31, 2002.	7-0 R, Land
R03-14	<u>In the Matter of: Definition of VOM Update, USEPA Amendments (July 1, 2002 through December 31, 2002)</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 volatile organic material regulations during the update period of July 1, 2002 through December 31, 2002.	7-0 R, Air
R03- 16	<u>UIC Update, USEPA Amendments (July 1, 2002 through December 31, 2002)</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 July 1, 2002 through December 31, 2002.	7-0 R, Land
R03-17	<u>RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (July 1, 2002 through December 31, 2002)</u> - The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its non-hazardous waste regulations during the update period of July 1, 2002 through December 31, 2002.	7-0 R, Land

Adjusted Standards

AS 03-1	<u>In the Matter of: Petition of Exelon Generation Company for and Adjusted Standard from 35 Ill. Adm. Code 302.208</u> – The Board ordered this Will County petitioner to file an amended petition curing noted deficiencies by May 7, 2003 or this action will be dismissed.	7-0 Water
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Administrative Citations

AC 03-14	<u>IEPA v. James Qualls</u> – The Board found that this Clay County respondent violated Section 21(p)(1), (5), (7) of the Act (415 ILCS 5/21(p)(1), (5), (7) (2002) and ordered respondent to pay a civil penalty of \$4,500.	6-1 Girard dissented
AC 03-15	<u>IEPA v. Paul Rider</u> – The Board accepted for hearing this petition for review of an administrative citation against this McLean County respondent.	7-0

Decisions

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PCB 00-160	<u>ESG Watts, Inc. (Sangamon Valley Landfill) v. IEPA</u> – The Board dismissed the petition for hearing as moot, based on events occurring following remand of this case to the Board by the Appellate Court.	7-0 P-A, Land
PCB 00-163	<u>David and Jacquelyn McDonough v. Gary Robke</u> – The Board previously found that respondent violated Section 24 of the Illinois Environmental Protection Act (415 ILCS 5/24 (1996)) and 35 Ill. Adm. Code 900.102. In its final order, the Board ordered respondent to take certain remedial actions to alleviate the noise emissions reaching complainants’ residence.	6-1 Tristano dissented Citizens N-E
PCB 02-21	<u>People of the State of Illinois v. J&F Hauling, Inc.</u> – The Board previously found respondent in violation of Sections 21(a), (d)(1) and (2), (e), and (p)(1), and 55(a) of the Environmental Protection Act (415 ILCS 5/21(a),(d)(1) and (2),(e),(p)(1) and 55(a) (2000)) and 35 Ill. Adm. Code 722.111, 808.121, and 812.101(a). In this interim order, the Board concluded that respondent must pay a civil penalty of \$60,000 for violating the above hazardous waste and special waste provisions of the Act and the Board’s regulations. Complainant must file an affidavit in support of any claimed costs and attorney fees by February 20, 2003, and respondent has 14 days after being served with the affidavit to respond to the complainant’s claimed costs and attorney fees.	7-0 RCRA-E

Motions and Other Matters

PCB 96-143	<u>People of the State of Illinois v. Michel Grain Company, Inc. d/b/a Michel Fertilizer, Caryle Michel, Ronnie Todd, and Ronnie Todd Land Trust</u> – The Board granted complainant’s motion to strike respondent Todd’s affirmative defenses. The Board granted in part complainant’s motion to strike respondents’ Michel Grain and Michel’s affirmative defenses.	7-0 W-E
PCB 00-103	<u>People of the State of Illinois v. Mano Negra Wrecking Corporation f/k/a Mano Negra Corporation and Fernando O. Zamora individually and as president of Mano Negra Wrecking Corporation</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 Cook County facility, the Board ordered publication of the required newspaper notice.	7-0 A-E
PCB 02-47	<u>Pacella & Sons v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of these underground storage tank appeals involving a Jersey County facility.	7-0 UST Fund
PCB 03-50	<u>East Side Shell v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Fulton County facility.	7-0 UST Appeal

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PCB 03-57	<u>Leslie C. Ko 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 Williamson County facility.	7-0 UST Appeal
PCB 03-58	<u>Pechiney Plastic Packaging, Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Kane County facility.	7-0 P-A, Air
PCB 03-59	<u>Midwest Petroleum Co. d/b/a Godfrey Sunoco v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Madison County facility.	7-0 UST Appeal
PCB 03-60	<u>V.W. Bowman Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Union County facility.	7-0 UST Appeal
PCB 03-61	<u>Brock Oil Company (Normal) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a McLean County facility.	7-0 UST Appeal
PCB 03-62	<u>Brock Oil Company (Hoopeston) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Vermilion County facility.	7-0 UST Appeal
PCB 03-63	<u>Goben 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 Clark County facility.	7-0 UST Appeal
PCB 03-82	<u>PPG Industries, Inc. v. IEPA</u> – The Board granted petitioner’s motion to stay effectiveness of this appealed CAAPP permit.	7-0 P-A, Air
PCB 03-95	<u>Abitec Corporation v. IEPA</u> – The Board denied petitioner’s motion to stay effectiveness of this appealed CAAPP permit.	7-0 P-A, Air
PCB 03-96	<u>Martin E. & Kathy L. Geber v. Clayton Moushon, Carri Scharf Trucking and Materials, City of East Peoria, Mayor Chuck Dobbelaire, and City Administrator James Brimberry</u> – The Board found that the alleged violations of Sections 23 through 25 of the Environmental Protection Act (Act) (415 ILCS 5/23-25 (2002)) as well as Section 900.102 (35 Ill. Adm. Code 900.102) and Section 901.104 (35 Ill. Adm. Code 901.104) of the Board’s noise rules were neither duplicative nor frivolous with regard to Clayton Moushon and Carri Scharf Trucking and Materials. The Board accepted those allegations involving a Tazewell County facility for hearing. The Board found that complainants’ complaint failed to state a cause of action against the City of East Peoria, Mayor Chuck Dobbelaire, and the City Administrator James Thomas Brimberry, and dismissed them from this action. The alleged violations of Sections 23 through 25 of the Act (415 ILCS 5/23-25 (2002)) were determined to be frivolous, and the Board dismissed them from the complaint involving a Peoria County facility.	Citizens N-E 7-0

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PCB 03-98	<u>Nielsen & Bainbridge, L.L.C. v. IEPA</u> – The Board granted petitioners motion to stay effectiveness of CAAPP permit until the Board’s final action in this matter or until the Board orders otherwise.	7-0 P-A, Air
PCB 03-108	<u>People of the State of Illinois v. Village of Keensburg and David Dallas d/b/a Dallas Consulting, Engineering-Surveying</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 Wabash County facility, the Board ordered publication of the required newspaper notice.	7-0 PWS-E
PCB 03-109	<u>Fred Sierzega 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.	7-0 UST Appeal 90-Day Ext.
PCB 03-110	<u>Talcott Building Partnership v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility. No action taken on respondent’s motion for extension of time to file the administrative record.	7-0 UST Appeal
PCB 03-111	<u>New Dominion Farms of Illinois, Inc. v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of New Dominion Farms of Illinois, Inc. located in Schuyler County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	7-0 T-C
PCB 03-112	<u>F2, Inc. 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 Williamson County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-113	<u>Clark Oil Station #1655 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 Vermilion County facility.	7-0 UST Fund 90-Day Ext.
PCB 03-114	<u>Village of Karnak 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 Pulaski County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-116	<u>William Breuer 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 Washington County facility.	7-0 UST Appeal 90-Day Ext.

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Rulemakings

R02-20	<u>In the Matter of: Proposed Horween Leather Company Site-Specific Air Rule, 35 Ill. Adm. Code 218.112 and 218.929</u> – The Board adopted a final opinion and order in this matter to amend the Board’s air regulations, as requested by this Chicago, Cook County facility.	7-0 R, Air
R03-9	<u>In the Matter of: Noise Rule Update: Amendments to 35 Ill. Adm. Code 901</u> – The Board adopted an opinion and order proposing for hearing and public comment amendments to the Board’s noise regulations.	7-0 R, Noise
R03-20	<u>In the Matter of: Brownfields Site Restoration Program, Amendments to 35 Ill. Adm. Code 740</u> – The Board accepted for hearing the Illinois Environmental Protection Agency’s February 18, 2003 proposal to amend the Board’s site remediation program regulations as required by recent legislation.	7-0 R, Land

Decisions

PCB 02-18	<u>People of the State of Illinois v. Williamsburg Place of Crete, Inc.</u> – In this water enforcement action concerning a Will 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) (2002), accepted a final stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$7,500, and to cease and desist from further violations.	7-0 W-E
PCB 02-41	<u>Milton C. and Virginia L. Kamholz v. Lawrence and Mariane Sporleder</u> – The Board previously found that respondents violated Section 24 of the Illinois Environmental Protection Act (415 ILCS 5/24 (2002)) and 35 Ill. Adm. Code 900.102. The Board ordered the respondents to cease and desist from further violations.	6-1 Tristano dissented Citizens A&N-E
PCB 03-43	<u>Landfill 33, Ltd. v. Effingham County Board and Sutter Sanitation Services;</u>	7-0
PCB 03-52	<u>Stock & Company, L.L.C. v. Effingham County Board and Sutter Sanitation Services</u> – The Board affirmed the September 19, 2002 decision of the Effingham County Board granting approval for siting of a solid waste transfer station in unincorporated Effingham County by Sutter Sanitation Services.	P-C-F-S-R 3d Party
(Cons.)		

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Motions and Other Matters

PCB 99-113	<u>Midwest Illinois Auto Truck Plaza v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Bond County facility.	7-0 UST Appeal
PCB 99-187	<u>Gina Pattermann, Lisa Collins, and Deen Collins v. Boughton Trucking and Materials, Inc.</u> – The Board granted respondent’s motion to dismiss complainants Lisa and Deen Collins from this matter.	7-0 A&N-E
PCB 01-70	<u>Midwest Illinois Restaurant & Truck Plaza, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Bond County facility.	7-0 UST Appeal
PCB 02-162	<u>People of the State of Illinois v. Fox Valley Dry Wall, Inc.</u> – The Board entered an interim opinion and order granting complainant’s motions to deem facts admitted and for summary judgment. The Board found respondent in violation of Sections 57.6 and 57.7(b) of the Environmental Protection Act (Act) (415 ILCS 5/57.6, 57.7(b) (2002)), and Sections 732.300(a), 732.100(c), 7and 32.307(b) of the Board regulations (35 Ill. Adm. Code 732.300(a), 732.100(c), 732.307(b)). The Board directed this matter to hearing as expeditiously as practicable on the specific issues of the appropriate penalty amount, costs, and attorney fees.	7-0 L-E
PCB 03-51	<u>People of the State of Illinois v. Draw Drape Cleaners, Inc.</u> – The Board granted complainant’s motion to strike respondent’s affirmative defenses.	7-0 A-E
PCB 03-54 PCB 03-56 PCB 03-105	<u>Freedom Oil Company v. IEPA</u> – The Board granted petitioner’s motion to consolidate these underground storage tank appeals involving an Edgar County facility.	7-0 UST Appeal
PCB 03-65	<u>Knox College v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Knox County facility.	7-0 UST Appeal
PCB 03-67	<u>Maryville Voice Newspaper Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Madison County facility.	7-0 UST Appeal
PCB 03-69	<u>Cunningham Service 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 Edwards County facility.	7-0 UST Appeal

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PCB 03-70	<u>Illinois Ayers Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cass County facility.	7-0 UST Appeal
PCB 03-72	<u>Wabash Valley Service v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Gallatin County facility.	7-0 UST Appeal
PCB 03-95	<u>Abitec Corporation v. IEPA</u> – The Board granted the parties’ joint motion to stay permit conditions 5.10 and 7.1.13 of petitioner’s Clean Air Act Permit Program permit.	7-0 P-A, Air
PCB 03-104	<u>Waste Management of Illinois, Inc. v. County Board of Kane County, Illinois</u> – The Board granted respondent’s motions for extension of time to file the record and to expedite discovery. The Village of Elgin’s motion to intervene in this matter was denied, but the Village was granted leave to file an amicus curiae brief.	7-0 P-C-F-S-R
PCB 03-106	<u>Village of South Elgin v. Waste Management of Illinois, Inc.</u> – The Board denied complainant’s motion to consolidate this proceeding with PCB 03-104, because the two actions involve different burdens of proof. No duplicative/frivolous determination was made, as respondent filed a motion to dismiss on February 19, 2003.	7-0 Citizens L-E
PCB 03-117	<u>People of the State of Illinois v. Bi-State Tire, Inc.</u> – The Board accepted for hearing this land enforcement action involving a Rock Island County facility.	7-0 L-E, Tires
PCB 03-118	<u>Dalee Oil Company 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 Washington County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-119	<u>Dalee Oil Company 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 Washington County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-120	<u>Ronald Ochs (Newton) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Ronald Ochs located in Jasper County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	7-0 T-C

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PCB 03-121	<u>Freedom Oil Company 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 Sangamon County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-122	<u>Chronister Oil Company d/b/a Qik-N-Ez 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 Christian County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-123	<u>Apex Pork v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Apex Pork located in Knox County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	7-0 T-C

New Cases

February 6, 2003 Board Meeting

03-108 People of the State of Illinois v. Village of Keensburg and David Dallas d/b/a Dallas Consulting, Engineering-Surveying – 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 Wabash County facility, the Board ordered publication of the required newspaper notice.

03-109 Fred Sierzega 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.

03-110 Talcott Building Partnership v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility. No action taken on respondent’s motion for extension of time to file the administrative record.

03-111 New Dominion Farms of Illinois, Inc. v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of New Dominion Farms of Illinois, Inc. located in Schuyler County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

03-112 F2, Inc. 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 Williamson County facility.

03-113 Clark Oil Station #1655 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 Vermilion County facility.

03-114 Village of Karnak 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 Pulaski County facility.

03-115 David B. Haworth v. Coresaw Log & Lumber, Inc. – The Board held for a later duplicative/frivolous determination this citizen’s noise enforcement action involving a Marshall County facility.

03-116 William Breuer 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 Washington County facility.

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AC 03-020 IEPA v. Manzell Lawson, Sr. – The Board accepted an administrative citation against this Peoria County respondent.

February 20, 2003 Board Meeting

03-117 People of the State of Illinois v. Bi-State Tire, Inc. – The Board accepted for hearing this land enforcement action involving a Rock Island County facility.

03-118 Dalee Oil Company 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 Washington County facility.

03-119 Dalee Oil Company 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 Washington County facility.

03-120 Ronald Ochs (Newton) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Ronald Ochs located in Jasper County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

03-121 Freedom Oil Company 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 Sangamon County facility.

03-122 Chronister Oil Company d/b/a Qik-N-Ez 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 Christian County facility.

03-123 Apex Pork v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Apex Pork located in Knox County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

03-124 Consumers Illinois Water Company (Vermilion County) v. IEPA – No action taken, pending receipt of a petition for review of the Illinois Environmental Protection Agency recommendation denying the requested tax certification.

R03-020 In the Matter of: Brownfields Site Restoration Program, Amendments to 35 Ill. Adm. Code 740 – The Board accepted for hearing the Illinois Environmental Protection Agency’s February 18, 2003 proposal to amend the Board’s site remediation program regulations as required by recent legislation.

AS 03-002 In the Matter of: Petition of Metropolitan Water Reclamation District of Greater Chicago for an Adjusted Standard from 35 Ill. Adm. Code 811, 812, and 817, and Modification of AS 95-4 (Sludge Application) – Pending receipt of the certificate of publication, the Board held this Cook County facility’s petition for an adjusted standard from the Board’s waste disposal regulations.

Calendar

2/06/2003 11:00 AM	<u>ILLINOIS POLLUTION CONTROL BOARD MEETING</u>		VIDEOCONFERENCE— Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 West Randolph St./Chicago Hearing Room 403 600 South Second St./Springfield
2/18/03 9:00 AM	PCB 03-42	Rantoul Township High School District No. 193 v. IEPA	Conference Room 403 600 South Second Street Springfield

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2/19/03 9:00 AM	PCB 01-167	People of the State of Illinois v. ESG Watts, Inc. (Taylor Ridge Landfill)	Conference Room 403 600 South Second Street Springfield
2/20/03 9:00 AM	PCB 01-167	People of the State of Illinois v. ESG Watts, Inc. (Taylor Ridge Landfill)	Conference Room 403 600 South Second Street Springfield
2/20/2003 11:00 AM	<u>ILLINOIS POLLUTION</u> <u>CONTROL BOARD MEETING</u>		James R. Thompson Center Conference Room 9-040 100 West Randolph Street Chicago
3/5/03 9:00 AM	AC 03-11	City of Chicago Department of Environment v. City Wide Disposal Inc.,	James R. Thompson Center Hearing Room 11-512 100 West Randolph Street Chicago
3/06/2003 11:00 AM	<u>ILLINOIS POLLUTION</u> <u>CONTROL BOARD MEETING</u>		VIDEOCONFERENCE— Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 West Randolph St./Chicago Hearing Room 403 600 South Second St./Springfield
3/17/03 10:00	R03-019	In the Matter of: Proposed Amendments to: Public Participation Rules in 35 Ill. Adm. Code Part 309 NPDES Permits and Permitting Procedures	James R. Thompson Center Conference Room 9-040 100 West Randolph Street Chicago
3/20/2003 11:00 AM	<u>ILLINOIS POLLUTION</u> <u>CONTROL BOARD MEETING</u>		James R. Thompson Center Conference Room 9-040 100 West Randolph Street Chicago
4/2/03 10:00	R03-019	In the Matter of: Proposed Amendments to: Public Participation Rules in 35 Ill. Adm. Code Part 309 NPDES Permits and Permitting Procedures	Conference Room 403 600 South Second Street Springfield
4/3/2003 11:00 AM	<u>ILLINOIS POLLUTION</u> <u>CONTROL BOARD MEETING</u>		VIDEOCONFERENCE— Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 West Randolph St./Chicago Hearing Room 403 600 South Second St./Springfield
4/11/03 10:00	R03-011	In the Matter of: Site Specific Rule for City of Effingham Treatment Plant Fluoride Discharge, 35 Ill. Adm. Code 304.233.	201 East Jefferson, City Hall Council Chambers Effingham
4/17/2003 11:00 AM	<u>ILLINOIS POLLUTION</u> <u>CONTROL BOARD MEETING</u>		James R. Thompson Center Conference Room 9-031 100 West Randolph Street Chicago

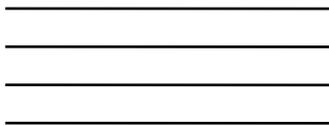
Environmental Register – February 2003

4/30/03 10:00	R03-020	In the Matter of: Brownfields Site Restoration Program; Amendments to 35 Ill. Adm. Code 740	Illinois Pollution Control Board 600 S. Second St., Suite 402 Springfield
4/30/03 10:00	R03-020	In the Matter of: Brownfields Site Restoration Program; Amendments to 35 ILL Adm. Code 740	Illinois Pollution Control Board 600 S. Second St., Suite 402 Springfield
5/1/2003 11:00 AM	<u>ILLINOIS POLLUTION CONTROL BOARD MEETING</u>		Hearing Room 403 600 South Second St. Springfield
5/1/03 1:00	R03-009	In the Matter of: Noise Rule Update: Amendments to 35 Ill. Adm. Code 901	Illinois Pollution Control Board 600 South Second Street, Suite 402 Springfield
5/14/03 1:00	R03-020	In the Matter of: Brownfields Site Restoration Program; Amendments to 35 Ill. Adm. Code 740	James R. Thompson Center 100 W. Randolph St., Room 2-025 Chicago
5/14/03 1:00	R03-009	In the Matter of: Noise Rule Update: Amendments to 35 Ill. Adm. Code 901	James R. Thompson Center 100 West Randolph, Room 9-040 Chicago
5/15/2003 11:00 AM	<u>ILLINOIS POLLUTION CONTROL BOARD MEETING</u>		James R. Thompson Center Conference Room 9-040 100 West Randolph Street Chicago
6/5/2003 11:00 AM	<u>ILLINOIS POLLUTION CONTROL BOARD MEETING</u>		VIDEOCONFERENCE Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 West Randolph St./Chicago Hearing Room 403 600 South Second St./Springfield
6/15/2003 11:00 AM	<u>ILLINOIS POLLUTION CONTROL BOARD MEETING</u>		James R. Thompson Center Conference Room 9-040 100 West Randolph Street Chicago
7/10/2003 11:00 AM	<u>ILLINOIS POLLUTION CONTROL BOARD MEETING</u>		Hearing Room 403 600 South Second St. Springfield
7/24/2003 11:00 AM	<u>ILLINOIS POLLUTION CONTROL BOARD MEETING</u>		James R. Thompson Center Conference Room 9-040 100 West Randolph Street Chicago

The Illinois Pollution Control Board is an independent seven-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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Illinois Pollution Control Board
Environmental Register Coordinator
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Springfield, Illinois 62704