
Environmental Register

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Letter from the Chairman

During April, the Board progressed in several rulemaking dockets. These included proposals to amend rules in the following topic areas: groundwater standards; water quality and effluent standards for the Chicago Area Waterway System (CAWS) and Lower Des Plaines River; NO_x emissions from specific stationary engines and turbines; and VOM emissions from various consumer products, architectural and industrial maintenance coatings, and aerosol coatings.

On April 9, 2008, the Board held the first hearing on the Illinois Environmental Protection Agency's (IEPA) amended proposal to control nitrogen oxide (NO_x) emissions from stationary reciprocating internal combustion engines and turbines (R07-19). The Board docketed the proposal as In the Matter of: Section 27 Proposed Rules for Nitrogen Oxide (NO_x) Emissions from Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Parts 211 and 217. The second hearing on the amended proposal is scheduled for May 7, 2008, in Chicago.



On April 21, 2008, the Board scheduled two hearings in a rulemaking proposal to amend the Illinois groundwater rules (R08-18). The first hearing will be held June 18, 2008, in Chicago and the second will take place on July 16, 2008, in Springfield. Originally filed on February 19, 2008, by the IEPA, the proposal was docketed as In the Matter of: Proposed Amendments to Groundwater Quality Standards 35 Ill. Adm. Code 620. IEPA proposes to amend the Groundwater Quality Standards to reflect new scientific data, standards that have been amended at the federal level, technical references updated in the Incorporations by Reference, and additional groundwater parameters that have been discovered.

On April 23 and 24, the Board held two more days of hearing on IEPA's proposal to amend the Board's rules for Secondary Contact and Indigenous Aquatic Life Uses. The Board had earlier held eight days of hearing on the proposal docketed as In the Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and Lower Des Plaines River Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303, and 304 (R08-9). As this letter was written, the Board anticipated setting additional hearings in the summer and fall.

In R08-9, IEPA proposes updating the designated uses and criteria necessary to protect uses for the waters currently designated as Secondary Contact and Indigenous Aquatic Life Uses. All waters that carry these designations are water bodies that were a part of the engineering effort that reversed the flow of the Chicago River. In 2000 and 2002, IEPA began pilot programs for the Lower Des Plaines River and the CAWS to develop use attainability analysis for these waters. The proposed rule incorporates the findings of the pilot programs. Among other proposals, IEPA recommends three distinct recreational uses and three distinct aquatic life uses applicable to CAWS and the Lower Des Plaines River.

On April 30, 2008, the Board held the first hearing on IEPA's proposal to reduce volatile organic material (VOM) emissions from various consumer products, architectural and industrial maintenance products, and aerosol coatings (R08-17). The Board docketed the proposal as In the Matter of: Standards and Limitations for Organic Material Emissions for Area Sources Proposed New 35 Ill. Adm. Code Part 223. The second hearing on the proposal is scheduled for June 4, 2008, in Chicago.

Information about these proceedings and other Board cases is available through the Clerk's Office Online (COOL) on our Web site at www.ipcb.state.il.us.

Sincerely,

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

Dr. G. Tanner Girard

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Federal Update

United States Environmental Protection Agency Proposes NESHAPs for Nine Metal Fabrication and Finishing Source Categories Under the Clean Air Act

On April 3, 2008 (at 73 Fed. Reg. 18334), USEPA proposed National Emissions Standards for Hazardous Air Pollutants (NESHAPs) for nine metal fabrication and finishing source categories. The nine source categories are (1) electrical and electronic equipment finishing operations; (2) fabricated metal products; (3) fabricated plate work (boiler shops); (4) fabricated structural metal manufacturing; (5) heating equipment, except electric; (6) industrial machinery and equipment finishing operations; (7) iron and steel forging; (8) Primary Metal Products Manufacturing; and (9) valves and pipe fittings. The operations of concern engage in dry abrasive blasting, machining, dry grinding and dry polishing with machines, spray painting and other spray coating, and welding operations. The hazardous air pollutants associated with these sources, as listed in the proposed rules, include toluene, xylenes, ethylbenzene, n-hexane, naphthalene, cumene, and biphenyl.

USEPA stated that it will accept public comments on the proposed rules until May 5, 2008. This time may be extended until May 19, 2008, if before April 14, 2008, USEPA receives a request for a public hearing on the proposed rules. Interested persons who want further information should contact Donna Lee Jones, 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: 919-541-5251; fax number: 919-541-3207; email address: jones.donnalee@epa.gov.

These new federal standards will become effective in Illinois when effective as a matter of federal law, without any action by the Board, as provided by Section 9.1(b) of the Environmental Protection Act (415 ILCS 5/9.1(b) (2006)).

United States Environmental Protection Agency Adopts Amendments to the NESHAP for Hazardous Waste Combustors Under the Clean Air Act

On April 8, 2008 (at 73 Fed. Reg. 18971), USEPA amended National Emissions Standards for Hazardous Air Pollutants (NESHAPs) applicable to hazardous waste combustors (the “Hazardous Waste Combustor Rule”) that it initially adopted on October 12, 2008 (at 70 Fed. Reg. 59402). USEPA stated that the amendments clarify monitoring provisions and correct omissions and typographical errors in the rule. USEPA further said that the amendments did not address the issues raised by four separate petitions for reconsideration that it received after adoption of the rules or in USEPA’s September 27, 2007 (72 Fed. Reg. 54875) request for public comments. USEPA stated that the amendments did not change the October 14, 2008 compliance deadline for the rule.

Interested persons who want further information should contact Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20004.

Amended with the NESHAP were various related provisions in the body of the hazardous waste treatment, storage, and disposal facility standards. Those provisions recite provisions of the Hazardous Waste Combustor Rule NESHAP that apply to hazardous waste facilities. The new federal NESHAP standards will become effective in Illinois when effective as a matter of federal law, without any action by the Board, as provided by Section 9.1(b) of the Environmental Protection Act (415 ILCS 5/9.1(b) (2006)). However, it will be necessary for the Board to amend the affected segments of the hazardous waste rules to refer to the newly amended NESHAP provisions. The

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Board will accomplish this using the identical-in-substance procedure, which bears a statutory deadline of April 8, 2009 for completion of those amendments. See 415 ILCS 5/7.2 and 22.4(a) (2006).

United States Environmental Protection Agency Proposes Drinking Water Regulations for Aircraft Public Water Systems Under the Safe Drinking Water Act

On April 9, 2008 (at 73 Fed. Reg. 19320), USEPA proposed National Primary Drinking Water Regulations (NPDWRs) that would apply to public water supplies on aircraft (the Aircraft Drinking Water Rule, or “ADWR”). The proposed new rules would add a new subpart to the existing, generally applicable NPDWRs that is tailored to air carriers that fall within the regulatory definition of a “public water system.” Any facility that provides water for human consumption to at least 25 individuals at least 60 days out of the year falls within that definition, and is subject to the NPDWRs. USEPA estimates that this includes 63 air carriers and 7,327 public aircraft in the U.S.

USEPA stated that the proposed rules “amend and consolidate in one place the federal drinking water requirements . . . for aircraft public water systems.” USEPA stated that the proposed rules would tailor existing NPDWRs, which are crafted to apply to stationary water systems, so that they might be implemented in mobile systems. The new rules would include microbiological quality standards and monitoring requirements, recordkeeping and reporting requirements, system management requirements, and public notification requirements that would apply in the event of a violation of the standards.

The effective date of the ADWR would be 12 months after the date on which USEPA would ultimately adopt it. Public comments on the proposed ADWR are due by July 8, 2008, except that comments on the information collection aspects of the rule are due by May 9, 2008.

Interested persons who want further information should contact Richard Naylor, Drinking Water Protection Division, Office of Ground Water and Drinking Water (MC-4606M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202-564-3847; e-mail address: naylor.richard@epa.gov.

If rules are adopted by USEPA, the Board must complete corresponding rules in the Illinois primary drinking water regulations of 35 Ill. Adm. Code 611 using the identical-in-substance procedure of Sections 7.2 and 17.5 of the Environmental Protection Act (415 ILCS 5/7.2 and 17.5 (2006)).

United States Environmental Protection Agency and the Department of Defense Adopt a Final Rule for Compensatory Mitigation for Losses of Aquatic Resources Under Section 404 of the Clean Water Act

On April 10, 2008 (at 40 C.F.R. 19594), USEPA and the Department of Defense, Department of the Army, Corps of Engineers (DA) jointly issued a rule relating to compensatory mitigation for losses of aquatic resources due to activities authorized by a permit issued by the DA. This rule is intended to minimize the adverse impacts to aquatic ecosystems through Clean Water Act section 404 (dredge and fill) permits and other DA-issued permits.

The rules add a new subpart to the existing standards for designation of disposal sites for dredge or fill material in 40 C.F.R. 230. USEPA and DA described the rules as follows: “This rule improves the planning, implementation and management of compensatory mitigation projects by emphasizing a watershed approach in selecting compensatory mitigation project locations, requiring measurable, enforceable ecological performance standards and regular monitoring for all types of compensation and specifying the components of a complete compensatory mitigation plan, including assurances of long-term protection of compensation sites, financial assurances, and identification of the parties responsible for specific project tasks.”

USEPA and DA further elaborated: “Compensatory mitigation can be carried out through four methods: the *restoration* of a previously-existing wetland or other aquatic site, the *enhancement* of an existing aquatic site’s functions, the *establishment* (i.e., creation) of a new aquatic site, or the *preservation* of an existing aquatic site. There are three mechanisms for providing compensatory mitigation: *permittee-responsible compensatory mitigation*, *mitigation banks* and *in-lieu fee mitigation*.” The rule is effective on June 9, 2008.

Interested persons who want further information should contact David Olson at 202-761-4922 or by email at david.b.olson@usace.army.mil, or Mr. Palmer Hough at 202-566-1374 or by e-mail at hough.palmer@epa.gov. Additional information can also be found at the Corps Headquarters Regulatory Program webpage at <http://www.usace.army.mil/cw/cecwo/reg/index.html> or the USEPA compensatory mitigation webpage at <http://www.epa.gov/wetlandsmitigation>.

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The federal regulations relate to the disposal of dredge and fill material in wetlands and other aquatic sites. The Illinois environmental regulations include no specific body of regulations that apply directly to such activities. No Board action will result based on these federal amendments, and no direct implementation of their provisions will occur as a matter of State law.

United States Environmental Protection Agency Makes Available Final Report, “Application of Watershed Ecological Risk Assessment Methods to Watershed Management”

USEPA announced the availability of a final report, entitled “Application of Watershed Ecological Risk Assessment Methods to Watershed Management,” on April 14, 2008. The draft report supplements the older report, “Guidelines for Ecological Risk Assessments,” released by USEPA in 1998.

USEPA described ecologic risk assessment as a procedure for analyzing environmental problems, and it stated that the procedure is intended to increase the use of ecological science in decision making. USEPA stated that the new report addresses issues unique to ecologic assessment of watersheds. USEPA will make the report available on the Internet, at www.epa.gov/ncea.

Interested persons who want further information should contact Information Management Team, National Center for Environmental Assessment (8601P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Telephone: 703-347-8561; fax: 703-347-8691; email: nceadc.comment@epa.gov.

No immediate Board rulemaking action will directly result from the release of this federal guidance document. No implementation-related issues as a matter of State law are presently anticipated.

United States Environmental Protection Agency Adopts Rules Under the Toxic Substances Control Act to Address Lead-Based Paint Hazards Caused by Renovation, Repair, and Painting Activities That Disturb Lead-Based Paint in Target Housing and Child-Occupied Facilities

On April 22, 2008 (at 73 Fed. Reg. 21692), USEPA adopted a rule relating to renovation, repair, and painting activities in target housing and child occupied facilities that could disturb lead-based paint. USEPA adopted the rule under the authority of the Toxic Substances Control Act (TSCA).

Target housing is all housing constructed before 1978, except housing for the elderly or persons with disabilities, unless a child under 6 years old will reside in the housing, and except for 0-bedroom dwellings. A child occupied facility is a building that is visited for at least three hours each time by the same child under six years old on at least two different days in any calendar week, so long as the child’s combined visits total at least six hours in a week and at least 60 hours in a year.

The new federal rule establishes training and certification requirements for renovators, renovation workers, and dust samplers; accreditation requirements for trainers; standards for work practices; and recordkeeping requirements. States may apply to USEPA for authorization to administer and enforce the minimum federal standards. The rule is effective on June 23, 2008.

Interested persons who want further general information on the federal rule should contact Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

Interested persons who want technical information should contact Mike Wilson, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 566-0521; e-mail address: wilson.mike@epa.gov.

In Illinois, the Department of Public Health has implemented standards applicable to mitigation of hazards to children posed by lead-based paint and materials pursuant to the Comprehensive Lead Evaluation, Reduction, and Window Replacement Program Act (410 ILCS 43 (2006) and the Lead Poisoning Prevention Act (410 ILCS 45 (2006)). That State agency will be responsible for incorporating the new federal standards into Illinois regulations pursuant to section 11.1 of the Lead Poisoning Prevention Act (410 ILCS 45/11.1 (2006)). The existing Illinois regulations relating to abatement of lead-based paint hazards appear at 77 Ill. Adm. Code 845.

United States Environmental Protection Agency Makes a New Informational Pamphlet Available: “Renovation Right: Lead Hazard Information for Families, Child Care Providers and Schools (Renovation Right)”

On April 22, 2008 (at 73 Fed. Reg. 21769), USEPA announced the availability of a new information pamphlet, “Renovation Right: Lead Hazard Information for Families, Child Care Providers and Schools (Renovation Right).” Intending the pamphlet to provide renovation-specific relating to the health hazards from lead paint, USEPA described its contents in the following words: “This new pamphlet gives information on lead-based paint hazards, lead testing, how to select a contractor, what precautions to take during the renovation, and proper cleanup activities.”

USEPA released the pamphlet simultaneous with its adoption of new regulations applicable to renovation, repair, and painting activities in target housing and child occupied facilities that could disturb lead-based paint. (*See* the above item.)

Interested persons who want further general information on the federal rule should contact Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

Interested persons who want technical information should contact Mike Wilson, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 566-0521; e-mail address: wilson.mike@epa.gov.

United States Environmental Protection Agency Adopts Direct Final Amendments to the NESHAPs for Organic Liquids Distribution (Non-Gasoline) Category Under the Clean Air Act

USEPA adopted a direct final rule on April 23, 2008 (at 73 Fed. Reg. 21825) that will amend the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) applicable to organic liquids distribution (non-gasoline) category of facilities. A notice of proposed rulemaking appeared in the same issue of the *Federal Register* (at 73 Fed. Reg. 21889). In that notice of proposed rulemaking, USEPA stated that it must receive any written comments on the rules prior to June 9, 2008. The amendments will become effective on July 22, 2008 without further notice unless USEPA receives significant adverse public comment by June 9, 2008.

USEPA stated that it adopted the NESHAPs for this category on February 3, 2004 (at 69 Fed. Reg. 5038) and amended them on July 28, 2006 (at 71 Fed. Reg. 42898). USEPA explained that the direct final rule will clarify combustion control device compliance requirements, certain storage tank control compliance dates, and vapor balance system monitoring requirements, and they will correct typographical errors found in the July 28, 2006 amendments.

Interested persons wanting further general and technical information on the rule should contact Mr. Stephen Shedd, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (E143-01), EPA, Research Triangle Park, NC 27711, telephone: 919-541-5397, facsimile number: 919-685-3195, e-mail address: shedd.steve@epa.gov.

Persons wanting compliance information should contact Ms. Marcia Mia, Office of Compliance, Air Compliance Branch (2223A), EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone: 202-564-7042, facsimile number: 202-564-0050, e-mail address: mia.marcia@epa.gov.

These new federal standards will become effective in Illinois when effective as a matter of federal law, without any action by the Board, as provided by Section 9.1(b) of the Environmental Protection Act (415 ILCS 5/9.1(b) (2006)).

United States Environmental Protection Agency Withdraws the CAIR FIP Implementing the Clean Air Act for Illinois and 11 Sister States With Approved SIPs

On April 28, 2008 (at 73 Fed. Reg. 22818), USEPA withdrew the Clean Air Interstate Rule (CAIR) federal implementation plan (FIP) for Illinois and 11 sister states (Alabama, Arkansas, Florida, Georgia, Iowa, Kentucky, Louisiana, Massachusetts, Mississippi, Missouri, and Virginia). This follows separate earlier findings that the Illinois and sister states' CAIR state implementation plans (SIPs) are adequate.

USEPA adopted the FIPs on April 28, 2006 (at 71 Fed. Reg. 25328) based on its earlier finding on April 25, 2005 (at 70 Fed. Reg. 21147), effective May 25, 2005, that the states had failed to submit SIPs to address interstate transport with respect to the fine particulate matter (PM_{2.5}) and 8-hour ozone national ambient air quality standards (NAAQS). USEPA issued the CAIR, which established the levels of NO_x and SO₂ emission reduction requirements necessary for CAIR-affected states to address their significant 8-hour ozone and PM_{2.5} interstate transport on May 12, 2005 (at 70 Fed. Reg. 25162). USEPA said that NO_x emissions are precursors to 8-hour ozone and PM_{2.5}, and SO₂ emissions are precursors to PM_{2.5}. The CAIR affects Illinois and 27 sister states and the District of Columbia in the eastern half of the country. All CAIR states were required to submit their CAIR SIPs by September 11, 2006.

As the control requirement for the FIPs, USEPA had adopted the model trading rules for electric generating units (EGUs) that Illinois EPA provided in CAIR as a control option for states. USEPA stated that it intended that the FIPs would achieve the emissions reduction requirements established by the CAIR until states promulgated and received USEPA approval of SIPs to achieve the reductions. USEPA had codified the Illinois NO_x FIP requirements as 40 C.F.R. 52.745 and those for SO₂ as 40 C.F.R. 52.746.

USEPA withdrew the Illinois and sister states' FIPs after state submission and USEPA approval of SIPs that meet the CAIR requirements. The Board adopted the Illinois CAIR rules in Proposed New Clean Air Interstate Rule (CAIR) SO₂, NO_x Annual and NO_x Ozone Season Trading Programs, 35 Ill. Adm. Code 225, Subparts A, C, D, E and F, R06-26 (Aug 26, 2007), effective on August 31, 2007. USEPA stated that the Illinois EPA submitted the adopted rules to USEPA for review and approval on September 14, 2007. USEPA granted full approval of Illinois' CAIR SIP for the 8-hour ozone and PM_{2.5} NAAQS on October 16, 2007 (at 72 Fed. Reg. 58528), effective December 17, 2007.

Interested persons who want further information should contact Carla Oldham, Air Quality Planning Division, Office of Air Quality Planning and Standards, mail code C539-04, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: 919-541-3347; fax number: 919-541-0824; e-mail address: oldham.carla@epa.gov.

United States Environmental Protection Agency Proposes More Stringent Particulate Matter Emission Standards for Coal Preparation Facilities Under the Clean Air Act

On April 28, 2008 (at 73 Fed. Reg. 22901), USEPA proposed more stringent particulate matter (PM) emission standards for coal processing facilities. USEPA stated that the more stringent standards would apply to new, reconstructed, and modified facilities for which construction began after April 28, 2008. The proposed amendments would further clarify existing emissions monitoring provisions and add new monitoring requirements for the new, reconstructed, and modified sources.

The more stringent standards are based on USEPA's review of performance under the existing rule, Subpart Y of 40 C.F.R. 60, which it adopted on January 15, 1976 (at 41 Fed. Reg. 2232). Subpart Y applies to any coal preparation facility that processes 200 tons of coal or more per day and for which construction, reconstruction, or modification occurred after October 24, 1974. USEPA stated that it had completed two prior reviews of the rule, on April 14, 1981 (at 46 Fed. Reg. 21769) and April 3, 1989 (at 54 Fed. Reg. 13384) and did not revise the standards based on those reviews.

Interested persons who want further information should contact Mr. Christian Fellner, Energy Strategies Group, Sector Policies and Programs Division (D243-01), U.S. EPA, Research Triangle Park, NC 27711, telephone number: 919-541-4003, facsimile number: 919-541-5450, electronic mail (e-mail) address: fellner.christian@epa.gov.

When adopted by USEPA, the new federal standards will apply in Illinois on their federal effective date, as provided by Section 9.1(b) of the Environmental Protection Act (415 ILCS 5/9.1(b) (2006)).

Rule Update

Board Withdraws From First Notice A Proposal to In the Matter of: Section 27 Proposed Rules for Nitrogen Oxide (NO_x) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Parts 211 and 217, R07-19

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On April 17, 2008, the Illinois Pollution Control Board, directed the Clerk of the Board to withdraw the first-notice of the rulemaking docketed as In the Matter of: Section 27 Proposed Rules for Nitrogen Oxide (NOx) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Parts 211 and 217, R07-19. In a May 17, 2007 order, the Board had ordered publication of first notice of the rules in the *Illinois Register*, following the Board's division of an April 6, 2007 proposal of the Illinois Environmental Protection Agency (IEPA) into two dockets: R07-19, and R07-18, 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. The procedural background of this division of dockets was reported in detail in the *Environmental Register* No. 635 (May 2007) at pp. 4-5.

The R07-19 first notice was published at 31 *Ill. Reg.* 7702 (June 8, 2007). A notice of that first notice's withdrawal is scheduled for publication in 32 *Ill. Reg.* 7230-7231 (May 2, 2008).

IEPA filed an amended proposal in R07-19 on December 20, 2007, which the Board accepted January 10, 2008. See *Environmental Register* No. 643 (January 2008) at p.3. The Board's April 17, 2008 explained that that withdrawal of the June 2007 first notice would help eliminate the risk of confusion about the scope of the hearings in this matter. Hearings are scheduled for April 9, 2008 in Edwardsville and May 7, 2008 in Chicago. The hearing officer established requirements for the pre-filing of testimony and provided other information about the hearings in a February 19, 2008 order.

Following the hearings, the Board will determine whether to authorize first notice publication of a revised R07-19 proposal.

Copies of the Board's opinion and orders, as well as hearing officer orders and IEPA amended proposal 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 312-814-6085; e-mail address foxt@ipcb.state.il.us.

Appellate Update

On Reconsideration, Retreating From Its 2006 Decision, Third District Appellate Court Affirms Board's Affirmance of Siting Decision in County of Kankakee, Illinois, Edward D. Smith, Kankakee County State's Attorney, Byron Sandburg and Waste Management of Illinois, Inc v. Illinois Pollution Control Board, City of Kankakee, Illinois, Kankakee Regional Landfill, LLC and Town & Country Utilities, Inc., Nos. 3-04-02713-04-02853-04-0289 (cons.) (3rd Dist. Apr. 24, 2008) (affirming Board's order affirming grant of siting approval in PCB 04-33, 34, 35 (Mar. 18, 2004)

In an April 24, 2008 13-page unpublished order under Supreme Court Rule 23 (155 Ill. Ed. R.23), on reconsideration, the Third District retreated from its November 17, 2006 decision reversing the Board's decision in County of Kankakee, Illinois, Edward D. Smith, Kankakee County State's Attorney, Byron Sandburg and Waste Management of Illinois, Inc v. Illinois Pollution Control Board, City of Kankakee, Illinois, Kankakee Regional Landfill, LLC and Town & Country Utilities, Inc., Nos. 3-04-02713-04-02853-04-0289 (cons.) (3rd Dist. Nov. 17, 2006) (hereinafter "Town and Country II" (Third Dist. 2006)). In its most recent ruling, the Third District found that the Board had correctly affirmed the City of Kankakee's grant of siting approval to the 2003 application made by Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C. (T&C) in County of Kankakee, Illinois, Edward D. Smith, Kankakee County State's Attorney, Byron Sandburg and Waste Management of Illinois, Inc v. Illinois Pollution Control Board, City of Kankakee, Illinois, Kankakee Regional Landfill, LLC and Town & Country Utilities, Inc., Nos. 3-04-02713-04-02853-04-0289 (cons.) (3rd Dist. Apr. 24, 2008) (hereinafter "Town and Country II (Third Dist. 2008)"). The Board decision which was the subject of the appeal is Byron Sandberg v. City of Kankakee, Illinois, The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.; Waste Management of Illinois v. City of Kankakee, Illinois, City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.; County of Kankakee and Edward D. Smith, States Attorney of Kankakee County v. City of Kankakee, Illinois, The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C., PCB 04-33, PCB 04-34, PCB 04-35 (cons.) (March 18, 2004) (hereinafter "Town & Country II (PCB)").

The Board and appellate cases involving T&C's 2003 siting application are known as "Town and Country II", while those involving T&C's 2002 siting application are known as "Town and Country I". (Both sets of "Town and Country" have previously been discussed in some detail in these pages, most recently in *Environmental Register* No.

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633 at 2-9 (Mar. 2007)). While the petition for rehearing in Town and Country II was pending before the Third District, the Illinois Supreme Court ultimately upheld the Board's decision in Town and Country I, reversing the City of Kankakee's grant of siting approval as against the manifest weight of the evidence. In so doing, the Supreme Court reversed the decision of the Third District reversing the Board. Town & Country Utilities, Inc. v. Illinois Pollution Control Board, 225 Ill. 2d 103, 866 N.E.2d 227 (2007) (reversing Town & Country Utilities, Inc. and Kankakee Regional Landfill, LLC v. Illinois Pollution Control Board, County of Kankakee, Edward D. Smith as State's Attorney of Kankakee County, the City of Kankakee, Illinois City Council, Byron Sandberg, and Waste Management of Illinois, Inc., No. 3-03-0025 (September 7, 2005)(petitions for rehearing denied October 19, 2005) (hereinafter "Town & Country I (Third Dist. 2005), and affirming the Board's decision in County of Kankakee and Edward D. Smith, States Attorney of Kankakee County v. City of Kankakee, Illinois, The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.: Byron Sandberg v. City of Kankakee, Illinois, The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.; Waste Management of Illinois v. City of Kankakee, Illinois, City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C., PCB 03-31, PCB 03-33, PCB 03-35 (cons.). (Jan. 1, 2003).

Currently, the end result of the decisions in Town and Country I and Town and Country II, is that the courts have found that T & C has siting approval based on the 2003 application, while denial of the 2002 was properly denied.

As discussed in more detail below, the Town and Country II (Third Dist. 2008) Rule 23 order affirmed the Board's decision on a single ground: the 2002 and 2003 siting applications were not "substantially the same," so the latter application was not barred by Section 39.2(m) of the Environmental Protection Act (Act), 415 ILCS 5/39.2(m). The Third District did not address other appeal grounds that were raised by the appellants (*e.g.*, compliance with siting criteria, fundamental fairness), who may wish to pursue further court action in this case.

Town & Country II (PCB)

The Board's opinion and order in Town & Country II (PCB) dealt with a number of issues on appeal. Among these was a provision of the Act central to the Third District's recent ruling in Town and Country II (Third Dist. 2008): Section 39.2.

Section 39.2(m) of the Act which provides:

An Applicant may not file a request for local siting approval which is substantially the same as a request which was disapproved pursuant to a finding against the Applicant under any criteria (i) through (ix) of subsection (a) of this Section within the preceding two years. 415 ILCS 5/39.2(m).

The Board held that the two-year prohibition of Section 39.2(m) did not bar T&C's 2003 application because the Kankakee City Council had never "disapproved" the 2002 application, and because the Board's reversal of the City Council in Town & Country I was not a "disapproval" within the meaning of Section 39.2(m). The Board stated, "The Board's authority is limited to reviewing a local siting authority's decision, but not actually approving or disapproving the siting application." Town & Country II (PCB), slip op. at 13. Because the Board found that the Section 39.2(m) prohibition was inapplicable, the Board stated that it "need not address the parties' arguments regarding whether the 2003 application is substantially the same as the 2002 application." *Id.*

Town and Country II (Third Dist. 2006)

In its 2006 Rule 23 order, the Third District held that the Board erred in finding that the Board did not "disapprove" the 2002 application by reversing the City in Town & Country I. The court held that the Board's reversal of the City's grant of siting in Town & Country I "constituted a disapproval within the plain meaning of section 39.2(m)." Town and Country II (Third Dist. 2006), slip op. at 10. The court then proceeded to decide whether the 2002 and 2003 applications were "substantially the same" under Section 39.2(m). The Third District held that the acknowledged differences between the two applications concerning hydrogeologic data "pale in comparison to the similarities" between the two applications. *Id.* at 14. The court focused on how both applications were the same regarding such uncontested items as the site's legal description, size, capacity, waste footprint, tonnage of waste received, stormwater management plan, closure and post-closure plan, leachate collection system, gas management and monitoring system, final contours and cover configuration, etc. *Id.* at 13-14.

The Third District concluded that the Board "manifestly erred" in ruling that Section 39.2(m) did not apply to the 2003 application. Having ruled that Section 39.2(m) barred the 2003 application because that application was substantially the same as the 2002 application, the court reversed the Board's Town & Country II decision affirming the City's grant of siting. *Id.* at 14.

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Town and Country II (Third Dist. 2008)

T&C and the Board petitioned the Third District for rehearing of its order in Town and Country II (Third Dist. 2006). The petition for rehearing asserted that the Third District erred in by giving no deference at all to the Board's statutory interpretation of Section 39.2(m): the majority applied a *de novo* standard of review but, as the dissent correctly pointed out, in doing so the court should have, but failed, to accord substantial deference to the Board's interpretation of the statute the Board is empowered to enforce. In its recent decision, the Third District stated that it granted the petition for rehearing "to address the standard of review." Town and Country II (Third Dist. 2006), slip op. at 8.

The court notes that, after it reversed the Board in 2006, and while the petition for rehearing was pending, the Illinois Supreme Court issued its March 2007 decision in Town & Country I, 225 Ill. 2d 103, 866 N.E.2d 227 (2007), concerning T&C's 2002 application:

The supreme court reversed this court's holding that the decision of the local siting authority (the City of Kankakee), and not the Pollution Control Board, was the administrative decision that was subject to review, and to which courts must defer under sections 40 and 41 of the Act. *** The supreme court held that the final decision that is reviewed is the decision of the Board, not the decision of the City. Town & Country, 225 Ill.2d at 108-09. The effect of the Supreme Court's decision was to affirm the Board's ruling on the previous application. Town and Country II (Third Dist. 2006), slip op. at 2-3.

The Third District then states that "under the appropriate standard of review, the decision of the Board was not against the manifest weight of the evidence" and so the Board's order is accordingly affirmed. *Id.* at 3.

The Third District's discussion next focuses on the differences and similarities between the 2002 application and the 2003 application. *Id.* at 4-7. The Third District states:

The City Council ruled that the 2003 application was not substantially the same as the 2002 application for three reasons: (1) the service area described in the 2003 application was substantially smaller than the area described in the 2002 application; (2) the 2003 application contained additional hydrogeological information, including three volumes not included in the 2002 application; and (3) the 2003 application contained proposals for alternate designs not included in[] the 2002 application. *** The Board held, inter alia, that section 39.2(m) of the Act did not apply because the 2002 application was not disapproved by the City Council. *** Therefore, the Board found, it did not need to address the parties' arguments regarding whether the 2003 application was substantially the same as the 2002 application. *Id.* at 7-8.

Again giving no deference to the Board's interpretation of Section 39.2(m), the Third District reasserts its original statutory construction, under which the Board's reversal of the City in Town & Country I constitutes a Section 39.2(m) "disapproval." The Third District concludes that the contrary position of T&C and the Board "is now untenable" in light of the Supreme Court's decision in Town & Country I:

Since it is the decision of the Board, not the decision of the local siting authority that is reviewed on appeal, a finding that the Board's action constituted "disapproval" within the meaning of Section 39.2(m) is consistent with our supreme court's interpretation of the Act. The reversal by the Board constituted a disapproval within the meaning of the Act. Town and Country II (Third Dist. 2006), slip op. at 10-11.

Turning to the second step of its legal analysis, the Third District recites the similarities and differences between the 2002 and 2003 applications, stating:

We have reviewed the voluminous evidence contained in the record, in light of the appropriate standard of review, and find that the Board's findings on the substantial similarity is not against the manifest weight of the evidence. While the similarities between the two applications are apparent, so are the differences. Under the Act, the Board is given the authority to weigh the differences between the two applications and determine as a matter of fact, whether the differences are significant. Since we find that the Board's decision is supported by the record, we find that the Board did not err. *Id.* at 12.

Having so upheld the Board on Section 39.2(m), the court abruptly ends its analysis, stating:

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Accordingly, the order of the Illinois Pollution Control Board upholding the decision of the Kankakee City Council is affirmed. Consequently, the decision of the Kankakee City Council granting T&C's 2003 application for siting approval is also affirmed. *Id.* at 12-13.

The Third District did not address the other points, noted at the outset of its order, on which the appellants contended the Board erred

Specifically, they argue: (1) T&C was barred from filing the 2003 application because that application violated section 39.2(b) and section 39.2(m) of the Act . . . ; (2) the Board erred in finding that the 2003 application complied with sections 39.2(a)(ii) and 39.2(a)(viii) of the Act . . . ; and the local siting proceedings were fundamentally unfair. *Id.* at 2.

Appellants may therefore wish to pursue further court action in this matter.

Board Actions

April 3, 2008
Chicago, Illinois

Adjusted Standards

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| AS 08-6 | <u>Petition of BioMedical Technology Solutions, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 1422</u> – The Board granted an adjusted standards to Biomedical Technology Solutions, Inc. (BMTS) from the requirement that BMTS use any of the indicator organisms listed at 35 Ill. Adm. Code Section 1422.Appendix A, Table B(1) when performing an Initial Efficacy Test of its Demolizer® dry heat sterilization technology. In lieu of the listed organisms, BMTS may use only <i>Bacillus atropheus</i> (ATCC 9372). BMTS must comply with all other requirements of 35 Ill. Adm. Code 1422. | 4-0 PIMW |
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Administrative Citations

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| AC 06-49 | <u>IEPA v. Michael Gruen and Jon Eric Gruen, d/b/a Jon's Tree Service</u> – The Board entered a final opinion and order requiring respondent to pay hearing costs of the Illinois Environmental Protection Agency and the Board in the amount of \$427.56 and a civil penalty of \$1,500. This order follows the Board's interim order of January 24, 2008, which found that this respondent had violated Sections 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2006)). | 4-0 |
| AC 07-16 | <u>IEPA v. Dennis Ballinger</u> – The Board granted complainant's motion for withdrawal of this administrative citation and closed the docket. | 4-0 |
| AC 08-14 | <u>County of DuPage v. Nicolas Cruz</u> – The Board ordered respondent to file a petition for review to cure noted deficiencies, on or before May 5, 2008, or the petition for review would be subject to dismissal. | 4-0 |
| AC 08-17 | <u>City of Chicago Department of Environment v. Crystal IL 98LLC</u> – The Board accepted for hearing respondent's petition for review of this administrative citation involving a Cook County facility. | 4-0 |
| AC 08-19 | <u>IEPA (File No. 23-08-AC) v. C. John Blickhan</u> – The Board accepted for hearing respondent's petition for review of this administrative citation involving an Adams County facility. | 4-0 |

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| AC 08-20 | <u>County of Jackson v. James Moake</u> – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Jackson County facility. | 4-0 |
| AC 08-21 | <u>County of Jackson v. Jack Reeves & Jacqueline Watkins</u> – The Board accepted for hearing respondents’ petition for review of this administrative citation involving a Jackson County facility. | 4-0 |
| AC 08-25 | <u>County of Jackson v. Frank Smith & Danny Smith</u> – The Board granted complainant’s motion for withdrawal of this administrative citation and closed the docket. | 4-0 |

Adjudicatory Cases

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| PCB 04-186 | <u>Waste Management of Illinois, Inc. v. County Board of Kankakee County, Illinois</u> – The Board denied petitioners’ motion to reconsider the January 24, 2008 Board Order which affirmed the decision of the County of Kankakee denying Waste Management of Illinois’ application to site for landfill expansion. | 4-0 Siting Appeal |
| PCB 05-72 | <u>Robert and Tony Thompson v. IEPA</u> – The Board granted this Alexander County facility’s motion for voluntary dismissal of this underground storage tank appeal. | 4-0 UST Appeal |
| PCB 07-85 | <u>TT-Town Drive Thru, Inc. v. IEPA</u> – The Board denied petitioner’s motion for summary judgment, granted respondent’s counter-motion for summary judgment and affirmed the respondent’s March 2, 2007 denial of UST Fund reimbursement for petitioner. | 4-0 UST Appeal |
| PCB 07-113 | <u>Rochelle Waste Disposal, L.L.C. v. The City of Rochelle, an Illinois Municipal Corporation and The Rochelle City Council</u> – The Board granted the parties’ motions to reconsider and affirmed its January 24, 2008 decision, which affirmed special conditions 8, 13, 22, 23, 26, and 28, and, as requested, modified conditions 33 and 34 of the sitting approval granted by the City of Rochelle on April 11, 2007. | 4-0 Siting Appeal |
| PCB 08-21 | <u>Lindenhurst Sanitary District v. IEPA</u> – The Board granted this Lake County facility’s motion for voluntary dismissal of this permit appeal. | 4-0 P-A, Water |
| PCB 08-46 | <u>People of the State of Illinois v. Rancho Amigo, LLC</u> – In this land enforcement action concerning a Jo Daviess County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2006)), and accepted a stipulation and settlement agreement, ordering the respondent to pay a total civil penalty of \$5,000, and to cease and desist from further violations. | 4-0 W-E |
| PCB 08-47 | <u>Metropolitan Water Reclamation District of Greater Chicago v. Illinois Environmental Protection Agency</u> – The Board granted this Cook County facility’s motion for voluntary dismissal of this permit appeal. | 4-0 P-A, Water |
| PCB 08-53 | <u>Grote Stock Farm-Sims v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Grote Stock Farm, located in Wayne County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | 4-0 T-C, W |
| PCB 08-54 | <u>Newcomber Confinements-Lanark v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and | 4-0 T-C, |

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| | certified that specified facilities of Newcomber Confinements – Lanark Farm, located in Carroll County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | W |
| PCB 08-55 | <u>People of the State of Illinois v. Village of Merrionette Park</u> – The Board accepted for hearing this public water supply enforcement action involving a site located in Cook County. | 4-0 PWS- E |
| PCB 08-56 | <u>McCune Farm Gold – East v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McCune Farm Gold – East, located in Bureau County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | 4-0 T-C, W |
| PCB 08-57 | <u>McCune Farm Gold – East v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McCune Farm Gold – East, located in Bureau County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | 4-0 T-C, W |
| PCB 08-58 | <u>Bible Pork – Louisville v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Bible Pork – Louisville, located in Clay County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | 4-0 T-C, W |
| PCB 08-59 | <u>John Blickhan v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Adams County facility. | 4-0 P-A, Land 90- Day Extens ion |
| PCB 08-60 | <u>Von Holten Farms – Lydon v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Von Holten Farms – Lyndon, located in Whiteside County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | 4-0 T-C, W |

April 17, 2008 Chicago, Illinois

Rulemakings

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| R07-19 | <u>In the Matter of: Section 27 Proposed Rules for Nitrogen Oxide (NOx) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Parts 211 and 217</u> – The Board on its own motion, entered an order directing the Clerk of the Board to withdraw the first-notice of this rulemaking published in the <i>Illinois Register</i> on June 8, 2007. | 4-0 Air |
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Adjusted Standards

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| AS 07-3 | <u>In the Matter of: Petition of Midwest Generation, LLC, Waukegan Generating Station for an Adjusted Standard from 35 Ill. Adm. Code 225.230</u> – The Board denied the Environmental Law & Policy Center’s motion to intervene in this adjusted standard proceeding. | 4-0 Air |
| AS 07-4 | <u>In the Matter of: Petition of Midwest Generation, LLC, Will County Generating Station for an Adjusted Standard from 35 Ill. Adm. Code 225.230</u> – The Board denied the Environmental Law & Policy Center’s motion to intervene in this adjusted standard proceeding. | 4-0 Air |
| AS 08-5 | <u>In the Matter of: Petition of BFI Waste Systems of North America, Inc. for Waste Delisting</u> – The Board granted petitioner’s motion to file amendatory adjusted standard language, and accepted the amended language. The Board directed the Illinois Environmental Protection Agency (IEPA) to provide the Board with IEPA’s final position on the relief requested in this matter before the record closes. | 4-0 RCRA Delisting |

Administrative Citations

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| AC 08-18 | <u>IEPA v. Carol G. Prieb and Margaret Dillavou</u> – The Board accepted for hearing respondents’ petition for review of this administrative citation involving a Union County facility. | 4-0 |
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Adjudicatory Cases

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| PCB 96-98 | <u>People of the State of Illinois v. Skokie Valley Asphalt, Inc., EDWIN L. FREDERICK, JR., individually and as owner and President of Skokie Valley Asphalt Co., Inc., and RICHARD J. FREDERICK, individually and as owner and Vice President of Skokie Valley Asphalt Co., Inc.</u> – The Board denied respondents’ motions to reconsider and stay the Board’s November 1, 2007 order. In summary the Board’s April 17, 2008 order finds that respondents violated the following provisions of the Environmental Protection Act (Act) and the Board’s regulations: Sections 12 (a) and (f) of the Act (415 ILCS 5/12(a) and (f) (2002)), and 35 Ill. Adm. Code 302.203, 304.105, 304.106, 305.102(b), 309.102(a), and 309.104(a). On or before June 2, 2008, the Board ordered the respondents to pay a total civil penalty of \$153,000, and to pay complainant \$30,225 in attorney fees and \$2,291.20 in costs, for a total of \$32,516.20. | 4-0 W-E |
| PCB 04-204 | <u>Daniel J. Beers v. Dave Calhoun (Let It Shine Car Wash)</u> – In this citizen noise enforcement action concerning a Tazewell County facility, the Board accepted a stipulation and settlement agreement and closed the docket. Respondent agreed to perform several projects to mitigate noise projected toward complainant’s property. | 4-0 Citizens N-E |
| PCB 07-6 | <u>J. D. Strett & Company, Inc. v. Illinois Environmental Protection Agency</u> – The Board granted this Fulton County facility’s motion for voluntary dismissal of this underground storage tank appeal. | 4-0 UST Appeal |
| PCB 08-27 | <u>People of the State of Illinois v. City of Hometown</u> – In this public water supply enforcement action concerning a Cook County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2006)), and accepted a stipulation and settlement agreement, ordering the respondent to pay a total civil penalty of \$1,000, and to cease and desist from further violations. | 4-0 PWS-E |

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| PCB 08-61 | <u>Ameren Energy Generating Company v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Morgan County facility. | 4-0 P-A, Land |
| PCB 08-62 | <u>People of the State of Illinois v. Carri Scharf Materials Company, d/b/a Farmdale Sand & Gravel Pit</u> – The Board accepted for hearing this water enforcement action involving a site located in Tazewell County. | 4-0 W-E |
| PCB 08-63 | <u>Kollmann Hog Farms v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Kollmann Hog Farms, located in Effingham County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | 4-0 T-C, W |
| PCB 08-64 | <u>Mark Sturtevant-Shannon v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mark Sturtevant-Shannon, located in Carroll County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | 4-0 T-C, W |
| PCB 08-65 | <u>CAC Farms, Inc - Ashton v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of CAC Farms, Inc - Ashton, located in Ogle County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | 4-0 T-C, W |
| PCB 08-66 | <u>Dynegy Midwest Generation, Inc. (Baldwin Energy Complex) v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Randolph 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 08-67 | <u>CNS Farms, Inc. - Malta v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of CNS Farms, Inc., located in DeKalb County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | 4-0 T-C, W |
| PCB 08-68 | <u>Harmet Farms - Cropsey v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Harmet Farms - Cropsey, located in McLean County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | 4-0 T-C, W |
| PCB 08-69 | <u>Ehnle Farms v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Ehnle Farms, located in Bureau County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | 4-0 T-C, W |
| PCB 08-70 | <u>Honey Creek Hogs, Inc. v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Honey Creek Hogs, Inc., located in Pike County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | 4-0 T-C, W |
| PCB 08-71 | <u>D & V. Pork v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities | 4-0 T-C, W |

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of D & V. Pork, located in Adams County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

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| PCB 08-72 | <u>Kuntz Farms v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Kuntz Farms, located in McLean County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | 4-0 T-C, W |
| PCB 08-73 | <u>Pine Ridge Farms, Inc. v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Pine Ridge Farms, Inc., located in Adams County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | 4-0 T-C, W |
| PCB 08-74 | <u>Jeff Hank - Aledo v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Jeff Hank - Aledo, located in Mercer County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). | 4-0 T-C, W |
| PCB 08-75 | <u>Hopkins Farms – Gilson v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Hopkins Farms, 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 (2006)). | 4-0 T-C, W |

New Cases

April 3, 2008 Board Meeting

08-53 Grote Stock Farm-Sims v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Grote Stock Farm, located in Wayne County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

08-54 Newcomber Confinements-Lanark v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Newcomber Confinements - Lanark Farm, located in Carroll County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

08-55 People of the State of Illinois v. Village of Merrionette Park – The Board accepted for hearing this public water supply enforcement action involving a site located in Cook County.

08-56 McCune Farm Gold – East v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McCune Farm Gold - East, located in Bureau County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

08-57 McCune Farm Gold – East v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McCune Farm Gold - East, located in Bureau County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

08-58 Bible Pork – Louisville v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Bible Pork - Louisville, located in Clay

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County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

08-59 John Blickhan v. IEPA – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Adams County facility.

08-60 Von Holten Farms - Lydon v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Von Holten Farms - Lyndon, located in Whiteside County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

AC 08-23 IEPA v. William Dixon – The Board accepted an administrative citation against this Union County respondent.

AC 08-24 IEPA v. Gire Properties, Inc. and Gire Construction, Inc., – The Board accepted an administrative citation against these Douglas County respondents.

AC 08-25 County of Jackson v. Frank Smith & Danny Smith – The Board granted complainant's motion for withdrawal of this administrative citation and closed the docket.

AC 08-26 IEPA v. Edward W. Fisher, Rhonda L. Fisher and DEM/EX Group, Inc. – The Board accepted an administrative citation against these Mason County respondents.

AC 08-27 IEPA v. Hiram Vanderheiden, Jr. – The Board accepted an administrative citation against this Mason County respondent.

April 17, 2008 Board Meeting

08-61 Ameren Energy Generating Company v. IEPA – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Morgan County facility.

08-62 People of the State of Illinois v. Carri Scharf Materials Company, d/b/a Farmdale Sand & Gravel Pit – The Board accepted for hearing this water enforcement action involving a site located in Tazewell County.

08-63 Kollmann Hog Farms v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Kollmann Hog Farms, located in Effingham County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

08-64 Mark Sturtevant-Shannon v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Mark Sturtevant-Shannon, located in Carroll County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

08-65 CAC Farms, Inc - Ashton v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of CAC Farms, Inc - Ashton, located in Ogle County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

08-66 Dynegy Midwest Generation, Inc. (Baldwin Energy Complex) v. IEPA – The Board accepted for hearing this permit appeal involving a Randolph County facility. No action was taken on petitioner's motion for partial stay of specified conditions in the construction permit.

08-67 CNS Farms, Inc. - Malta v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of CNS Farms, Inc., located in DeKalb County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

08-68 Harmet Farms - Cropsey v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Harmet Farms - Cropsey, located in McLean County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

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08-69 Ehnle Farms v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Ehnle Farms, located in Bureau County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

08-70 Honey Creek Hogs, Inc. v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Honey Creek Hogs, Inc., located in Pike County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

08-71 D & V. Pork v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of D & V. Pork, located in Adams County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

08-72 Kuntz Farms v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Kuntz Farms, located in McLean County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

08-73 Pine Ridge Farms, Inc. v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Pine Ridge Farms, Inc., located in Adams County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

08-74 Jeff Hank - Aledo v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Jeff Hank - Aledo, located in Mercer County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

08-75 Hopkins Farms – Gilson v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Hopkins Farms, 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 (2006)).

AC 08-28 IEPA v. Joseph Cosentino and Rob Pinski – The Board accepted an administrative citation against these Perry County respondents.

AS 08-9 In the Matter of: Petition of Big River Zinc Corporation for an Adjusted Standard Under 35 Ill. Adm. Code 720-131(c) – No action taken.

Calendar

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|----------------------------|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| 5/1/08 9:00 AM | R08-17 | <u>In the Matter of: Standards and Limitations for Organic Material Emissions for Area Sources Proposed New 35 Ill. Adm. Code Part 223</u> | IEPA Office Building Training Room 1214 West 1021 N. Grand Avenue East (North Entrance) Springfield |
| 5/1/08 11:00 AM | Illinois Pollution Control Board Meeting | | Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East North Entrance Springfield |
| 5/7/08 9:00 AM | R07-19 | <u>In the Matter of: Section 27 Proposed Rules for Nitrogen Oxide (NOx) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Parts 211 and 217.</u> | James R. Thompson Center Room 9-034 100 W. Randolph Street Chicago |

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|---------------------|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5/8/08 9:00 AM | R07-19 | <u>In the Matter of: Section 27 Proposed Rules for Nitrogen Oxide (NOx) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Parts 211 and 217</u> | James R. Thompson Center Room 9-034 100 W. Randolph Street Chicago |
| 5/15/08 9:00 AM | AS 08-05 | <u>In the Matter of: Petition of BFI Waste Systems of North America, Inc. for Waste Delisting</u> | Ogle County Judicial Center Room 301 106 South Fifth Street Oregon |
| 5/15/08 11:00 AM | Illinois Pollution Control Board Meeting | | VIDECONFERENC James R. Thompson Center 100 W. Randolph Street Chicago And Illinois Pollution Control Board Hearing Room (1244 N, First Floor) 1021 N. Grand Avenue East (North Entrance) Springfield |
| 6/4/08 9:00 AM | R08-17 | <u>In the Matter of: Standards and Limitations for Organic Material Emissions for Area Sources Proposed New 35 Ill. Adm. Code Part 223</u> | James R. Thompson Center Room 2-025 100 W. Randolph Street Chicago |
| 6/5/08 9:00 AM | R08-17 | <u>In the Matter of: Standards and Limitations for Organic Material Emissions for Area Sources Proposed New 35 Ill. Adm. Code Part 223</u> | James R. Thompson Center Room 9-034 100 W. Randolph Street Chicago |
| 6/05/08 11:00 AM | Illinois Pollution Control Board Meeting | | VIDECONFERENC James R. Thompson Center 100 W. Randolph Street Chicago And Illinois Pollution Control Board Hearing Room (1244 N, First Floor) 1021 N. Grand Avenue East (North Entrance) Springfield |
| 6/18/08 10:00 AM | R08-18 | <u>In the Matter of: Proposed Amendments to Groundwater Quality Standards, 35 Ill. Adm. Code 620</u> | Michael A. Bilandic Building 160 N. LaSalle Street, Room C500 Chicago |
| 6/19/08 11:00 AM | Illinois Pollution Control Board Meeting | | James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago |

Environmental Register – April 2008

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|-------------------------------------------|--------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>7/10/08 11:00 AM</p> | <p>Illinois Pollution Control Board Meeting</p> | | <p>VIDECONFERENCE James R. Thompson Center 100 W. Randolph Street Chicago And Illinois Pollution Control Board Hearing Room (1244 N, First Floor) 1021 N. Grand Avenue East (North Entrance) Springfield</p> |
| <p>7/16/08 10:00 AM</p> | <p>R08-18</p> | <p><u>In the Matter of: Proposed Amendments</u> <u>to Groundwater Quality Standards, 35 Ill.</u> <u>Adm. Code 620</u></p> | <p>Illinois Environmental Protection Agency TQM Room 1021 North Grand Avenue East, North Entrance Springfield</p> |

Environmental Register – April 2008

Illinois Environmental Protection Agency
Division of Public Water Supplies
Restricted Status List - Public Water Supplies
APRIL 2008

| <i>SYSTEM NAME</i> | <i>EPA RGN</i> | <i>NATURE OF PROBLEM</i> | <i>POP SERVED</i> | <i>LISTING DATE</i> |
|----------------------------------------------------|--------------------|-------------------------------|-----------------------|-------------------------|
| ALTERNATIVE BEHAVIOR TREATMENT CENTER - IL0977189 | 2 | INADEQUATE PRESSURE TANK | 50 | 6/15/1988 |
| ARLINGTON REHABILITATION LIVING CENTER - IL0971110 | 2 | INADEQUATE HYDRO STORAGE | 180 | 12/1/2003 |
| ATHENS – IL1290050 | 5 | INADEQUATE TREATMENT CAPACITY | 4350 | 10/1/2007 |
| AURORA COMMUNITY WATER ASSN - IL0895750 | 2 | INADEQUATE PRESSURE TANK | 150 | 12/16/1988 |
| BAHL WATER CORP - IL0855200 | 1 | INADEQUATE PRESSURE TANK | 700 | 12/15/1993 |
| BALCITIS PUMP CORP - IL2015100 | 1 | INADEQUATE STORAGE | 150 | 1/1/2006 |
| BRADLEY HEIGHTS SUBDIVISION - IL2015050 | 1 | INADEQUATE PRESSURE TANK | 192 | 9/13/1985 |
| CARROLL HEIGHTS UTILITIES COMPANY - IL0155200 | 1 | INADEQUATE PRESSURE TANK | 96 | 3/20/1981 |
| CENTURY PINES APARTMENTS - IL0150020 | 1 | INADEQUATE PRESSURE TANK | 50 | 12/14/1990 |
| CHANDLERVILLE - IL0170200 | 5 | INAD & UNAPPROVED STORAGE | 704 | 1/1/2006 |
| CHESTERFIELD – IL1170200 | 5 | TOTAL TRIHALOMETHANE | 180 | 3/15/2007 |
| COOKSVILLE - IL1130400 | 4 | TTHM & HALOACIDIC ACIDS | 300 | 9/15/2005 |
| COYNE CNTR COOP - IL1615150 | 1 | INADEQUATE PRESSURE TANK | 150 | 12/15/1997 |
| CROPSEY COMMUNITY WATER - IL1135150 | 4 | INADEQUATE PRESSURE TANK | 31 | 3/20/1981 |
| CRYSTAL CLEAR WATER COMPANY - IL1115150 | 2 | INADEQUATE PRESSURE TANK | 885 | 9/16/1988 |
| D L WELL OWNERS ASSOCIATION - IL0975380 | 2 | INADEQUATE PRESSURE TANK | 141 | 3/18/1983 |
| DE KALB UNIV DVL CORP - IL0375148 | 1 | INADEQUATE PRESSURE TANK | 1050 | 12/16/1992 |
| DEERING OAKS SUBDIVISION - IL1115200 | 2 | INADEQUATE PRESSURE TANK | 60 | 12/17/1982 |
| DOVER - IL0110350 | 1 | INADEQUATE PRESSURE TANK | 169 | 5/25/1981 |
| EAST END WATER ASSOCIATION - IL1610140 | 1 | INADEQUATE STORAGE CAPACITY | 40 | 3/15/2002 |
| EAST MORELAND WATER CORPORATION - IL1975640 | 2 | INADEQUATE PRESSURE TANK | 135 | 3/15/1996 |
| EASTMORELAND WTR SERVICE ASSN - IL1975600 | 2 | INADEQUATE PRESSURE TANK | 650 | 3/20/1981 |
| EVERGREEN VILLAGE SUBDIVISION - IL1615310 | 1 | INADEQUATE PRESSURE TANK | 130 | 3/20/1981 |
| FAHNSTOCK COURT SUBDIVISION - IL1435200 | 5 | INADEQUATE PRESSURE TANK | 35 | 5/25/1981 |
| FAIR ACRES SUBDIVISION - IL1975680 | 2 | INADEQUATE PRESSURE TANK | 156 | 10/19/1981 |
| FOREST LAKE ADDITION - IL0975500 | 2 | INADEQUATE PRESSURE TANK | 204 | 12/16/1983 |
| FRWRD-SKYLINE PLANT - IL0895030 | 2 | INADEQUATE PRESSURE TANK | 700 | 9/19/1986 |
| GARDEN STREET IMPROVEMENT ASSOCIATION - IL1975376 | 2 | INADEQUATE PRESSURE TANK | 54 | 9/15/1989 |
| GOOD SHEPHERD MANOR - IL0915189 | 2 | INADEQUATE PRESSURE TANK | 25 | 3/17/1989 |
| GREAT OAKS AND BEACON HILLS APARTMENTS - IL2015488 | 1 | INADEQUATE PRESSURE TANK | 2420 | 12/17/1982 |

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Illinois Environmental Protection Agency
 Division of Public Water Supplies
 Restricted Status List - Public Water Supplies
 APRIL 2008

| <i>SYSTEM NAME</i> | <i>EPA RGN</i> | <i>NATURE OF PROBLEM</i> | <i>POP SERVED</i> | <i>LISTING DATE</i> |
|------------------------------------------------------|--------------------|----------------------------|-----------------------|-------------------------|
| HAWTHORN WOODS - IL0970450 | 2 | INADEQUATE PRESSURE TANK | 672 | 3/15/1995 |
| HEATHERFIELD SUBDIVISION - IL0635150 | 2 | INADEQUATE PRESSURE TANK | 75 | 9/17/1982 |
| HETTICK - IL1170500 | 5 | TRICHALOMETHANE | 182 | 6/15/2002 |
| HIGHLAND SUBDIVISION - IL0895530 | 2 | INADEQUATE PRESSURE TANK | 60 | 9/16/1983 |
| HILLVIEW SUBDIVISION - IL1975800 | 2 | INADEQUATE PRESSURE TANK | 100 | 3/15/1985 |
| HOLY FAMILY VILLA - IL0310280 | 2 | INADEQUATE PRESSURE TANK | 200 | 9/15/1999 |
| INGALLS PARK SUBDIVISION - IL1975880 | 2 | INADEQUATE PRESSURE TANK | 745 | 9/16/1983 |
| LAKE LYNWOOD WATER SYSTEM - IL0735330 | 1 | INADEQUATE PRESSURE TANK | 75 | 8/31/1981 |
| LARCHMONT SUBDIVISION - IL2015290 | 1 | INADEQUATE PRESSURE TANK | 64 | 6/17/1983 |
| LARSON COURT APARTMENTS - IL1615728 | 1 | INADEQUATE PRESSURE TANK | 58 | 1/14/1982 |
| LEGEND LAKES WATER ASSOCIATION - IL2015300 | 1 | INADEQUATE PRESSURE TANK | 283 | 3/14/1991 |
| LIBERTY PARK HOMEOWNERS ASSOCIATION - IL0435600 | 2 | INADEQUATE PRESSURE TANK | 837 | 9/17/1992 |
| LINDENWOOD WATER ASSOCIATION - IL1415300 | 1 | INADEQUATE PRESSURE TANK | 50 | 1/13/1982 |
| LISBON NORTH, INC. - IL0631000 | 2 | INADEQUATE PRESSURE TANK | 30 | 9/14/1990 |
| LONDON MILLS - IL0574620 | 5 | INADEQUATE PRESSURE TANK | 447 | 12/14/1984 |
| LYNN CENTER - IL0735100 | 1 | INADEQUATE PRESSURE TANK | 100 | 3/15/1995 |
| LYNNWOOD WATER CORPORATION - IL0995336 | 1 | INADEQUATE PRESSURE TANK | 110 | 3/18/1983 |
| M C L W SYSTEM, INC. - IL1315150 | 1 | INADEQUATE SOURCE | 98 | 3/20/1981 |
| MENARD RURAL WATER CO.(SWEETWATER SYSTEM)- IL1290010 | 5 | INADEQUATE SOURCE CAPACITY | 490 | 10/1/2007 |
| MOUND PWD - IL1635050 | 6 | INADEQUATE PLANT CAPACITY | 2200 | 6/17/1996 |
| NORTHWEST BELMONT IMPRV ASSN - IL0435900 | 2 | INADEQUATE PRESSURE TANK | 78 | 9/29/1981 |
| OAK RIDGE SD - IL2035300 | 1 | INADEQUATE PRESSURE TANK | 240 | 3/20/1981 |
| OLIVET NAZARENE UNIVERSITY - IL0915279 | 1 | INADEQUATE PRESSURE TANK | 0 | 3/15/1994 |
| OPHIEM PWS - IL0735150 | 1 | INADEQUATE PRESSURE TANK | 100 | 6/18/1982 |
| OSCO MUTUAL WATER SUPPLY COMPANY, INC. - IL0735200 | 1 | INADEQUATE PRESSURE TANK | 115 | 12/15/1989 |
| PANAMA - IL0054720 | 6 | TTHM, DBP, INAD STORAGE | 380 | 1/1/2006 |
| PATOKA - IL1210400 | 6 | INADEQUATE PLANT CAPACITY | 731 | 3/15/1997 |
| POLO DR AND SADDLE RD SUBDIVISION - IL0437000 | 2 | INADEQUATE PRESSURE TANK | 90 | 12/17/1982 |
| PORTS SULLIVAN LAKE OWNERS ASSOCIATION - IL0971160 | 2 | INADEQUATE PRESSURE TANK | 293 | 6/15/1999 |

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Illinois Environmental Protection Agency
 Division of Public Water Supplies
 Restricted Status List - Public Water Supplies
 APRIL 2008

| <i>SYSTEM NAME</i> | <i>EPA RGN</i> | <i>NATURE OF PROBLEM</i> | <i>POP SERVED</i> | <i>LISTING DATE</i> |
|------------------------------------------------------|--------------------|-----------------------------|-----------------------|-------------------------|
| PRAIRIE RIDGE ASSOCIATION - IL1115730 | 2 | INADEQUATE PRESSURE TANK | 130 | 10/1/2004 |
| RIDGECREST NORTH SUBDIVISION - IL0635250 | 2 | INADEQUATE PRESSURE TANK | 60 | 9/16/1993 |
| RIDGEWOOD LEDGES WATER ASSOCIATION - IL1615670 | 1 | INADEQUATE PRESSURE TANK | 370 | 3/20/1981 |
| RIDGEWOOD SUBDIVISION - IL1977650 | 2 | INADEQUATE PRESSURE TANK | 250 | 6/18/1982 |
| SHAWNITA TRC WATER ASSOCIATION - IL1977690 | 2 | INADEQUATE PRESSURE TANK | 125 | 9/17/1992 |
| SILVIS HEIGHTS WATER CORP - IL1615750 | 1 | INADEQUATE HYDRO STORAGE | 1600 | 12/1/2003 |
| SKYVIEW SBDV - IL0915526 | 2 | INADEQUATE PRESSURE TANK | 45 | 3/16/1990 |
| ST CHARLES COMMISSION WELLFUND 3 - IL0437040 | 2 | INADEQUATE PRESSURE TANK | 30 | 12/15/1989 |
| STRATFORD WEST APARTMENTS - IL1095200 | 5 | INADEQUATE PRESSURE TANK | 39 | 12/17/1982 |
| SUBURBAN HEIGHTS SUBDIVISION - IL1615800 | 1 | INADEQUATE PRESSURE TANK | 82 | 12/16/1983 |
| SUMMIT HOMEOWNERS ASSOCIATION - IL0975280 | 2 | INADEQUATE PRESSURE TANK | 39 | 3/16/1984 |
| SUNNY HILL ESTATES SUBDIVISION - IL0735300 | 1 | INADEQUATE PRESSURE TANK | 525 | 6/15/2000 |
| SUNNYLAND SUBDIVISION - IL1977730 | 2 | INADEQUATE PRESSURE TANK | 350 | 9/16/1983 |
| SWEDONA WATER ASSOCIATION - IL1315200 | 1 | INADEQUATE PRESSURE TANK | 157 | 6/15/1990 |
| SYLVAN LAKE 1ST SUBDIVISION - IL0977100 | 2 | INADEQUATE PRESSURE TANK | 210 | 6/14/1991 |
| TOWNERS SUBDIVISION - IL0977250 | 2 | INADEQUATE PRESSURE TANK | 210 | 1/14/1982 |
| UTILITIES INC HOLIDAY HILLS - IL1115350 | 2 | INADEQUATE PRESSURE TANK | 729 | 9/16/1983 |
| UTL INC-LAKE HOLIDAY - IL0995200 | 1 | INAD SOURCE & TREATMENT PLT | 5460 | 9/15/1998 |
| UTL INC-NORTHERN HILLS UTILITIES COMPANY - IL1775050 | 1 | INADEQUATE PRESSURE TANK | 500 | 3/15/1996 |
| UTL INC-WALK-UP WOODS WATER COMPANY - IL1115800 | 2 | INADEQUATE PRESSURE TANK | 654 | 12/17/1982 |
| WEST SHORE PARK SUBDIVISION - IL0977370 | 2 | INADEQUATE PRESSURE TANK | 528 | 6/15/2000 |
| WEST SHORELAND SUBDIVISION - IL0977050 | 2 | INADEQUATE PRESSURE TANK | 189 | 6/14/1991 |
| WIENEN ESTATES - IL0850030 | 1 | INADEQUATE PRESSURE TANK | 70 | 12/15/1997 |
| WONDER LAKE WATER COMPANY - IL1115750 | 2 | INADEQUATE PRESSURE TANK | 1442 | 6/16/1994 |
| YORK CENTER COOP - IL0437550 | 2 | INADEQUATE PRESSURE TANK | 240 | 6/15/1988 |

WATER SYSTEMS REMOVED FROM PREVIOUS LIST

BUCKINGHAM – IL0910250

MOECHEVILLE WATER SUPPLY – IL0895300

* DENOTES ADDED WATER SUPPLIES

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Illinois Environmental Protection Agency
 Division of Public Water Supplies
 Critical Review List - Public Water Supplies
 APRIL 2008

| <i>SYSTEM NAME</i> | <i>EPA RGN</i> | <i>NATURE OF PROBLEM</i> | <i>POP SERVED</i> | <i>LISTING DATE</i> |
|-----------------------------------------------|--------------------|-------------------------------------|-----------------------|-------------------------|
| ANDALUSIA - IL1610050 | 1 | INADEQUATE PRESSURE TANK | 1050 | 12/1/2003 |
| ARENZVILLE - IL0170050 | 5 | INADEQUATE PRESSURE TANK | 408 | 3/14/2001 |
| BEASON CHESTNUT PWD - IL1075150 | 5 | INAD PLANT & SOURCE CAP | 600 | 6/15/2004 |
| BROWNING - IL1690050 | 5 | INADEQUATE SOURCE CAPACITY | 175 | 3/15/1998 |
| CANTON – IL0570250 | 5 | INSUFFICIENT TREATMENT CAPACITY | 13932 | 3/15/2007 |
| CASEYVILLE - IL1630250 | 6 | INADEQUATE STORAGE | 9900 | 10/1/2004 |
| CEDARVILLE - IL1770050 | 1 | EMERGENCY POWER | 800 | 1/1/2006 |
| COLLINSVILLE – IL1194280 | 6 | INADEQUATE STORAGE | 29500 | 1/1/2008 |
| COLUMBIA - IL1330050 | 6 | INADEQUATE PUMPING CAPACITY | 8365 | 3/15/1998 |
| CROPPERS 1ST 4TH AND 5TH ADDITION - IL1615250 | 1 | UNDERSIZED WATERMANS | 650 | 1/1/2006 |
| DE PUE - IL0110300 | 1 | INADEQUATE TREATMENT PLANT | 1729 | 12/15/1993 |
| EFFINGHAM – IL0490250 | 4 | INADEQUATE DISINFECTION | 12384 | 7/1/2006 |
| ELIZABETH - IL0850150 | 1 | LOW SYSTEM PRESSURE | 682 | 6/15/1999 |
| ELLIS GROVE – IL1570200 | 6 | INSUFFICIENT STORAGE CAPACITY | 720 | 10/1/2007 |
| EXETER-MERRITT WATER COOP - IL1710010 | 5 | INADEQUATE PRESSURE TANK | 428 | 10/1/2004 |
| GALENA - IL0850200 | 1 | LOW SYSTEM PRESSURE | 3640 | 6/15/1999 |
| GRIGGSVILLE – IL1490300 | 5 | INADEQUATE TREATMENT PLANT CAPACITY | 1259 | 10/1/2006 |
| HAMEL - IL1190450 | 6 | INADEQUATE STORAGE CAPACITY | 650 | 1/1/2006 |
| HOLIDAY SHORES SD - IL1195110 | 6 | INADEQUATE STORAGE CAPACITY | 3192 | 1/1/2006 |
| JOY - IL1310100 | 1 | LOW SYSTEM PRESSURE | 373 | 6/15/1999 |
| LA MOILLE - IL0110500 | 1 | INADEQUATE PLANT CAPACITY | 750 | 6/15/1999 |
| LA SALLE - IL0990300 | 1 | INAD PLANT & SOURCE CAPACITY | 9700 | 11/1/2004 |
| LACON - IL1230100 | 1 | UNDERSIZED WATERMANS | 1979 | 1/1/2006 |
| LEE - IL1034600 | 1 | INADEQUATE PRESSURE TANK | 350 | 10/1/2004 |
| MALDEN - IL0110550 | 1 | UNDERSIZED WATERMANS | 370 | 1/1/2006 |
| MARION - IL1990550 | 7 | INADEQUATE SOURCE CAPACITY | 14610 | 11/1/2001 |
| *MARYVILLE – IL1190750 | 5 | INADEQUATE STORAGE | 800 | 3/17/2008 |
| MASON CITY - IL1250350 | 5 | INADEQUATE STORAGE CAPACITY | 2558 | 1/1/2006 |
| MATHERSVILLE - IL1310200 | 1 | INADEQUATE SYSTEM PRESSURE | 793 | 9/13/2000 |
| MC HENRY SHORES WATER COMPANY - IL1115020 | 2 | LOW SYSTEM PRESSURE | 1813 | 9/17/1992 |
| MECHANICSBURG-BUFFALO WTR CMSN - IL1675150 | 5 | INADEQUATE SOURCE CAPACITY | 1350 | 3/15/1998 |

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Illinois Environmental Protection Agency
Division of Public Water Supplies
Critical Review List - Public Water Supplies
APRIL 2008

| <i>SYSTEM NAME</i> | <i>EPA RGN</i> | <i>NATURE OF PROBLEM</i> | <i>POP SERVED</i> | <i>LISTING DATE</i> |
|---------------------------------------------------|--------------------|---------------------------------------------------------|-----------------------|-------------------------|
| O'FALLON – IL1970050 | 2 | INADEQUATE STORAGE CAPACITY | 43596 | 10/1/2006 |
| OTTER CREEK LAKE UTILITIES DISTRICT - IL2015320 | 1 | INADEQUATE STORAGE CAPACITY | 2753 | 1/1/2006 |
| OTTER LAKE WTR CMSN ADGPTV – IL1175200 | 5 | INADEQUATE PLANT CAPACITY | 1251 | 7/1/2006 |
| SCALES MOUND - IL0850400 | 1 | LOW SYSTEM PRESSURE | 400 | 9/15/1997 |
| SENECA - IL0991050 | 1 | INADEQUATE PLANT CAPACITY AND UNDERSIZED WATER MAINS | 2053 | 6/15/1999 |
| SOUTH HIGHWAY PWD - IL0775400 | 7 | LOW SYSTEM PRESSURE & UNDERSIZED WATERMAINS | 8420 | 1/1/2006 |
| STOCKTON - IL0850450 | 1 | LOW SYSTEM PRESSURE | 1871 | 6/15/1984 |
| SUMNER - IL1010300 | 7 | LOW SYSTEM PRESSURE | 1481 | 12/13/1985 |
| UTL INC-LAKE MARIAN WATER CORPORATION - IL0895200 | 2 | INAD PRES STORAGE & LOW SYS PRES | 924 | 9/14/1984 |
| WALNUT HILL - IL1210600 | 6 | LOW SYSTEM PRESSURE | 1470 | 6/14/1985 |
| WATERLOO - IL1330300 | 6 | INADEQUATE STORAGE | 7614 | 10/1/2004 |
| * WITT – IL1350850 | 5 | INADEQUATE TREATMENT CAPACITY | 991 | 3/17/2008 |
| WORDEN - IL1191200 | 6 | INADEQUATE STORAGE CAPACITY | 906 | 1/1/2006 |

WATER SYSTEMS REMOVED FROM PREVIOUS LIST

* DENOTES ADDED WATER SUPPLIES

Restricted Status/Critical Review

The Environmental Protection Act prohibits the Agency from issuing a construction permit that will cause or extend a violation. A construction permit to expand the distribution system cannot be granted when a water supply has a maximum contaminant level or treatment technique violation, an inadequate source of raw water supply, inadequate treatment plant capacity, finished water storage or distribution system pressure. A Restricted Status List is published quarterly in the Illinois Pollution Control Board Environmental Register to notify those persons considering expansion of a water supply distribution system of that status before large sums of money have been spent on items such as land acquisition, financing and engineering fees. A companion Critical Review List is published concurrently with the Restricted Status List and has the water supplies that are approaching a point where the supply could be placed on Restricted Status. A permit application from a supply on Critical Review will be examined carefully to ensure that the proposed construction will not cause a violation. Restricted Status and Critical Review are presented as a combined list with the status of the water supply denoted as either RS (Restricted Status) or CR (Critical Review). The current list reflects the status as of April 1, 2008. An asterisk, *, beside the water supply indicates public water supplies that have been added to the Restricted Status/Critical Review list since the previous publication.

Restricted Status List

The Restricted Status List was developed to give additional notification to officials of public water supplies which are in violation of 35 Ill. Adm. Code, Subtitle F: Public Water Supplies, Chapter I or the Illinois Environmental Protection Act.

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The Restricted Status List will include all Public Water Supplies for which the Agency has information indicating a violation of any of the following requirements: Finished water quality requirements of 35 Ill. Adm. Code, Part 604, Subparts B and C; maintenance of adequate pressure on all parts of the distribution system under all conditions of demand; meeting raw water quantity requirements of 35 Ill. Adm. Code 604.502; or maintenance of treatment facilities capable of providing water "assuredly adequate in quantity" as required by Section 18 of the Illinois Environmental Protection Act.

A public water supply on the Restricted Status List will not be issued permits for water main extensions, except for certain limited situations, or unless the supply has been granted a variance from the Illinois Pollution Control Board for the violation, or from permit issuance requirements of Section 39 of the Act.

This list is continually being revised as new information becomes available, and therefore, specific inquiries as to the status of any public water supply should be directed to the Division of Public Water Supplies for final determination.

Critical Review List

The Critical Review List was developed to give additional notification to officials of public water supplies which may be close to being in violation of 35 Ill. Adm. Code, Subtitle F: Public Water Supplies, Chapter I or the Illinois Environmental Protection Act.

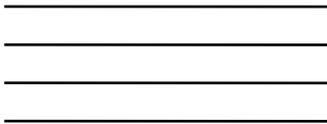
A supply will be placed on the Critical Review List when Agency records indicate that it is approaching any of the violations that would place it on the Restricted Status List.

This list is continually being revised as new information becomes available, and therefore, specific inquiries as to the status of any public water supply should be directed to the Division of Public Water Supplies for final determination.

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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Illinois Pollution Control Board
Environmental Register Coordinator
1021 N. Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274