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# Environmental Register

January 2012 - Number 691

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

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Thomas Holbrook, Chairman

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# Letter from the Chairman

During January, the Board acted in several rulemaking proposals, and those activities are summarized below. As always, information about these proceedings is available through the Clerk's Office Online (COOL) on our Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

On January 5, 2012, the Board adopted identical-in-substance rules updating the Illinois underground injection control (UIC) regulations. These rules incorporate United States Environmental Protection Agency (USEPA) carbon sequestration well requirements into the Illinois' regulations. The rulemaking, docketed as In the Matter of: UIC Update, USEPA Amendments (July 1, 2012 through December 31, 2010 (R11-14), creates a new class of injection wells and institutes new requirements for them.

On January 5, 2012, the Board proposed identical-in-substance amendments to update the Illinois hazardous waste regulations. The proposal amends the land disposal restrictions relating to carbamate wastes, and the hazardous waste manifest printing requirements. This matter is docketed as In the Matter of: RCRA Subtitle C Update, USEPA Amendments (January 1, 2011 through June 30, 2011) (R12-7).

On January 5, 2012, the Board adopted a first-notice opinion and order proposing amendments to the Board's rules addressing volatile organic material (VOM) emissions from various consumer products and aerosol coatings. The rulemaking, docketed as In the Matter of: Amendments to 35 Ill. Adm. Code Part 223: Standards and Limitations for Organic Material Emissions for Area Sources (R12-8), proposes to amend Part 223 to include limits for adhesive removers, contact adhesives, non-aerosol antistatic products, electrical cleaners, engine degreasers, fabric refreshers, footwear or leather care products, graffiti removers, hair styling products, shaving gels, and wood cleaners.

On January 5, 2012, the Board adopted amendments that sunset the steady-state idle and evaporative system integrity test standards used in Illinois' enhanced vehicle inspection and maintenance program for the Chicago and Metro-East St. Louis nonattainment areas. The rulemaking was docketed as In the Matter of: Revision of Enhanced Vehicle Emission Inspection and Maintenance (I/M) Regulations: Amendments to 35 Ill. Adm. Code Part 240 (R12-12). The amendments became effective February 1, 2012.

On January 19, 2012, the Board adopted for second notice a proposal to amend the Board's underground storage tank (UST) regulations. The rulemaking proposal is docketed as In the Matter of: Underground Storage Tanks (35 Ill. Adm. Code 731) and Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732 and 734), (R11-22). The Joint Committee on Administrative Rules is expected to consider this proposal at its March meeting.

Additional information about these rulemakings can be viewed at the Board's website [www.ipcb.state.il.us](http://www.ipcb.state.il.us).



Sincerely,

A handwritten signature in cursive script that reads "Thomas Holbrook". The signature is written in dark ink on a light background.

Thomas Holbrook  
Chairman

## Inside This Issue:

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APPELLATE UPDATE	P. 1
RULEMAKING UPDATE	P. 4
BOARD ACTIONS	P. 7
NEW CASES	P. 11
PROVISIONAL VARIANCES	P. 12
BOARD CALENDAR	P. 12
RESTRICTED STATUS/CRITICAL REVIEW	P. 14

## Appellate Update

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### **Toyal America, Inc. v. Illinois Pollution Control Board, 2012 IL App (3d) 100585 (Op.).**

On February 3, 2012, the Third District Appellate Court issued a precedential opinion affirming the Board's civil penalty decision in Toyal America, Inc. v. Illinois Pollution Control Board, 2012 IL App (3d) 100585 (Op.). The action before the Board (PCB 00-211) was initiated in 2000 when the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Toyal America, Inc. (Toyal), an aluminum products manufacturer located in Lockport, Will County. The Board's July 15, 2010 order found that Toyal had, for eight years, violated regulations requiring the control and reduction of volatile organic material (VOM) emissions in the Chicago ozone nonattainment area. The Board imposed the People's requested \$716,440 penalty on Toyal, which the company appealed to the Third District. In turn, the court provided the first precedential appellate decision in over fifteen years to address the propriety of a civil penalty under both Section 33(c) and Section 42(h) of the Environmental Protection Act (Act) (415 ILCS 5/33(c), 42(h)). In doing so, the court gave an individual analysis of each of the five enumerated Section 33(c) factors and each of the seven enumerated Section 42(h) factors. The court's opinion is also the first appellate precedent addressing a respondent's "forgone benefit" challenge to the economic benefit component of a civil penalty under Section 42(h)(3). Summarized below is the court's unanimous affirmation of the Board.

**Background.** Toyal is part of the Toyal Group of companies, an international manufacturer of aluminum powders and pigments for automotive and industrial coating markets. Op. at ¶3. Under the "Reasonably Available Control Technology" (RACT) requirements of the federal Clean Air Act (42 U.S.C. 7401 *et seq.*), the Board adopted 35 Ill. Adm. Code 218.986(a), requiring any facility in the Chicago ozone nonattainment area with the potential to emit at least 25 tons of VOM per year to control and reduce its VOM emissions by at least 81 percent. Toyal operated in violation of the regulation from its March 15, 1995 effective date until April 2003. Op. at ¶4. Upon a February 1992 request by the Illinois Environmental Protection Agency (IEPA), Toyal reported actual VOM emissions of 28.07 tons in 1990 and 33.61 tons in 1991. Op. at ¶6. Toyal submitted a Clean Air Act Permit Program (CAAPP) permit application to IEPA in March 1996, disclosing that the company's emission units were noncompliant with Section 218.986(a), but representing that the company would install control equipment and demonstrate compliance by November 1998. Op. at ¶7. In early 1997, Toyal hired a consultant and sought internal company approval to investigate emission controls. Op. at ¶8.

In May 1998, Toyal submitted to IEPA a construction permit application to build and use a recuperative catalytic oxidizer (RCO) to control VOM emissions. Op. at ¶8. On December 1, 1998, the RCO was operational, but Toyal cancelled a stack test scheduled with IEPA when the company learned the RCO would not demonstrate compliance. Toyal then failed to conduct another scheduled stack test or "any other test for over four more years." Op. at ¶9. In April 2001, Toyal submitted another construction permit application to IEPA, this time proposing to control VOM emissions with a regenerative thermal oxidizer (RTO), rather than the RCO. The application also addressed Toyal's proposed \$5 to \$6 million facility expansion. Op. at ¶¶10-11. The RTO was to control seven separate processing units, consisting of 83 separate emission sources, none of which were compliant. Toyal advised IEPA that the RTO

would be tested for compliance in May 2002, but Toyal later sought an extension. Toyal received the extension but never purchased the RTO. Op. at ¶11.

In 2002, Toyal again sought to delay the compliance test, admitting that previously, the company had “internal management issues” causing “friction” with IEPA and “did not understand the [compliance] problem enough to resolve it.” Op. at ¶12. In late 2002, Toyal abandoned the RTO proposal and instead proposed using a “modified” RCO, by connecting the RCO purchased in 1998 to more of the facility’s VOM emission sources. Toyal demonstrated compliance with Section 218.986(a) on April 23, 2003. Op. at ¶13. Partially due to the modified RTO causing periodic shutdowns, Toyal replaced the unit with a catalytic recuperative oxidizer (CRO). Toyal arranged for permitting, construction, and operation of the CRO within one year. Op. at ¶14.

**Board Proceedings.** In May 2000, the People filed a complaint against Toyal with the Board, alleging, among other things, that Toyal violated Section 218.986(a) by failing to control VOM emissions and that this failure caused, allowed, or threatened air pollution in violation of Section 9(a) of the Act (415 ILCS 5/9(a)). Op. at ¶16. As Toyal did not contest the alleged violations, the hearing before a Board hearing officer concerned only the appropriate penalty for Toyal’s eight years of noncompliance. Op. at ¶17. The People’s economic expert estimated that the total economic benefit Toyal accrued from its noncompliance was \$316,449, based upon delayed and avoided capital expenditures during the 8-year noncompliance period, plus interest for delayed penalty payment. Op. at ¶¶18-19. Toyal’s economic expert calculated an economic benefit of \$292,371, but then “reduced” the company’s economic benefit by over \$1 million in “potential cost savings” from increased solvent recovery that Toyal purportedly would have enjoyed if the company had timely complied in 1995. Op. at ¶¶20-21. Relying upon the BEN User’s Manual (BEN Manual) of the United States Environmental Protection Agency (USEPA), Toyal’s economic expert asserted that such “forgone benefits” should offset whatever economic benefits were otherwise accrued by the violator. Op. at ¶22.

Based on unfair surprise, the Board hearing officer granted the People’s motion to exclude Toyal’s supplemental expert opinion on economic benefit, which was served on the People two days before hearing. The supplemental opinion maintained that Toyal’s economic benefit from noncompliance should be further offset by Toyal’s purchase of a vacuum chiller unit in 2001. Toyal’s April 2001 permit application included a proposal for installing the vacuum chiller and connecting it to VOM sources. Toyal never installed the vacuum chiller and admitted that its purchase was a mistake. Op. at ¶24. As an offer of proof, the hearing officer accepted the supplemental report and related testimony, and the People’s post-hearing briefing reasserted their objection to the materials. Op. at ¶25.

In its order, the Board found that Toyal committed the violations alleged. The Board also affirmed the hearing officer’s evidentiary ruling that Toyal’s supplemental economic benefit opinion on the vacuum chiller constituted unfair surprise. The Board therefore refused to consider the corresponding exhibits and testimony. Op. at ¶27. Based upon the factors set forth in Sections 33(c) and 42(h) of the Act, the Board imposed a \$716,440 civil penalty on Toyal, consisting of the company’s \$316,440 economic benefit plus \$50,000 for each year of the company’s eight-year noncompliance period. Op. at ¶¶28-32.

**Third District’s Analysis.** Toyal conceded its violations, appealing only the \$716,440 civil penalty imposed by the Board. Toyal argued that the penalty was excessive and based upon the Board misconstruing Sections 33(c) and 42(h) of the Act. Op. at ¶34. Applying a “dual standard of review,” the court held that the Board’s factual findings regarding the factors of Sections 33(c) and 42(h) were “not contrary to the manifest weight of the evidence” and that the Board’s “discretionary decision to impose a \$716,400 civil penalty was not clearly arbitrary, capricious or unreasonable.” Op. at ¶35, 37.

The court addressed each Section 33(c) factor individually in reviewing the Board’s decision on whether to impose a civil penalty. The court found that the record supported the Board’s weighing of the first factor (“character and degree of injury to or interference with the protection of the health, general welfare, and physical property of the people”) against Toyal. The court noted the Board’s finding that Will County has been designated an ozone nonattainment area in an attempt to improve air quality. In addition, the “fact alone” that Toyal did not challenge its VOM emission control and air pollution violations “supports the Board’s finding as to this factor.” Op. at ¶40. The court agreed with the Board that the second factor (“social and economic value of the pollution source”) “generally weighed in favor” of Toyal, noting that the company’s employment of 89 people “establishes some social/economic value.” Op. at ¶41. However, the court ruled that nothing in the record refuted the Board’s finding that Toyal’s social and economic value was considerably undercut during the eight-year period of VOM noncompliance in a severe ozone nonattainment area. Op. at ¶41. The court similarly upheld the Board’s like finding that the third factor

under Section 33(c) (“suitability or unsuitability of the pollution source to the area in which it is located”) weighed only “slightly” in Toyal’s favor. Op. at ¶42. The court ruled that the record supported the Board’s finding that the fourth factor (“technical practicability and economic reasonableness of reducing or eliminating the emissions”) weighed against Toyal. The court emphasized that it took Toyal eight years to comply, and yet when the Board adopted Section 218.986(a), the Board concluded that the requirements were technically feasible and economically reasonable. The court stressed that Toyal ultimately relied upon familiar technology to achieve compliance, arranged for permitting, construction, and operation of the new CRO system within one year, and never requested a variance from the Board. Op. at ¶43. Finally, the court agreed with the Board that the fifth factor (“any subsequent compliance”) weighed in favor of Toyal as compliance was achieved in 2003. Op. at ¶44.

Based upon its review of the Board’s consideration of the Section 33(c) factors, the court could not find that the Board’s decision to impose a civil penalty was clearly arbitrary, capricious, or unreasonable. “Like the Board, we stress the long duration of petitioner’s violations. Moreover, we are troubled by the fact that petitioner canceled numerous regulatory tests over the eight-year period. Instead of cancelling tests, petitioner could have sought regulatory relief from the Board. While we, like the Board, acknowledge that the ‘suitability’ and ‘social/economic value factors’ weigh in favor of petitioner, we agree with the Board’s conclusion that these factors are undercut by the length and degree of petitioner’s violations. We also agree with the Board’s determination that it was technically feasible and economically reasonable for petitioner to achieve compliance. Lastly, while petitioner did attain compliance in 2003 this fact does not excuse petitioner’s previous eight years of noncompliance.” Op. at ¶45

Turning to the Board’s consideration of Section 42(h) for the amount of civil penalty, the court addressed each Section 42(h) factor individually. The court ruled that the record supported the Board’s finding that the first factor (“duration and gravity of the violation”) was aggravating and warranted a substantial penalty. The court again noted that eight years of ongoing violations but added that Toyal was “fully aware of its violations throughout the eight-year period.” Op. at ¶48. The court further observed that Toyal used no control equipment from March 15, 1995 through December 1, 1998, in an ozone nonattainment area, and that while there may have been some emission reductions once the RCO was installed, “uncontrolled VOM emissions still continued as it took petitioner over five years from the installation of the original RCO to gain compliance.” *Id.* “At no time did petitioner cease operations to control VOM emissions or seek regulatory relief.” *Id.* The court similarly upheld the Board’s like finding that the second factor under Section 42(h) (“presence or absence of due diligence on the part of the entity in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom”) was aggravating and warranted a substantial penalty. The court agreed with the Board that it was Toyal’s “obligation to determine what VOM requirements applied to it, and to timely achieve compliance or seek regulatory relief.” Op. at ¶49. Instead of doing either, Toyal “jumped from one solution to another, only to abandon certain solutions before even implementing them.” *Id.* While it did appear that Toyal was having “some internal management issues,” the company was “able to plan, execute and pay for a major expansion of the facility” and ultimately have the CRO unit ready within one year. *Id.* “We agree with the Board’s conclusion that VOM compliance took a back seat to other business considerations.” *Id.*

As to the third Section 42(h) factor (“any economic benefits accrued by the entity because of delay in compliance”), the court found “no reason to disturb the Board’s credibility finding” that the People’s economic expert properly calculated Toyal’s accrued economic benefit from noncompliance at \$316,440. Op. at ¶50. The court first found that because Toyal “failed to directly challenge” the Board’s affirmation of the hearing officer’s ruling on the vacuum chiller issue, Toyal “waived” the issue. *Id.*, n.4. The “only significant challenge” posed to the People’s economic benefit calculation involved the “forgone benefit theory.” Op. at ¶50. Toyal argued that chapter 4, section 7 of USEPA’s “BEN Manual requires that a violating entity be allowed to offset its economic benefits” where compliance is cheaper than noncompliance. Op. at ¶51. The court agreed with the Board’s reasoning that “allowing a violating entity to offset its economic benefits would undermine the deterrence purpose of the economic benefit penalty because entities that fail to comply with regulations could face no penalty for the economic benefits they gained due to their noncompliance.” Op. at ¶52; *see also id.*, n.5 (noting Board citation to People v. Panhandle Eastern Pipeline Co., PCB 99-191 (Nov. 15, 2001), in support of holding). The court added: “More importantly, however, we note that chapter 4 of the BEN Manual merely identifies ‘ISSUES THAT ARISE WITH BEN.’ It does not expressly provide that a violating entity be allowed to offset its economic benefits.” Op. at ¶52. Lastly, the court quoted the Board’s decision in People v. Packaging Personified, Inc., PCB 04-16, slip op. at 37 (Sept. 8, 2011), for the proposition that “the BEN Manual is not binding upon the Board.” *Id.*

The court upheld the Board's finding that the fourth factor ("amount of monetary penalty which will serve to deter further violations by the entity and to otherwise aid in enhancing voluntary compliance") was aggravating. The court noted the Board's observation that with VOM standards constantly being tightened to reach ozone attainment, "sources that become newly subject to VOM regulations must be deterred from relying on the Board to notify them that they are subject to rules." Op. at ¶52. The court continued: "it is imperative that a violating entity, who has failed to comply with regulations for eight years, be held accountable for its actions, or lack thereof. Failure to do so would not only defeat the purpose of the Act, but would also likely result in more entities avoiding compliance due to the fact there would be no consequences to their actions." *Id.* The court deferred to the Board's finding that the fifth factor ("number, proximity in time, and gravity of previously adjudicated violations of this Act by the entity") was "slightly mitigating." Op. at ¶54. The Board based its finding on Toyal having settled other counts of the People's complaint before hearing. The court, however, "would have considered the five other violations/counts against petitioner had we been in the Board's position." *Id.* The court also deferred to the Board's ruling that the sixth factor ("whether the entity voluntarily self-disclosed") weighed, as Toyal suggested, neither for nor against the company. Op. at ¶55. On the seventh and final Section 42(h) factor ("whether the entity has agreed to undertake a 'supplemental environmental project'"), the court agreed with the Board that the factor was "inapplicable due to the fact that the parties did not agree to a settlement within the meaning of section 42(h)(7)." Op. at ¶56.

The court noted that under Section 42(a) of the Act (415 ILCS 5/42(a)), the Board is authorized to impose a civil penalty of up to \$50,000 for each violation of the Act or any Board regulation and an additional civil penalty of up to \$10,000 for each day during which the violation continues. In assessing the penalty against Toyal, the Board found that "the maximum possible penalty under section 42(a) was \$59,820,000 (two separate violations for 2,986 days)" and that the People had waived any award of attorney fees. Op. at ¶57. The court further observed that the Board also considered the penalty "in light of its previous decisions and general penalty authority." *Id.* The court held: "In light of these facts, we find that the Board's penalty was not arbitrary, capricious or unreasonable. Instead, the penalty was supported by section 42(h), including the mandate that penalties be at least as great as the economic benefits accrued by the respondent as a result of the violation. Moreover, the penalty is well within the range provided for in section 42(a)." Op. at ¶ 58. For these reasons, the Third District Appellate Court affirmed the Board's order imposing a \$716,440 civil penalty on Toyal. Op. at ¶¶ 59-60.

## **Rulemaking Update**

### **Board Timely Adopts Final Amendments to the Enhanced Vehicle Emission Inspection and Maintenance (I/M) Regulations, R12-12**

On January 5, 2012, the Board timely adopted amendments that sunset the steady-state idle and evaporative system integrity test standards used in the Illinois enhanced vehicle inspection and maintenance program for the Chicago and Metro-East St. Louis nonattainment areas. The Illinois Environmental Protection Agency (IEPA), on October 3, 2011, filed the proposed rulemaking which was docketed as [In the Matter of: Revision of Enhanced Vehicle Emission Inspection and Maintenance \(I/M\) Regulations: Amendments to 35 Ill. Adm. Code Part 240 \(R12-12\)](#).

Under the provisions of Section 13C-20(a) of the Vehicle Emissions Inspection Law (VEIL) of 2005 (625 ILCS 5/13C-20(a) (2010)), the Board was required to adopt final rules no later than January 31, 2012. The amendments are effective February 1, 2012, and were published at 36 Ill. Reg. 1066 (Jan. 27, 2012).

These adopted rules implement VEIL as amended by P.A. 97-0106, signed July 14, 2011 and effective Feb. 1, 2012. This legislation repeals the steady-state idle and evaporative system integrity emissions tests, exempts pre-2007 heavy-duty vehicles with gross vehicle weight rating (GVWR) between 8,501 and 14,000 pounds and any heavy-duty vehicles with a GVWR greater than 14,000 pounds, and adds a new visual inspection test. The IEPA states that, as a result of sunseting the steady-state idle and evaporative integrity test standards used in the Illinois program as of February 1, 2012, the Illinois program "will continue to be an [on-board diagnostic (OBD)] program – testing subject vehicles using the OBD test, with the exception of a minuscule subset of vehicles that cannot receive the OBD test. These vehicles would receive the new visual inspection test."

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)) and may be downloaded from the Web without charge. Hard copies may be

obtained from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

**Board Adopts Final Rules in *In the Matter of: UIC Update, USEPA Amendments (July 1, 2012 through December 31, 2010), R11-14***

The Board on January 5, 2012, adopted identical-in-substance rulemaking updates to the Illinois underground injection control (UIC) regulations to incorporate revisions to the federal regulations. The federal amendments that prompted this action were made by the United States Environmental Protection Agency (USEPA) during the period of July 1, 2010 through December 31, 2010. During this time, USEPA amended the federal UIC rules once, on December 10, 2010. The adopted rules are scheduled for publication in the *Illinois Register* at 36 Ill. Reg. 1588 (Feb. 3, 2012).

The proposed amendments instituted new requirements to create a new class of injection well, Class VI injection wells, which includes wells used for underground carbon sequestration. The rulemaking incorporates the new USEPA carbon sequestration well requirements to the Illinois UIC regulations. This rulemaking amends 35 Ill. Adm. Code 702, 704, 705, and 730.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)) and may be downloaded from the Web without charge. Hard copies may be obtained from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

For more information contact Michael J. McCambridge at 312-814-6924 or email at [mccamb@ipcb.state.il.us](mailto:mccamb@ipcb.state.il.us).

**Board Adopts Proposal for Public Comment in *In the Matter of: RCRA Subtitle C Update, USEPA Amendments (January 1, 2011 through June 30, 2011), R12-7***

On January 5, 2012, the Board adopted an opinion and order proposing for public comment amendments that would update the Illinois hazardous waste regulations to include amendments adopted by the United States environmental Protection Agency (USEPA) during the time period that embraces the first half of the calendar year 2011. The proposed amendments are scheduled to be published in the *Illinois Register* at 36 Ill. Reg. 1219 (Feb. 3, 2012). The Board will hold the docket open to receive public comments for 45 days after the date of publication.

During this time USEPA amended the land disposal restrictions relating to carbamate wastes on June 13, 2011, and the hazardous waste manifest printing requirements on June 22, 2011. The Board has further included limited additional corrective and clarifying amendments that are not directly derived from current USEPA amendments. Notably, the Board has proposed the following: (1) clarifying a segment of text by addition of a Board not in response to an inquiry by the legislative Joint Committee on Administrative Rules (JCAR); and (2) updating all incorporations by reference of segments of the *Code of Federal Regulations*.

The Board presently intends to adopt final amendments based on this proposal on or before the statutory due date of June 13, 2012.

Public comments must be filed with the Clerk of the Board. Public comments may be filed at the following address: Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601. In addition, public comments may be filed electronically through COOL at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded from the Web without charge. Hard copies may be obtained from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

For more information contact Michael J. McCambridge at 312-814-6924 or email at [mccamb@ipcb.state.il.us](mailto:mccamb@ipcb.state.il.us).

**Board Adopts First Notice Proposal to Reduce Volatile Organic Material Emissions, R12-8**

On January 5, 2012, the Illinois Pollution Control Board adopted a first notice opinion and order amending the Board's regulations dealing with volatile organic material (VOM) emissions from various consumer products and aerosol coatings. The rulemaking is docketed as *In the Matter of: Amendments to 35 Ill. Adm. Code Part 223:*

Standards and Limitations for Organic Material Emissions for Area Sources (R12-8). The Board's first notice proposal was published at 36 Ill. Reg. 727 (Jan. 20, 2012), which began a 45-day public comment period.

The Illinois Environmental Protection Agency (IEPA), on July 13, 2011, filed the proposal to amend Part 223 of the Board's air pollution regulations. Specifically, the proposal seeks to amend 35 Ill. Adm. Code Part 223 to "include limits in percent VOM by weight for adhesive removers, contact adhesives, non-aerosol antistatic products, electrical cleaners, engine degreasers, fabric refreshers, footwear or leather care products, graffiti removers, hair styling products, shaving gels, and wood cleaners." The IEPA expects that control of these additional categories will reduce VOM emissions in Illinois by one ton per day. The IEPA argues that "some of these reductions have already taken place due to nationwide compliance by many of the larger manufacturers of these products with the California or the Ozone Transport Commission (OTC) rules." The rules also propose a clarification of the existing Architectural and Industrial maintenance rule in order to clarify and simplify compliance.

The Board held two public hearings, one in Springfield and the other in Chicago, on the proposed amendments.

During the 45-day public comment period, anyone may file a public comment with the Board. The Board encourages persons to file public comments on these proposed amendments. The docket number for this rulemaking, R12-08, should be indicated on the public comment.

Public comments must be filed with the Clerk of the Board. Public comments may be filed at the following address: Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601. In addition, public comments may be filed electronically through COOL at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

For more information contact Tim Fox at 312-814-6085 or email at [foxt@ipcb.state.il.us](mailto:foxt@ipcb.state.il.us).

### **The Board Adopts for Second Notice a Proposal to Amend Underground Storage Tank Regulations, R11-22**

On January 19, 2012, the Board adopted for second notice review by the Joint Committee on Administrative Rules (JCAR) a proposal to amend the Board's underground storage tank (UST) regulations. The Board made no substantive amendments to its first notice proposal. JCAR has scheduled the rules for review at its March 6, 2012 meeting.

On February 18, 2011, the Illinois Environmental Protection Agency (IEPA) filed the original rulemaking proposal, which is docketed as In the Matter of: Underground Storage Tanks (35 Ill. Adm. Code 731) and Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732 and 734), R11-22. The IEPA filed the proposal pursuant to Public Act 96-908 (P.A. 96-908), which was signed into law and became effective on June 8, 2010.

The IEPA's proposed amendments are intended to update the Board's regulations to reflect P.A. 96-908, which amended and added provisions to Title XVI of the Environmental Protection Act, which addresses USTs. The IEPA stated that it sought to update Part 731 of the Board's regulations "to clarify the application of Part 734 to owners and operators subject to Title XVI. . . ." The IEPA proposed repealing Part 732 "because it no longer has any application after the enactment of P.A. 96-908." The IEPA also sought to amend Part 734 to reflect statutory amendments adopted in P.A. 96-908.

The Board held two public hearings on the proposed rule. During the 45-day first-notice comment period, the Board received one comment from the Illinois Petroleum Marketers Association and Illinois Association of Convenience Stores.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)) and may be downloaded from the Web without charge. Hard copies may be obtained from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

For more information contact Tim Fox at 312-814-6085 or email at [foxt@ipcb.state.il.us](mailto:foxt@ipcb.state.il.us).

# Board Actions

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**January 5, 2012**

**Via video conference**

**Springfield and Chicago, Illinois**

## Rulemakings

<b>R11-14</b>	<u>UIC Update, USEPA Amendments (July 1, 2010 through December 31, 2010)</u> – The Board adopted a final opinion and order in this rulemaking proposal which amends the Board’s underground injection control regulations.	5-0 Land
<b>R12-7</b>	<u>RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (January 1, 2011 through June 30, 2011)</u> – The Board adopted a proposal for public comment in this rulemaking to amend the Board’s hazardous waste regulations.	5-0 Land
<b>R12-8</b>	<u>In the Matter of: Standards and Limitations for Organic Material Emissions for Area Sources; Amendments to 35 Ill. Adm. Code Part 223</u> – The Board adopted a first notice opinion and order in this rulemaking proposal to amend the Board’s air pollution control regulations.	5-0 Air
<b>R12-12</b>	<u>In the Matter of: Revision of Enhanced Vehicle Emission Inspection and Maintenance (I/M) Regulations: Amendments to 35 Ill. Adm. Code Part 240</u> – The Board adopted a final opinion and order in this rulemaking proposal which amends the Board’s air pollution control regulations.	5-0 Air

## Administrative Citations

<b>AC 12-8</b>	<u>County of Macon v. Violet Gossett</u> – The Board granted complainant’s motion for withdrawal of this administrative citation and closed the docket.	5-0
<b>AC 12-14</b>	<u>IEPA v. Harold Dean Foster</u> – The Board accepted respondent’s petition for review, but directed respondent to file an amended petition to cure deficiencies.	5-0
<b>AC 12-15</b>	<u>County of Vermilion, Illinois v. Patricia Wernigk</u> – The Board found that this Vermilion County respondent violated Sections 21(p)(1), (p)(3), and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2010)), and ordered respondent to pay a civil penalty of \$4,500.	5-0
<b>AC 12-17</b>	<u>IEPA v. Loves Park Auto Parts Company</u> – The Board accepted respondent’s petition for review, but directed respondent to file an amended petition to cure deficiencies.	5-0

<b>AC 12-18</b>	<u>IEPA v. F.I.M., Inc.</u> – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Adams County facility.	5-0
<b>AC 12-19</b>	<u>IEPA v. Tim Crouch</u> – The Board found that this Livingston County respondent violated Sections 21(p)(1) and 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 55(k)(1) (2010)), and ordered respondent to pay a civil penalty of \$3,000.	5-0

### **Adjudicatory Cases**

<b>PCB 09-131</b>	<u>People of the State of Illinois v. Mohammad Akrabawi, d/b/a Deerfield Crossings, LLC</u> – In this water enforcement action concerning a DeKalb 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$5,000.00, and to cease and desist from further violations.	5-0 W-E
<b>PCB 11-21</b>	<u>People of the State of Illinois v. Prairieland Investment Group, LLC, and Kevin S. Cook, d/b/a KC Construction</u> – In this air enforcement action concerning a Hancock 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) (2010)), accepted a stipulation and settlement agreement as to Kevin S. Cook, d/b/a KC Construction, ordering the respondent to pay a total civil penalty of \$8,000.00, and to cease and desist from further violations.	5-0 W-E
<b>PCB 11-34</b>	<u>Gas &amp; Mini Mart v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal.	5-0 UST Appeal
<b>PCB 11-51</b> <b>PCB 12-61</b>	<u>Evergreen FS, Inc. v. IEPA</u> – The Board granted petitioner’s motion to consolidate these two underground storage tank appeals for the purposes of hearing.	5-0 UST Appeal
<b>PCB 12-1</b>	<u>People of the State of Illinois v. Hoopeston Foods, Inc.</u> – In this water enforcement action concerning a Vermilion 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$28,500.00, and to cease and desist from further violations.	5-0 W-E
<b>PCB 12-13</b>	<u>People of the State of Illinois v. Knight Hawk Coal, LLC</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Jackson County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E, NPDES
<b>PCB 12-57</b>	<u>City of Taylorville/ Taylorville Municipal Airport v. IEPA</u> – The Board accepted for hearing this amended petition for review and denied respondent’s November 13, 2011 motion to dismiss.	5-0 UST Appeal
<b>PCB 12-59</b>	<u>People of the State of Illinois v. Village of Cave In Rock and Maier's Tidy Bowl, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement as to the Village of Cave In Rock only, and an agreed motion to request relief	5-0 W-E

from the hearing requirement in this land enforcement action involving a Hardin County facility, the Board ordered publication of the required newspaper notice.

- PCB 12-60**      People of the State of Illinois v. Wahl Clipper Corporation – In this land enforcement action concerning a Whiteside 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$15,000.00, and to cease and desist from further violations.      5-0  
L-E
- PCB 12-96**      Conserv FS, Inc. - Woodstock v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s (IEPA) recommendation, the Board found and certified that specified facilities of Conserv FS, Inc. located in McHenry County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)). No action was taken on the IEPA’s recommendation to deny certification of the eight bulk liquid storage tanks as pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2010)) until the appeal time has expired.      5-0  
T-C, W
- PCB 12-97**      Logan Agri Service, Inc. - Griggsville v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s (IEPA) recommendation, the Board found and certified that specified facilities of Logan Agri Service, 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 (2010)). No action was taken on the IEPA’s recommendation to deny certification of the 13 bulk liquid storage tanks as pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2010)) until the appeal time has expired.      5-0  
T-C, W
- PCB 12-98**      LaSalle County Farm Supply - Ottawa v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s (IEPA) recommendation, the Board found and certified that specified facilities of LaSalle County Farm Supply located in LaSalle County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)). No action was taken on the IEPA’s recommendation to deny certification of the eight bulk liquid storage tanks as pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2010)) until the appeal time has expired.      5-0  
T-C, W

## **January 19, 2012 Chicago, Illinois**

### **Rulemakings**

- R11-22**      In the Matter of: Amendments Under P.A. 96-908 to Regulations of Underground Storage Tanks (UST) and Petroleum Leaking UST: 35 Ill. Adm. Code 731, 732, and 734 – The Board adopted a second notice opinion and order in this rulemaking proposal to amend the Board’s underground storage tank regulations.      5-0  
Land

## Administrative Citations

**AC 12-16**      IEPA v. Julie Webber – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Stark County facility.      5-0

## Adjudicatory Cases

**PCB 11-25**      Estate of Gerald D. Slightom v. IEPA – The Board denied the Illinois Environmental Protection Agency’s motion for reconsideration of the November 17, 2011 order denying summary judgment.      5-0  
UST Appeal

**PCB 11-45**      People of the State of Illinois v. Columbus Foods Company, Inc. – In this air enforcement action concerning a Cook County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$50,000.00, and to cease and desist from further violations.      4-0  
Member Burke  
abstained  
A-E

**PCB 12-39**      WRB Refining, LLC, (Gasoline SZorb Unit) v. IEPA – The Board denied the Roxana Community Unit School District’s motion for reconsideration of the September 8, 2011 order in this matter.      4-0  
T-C, A  
Chairman  
Holbrook  
abstained

**PCB 12-40**      WRB Refining, LLC, (Ultralow Sulfur Diesel) v. IEPA – The Board denied the Roxana Community Unit School District’s motion for reconsideration of the September 8, 2011 order in this matter.      4-0  
T-C, A  
Chairman  
Holbrook  
abstained

**PCB 12-63**      Thompson's Pearl Valley Eggs, Inc. v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s (IEPA) recommendation, the Board denied certification of the dry fertilizer storage building, end loader transfer area, manufacturing and bagging process area, a bulk material loading area, and a warehouse used to store bagged dry fertilizer as pollution control facilities of Thompson's Pearl Valley Eggs, Inc. located in Stephenson County for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)). (The Board previously certified that the portions of the identified facilities are pollution control facilities on December 1, 2012, as recommended by the IEPA. Thompson's Pearl Valley Eggs, Inc. (Property ID No. 01-16-03-200-002) v. IEPA, PCB 12-63 (December 1, 2011).)      5-0  
T-C, W

**PCB 12-94**      Citgo Petroleum Corporation and PDV Midwest Refining, L.L.C. v. IEPA – The Board accepted this petition for a variance from water quality standards involving a site located in Lemont, Will County. The Board also granted the Illinois Environmental Protection Agency’s motion for a 30-day extension of the 14-day period for publishing notice of the petition.      5-0  
W-V

**PCB 12-99**      People of the State of Illinois v. Alton Irrigation, Inc. – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement, and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Peoria County facility, the Board ordered publication of the required newspaper notice.      5-0  
W-E

**PCB 12-100** People of the State of Illinois v. Home Depot U.S.A., Inc., – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement, and an agreed motion to request relief from the hearing requirement in this land enforcement action involving two facilities located in Madison and St. Clair Counties facility, the Board ordered publication of the required newspaper notice. 5-0  
L-E

## New Cases

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### January 5, 2012 Board Meeting

**12-94** Citgo Petroleum Corporation and PDV Midwest Refining, L.L.C. v. IEPA – No action taken.

**12-95** Anielle Lipe and Nykole Gillette v. IEPA (Bureau of Air, Permit Section) – No action taken.

**12-96** Conserv FS, Inc. - Woodstock v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s (IEPA) recommendation, the Board found and certified that specified facilities of Conserv FS, Inc. located in McHenry County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)). No action was taken on the Agency’s recommendation to deny certification of the eight bulk liquid storage tanks as pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2010)) until the appeal time has expired.

**12-97** Logan Agri Service, Inc. - Griggsville v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s (IEPA) recommendation, the Board found and certified that specified facilities of Logan Agri Service, 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 (2010)). No action was taken on the Agency’s recommendation to deny certification of the 13 bulk liquid storage tanks as pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2010)) until the appeal time has expired.

**12-98** LaSalle County Farm Supply - Ottawa v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s (IEPA) recommendation, the Board found and certified that specified facilities of LaSalle County Farm Supply located in LaSalle County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)). No action was taken on the IEPA’s recommendation to deny certification of the eight bulk liquid storage tanks as pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2010)) until the appeal time has expired.

**AC 12-20** IEPA v. Shelby and Sons, Inc. – The Board accepted an administrative citation against this Franklin County respondent.

**AC 12-21** IEPA v. Katherine Blunk – The Board accepted an administrative citation against this Iroquois County respondent.

**AC 12-22** IEPA v. Terry L. Young – The Board accepted an administrative citation against this Clay County respondent.

**AC 12-23** IEPA v. Dale Gordon Spradlin and Barbara J. Spradlin – The Board accepted an administrative citation against these Pike County respondents.

### January 19 Board Meeting

**12-99** People of the State of Illinois v. Alton Irrigation, Inc., – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement, and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Peoria County facility, the Board ordered publication of the required newspaper notice.

**12-100** People of the State of Illinois v. Home Depot U.S.A., Inc. – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement, and an agreed motion to request relief from the hearing requirement in this land enforcement action involving two facilities located in Madison and St. Clair Counties facility, the Board ordered publication of the required newspaper notice.

**AC 12-24** IEPA v. Robert A. Gerdes – The Board accepted an administrative citation against this Livingston County respondent.

## **Provisional Variances**

**IEPA 12-07 Engineered Polymer Solutions, Inc. v. Illinois Environmental Protection Agency**—The Illinois Environmental Protection Agency granted Engineered Polymer Solutions, Inc.’s (EPS) request for a 30-day provisional variance pursuant to 35 Ill. Adm. Code 722.134(b). EPA manufactures resins for the paint and coatings market at its facility located at 1400 North State Street in Marengo. Hazardous wastes are generated by its manufacturing processes and stored on-site for removal by a hazardous waste transporter. On January 2, 2012, EPS was informed that the hazardous waste pickup scheduled for January 4, 2012 had been cancelled, and the earliest scheduled pick up would not occur until January 11, 2012. However, the 90-day on-site holding period for some of the hazardous wastes ended January 9, 2012. EPS stated that the hazardous wastes were properly stored and managed at its facility. 35 Ill. Adm. Code 722.134(b) allows a generator to seek an extension of up to 30 days, by means of a variance or provisional variance from the Illinois EPA if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances.

*Public Act 93-0152 (Senate Bill 222) amended Sections 35-37 of the Illinois Environmental Act (415 ILCS 5/5(b) (2008)) so that provisional variances are issued by the Illinois Environmental Protection Agency (IEPA). If the IEPA grants a provisional variance, then the IEPA must file a copy of its written decision with the Board. The Board must maintain copies of the provisional variances for public inspection. Copies of provisional variances can be obtained by contacting the Clerk’s Office at (312) 814-3620, or by visiting the Board’s Website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). If the IEPA denies a provisional variance request, then the applicant may initiate a proceeding with the Board for a full variance.*

## **Calendar**

<p>2/2/2012 11:00 am</p>	<p><b>Illinois Pollution Control Board Meeting</b></p>	<p><b>Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield</b></p>
<p>2/15/12 1:00 PM</p>	<p>R12-13</p>	<p><u>In the Matter of: Proposed Amendments to Nonhazardous Special Waste Hauling and the Uniform Program (35 Ill. Adm. Code 809)</u> Illinois Pollution Control Board Conference Room 11-512 James R. Thompson Center 100 W. Randolph Street Chicago</p>

2/15/12 10:00 AM	PCB 11-51	<u>Evergreen FS, Inc. v IEPA</u> (Consolidated PCB 11-51 and PCB 12-61)	Illinois Pollution Control Board Conference Room, First Floor 1021 North Grand Avenue East (North Entrance) Springfield
2/15/12 10:00 AM	PCB 12-61	<u>Evergreen FS, Inc. v IEPA</u> (Consolidated PCB 11-51 and PCB 12-61)	Illinois Pollution Control Board Conference Room, First Floor 1021 North Grand Avenue East (North Entrance) Springfield
<b>2/16/2012 11:00 am</b>	<b>Illinois Pollution Control Board Meeting</b>		<b>James R. Thompson Center 100 W. Randolph Street Chicago</b>
2/22/12 10:00 AM	PCB 11-56	<u>Green Oil Company v. IEPA</u>	Illinois Pollution Control Board Conference Room, First Floor 1021 North Grand Avenue East (North Entrance) Springfield
<b>3/1/2012 11:00 am</b>	<b>Illinois Pollution Control Board Meeting</b>		<b>James R. Thompson Center 100 W. Randolph Street Chicago</b>
<b>3/15/2012 11:00 am</b>	<b>Illinois Pollution Control Board Meeting</b>		<b>James R. Thompson Center 100 W. Randolph Street Chicago</b>
3/21/12 10:00 AM	AC 11-28	<u>IEPA v Thad and Linda Shafer (IEPA</u> <u>File No. 125-11-AC)</u>	Cumberland County Courthouse Jury Room 1 Courthouse Square Toledo

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

**JANUARY 2012**

<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
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
BIGGSVILLE – IL0710050	5	EXCEEDANCES OF GROSS ALPHA AND COMBINED RADIUM MCL'S	350	4/1/2010
BRADLEY HEIGHTS SUBDIVISION - IL2015050	1	INADEQUATE PRESSURE TANK	192	9/13/1985
BRYANT – IL0570200	5	EXCEEDING THE MCLs FOR COMBINED RADIUM	267	10/1/2010
BUFFALO HOLLOW FARMS WATER ASSOCIATION – IL1430080	5	INADEQUATE PRESSURE STORAGE	44	6/16S/2008
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
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
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

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTING DATE</i>
EDELSTEIN WATER COOPERATIVE – IL1435150	5	EXCEEDING THE MCL's FOR COMBINED RADIUM & GROSS ALPHA PARTICLE ACTIVITY	125	10/1/2010
EVERGREEN VILLAGE SUBDIVISION - IL1615310	1	INADEQUATE PRESSURE TANK	130	3/20/1981
FAIR ACRES SUBDIVISION - IL1975680	2	INADEQUATE PRESSURE TANK	156	10/19/1981
FOREST LAKE ADDITION –LAKE CO PW IL0975500	2	INADEQUATE PRESSURE TANK	204	12/16/1983
FRWRD-SKYLINE PLANT - IL0895030	2	INADEQUATE PRESSURE TANK	700	9/19/1986
GREAT OAKS AND BEACON HILLS APARTMENTS - IL2015488	1	INADEQUATE PRESSURE TANK	2420	12/17/1982
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 WATER ASSOCIATION INC - IL0735100	1	INADEQUATE PRESSURE TANK	100	3/15/1995

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTING DATE</i>
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
MOUND PWD - IL1635050	6	INADEQUATE PLANT CAPACITY	2200	6/17/1996
NORTH HENDERSON - IL1310300	1	INADEQUATE HYDROPNEUMATIC STORAGE	184	7/1/2011
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
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
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
PRAIRIE RIDGE ASSOCIATION - IL1115730	2	INADEQUATE PRESSURE TANK	130	10/1/2004
PRAIRIE ROAD PUMP ASSOCIATION- IL2015100	1	INADEQUATE STORAGE	150	1/1/2006
RIDGECREST NORTH SUBDIVISION - IL0635250	2	INADEQUATE PRESSURE TANK	60	9/16/1993
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
STRATFORD WEST APARTMENTS - IL1095200	5	INADEQUATE PRESSURE TANK	39	12/17/1982
SUBURBAN HEIGHTS SUBDIVISION - IL1615800	1	INADEQUATE PRESSURE TANK	82	12/16/1983
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

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTING DATE</i>
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 UTLITIES 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
WIENEN ESTATES - IL0850030	1	INADEQUATE PRESSURE TANK	70	12/15/1997
WONDER LAKE WATER COMPANY - IL1115750	2	INADEQUATE PRESSURE TANK	1442	6/16/1994

**WATER SYSTEMS REMOVED FROM PREVIOUS LIST**

\* DENOTES ADDED WATER SUPPLIES

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

**JANUARY 2012**

<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
ANNA-JONESBORO WATER COMMISSION – IL1815050	7	LACKS EXISTING TREATMENT CAPACITY	36	7/1/2011
ANNA WATER COMMISSION – IL1810050	7	**	5750	7/1/2011
BEASON CHESTNUT PWD - IL1075150	5	INAD PLANT & SOURCE CAP	600	6/15/2004
CANTON – IL0570250	5	INSUFFICIENT TREATMENT CAPACITY	13932	3/15/2007
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
EDWARDSVILLE – IL1190250	5	INSUFFICIENT PLANT CAPACITY TO HANDLE PEAK SYSTEM WATER DEMAND	24,900	9/16/2008
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
IL AMERICAN-ALTON	6	APPROACHING WATER TREATMENT PLANT CAPACITY	51922	4/1/2009
IL AMERICAN-E ST. LOUIS - IL1635040	6	APPROACHING INADEQUATE STORAGE CAPACITY	155382	1/01/2011
JONESBORO PWS – IL1810250	7	**	1853	7/1/2011
JOY - IL1310100	1	LOW SYSTEM PRESSURE	373	6/15/1999

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTING DATE</i>
LA SALLE - IL0990300	1	INAD PLANT & SOURCE CAPACITY	9700	11/1/2004
LACON - IL1230100	1	UNDERSIZED WATERMAINS	1979	1/1/2006
LICK CREEK PWD – IL1815100	7	**	1929	7/1/2011
MALDEN - IL0110550	1	UNDERSIZED WATERMAINS	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
O'FALLON – IL1631100	2	INADEQUATE STORAGE CAPACITY	43596	10/1/2006
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
SHAWNEE VALLEY PWD – IL1815550	7	**	952	7/1/2011
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**

**\*\* THESE PUBLIC WATER SUPPLIES OBTAIN WATER FROM ANNA-JONESBORO WATER COMMISSION (IL1815050) WHICH LACKS EXISTING TREATMENT CAPACITY.**

## **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 January 1, 2012. 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.

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.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

DIVISION OF WATER POLLUTION CONTROL

RESTRICTED STATUS LIST

In order to comply with 35 Illinois Administrative Code Section 306.401, Illinois Pollution Control Board Regulations, the Illinois EPA has prepared the following list of facilities which are on Restricted Status. Restricted Status is defined as the Agency determination that a sewer or lift station has reached hydraulic capacity or that a sewage treatment plant has reached design capacity, such that additional sewer connection permits may no longer be issued without causing a violation of the Act or Regulations. Please note that the list is continually being revised to reflect the current situation. Therefore, if you have any questions on the capability of a treatment facility or transport system, please contact this Agency for a final determination. This listing reflects the status as of December 31, 2011.

Facility names followed by an asterisk (\*) indicates that construction is underway to ultimately alleviate problems, which resulted in imposition of Restricted Status. Facilities followed by a double asterisk (\*\*) are additions to the list.

<u>FACILITY NAME</u>	<u>RESPONSIBLE AUTHORITY</u>	<u>COUNTY</u>	<u>REMAINING CAPACITY</u>
Bourbonnais (Belle Aire Subd.)	Village of Bourbonnais	Kankakee	0
Camelot Utilities Wastewater Collection System	Camelot Utilities	Will	0
Camp Point (a portion mh 60-68)	Village of Camp Point	Adams	0
Clearview S.D.	Clearview S.D.	McLean	0
Davis Junction	Village of Davis Junction	Ogle	0
East Alton	City of East Alton	Madison	0
Farmington	City of Farmington	Fulton	0
Hurst & Blairville Collection System	City of Hurst	Williamson	0
Port Byron STP	Village of Port Byron	Rock Island	0
Rosewood Heights S.D.- Ninth Street LS	Rosewood Heights S.D.	Madison	0
South Palos Twp. SD	South Palos Twp.	South Palos Twp.	0
Sundale Utilities – Washington Estates STP	Sundale Utilities Corporation	Tazewell	0
Taylorville-Shawnee Ave. Pump Station	City of Taylorville	Christian	0
Utilities Unlimited	Utilities Unlimited	Will	0
Washington (Rolling Meadows)	City of Washington	Tazewell	0

Deletions from previous quarterly report: None

Additions from previous quarterly report: None

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

DIVISION OF WATER POLLUTION CONTROL

CRITICAL REVIEW LIST

In order to comply with 35 Illinois Administrative Code Section 306.401, Illinois Pollution Control Board Regulations, the Illinois Environmental Protection Agency has prepared the following list of facilities which are on Critical Review. Critical Review as defined as the Agency determination that a sewer or lift station is approaching hydraulic capacity or that a sewage treatment plant is approaching design capacity such that additional sewer connection permit applications will require close scrutiny to determine whether issuance would result in a violation of the Act or Regulations. Please note that these lists are continually being revised to reflect the current situation. Therefore, if you have any questions on the capability of a treatment facility or transport system, please contact the Agency for a final determination. This listing reflects the status as of December 31, 2011.

Facility names followed by a double asterisk (\*\*) are additions to the list.

Environmental Register – January 2012

<u>FACILITY NAME</u>	<u>RESPONSIBLE AUTHORITY</u>	<u>COUNTY</u>	<u>REMAINING CAPACITY</u>	<u>PE ADDED SINCE LAST LIST</u>
Aqua Illinois, Inc. University Park	Aqua Illinois, Inc.	Will	644	0
Antioch STP	Village of Antioch	Lake	325	0
Beardstown SD	City of Beardstown	Cass	1485	0
Benton-Southeast STP	City of Benton	Franklin	60	0
Bethalto (L.S. #1)	Village of Bethalto	Madison	87	0
Carrier Mills	Village of Carrier Mills	Saline	836	0
Carrollton	City of Carrollton	Greene	140	0
Citizens Utilities Co. of Ill.- River Grange	Citizens Utilities Co. of Ill.	Will	10	0
Charleston	City of Charleston	Coles	4,895	0
Downers Grove S.D.	Downers Grove S.D.	DuPage	0	0
East Dundee STP	Village of E. Dundee	Kane	460	0
Elkville	Village of Elkville	Jackson	6	0
Ferson Creek Utilities Co.	Utilities, Inc.	Will	70	0
Harvard WWTP	City of Harvard	McHenry	0	0
Hinkley	Village of Hinckley	DeKalb		
LCPWD-Diamond- Sylvan STP	County of Lake Public Works Department	Lake	0	0
Lockport	City of Lockport	Will County	0	0
Moline (North Slope)	City of Moline	Rock Island	1,151	0
Morris STP	City of Morris	Grundy	0	40
New Lenox STP 1***	Village of New Lenox	Will	0	7
Paris STP	City of Paris	Edgar	0	0
Richmond WWTP	City of Richmond	McHenry		
Rock Island (Main)	City of Rock Island	Rock Island	2,704	0
Streator	City of Streator	LaSalle/ Livingston	449	0
Wasco Sanitary District	Wasco Sanitary District	Kane	637	
Wauconda WWTP	Village of Wauconda	Lake	0	0

Deletions from previous quarterly report: Algonquin

Additions from previous quarterly report: None

\*\*\*Contact IEPA – Permit Section

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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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