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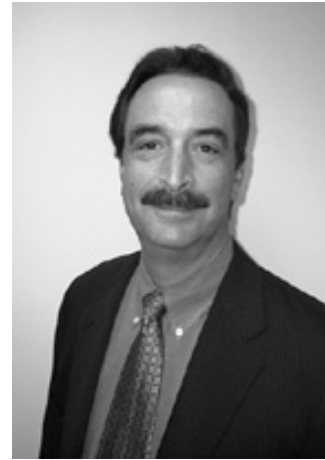
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Letter from the Chairman

On November 2, 2006, the Illinois Pollution Control Board adopted for second notice a proposal to control mercury emissions from coal-fired electric generating units (EGUs) in Illinois. This rulemaking generated the most significant public interest in recent Board history. The Board received over 7,300 public comments, held 18 days of hearings, and entered over 100 exhibits into the record in this proceeding.

This proceeding began on March 14, 2006, when the Illinois Environmental Protection Agency (IEPA) filed the original proposal, which was docketed as In the Matter of: Proposed New 35 Ill. Adm. Code 225 Control of Emissions from Large Combustion Sources (Mercury). The IEPA initiated this proceeding to satisfy the State's obligation to submit a state implementation plan addressing the requirements of the federal Clean Air Mercury Rule (CAMR) and Section 9.10 of the Environmental Protection Act. The rules proposed by the IEPA would require Illinois coal-fired EGUs to reduce mercury emissions by an average of 90 percent by July 2009, which is greater than the mercury reductions required under the federal CAMR.



The second notice proposal adopted by the Board requires 90 percent reduction of mercury emissions by 2009, but includes additional flexibility for EGUs to achieve the emissions reductions. The second notice proposal adds a temporary technology based standard (TTBS) and a multi-pollutant control system (MPS) that can be used to achieve compliance at a later date. The TTBS may be used to demonstrate compliance with the proposed standards if the EGUs are equipped and operated with control systems which include halogenated carbon sorbent injection and either a cold side electrostatic precipitator or a fabric filter. The MPS is a voluntary provision that allows Illinois units to comply with mercury reductions using co-benefits from reductions in SO₂ and NO_x emissions.

After reviewing the entirety of the record the Board found that the proposal, as amended at second notice, is technically feasible and economically reasonable. The Board found that the rule allows flexibility to achieve compliance and will provide health benefits for the citizens of Illinois.

During the 45-day second-notice period, the Board will accept comments only from the legislative Joint Committee on Administrative Rules.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted through the Clerk's Office On-Line (COOL) on the Board's Web site at www.ipcb.state.il.us. Documents may be downloaded from that Web site without charge. Hard copies may be obtained for \$.75 per page from the Clerk's office at 312-814-3629

On behalf of my Board colleagues and our staff, I wish you a happy holiday season and a good new year. We look forward to working with you in 2007 to develop sound environmental policies for the people of the state.

Sincerely,

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

G. Tanner Girard, Ph.D.
Acting Chairman

Inside This Issue:

FEDERAL UPDATE	P. 1
RULE UPDATE	P. 1
APPELLATE UPDATED	P. 9
BOARD ACTIONS	P. 12
NEW CASES	P. 17
BOARD CALENDAR	P. 18

Federal Update

United States Environmental Protection Agency Adopts Amendments to the National Primary Drinking Water Regulations Under the Safe Drinking Water Act

On November 8, 2006 (71 Fed. Reg. 65573) the United States Environmental Protection Agency (USEPA) adopted amendments to the National Primary Drinking Water Regulations to implement the Ground Water Rule.

The Ground Water Rule is intended to provide for increased protection against microbial pathogens in public water systems that use ground water sources. The Safe Drinking Water Act requires the USEPA to promulgate National Primary Drinking Water Regulations requiring disinfection as a treatment technique for all public water systems, including surface water systems and, as necessary, ground water systems.

Instead of requiring disinfection for all ground water systems, USEPA's Ground Water Rule establishes what USEPA calls a "risk-targeted" approach to target ground water systems that are susceptible to fecal contamination. The occurrence of fecal indicators in a drinking water supply is an indication of the potential presence of microbial pathogens that may pose a threat to public health. This rule requires ground water systems that are at risk of fecal contamination to take corrective action to reduce cases of illnesses and deaths due to exposure to microbial pathogens.

This final rule is effective on January 8, 2007. The compliance date, unless otherwise noted, for the rule requirements is December 1, 2009.

For further information contact Crystal Rodgers, Standards and Risk Management Division, Office of Ground Water and Drinking Water (MC-4607M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-5275; e-mail address: rodgers.crystal@epa.gov. For general information, contact the Safe Drinking Water Hotline, telephone number: (800) 426-4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding legal holidays, from 10 a.m. to 4 p.m. Eastern time.

The Board will include any necessary amendments to Board rules resulting from this federal action in a future SDWA identical in substance rulemaking pursuant to Sections 7.2 and 17.5 of the Environmental Protection Act (415 ILCS 5/7.2, 17.5(2006)).

Rule Update

Board Adopts Second Notice Opinion and Order in Proposal of Vaughan & Bushnell Manufacturing Company of Amendment to a Site-Specific Rule 35 Ill Adm. Code 901.121 (R06-11)

On November 2, 2006, the Board adopted a second notice opinion and order in Proposal of Vaughan & Bushnell Manufacturing Company of Amendment to a Site-Specific Rule 35 Ill Adm.

Environmental Register – November 2006

Code 901.121 (R06-11). The Board did not make any changes to its July 20, 2006 first notice proposal, published in the *Illinois Register* on August 11, 2006 at 30 Ill. Reg.13293. The Board sent this rulemaking, as required by the Illinois Administrative Procedure Act (5 ILCS 100/1-1 *et seq.* (2004)), to the Joint Committee on Administrative Rules for review at its December 12, 2006 meeting.

This rulemaking is based on a proposal filed by the Vaughan & Bushnell Manufacturing Company (V&B). The company seeks to amend its existing site-specific noise rule to allow V & B to lawfully extend the operational levels of its forging facility located at the intersection of Davis and Main Streets, Bushnell in McDonough County. The proposed amendments will allow V&B to operate 24-hours a day.

In its proposal for the rulemaking and at the hearing in this rulemaking, V&B stated that it needed an extension on its operational hours to allow it to operate a third shift at its facility. V&B stated that it produces hammers, hatchets, heavy striking tools, and pry bars, and has contracts with distributors that require timely delivery of its products. V&B asserted that the predominate industrial character of the area surrounding the facility creates heavy truck, vehicle and train traffic that combine to create an abundance of noise far in excess of the noise created by V&B at its facility.

The Board held a hearing in this rulemaking on March 7, 2006 in the City Hall of Bushnell. V&B provided testimony at the hearing to explain why it was technically and economically not feasible to equip its facility with additional noise abatement technology. V&B stated that it is the largest employer in the city of Bushnell and last year paid \$137,000,000 for water, gas and electricity, as well as \$39,000 in property taxes. Only V&B submitted public comment during the first notice period.

Copies of the Board's opinion and order in R06-11 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

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

Board Adopts Second Notice Opinion and Order in Proposed New 35 Ill. Adm. Code 225 Control of Emissions from Large Combustion Sources (Mercury) (R06-25)

On November 2, 2006, the Board adopted a second notice opinion and order in Proposed New 35 Ill. Adm. Code 225 Control of Emissions from Large Combustion Sources (Mercury) (R06-25). As detailed below, the Board made significant changes to the proposal it adopted for first notice, most notably the addition of a new Section 225.233 "Multi-Pollutant Standard" (MPS). The Board sent this rulemaking, as required by the Illinois Administrative Procedure Act (5 ILCS 100/1-1 *et seq.* (2004)), to the Joint Committee on Administrative Rules for review at its December 12, 2006 meeting.

The Board received 7,286 public comments in this rulemaking. These comments ranged from lengthy post-hearing comments from the participants to postcards and notes from citizens of the State. The overwhelming majority of the comments supported the adoption of the Illinois Environmental Protection Agency's (IEPA) proposal. Generally, the supporters of the rule discussed the issues concerning health effects from ingestion of methylmercury. Many noted that coal-fired plants are the main stationary source of mercury in the State. The supporters urged the Board to adopt the proposal submitted by the IEPA. Among the public comments were a substantial number of post cards, which echoed the concerns about the health effects of mercury ingestion. Generally the opponents relied on economic reasons for their opposition to the proposal. They expressed concerns about the increased costs of generating electricity in Illinois and the impact on consumers and businesses as a result. The opponents urged the Board to adopt the federal Clean Air Mercury Rule (CAMR) rule instead of the IEPA's proposal.

After carefully reviewing the entirety of the record, the Board found that the proposal as amended at second notice is technically feasible and economically reasonable. Further, the Board found that the Board's authority extends to including the MPS in the proposal for second notice. In making these determinations the Board examined several issues and those will be summarized in the following paragraphs.

Technical Feasibility

The Board considered arguments that the proposal's preferred control technology will not achieve the standard established in the rule. The Board disagreed and found that the use of halogenated activated carbon injection (HCI) has been demonstrated to achieve the established standards. Further, the Board found that the size of the specific collection area (SCA) does not impact mercury reduction with the use of HCI. The Board found that the duration of the testing used to demonstrate the feasibility of HCI is sufficient and that an absolute emissions limit is appropriate.

The Board considered arguments that the measurement of mercury removal cannot be accomplished to the level required to prove compliance with the standards. The Board noted that the measurement requirements in the proposal are substantially identical to the measurement requirements for CAMR developed by the United States Environmental Protection Agency (USEPA). Many of the issues concerning the measurement requirements are issues that relate to the underlying federal requirements; therefore, the Board deferred to the USEPA's decision to adopt the requirements. In addition, the Board found that the testimony offered in opposition to the measurement requirements was not persuasive. Therefore the Board found that the measurement of mercury removal can be accomplished to the level required to prove compliance with the standards.

The Board next considered the issue of flexibility in the proposal, including averaging, the temporary technology based standards (TTBS), and the MPS option. The Board found that averaging, both on a system wide and a 12-month rolling basis, adds flexibility to the proposal that helps establish technical feasibility of the proposal. The Board also found that the TTBS will add flexibility for compliance; and the addition of the TTBS does not equate with the conclusion that the underlying standard is not technically feasible. As to the MPS, the Board found that the MPS offers yet another alternative for achieving compliance and will result in additional removal of pollutants not regulated in this proceeding.

Economic Reasonableness

In reviewing the economic reasonableness of the proposal, the Board included arguments on deposition, modeling, health effects, and fish advisories. The Board did so because the parties attack the economics of the proposal using these areas. The first issue considered by the Board is whether the deposition and the modeling of the deposition of mercury support the emissions standards in the proposal. The Board found that they do. The Board found that relying on studies not specific to Illinois is legitimate and something the Board has done in the past. Further, the Board found that the modeling method relied upon by the IEPA's witnesses is an appropriate method and supports the proposal. The Board found that the record indicates that lowering emissions of mercury in Illinois will impact the amount of mercury deposited in Illinois waters. Therefore, the Board found that the deposition and modeling evidence in the record support the adoption of the proposed mercury emissions standards.

The Board next considered arguments concerning whether the reduction of mercury emissions will result in health benefits to Illinois citizens. The Board found that the evidence in the record indicates that health benefits can be expected. Therefore, the Board found that the expected health benefits support the adoption of the proposed mercury emissions standards.

The Board considered arguments that reduction of mercury emissions will not impact fish advisories in Illinois. The Board disagreed and finds that reduction of mercury emissions may lead to delistings from the Special Mercury Advisory. Therefore, the Board found that the potential delistings support the adoption of the proposed mercury emissions standards.

Environmental Register – November 2006

The Board considered arguments that the cost of compliance does not justify the adoption of the mercury emissions standards. The Board found that the incremental cost differences between compliance with CAMR and with the proposal, along with the significant reduction of mercury emissions, cause this proposal to be economically reasonable. Therefore, the Board found that the record supports a finding that the rule is economically reasonable.

Legal Issues

The Board considered arguments challenging the Board's authority to add the MPS to the rulemaking at second notice. The Board found that the MPS is a logical outgrowth of the proposal and as such is not contrary to either Illinois or federal administrative law. The Board has found the MPS to be economically reasonable and technically feasible; and therefore, the addition of the MPS does not violate Section 27 of the Act (415 ILCS 5/27 (2004)). Further the Board found that the MPS does not violate Section 10 of the Act (415 ILCS 5/10 (2004)) because of the voluntary nature of the MPS. The Board also found that adding the MPS to the rule does not violate the Supremacy Clause or the Commerce Clause of the United States Constitution. Finally, the Board found that the proposal does not violate the Due Process Clause of the United States Constitution.

Kincaid

The Board addressed concerns from Kincaid that due to the utility's unique nature in Illinois, the proposal is not technically feasible or economically reasonable for Kincaid. The Board agreed that Kincaid is uniquely situated and suggested that Kincaid pursue other regulatory relief.

Federal Requirements

The Board considered arguments that the proposal, with the TTBS and the MPS, will not be able to meet the requirements established by CAMR. The Board found that the proposal, with the TTBS and the MPS, can meet the federal requirements.

Other miscellaneous changes

Additionally, the Board made a number of nonsubstantive changes to the text of the rule to clarify the rule language and to ensure consistency within the rule and with the general style standards of the Board and the IAPA.

Copies of the Board's opinion and order in R06-25 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

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

Board Adopts Identical in Substance Rules in UIC Corrections, USEPA Amendments (July 1, 2005 through December 31, 2005; In the Matter of: RCRA Subtitle D Update, USEPA Amendments (July 1, 2005 through December 31, 2005 and August 1, 2005); In the Matter of: RCRA Subtitle C Update, USEPA Amendments (July 1, 2005 through December 31, 2005 and August 1, 2005) (R06-16, R06-17, R06-18 consolidated)

On November 16, 2006, the Board adopted a final opinion and order in UIC Corrections, USEPA Amendments (July 1, 2005 through December 31, 2005; In the Matter of: RCRA Subtitle D Update, USEPA Amendments (July 1, 2005 through December 31, 2005 and August 1, 2005); In the Matter of: RCRA Subtitle C Update, USEPA Amendments (July 1, 2005 through December 31, 2005 and August 1, 2005) (R06-16, R06-17, R06-18 consolidated). This identical-in-substance rulemaking consists of three separate consolidated dockets. The rulemaking updates the Illinois underground injection control, municipal solid waste landfill, and hazardous waste regulations to incorporate revisions to the federal regulations. In response to public comments, the Board made changes to the April 6, 2006 proposal for public comment that was published at 30 Ill. Reg. 6675-7710. The Board made some substantive changes to allow the continued use of

Environmental Register – November 2006

the Board's Clerk's Office On Line (COOL) filing system and any existing electronic document receiving system for the maximum time allowed by the United States Environmental Protection Agency (USEPA) under the Cross-Media Electronic Reporting Rule (CROMERR).

Additionally, as allowed under Section 7.2 of the Environmental Protection Act (Act), 415 ILVS 5/7.2, the Board has extended the filing deadline for this complex and voluminous rulemaking three times, most recently in this final order until December 26, 2006. The other two extensions were detailed in the June and September 2006 issues of the *Environmental Register*. The Board-USEPA RCRA memorandum of agreement requires the Board to hold the adopted rulemaking for review by USEPA for 30 days after adoption, after which the Board can file final amendments with the Secretary of State's Index Department for publication in the *Illinois Register*.

The federal amendments that prompted this action were made by the USEPA during the period of July 1, 2005 through December 31, 2005, as well as March 23, 2006 (amendments affecting earlier hazardous waste amendments). This proceeding adopts amendments to 35 Ill. Adm. Code 702 through 705, 720 through 726, 728, 733, 738, 810, and 811. It further includes the addition of new 35 Ill. Adm. Code 727. The federal actions included in the adopted amendments are summarized below.

Amendment of the "Universal Waste" Rule to Include Mercury-Containing Devices--Parts 703, 720, 721, 724, 725, 728, and 733

On August 5, 2005 (70 Fed. Reg. 45508), USEPA amended the Universal Waste Rule to include mercury-containing devices. Items that are designated "universal waste," and which are managed in accordance with the Universal Waste Rule, are not subject to regulation as hazardous waste. USEPA explained that common mercury-containing equipment (MCE) includes thermostats, barometers, manometers, flow meters, pressure relief gauges, water treatment gauges, gas safety relays, and electronic mercury switches that are in common industrial, commercial, governmental, and household use.

The Board previously included MCE in the Universal Waste Rule in Standards for Universal Waste Management (35 Ill. Adm. Code 703, 720, 721, 725, 728, and 733), R05-8 (Apr. 7, 2005). The Board adopted that rule on a petition filed by the Illinois Environmental Protection Agency (IEPA) pursuant to Section 22.23b of the Act (415 ILCS 5/22.23b (2004)). That IEPA proposal was based on amendments to the Universal Waste Rule that USEPA proposed on June 12, 2002 (67 Fed. Reg. 40507) and that resulted in the federal amendments now under consideration by the Board.

Since the June 2002 proposal, USEPA modified aspects of the amendments. Principally, USEPA changed its definition of MCE to include thermostats, which were formerly a separate category of universal waste. USEPA also reworded segments of the definition to clarify its intent as to what is included as MCE. USEPA further made a series of minor changes in the MCE management and transportation requirements of the final rule. Important among these changes is a new definition of "ampule," added provisions for MCE in which the mercury is not contained in an ampule, and standards for removal of the mercury-containing component from the MCE.

"Standardized Permits" for Hazardous Waste Management Facilities--Parts 702, 703, 705, 720, 721, and 727

The USEPA action of September 8, 2005 (70 Fed. Reg. 53420) modified the hazardous waste permit requirements. USEPA changed the federal permit rules to allow what it called a "standardized permit" for certain hazardous waste management facilities. The facilities eligible for coverage under the Standardized Permit Rule are facilities that are otherwise subject to the RCRA permit requirements and which generate and then store or non-thermally treat hazardous waste on-site in containers, tanks, or containment buildings. Also subject to the Standardized Permit Rule are facilities that receive waste for storage or treatment from a generator that is under the same ownership as the receiving facility. USEPA's goal is to streamline the RCRA permit process to allow the subject facilities to more easily obtain and modify permits.

Amendments to the “Headworks” Exemption from the Definition of Hazardous Waste--Section 721.103

The USEPA action of October 4, 2005 (70 Fed. Reg. 59402), expanded an existing exemption from the definition of hazardous waste. The exemption, called the “headworks” exemption, relates to mixtures of listed hazardous waste (from subpart D of 40 CFR 261, which corresponds with Subpart D of 35 Ill. Adm. Code 721) and wastewater that go to a regulated wastewater treatment system. Certain concentration and other limits apply to the mixtures of waste in the wastewater. USEPA changed a few aspects of the headworks exemption rule, including the mixtures that are subject to the rule, the locations acceptable for sampling and measurement, and the scope of the *de minimis* exemption.

USEPA added benzene and 2-ethoxyethanol to the list of solvents whose mixtures with wastewater are exempted from the definition of hazardous waste. Certain limitations apply to the exemption of benzene-containing wastewater. Also exempted are scrubber waters from the combustion of any of the exempted solvents (including combustion of the solvents previously exempted). USEPA further amended the headworks exemption to allow measurement of solvent levels at the headworks of the wastewater treatment plant to determine the applicability of the exemption, provided that the wastewater treatment is subject to federal Clean Air Act standards and the generator submits an analysis plan for approval. Finally, USEPA broadened the applicability of the *de minimis* exemption to listed wastes beyond discarded commercial products and to non-manufacturing facilities.

Finalized Hazardous Waste Combustor Rule--Parts 703, 720, 724, 725, and 726

The USEPA action of October 12, 2005 (70 Fed. Reg. 59402), amended the Hazardous Waste Combustor Rule (HWC). The HWC Rule applies to various entities that burn hazardous waste as a fuel: incinerators; cement kilns; lightweight aggregate kilns; industrial, commercial, and institutional boilers and process heaters; and hydrochloric acid production furnaces. USEPA has identified these entities as major sources of hazardous air pollutants (HAPs), which makes them subject to the maximum achievable control technology under national emission standards for hazardous air pollutants (NESHAPs) pursuant to section 112(d) of the federal Clean Air Act (42 U.S.C. 7412(d) (2003)). The amendments included Phase I replacement standards and Phase II standards. The substantive HWC Rule is a NESHAP codified by USEPA as subpart EEE of 40 C.F.R. 63. The hazardous waste regulations are a bridge to that NESHAP.

Cross-Media Electronic Reporting Rule--Parts 702 through 705, 720 through 728, 730, 733, and 739

The USEPA action of October 13, 2005 (70 Fed. Reg. 59848) established the Cross-Media Electronic Reporting Rule (CMERR). The CMERR sets standards for the filing of documents in various federal program areas in an electronic format. While the CMERR does not require the filing of documents in an electronic format, it does impose minimum requirements on documents that are filed in such a format and on the electronic document receiving systems used to receive them. The CMERR imposes requirements on electronic filings submitted to USEPA and on USEPA’s Central Data Exchange (CDX) that receives them, as well as on any electronic document filings submitted to the states and any systems used by the states to receive those filings.

The CMERR appears in a new part of the USEPA regulations, 40 C.F.R. 3. The object of the CMERR is to provide for filing of documents in an electronic format and to assure that documents filed in such a format have the same probative effect as a signed paper document. Thus, USEPA’s emphasis is on assuring the authenticity, dependability, and integrity of documents filed in an electronic format. To this end, the CMERR imposes requirements on six aspects of any electronic document receiving system used by a state: (1) system security; (2) the electronic signature method; (3) registration of persons submitting electronic documents; (4) the signature and certification scenario; (5) the generation of a transaction record; and (6) system archives. *See* 59

Environmental Register – November 2006

Fed. Reg. at 59855. USEPA included a listing for its bases for evaluation of a state electronic document receiving system in the amendments. (*see* 59 Fed. Reg. at 59867-73)

The Board has incorporated the new federal CMERR into two nearly identical provisions at 35 Ill. Adm. Code 720.104, of the hazardous waste and underground injection control regulations, and 35 Ill. Adm. Code 810.105, of the municipal solid waste landfill rules.

As to rules for filing documents with the Board or the Illinois Environmental Protection Agency (IEPA), the adopted amendments clarify that it is entirely up to the Board or the IEPA whether to set up procedures for electronic filing under the Sections. Federal 40 C.F.R. 3.10 sets forth the basic USEPA electronic document filing requirements: (1) the electronic document must be filed in a USEPA-approved electronic document receiving system; and (2) the electronic document must bear required electronic signatures.

To direct attention to the federally-derived electronic document filing requirements and further assure their applicability under all of the federally-derived segments of the rules for which the State must submit to USEPA for program authorization, the Board has added a brief requirement in each of Parts 702 through 705, 721 through 728, 730, 733, 738, and 739, in the hazardous waste rules, and in each of Parts 811 through 814, in the municipal solid waste landfill rules. The brief requirement states that the filing of any document pursuant to any provision of the Part as an electronic document is subject to 35 Ill. Adm. Code 720.104 or 810.105, as appropriate. The Board inserted these brief requirements as a separate Section in the general provisions of each Part, where possible. Alternatively, the Board inserted the brief requirement as a subsection of a statement of scope, purpose, and applicability of the Part. The only exception as to placement of this brief requirement is in Section 811.112(h). 35 Ill. Adm. Code 811.112 is derived from 40 C.F.R. 258.29. USEPA incorporated the CMERR into the municipal solid waste landfill regulations by the addition of a new subsection (d) to 40 C.F.R. 258.29. The Board added subsection (h) to Section 811.112 to more closely follow the federal structure.

In adopting these rules, the Board underscored that adoption of Sections 720.104 and 810.105 or any procedures to implement the Section is not intended to limit authority the Board or IEPA may have under the Act to accept electronic filings. For some time, the Board has been conducting a pilot program to develop sufficient information and experience to propose workable rules, and has reserved a procedural rule docket. Amendments to the Board's Procedural Rules to Accommodate Electronic Filing: 35 Ill. Adm. Code 101-130, R04-8 (Aug. 21, 2003). The Board presently has no projected date for issuance of a proposal, given the Board's heavy rulemaking docket for calendar years 2006 and 2007.

Copies of the Board's opinion and order in R06-16/17/18 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

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

Board Accepts Proposal for Hearing in Triennial Review of Sulfate and Total Dissolved Solids Water Quality Standards: Proposed Amendments to 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(4)(A), 409.109(b)(2)(B), 406.100(d): Repealer of 35 Ill. Adm. Code 406.203 and Part 407; and Proposed New 35 Ill. Adm. Code 302.208(h) (R07-9)

On November 16, 2006, the Board accepted for hearing a proposal filed by the Illinois Environmental Protection Agency (IEPA) to amend the Board's water quality regulations. The proposal, filed by the IEPA on October 23, 2006, seeks to update existing water quality standards (WQS) for sulfate and total dissolved solids (TDS), by amending 35 Ill. Adm. Code Parts 302, 309, 405, 406, and 407 of the Board's water and mine-related pollution rules.

Environmental Register – November 2006

In filing this proposal the IEPA stated that the proposal fulfills the requirements of the Federal Water Pollution Control Act, 33 U.S.C. Sec. 1251-1387, sections 101-607 of which are also known as the Clean Water Act (CWA). Section 303(c) of the CWA requires the states to conduct a “triennial water quality standards” review. 33 USC Sec. 1313(c)(1). States must revise and update water quality standards to ensure that standards are protective of public health and welfare, enhance the quality of water and promote the purposes of the CWA. 33 USC Sec. 1313 (c)(2a).

The statement of reasons explains that the proposal seeks to refine existing standards “based on the best available scientific knowledge”. The Board adopted water quality standards for sulfate and total dissolved solids or “TDS” in 1972 to protect aquatic life and agricultural uses without scientific studies to determine appropriate values. See In the Matter Water Quality Standards Revisions, R71-14. This presented difficult compliance issues for coal mines whose effluents are often high in sulfate. Thus, the Board adopted standards for sulfate and chloride for mine discharges. See 35 Ill. Adm. Code Subtitle D. In order to remedy the deficiency in the 1972 rulemaking and provide a scientific justification for sulfate water quality standards, the Illinois EPA engaged in a multi-year project researching the toxicity of sulfate to aquatic life and livestock.

Based on the conclusion of these studies, the Agency proposal seeks to:

1. update the sulfate water quality standard for aquatic life (allowing 500-2,5000 mg/l depending on hardness and chloride in the water body) (Stat. of Reas. at 9):
2. update the sulfate water quality standard for livestock watering (2,000 mg/l with averaging available) (Stat. of Reas. at 9-10);
3. repeal the TDS WQS as unnecessary after the amendment of the sulfate WQS. (TDS is the sum of dissolved substances in water, dominated by the common ions of sulfate, chloride, sodium, calcium carbonate and magnesium in various proportions. New research indicates that the toxicity of each constituent, rather than the sum of all, is the essential factor to protection of aquatic life.) Stat. of Reas. at 10-11;
4. amend the mixing regulations at 35 Ill. Adm. Code 302.102 to allow mixing in 7Q1.1 zero flow streams to dischargers demonstrating adequate upstream dilution exists in the receiving stream at time of discharge. (This reflects IEPA practice of “granting wet weather discharges [from mines] allowed mixing for sulfate and chloride depending upon the upstream flows”.) Stat. of Reas. at 11; and
5. delete portions of the existing mine waste rules at 35 Ill. Adm. Code Subtitle D, Parts 406,407 that relate to sulfates and chlorides. As a result, mine permits will be based on the WQS at 35 Ill. Adm. Code Subtitle C, Part 300 WQS (Stat. of Reas. at 11-12).

The IEPA asserts that it held stakeholders’ meetings in January 2004 and April 2006, and that updated draft rules were sent to stakeholders for comment on July 31, 2006.

As to economic reasonableness and technical feasibility of the proposal, the IEPA underscores that the proposal contains science-based standards that for most dischargers “will allow attainment of water quality standards without the implementation of additional management practices or process alternatives.” Although the IEPA believes a small number of existing mine may need to employ addition controls to meet WQS-based permit limits, the IEPA notes that it has been “proactive in getting information to these discharges that will help achieve compliance.” Finally, the IEPA anticipates that, at a considerable cost savings, the new standards will eliminate virtually all petitions from industrial and municipal discharges for site-specific WQS relief concerning sulfate and TSS.

In its November 16, 2006 order, the Board also directed the IEPA to provide additional information in support of its proposal, namely the Board requested more information on the testimony that will be presented at the hearings and requested that the IEPA address the

applicability of, or provide the information requested in, the “published study or report” requirement of Section 102.202(e) of the Board’s procedural rules. The Board’s hearing officer is currently in the process of scheduling hearings on this proposal.

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

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

Appellate Updated

Third District Reverses 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., 3d Dist., Nos. 3-04-0271, 3-04-0285, 3-04-0289 (cons.)(November 11, 2006) (reversing PCB 04-33, PCB 04-34, PCB 04-35 (cons.) (March 18, 2004))

The Board and the Third District Appellate Court have twice reviewed decisions by the City of Kankakee (City) concerning applications by Town & Country Utilities Inc. and Kankakee Regional Landfill, LLC. (hereinafter, collectively, T&C) to develop a new municipal solid waste landfill of approximately 400 acres with a waste disposal footprint of 236 acres and an estimated service life of 30 years. In its recent ruling in the second-filed appeal, the Third District again disagreed with the Board’s conclusions. Both cases raise important questions concerning proper interpretation of both the site location suitability local application and decision process under Section 39.2 of the Environmental Protection Act, (Act), 415 ILCS 5/39.2, and the Board’s review of local decisions under the appeal procedures of Section 40.1 of the Act. 415 ILCS 5/40.1(2004).

In a November 11, 2006 final 14-page unpublished order under Supreme Court Rule 23 (155 Ill.2d R. 23), one justice dissenting, the Third District Appellate Court reversed 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., 3d Dist., Nos. 3-04-0271, 3-04-0285, 3-04-0289 (cons.)(November 11, 2006) (hereinafter T&C II (Third Dist. 2006)). In its March 18, 2004 decision, the Board had reversed the August 19, 2003 decision by the City of Kankakee, granting site location suitability approval to T&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.; Waste Management of Illinois, Inc. v. the City of Kankakee, Illinois City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.; and County of Kankakee, Illinois and Edward D. Smith, Kankakee County State’s Attorney v. City of Kankakee, Illinois, The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C. PCB04-33, PCB 04-34, PCB 04-35 (cons.) (March 18, 2004). (hereinafter T&C II (IPCB 2004)).

The Court’s most recent decision in T&C II reversed the Board’s decision upholding the City’s decision. The Court also reversed the City’s decision on T&C’s 2003 application. But, as a result of the same court’s ruling in a prior appeal, T & C currently has a valid siting approval for the proposed landfill based on its 2002 application. 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) (hereinafter T&C I (Third Dist 2005)). This decision, appealed by the Board and others, is itself under review by the Illinois Supreme Court. 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., Nos. 101619 and 101652 (cons.) (petitions for leave to appeal accepted November 23, 2005 and December 28, 2005).

The import of the decision in T&C II (Third Dist. 2006) is perhaps best understood by a quick review of the decision in T&C I (Third Dist 2005).

T&C I (Third Dist 2005)

In a September 7, 2005 final unpublished 11-page order under Supreme Court Rule 23 (155 Ill.2d R. 23), one justice concurring and one dissenting, the Third District Appellate Court reinstated the grant by the City of Kankakee (City) of siting approval to the 2002 application for a new landfill made by Town and Country Utilities, Inc. and Kankakee Regional Landfill (collectively, Town and Country). T&C I (Third Dist 2005). The Third District decision under review was reported in detail in *Environmental Register* No. 616, pp.3-6 (October, 2005), and that discussion is only briefly summarized below.

T&C filed its initial siting application with the City on March 10, 2002. The City approved the siting application on August 10, 2002. On January 9, 2003, the Board reversed the City's grant of siting. The Board held that the City's finding that T&C's proposed landfill was so located, designed, and proposed to be operated to protect public health, safety, & welfare was against the manifest weight of the evidence. 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.) (January 1, 2003) (hereinafter T&C I (IPCB 2003)). The Board concluded that the record lacked evidence as to whether the groundwater under the proposed site was an aquifer, rather than an aquitard.

In its decision in T&C I (Third Dist 2005), the court affirmed the Board's finding that the City had conducted a fundamentally fair siting procedure under Section 39.2 of the Environmental Protection Act (Act), 415 ILCS 5/39.2 (2004). But the Court reversed the Board's determination that the City's finding was against the manifest weight of the evidence as to criterion 2 of Section 39.2, reinstating the City's grant of T&C's 2002 siting application. In other words, the Court found the City properly found that the proposed "facility is so designed, located and proposed to be operated that the public health, safety, and welfare will be protected." 415 ILCS 5/39.2(a)(ii)(2004). In so doing, the Third District stated that it was not reviewing the Board's decision, but rather the City's decision, effectively cutting the Board out of the Act's siting scheme. See T&C I (Third Dist 2005) slip op. at 8, n.1.

On appeal to the Supreme Court, the Board takes issue with the standard of review employed by the Third District to the extent the court stated that it was reviewing not the Board's decision but rather the City's decision. The County of Kankakee (County) seeks review of the Third District's decision to affirm the Board's ruling that the City proceeding was fundamentally fair. The parties are presently briefing the issues.

T&C II (Third Dist. 2006)

While its appeal of City's initial decision was still pending in the Third District in T&C I (Third Dist 2005), T&C filed a second siting application with the City on March 7, 2003. The second application incorporated the 2002 application by reference, but also characterized the site as sitting atop an aquifer, addressed the groundwater evaluation shortcomings consistent with the Board's finding in T&C I (IPCB 2003). The City approved the 2003 siting application on August 18, 2003. The Board, in its 37-page opinion & order in T&C II (IPCB 2004), affirmed the City's decision to approve the 2003 siting application.

Environmental Register – November 2006

On appeal of the Board's decision, the petitioners, including the County & Waste Management of Illinois (WMI) argued that the Board erred in upholding the City's siting approval decision because (1) T&C was barred from filing the 2003 siting application by Section 39.2(m) of the Act; (2) the 2003 application did not meet all of the Section 39.2(a) siting criteria; and (3) the local siting proceedings were fundamentally unfair. 415 ILCS 5/39.2(a)(m). In T&C II (Third Dist. 2006), agreeing with petitioners' arguments on the first ground above, the Third District reversed the Board's decision.

Section 39.2(m) of the Act provides that 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 of the criteria (i) through (ix) of subsection (a) of this Section within the preceding 2 years." T&C II (Third Dist. 2006), slip op. at 2. The court found that T&C was barred from filing its 2003 siting application with the City because that application violated Section 39.2(m). 2. *Id.* at 8.

On appeal,, the petitioners first argued that the 2003 application was barred by Section 39.2(m) of the Act because the 2002 application was "disapproved" by the Board in T&C I (IPCB 2003), and that the 2002 and 2003 siting applications were substantially similar. The Board and the other petitioners argued that the Board's reversal in T&C I (IPCB 2003) was not a "disapproval" within the meaning of Section 39.2(m). However, the court, applying a *de novo* standard of review, held that the Board erred in finding that the Board did not "disapprove" of the 2002 application in T&C I (IPCB 2003). According to the court, if the General Assembly "had intended that only a disapproval from a local siting authority would preclude the filing of a new application, it would have provided for such a requirement in section 39.2(m)." T&C II (Third Dist. 2006), slip op. at 10. The court concluded that the Board's reversal of the City's grant of siting in T&C I (IPCB 2003) "constituted a disapproval within the plain meaning of section 39.2(m)." *Id.*

Because the Board had held that Section 39.2(m) did not apply because the 2002 application was not "disapproved" by the City, the Board's T&C II (IPCB 2004) decision did not address whether the 2003 siting application was "substantially the same" as the 2002 application. But, having found that the Board had "disapproved" the 2002 siting application within the meaning of Section 39.2(m), the court addressed "whether the 2003 application, which was filed within two years of the 2002 application, was barred on the ground that the applications were substantially similar." T&C II (Third Dist. 2006), slip op. at 11. Applying the manifest weight of the evidence standard, the court 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 court 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, the court reversed the Board's T&C II (IPCB 2004) decision affirming the City and the City's corresponding grant of siting. T&C II (Third Dist. 2006), slip op. at 14.

The parties are still considering whether they will petition the Illinois Supreme Court for leave to appeal the T&C II (Third Dist. 2006) decision.

Board Actions

November 2, 2006

**Via Videoconference
Springfield and Chicago, Illinois**

Rulemakings

- R06-11** In the Matter of: Proposal of Vaughan & Bushnell Manufacturing Company of Amendment to a Site-Specific Rule 35 Ill. Adm. Code 901.121 – The Board adopted a second notice opinion and order in this rulemaking to amend an existing site-specific noise rule, as requested. 4-0
R, Noise
- R06-25** In the Matter of: Proposed New 35 Ill. Adm. Code 225 Control of Emissions From Large Combustion Sources (Mercury) – The Board adopted a second notice opinion and order in this rulemaking to amend the Board’s air pollution control regulations. The second notice rule requires compliance beginning July 1, 2009 with a mercury emission standard of 0.00801lb/gwh or a 90% reduction from input mercury. The rule also includes a temporary technology based standard, and a multi-pollutant control system. 4-0
R, Air

Administrative Citations

- AC 06-21** County of Jackson v. Dan Kimmel – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Jackson County facility, the Board found that respondent had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2004)) and ordered respondent to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motion to dismiss respondent’s petition for review and the alleged violation of 415 ILCS 5/21(p) (7) (2004). 4-0
- AC 06-55** County of Wayne v. Julian Buchanan – The Board granted the parties’ joint motion for withdrawal of administrative citation and closed the docket. 4-0
- AC 07-12** IEPA v. Francis E. Morris – The Board denied respondent’s motion to dismiss the administrative citation and accepted for hearing this petition for review of an administrative citation against this Gallatin County respondent. 4-0
- AC 07-13** Chicago Department of Environment v. Mr. Bult’s (Liberty Waste Transfer Station) – The Board dismissed this administrative citation due to complainant’s failure to file proof of timely service. 4-0
- AC 07-14** County of LaSalle v. Eric and Sarah Cook – Because the Board has already properly entered a default order, the Board declined to accept the late-filed petition and directed respondents to pay the \$3,000 civil penalty by 4-0

Environmental Register – November 2006

November 20, 2006 as directed in the Board's October 19, 2006 order.

AC 07-17 IEPA v. Lee County Landfill SC, L.L.C. and Dave Geier – The Board found that these Lee County respondents violated Section 21(o)(5) of the Act (415 ILCS 5/21(o)(5) (2004)), and ordered respondents to pay a civil penalty of \$500. 4-0

Decisions

PCB 06-3 People of the State of Illinois v. Lake Egypt Water and Wastewater District – In this public water supply enforcement action concerning a Williamson County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2004)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$6,400, and to cease and desist from further violations. 4-0
W-E

PCB 06-35 People of the State of Illinois v. Quantum Color Graphics, L.L.C. – In this air enforcement action concerning a Cook County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2004)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$44,000, and to cease and desist from further violations. 4-0
A-E

PCB 06-178 People of the State of Illinois v. Galena Hillside Homes, Inc. – In this water enforcement action concerning a Jo Daviess County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2004)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$10,000, and to cease and desist from further violations. 4-0
W-E

Motions and Other Matters

PCB 96-98 People of the State of Illinois v. Skokie Valley Asphalt, Co., 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. – The Board denied respondents' motion for sanctions and ordered the parties to proceed expeditiously to hearing. 4-0
W-E

PCB 05-49 Morton F. Dorothy v. Flex-N-Gate Corporation – The Board granted respondent's motion to sanction complainant. Respondent's alternative motion for summary judgment on count I was denied at this time. In accordance with sanctions and for its procedural deficiencies, the Board struck complainant's September 19, 2006 amended complaint. 4-0
Citizens
A&L-E

PCB 06-40 Dalee Oil Company v. EPA – The Board granted this Washington County facility's motion for voluntary dismissal of this underground storage tank appeal. 4-0
UST Appeal

Environmental Register – November 2006

PCB 07-5	<u>City of Des Plaines (formerly A&K Mini Mart) v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this facility in Cook County.	4-0 UST Appeal
PCB 07-17	<u>Dale L. Stanhibel v. Tom Halat d/b/a Tom’s Vegetable Market</u> – The Board directed complainant file proof of service of the complaint upon respondent by Monday, November 27, 2006. If complainant fails to file proof of service on or before that date, the Board may dismiss this proceeding.	4-0 Citizens A&N – E
PCB 07-24	<u>Webb & Sons, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Coles County facility.	4-0 UST Appeal
PCB 07-26	<u>People of the State of Illinois v. Palos Township</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E
PCB 07-27	<u>Village of Wilmette v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility.	4-0 UST Appeal
PCB 07-28	<u>People of the State of Illinois v. Provena Hospitals d/b/a Provena United Samaritans Medical Center and Resurrection Catholic Cemetery Association of Danville, Illinois</u> – The Board accepted for hearing this land enforcement action involving a site located in Vermilion County.	4-0 L-E
PCB 07-29	<u>People of the State of Illinois v. Pinnacle Genetics, L.L.C. and Professional Swine Management, L.L.C.</u> – The Board accepted for hearing this water enforcement action involving a site located in McDonough County.	4-0 W-E
PCB 07-31	<u>Celozzi-Ettelson Chevrolet, Inc. v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this DuPage County facility.	4-0 UST Appeal 90-Day Ext.

November 16, 2006

Chicago, Illinois

Rulemakings

R06-16	<u>In the Matter of: UIC Update, USEPA Amendments (July 1, 2005 through December 31, 2005; In the Matter of: RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (July 1, 2005 through December 31, 2005); In the Matter of: RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (July 1, 2005 through December 31, 2005) – The Board first extended the filing deadline until December 26, 2006. Then, the Board adopted a final opinion and order in this consolidated “identical-in-substance” rulemaking amending the Board’s underground injection control, municipal solid waste landfill, and hazardous waste regulations.</u>	4-0 R, Land
R06-17	<u>In the Matter of: Proposed New Clean Air Interstate Rule (CAIR) SO₂, NO_x Annual and NO_x Ozone Season Trading Programs, 35 Ill. Adm. Code 225, Subparts A, C, D and E – The Board granted the Illinois Environmental Protection Agency motion to withdraw the October 11, 2006 motion to amend rulemaking proposal.</u>	4-0 R, Air
R06-18 (cons.)	<u>In the Matter of: Triennial Review of Sulfate and Total Dissolved Solids Water Quality Standards: Proposed Amendments to 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(4)(A), 409.109(b)(2)(B), 406.100(d): Repealer of 35 Ill. Adm. Code 406.203 and Part 407; and Proposed New 35 Ill. Adm. Code 302.208(h) – The Board accepted for hearing petitioner’s October 23, 2006 proposal to amend the Board’s land pollution control regulations. The Board granted petitioner’s motion to waive requirement to submit 200 signatures. The Board also requested that petitioner address the deficiencies noted in the order in writing prior to any hearing scheduled in this proceeding at such time as directed by the hearing officer.</u>	4-0 R, Water

Adjusted Standards

AS 06-4	<u>In the Matter of: Petition of Big River Zinc Corporation for an Adjusted Standard Under 35 Ill. Adm. Code 720.131(c) – The Board granted this St. Clair County petitioner a “waste delisting” adjusted standard, with conditions, for electric arc furnace dust (EAFD) from the primary production of steel (K061 under 35 Ill. Adm. Code 721.132) (EAFD) received by Big River Zinc Corporation (BRZ) at its zinc refinery (2401 Mississippi Avenue, Sauget, St. Clair County, Illinois) (BRZ Facility). The Board found when placed directly into the BRZ Facility’s Leaching, Solvent Extraction, Electrowinning (LSXEW) zinc recycling process is feedstock, upon receipt by BRZ at the BRZ facility, EAFD is not a solid waste.</u>	4-0 Land
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Administrative Citations

AC 05-40	<u>IEPA v. Northern Illinois Service Company</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 \$406.50 and a civil penalty of \$3,000. This order follows the Board's interim order of September 21, 2006, which found that this respondent had violated Sections 21(p)(1) and (p)(7) of the Illinois Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(7) (2004)).	4-0
AC 05-70	<u>IEPA v. James Stutsman</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 \$296.25 and a civil penalty of \$3,000. This order follows the Board's interim order of September 21, 2006, which found that this respondent had violated Sections 21(p)(1) and (p)(7) of the Illinois Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(7) (2004)).	4-0
AC 06-10	<u>IEPA v. Guiffre II, L.L.C.</u> – The Board granted complainant's motion for withdrawal of administrative citation and closed the docket.	4-0
AC 07-24	<u>IEPA v. C. John Blickhan</u> – The Board accepted for hearing this petition for review of an administrative citation against this Adams County respondent.	4-0

Motions and Other Matters

PCB 06-175	<u>People of the State of Illinois v. Tres Amigos Properties, L.L.C.</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 Sangamon County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E
PCB 07-21	<u>Maple Quick Mart and Ranjit Singh v. IEPA</u> – Having found no appealable action to review, the Board denied petitioners' request for 90-Day extension of appeal period and closed this docket.	4-0 UST Appeal 90-Day Ext.
PCB 07-30	<u>The Premcor Refining Group, Inc. v. IEPA</u> – The Board accepted for hearing this air permit appeal involving a Madison County facility. The Board reserved ruling on petitioner's motion to stay the effectiveness of the Clean Air Act Permit Program permit to allow for a response from the Illinois Environmental Protection Agency.	4-0 P-A, Air
PCB 07-32	<u>People of the State of Illinois v. Lake Arlann Drainage District, Cochran & Wilkens, Inc., and Southwind Construction Corp.</u> – The Board accepted for hearing this water enforcement action involving a site located in Tazewell County.	4-0 W-E

Environmental Register – November 2006

PCB 07-33	<u>Oink Inc.-Morrison (Property Identification Number 09-26-200-002) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Oink, Inc.’s pork finishing operation 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 (2004)).	4-0 T-C
PCB 07-34	<u>Knapp Oil Company, Inc. v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Massac County facility.	4-0 UST Appeal 90-Day Ext.
PCB 07-35	<u>People of the State of Illinois v. Bradshaw Enterprises, L.L.C. and Brian Bradshaw individually</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 Clark County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E

New Cases

November 2, 2006 Board Meeting

07-026 People of the State of Illinois v. Palos Township – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.

07-027 Village of Wilmette v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility.

07-028 People of the State of Illinois v. Provena Hospitals d/b/a Provena United Samaritans Medical Center and Resurrection Catholic Cemetery Association of Danville, Illinois – The Board accepted for hearing this land enforcement action involving a site located in Vermilion County.

07-029 People of the State of Illinois v. Pinnacle Genetics, L.L.C. and Professional Swine Management, L.L.C. – The Board accepted for hearing this water enforcement action involving a site located in McDonough County.

07-030 The Premcor Refining Group, Inc. v. IEPA – No action taken.

07-031 Celozzi-Ettelson Chevrolet, Inc. v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this DuPage County facility.

AC 07-022 County of Sangamon v. Jack Caldwell – The Board accepted an administrative citation against this Sangamon County respondent.

AC 07-023 IEPA v. Curtis Jim Hammond – The Board accepted an administrative citation against this Fulton County respondent.

AC 07-024 IEPA v. C. John Blickhan – The Board accepted an administrative citation against this Adams County respondent.

R07-009 In the Matter of: Triennial Review of Sulfate and Total Dissolved Solids Water Quality Standards: Proposed Amendments to 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(4)(A), 409.109(b)(2)(B), 406.100(d): Repealer of 35 Ill. Adm. Code 406.203 and Part 407; and Proposed New 35 Ill. Adm. Code 302.208(h) – No action taken.

November 16, 2006 Board Meeting

07-032 People of the State of Illinois v. Lake Arlann Drainage District, Cochran & Wilkens, Inc., and Southwind Construction Corp. – The Board accepted for hearing this water enforcement action involving a site located in Tazewell County.

07-033 Oink Inc.-Morrison (Property Identification Number 09-26-200-002) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Oink, Inc.’s pork finishing operation 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 (2004)).

07-034 Knapp Oil Company, Inc. v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Massac County facility.

07-035 People of the State of Illinois v. Bradshaw Enterprises, L.L.C. and Brian Bradshaw individually – 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 Clark County facility, the Board ordered publication of the required newspaper notice.

AS 07-002 In the Matter of: Proposed Extension of Adjusted Standard Applicable to Illinois-American Water Company’s Alton Public Water Supply Facility Discharge to the Mississippi River – No action taken.

Calendar

<p>12/7/06 11:00 AM</p>	<p><u>Illinois Pollution Control Board Meeting</u></p>		<p>Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield</p>
<p>12/11/06 10:00 AM</p>	<p>PCB 07-24</p>	<p>Webb & Sons, Inc. v. IEPA</p>	<p>Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East North Entrance Springfield</p>
<p>12/12/06 9:00 AM</p>	<p>PCB 96-98</p>	<p>People of the State of Illinois v. Skokie Valley Asphalt, Inc., an Illinois corporation, Edwin L. Frederick, Jr., individually and as owner and President of Skokie</p>	<p>James R. Thompson Center Room 9-034 100 W. Randolph Chicago</p>

Environmental Register – November 2006

		Valley Asphalt Co., and Richard J. Frederick, individually and as owner and Vice President of Skokie Valley Asphalt Co., Inc.	
12/18/06 9:00 AM	PCB 05-212	John and Linda Maracic v. TNT Logistics North America Inc. (to be continued day-to-day until business is completed or until December 20, 2006)	Village of Bolingbrook Board Room 375 W. Briarcliff Road Bolingbrook
12/18/06 9:00 AM	PCB 05-213	Vincent & Jennifer Neri v. TNT Logistics North America Inc. (to be continued day-to-day until business is completed or until December 20, 2006)	Village of Bolingbrook Board Room 375 W. Briarcliff Road Bolingbrook
12/18/06 9:00 AM	PCB 05-216	Wayne Haser v. TNT Logistics North America Inc. (to be continued day-to-day until business is completed or until December 20, 2006)	Village of Bolingbrook Board Room 375 W. Briarcliff Road Bolingbrook
12/18/06 9:00 AM	PCB 05-217	Ken Blouin v. TNT Logistics North America Inc. (to be continued day-to-day until business is completed or until December 20, 2006)	Village of Bolingbrook Board Room 375 W. Briarcliff Road Bolingbrook
12/21/06 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago
1/4/07 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
1/18/07 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Michael A. Bilandic Building Room N-505 160 N. LaSalle Street Chicago
1/29/07 11:00 AM	R07-08	In the Matter of: Proposed Amendments to Solid Waste Landfill Rules, 35 Ill. Adm. Code 810 and 811	Michael A. Bilandic Building Room N-505 160 N. LaSalle Street Chicago
1/30/07 9:30 AM	R07-08	In the Matter of: Proposed Amendments to Solid Waste Landfill Rules, 35 Ill. Adm. Code 810 and 811	Michael A. Bilandic Building Room N-505 160 N. LaSalle Street Chicago

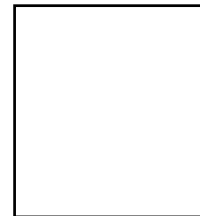
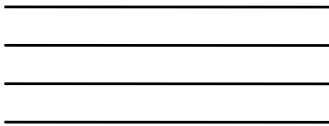
Environmental Register – November 2006

<p>2/1/07 11:00 AM</p>	<p><u>Illinois Pollution Control Board Meeting</u></p>		<p>Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield</p>
<p>2/15/07 11:00 AM</p>	<p><u>Illinois Pollution Control Board Meeting</u></p>		<p>James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago</p>
<p>2/28/07 11:00 AM</p>	<p>R07-08</p>	<p>In the Matter of: Proposed Amendments to Solid Waste Landfill Rules, 35 Ill. Adm. Code 810 and 811</p>	<p>Pollution Control Board Conference Room 1021 N. Grand Avenue East (North Entrance, IEPA Building) Springfield</p>
<p>3/1/07 11:00 AM</p>	<p><u>Illinois Pollution Control Board Meeting</u></p>		<p>Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East North Entrance Springfield</p>
<p>3/1/07 9:30 AM</p>	<p>R07-08</p>	<p>In the Matter of: Proposed Amendments to Solid Waste Landfill Rules, 35 Ill. Adm. Code 810 and 811</p>	<p>Pollution Control Board Conference Room 1021 N. Grand Avenue East (North Entrance, IEPA Building) Springfield</p>
<p>3/15/07 11:00 AM</p>	<p><u>Illinois Pollution Control Board Meeting</u></p>		<p>James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago</p>

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

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

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