
Environmental Register

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Letter from the Chairman

There are two issues that I would like to bring to your attention this month. First, on February 16, 2006, the Illinois Pollution Control Board adopted for final notice amended general use water quality standards for radium. Radium is a naturally occurring radioactive metal that is commonly found in Illinois groundwater. The amendments contained in docket R 04-21, entitled Revisions To Radium Water Quality Standards: Proposed New 35 Ill. Adm. Code 302.307 and Amendments To 35 Ill. Adm. Code 302.207 and 302.525, revise the radium general use water quality standard, applying the standard to combined radium 226 and 228, as opposed to the current standard applicable only to radium 226. The amendments also add a combined radium standard applicable to public and food processing water supplies.



The Board sets the general use water quality standard of 3.75 picocuries per liter (pCi/L) radium 226 and 228 as an annual average value rather than an instantaneous maximum standard. This standard applies to all general use waters of the State, including stream segments that receive discharges from Publicly Owned Treatment Works, as well as the Lake Michigan Basin. The Board also adopts a separate 5.0 pCi/L combined radium standard to Public and Food Processing Supply intakes as an instantaneous maximum standard. This rulemaking does not affect Illinois' drinking water standard of 5.0 pCi/L for combined radium. For more information on this rulemaking, or any of the Board's other rulemakings, visit the Board's Website at www.ipcb.state.il.us or contact the Clerk's Office.

Second, given the number of rulemaking dockets currently open before the Board, I want to take the opportunity to discuss "service lists" and "notice lists" as the lists are used in rulemaking proceedings. The Boards' procedural rules define "service list" as "the list of persons designated by the hearing officer or Clerk . . . upon whom participants must serve motions, prefiled questions and prefiled testimony and any other documents that participants file with the Clerk unless the hearing officer otherwise directs." 35 Ill. Adm. Code 101.202 (emphasis added). The service list generally includes a rule's proponent and other entities participating extensively by providing testimony at hearing or offering substantial public comment. The "notice list" is "the list of persons in a regulatory proceeding who will receive all Board opinions and orders and all hearing officer orders. Persons on a notice list do not receive copies of motions, public comments, or testimony." 35 Ill. Adm. Code 101.202 (emphasis added). Entities on the notice list generally have an interest in the rule but do not plan to offer a substantial comment or file testimony.

With the implementation of the COOL system, interested parties may now request to receive electronic notification in the Board's rulemaking dockets. Simply by providing your e-mail address, you receive electronic notice when a rulemaking docket is updated. This notification includes the filing of documents that are not typically provided to persons on the notice list. Through COOL, those documents may be viewed, downloaded, and printed as soon as they are posted to the Board's Web site. This may be a particularly useful tool for some persons and entities that had traditionally placed themselves on the Board's service lists. The Board is pleased to keep pace with IT improvements and encourages all parties to take advantage of COOL, electronic filing, and e-notify. For more information, you may consult either the Board's Web site or [John Therriault](#) in our Clerk's office at (312) 814-3629.

To receive e-notification, go to the Board home page at www.ipcb.state.il.us and click on "Rulemakings Pending Before the Board." Click where indicated for more information, and you'll see the button for adding your e-mail address to the e-notify list.

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

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Federal Update

United States Environmental Protection Agency Adopts Final Rule Under the Clean Air Act Making Findings That Illinois Failed to Submit a Complete State Implementation Plan for Phase II of the NO_x SIP Call

On February 8, 2006 (71 Fed. Reg. 6347) the United States Environmental Protection Agency (USEPA) adopted a final rule making findings of failure to submit required State Implementation Plan (SIP) for Phase II of the nitrogen oxides (NO_x) SIP Call. USEPA's final action stated that five states--Indiana, Illinois, Kentucky, Michigan, and Virginia--failed to make complete SIP submittals required under the Clean Air Act (CAA). These States were all required to submit SIP measures providing for reductions in the emissions of NO_x, an ozone precursor.

The federal finding of failure is effective March 10, 2006. It starts a two-year time clock for USEPA to establish a federal implementation plan for the effected area, if the states do not act before then to remedy their SIP submittals.

General questions concerning this notice should be addressed to Jan King, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-02, Research Triangle Park, NC 27711; telephone number (919) 541-5665; fax number (919) 541-0824; e-mail king.jan@epa.gov. Legal questions should be addressed to Winifred Okoye, Office of General Counsel, (2344A), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564-5446; e-mail okoye.winifred@epa.gov.

The Board notes that, in the most recent semi-annual regulatory agenda published in the *Illinois Register*, the Illinois Environmental Protection Agency anticipates that it will soon propose to the Board rules responding to the NO_x SIP Call using the CAA "fast-track" procedures at Section 28.5 of the Environmental Protection Act (415 ILCS 5/28.5 (2004)) to complete the Illinois SIP submittal.

United States Environmental Protection Agency Adopts Rules Under the Clean Water Act to Revise the Compliance Dates for National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitation Guidelines for Concentrated Animal Feeding Operations

On February 10, 2006 (71 Fed. Reg. 6978) the United States Environmental Protection Agency (USEPA) adopted a rule to extend certain compliance dates in the National Pollutant Discharge Elimination System (NPDES) permitting requirements and Effluent Limitations Guidelines and Standards for concentrated animal feeding operations (CAFOs). The CAFO rule, issued on February 12, 2003 (at 68 Fed. Reg. 7175) requires a) by February 13, 2006, facilities newly defined as CAFOs to obtain permits, and b) by April 13, 2006, all CAFOs to have nutrient management plans (NMPs) developed and implemented. USEPA set a single new compliance date: July 31, 2007.

USEPA extended the rule to respond to the Second Circuit Court of Appeals' order in *Waterkeeper Alliance et al. v. EPA*, 399 F.3d 486 (2nd Cir. 2005). The final rule revises dates established in 2003 USEPA has extended the date by which operations defined as CAFOs as of April 14, 2003, who were not defined as CAFOs prior to that date, must seek NPDES permit coverage, from February 13, 2006, to July 31, 2007. USEPA also amended the date by which operations that become defined as CAFOs after April 14, 2003, due to operational changes that would not

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have made them a CAFO prior to April 14, 2003, and that are not new sources, must seek NPDES permit coverage, from April 13, 2006, to July 31, 2007. Finally, USEPA extended the deadline by which CAFOs are required to develop and implement NMPs, from December 31, 2006, to July 31, 2007. This rule revised all references to the date by which NMPs must be developed and implemented currently in the 2003 CAFO rule.

This rule is effective as of February 10, 2006.

For further information contact Kawana Cohen, Water Permits Division, Office of Wastewater Management (4203M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-2345, e-mail address: cohen.kawana@epa.gov.

United States Environmental Protection Agency Adopts New Source Performance Standards Under the Clean Air Act for Electric Utility Steam Generating Units, Industrial-Commercial-Institutional Steam Generating Units, Small Industrial-Commercial-Institutional Steam Generating Units

On February 27, 2006 (71 Fed. Reg. 9865) the United States Environmental Protection Agency (USEPA) adopted new source performance standards (NSPS) for electric utility steam generating units for which construction is commenced after September 18, 1978; standards of performance for industrial-commercial-institutional steam generating units; and standards of performance for small industrial-commercial-institutional steam generating units.

In this rulemaking, USEPA reviewed the emission standards for nitrogen oxides (NO_x), sulfur dioxide (SO₂), and particulate matter (PM) contained in the new source performance standards (NSPS) for electric utility steam generating units and industrial-commercial-institutional steam generating units and proposed amendments to 40 CFR Part 60, subparts Da, Db, and Dc, on February 28, 2005 (70 Fed. Reg. 9705). The adopted amendments reflect USEPA's responses to issues raised by commenters, and promulgate the amended standards of performance.

The final rule amendments revise the existing standards for

- a) PM emissions by reducing the numerical emission limits for both utility and industrial-commercial-institutional steam generating units;
- b) NO_x emissions by reducing the numerical emission limits for utility steam generating units; and
- c) SO₂ emissions for both electric utility and industrial-commercial-institutional steam generating units.

The SO₂ numerical standard for electric utility steam generating units has been reduced, and the maximum percent reduction requirement has been increased. An SO₂ numerical standard has been added for units presently subject to the NSPS and new industrial-commercial-institutional steam generating units, and the maximum percent reduction requirement for new units has been increased. Both utility and industrial steam generating units can either meet a numerical limit or demonstrate a percent reduction. Additionally, USEPA made several technical clarifications and compliance alternatives to the existing provisions of the current rules.

The final rule amendments are effective on February 27, 2006.

For further information contact Mr. Christian Fellner, Energy Strategies Group, Sector Policies and Programs Division (C439-01), U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-4003; e-mail fellner.christian@epa.gov

If any amendments to the Illinois air rules become necessary, the Board would expect the Illinois Environmental Protection Agency to propose amendments using the Clean Air Act "fast-track" procedures at Section 28.5 of the Environmental Protection Act (415 ILCS 5/28.5 (2004)).

Appellate Update

Petition for Leave to Appeal Filed in Illinois Supreme Court Seeking Review of Third District Decision Affirming Board Order Upholding Permit Modification Denial in United Disposal of Bradley, Inc. & Municipal Trust & Savings Bank v. IPCB and IEPA, No. 102168 (filed February 17, 2006) (PCB 03-235)

On February 17, 2006, United Disposal of Bradley, Inc. filed a petition for leave to appeal (PLA) to the Illinois Supreme Court. United Disposal of Bradley, Inc. & Municipal Trust & Savings Bank v. IPCB and IEPA, No. 102168 (filed February 17, 2006). The PLA seeks review of the January 13, 2006 decision of the Third District

Appellate Court affirming the Board's order in United Disposal of Bradley, Inc. & Municipal Trust & Savings Bank v. IPCB and IEPA, No. 3-04-0536 (January 13, 2006). In the case before it, the Board granted summary judgment to the Illinois Environmental Protection Agency (IEPA), affirming the IEPA's denial of a permit modification. United Disposal of Bradley, Inc. & Municipal Trust & Savings Bank v. IEPA, PCB 03-235 (June 17, 2004).

The parties now await the Supreme Court's decision granting or denying the PLA.

A complete summary of the Board and appellate decisions appeared in *Environmental Register* No. 619, pp. 4-5 (January 2006). In brief, the case involves the permit for the waste transfer station operated in the Village of Bradley, Kankakee County by United Disposal of Bradley, Inc. The primary issues raised concern interpretation of a 1994 permit condition, Sections 3.330, 39(c), and 39.2 of the Environmental Protection Act (Act), 415 ILCS/3.330, 39(c), 39.2, and whether they violate the commerce clause of the United States Constitution (U.S. Const., art. I, sec. 8, cl. 3).

Rule Update

Board Adopts Supplementary Final Opinion and Order in UIC Correction, USEPA Amendments (January 1, 2005 through June 30, 2005); RCRA Subtitle D Update, USEPA Amendments (January 1, 2005 through June 30, 2005); RCRA Subtitle C Update, USEPA Amendments (January 1, 2005 through June 30, 2005) (R06-5/R06-6/R06-7) (cons.)

On February 2, 2006, the Board adopted a supplementary final order in UIC Correction, USEPA Amendments (January 1, 2005 through June 30, 2005); RCRA Subtitle D Update, USEPA Amendments (January 1, 2005 through June 30, 2005); RCRA Subtitle C Update, USEPA Amendments (January 1, 2005 through June 30, 2005) (R06-5/R06-6/R06-7) (cons.). The supplementary order adopted minor, non-substantive changes to the final rules adopted by the Board on January 5, 2006. The changes were prompted by suggestions from the Joint Committee on Administrative Rules (JCAR) that were received by the Board on January 11, 2006. The final rules were filed with the Secretary of State's Index department with a February 23, 2006 effective date and will be published in the *Illinois Register* on March 10, 2006.

This identical-in-substance rulemaking consisted of three separate consolidated dockets and adopted amendments to update the Illinois underground injection control (UIC), municipal solid waste landfill (MSWLF), and hazardous waste regulations. The United States Environmental Protection Agency (USEPA) adopted the amendments prompting the Board's action during the period of January 1, 2005 through June 30, 2005. For a more complete description of the amendments adopted in this docket see *Environmental Register* No. 619, pp.10-12 (January 2006).

Copies of the Board's opinion and order in R06-5/R06-6/R06-7) (cons.) 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 IEPA Proposal for Hearing in NO_x Trading Program: Amendments to 35 Ill. Adm. Code Part 217 (R06-22)

On February 2, 2006, the Board accepted for hearing a proposal in NO_x Trading Program: Amendments to 35 Ill. Adm. Code Part 217 (R06-22). The proposal, filed by the Illinois Environmental Protection Agency (IEPA) on January 19, 2006, seeks to amend the Board's regulations governing nitrogen oxide (NO_x) emissions found at 35 Ill. Adm. Code Part 217, Subparts A, T, U, and W.

The IEPA's proposal reflects recent amendments made by the United States Environmental Protection Agency (USEPA) to the Code of Federal Regulations (C.F.R.) concerning several test methods and procedures, and by the Illinois General Assembly to Section 9.9 of the Act concerning the sale of NO_x allowances and the repeal of the stay provisions. The IEPA stated that it is proposing amendments intended to ensure that the NO_x budgets for both the Electrical Generating Units (EGU) and the non-EGUs are not reduced by low-emitters in a way that was not anticipated at the time the rules were originally adopted by the Board. Finally, the proposal contains amendments

intended to clarify the dates and timing of allocations designed to simplify the administration of the NOx Trading Program. The IEPA asserted in its statement of reasons that this proposal does not change the emission limits or require new control devices on affected sources.

Copies of the Board's opinion and order in R06-22 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. The text of the IEPA proposal and statement of reasons is not included in the Board's February 2, 2006 opinion and order, but may be downloaded from the Board's Web site.

The Board is in the process of scheduling hearings concerning this proposal.

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

Board Adopts IEPA Proposal for Hearing in Standards and Requirements for Potable Water Well Surveys and for Community Relations Activities Performed in Conjunction With Agency Notices of Threats From Contamination (35 Ill. Adm. Code 1505) (R06-23)

On February 2, 2006, the Board accepted a proposal for hearing in Standards and Requirements for Potable Water Well Surveys and for Community Relations Activities Performed in Conjunction With Agency Notices of Threats From Contamination (35 Ill. Adm. Code 1505) (R06-23). The proposal, filed by the Illinois Environmental Protection Agency (IEPA) on January 20, 2006, seeks to add a new Part 1505 to the Board's regulations setting standards and requirements for potable water well surveys and for community relations activities, where appropriate, in response to impacts or threats from contamination. As explained in more detail below, because the Board must adopt final rules at its September 1, 2006 meeting, the Board must adopt a first notice order no later than April 20, 2006. The Board has scheduled one pre-first notice hearing for March 23, 2006, in Chicago, and a second hearing for discussion of the first notice proposal adopted by the Board on May 23, 2006, in Springfield.

The IEPA proposal is required by Public Act 94-314, which, among other things, added a new Title VI-D ("Right-To-Know") to the Environmental Protection Act (Act). 415 ILCS 5/25d-1 - 25d-10 (as added by P.A. 94-314, eff. July 25, 2005). New Section 25d-7 required the IEPA, within 180 days of the section's effective date, to "evaluate the Pollution Control Board's rules and propose amendments to the rules as necessary to require potable water supply well surveys and community relations activities where such surveys and activities are appropriate in response to releases of contaminants that have impacted or may impact offsite potable water supply wells."

Public Act 94-314 mandates the Board to "amend its rules as necessary to require potable water supply well surveys and community relations activities where such surveys and activities are appropriate in response to releases of contaminants that have impacted or that may impact offsite potable water supply wells." 415 ILCS 5/25d-7 (as added by P.A. 94-314, eff. July 25, 2005).

The Board must adopt rules within 240 days of the effective date of P.A. 94-314, or no later than September 17, 2006.

The proposed new Part 1505 is divided into three subparts. Subpart A contains general information pertinent to the entire Part. Subpart B sets forth well survey procedures, as well as minimum standards for the performance and documentation of surveys during site investigations. The well survey rules apply to response actions taken pursuant to Board rules requiring that a release of contaminants be addressed. The IEPA emphasized that Subpart B does not contain independent requirements to perform well surveys. Rather, when well surveys are required under the applicable Board rules, Subpart B requires compliance with the Subpart B minimum standards and requirements for those wells surveys.

Under Public Act 94-314, the IEPA must also provide notice of "effects or potential effects of soil and groundwater contamination" to certain members of the public in specified circumstances. Contamination may include, for example, a hazardous substance, pesticide, or petroleum. Subpart C of the rules sets forth two alternative levels of community relations activities depending on the severity of the offsite impacts. Subpart C also establishes requirements for document repositories if applicable, fact sheets and community relations plans, and implementing community relations activities, compliance, and compliance monitoring.

In this rulemaking, the IEPA has proposed minimum standards and requirements for community relations activities. The proposed rules would apply when the IEPA has authorized the responsible party to provide notice as part of

community relations activities approved by the IEPA. The stated purpose of these requirements is to fully inform the public in a timely manner about offsite impacts or potential impacts from contamination and the responses to those impacts.

The IEPA explains that the legislation as a whole involves the public's right to know about certain offsite effects or potential effects of soil and groundwater contamination as set forth in the Act's new Title VI-D: Right-To-Know. 415 ILCS 5/25d-1 - 25d-10. IEPA's proposal is based on an interpretation of Section 25d-7 as limited by Section 25d-3 (requiring IEPA to provide notice of contamination threats to certain members of the public in specified instances). IEPA's statement of reasons said the proposal is a "voluntary approach to community relations activities and to keep the emphasis on the Agency notice obligations under Section 25d-3." IEPA notes that it had only 180 days to develop a proposal, and that the approach taken in the proposal submitted to the Board "has been developed just recently in response to its outreach efforts." IEPA has had no meetings on this proposal and because IEPA "has made this substantial and late change of direction to its proposal, there has not been sufficient time to meet further...[IEPA] cannot at this time represent that there is any level of concurrence by interested parties on the overall concepts guiding the proposal."

Under these circumstances, the Board found it advisable to schedule the March 28, 2006 pre-first notice hearing. Following a short comment period, the Board expects to adopt a first notice order April 20, 2006. Another hearing is set for May 23, 2006, in Springfield.

Copies of the Board's opinion and order in R06-23 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. The text of the IEPA proposal and statement of reasons is not included in the Board's February 2, 2006 opinion and order, but may be downloaded from the Board's Web site.

For additional information contact Amy Antonioli at 312-814-3665; e-mail address antonia@ipcb.state.il.us

Board Adopts Final Amendments in Revisions to Radium Water Quality Standards: Proposed New 35 Ill. Adm. Code 302.307 and Amendments to 35 Ill. Adm. Code 302.207 and 302.525 (R04-21)

On February 16, 2006, the Board adopted a final opinion and order in Revisions to Radium Water Quality Standards: Proposed New 35 Ill. Adm. Code 302.307 and Amendments to 35 Ill. Adm. Code 302.207 and 302.525 (R04-21). The final amendments were filed with the Secretary of State's Index department with a March 1, 2006 effective date, and will be published in the *Illinois Register* on March 17, 2006.

The Board will not repeat the extensive history of this docket here. The Board adopted its second notice order on December 15, 2005. As is summarized in the Environmental Register No. 618, p. 5 (December 2005), the Board made significant changes to the first notice proposal that was adopted by the Board on April 7, 2005 and published in the Illinois Register on April 29, 2005 at 29 Ill. Reg. 5873. The Joint Committee on Administrative Rules considered the rules at its January 18, 2006 meeting, and voted a certificate of no objection.

The Board's February 16, 2006 final opinion and order amended the general use water quality standard for combined radium 226 and 228. The amended standard applies to all general use waters of the State, including the Lake Michigan Basin and stream segments that receive discharge from publicly owned treatment works (POTWs). The Board set a standard of 3.75 pico curies per Liter (pCi/L) for combined radium 226 and 228, as an annual average value, rather than as an instantaneous maximum standard. Therefore, while the concentration of radium 226 and 228 combined may be higher than 3.75 pCi/L at times due to environmental conditions, the Board concluded that the water body will still meet the standard as long as the concentration averaged over the period of a year remains at or below 3.75 pCi/L. Determining compliance in this way will provide relief to POTWs while more precisely tailoring the standard to meet the Board's goal of protecting riparian mammals.

Additionally, the Board adopted a 5pCi/L combined radium 226 and 228 standard for Public and Food Processing Water Supplies as an instantaneous maximum standard for public and food processing water supply intakes. The Board determined that the proposed water quality standard expressed as an annual average provides relief for the majority of POTWs, while also protecting the most sensitive use of general use waters.

Finally, the Board also adopted a Public and Food Processing Water Supply standard of 5 pCi/L combined radium 226 and 228 to ensure that public water supplies meet the Federal drinking water maximum contaminant level for radium.

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Copies of the Board's opinion and order in R04-21 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 Amy Antonioli at 312/ 814-3665; email address antonioa@ipcb.state.il.us.

Board Adopts Final Notice Opinion and Order in Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732); In the Matter of: Regulation of Petroleum Leaking Underground Storage Tanks (Proposed new 35 Ill. Adm. Code 734) (R04-22/R04-23 A (cons.)).

On February 16, 2006, the Board adopted a final opinion and order in Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732); In the Matter of: Regulation of Petroleum Leaking Underground Storage Tanks (Proposed New 35 Ill. Adm. Code 734) (R04-22/R04-23 A (cons.)). The Joint Committee on Administrative Rules (JCAR) considered the Board's December 1, 2005 second notice proposal at its January 18, 2005 meeting, and voted a certificate of no objection along with a recommendation. The Board filed the adopted rules with the Secretary of State's Index department with a March 1, 2006 effective date. The final rules will be published in the *Illinois Register* on March 17, 2006.

In its December 1, 2005 opinion and order, the Board split the original docket. In Docket A, the Board sent rules to the JCAR for their second notice review. In Docket B, the Board proposes to give issues regarding "scope of work". (This is explained in more detail in *Environmental Register* No. 618, pp.2-4 (December 2005).)

In its February 16, 2006 Docket A order, the Board adopted some rules as final, while agreeing to give some issues further consideration in response to the JCAR recommendation. The adopted amendments differ from the first notice proposal in one major aspect. That difference is in the rule for handling of reimbursement of professional consulting services, which the Board amended in response to public comment at second notice to allow for reimbursement on a time and materials basis. In response to a recommendation from JCAR, the Board also stated in the final opinion and order that it will continue to review issues associated with Section 732.606(ddd) and (eee) in subdocket B. A hearing is scheduled in subdocket B for March 23, 2006 in Springfield. For a more complete description of the changes made at second notice, and the Board's decision to open subdocket B, see the December issue of the *Environmental Register* (pg. 2)

The adopted amendments allow for reimbursement of handling charges for a subcontractor if the primary contractor has a financial interest in the subcontractor, removed professional services from eligibility for bidding, added an additional member - appointed by members of Professionals of Illinois for the Protection of the Environment (PIPE) - to the LUST advisory committee, deleted the requirement that engineers or geologists maintain records to be available for an IEPA audit (that requirement is now limited to the maintenance of records by the owner or operator), and added a requirement for the Board to publish the results of the IEPA's triennial review of reimbursement rates in the Board's publication, the *Environmental Register*.

The adopted amendments set forth corrective action measures that must be taken in response to a leak and procedures for seeking payment from the Underground Storage Tank Fund (UST Fund), and reflect changes from P.A. 92-0554, effective June 24, 2002 and P.A. 92-0735, effective July 25, 2003, which allow a Licensed Professional Geologist to certify certain information. The rules are designed to streamline the process for obtaining payment from the UST Fund. The streamlining will be accomplished by specifying maximum amounts that will be reimbursed for remediation activities.

Copies of the Board's opinion and order in R04-22/23 Docket A 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 Second Notice Opinion and Order in Setback Zone for City of Marquette Heights Community Water Supply, New 35 Ill. Adm. Code 618 (R05-09)

On February 16, 2006, the Board adopted a second notice opinion and order in Setback Zone for City of Marquette Heights Community Water Supply, New 35 Ill. Adm. Code 618 (R05-09). The proposal seeks to add a new Part 618 to establish an expanded setback zone of up to 1,000 feet to provide additional protection for the community water supply (CWS) wells of the City of Marquette Heights, in Tazewell County. The Board did not receive any

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comments on, or make any changes to, its first notice proposal, adopted November 17, 2005 and published in the *Illinois Register* on December 2, 2005 at 29 Ill. Reg. 19503. The Board has sent the rulemaking, pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1-1 *et seq.* (2004)), to the Joint Committee on Administrative Rules (JCAR) for its review at the April 11, 2006 JCAR meeting.

This proposal is the first of its kind under Section 14.3 of the Environmental Protection Act (Act) (415 ILCS 5/14.3 (2004)), which allows for the establishment of “maximum setback zones” to prevent contamination of particularly vulnerable groundwater sources used by CWS. A setback zone restricts land use near the CWS well, providing a buffer between the well and potential sources or routes of contamination.

After reviewing the proposal and public hearing record, the Board found that expanding the zone of wellhead protection is justified, as Section 14.3(d) of the Act requires. The City of Marquette Heights adopted a resolution on March 22, 2004, requesting that the Illinois Environmental Protection Agency (IEPA) propose a rule to the Board that would increase the setback zone around the Marquette Heights CWS wells. Marquette Heights has two CWS wells, both of which are located outside of the city limits of Marquette Heights in North Pekin, Tazewell County. The wells have an estimated average daily pumpage from the groundwater source of 240,000 gallons per day, supplying approximately 3,200 persons directly. Marquette Heights’ water system has approximately 1,064 service connections within the corporate limits and another 56 service connections in an area of anticipated future expansion east of the City. Based on various assessments, including groundwater flow and recharge area modeling, the IEPA concluded that the current minimum setback zones did not adequately protect the Marquette Heights CWS wells, and that the groundwater source is “highly vulnerable.”

In proposed Subpart A of Part 618, there are general provisions for maximum setback zones, including definitions. Subpart A’s provisions will apply to all maximum setback zones established in Illinois through Board rulemaking.

Proposed Subpart B of Part 618 contains rules specific to the Marquette Heights CWS wells. Section 618.Appendix A is a map that delineates the irregularly-shaped boundaries of the proposed maximum setback zone relative to local land use plats. The distance from each wellhead to the proposed setback boundaries varies from approximately 600 to 1,000 feet. The appendix also lists identification numbers of parcels that are located wholly or partially within the proposed maximum setback.

The proposed Subpart B rules also provide that: (1) certain activities within the setback are banned; and (2) other activities within the setback are subject to management and control standards. “New potential primary sources” of groundwater contamination are prohibited from locating wholly or partially within the Marquette Heights expanded setback. Examples of potential primary sources can include a unit at a facility (1) used to treat, store, or dispose of any hazardous or special waste not generated at the site, (2) used to dispose of municipal waste not generated at the site, other than landscape waste and construction and demolition debris, (3) used to landfill, land treat, surface impound or pile any hazardous or special waste that is generated on the site or at other sites owned, controlled or operated by the same person, or (4) that stores or accumulates at any time more than 75,000 pounds above ground, or more than 7,500 pounds below ground, of any hazardous substances.

Subpart B also specifies that the Board’s Part 615 or Part 616 management and control standards (35 Ill. Adm. Code 615 and 616) apply to those new or existing activities that are regulated by Part 615 or Part 616 and located wholly or partially within the expanded Marquette Heights setback. These activities may include on-site landfills, on-site land treatment units, on-site surface impoundments, on-site waste piles, underground storage tanks, pesticide storage and handling units, fertilizer storage and handling units, road oil storage and handling units, and de-icing agent storage and handling units. The proposed rules make clear, however, that agricultural facilities that affirmatively opt out of Part 615 or Part 616 are regulated instead under other rules. Part 615 (Existing Activities in a Setback Zone or Regulated Recharge Area) and Part 616 (New Activities in a Setback Zone or Regulated Recharge Area) contain groundwater monitoring, design, inspection, operating, closure, and post-closure requirements that apply within setback zones, and so will apply automatically in the Marquette Heights maximum setback zone on the effective date of this new Part.

Copies of the Board’s opinion and order in R05-9 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 Richard at 312/ 814-6983; email address mcgillr@ipcb.state.il.us.

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Decisions

PCB 05-66	<u>People of the State of Illinois v. Petco Petroleum Corporation</u> – In this water enforcement action concerning a Fayette 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 respondents to pay a total civil penalty of \$135,000, and to cease and desist from further violations.	4-0 W-E
PCB 05-215	<u>People of the State of Illinois v. First Rockford Group, Inc., Village of Cherry Valley, and Schlichting & Sons Excavating, Inc.</u> – In this public water supply enforcement action concerning a Winnebago 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 as to the Village of Cherry Valley (Cherry Valley), and ordered Cherry Valley to pay a total civil penalty of \$14,500, and to cease and desist from further violations. The Board granted complainant’s motion to consolidate this enforcement action with PCB 06-103.	4-0 PWS-E
PCB 06-103	<u>People of the State of Illinois v. First Rockford Group, Inc.</u> – The Board granted complainant’s motion to consolidate this enforcement action with PCB 05-215. This will be reflected in the caption of future orders.	
PCB 06-36	<u>People of the State of Illinois v. Magellan Pipeline Company, L.P.</u> – In this land enforcement action concerning a Lee 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 respondents to pay a total civil penalty of \$18,000, and to cease and desist from further violations.	4-0 L-E

Motions and Other Matters

PCB 03-54	<u>Freedom Oil Company v. IEPA</u> – The Board took the following action in these consolidated petitions for review; denied Freedom Oil’s motion for default judgment or, alternatively, to bar Illinois Environmental Protection Agency (IEPA) evidence: denied the IEPA’s motion to strike Exhibit 17 of, and references to that exhibit in, Freedom Oil’s motion for summary judgment: granted Freedom Oil’s motion for summary judgment in part and denied it in part; and granted the IEPA’s counter-motion for summary judgment in part and denied it in part. The Board directed the parties to hearing on the remaining issues.	4-0
PCB 03-56		UST Appeal
PCB 03-105		
PCB 03-179		
PCB 04-2 (cons.)		
PCB 05-193	<u>Vernon and Elaine Zohfeld v. Robert Drake, Wabash Valley Service Company, Michael J. Pfister, Noah D. Horton and Steve Kinder</u> – The Board denied respondents’ motion for stay of the proceedings. The Board also denied complainants’ motion to strike respondents’ reply to the response to the motion for stay.	4-0 Citizens A-E
PPCB 05-204	<u>People of the State of Illinois v. Lake Street Development 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	4-0 W-E, NPDES

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involving a Lake County facility, the Board ordered publication of the required newspaper notice.

PCB 06-15	<u>People of the State of Illinois v. Illinois-American Water Company</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this public water supply enforcement action involving a Will County facility, the Board ordered publication of the required newspaper notice.	4-0 PWS-E
PCB 06-42	<u>People of the State of Illinois v. Waste Management of Illinois, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Whiteside County facility, the Board ordered publication of the required newspaper notice.	4-0 L-E
PCB 06-46	<u>People of the State of Illinois v. Osborn Homes, Inc.</u> – The Board granted the parties’ joint motion to change name of respondent to Osborn Development Company.	4-0 L-E
PCB 06-111	<u>Marathon Ashland Petroleum, L.L.C. (Reformulated Gasoline – Blending Process) (Property Identification No. 51-34-1-21 or portion thereof) v. IEPA</u> – Because the Board did not receive any petition for review of the Illinois Environmental Protection Agency’s (IEPA’s) recommendation to deny certification, consistent with the IEPA’s recommendation, the Board declined to certify that certain Marathon Ashland Petroleum, L.L.C. facilities are pollution control facilities and dismissed this matter.	4-0 T-C
PCB 06-112	<u>Marathon Ashland Petroleum, L.L.C. (Amine Expansion, Kerosene Treater, Crude Blending and Merichem Treater Revamp) (Property Identification No. 51-34-1-21 or portion thereof) v. IEPA</u> – Because the Board did not receive any petition for review of the Illinois Environmental Protection Agency’s (IEPA’s) recommendation to deny certification, consistent with the IEPA’s recommendation, the Board declined to certify that certain Marathon Ashland Petroleum, L.L.C. facilities are pollution control facilities and dismissed this matter.	4-0 T-C
PCB 06-113	<u>Marathon Ashland Petroleum, L.L.C. (Reverse Osmosis Degasifier Unit) (Property Identification Number 51-34-1-21 or portion thereof) v. IEPA</u> – Because the Board did not receive any petition for review of the Illinois Environmental Protection Agency’s recommendation to deny certification, consistent with the IEPA’s recommendation, the Board declined to certify that certain Marathon Ashland Petroleum, L.L.C. facilities are pollution control facilities and dismissed this matter.	4-0 T-C
PCB 06-114	<u>Marathon Ashland Petroleum, L.L.C. (Cooling Water Tower Automation and Control) (Property Identification Number 51-34-1-21 or portion thereof) v. IEPA</u> – Because the Board did not receive any petition for review of the Illinois Environmental Protection Agency’s recommendation to deny certification,	4-0 T-C

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consistent with the IEPA's recommendation, the Board declined to certify that certain Marathon Ashland Petroleum, L.L.C. facilities are pollution control facilities and dismissed this matter.

PCB 06-124	<u>Prairie Rivers Network and Sierra Club v. IEPA and Prairie State Generating Company, L.L.C.; American Bottom Conservancy and Dale Wojtkowski v. IEPA and Prairie State Generating Company, L.L.C.</u> – The Board granted W.C. Blanton and Alison Nelson leave to appear <i>pro hac vice</i> on behalf of the respondent generating company.	4-0
PCB 06-127 (cons.)		P-A, Water
PCB 06-131	<u>Wesley Brazas, Jr. v. Mr. Jeff Magnussen, President Village of Hampshire and IEPA</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies postmarked on or before February 17, 2006, or the matter would subject to dismissal.	4-0 P-A, NPDES
PCB 06-132	<u>People of the State of Illinois v. Lake Pointe Estates L.L.C.</u> – The Board accepted for hearing this land enforcement action involving a site located in Sangamon County.	4-0 L-E
PCB 06-133	<u>People of the State of Illinois v. City of Flora</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land and water enforcement action involving a Clay County facility, the Board ordered publication of the required newspaper notice.	4-0 L, W-E
PCB 06-134	<u>People of the State of Illinois v. Village of Hainesville</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this public water supply enforcement action involving a Lake County facility, the Board ordered publication of the required newspaper notice.	4-0 PWS-E

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Chicago, Illinois

Rulemakings

R04-21	<u>In the Matter of: Revisions to Radium Water Quality Standards: Proposed New 35 Ill. Adm. Code 302.307 and Amendments to 35 Ill. Adm. Code 302.207 and 302.525</u> – The Board adopted a final opinion and order in this rulemaking which amends the Board's water quality standards.	4-0 R, Water
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R04-22(A)	<u>In the Matter of: Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732); In the Matter of: Regulation of Petroleum Leaking Underground Storage Tanks (Proposed New 35 Ill. Adm. Code 734)</u> – The Board adopted a final opinion and order in this rulemaking which amends the Board’s land pollution control regulations.	4-0
R04-23(A) (cons.)		R, Land
R05-9	<u>In the Matter of Setback Zone for City of Marquette Heights Community Water Supply, New 35 Ill. Adm. Code 618</u> – The Board adopted a second notice opinion and order in this site-specific rulemaking to amend the Board’s public water supply regulations, as requested.	4-0 R, PWS

Administrative Citations

AC 04-77	<u>IEPA v. Frank Bencie</u> – The Board entered an interim opinion and order finding respondent violated Sections 21(p)(1) and (p)(4) of the Act (415 ILCS 5/21(p)(1), (p)(4) (2004)) and assessing a penalty of \$3,000. The Board ordered the Clerk of the Board and the Illinois Environmental Protection Agency to file within 14 days a statement of hearing costs, supported by affidavit, with service on respondent. Respondent may respond to the cost statement within 14 days of service.	4-0
AC 06-20	<u>IEPA v. Georgia Shank and Steve Shank</u> – The Board directed respondent Georgia Shank to file an amended petition for review specifying the grounds for appeal within 30 days, or the Board will dismiss this matter. The Board noted that Steve Shank had not filed a petition for review.	4-0
AC 06-21	<u>County of Jackson v. Dan Kimmel</u> – The Board directed respondent to file an amended petition for review specifying the grounds for appeal within 30 days, or the Board will dismiss this matter.	4-0

Decisions

PCB 04-201	<u>People of the State of Illinois v. Southern Illinois Power Cooperative</u> – In this air 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 \$48,000, and to cease and desist from further violations.	4-0 A-E
PCB 05-201	<u>People of the State of Illinois v. Illinois Tool Works, Inc.</u> – 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 \$17,500, and to cease and desist from further violations.	4-0 A-E
PCB 05-207	<u>People of the State of Illinois v. Precision Twist Drill Co.</u> – In this air	4-0

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enforcement action concerning a McHenry 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 \$30,500, and to cease and desist from further violations. A-E

Motions and Other Matters

PCB 03-191	<u>People of the State of Illinois v. Community Landfill Company, Inc. and the City of Morris</u> – The Board granted Community Landfill Corporation’s motion to strike the requests for an interim remedy from the complainant’s motion for summary judgment. The Board granted the complainant’s motion for summary judgment in part, finding that Community Landfill Corporation and the City of Morris violated Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2004)), and Sections 811.700(f) and 811.712(b) of the Board’s regulations. 35 Ill. Adm. Code 811.700(f), 811.712(b). Finally, the Board denied the City of Morris’ counter motion for summary judgment and directed the parties to hearing on the specific issue of remedy.	4-0 L-E
PCB 04-47	<u>Saint-Gobain Containers, Inc. v. IEPA</u> – The Board granted petitioner’s motion to stay proceedings until the Board orders otherwise.	4-0 P-A, Air
PCB 04-137	<u>People of the State of Illinois v. Robinson Carbon, Inc.</u> – The Board granted complainant’s motion for leave to file and accepted for hearing a first amended complaint.	4-0 A-E
PCB 05-77	<u>Wiseman/PJ’s Shortstop v. IEPA</u> – The Board granted this Edgar County facility’s motion for voluntary dismissal of this underground storage tank appeal.	4-0 UST Appeal
PCB 05-91	<u>People of the State of Illinois v. Clean Harbors Services, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	4-0 A-E
PCB 05-97	<u>Henson Oil Co. v. EPA</u> – The Board granted this McLean County facility’s motion for voluntary dismissal of this underground storage tank appeal.	4-0 UST Appeal
PCB 05-124	<u>Mac’s Convenience Stores L.L.C. v. IEPA</u> – The Board granted this Sangamon County facility’s motion for voluntary dismissal of this underground storage tank appeal.	4-0 UST Appeal
PCB 06-45	<u>People of the State of Illinois v. Ecolab, Inc. and Charles A. Winslett</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land and water enforcement action involving a Tazewell County facility, the Board ordered publication of the required newspaper notice.	4-0 L&W-E

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PCB 06-56	<p><u>Midwest Generation, L.L.C., Crawford Generating Station v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Cook County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-57	<p><u>Midwest Generation, L.L.C., Fisk Generating Station v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Cook County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-58	<p><u>Midwest Generation, L.L.C., Joliet Generating Station v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Will County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-59	<p><u>Midwest Generation, L.L.C., Powerton Generating Station v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Tazewell County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-60	<p><u>Midwest Generation, L.L.C., Will County Generating Station v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act ((5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Will County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-61	<p><u>Southern Illinois Power Cooperative v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Williamson County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air

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PCB 06-62	<p><u>Kincaid Generation, L.L.C. v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Christian County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-63	<p><u>Dynegy Midwest Generation, Inc. (Baldwin Energy Complex) v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Randolph County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-64	<p><u>Ameren Energy Generating Company, Coffeen Power Station v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Montgomery County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-65	<p><u>Electric Energy, Incorporated v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Massac County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-66	<p><u>AmerenEnergy Resources Generating Company, Duck Creek Power Station v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Fulton County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air

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PCB 06-67	<p><u>AmerenEnergy Resources Generating Company, Edwards Power Station v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Peoria County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-68	<p><u>Ameren Energy Generating Company, Newton Power Station v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Jasper County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-69	<p><u>Ameren Energy Generating Company, Meredosia Power Station v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Morgan County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-70	<p><u>Ameren Energy Generating Company, Hutsonville Power Station v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Crawford County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-71	<p><u>Dynegy Midwest Generation, Inc. (Havana Power Station) v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Mason County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-72	<p><u>Dynegy Midwest Generation, Inc. (Hennepin Power Station) v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Putman County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air

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PCB 06-73	<u>Dynegy Midwest Generation, Inc. (Vermilion Power Station) v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Vermilion County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.	4-0 P-A, Air
PCB 06-74	<u>Dynegy Midwest Generation, Inc. (Wood River Power Station) v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Madison County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.	4-0 P-A, Air
PCB 06-75	<u>The City of Springfield v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Sangamon County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.	4-0 P-A, Air
PCB 06-135	<u>Environmental Protection Industries, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a DuPage County facility.	3-0 Melas abstained UST Appeal
PCB 06-136	<u>People of the State of Illinois v. D&L Landfill, Inc.</u> – The Board accepted for hearing this land enforcement action involving a site located in Bond County.	4-0 L-E

New Cases

February 2, 2006 Board Meeting

06-132 Arlyn’s Service Center 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 Randolph County facility.

06-133 Wesley Brazas, Jr. v. Mr. Jeff Magnussen, President Village of Hampshire and IEPA – No action taken.

06-134 Arlyn’s Service Center 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 Randolph County facility.

AC 06-021 County of Jackson v. Dan Kimmel – The Board accepted for hearing this petition for review of an administrative citation against this Jackson County respondent.

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AC 06-022 IEPA v. Harold Graves – The Board accepted for hearing this petition for review of an administrative citation against this Shelby County respondent.

AS 06-002 In the Matter of: Petition of BP Products North America, Inc. for an Adjusted Standard Pursuant to 35 Ill. Adm. Code 721.122 – No action taken.

R06-022 In the Matter of: NO_x Trading Program: Amendments to 35 Ill. Adm. Code Part 217 – The Board accepted for hearing the Illinois Environmental Protection Agency's (IEPA) January 19, 2006 proposal to amend the Board's air pollution control regulations. The Board also granted of petitioner's request to waive filing requirements, but directed the IEPA to file additional copies of certain documents.

R06-023 In the Matter of: Standards and Requirements for Potable Water Well Surveys and for Community Relations Activities Performed in Conjunction with Agency Notices of Threats from Contamination Under PA 94-134: New 35 Ill. Adm. Code Part 1505 – The Board accepted for hearing the Illinois Environmental Protection Agency's (IEPA) January 20, 2006 proposal to amend the Board's land pollution control regulations. The Board also granted of petitioner's January 30, 2006 motion to refile the entire statement of reasons.

February 16, 2006 Board Meeting

06-135 Environmental Protection Industries, Inc. v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a DuPage County facility.

06-136 People of the State of Illinois v. D&L Landfill, Inc. – The Board accepted for hearing this land enforcement action involving a site located in Bond County.

06-137 City of Springfield, Illinois v. IEPA – No action taken.

AC 06-023 IEPA v. Harold Graves – The Board accepted an administrative citation against this Shelby County respondent.

AC 06-024 IEPA v. City of Freeport and Ryan Wilson – The Board accepted an administrative citation against these Stephenson County respondents.

AC 06-024 County of Perry v. Ida Haberman – The Board accepted an administrative citation against this Perry County respondent.

R06-024 In the Matter of: Revisions to Water Quality Standards for Total Dissolved Solids in the Lower Des Plaines River for Exxon Mobil Oil Corporation: Proposed 35 Ill. Adm. Code 303.445 – No action taken.

Provisional Variances

IEPA 06-08 City of Morrison v. IEPA—On February 10, 2006, the Illinois Environmental Protection Agency granted the City of Morrison a provisional variance from the daily maximum ammonia nitrogen limits of National Pollution Discharge Elimination System Permit IL0027006 for the city's waste water treatment plant. The City requested this relief to allow it to correct a mechanical failure on one of the plant's trickling filters. The provision variance is effect for the time period from February 3, 2006 to March 20, 2006.

Public Act 93-0152 (Senate Bill 222) amended Sections 35-37 of the Illinois Environmental Act (415 ILCS 5/5(b) (2002)) so that provisional variances are issued by the Illinois Environmental Protection Agency (IEPA). If the IEPA grants a provisional variance, then the IEPA must file a copy of its written decision with the Board. The Board must maintain copies of the provisional variances for public inspection. Copies of provisional variances can be obtained by contacting the Clerk's Office at (312) 814-3620, or by visiting the Board's Website at www.ipcb.state.il.us. If the IEPA denies a provisional variance request, then the applicant may initiate a proceeding with the Board for a full variance.

Calendar

3/1/06 2:00 PM	R06-19	In the Matter of: Clean Construction or Demolition Debris Fill Operations Under PA 94-272 (35 Ill. Adm. Code 1100)	Illinois State Museum Auditorium, Lower Level 502 South Spring Street Springfield
3/1/06 10:30 AM	R06-10	In the Matter of: Proposed Amendments to Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)	IEPA North Entrance TQM Room 1000 E. Converse Springfield
3/02/06 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Illinois Pollution Control Board Board Room, 1244 N 1021 N. Grand Avenue East Springfield
3/7/06 10:00 AM	R06-11	In the Matter of: Proposal of Vaughn & Bushnell Manufacturing Company of Amendments to a Site-specific Rule 35 Ill. Adm. Code 901.121	City Hall 138 Hail Street Bushnell
3/16/06 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Chicago James R. Thompson Center Conference Room 09-040 100 W. Randolph Street Chicago
3/23/06 1:00 PM	R04-22(B)	In the Matter of: Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732)(Consolidated: R04-22B and R04-23B)	IEPA North Entrance Training Room, 1214 West 1021 N. Grand Avenue East, North Entrance Springfield
3/23/06 1:00 PM	R04-23(B)	In the Matter of: Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732)(Consolidated: R04-22B and R04-23B)	IEPA North Entrance, 1214 West Training Room 1021 N. Grand Avenue East, North Entrance Springfield
3/24/06 10:00 AM	R04-22(B)	In the Matter of: Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732)(Consolidated: R04-22B and R04-23B)	IEPA North Entrance Training Room, 1214 West 1021 N. Grand Avenue East, North Entrance Springfield
3/24/06 10:00 AM	R04-23(B)	In the Matter of : Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732)(Consolidated: R04-22B and R04-23B)	IEPA North Entrance Training Room, 1214 West 1021 N. Grand Avenue East, North Entrance Springfield
3/27/06 10:00 AM	PCB 06-124	Prairie Rivers Network and Sierra Club v. IEPA and Prairie State Generating Company, LLC (Consolidated: PCB 06-124 and PCB 06-127)	Washington County Courthouse Second Floor 101 E. St. Louis Street Nashville

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3/27/06 10:00 AM	PCB 06-127	American Bottom Conservancy and Dale Wojtkowski V. IEPA and Prairie State Generating Company, LLC (a.k.a. Peabody Energy) (Consolidated: PCB 06-124 and PCB 06-127)	Washington County Courthouse Second Floor 101 E. St. Louis Street Nashville
3/28/06 10:00 AM	R06-23	In the Matter of: Standards and Requirements for Potable Water Well Surveys and for Community Relations Activities Performed in Conjunction with Agency Notices of Threats from Contamination Under PA 94-134: New 35 Ill. Adm. Code Part 1505	Michael A. Bilandic Building Room N-502 160 North LaSalle Street Chicago
03/29/06 10:00 AM	AC 05-70	IEPA v. James Stutsman	Mason County Courthouse County Board Room 125 N. Plum Havana
3/30/06 9:00 AM	PCB 04-88	DesPlaines River Watershed Alliance, Livable Communities Alliance, Prairie Rivers Network, and Sierra Club v. IEPA and Village of New Lenox	Village of Bolingbrook Board Room—(continued next day as necessary) 375 W. Briarcliff Road Bolingbrook
3/31/06 9:00 AM	PCB 04-88	DesPlaines River Watershed Alliance, Livable Communities Alliance, Prairie Rivers Network, and Sierra Club v. IEPA and Village of New Lenox	Village of Bolingbrook Board Room 375 W. Briarcliff Road Bolingbrook
4/06/06 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
04/19/06 10:00 AM	R06-21	In the Matter of: Organic Material Emissions Standards and Limitations for the Chicago and Metro-East Areas: Proposed Amendments to 35 Ill. Code 218 and 219	Illinois Pollution Control Board James R. Thompson Center Suite 11-512 100 West Randolph Chicago
4/20/06 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Chicago James R. Thompson Center Conference Room 09-040 100 W. Randolph Street Chicago
5/4/06 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Illinois Pollution Control Board Board Room, 1244 N 1021 N. Grand Avenue East Springfield

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05/17/06 9:00 AM	R06-21	In the Matter of: Organic Material Emissions Standards and Limitations for the Chicago and Metro-East Areas: Proposed Amendments to 35 Ill. Code 218 and 219	Madison County Administration Building Room 108 157 North Main Edwardsville
5/18/06 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Chicago James R. Thompson Center Conference Room 09-040 100 W. Randolph Street Chicago
5/23/06 10:00 AM	R06-23	In the Matter of: Standards and Requirements for Potable Water Well Surveys and for Community Relations Activities Performed in Conjunction with Agency Notices of Threats from Contamination Under PA 94-134: New 35 Ill. Adm. Code Part 1505	Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East North Entrance Springfield

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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 30, 2005.

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>
Alhambra STP	Village of Alhambra	Madison	0
Bonnie Brae Forest Manor SD STP	Bonnie Brae Forest Manor SD	Will	0
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
Lockport Heights SD STP	City of Lockport	Will	0
Port Byron STP	Village of Port Byron	Rock Island	0
Richmond WWTP	Village of Richmond	McHenry	0
Rosewood Heights S.D.- Ninth Street LS	Rosewood Heights S.D.	Madison	0
Saint Elmo	City of Saint Elmo	Fayette	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: Village of Davis Junction

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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 30, 2005.

Facility names 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>	<u>PE ADDED SINCE LAST LIST</u>
Algonquin	Village of Algonquin	Kane	808	140
Antioch STP	Village of Antioch	Lake	584	0
Beardstown SD	City of Beardstown	Cass	1,731	
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	5,645	0
Dakota	Village of Dakota	Stephenson	90	0
Downers Grove S.D.	Downers Grove S.D.	DuPage	2,370	264
East Dundee STP	Village of E. Dundee	Kane	550	0
Elkville	Village of Elkville	Jackson	6	0
Ferson Creek Utilities Co.	Utilities, Inc.	Will	70	0
LCPWD-Diamond- Sylvan STP	County of Lake Public Works Department	Lake	0	0
Lake Barrington Home Owners Assn. STP	Lake Barrington Home Owners Assn.	Lake	80	0
Lockport	City of Lockport	Will County	0	524
Moline (North Slope)	City of Moline	Rock Island	1,151	0
Morris STP	City of Morris	Grundy	0	841
New Lenox STP 1**	Village of New Lenox	Will	48	372
Paris STP	City of Paris	Edgar	0	
Rock Island (Main)	City of Rock Island	Rock Island	4,080	
Streator	City of Streator	LaSalle/ Livingston	700	5
Wauconda – Remaining Collection System & Lakeview Villa LS	Village of Wauconda	Lake	***	
Wauconda WWTP	Village of Wauconda	Lake		88

Deletions from previous quarterly report: None

Additions from previous quarterly report: None

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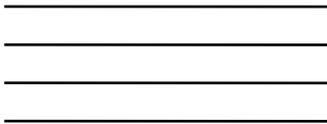
***Contact IEPA – Permit Section

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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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