
Environmental Register

November 2001 - Number 569

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

Claire A. Manning, Chairman

Board Members:

Ronald C. Flemal, G. Tanner Girard, Thomas E. Johnson,
Elena Z. Kezelis, Samuel T. Lawton Jr., Nicholas J. Melas

Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601
(312) 814-3620
(312) 814-6032 TDD

Illinois Pollution Control Board
600 South Second Street
Suite 402
Springfield, Illinois 62704
(217) 524-8500

Web Site: <http://www.ipcb.state.il.us>

Letter from the Chairman

The Illinois Pollution Control Board welcomes Michael A. Tristano. His term begins December 1, 2001. Tristano has an extensive background in State government having served as the Chief of Staff to the Republican Leader of the Illinois House, Director of the Illinois Department of Central Management Services, and Executive Director of the Illinois Department of Public Aid. He has also served as the Vice Chancellor and Executive Vice Chancellor for Administration and Human Resources at the University of Illinois-Chicago. Tristano has an MBA from the University of Illinois at Champaign-Urbana, an MS in Political Science from Illinois State University, and a BS in Social Science from Illinois State University.



On November 14, 2001, the Senate confirmed Tristano's and Thomas E. Johnson's appointments, as well as my reappointment as Chairman. Johnson's appointment was effective July 1, 2001. My new term was also effective July 1, 2001. I was first appointed to the Board and designated Chairman in 1993.

The Board looks forward to working with Member Tristano. His extensive background in State government and strong educational background in business administration, public policy analysis, and political science will be an asset to the Board in its mission to shape environmental policy in Illinois.

Tristano replaces former Board Member Elena Z. Kezelis who has been named Executive Director of the Illinois Environmental Regulatory Research Commission (IERRC) effective December 1, 2001.

At this time I would like to take this opportunity to update you on the IERRC. Governor Ryan created the IERRC to recommend improvements to Illinois' core statute for protecting the environment, the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.*). The IERRC's members represent a broad and diverse cross-section of the environmental community, industry, and government. As Chairman of the Board, I have actively served as a member of the IERRC since its inception.

When Governor Ryan established the IERRC, he acknowledged that the Act has "served the State of Illinois well" and that the Act and its purposes remain "fundamentally sound." The Governor emphasized, however, that "there may be ways to make the Act more effective, understandable and useful." To that end, the IERRC has been developing recommendations to streamline, clarify, and update the provisions of the 30-year old statute, without altering the Act's fundamental policy underpinnings. It is expected that the IERRC will soon recommend to the Governor a number of proposed amendments to the Act that could become part of a package for legislative action this spring.

I am honored to serve as a member of the IERRC and look forward to continuing the IERRC's good work with Executive Director Kezelis for the benefit of all stakeholders in Illinois' environment.

Sincerely,

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

Claire A. Manning, Chairman

Inside This Issue:

FEDERAL UPDATE	P. 1
RULE UPDATE	P. 4
BOARD ACTIONS	P. 7
NEW CASES	P. 13
BOARD CALENDAR	P. 14

Federal Update

United States Environmental Protection Agency in a Direct Final Rule Under the Clean Air Act Revises Requirements on Variability in the Composition of Additives Certified Under the Gasoline Deposit Control Program

On November 5, 2001, USEPA in a direct final rule revised the requirements on variability in the composition of additives certified under the Gasoline Deposit Control Program. 66 Fed. Reg. 55885.

Deposits that form in gasoline-fueled motor vehicle engines and fuel supply systems have been shown to increase emissions of harmful air pollutants. All gasoline used in the United States must contain additives that have been certified with USEPA as effective in limiting the formation of such deposits. During certification, additive manufacturers must provide USEPA with information on additive composition. To ensure that in-use additives meet USEPA requirements, manufacturers are required to limit variation in the composition of additive production batches from that reported during certification.

The new rule makes revisions to the information that must be provided on additive composition by the manufacturer at the time of certification and clarifies the requirements associated with limiting variability in additive production batches. These changes address additive manufacturer concerns that compliance with the existing requirements would be burdensome and difficult, while maintaining the emissions control benefits of the gasoline deposit control program. USEPA made these regulatory changes by direct final rule because the changes were viewed as non-controversial and no adverse comments were anticipated.

This rule becomes effective on February 4, 2002 without further notice, unless USEPA receives adverse comment by January 4, 2002. If adverse comments are received, USEPA will withdraw the amendment, paragraph, or section of the direct final rule that received the adverse comment and those amendments, paragraphs, or sections will not take effect. Any amendment, paragraph, or section that does not receive adverse comment will become effective on the above-mentioned date.

For additional information contact Jeff Herzog at 734/214-4227; e-mail address: herzog.jeff@epa.gov.

If USEPA does not withdraw these rules, and 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 (2000)).

United States Environmental Protection Agency Proposes Revisions to National Ambient Air Quality Standards for Ozone Under the Clean Air Act in Response to Remand from the United States Court of Appeals for the District of Columbia Circuit

On November 14, 2001, USEPA proposed revised standards in response to a remand from the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) relating to National Ambient Air Quality Standards (NAAQS) for ozone. 66 Fed. Reg. 57267.

On July 18, 1997, in accordance with Sections 108 and 109 of the Clean Air Act (CAA) (42 U.S.C. §§ 7401 *et seq.* (2000)), USEPA completed its review of the NAAQS for ozone (O₃) by promulgating revised primary and secondary standards. On May 14, 1999, the D.C. Circuit remanded the O₃ NAAQS to USEPA to consider, among other things, the alleged beneficial health effects of O₃ pollution in shielding the public from the "harmful effects of the sun's ultraviolet rays." *American Trucking Assn. v. USEPA*, 175 F.3d 1027 (D.C. Cir. 1999).

USEPA's proposed response to that aspect of the court's remand is based on its review of the air quality criteria and

NAAQS for O₃ completed in 1997, and its additional assessment of the potential beneficial effects of tropospheric O₃. USEPA has determined that the information linking changes in patterns of ground-level O₃ concentrations that is likely to occur as a result of programs implemented to attain the 1997 O₃ NAAQS to changes in relevant exposures to UV-B radiation of concern to public health is too uncertain at this time to warrant any relaxation in the level of public health protection. Further, USEPA noted that associated changes in UV-B radiation exposures of concern, using plausible but highly uncertain assumptions about likely changes in patterns of ground-level ozone concentrations, would likely be very small from a public health perspective.

As a result, the revised O₃ NAAQS will remain set at a level of 0.08 parts per million (ppm), with a form based on the 3-year average of the annual fourth-highest daily maximum 8-hour average O₃ concentrations measured at each monitor within an area. The primary standard was revised to provide increased protection to the public, especially children and other at-risk populations, against a wide range of health effects directly induced by breathing O₃. These include decreased lung function (primarily in children active outdoors), increased respiratory symptoms (particularly in highly sensitive individuals), hospital admissions and emergency room visits for respiratory causes (among children and adults with pre-existing respiratory disease such as asthma), inflammation of the lung, and possible long-term damage to the lungs.

The secondary standard was revised to provide increased protection to the public welfare against effects on vegetation, such as agricultural crop loss, damage to forests and ecosystems, and visible foliar injury to sensitive species associated with direct exposure to O₃ in the ambient air.

The proposed revision constitutes USEPA's response to the part of the remand of the 1997 O₃ NAAQS by the D.C. Circuit related to whether tropospheric O₃ has a beneficial effect with regard to attenuation of naturally occurring solar radiation. Other issues related to the 1997 O₃ NAAQS are now before the D.C. Circuit for proceedings consistent with the February 27, 2001 opinion of the United States Supreme Court in *Whitman v. American Trucking Associations*, 531 U.S. 457 (2001), and are not addressed by this proposal.

Comments on this proposed response must be received by January 14, 2002. For additional information contact Susan Lyon Stone at 919/541-1146; e-mail address: stone.susan@epa.gov.

If USEPA adopts these proposed rules, and 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 (2000)).

United States Environmental Protection Agency Proposes Supplemental Regulatory Amendments to the Corrective Action Management Unit Rule Under the Resource Conservation and Recovery Act

On November 20, 2001, USEPA proposed supplemental regulatory amendments to the corrective action management unit (CAMU) rule. 66 Fed. Reg. 58085.

The suggested regulatory changes came from commenters on USEPA's proposed Amendments to the Corrective Action Management Unit Rule (Aug. 22, 2000). In that notice, USEPA proposed amendments to the CAMU regulations to tighten standards for wastes managed in CAMUs during cleanup. The comment period on the August 2000 proposal closed on October 23, 2000.

USEPA now proposes additional regulations that would allow CAMU-eligible hazardous waste, treated in accordance with the treatment standard in the proposed CAMU amendment in lieu of otherwise applicable land disposal restriction standards, to be placed in hazardous waste landfills, under limited circumstances. USEPA believes that allowing hazardous remediation waste generated during clean-up to be placed in hazardous waste landfills will promote more aggressive remediation.

USEPA is soliciting only comments on the issue of placement of CAMU-eligible wastes in hazardous waste landfills under the terms of this supplemental proposal, not on any aspect of the August 2000 proposal. If USEPA goes forward with this proposal, it intends to do so when final action is taken on the August 2000 proposal. Public comments will be accepted until December 5, 2001.

For additional information contact Bill Schoenborn at 703/308-8483; e-mail address: schoenborn.william@epa.gov.

If the rules are adopted by USEPA, the Board will include any necessary amendments to its rules in a future RCRA identical in substance rulemaking pursuant to Sections 7.2 and 22.4 of the Environmental Protection Act (415 ILCS 5/7.2, 22.4 (2000)).

United States Environmental Protection Agency in Final Rule Under the Resource Conservation and Recovery Act Identifies and Lists as Hazardous Three Wastes Generated from Inorganic Chemical Manufacturing Processes

On November 20, 2001, USEPA in a final rule under the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. §§ 6901 *et seq.* (2000)) listed as hazardous three wastes generated from inorganic chemical manufacturing processes. 66 Fed. Reg. 58257.

Under RCRA, USEPA is directed to determine whether certain wastes generated by inorganic chemical manufacturing industries may present a substantial hazard to human health or the environment. The effects of listing these three wastes as hazardous are to subject them to: comprehensive management and treatment standards under Subtitle C of RCRA; and emergency notification requirements for releases to the environment under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

This final rule also adds the toxic constituents that are found in the wastes being listed as hazardous to the list of constituents that serves as the basis for classifying wastes as hazardous and establishing treatment standards for the wastes. Additionally, USEPA is making final determinations not to list the remainder of wastes generated by inorganic chemical manufacturing processes that were described in the proposed listing determination.

Finally, USEPA is applying universal treatment standards under the Land Disposal Restrictions program to the inorganic chemical manufacturing wastes listed in this rulemaking. The listed wastes must be treated to meet these treatment standards for specific constituents prior to land disposal. At this time, USEPA is deferring final action on all elements of the proposal related to manganese.

The effective date of this rule is May 20, 2002.

For general information contact the RCRA/Superfund Hotline at 800/424-9346. For information on specific aspects of the rule, contact Gwen DiPietro at 703/308-8285; e-mail address: dipietro.gwen@epa.gov. For technical information on the CERCLA aspects of this rule, contact Lynn Beasley at 703/603-9086; e-mail address: beasley.lynn@epa.gov.

The Board will include any necessary amendments to its rules in a future RCRA identical in substance rulemaking pursuant to Sections 7.2 and 22.4 of the Environmental Protection Act (415 ILCS 5/7.2, 22.4 (2000)).

United States Environmental Protection Agency Proposes National Emission Standards for Hazardous Air Pollutants for Existing and New Asphalt Processing and Asphalt Roofing Manufacturing Facilities Under the Clean Air Act

On November 21, 2001, USEPA proposed national emission standards for hazardous air pollutants (NESHAP) for existing and new asphalt processing and asphalt roofing manufacturing facilities. 66 Fed. Reg. 58609.

USEPA has identified asphalt processing and asphalt roofing manufacturing facilities as major sources of hazardous air pollutants (HAP) such as formaldehyde, hexane, hydrogen chloride, phenol, polycyclic organic matter, and toluene. These proposed standards would implement Section 112(d) of the Clean Air Act (CAA) (42 U.S.C. §§ 7401 *et seq.* (2000)) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology. The total HAP reduction is expected to be 8.87 megagrams per year (9.78 tons per year).

For additional information contact Rick Colyer at 919/541-5262; e-mail address: colyer.rick@epa.gov.

Pursuant to Section 9.1(b) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(b) (2000)), once adopted by USEPA, NESHAP rules are applicable and enforceable under the Act without further action by the Board.

Rule Update

Board Adopts First Notice Proposal for Public Comment in In the Matter of: Amendments to Regulation of Petroleum Leaking Underground Storage Tanks: 35 Ill. Adm. Code 732, R01-26

On November 1, 2001, the Board proposed for public comment amendments to the Board's Petroleum Leaking Underground Storage Tank (UST) regulations. On December 6, 2000, the Illinois Environmental Protection Agency (Agency) filed a proposal for rulemaking, which included the Agency's statement of reasons. The Agency submitted the proposal to the Board to clarify and refine sections of Part 732 in accordance with the Agency's experience in administering the regulations since they were adopted by the Board in 1994 and amended in 1997. See Regulation of Petroleum Leaking Underground Storage Tanks 35 Ill. Adm. Code 732 (Pursuant to P.A. 88-496), R94-2(A) (Sept. 15, 1994) (original UST regulations); Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732), R97-10 (Mar. 6, 1997) (amendments to UST regulations).

In adopting its first notice proposal for publication as required by the Illinois Administrative Procedure Act (5 ILCS 100/1-1 *et seq.* (2000)), the Board has made some revisions to the Agency's proposal in response to testimony at hearing and written public comments. Some of the revisions are stylistic to comport with the requirements of the Joint Committee on Administrative Regulations. The Board is also making some minor revisions in Sections 732.404(c) and 732.411 regarding off-site access, as suggested by the Illinois Petroleum Council. In addition, the Board is making some of the clarifications suggested by the American Institute of Professional Geologists in Section 732.307(c)(3), and by the Department of Defense (DOD) in Sections 732.103, 732.702, and 732.703. The Board has also revised some of the Agency's proposed language allowing Licensed Professional Geologists to practice under Part 732, included a new effective date for lab certifications, and updated the reference to analytical method SW-486. The Board chose not to change the trigger for reimbursement of Early Action period corrective action activities, but specifically requested comment on this issue.

Two public hearings have been held in this matter. The first hearing was held on February 27, 2001, in Springfield; and the second hearing was held on April 3, 2001, in Chicago.

Publication of the proposed amendments in the *Illinois Register* will begin a 45-day public comment period, during which interested persons may file public comments with the Board.

For additional information contact Joel Sternstein at 312/814-3665; e-mail address: sternstj@ipcb.state.il.us.

Board Adopts First Notice Proposal for Public Comment in *In the Matter of: Site Remediation Program: Amendments to 35 Ill. Adm. Code 740; In the Matter of: Site Remediation Program 35 Ill. Adm. Code 740, and Subpart H (Public Schools), R01-27/R01-29 (consolidated)*

On November 1, 2001, the Board proposed for public comment amendments to Part 740 of the Board's land regulations, commonly referred to as the Site Remediation Program (SRP) rules. In adopting its first notice proposal for publication as required by the Illinois Administrative Procedure Act (5 ILCS 100/1-1 *et seq.* (2000)), the Board has made some revisions to language proposed by two regulatory proponents in two separate dockets consolidated by the Board for hearing.

The Illinois Environmental Protection Agency (Agency) filed the first regulatory proposal on January 12, 2001, and the Board accepted it for hearing on January 18, 2001. See *Site Remediation Program: Amendments to 35 Ill. Adm. Code 740, R01-27*. The Agency stated that its proposed amendments are intended to update and clarify the SRP rules that were originally adopted by the Board in 1997. *Site Remediation Program (Brownfields) and Groundwater Quality (35 Ill. Adm. Code 740 and 35 Ill. Adm. Code 620)*, R97-11 (June 5, 1997). The SRP rules establish a voluntary program that participants may use to investigate releases and clean up contaminated sites. The SRP regulations give participants the opportunity to obtain Agency approval of remediation costs before applying for environmental remediation tax credits for the cleanup. The amendments that are being proposed in this first-notice opinion and order are based on the experience gained by the Agency in administering the rules for over three years.

Consolidated with the Agency's proposal is a January 26, 2001 proposal filed by the Citizens for a Better Environment (CBE). CBE proposes to amend the SRP rules by adding a new Subpart H to Part 740, to provide greater environmental protection to schools, public parks, and playgrounds. The Board accepted CBE's proposal for hearing on February 1, 2001. See *Site Remediation Program: Proposed 35 Ill. Adm. Code 740.Subpart H (Schools, Public Parks, and Playgrounds)*, R01-29. In that same February 1, 2001 order, the Board consolidated the two SRP-related rulemakings.

Two public hearings have been held in this matter. The first hearing was held on February 28, 2001, in Springfield; and the second hearing was held on April 4, 2001, in Chicago. Publication of the proposed amendments in the *Illinois Register* will start a 45-day public comment period, during which any interested persons may file written public comments with the Board.

For additional information contact Amy Jackson at 217/524-8507; e-mail address: jacksona@ipcb.state.il.us.

Board Adopts Final Opinion and Order in In the Matter of: Amendments to Livestock Waste Regulations: 35 Ill. Adm. Code 506, R01-28

On November 1, 2001, the Board adopted final amendments to 35 Ill. Adm. Code 506 (Part 506) regarding the design and construction of livestock waste handling facilities. The rules, based on an Illinois Department of Agriculture (Dept. of Ag.) proposal, reflect recent amendments to the Livestock Management Facilities Act (LMFA) (510 ILCS 77/1 et seq. (2000)). Specifically, the adopted rules accomplish two objectives. First, the rules establish or enhance design and construction standards for livestock waste handling facilities. Second, the amendments repeal administrative provisions now superseded by the Dept. of Ag.'s rules at 8 Ill. Adm. Code 900 (Part 900).

On May 21, 1996, Public Act 89-456 created the LMFA (510 ILCS 77/1 et seq. (2000)) to establish requirements for siting, constructing, and operating livestock management and waste handling facilities. The LMFA requires the Dept. of Ag. to propose rules to the Board based on recommendations from a Livestock Management Facility Advisory Committee (510 ILCS 77/55 (2000)). On November 21, 1996, the Dept. of Ag. submitted proposed rules to the Board, which the Board adopted on May 15, 1997. *See Livestock Waste Regulations, 35 Ill. Adm. Code 506, R97-15(A)* (May 15, 1997). The original rules in Part 506 included standards for constructing livestock waste lagoons, developing waste management plans, certifying livestock managers, and implementing setback distances. The Board promulgated rules for lagoon financial surety in a separate rulemaking. *See Livestock Waste Regulations, 35 Ill. Adm. Code 506, R97-15(B)* (Nov. 12, 1998).

The Dept. of Ag. filed its proposal with the Board on January 22, 2001. The Board moved the proposal to first notice on February 15, 2001, without commenting on the merits of the proposal to expedite this proceeding. The proposal was published for first notice in the *Illinois Register* on March 2, 2001 (25 Ill. Reg. 3121).

During the first-notice period, the Board held two public hearings on the Dept. of Ag.'s proposal (April 2 and April 30, 2001). The purpose of the hearings was to allow the Board to receive testimony from the Dept. of Ag. and other interested persons on the proposed rules.

The Board issued a second-notice opinion and order on September 6, 2001, which modified the Dept. of Ag.'s proposal based on public comment. The Board filed the second-notice proposal with the Joint Committee on Administrative Rules (JCAR). JCAR considered the rules at its October 16, 2001 meeting and issued a certificate of no objection. The final rules reflect minor, non-substantive modifications that JCAR requested.

For additional information contact Carol Sudman at 217/524-8509; e-mail address: sudmanc@ipcb.state.il.us.

Board Opens New Docket and Adopts Proposal for Public Comment to Adopt Project XL Rules In the Matter of: Wastewater Pretreatment Update, USEPA Amendments (October 3, 2001), R02-9

On October 4, 2001, the Board adopted a proposal for public comment in Docket R02-3, In the Matter of: Wastewater Pretreatment Update, (USEPA Amendments January 1, 2001 through June 30, 2001). On November 15, 2001, in response to a motion for expedited adoption of certain federal amendments of October 3, 2001, the Board opened a new docket, R02-9, declining to introduce the new subject into docket, R02-3.

The R02-3 proceeding involves a very narrow subject matter: a single set of federal technical corrections to the test procedures for determination of mercury in water and wastewater, adopted by the United States Environmental Protection Agency (USEPA) on June 18, 2001 (66 Fed. Reg. 32774). It will require only an update of the version of 40 C.F.R. 136 incorporated by reference at 35 Ill. Adm. Code 310.107. The Notice of Proposed Amendments for the R02-3 proceeding had appeared in the *Illinois Register*, on October 26, 2001 (25 Ill. Reg. 13373).

On October 31, 2001, the Board received a motion for expedited consideration from the Illinois Environmental Protection Agency (Agency) and the Metropolitan Water Reclamation District of Greater Chicago (MWRDGC). The Agency and the MWRDGC requested that the Board expedite USEPA's October 3, 2001 rules allowing states to modify National Pollution Discharge Elimination System permits to implement agreements made under the federal Project eXcellence and Leadership (Project XL) program.

The Board considered the joint motion for expedited consideration, and granted the motion by considering the federal amendments of October 3, 2001 in a separate wastewater pretreatment update docket, R02-9. The Board decided that opening a separate docket to handle the Project XL rules was the more appropriate action under the circumstances, as the subject matter of the R02-3 proposal was unrelated to the Project XL issues, and because that proposal had already been published in the *Illinois Register*.

The Board adopted a proposal for public comment containing amendments to incorporate the federal Project XL rules at 40 C.F.R. 403 into 35 Ill. Adm. Code 310. The Board proposed updating the definitions in 35 Ill. Adm. Code 310.110, and adding a new Subpart L to Part 310. In proposed new Section 310.930, the Board provides that the Agency may modify MWRDGC's permits in accordance with the Project XL agreement it finalized with the Agency and USEPA on August 30, 2001. Any other Project XL agreements will need to be presented to the Board in a rulemaking, adjusted standard, or variance proceeding under Sections 27 and 28, 28.1, or 35 through 38 of the Environmental Protection Act (Act) (415 ILCS 5/27, 28, 28.1, 35-38) (2000)).

Under Sections 7.2 and 13.3 of the Act (415 ILCS 5/7.2, 13.3 (2000)), the Board proposed amendments to the Illinois regulations that are identical in substance to wastewater pretreatment regulations that USEPA adopted to implement Sections 307(b), (c), and (d) and 402(b)(8) and (b)(9) of the federal Water Pollution Control Act (FWPCA) (33 U.S.C. §§ 1317(b), (c), (d), 1342(b)(8), (9) (1994)). The federal action that underlies this docket includes the federal wastewater pretreatment amendments that USEPA adopted on October 3, 2001.

Sections 7.2 and 13.3 provide for quick adoption of regulations that are identical in substance to federal wastewater pretreatment regulations that USEPA adopts to implement Sections 307(b), (c), and (d) and 402(b)(8) and (b)(9) of the FWPCA. Section 13.3 also provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (5 ILCS 100/5-35 and 5-40 (2000)) do not apply to the Board's adoption of identical-in-substance regulations. The federal wastewater pretreatment regulations are found at 40 C.F.R. 400 through 499.

The Board will cause the proposed amendments to be published in the *Illinois Register* and will hold the docket open to receive public comments for 45 days after the date of publication.

For additional information contact Joel Sternstein at 312/814-3665; e-mail address: sternstj@ipcb.state.il.us.

Board Actions

November 1, 2001

**Via Video Conference Between
Springfield and Chicago, Illinois**

Rulemakings

R01-26	<u>In the Matter of: Amendments to Regulation of Petroleum Leaking Underground Storage Tanks: 35 Ill. Adm. Code 732</u> – The Board adopted a first notice opinion and order in this rulemaking to amend the Board's underground storage tank regulations.	6-0 R, Land
R01-27	<u>In the Matter of: Site Remediation Program: Amendments to 35 Ill. Adm. Code 740; In the Matter of: Site Remediation Program 35 Ill. Adm. Code 740, and</u>	6-0
R01-29 Cons.	<u>Subpart H (Public Schools)</u> – The Board adopted a first notice opinion and order in this rulemaking to amend the Board's site remediation program regulations.	R, Land
R01-28	<u>In the Matter of: Amendments to Livestock Waste Regulations: 35 Ill. Adm. Code 506</u> – The Board adopted a final opinion and order in this rulemaking to amend the Board's livestock waste regulations.	6-0 R, Land

Administrative Citations

AC 00-84	<u>IEPA v. James Day</u> – The Board entered an order requiring respondent to pay the Board and the Environmental Protection Agency hearing costs in the amount of \$957 and \$181.25 respectively, and a civil penalty of \$1,500. This order follows the Board's interim order of July 26, 2001, which found that this respondent had violated Sections 21(p)(1) and (p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3) (2000)) and assessing a penalty of \$3,000 at respondent's Champaign County facility.	6-0
AC 01-5	<u>IEPA v. Billy Hammond, Sr.</u> – The Board entered an interim opinion and order finding respondent violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(7) (2000)) and assessing a penalty of \$3,000. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file within 14 days a statement of hearing costs, supported by affidavit, with service on respondent.	6-0
AC 02-9	<u>IEPA v. Mark and Ann Musser; Pro-Excavating, Ltd.; Charles Heuerman d/b/a Charles Heuerman General Trucking; David Swingler d/b/a Swingler Construction; and Beecher City Community School District</u> – The Board found that these Effingham County respondents violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(7) (2000)), and ordered respondents to pay a civil penalty of \$3,000.	6-0

Decisions

PCB 00-176	<u>People of the State of Illinois v. City of Auburn; Benton & Associates, Inc.; and Petersburg Plumbing and Heating</u> – In this public water supply enforcement action concerning a Sangamon County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2000)), accepted a final stipulation and settlement agreement, ordered the respondents to pay a total civil penalty of \$7,500, and to cease and desist from further violations.	6-0 PWS-E
PCB 01-76	<u>People of the State of Illinois v. John Crane, 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 Act (415 ILCS 5/31(c)(1) (2000)), accepted a final stipulation and settlement agreement, ordered the respondents to pay a total civil penalty of \$166,337, and to cease and desist from further violations.	6-0 A-E
PCB 02-37	<u>People of the State of Illinois v. Crop Production Services, Inc., AEH Construction, Inc., and Gunther Construction Company</u> – In this land enforcement action concerning a Knox County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2000)), and accepted a final stipulation and settlement agreement. The Board ordered the respondents to each pay a civil penalty of \$5,000 (for a total civil penalty of \$15,000), and to cease and desist from further violations.	6-0 L-E

Motions and Other Matters

PCB 93-213	<u>Texaco Refining and Marketing, Inc. (Lockport Plant) v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this Resource Conservation and Recovery Act permit appeal involving a Will County facility.	6-0 P-A, RCRA
------------	--	------------------

PCB 96-143	<u>People of the State of Illinois v. Michel Grain Company, Inc. a/k/a Michel Fertilizer; Caryle Michel; and Ronnie Todd</u> – The Board accepted complainant’s second amended complaint in this water enforcement action involving a site located in Jefferson and Hamilton Counties.	6-0 W-E
PCB 00-148	<u>Wayne and Sonja Hall v. Richard L. Miller and Mary J. Miller d/b/a R&M Metals</u> – The Board granted complainants’ motion to dismiss this citizen enforcement action involving a site located in Douglas County.	6-0 Citizens L-E
PCB 01-140	<u>Nelson Westerberg, Inc. v. Office of the State Fire Marshal</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Cook County facility.	6-0 UST Appeal
PCB 01-168	<u>Larry Manns 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 Madison County facility.	6-0 UST Appeal
PCB 02-7	<u>Petro Plus, Inc. f/k/a Gas Stop 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 Cook County facility.	6-0 UST Appeal
PCB 02-12	<u>Sensient Flavors, Inc. v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no permit appeal was filed on behalf of this Lee County facility.	6-0 P-A
PCB 02-13	<u>Bahlman Oil Company, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Will County facility.	6-0 UST Fund
PCB 02-14	<u>Ila M. Neathery and Denise Fleck v. Greg and Karen Bouillon d/b/a Thirsty’s, and Terrill L. and Sarah E. Loving</u> – The Board found that the allegations in the complaint against the Lovings were neither duplicitous nor frivolous, and accepted for hearing this matter involving a Sangamon County facility.	6-0 Citizens N-E
PCB 02-24	<u>St. Joseph Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Champaign County facility.	6-0 UST Fund
PCB 02-27	<u>Rezmar Corporation 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 Cook County facility.	5-0 Melas abstained UST Fund
PCB 02-31	<u>Bridgestone/Firestone Off-Road Tire Company v. IEPA</u> – The Board granted petitioner’s request for a stay of effectiveness of the contested permit condition.	6-0 P-A, Air
PCB 02-40	<u>Village of Round Lake Park v. IEPA</u> – The Board accepted for hearing this variance request involving a Lake County facility.	6-0 W-V

PCB 02-41	<u>Milton C. and Virginia L. Kamholz v. Lawrence and Mariane Sporleder</u> – The Board ordered complainants to timely effectuate service upon respondents as required by Section 101.304(c) of the Board’s procedural rules (35 Ill. Adm. Code 101.304(c)), no later than December 1, 2001, or the complaint would be subject to dismissal.	6-0 Citizens A&N-E
PCB 02-49	<u>Fox River Reclamation District (South Plant) v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Kane County facility.	6-0 P-A 90-Day Ext.
PCB 02-50	<u>Vandalia Community School District #203 v. IEPA</u> – The Board found the petition deficient in this underground storage tank appeal involving a Fayette County facility, and ordered petitioner to file an amended petition to cure deficiencies no later than December 1, 2001, or the petition would be subject to dismissal.	6-0 UST Appeal
PCB 02-51	<u>Prairie Material Sales d/b/a Dixon Marquette Cement v. IEPA</u> – The Board found and certified that specified facilities of Prairie Material Sales d/b/a Dixon Marquette Cement located in Lee County are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2000)).	6-0 T-C

November 15, 2001
Via Video Conference Between
Springfield and Chicago, Illinois

Rulemakings

R02-3	<u>In the Matter of: Wastewater Pretreatment Update, USEPA Amendments (January 1, 2001 through June 30, 2001)</u> – The Board granted expedited consideration of the federal amendments of October 3, 2001, by opening a new docket, R02-9, to consider that federal action. The Board declined to introduce the subject matter of the October 3, 2001 federal amendments into this docket, R02-3.	7-0 R, Water
R02-9	<u>In the Matter of: Wastewater Pretreatment Update (October 3, 2001)</u> – The Board granted expedited consideration of the federal amendments of October 3, 2001, by opening a new docket, R02-9, to consider that federal action. The Board adopted a proposal for public comment in this identical-in-substance rulemaking to amend the Board’s wastewater pretreatment regulations.	7-0 R, Water

Administrative Citations

AC 02-2	<u>IEPA v. Nordean and Susan Simon d/b/a Berman Auto Parts</u> – The Board denied complainant’s motion to strike affirmative defenses.	6-1 Kezelis Dissented
---------	--	-----------------------------

AC 02-10	<u>County of Sangamon v. Trust TR-98-202, Mark K. Vincent, Trustee and Frank Reynolds</u> – The Board found that these Sangamon County respondents violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2000)), and ordered respondents to pay a civil penalty of \$1,500.	7-0
AC 02-11	<u>County of LaSalle v. Dave Eiben</u> – The Board found that this LaSalle County respondent violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2000)), and ordered respondent to pay a civil penalty of \$1,500.	7-0
AC 02-12	<u>County of Ogle v. Gerald A. Martin d/b/a Martin & Company Excavating; and Kenneth E. Sheely</u> – The Board found that these Ogle County respondents violated Sections 21(p)(1), (p)(7)(i) and (p)(7)(ii) of the Act (415 ILCS 5/21(p)(1), (p)(7)(i), (p)(7)(ii) (2000)), and ordered respondents to pay a civil penalty of \$4,500.	7-0
AC 02-13	<u>IEPA v. Charles White</u> – The Board found that this Stephenson County respondent violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2000)), and ordered respondent to pay a civil penalty of \$1,500.	7-0
AC 02-17	<u>IEPA v. Charles Goodwin</u> – The Board ordered respondent to file an amended petition for review no later than December 20, 2001.	7-0

Decisions

PCB 99-191	People of the State of Illinois v. Panhandle Eastern Pipe Line Company - The Board found that respondent violated Sections 9(b), 9.1(d)(1), and 9.1(d)(2) of the Environmental Protection Act (415 ILCS 5/9(b), 9.1(d)(1), 9.1(d)(2) (2000)) and ordered the respondent to pay \$850,000 in civil penalties and \$115,750.25 in costs and attorney fees, and to cease and desist from further violations.	6-1 A-E Flemal concurred Johnson dissented
PCB 01-151	People of the State of Illinois v. Diamond Plating Company – In this Resource Conservation and Recovery Act enforcement action concerning a Madison 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) (2000)), accepted a final stipulation and settlement agreement, ordered the respondent to pay a total civil penalty of \$4,000, and to cease and desist from further violations.	7-0 RCRA-E

Provisional Variance

PCB 02-57	Village of Panama v. IEPA – Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted this Bond County facility a 45-day provisional variance, subject to conditions, from the effluent limits set forth in 35 Ill. Adm. Code 304.120(a) and 304.141(a). This is an extension of a previous provisional variance in Village of Panama v. IEPA, PCB 02-35 (Sept. 20, 2001).	7-0 W-V
-----------	--	------------

Motions and Other Matters

PCB 00-67	<u>People of the State of Illinois v. American Disposal, Inc. and Consolidated Rail Corporation</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this Resource Conservation and Recovery Act enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	7-0 RCRA-E
PCB 01-3	<u>People of the State of Illinois v. R&G Construction</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 Scott County facility, the Board ordered publication of the required newspaper notice.	7-0 PWS-E
PCB 01-134	<u>People of the State of Illinois v. Kucera Disposal Company</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 Cook County facility, the Board ordered publication of the required newspaper notice.	7-0 L-E
PCB 02-1	<u>People of the State of Illinois v. Stein Steel Mill Services, Inc.</u> – The Board denied respondent’s motion to dismiss this air enforcement action involving a Madison County facility.	7-0 A-E
PCB 02-14	<u>Ila M. Neathery and Denise C. Fleck v. Greg and Karen Bouillon d/b/a Thirsty’s, and Terrill L. and Sarah E. Loving</u> – The Board denied respondents Greg and Karen Bouillon’s motion to dismiss this citizen noise enforcement action involving a Sangamon County facility.	7-0 Citizens, N-E
PCB 02-27	<u>Rezmar Corporation v. IEPA</u> – The Board vacated its November 1, 2001 order which dismissed this matter and extended the appeal period until December 11, 2001.	6-0 UST Fund 90-Day Ext. Melas abstained
PCB 02-52	<u>Vandalia C.U.S.D. 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 Fayette County facility.	7-0 UST Appeal 90-Day Ext.
PCB 02-53	<u>E&L Trucking Company v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.	7-0 UST Fund 90-Day Ext.
PCB 02-54	<u>City of Springfield v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Sangamon County facility.	7-0 UST Appeal 90-Day Ext.

PCB 02-55	<u>ESG Watts, Inc. (Taylor Ridge Landfill) v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Rock Island County facility.	7-0 P-A 90-Day Ext.
PCB 02-56	<u>People of the State of Illinois v. Chiquita Processed Foods, L.L.C.</u> – The Board accepted for hearing this public water supply enforcement action involving a Peoria County facility.	7-0 W-E

New Cases

November 1, 2001 Board Meeting

02-49 Fox River Reclamation District (South Plant) v. IEPA – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Kane County facility.

02-50 Vandalia Community School District #203 v. IEPA – The Board found the petition deficient in this underground storage tank appeal involving a Fayette County facility, and ordered petitioner to file an amended petition to cure deficiencies no later than December 1, 2001, or the petition would be subject to dismissal.

02-51 Prairie Material Sales d/b/a Dixon Marquette Cement v. IEPA – The Board found and certified that specified facilities of Prairie Material Sales d/b/a Dixon Marquette Cement located in Lee County are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2000)).

AC 02-15 Ogle County v. Steven and Karen Gilbert and Curt Nelson – The Board accepted an administrative citation against these Ogle County respondents.

AC 02-16 IEPA v. Brad Krstic – The Board accepted an administrative citation against this Mercer County respondent.

AC 02-17 IEPA v. Charles Goodwin – The Board accepted an administrative citation against this Pike County respondent.

AC 02-18 IEPA v. Bradney Luckhart – The Board accepted an administrative citation against this Logan County respondent.

AC 02-19 IEPA v. Walter Foster and Tim Brown d/b/a Brown Excavating and Demolition – The Board accepted an administrative citation against these Knox County respondents.

AC 02-20 IEPA v. Housewright Lumber Company, William A. Housewright, and George Hartmann – The Board accepted an administrative citation against these Hancock County respondents.

AC 02-21 IEPA v. Dale Knapp – The Board accepted an administrative citation against this Peoria County respondent.

November 15, 2001 Board Meeting

02-52 Vandalia C.U.S.D. 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 Fayette County facility.

02-53 E&L Trucking Company v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.

02-54 City of Springfield v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Sangamon County facility.

02-55 ESG Watts, Inc. (Taylor Ridge Landfill) v. IEPA – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Rock Island County facility.

02-56 People of the State of Illinois v. Chiquita Processed Foods, L.L.C. – The Board accepted for hearing this public water supply enforcement action involving a Peoria County facility.

02-57 Village of Panama v. IEPA – Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted this Bond County facility a 45-day provisional variance, subject to conditions, from the effluent limits set forth in 35 Ill. Adm. Code 304.120(a) and 304.141(a). This is an extension of a previous provisional variance in Village of Panama v. IEPA, PCB 02-35 (September 20, 2001).

AC 02-22 IEPA v. Charles Kinsey – The Board accepted an administrative citation against this Fulton County respondent.

R02-9 In the Matter of: Wastewater Pretreatment Update, (October 3, 2001) – The Board granted expedited consideration of the federal amendments of October 3, 2001, by opening a new docket, R02-9, to consider that federal action. The Board adopted a proposal for public comment in this identical-in-substance rulemaking to amend the Board’s wastewater pretreatment regulations.

R02-11 In the Matter of: Water Quality Triennial Review: Amendments to 35 Ill. Adm. Code 302.208(e)-(g), 302.504(a), 302.575(d), 303.444, 309.141(h); and Proposed 35 Ill. Adm. Code 301.267, 301.313, 301.413, 304.120, and 309.157 – No action taken.

Calendar

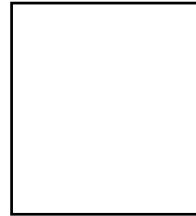
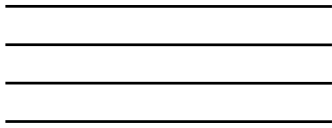
12/6/01 11:00 am		Illinois Pollution Control Board Meeting	Illinois Pollution Control Board Hearing Room 403 600 South Second Street Springfield
12/10/01 9:00 am	PCB 00-206	ESG Watts, Inc. (Sangamon Valley Landfill) v. IEPA (Consolidated with PCB 00-207, PCB 00-208, PCB 01-62, PCB 01-63, and PCB 01-64)	Illinois Pollution Control Board Hearing Room 403 600 South Second Street Springfield
12/11/01 10:00 am	PCB 00-180	People of the State of Illinois v. Jacobs Energy Corporation	County Building Conference Room, 3rd Floor 1504 Third Avenue Rock Island
12/11/01 9:00 am	PCB 00-206	ESG Watts, Inc. (Sangamon Valley Landfill) v. IEPA (Consolidated with PCB 00-207, PCB 00-208, PCB 01-62, PCB 01-63, and PCB 01-64)	Illinois Pollution Control Board Hearing Room 403 600 South Second Street Springfield

12/12/01 9:00 am	PCB 00-180	People of the State of Illinois v. Jacobs Energy Corporation	County Building Conference Room, 3rd Floor 1504 Third Avenue Rock Island
12/12/01 9:00 am	PCB 00-206	ESG Watts, Inc. (Sangamon Valley Landfill) v. IEPA (Consolidated with PCB 00-207, PCB 00-208, PCB 01-62, PCB 01-63 and PCB 01-64)	Illinois Pollution Control Board Hearing Room 403 600 South Second Street Springfield
12/13/01 9:00 am	PCB 00-206	ESG Watts, Inc. (Sangamon Valley Landfill) v. IEPA (Consolidated with PCB 00-207, PCB 00-208, PCB 01-62, PCB 01-63 and PCB 01-64)	Illinois Pollution Control Board Hearing Room 403 600 South Second Street Springfield
12/19/01 9:00 am	PCB 01-86	Robert Gardner and Yvonne Gardner v. Township High School District 211 and Gerald Chapman, Superintendent	James R. Thompson Center Conference Room 11-512 100 West Randolph Street Chicago
12/20/01 11:00 am		Illinois Pollution Control Board Meeting	James R. Thompson Center 100 West Randolph Street Conference Room 9-040 Chicago
12/27/01 9:00 am	PCB 01-139	ESG Watts, Inc. (Sangamon Valley Landfill, Taylor Ridge Landfill, and Viola Landfill) v. IEPA	Illinois Pollution Control Board Hearing Room 403 600 South Second Street Springfield
1/8/02 9:00 am	AS 99-1	Petition of the City of Belleville, Illinois for an Adjusted Standard from 35 Ill. Adm. Code 306.305	Belleville City Hall Council Chamber 101 South Illinois Street Belleville
1/9/02 9:00 am	AS 99-1	Petition of the City of Belleville Illinois for an Adjusted Standard from 35 Ill. Adm. Code 306-305	Belleville City Hall Council Chamber 101 South Illinois Street Belleville
1/10/02 11:00 am		Illinois Pollution Control Board Meeting	James R. Thompson Center 100 West Randolph Street Conference Room 9-040 Chicago
1/15/02 9:00 am	PCB 01-54	Richard G. Cotterman v. Jackson Farms	Illinois Pollution Control Board Hearing Room 403 600 South Second street Springfield
1/16/02 9:00 am	PCB 01-54	Richard G. Cotterman v. Jackson Farms	Illinois Pollution Control Board Hearing Room 403 600 South Second Street Springfield
1/22/02 9:00 am	AC 01-29	IEPA v. Leslie Yocum, Sandra Yocum, Rick L. Yocum and Shawna B. Yocum (Birmingham/Yocum #1) (Consolidated with AC 01-30)	Schuyler County Courthouse Jury Room 1 102 South Congress Rushville
1/24/02 9:00 am	AC 02-3	IEPA v. Marvin Hammack and Doris Baker	Schuyler County Courthouse, Jury Room 1 102 South Congress Rushville
1/24/02 11:00 am		Illinois Pollution Control Board Meeting	James R. Thompson Center 100 West Randolph Street Conference Room 9-040 Chicago
1/30/02 9:00 am	PCB 02-10	Rebecca S. Lawrence v. Northpoint Grade School	McLean County Courthouse Courtroom 3E 104 West Front Street Bloomington

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.

-----CUT HERE-----



Illinois Pollution Control Board
Environmental Register Coordinator
600 South Second Street, Suite 402
Springfield, Illinois 62704