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# Environmental Register

August 2009 - Number 662

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

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G. Tanner Girard, Acting Chairman

Board Members:

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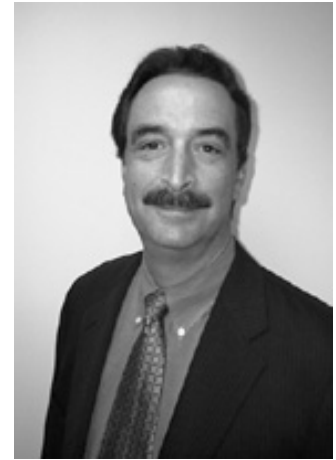
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# Letter from the Chairman

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In addition to significant action in several rulemaking dockets in August, the Board ruled on two contested cases of note. Below, I briefly highlight rulemaking action and summarize the contested cases. As always, information about these proceedings is available through the Clerk's Office Online (COOL) on our website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).



On August 6, 2009, the Board accepted for hearing a proposal to amend Illinois' nonhazardous waste landfill regulations relating to financial assurance. The Illinois Environmental Protection Agency (IEPA) filed the rulemaking which was docketed as In the Matter of: Financial Assurance Instruments—Renewals and Terms: amendments to 35 Ill. Adm. Code 807.Subpart F, 810.104, and 811.Subpart G (R10-09)

On August 6, 2009, the Board also accepted for hearing a proposal filed by the IEPA that was docketed as In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions from Group II Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 211, 218, and 219 (R10-08). IEPA proposes to adopt air pollution regulations to control emissions of volatile organic material (VOM) for Group II Consumer & Commercial Products in ozone nonattainment areas classified as moderate and above. Group II Consumer & Commercial Products include industrial cleaning solvents, flat wood paneling coatings, flexible packaging printing materials, lithographic printing materials and letter press printing materials.

On August 20, 2009, the Board had significant action in three rulemaking dockets. The Board adopted a final notice opinion and order in the docket entitled Nitrogen Oxides Emissions From Various Source Categories, Amendments to 35 Ill. Adm. Code Parts 211 and 217 (R08-19). The Board adopted a second first notice in a rulemaking originally brought by NORA, an association of used oil recyclers, to amend special waste regulations and used oil management standards. The docket is entitled Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil, 35 Ill. Adm. Code 808, 809 (R06-20). Finally, the Board denied the Illinois Environmental Regulatory Group's motion for adoption of an emergency rule in the rulemaking entitled NO<sub>x</sub> Trading Program: Amendments to 35 Ill. Adm. Code Part 217 (R06-22), finding that an emergency does not exist.

On August 20, 2009, the Board also ruled on two contested cases of note. In Prime Location Properties, LLC v. IEPA (PCB 09-67), the Board reversed the IEPA's determination to reject an amended plan and budget for a UST site in Metropolis, Massac County. The Board remanded the matter to the IEPA for further consideration. The Board also denied Prime's motion for sanctions against IEPA for late submission of the case record, and denied the IEPA's motion to dismiss the case. In People v. Community Landfill, Inc. and Edward and Robert Prum (PCB 97-193, 04-207), the Board found the respondents had violated the Act and Board regulations at a landfill in Morris, Grundy County. Respondents were found jointly and severally responsible and fined \$250,000.

Details on the contested cases above can be found on our website. The Board also welcomes public participation in our rulemaking process. For information on how to participate, please visit our website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

Sincerely,

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

Dr. G. Tanner Girard

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## Rulemaking Update

### **Board Adopts Final Rules *In the Matter of: Galva Site Specific Water Quality Standard for Boron Discharges to Edwards River and Mud Creek: 35 Ill. Adm. Code 303.447 and 303.448, R09-11***

On August 6, 2009, the Board adopted a final opinion and order in the rulemaking docketed as *In the Matter of: Galva Site Specific Water Quality Standard for Boron Discharges to Edwards River and Mud Creek: 35 Ill Adm. Code 303.447 and 303.448, R09-11* (Aug.6, 2009). The Joint Committee on Administrative rules considered the rules at its July 14, 2009 meeting and adopted a certificate of no objection.

The City of Galva (Galva) filed the proposal with the Board on October 17, 2008, and the Board held a hearing on March 31, 2009.

The adopted rules establish a 3.0 milligram per liter (mg/L) alternative boron water quality standard to the generally applicable 1.0 mg/L boron water quality standard in 35 Ill. Adm. Code 302.208(g). The alternative standard for boron applies to certain segments of an unnamed tributary to the South Branch of the Edwards River, the South Branch of the Edwards River, and the Mud Creek Run. These waters receive discharges from the two Sewage Treatment Plants operated by Galva. The Board found the rules as proposed by Galva to be technically feasible and economically reasonable, and is protective of human health and the environment.

Opinions and orders of the Board, hearing officer orders, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site. Copies may be obtained by calling the Clerk's office at 312-814-3620 and payment of any charges, or by downloading them without charge from the Board's Website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

For additional information contact Marie Tipsord at 312-814-4925; e-mail address [tipsorm@ipcb.state.il.us](mailto:tipsorm@ipcb.state.il.us).

### **The Board Accepts for Hearing IEPA Proposal *In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions from Group II Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 211, 218, and 219, R10-08***

On August 6, 2009, the Illinois Pollution Control Board accepted for hearing a proposal to adopt air pollution regulations to control emissions of volatile organic material (VOM) for Group II Consumer & Commercial Products in ozone nonattainment areas classified as moderate and above. *In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions from Group II Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 211, 218, and 219, R10-08* (Aug. 6, 2009). Group II Consumer & Commercial Products include industrial cleaning solvents, flat wood paneling coatings, flexible packaging printing materials, lithographic printing materials and letter press printing materials. The Illinois Environmental Protection Agency (IEPA) filed the proposal July 9, 2009.

The IEPA states that this proposal is intended to satisfy Illinois' obligation under the Clean Air Act to submit a State Implementation Plan (SIP) addressing VOM emissions in areas designated as nonattainment for the National Ambient Air Quality Standard (NAAQS). Chicago and St. Louis/Metro East areas in Illinois have been designated as moderate nonattainment areas for the 8-hour ozone standard. VOM is characterized by the IEPA as "a primary precursor to the formation of ground-level ozone."

Specifically, the IEPA states that Illinois must revise its SIP to include RACT for sources of VOM emissions covered by a United States Environmental Protection Agency control techniques guideline (CTG), which USEPA finalized in October 2006. USEPA required submission of SIP revisions responding to the CTGs within one year.

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IEPA states that Illinois is required to submit these SIP revisions before the USEPA can redesignate the Chicago and Metro East nonattainment area as attaining the 1997 ozone NAAQS, regardless of whether the VOM reductions obtained by the SIP revisions are actually necessary to achieve attainment of the NAAQS.

The Board denied the IEPA's request for an expedited review, finding that the request did not demonstrate material prejudice. But, the Board directed the hearing officer to schedule hearing expeditiously. An August 12, 2009 hearing officer order scheduled hearings as follows:

October 27, 2009 9:00 AM	December 8, 2009 9:00 AM
Madison County Administration Building	James R. Thompson Center
County Board Room #203	Room 9-039
157 N. Main St.	100 W. Randolph
Edwardsville, Illinois	Chicago, Illinois

The hearing officer order also established procedural details, including requirements for pre-filing testimony.

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Public comments must reference Docket R10-8 and must be filed with the Clerk of the Board at the following address:

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

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

### **Board Accepts for Hearing IEPA Proposal In the Matter of: Financial Assurance Instruments—Renewals and Terms: amendments to 35 Ill. Adm. Code 807.Subpart F, 810.104, and 811.Subpart G, R10-9.**

On August 6, 2009, the Board accepted for hearing a proposal to update Illinois' nonhazardous waste landfill regulations relating to financial assurance. The July 27, 2009 Illinois Environmental Protection Agency (IEPA) proposal was docketed as In the Matter of: Financial Assurance Instruments—Renewals and Terms: amendments to 35 Ill. Adm. Code 807.Subpart F, 810.104, and 811.Subpart G, R10-9.

The IEPA wants the Board to modify the required language for letters of credit to incorporate "evergreen renewal language," as is included in the more recently adopted federally derived financial assurance requirements. Such language would generally allow the IEPA to draw on the letter of credit unless the facility owner or operator has timely either gained renewal of the letter of credit for another term or provided substitute financial assurance to the IEPA. Additionally, the IEPA wants the Board to change the minimum term for a letter of credit from the four or five years currently required in the Illinois non-hazardous solid waste and landfill rules, respectively, to a one-year term, as is required in the federally required regulations.

The IEPA states that the amendments would achieve greater consistency among the various land-related financial assurance requirements in Illinois regulations, which includes the federally derived underground injection control rules, 35 Ill. Adm. Code 704.Subpart G, and hazardous waste treatment, storage, and disposal facility standards, 35 Ill. Adm. Code 724.Subpart H and 725.Subpart H.

The Board expects to schedule only two hearings concerning this proposal.

Public comments in R10-9 must be filed with the Clerk of the Board. Public comments may be filed at the following address: Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601. In addition, public comments may be filed electronically through COOL at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded from the Web without charge. Hard copies may be obtained for \$.75 per page from the Clerk's office

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

**Board Adopts Second, Revised First Notice Proposal In the Matter of: Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil, 35 Ill. Adm. Code 739, 808, and 809, R06-20**

On August 20, 2009, the Illinois Pollution Control Board adopted for publication in the *Illinois Register* a second, revised first notice proposal for amendments to its special waste regulations and corresponding amendments to its used oil management standards. NORA, formally known as the National Oil Recycling Association, filed a proposed rulemaking on December 13, 2005.

After two public hearings, on May 1, 2008, the Board adopted for first notice the rulemaking entitled In the Matter of: Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil, 35 Ill. Adm. Code 808, 809, R06-20. See 33 Ill. Reg. 8085 (May 30, 2008). After conducting another public hearing in this matter at NORA's request and considering the entire record, the Board adopted for second first notice a revised set of amendments to its special waste and used oil regulations. The revised amendments are intended to exempt from the manifesting requirements of 35 Ill. Adm. Code Parts 808 and 809 specific mixtures of used oil and other materials. With regard to those mixtures, the Board proposes to amend the Part 739 tracking requirements to include information required by a manifest under Parts 808 and 809. Specifically, the Board proposes first-notice amendments designed to exempt from manifesting requirements of Parts 808 and 809 the following: (1) used oil, defined by and managed in accordance with Part 739; (2) mixtures of used oil and hazardous waste, both mixed and generated by a conditionally exempt small quantity generator, provided that mixture contains more than 50 percent used oil by volume or weight; (3) used oil containing characteristic hazardous waste, with a BTU per pound content greater than 5000, where the characteristic (*e.g.* ignitability) has been extinguished, and both the used oil and the characteristic hazardous waste has been generated and mixed by the same generator, and which contain more than 50 percent of used oil by weight or volume; (4) mixtures of used oil and fuels or other fuel products; and (5) used oil contaminated by or mixed with nonhazardous wastewater, both generated by the same generator and which contains more than recoverable quantity of used oil.

Publication of these proposed amendments in the *Illinois Register* will begin a new 45-day public comment period, during which anyone may file a public comment with the Board. The Board encourages persons to file public comments on these proposed amendments. The docket number for this rulemaking, R06-20, should be indicated on the public comment.

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

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded from the Web without charge. Hard copies may be obtained for \$.75 per page from the Clerk's office

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

**Pollution Control Board Declines to Consider or Adopt IERG Alternative Proposal In the Matter of: NOx Trading Program: Amendments to 35 Ill. Adm. Code Part 217, R06-22**

On August 20, 2009, the Illinois Pollution Control Board denied the Illinois Environmental Regulatory Group's (IERG) motion for adoption of an emergency rule in the rulemaking entitled In the Matter of: NOx Trading Program: Amendments to 35 Ill. Adm. Code Part 217 (R06-22). After reviewing the record in this rulemaking, the Board determined that the evidence does not support a finding that an emergency exists. The Board also denied IERG's motion for expedited review of an alternative rulemaking proposal in this docket. The Board found that the proposal did not comply with the filing requirements of the Board's rules, and stated that it would consider in a separate docket any sufficient proposal IERG might later file.

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The Illinois Environmental Protection Agency (IEPA) filed a rule proposal that initiated this rulemaking on January 19, 2006. The proposal would have amended the existing regulations governing Nitrogen Oxide (NO<sub>x</sub>) emissions found at 35 Ill. Adm. Code Part 217, Subparts A, T, U, and W. No hearings have ever been held on the proposal due to intervening events at the federal level.

Illinois adopted both the NO<sub>x</sub> Trading Program rules at 35 Ill. Adm. Code Part 217 and the Clean Air Interstate Rule (CAIR) at 35 Ill. Adm. Code Part 225 after adoption of similar rules by the United States Environmental Protection Agency (USEPA). USEPA has approved both sets of rules for inclusion in the State Implementation Plan (SIP) for ozone attainment. As do the USEPA rules, the Illinois CAIR provisions as set forth in 35 Ill. Code Part 225. Subpart E include a trading program for control of NO<sub>x</sub> emissions during the ozone season that replaces the provisions in Part 217. Subpart W for EGUs beginning with the 2009 control period (May 1 through September 30) and thereafter. But, due to a federal court ruling concerning the federal CAIR rules in *North Carolina v. USEPA*, 531 F.3d 896 (C.A.D.C. Cir. 2008), USEPA must take additional action concerning its rules but has not done so.

The IEPA explained in a March 2009 status report that it has not proceeded with R06-22 because it is planning to replace Subpart U with a new rule and withdraw this rulemaking, R06-22, at that time. The new rulemaking will integrate the Non-Electrical Generating Units [EGUs] into the CAIR rule. IEPA had expected to do so in the Spring of 2009. (The IEPA initiated an action to resolve the rule conflict for EGUs in the pending rulemaking In the Matter of: Nitrogen Oxide (NO<sub>x</sub>) Trading Program Sunset Provisions for Electric Generating Units, R09-20.

In the absence of action by IEPA, on August 3, 2009, IERG filed a motion for emergency rule and a motion for expedited consideration of its alternate proposal. IERG's alternate proposal included a new Subpart U to Part 217, revisions to Appendix E to Part 217, and revisions to the incorporation by reference at 35 Ill. Adm. Code 217.104. IERG explained that Subpart U of the Board's air pollution regulations requires that affected non-EGUs hold NO<sub>x</sub> allowances on November 30, 2009, but argues that the IEPA has not issued any of those allowances to non-EGUs for 2009. IERG further argued that a rule is necessary in order to incorporate NO<sub>x</sub> SIP Call budget units into the CAIR NO<sub>x</sub> Ozone Season Trading Program and distribute allowances.

In an August 6, 2009 order, the Board reserved ruling on the motions but directed participants to file responses to the motions no later than Thursday, August 13, 2009, and directed IERG to file a reply, if it wished to do so, no later than Monday, August 17, 2009. The Board received a total of 15 public comments in response to the order.

After consideration of all comments, the Board concluded that IERG had failed to prove the existence of an emergency, finding persuasive the IEPA's arguments that the NO<sub>x</sub> SIP Call program was "obsolete" and no longer being administered by USEPA. The Board declined to consider the IERG proposal in this R06-22 docket at all, let alone on an expedited basis, but stated that any new filing would be considered in a new docket.

The Board concluded by directing the IEPA to file a status report on or before October 19, 2009. The IEPA must indicate whether and when it intends to file a separate rulemaking proposal for Subpart U rules, if it has not already done so. In that same status report, the IEPA must address whether it is prepared to schedule hearings in this docket, R06-22, or whether the docket should be dismissed.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Website and may be downloaded from the Web without charge. Hard copies may be obtained for \$.75 per page from the Clerk's office at 312-814-3629, or by writing to the Clerk's office: Clerk of the Board, Illinois Pollution Control Board, James R. Thompson Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601.

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

### **Board Adopts Final Rules in In the Matter of: Nitrogen Oxides Emissions from Various Source Categories: Amendments to 35 Ill. Adm. Code Parts 211 and 217, R08-19**

On August 20, 2009, the Illinois Pollution Control Board adopted as final rules amendments to Parts 211 and 217 of the Board's air pollution regulations. The final rules are based on the May 9, 2008 proposal, filed by the Illinois Environmental Protection Agency (IEPA) and amended on January 30, 2009 and March 23, 2009, docketed as In

the Matter of: Nitrogen Oxides Emissions from Various Source Categories: Amendments to 35 Ill. Adm. Code Parts 211 and 217 (R08-19). The Joint Committee on Administrative Rules voted its certificate of no objection to the rules at its August 18, 2009 meeting. The Board has expedited its review of this proposal, consistent with its April 2, 2009 grant of the IEPA's request that the Board do so.

Generally, the adopted rules amend Part 211 and 217 of the Board's air pollution regulations to control nitrogen oxides (NO<sub>x</sub>) emissions from major stationary sources in nonattainment areas, and from emission units including industrial boilers, process heaters, glass melting furnaces, cement kilns, lime kilns, furnaces used in steelmaking and aluminum melting, and fossil fuel-fired stationary boilers at such sources. The Board held three public hearings on the IEPA proposal prior to the adoption of the final rules.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded from the Web without charge. Hard copies may be obtained for \$.75 per page from the Clerk's office at 312-814-3629, or by writing to the Clerk's office: Clerk of the Board, Illinois Pollution Control Board, James R. Thompson Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601.

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

**Board Dismisses In the Matter of Petition of Maximum Investments, LLC for a Rule of General Applicability 35 Ill. Adm. Code 618 (R09-22)**

On August 20, 2009, the Board dismissed a proposal for a rule of general applicability pursuant to Section 28 of the Environmental Protection Act (ACT) (415 ILCS 5/28 (2006)). The June 25, 2009 proposal filed by Maximum Investments LLC asked that the Board propose language that would have to review and evaluation services performed by the Illinois Environmental Protection Agency (IEPA) under Section 22.2(a)(3) of the Act be identical to the review performed by the IEPA under the site remediation program. On July 9, 2009, the IEPA filed a motion to dismiss arguing that 1) the Board lacks authority to adopt regulations under Section 22.2b of the Act, and 2) the petition failed to satisfy the content requirements for Board regulatory proposals. *See* 35 Ill. Adm. Code Part 102. The Board noted that the proponent failed to file a response to the motion and therefore have waived any objection to the granting of the motion to dismiss. The Board dismissed the petition on the grounds of insufficiency, without reaching the authority issue.

For additional information contact Marie Tipsord at 312-814-4925; e-mail address [tipsorm@ipcb.state.il.us](mailto:tipsorm@ipcb.state.il.us).

**Board Dismisses Four Reserved Identical in Substance Rulemaking Dockets As Unnecessary: R10-2, R10-3, R10-5, and R10-6**

Every six months the Board reserves a series of dockets for adoption of Board rules under Section 7.2 of the Environmental Protection Act (Act) (415 ILCS 5/7.2 (2006)) "identical in substance" to any rules adopted by the United States Environmental Protection Agency (USEPA) to implement various programs. On August 20, 2009, the Board dismissed as unnecessary the following dockets reserved to consider rules adopted by the USEPA during the period of January 1, 2009 through June 30, 2009. In the program area described below, USEPA adopted no rules during the update period:

**UIC Update (R10-2)** Section 13 (c) relates to underground injection control (UIC) regulations that USEPA adopted to implement provisions of the Safe Drinking Water Act (42 U.S.C. §§ 300h *et seq.* (2005)). USEPA has codified its UIC regulations at 40 C.F.R. 144 through 148.

**RCRA Subtitle D Update (10-3)** Section 22.40(a) relates to municipal solid waste landfill (MSWLF) regulations that USEPA adopted to implement Subtitle D of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§ 6941-6949 (2005); RCRA Subtitle D). USEPA has codified the federal MSWLF rules at 40 C.F.R. 258.

**UST Update (10-5)** Section 22.4(d) relates to underground storage tank (UST) regulations promulgated by the USEPA pursuant to Section 9003 of the federal Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. §§ 6991b (2005)) to implement Subtitle I of RCRA (42 U.S.C. §§ 6991 *et seq.* (2005)), with certain limitations. USEPA has codified its UST regulations at 40 C.F.R. 281 through 283.

**Wastewater Pretreatment Update (R10-6)** Section 13.3 relates to wastewater pretreatment regulations that the USEPA adopted to implement Sections 307(b), (c), and (d) and 402(b)(8) and (b)(9) of the federal Water Pollution

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Control Act (FWPCA) (33 U.S.C. §§ 1317(b), (c), and (d) and 1342(b)(8) and (b)(9) (2005)). USEPA has codified the federal wastewater pretreatment rules as 40 C.F.R. 400 through 499.

For additional information contact Mike McCambridge at 312-814-6924; e-mail address [mccambm@ipcb.state.il.us](mailto:mccambm@ipcb.state.il.us).

## Board Actions

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**August 6, 2009**

**Chicago, Illinois**

### Rulemakings

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|---------------|---|---|
| <b>R06-22</b> | <u>In the Matter of: NOx Trading Program: Amendments to 35 Ill. Adm. Code Part 217</u> – The Board reserved ruling on the motions of the Illinois Environmental Regulatory Group (IERG) for emergency rule and expedited action on IERG’s Alternative Proposal. The Board requested that responses to comments on the motions be filed by August 13, 2009, and any IERG response by August 17, 2009.  | 5-0<br>Air                              |
| <b>R09-11</b> | <u>In the Matter of: City of Galva Site Specific Water Quality Standard for Boron Discharges to Edwards River and Mud Run Creek: 35 Ill. Adm. Code 303.447 and 303.448</u> – The Board adopted a final opinion and order in this rulemaking amending the Board’s water pollution control regulations.   | 4-0<br>Member Lin<br>abstained<br>Water |
| <b>R10-8</b>  | <u>In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions from Group II Consumer &amp; Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 211, 218, and 219</u> – The Board accepted for hearing Illinois Environmental Protection Agency’s July 9, 2009 proposal to amend the Board’s air pollution regulations. The Board granted petitioner’s motion to waive requirement and allowing filing of reduced copies, but denied the motion for expedited consideration. | 5-0<br>Air                              |
| <b>R10-9</b>  | <u>In the Matter of: Financial Assurance Instruments--Renewal and Terms: Amendments to 35 Ill. Adm. Code 807.Subpart F, 810.104 and 811.Subpart G</u> – The Board accepted for hearing Illinois Environmental Protection Agency’s July 27, 2009 proposal to amend the Board’s non-hazardous waste landfill regulations. The Board granted petitioner’s motion to waive requirement and allowing filing of reduced copies.   | 5-0<br>Land                             |

### Adjusted Standard

- |                |   |            |
|----------------|---|------------|
| <b>AS 09-4</b> | <u>Petition of Royal Fiberglass Pools, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 215.301</u> – The Board accepted petitioner’s amended petition for hearing. | 5-0<br>Air |
|----------------|---|------------|



## Administrative Citations

<b>AC 07-30</b>	<u>IEPA v. Bobby G. Myers and Donald D. Myers</u> – The Board entered a final opinion and order requiring respondents to pay hearing costs of the Illinois Environmental Protection Agency and the Board in the amount of \$266.78 and a civil penalty of \$3,000. This order follows the Board's interim order of May 21, 2009, which found that this respondents had violated Sections 21(p)(1) and (3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (3) (2008)).	5-0
<b>AC 09-8</b>	<u>County of Jackson v. Dan Kimmel</u> – The Board entered a final opinion and order requiring respondent to pay hearing costs of the County of Jackson and the Board in the amount of \$120.93 and a civil penalty of \$4,500. This order follows the Board's interim order of June 4, 2009, which found that this respondent had violated Sections 21(p)(1) and (7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (7) (2008)).	5-0
<b>AC 09-40</b>	<u>IEPA v. Thomas and Valerie Hill</u> – The Board accepted respondents' amended petition for hearing.	5-0
<b>AC 09-49</b>	<u>IEPA v. Ameren Energy Resources Generating Company</u> – The Board granted a motion to dismiss the originally named parties and substitute Ameren Energy Resources Generating Company (AERG) as sole respondent. The Board found that respondent AERG violated Sections 21(o)(7), (9), and (11) of the Environmental Protection Act (415 ILCS 5/21(o)(7), (9), and (11) (2008)), and ordered respondent to pay a civil penalty of \$1,500.	5-0
<b>AC 09-55</b>	<u>IEPA v. Jason D. &amp; Angela R. Marrs d/b/a Marrs Hauling Landscaping &amp; More</u> – The Board accepted for hearing respondents' petition for review of this administrative citation involving a Champaign County facility.	5-0
<b>AC 09-56</b>	<u>IEPA v. Gary J. and James R. Szczebleski</u> – The Board accepted for hearing respondents' petition for review of this administrative citation involving a Franklin County facility.	5-0

## Adjudicatory Cases

<b>PCB 06-77</b>	<u>People of the State of Illinois v. Dennis K. Stiegemeier, d/b/a I.L.C. Development</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Macoupin County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
<b>PCB 09-66</b>	<u>Elmhurst Memorial Healthcare and Elmhurst Memorial Hospital v. Chevron U.S.A., Inc.</u> – The Board granted the complainants' motion for leave to file a reply and respondent's motion for leave to file a sur-reply, reserving ruling on all other pending motions.	5-0 Citizens, L-E
<b>PCB 09-123</b>	<u>2001 Oil Company v. IEPA</u> – The Board granted this Cook County facility's motion for voluntary dismissal of this underground storage tank appeal.	5-0 UST Appeal
<b>PCB 10-5 PCB 09-87</b>	<u>Dickerson Petroleum, Inc. v. IEPA</u> – The Board granted petitioner's motion to consolidate PCB 09-87 and PCB 10-5 for purpose of hearing.	5-0 UST Appeal

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<b>PCB 10-6</b>	<u>Schroud Realty Group v. IEPA</u> – The Board declines to accept this petition and closed the docket, finding the Board lacks authority to review Agency decisions with respect to Freedom of Information Act requests.	5-0 P-A, Land
<b>PCB 10-8</b>	<u>People of the State of Illinois v. Don Swinson, and Champion Environmental Services, Inc.</u> – The Board accepted for hearing this land enforcement action involving a site located in Winnebago County.	5-0 L-E
<b>PCB 10-9</b>	<u>People of the State of Illinois v. Waste Hauling Landfill, Inc., Jerry Camfield, A. E. Staley Manufacturing Co., Archer Daniels Midland, Inc., Aramark Uniform Services, Inc., Bell Sports, Inc., Borden Chemical Co., Bridgestone/Firestone, Inc., Climate Control, Inc., Caterpillar, Inc., Combe Laboratories, Inc., General Electric Railcar Services Corporation, P &amp; H Manufacturing, Inc., Trinity Rail Group, Inc., Tripple S Refining Corporation and Zexel Illinois, Inc</u> – The Board accepted for hearing this land enforcement action involving a site located in Macon County.	5-0 L-E
<b>PCB 10-10</b>	<u>People of the State of Illinois v. Thermogas Company, Inc. d/b/a McLeansboro Thermogas</u> – The Board accepted for hearing this water enforcement action involving a site located in Hamilton County.	5-0 W-E
<b>PCB 10-11</b>	<u>Wisconsin Electric Power Company d/b/a We Energies v. IEPA</u> – The Board accepted for hearing this request for appeal of Illinois Environmental Protection Agency’s denial of a beneficial use determination concerning a coal combustion by-product.	5-0 P-A, Land
<b>PCB 10-12</b>	<u>People of the State of Illinois v. Hicks Oils &amp; Hicksgas, Inc.,</u> – The Board accepted for hearing this water enforcement action involving a site located in Tazewell County.	5-0 W-E

**August 20, 2009**

**Via Video Conference**

**Springfield and Chicago, Illinois**

### **Rulemakings**

<b>R06-20</b>	<u>In the Matter of: Proposed Amendments to the Board’s Special Waste Regulations Concerning Used Oil, 35 Ill. Adm. Code 808.809</u> – The Board adopted a second first notice opinion and order in this rulemaking to amend the Board’s regulations concerning special waste classifications and tracking requirements as they pertain to used oil recycling.	5-0 Land
<b>R06-22</b>	<u>In the Matter of: NOx Trading Program: Amendments to 35 Ill. Adm. Code Part 217</u> – The Board denied the motions of the Illinois Environmental Regulatory Group (IERG) for emergency rulemaking and for expedited review of the alternate rulemaking proposal. The Board directed the Illinois Environmental Protection Agency to file a status report in 60 days in this docket, and stated that any new proposal from IERG would be handled in a new docket.	5-0 Air

## Environmental Register – August 2009

<b>R08-19</b>	<u>In the Matter of: Nitrogen Oxides Emissions From Various Source Categories, Amendments to 35 Ill. Adm. Code Parts 211 and 217</u> – The Board adopted a final opinion and order in this rulemaking amending the Board’s air pollution control regulations.	5-0 Air
<b>R09-22</b>	<u>In the Matter of: Petition of Maximum Investments, LLC for a Rule of General Applicability Under 415 ILCS 5/22.2b(a)3</u> – The Board granted the Illinois Environmental Protection Agency’s motion to dismiss the petition.	5-0 Land
<b>R10-2</b>	<u>UIC Update, USEPA Amendments (January 1, 2009 through June 30, 2009)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its underground injection control regulations during the update period of January 1, 2009 through June 30, 2009.	5-0 Land
<b>R10-3</b>	<u>RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (January 1, 2009 through June 30, 2009)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its municipal solid waste landfill regulations during the update period of January 1, 2009 through June 30, 2009.	5-0 Land
<b>R10-5</b>	<u>UST Update, USEPA Amendments (January 1, 2009 through June 30, 2009)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its underground storage tank regulations during the update period of January 1, 2009 through June 30, 2009.	5-0 Land
<b>R10-6</b>	<u>Wastewater Pretreatment Update, USEPA Amendments (January 1, 2009 through June 30, 2009)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its exemptions from the definition of wastewater pretreatment regulations during the update period of January 1, 2009 through June 30, 2009.	5-0 Water

### Adjusted Standard

<b>AS 09-2</b>	<u>In the Matter of: Petition of Maximum Investments, LLC for an Adjusted Standard from 35 Ill Administrative Code 740.210(a)3 for the Stoney Creek Landfill, Palos Hills, Il. v. IEPA</u> – The Board denied petitioner’s motion for reconsideration of its June 18, 2009 order.	4-1 Johnson dissented Land
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### Adjudicatory Cases

<b>PCB 97-193</b>	<u>People of the State of Illinois v. Community Landfill Company, Inc.</u>	5-0
<b>PCB 04-207</b>	<u>People of the State of Illinois v. Edward Pruiem and Robert Pruiem</u> – The Board previously found in its Oct. 3, 2002 and Apr. 5, 2001 orders that Community Landfill Corporation (CLC) had violated numerous sections of the Environmental Protection Act (ACT) and the Board’s regulations. <i>See People v. Community Landfill Company, Inc.</i> , PCB 97-193 (Apr. 5, 2001) and <u>People v. Community Landfill Company, Inc.</u> , PCB 97-193 (Oct. 3, 2002)). In its final opinion and order in this consolidated matter, the Board found respondents CLC and Edward Pruiem and Robert Pruiem (collectively the	L-E

## Environmental Register – August 2009

Pruims) committed additional violations of the Act and the Board's regulations. The Board ordered CLC and the Pruims to pay a civil penalty of \$250,000 and to cease and desist from further violations. The Board also affirmed the hearing officer's December 2, 2008 ruling.

<b>PCB 08-7</b>	<u>People of the State of Illinois, ex rel. Lisa Madigan, Attorney General of the State of Illinois v. Union Pacific Railroad Company, a Delaware Corporation</u> – The Board denied respondent's motion to sever the alleged violations.	5-0 W-E
<b>PCB 09-43</b>	<u>Waste Management of Illinois, Inc. and Kendall Land and Cattle, LLC v. County Board of Kendall County</u> – The Board granted petitioner's motion for voluntary dismissal of this pollution control facility siting appeal, making all other pending motions moot.	5-0 P-C-F-S-R
<b>PCB 09-67</b>	<u>Prime Location Properties, LLC v. IEPA</u> – In an interim opinion and order, the Board denied petitioner's motion requesting sanctions against the Illinois Environmental Protection Agency (Agency) and the Agency's motion to dismiss. The Board reversed the Agency's January 27, 2009 determination and remanded the matter to the Agency to undertake actions consistent with its opinion. Petitioner may file its statement of legal fees by September 21, 2009, and the Agency may respond within 14 days.	5-0 UST Appeal
<b>PCB 09-106</b>	<u>BP Products North America, Inc. - Main Plant v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this facility located in Madison County.	5-0 UST Appeal
<b>PCB 10-3</b>	<u>Prairie Rivers Network and Sierra Club v. IEPA and Hillsboro Energy, LLC</u> – The Board granted Hillsboro Energy LLC's motions to allow Brian Glasser and Jonathan Boggs to appear <i>pro hac vice</i> .	5-0 NPDES -PA, 3rd Party
<b>PCB 10-14</b>	<u>People of the State of Illinois v. Eco-Clean Environmental, Inc. now d/b/a Eco Environmental, Inc.</u> – The Board accepted for hearing this land enforcement action involving a site located in Montgomery County.	5-0 L-E
<b>PCB 10-15</b>	<u>People of the State of Illinois v. Village of Kinsman</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Grundy County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E

## New Cases

### August 6, 2009 Board Meeting

**10-8** People of the State of Illinois v. Don Swinson, and Champion Environmental Services, Inc. – The Board accepted for hearing this land enforcement action involving a site located in Winnebago County.

**10-9** People of the State of Illinois v. Waste Hauling Landfill, Inc., Jerry Camfield, A. E. Staley Manufacturing Co., Archer Daniels Midland, Inc., Aramark Uniform Services, Inc., Bell Sports, Inc., Borden Chemical Co., Bridgestone/Firestone, Inc., Climate Control, Inc., Caterpillar, Inc., Combe Laboratories, Inc., General Electric Railcar Services Corporation, P & H Manufacturing, Inc., Trinity Rail Group, Inc., Tripple S Refining Corporation

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and Zexel Illinois, Inc. – The Board accepted for hearing this land enforcement action involving a site located in Macon County.

**10-10** People of the State of Illinois v. Thermogas Company, Inc. d/b/a McLeansboro Thermogas – The Board accepted for hearing this water enforcement action involving a site located in Hamilton County.

**10-11** Wisconsin Electric Power Company d/b/a We Energies v. IEPA – The Board accepted for hearing this request for appeal of Illinois Environmental Protection Agency’s denial of a beneficial use determination concerning a coal combustion by-product.

**10-12** People of the State of Illinois v. Hicks Oils & Hicksgas, Inc., – The Board accepted for hearing this water enforcement action involving a site located in Tazewell County.

**AC 10-2** IEPA v. City of Salem, John Pruden, Jason Bruce, and Lee Owens – The Board accepted an administrative citation against these Marion County respondents.

**R10-9** In the Matter of: Financial Assurance Instruments--Renewal and Terms: Amendments to 35 Ill. Adm. Code 807.Subpart F, 810.104 and 811.Subpart G – The Board accepted for hearing Illinois Environmental Protection Agency’s July 27, 2009 proposal to amend the Board’s non-hazardous waste landfill regulations. The Board granted petitioner’s motion to waive requirement and allowing filing of reduced copies.

### August 20, 2009 Board Meeting

**10-13** Jon Chualovsky v. Commonwealth Edison – No action taken.

**10-14** People of the State of Illinois v. Eco-Clean Environmental, Inc. now d/b/a Eco Environmental, Inc. – The Board accepted for hearing this land enforcement action involving a site located in Montgomery County.

**10-15** People of the State of Illinois v. Village of Kinsman – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Grundy County facility, the Board ordered publication of the required newspaper notice.

## Calendar

<b>9/3/09 11:00 AM</b>	<b>Illinois Pollution Control Board Meeting</b>		<b>James R. Thompson Center 100 W. Randolph Street Chicago</b>
9/10/09	PCB 05-14	<u>People of the State of Illinois v. Michael Collins, d/b/a C &amp; R Construction</u>	St. Clair County Building Room 403 10 Public Square Belleville
9/16/09 9:00 AM	PCB 05-14	<u>Dickerson Petroleum, Inc. v IEPA (Consolidated: PCB 09-87 and 10-5)</u>	Illinois Pollution Control Board Hearing Room 1021 N. Grand Avenue East (North Entrance) Springfield
9/16/09 9:00 AM	PCB 10-05	<u>Dickerson Petroleum, Inc. v IEPA (Consolidated: PCB 09-87 and 10-5)</u>	Illinois Pollution Control Board Hearing Room 1021 N. Grand Avenue East (North Entrance) Springfield

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<b>9/17/09</b> <b>11:00 AM</b>	<b>Illinois Pollution Control Board Meeting</b>		<b>James R. Thompson Center</b> <b>100 W. Randolph Street</b> <b>Chicago</b>
9/29/09 8:30 AM	R09-21	<u>In the Matter of: Ameren Ash Pond Closure Rules (Hutsonville Power Station) Proposed: 35 Ill. Adm. Code 840.101 through 840.144</u>  <b>(Continues until complete or through September 30, 2009)</b>	Crawford County Courthouse Annex County Board Room, Second Floor 100 Douglas Street Robinson
<b>10/1/09</b> <b>11:00 AM</b>	<b>Illinois Pollution Control Board Meeting</b>		<b>James R. Thompson Center</b> <b>100 W. Randolph Street</b> <b>Chicago</b>
10/5/09 10:00 AM	R08-09	<u>In the Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304</u>	Michael Bilandic Building Room N-505 160 N. LaSalle Chicago
<b>10/15/09</b> <b>11:00 AM</b>	<b>Illinois Pollution Control Board Meeting</b>		<b>James R. Thompson Center</b> <b>100 W. Randolph Street</b> <b>Chicago</b>
10/15/09 1:00 PM	PCB 10-01	<u>Weeke Oil Company v. IEPA</u>	Illinois Pollution Control Board Hearing Room 1021 N. Grand Avenue East (North Entrance) Springfield
10/19/09 9:30 AM	PCB 10-07	<u>Onken's Incorporated v. IEPA</u>	Illinois Pollution Control Board Hearing Room 1021 N. Grand Avenue East (North Entrance) Springfield
10/27/09 9:00 AM	R10-08	<u>In the Matter of Reasonable Available Control Technology (RACT) for Volatile Organic Material emissions from Group II Consumer &amp; Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 211, 218, and 219</u>  <b>(Continues until complete or through October 28, 2009)</b>	Madison County Administration Building County Board Room #203 157 North Main Edwardsville
10/29/09 9:30 AM	PCB 05-14	<u>People of the State of Illinois v. Michael Collins, d/b/a C &amp; R Construction</u>	St. Clair County Building Room 403 10 Public Square Belleville

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11/4/09 10:00 AM	PCB 09-46	<u>Prairie Rivers Network and Sierra Club v. Illinois Environmental Protection Agency and Sugar Camp Energy, L.L.C.</u>  <b>(Continues until complete or through November 5, 2009)</b>	City Hall County Room 500 W. Main Street Benton
<b>11/5/09 11:00 AM</b>	<b>Illinois Pollution Control Board Meeting</b>		<b>James R. Thompson Center 100 W. Randolph Street Chicago</b>
11/9/09 9:00 AM	R08-09	<u>In the Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304</u>  <b>(Continues until complete or through November 10, 2009)</b>	Michael Bilandic Building Room N-502 160 N. LaSalle Chicago
<b>11/19/09 11:00 AM</b>	<b>Illinois Pollution Control Board Meeting</b>		<b>James R. Thompson Center 100 W. Randolph Street Chicago</b>
<b>12/3/09 11:00 AM</b>	<b>Illinois Pollution Control Board Meeting</b>		<b>James R. Thompson Center 100 W. Randolph Street Chicago</b>
12/8/09 9:00 AM	R10-08	<u>In the Matter of Reasonable Available Control Technology (RACT) for Volatile Organic Material emissions from Group II Consumer &amp; Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 211, 218, and 219</u>  <b>(Continues until complete or through December 9, 2009)</b>	James R. Thompson Center Room 9-039 100 W. Randolph Chicago
<b>12/17/09 11:00 AM</b>	<b>Illinois Pollution Control Board Meeting</b>		<b>James R. Thompson Center 100 W. Randolph Street Chicago</b>





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.

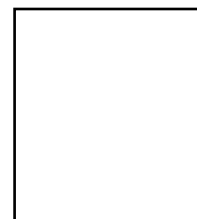
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