
Environmental Register

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Thomas E. Johnson, Chairman

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Letter from the Chairman

Fiscal year 2003 saw a large increase in the filing of one of the Board's most important types of cases: pollution control facility siting reviews. In fiscal year 2003, the Board had sixteen petitions for review of siting decision filed before it – fifteen more than the one filed in fiscal year 2002. A number of these petitions involved multiple appeals of the same decision and were consolidated for decision by the Board. However, even after the consolidations, the Board considered ten separate siting decisions during fiscal year 2003.

As you know, the Environmental Protection Act (Act) provides for local government participation in the siting of new regional pollution control facilities. 415 ILCS 5/39(c), 39.2 (2002). The decision of the local government may be contested before the Board under Section 40.1 of the Act. 415 ILCS 5/40.1 (2002). The Board reviews the decision to determine if the local government's procedures satisfy principles of fundamental fairness and whether the decision was against the manifest weight of the evidence.



The Board recognizes the gravity accompanying each of its statutorily assigned duties. However, never is the importance of those duties more visible than in siting review cases. The decision on whether or not to grant siting for a pollution control facility is of great interest to the citizens in the vicinity of the proposed location. Accordingly, siting review cases are generally subject to substantial debate and participation at the local level.

This participation continues in the related Board proceedings, often resulting in contentious and lengthy hearings as well as detailed pleadings. Further, the siting authority must file the entire record of its underlying proceedings with the Board. As a consequence, the Board must review a voluminous record for each siting appeal. Although the increased number of petitions for siting review filed with the Board results in a corresponding increase in workload, the Board understands the significance of siting reviews to the citizens of the State of Illinois, and is always ready to utilize its experience to correctly decide these appeals. Thus far in fiscal year 2004, three petitions seeking to review the same City of Kankakee decision have been filed and consolidated by the Board. Whether or not this marks a continuation of last fiscal year's trend is not yet certain. Regardless, the Board stands ready to fulfill its statutory duty in deciding however many siting appeals are filed before it.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial 'T' followed by a horizontal line extending to the right.

Thomas E. Johnson, Chairman

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Federal Update

United States Environmental Protection Agency Proposes Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Centralized Waste Treatment Point Source Category Under the Clean Water Act

On September 10, 2003 (68 Fed. Reg. 53431), the United States Environmental Protection Agency (USEPA) proposed amendments to the effluent limitations guidelines, pretreatment standards, and new source performance standards for the centralized waste treatment point source category.

The USEPA proposal would amend certain provisions of the wastewater regulations for the Centralized Waste Treatment Point Source Category. The amendments would delete certain selenium limitations and standards from the Metals Treatment and Recovery subcategory, as well as the Multiple Wastestreams subcategory. This rulemaking also proposes to delete the barium, molybdenum, antimony, and titanium limitations and standards from the Oils Treatment and Recovery subcategory, and to revise the Multiple Wastestreams subcategory, to reflect these changes. Furthermore, this proposal would increase the maximum monthly average BOD₅ limitation for directly-discharging facilities subject to a section of the Multiple Wastestreams subcategory.

Finally, several facilities petitioned USEPA to remove the molybdenum limitations from the Organics Treatment and Recovery subcategory and revise the Multiple Wastestreams subcategory. Based on USEPA's preliminary analysis of the data received to date, USEPA has not yet determined whether it is appropriate to remove these limitations. Therefore, USEPA has requested additional information on the achievability of the molybdenum limitations in the Organics Treatment and Recovery Subcategory. The notice for the rulemaking proposal explains what data the USEPA needs to demonstrate that molybdenum should not continue to be regulated in this subcategory.

Comments must be received by October 10, 2003 and should be sent to: Water Docket, Environmental Protection Agency, Mailcode: 4101T, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460 or submit them electronically to <http://www.epa.gov/edocket>.

For further information contact: Elwood H. Forsht, EPA Office of Water by phone at (202) 566-1025 or by e-mail at forsht.elwood@epa.gov.

The Board will include any necessary amendments to Board rules resulting from this federal action in a future pretreatment identical in substance rulemaking pursuant to Sections 7.2 and 13.3 of the Environmental Protection Act (415 ILCS 5/7.2, 13.3 (2002)).

United States Environmental Protection Agency Adopts Approval of Revisions to the Motor Vehicle Emissions Inventories and Motor Vehicle Emissions Budgets for the Illinois State Implementation Plan Under the Clean Air Act

On September 15, 2003 (68 Fed. Reg. 53937), the United States Environmental Protection Agency (USEPA) adopted a direct final rule, and published an identical proposal, to approve revisions to the Illinois State Implementation Plan's revised motor vehicle emissions inventories and motor vehicle emissions budgets.

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USEPA is proposing approval of a revision to the Illinois State Implementation Plan for the attainment and maintenance of the one-hour national ambient air quality standard for ozone submitted by Illinois on April 11, 2003. Specifically, USEPA approved Illinois' revised 2007 motor vehicle emission inventories and 2007 Motor Vehicle Emissions Budgets recalculated using MOBILE6 for the Chicago severe ozone area.

If USEPA receives no relevant written adverse comments, USEPA will take no further action on the proposed rule. If USEPA receives relevant adverse written comment, USEPA will publish a timely withdrawal of the direct final rule in the *Federal Register* and inform the public that the rule will not take effect. In that event, USEPA will address all relevant public comments in a subsequent final rule based on this proposed rule. In either event, USEPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

Comments on this action must be received by October 15, 2003 and should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

United States Environmental Protection Agency Proposes Revisions Under the Clean Air Act to the Definition of Volatile Organic Compounds

On September 3, 2003 (68 Fed. Reg. 52373), the United States Environmental Protection Agency (USEPA) proposed revision to the definition of volatile organic compounds that would exclude four compounds from the definition.

This action proposes to revise USEPA's definition of volatile organic compounds (VOC) for purposes of preparing State implementation plans to attain the national ambient air quality standards for ozone under title I of the Clean Air Act. The proposed revision would add four compounds to the list of compounds excluded from the definition of VOC on the basis that these compounds make a negligible contribution to tropospheric ozone formation.

With this proposed action the USEPA is not finalizing a decision on how future petitions will be evaluated. USEPA is currently in the process of assessing its VOC policy in general, and stated that it intends to publish a future notice inviting public comment on the VOC exemption policy and the concept of negligible reactivity as part of a broader review of overall policy.

Comments on this proposal must be received by October 3, 2003, and should be sent to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-2002-03, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

For further information contact David Sanders, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division (C539-02), Research Triangle Park, NC 27711, phone (919) 541-3356.

The Board will include any necessary amendments to Board rules resulting from this federal action in a future "Definition of VOM" identical in substance rulemaking pursuant to Sections 7.2 and 9.1 of the Environmental Protection Act (415 ILCS 5/7.2, 9.1 (2002)).

Appellate Update

Fourth District Affirms Board In Everett Daily v. County of Sangamon and Illinois Pollution Control Board, No. 4-02-1139 (September 18, 2003) (AC 01-16 and AC 01-17 (cons.))

In its September 18, 2003 11-page unpublished order under Supreme Court Rule 23 (155 Ill.2d R. 23), in *Everett Daily v. County of Sangamon and Illinois Pollution Control Board*, No. 4-02-1139, the Appellate Court for the Fourth District affirmed the Board's January 10, 2002 decision in two consolidated administrative citations (ACs).

The court related that Daily's dealings with the Sangamon County (County) began a year before the County issued the ACs on which this appeal is based. In fall of 1999, the county public health department filed suit against Daily in the Sangamon County circuit court for violation of a county waste dumping ordinance on Daily's property in Rochester. County inspectors inspected Daily's property pursuant to search warrant in April 2000. They returned

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September 15, 2000 for the purpose of compiling a list of waste items to be removed from the property; this visit was made at the request of Daily's then-attorney, with a view to possible settlement of the action. At a hearing on September 21, 2000, the County dismissed the court action. By agreement, the County inspectors returned to the site September 22, 2000 to complete the list. Slip op. at 1-4.

To Daily's apparent surprise, Sangamon County issued two ACs to Daily based on the two September site inspections. Each AC alleged that Daily violated Section 21(p)(1) & (p)(7) of the Environmental Protection Act by causing or allowing the open dumping of waste resulting in litter and the deposition of construction or demolition debris. See 415 ILCS 5/21 (p) (1,7) (2002). Each AC requested a statutory civil penalty of \$1,500 per violation, for a total of \$6,000. See 415 ILCS 5/42 (b) (4-5) (2002). Slip op. at 4-5.

Daily petitioned the Board to review the ACs. The Board majority issued its decision in response to the parties' cross-motions for summary judgment. *Sangamon County v. Everett Daily*, AC 01-16, AC 01-17 (cons.), January 10, 2002. A dissenting Board Member stated that he believed that the matter should have gone to hearing due to the existence of genuine issues of material fact. See *Sangamon County v. Everett Daily*, AC 01-16, AC 01-17 (cons.), (Dissenting Opinion, January 16, 2002).

Daily argued that (1) the county should be estopped from pursuing the ACs, and (2) the items on his property did not constitute "waste" under the Act. The Board denied Daily's motion, rejecting both arguments. The Board granted the county's motion, and entered judgment in the county's favor. The Board found two violations (not four violations as the county alleged) because the Board found the violations observed during the county's first inspection to be continuing violations, not separate violations, during the second inspection. The Board therefore imposed a civil penalty of \$1,500 per violation, for a total civil penalty of \$3,000.

Daily filed a pro-se petition for review. The court discussed four major arguments Daily made. On appeal, Daily argued that the county (1) gave him inadequate notice of the alleged violations; (2) exceeded its jurisdiction because his property is located in an incorporated area; (3) in not serving him with the AC within 35 days after the inspection, the County breached the AC delegation agreement between it and the Illinois Environmental Protection Agency (IEPA); and (4) was estopped from using information from the site inspections, since they were undertaken to settle the circuit court case.

The court first stated that it reviews summary judgment decisions de novo. On the first issue, the court found the county's inspection report and photos sufficiently detailed the objects alleged to be waste, e.g. "an old bathtub," "broken and weathered windows". Slip op. at 4. Second, the county's jurisdiction under the county code was irrelevant because the county issued the AC under the Act pursuant to its delegation agreement with the County. See 415 ILCS 5/4(r) (2002), and slip op. at 7-8. Third, the court held that Daily waived his untimely service under the delegation agreement argument by not specifically raising it before the Board, and moreover that the argument lacked merit. Slip op. at 8-9. Fourth, the court found that Daily did not establish the elements of promissory estoppel. Since the County did not promise that it would use information gathered during an inspection only to settle the court case; the County could properly use the site inspection information as the basis for the ACs. Lastly, the court found that Daily had waived "several enigmatic assertions that he [did] not develop or support by coherent argument and citations to the record." Slip op. at 10-11.

Fifth District Affirms Board In *Gilster-Mary Lee Corp. v. Roger L.Young, Romana K.Young and Illinois Pollution Control Board*, No. 5-02-0487 (September 3, 2003) (PCB 00-90)

In its September 3, 2003 11-page unpublished order under Supreme Court Rule 23 (155 Ill.2d R. 23), the Fifth District Appellate Court affirmed the Board's decision finding a noise nuisance had been proven in a citizens' enforcement action. *Gilster-Mary Lee Corp. v. Roger L. Young, Romana K.Young and Illinois Pollution Control Board*, No. 5-02-0487 (September 3, 2003). In its final opinion and order, the Board found that the Gilster-Mary Lee Corporation had violated 35 Ill. Adm. Code 900.102 and Section 24 of the Environmental Protection Act (Act). 415 ILCS 5/24 (2002). The Board ordered Gilster-Mary Lee to cease and desist from further violations, finding that the corporation had taken sufficient steps to remediate the noise after the suit was filed. *Roger L. and Romana Young v. Gilster-Mary Lee Corp.*, PCB 00-90 (June 20, 2002).

The Youngs filed their noise complaint with the Board in November 1999. In 1997, Mr. Young had inherited the home in Chester, Randolph County, which his parents had lived since 1953. This property is bordered on three

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sides by the property of Gilster Mary Lee, a producer of food products including stuffing, cake, chicken coating and cookie mixes. The property contains two factories that operate around the clock from Monday through Friday, office buildings, and employee parking lots.

After considering the hearing record and applying the Act's Section 33(c) factors, the Board issued an interim order. *Roger L. and Romana Young v. Gilster-Mary Lee Corp.*, PCB 00-90 (September 6, 2001). The Board majority found that noise from the factory (including noise from truck idling and unloading) had unreasonably interfered with the Youngs' enjoyment of their residence, and ordered Gilster-Mary Lee to file a noise reduction report. (Two dissenting Board Members agreed that there had been a noise interference, but disagreed that the noise was unreasonable. *Roger L. and Romana Young v. Gilster-Mary Lee Corp.*, PCB 00-90 (Dissenting Opinion, September 10, 2001).

The corporation did so, documenting the steps it took to reduce noise. In its final order, the Board determined not to order any additional, specific steps to reduce noise. *Roger L. and Romana Young v. Gilster-Mary Lee Corp.*, PCB 00-90 (June 20, 2002).

Gilster Mary-Lee appealed, asking the Fifth District to reverse the finding of violation. The court determined that the Board performed an "intensive evaluation" of all of the factors in the case, holding that the Board's decision was neither against the "manifest weight of the evidence" nor "arbitrary and capricious." *Gilster-Mary Lee Corp. v. Roger L. Young, Romana K. Young and Illinois Pollution Control Board*, No. 5-02-0487 (September 3, 2003), slip op. at 7.

The court also reviewed three evidentiary rulings at the corporation's request, applying an "abuse of discretion" standard. First, Gilster-Mary Lee objected to admission of testimony of one of the Youngs' witnesses, an Illinois Environmental Protection Agency noise advisor. The court affirmed admission of the testimony, because Section 101.626(a) of the Board's procedural rules allows evidence that is "material and relevant." Slip op. at 8.

Second, Gilster-Mary Lee objected to admission of some of the Youngs' videotapes showing more recent noise meter measurements being taken because those tapes weren't provided to Gilster-Mary Lee during discovery. The court again affirmed admission of the evidence, noting Gilster-Mary Lee didn't allege that the more recent noise measurements were any different from those provided to GML during discovery. Slip op. at 9.

Third, the court affirmed the Board's refusal to strike public comments filed after hearing by Chester citizens complaining about the noise. The court found the PCs were relevant and based on evidence in the record, and that they supported the Board's finding of violation. See slip op. at 9, citing to the Board's procedural rule at 35 Ill. Adm. Code 101.628 describing how public comments are allowed, are afforded lesser weight than testimony, and must be based on evidence in the record.

Finally, the court observed that even if any of these three items were admitted in error, "not all evidentiary errors require a reversal." Only evidentiary errors that are prejudicial or that materially affect the case's outcome require reversal. The court concluded that, even if the challenged evidence were to be removed from the record, "there would still be enough evidence in the record to support the Board's decision." Slip op. at 9.

Rule Update

Board Adopts Final Opinion and Order in Noise Rule Update: Amendments to 35 Ill. Adm. Code 900-903 (R03-08)

On September 4, 2003, the Board adopted a final opinion and order in Noise Rule Update: Amendments to 35 Ill. Adm. Code 900 and 903 (R03-08). The Board made a few substantive changes to the first notice proposal, adopted on December 19, 2002 and published in the Illinois Register at 27 Ill. Reg. 1889 and 1909 (February 7, 2003). This rulemaking will be filed with the Secretary of State's office.

The noise rules involved are 35 Ill. Adm. Code Parts 900 and 903. These are general provisions dealing with the definitions of acoustical terminology, prohibition against noise pollution, and sound measurement procedures. The adopted amendments to Part 900 involve the updating of definitions and sound measurement procedures. These definitions and measurement procedures were adopted in 1973 and have not been amended or changed since then.

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The basis for these changes is the American National Standards Institute (ANSI) updates from the years 1998-2001. In response to public comments, the Board incorporated an additional ANSI document into its rules: ANSI S12.9-1993 (R 1998) “American National Standard Quantities and Procedures for Description and Measurement of Environmental Sound, Part 3: Short-term Measurement with an Observer Present.” The Board responded to comments requesting clarifying language for the definitions of “background sound level,” “ambient,” and “period of observation” by adopting the suggested changes to these definitions.

The Board also clarified the dichotomy between steady and non-steady sound. Public comments were received that pointed out that a one hour measurement period is reasonable when confronted with non-steady sound but excessively lengthy when the potential noise pollution is caused by a steady source. The Board modified the first notice proposal to reflect a ten-minute measurement period for steady sound.

Additionally in this docket, the Board repealed Part 903, which specifies rules and regulations for the control of noise from motor racing facilities, in response to legislative changes since the Part was adopted.

This rulemaking should be read in conjunction with the companion implementing rules proposed in Proposed New and Updated Rules for Measurement and Numerical Sound Emissions Standards; Amendments to 35 Ill. Adm. Code 901 and 910, R03-09, (July 10, 2003). See the July 25, 2003 Illinois Register at 27 Ill. Reg. 11908 and 11989. Hearings in this proceeding were held on May 1, 2003 in Springfield and May 15, 2003 in Chicago.

Copies of the Board’s opinion and order in R03-08 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading from the Board’s Web site at www.ipcb.state.il.us.

For additional information contact William Murphy at 312/814-6062; e-mail address murphyw@ipcb.state.il.us

Board Adopts Final Opinion and Order in Wastewater Pretreatment Update, USEPA Amendments (July 1, 2002 through December 31, 2002) (R03-13)

On September 4, 2003, the Board adopted a final opinion and order in Wastewater Pretreatment Update, USEPA Amendments (July 1, 2002 through December 31, 2002) (R03-13). The Board adopted amendments to its wastewater pretreatment regulations that are “identical-in-substance” to wastewater pretreatment regulations adopted by the United States Environmental Protection Agency (USEPA). These are rules adopted by the USEPA pursuant to sections 307(b), (c), and (d) and 402(b)(8) and (b)(9) of the Federal Water Pollution Control Act (FWPCA) (33 USC §§ 1317(b), (c), and (d) and 1342(b)(8) and (b)(9) (1994)). The adopted amendments were published in the Illinois Register on September 26, 2003 at 27 Ill. Reg. 15095 and 15137.

The Board regulations involved in this proceeding are 35 Ill. Adm. Code 307 and 310. This rulemaking is based on federal amendments made by the USEPA during the period of July 1, 2002 through December 31, 2002. The specific federal actions involved were published in the Federal Register on September 19, 2002 (67 Fed. Reg. 58990), October 17, 2002 (67 Fed. Reg. 64216), October 23, 2002 (67 Fed. Reg. 65220), October 29, 2002 (67 Fed. Reg. 65876), and November 19, 2002 (67 Fed. Reg. 69952).

The USEPA action of September 19, 2002 related to discharges from sources in the Pulp, Paper, and Paperboard Point Source Category. USEPA amended the effluent limitations guidelines and standards applicable to sources in the Bleached Papergrade Kraft and Soda Subcategory. They allow mills in this subcategory to demonstrate compliance with applicable chloroform limitations and standards at a fiber line in lieu of monitoring. The amendments allow the mills to forego monitoring if they fulfill certain requirements: (1) they must perform initial monitoring to demonstrate compliance, (2) they must certify that the pertinent line is not using chlorine or hypochlorite as a bleaching agent, and (3) they must maintain process and operating conditions during the compliance demonstration period. Included were amendments to wastewater pretreatment standards, and the present amendments incorporate those segments into the Illinois regulations.

The Board incorporated the September 19, 2002 federal amendments without substantive deviation from the corresponding federal text. The federal amendments affected the monitoring provisions of 40 C.F.R. 430.02, which USEPA adopted April 15, 1998 (63 Fed. Reg. 18639). The Board adopted the federal April 15, 1998 amendments in Wastewater Pretreatment Update, USEPA Regulations (January 1, 1998 through June 30, 1998), R99-4 (March 18, 1999), but neglected to include the monitoring requirements of 40 CFR 430.02. The present amendments correct that oversight.

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The USEPA action of October 17, 2002 related to the effluent limitations guidelines and standards applicable to the Iron and Steel Manufacturing Point Source Category. USEPA amended the standards applicable to wastewater discharges from metallurgical cokemaking, sintering, and ironmaking operations. USEPA included new standards for direct reduced ironmaking, briquetting, and forging operations. USEPA also provided an allowance for existing basic oxygen furnaces operating semi-wet air pollution control systems and established technology-based limitations for electric arc furnaces operating semi-wet pollution control systems. The amendments further deleted references in the rules to beehive cokemaking, ferromanganese blast furnaces, and open-hearth furnaces, which are obsolete.

The Board incorporated by reference the October 17, 2002 federal rules covering the Iron and Steel Manufacturing Point Source Category. Generally, the Illinois regulations set forth the text of shorter general provisions, like applicability statements, and incorporate by reference the more lengthy federal substantive requirements, such as these.

The USEPA actions of October 23, 2002, October 29, 2002, and November 19, 2002 updated the Clean Water Act methods for analysis of contaminants in water and waste in 40 C.F.R. 136. The Board has proposed to include all of these updates in the incorporations by reference in 35 Ill. Adm. Code 310.107. The October 23, 2002 action was a general update of the various methods for analysis of chemical, microbiological, and radiological contaminants in water; it also amended methods for analysis of contaminants in drinking water under the Safe Drinking Water Act. The action of October 29, 2002 updated a single analytical method, USEPA Method 1631E, for analysis of mercury in aqueous samples by cold vapor atomic fluorescence spectrometry. The action of November 19, 2002 related to whole effluent toxicity testing.

Copies of the Board's opinion and order in R03-13 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

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

Board Adopts First Notice Opinion and Order in Proposed Amendments to: Public Participation Rules In 35 Ill. Adm. Code 309 NPDES Permits And Permitting Procedures (R03-19)

On September 4, 2003, the Board adopted a first notice opinion and order in Proposed Amendments to: Public Participation Rules In 35 Ill. Adm. Code 309 NPDES Permits And Permitting Procedures (R03-19). The proposal was filed with the Secretary of State's Index Department and published in the Illinois Register at 27 Ill. Reg. 14765 (September 19, 2003).

The purpose of this rulemaking is to clarify rules for issuance of NPDES permits by the Illinois Environmental Protection Agency (IEPA), including provisions for public participation. These rules are found in Board rules at 35 Ill. Adm. Code 309. The Board's first notice order is based on the proposal filed by the Environmental Law and Policy Center of the Midwest, Illinois Chapter of the Sierra Club, Prairie Rivers Network, and 225 citizen petitioners (collectively "the proponents") on January 13, 2003. The first notice proposal incorporates suggestions from testimony and public comments generated in two public hearings and 13 public comments. Testifiers and commenters included: proponents, IEPA, associations representing businesses affected by the proposed rules, individual businesses, and private citizens.

The Board's first notice proposal codifies the IEPA's existing practice when reviewing and issuing National Pollutant Discharge Elimination System (NPDES) permits, requires additional information in NPDES permit fact sheets prepared for the public by IEPA, identifies when the public comment period can be reopened, requires control of pollutants and pollutant parameters that may potentially violate water quality standards, and requires reports adequate to determine compliance with monitoring requirements.

The Board's first notice proposal made several changes to the proposal filed by the petitioners. In Section 309.105 (f) & (g), the proponents proposed to prohibit the IEPA from issuing an NPDES permit if there has not been a fair opportunity for the public to comment (subsection (f)) or if the permit is not consistent with federal law (subsection (g)). At first notice the Board found that this provision was unnecessary, as other language in the rulemaking provided for full and complete public participation in NPDES permitting process.

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The proponent's language in Section 309.108 would have required the IEPA to create a draft administrative record in support of the IEPA's tentative decision on the permit. In its comments, the IEPA proposed language that provides that all documents related to the IEPA's tentative decision on a permit application become a part of the IEPA's record, leaving the IEPA to either identify the document for the record or include the document in the record. The Board included this language in its proposal.

In Section 309.120, the proponents proposed language providing that persons wanting to object to permits or permit conditions must raise the issues during the public comment period. The proponents stated that the new language was not intended to limit the IEPA's ability to include items in the record. Rather, the language was necessary because of the Prairie Rivers decision to allow the IEPA discretion to take testimony or receive comments after the public comment period, according to the proponents.

The Board did not proceed with this language at first notice. First, the Board was not convinced that the language as proposed actually accomplishes the intent of the proponents. The Board agrees with the IEPA that the language appears to define the record before the IEPA, and existing rules already define the contents of the record (see 35 Ill. Adm. 105.212). Second, the Board stated that the proponents concerns about the Prairie Rivers decision are addressed by the language proposed for first notice in Sections 309.120 and 309.108.

The language proposed in Sections 309.121 and 309.122 would identify when the record should be reopened in order to receive additional public comments. The language proposed in Section 309.123 would clarify what constitutes the record before the IEPA. The IEPA suggested modifications to the proponents' original language, primarily to clarify the current IEPA practice reopening public comment and to alleviate any ambiguity regarding reopening the public comment period raised by the Prairie Rivers decisions. As a result of these changes, the Board did not propose to add Section 309.122 and 309.123 at first notice. Because the Board did not proceed to first notice with the proponents' original language for Section 309.120, the Board renumbered the proposed Section 309.121 to 309.120.

Copies of the Board's opinion and order in R03-19 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For more information contact Marie Tipsord at (312) 814-4925 or email at tipsordm@ipcb.state.il.us.

Board Adopts Second Notice Opinion and Order in Radionuclide Restricted Status, Amendments to 35 Ill. Adm. Code 602.105, 602.106, 602.108, and 602.115 (R03-21)

On September 4, 2003, the Board adopted a second notice opinion and order in Radionuclide Restricted Status, Amendments to 35 Ill. Adm. Code 602.105, 602.106, 602.108, and 602.115 (R03-21). The Board has sent the rulemaking, pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1-1 et seq. (2002)), to the Joint Committee on Administrative Rules (JCAR). The proposed amendments will be considered at the October 14, 2003 JCAR meeting. The Board did not make any substantive changes to the proposal it adopted for first notice on June 19, 2003 (published in the Illinois Register at 27 Ill. Reg. 9895 (July 7, 2003)).

The proposal would allow the Illinois Environmental Protection Agency (IEPA) to continue issuing permits to Public Water Supplies (PWS) that do not meet the federal radionuclide standard for drinking water, but only if the PWS is bound by order or agreement to a compliance schedule for meeting the federal standard. The current exemption in Part 602 that allows such permit issuance "sunset" December 8, 2003, which is the compliance deadline of the new federal radionuclide standard (adopted at 65 Fed. Reg. 76707, December 7, 2000). This proposal would not exempt PWS from the final radionuclide standard, but would continue the existing State exemption that keeps certain PWS from being placed on "restricted status" (i.e., an Illinois-only list of PWS banned from receiving construction permits).

Section 17.6 of the Illinois Environmental Protection Act (Act) provides that the Illinois radiological quality standards must be the same as the federal standards adopted by the United States Environmental Protection Agency (USEPA) (415 ILCS 5/17.6 (2002)). That standard, as codified in the Board's rules, is 5 pico curies per liter (pCi/l) for combined radium-226 and radium-228 and 15 pCi/l for gross alpha particle activity. 35 Ill. Adm. Code 611.330. The federal compliance date is December 8, 2003.

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The IEPA anticipates that approximately 50 to 60 PWS may fail to meet the December 8, 2003 deadline and be subject to the pre-enforcement processes of Section 31 of the Act. However, IEPA maintains that those PWS meeting compliance dates of Compliance Commitment Agreements (CCAs) or court orders should be able to avoid restricted status without having to individually petition the Board for variance relief, expending PWS, Board, and IEPA resources. Accordingly, the IEPA has requested that the Board adopt final regulations in this rulemaking by the December 8, 2003 deadline.

Additionally, the proposal contains language that would require each person signing a construction permit application for a PWS to certify that the information in the application is complete and accurate and that the text has not been altered from the IEPA's permit application form or template.

The Board held hearings in this rulemaking in Springfield on May 8, 2003 and in Chicago on May 15, 2003.

Copies of the Board's opinion and order in R03-21 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For more information contact Richard McGill at (312) 814-6983 or email at mcgillr@ipcb.state.il.us.

Board Accepts Proposal for Hearing in Clean-Up Amendments to 35 Ill. Adm. Code Part 214 (R04-10)

On September 18, 2003, the Board accepted for hearing a proposal filed by the Illinois Environmental Protection Agency (IEPA) in Clean-Up Amendments to 35 Ill. Adm. Code Part 214 (R04-10). The proposal, filed with the Board on September 2, 2003, seeks to correct typographical errors in the existing "special formula" in Section 214.184 used to determine sulfur dioxide emissions from stationary sources. The IEPA states the proposal clarifies the existing formula for calculating sulfur dioxide emissions from stationary sources.

Copies of the Board's opinion and order in R04-10 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For more information contact William Murphy at (312) 814-6062 or email at murphyw@ipcb.state.il.us.

Board Actions

September 4, 2003

Via Teleconference

Chicago and Springfield, Illinois

Rulemakings

R03-8	<u>In the Matter of: Noise Rule Update: Amendments to 35 Ill. Adm. Code 900 and 903</u> – The Board adopted a final opinion and order amending the Board's noise pollution control regulations.	5-0 R, Noise
R03-13	<u>In the Matter of: Wastewater Pretreatment Update, USEPA Amendments (July 1, 2002 through December 31, 2002)</u> – The Board adopted a final opinion and order in this "identical-in-substance" rulemaking to amend the Board's wastewater pretreatment regulations.	5-0 R, Water

Environmental Register – September 2003

R03-19	<u>In the Matter of: Proposed Amendments to: Public Participation Rules in 35 Ill. Adm. Code Part 309 NPDES Permits and Permitting Procedures</u> – The Board adopted a first notice opinion and order in this rulemaking to amend the Board’s water pollution control regulations.	5-0 R, Water
R03-21	<u>In the Matter of: Radionuclide Restricted Status, Amendments to 35 Ill. Adm. Code 602.105, 602.106, 602.108, and 602.115</u> – The Board adopted a second notice opinion and order in this rulemaking to amend the Board’s public water supply regulations.	5-0 R, PWS

Administrative Citations

AC 03-11	<u>City of Chicago Department of Environment v. City Wide Disposal Inc.</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) (2002)) and assessing a penalty of \$6,000. 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. Respondent may file responses to the statements within 14 days.	5-0
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Decisions

PCB 03-117	<u>People of the State of Illinois v. Bi-State Tire, Inc.</u> – In this land enforcement action concerning a Rock Island 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$6,000 and to cease and desist from further violations.	5-0 L-E
PCB 03-224	<u>People of the State of Illinois v. Village of Sims, Followell Construction Company, Inc., and Lamac Engineering Company</u> – In this public water supply enforcement action concerning a Wayne 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) (2002)), and accepted three separate final stipulation and settlement agreements. The Village of Sims agreed to pay a \$500 civil penalty, while Followell Construction Company, Inc. and Lamac Engineering Company agreed to pay a \$5,000 civil penalty each. The respondents were ordered to cease and desist from further violations.	5-0 PWS-E

Motions and Other Matters

PCB 96-10	<u>Vogue Tyre & Rubber Company v. IEPA</u> – The Board denied respondent’s motion for summary judgment.	5-0 P-A, Land
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Environmental Register – September 2003

PCB 96-98	<u>People of the State of Illinois v. Skokie Valley Asphalt, Co., Inc., Edwin Frederick, Jr. individually and as owner and president of Skokie Valley Asphalt Co., Inc., and Richard J. Frederick individually and as owner and vice president of Skokie Valley Asphalt Co., Inc.</u> – The Board granted complainant’s motion to compel in part and directed the respondents to respond to discovery on or before September 30, 2003.	5-0 W-E
PCB 98-136	<u>Illinois State Toll Highway Authority (Lake Forest Oasis - East) v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Lake County facility.	5-0 P-A, Air
PCB 99-19	<u>Anthony And Karen Roti, Paul Rosenstock, and Leslie Weber v. LTD Commodities</u> – The Board did not rule on the merits of respondent’s August 28, 2003 motion for reconsideration of its July 24, 2003 decision, but noted under the procedural rules the order is stayed, until the final disposition of respondent’s motion for reconsideration.	5-0 Citizens N-E
PCB 99-187	<u>Gina Pattermann v. Boughton Trucking and Materials, Inc.</u> – The Board issued an order clarifying its August 7, 2003 Order, barring introduction of certain testimony and refusing to reopen discovery.	5-0 A&N-E
PCB 00-104	<u>People of the State of Illinois v. The Highlands, L.L.C., Murphy Farms, Inc., and Smithfield Foods, Inc.</u> – The Board denied the respondents’ motions for summary judgment on count I of the amended complaint and for partial summary judgment for the period after March 1, 2002.	5-0 A-E
PCB 00-163	<u>David and Jacquelyn McDonough v. Gary Robke</u> – The Board granted respondent’s motion to modify the Board’s February 6, 2003 Order. The Board stayed paragraph 3 of its February 6, 2003 order until March 1, 2004.	5-0 Citizens N-E
PCB 00-205	<u>Werner Company v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal involving a Cook County facility.	5-0 P-A, Air
PCB 03-65	<u>Knox College v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Knox County facility.	5-0 UST Appeal
PCB 03-66	<u>Klean Car Wash, Inc. 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 UST Appeal
PCB 03-87	<u>Main Station v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Knox County facility. This renders moot respondent’s motion to strike part of the administrative record.	5-0 UST Appeal

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PCB 03-128	<u>People of the State of Illinois v. Robert Hamm, d/b/a Three R's Pier Builders</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 Lake County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 03-160	<u>Wareco Service, Inc. v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Knox County facility.	5-0 UST Appeal
PCB 03-162	<u>Tasim Fejza v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Will County facility.	5-0 UST Appeal
PCB 03-208	<u>Stanford Property 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 Clay County facility.	5-0 UST Appeal
PCB 03-209	<u>Silvestri Paving Company (September 11, 2002 to November 20, 2002) 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 UST Appeal
PCB 03-212	<u>Wareco Service, Inc. v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Knox County facility.	5-0 UST Appeal
PCB 03-221	<u>Lowe Transfer, Inc. and Marshall Lowe v. County Board of McHenry County, Illinois</u> – The Board denied petitioners' motion requesting a site visit. The remaining motions were referred to the hearing officer for disposition.	5-0 P-C-F-S-R
PCB 04-21	<u>Andy's Drive-In 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 Alexander County facility.	5-0 UST Appeal 90-Day Ext.
PCB 04-22	<u>Wei Enterprises v. IEPA (UST Fund Reimbursement)</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this St. Clair County facility.	5-0 UST Appeal 90-Day Ext.
PCB 04-23	<u>Wei Enterprises (Modified Site Correction Action Plan) 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 St. Clair County facility.	5-0 UST Appeal 90-Day Ext.

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PCB 04-24 People of the State of Illinois v. Tri-K Development, Inc. – The Board accepted for hearing this air enforcement action involving a DuPage County facility. 5-0
W-E

September 18, 2003 Chicago, Illinois

Rulemakings

R04-10 In the Matter of: Clean-Up Amendments to 35 Ill. Adm. Code Part 214 – The Board accepted for hearing the Illinois Environmental Protection Agency’s September 2, 2003 proposal to amend the formula in Section 214.184 of the Board’s air pollution control regulations. 5-0
R, Air

Adjusted Standard

AS 03-5 In the Matter of: Petition of Cromwell-Phoenix, Inc. for an Adjusted Standard from 35 Ill. Adm. Code Subpart F, Section 218.204(c) (the "Paper Coating Rule") – The Board granted this Cook County petitioner an adjusted standard, with conditions, from volatile organic material emission requirements. 5-0
Air

Administrative Citations

AC 03-35 IEPA v. Denny D. Richey – The Board granted complainant’s motion for voluntary dismissal of this administrative citation involving a McLean County facility. 5-0

AC 04-01 County of Montgomery v. Luie and Mary Pease – The Board granted complainant’s motion for voluntary dismissal of this administrative citation involving a Montgomery County facility. 5-0

AC 04-2 County of Sangamon v. William McGlauchlen – The Board found that this Sangamon County respondent violated Section 21(p)(1) and (3) of the Act (415 ILCS 5/21(p)(1), (3) (2002)) and ordered respondent to pay a civil penalty of \$3,000. 5-0

AC 04-04 IEPA v. Edward Sapp – The Board accepted for hearing this petition for review of an administrative citation against this Logan County respondent. 5-0

AC 04-6 IEPA v. Mary Lou Record and H. Frank Record – The Board accepted for hearing this petition for review of an administrative citation against these Logan County respondents. 5-0

AC 04-10 County of Vermilion v. Bill Wernigk – The Board found that this Vermilion County respondent violated Section 21(p)(1) and (7) of the Act (415 ILCS 5/21(p)(1), (7) (2002)) and ordered respondent to pay a civil penalty of \$3,000. 5-0

Environmental Register – September 2003

Decisions

PCB 97-9	<u>People of the State of Illinois v. C&S Recycling, Inc., Flood Brothers Disposal Company, Inc., William Flood, individually and as treasurer of C&S Recycling, Inc., and Brian Flood, individually and as president of C&S Recycling, Inc.</u> – In this land enforcement action concerning a Cook County facility, the Board granted complainant’s motion to dismiss William Flood and Brian Flood. The Board also granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2002)), accepted a stipulation and settlement agreement between the complainant and Flood Brothers Disposal Company, Inc., ordered the respondent to pay a total civil penalty of \$45,000, and to cease and desist from further violations.	5-0 L-E
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Motions and Other Matters

PCB 99-134	<u>People of the State of Illinois v. Peabody Coal Company</u> – The Board granted the parties’ joint motion for stay of proceedings until December 1, 2003.	5-0 W-E
PCB 01-7	<u>People of the State of Illinois v. QC Finishers, Inc.</u> – The Board denied respondent’s motion to reconsider its June 19, 2003 order.	5-0 A-E
PCB 03-73	<u>People of the State of Illinois v. Riverdale Recycling, Inc. and Tri-State Disposal, Inc.</u> – The Board granted complainant’s motion to dismiss the respondents’ affirmative defenses. The Board granted respondent 30 days from the date of this order, or until October 17, 2003 to provide the Board with a supplemental answer outlining additional facts in support of each affirmative defense asserted.	4-1 Johnson dissented Girard concurring L-E
PCB 03-218	<u>Rochelle Waste Disposal, L.L.C. v. City Council of the City of Rochelle, Illinois</u> – The Board granted respondent’s motion for extension of time to file the record, as well as, to file a reduced number of copies.	5-0 UST Appeal
PCB 03-219	<u>Randall Industries v. IEPA</u> – The Board found the petition deficient in this underground storage tank appeal involving a DuPage County facility. The Board ordered petitioner to file an amended petition to cure deficiencies no later than October 17, 2003, or the petition would be subject to dismissal. Petitioner was instructed to retain counsel prior to filing an amended petition.	5-0 UST Appeal
PCB 03-225	<u>Pete’s Marathon (November 2, 2002 to November 30, 2002) 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 Marion County facility.	5-0 UST Appeal
PCB 03-227	<u>Pete’s Marathon (December 1, 2002 to December 31, 2002) 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 Marion County facility.	5-0 UST Appeal

Environmental Register – September 2003

PCB 03-228	<u>Graham C-Stores Company 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 Kane County facility.	5-0 UST Appeal
PCB 03-229	<u>Graham Oil Company 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 UST Appeal
PCB 03-236	<u>Citizens Against Landfill Expansion (CALE) v. American Disposal Services of Illinois, Inc. and Livingston County Board</u> – The Board granted petitioner’s motion for voluntary dismissal of this pollution control facility siting appeal involving a Livingston County facility.	5-0 P-C-F-S-R 3d party
PCB 04-24	<u>People of the State of Illinois v. Tri-K Development, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a DuPage County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 04-25	<u>Gary Svacina 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.	5-0 UST Appeal 90-Day Ext.
PCB 04-27	<u>Eastman Chemical Company v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a Resource Conservation and Recovery Act permit appeal on behalf of this Kane County facility.	5-0 RCRA P-A 90-Day Ext.
PCB 04-28	<u>People of the State of Illinois v. Village of Rantoul</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 Champaign County facility, the Board ordered publication of the required newspaper notice.	5-0 A-E
PCB 04-30	<u>People of the State of Illinois v. Village of Enfield</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 White County facility, the Board ordered publication of the required newspaper notice.	5-0 PWS-E

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PCB 04-31	<u>Broadus Oil 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 LaSalle County facility.	5-0 UST Appeal 90 Day Ext.
PCB 04-32	<u>Roy Strom Building Corporation 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 Lake County facility.	5-0 UST Appeal 90 Day Ext.

New Cases

September 4, 2003 Board Meeting

- 04-021** Andy's Drive-In 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 Alexander County facility.
- 04-022** Wei Enterprises v. IEPA (UST Fund Reimbursement) – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this St. Clair County facility.
- 04-023** Wei Enterprises (Modified Site Correction Action Plan) 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 St. Clair County facility.
- 04-024** People of the State of Illinois v. Tri-K Development, Inc. – The Board accepted for hearing this air enforcement action involving a DuPage County facility.

September 18, 2003 Board Meeting

- 04-025** Gary Svacina 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.
- 04-026** Lynn Erickson v. Charleston Classic Homes and Lawrence E. VanSomeren, Jr. – The Board held for a later duplicative/frivolous determination this citizen's noise enforcement action involving a DuPage County facility.
- 04-027** Eastman Chemical Company v. IEPA – The Board granted this request for a 90-day extension of time to file a Resource Conservation and Recovery Act permit appeal on behalf of this Kane County facility.
- 04-028** People of the State of Illinois v. Village of Rantoul – 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 Champaign County facility, the Board ordered publication of the required newspaper notice.
- 04-029** The City of Chicago v. Purex Industries, Inc. Federal Chicago Corp., Federal Die Casting Co. and Raymond E. Cross – The Board held for a later duplicative/frivolous determination this citizen's noise enforcement action involving a Cook County facility. The Board took no action on the motion to consolidate this case and PCB 03-55.
- 04-030** People of the State of Illinois v. Village of Enfield – 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 White County facility, the Board ordered publication of the required newspaper notice.

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04-031 Broadus Oil 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 LaSalle County facility.

04-032 Roy Strom Building Corporation 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 Lake County facility.

AC 04-07 City of Chicago v. Marvin J. Wilson – The Board accepted an administrative citation against this Cook County respondent.

AC 04-08 IEPA v. Roger Ray – The Board accepted an administrative citation against this Moultrie County respondent.

AC 04-09 IEPA v. Larry Lord – The Board accepted an administrative citation against this Marshall County respondent.

AC 04-10 County of Vermilion v. Bill Wernigk – The Board found that this St. Clair County respondent violated Section 21(p)(1) and (7) of the Act (415 ILCS 5/21(p)(1), (7) (2002)) and ordered respondent to pay a civil penalty of \$3,000.

AC 04-11 IEPA v. Ricky and Jerry Hess – The Board accepted an administrative citation against these Mclean County respondents.

R04-10 In the Matter of: Clean-Up Amendments to 35 Ill. Adm. Code Part 214 – The Board accepted for hearing the Illinois Environmental Protection Agency’s September 2, 2003 proposal to amend the formula in Section 214.184 of the Board’s air pollution control regulations.

Provisional Variance

IEPA 03-001 City of Lincoln v. IEPA—The Illinois Environmental Protection Agency granted this Logan County facility a 45-day provisional variance, subject to conditions, from 35 Ill. Adm. Code 302.212 for ammonia nitrogen, from 35 Ill. Adm. Code 304.120(b) for CBOD5, and from 304.141(a) for total suspended solids.

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

Calendar

10/2/03 11:00AM	Illinois Pollution Control Board Meeting		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago and Hearing Room, 1244N 1021 N. Grand Avenue East Springfield
10/8/03 9:00AM	PCB 02-79	People of the State of Illinois v. Walter F. Deemie d/b/a River City Demolition	Pollution Control Board Hearing Room 1021 North Grand Avenue East (north entrance) Springfield

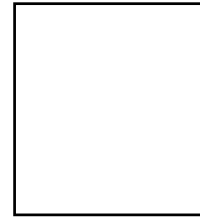
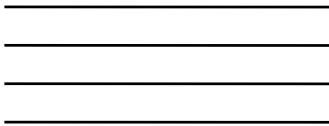
Environmental Register – September 2003

10/16/03 11:00AM	Illinois Pollution Control Board Meeting		Illinois Pollution Control Board James R. Thompson Center 100 W. Randolph Street Room 9-040 Chicago
10/17/03 9:00AM	PCB 97-2-	People of the State of Illinois v. Jersey Sanitation Corporation	Pollution Control Board Hearing Room 1021 North Grand Avenue East (north entrance) Springfield
10/29/03 10:00AM	AC 03-13	IEPA v. Dan Cadwallader	Putnam County Courthouse 120 N. Fourth Street, North Entrance Lower Level Hennepin
10/30/03 9:00AM	PCB 96-98	People of the State of Illinois v. Skokie Valley Asphalt, Inc., an Illinois corporation, EDWIN L. FREDERICK, JR., individually and as owner and President of Skokie Valley Asphalt Co., Inc., and RICHARD J. FREDERICK, individually and as owner and Vice President of Skokie Valley Asphalt Co., Inc.	Village Hall 118 West Cook Street Libertyville
10/31/03 9:00AM	PCB 96-98	People of the State of Illinois v. Skokie Valley Asphalt, Inc., an Illinois corporation, EDWIN L. FREDERICK, JR., individually and as owner and president of Skokie Valley Asphalt Co., Inc., and RICHARD J. FREDERICK, individually and as owner and vice president of Skokie Valley Asphalt Co., Inc.	Village Hall 118 West Cook Street Libertyville
11/4/03 10:00AM	PCB 03-177	Cady Oil Co. v. IEPA	Peoria County Administration Office Room 403 324 Main Street Peoria
11/6/03 11:00AM	Illinois Pollution Control Board Meeting		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago and 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
11/19/03 10:00AM	R03-19	Proposed Amendments to: Public Participation Rules in 35 Ill. Adm. Code Part 309 NPDES Permits and Permitting Procedures	James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago
11/20/03 11:00AM	Illinois Pollution Control Board Meeting		Illinois Pollution Control Board James R. Thompson Center 100 W. Randolph Street Room 9-040 Chicago

The Illinois Pollution Control Board is an independent seven-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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