

ILLINOIS POLLUTION CONTROL BOARD

DRAFT MEETING MINUTES



JUNE 17, 2004 CHICAGO OFFICE
100 W. Randolph Street
Conference Room 9-040
11:00 A.M.

ANNOUNCEMENTS

After calling the meeting to order, Chairman Novak welcomed members of the public and staff to the meeting.

ROLL CALL

The Clerk of the Board called the roll. All Board Members answered present.

APPROVAL OF MINUTES

Minutes of the June 3, 2004 meeting were approved by a vote of 5-0.

RULEMAKINGS

R04-5	<u>In the Matter of: RCRA Subtitle D (Municipal Solid Waste</u>	5-0
R04-15	<u>Landfill) Update, USEPA Regulations (January 1, 2003 through</u>	R, Land
Cons.	<u>June 30, 2003); In the Matter of: RCRA Subtitle D (Municipal</u>	
	<u>Solid Waste Landfill) Update, USEPA Regulations (July 1, 2003</u>	
	<u>through December 31, 2003) – The Board adopted a final opinion</u>	
	<u>and order in these “identical-in-substance” rulemakings amending</u>	
	<u>the Board’s Municipal Solid Waste Landfill regulations.</u>	

R04-16	<u>In the Matter of: RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (July 1, 2003 through December 31, 2003)</u> – The Board adopted a final opinion and order in this “identical-in-substance” rulemaking amending the Board’s hazardous waste regulations.	5-0 R, Land
R05-1	<u>RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (January 1, 2004 through June 30, 2004)</u> – The Board reserved this docket for a routine identical-in-substance update. The update includes any federal amendments which occurred during the period of January 1, 2004 through June 30, 2004.	R, Land
R05-2	<u>RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (January 1, 2004 through June 30, 2004)</u> - The Board reserved this docket for a routine identical-in-substance update. The update includes any federal amendments which occurred during the period of January 1, 2004 through June 30, 2004.	R, Land
R05-3	<u>UST Update, USEPA Amendments (January 1, 2004 through June 30, 2004)</u> - The Board reserved this docket for a routine identical-in-substance update. The update includes any federal amendments which occurred during the period of January 1, 2004 through June 30, 2004.	R, Land
R05-4	<u>Wastewater Pretreatment Update, USEPA Amendments (January 1, 2004 through June 30, 2004)</u> - The Board reserved this docket for a routine identical-in-substance update. The update includes any federal amendments which occurred during the period of January 1, 2004 through June 30, 2004.	R, Water
R05-5	<u>Definition of VOM Update, USEPA Amendments (January 1, 2004 through June 30, 2004)</u> - The Board reserved this docket for a routine identical-in-substance update. The update includes any federal amendments which occurred during the period of January 1, 2004 through June 30, 2004.	R, Water

R05-6 SDWA Update, USEPA Amendments (January 1, 2004 through June 30, 2004) - The Board reserved this docket for a routine identical-in-substance update. The update includes any federal amendments which occurred during the period of January 1, 2004 through June 30, 2004. R, Water

R05-7 UIC Update, USEPA Amendments (January 1, 2004 through June 30, 2004) - The Board reserved this docket for a routine identical-in-substance update. The update includes any federal amendments which occurred during the period of January 1, 2004 through June 30, 2004. R, Land

ADJUSTED STANDARDS

AS 04-2 In the Matter of: Petition of Jo'Lyn Corporation and Falcon Waste and Recycling for an Adjusted Standard from 35 Ill. Adm. Code Part 807 or in the Alternative A Finding of Inapplicability – No action taken. Land

ADMINISTRATIVE CITATIONS

AC 04-8 IEPA v. Roger Ray – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Moultrie County facility, the Board found respondent violated Sections 21(p)(1) and (3) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and (3) (2002)) and ordered respondent to pay a civil penalty of \$3,000. The Board also granted the parties' joint motion to dismiss respondent's petition for review and the alleged violation of 415 ILCS 21(p)(7) (2002). 5-0

AC 04-18 IEPA v. Luther Coleman – The Board entered an interim opinion and order finding respondent violated Sections 21(p)(1) and (7) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and (7) (2002)) and assessing a penalty of \$3,000. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file by July 15, 2004 a statement of hearing costs, supported by affidavit, with service on respondent. 5-0

AC 04-45 IEPA v. Herbert Lust – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Piatt County facility, the Board found respondent violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)) and ordered respondent to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motion to dismiss respondent’s petition for review and the alleged violation of 415 ILCS 21(p)(3) (2002). 5-0

AC 04-57 IEPA v. Arlyn Ray d/b/a Arlyn Ray Construction, Tom Romero d/b/a Arlyn Ray Exteriors, Robert J. Adams and Rita M. Adams – The Board accepted for hearing Romero’s petition for review of an administrative citation against this Woodford County respondent. Complainant was directed to file the appropriate proof of service for respondent Robert Adams on or before July 1, 2004. If proof of service is not filed, the administrative citation against Robert Adams would be subject to dismissal. The Board found Rita Adams and Arlyn Ray in violation of Sections 21(p)(1), (3), (4) and (7) of the Act (415 ILCS 5/21(p)(1), (3), (4) and (7) (2002)) for failing to file a petition for review within 35 days after being served with the administrative citations. However, the Board will not issue a final order regarding Rita Adams and Ray until determinations have been made on Robert Adams and Romero. 5-0

AC 04-60 IEPA v. Sharyn Fuller and Carl Benedict d/b/a Benedict Auto Sales
– No action taken.

AC 04-76 IEPA v. Landfill, L.L.C., West End Disposal Facility, and Danny Bowman – No action taken.

AC 04-82 IEPA v. John Brown d/b/a John Brown Painting – The Board accepted an administrative citation against this Massac County respondent.

AC 04-83 IEPA v. Giufree II, L.L.C. and Reload, Inc. – The Board accepted an administrative citation against these Winnebago County respondents.

AC 04-84 IEPA v. City of Salem, Roger Kinney, Dick Brown and Jason Bruce - The Board accepted an administrative citation against these Marion County respondents.

AC 04-85 IEPA v. Michael Lee Schenck - The Board accepted an administrative citation against this Peoria County respondent.

AC 04-86 IEPA v. Bill Weis - The Board accepted an administrative citation against this St. Clair County respondent.

AC 04-87 IEPA v. Herman Krohe - The Board accepted an administrative citation against this Cass County respondent.

Decisions

PCB 01-104 People of the State of Illinois v. City of Waukegan – In this water enforcement action concerning a Lake 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 \$25,000 and to cease and desist from further violations. 5-0
W-E

ADJUDICATORY CASES

Motions and Other Matters

PCB 96-98	<u>People of the State of Illinois v. Skokie Valley Asphalt, Company, Inc., Edwin L. Frederick, Jr. individually and as owner and President of Skokie Valley Asphalt Company, Inc., and Richard J. Frederick individually and as owner and Vice-President of Skokie Valley Asphalt Company, Inc.</u> – No action taken.	W-E
PCB 01-7	<u>People of the State of Illinois v. QC Finishers, Inc.</u> – No action taken.	A-E
PCB 01-102	<u>Cassen and Sons, Inc. v. IEPA</u> – No action taken.	UST Appeal
PCB 02-177	<u>People of the State of Illinois v. John Prior d/b/a Prior Oil Company and James Mezo d/b/a Mezo Oil Company</u> – No action taken.	RCRA-E
PCB 03-88 PCB 04-109	<u>R.W. Sheridan Oil Co., Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of these underground storage tank appeals involving a McLean County facility.	5-0 UST Appeal
PCB 03-106	<u>Village of South Elgin v. Waste Management of Illinois, Inc.</u> – No action taken.	L-E
PCB 03-124	<u>Consumers Illinois Water Company v. IEPA</u> – The Board granted petitioner’s motion to amend caption.	5-0 T-C- Appeal
PCB 03-185	<u>Swif-T Food Mart v. IEPA</u> – No action taken.	UST Appeal
PCB 03-211	<u>Mark and Cynthia Heywood v. Dan and Darleen Sheehan</u> – The Board granted complainants’ motion for voluntary dismissal of this enforcement action involving a Cook County facility.	5-0 Citizens N-E

PCB 03-214	<u>Illinois Ayers Oil Company v. IEPA</u> – No action taken.	UST Appeal
PCB 03-235	<u>United Disposal of Bradley, Inc. and Municipal Trust & Savings Bank as Trustee Under Trust 0799 v. IEPA</u> – The Board affirmed the respondent’s May 15, 2003 denial of a permit modification requested by petitioner, granted the respondent’s motion for summary judgment, and denied petitioners’ motion for summary judgment.	4-0 Novak abstained P-A, Land
PCB 04-48	<u>Village of Robbins and Allied Waste Transportation, Inc. v. IEPA</u> – No action taken.	P-A, Land
PCB 04-52	<u>Kramer Service Station v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Vermillion County facility.	5-0 UST Appeal
PCB 04-81	<u>People of the State of Illinois v. Emmett Utilities, Inc. and Russell D. Thorell individually and as president of Emmett Utilities, Inc.</u> – The Board denied respondent Thorell’s motion to dismiss the complaint.	5-0 PWS-E
PCB 04-83	<u>Wei Enterprises v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a St. Clair County facility.	5-0 UST Appeal
PCB 04-111	<u>City of Charleston, Illinois v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this public water supply variance request involving a Coles County facility.	5-0 PWS-V
PCB 04-132	<u>Granite City Fire Department v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Madison County facility.	5-0 UST Appeal

PCB 04-140	<u>People of the State of Illinois v. Whiteway Sanitation, 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 Jersey County facility, the Board ordered publication of the required newspaper notice.	5-0 L-E
PCB 04-141	<u>Illinois State Toll Highway Authority (Lincoln South HPCAP/B) v. IEPA</u> – The Board granted petitioner’s motion to file an amended petition and accepted the amended petition for hearing.	5-0 UST Appeal
PCB 04-142	<u>People of the State of Illinois v. Village of Poplar Grove and R.H. Batterman & Company, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this public water supply enforcement action involving a Boone County facility, the Board ordered publication of the required newspaper notice.	5-0 PWS-E
PCB 04-147	<u>Cooper Oil Company (October 1, 2001 to April 30, 2003) 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 04-148	<u>Illiopolis Grain Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Sangamon County facility.	5-0 UST Appeal
PCB 04-149	<u>Hortense Singer v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a DuPage County facility.	5-0 UST Appeal
PCB 04-150	<u>Pontiac Casey’s, 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 Livingston County facility.	5-0 UST Appeal

PCB 04-159	<u>Biggs Brothers Service Center 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 St. Clair County facility.	5-0 UST Appeal
PCB 04-185	<u>Midwest Generation EME, Inc. v. IEPA</u> – No action taken.	T-S Appeal
PCB 04-186	<u>Waste Management of Illinois, Inc. v. County Board of Kankakee County</u> – Respondent’s motion for extension of time and for leave to file reduced number of copies was referred to the hearing officer for disposition.	P-C-F-S-R
PCB 04-187	<u>Sutter Sanitation, Inc. and Lavonne Haker v. IEPA</u> – No action taken.	P-A, Land
PCB 04-204	<u>Daniel J. Beers v. Dave Calhone (Let It Shine Car Wash)</u> – The Board held for a later duplicative/frivolous determination this citizen’s noise enforcement action involving a Tazewell County facility.	Citizens N-E
PCB 04-213	<u>The Village of Lombard, Illinois v. Bill’s Auto Center, Bill’s Standard Service and William Kovar</u> – The Board held for a later duplicative/frivolous determination this citizen’s underground storage tank enforcement action involving a DuPage County facility.	Citizens UST-E
PCB 04-214	<u>Conocophillips Company (Low Sulfur Gasoline Project – Wood River Refinery) (Property Identification Number 19-1-08-35-00-000-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Conocophillips Company located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C

PCB 04-215	<u>Commonwealth Edison Company v. IEPA</u> – The Board accepted for hearing this trade secret appeal. The Board also directed the parties to address whether this appeal should be consolidated for purposes of hearing and decision with Midwest Generation EME, L.L.C. v. IEPA, PCB 04-216.	5-0 T-S Appeal
PCB 04-216	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – The Board accepted for hearing this trade secret appeal. The Board also directed the parties to address whether this appeal should be consolidated for purposes of hearing and decision with Commonwealth Edison Company v. IEPA, PCB 04-215.	5-0 T-S Appeal
PCB 04-217	<u>Telzrow Oil Company v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Calhoun County facility.	5-0 UST Appeal 90-Day Ext.
PCB 04-218	<u>People of the State of Illinois v. Brickyard Disposal and Recycling, 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 Vermilion County facility, the Board ordered publication of the required newspaper notice.	5-0 RCRA-E
PCB 04-219	<u>Commonwealth Edison 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 04-220	<u>Jim’s Mobil 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 Madison County facility.	5-0 UST Appeal 90-Day Ext.
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PCB 04-221	<u>Holland Energy, L.L.C.-Beecher City (Property Identification Numbers 0524-01-00-100-004, 085-16-00-100-004, 085-16-00-300-002, 0825-16-00-300-003, 0825-16-00-200-002) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Holland Energy, L.L.C. located in Shelby County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C
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PCB 04-222	<u>Holland Energy, L.L.C.-Beecher City (Property Identification Numbers 0524-01-00-100-004, 085-16-00-100-004, 085-16-00-300-002, 0825-16-00-300-003, 0825-16-00-200-002) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Holland Energy, L.L.C. located in Shelby County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C
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CASES PENDING DECISION

R04-18	<u>In the Matter of: Pretreatment Update, USEPA Amendments (July 1, 2003 through December 31, 2003)</u> – Adopted Rule, Final Order, Opinion and Order	R, Water
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R04-21

In the Matter of: Revisions to Radium Water Quality Standards:
Proposed New 35 Ill. Adm. Code 302.307 and Amendments to 35
Ill. Adm. Code 302.207 and 302.525 – Proposed Rule, First Notice,
Opinion and Order (see Motion for an Additional Merit Hearing
filed by WRT Environmental (Illinois) L.L.C. on 6/2 and
Comments of ELPC and The Sierra Club filed 6/3)

R, Water

ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Novak adjourned at 11:40 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on July 8, 2004, by a vote of.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board