
Environmental Register

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Letter from the Chairman

As you may know, the Board for more than a year has been considering changes to the state's Underground Storage Tank (UST) program. This consolidated proceeding, docketed as R04-22, R04-23, is one of our most significant recent rulemakings. I thank Board Member G. Tanner Girard and his attorney assistant Marie Tipsord for all of the time and effort they have committed to it.

At its February 17, 2005 meeting, the Board adopted for first notice under the Illinois Administrative Procedure Act (5 ILCS 100/1-1 *et. seq.* (2002)) regulations originally proposed in this area by the Illinois Environmental Agency (IEPA). The Board's proposal reflects testimony received in seven days of hearings and a substantial number of public comments.

Specifically, the Board proposes for first notice a rule that includes lump sum maximum payments for the performance of certain tasks, but not a scope of work for those tasks. The Board is proposing in most cases to adopt the maximum payment amounts proposed by the IEPA. The Board notes that the methods used by the IEPA to develop the rates are not ideal, but the Board duly considered the IEPA's experience administering the UST program. In addition, the first-notice proposal will include provisions for soliciting and reviewing bids for remediation tasks and for extraordinary circumstances. The Board is convinced that the first-notice proposal, as a whole, will allow for reimbursement of reasonable remediation costs.

The Board is also proposing that Stage 3 investigations be reimbursed based on a "time and materials" basis. The Board will also propose a definition for "financial interest" and prohibit reimbursement for payment of handling charges for subcontractors when the primary contractor has a financial interest in that subcontractor. The proposal will also prohibit a subcontractor from bidding on a project where the primary contractor has a financial interest in the subcontractor.

The text of the Board's order and the proposed rule are available through our Clerk's Office On-Line (COOL) at www.ipcb.state.il.us, and I invite you to take a closer look at those documents. The Board will continue to accept public comments on this matter and may also schedule another hearing. We encourage you to participate in this proceeding and to assist us in the development of sound environmental policy for the people of Illinois.

Sincerely,



J. Philip Novak
Chairman



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Federal Update

United States Environmental Protection Agency Publishes Notice of the Adequacy Status of the 1-Hour Ozone Maintenance Plan Submitted by the Illinois Environmental Protection Agency for Metro-East St. Louis Under the Clean Air Act

On February 2, 2005 (70 Fed. Reg. 5439) the United States Environmental Protection Agency (USEPA) published a notice that USEPA has found that the motor vehicle emissions budgets in the Metro-East St. Louis, Illinois 1-hour ozone maintenance plan are adequate for conformity purposes.

On March 2, 1999, the DC Circuit Court ruled that submitted State Implementation Plans (SIPs) cannot be used for conformity determinations until USEPA has affirmatively found them adequate. As a result of the finding of adequacy by USEPA, the Illinois Environmental Protection Agency can use the motor vehicle emissions budgets from the submitted 1-hour ozone maintenance plan for future conformity determinations.

These budgets are effective February 17, 2005. The finding and the response to comments will be available at USEPA's conformity Web site: www.epa.gov/otaq/transp.htm, (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity").

For further information contact Anthony Maietta, Life Scientist, Criteria Pollutant Section (AR-18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8777, Maietta.anthony@epa.

United States Environmental Protection Agency Proposes Amendments to the Rules Under the Clean Air Act for Prevention of Significant Deterioration for Nitrogen Oxides

On February 23, 2005 (70 Fed. Reg. 8879) the United States Environmental Protection Agency (USEPA) proposed amendments to the regulations governing the prevention of significant deterioration (PSD).

USEPA stated that it is reevaluating the increments for nitrogen oxides (NO_x) that were first established in 1988 under its PSD program. This reevaluation is intended to preserve the air quality in national parks and other areas that are already meeting the national ambient air quality standards (NAAQS) for nitrogen dioxide (NO₂). USEPA is initiating this rulemaking action to comply with a 1990 court ruling that directed USEPA to consider and harmonize the statutory criteria for establishing PSD regulations for NO_x contained in sections 166(c) and 166(d) of the Clean Air Act (CAA). After an initial reevaluation of the existing NO₂ increments under the statutory criteria, USEPA is proposing three options. One proposed option is not to change the existing increments. The other two options include allowing States to use alternative approaches in lieu of the existing increments for NO₂ to satisfy the statutory criteria for preventing significant deterioration of air quality due to emissions of NO_x. The proposed

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options incorporate implementation of either a USEPA-administered cap and trade program or a State planning approach.

Comments must be received on or before April 25, 2005 and should be identified by Docket ID No. OAR-2004-0013. Comments can be submitted by one of the following methods: (1) EDOCKET, USEPA's electronic public docket and comment system, is USEPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments at <http://www.epa.gov/edocket>. (2) E-mail: a-and-r-docket@email.epa.gov. (3) Fax: (202) 566-1741. (4) Mail: Attention Docket ID No. OAR-2004-0013, U.S. Environmental Protection Agency, Mailcode 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

For further information contact Mr. Dan deRoeck, Information Transfer and Program Integration Division (C339-03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541-5593, fax (919) 541-5509, or e-mail at deroeck.dan@epa.gov.

United States Department of Justice Publishes Notice of Lodging of Consent Decree Under the Clean Air Act Involving Chicago Area Jewel Food Stores

On February 24, 2005 (70 Fed. Reg. 9107) the Department of Justice published notice that on February 9, 2005, a proposed consent decree in United States v. Jewel Food Stores, Inc., Civil Action No. 05C-0809, was lodged with the United States District Court for the Northern District of Illinois. Simultaneously with the lodging of the proposed consent decree, the United States also filed a complaint concerning some or all of the 194 Jewel stores that are in or near Chicago, Illinois.

In the complaint, the United States sought injunctive relief and civil penalties for violations of the commercial refrigerant repair, recordkeeping, and reporting regulations at 40 CFR 82.152-82.166 (Recycling and Emission Reduction). These rules were promulgated by the United States Environmental Protection Agency (USEPA) under Subchapter VI of the Stratospheric Ozone Protection Act, 42 USC 7671-7671q.

In the proposed consent decree, Jewel agrees to the following:

- (1) install hydrofluorocarbon (HFC or non-ozone depleting refrigerants) refrigeration systems in any new stores it opens in the Chicago Metropolitan Area after the effective date of the settlement;
- (2) implement a recordkeeping refrigerant management system directed at compliance with the regulations governing ozone-depleting refrigerants;
- (3) convert or retire any unit that uses a regulated refrigerant to a non-ozone depleting refrigerant, if that unit has more than 3 leaks in one year that leak at above an annualized rate of 35%;
- (4) convert either 75% of all scheduled "major remodels" (those remodels exceeding \$2.5 million in costs), or 25 of its stores, whichever is greater, to use a non-ozone depleting refrigerant by the end of the year 2007;
- (5) retrofit all of its current chlorofluorocarbons (CFCs) and HCFC refrigeration systems to non-ozone depleting refrigerants at twelve additional stores specified in the consent decree within three years from the date of entry of the proposed Decree; and
- (6) pay a civil penalty of \$100,000 for its past violations.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of its notice, through March 26, 2005. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, D.C. 20044-7611, and should refer to: United States v. Jewel Food Stores, Inc., D.J. Ref. 90-5-2-1-08098.

The consent decree may be examined at the Office of the United States Attorney for the Northern District of Illinois, 219 South Dearborn Street, Chicago, Illinois 60604, and at U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, IL

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personal service, and that Mr. Merlin Karlock was served by regular mail. The application also stated that Mr. Mehrer and Mr. and Mrs. Keller were all served personally by posting the notice on doors of the domiciles at the address listed on the authentic tax records.

At the County's siting hearings, supplemental affidavits by Mr. Moran were submitted. Those filings show that

- a) Mr. Karlock was served by certified mail, with the receipt signed on July 27, 2002;
- b) Service by certified mail was attempted on Mr. Mehrer, who is deceased. The return receipt for Mr. Mehrer shows his address crossed out and a forwarding address inserted. The return receipt was signed and returned to Waste Management;
- c) Notice was mailed to Mr. Keller by certified mail return receipt requested; however, the letter was returned unclaimed;
- d) Mrs. Keller was not notified by certified mail and the record contains no evidence that a certified letter was mailed to Mrs. Keller.

Considerable evidence centered around attempts to serve both Mr. and Mrs. Keller. Mr. Ryan Jones attempted to serve the notice personally at the address listed on the authentic tax records for Mr. and Mrs. Keller (765 6000 South Road). Mr. Jones and Mr. and Mrs. Keller all testified at the siting hearing before the County. Mr. Jones attempted service on July 29, 2002, at 6:13 p.m., on July 30, 2002, at 1:03 p.m., July 31, 2002, at 2:34 p.m. and 8:40 p.m., and at 12:19 p.m. on August 1, 2002. Mr. Jones posted the notice to both Mr. and Mrs. Keller on August 1, 2002, at 765 6000 South Road. Mrs. Keller signed an affidavit and testified that she did not receive notice of the siting hearings. Mrs. Keller did not see a notice posted on her side door on August 1, 2002, and did not service of any document.

Mr. Keller also testified and signed an affidavit. Mr. Keller stated he did not receive notice of the siting application, did not avoid service of the notice application, did not receive notification of a letter by certified mail either at his home address, or at the family post office box. But, the record also makes clear that Mr. Keller has been a sometime truck driver for Michael Watson, petitioner in one of the consolidated cases and a business competitor of WMIL. The Kellers each stated that Mr. Watson had prepared each of their affidavits regarding service, but that each had read them before signing them.

In its analysis of the issued, the Board found that the legislature has provided clear and precise instructions detailing what steps an applicant must take to provide notice. Section 39.2(b) of the Act (415 ILCS 5/39.2(b) (2002)) has three distinct elements. First, property owners listed on the authentic tax records must be served notice. Second, property owners who own property within 250 feet of the lot line of the proposed facility must be notified. Third, service on those property owners must be made using certified mail return receipt or personal service. In setting forth these elements, the Board stated, the legislature balanced the right of affected citizens to be informed with the necessity of siting landfills in Illinois.

The Board first applied the plain language of the statute to determine that adjoining property owners Mr. Keller, Mr. Mehrer, and Mr. Karlock, were properly served notice by mail. The Board found that the mailing of notice by certified mail return receipt requested was sufficient to satisfy notice requirements, citing People ex rel. v. \$30,700 U.S. Currency et al., 199 Ill. 2d 142, 766 N.E.2d 1084 (2002) (\$30,700 U.S. Currency). Under \$30,700 U.S. Currency, service is deemed complete once the notice is placed in the mail. In other words, under Section 39.2(b) of the Act (415 ILCS 5/39.2(b) (2002)), an applicant can effect service by mailing the prefiling notice to property owners certified mail return receipt and the service is proper upon mailing. The Board found the Supreme Court's decision in \$30,700 U.S. Currency effectively overruled the appellate court's decision in Ogle County Board v. PCB, 272 Ill. App. 3d 184, 649 N.E.2d 545 (2nd Dist 1995) (Ogle County) (finding that actual receipt of notice by the landowner, and not just mailing of it by the applicant, was required to effectuate service under Section 39.2 (b) of the Act).

But, the Board found that Mrs. Keller had not received either proper personal service or service by mail. The Board rejected WMIL's arguments that "posting" notice and notice by regular mail (first class, no receipt requested) was

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sufficient notice of an impending landfill siting application under Section 39.2 (b) of the Act. Accordingly, the County siting approval was vacated, due to its lack of jurisdiction over WMII's improperly-noticed application.

In an October 16, 2003 summary order, the Board denied the parties' various motions to reconsider aspects of the August decision. City of Kankakee et al., PCB 03-125, 133, 134, and 135 (cons.) October 16, 2003.

In August 2004, well after the filing of appeals in the Third District Appellate Court, WMII moved for relief from the Board's final judgment in these consolidated cases, citing newly-discovered evidence among other things. The WMII filing triggered responses and related motions from the other parties. In a November 2, 2004 order, the Board declined to rule on these motions, explaining

The Board has consistently held that if a matter is filed with the Appellate Court, the Board does not consider substantive motions regarding the matter. See ESG Watts, Inc. v. IEPA, PCB 01-139 (June 6, 2002). The Board's position is consistent with that of the courts wherein the courts have found that the filing of a notice of appeal causes the jurisdiction of the appellate court to attach *instanter* and deprives the trial court of jurisdiction to modify its judgment or to rule on matters of substance, which are the subject of appeal. Cain v. Sukkar, 167 Ill. App. 3d 941, 521 N.E.2d 1292, 1294 (4th Dist. 1988); citing, Montgomery Ward & Co. v. Wetzel, 98 Ill. App. 3d 243, 423 N.E.2d 1170 (1st Dist. 1981).

This matter is pending before the Appellate Court, Third District, Docket No. 3-03-0924, and Waste Management has filed a motion before the Appellate Court asking the court to remand the case to the Board. However, at this time, the matter is before the Appellate Court and the Board's decision concerning jurisdiction is squarely before the court. The Board lacks jurisdiction to modify the Board's judgment or to rule on matters of substance, which are the subject of appeal. Therefore, the Board declines to consider the motions. City of Kankakee et al., PCB 03-125, 133, 134, and 135 (cons.)(September 2, 2004), slip op. at 1.

The Third District did not remand the case to the Board at any time prior to entry of its final order.

The Third District Order

As previously stated, the Third District Appellate Court entered its non-precedential order on February 4, 2005. The court affirmed the Board's order, which the court stated "found that the petitioner had failed to give proper notice of its filing for approval to one out of 76 affected property owners, in violation of Section 39.2(b) . . ." Waste Management of Illinois, Inc. v. Illinois Pollution Control Board, County of Kankakee, County Board of Kankakee, City of Kankakee, Merlin Karlock, Keith Runyon, and Michael Watson, No. 3-03-0924 (February 4, 2005), slip op at 1-2. The court too concluded that the county did not have jurisdiction over WMII's siting application due to faulty notice.

After reciting the facts concerning notice (*Id.*, slip op. at 2-3), the court determined that its review of the issues of the legal questions would be *de novo*, rejecting arguments that the more deferential manifest weight of the evidence should be applied instead. *Id.*, slip op. at 3-4, citing in support ESG Watts, Inc. v. Illinois Pollution Control Board, 191 Ill 2d 26, 29, 727 N.E.2d 1022, 1024 (200).

The court's analysis (as did the Board's) focused on the plain language of Section 39.2(b), which requires service on nearby property owners "either in person or by registered mail, return receipt requested." The court rejected WMII's arguments for a more expansive reading of this provision to consider sufficient "any notice that either actually or constructively places a landowner on notice." *Id.*, slip op. at 6. The court concluded that the statutory language of Section 39.2 (b) of the Act (that notice be provided "in person or by registered mail, return receipt requested") "is not the least bit ambiguous" and that, "[a]s a matter of statutory construction, then, the matter is resolved." *Ibid.*

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The court next addressed WMII's argument that prior Board case law argued in favor of a liberal construction. WMII argued that, despite the statutory specification of "registered" mail return receipt requested, the Board had found in the past that provision of notice "certified" mail, return receipt requested, satisfied Section 39.2(b). Ash v. Iroquois County Board, Ill. Pollution Control Bd. Op. 87-29, July 10, 1987. Referring to the Board's Ash finding of no substantive difference between the two types of service (registered or certified) and citing case law, the court agreed with the Board that "certified mail, return receipt requested, is the exact equivalent of registered mail, return receipt requested, for purposes of the statute. Such is not the case, however, with regular mail, which provides no assurance of receipt." *Id.*, slip op. at 7.

Noting that the statute is "clear and unambiguous," the court found that neither type of statutory service (personal or registered) was perfected with respect to Brenda Keller. The court repeated that "failure of notice is a jurisdictional issue; the county board does not have jurisdiction if all landowners have not been given notice according to the statute." *Id.*, slip op. at 7, citing *inter alia Ogle County, supra*, 272 Ill. App. 3d at 192.

The court agreed with the Board's application of \$30,700 US Currency to the facts at hand, summarizing the Supreme Court holding as being that

Jurisdiction is not premised on the recipient's actions, once the letter is received, but on the form of sending of the letter; jurisdiction will exist as long as the letter is sent by the prescribed method." *Id.*, slip op. at 8.

The court observed that WMII had cited no authority in support of its contention that the statute is satisfied by actual or constructive notice, despite its specifications as to acceptable service methods, and that posting or regular mail service would do. The court remarked that even if Brenda Keller had actual notice, "[n]otice would not have been achieved by the statutorily-required means and proof of actual notice would not overcome that failure of compliance." *Ibid.*

Finally, the court observed that the Board has held that constructive notice may suffice where "the property owner has refused or avoided service." *Id.*, slip op. at 8-9. The court concluded that

Since there was no evidence that [Brenda] Keller attempted to avoid personal service or that she refused to acknowledge the receipt of a registered letter (since one was not sent to her), a finding of constructive notice is unwarranted. *Id.*, slip op. at 9.

The Board is preparing to file a motion with the court to publish this decision as a precedential opinion. The Board believes that the court's holding that the Board correctly interpreted the notice provisions of Section 39.2 of the Act would provide helpful guidance to units of local government and siting applicants alike, possibly avoiding future waste of resources in conducting hearings on improperly-noticed applications.

WMII has filed a petition for leave to appeal the Third District decision in the Illinois Supreme Court.

Other Pending Third District Kankakee Siting Appeals

A description of the other two Kankakee siting decisions pending in the Third District involve, and their status, follows:

1) The first-filed appeal challenges the Board's January 9, 2003 decision reversing the Kankakee City Council's August 19, 2002 decision to approve siting for the proposed Kankakee Regional Landfill Facility. County of Kankakee et al. v. City of Kankakee, Illinois, The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C., PCB 03-31, PCB 03-33, and PCB 03-35 (January 9, 2003). The Board found that the City had jurisdiction to make its decision, and that the City's proceedings were fundamentally fair. But, the Board found that the City's decision was against the manifest weight of the evidence on one statutory criterion: that the applicant had proved that the proposed landfill was located, designed, and

proposed to be operated to protect the public health, safety and welfare. (The decision on two other criteria was affirmed.)

Town and County filed the initial petition for review, and the County, WMII, and Byron Sandberg filed cross-petitions. Oral argument was held in this set of appeals on September 9 2004, and the parties are awaiting the court's decision. The name and docket of this appeal is Town and County et al. v. Illinois Pollution Control Board et al., No. 3-03-0025 (3rd Dist.).

2) The second-filed appeal concerns the Board's March 18, 2004 decision affirming the City of Kankakee's August 18, 2003 grant of landfill-siting approval to Town & Country Utilities, Inc. and Kankakee Regional Landfill, LLC to locate the proposed 400-acre Kankakee Regional Landfill Facility site within city limits. Byron Sandberg et al. v. The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C., PCB 04-33, PCB 04-34, and PCB 04-35 (cons.) (March 18, 2004).

The Board found the City of Kankakee had jurisdiction because Town & Country properly served notice of its intent to file an application to site a new pollution control facility, the proceedings were not fundamentally unfair, and the City of Kankakee's decision was not against the manifest weight of the evidence on various statutory criteria (need, designed to protect public health, safety, and welfare and consistency with the county's solid waste plan).

The County, WMII, and Byron Sandberg each filed petitions for review. The parties are presently briefing the issues under the briefing schedule set by the court. These appeals are pending under the name and docket numbers County of Kankakee et al. v. Illinois Pollution Control Board et al., Nos. 3-04-0271, 3-04-0285, and 3-04-0289 (cons.) (3rd Dist.).

Second District Agrees to Publish its Decision Affirming Board Ruling in Roti et al. v. LTD Commodities and Illinois Pollution Control Board et al., No. 2-04-0199 (February 9, 2005) (PCB 99-19)

In a February 9, 2005 order, the Second District Appellate Court granted the motion of the Board for publication of the court's December 21, 2004 order affirming the Board's decision in the appeal of a citizen noise pollution action Anthony & Karen Roti, Paul Rosenstock, and Leslie Weber v. LTD Commodities and Illinois Pollution Control Board, No. 2-04-0199 (December 21, 2004). 2002). The court accordingly withdrew its December 21, 2004 final unpublished 21-page order under Supreme Court Rule 23 (155 Ill.2d R. 23), and filed a 21-page opinion in its stead. The court's published opinion can serve as helpful precedent in resolving future noise cases.

The court's December 2004 ruling was summarized in detail. See *Environmental Register* No. 606 (December, 2004) at pp.2-3. The opinion replacing it will not be reported in detail here.

In brief, the Board's opinion and order first found that the trucking operation emitted noise in violation of the noise nuisance provisions of the Environmental Protection Act (Act) and Board regulations (415 ILCS 5/24 (2002) and 35 Ill. Adm. Code 900.102). After receiving input from the parties concerning the appropriate remedy, the Board then issued a final order assessing a \$15,000 civil penalty and directing abatement of the noise. Anthony and Karen Roti, Paul Rosenstock, and Leslie Weber v. LTD Commodities, PCB 99-19 (interim order February 15, 2001; final order February 15, 2004). Notably, the court's decision specifically affirmed not only the \$15,000 penalty, but also the remainder of the Board's remedy that gave appellant LTD Commodities (LTD) the choice to either shut down its nighttime operations or build a noise wall.

Rule Update

Board Adopts Proposal for Public Comment in Wastewater Pretreatment Update, USEPA Amendments (January 1, 2004 through June 30, 2004) (July 1, 2004 through December 31, 2004, February 1, 2005) R05-4/R05-15 (cons.)

On February 3, 2005, the Board adopted a proposal for public comment and consolidated two dockets in Wastewater Pretreatment Update, USEPA Amendments (January 1, 2004 through June 30, 2004) (July 1, 2004

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through December 31, 2004, February 1, 2005) (R05-4/R05-15 (cons.)). The rulemaking proposes amendments to the Illinois regulations that are “identical in substance” to wastewater pretreatment regulations adopted by the United States Environmental Protection Agency (USEPA). The USEPA rules implement Sections 307(b), (c), and (d) and 402(b)(8) and (b)(9) of the Federal Water Pollution Control Act (33 U.S.C. §§ 1317(b), (c), and (d) and 1342(b)(8) and (b)(9) (2002)).

This docket includes federal wastewater pretreatment amendments that USEPA adopted in the period January 1, 2004 through December 31, 2004, and on February 1, 2005. The rulemaking proposal was published in the February 18, 2005 issue of the *Illinois Register* at 29 Ill. Reg. 2611. The Board will accept public comments for 45 days after publication, through April 4, 2005. The Board anticipates adopting final rules based on this proposal no later than May 6, 2005.

The Board consolidated dockets R05-4 and R05-15 because the two sets of amendments are light in volume, and the subject matters are simple. Further, the Board found that separate consideration might necessitate a delay in the final adoption of the R05-15 amendments, since timely adoption of that matter would require the Board to adopt a proposal for public comment no later than April 21, 2005, which is the date when the Board presently anticipates voting to adopt the R05-4 amendments. Finally, the Board added the February 1, 2005 action to this docket because the nature of the change required expedited consideration in this pending docket.

The Board acted on three federal actions published at 69 Fed. Reg. 25324 (May 6, 2004), 69 Fed. Reg. 45944 (July 30, 2004), and 70 Fed. Reg. 5058, (February 1, 2005).

The USEPA action of May 6, 2004, corrects an error in publication of the 2003 edition of the *Code of Federal Regulations*. The Government Printing Office omitted pages 401 and 408 of that volume. The corrections restore that omitted text. Affected were the texts of 40 C.F.R. 439.0, 439.1, 439.26, 439.27, and 439.30 through 439.34. Thus, corrected, the full text of each of these rules appears in the 2004 edition of the *Code of Federal Regulations* (C.F.R.).

The Board proposes to incorporate the federal corrections. This requires little more than updating incorporations of federal rules by reference to the 2004 edition of the C.F.R. It further requires adding a formerly-omitted incorporation of a federal rule by reference.

On July 30, 2004, USEPA adopted national emission standards for hazardous air pollutants (NESHAPs) applicable to the plywood and composite wood point-source categories. While NESHAPs are air emissions standards that normally have little to do with wastewater pretreatment, USEPA included one amendment relating to wastewater discharges. That amendment was to the definition of “process wastewater,” which is a definition critical to the applicability of the wastewater rules applicable to sources in the timber products processing point source category. The NESHAPs amendments excluded various wastewaters from the definition of process wastewater to which the water pollution control regulations apply. Excluded were wastewaters from washout of thermal oxidizers and catalytic oxidizers, biofilters, wet electrostatic precipitators used upstream of thermal oxidizers or catalytic oxidizers used to comply with the NESHAPs.

The Board proposes to incorporate the federal July 30, 2004 amendments. This is done by updating the incorporation of 40 C.F.R. 429.11 by reference in Section 307.3900(b) to the 2004 edition of the C.F.R., including the July 30, 2003 amendments.

On February 1, 2005, USEPA adopted a direct final rule that corrected an error in the August 14, 2000 (65 Fed. Reg. 49666) pretreatment standards applicable to the transportation equipment cleaning point source category. USEPA used “any existing source” in 40 C.F.R. 442.16(b), when it should have used “any new source,” in its pretreatment standards applicable to new sources. The Board incorporated the August 14, 2000 amendments into the Illinois wastewater pretreatment rules in Wastewater Pretreatment Update, USEPA Amendments (July 1, 2000 through December 31, 2000), R01-25 (Aug. 9, 2001).

The Board proposes to incorporate the federal February 1, 2005 correction. This is done by updating the incorporation of 40 C.F.R. 442.16 by reference in Section 307.5201(c)(1) to the 2004 edition of the C.F.R., including the February 1, 2005 correction.

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Copies of the Board's opinion and order in R05-4/15 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 Mike McCambridge at 312/814-6924; e-mail address: mccambm@ipcb.state.il.us.

Board Adopts Second Notice Opinion and Order in Standards for Universal Waste Management (35 Ill. Adm. Code Parts 703, 720, 721, 724, 725, 728, and 733, R05-08

On February 3, 2005, the Board adopted a second notice opinion and order in Standards for Universal Waste Management (35 Ill. Adm. Code Parts 703, 720, 721, 724, 725, 728, and 733), R05-08. The second notice proposal makes amendments to the Board's standards for universal waste management by designating certain mercury containing devices as universal waste. 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) for its review and approval. The proposed amendments will be considered at the March 8, 2005 JCAR meeting.

The Board adopted the Illinois Environmental Protection Agency's (IEPA) October 19, 2004 proposal for first notice as a non-substantive proposal, without Board comment on its merits, making only a few nonsubstantive changes to the proposal. First notice was published on November 19, 2004 at 28 Ill. Reg. 15029 through 15119.

These amendments affect the Board's rules governing the standards for universal waste management found in the Board's existing rules at 35 Ill. Adm. Code 703, 720, 721, 724, 725, 728, and 733. The amendments in this rulemaking implement Public Act 93-964, which became effective on August 20, 2004.

Public Act 93-964 required the IEPA to propose, within 60 days of its effective date, rules that formally designate as "universal waste" mercury switches, mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture. The IEPA proposal mirrors a United States Environmental Protection Agency proposal published in the *Federal Register* at 67 Fed. Reg. 40507 (June 12, 2002) that seeks to amend the federal universal waste regulations under the Resource Conservation and Recovery Act to include mercury-containing devices as universal waste.

The General Assembly mandated the Board to adopt the rules within 180 days after the receipt of the IEPA proposal, *i.e.* on or before April 15, 2005. The Board is currently on track to adopt a final opinion and order before the April 15, 2005 deadline.

Hearings were held on December 15, 2004, in Chicago and on January 6, 2005 in Springfield. The Board did not receive any public comments in this rulemaking.

Copies of the Board's opinion and order in R05-08 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 Dismisses 5 Identical in Substance Rulemaking Dockets As Unnecessary: RCRA Subtitle D Update, USEPA Regulations (July 1, 2004 through December 31, 2004), R05-12; RCRA Subtitle C Update, USEPA Regulations (July 1, 2004 through December 31, 2004), R05-13; UST Update, USEPA Regulations (July 1, 2004 through December 31, 2004), R05-14; SDWA Update, USEPA Regulations (July 1, 2004 through December 31, 2004), R05-17; and UIC Update, USEPA Regulations (July 1, 2004 through December 31, 2004), R05-18

Every six months the Board reserves a series of dockets for adoption of Board rules to accommodate any rules adopted by the United States Environmental Protection Agency (USEPA) to implement various programs. On February 3, 2005, the Board dismissed as unnecessary five dockets reserved to consider rules adopted by USEPA

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during the period July 1, 2004 through December 31, 2004. In each of the five program areas described below, USEPA adopted no rules during the update period.

RCRA Subtitle D (R05-12). Section 22.40(a) of the Environmental Protection Act (415 ILCS 5/22.40(a) (2002)) requires the Board to adopt regulations that are “identical in substance” to regulations of the USEPA. 415 ILCS 5/7.2 (2002). Specifically, 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 (1998); RCRA Subtitle D). USEPA has codified the federal MSWLF rules as 40 C.F.R. 258.

RCRA Subtitle C (R05-13). Sections 7.2 and 22.4(a) of the Environmental Protection Act (415 ILCS 5/7.2 and 22.4(a) (2002)) require the Board to adopt regulations that are “identical in substance” to hazardous waste regulations adopted by the USEPA. These USEPA rules implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C) (42 U.S.C. §§ 6921 *et seq.* (2000)). USEPA has codified the federal hazardous waste rules as 40 C.F.R. 260 through 266, 268, 270, 271, 273, and 279.

UST Program (R05-14). Section 22.4(d) of the Environmental Protection Act (415 ILCS 5/22.4(d) (2002)) requires the Board to adopt regulations which are “identical in substance,” as defined at Section 7.2 of the Act (415 ILCS 5/7.2 (2002)), 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) as amended, 42 U.S.C. § 6993 (2000), to implement Subtitle I of RCRA (42 U.S.C. §§ 6991 *et seq.* (2000)), with certain limitations. USEPA has codified its UST regulations at 40 C.F.R. 281 through 283.

SDWA Program (R05-17). Section 17.5 of the Environmental Protection Act (415 ILCS 5/17.5 (1998)) requires the Board to adopt regulations that are “identical in substance,” as defined at Section 7.2 of the Act, to the National Primary Drinking Water regulations (NPDWRs) adopted by the United States Environmental Protection Agency (USEPA). These regulations implement sections 1412(b), 1414(c), 1417(a), and 1445(a) of the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300g-1(b), 300g-3(c), 300g-6(a) & 300j-4(a) (1998). USEPA has codified its SDWA regulations at 40 C.F.R. 141 through 143.

UIC Program (R05-18). Section 13(c) of the Environmental Protection Act (415 ILCS 5/13(c) (2002)) requires the Board to adopt regulations that are “identical in substance” to regulations of the United States Environmental Protection Agency (USEPA). 415 ILCS 5/7.2 (2002). Specifically, 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.* (2000)). USEPA has codified its UIC regulations at 40 C.F.R. 144 through 148.

Copies of the Board’s separate dismissal orders 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 Mike McCambridge at 312/814-6924; e-mail address: mccambm@ipcb.state.il.us.

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

On February 17, 2005, the Board adopted a first notice opinion and order in Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732); In the Matter of: Regulation of Petroleum Leaking Underground Storage Tanks (Proposed new 35 Ill. Adm. Code 734) (R04-22/R04-23 (cons.)). The rulemaking is based on proposals filed by the Illinois Environmental Protection Agency (IEPA) on January 13, 2004. The proposal was sent to the Secretary of State’s Index Department for publication in the March 11, 2005 issue of the *Illinois Register*.

The Board made significant changes, in response to the testimony and comments, to the proposal that was filed by the IEPA. The first notice proposal is intended to reflect the extensive and thoughtful efforts made by all of the participants in this rulemaking.

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The R04-22 proposed amendments to Part 732 would establish the corrective action measures that must be taken by an owner or operator of an underground storage tank in response to a leak, as well as procedures for seeking payment from the Underground Storage Tank Fund (UST Fund). The amendments to Part 732 also reflect changes from P.A. 92-0554, effective June 24, 2002 and 92-0735, effective July 25, 2003, which allow a Licensed Professional Geologist to certify certain information.

The proposed amendments seek to streamline the process in Part 732 for obtaining payment from the UST Fund. The amendments propose a new Subpart H that contains maximum reimbursement amounts that can be paid for different activities performed in a release response. The streamlining will be accomplished by specifying maximum amounts that will be reimbursed for remediation activities. Some of the topics covered by this proposed Subpart H include: free product or groundwater removal, well installation and abandonment, soil removal and disposal, and professional consulting services. Additionally, the proposal includes bidding as an alternative to the maximum reimbursement amounts for UST remediation specified in the proposal.

The proposal calls for the establishment of a “LUST Advisory Committee” comprised of numerous groups involved in the UST program. The Committee is required to meet quarterly to review the IEPA’s implementation of the rules.

Proposed new Part 734, which is applicable to releases reported after June 24, 2002, is largely identical to Part 732 except for changes enacted in P.A. 92-0554. Those exceptions include different corrective action requirements and increased caps on the total amount owners and operators can be paid from the UST Fund.

The first hearing in this rulemaking was held on March 15, 2004, in Chicago. The second group of hearings was held on May 25, 2004, in Bloomington and May 26, 2004, in Springfield. The third group of hearings was an additional two days held on June 21, 2004, and June 22, 2004, in Springfield. The fourth and fifth groups were single days of hearing in Springfield on July 6, 2004 and August 9, 2004. During those hearings the Board heard testimony from over 15 witnesses. In addition, the Board received nine public comments in this proceeding.

Copies of the Board’s opinion and order in R04-22/23 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board’s Web site at www.ipcb.state.il.us.

For additional information contact Marie Tipsord at 312/ 814-4925; email address tipsordm@ipcb.state.il.us.

Board Actions

February 3, 2005

Via Videoconference

Springfield and Chicago, Illinois

Rulemakings

R05-4	<u>In the Matter of: Wastewater Pretreatment Update, USEPA Amendments</u>	4-0
R05-15	<u>(January 1, 2004 through June 30, 2004); In the Matter of: Wastewater Pretreatment Update, USEPA Amendments (July 1, 2004 through December 31, 2004 and February 1, 2005) – The Board on its own motion consolidated these “identical-in-substance” rulemaking dockets and adopted a proposal for public comment to amend the Board’s wastewater pretreatment regulations.</u>	R, Water
R05-8	<u>In the Matter of: Mercury Wastes Under PA 93-0964: Amendments to Standards for Universal Waste Management (35 Ill. Adm. Code Parts 703, 720,</u>	4-0 R, Land

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721, 724, 725, 728, and 733 – The Board adopted a second notice opinion and order in this rulemaking to amend the Board’s land pollution control regulations.

R05-12	<u>In the Matter of: RCRA Subtitle D Update, USEPA Regulations (July 1, 2004 through December 31, 2004)</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 July 1, 2004 through December 31, 2004.	4-0 R, Land
R05-13	<u>In the Matter of: RCRA Subtitle C Update, USEPA Regulations (July 1, 2004 through December 31, 2004)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its hazardous waste regulations during the update period of July 1, 2004 through December 31, 2004.	4-0 R, Land
R05-14	<u>In the Matter of: UST Update, USEPA Regulations (July 1, 2004 through December 31, 2004)</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 underground storage tank during the update period of July 1, 2004 through December 31, 2004.	4-0 R, Land
R05-17	<u>In the Matter of: SDWA Update, USEPA Amendments (July 1, 2004 through December 31, 2004)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its public water supply regulations during the update period of July 1, 2004 through December 31, 2004.	4-0 R, PWS
R05-18	<u>In the Matter of: UIC Update, USEPA Regulations (July 1, 2004 through December 31, 2004)</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 July 1, 2004 through December 31, 2004.	4-0 R, Land

Administrative Citations

AC 04-22	<u>County of Vermilion, Illinois v. Village of Tilton</u> – The Board entered a final opinion and order requiring respondent to pay hearing costs of the County of Vermilion and the Board in the amount of \$330.50 and a civil penalty of \$1,500. This order follows the Board's interim order of December 16, 2004, which found that this respondent had violated Section 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(3)).	4-0
AC 05-32	<u>IEPA v. James A. Haas, Jr.</u> – The Board granted parties’ joint motion to vacate the December 16, 2004 Board Order. The Board accepted the parties’ settlement agreement and granted the motion for voluntary withdrawal of the administrative citation.	4-0
AC 05-44	<u>IEPA v. Donald Eichen</u> – The Board accepted for hearing this petition for review of an administrative citation against this Macoupin County respondent.	4-0

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Decisions

PCB 97-2	<u>People of the State of Illinois v. Jersey Sanitation Corporation</u> –The Board found that the respondent violated various sections of the Environmental Protection Act and Board regulations over a 13 year period. The Board ordered the respondent to pay a total civil penalty of \$65,000 and \$24,100 to the Office of the Attorney General. The Board also denied complainant’s motion for sanctions and upheld the hearing officer’s rulings at hearing.	4-0 L&W-E
PCB 01-28	<u>People of the State of Illinois v. Plastic Decorators, Inc.</u> – In this air enforcement action concerning a Kane 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 \$75,000, and to cease and desist from further violations.	4-0 A-E
PCB 04-79	<u>Bonita Saxbury and Richard Saxbury v. Archer Daniels Midland</u> – The Board found that respondent did not violate Section 24 of the Environmental Protection Act (415 ILCS 24 (2002) and 35 Ill. Adm. Code 900.102 of the Board’s regulations.	4-0 Citizens N-E

Motions and Other Matters

PCB 00-141	<u>E.G. Vogt Oil Company, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Madison County facility.	4-0 UST Appeal
PCB 04-50	<u>People of the State of Illinois v. MacMurray College</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Morgan County facility, the Board ordered publication of the required newspaper notice.	4-0 A-E
PCB 04-94	<u>People of the State of Illinois v. Hauck Homes, Inc. d/b/a Rock River Estates Mobile Home Park</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 Lee County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E
PCB 05-8	<u>People of the State of Illinois v. Village of Capron</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.	4-0 PWS-E
PCB 05-49	<u>Morton F. Dorothy v. Flex-N-Gate Corporation</u> – The Board denied respondent’s motion to dismiss and accepted this citizen enforcement action involving a Champaign County facility for hearing.	4-0 Citizens A&L-E
PCB 05-55 PCB 05-58 PCB 05-59 (Cons.)	<u>Village of Lake Barrington, Cuba Township, Prairie Rivers Network, Sierra Club, Beth Wentzel, and Cynthia Skrukrud v. IEPA and Village of Wauconda; Slocum Lake Drainage District of Lake County, Illinois v. IEPA and Village of Wauconda, Illinois; Al Phillips et al. v. IEPA and Village of Wauconda, Illinois</u> – The Board declined to accept the stipulation and proposal for settlement and dismissal of PCB 05-55. The consolidated cases must proceed to hearing on	4-0 P-A, NPDES

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February 10, 2005 as scheduled.

PCB 05-66	<u>People of the State of Illinois v. Petco Petroleum Corporation</u> – The Board denied respondent’s motion to dismiss this enforcement action involving a Fayette County facility.	4-0 Citizens W- E
PCB 05-73	<u>City of Sullivan v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Moultrie County facility.	4-0 UST Appeal
PCB 05-76	<u>Kramer’s Service Station 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 Vermilion County facility.	4-0 UST Appeal
PCB 05-84	<u>Gateway FS, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Randolph County facility.	4-0 UST Appeal
PCB 05-127	<u>Richard Karlock v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Vermilion County facility.	4-0 UST Appeal
PCB 05-128	<u>A&R, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility.	4-0 UST Appeal
PCB 05-129	<u>Ken Maschoff-Bath (Property Identification Number 22-16-200-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Ken Maschoff located in Mason County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-130	<u>Saluki Farms, L.L.C. (Property Identification Number 06-08-08-300-004) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Saluki Farms, L.L.C. located in Washington County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-131	<u>Mach III Farms, L.L.C. (Property Identification Number 23-03-200-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mach III Farms, L.L.C. located in Mason County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-132	<u>Laning Properties, L.L.C. (Property Identification Number 01-004-008-00) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Laning Properties, L.L.C. located in Brown County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-133	<u>Spoon River FS, Inc. d/b/a Riverland FS, Inc. (Maquon) (Property Identification Number 1903126001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Spoon River FS, Inc. d/b/a Riverland FS, Inc. located in Knox County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C

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PCB 05-134	<u>Lewis Properties, L.L.C. (Property Identification Number 03-08-200-005) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Lewis Properties, L.L.C. located in Clay County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-135	<u>Spoon River FS, Inc. d/b/a Riverland FS, Inc. (Wataga) (Property Identification Number 0616205001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Spoon River FS, Inc. d/b/a Riverland FS, Inc. located in Knox County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-136	<u>Mach III Farms, L.L.C. (Property Identification Number 16-21-400-002) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mach III Farms, L.L.C. located in Mason County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-137	<u>Mach III Farms, L.L.C. (Property Identification Number 22-16-200-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mach III Farms, L.L.C. located in Mason County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-138	<u>BP Products North America, Inc. v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a Resource Conservation and Recovery Act appeal on behalf of this Madison County facility.	4-0 UST Appeal 90-Day Ext.
PCB 05-139	<u>People of the State of Illinois v. Bath, Inc.</u> – The Board accepted for hearing this land enforcement action involving a site located in Mason County.	4-0 L-E
PCB 05-140	<u>McLean Properties, L.L.C. (Property Identification Number 34-05-200-005) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-141	<u>McLean Properties, L.L.C. (Property Identification Number 07-16-01-00-300-005) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in Clark County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C

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PCB 05-142	<u>McLean Properties, L.L.C. (Property Identification Number 09-003-002-60) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in Logan County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-143	<u>Bay Creek 1 Investments, L.L.C. (Property Identification Numbers 46-064-02 and 46-064-03) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Bay Creek 1 Investments, L.L.C. located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-144	<u>Bay Creek 3 Investments, L.L.C. (Property Identification Number 73-002-09A) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Bay Creek 3 Investments, L.L.C. located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-145	<u>Bay Creek 2 Investments, L.L.C. (Property Identification Number 73-001-04A) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Bay Creek 2 Investments, L.L.C. located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-146	<u>McLean Properties, L.L.C. (Property Identification Number 34-11-100-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C

February 17, 2005 Chicago, Illinois

Rulemakings

R04-22 R04-23 (Cons.)	<u>In the Matter of: Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732); In the Matter of: Regulation of Petroleum Leaking Underground Storage Tanks (Proposed New 35 Ill. Adm. Code 734)</u> – Following seven public hearings on the Illinois Environmental Protection Agency proposal, the Board adopted a first notice proposal to amend the Board’s land pollution control regulations.	4-0 Johnson concurring R, UST
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Administrative Citations

AC 04-31	<u>IEPA v. Equipping the Saints Ministry, International, Inc.</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Macoupin County facility, the Board found that respondent had	4-0
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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 violations of 415 ILCS 5/21(p) (2), (7) (2002).

AC 05-19	<u>IEPA v. David and Shelby Hill and N.E. Finch Company</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Fulton County facility, the Board found that respondents had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)) and ordered respondents to pay a civil penalty of \$1,500. The Board also granted the parties' joint motion to dismiss respondents' petition for review and the alleged violations of 415 ILCS 5/21(p) (3), (7) (2002).	4-0
AC 05-40	<u>IEPA v. Northern Illinois Service Company</u> – The Board accepted for hearing this amended petition for review of an administrative citation against this Winnebago County respondent.	4-0
AC 05-45	<u>IEPA v. Double S. Masonry, Inc., Curtis R. Seei and Ronald Seei</u> – The Board on its own motion dismissed the administrative citation as to Ronald Seei for lack of timely service. The Board found that the remaining Henry County respondents violated Sections 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2002)), and ordered respondents to pay a civil penalty of \$1,500.	4-0
AC 05-47	<u>IEPA v. Stacy Hess</u> – The Board directed respondent to file an amended petition for review specifying the grounds for appeal within 30 days, or the Board will dismiss this matter.	4-0

Motions and Other Matters

PCB 99-187	<u>Gina Pattermann v. Boughton Trucking and Materials, Inc.</u> – The Board denied complainant's motions for leave to file a reply and for expedited review, but granted its motion for voluntary dismissal without prejudice. The Board denied respondent's motion requesting litigation expenses.	4-0 A&N-E
PCB 03-101	<u>People of the State of Illinois v. Werner, Co.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	4-0 A-E
PCB 04-169	<u>Craig's Service Station v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a McLean County facility.	4-0 UST Appeal
PCB 04-207 PCB 97-193	<u>People of the State of Illinois v. Edward Pruiam an individual, and Robert Pruiam, an individual; People v. Community Landfill Company, Inc.</u> – The Board granted respondent's motion to consolidate PCB 04-207 with PCB 97-193, but took no action on the other pending motion.	4-0 L-E
PCB 05-61	<u>Harold Hart Service v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Madison County facility.	4-0 UST Appeal
PCB 05-82	<u>Bradley Mobil 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.	4-0 UST Appeal

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PCB 05-90	<u>Harper 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 Jefferson County facility.	4-0 UST Appeal
PCB 05-94	<u>APS Properties 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 Macon County facility.	4-0 UST Appeal
PCB 05-101	<u>Mac’s Convenience Stores L.L.C. v. IEPA</u> – The Board accepted for hearing this amended underground storage tank appeal involving a McLean County facility. The Board granted David L. Hatchett’s motion for leave to appear <i>pro hac vice</i> on behalf of petitioner.	4-0 UST Appeal
PCB 05-147	<u>Vision Properties Blue Island, L.L.C. v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a Resource Conservation and Recovery Act appeal on behalf of this Cook County facility.	4-0 P-A, Land 90-Day Ext.
PCB 05-148	<u>People of the State of Illinois v. Concrete Specialties Company, an Illinois corporation</u> – The Board accepted for hearing this air enforcement action involving a site located in Cook County.	4-0 A-E
PCB 05-149	<u>People of the State of Illinois v. Truserv Corporation d/b/a True Value Manufacturing Company</u> – The Board accepted for hearing this air enforcement action involving a site located in Cook County.	4-0 A-E
PCB 05-150	<u>Kent Hildebrand (Property Identification Number 05-32-300-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Kent Hildebrand located in Bureau County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C Water
PCB 05-151	<u>John and Ann Beckman (Property Identification Number 13-09-025-015) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of John and Ann Beckman located in Effingham County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C Land
PCB 05-152	<u>Robert Furtney (Property Identification Number 12-14-03-300-004) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Robert Furtney located in Champaign County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C Water
PCB 05-153	<u>Harmet Farms (Property Identification Number 11-36-400-005) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Harmet Farms located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C A&W
PCB 05-154	<u>McLean County Asphalt v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a McLean County facility.	4-0 UST Appeal

New Cases

February 3, 2005 Board Meeting

05-130 Saluki Farms, L.L.C. (Property Identification Number 06-08-08-300-004) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Saluki Farms, L.L.C. located in Washington County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-131 Mach III Farms, L.L.C. (Property Identification Number 23-03-200-001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mach II Farms, L.L.C. located in Mason County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-132 Laning Properties, L.L.C. (Property Identification Number 01-004-008-00) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Laning Properties, L.L.C. located in Brown County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-133 Spoon River FS, Inc. d/b/a Riverland FS, Inc. (Maquon) (Property Identification Number 1903126001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Spoon River FS, Inc. d/b/a Riverland FS, Inc. located in Knox County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-134 Lewis Properties, L.L.C. (Property Identification Number 03-08-200-005) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Lewis Properties, L.L.C. located in Clay County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-135 Spoon River FS, Inc. d/b/a Riverland FS, Inc. (Wataga) (Property Identification Number 0616205001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Spoon River FS, Inc. d/b/a Riverland FS, Inc. located in Knox County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-136 Mach III Farms, L.L.C. (Property Identification Number 16-21-400-002) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mach III Farms, L.L.C. located in Mason County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-137 Mach III Farms, L.L.C. (Property Identification Number 22-16-200-001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mach III Farms, L.L.C. located in Mason County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-138 BP Products North America, Inc. v. IEPA – The Board granted this request for a 90-day extension of time to file a Resource Conservation and Recovery Act appeal on behalf of this Madison County facility.

05-139 People of the State of Illinois v. Bath, Inc. – The Board accepted for hearing this land enforcement action involving a site located in Mason County.

05-140 McLean Properties, L.L.C. (Property Identification Number 34-05-200-005) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

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05-141 McLean Properties, L.L.C. (Property Identification Number 07-16-01-00-300-005) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in Clark County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-142 McLean Properties, L.L.C. (Property Identification Number 09-003-002-60) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in Logan County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-143 Bay Creek 1 Investments, L.L.C. (Property Identification Numbers 46-064-02 and 46-064-03) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Bay Creek 1 Investments, L.L.C. located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-144 Bay Creek 3 Investments, L.L.C. (Property Identification Number 73-002-09A) v. IEPA - Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Bay Creek 3 Investments, L.L.C. located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-145 Bay Creek 2 Investments, L.L.C. (Property Identification Number 73-001-04A) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Bay Creek 2 Investments, L.L.C. located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-146 McLean Properties, L.L.C. (Property Identification Number 34-11-100-001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

AC 05-047 IEPA v. Stacy Hess – The Board accepted an administrative citation against this Tazewell County respondent.

AC 05-048 County of Jackson v. Southern Illinois Regional Landfill, Inc., Doug Ticer, and George Browning – The Board accepted an administrative citation against these Jackson County respondents.

AC 05-049 IEPA v. Landers’ Children Family, L.L.C. and Ray Landers – The Board accepted an administrative citation against these Sangamon County respondents.

AC 05-050 IEPA v. Knox County Landfill Committee and Greg Ingle –The Board accepted an administrative citation against these Knox County respondents.

February 17, 2005 Board Meeting

05-147 Vision Properties Blue Island, L.L.C. v. IEPA – **The Board granted this request for a 90-day extension of time to file a Resource Conservation and Recovery Act appeal on behalf of this Cook County facility.**

05-148 People of the State of Illinois v. Concrete Specialties Company, an Illinois corporation – **The Board accepted for hearing this air enforcement action involving a site located in Cook County.**

05-149 People of the State of Illinois v. Truserv Corporation d/b/a True Value Manufacturing Company – The Board accepted for hearing this air enforcement action involving a site located in Cook County.

05-150 Kent Hildebrand (Property Identification Number 05-32-300-001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Kent Hildebrand located in Bureau County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-151 John and Ann Beckman (Property Identification Number 13-09-025-015) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities

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of John and Ann Beckman located in Effingham County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-152 Robert Furtney (Property Identification Number 12-14-03-300-004) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Robert Furtney located in Champaign County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-153 Harmet Farms (Property Identification Number 11-36-400-005) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Harmet Farms located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-154 McLean County Asphalt v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a McLean County facility.

AC 05-051 County of Sangamon v. Patrick O’Keefe – The Board accepted an administrative citation against this Sangamon County respondent.

AC 05-052 IEPA v. Robert Daniel Spears – The Board accepted an administrative citation against this Cass County respondent.

AC 05-053 IEPA v. Judy Cornelison – The Board accepted an administrative citation against this Peoria County respondent.

AC 05-054 IEPA v. Ray Logsdon Estate, Logsdon Sand and Gravel, and M.K. O’Hara Construction, Inc. – The Board accepted an administrative citation against these Cass County respondents.

AC 05-055 IEPA v. Harold Bruley – The Board accepted an administrative citation against this Macoupin County respondent.

AC 05-056 IEPA v. Christopher A. and Jenny L. Good – The Board accepted an administrative citation against these Douglas County respondents.

AS 05-004 In the Matter of: Petition of SCA Tissue North America, L.L.C. for an Adjusted Standard from 35 Ill. Adm. Code 218.301 and 218.302(C) – Pending receipt of the certificate of publication, the Board held this Cook County facility’s petition for an adjusted standard from the Board’s organic material emission standards and limitations for the Chicago area.

Calendar

3/1/05 10:00 AM	R05-9	In the Matter of: Setback Zone for City of Marquette Heights Community Water Supply, New 35 Ill. Adm. Code 618	Pekin City Hall Council Chambers—2nd Floor 111 South Capitol Street Pekin
3/3/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Illinois Pollution Control Board Hearing Room (North Entrance) 1021 North Grand Avenue East Springfield
3/8/05 9:00 AM	PCB 05-109	Paul Johnson, Inc. v. IEPA and City of Waterman, Illinois	City Hall Annex Council Chambers 128 E. Railroad Sandwich
3/9/05 9:00 AM	PCB 05-109	Paul Johnson, Inc. v. IEPA and City of Waterman, Illinois	City Hall Annex Council Chambers 128 E. Railroad Sandwich

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<p>3/17/05 11:00 AM</p>	<p><u>Illinois Pollution Control Board Meeting</u></p>		<p>James R. Thompson Center Hearing Room 9-040 100 W. Randolph Street Chicago</p>
<p>4/5/05 10:00 AM</p>	<p>R05-9</p>	<p>In the Matter of: Setback Zone for City of Marquette Heights Community Water Supply, New 35 Ill. Adm. Code 618</p>	<p>James R. Thompson Center Room 2-025 100 W. Randolph Street Chicago</p>
<p>4/6/05 10:30 AM</p>	<p>PCB 03-54</p>	<p>Freedom Oil Company v. IEPA (Consolidated: PCB 03-54, 56, 105, 179, and 04-02)</p>	<p>Illinois Pollution Control Board Hearing Room (North Entrance) 1021 North Grand Avenue East Springfield</p>
<p>4/6/05 10:30 AM</p>	<p>PCB 03-56</p>	<p>Freedom Oil Company v. IEPA (Consolidated: PCB 03-54, 56, 105, 179, and 04-02)</p>	<p>Illinois Pollution Control Board Hearing Room (North Entrance) 1021 North Grand Avenue East Springfield</p>
<p>4/6/05 10:30 AM</p>	<p>PCB 03-105</p>	<p>Freedom Oil Company v. IEPA (Consolidated: PCB 03-54, 56, 105, 179, and 04-02)</p>	<p>Illinois Pollution Control Board Hearing Room (North Entrance) 1021 North Grand Avenue East Springfield</p>
<p>4/6/05 10:30 AM</p>	<p>PCB 03-179</p>	<p>Freedom Oil Company v. IEPA (Consolidated: PCB 03-54, 56, 105, 179, and 04-02)</p>	<p>Illinois Pollution Control Board Hearing Room (North Entrance) 1021 North Grand Avenue East Springfield</p>
<p>4/6/05 10:30 AM</p>	<p>PCB 04-2</p>	<p>Freedom Oil Company v. IEPA (Consolidated: PCB 03-54, 56, 105, 179, and 04-02)</p>	<p>Illinois Pollution Control Board Hearing Room (North Entrance) 1021 North Grand Avenue East Springfield</p>
<p>4/7/05 11:00 AM</p>	<p><u>Illinois Pollution Control Board Meeting</u></p>		<p>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</p>
<p>4/21/05 11:00 AM</p>	<p><u>Illinois Pollution Control Board Meeting</u></p>		<p>James R. Thompson Center Hearing Room 9-040 100 W. Randolph Street Chicago</p>

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

DIVISION OF WATER POLLUTION CONTROL

RESTRICTED STATUS LIST

In order to comply with 35 Illinois Administrative Code Section 306.401, Illinois Pollution Control Board Regulations, the Illinois EPA has prepared the following list of facilities which are on Restricted Status. Restricted Status is defined as the Agency determination that a sewer or lift station has reached hydraulic capacity or that a sewage treatment plant has reached design capacity, such that additional sewer connection permits may no longer be issued without causing a violation of the Act or Regulations. Please note that the list is continually being revised to reflect the current situation. Therefore, if you have any questions on the capability of a treatment facility or transport system, please contact this Agency for a final determination. This listing reflects the status as of December 31, 2004.

Facility names followed by an asterisk (*) indicates that construction is underway to ultimately alleviate problems, which resulted in imposition of Restricted Status. Facilities followed by a double asterisk (**) are additions to the list.

<u>FACILITY NAME</u>	<u>RESPONSIBLE AUTHORITY</u>	<u>COUNTY</u>	<u>REMAINING CAPACITY</u>
Alhambra STP	Village of Alhambra	Madison	0
Bonnie Brae Forest Manor SD STP	Bonnie Brae Forest Manor SD	Will	0
Bourbonnais (Belle Aire Subd.)	Village of Bourbonnais	Kankakee	0
Camelot Utilities Wastewater Collection System	Camelot Utilities	Will	0
Camp Point (a portion mh 60-68)	Village of Camp Point	Adams	0
Clearview S.D.	Clearview S.D.	McLean	0
East Alton	City of East Alton	Madison	0
Farmington	City of Farmington	Fulton	0
Hurst & Blairville Collection System	City of Hurst	Williamson	0
Lockport Heights SD STP	City of Lockport	Will	0
Maple Lawn Homes STP	Maple Lawn Homes	Woodford	0
Poplar Grove South STP	Village of Poplar Grove	Boone	0
Poplar Grove North STP	Village of Poplar Grove	Boone	0
Port Byron STP	Village of Port Byron	Rock Island	0
Rosewood Heights S.D.- Ninth Street LS	Rosewood Heights S.D.	Madison	0
Saint Elmo	City of Saint Elmo	Fayette	0
South Palos Twp. SD	South Palos Twp.	South Palos Twp.	0
Sundale Utilities – Washington Estates STP	Sundale Utilities Corporation	Tazewell	0
Taylorville-Shawnee Ave. Pump Station	City of Taylorville	Christian	0
Utilities Unlimited	Utilities Unlimited	Will	0
Washington (Rolling Meadows)	City of Washington	Tazewell	0

Deletions from previous quarterly report: None

Additions from previous quarterly report: None

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

DIVISION OF WATER POLLUTION CONTROL

CRITICAL REVIEW LIST

In order to comply with 35 Illinois Administrative Code Section 306.401, Illinois Pollution Control Board Regulations, the Illinois Environmental Protection Agency has prepared the following list of facilities which are on Critical Review. Critical Review as defined as the Agency determination that a sewer or lift station is approaching hydraulic capacity or that a sewage treatment plant is approaching design capacity such that additional sewer connection permit applications will require close scrutiny to determine whether issuance would result in a violation of the Act or Regulations. Please note that these lists are continually being revised to reflect the current situation. Therefore, if you have any questions on the capability of a treatment facility or transport system, please contact the Agency for a final determination. This listing reflects the status as of December 2004.

Facility names followed by a double asterisk (**) are additions to the list.

<u>FACILITY NAME</u>	<u>RESPONSIBLE AUTHORITY</u>	<u>COUNTY</u>	<u>REMAINING CAPACITY</u>	<u>PE ADDED SINCE LAST LIST</u>
Algonquin	Village of Algonquin	Kane	1,600	
Antioch STP	Village of Antioch	Lake	612	0
Beardstown SD	City of Beardstown	Cass	1,731	
Benton-Southeast STP	City of Benton	Franklin	60	0
Bethalto (L.S. #1)	Village of Bethalto	Madison	87	0
Carrier Mills	Village of Carrier Mills	Saline	836	0
Carrollton	City of Carrollton	Greene	140	0
Citizens Utilities Co. of Ill.- River Grange	Citizens Utilities Co. of Ill.	Will	10	0
Dakota	Village of Dakota	Stephenson	90	0
Downers Grove S.D.	Downers Grove S.D.	DuPage	3,057	95
East Dundee STP	Village of E. Dundee	Kane	550	6
Elkville	Village of Elkville	Jackson	6	0
Ferson Creek Utilities Co.	Utilities, Inc.	Will	70	0
LCPWD-Diamond- Sylvan STP	County of Lake Public Works Department	Lake	0	0
Lake Barrington Home Owners Assn. STP	Lake Barrington Home Owners Assn.	Lake	80	0
Lockport	City of Lockport	Will County	1,223	2,224
Moline (North Slope)	City of Moline	Rock Island	1,151	0
Morris STP	City of Morris	Grundy	0	333
New Lenox STP 1**	Village of New Lenox	Will	1,369	234
Paris STP	City of Paris	Edgar	0	
Rock Island (Main)	City of Rock Island	Rock Island	4,458	112
Streator	City of Streator	LaSalle/ Livingston	765	
Wauconda – Remaining Collection System & Lakeview Villa LS	Village of Wauconda	Lake	***	
Wauconda WWTP	Village of Wauconda	Lake		280

Deletions from previous quarterly report: None
Additions from previous quarterly report: Village of Algonquin

***Contact IEPA – Permit Section

Boone Creek Class III Special Resource Groundwater Final Listing Notice

The Illinois Environmental Protection Agency (IEPA) requests a final listing of Boone Creek Fen, Spring Hollow, Lee Miglin Savanna, and Amberin Ash Ridge, which are dedicated nature preserves (DNPs), and the area that contributes groundwater to the DNPs, as Class III: Special Resource Groundwater. These four privately owned nature areas are located in central McHenry County, Illinois, approximately three miles east of the City of Woodstock. The DNPs are comprised of 88.15-acres, located in the McHenry Quadrangle, Township 4 South, Range 7 East of the Third Principal Meridian, Sections 1, 2, 11, and 12. The DNPs and the groundwater contribution area is an irregularly shaped 5.04 square mile (3,227.4 acre) tract of land. The recharge area is located predominantly to the south and west of the DNPs.

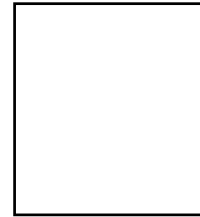
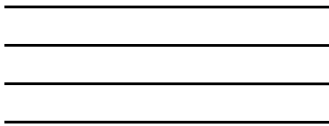
Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard specified; groundwater that is vital for a particularly sensitive ecological system; or groundwater contributing to a DNP that has been listed by the IEPA. The IEPA is required to review a written request to list DNPs, and upon confirmation of the technical adequacy, publish the proposed listing of the DNP(s) in the *Environmental Register* for a 45-day public comment period. Within 60 days after the close of the comment period, the IEPA is required to publish a final listing in the *Environmental Register*. The proposed listing appeared in the Illinois Pollution Control's November 2004 *Environmental Register*. The IEPA did not receive any public comments during the 45-day comment period.

The Groundwater Section of the Bureau of Water, at the IEPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

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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Environmental Register Coordinator
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