
Environmental Register

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G. Tanner Girard, Acting Chairman

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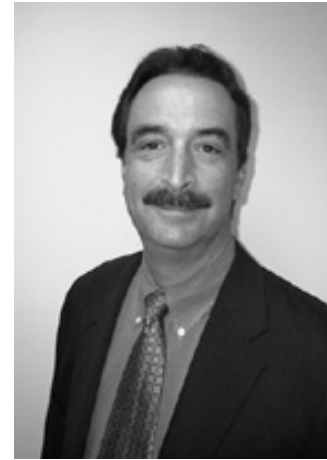
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Letter from the Chairman

Looking back, the Board had an ambitious slate of rulemaking dockets during calendar year 2006. The Board successfully adopted a large variety of environmental regulations in addition to new rules for controlling mercury emissions from coal-fired electrical generating units (Proposed New 35 Ill. Adm. Code 225 Control of Emissions from Large Combustion Sources (Mercury), R06-25). I will summarize a few of those regulations that generated substantial public interest and involvement in the last year, except for the new mercury regulations that have been discussed in previous Chairman's letters.



On September 7, 2006, the Board adopted a rulemaking for final notice adding standards and requirements for potable water well surveys and for community-relations activities in response to impacts or threats from soil and groundwater contamination. See Standards and Requirements for Potable Water Well Surveys and for Community Relations Activities Performed in Conjunction with Agency Notices of Threats from Contamination (35 Ill. Adm. Code 1505), R06-23. The Illinois Environmental Protection Agency (IEPA) filed this proposal in response to Public Act 94-314, effective July 25, 2005, which added a new Title VI-D ("Right-To-Know") to the Environmental Protection Act (Act).

On August 17, 2006, the Board adopted for final notice regulations establishing a permit program for the use of clean construction or demolition debris (CCDD) as fill material in current or former quarries, mines, or other excavations. See Clean Construction or Demolition Debris Fill Operations Under P.A. 94-272 (35 Ill. Adm. Code Part 1100), R06-19. Public Act 94-272, effective July 19, 2005, requires a permit to use CCDD as fill material in a current or former quarry, mine, or other excavation. Public Act 94-272 also directed the Board to adopt regulations by September 1, 2006 for the use of CCDD as fill material.

On February 16, 2006, the Board adopted for final notice general use water quality standards for combined radium 226 and 228. See 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 R 04-21. The Board adopted a standard of 3.75 picocuries per liter (pCi/L) combined radium 226 and 228 and set the standard as an annual average value. This standard applies to all general use waters of the State, including stream segments that receive discharge from POTWs, as well as the Lake Michigan Basin. The Board also adopted a standard of 5 pCi/L combined radium 226 and 228 as an instantaneous maximum standard for public and food processing water supply intakes.

On January 19, 2006, the Board adopted for final notice an interim phosphorus effluent standard. See Proposed 35 Ill. Adm. Code 304.123(g), 304.123(h), 304.123(i), 304.123(j), and 304.123(k), R04-26. The Board adopted a phosphorus effluent limit of 1.0 milligram per liter (mg/L) as a monthly average that applies to new or expanded discharges from wastewater treatment plants with either a design average flow of more than 1.0 million gallons per day receiving municipal or domestic waste water, or a total phosphorus effluent load of 25 pounds per day or more for treatment works other than those treating municipal or domestic wastewater. However, if the source can demonstrate that phosphorus is not the limiting nutrient in the receiving water, or that alternative phosphorus effluent limits are warranted by the aquatic environment in the receiving water, the 1.0 mg/L effluent limit would not apply.

Please visit the Board's website (www.ipcb.state.il.us) for a more comprehensive view of our rulemaking accomplishments during 2006. As always, the Board is very grateful for our dedicated, hard-working staff that are responsible for the Board's exceptional productivity.

Next month, I'll summarize rulemaking dockets in which the Board expects to make substantial progress during calendar year 2007. In the meantime, on behalf of my Board colleagues and staff, best wishes to you for a very happy New Year.

Sincerely,

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

G. Tanner Girard, Ph.D.
Acting Chairman

Inside This Issue:

FEDERAL UPDATE	P. 1
RULE UPDATE	P. 2
BOARD ACTIONS	P. 5
NEW CASES	P. 11
PROVISIONAL VARIANCES	P. 13
BOARD CALENDAR	P. 14

Federal Update

United States Environmental Protection Agency Publishes Notice to Reconsider Specific Portions of the Phase 2 of the Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard Under the Clean Air Act

On December 19, 2006 (71 Fed. Reg. 75902) the United States Environmental Protection Agency (USEPA) published a notice that it would reconsider and take additional comment on three provisions in the final Phase 2 8-hour ozone implementation rule.

USEPA initially published Phase 2 of the final rule to implement the 8-hour ozone national ambient air quality standard (NAAQS) on November 29, 2005 (70 Fed. Reg. 71611).

Subsequent to rule adoption, USEPA received a petition to reconsider specific aspects of this final rule. As a result of that petition, on December 19, 2006, USEPA announced its decision to reconsider and take additional comment on three provisions in the final Phase 2 8-hour ozone implementation rule:

The determination that electric generating units (EGUs) that comply with rules implementing the Clean Air Interstate Rule (CAIR) and that are located in States where all required CAIR emissions reductions are achieved from EGUs meet the 8-hour ozone State implementation plan (SIP) requirement for application of reasonably available control technology (RACT) for nitrogen oxide (NO_x) emissions;

A new source review (NSR) requirement allowing sources to use certain emission reductions as offsets under certain circumstances; and

An NSR provision addressing when requirements for the lowest achievable emission rate (LAER) and emission offsets may be waived.

In addition, USEPA requested comments on postponing the submission date for the RACT SIP for RACT SIPs for EGUs in the CAIR region. USEPA stated that it is accepting comments only on the three issues specifically identified in this notice and the submission date issue, and that it does not intend to respond to comments addressing other provisions of the final 8-hour ozone implementation rule.

Comments must be received on or before January 18, 2007. Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2003-0079, by one of the following methods:

Online at www.regulations.gov. Follow the on-line instructions for submitting comments.

E-mail: at A a-and-r-docket@epa.gov

Mail: EPA Docket Center, EPA West (Air Docket), Attention Docket ID No. EPA-HQ-OAR-2003-0079, Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

For further information on the issue relating to NO_x RACT for EGU sources in CAIR States, contact Mr. John Silvasi, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, (C539-01), Research Triangle Park, NC 27711, phone number (919) 541-5666, fax number (919) 541-0824 or by e-mail at silvasi.john@epa.gov.

For further information on the NSR issues, contact Mr. David Painter, Office of Air Quality Planning and Standards, (C504-03), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5515, fax number (919) 541-5509, e-mail: painter.david@epa.gov"

If any amendments to the Illinois air rules become necessary, the Board would expect the Illinois Environmental Protection Agency (IEPA) to propose amendments using the Clean Air Act "fast-track" procedures at Section 28.5 of the Environmental Protection Act (415 ILCS 5/28.5 (2006)).

The Board notes that the IEPA proposal for Illinois CAIR rules is currently pending before the Board in Proposed New Clean Air Interstate Rule (CAIR) SO₂, NO_x Annual and NO_x Ozone Season Trading Programs, 35 Ill. Adm. Code 225. Subparts A, C, D and E (R06-26). The Board held hearings on the proposal in October and November 2006. The Board will evaluate public comments submitted on or before January 5, 2007, and then determine the nature of additional proceedings in the docket.

Rule Update

Board Adopts Second Notice Opinion and Order in Proposed Amendments to Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)(R06-10)

On December 7, 2006, the Board adopted a second notice opinion and order in Proposed Amendments to Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742), R06-10. The rulemaking seeks to update, improve, and correct many provisions of the Tiered Approach to Corrective Action Objectives (TACO) remediation rules, which are critical to addressing the risks posed by contaminated properties in Illinois. The rulemaking is based on the September 30, 2005 proposal filed by the Illinois Environmental Protection Agency (IEPA).

The Board held hearings in January and March 2006. The Board did not receive any comments on its September 7, 2006 first notice proposal, published at 30 *Ill. Reg.* 15366 (September 29, 2006). The Board has sent the rulemaking, pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1-1 *et seq.* (2006)), to the Joint Committee on Administrative Rules (JCAR) for its review, currently scheduled for the February 6, 2007 JCAR meeting.

Among the amendments adopted for second notice is the addition of background soil levels as remediation objectives for polynuclear aromatic hydrocarbons (PAHs), reflecting that significant levels of PAHs are ubiquitous throughout much of Illinois. In addition, the Board proposed revisions to protect construction workers at properties cleaned up to residential levels. This change was needed because numerous chemicals listed in TACO were found to have "industrial/commercial construction worker inhalation" remediation objectives that are more stringent than the "residential inhalation" objectives. Of course, construction work may occur on residential properties, including emergency work or repairs, and many industrial or commercial sites are cleaned up to TACO residential levels.

The Board also proposed adding a new subsection (h) to Section 742.105 on TACO applicability, to clarify that landfills cannot use TACO in lieu of the procedures and requirements applicable to landfills under 35 Ill. Adm. Code 807, 811-814.

The amendments also included changes to clarify the use of Highway Authority Agreements (HAAs). These agreements are typically between the highway authority and the property owner. The amendments address situations when a leaking underground storage tank (LUST) owner or operator (the person who would receive the No Further Remediation (NFR) Letter) is not the owner of the property. In addition, the Board proposed a new instrument as an institutional control (Highway Authority Agreement Memorandum of Agreement or HAA MOA) to address

situations where the highway authority is the property owner or LUST owner or operator and contamination remains under the highway. The problem resolved by this amendment is that the highway authority cannot enter into a binding agreement with itself. The HAA MOA would be entered into between the highway authority and the IEPA. Finally, the Board proposed adding new requirements to alert the IEPA of actions by local governments regarding institutional control ordinances. This responds to IEPA hearing testimony that it was aware of at least two instances where ordinances approved as institutional controls were later amended or repealed without notice to the IEPA.

The Board also proposed changes to enhance flexibility in using ordinances as institutional controls to restrict groundwater usage. The IEPA testified that under the existing Section 742.320(d), an ordinance could be used to exclude the groundwater ingestion exposure route only if the ordinance effectively prohibits installing and using potable water supply wells within 2,500 feet from the source of the release. The 2,500-foot distance was originally adopted to correspond to the maximum setback zone for a community water supply well under Section 14.3 of the Environmental Protection Act (415 ILCS 5/14.3). However, sites near a municipal boundary cannot currently use this institutional control where the 2,500-foot radius would extend beyond the municipal boundary, and there is no such ordinance in effect beyond the municipal boundary. To address this issue, the Board proposed allowing use of a groundwater ordinance for any area within the measured and modeled extent of groundwater contamination above what would otherwise be the applicable Tier I groundwater objectives.

Lastly, the Board proposed adding new institutional control forms to be used by participants in regulatory programs subject to the TACO remediation objectives. These forms are based on model documents that the IEPA had posted on its Web site for easy public use. The IEPA stated that it would now be appropriate to codify the model documents and formally require their use.

Copies of the Board's opinion and order in R06-10 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact Richard McGill at 312-814-6983; e-mail address mcgillr@ipcb.state.il.us.

Board Adopts Second Notice Opinion and Order in Revisions to Water Quality Standards for Total Dissolved Solids in the Lower Des Plaines River for ExxonMobil Oil Corporation: Proposed 35 Ill. Adm. Code 303.445 (R06-24)

On December 7, 2006, the Board adopted a second notice opinion and order in Revisions to Water Quality Standards for Total Dissolved Solids in the Lower Des Plaines River for ExxonMobil Oil Corporation: Proposed 35 Ill. Adm. Code 303.445, R06-24. The site-specific rulemaking addresses discharges of Total Dissolved Solids (TDS) from the ExxonMobil Joliet Refinery in Will County during the months of November through April in each year.

The Board held a hearing June 14, 2006 on the February 7, 2006 proposal filed by ExxonMobil Oil Corporation (ExxonMobil). The Board did not receive any comments on its March 2, 2006 first notice proposal, published at 30 *Ill. Reg.* 4581 (March 17, 2006). The Board has sent the rulemaking, pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1-1 *et seq.* (2006)), to the Joint Committee on Administrative Rules (JCAR) for its review, currently scheduled for the February 6, 2007 JCAR meeting.

The proposal would set 1,686 milligrams per Liter (mg/L) as the TDS levels for both Secondary Contact and Indigenous Aquatic life Use Waters General Use Waters. This 1,686 mg/L standard would apply instead of the general use standard of 1,000 mg/L found in 35 Ill. Adm. Code 302.208 and the secondary contact use standard of 1,500 mg/L found in 302.407.

ExxonMobil owns and operates the Joliet Refinery (refinery) located in Channahon Township on a 1,300-acre tract of land in unincorporated Will County. The site is adjacent to Interstate 55 at the Arsenal Road exit, approximately 50 miles southwest of Chicago. The refinery employs more

than 500 full-time employees, and approximately 100 additional ExxonMobil employees who provide regional support services are also located at the refinery.

On October 11, 2005, ExxonMobil was a party to a consent decree involving the United States of America, as well as the States of Illinois, Louisiana, and Montana. Under that consent decree, ExxonMobil must, among other things, make substantial investments in air emissions reductions at the Joliet Refinery. The consent decree calls for the use of a wet gas scrubber in addition to added technology, which will contribute to additional sulfate and TDS to the wastewater treatment system.

ExxonMobil has asserted that because of occasional observed TDS violations in the Des Plaines River and in light of 35 Ill. Adm. Code 302.102(b)(9), the Illinois Environmental Protection Agency (IEPA) could not issue the wastewater construction permit needed by ExxonMobil. ExxonMobil and the IEPA believe that Board adoption of the proposed 1,686 mg/L TDS standard would allow for issuance of a permit approvable by the United States Environmental Protection Agency.

Copies of the Board's opinion and order in R06-24 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 John Knittle at 217-278-3111; e-mail address knittlej@ipcb.state.il.us

Board Adopts Final Opinion and Order in Proposed New 35 Ill. Adm. Code 225 Control of Emissions from Large Combustion Sources (Mercury) (R06-25)

On December 21, 2006, the Board adopted a final notice opinion and order in Proposed New 35 Ill. Adm. Code 225 Control of Emissions from Large Combustion Sources (Mercury) (R06-25). The adopted rule was filed with the Secretary of State's Index department and became effective December 21, 2006. The adopted rule was published at 31 *Ill. Reg.* 129 (January 5, 2006).

Substance of the Mercury Proposal

The Board has previously described the contents of the proposal in some detail in these pages.

See March 2006, pg. 12, April 2006 pg. 7, May 2006 pg. 4, June 2006 pg. 4, July 2006 pg. 12, September 2006 pg. 5, and November 2006 pg. 2. The Board will not repeat its lengthy explanation here.

In brief, the new Part 225 requires Illinois coal-fired electrical generating units (EGUs) that serve a generator greater than 25 megawatts producing electricity for sale to begin to utilize control technology for mercury as necessary to achieve the numerical standards set by the rule beginning July 1, 2009.

To achieve this goal while preserving flexibility, the regulations provide new and existing sources with two alternative mercury emission standards to demonstrate compliance. The first alternative allows a source to comply with a mercury emission standard of 0.0080 lb mercury/GWh gross electrical output for each EGU. In the alternative, sources may control emissions by a minimum of 90% from input mercury levels. In addition, through December 31, 2013, companies with several sources with EGUs may utilize averaging demonstrations between the sources. Those sources that have no sister plants are grouped into a co-op so that they may also average amongst the listed facilities. However, every source in the averaging demonstration must attain at least a 75% reduction of input mercury or 0.020 lb mercury/GWh gross electrical output. The proposal also sets forth permitting, monitoring, recordkeeping, and reporting requirements for affected sources.

The new rule contains Sections to address additional flexibility for the regulated community, the Multi Pollutant Standard (MPS) and the Temporary Technology Based Standard (TTBS). The MPS provisions allow an additional level of flexibility for mercury control, if a source commits to

Environmental Register – December 2006

making specified reductions in nitrogen oxides (NO_x) and sulfur dioxide (SO₂) emissions within a set timeframe. The TTBS addresses both new and existing sources with EGUs. Those EGUs that satisfy specified eligibility requirements can demonstrate compliance with control requirements for mercury emissions via the TTBS provisions for a specified, and limited, time frame.

Copies of the Board's opinion and order in R06-25 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

December 7, 2006

**Via Videoconference
Springfield and Chicago, Illinois**

Rulemakings

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|--------|---|-----------------|
| R06-10 | <u>In the Matter of: Proposed Amendments to Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)</u> – The Board adopted a second notice proposal to amend the Board's land pollution control regulations. | 4-0
R, Land |
| R06-24 | <u>In the Matter of: Revisions to Water Quality Standards for Total Dissolved Solids in the Lower Des Plaines River for ExxonMobil Oil Corporation: Proposed 35 Ill. Adm. Code 303.445</u> – The Board adopted a second notice proposal to amend the Board's water pollution control regulations. | 4-0
R, Water |

Adjusted Standards

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| AS 07-2 | <u>In the Matter of: Proposed Extension of Adjusted Standard Applicable to Illinois-American Water Company's Alton Public Water Supply Facility Discharge to the Mississippi River</u> – The Board found that petitioner satisfied jurisdictional requirement of providing notice of its petition for an adjusted standard; granted the motion to incorporate by reference both the petition for adjusted standard and site-specific impact study filed in <u>Petition of Illinois-American</u> , AS 99-6. | 4-0
PWS |
|---------|--|------------|

Administrative Citations

- | | | |
|----------|---|-----|
| AC 05-40 | <u>IEPA v. Northern Illinois Service Company</u> – Due to the delay of seven weeks between service of the Illinois Environmental Protection Agency's statement of hearing costs and its arrival in the Board's office, the Board on its own motion reconsiders its final opinion and order of November 16, 2006, and vacates that order. The Board allows the respondent 21 days, or until Friday, December 22, 2006, to file a response limited to the issue of the IEPA's claimed costs. The IEPA then has 14 days after service of the response to file any reply. When that reply period has elapsed, the Board will issue a final opinion and order restating a finding of violations and assessing the civil penalty and appropriate hearing costs. | 4-0 |
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Environmental Register – December 2006

AC 05-70	<u>IEPA v. James Stutsman</u> – Due to the delay of seven weeks between service of the Illinois Environmental Protection Agency’s statement of hearing costs and its arrival in the Board’s office, the Board on its own motion reconsiders its final opinion and order of November 16, 2006, and vacates that order. The Board allows the respondent 21 days, or until Friday, December 22, 2006, to file a response limited to the issue of the IEPA’s claimed costs. The IEPA then has 14 days after service of the response to file any reply. When that reply period has elapsed, the Board will issue a final opinion and order restating a finding of violations and assessing the civil penalty and appropriate hearing costs.	4-0
AC 06-53	<u>County of Ogle v. George C. Heal</u> – The Board granted complainant’s motion to dismiss.	4-0
AC 07-21	<u>County of Macon v. Tim Walker</u> – The Board directed complainant to file, on or before January 4, 2007, the proof of service of the administrative citation on respondent. The Board also directed respondent to file, on or before January 4, 2007, an amended petition stating the date on which he received service of the administrative citation from the County and stating the reasons for appeal as required by 35 Ill. Adm. Code 108.206.	4-0
AC 07-22	<u>County of Sangamon v. Jack Caldwell</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Sangamon County facility, the Board found that respondent had violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(7) (2004)) and ordered respondent to pay a civil penalty of \$3,000. The Board also granted the parties’ joint motion to dismiss the alleged violation of 415 ILCS 5/21(p)(3) (2004).	4-0
AC 07-23	<u>IEPA v. Curtis Jim Hammond</u> – The Board found that this Fulton County respondents violated Section (p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2004)), and ordered respondent to pay a civil penalty of \$4,500.	4-0

Decisions

PCB 06-104	<u>People of the State of Illinois v. Moore Painting and Illinois-American Water Company</u> – In this air, land and water enforcement action concerning a Madison County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2004)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$26,000, and to cease and desist from further violations.	4-0 A,L,&W
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Motions and Other Matters

PCB 96-98	<u>People of the State of Illinois v. Skokie Valley Asphalt, Co., Inc., Edwin L. Frederick, Jr. individually and as owner and President of Skokie Valley Asphalt Co., Inc., and Richard J. Frederick individually and as owner and Vice President of Skokie Valley Asphalt Co., Inc.</u> – The Board denied respondents’ November 15, 2006 motion for sanctions.	4-0 W-E
PCB 97-179	<u>People of the State of Illinois v. Midwest Grain Products of Illinois, Inc.</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 Tazwell County facility, the Board ordered publication of the required newspaper notice.	4-0 A-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 granted complainant’s motion to stay this matter for 210 days through and including June 27, 2007.	4-0 Citizens UST Cost Recovery- E
PCB 06-150	<u>People of the State of Illinois v. Stoecker Farms, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Macoupin County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E
PCB 06-184	<u>Peoria Disposal Company v. Peoria County Board</u> – The Board denied petitioner’s motion for partial summary judgment and granted the Opposition Groups’ motion for leave to file an <i>amicus curiae</i> brief in this proceeding.	4-0 P-C-F-S-R
PCB 07-1	<u>People of the State of Illinois v. Kurt Carlson</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 Winnebago County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E
PCB 07-17	<u>Dale L. Stanhibel v. Tom Halat d/b/a Tom’s Vegetable Market</u> – The Board granted respondent’s motion for leave to file a motion to dismiss. Respondent is directed to file his motion to dismiss by Monday, January 8, 2007, which is the first business day after the 30th day from the date of this order. Because service of the complaint did not fully comply with the Board’s procedural rules, the Board will accept as timely a motion to dismiss filed by January 8, 2007. Because the deadline for filing an answer is stayed by operation of the Board’s procedural rules, the Board denied as unnecessary respondent’s motion to extend the time to respond to the complaint. Also, because the Board does not have before it a motion for default and does not address the issue of default in this order, respondent’s motion to vacate any possible default is denied as moot. Finally, the Board reserved ruling on whether the complaint is frivolous or	4-0 Citizens A&N – E

Environmental Register – December 2006

duplicative and whether to accept the complaint for hearing.

PCB 07-36	<u>Noveon, Inc. v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Cook County facility.	4-0 P-A, Air 90-Day Ext.
PCB 07-37	<u>People of the State of Illinois v. Village of Dorchester</u> – The Board accepted for hearing this public water supply enforcement action involving a site located in Macoupin County.	4-0 PWS-E
PCB 07-38	<u>City of Joliet v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Will County facility.	4-0 P-A, Water 90-Day Ext.
PCB 07-39	<u>City of Geneva v. IEPA</u> - The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Kane County facility.	4-0 P-A, Water
PCB 07-40	<u>People of the State of Illinois v. Village of Browning</u> – The Board accepted for hearing this public water supply enforcement action involving a site located in Schuyler County.	4-0 PWS-E
PCB 07-41	<u>People of the State of Illinois v. Village of Nebo</u> – The Board accepted for hearing this public water supply enforcement action involving a site located in Pike County.	4-0 PWS-E
PCB 07-42	<u>People of the State of Illinois v. Environmental Reclamation Company</u> – The Board accepted for hearing this land enforcement action involving a site located in Coles County.	4-0 L-E
PCB 07-43	<u>Kibler Development Corporation and Marion Ridge Landfill, Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Williamson County facility.	4-0 P-A, Land

December 21, 2006

Chicago, Illinois

Rulemakings

R06-25	<u>In the Matter of: Proposed New 35 Ill. Adm. Code 225 Control of Emissions from Large Combustion Sources (Mercury)</u> – The Board adopted a final opinion and order in this rulemaking which amends the Board’s air pollution control regulations. The final adopted rules require compliance beginning July 1, 2009 with a mercury emission standard of 0.00801lb/gwh or a 90% reduction from input mercury. The rule also includes two alternate compliance mechanisms: a temporary technology-based standard and a multi-pollutant control system.	4-0 R, Air
R07-2 R07-11 (cons.)	<u>SDWA Update, USEPA Amendments (January 1, 2006 through June 30, 2006); In the Matter of: SDWA Update, USEPA Amendments (July 1, 2006 through December 31, 2006)</u> – The Board consolidated these two dockets containing related amendments and extended the deadline for completion of rulemaking the consolidated docket from January 4, 2007 to April 30, 2007.	4-0 R, PWS

Administrative Citations

AC 06-50	<u>IEPA v. Mark Gates</u> – The Board grants respondent Gates’ motion for reconsideration. Gates must amend his original petition for review as directed on or before January 22, 2007.	4-0
AC 06-56	<u>IEPA v. Lake Wildwind Park, L.L.C.</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Woodford County facility, the Board found that respondent had violated Section 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(3) (2004)) 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 5/21(p) (1) (2004).	4-0
AC 07-2	<u>IEPA v. Norbert and Wilma Adams</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Woodford County facility, the Board found that respondents had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2004)) 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 violation of 415 ILCS 5/21(p) (7) (2004).	4-0
AC 07-15	<u>IEPA v. Glenn and Brenda York</u> – The Board found that these Morgan County respondents violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2004)), and ordered respondents to pay a civil penalty of \$1,500.	4-0

Environmental Register – December 2006

AC 07-18	<u>County of Ogle v. Donald and Linda Ebersole and Nathan Mattison</u> – The Board granted complainant’s motion for withdrawal of this administrative citation and closed the docket.	4-0
AC 07-19	<u>County of Ogle v. Michael Johnson</u> – The Board granted complainant’s motion for withdrawal of this administrative citation and closed the docket.	4-0
AC 07-20	<u>County of Macon v. Phillip Pugsley</u> – The Board granted complainant’s motion for withdrawal of this administrative citation and closed the docket.	4-0

Decisions

PCB 06-43	<u>Sangamon Valley Farm Supply v. IEPA and Village of Saybrook, Illinois</u> – The Board granted, Sangamon Valley Farm Supply a water well setback exception from Section 14.2 of the Environmental Protection Act (415 ILCS 5/14.2(c), (d) (2004)), subject to conditions. The exception allows petitioner to remediate on-site pollution by enhanced natural attenuation utilizing the direct push technology to inject oxygen release compound at the property located at the corner of Lincoln and Main Streets in the Village of Saybrook, McLean County.	4-0 WWS
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Motions and Other Matters

PCB 04-31	<u>Broadus Oil v. IEPA</u> – The Board granted respondent’s motion for summary judgment and denied the petitioner’s motion for summary judgment.	3-1
PCB 05-43 (cons.)		Johnson dissented UST Appeal
PCB 05-157	<u>Grand Pier Center L.L.C. and American International Specialty Lines Insurance Co. as subrogee of Grand Pier Center L.L.C. v. River East L.L.C, Chicago Dock and Canal Trust, Chicago Dock and Canal Company, and Kerr-McGee Chemical L.L.C.</u> – Reserving ruling on complainant’s motion for default judgment, the Board granted additional time to respondents River East and Chicago Trust until January 22, 2007, to either contact the hearing officer or enter an appearance in this proceeding. The Board will then take appropriate action.	4-0 Citizens L-E
PCB 06-184	<u>Peoria Disposal Company v. Peoria County Board</u> – The Board granted respondent’s motion for leave to supplement the record and incorporates the Supplemental Staff Report and Findings Page into the record. The Board orders respondent to file a clean copy of the April 6, 2006 Peoria County Staff Proposed Findings, or an explanation of why the Board should accept the version including handwritten notes, by January 5, 2007. For purposes of administrative efficiency and accurate reference at hearing, the Board also orders respondent to file an amended index reflecting any changes in pagination.	4-0 P-C-F-S-R

Environmental Register – December 2006

PCB 07-12	<u>Fedex Ground Package System, Inc. v. IEPA</u> – The Board denied petitioner’s motion to consolidate this case with PCB 04-31 and PCB 05-43 (cons). The Board then granted the parties’ motions to supplement the administrative record. The Board granted the Illinois Environmental Protection Agency’s (IEPA) motion for summary judgment and denied Fedex’s cross-motion for summary judgment. The Board found that the IEPA properly rejected an amended budget under 35 Ill. Adm. Code 734.335 of the Board’s regulations.	3-1 Johnson dissented UST Appeal
PCB 07-45	<u>People of the State of Illinois v. General Waste Services, Inc.</u> – The Board accepted for hearing this air enforcement action involving a site located in St. Clair County.	4-0 A-E
PCB 07-46	<u>People of the State of Illinois v. D&L Disposal, L.L.C.</u> – The Board accepted for hearing this land enforcement action involving a site located in Bond County.	4-0 L-E
PCB 07-47	<u>People of the State of Illinois v. City of Pekin</u> – The Board accepted for hearing this water enforcement action involving a site located in Tazewell County.	4-0- W-E
PCB 07-48	<u>Village of Wilmette v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility.	4-0 UST Appeal

New Cases

December 7, 2006 Board Meeting

07-036 Noveon, Inc. v. IEPA – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Cook County facility.

07-037 People of the State of Illinois v. Village of Dorchester – The Board accepted for hearing this public water supply enforcement action involving a site located in Macoupin County.

07-038 City of Joliet v. IEPA – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Will County facility.

07-039 City of Geneva v. IEPA – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Kane County facility.

07-040 People of the State of Illinois v. Village of Browning – The Board accepted for hearing this public water supply enforcement action involving a site located in Schuyler County.

07-041 People of the State of Illinois v. Village of Nebo – The Board accepted for hearing this public water supply enforcement action involving a site located in Pike County.

07-042 People of the State of Illinois v. Environmental Reclamation Company – The Board accepted for hearing this land enforcement action involving a site located in Coles County.

07-043 Kibler Development Corporation and Marion Ridge Landfill, Inc. v. IEPA – The Board accepted for hearing this permit appeal involving a Williamson County facility.

07-044 Indian Creek Development Company individually as beneficiary under Trust 3291 of the Chicago Title and Trust Company dated December 15, 1981 and the Chicago Title and Trust Company, as trustee under trust 3291 dated December 15, 1981 v. The Burlington Northern Santa Fe Railway Company, a Delaware company – The Board held for a later duplicative/frivolous determination this citizens' land and water enforcement action involving a Kane County facility.

AC 07-025 City of Chicago Department of Environment v. 1601-1759 East 130th Street, L.L.C. – The Board accepted an administrative citation against this Cook County respondent.

AC 07-026 IEPA v. Leonard Hostetler – The Board accepted an administrative citation against this Macon County respondent.

AC 07-027 IEPA v. Paul Sahlstrom – The Board accepted an administrative citation against this Winnebago County respondent.

December 21, 2006 Board Meeting

07-045 People of the State of Illinois v. General Waste Services, Inc. – The Board accepted for hearing this air enforcement action involving a site located in St. Clair County.

07-046 People of the State of Illinois v. D&L Disposal, L.L.C. – The Board accepted for hearing this land enforcement action involving a site located in Bond County.

07-047 People of the State of Illinois v. City of Pekin – The Board accepted for hearing this water enforcement action involving a site located in Tazewell County.

07-048 Village of Wilmette v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility.

AC 07-028 IEPA v. Charles Norman Bartlett – The Board accepted an administrative citation against this Calhoun County respondent.

R07-010 In the Matter of: Definition of VOM Update, USEPA Amendments (July 1, 2006 through December 31, 2006) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is July 1, 2006 through December 31, 2006.

R07-011 In the Matter of: SDWA Update, USEPA Amendments (July 1, 2006 through December 31, 2006) – The Board consolidated this docket with R07-2, which contain related amendments and extended the deadline for completion of rulemaking the consolidated docket from January 4, 2007 to April 30, 2007.

R07-012 In the Matter of: UIC Update, USEPA Amendments (July 1, 2006 through December 31, 2006) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is July 1, 2006 through December 31, 2006.

R07-013 In the Matter of: RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (July 1, 2006 through December 31, 2006) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is July 1, 2006 through December 31, 2006.

R07-014 In the Matter of: RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (July 1, 2006 through December 31, 2006) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is July 1, 2006 through December 31, 2006.

R07-015 In the Matter of: UST Update, USEPA Amendments (July 1, 2006 through December 31, 2006) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is July 1, 2006 through December 31, 2006.

R07-016 In the Matter of Wastewater Pretreatment Update, USEPA Amendments (July 1, 2006 through December 31, 2006) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is July 1, 2006 through December 31, 2006.

Provisional Variances

IEPA 07-9 Exelon Generation Company, L.L.C. (Dresden Nuclear Generation Station) v. IEPA – On November 6, 2006, the Illinois Environmental Protection Agency granted Exelon Generation Company, L.L.C.’s request for a provisional variance from Special Condition 4A, 4D, and 4G of NPDES Permit IL0002224 for its Dresden Nuclear Generation Station facility located at the confluence of the Des Plaines and Kankakee Rivers near Morris. Exelon sought the variance for a six-day period beginning November 17, 2006 through November 22, 2006, in order to repair a Lift Station Automatic Bus Transfer switch that was damaged by a lighting strike on July 27, 2006. Exelon submitted a provisional variance request on October 10, 2006, requesting the same relief for a six-day period beginning November 7, 2006 through November 12, 2006, which the IEPA granted on October 23, 2006. Since that time, however, Unit 2 has developed an issue internal to its condenser, and performing the lift station repairs between November 7, 2006 and November 12, 2006, would impose additional operating loads on Unit 2 equipment. This provisional variance supersedes the October 23, 2006 provisional variance.

IEPA 07-10 Village of Algonquin v. IEPA – On December 14, 2006, the Illinois Environmental Protection Agency granted the Village of Algonquin’s request for a 45-day provisional variance, with conditions, from limits for ammonia nitrogen of its NPDES Permit IL0023329. The village experienced a failure of a component of the anaerobic sludge digester #2. The village is requested this provisional variance to dewater the sludge digester to make the necessary repairs. The provisional variance began December 14, 2006, and ends no later than January 26, 2006.

IEPA 07-11 Toyal America, Inc. v. IEPA – In December 2006, the Illinois Environmental Protection Agency granted the Toyal America, Inc. manufacturing facility in Will County a provisional variance from compliance with Section 9(a) of the Environmental Protection Act and the Pollution Control Board’s air pollution regulations for both control requirements governing “other emission units” found at 35 Ill. Adm. Code 218.986 and the use of organic materials found at 35 Ill. Adm. Code 218.301, and numerous permitting conditions from both the construction permit and the FESOP. Toyal America requested the provisional variance to make repairs to its aluminum paste, flake and powder manufacturing facility following a December 8, 2006 fire. The relief is granted until January 31, 2007.

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

Calendar

<p>1/4/07 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>1/8/07 9:00 AM</p>	<p>PCB 06-184</p>	<p>Peoria Disposal Company v. Peoria County Board (to be continued day-to-day until business is completed or until January 11, 2007)</p>	<p>Ito Society 4909 W. Farmington Road Peoria</p>
<p>1/26/07 11:00 AM</p>	<p><u>Illinois Pollution Control Board Meeting</u></p>		<p>James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago</p>
<p>1/29/07 11:00 AM</p>	<p>R07-08</p>	<p>In the Matter of: Proposed Amendments to Solid Waste Landfill Rules, 35 Ill. Adm. Code 810 and 811</p>	<p>Michael A. Bilandic Building Room N-505 160 N. LaSalle Street Chicago</p>
<p>1/30/07 9:30 AM</p>	<p>R07-08</p>	<p>In the Matter of: Proposed Amendments to Solid Waste Landfill Rules, 35 Ill. Adm. Code 810 and 811</p>	<p>Michael A. Bilandic Building Room N-505 160 N. LaSalle Street Chicago</p>
<p>2/1/07 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>2/15/07 11:00 AM</p>	<p><u>Illinois Pollution Control Board Meeting</u></p>		<p>James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago</p>
<p>2/28/07 1:00 PM</p>	<p>R07-08</p>	<p>In the Matter of: Proposed Amendments to Solid Waste Landfill Rules, 35 Ill. Adm. Code 810 and 811</p>	<p>Pollution Control Board Conference Room 1021 N. Grand Avenue East (North Entrance, IEPA Building) Springfield</p>

Environmental Register – December 2006

3/1/07 9:00 AM	R07-08	In the Matter of: Proposed Amendments to Solid Waste Landfill Rules, 35 Ill. Adm. Code 810 and 811	Pollution Control Board Conference Room 1021 N. Grand Avenue East (North Entrance, IEPA Building) Springfield
3/1/07 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East North Entrance Springfield
03/07/07 10:30 AM	R07-9	In the Matter of: Triennial Review of Sulfate and Total Dissolved Solids Water Quality Standards: Proposed Amendments to 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(A), 409.109(b)(2)(B), 406.100(d); Repealer of 35 Ill. Adm. Code 406.203 and Part 407; and Proposed New 35 Ill. Adm. Code 302.208(h)	IEPA Office Building Training Room 1214 West 1021 N. Grande Avenue East (North Entrance) Springfield
3/15/07 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago
4/5/07 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		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
4/19/07 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago

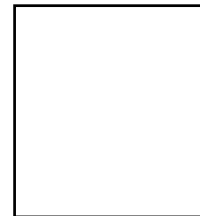
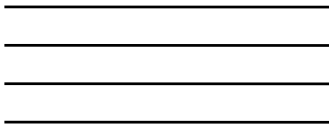
Environmental Register – December 2006

04/23/07 10:00 AM	R07-9	In the Matter of: Triennial Review of Sulfate and Total Dissolved Solids Water Quality Standards: Proposed Amendments to 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(A), 409.109(b)(2)(B), 406.100(d); Repealer of 35 Ill. Adm. Code 406.203 and Part 407; and Proposed New 35 Ill. Adm. Code 302.208(h)	James R. Thompson Center Room 9-031 100 W. Randolph Chicago
5/3/07 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East North Entrance Springfield
5/16/07 9:00 AM	AC 06-16	IEPA v. Rex D. Evans and Roy W. Evans, Jr. (Road Dist. No. 10/Evans)(IEPA File No. 442-05-AC)(Consolidated: AC 06-16 and AC 06-17	Municipal Building 2 nd Floor Commission Room 200 W. Douglas Jacksonville
5/16/07 9:00 AM	AC 06-17	IEPA v. Rex D. Evans and Roy W. Evans, Jr. (Road Dist. No. 11/Evans)(IEPA File No. 443-05-AC)(Consolidated: AC 06-16 and AC 06-17	Municipal Building 2 nd Floor Commission Room 200 W. Douglas Jacksonville
5/17/07 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago

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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