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# Environmental Register

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Claire A. Manning, Chairman

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# Letter from the Chairman

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The spring session of the Illinois General Assembly is in full swing in Springfield. Lawmakers have been busy introducing more than 4,000 bills for consideration. Many of those bills deal with environmental issues. The Board is monitoring the progress of the environmentally related bills through the legislative process.



Several bills that have been introduced in the 92nd General Assembly deal with emissions standards for coal-fired generating units. Several measures proposed by lawmakers would impose new air emission standards for coal-fired electric generating units operating in Illinois. Lawmakers are being asked to consider legislation concerning NOx emissions trading budget for new electrical generating units. Water quantity issues are the focus of several bills this session. Lawmakers are also being asked to consider a bill that would require the Illinois Environmental Protection Agency to conduct a comprehensive review of permit applications for the cumulative effect of a facility on air, water, land, and noise pollutants.

You can track environmentally related bills on the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). The bills being tracked by the Board are listed under the Legislation section. This section is updated weekly or more frequently. This section also includes links to the Illinois General Assembly Web site so you can access the text of the bill and find out the status of the legislation.

While you are visiting the Board's Web site to track legislation, we ask that you take a few moments to fill out a short survey. We are in the process of modifying our Web site and we want to know what areas are most useful to you and what you would like to see included on the site. If you have not completed your survey from last month's issue of the *Environmental Register*, we would encourage you to do so. Your opinions are needed to help improve both the *Environmental Register* and the Board's Web site.

If you have any questions about environmentally related legislation or the surveys in the *Environmental Register* or on the Board's Web site you may contact the Board's Public Information Officer, Connie Newman, at 217/782-7630 or by email at [newmanc@ipcb.state.il.us](mailto:newmanc@ipcb.state.il.us).

Sincerely,

A handwritten signature in cursive script that reads "Claire A. Manning". The signature is written in dark ink on a light background.

Claire A. Manning, Chairman

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## Federal Update

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### **United States Environmental Protection Agency Delays Effective Date for Certain Opacity Monitoring Requirements of Standards of Performance for New Stationary Sources Under the Clean Air Act**

On February 6, 2001, USEPA temporarily delayed for 60 days the effective date of the rule entitled Amendments to Standards of Performance for New Stationary Sources; Monitoring Requirements, published in the *Federal Register* on August 10, 2000 (65 Fed. Reg. 48914). 66 Fed. Reg. 9034. USEPA took this action in accordance with a memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled “Regulatory Review Plan”, published in the *Federal Register* on January 24, 2001.

The rule revises monitoring requirements to Performance Specification 1 (PS-1) of appendix B to 40 CFR Part 60. The revisions clarify and update requirements for source owners and operators who must install and use continuous stack or duct opacity monitoring equipment. The revisions also update design and performance validation requirements for continuous opacity monitoring system equipment in appendix B, PS-1.

The effective date of the rule is delayed for 60 days, from February 6, 2001, to a new effective date of April 9, 2001. For further information contact David Mobley at 919/541-5536.

If amendments to the Illinois air rules are necessary, the Board would expect the Illinois Environmental Protection Agency 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 (1998)).

### **United States Environmental Protection Agency Conducting Additional Public Meeting and Hearing on Pretreatment Standards for Metal Products and Machinery**

On February 6, 2001, USEPA announced that it was conducting an additional public meeting and hearing on the pretreatment standards for the Metal Products and Machinery (MP&M) proposed rule in Chicago, Illinois on March 8, 2001. 66 Fed. Reg. 9058. USEPA proposed effluent limitations guidelines and standards for the MP&M Industry in the *Federal Register* on January 3, 2001 (66 Fed. Reg. 425).

The MP&M public meeting and pretreatment hearing will be held at USEPA Region 5 offices in the Metcalfe Federal Building, 77 W. Jackson Blvd., Room 331, Chicago, Illinois. For further information contact Michael Ebner at 202/260-5397; e-mail address: [ebner.michael@epa.gov](mailto:ebner.michael@epa.gov).

If rules are adopted by USEPA, the Board will include any necessary amendments in an upcoming identical in substance rulemaking pursuant to Sections 7.2 and 17.5 of the Environmental Protection Act (415 ILCS 5/7.2, 17.5 (1998)).

**United States Environmental Protection Agency Re-opens and Extends Public Comment Period for the Illinois Emissions Trading Program Under the Clean Air Act**

On February 8, 2001, USEPA reopened and extended the public comment period for Illinois' proposed air emissions trading program published on December 27, 2000 (65 Fed. Reg. 81799). 66 Fed. Reg. 9535.

In the proposed rule, USEPA proposed to approve Illinois' emissions trading program provided Illinois resolves certain issues prior to the end of the public comment period. Specifically, USEPA proposed that Illinois must: clarify the timeline and penalties for violating sources, satisfy USEPA's policy on environmental justice, provide for full-year offsets for new sources, commit to discount credits where emissions reductions are potentially accompanied by emission increases elsewhere, and commit to remedy any problems identified in its periodic program review.

USEPA solicited public comment on Illinois' proposed emission trading program and on USEPA's proposed action. At the request of several environmental groups, USEPA is reopening the comment period through March 26, 2001.

Comments must be received by March 26, 2001. For further information contact John Summerhays at 312/886-6067; e-mail address: [summerhays.john@epa.gov](mailto:summerhays.john@epa.gov).

The Board adopted the rules under consideration by USEPA in Emissions Reduction Market System: Adoption of 35 Ill. Adm. Code 205 (November 20, 1997), R97-13. If amendments to the Illinois air rules are necessary, the Board would expect the Illinois Environmental Protection Agency 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 (1998)).

**United States Environmental Protection Agency Proposes Listing of Hazardous Waste for Paint Production Wastes Under the Resource Conservation and Recovery Act**

On February 13, 2001, USEPA proposed to amend the regulations for hazardous waste management under the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. §§ 6901 *et seq.* (1998)) by listing as hazardous certain waste solids and liquids generated from the production of paint. 66 Fed. Reg. 10059. USEPA proposed a concentration-based listing approach for each of these wastes.

Under the proposal, the identified paint production wastes are hazardous if they contain any of the constituents of concern at concentrations that meet or exceed regulatory levels. Generators must determine whether their wastes are listed hazardous wastes. If their wastes are below regulatory levels for all constituents of concern, then their wastes are nonhazardous.

USEPA also proposed a contingent management option for waste liquids. These wastes would not be subject to the listing if they are stored or treated exclusively in tanks or containers prior to discharge to a publicly owned treatment works or discharged under a Clean Water Act (33 U.S.C. §§ 1251 *et seq.* (1998)) national pollutant discharge elimination system permit. The proposal would also add the toxic constituents n-butyl alcohol, ethyl benzene, methyl isobutyl ketone, styrene, and xylenes found in these identified wastes to the list of constituents that serves as the basis for classifying wastes as hazardous, and to establish treatment standards for the wastes.

Due to uncertainties in USEPA's assessment of the management of paint manufacturing waste liquids in surface impoundments, USEPA is also considering an alternative proposal not to list paint manufacturing waste liquids. If the paint production wastes are listed as hazardous waste, then they will be subject to stringent management and treatment standards under Subtitle C of RCRA. Additionally, the action proposes to designate these wastes as hazardous substances subject to the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 *et seq.* (1998)) and to adjust the one pound statutory reportable quantities for these substances.

Comments must be received by April 16, 2001. For general information, contact the RCRA Hotline at 800/424-9346. For information on specific aspects of the rule, contact Patricia Cohn at 703/308-8675; e-mail address: [cohn.patricia@epa.gov](mailto:cohn.patricia@epa.gov) or David Carver at 703/308-8603; e-mail address: [carver.david@epa.gov](mailto:carver.david@epa.gov). For technical information on the CERCLA aspects of this proposed rule, contact Lynn Beasley at 703/603-9086; e-mail address: [beasley.lynn@epa.gov](mailto:beasley.lynn@epa.gov).

If rules are adopted by USEPA, the Board will include any necessary amendments in a future RCRA identical in substance rulemaking pursuant to Sections 7.2 and 22.4 of the Environmental Protection Act (415 ILCS 5/7.2, 22.4 (1998)).

### **United States Environmental Protection Agency Delays Effective Date of Revisions to the Clean Water Act Regulatory Definition of “Discharge of Dredged Material”**

On February 15, 2001, USEPA temporarily delayed the effective date of “Further Revisions to the Clean Water Act Regulatory Definition of ‘Discharge of Dredged Material’,” published in the *Federal Register* on January 17, 2001 (66 Fed. Reg. 4549). 66 Fed. Reg. 10367. USEPA took this action in accordance with a memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled “Regulatory Review Plan”, published in the *Federal Register* on January 24, 2001.

The rule amends Clean Water Act (33 U.S.C. §§ 1251 *et seq.* (1998)) Section 404 regulations defining “discharge of dredged material.” The effective date of the proposed rule is delayed for 60 days, from February 16, 2001, to a new effective date of April 17, 2001. For further information contact Cynthia Puskar at 202/260-8532.

### **United States Environmental Protection Agency Delays Effective Date of Certain Community Right-to-Know Toxic Chemical Release Reporting Requirements for Lead and Lead Compounds**

On February 16, 2001, USEPA temporarily delayed for 60 days the effective date of the rule entitled Lead and Lead Compounds; Lowering of Reporting Thresholds; Community Right-to-Know Toxic Chemical Release Reporting, published in the *Federal Register* on January 17, 2001 (66 Fed. Reg. 4500). 66 Fed. Reg. 10585. USEPA took this action in accordance with a memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled “Regulatory Review Plan”, published in the *Federal Register* on January 24, 2001.

The rule lowers the reporting thresholds for lead and lead compounds which are subject to reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. §§ 11001 *et seq.* (1998)) and Section 6607 of the Pollution Prevention Act of 1990 (42 U.S.C. §§ 13101 *et seq.* (1998)). The reporting thresholds are being lowered to 100 pounds. The lower reporting thresholds apply to lead and all lead compounds except for lead contained in stainless steel, brass, and bronze alloys. The first reports at the lower thresholds are due on or before July 1, 2002, for the 2001 calendar year.

The effective date of the rule is delayed for 60 days, from February 16, 2001, to a new effective date of April 17, 2001. For further information contact Daniel Bushman at 202/260-3882; e-mail address: [bushman.daniel@epa.gov](mailto:bushman.daniel@epa.gov).

### **United States Environmental Protection Agency Stays Compliance Date of NESHAP Emissions for Process Contact Cooling Towers for Existing Sources Producing PET Using the Continuous TPA High Viscosity Multiple End Finisher Process in Final Rule Under Clean Air Act**

On February 23, 2001, USEPA issued a final rule amendment to indefinitely stay the current compliance date of February 27, 2001, for the provisions pertaining to process contact cooling towers (PCCT) for existing affected sources producing polyethylene terephthalate (PET) using the continuous terephthalic acid (TPA) high viscosity multiple end finisher process. 66 Fed. Reg. 11233.

On August 29, 2000, USEPA issued a direct final rule (65 Fed. Reg. 52319) and a parallel proposal (65 Fed. Reg. 52392) to stay the compliance date indefinitely because USEPA is in the process of responding to a request to reconsider relevant portions of the rule which may result in changes to the emission limitation applying to PCCT in this subcategory. On September 2000, USEPA received an adverse comment on the direct final rule for an indefinite stay of compliance. Therefore, USEPA withdrew the direct final rule (65 Fed. Reg. 64161 (October 26, 2000)). After considering the comments received, USEPA is promulgating the indefinite stay of compliance through this amendment.

The final rule is effective on February 23, 2001. For further information contact Robert E. Rosensteel at 919/541-5608; e-mail address: rosensteel.bob@epa.gov.

### **United States Environmental Protection Agency Extends Compliance Dates for NESHAP Emissions for Group IV Polymers and Resins for PET Sources in Final Rule Under Clean Air Act**

On February 26, 2001, USEPA took direct final action to extend certain compliance dates contained in national emission standards for hazardous air pollutant emissions (NESHAP) for Group IV polymers and resins for the equipment leaks provisions as applied to polyethylene terephthalate (PET) affected sources. 66 Fed. Reg. 11543. USEPA approved the compliance extension pursuant to Section 301(a)(1) of the Clean Air Act (42 U.S.C. §§ 7401 *et seq.* (1998)) to complete reconsideration of equipment leaks provisions and any necessary revision to the rule.

The rule is effective April 27, 2001. For further information contact Keith Barnett at 919/541-5605; e-mail address: barnett.keith@epa.gov.

Pursuant to Section 9.1(b) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(b) (1998)), once adopted by USEPA, NESHAP rules are applicable and enforceable under the Act without further action by the Board.

### **United States Environmental Protection Agency Proposes to Extend Certain Compliance Dates Contained in NESHAP Emissions for Group IV Polymers and Resins for PET Affected Sources Under Clean Air Act**

On February 26, 2001, USEPA proposed to extend certain compliance dates contained in national emissions standards for hazardous air pollutant (NESHAP) emissions for Group IV polymers and resins for polyethylene terephthalate (PET) affected sources. 66 Fed. Reg. 11550.

USEPA is proposing the compliance extension pursuant to Section 301(a)(1) of the Clean Air Act (42 U.S.C. §§ 7401 *et seq.* (1998)) to complete reconsideration of equipment leaks provisions and any necessary revision to the rule. USEPA is approving the extension of compliance dates as a direct final rule without prior proposal because it is a noncontroversial revision and USEPA anticipates no adverse comment.

Written comments must be received by March 28, 2001. For further information contact Keith Barnett at 919/541-5605; e-mail: barnett.keith@epa.gov.

Pursuant to Section 9.1(b) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(b) (1998)), once adopted by USEPA, NESHAP rules are applicable and enforceable under the Act without further action by the Board.

## Rule Update

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### **Board Accepts Proposal for Hearing in Site Remediation Program: Proposed 35 Ill. Adm. Code 740.Subpart H (Schools, Public Parks, and Playgrounds), R01-29**

On February 1, 2001, the Board accepted a proposal from Citizens for a Better Environment (CBE) for hearing. On January 26, 2001, CBE filed a rulemaking proposal pursuant to Section 27(a) of the Environmental Protection Act (Act) (415 ILCS 5/27(a) (1998)), and 35 Ill. Adm. Code 102.200 and 102.202 of the Board's procedural rules, effective January 1, 2001. The proposed rulemaking would amend the Site Remediation Program (SRP) rules, adopted by the Board on June 5, 1997. See Site Remediation Program (Brownfields) and Groundwater Quality (35 Ill. Adm. Code 740 and 35 Ill. Adm. Code 620) (June 5, 1997), R97-011. The SRP is a voluntary program under which participants may clean up sites where contaminants are present. The proposed amendments would add a new Subpart H: requirements related to schools, public parks and playgrounds.

CBE's proposal is the second recent proposal filed with the Board to amend the SRP rules. On January 12, 2001, the Illinois Environmental Protection Agency (Agency) also filed a rulemaking proposal to amend the SRP rules. The Board accepted the Agency's proposal for hearing on January 18, 2001. See Site Remediation Program: Amendments to 35 Ill. Adm. Code 740 (January 18, 2001), R01-27. The Agency's proposal seeks to amend the SRP rules based on the experience gained by the Agency in administering the rules for over three years. The Board found that the issues raised in both R01-27 and R01-29 can be expeditiously addressed at the same time, and thus consolidated these rulemakings for the purpose of hearing. On February 14, 2001, CBE filed a supplement to its statement of reasons to clarify minor deficiencies noted in the Board's February 1, 2001 order.

Hearings on these proposals will be scheduled in the near future. For additional information contact: Bobb Beauchamp at 312/814-6926; e-mail address: beauchab@ipcb.state.il.us.

### **Board Adopts Second Notice Proposal in Proposed Amendments to 35 Ill. Adm. Code 217.Subpart V, Electric Power Generation, R01-16**

On February 15, 2001, the Board proposed rules to amend 35 Ill Adm. Code 217.Subpart V, Electric Power Generation for second notice review by the Joint Committee on Administrative Rules. The second notice proposal adopts substantially the same proposal filed with the Board by the Illinois Environmental Protection Agency (Agency) on October 16, 2000. The Board adopted the rules as proposed by the Agency for first notice on October 19, 2000. See Proposed Amendments to 35 Ill. Adm. Code 217.Subpart V, Electric Power Generation (October 19, 2000), R01-16. The first notice rules were published in the *Illinois Register* on November 3, 2000. 45 Ill. Reg. 16,200.

The Board held public hearings in this matter in Chicago, Illinois, on November 28 and December 19, 2000. Section 28.5 of the Environmental Protection Act (Act) (415 ILCS 5/28.5 (1998)) provides for "fast-track" adoption of certain regulations necessary for compliance with the federal Clean Air Act. The record in this matter closed on January 5, 2001, as required by Section 28.5(1) of the Act. 415 ILCS 5/28.5(1) (1998). On December 26, 2000, the Agency filed a motion to amend the rules adopted for first notice, and an Analysis of Economic and Budgetary Effects of Proposed Rulemaking. The Board also received three timely filed public comments.

For additional information contact: Bobb Beauchamp at 312/814-6926; e-mail address: beauchab@ipcb.state.il.us.

**Board Adopts Second Notice Proposal in Proposed New 35 Ill. Adm. Code 217.Subpart U, No<sub>x</sub> Control and Trading Program for Specified No<sub>x</sub> Generating Units, Subpart X, Voluntary No<sub>x</sub> Emissions Reduction Program, and Amendments to 35 Ill. Adm. Code 211, R01-17**

On February 15, 2001, the Board proposed rules to add two new subparts to 35 Ill. Adm. Code Part 217 of the Board's air regulations for second notice review by the Joint Committee on Administrative Rules. Subpart U will implement Sections 9.9(b), (c), (d)(2), and (d)(4) of the Environmental Protection Act (Act) (415 ILCS 5/9.9(b), (c), (d)(2), (d)(4) (1998)) by capping the emissions of nitrogen oxides (NO<sub>x</sub>) during the ozone control period (May 1 through September 30 of each year beginning in 2004) and implementing the federal NO<sub>x</sub> trading program for specified NO<sub>x</sub> electrical generating units (EGU). The units subject to this rulemaking are often referred to as large non-EGUs.

Subpart X will implement Section 9.9(d) of the Act by providing a method for the generation of additional NO<sub>x</sub> allowances for use by units subject to the requirements of Subparts U or W. These allowances will be generated by voluntary reductions at sources other than large EGU's and large non-EGUs. Also adopted for second notice are two conforming amendments to Part 211: Definitions and General Provisions.

The Illinois Environmental Protection Agency (Agency) filed this rulemaking proposal with the Board on October 16, 2000. The Board adopted the rules as proposed by the Agency for first notice on October 19, 2000. See Proposed New 35 Ill. Adm. Code 217.Subpart U, NO<sub>x</sub> Control And Trading Program For Specified NO<sub>x</sub> Generating Units, Subpart X, Voluntary NO<sub>x</sub> Emissions Reduction Program, and Amendments to 35 Ill. Adm. Code 211 (October 19, 2000), R01-17. The first notice rules were published in the *Illinois Register* on November 13, 2000. 45 Ill. Reg. 16,452, 16,467.

The Board held public hearings in this matter in Chicago, Illinois, on November 29 and December 20, 2000. Section 28.5 of the Act provides for "fast-track" adoption of certain regulations necessary for compliance with the federal Clean Air Act. The record in this matter closed on January 9, 2001, as required by Section 28.5(1) of the Act. The Board received four timely filed public comments.

For additional information contact: Bobb Beauchamp at 312/814-6926; e-mail address: beauchab@ipcb.state.il.us.

**Board Dismisses Livestock Waste Regulations 35 Ill. Adm. Code 506, R01-18**

On February 15, 2001, the Board closed this docket as unnecessary, since the subject matter is being handled in a new rulemaking. On the same day the Board issued a first-notice opinion and order in Livestock Waste Regulations 35 Ill. Adm. Code 506, R01-28, in response to a January 22, 2001 proposal from the Department of Agriculture to amend the Board's rules at 35 Ill. Adm. Code 506. See update with regard to R01-28 below.

For additional information contact: Carol Sudman at 217/524-8509; e-mail address: sudmanc@ipcb.state.il.us.

**Board Adopts Proposal for Public Comment in UIC Update, USEPA Amendments (July 1, 2000 through December 31, 2000), R01-21 and RCRA Subtitle C Update, USEPA Amendments (July 1, 2000 through December 31, 2000), R01-23 (Consolidated)**

On February 15, 2001, the Board proposed for public comment, amendments to the Illinois regulations that are identical in substance to the underground injection control (UIC) regulations that USEPA adopted to implement Section 1421 of the federal Safe Drinking Water Act (SDWA) (42 U.S.C. § 300h (1998)). The Board also proposed amendments to the Illinois regulations that are identical in substance to the hazardous waste regulations that USEPA adopted to implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C) (42 U.S.C. §§ 6921 *et seq.* (1998)).



The Board consolidated the R01-21 UIC update docket with the R01-23 RCRA Subtitle C update docket in the interest of administrative economy. Both dockets cover the same time period. The only federal amendments to the UIC regulations involved in docket R01-21 occurred on November 8, 2000, as a segment of a larger federal rulemaking to amend the RCRA Subtitle C regulations.

Sections 13(c) and 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/13(c), 22.4(a) (1998)) provide for quick adoption of regulations that are identical in substance to federal UIC regulations that USEPA adopts to implement Section 1421 of SDWA (42 U.S.C. § 300h (1998)). Similarly, Sections 7.2 and 22.4(a) provide for quick adoption of regulations that are identical in substance to federal regulations that USEPA adopts to implement Sections 3001 through 3005 of RCRA (42 U.S.C. §§ 6921-6925 (1998)). Sections 13(c) and 22.4(a) also provide that Title VII of the Act and Section 5 of the Administrative Procedure Act (5 ILCS 100/5-35, 5-40 (1998)) do not apply to the Board's adoption of identical-in-substance regulations. The federal UIC regulations are found at 40 C.F.R. 144 through 148. The federal RCRA Subtitle C regulations are found at 40 C.F.R. 260 through 266, 268, 270, 271, 273, and 279.

The proposal for public comment will be published in the *Illinois Register* on March 9, 2001. The Board will accept written public comments for at least 45 days after the date of publication. The public comment period expires on April 23, 2001.

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

**Board Adopts First Notice Proposal in Amendments to Livestock Waste Regulations (35 Ill. Adm. Code 506), R01-28**

On February 15, 2001, the Board proposed rules to amend 35 Ill. Adm. Code 506 for first notice publication in the *Illinois Register*. On January 22, 2001, the Illinois Department of Agriculture (Department) filed a proposal to amend the Board's livestock waste regulations at 35 Ill. Adm. Code 506. The proposal results from recent amendments to the Livestock Management Facilities Act (LMFA) (510 ILCS 77/1 *et seq.* (1998), see Pub. Act 90-565, eff. January 2, 1998; and Pub. Act 91-110, eff. July 13, 1999).

The Department's proposal seeks to achieve two outcomes necessitated by the recent amendments to the LMFA. First, the Department proposes, for Board promulgation, design and construction standards for livestock waste lagoons and livestock waste handling facilities other than lagoons. Second, the Department seeks to repeal certain administrative regulatory requirements, which had originally been promulgated as Board Part 506 rules. The Department thinks that these Board rules have been effectively superseded by rules recently promulgated by the Department. See 8 Ill. Adm. Code 900, effective January 1, 2001. In an effort to expedite this rulemaking, the Board moves to first notice without commenting on the merits of the Department's proposal.

The proposal for public comment will be published in the *Illinois Register* on February 23, 2001. The Board will accept written public comments for at least 45 days after the date of publication. Hearings have been scheduled for April 2, 2001 in Chicago and April 17, 2001 in Springfield. The public comment period expires on April 9, 2001.

For additional information contact: Carol Sudman at 217/524-8509; e-mail address: [sudmanc@ipcb.state.il.us](mailto:sudmanc@ipcb.state.il.us).

## Board Actions

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February 1, 2001  
Via Video Conference Between  
Springfield and Chicago, Illinois

### Rulemakings

- R01-13      In the Matter of: Revisions to Antidegradation Rules: 35 Ill. Adm. Code 302.105, 303.205, 303.206, and 106.990–106.995 – The Board denied the motions of the Illinois Environmental Regulatory Group and the Illinois Steel Group to strike the testimony of David L. Thomas.      6-0  
R, Water
- R01-16      In the Matter of: Proposed Amendments to 35 Ill. Adm. Code 217.Subpart V, Electrical Power Generation – The Board entered an order requesting the Illinois Environmental Protection Agency (Agency) to provide any additional comments or information it may have about the United States District Court for the District of Columbia’s order entered in Sierra Club v. Browner, Case No. 98-2733 (D.D.C. January 29, 2001) and USEPA’s reaction to it, as well as the Agency’s opinion about the impact the District Court’s order has on this proposal and the State of Illinois. The Agency’s response is due no later than February 7, 2001.      6-0  
R, Air
- R01-29      In the Matter of: Site Remediation Program: Proposed 35 Ill. Adm. Code 740.Subpart H (Schools, Public Parks, and Playgrounds) – The Board on its own motion consolidated this matter with docket R01-27, Site Remediation Program: Amendments to 35 Ill. Adm. Code 740, waived the 200-signature requirement of 35 Ill. Adm. Code 102.202(f), and accepted this matter for hearing. The Board ordered Citizens for a Better Environment to file, no later than February 16, 2001, a supplement to its petition that: (1) discusses the applicable factors listed in Section 27(a) of the Act; and (2) contains a written statement or certification that the proposal amends the most recent version of the Site Remediation Program rules.      6-0  
R, Land

### Adjusted Standards

- AS 00-15      In the Matter of: Petition of Heritage Environmental Services, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 702.126(d)(1) – The Board granted this Cook County facility an adjusted standard, subject to conditions, from certain requirements found at 35 Ill. Adm. Code 702.126(d)(1).      6-0  
Land, RCRA
- AS 01-2      In the Matter of: Petition of the City of Geneva for an Adjusted Standard from 35 Ill. Adm. Code 807.104 – The Board entered an order requesting that the petitioner submit additional materials referred to in its petition by February 15, 2001. The Illinois Environmental Protection Agency has until March 1, 2001, to comment on the requested materials.      6-0  
Land

### Administrative Citations

AC 01-20	<u>IEPA v. John Prior &amp; Prior Oil Company</u> – The Board found that these Washington County respondents violated Sections 21(p)(1) and 21(p)(3) of the Act (415 ILCS 5/21(p)(1), 21(p)(3) (1998)), and ordered respondents to pay a civil penalty of \$3,000.	6-0
AC 01-21	<u>IEPA v. David Jacobs</u> – The Board found that this Peoria County respondent violated Section 21(p)(1) of the Act (415 ILCS 5/21/(p)(1) (1998)), and ordered respondent to pay a civil penalty of \$1,500.	6-0
AC 01-22	<u>IEPA v. Leroy P. David</u> – The Board accepted for hearing this petition for review of an administrative citation against this Peoria County respondent.	6-0

### Adjudicatory Cases

#### Decisions

PCB 99-182	<u>Bob and Sharon Lamma v. Office of the State Fire Marshal</u> – The Board affirmed the April 19, 1999 eligibility decision of the Office of the State Fire Marshal in this underground storage tank appeal involving a Sangamon County facility.	6-0 UST-FRD
PCB 00-32	<u>People of the State of Illinois v. Osborn Homes, Inc.</u> – In this public water supply enforcement action concerning a Madison County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (1998)), accepted a final stipulation and settlement agreement, ordered the respondent to pay a civil penalty of \$7,500, and cease and desist from further violations.	6-0 PWS-E
PCB 01-74	<u>Marathon Ashland Petroleum L.L.C. v. IEPA</u> – The Board granted petitioner a variance from 35 Ill. Adm. Code 302.102(b)(6), 302.208(g) and 303.323(b) for its Robinson petroleum refinery in Crawford County, subject to conditions.	6-0 W-V

### Motions and Other Matters

PCB 96-141	<u>Butterick Company, Inc. v. IEPA</u> – The Board granted petitioner's motion to voluntarily dismiss these underground storage tank appeals involving a Cook County facility.	6-0
PCB 99-44		UST-Appeal
PCB 99-186		
(Cons.)		

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PCB 97-2	<u>People of the State of Illinois v. Jersey Sanitation Corporation</u> – The Board granted complainant’s motion for leave to file a second amended complaint and accepted the amended complaint.	6-0 A,W & L-E
PCB 99-191	<u>People of the State of Illinois v. Panhandle Eastern Pipe Line Company</u> – The Board denied respondent’s motion for reconsideration of its November 16, 2000 order. The Board affirmed the hearing officer’s rulings made during the hearings held in this matter from September 18-22, 2000, and November 28-29, 2000.	6-0 A-E
PCB 00-5	<u>Naperville Radiator Services v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a DuPage County facility.	6-0 UST-FRD
PCB 00-199	<u>People of the State of Illinois v. Dassinger Hard Chrome, 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 Cook County facility, the Board ordered publication of the required newspaper notice.	6-0 A-E
PCB 01-10	<u>Sparta Airport Authority v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Randolph County facility.	6-0 UST-FRD
PCB 01-48 PCB 01-49 (Cons.)	<u>Community Landfill Company and City of Morris v. IEPA</u> – The Board denied respondent’s motion for partial summary judgment.	6-0 P-A, Land
PCB 01-81	<u>Wareco Service, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Rock Island County facility.	6-0 UST-Appeal
PCB 01-84	<u>Wareco Service, Inc. v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Morgan County facility.	6-0 UST-FRD
PCB 01-87	<u>Wareco Service, Inc. v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Fayette County facility.	6-0 UST-FRD
PCB 01-107	<u>Illinois State Toll Highway Authority (Des Plaines Oasis – South) v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.	6-0 UST-Appeal 90-Day Ext.

## Environmental Register – February 2001

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PCB 01-108	<u>Johnston City CUSD #1 v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Williamson County facility.	6-0 UST-Appeal 90-Day Ext.
PCB 01-109	<u>Kean Brothers v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.	6-0 UST-Appeal 90-Day Ext.
PCB 01-110	<u>Bulkoa, Inc. v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.	6-0 UST-FRD 90-Day Ext.

### February 15, 2001 Via Video Conference Between Springfield and Chicago, Illinois

#### Rulemakings

R01-16	<u>In the Matter of: Proposed Amendments to 35 Ill. Adm. Code 217.Subpart V, Electrical Power Generation</u> – The Board adopted a second notice opinion and order in this matter to amend the Board’s air pollution control regulations.	7-0 R, Air
R01-17	<u>In the Matter of: Proposed New 35 Ill. Adm. Code 217.Subpart U, NO<sub>x</sub> Control and Trading Program for Specified NO<sub>x</sub> Generating Units, Subpart X, Voluntary NO<sub>x</sub> Emissions Reduction Program, and Amendments to 35 Ill. Adm. Code 211</u> – The Board adopted a second notice opinion and order in this matter to amend the Board’s air pollution control regulations.	7-0 R, Air
R01-18	<u>In the Matter of: Livestock Waste Regulations, 35 Ill. Adm. Code 506, Conforming Amendments to 8 Ill. Adm. Code 900</u> – The Board on its own motion dismissed this docket as unnecessary. On January 22, 2001, the Board received from the Department of Agriculture a new proposal to amend the Board’s livestock waste regulations docketed as R01-28 (see below).	7-0 R, Land

## Environmental Register – February 2001

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R01-21	<u>In the Matter of: UIC Update, USEPA Amendments (July 1, 2000 through December 31, 2000); and In the Matter of: RCRA Subtitle C Update, USEPA Amendments (July 1, 2000 through December 31, 2000)</u> – The Board on its motion consolidated these dockets and adopted a proposal for public comment in these “identical-in-substance” rulemakings to amend the Board’s underground injection control and hazardous waste regulations.	7-0
R01-23 (Cons.)		R, Land
R01-28	<u>In the Matter of: Amendments to Livestock Waste Regulations, 35 Ill. Adm. Code 506</u> – The Board accepted for hearing the Department of Agriculture’s January 22, 2001 proposal to amend the Board’s livestock waste regulations, granted the motion to waive the filing requirement of nine copies of documents, and adopted a first notice opinion and order in this matter.	7-0 R, Land

### Administrative Citations

AC 01-23	<u>County of LaSalle v. Clarence and Janet Benson</u> – The Board found that these LaSalle County respondents violated Section 21(p)(1) of the Act (415 ILCS 5/21/(p)(1) (1998)), and ordered respondents to pay a civil penalty of \$1,500.	7-0
AC 01-24	<u>IEPA v. John Prior &amp; Prior Oil Company</u> – The Board found that these Washington County respondents violated Section 21(p)(1) of the Act (415 ILCS 5/21/(p)(1) (1998)), and ordered respondents to pay a civil penalty of \$1,500.	7-0
AC 01-25	<u>County of LaSalle v. Mike and Janet Brown</u> – The Board found that these LaSalle County respondents violated Section 21(p)(1) of the Act (415 ILCS 5/21/(p)(1) (1998)), and ordered respondents to pay a civil penalty of \$1,500.	7-0

### Adjudicatory Cases

#### Decisions

PCB 99-19	<u>Anthony and Karen Roti, Paul Rosenstock, and Leslie Weber v. LTD Commodities</u> – The Board entered an interim opinion and order which found that respondent violated the nuisance noise provisions of the Act (415 ILCS 5/24 (1998)) and the Board’s regulations found at 35 Ill. Adm. Code 900.102. The Board found that respondent had not violated the Board’s numeric noise rules at 35 Ill. Adm. Code 901.102(a), 901.102(b), and 901.104. The Board ordered this matter to hearing on an expedited basis for the parties to address appropriate remedies.	7-0 A-E, Citizens
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## Environmental Register – February 2001

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PCB 00-92	<u>Stephen M. Lardner v. Dominick's Finer Foods, Inc., the Landowner of Longmeadow Commons, Waste Management, Mundelein Disposal, and Onyx Waste Services f/k/a BFI</u> – The Board did not accept the January 17, 2001 stipulation and settlement agreement between complainant and Mundelein Disposal, noting that the Board cannot waive the statutory requirement that a hearing on the stipulation be held pursuant to Section 31(d) of the Environmental Protection Act (415 ILCS 5/31(d) (1998)).	7-0 N-E, Citizens
PCB 00-199	<u>People of the State of Illinois v. Dassinger Hard Chrome, Inc.</u> – In this air enforcement action concerning a Cook County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (1998)), accepted a final stipulation and settlement agreement, ordered the respondent to pay a civil penalty of \$2,500, and cease and desist from further violations.	7-0 A-E
PCB 00-209	<u>People of the State of Illinois v. Cro-Mat Company</u> – In this air enforcement action concerning a Cook County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (1998)), accepted a final stipulation and settlement agreement, ordered the respondent to pay a civil penalty of \$3,000, and cease and desist from further violations.	7-0 A-E
PCB 01-8	<u>People of the State of Illinois v. Larry Barry, Inc. d/b/a Larry's Marathon Warehouse</u> – In this land enforcement action concerning a Christian County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (1998)), accepted a final stipulation and settlement agreement, ordered the respondent to pay a civil penalty of \$2,500, and cease and desist from further violations.	7-0 L-E, Tires

### Provisional Variance

PCB 01-114	<u>CID Recycling and Disposal Facility v. IEPA</u> – Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted a two day provisional variance to this Cook County facility from the 90-day limitation on the accumulation of hazardous wastes, as set forth in 35 Ill. Adm. Code 722.134(b)	7-0 L-V
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### Motions and Other Matters

PCB 98-148	<u>People of the State of Illinois v. Doren Poland, Lloyd Yoho, and Briggs Industries, Inc.</u> – The Board affirmed the Hearing Officer's December 20, 2000 order and ordered respondent Briggs Industries, Inc. to produce the requested documents within 7 days of the date of this order.	7-0 L-E
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## Environmental Register – February 2001

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PCB 98-169	<u>Union Oil Company of California d/b/a Unocal v. Barge-Way Oil Company, Inc., and Joseph Kellogg</u> – The Board denied respondent Barge-Way Oil Company’s motion for summary judgment and granted its motion to file an amended third-party complaint. The Board denied the motion of Robert Atkins and Barge-Way Systems, Inc. to dismiss the third-party complaint. The Board found that the amended complaint was neither duplicitous nor frivolous, and accepted this matter for hearing.	6-1 Flemal dissented  UST-E, Citizens
PCB 00-171	<u>People of the State of Illinois v. City of Charleston</u> – Upon receipt of a request to conduct a public hearing, the Board denied the parties’ motion for relief from hearing and ordered that this proposed stipulation and settlement agreement proceed to hearing.	7-0 W-E
PCB 01-30	<u>Stuart C. Nuss v. Village of Durand</u> – The Board dismissed this action for complainant’s failure to properly serve the Village of Durand with a copy of the amended complaint.	7-0 W-E, Citizens
PCB 01-57	<u>G.J. Leasing Company, Inc. v. IEPA</u> – The Board dismissed this matter due to this St. Clair County petitioner’s failure to file an amended petition pursuant to a December 7, 2000 Board order.	7-0 UST-FRD
PCB 01-68	<u>Roger Stone v. IEPA and Naperville Park District</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal involving a DuPage County facility.	7-0 P-A, NPDES
PCB 01-73	<u>A.E. Staley Manufacturing Company v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal involving a Macon County facility.	7-0 P-A, Air
PCB 01-74	<u>Marathon Ashland Petroleum L.L.C. v. IEPA</u> – The Board granted petitioner’s to withdraw its motion to amend the Board’s February 1, 2001 order in this matter.	7-0 W-V
PCB 01-77	<u>Village of Park Forest v. Sears, Roebuck &amp; Company</u> – The Board found that the alleged violations in the complaint were neither duplicitous nor frivolous, denied respondent’s motion to stay, granted respondent’s application for treatment of certain information as “not subject to disclosure,” and accepted this matter involving a Cook County facility for hearing. The request for a pre-hearing conference was referred to the hearing officer for disposition.	6-1 Flemal dissented  UST-E Citizens
PCB 01-89	<u>Nash Petroleum, Inc. v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Cook County facility.	7-0 UST-FRD



## Environmental Register – February 2001

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PCB 01-93	<u>Strunk Motor Company v. Office of the State Fire Marshal</u> – The Board dismissed this matter due to this Macoupin County petitioner’s failure to file an amended petition pursuant to a January 4, 2001 Board order.	7-0 UST-FRD
PCB 01-111	<u>People of the State of Illinois v. David Livingston, individually, and Brian Siple, individually and d/b/a BCS Farms</u> – The Board accepted for hearing this water enforcement matter involving a Stephenson County facility.	7-0 W-E
PCB 01-112	<u>Prairie Rivers Network v. IEPA and Black Beauty Coal Company</u> – The Board accepted for hearing this third party permit appeal involving a Vermilion County facility.	7-0 P-A, NPDES, Third Party
PCB 01-113	<u>Dennis and Wayne Swanson v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Kane County facility.	7-0 UST-Appeal

## New Cases

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### February 1, 2001 Board Meeting

**01-107** Illinois State Toll Highway Authority (Des Plaines Oasis – South) v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.

**01-108** Johnston City CUSD #1 v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Williamson County facility.

**01-109** Kean Brothers v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.

**01-110** Bulkoa, Inc. v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.

**AC 01-** IEPA v. Jack Busby – The Board accepted an administrative citation against this Marion County respondent.

**R01-28** In the Matter of: Livestock Waste Regulations, 35 Ill. Adm. Code 506, Construction Standards – No action taken.

**R01-29** In the Matter of: Site Remediation Program: Proposed 35 Ill. Adm. Code 740, Subpart H (Schools, Public Parks, and Playgrounds) – The Board on its own motion consolidated this matter with docket R01-27, Site Remediation Program: Amendments to 35 Ill. Adm. Code 740, waived the 200-signature requirement of 35 Ill. Adm. Code 102.202(f), and accepted this matter for hearing. The Board ordered Citizens for a Better Environment to file, no later than February 16, 2001, a supplement to their petition that: (1) discusses the applicable factors listed in Section 27(a) of the Act; and (2) contains a written statement or certification that the proposal amends the most recent version of the Site Remediation Program.

## February 15, 2001 Board Meeting

**01-111** People of the State of Illinois v. David Livingston, individually, and Brian Siple, individually and d/b/a BCS Farms – The Board accepted for hearing this water enforcement matter involving a Stephenson County facility.

**01-112** Prairie Rivers Network v. IEPA and Black Beauty Coal Company – The Board accepted for hearing this third party permit appeal involving a Vermilion County facility.

**01-113** Dennis and Wayne Swanson v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Kane County facility.

**01-114** CID Recycling and Disposal Facility v. IEPA – Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted a two day provisional variance to this Cook County facility from the 90-day limitation on the accumulation of hazardous wastes, as set forth in 35 Ill. Adm. Code 722.134(b).

**AC 01-27** IEPA v. Robert Swan and Perry Swan – The Board accepted an administrative citation against these Cass County respondents.

## Calendar

3/1/2001 11:00 AM		Illinois Pollution Control Board Meeting	Illinois Pollution Control Board Hearing Room 403 600 S. Second St. Springfield, Illinois
3/1/2001 2:00 PM	R01-14	In the Matter of: Proposed MTBE Groundwater Quality Standards Amendments: 35 Ill. Adm. Code 620	Illinois Pollution Control Board Hearing Room 403 600 S. Second St. Springfield, Illinois
3/13/2001 9:30 AM	AS 01-1	Petition of City of Elgin for an Adjusted Standard from 35 Ill. Adm. Code 304.125 and 302.204	Kane County Courthouse 100 S. Third St., Room 140 Geneva, Illinois
3/15/2001 11:00 AM		Illinois Pollution Control Board Meeting	James R. Thompson Center 100 W. Randolph St. Room 9-040 Chicago, Illinois
4/2/2001 10:00 AM	R01-28	In the Matter of: Amendments to Livestock Waste Regulations, 35 Ill. Adm. Code 506	James R. Thompson Center 100 W. Randolph St. Room 9-040 Chicago, Illinois
4/3/2001 10:00 AM	R01-026	In the Matter of: Amendments to Regulation of Petroleum Leaking Underground Storage Tanks: 35 Ill. Adm. Code 732	James R. Thompson Center 100 W. Randolph St. Room 2-025 Chicago, Illinois
4/4/2001 9:30 AM	R01-27 R01-29 (consol.)	In the Matter of: Site Remediation Program: Amendments to 35 Ill. Adm. Code 740	James R. Thompson Center 100 W. Randolph St. Room 2-025 Chicago, Illinois

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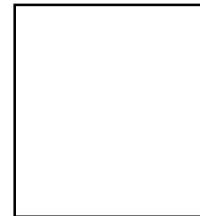
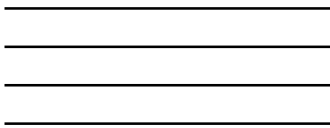
4/5/2001 11:00 AM		Illinois Pollution Control Board Meeting	James R. Thompson Center 100 W. Randolph St. Room 2-025 Chicago, Illinois
4/5/2001 1:30 PM	R01-014	In the Matter of: Proposed MTBE Groundwater Quality Standards Amendments: 35 Ill. Adm. Code 620	James R. Thompson Center 100 W. Randolph St. Room 8-033 Chicago, Illinois
4/9/2001 9:00 AM	AC 00-84	IEPA v. Day	City Council Chambers 102 N. Neil St. Champaign, Illinois
4/10/2001 9:00 AM	AC 00-84	IEPA v. Day	City Council Chambers 102 N. Neil St. Champaign, Illinois
4/10/2001 9:30 AM	PCB 00-122	People v. City of Lawrenceville, <i>et al.</i>	Lawrenceville City Hall Civic Center 700 E. State St. Lawrenceville, Illinois
4/11/2001 9:30 AM	PCB 00-122	People v. City of Lawrenceville, <i>et al.</i>	Lawrenceville City Hall Civic Center 700 E. State St. Lawrenceville, Illinois
4/12/2001 9:30 AM	PCB 00-122	People v. City of Lawrenceville, <i>et al.</i>	Lawrenceville City Hall Civic Center 700 E. State St. Lawrenceville, Illinois
4/13/2001 9:30 AM	PCB 00-122	People v. City of Lawrenceville, <i>et al.</i>	Lawrenceville City Hall Civic Center 700 E. State St. Lawrenceville, Illinois
4/17/2001 10:00 AM	PCB 00-171	People v. City of Charleston	Mattoon City Hall 2nd Floor Courtroom 208 N. 19th St. Mattoon, Illinois
4/17/2001 10:00 AM	R01-28	In the Matter of: Amendments to Livestock Waste Regulations, 35 Ill. Adm. Code 506	Illinois Pollution Control Board Hearing Room 403 600 S. Second St. Springfield, Illinois
4/19/2001 11:00 AM		Illinois Pollution Control Board Meeting	James R. Thompson Center 100 W. Randolph St. Room 9-040 Chicago, Illinois
4/24/2001 9:30 AM	PCB 00-127	People v. Rogers, <i>et al.</i>	Rockford State Office Bldg. Conf. Rooms A & B 4302 N. Main St. Rockford, Illinois



The Illinois Pollution Control Board is an independent seven-member board that adopts environmental control standards, rules on enforcement actions, and other environmental disputes for the State of Illinois.

The Environmental Register is published monthly by the Board, and contains updates on rulemakings, descriptions of final decisions, the Board's hearing calendar, and other environmental law information.

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