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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 Pollution Control Board is committed to the Governor's Performance Review Initiative to provide efficient and responsible service to the public. In this issue of the *Environmental Register*, you will find a survey to solicit your ideas on how we can improve the publication to help you in your dealings with the Board and with environmental law in general.

The survey asks you how useful each section of the *Environmental Register* is; if the information is understandable; and what information you would like to see included in the publication. We also ask what your profession is so we will have a better idea of who our readers are. You can use the back of the survey to explain your answers such as why you believe information should be included or excluded.



We hope to use the information gathered from the survey to improve and tailor the contents of both the *Environmental Register* and the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). The Board will also use the information when planning new initiatives. If more than one person in your office uses the *Environmental Register*, feel free to make several copies to distribute to all users. This will ensure that all constituents have a voice in changes to the content of the publication and Web site. Please mail to:

Connie Newman  
Public Information Officer  
Illinois Pollution Control Board  
600 S. Second Street, Suite 402  
Springfield, Illinois 62704

We are looking forward to your participation in the survey so we can better serve you in the future.

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

## Inside This Issue:

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FEDERAL UPDATE	P. 1
RULE UPDATE	P. 8
APPELLATE UPDATE	P. 10
IEPA RESTRICTED STATUS LIST	P. 12
IEPA CRITICAL REVIEW LIST	P. 13
BOARD ACTIONS	P. 14
NEW CASES	P. 22
BOARD CALENDAR	P. 23

## Federal Update

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United States Environmental Protection Agency Proposes Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Metal Products and Machinery Point Source Category

On January 3, 2001, USEPA proposed effluent limitations guidelines, pretreatment standards, and new source performance standards for the metal products and machinery point source category. 66 Fed. Reg. 423.

The proposal represents USEPA's second look at Clean Water Act (33 U.S.C. §§ 1251 *et seq.* (1998)) national effluent limitations guidelines and pretreatment standards for wastewater discharges from metal products and machinery facilities. USEPA initially proposed effluent limitations guidelines and pretreatment standards for a portion of this category on May 30, 1995 (60 Fed. Reg. 28210). This new proposal would completely replace the 1995 proposal.

The proposed regulation would establish technology-based effluent limitations guidelines and pretreatment standards for wastewater discharges associated with the operation of new and existing metal products and machinery facilities. The metal products and machinery industry includes facilities that manufacture, rebuild, or maintain metal products, parts, or machines.

USEPA estimates that compliance with this regulation will reduce the discharge of conventional pollutants by at least 115 million pounds per year, priority pollutants by 12 million pounds per year, and nonconventional metal and organic pollutants by 43 million pounds per year for an estimated compliance cost of \$1.98 billion annually. USEPA estimates that the annual benefits of the proposal range from \$0.4 billion to \$1.1 billion. In addition, the proposal solicits comment on new methodologies for expanding the analysis to include additional categories of recreational benefits.

Comments must be received by May 3, 2001. USEPA is conducting three public meetings in February on the proposed regulation. For further technical information contact Michael Ebner at 202/260-5397. For further economic information contact Dr. Lynne Tudor at 202/260-5834.

The Board will include any necessary amendments in an upcoming identical in substance rulemaking pursuant to Sections 7.2 and 13.3 of the Environmental Protection Act (415 ILCS 5/7.2, 13.3 (1998)).

## **United States Environmental Protection Agency Adopts Identification of Dangerous Levels of Lead in Final Rule**

On January 5, 2001, USEPA issued regulations under Section 403 of the Toxic Substances Control Act (TSCA) (15 U.S.C. §§ 2601 *et seq.* (1998)), as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as "Title X", to establish standards for lead-based paint hazards in most pre-1978 housing and child-occupied facilities. 66 Fed. Reg. 1205.

The regulation supports the implementation of regulations already promulgated, and others under development, which deal with worker training and certification, lead hazard disclosure in real estate transactions, requirements for lead cleanup under state authorities, lead hazard evaluation and control in federally-owned housing prior to sale and housing receiving federal assistance, and United States Department of Housing and Urban Development (HUD) grants to local jurisdictions to perform lead hazard control. In addition, the regulation establishes under authority of TSCA Section 402, residential lead dust cleanup levels and amendments to dust and soil sampling requirements and, under authority of TSCA Section 404, amendments to state program authorization requirements.

USEPA believes that by supporting implementation of the major provisions of Title X and by providing guidance to all owners and occupants of pre-1978 housing and child-occupied facilities, the regulation will help to prevent lead poisoning in children under the age of 6.

The final rule becomes effective March 6, 2001. For further information contact Dave Topping at 202/260-7737; e-mail address: [topping.dave@epa.gov](mailto:topping.dave@epa.gov).

## **United States Environmental Protection Agency Adopts Unregulated Contaminant Monitoring Regulation for Public Water Systems; Analytical Methods for List 2 Contaminants; Clarifications to the Unregulated Contaminant Monitoring Regulation in Final Rule**

On January 11, 2001, USEPA in a final rule adopted unregulated contaminant monitoring regulations for public water systems, analytical methods for List 2 contaminants, and clarifications to the unregulated contaminant monitoring regulation. 66 Fed. Reg. 2273.

The Safe Drinking Water Act, as amended in 1996 (42 U.S.C. §§ 300f *et seq.* (1998)), requires USEPA to establish criteria for a program to monitor unregulated contaminants and to publish a list of contaminants to be monitored. USEPA published the revisions to the unregulated contaminant monitoring regulation (UCMR) for public water systems on September 17, 1999, which included lists of contaminants for which monitoring was required or would be required in the future. These lists included: List 1 for contaminants with approved analytical methods; List 2 for contaminants with methods that were being refined; and List 3 for contaminants with methods that were still being developed.

The regulation approves the analytical methods for thirteen chemical contaminants on List 2, and requires monitoring for those contaminants in drinking water. The regulation also sets the schedule for monitoring one microbiological contaminant, *Aeromonas*, contingent on promulgation of its analytical method. These methods and associated monitoring will be used to support USEPA decisions concerning whether or not to regulate and establish standards for these contaminants in drinking water. Additionally, USEPA includes modifications to the UCMR that affect the implementation of monitoring for both List 1 and List 2 contaminants.

The final rule became effective January 11, 2001. For further information contact Charles Job at 202/260-7084.

The unregulated contaminant monitoring program is implemented by the USEPA.

## **United States Environmental Protection Agency Adopts National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills in Final Rule**

On January 12, 2001, USEPA adopted national emission standards for hazardous air pollutants (NESHAP) for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills in a final rule. 66 Fed. Reg. 3179.

This action promulgates NESHAP for new and existing sources used in chemical recovery processes at kraft, soda, sulfite, and stand-alone semichemical pulp mills. Hazardous air pollutants (HAP) that are regulated by this final rule include gaseous organic HAP and HAP metals. The final rule implements Section 112(d) of the Clean Air Act (42 U.S.C. §§ 7401 *et seq.* (1998)), and is based on the determination that chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills are major sources of HAP emissions.

The adverse health effects of exposure to these HAP can include cancer, reproductive and developmental effects, gastrointestinal effects, damage to the nervous system, and irritation to the eyes, skin, and respiratory system. Emissions of other pollutants from these sources include particulate matter, volatile organic compounds, carbon monoxide, sulfur dioxide, and nitrogen oxides. The final rule is intended to protect public health by requiring chemical recovery combustion sources to meet standards reflecting the application of the maximum achievable control technology to control HAP emissions from these sources. USEPA estimates that implementation of the rule will reduce emissions of HAP by approximately 2,500 megagrams per year (Mg/yr) (2,700 tons per year (tpy)) and emissions of other pollutants by approximately 107,900 Mg/yr (118,900 tpy).

The final rule becomes effective March 13, 2001. For further contact Jeff Telander at 919/541-5600; e-mail address: telander.jeff@epa.gov.

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

## **United States Environmental Protection Agency Proposes National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitations Guidelines and Standards for Concentrated Animal Feeding Operations**

On January 12, 2001, USEPA proposed national pollutant discharge elimination system (NPDES) permit regulation and effluent limitations guidelines and standards for concentrated animal feeding operations (CAFOs). 66 Fed. Reg. 2959.

USEPA proposed revisions to two regulations that address the impacts of manure, wastewater, and other process waters generated by CAFOs on water quality. The regulations are the NPDES provisions that define which operations are CAFOs and establish permit requirements, and the effluent limitations guidelines for feedlots (beef, dairy, swine and poultry subcategories), which establish the technology-based effluent discharge standards for CAFOs.

USEPA proposed revisions to these regulations to address changes that have occurred in the animal industry sectors over the last 25 years, to clarify and improve implementation of CAFO permit requirements, and to improve the environmental protection achieved under these rules. Environmental concerns being addressed by this rule include both ecological and human health effects. Manure from stockpiles, lagoons, or excessive land application can reach waterways through runoff, erosion, spills, or via groundwater. These discharges can result in excessive nutrients (nitrogen, phosphorus, and potassium), oxygen-depleting substances, and other pollutants in the water. This pollution can kill fish and shellfish, cause excess algae growth, harm marine mammals, and contaminate drinking water.

The proposal includes two alternatives for how to structure the revised NPDES program for CAFOs; the alternatives offer comparable environmental benefits but differ in their administrative approach. USEPA requests comment on two other alternatives that the Illinois Environmental Protection Agency is considering and may pursue, after evaluating the comments. USEPA is also proposing to revise effluent guidelines applicable to beef, dairy, swine, and poultry operations that are defined as CAFOs, pursuant to the NPDES revisions. The proposed effluent guidelines include regulations for both new and existing animal feeding operations that meet the definition of a CAFO.

Comments must be received by May 2, 2001. For further information contact Karen Metchis at 202/564-0766.

In Illinois, water discharges from the operation of livestock operations is regulated under the Livestock Facilities Management Act (510 ILCS 771 *et seq.* (1998)). Board regulations are codified at 35 Ill. Adm. Code 506 and the Illinois Department of Agriculture's (Department) rules at 10 Ill. Adm. Code 900. Two Department proposals to amend the Board's rules are currently pending in Livestock Waste Regulations 35 Ill. Adm. Code 506, R01-18 and R01-28. However, neither of these proposals relates to the January 12, 2001 USEPA CAFO rules.

If USEPA adopts CAFO rules under the Clean Water Act, the Board would expect the Illinois Environmental Protection Agency to identify and propose any necessary changes to the Board's rules during its triennial review of Illinois' water rules as required under the Clean Water Act.

### **United States Environmental Protection Agency Proposes Methods Update to Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act, National Primary Drinking Water Regulations, and National Secondary Drinking Water Regulations**

On January 16, 2001, USEPA proposed a methods update to guidelines establishing test procedures for the analysis of pollutants under the Clean Water Act, national primary drinking water regulations, and national secondary drinking water regulations. 66 Fed. Reg. 3526.

USEPA proposed action of a methods update rule that approves revised versions of test procedures (*i.e.*, analytical methods) for the determination of chemical, radiological, and microbiological pollutants and contaminants in wastewater and drinking water. The revisions concern methods published by one or more of the following organizations: American Society for Testing Materials, United States Geological Survey, United States Department of Energy, American Public Health Association, American Water Works Association, and Water Environment Federation. Previously approved versions of the methods remain approved. The rule will give the analytical community a larger selection of analytical methods.

Comments must be received by March 19, 2001. For further information regarding wastewater methods contact Maria Gomez-Taylor e-mail address: [gomez.maria@epa.gov](mailto:gomez.maria@epa.gov). For further information regarding drinking water methods contact Richard Reding at e-mail address: [reding.richard@epa.gov](mailto:reding.richard@epa.gov).

If USEPA adopts these rules, the Board will include any necessary amendments to its pretreatment or drinking water rules in an upcoming identical in substance rulemaking pursuant to Sections 7.2 and 13.3 or 17.5 of the Environmental Protection Act (415 ILCS 5/7.2, 13.3, 17.5 (1998)).

### **United States Environmental Protection Agency Adopts Methods Update to Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act, National Primary Drinking Water Regulations, and National Secondary Drinking Water Regulations in Final Rule**

On January 16, 2001, USEPA adopted a methods update to guidelines establishing test procedures for the analysis of pollutants under the Clean Water Act (33 U.S.C. §§ 1251 *et seq.* (1998)); national primary drinking water regulations; and national secondary drinking water regulations in a final rule. 66 Fed. Reg. 3466.

USEPA approved the use of updated versions of test procedures (*i.e.*, analytical methods) for the determination of chemical, radiological, and microbiological pollutants and contaminants in wastewater and drinking water. These updated versions of analytical methods have been published by one or more of the following organizations: American Society for Testing Materials, United States Geological Survey, United States Department of Energy, American Public Health Association, American Water Works Association, and Water Environment Federation. Previously approved versions of the methods remain approved. The final rule will give the analytical community a larger selection of analytical methods.

The final rule becomes effective May 16, 2001 without further notice, unless USEPA receives adverse comment by March 19, 2001. For further information regarding wastewater methods contact Maria Gomez-Taylor at e-mail address: gomez.maria@epa.gov. For further information regarding drinking water methods contact Richard Reding at e-mail address: reding.richard@epa.gov.

If USEPA adopts these rules, the Board will include any necessary amendments to its pretreatment or drinking water rules in an upcoming identical in substance rulemaking pursuant to Sections 7.2 and 13.3 or 17.5 of the Environmental Protection Act (415 ILCS 5/7.2, 13.3, 17.5 (1998)).

### **United States Environmental Protection Agency Adopts Control of Air Pollution From New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements in Final Rule**

On January 18, 2001, USEPA adopted control of air pollution from new motor vehicles: heavy-duty engine and vehicle standards and highway diesel fuel sulfur control requirements in a final rule. 66 Fed. Reg. 5001.

USEPA is establishing a comprehensive national control program that will regulate heavy-duty vehicles and its fuel as a single system. As part of this program, new emission standards will begin to take effect in model year 2007, and will apply to heavy-duty highway engines and vehicles. These standards are based on the use of high-efficiency catalytic exhaust emission control devices or comparably effective advanced technologies. Because these devices are damaged by sulfur, the USEPA is also reducing the level of sulfur in highway diesel fuel significantly by mid-2006. The program provides substantial flexibility for refiners, especially small refiners, and for manufacturers of engines and vehicles. The options will ensure that there is widespread availability and supply of the low sulfur diesel fuel from the very beginning of the program, and will provide engine manufacturers with the lead time needed to efficiently phase-in the exhaust emission control technology that will be used to achieve the emissions benefits of the new standards.

USEPA estimates that heavy-duty trucks and buses today account for about one-third of nitrogen oxides emissions and one-quarter of particulate matter emissions from mobile sources. In some urban areas, the contribution is even greater. The program will reduce particulate matter and oxides of nitrogen emissions from heavy-duty engines by 90 percent and 95 percent below current standard levels, respectively. In order to meet these more stringent standards for diesel engines, the program calls for a 97 percent reduction in the sulfur content of diesel fuel. As a result, diesel vehicles will achieve gasoline-like exhaust emission levels. USEPA is also finalizing more stringent standards for heavy-duty gasoline vehicles, based in part on the use of the low sulfur gasoline that will be available when the standards go into effect. The clean air impact of this program will be dramatic when fully implemented.

USEPA estimates that by 2030, the program will reduce annual emissions of nitrogen oxides, nonmethane hydrocarbons, and particulate matter by a projected 2.6 million, 115,000 and 109,000 tons, respectively. USEPA projects that these reductions and the resulting significant environmental benefits of the program will come at an average cost increase of about \$2,000 to \$3,200 per new vehicle in the near term and about \$1,200 to \$1,900 per new vehicle in the long term, depending on the vehicle size. In comparison, new vehicle prices today can range well over \$100,000 for larger heavy-duty vehicles. USEPA estimates that when fully implemented the sulfur reduction requirement will increase the cost of producing and distributing diesel fuel by about five cents per gallon.

The final rule becomes effective March 19, 2001. For further information contact Margaret Borushko at 734/214-4334; e-mail address: borushko.margaret@epa.gov.

The Board would expect the Illinois Environmental Protection Agency to propose similar State rules for adoption 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 Adopts Technical Amendments to Effluent Limitations Guidelines and New Source Performance Standards for the Oil and Gas Extraction Point Source Category in Final Rule**

On January 22, 2001, USEPA adopted technical amendments to effluent limitations guidelines and new source performance standards for the oil and gas extraction point source category in a final rule. 66 Fed. Reg. 6849.

Under authority of the Clean Water Act (33 U.S.C. §§ 1251 *et seq.* (1998)), USEPA published regulations establishing technology-based effluent limitations guidelines and standards for the discharge of synthetic-based drilling fluids (SBFs) and other nonaqueous drilling fluids from oil and gas drilling operations into waters of the United States. Oil and gas extraction facilities generate cuttings wastes from drilling operations. The regulation applies to existing and new sources that perform oil and natural gas extraction drilling in certain offshore and coastal waters. The final rule allows a controlled discharge of SBF-cuttings anywhere offshore of Alaska and offshore of the rest of the United States beyond three miles from shore.

The regulation prohibits discharge of such fluids in coastal Cook Inlet, Alaska, unless the permit authority makes certain findings. The final rule prohibits the discharge of SBFs not associated with drill cuttings into all waters of the United States. Compliance with this rule is estimated by USEPA to reduce the annual discharge of cuttings by 118 million pounds per year for new and existing sources. This rule will also lead to a decrease of 2,927 tons of air emissions and 200,817 barrels of oil equivalent per year for new and existing sources. USEPA estimates that the rule will result in annual savings of \$48.9 million and no adverse economic impacts to the industry as a whole. USEPA also incorporated best management practices into the final rule to provide industry with additional flexibility in meeting today's final rule.

The final rule becomes effective February 21, 2001. For further technical information contact Carey Johnston at 202/260-7186; e-mail address: johnston.carey@epa.gov. For further economic information contact James Covington at 202/260-5132; e-mail address: covington.james@epa.gov.

The Board will include any necessary amendments in an upcoming identical in substance rulemaking pursuant to Sections 7.2 and 13.3 of the Environmental Protection Act (415 ILCS 5/7.2, 13.3 (1998)).

### **United States Environmental Protection Agency Proposes Notification Requirements for Lead-Based Paint Abatement Activities and Training**

On January 22, 2001, USEPA proposed notification requirements for lead-based paint abatement activities and training. 66 Fed. Reg. 7207.

USEPA proposed to establish notification procedures for certified lead abatement professionals conducting lead-based paint activities, and accredited training programs providing lead-based paint activities courses under the authority of Section 407 of the Toxic Substances Control Act (15 U.S.C. §§ 2601 *et seq.* (1998)), as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as “Title X”.



The proposal seeks to establish the procedures that would be used to provide the notification to USEPA that is currently required prior to the commencement of lead-based paint abatement activities. The proposal also seeks to establish provisions which would require accredited training programs to notify USEPA under the following conditions: (1) prior to providing lead-based paint activities training courses, and (2) following completion of lead-based paint activities training courses.

These notification requirements are necessary to provide USEPA compliance monitoring and enforcement personnel with information necessary to track compliance activities and to prioritize inspections. USEPA believes that the proposal will help to prevent lead poisoning in children under the age of six by supporting the implementation of the mandate in Title X to ensure that lead abatement professionals involved in inspecting, assessing or removing lead-based paint, dust or soil are trained and certified to conduct these activities.

Comments must be received by February 21, 2001. For further information contact Barbara Cunningham at 202/554-1404; e-mail address: [cunningham.barbare@epa.gov](mailto:cunningham.barbare@epa.gov).

### **United States Environmental Protection Agency Adopts National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks in Final Rule**

On January 22, 2001, USEPA adopted national emission standards for hazardous air pollutants (NESHAP) for source categories: organic hazardous air pollutants from the synthetic organic chemical manufacturing industry and other processes subject to the negotiated regulation for equipment leaks in a final rule. 66 Fed. Reg. 6921.

On April 22, 1994 and June 6, 1994, USEPA issued the "National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks." This rule is commonly known as the Hazardous Organic NESHAP or the HON. On January 20, 2000, USEPA proposed amendments to the definition of the term "process vent" and to add procedures for identifying "process vents" in order to ensure consistent interpretation of the term.

USEPA also proposed revisions to several provisions of the rule to reflect the terminology used in the revised definition of process vent. The changes were proposed to reduce the burden associated with developing operating permits for facilities subject to the rule. The January 20, 2000 document also proposed to add provisions to allow off-site control of process vent emissions and to add provisions for establishing a new compliance date under certain circumstances. In that action, USEPA also proposed to add an alternative procedure for use in determining compliance with wastewater treatment requirements. This proposal takes final action on those proposed amendments. These amendments to the rule will not change the basic control requirements of the rule or the level of health protection it provides. The rule requires new and existing major sources to control emissions of hazardous air pollutants to the level reflecting application of the maximum achievable control technology.

The final rule became effective on January 22, 2001. For further information contact Janet Meyer at 919/541-5254; e-mail address: [meyer.janet@epa.gov](mailto:meyer.janet@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 Adopts National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring in Final Rule**

On January 22, 2001, USEPA adopted national primary drinking water regulations; arsenic and clarifications to compliance and new source contaminants monitoring in a final rule. 66 Fed. Reg. 6975.

Under authority of the Safe Drinking Water Act (42 U.S.C. §§ 300f *et seq.* (1998)), USEPA established a health-based, non-enforceable maximum contaminant level goal for arsenic of zero and an enforceable maximum contaminant level for arsenic of 0.01 mg/L. The regulation applies to non-transient non-community water systems, which are not presently subject to standards on arsenic in drinking water, and to community water systems. In addition, USEPA published clarifications for monitoring and demonstration of compliance for new systems or sources of drinking water. USEPA also clarified compliance for state-determined monitoring after exceedances for inorganic, volatile organic, and synthetic organic contaminants. Finally, the USEPA recognized the State-specified time period and sampling frequency for new public water systems and systems using a new source of water to demonstrate compliance with drinking water regulations. The requirement for new systems and new source monitoring will be effective for inorganic, volatile organic, and synthetic organic contaminants.

The final rule becomes effective March 23, 2001. For further information contact The Safe Drinking Water Hotline at 800/426-4791, or 703/285-1093; e-mail address: [hotline.sdwa@epa.gov](mailto:hotline.sdwa@epa.gov).

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)).

## Rule Update

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### **Board Dismisses Amendments to 35 Ill. Adm. Code 506, (Livestock Waste Regulations)(PA 90-565), R98-26**

On January 4, 2001, the Board closed this docket as unnecessary, since the subject matter is being handled in a new rulemaking. On December 21, 2000, the Board issued a first-notice opinion and order in Livestock Waste Regulations (35 Ill. Adm. Code 506), R01-18, in response to a December 4, 2000 proposal from the Department of Agriculture to amend the Board's regulations.

Please direct any questions regarding this rulemaking to Carol Sudman at 217/524-8509; e-mail address: [sudmanc@ipcb.state.il.us](mailto:sudmanc@ipcb.state.il.us).

### **Board Adopts Identical in Substance Amendments in Wastewater Pretreatment Update, USEPA Amendments (January 1, 2000 through June 30, 2000), R01-5**

On January 4, 2001, the Board adopted amendments to the Illinois regulations that are identical in substance to the wastewater pretreatment regulations that USEPA adopted pursuant to Sections 307(b), (c), and (d) and 402(b)(9) of the Federal Water Pollution Control Act (33 U.S.C. §§ 1317(b), (c), (d), 1342(b)(9) (1996)). Included are amendments that USEPA took during the period of January 1, 2000 through June 30, 2000. USEPA took five actions during this period that necessitated Board action (see 65 Fed. Reg. 3008 (January 19, 2000); 65 Fed. Reg. 4360 (January 27, 2000); 65 Fed. Reg. 14344 (March 16, 2000); 65 Fed. Reg. 15091 (March 21, 2000); and 65 Fed. Reg. 33423 (May 23, 2000)).

The federal actions include adopting wastewater effluent limitation guidelines, pretreatment standards, and new source performance standards for the landfill point source category, and the commercial hazardous waste combustor subcategory of the waste combustors point source category. USEPA also removed the effluent guidelines, pretreatment standards, and new source performance standards for the builder's paper and board mills point source category.

Sections 7.2 and 13.3 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/7.2, 13.3 (1998)) provide for quick adoption of regulations that are identical-in-substance to federal wastewater pretreatment regulations that USEPA adopts. Section 13.3 of the Act also provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (5 ILCS 100/5-35 and 5-40 (1998)), do not apply to the Board's adoption of identical in substance regulations. Therefore, the amendments are not subject to first or second-notice review by the Joint Committee on Administrative Rules.

For additional information contact: Steven C. Langhoff at 217/782-2615; e-mail [langhofs@ipcb.state.il.us](mailto:langhofs@ipcb.state.il.us).

**Board Adopts Identical in Substance Amendments in SDWA Update, USEPA Amendments (January 1, 2000 through June 30, 2000), R01-7**

On January 4, 2001, the Board adopted amendments to the Illinois regulations that are identical in substance to the National Primary Drinking Water regulations adopted by USEPA. These regulations implement Sections 1412(b), 1414(c), 1417(a), and 1445(a) of the Safe Drinking Water Act (SDWA) (42 U.S.C. §§ 300g-1(b), 300g-3(c), 300g-6(a), 300j-4(a)).

The amendments were proposed pursuant to Sections 7.2 and 17.5 of the Environmental Protection Act (Act) (415 ILCS 5/7.2, 17.5 (1998)), which provides for quick adoption of regulations that are "identical in substance" (IIS) to federal regulations that USEPA adopts to implement Sections 1412(b), 1414(c), 1417(a), and 1445(a) of the SDWA. Section 17.5 also provides 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 IIS regulations. The federal SDWA regulations are found at 40 C.F.R. §§ 141 and 142.

In this action, the Board amended the lead and copper rule and the public notification rules intended to implement the community-right-to-know provisions.

Please direct any questions regarding this rulemaking to Michael McCambridge at 312/814-6924; e-mail address: [mccambm@ipcb.state.il.us](mailto:mccambm@ipcb.state.il.us).

**Board Adopts Amendments in Amendments to Diesel Opacity Rules Required by P.A. 91-254 and P.A. 91-865: Amendments to 35 Ill. Adm. Code 240, R01-8**

On January 18, 2001, the Board adopted rules to amend 35 Ill. Adm. Code 240. The Illinois General Assembly adopted legislation in 1999 that amended the diesel smoke opacity tests and procedures under the Illinois Vehicle Code. See Pub. Act 91-254, eff. July 1, 2000. The law requires the Board to amend its existing diesel smoke opacity rules at 35 Ill. Adm. Code 240 within eight months of the legislation's effective date, *i.e.*, by February 28, 2001.

On September 7, 2000, the Board adopted its first-notice opinion and order for amendments to its diesel smoke opacity standards. The proposed amendments were published in the *Illinois Register* on September 22, 2000. See 24 Ill. Reg. 39. The Board held two hearings in this matter during the first-notice period. The Board did not receive any public comments in this matter. The public comment period expired on November 9, 2000.

The Board adopted a second-notice opinion and order on November 16, 2000, which added definitions for "snap acceleration test" as well as "affected area" and "vehicle curb weight," as requested by the Joint Committee on Administrative Rules (JCAR). JCAR considered the rules at its December 12, 2000 meeting, and issued a certificate of no objection.

For additional information contact Stacy Meyers at 312/814-7011; e-mail address: [meyerss@ipcb.state.il.us](mailto:meyerss@ipcb.state.il.us).

# Appellate Update

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## **Third District Appellate Court Affirms the Board in Land and Lakes Co. v. Pollution Control Board, No. 3-99-0689**

On December 28, 2000, in a published opinion, the Third District, in Land and Lakes Co. v. Pollution Control Board, No. 3-99-0689, affirmed the Board's decision in Land and Lakes Co. v. Illinois Pollution Control Board and Waste Management, Inc., (August 5, 1999), PCB 99-136, and Sierra Club v. Illinois Pollution Control Board and Waste Management, Inc., (August 5, 1999), PCB 99-139, affirming the decision of the Will County Board to grant siting approval to Waste Management, Inc. (WMI), for the construction of a pollution control facility.

This case involved a proposal to develop a solid waste landfill on the site of the former Joliet Army Ammunition Plant (Prairie View landfill). The Will County Board ultimately voted to grant WMI's application based upon the recommendations of the Pollution Control Facility Committee. The petitioners appealed the Will County Board's decision on the grounds that the proceedings had been fundamentally unfair and that the decision to grant the application was contrary to the manifest weight of the evidence. The Board affirmed the decision of the Will County Board.

The Appellate Court found that the proceedings were fundamentally fair, after adopting a *de novo* standard of review. The Court stated that the fundamental fairness of quasi-adjudicative proceedings is outside the scope of any experience or expertise specific to the Board. "Indeed, it is arguable that this court has superior experience and expertise regarding this matter," and deference to the Board is not warranted.

The Court also found that the Will County Board's decision with respect to several statutory criteria was not against the manifest weight of the evidence.

## **Fourth District Appellate Court Affirms the Board in ESG Watts, Inc. v. Pollution Control Board, No. 4-00-0382**

On January 17, 2001, in an unpublished order issued pursuant to Illinois Supreme Court Rule 23 (155 Ill. 2d R. 23), the Fourth District, in ESG Watts, Inc. v. Pollution Control Board, No. 4-00-0382, affirmed the Board's decision in ESG Watts, Inc. v. Illinois Environmental Protection Agency (March 16, 2000), PCB 95-109, affirming the Illinois Environmental Protection Agency's (Agency) permit denial.

The case involved a solid waste landfill in Sangamon County, Illinois. On September 16, 1994, ESG Watts, Inc. (ESG Watts) submitted a significant modification permit application to the Agency. The Agency denied the permit application, pursuant to Section 39(i) of the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (1998)), based on ESG Watt's prior experience in waste management operations. The Agency found that ESG Watts had a prior history of repeated violations of State laws, regulations, and standards concerning the operation of landfills. As evidence of the repeated violations, the Agency listed 19 administrative citations and cited to People v. Watts Trucking, Case No. 91 CH 242 (Cir. Ct. Sangamon County).

ESG Watts appealed to the Board, and the Agency moved for summary judgment. The Agency argued that the issue was answered by the Third District in ESG Watts, Inc. v. Pollution Control Board, 676 N.E.2d 299 (3rd Dist. 1997), in which the Agency denied seven waste stream permit applications submitted by ESG Watts on the basis of the same repeated violations it cited in this case. ESG Watts argued that a Section 39(i) evaluation must be done on a case-by-case basis and must be permit specific. The Board affirmed the Agency's decision and found that the Agency correctly relied, in part, upon ESG Watts' cited violations.

The Fourth District found that the statute directs that a Section 39(i) evaluation must occur sometime before the issuance of a permit, but does not require a new evaluation prior to the issuance of every permit or provide a time limit on the evaluation. The Court found that the Agency properly relied on the 19 administrative citations and the cited court case in its Section 39(i) evaluation in denying the permit.

**Third District Appellate Court Affirms the Board in Will County Board v. Pollution Control Board, No. 3-99-0765**

On January 24, 2001, in an unpublished order issued pursuant to Illinois Supreme Court Rule 23 (155 Ill. 2d R. 23), the Third District, in Will County Board v. Pollution Control Board, No. 3-99-0765, affirmed the Board's decision in Waste Management of Illinois, Inc. v. Will County Board (September 9, 1999), PCB 99-141, affirming the Board's decision to strike a condition from Will County's approval of Waste Management Inc.'s (WMI) application for construction of a pollution control facility. The Board had filed a motion to publish the decision under Rule 23.

This case involved that same proposal to develop a solid waste landfill on the site of the former Joliet Army Ammunition Plant (Prairie View landfill) as Land and Lakes v. Pollution Control Board, discussed above. Will County and WMI entered into a contract to develop Prairie View landfill, and WMI entered an application for site approval. Will County approved the application, and added a condition that WMI's operations at another landfill cease either at its anticipated closure date or the date Prairie View opened, whichever was later. WMI filed a petition with the Board for review of the added condition. The Board found that the addition of the condition was against the manifest weight of the evidence. Will County appealed the Board's decision to the Third District Appellate Court.

Will County contended that the Board erred in striking the added condition because it was reasonable and necessary to satisfy criteria in Section 39.2(a) of the Illinois Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (1998)). The Court stated that when reviewing Will County's decision on a siting application, it must determine whether it is against the manifest weight of the evidence. The Third District noted that the Board relied heavily on the projected shortfall in disposal capacity to conclude that the added condition was not reasonable and necessary, and agreed with the Board's analysis.

Will County also contended that the added condition was necessary to satisfy the criteria which requires that the proposed facility be consistent with the county's plan. While finding that Will County did eventually intend to have one landfill serve its needs, the Third District found that the temporary operation of two landfills was not inconsistent with the plan, given that the other landfill was slated to close and the lack of capacity. The Court concluded that under these circumstances, the Board's finding that the added condition was not reasonable or necessary and was not against the manifest weight of the evidence.

**Third District Appellate Court Affirms the Board in ESG Watts, Inc. v. Pollution Control Board, No. 3-00-0314**

On January 25, 2001, in an unpublished order issued pursuant to Illinois Supreme Court Rule 23 (155 Ill. 2d R. 23), the Third District, in ESG Watts, Inc. v. Pollution Control Board, No. 3-00-0314, affirmed the Board's decision in ESG Watts, Inc. v. Illinois Environmental Protection Agency (March 16, 2000), PCB 95-110, affirming the Illinois Environmental Protection Agency's (Agency) permit denial.

The case involves a solid waste landfill in Taylor Ridge, Rock Island County, Illinois. In September 1994, ESG Watts, Inc. (ESG Watts) submitted a significant modification permit application to the Agency. The Agency denied the permit application, pursuant to Section 39(i) of the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (1998)), based on 19 administrative citations and one adverse court enforcement action. See People v. Watts Trucking, Case No. 91 CH 242 (Cir. Ct. Sangamon County); see also ESG Watts, above, where the Agency relied upon the same administrative citations and enforcement action for denying another permit application. ESG Watts appealed the Agency's decision to the Board.

The Agency filed a motion for summary judgment based on ESG Watts, Inc. v. Pollution Control Board, 676 N.E.2d 299 (Third Dist. 1997) (ESG Watts 1997). The Board granted the Agency's motion. ESG Watts appealed to the Third District Appellate Court.

The Third District stated that when it reviews a grant of summary judgment, it considers the question *de novo*. The Court found that the violations in ESG Watts 1997 and this case involved the Taylor Ridge landfill, and that ESG Watts bears the burden of presenting evidence raising a material question of fact. The Court found that ESG Watts “offers only the bare contention that the prior violations may no longer be relevant to the [Agency’s] decision in this case, without any factual support for this contention.” The Court accordingly found that summary judgment was proper, and affirmed the Board’s decision.

## IEPA Restricted Status List

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
DIVISION OF WATER POLLUTION CONTROL  
RESTRICTED STATUS LIST

In order to comply with 35 Ill. Adm. Code 306.401 and Board Regulations, the Agency has prepared the following list of facilities, which are on Restricted Status. Restricted Status is defined as the Agency determination that a sewer or lift station has reached hydraulic capacity or that a sewage treatment plant has reached design capacity, such that additional sewer connection permits may no longer be issued without causing a violation of the Act or Regulations. Please note that the list is continually being revised to reflect the current situation. Therefore, if you have any questions on the capability of a treatment facility or transport system, please contact the Agency for a final determination. This listing reflects the status as of December 31, 2000.

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

<u>FACILITY NAME</u>	<u>RESPONSIBLE AUTHORITY</u>	<u>COUNTY</u>	<u>REMAINING CAPACITY</u>
Bourbonnais (Belle Aire Subd.)	Village of Bourbonnais	Kankakee	0
Camelot Utilities Wastewater Collection System	Camelot Utilities	Will	0
Camp Point (a portion mh 60-68)	Village of Camp Point	Adams	0
Clearview S.D.	Clearview S.D.	McLean	0
East Alton	City of East Alton	Madison	0
Farmington	City of Farmington	Fulton	0
Hinckley STP	Village of Hinckley	DeKalb	0
Hurst & Blairville Collection System	City of Hurst	Williamson	0
Maple Lawn Homes STP	Maple Lawn Homes	Woodford	0
Port Byron STP	Village of Port Byron	Rock Island	0
Rosewood Heights S.D.- Ninth Street LS	Rosewood Heights S.D.	Madison	0
South Palos Twp. SD	South Palos Twp.	South Palos Twp.	0
Streator STP	City of Streator	LaSalle/Livingston	0

Taylorville-Shawnee Ave. Pump Station	City of Taylorville	Christian	0
Utilities Unlimited	Utilities Unlimited	Will	0
Washington (Rolling Meadows)	City of Washington	Tazewell	0
Wauconda-Larksdale LS	Village of Wauconda	Lake	0
Winnebago-SS overflow to Westfield LS; East 4 blocks of Soper St.	Village of Winnebago	Winnebago	0

Deletions from previous quarterly report: 0

## IEPA Critical Review List

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
DIVISION OF WATER POLLUTION CONTROL  
CRITICAL REVIEW LIST

In order to comply with 35 Ill. Adm. Code 306.401 and Board Regulations, the Agency has prepared the following list of facilities which are on Critical Review. Critical Review is defined as the Agency determination that a sewer or lift station is approaching hydraulic capacity or that a sewage treatment plant is approaching design capacity such that additional sewer connection permit applications will require close scrutiny to determine whether issuance would result in a violation of the Act or Regulations. Please note that these lists are continually being revised to reflect the current situation. Therefore, if you have any questions on the capability of a treatment facility or transport system, please contact the Agency for a final determination. This listing reflects the status as of December 31, 2000.

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

<u>FACILITY NAME</u>	<u>RESPONSIBLE AUTHORITY</u>	<u>COUNTY</u>	<u>REMAINING CAPACITY</u>	<u>PE ADDED SINCE LAST LIST</u>
Antioch STP	Village of Antioch	Lake	2,419	1
Athens STP	City of Athens	Menard	72	0
Beardstown SD	City of Beardstown	Cass	1,769	0
Benton-Southeast STP	City of Benton	Franklin	60	0
Bethalto (L.S. #1)	Village of Bethalto	Madison	87	0
Bonnie Brae Forest Manor SD STP	Bonnie Brae Forest Manor SD	Will	110	0
Carrier Mills	Village of Carrier Mills	Saline	836	0
Carrollton	City of Carrollton	Greene	140	0
Chester STP	City of Chester	Randolph	485	0
Citizens Utilities Co. of Ill.- Derby Meadows Utility Co. STP	Citizens Utilities Co. of Ill.	Will	0	88
Citizens Utilities Co. of Ill.- River Grange	Citizens Utilities Co. of Ill.	Will	10	0
Dakota	Village of Dakota	Stephenson	90	0
Downers Grove S.D.	Downers Grove S.D.	DuPage	4,503	41 9
Earlville	City of Earlville	LaSalle	127	0

East Dundee STP	Village of E. Dundee	Kane	665	24
Elkville	Village of Elkville	Jackson	6	0
Ferson Creek Utilities Co.	Utilities, Inc.	Will	70	0
Herscher	Village of Herscher	Kankakee	300	0
LCPWD-Diamond-Sylvan STP	County of Lake Public Works Department	Lake	0	0
Lake Barrington Home Owners Assn. STP	Lake Barrington Home Owners Assn.	Lake	80	0
Lindenhurst S.D.	Village of Lindenhurst	Lake	885	42
Moline (North Slope)	City of Moline	Rock Island	1,151	7
Morris STP	City of Morris	Grundy	0	0
Mundelein STP	Village of Mundelein	Lake	0	30
Paris STP	City of Paris	Edgar	1,681	0
Plainfield STP	Village of Plainfield	Will	0	0
Rock Island (Main)	Village of Rock Island	Rock Island	4,683	63
Sandwich	Village of Sandwich	DeKalb/Kendall	681	9
Thompsonville STP	Village of Thompsonville	Franklin	0	0
Wauconda – Remaining Collection System & Lakeview Villa LS	Village of Wauconda	Lake	***	25

Deletions from previous quarterly report: 0

\*\*\*Contact IEPA – Permit Section

## Board Actions

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**January 4, 2001**

**Via Video Conference Between  
Springfield and Chicago, Illinois**

### Rulemakings

R98-26	<u>In the Matter of: Amendments to 35 Ill. Adm. Code 506 (Livestock Waste Regulations)(P.A. 90-565)</u> – The Board on its own motion dismissed this docket as unnecessary. On December 21, 2000, the Board accepted for hearing the Department of Agriculture’s December 4, 2000 proposal to amend the Board’s livestock waste regulations in R01-18.	7-0 R, Land
R01-5	<u>In the Matter of: Wastewater Pretreatment Update, USEPA Amendments (January 1, 2000 through June 30, 2000)</u> – The Board adopted a final opinion and order in this “identical-in-substance” rulemaking to amend the Board’s wastewater pretreatment regulations.	7-0 R, Water
R01-7	<u>In the Matter of: SDWA Update, USEPA Amendments (January 1, 2000 through June 30, 2000)</u> – The Board adopted a final opinion and order in this “identical-in-substance” rulemaking to amend the Board’s public water supply regulations.	7-0 R, PWS

### Administrative Citations

AC 00-72	<u>IEPA v. Carl White</u> – The Board entered an order requiring respondent to pay the Board’s and the Environmental Protection Agency’s hearing costs in the amount of \$288.70 and \$200 respectively, and a civil penalty of \$1,500. This order follows the Board’s interim order of November 2, 2000, which found that this respondent had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (1998)) at respondent’s Jefferson County facility.	7-0
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AC 01-13	<u>IEPA v. The Perron Company and Richard Pearce</u> – The Board found that these Winnebago 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 01-14	<u>IEPA v. American Disposal Services of Illinois, Inc. and Dave Bryant</u> – The Board found that these Livingston County respondents violated Section 21(o)(5) of the Act (415 ILCS 5/21/(o)(5) (1998)), and ordered respondents to pay a civil penalty of \$500.	7-0

## Adjudicatory Cases

### • Decisions

PCB 97-147	<u>People of the State of Illinois v. J. D. Plating Works, Inc.</u> – In this water and Resource Conservation and Recovery Act enforcement action concerning a Lake 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 \$10,000, and ordered respondent to cease and desist from further violations.	7-0 RCRA, W-E
PCB 00-104	<u>People of the State of Illinois v. The Highlands, L.L.C., Murphy Farms, Inc. a/k/a Murphy Family Farms, and Bion Technologies, Inc.</u> – In this air enforcement action concerning a Knox 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 for Bion Technologies, Inc. (Bion) only, ordered Bion to pay a civil penalty of \$9,000, and ordered Bion to cease and desist from further violations. This matter shall proceed to hearing as to the other respondents.	7-0 A-E

## Provisional Variances

PCB 01-99	<u>Village of Milledgeville v. IEPA</u> – Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted this Carroll County facility a 45-day provisional variance, subject to conditions, from the effluent limits set forth in 35 Ill. Adm. Code 304.120(a), 304.141(a), and from the excess flow limitations of National Pollutant Discharge Elimination System Permit IL0023345.	7-0 W-V
PCB 01-100	<u>Illinois American Water Company Alton Replacement Facility v. IEPA</u> – Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted this Madison County facility a 45-day provisional variance, subject to conditions, from the requirement of a National Pollutant Discharge Elimination System (NPDES) permit to allow it to bring the replacement plant into service on December 28, 2000, before its pending NPDES permit has been finally issued by the Agency.	7-0 W-V, NPDES
PCB 01-103	<u>CMS Panhandle Eastern Pipe Line Company v. IEPA</u> – Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted this Pike County facility a 45-day provisional variance, subject to conditions, from the effluent limits set forth in 35 Ill. Adm. Code 304.141(b) and 309.102(a).	7-0 W-V

## Motions and Other Matters

PCB 98-26	<u>Dean Foods Company v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this permit appeal involving a Winnebago County facility.	7-0 P-A, Air
PCB 99-162	<u>Kelly-Mac Partners v. Robertson-CECO Corporation</u> – The Board granted complainant's motion for dismissal of this citizen's underground storage tank enforcement action involving a Cook County facility.	7-0 UST-E, Citizens
PCB 00-32	<u>People of the State of Illinois v. Osborn Homes, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this public water supply enforcement action involving a Madison County facility, the Board ordered publication of the required newspaper notice.	7-0 PWS-E
PCB 00-127	<u>People of the State of Illinois v. Dayne Rogers, an individual, and Black Gold International</u> – The Board denied complainant's motion for reconsideration of the Board's November 2, 2000 order.	7-0 L-E, Tires
PCB 01-72	<u>Stepan Company v. IEPA</u> – The Board accepted for hearing and granted a stay of proceedings in this permit appeal involving a Will County facility.	7-0 P-A, Air
PCB 01-86	<u>Robert Gardner and Yvonne Gardner v. Township High School District 211 and Gerald Chapman, Superintendent</u> – The Board found that the alleged violations of Section 24 of the Environmental Protection Act (Act) (415 ILCS 5/24 (1998)) and 35 Ill. Adm. Code 900.102 of the Board's noise rules were neither duplicitous nor frivolous, dismissed the alleged violation of Section 23 of the Act (415 ILCS 5/23 (1998)) as frivolous, denied respondents' motion to dismiss, and accepted this matter involving a Cook County facility for hearing.	7-0 N-E, Citizens

PCB 01-93	<u>Strunk Motor Company v. Office of the State Fire Marshal</u> – The Board denied petitioner’s request for a 90-day extension of appeal period, consistent with respondent’s response to it, but accepted petitioner’s request as a timely-filed petition for review. The Board granted petitioner 30 days in which to retain an attorney and for that attorney to file an amended petition for review curing specified informational deficiencies. If petitioner does not file an amended petition for review on or before February 3, 2001, including proof of service of the amended petition, this matter will be dismissed, and the docket closed.	7-0 UST-FRD
PCB 01-96	<u>Twin County Service Company v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Williamson County facility.	7-0 UST-Appeal 90-Day Ext.
PCB 01-97	<u>People of the State of Illinois v. Ferrara Pan Candy Company, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	7-0 W-E
PCB 01-98	<u>Waste Management of Peoria 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 Tazewell County facility.	7-0 UST-Appeal 90-Day Ext.

**January 18, 2001**  
**Via Video Conference Between**  
**Springfield and Chicago, Illinois**

**Rulemakings**

R01-8	<u>In the Matter of: Amendments to Diesel Opacity Rules Required by P.A. 91-254 and P.A. 91-865: Amendments to 35 Ill. Adm. Code 240</u> – The Board adopted a final opinion and order to implement amendments to its regulations on controlling air emissions from motor vehicles.	7-0 R, Air
R01-15	<u>In the Matter of: Amerock Corporation, Rockford Facility for Site-Specific Rulemaking Petition for Amendment to 35 Ill. Adm. Code 304.303</u> – The Board ordered this Winnebago County petitioner to file a second amended petition by June 29, 2001, or this action will be dismissed. The Board granted in part petitioner’s request to incorporate the record from docket R87-33 and reserved ruling on the petitioner’s request to waive the petition signature requirement.	6-0 McFawn abstained R, Water Site-Specific
R01-27	<u>In the Matter of: Site Remediation Program (Amendments to 35 Ill. Adm. Code 740)</u> – The Board accepted for hearing the Illinois Environmental Protection Agency’s January 12, 2001 proposal to amend the Board’s site remediation program regulations.	7-0 R, Land

## Adjusted Standards

AS 00-11	<u>In the Matter of: Petition of Bema Film Systems, Inc. for an Adjusted Standard from 35 Ill. Adm. Code Sections 218.401(a), (b) and (c) (the “Flexographic Printing Rule”)</u> – The Board granted this DuPage County facility an adjusted standard, subject to conditions, from the volatile organic material emission control requirements found at 35 Ill. Adm. Code 218.401(a), (b), and (c).	7-0 Air
AS 00-12	<u>In the Matter of: Petition of Vonco Products, Inc. for an Adjusted Standard from 35 Ill. Adm. Code Sections 218.401(a), (b) and (c) (the “Flexographic Printing Rule”)</u> – The Board granted this Lake County facility an adjusted standard, subject to conditions, from the volatile organic material emission control requirements found at 35 Ill. Adm. Code 218.401(a), (b), and (c).	7-0 Air
AS 00-13	<u>In the Matter of: Petition of Formel Industries, Inc. for an Adjusted Standard from 35 Ill. Adm. Code Sections 218.401(a), (b) and (c) (the “Flexographic Printing Rule”)</u> – The Board granted this Cook County facility an adjusted standard, subject to conditions, from the volatile organic material emission control requirements found at 35 Ill. Adm. Code 218.401(a), (b), and (c).	7-0 Air

## Administrative Citations

AC 01-12	<u>IEPA v. J &amp; T Recycling and John A. Gordon</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Williamson County facility, the Board dismissed Gordon’s petition for review, and found he had violated Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (1998)). Gordon was ordered to pay a civil penalty of \$1,500. Because J & T Recycling failed to file a petition for review within 35 days of the date of service as required by Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (1998)), the Board found that this respondent violated Sections 21(p)(1) and 21(p)(3) of the Act (415 ILCS 5/21(p)(1), 21(p)(3) (1998)), and ordered respondent to pay a civil penalty of \$1,500.	7-0
AC 01-15	<u>IEPA v. Terry Reynolds d/b/a Reynolds Manufactured Homes and Transport</u> – The Board found that this Union County respondent violated Section 21(p)(3) of the Act (415 ILCS 5/21/(p)(3), (1998)), and ordered respondent to pay a civil penalty of \$1,500.	7-0
AC 01-18	<u>IEPA v. Joe Alecci</u> – The Board found that this Franklin 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.	7-0
AC 01-19	<u>IEPA v. William Basil Flynn and Olen G. Parkhill, Jr.</u> – The Board accepted on behalf of respondent Flynn, this petition for review of an administrative citation against these Champaign County respondents. The Board previously accepted a petition for review on behalf of respondent Parkhill on December 21, 2000.	7-0

## Adjudicatory Cases

### • Decisions

PCB 00-109	<u>People of the State of Illinois v. Arturo Rivero d/b/a Swiss Cleaners</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 \$800, and to cease and desist from further violations.	7-0 A-E
PCB 00-151	<u>People of the State of Illinois v. Cleveland Steel Container Corporation</u> – In this air enforcement action concerning a Will 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 \$15,750, and to cease and desist from further violations.	7-0 A-E
PCB 00-192	<u>People of the State of Illinois v. Wismarq Corporation</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 \$10,000, and to cease and desist from further violations.	7-0 A-E
PCB 01-40	<u>People of the State of Illinois v. City of Paris and Francis Associates</u> – In this public water supply enforcement action concerning an Edgar 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 respondents to pay a total civil penalty of \$6,000, and to cease and desist from further violations.	7-0 PWS-E
PCB 01-91	<u>People of the State of Illinois v. Chester Bross Construction Company, Inc.</u> – In this air enforcement action concerning an Adams 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 \$25,000, and to cease and desist from further violations.	7-0 A-E
PCB 01-92	<u>People of the State of Illinois v. Marathon Oil Company</u> – In this public water supply enforcement action concerning a Sangamon 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 \$22,000, and to cease and desist from further violations.	7-0 PWS-E

PCB 01-97      People of the State of Illinois v. Ferrara Pan Candy Company, Inc. – In this water 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 \$15,000, and to cease and desist from further violations.      7-0  
W-E

• **Provisional Variance**

PCB 01-106      Bway Corporation v. IEPA – Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted this Cook County facility a 28-day provisional variance, subject to conditions, from 35 Ill. Adm. Code 218.204(b)(1)(B), 218.207(h)(2), and Clean Air Act Permit Program permit condition 7.2.5.      7-0  
A-V

**Motions and Other Matters**

PCB 96-119      People of the State of Illinois v. We Shred It, Inc. – The Board granted complainant’s motion for voluntary dismissal of this land enforcement action involving a Christian County facility.      7-0  
L-E

PCB 97-11      People of the State of Illinois v. White & Brewer Trucking – The Board granted complainant’s motion to stay proceedings until April 18, 2001.      7-0  
L,W &  
GW-E

PCB 98-156      Richard and Wilma Salyer v. IEPA – The Board denied the motion by Robert A. Mehrens, P.E. to withdraw exhibit from the record.      7-0  
UST-FRD

PCB 00-157      Michael R. Pawlowski and Diane Pawlowski v. Dave Johansen a/k/a David Johansen, Troy Quinley, and Benchwarmers Pub, Inc. – The Board granted complainants’ motion for voluntary dismissal of this citizens’ noise enforcement action involving a Livingston County facility.      7-0  
N-E, Citizens

PCB 00-161      People of the State of Illinois v. Home State Bank, N.A., as Trustee of Trust No. 1466 and Ethyl A. Veugeler as the Beneficiary of Trust No. 1466 – The Board granted complainant’s motion to voluntarily dismiss Home Bank as Trustee of Trust No. 1466, and acknowledged receipt of the remaining parties’ proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a McHenry County facility. The Board ordered publication of the required newspaper notice.      7-0  
L-E

PCB 00-171      People of the State of Illinois v. City of Charleston – 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 Coles County facility, the Board ordered publication of the required newspaper notice.      7-0  
W-E

PCB 00-187      Broderick Teaming Company v. IEPA – The Board granted petitioner’s motion for extension of time to file a response to the Illinois Environmental Protection Agency’s January 12, 2001 motion for reconsideration as well as its own motion for reconsideration of the Board’s December 7, 2000 order.      7-0  
UST-FRD

PCB 00-209	<u>People of the State of Illinois v. Cro-Mat Company</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.	7-0 A-E
PCB 00-212	<u>People of the State of Illinois v. Kenneth Morrison</u> – The Board granted complainant’s motion for summary judgment for the cost of corrective action and ordered respondent to reimburse the Illinois Environmental Protection Agency in the amount of \$30,902.52 for costs incurred in the clean up of accumulated used and waste tires at a site located at or near Coalville Road, Streator, Livingston County, Illinois. The Board directed that a hearing be held as expeditiously as practicable on the issue of whether and what amount in punitive damages should be imposed on respondent.	7-0 CR-E
PCB 01-8	<u>People of the State of Illinois v. Larry Barry, Inc. d/b/a Larry’s Marathon Warehouse</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Christian County facility, the Board ordered publication of the required newspaper notice.	7-0 L-E
PCB 01-50	<u>Gilberts Citgo, L.L.C. v. IEPA, Wheeling Trust &amp; Savings Bank a/k/a Cole Taylor Bank, as Trustee and John Caporaso</u> – The Board granted petitioner 60 days to demonstrate that the requested water well setback exception (WWSE) will not cause a significant pollution hazard, and that it will suffer an arbitrary or unreasonable hardship if the WWSE is denied.	5-2 Girard and McFawn dissented WWS
PCB 01-52	<u>Perbio Science, AB d/b/a Pierce Chemical Company v. IEPA</u> – The Board denied petitioner’s motion to reconsider or vacate and affirmed its November 16, 2000 order, which dismissed this case and closed the docket.	7-0 P-A, RCRA
PCB 01-68	<u>Roger Stone v. IEPA and Naperville Park District</u> – The Board denied petitioner’s motion for summary judgment, request for sanctions, and the request to order the Illinois Environmental Protection Agency to proceed under Section 31 of Act. 415 ILCS 5/31 (1998). The Board directed that this matter proceed to hearing.	7-0 P-A, NPDES
PCB 01-78	<u>Morton International, Inc. v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no permit appeal was filed on behalf of this McHenry County facility.	7-0 Air, P-A
PCB 01-82	<u>General Motors Corporation, Electro-Motive Division v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no permit appeal was filed on behalf of this Cook County facility.	7-0 Air, P-A
PCB 01-88	<u>IBP, Inc. (Joslin Facility) v. IEPA</u> – The Board vacated its order of December 7, 2000, and granted the parties’ request to extend the appeal period to and including March 1, 2001, which is the 125th day following the Illinois Environmental Protection Agency’s permit issuance on October 27, 2000.	7-0 Air, P-A, 90- Day Ext.

PCB 01-101	<u>Marathon Oil Company v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this DuPage County facility.	7-0 UST-FRD 90-Day Ext.
PCB 01-102	<u>Cassens &amp; Sons, 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 Madison County facility.	7-0 UST-FRD 90-Day Ext.
PCB 01-104	<u>People of the State of Illinois v. City of Waukegan</u> –The Board accepted for hearing this water enforcement matter involving a Lake County facility.	7-0 W-E
PCB 01-105	<u>Pete’s Marathon 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 Marion County facility.	7-0 UST-FRD 90-Day Ext.

## **New Cases**

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### **January 4, 2001 Board Meeting**

**01-96** Twin County Service Company 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.

**01-97** People of the State of Illinois v. Ferrara Pan Candy Company, Inc. – 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 Cook County facility, the Board ordered publication of the required newspaper notice.

**01-98** Waste Management of Peoria 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 Tazewell County facility.

**01-99** Village of Milledgeville v. IEPA – Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted this Carroll County facility a 45-day provisional variance, subject to conditions, from the effluent limits set forth in 35 Ill. Adm. Code 304.120(a), 304.141(a), and from the excess flow limitations of National Pollutant Discharge Elimination System Permit IL0023345.

**01-100** Illinois American Water Company Alton Replacement Facility v. IEPA – Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted this Madison County facility a 45-day provisional variance, subject to conditions, from the requirement of a National Pollutant Discharge Elimination System (NPDES) permit to allow it to bring the replacement plant into service on December 28, 2000, before its pending NPDES permit has been finally issued by the Agency.

**01-103** CMS Panhandle Eastern Pipe Line Company v. IEPA – Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted this Pike County facility a 45-day provisional variance, subject to conditions, from the effluent limits set forth in 35 Ill. Adm. Code 304.141(b) and 309.102(a).

**AC 01-22** IEPA v. Leroy P. David – The Board accepted this petition for review of an administrative citation against this Peoria County respondent.



## January 18, 2001 Board Meeting

**01-101 Marathon Oil Company 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 DuPage County facility.

**01-102 Cassens & Sons, 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 Madison County facility.

**01-104 People of the State of Illinois v. City of Waukegan** –The Board accepted for hearing this water enforcement matter involving a Lake County facility.

**01-105 Pete’s Marathon 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 Marion County facility.

**01-106 Bway Corporation v. IEPA** – Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted this Cook County facility a 28-day provisional variance, subject to conditions, from 35 Ill. Adm. Code 218.204(b)(1)(B), 218.207(h)(2) and Clean Air Act Permit Program permit condition 7.2.5.

**AC 01-23 County of LaSalle v. Clarence and Janet Benson** – The Board accepted an administrative citation against these LaSalle County respondents.

**AC 01-24 IEPA v. John Prior and Prior Oil Company** – The Board accepted an administrative citation against these Washington County respondents.

**AC 01-25 County of LaSalle v. Mike and Janet Brown** – The Board accepted an administrative citation against these LaSalle County respondents.

**R 01-27 In the Matter of: Site Remediation Program (Amendments to 35 Ill. Adm. Code 740)** – The Board accepted for hearing the Illinois Environmental Protection Agency’s January 12, 2001 proposal to amend the Board’s site remediation program regulations.

## Calendar

2/1/2001 11:00 am		Illinois Pollution Control Board Meeting	James R. Thompson Center 100 W. Randolph St. Room 9-040 Chicago, Illinois
2/6/2001 9:30 am	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	James R. Thompson Center 100 W. Randolph St. Room 9-040 Chicago, Illinois
2/15/2001 11:00 am		Illinois Pollution Control Board Meeting	James R. Thompson Center 100 W. Randolph St. Room 9-040 Chicago, Illinois
2/26/2001 9:30 am	PCB 97-234	Antonio D. H. Nam v. Kikon Suh	Niles Village Hall 2nd Floor 1000 Civic Center Drive Niles, Illinois
2/27/2001 9:00 am	R01-026	In the matter of: Amendments to Regulation of Petroleum Leaking Underground Storage Tanks: 35 Ill. Adm. Code 732	Illinois Pollution Control Board Hearing Room 403 600 S. Second St. Springfield, Illinois

2/28/2001 9:00 am	R01-27 R01-29 (consol.)	In the Matter of: Site Remediation Program: Amendments to 35 Ill. Adm. Code 740	Illinois Pollution Control Board Hearing Room 403 600 S. Second St. Springfield, Illinois
2/28/2001 9:30 am	PCB 01-068	Roger Stone v. IEPA and Naperville Park District	Naperville City Council Chambers 400 South Eagle Naperville, Illinois
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 9:30 am	PCB 01-068	Roger Stone v. IEPA and Naperville Park District	Naperville City Council Chambers 400 South Eagle Naperville, 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
3/2/2001 9:30 am	PCB 01-68	Roger Stone v. IEPA and Naperville Park District	Naperville City Council Chambers 400 South Eagle Naperville, Illinois
3/13/2001	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
4/3/2001 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 9-040 Chicago, Illinois
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
4/19/2001 11:00 am		Illinois Pollution Control Board Meeting	James R. Thompson Center 100 W. Randolph St. Room 9-040 Chicago, Illinois



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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Illinois Pollution Control Board  
Environmental Register Coordinator  
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Springfield, Illinois 62704