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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 2001 spring session of the 92nd General Assembly closed with historic new legislation to increase the State's energy supply. With mounting concerns nationally over soaring natural gas prices and California's rolling blackouts, Governor George H. Ryan forged a bipartisan compromise to create a \$3.5 billion incentive package designed to revitalize Illinois' coal industry and strengthen the State's ability to provide its citizens with low-cost electricity. The legislation (HB 1599 Daniels/Luechtefeld), which would create the Illinois Resource Development and Energy Security Act upon being signed into law, combines tax incentives and direct financial support to spur the development of new, clean-coal fired electric plants. The legislation also calls on the Illinois Environmental Protection Agency (Agency) to review the need for a State multi-pollutant strategy to reduce emissions from older coal-fired electric plants not subject to stricter air quality requirements. Based on that review, the Agency may file proposed rules with the Board.



Below are summaries of other significant environmental legislation that the General Assembly passed this spring, as well as notes on related rulemaking proceedings pending before the Board:

HB 171 (Curry, Julie/Noland): The bill bans methyl tertiary butyl ether (MTBE) in Illinois. Upon being signed into law, the legislation would create the MTBE Elimination Act. Beginning three years after the statute's effective date, no person will be allowed to use, manufacture, or sell MTBE as a fuel additive or transport fuel containing MTBE in Illinois. The bill also directs the Agency to develop more efficient and cost-effective procedures to remediate MTBE contamination. Reflecting how important it is to address the environmental implications of MTBE, rulemakings are pending before the Board to establish an MTBE groundwater quality standard (see Proposed MTBE Groundwater Quality Standards Amendments: 35 Ill. Adm. Code 620, R01-14) and an MTBE cleanup objective (see Proposed Amendments to Tiered Approach to Corrective Action Objectives (TACO): 35 Ill. Adm. Code 742, R00-19(B)).

SB 75 (Watson/Hoffman): The bill, upon being signed into law, would amend the Environmental Protection Act and the State Finance Act, among other statutes, creating the Brownfields Site Restoration Program. The Agency, with the assistance of the Department of Commerce and Community Affairs (DCCA), must establish and administer a program to help pay the costs of investigating and remediating abandoned or underutilized properties. The bill provides that fees for Agency and DCCA reviews will go to the Brownfields Site Restoration Program Fund. The bill also provides that within 6 months after the statute's effective date, the Agency and DCCA must propose rules to the Board prescribing procedures and standards for administering the program. The Board must adopt rules for second notice within 9 months after receiving the proposed rules.

SB 1180 (Walsh, T/Lyons): The bill, upon being signed into law, would amend the Environmental Protection Act. In a county with at least 3,000,000 inhabitants, no person can begin to construct a building intended for use as a school unless the site is enrolled in the Site Remediation Program (SRP) and a remedial action plan, if required, is Agency-approved. "School" is defined as a public school located in whole or in part in a county with at least 3,000,000 inhabitants. The bill also provides that, in a county with at least 3,000,000 inhabitants, no person can cause or allow any person to occupy a building intended for use as a school if a remedial action plan is required, unless the plan is completed. Two rulemakings pending before the Board involve proposed amendments to the Board's SRP regulations. See Site Remediation Program: Amendments to 35 Ill. Adm. Code 740, R01-27; Site Remediation Program: Proposed 35 Ill. Adm. Code 740, Subpart H (Schools, Public Parks, and Playgrounds), R01-29.

In closing, please note that in May the Board published two proposals for public comment in "identical-in-substance" rulemakings: (1) UIC Corrections, USEPA Amendments (July 1, 1999 through June 30, 2000) (May 3, 2001), R01-30; and (2) Wastewater Pretreatment Update, USEPA Amendments (July 1, 2000 through December 31, 2000) (May 17, 2001), R01-25.

Sincerely,

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

Claire A. Manning, Chairman

## Inside This Issue:

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FEDERAL UPDATE	P. 1
RULE UPDATE	P. 4
BOARD ACTIONS	P. 6
NEW CASES	P. 12
BOARD CALENDAR	P. 13

## Federal Update

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### **United States Environmental Protection Agency Vacates Standards for Hazardous Air Pollutants for Hazardous Waste Combustors in Final Rule Under the Clean Air Act**

On May 14, 2001, USEPA vacated rules relating to the standards for hazardous waste combustors. 66 Fed. Reg. 24270 (May 14, 2001). The action affects the National Emissions Standards for Hazardous Air Pollutants (NESHAPS) adopted under the Clean Air Act (42 U.S.C. §§ 7401 *et seq.* (1998)), as well as permit rules adopted under the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. §§ 6901 *et seq.* (1998)).

In Chemical Manufacturers Ass'n v. EPA, 217 F.3d 861 (D.C. Cir. 2000), the court vacated the notice of intent to comply (NIC) provisions of USEPA rules relating to the standards for hazardous waste combustors. The final rule removes these provisions from the *Code of Federal Regulations* consistent with the court's ruling.

Since the vacated NIC provision is also referenced in the permit modification procedures in Part 270 of RCRA, the final rule amends this reference as well. In addition, at USEPA's request, the D.C. Circuit vacated certain parameter limits of baghouses and electrostatic precipitators in order for USEPA to solicit further comment on these provisions (Cement Kiln Recycling Coalition v. EPA, No. 99-1457 (D.C. Cir. Apr. 5, 2001)). The final rule also removes these provisions from the *Code of Federal Regulations* consistent with the court's ruling.

The final rule becomes effective on May 14, 2001. For general information, call the RCRA call center at 800/424-9346. For further detailed information contact Shiva Garg at 703/308-8459; e-mail address: garg.shiva@epa.gov.

Pursuant to Section 9.1(b) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(b) (2000)), once adopted by USEPA, NESHAP rules are applicable and enforceable under the Act without further action by the Board. 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 Act (415 ILCS 5/7.2, 22.4 (2000)).

### **United States Environmental Protection Agency Withdraws Direct Final Rule for 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; Methods Update**

On May 15, 2001, USEPA withdrew the direct final rule entitled "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; Methods Update; Direct Final Rule." 66 Fed. Reg. 26795 (May 15, 2001).

USEPA published the direct final rule (66 Fed. Reg. 3466) with a companion proposed rule (66 Fed. Reg. 3526) on January 16, 2001. USEPA stated that if it received adverse comment by March 19, 2001, it would publish a timely notice of withdrawal in the *Federal Register*. USEPA subsequently received adverse comments on the direct final rule.

As of May 15, 2001, USEPA withdrew the direct final rule published at 66 Fed. Reg. 3466 on January 16, 2001. For further information contact Maria Gomez-Taylor at 202/260-1639; e-mail address: Gomez-Taylor.Maria@epa.gov.

## Environmental Register – May 2001

In response to this USEPA action, 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 (2000)).

### **United States Environmental Protection Agency Adopts Revisions to the Mixture and Derived-From Rules in the Hazardous Waste Identification Rule in Final Rule Under the Resource Conservation and Recovery Act**

On May 16, 2001, USEPA retained the mixture rule and the derived-from (hazardous waste) rule implementing the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. §§ 6901 *et seq.* (1998)). 66 Fed. Reg. 27266 (May 16, 2001). The mixture and derived-from rules ensure that hazardous wastes that are mixed with other wastes or that result from the treatment, storage or disposal of hazardous wastes do not escape regulation and thereby cause harm to human health and the environment.

USEPA finalized two revisions to the mixture and derived-from rules. The revisions would narrow the scope of the mixture and derived-from rules, tailoring the rules to more specifically match the risks posed by particular wastes.

The first revision is an expanded exclusion for mixtures and/or derivatives of wastes listed solely for the ignitability, corrosivity, and/or reactivity characteristics. The second revision is a new conditional exemption from the mixture and derived-from rules for “mixed wastes” (wastes that are both hazardous and radioactive).

The final rule becomes effective August 14, 2001. For general information, contact the RCRA hotline at 800/24-9346. For further detailed information contact Tracy Atagi at 703/308-8672; e-mail address: [atagi.tracy@epa.gov](mailto:atagi.tracy@epa.gov).

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 (2000)).

### **United States Environmental Protection Agency Adopts Revisions to the Storage, Treatment, Transportation, and Disposal of Mixed Wastes in the Hazardous Waste Identification Rule in Final Rule Under the Resource Conservation and Recovery Act**

On May 16, 2001, USEPA adopted rules to provide increased flexibility to facilities that manage low-level mixed waste (LLMW) and technologically enhanced naturally occurring and/or accelerator-produced radioactive material (NARM) containing hazardous waste. 66 Fed. Reg. 27217 (May 16, 2001).

The final rule reduces dual regulation of LLMW, which is subject to the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. §§ 6901 *et seq.* (1998)) and to the Atomic Energy Act (42 U.S.C. §§ 2014 *et seq.* (1998)). The final rule conditionally exempts from RCRA hazardous waste management low-level mixed wastes during storage and treatment. The storage and treatment exemption in the rule requires the use of tanks or containers to store or treat the waste and applies only to low-level mixed waste that meets the specified conditions and is generated under a single Nuclear Regulatory Commission (NRC) or NRC Agreement State license.

The rule also exempts LLMW and hazardous NARM waste from RCRA manifest, transportation, and disposal requirements when specified conditions are met. Under this conditional exemption, the waste remains subject to manifest, transport, and disposal requirements under the NRC (or NRC Agreement State) regulations for low-level radioactive waste or eligible NARM.

The final rule becomes effective November 13, 2001. For general information, contact the RCRA Hotline at 800/424-9346. For further detailed information contact Nancy Hunt at 703/308-8762 or Chris Rhyne at 703/308-8658.

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 (2000)).

## Environmental Register – May 2001

### **United States Environmental Protection Agency Adopts National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast in Final Rule Under Clean Air Act**

On May 21, 2001, USEPA adopted national emission standards for hazardous air pollutants (NESHAP) for the nutritional yeast manufacturing source category in a final rule. 66 Fed. Reg. 27876 (May 21, 2001).

USEPA has identified the nutritional yeast manufacturing source category as a major source of hazardous air pollutants (HAP) emissions of acetaldehyde. The standards implement section 112(d) of the Clean Air Act (42 U.S.C. §§ 7401 *et seq.* (1998)) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT).

USEPA expects that the standards will eliminate approximately 13 percent of nationwide acetaldehyde emissions from these sources. Acute (short term) and chronic (long term) inhalation exposure to acetaldehyde is associated with adverse health effects including irritation of the eyes, skin, and respiratory tract. Acetaldehyde is a potential developmental toxin and a probable human carcinogen.

The final rule is effective May 21, 2001. For further information contact David W. Markwordt at 919/541-0837; e-mail address: markwordt.david@epa.gov.

Pursuant to Section 9.1(b) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(b) (2000)), 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 Modification of the Hazardous Waste Manifest System Under the Resource Conservation and Recovery Act**

On May 22, 2001, USEPA proposed amendments to the Uniform Hazardous Waste Manifest regulations and the manifest form used to track hazardous waste from a generator's site to its site of ultimate disposition. 66 Fed. Reg. 28239 (May 22, 2001).

USEPA proposes three major revisions to the manifest system. First, USEPA proposes to further standardize the content and appearance of the current manifest form (8700-22 and 22a), to make the form available from a greater number of sources. Second, USEPA proposes manifest tracking procedures for the follow-up manifesting of TSDF-rejected RCRA hazardous waste shipment loads, and follow-on shipments of non-empty waste containers containing waste residues. Lastly, USEPA proposes giving waste handlers required to use the form the option to complete, send, and store the manifest information electronically. For waste handlers choosing this option, the proposed rule would require the use of a standardized electronic data interchange (EDI) format that facilitates the exchange of data between waste handlers, the use of digital signature technology to sign the manifest, and the use of a standard set of computer security standards for the transmission and storage of manifest data.

USEPA proposed the amendments to reduce the paperwork burden related to the hazardous waste manifest provisions, and in response to many requests for a streamlined and up-to-date hazardous waste tracking system. USEPA also expects the proposed changes to improve the “cradle-to-grave” hazardous waste tracking system and to ensure that waste reaches its destination without causing harm to human health or the environment.

Written comments must be submitted by August 20, 2001. For general information, contact the RCRA Hotline at 800/424-9346. For further specific information contact Richard Lashier at 703/308-8796; e-mail address: lashier.rich@epa.gov.

If the proposed 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 (2000)).

### **United States Environmental Protection Agency Delays Effective Date of Arsenic Rule Under Safe Drinking Water Act**

## Environmental Register – May 2001

On May 22, 2001, USEPA again delayed the effective date of the arsenic in drinking water regulation published on January 22, 2001 (66 Fed. Reg. 6976). The effective date for the arsenic regulation is February 22, 2002. 66 Fed. Reg. 28341 (May 22, 2001). However, the effective date for clarifications to compliance and new-source contaminants monitoring in the January 22, 2001 arsenic regulation remains unchanged as January 22, 2004.

On March 20, 2001, USEPA publicly announced that it would take steps to reassess the scientific and cost issues associated with the arsenic rule published on January 22, 2001, and seek further public input on important issues with that rule. On March 23, 2001, the effective date for the arsenic regulation was delayed 60 days to May 22, 2001 (66 Fed. Reg. 16134). On April 23, 2001, USEPA proposed to delay the effective date of the arsenic rule for an additional nine months in order to conduct reviews of the science and costing analysis and make the results available for public review (66 Fed. Reg. 20580).

The final rule extends the effective date for the arsenic rule from May 22, 2001, to February 22, 2002. The current standard of 50 grams per liter remains the applicable arsenic drinking water standard until the 2006 compliance date for the January 2001 final rule.

Additionally, the effective date of the National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring is further delayed for nine months, from the scheduled effective date of May 22, 2001, to a new effective date of February 22, 2002, except for the amendments to 40 CFR Sections 141.23(c)(9), 141.23(i)(1), 141.23(i)(2), 141.24(f)(15), 141.24(f)(22), 141.24(h)(11), 141.24(h)(20), 142.16(e), 142.16(j), and 142.16(k) which are effective on January 22, 2004. For further information contact The Safe Drinking Water Hotline at 800/426-4791; e-mail address: hotline-sdwa@epa.gov . For detailed information contact James Taft at 202/260-5519; e-mail address: taft.james@epa.gov.

The Board will adopt the arsenic standard promulgated by USEPA on January 22, 2001, in an upcoming identical in substance rulemaking pursuant to Sections 7.2 and 17.5 of the Environmental Protection Act (Act) (415 ILCS 5/7.2, 17.5 (2000)). As the Board routinely does in such instances, the Board will promptly include in the Illinois rules any subsequent delays in the effective date and any other changes promulgated by USEPA.

## Rule Update

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### **Board Adopts Proposal for Public Comment in UIC Corrections, USEPA Amendments (July 1, 1999 through June 30, 2000), R01-30**

On May 3, 2001, the Board proposed for public comment amendments to the Illinois regulations that address certain rules recently adopted in the consolidated underground injection control (UIC) update dockets UIC Update, USEPA Amendments (July 1, 1999 through December 31, 1999), R00-11 and UIC Update, USEPA Amendments (January 1, 2000 through June 30, 2000), R01-1 (December 7, 2000) (consolidated) (R00-11/R01-1).

The Board opened the docket to consider concerns raised by USEPA since the rules' adoption. The proposal for public comment discusses all of the USEPA concerns in detail. In some instances, the Board proposes amendments to the rules. In others, the Board explains why amendments are unnecessary or are contrary to State law.

The notice of proposed amendments was published in the May 25, 2001 issue of the *Illinois Register* (25 Ill. Reg. 6599). The Board will receive public comments on this proposal for a period of 45 days following its publication in the *Illinois Register*. The public comment period ends on July 9, 2001.

For additional information contact Michael McCambridge at 312/814-6924; e-mail address: mccambm@ipcb.state.il.us.

## Environmental Register – May 2001

### **Board Adopts Identical in Substance Amendments 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 May 17, the Board adopted 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 (42 U.S.C. § 300h (1998)) and 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)).

Under Sections 7.2 and 13(c) of the Environmental Protection Act (Act) (415 ILCS 5/7.2, 13(c) (1998)), the Board adopts UIC amendments to the Illinois regulations. The nominal timeframe of docket R01-21 includes federal UIC amendments that USEPA adopted in the period July 1, 2000 through December 31, 2000. Under Sections 7.2 and 22.4(a) of the Act (415 ILCS 5/7.2, 22.4(a) (1998)), the Board adopts hazardous waste regulation amendments to the Illinois regulations. The nominal timeframe of docket R01-23 includes federal RCRA Subtitle C amendments that USEPA adopted in the period July 1, 2000 through December 31, 2000.

Sections 13(c) and 22.4(a) provide for quick adoption of regulations that are identical in substance to federal regulations that USEPA adopts. 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 Board consolidated dockets R01-21 and R01-23, and adopted a proposal for public comment in this matter on February 15, 2001. Notices of proposed amendments appeared in the March 9, 2001 issue of the *Illinois Register* (25 Ill. Reg. 3415). The Board received public comments on the proposal for a period of 45 days following publication, until April 23, 2001. The adopted rule contains only a few changes made in response to comments and suggestions of the Illinois Environmental Protection Agency and the Joint Committee on Administrative Rules.

The Board will delay filing the adopted amendments with the Office of the Secretary of State for 30 days. The delay is pursuant to an agreement between USEPA and the State of Illinois that allows USEPA additional time to review the adopted amendments before they become effective.

For additional information contact Michael McCambridge at 312/814-6924; e-mail address: mccambm@ipcb.state.il.us.

### **Board Adopts Proposal for Public Comment in Wastewater Pretreatment Update, USEPA Amendments (July 1, 2000 through December 31, 2000), R01-25**

On May 17, 2001, the Board proposed for public comment 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 adopted during the period of July 1, 2000 through December 31, 2000. USEPA amended its wastewater pretreatment regulations two times during that period: August 14, 2000 (65 Fed. Reg. 49666); and December 22, 2000 (65 Fed. Reg. 81242).

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, 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.

## Environmental Register – May 2001

The proposal for public comment will be published on June 8, 2001. The Board will accept written public comment for at least 45 days after the date of publication in the *Illinois Register*. The public comment period expires on July 24, 2001.

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

### Board Actions

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#### May 3, 2001 Via Video Conference Between Springfield and Chicago, Illinois

#### Rulemaking

R01-30	<u>In the Matter of: UIC Corrections, USEPA Amendments (July 1, 1999 through June 30, 2000)</u> – The Board adopted a proposal for public comment in this “identical-in-substance” rulemaking to amend the Board’s underground injection control regulations. This docket addresses concerns raised by USEPA regarding the recently adopted rules in <u>UIC Update, USEPA Amendments (July 1, 1999 through December 31, 1999)</u> and <u>UIC Update, USEPA Amendments (January 1, 2000 through June 30, 2000)</u> (December 7, 2000), R00-11/R01-1 (consolidated).	7-0 R, Land
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#### Administrative Citations

AC 01-29	<u>IEPA v. Leslie Yocum, Sandra Yocum, Rick L. Yocum, and Shawna B. Yocum</u> – The Board on its own motion consolidated this matter with AC 01-30 and denied respondents’ motion to dismiss these actions.	7-0
AC 01-30	<u>IEPA v. Leslie Yocum and Sandra Yocum</u> – The Board on its own motion consolidated this matter with AC 01-29 and denied respondents’ motion to dismiss these actions.	7-0
AC 01-33	<u>IEPA v. Donald Bauser</u> – The Board found that this Morgan County respondent violated Sections 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (1998)), and ordered respondent to pay a civil penalty of \$3,000.	7-0
AC 01-35	<u>IEPA v. Jody Short &amp; Lorrie Spriggs</u> – The Board accepted respondent Short’s petition for review of an administrative citation. The Board will enter a default judgment against respondent Spriggs should she fail to file a petition for review postmarked on or before April 28, 2001.	7-0

#### Decisions

PCB 97-226	<u>Riverview FS, Inc. v. IEPA</u> – The Board affirmed the Illinois Environmental Protection Agency’s May 12, 1997 partial denial of petitioner’s leaking underground storage tank fund reimbursement application.	7-0 UST-FRD
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## Environmental Register – May 2001

### Motions and Other Matters

PCB 96-98	<u>People of the State of Illinois v. Skokie Valley Asphalt, Inc.</u> – The Board denied complainant’s motion for summary judgment and ordered this matter to proceed to hearing.	7-0 W-E
PCB 96-256	<u>People of the State of Illinois v. Crier Development Company and Bradley S. Cowell</u> – The Board granted complainant’s motion for summary judgment and ordered this matter to proceed to hearing concerning penalty issues.	7-0 W-E
PCB 97-178	<u>People of the State of Illinois v. William C. Bigger, Joseph G. Bigger, and Bigger Family, Ltd.</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 Henderson County facility, the Board ordered publication of the required newspaper notice.	7-0 W-E
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 ruling admitting the two Andrews Environmental Engineering (Andrews) documents into the record. The Board granted respondent Briggs’ motion for leave to respond to complainant’s reply brief, but only insofar as the response relates to complainant’s arguments regarding the Andrews documents. All other portions of Briggs’ supplemental response were stricken.	7-0 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 oral argument.	7-0 A-E
PCB 01-3	<u>People of the State of Illinois v. City of Winchester, Benton &amp; Associates Engineering, Inc., and R&amp;G Construction</u> – The Board granted complainant’s motion to correct the misnomer in naming respondent Benton & Associates Engineering, Inc. instead of Benton & Associates, Inc.	7-0 PWS-E
PCB 01-108	<u>Johnston City Community Unit School District #1 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 Williamson County facility.	7-0 UST-Appeal
PCB 01-109	<u>Kean Brother 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-Appeal
PCB 01-119	<u>Stuart C. Nuss v. Village of Durand</u> – The Board found that, pursuant to Section 31(d) of the Act (415 ILCS 5/31(d) (1998)) and 34 Ill. Adm. Code 103.212(a) of its procedural rules, complainant’s allegations were frivolous. The Board granted this Winnebago County respondent’s motion to dismiss the action.	7-0 W-E, Citizens

## Environmental Register – May 2001

PCB 01-120	<u>Plexus Scientific Corporation v. IEPA</u> – The Board formally accepted petitioner’s amended petition in this matter, noting that hearing began on May 2, 2001 consistent with the Board’s April 5, 2001 order.	6-0 Lawton abstained  A-V
PCB 01-128	<u>B.L.T., Inc. v. Sixth Street Developers, Limited Partnership, ORF, Inc., Roland Industries, VT Properties, Inc., and Freesen, Inc.</u> – The Board found that the alleged violations in the complaint were neither duplicitous nor frivolous and accepted this matter involving a Sangamon County facility for hearing.	6-0 Kezelis abstained  L-E, Citizens
PCB 01-136	<u>Sangamon Prairie Pork Farm v. IEPA</u> – The Board found and certified that certain facilities of Sangamon Prairie Pork Farm located in Sangamon County are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (1998)).	7-0  T-C
PCB 01-137	<u>Hog Haven L.L.C. v. IEPA</u> – The Board found and certified that certain facilities of Hog Haven L.L.C. located in Lee County are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (1998)).	7-0  T-C
PCB 01-143	<u>Johnson 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 Jefferson County facility.	7-0  UST-FRD 90-Day Ext.
PCB 01-144	<u>People of the State of Illinois v. City of Pana, Housing Authority of Christian County, Prairie Land Construction, Inc., and Rich Williams d/b/a C.R. Williams &amp; Associates Architects</u> – The Board accepted for hearing this public water supply enforcement matter involving a Christian County facility.	7-0  PWS-E
PCB 01-145	<u>W.K. Developers v. Office of the State Fire Marshal</u> – The Board found the petition deficient in this underground storage tank appeal involving a Lake County facility, and ordered petitioner to file an amended petition to cure deficiencies no later than June 7, 2001, or the petition would be subject to dismissal.	7-0  UST-Appeal
PCB 01-146	<u>People of the Sate of Illinois v. Norman Sarver</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 Macon County facility, the Board ordered publication of the required newspaper notice.	7-0  PWS-E
PCB 01-147	<u>North Safety Products, Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a DuPage County facility.	7-0  P-A, Air

## Environmental Register – May 2001

### May 17, 2001 Via Video Conference Between Springfield and Chicago, Illinois

#### Rulemakings

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</u>	7-0
R01-23 (Cons.)	<u>Amendments (July 1, 2000 through December 31, 2000)</u> – The Board adopted a final opinion and order in these consolidated “identical-in-substance” rulemakings which amend the Board’s underground injection control and hazardous waste regulations.	R, Land
R01-25	<u>In the Matter of: Wastewater Pretreatment Update, USEPA Amendments (July 1, 2000 through December 31, 2000)</u> – The Board adopted a proposal for public comment in this “identical-in-substance” rulemaking to amend the Board’s wastewater pretreatment regulations.	7-0 R, Water

#### Adjusted Standards

AS 01-2	<u>In the Matter of: Petition of The City of Geneva for an Adjusted Standard from 35 Ill. Adm. Code 807.104</u> – The Board denied this Kane County petitioner’s request for an adjusted standard from the Board’s waste disposal regulations.	7-0 Land
AS 01-5	<u>In the Matter of: Petition of the City of Sycamore for an Adjusted Standard from 35 Ill. Adm. Code 304.121 and 306.305(b)</u> – The Board ordered petitioner to file an addendum to its first amended petition in this matter no later than June 18, 2001.	7-0 Water

#### Administrative Citation

AC 01-34	<u>IEPA v. William Hartmann and Billie Hartmann</u> – The Board found that these Macoupin County respondents violated Section 21(p)(1), (p)(3), and (p)(7) of the Illinois Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (1998)), and ordered respondents to pay a civil penalty of \$4,500.	7-0
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#### Decisions

PCB 98-146	<u>Donald Hoing d/b/a Don’s Service v. Office of the State Fire Marshal</u> – The Board affirmed the March 12, 1998 decision of the Office of the State Fire Marshal, that petitioner was ineligible to access the Underground Storage Tank Fund due to non-payment of registration fees.	7-0 UST-FRD
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## Environmental Register – May 2001

PCB 01-80      People of the State of Illinois v. Nestle USA, Inc. – In this water enforcement action concerning a Tazewell County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Illinois Environmental Protection Act (415 ILCS 5/31(c)(1) (1998)), accepted a final stipulation and settlement agreement, ordered the respondent to pay a civil penalty of \$50,000, and to cease and desist from further violations. Respondent also agreed to pay \$499.82 to the State of Illinois Fish and Wildlife Fund for recovery of the fish that were killed and for investigation expenses incurred as a result of a pumpkin processing waste spill into Bull Run Creek

7-0  
W-E

PCB 01-111      People of the State of Illinois v. David Livingston individually and Brian Siple individually d/b/a BCS Farms – In this water enforcement action concerning a Stephenson County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Illinois Environmental Protection Act (415 ILCS 5/31(c)(1) (1998)), accepted a final stipulation and settlement agreement, ordered the respondent to pay a total civil penalty of \$8,500, and to cease and desist from further violations

7-0  
W-E

### Motions and Other Matters

PCB 99-145      Karen Jones, Anita Rice, Jodi Leeper, Tim Leeper, Cassandra Vaughn, Cheryl Vaughn, Hobert Jones, and Peggy Eberhardt v. Heritage Tool and Die Mold Manufacturing, Inc. – The Board granted respondent’s motion to dismiss the complaint with prejudice for want of prosecution.

7-0  
N-E, Citizens

PCB 99-189      People of the State of Illinois v. Aabott Asbestos, Inc. – The Board entered an order requiring respondent to reimburse complainant for costs incurred in prosecuting this matter in the amount of \$1,920. This order follows the Board's order of April 5, 2001, which found that this respondent had violated Sections 9(a) and 9.1(d)(1) of the Illinois Environmental Protection Act (415 ILCS 5/9(a), 9.1(d)(1) (1998)), the Board’s air pollution regulations at 35 Ill. Adm. Code 201.141, and the National Emission Standards for Hazardous Air Pollutants for asbestos found at 40 C.F.R. §§ 61.145(c)(1), (c)(3), and (c)(6)(i), and 61.150(a)(1)(v), and ordered the respondent to pay a civil penalty of \$30,000.

7-0  
A-E

PCB 00-190      People of the State of Illinois v. TruServ Corporation – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this Resource Conservation Recovery Act enforcement action involving a McHenry County facility, the Board ordered publication of the required newspaper notice.

7-0  
RCRA-E

PCB 01-3      People of the State of Illinois v. City of Winchester, Benton & Associates Engineering, Inc., and R&G Construction – 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 Scott County facility, the Board ordered publication of the required newspaper notice.

7-0  
PWS-E

## Environmental Register – May 2001

PCB 01-75	<u>People of the State of Illinois v. Craig Yallaly and Susan Yallaly d/b/a Courtesy Cleaners</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 two facilities located in Coles and Vermilion Counties, the Board ordered publication of the required newspaper notices.	7-0 A-E
PCB 01-76	<u>People of the State of Illinois v. John Crane, Inc.</u> – The Board granted complainant’s motions to strike respondent’s two purported affirmative defenses: failure to state a cause of action and failure to comply with any applicable statute of limitations. The Board denied the complainant’s motion to strike respondent’s affirmative defenses of <i>laches</i> and waiver or estoppel.	7-0 Flemal and Kezelis concurring A-E
PCB 01-112	<u>Prairie Rivers Network v. IEPA and Black Beauty Coal Company</u> – The Board denied the motions of petitioner and respondent Black Beauty Coal Company for oral argument.	6-1 Girard dissenting P-A, NPDES 3rd Party
PCB 01-116	<u>Premcor Refining Group v. IEPA</u> – The Board accepted petitioner’s amended petition and ordered this underground storage tank appeal involving a DuPage County facility to proceed to hearing.	7-0 UST-Appeal
PCB 01-148	<u>Sierra Club, Friends of the Fox River and Prairie Rivers Network v. IEPA and Fox River Water Reclamation District</u> – The Board accepted for hearing this third-party National Pollutant Discharge Elimination System permit appeal involving a Kane County facility.	7-0 P-A, NPDES, 3rd Party
PCB 01-149	<u>Marathon Ashland Petroleum, L.L.C. 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.	7-0 UST-FRD
PCB 01-150	<u>People of the State of Illinois v. Marc Development and Silver Glen Estates Homeowners’ Association</u> – The Board accepted for hearing this water enforcement matter involving a Kane County facility.	7-0 W-E
PCB 01-151	<u>People of the State of Illinois v. Diamond Plating Company</u> – The Board accepted for hearing this Resource Conservation and Recovery Act enforcement action involving a Madison County facility.	7-0 RCRA-E

## Environmental Register – May 2001

PCB 01-152	<u>Johnson 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 Kankakee County facility.	7-0 UST-FRD
PCB 01-153	<u>City of Salem v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Marion County facility.	7-0 P-A, Land

## New Cases

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### May 3, 2001 Board Meeting

**01-143** Johnson 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 Jefferson County facility.

**01-144** People of the State of Illinois v. City of Pana, Housing Authority of Christian County, Prairie Land Construction, Inc., and Rich Williams d/b/a C.R. Williams & Associates Architects – The Board accepted for hearing this public water supply enforcement matter involving a Christian County facility.

**01-145** W.K. Developers v. Office of the State Fire Marshal – The Board accepted for hearing this underground storage tank appeal involving a Lake County facility.

**01-146** People of the State of Illinois v. Norman Sarver – 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 Macon County facility, the Board ordered publication of the required newspaper notice.

**01-147** North Safety Products, Inc. v. IEPA – The Board accepted for hearing this permit appeal involving a DuPage County facility.

**AC 01-39** IEPA v. Ivan R. Smith and Lois Smith – The Board accepted an administrative citation against these Union County respondents.

**AC 01-40** IEPA v. Millennium Waste, Inc. and Dominic Remmes – The Board accepted an administrative citation against these Rock Island County respondents.

**AS 01-08** Petition of the City of Harrisburg for an Adjusted Standard from 35 Ill. Adm. Code Section 306.305(b), 304.121 and 302.209 – Pending receipt of the certificate of publication, the Board held this Saline County facility's petition for an adjusted standard from the Board's water pollution control regulations.

**AS 01-09** In the Matter of: Petition of Rhodia, Inc. and Thorn Creek Basin Sanitary District for an Adjusted Standard from 35 Ill. Adm. Code 302.208 and 304.105 – Pending receipt of the certificate of publication, the Board held this Cook County facility's petition for an adjusted standard from the Board's water pollution control regulations.

### May 17, 2001 Board Meeting

**01-148** Sierra Club, Friends of the Fox River and Prairie Rivers Network v. IEPA and Fox River Water Reclamation District – The Board accepted for hearing this third-party National Pollutant Discharge Elimination System permit appeal involving a Kane County facility.

**01-149** Marathon Ashland Petroleum, L.L.C. 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.

**01-150** People of the State of Illinois v. Marc Development and Silver Glen Estates Homeowners' Association – The Board accepted for hearing this water enforcement matter involving a Kane County facility.

## Environmental Register – May 2001

**01-151** People of the State of Illinois v. Diamond Plating Company – The Board accepted for hearing this Resource Conservation and Recovery Act enforcement action involving a Madison County facility.

**01-152** Johnson 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 Kankakee County facility.

**01-153** City of Salem v. IEPA – The Board accepted for hearing this permit appeal involving a Marion County facility.

**01-154** David P. Houghtaling v. Tire Management, Inc. – The Board held for a later duplicitous/frivolous determination of this citizen’s air enforcement action involving a Kane County facility.

**AC 01-41** IEPA v. RCS, Inc., Mike Whitlock, and Mike Cassons – The Board accepted an administrative citation against these Jersey County respondents.

**AC 01-42** IEPA v. Alan Smith – The Board accepted an administrative citation against this Champaign County respondent.

**AC 01-43** IEPA v. City of Eldorado – The Board accepted an administrative citation against this Saline County respondent.

## Calendar

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6/7/2001 11:00 am		Illinois Pollution Control Board Meeting	Illinois Pollution Control Board Hearing Room 403 600 South Second Street Springfield
6/7/2001 2:00 pm	R01-31	In the Matter of: Provisional Variances From Water Temperature Standards: Proposed New 35 Ill. Adm. Code 301.109	Illinois Pollution Control Board Hearing Room 403 600 South Second Street Springfield
6/20/2001 1:00 pm	R01-31	In the Matter of: Provisional Variances From Water Temperature Standards: Proposed New 35 Ill. Adm. Code 301.109	James R. Thompson Center Conference Room 512 100 West Randolph Street Chicago
6/21/2001		Illinois Pollution Control Board Meeting	James R. Thompson Center 100 West Randolph Street Conference Room 9-040 Chicago
6/27/2001 11:00 am	PCB 00-212	People of the State of Illinois v. Kenneth Morrison	Livingston County Courthouse County Board Room 112 West Madison Street Pontiac
7/10/2001 9:00 am	PCB 00-221	James A. Glasgow, Vickie L. Glasgow, Bill Hoppe and Pat Hoppe v. Granite City Steel	Granite City City Hall Mayor’s Conference Room 2000 Edison Avenue Granite City
7/11/2001 9:00 am	PCB 00-221	James A. Glasgow, Vickie l. Glasgow, Bill Hoppe and Pat Hoppe v. Granite City Steel	Granite City City Hall Mayor’s Conference Room 2000 Edison Avenue Granite City
7/12/2001		Illinois Pollution Control Board Meeting	James R. Thompson Center 100 West Randolph Street Conference Room 9-040

## Environmental Register – May 2001

			Chicago
7/26/2001		Illinois Pollution Control Board Meeting	James R. Thompson Center 100 West Randolph Street Conference Room 9-040 Chicago
8/9/2001		Illinois Pollution Control Board Meeting	James R. Thompson Center 100 West Randolph Street Conference Room 9-040 Chicago
8/23/2001		Illinois Pollution Control Board Meeting	James R. Thompson Center 100 West Randolph Street Conference Room 9-040 Chicago
9/6/2001		Illinois Pollution Control Board Meeting	Illinois Pollution Control Board Hearing Room 403 600 South Second Street Springfield
9/20/2001		Illinois Pollution Control Board Meeting	James R. Thompson Center 100 West Randolph Street Conference Room 9-040 Chicago

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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.

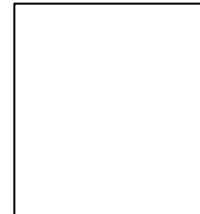
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