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Thomas Holbrook, Chairman

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Letter from the Chairman

In October, I was honored to be appointed Chairman of the Pollution Control Board by Governor Pat Quinn to replace Acting Chairman G. Tanner Girard. The Governor appointed Dr. Girard Executive Director of the Board. In addition, Board Member Andrea Moore retired from the Board, and Governor Quinn appointed Deanna Glosser to take Member Moore's seat. Finally, Governor Quinn reappointed Board Member Tom Johnson. Board Members Jennifer Burke and Carrie Zalewski continue in their terms of office.

I served as State Representative from the 113th Representative District where I was first elected in 1994. I was a member of the House Environment & Energy Committee for nearly two decades and Chairman for the last decade. I helped craft significant environmental legislation including a re-write of the procedural process for addressing leaking underground storage tanks program; revising air, water, and land permitting rules and procedures, and creating programs such as Illinois' first e-waste program. I also served on the Joint Committee on Administrative Rules. My work in the private sector included installing, maintaining, and calibrating state of the art instrumentation for monitoring emissions and quality control.

Deanna Glosser is an environmental planner with a doctoral degree from the Department of Urban & Regional Planning at the University of Illinois at Champaign-Urbana (UIUC). She worked for the Illinois Department of Natural Resources for 13 years and has been president of Environmental Planning Solutions, Inc. Dr. Glosser has co-authored three policy guides for the American Planning Association on wetlands, endangered species, and community and regional food planning. In addition, She has served as an Adjunct Assistant Professor at UIUC and an Adjunct Professor at the University of Illinois-Springfield.

From my nearly two decades of experience on the House Environment & Energy Committee, I know that the Pollution Control Board has an excellent reputation in crafting environmental regulations and deciding contested environmental cases. We are grateful for departing Member Moore's contribution to that reputation through eight years of service to the Board and the citizens of Illinois. I look forward to working with the Board Members and staff to further the Board's mission of restoring, protecting, and enhancing the environment in Illinois.



Sincerely,

A handwritten signature in dark ink that reads "Thomas Holbrook". The signature is written in a cursive style with a large, sweeping initial "T".

Thomas Holbrook
Chairman

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Appellate Update

Supreme Court Dismisses Appeal of Board Grant of Adjusted Standard, Finding Appellants Lacked Standing to Appeal in Sierra Club et al. v. Illinois Pollution Control Board et al., 2011 IL 110882 (Oct. 27, 2011) (leaving undisturbed the Board’s ruling in RCRA Delisting Adjusted Standard Petition of Peoria Disposal Company, AS 08-10 (Jan. 8, 2009))

On October 27, 2011, the Board prevailed before the Supreme Court of Illinois in Sierra Club et al. v. Illinois Pollution Control Board et al., 2011 IL 110882, resulting in dismissal of an appeal of a Board decision because the appellants: Sierra Club and Peoria Families Against Toxic Waste (collectively, opposition groups). In a 5-2 decision, the Supreme Court found the opposition groups lacked standing to seek judicial review of the Board’s determination. The high court vacated the Third District Appellate Court’s decision. By a vote of 2-1, the Third District had found standing, but affirmed the Board decision on the merits. See Sierra Club et al. v. Illinois Pollution Control Board et al., 403 Ill. App. 3d 1012, 936 N.E.2d 670 (3rd Dist. 2010).

The Board decision at issue was entered in RCRA Delisting Adjusted Standard Petition of Peoria Disposal Company, AS 08-10 (Jan. 8, 2009). There, in a 103-page opinion and order, the Board granted the petition of Peoria Disposal Company (PDC) for an adjusted standard to “delist” certain residue generated by PDC’s treatment of electric arc furnace (EAF) dust from steel mills.

Overview

The Illinois Supreme Court majority opinion found that the Board’s grant of the delisting adjusted standard under Section 28.1 of the Environmental Protection Act (Act) (415 ILCS 5/28.1 (2010)) is not a “rule or regulation” but rather an “adjudicatory determination” constituting “an individualized exception” to a rule or regulation. This finding, in turn, dictated whether the opposition groups could appeal the Board’s decision.

Under the Act, a Board *rule or regulation* may be appealed by “[a]ny person adversely affected or threatened” by the rule or regulation. 415 ILCS 5/29(a) (2010). However, a Board *adjudicatory determination*, like the granted adjusted standard at issue, may be appealed generally only by a “party” to the Board proceeding. 415 ILCS 5/41(a) (2010). Before the Board, the opposition groups made public comments, which all agreed does not confer “party” status. The opposition groups could have, but did not, seek to become parties to the Board proceeding through intervention.

Having found the appellants had no standing to appeal the Board’s decision, the court did not reach the merits of the Board’s decision. The Supreme Court vacated the Third District’s decision and dismissed the appeal in its entirety.

Justice Thomas delivered the judgment and opinion of the court. Justices Freeman, Garman, Karmeier, and Burke concurred in the judgment and opinion. Justice Theis authored a dissenting opinion in which Chief Justice Kilbride joined. The majority opinion and dissent are available on the Supreme Court’s website at <http://www.state.il.us/court/Opinions/SupremeCourt/2011/October/110882.pdf>.

The dismissal leaves undisturbed the Board’s delisting adjusted standard, under which only PDC treatment residue that meets extensive specifications for the protection of human health and the environment is exempt from

hazardous waste regulation. As the court did not address the merits of the Board’s decision, the details of the Board’s lengthy and detailed technical decision are not discussed below.

The Illinois Supreme Court Majority Opinion

The Supreme Court majority first observed that the issue of standing is “a question of law that we review *de novo*.” 2011 IL 110882, 8. The question of standing turned on statutory construction. Section 28.1 of the Act governs adjusted standards and states that “[a] final Board determination made under this Section may be appealed pursuant to Section 41 of this Act.” *Id.* at 9, quoting 415 ILCS 5/28.1(g) (West 2008). In turn, Section 41(a) lists several categories of persons who may appeal Board decisions, concluding with: “Review of any rule or regulation promulgated by the Board shall not be limited by this section but may also be had as provided in Section 29 of this Act.” *Id.*, quoting 415 ILCS 5/41(a) (West 2008). The court then quoted Section 29(a) of the Act, which states that “[a]ny person adversely affected or threatened by any rule or regulation of the Board may obtain a determination of the validity or application of such rule or regulation by petition for review under Section 41 of this Act.” *Id.*, quoting 415 ILCS 5/29(a) (West 2008). The parties agreed that the opposition groups do not fall into any of the categories of persons enumerated in Section 41(a). Accordingly, the court stated, “the question becomes whether the Board Order constitutes a ‘rule or regulation promulgated by the Board.’” *Id.* at 10.

The Supreme Court concluded, for multiple reasons, that the Board’s delisting adjusted standard is not a rule or regulation promulgated by the Board. 2011 IL 110882, ¶ 11.

- First, the court found that Section 28.1 “repeatedly draws a distinction between rules and regulations on the one hand, and adjusted standards on the other.” *Id.*, citing 415 ILCS 5/28.1(a), (b) (West 2008). An adjusted standard is “not *itself* the regulation promulgated by the Board; rather, it is an individualized exception to that regulation.” *Id.* (emphasis in original). For example, after noting that Section 28.1(a) provides that the rulemaking provisions of the Act and the Illinois Administrative Procedure Act (IAPA) do not apply to adjusted standard determinations, the court stated that “[i]f the standards and procedures governing the Board’s rulemaking authority do not apply to the adjudication of adjusted standard petitions, then necessarily the Board is not engaged in rulemaking when it adjudicates such a petition.” *Id.*
- Second, the court emphasized the Act draws a distinction between adjusted standards under Section 28.1 of the Act and site-specific regulations, the authority for which is not in Section 28.1 but instead in Section 27(a) on rulemaking. *Id.* at 12.
- Third, Supreme Court pointed out that Section 28.1(h) of the Act makes plain that the Board’s authority to grant adjusted standards does not impact its authority to adopt site-specific regulations. *Id.* “If the Board has the specific statutory authority to adopt regulations specific to individual persons or sites, and if the granting of an adjusted standard petition can neither *affect* nor *limit* that authority, then necessarily the granting of such a petition is not itself an *exercise* of that authority.” *Id.* (emphasis in original).
- Fourth, the court found it significant that Section 28.1(a) pronounces that the Board’s decision to grant an adjusted standard is an “adjudicatory determination.” *Id.* at 13, quoting 415 ILCS 5/28.1(a) (West 2008). Because granting an adjusted standard is judicial in nature and adopting a rule or regulation is legislative in nature, “there is simply no way to conclude the granting of an adjusted standard results in the adoption of a rule or regulation. The two functions are fundamentally distinct.” *Id.*, citing 35 Ill. Adm. Code 101.202 (definitions of “adjusted standard” and “adjudicatory proceeding”). Moreover, the court continued, the adjusted standard determination itself is adjudicatory, “not merely the process” of arriving at the determination as the opposition groups argued. *Id.* at 14.
- Lastly, the Supreme Court observed that under the IAPA, the Secretary of State must publish “the complete text of all rules of all State agencies” in the Illinois Administrative Code. 2011 IL 110882, 15, quoting 5 ILCS 100/5-80(f) (West 2008).

Given this requirement, if a delisting adjusted standard were in fact a ‘rule or regulation,’ we would expect to see the complete text of the Board’s orders granting such standards published in the Illinois Administrative Code. But we do not. *Id.*

The court explained that the only reference to such Board orders in the Illinois Administrative Code is a table with an entry for each delisting adjusted standard, which amounts to “little more than a case caption followed by three or four lines of summary data.” *Id.*, citing 35 Ill. Adm. Code 721 App. I, Table D (2011). The court observed that such an entry is “[f]ar from” the “‘complete text’ of the Board’s delisting order, which in this case ran 103 single-spaced pages and set forth extensive terms, standards, and conditions.” *Id.*

In light of these “numerous compelling reasons for us to conclude that an order granting an adjusted standard is not a ‘rule or regulation promulgated by the Board,’” the Supreme Court held that “such orders are not appealable under section 29(a) of the Act.” 2011 IL 110882, 17. The court accordingly held that the opposition groups “are without any statutory basis for prosecuting this appeal.” *Id.* Therefore, the State’s highest court vacated the Third District’s decision and dismissed the appeal. *Id.*

The Dissenting Opinion

Justice Theis’ authored a written dissent, in which Chief Justice Kilbride joined. The dissenting justices believe that the opposition groups have standing. 2011 IL 110882, 20. Justice Theis’ dissent maintained that adjusted standards and site-specific rules “are, in effect, specific rules or regulations.” *Id.* at 27. According to the dissent, despite adjusted standards and site-specific rules being “procedurally different” (*id.* at 31), they are “substantively similar” (*id.*) and the “label” of an “adjusted standard” has “no bearing” on standing (*id.* at 33).

First District Appellate Court Affirms the Board’s Administrative Citation Decision and \$12,000 in Penalties in *Jose Gonzalez & 1601-1759 East 130th Street, L.L.C. v. The Illinois Pollution Control Board*, No. 1-09-3021 (1st Dist. Sept. 30, 2011), ___ Ill. App. 3d ___, ___ N.E. 2d ___ (2011) (affirming the Board’s order in *City of Chicago Department of Environment v. Speedy Gonzalez Landscaping, Inc., et al.*, AC 06-39, AC 06-40, AC 06-41, and AC 07-25 (cons.) (June 4, 2009))

On September 30, 2011, the First District Appellate Court issued a non-precedential Rule 23 order affirming the Board’s administrative citation decision in four consolidated cases. The court’s decision was captioned as *Jose Gonzalez & 1601-1759 East 130th Street, L.L.C. v. The Illinois Pollution Control Board*, No. 1-09-3021 (1st Dist. Sept. 30, 2011). The court’s 14-page order was authored by Justice Cahill, with Justices Gordon and Garcia concurring. The Board has recently learned that the First District has granted the Board’s motion to publish the case, but the Board has yet to see the final opinion as it will be published. The published decision can serve as helpful precedent in future cases.

The Board’s opinion and order, captioned as *City of Chicago Department of Environment v. Speedy Gonzalez Landscaping, Inc., et al.*, AC 06-39, AC 06-40, AC 06-41, and AC 07-25 (cons.) (June 4, 2009)), found that the complainant had proven some of the violations alleged in the consolidated cases against two of three respondents, and imposed a statutory penalty of \$6,000 against each of the two violators, as well as hearing costs (roughly \$1,200 and \$1,300).

The First District Appellate Court’s decision to publish its ruling is important because of the court’s first ever discussion of liability for waste present on a site prior to an owner’s acquisition of the site. The First District agreed with the Board that a person may “cause or allow” the open dumping of waste even though the waste (1) was not placed on the site by the person and (2) existed on the site *before* the person acquired the site. In affirming liability based on the site owner’s failure to timely remove such so-called “preexisting” waste, the court explains a rule of law on a recurring issue in administrative citation proceedings.

Below, after background on the Board’s rulings, is a summary of the court’s decision (Order).

Board’s Rulings in AC 06-39, AC 06-40, AC 06-41, and AC 07-25 (cons.)

The City of Chicago Department of Environment (City) filed four administrative citations with the Board under Section 31.1 of the Environmental Protection Act (Act), 415 ILCS 5/31.1. In the citations, the City alleged that three respondents violated various provisions of Section 21(p) of the Act at 1601 E.130th Street in Chicago, Cook

County. The City sought the statutory civil penalty of \$1,500 per violation against each respondent, for a total of \$25,500 in penalties.

After hearings and briefing, the Board issued an interim opinion and order on March 19, 2009. There, the Board first consolidated the citations for purposes of decision and denied respondents' motions to dismiss the cases. The dismissal motions were based on, among other things, the alleged solicitation of a bribe by a City inspector. Turning then to the merits, the Board found violations in two of the four actions: (1) Speedy Gonzalez Landscaping, Inc. did not cause or allow the open dumping of waste; (2) Jose Gonzalez and his LLC, 1601-1759 East 130th Street, LLC (LLC), allowed the open dumping of waste in a manner resulting in litter, scavenging, open burning, and the deposition of general construction or demolition debris, but did not cause or allow the open dumping of waste in a manner resulting in the deposition of waste in standing water; and (3) the fourth citation, based on a later inspection of the site, was dismissed as improperly issued against the LLC.

Accordingly, in the interim opinion and order, the Board found that Mr. Gonzalez and the LLC violated Sections 21(p)(1), (p)(2), (p)(3), and (p)(7)(i) of the Act. The violations were based on (1) waste that had been "fly-dumped" on the site by others before the LLC purchased the site and (2) waste from a Chicago Transit Authority (CTA) renovation project that had been brought to the site by agreement with a hauler. In its final opinion and order of June 4, 2009, the Board imposed the \$6,000 statutory penalty, plus \$1,340.40 in hearing costs, on Mr. Gonzalez, and the \$6,000 statutory penalty, plus \$1,189.40 in hearing costs, on the LLC. Mr. Gonzalez and the LLC appealed to the First District Appellate Court.

Court's Rulings in No. 1-09-3021

On appeal, Mr. Gonzalez and the LLC (collectively, petitioners) made three contentions. Order at 2. First, petitioners asserted that the evidence before the Board was not adequate to show that they caused or allowed opening dumping. *Id.* at 2, 9. Second, petitioners argued that Mr. Gonzalez, as a corporate agent, could not be held liable for the violations. *Id.* at 2, 12. Finally, petitioners contended that they were denied due process of law at the Board's hearing. *Id.*

"Cause or Allow" Open Dumping. The First District applied the "manifest weight of the evidence" standard in reviewing the Board's findings of violation, noting that a decision is against the manifest weight of the evidence only if the opposite conclusion is clearly evident. Order at 10. The court observed that to prove a Section 21(p) violation, complainant must prove that the person caused or allowed the open dumping of waste. *Id.*, citing 415 ILCS 5/21(a), (p). To do so, the court continued, complainant "must show that the alleged polluter has the capability of control over the pollution or that the alleged polluter was in control of the premises where the pollution occurred." *Id.*, quoting People v. A.J. Davinroy Contractors, 249 Ill. App. 3d 788, 793 (5th Dist. 1993). The First District further stated that "[p]roperty owners are responsible for the pollution on their land unless the facts establish the owners either 'lacked the capability to control the source' or 'had undertaken extensive precautions to prevent vandalism or other intervening causes.'" *Id.*, quoting Perkinson v. IPCB, 187 Ill. App. 3d 689, 695 (3rd Dist. 1989).

The Board's finding that Mr. Gonzalez and the LLC caused or allowed the open dumping of "the preexisting fly-dumped waste and the CTA waste" was, according to the court, "not against the manifest weight of the evidence." Order at 10. In January 2005, the LLC purchased the site, which was "owned in the form of an LLC, by [Gonzalez] privately." *Id.* The court observed that petitioners "were aware of the preexisting fly-dumped waste at the time of the purchase but failed to remove it for over 14 months." *Id.* at 10-11.

The court recounted that (1) Mr. Gonzalez installed a fence and entrance gate at the site, (2) petitioners entered into an agreement with E. King Hauling to store CTA waste in dumpsters or trucks on the site for \$500 per night, (3) petitioners gave the hauler a key to the entrance gate's lock, and (4) Mr. Gonzalez was present on the site and monitoring the cleanup during the City's first site investigation. Order at 11. The court agreed with the Board that based on the evidence, petitioners "were in control "of the premises where the pollution occurred." *Id.*, quoting A.J. Davinroy, 249 Ill. App. 3d at 793. Nor did petitioners establish that they "took 'extensive precautions' to prevent the pollution of the CTA waste." *Id.*, quoting Perkinson, 187 Ill. App. 3d at 695. The court related that "[a]s noted by the Board, Gonzalez's office was 10 minutes from the site and petitioners could have sent a representative to monitor E. King's activities." *Id.*

The court also distinguished Phillips Petroleum Co. v. IEPA, 72 Ill. App. 3d 217 (2nd Dist. 1979), a case in which the evidence was inadequate to show that a tank car owner had sufficient capacity to control pollution where the tank car was under the sole control of the transporting railroad at the time the tank car derailed, releasing poisonous

gas. *Id.* The First District agreed with the Board that petitioners here, in contrast, “were in control of the site and did not lack the capability of controlling the pollution.” Order at 11.

Liability as Corporate Agent. Petitioners argued next that Mr. Gonzalez “cannot be held liable for violations of the Act because he is a corporate agent.” Order at 12. Agreeing with the Board, the court found that the issue was “forfeited because Gonzalez raised it for the first time in his motion [to the Board] for reconsideration.” *Id.* Even if the issue was not forfeited, however, the court held that Mr. Gonzalez would still be liable because of his “personal involvement or active participation” in the violations. *Id.*, citing People v. Agpro, Inc., 345 Ill. App. 3d 1011, 1028-29 (2nd Dist. 2004).

Due Process. Lastly, petitioners claimed that they were

denied due process based on: the City’s selective prosecution of petitioners; the City’s false allegations; the City’s failure to provide field notes and business cards of the identity of additional witnesses in response to a subpoena; [a City inspector’s] false testimony about his FBI training; and [a City inspector’s] inconsistent testimony about whether he believed the trucks were loading or unloading waste on the site. Order at 12-13.

The First District noted that “[a]n administrative hearing comports with due process where the parties are given the opportunity to be heard, the right to cross-examine adverse witnesses and an impartial ruling based on the evidence.” Order at 13. Further, “[a] court will find a due process violation only if there is a showing of prejudice.” *Id.*

The court held that petitioners were not denied due process of law at the Board’s hearing:

Here, petitioners were given a full opportunity to challenge the evidence against them, present evidence and cross-examine the witnesses. Petitioners were not prejudiced by the City’s failure to produce [a City inspector’s field] notes and business cards. As noted by the Board, the City turned over customary documents for administrative citation proceedings, and the inspection report and other evidence presented at trial were sufficient for petitioners to challenge the citations. We believe petitioners’ argument that the [field] notes would have contained exculpatory evidence is speculative and unpersuasive.

[A City inspector’s] inconsistent testimony about his FBI training was irrelevant to the primary issues in this case. [A City inspector’s] belief about whether the trucks were loading or unloading waste had no effect on petitioners’ liability because the Board found the CTA waste had been dumped on the site and other waste was present long after petitioners acquired the site. Petitioners were also not deprived of due process due to the City’s alleged selective prosecution because it is within the discretion of the prosecutor to initiate actions for violating the Act. Order at 13-14.

As previously stated, the the Board has been advised of the First District Appellate Court’s decision to publish the court’s order, but has yet to receive the opinion as it will be published.

Rulemaking Update

Board Accepts for Expedited Hearing, and Orders Illinois Register Publication of, IEPA Proposal to Amend the Enhanced Vehicle Emission Inspection and Maintenance (I/M) Regulations, R12-12

On October 6, 2011, the Board accepted for expedited hearing a proposal that would sunset the steady-state idle and evaporative system integrity test standards used in the Illinois enhanced vehicle inspection and maintenance program for the Chicago and Metro-East St. Louis nonattainment areas. The Illinois Environmental Protection Agency (IEPA), on October 3, 2011, filed the proposed rulemaking which was docketed as In the Matter of: Revision of Enhanced Vehicle Emission Inspection and Maintenance (I/M) Regulations: Amendments to 35 Ill. Adm. Code Part 240.R12-12.

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Under Section 13C-20 of the Vehicle Emissions Inspection Law of 2005, the Board is required to adopt rules within 120 days of receiving the proposal, *i.e.* on or before January 26, 2012. The Board ordered immediate publication of the proposal in the *Illinois Register*. See 35 Ill. Reg. 17178 (Oct. 28, 2011). The Board has scheduled public hearings for:

November 17, 2011 at 9:00 am in Room 9-040, James R. Thompson Center, 100 W. Randolph Street, Chicago IL, and

November 30, 2011, at 9:00 am in Madison County Administration Building, Room 145, 157 N. Main St., Edwardsville, IL

This rulemaking proposal would implement P.A. 97-0106 which repeals the steady-state idle and evaporative system integrity emissions tests, exempts pre-2007 heavy-duty vehicles with gross vehicle weight rating (GVWR) between 8,501 and 14,000 pounds and any heavy-duty vehicles with a GVWR greater than 14,000 pounds, and adds a new visual inspection test. The amendments would be effective February 1, 2012. The IEPA states that, as a result of sunseting the steady-state idle and evaporative integrity test standards used in the Illinois program as of February 1, 2012, the Illinois program “will continue to be an [on-board diagnostic (OBD)] program – testing subject vehicles using the OBD test, with the exception of a minuscule subset of vehicles that cannot receive the OBD test. These vehicles would receive the new visual inspection test.”

Persons interested in attending the public hearings should refer to the hearing officer order of October 6, 2011, setting out procedural details including requirements for the pre-filing of testimony.

Public comments must be filed with the Clerk of the Board. Public comments may be filed at the following address: Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601.

In addition, public comments may be filed electronically through COOL at www.ipcb.state.il.us. Any questions about electronic filing through COOL should be directed to the Clerk’s Office at (312) 814-3629. The docket number for this rulemaking, R12-12, should be indicated on the public comment.

Opinions and orders of the Board and hearing officer, hearing transcripts, and other documents in rulemaking records are posted on the Board’s Web site and may be downloaded without charge. Hard copies may be obtained from the Clerk’s office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

For more information contact Daniel Robertson at 312-814-6931 or email at robertsd@ipcb.state.il.us.

Board Adopts Proposal for Public Comment in UIC Update, USEPA Amendments (July 1, 2010 through December 31, 2010),R11-14

The Board, on October 20, 2011, adopted for public comment identical-in-substance rulemaking to update the Illinois underground injection control (UIC) regulations to incorporate revisions to federal regulations. The Board also extended the deadline for completion of rulemaking activities from December 10, 2011 until January 26, 2012.

The federal amendments that prompted this action were made by the United States Environmental Protection Agency (USEPA) on December 10, 2010. Those amendments instituted new requirements to create a new class of injection well, Class VI injection wells, which includes wells used for underground carbon sequestration.

This proposal for public comment would incorporate the new USEPA carbon sequestration well requirements into the Illinois UIC regulations. This proposal would also make a series of non-substantive corrections and stylistic revisions to segments of the text that are not otherwise affected by the covered federal amendments. This proceeding proposes amendments to 35 Ill. Adm. Code 702, 704, 705, and 730. The proposed amendments were published in the *Illinois Register* at 35 Ill. Reg. 17488 (Oct. 28, 2011). The Board will consider public comments received within 45 days after the date of publication, *i.e.* on or before December 12, 2011. The Board presently intends to adopt final amendments based on this proposal on or before January 5, 2012.

Board Adopts First Notice Proposal for Amendments to Part 620 Groundwater Quality Rules, R08-18

The Illinois Pollution Control Board, on October 20, 2011, adopted for first notice a proposal to amend the Board’s groundwater quality rules. This rulemaking, docketed as Proposed Amendments to Groundwater Quality Standards, 35 Ill. Adm. Code 620, (R08-18), was initiated by the February 18, 2009 proposal filed by the Illinois

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Environmental Protection Agency (IEPA). The Board has already held two public hearings concerning the proposal to amend Part 620 of Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code 620).

The proposed amendments include updates based upon new scientific data, federal amendments, and technical references. Groundwater quality standards are added for 39 chemical constituents detected in Illinois groundwater that have toxicity values established by the United States Environmental Protection Agency (USEPA) or that have groundwater remediation objectives under the Tiered Approach to Corrective Action Objectives (TACO). Additionally, the Class I arsenic standard is revised to reflect the new federal Maximum Contaminant Level (MCL).

Publication of these proposed amendments in the *Illinois Register* will begin a 45-day public comment period, during which anyone may file a public comment with the Board. The Board encourages persons to file public comments on these proposed amendments. The docket number for this rulemaking, R08-18, should be indicated on the public comment.

Public comments must be filed with the Clerk of the Board. Public comments may be filed at the following address: Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601.

In addition, public comments may be filed electronically through COOL at www.ipcb.state.il.us. Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded without charge. Hard copies may be obtained from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

For more information, contact Richard McGill at 312-814-6983 or email at mcgillr@ipcb.state.il.us.

Board Adopts Final Rules in Air Rules Clean-Up Docket, R09-19

On October 20, 2011, the Board adopted final rules in its opinion and order in R09-19, In the Matter of: Air Quality Standards Clean-Up: Amendments to 35 Ill. Adm. Code Part 243. The Illinois Environmental Protection Agency filed the original rulemaking proposal on December 1, 2008, and the Board conducted two public hearings. The adopted rules become final on their filing with the Secretary of State.

The rulemaking amends Part 243 of the Board's regulations to reflect updated federal air quality standards for ozone, particulate matter, and lead. The amendments also include technical corrections to Parts 217 and 223.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded without charge. Hard copies may be obtained from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

For more information contact Tim Fox at 312-814-6085 or email at foxt@ipcb.state.il.us.

Board Adopts Additional Amendments to Recently-Updated Financial Assurance Requirements in Illinois' Nonhazardous Solid Waste Landfill Regulations, R10-09(A)

The Board, on October 20, 2011, adopted amendments to its recently amended financial assurance for waste disposal regulations in a rulemaking docketed as In the Matter of: Financial Assurance Instruments – Renewal and Terms: Amendments to 35 Ill. Adm. Code 807.Subpart F and Appendix A, 810.104, 811.Subparts C, G and Appendix A (R10-09A). In the original docket R10-9, on June 16, 2011 the Board adopted rules proposed by the Illinois Environmental Protection Agency (IEPA) wanted the Board to update the rules to correspond with the hazardous waste financial assurance standards derived from the federal Resource Conservation and Recovery Act (RCRA) Subtitle C (42 U.S.C. 6921 *et seq.* (2007)) hazardous waste regulations and the Board's other financial assurance programs.

The amendments in this Subdocket A were proposed by the IEPA following the Board's second-notice opinion and order in R10-9. Under the Illinois Administrative Procedures Act and the Board's procedural rules, the Board could not make substantive changes to the proposed regulations in R10-9 after the beginning of the second notice period, except in response to objections or suggestions from JCAR. 35 Ill. Adm. Code 102.606(b). Since JCAR did not propose the changes suggested by the IEPA, the Board determined that the best course of action would be to open a Subdocket A to address the additional IEPA amendments, and did so by order of June 16, 2011. No public comments were received concerning the Subdocket A proposal.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded without charge. Hard copies may be obtained from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

For more information contact Daniel Robertson at 312-814-6931 or email at robertsd@ipcb.state.il.us.

Board Adopts Additional Amendments to the Volatile Organic Material Emissions Control Regulations, in R11-23 (A)

On October 20, 2011, the Illinois Pollution Control Board adopted final rules amending to its air pollution regulations addressing emission of volatile organic material (VOM). The rulemaking is docketed as In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions From Group II and Group IV Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 218.208 and 219.208, (R11-23(A)).

The rules will become effective upon filing with the Secretary of State.

This rulemaking is a "trailer docket" underlying rulemaking docket R11-23, in which final rules were adopted July 21, 2011. This Subdocket A stems from comments filed by the Illinois Environmental Protection Agency (IEPA) on May 16, 2011 in R11-23. The IEPA proposed amending Sections 218.208 and 219.208 by adding a "small container exemption" for pleasure craft surface coating operations. The Board opened this Subdocket (A) on June 16, 2011, in order to address those two sections, neither of which had been included in the IEPA's original proposal.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded without charge. Hard copies may be obtained from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

For more information contact Tim Fox at 312-814-6085 or email at foxt@ipcb.state.il.us.

Board Adopts First Notice Proposal for New Procedural Rules for Landscape Waste and Compost Authorizations Under 415 ILCS 21(q), R12-11

On October 20, 2011, the Board proposed for first notice publication in the *Illinois Register* new procedural rules for adjusted standards addressing Board authorizations for certain landscape waste and compost applications and on-farm composting. In the Matter Of: Procedural Rules for Authorizations Under P.A. 97-220 For Certain Landscape Waste and Compost Applications and On-Farm Composting Facilities: New 35 Ill. Adm. Code 106.Subpart I, R12-11 (Oct. 20, 2011).

In the absence of any other rulemaking proposal, the Board initiated this rulemaking in response to P.A. 97-220, signed and effective July 28, 2011. P.A. 97-220 amends the Environmental Protection Act to specify that the Board rather than the Illinois Environmental Protection Agency (IEPA) may authorize certain exceptions to the provisions of Section 21(q) of the Environmental Protection Act, 415 ILCS 5/21(q).

One type of Board authorization would allow any person to apply landscape waste and composted landscape waste at a rate greater than "agronomic rates" of not more than 20 tons per acre per year. The other type of Board authorization is limited to farmers who operate a composting facility on the land that they utilize landscape waste compost to operate the compost facility on more than two percent of the property's total acreage. Without such Board authorizations, these activities are prohibited, and subject to enforcement.

The Board is not required to hold a public hearing to amend its procedural rules pursuant to Section 26 and 27 of the Act. The Board presently does not intend to hold a hearing on these proposed rules unless requested to do so.

Publication of these proposed amendments in the *Illinois Register* will begin a 45-day public comment period, during which anyone may file a public comment with the Board. The Board encourages persons to file public comments on these proposed amendments. The docket number for this rulemaking, R12-11, should be indicated on the public comment.

Public comments must be filed with the Clerk of the Board. Public comments may be filed at the following address: Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601.

In addition, public comments may be filed electronically through COOL at www.ipcb.state.il.us. Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded without charge. Hard copies may be obtained from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

For more information contact Kathleen Crowley at 312-814-6929 or email at crowlek@ipcb.state.il.us.

Board Actions

October 6, 2011

Via Videoconference

Springfield and Chicago, Illinois

Rulemakings

- R 11-14** UIC Update, USEPA Amendments (July 1, 2010 through December 31, 2010) – The Board adopted a proposal for public comment, and extended the deadline for completion of amendments from December 10, 2011 until January 26, 2012 in this “identical-in-substance” rulemakings to amend the Board's underground injection control regulations. 5-0
Land
- R 12-12** In the Matter of: Revision of Enhanced Vehicle Emission Inspection and Maintenance (I/M) Regulations: Amendments to 35 Ill. Adm. Code Part 240 – The Board accepted for expedited hearing petitioner's October 3, 2011 proposal to amend the Board's air pollution control regulations for enhanced vehicle inspection and maintenance program for the Chicago and Metro-East St. Louis nonattainment areas. The rulemaking must be completed by January 31, 2012. 5-0
Air

Administrative Citations

- AC 11-24** IEPA v. Dennis Heck and Raymond A. and Deanna Harris – The Board granted respondent Deanna Harris' motion for reconsideration of a August 4, 2011 default order, vacated the default, and accepted her June 2, 2011 petition for review. The Board will stay any order regarding a civil penalty until the final disposition of Deanna Harris' petition for review. 5-0
- AC 11-27** IEPA v. James Harris – The Board granted respondent's motion withdrawal of the petition for review. The Board then found that this Knox County respondent violated Sections 21(p)(1), 21(p)(3), 21(p)(4), 21(p)(5), 21(p)(7), and 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 5/21(p)(3), 5/21(p)(4), 5/21(p)(5), 5/21(p)(7), and 55(k)(1) (2010)), and ordered respondents to pay a civil penalty of \$9,000. 5-0

Adjudicatory Cases

PCB 10-9	<u>People of the State of Illinois v. Waste Hauling Landfill, Inc., Jerry Camfield, A. E. Staley Manufacturing Co., Aramark Uniform Services, Inc., Bell Sports, Inc., Borden Chemical Co., Bridgestone/Firestone, Inc., Climate Control, Inc., Caterpillar, Inc., Combe Laboratories, Inc., General Electric Railcar Services Corporation, P & H Manufacturing, Inc.,</u> – Upon receipt of a proposed stipulation and settlement agreement as to Borg Warner, and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Macon County facility, the Board ordered publication of the required newspaper notice	L-E 5-0
PCB 11-26	<u>People of the State of Illinois v. Lowell Null, d/b/a MAB Pallets</u> – The Board granted complainant’s motion for summary judgment. The Board found respondent violated Sections 9(a), 9(c), 21(a), 21(e), and 21(p)(3) of the Act (415 ILCS 5/9(a), 9(c), 21(a), 21(e), 21(p)(3) (2010)), and ordered the respondent to pay a total civil penalty of \$8,000.00, and to cease and desist from further violations.	5-0 L-E
PCB 11-68	<u>People of the State of Illinois v. Tradition Investments, LLC</u> – The Board granted complainant’s motion to strike the second, third, fourth and fifth affirmative defenses and denied the complainant’s motion to strike the first affirmative defenses of laches. In addition, the Board denied the complainant’s motion to file a reply.	5-0 W-E
PCB 11-104	<u>Mac's Convenience Stores, LLC 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 Christian County facility.	5-0 UST Appeal,
PCB 12-35	<u>People of the State of Illinois v. Six M. Corporation, Inc., William Maxwell, Marilyn Maxwell, and James McIlvaine, necessary party</u> – The Board granted complainant’s motion to join James McIlvaine as a necessary party to this enforcement action.	5-0 W-E
PCB 12-51	<u>Kramer Tree Specialist, Inc. v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this DuPage County facility.	P-A, Land
PCB 12-52	<u>People of the State of Illinois v. Reliable Materials, LLC, GSG Consultants, Inc., O.C.A. Construction, Inc., Speedy Gonzalez Landscaping, Inc., and Public Building Commission of Chicago</u> – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement as to the following only: Speedy Gonzalez Landscaping, Public Building Commission of Chicago, and Chicago Board of Education, and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	4-0 Burke abstained L-E

**October 20, 2011
Chicago, Illinois**

Rulemakings

R08-18	<u>In the Matter of: Proposed Amendments to Groundwater Quality Standards, 35 Ill. Adm. Code 620</u> – The Board adopted a first notice opinion and order in this rulemaking to amend the Board’s groundwater quality regulations.	5-0 PWS
R 09-19	<u>In the Matter of Air Quality Standards Clean-up: Amendments to 35 Ill. Adm. Code Part 243</u> – The Board adopted a final opinion and order in this rulemaking proposal which amends the Board’s air pollution control regulations.	5-0 Air
R10-9(A)	<u>In the Matter of: Financial Assurance Instruments--Renewal and Terms: Amendments to 35 Ill. Adm. Code 807.Subpart F, 810.104 and 811.Subpart G</u> – The Board adopted a final opinion and order in this rulemaking proposal which amends the Board’s land pollution control regulations.	5-0 Land
R 11-23(A)	<u>In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions from Group II and Group IV Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 211, 218, and 219</u> – The Board adopted a final opinion and order in this rulemaking proposal which amends the Board’s air pollution control regulations.	5-0 Air
R 12-11	<u>In the Matter of: Procedural Rules for Authorizations Under P. A. 97-220 for Certain Landscape Waste and Compost Applications and On-Farm Composting Facilities: New 35 Ill. Adm. Code 106.Subpart I</u> – The Board adopted a first notice opinion and order in this rulemaking proposal to amend the Board’s procedural rules.	5-0 Procedural

Adjusted Standards

AS 12-2	<u>Terrona Farms' Request for Adjusted Agronomic Rate of Municipally Collected Leaves for Farmland Application</u> – The Board dismissed this request for an adjusted standard. The Board directed petitioner to file a new adjusted standard petition addressing the jurisdictional, procedural and informational deficiencies noted.	5-0 Land
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Adjudicatory Cases

PCB 97-193	<u>People of the State of Illinois v. Community Landfill Company, Inc. People of the State of Illinois v. Edward Pruum and Robert Pruum</u> – On remand from the Third District Appellate Court, the Board directed the parties to file briefs arguing the appropriate apportionment of the penalties.	5-0 L-E
PCB 04-207 (cons.)		

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PCB 04-192	<u>People of the State of Illinois v. Smithfield Properties, L.L.C., Wooton Construction, Ltd., and Chicago Sun-Times, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land and water enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	4-0 Member Burke abstained L,W-E
PCB 10-9	<u>People of the State of Illinois v. Waste Hauling Landfill, Inc., Jerry Camfield, A. E. Staley Manufacturing Co., Aramark Uniform Services, Inc., Bell Sports, Inc., Borden Chemical Co., Bridgestone/Firestone, Inc., Climate Control, Inc., Caterpillar, Inc., Combe Laboratories, Inc., General Electric Railcar Services Corporation, P & H Manufacturing, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement as to BorgWarner, Inc., and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Macon County facility, the Board ordered publication of the required newspaper notice	L-E 5-0
PCB 11-65	<u>Chevron Environmental Management Company (10/27/09 to 9/3/10) v. IEPA</u> – The Board denied petitioner’s motion to reconsider its July 21, 2011 dismissal order.	5-0 UST Appeal
PCB 11-66	<u>Chevron Environmental Management Company (8/1/2008 to 9/27/2009) v. IEPA</u> – The Board denied petitioner’s motion to reconsider its July 21, 2011 dismissal order.	5-0 UST Appeal
PCB 12-14	<u>Center Point Energy, Mississippi River Transmission, LLC v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Madison County facility. No action was taken on petitioner’s motion for stay of specified conditions in the permit.	5-0 P-A, Air
PCB 12-16	<u>Mark Lilly v. City of Rock Falls, IL</u> – The Board granted respondent's motion and found alleged violations of Sections 237.120 and 237.110 of the Board's regulations, 35 ILCS 237.120, 237.110 and Sections 9(a) and (c) of the Environmental Protection Act (Act), 415 ILCS 5/9(a), (c) (2010) were frivolous. The Board directed complainant to file amended complaint with the Board remedying the deficiencies noted on or before November 21, 2011	5-0 A-E, Citizens
PCB 12-39	<u>WRB Refining, LLC, Gasoline SZorb Unit v. IEPA</u> – The Board denied the Roxanna Community Unit School District motion for leave to intervene as moot, having granted the tax certification on September 8, 2011.	5-0 T-C, A
PCB 12-40	<u>WRB Refining, LLC, Ultralow Sulfur Diesel v. IEPA</u> – The Board denied the Roxanna Community Unit School District motion for leave to intervene as moot, having granted the tax certification on September 8, 2011.	5-0 T-C, A
PCB 12-53	<u>A & H Implement Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving an Effingham County facility.	5-0 UST Appeal
PCB 12-54	<u>United States Steel Corporation v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Madison County facility.	5-0 P-A, Air

PCB 12-55 Congress Development Company v. IEPA – The Board accepted for hearing this permit appeal involving a Cook County facility.

5-0
P-A, Air

New Cases

October 6, 2011 Board Meeting

12-51 Kramer Tree Specialist, Inc. v. IEPA – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this DuPage County facility.

12-52 People of the State of Illinois v. Reliable Materials, LLC, GSG Consultants, Inc., O.C.A. Construction, Inc., Speedy Gonzalez Landscaping, Inc., and Public Building Commission of Chicago – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement as to the following only: Speedy Gonzalez Landscaping, Public Building Commission of Chicago, and Chicago Board of Education, and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.

AS 12-2 Terrona Farms' Request for Adjusted Agronomic Rate of Municipally Collected Leaves for Farmland Application – No action taken.

AC 12-3 IEPA v. Ashwin P. and Mia A. Patel – The Board accepted an administrative citation against these Williamson County respondents.

AC 12-4 IEPA v. Garrison Properties, Inc. & River City Roofing Company, Inc – The Board accepted an administrative citation against these Peoria County respondents.

AC 12-5 IEPA v. Petro Nation, Inc., d/b/a Golf Mill Shell – The Board accepted an administrative citation against this Cook County respondent.

R12-12 In the Matter of: Revision of Enhanced Vehicle Emission Inspection and Maintenance (I/M) Regulations: Amendments to 35 Ill. Adm. Code Part 240 – The Board accepted for expedited hearing petitioner's October 3, 2011 proposal to amend the Board's air pollution control regulations for enhanced vehicle inspection and maintenance program for the Chicago and Metro-East St. Louis nonattainment areas. The rulemaking must be completed by January 31, 2012.

October 20, 2011 Board Meeting

12-53 A & H Implement Company v. IEPA – The Board accepted for hearing this underground storage tank appeal involving an Effingham County facility.

12-54 United States Steel Corporation v. IEPA – The Board accepted for hearing this permit appeal involving a Madison County facility.

12-55 Congress Development Company v. IEPA – The Board accepted for hearing this permit appeal involving a Cook County facility.

Provisional Variances

IEPA 12-05 Exelon Generation Company, LLC -- Dresden Nuclear Generation Station v. Illinois

Environmental Protection Agency—The Illinois Environmental Protection Agency granted, subject to conditions, Exelon Generation Company’s (Exelon) request for a provisional variance for Dresden Station to operate in Direct Open Cycle mode for a period of 14 days during a scheduled fall refueling outage in order to conduct diving inspections of the lift pump suction piping. Exelon requested a provisional variance from Special Conditions Nos. 4A, 4D, and 4G in Dresden Station’s NPDES Permit No. IL002224. The provisional variance begins on October 22, 2011, and extends through November 4, 2011.

IEPA 12-06 United States Steel Corporation – Granite City Works v. Illinois Environmental Protection Agency

The Illinois Environmental Protection Agency granted, subject to conditions, United States Steel Corporation – Granite City Works’ (Granite City Works) request for a provisional variance from Condition 7.10.6(a)(iii)(A) in Air Permit No. 96030056 for its Gateway Energy and Coke Facility. Granite City Works requested the provisional variance from the natural gas usage limit for Power Boiler #1 and BFG Flare #2 under Permit No. 96030056 while Gateway Energy and Coke facility conducts an unexpected outage for up to seven days. The provisional variance is effective from October 27, 2011 through November 3, 2011.

Public Act 93-0152 (Senate Bill 222) amended Sections 35-37 of the Illinois Environmental Act (415 ILCS 5/5(b) (2008)) so that provisional variances are issued by the Illinois Environmental Protection Agency (IEPA). If the IEPA grants a provisional variance, then the IEPA must file a copy of its written decision with the Board. The Board must maintain copies of the provisional variances for public inspection. Copies of provisional variances can be obtained by contacting the Clerk’s Office at (312) 814-3620, or by visiting the Board’s Website at www.ipcb.state.il.us. If the IEPA denies a provisional variance request, then the applicant may initiate a proceeding with the Board for a full variance.

Calendar

11/2/2011 10:00 AM	AC 11-13	<u>IEPA v. Ray Newingham (IEPA File No. 305-10-AC)</u>	City Hall Council Room 621 S. Main St. Carrollton
11/2/2011 10:30 AM	AC 10-21	<u>IEPA v. David Charles Bettis (IEPA File No. 124-10-AC)</u>	City Hall Council Room 621 S. Main St. Carrollton
11/3/2011 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
11/8/2011 10:30 AM	AC 10-30	<u>County of Jackson v. Frances Klink (Site Code: 0778145040)</u>	Jackson County Courthouse Courtroom 5, First Floor 1001 Walnut Murphysboro
11/17/2011 9:00 AM	R12-12	<u>In the Matter of: Revision of Enhanced Vehicle Emission Inspection and Maintenance (I/M) Regulations: Amendments to 35 Ill. Adm. Code Part 240</u>	James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago

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<p>11/17/201 1 1:00 PM</p>	<p>R12-08</p>	<p><u>In the Matter of: Standards and Limitations for Organic Material Emissions for Area Sources: Amendments to 35 Ill. Adm. Code Part 223</u></p>	<p>Illinois Pollution Control Board Conference Room, 11-512 James R. Thompson 100 W. Randolph Street Chicago</p>
<p>11/17/201 1 11:00 AM</p>	<p>Illinois Pollution Control Board Meeting</p>		<p>James R. Thompson Center 100 W. Randolph Street Chicago</p>
<p>11/30/201 1 9:00 AM</p>	<p>R12-12</p>	<p><u>In the Matter of: Revision of Enhanced Vehicle Emission Inspection and Maintenance (I/M) Regulations: Amendments to 35 Ill. Adm. Code Part 240</u></p>	<p>Madison County Administration Building Room 145 157 N. Main Street Edwardsville</p>

Environmental Register – October 2011

**Illinois Environmental Protection Agency
Division of Public Water Supplies
Restricted Status List - Public Water Supplies**

OCTOBER 2011

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTING DATE</i>
ALTERNATIVE BEHAVIOR TREATMENT CENTER - IL0977189	2	INADEQUATE PRESSURE TANK	50	6/15/1988
ARLINGTON REHABILITATION LIVING CENTER - IL0971110	2	INADEQUATE HYDRO STORAGE	180	12/1/2003
AURORA COMMUNITY WATER ASSN - IL0895750	2	INADEQUATE PRESSURE TANK	150	12/16/1988
BAHL WATER CORP - IL0855200	1	INADEQUATE PRESSURE TANK	700	12/15/1993
BIGGSVILLE – IL0710050	5	EXCEEDANCES OF GROSS ALPHA AND COMBINED RADIUM MCL'S	350	4/1/2010
BRADLEY HEIGHTS SUBDIVISION - IL2015050	1	INADEQUATE PRESSURE TANK	192	9/13/1985
BRYANT – IL0570200	5	EXCEEDING THE MCLs FOR COMBINED RADIUM	267	10/1/2010
BUFFALO HOLLOW FARMS WATER ASSOCIATION – IL1430080	5	INADEQUATE PRESSURE STORAGE	44	6/16S/2008
CARROLL HEIGHTS UTILITIES COMPANY - IL0155200	1	INADEQUATE PRESSURE TANK	96	3/20/1981
CENTURY PINES APARTMENTS - IL0150020	1	INADEQUATE PRESSURE TANK	50	12/14/1990
COOKSVILLE - IL1130400	4	TTHM & HALOACIDIC ACIDS	300	9/15/2005
COYNE CNTR COOP - IL1615150	1	INADEQUATE PRESSURE TANK	150	12/15/1997
CROPSEY COMMUNITY WATER - IL1135150	4	INADEQUATE PRESSURE TANK	31	3/20/1981
CRYSTAL CLEAR WATER COMPANY - IL1115150	2	INADEQUATE PRESSURE TANK	885	9/16/1988
D L WELL OWNERS ASSOCIATION - IL0975380	2	INADEQUATE PRESSURE TANK	141	3/18/1983
DE KALB UNIV DVL CORP - IL0375148	1	INADEQUATE PRESSURE TANK	1050	12/16/1992
EAST END WATER ASSOCIATION - IL1610140	1	INADEQUATE STORAGE CAPACITY	40	3/15/2002
EAST MORELAND WATER CORPORATION - IL1975640	2	INADEQUATE PRESSURE TANK	135	3/15/1996
EDELSTEIN WATER COOPERATIVE – IL1435150	5	EXCEEDING THE MCL's FOR COMBINED RADIUM & GROSS ALPHA PARTICLE ACTIVITY	125	10/1/2010

Environmental Register – October 2011

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTING DATE</i>
EVERGREEN VILLAGE SUBDIVISION - IL1615310	1	INADEQUATE PRESSURE TANK	130	3/20/1981
FAIR ACRES SUBDIVISION - IL1975680	2	INADEQUATE PRESSURE TANK	156	10/19/1981
FOREST LAKE ADDITION –LAKE CO PW IL0975500	2	INADEQUATE PRESSURE TANK	204	12/16/1983
FRWRD-SKYLINE PLANT - IL0895030	2	INADEQUATE PRESSURE TANK	700	9/19/1986
GREAT OAKS AND BEACON HILLS APARTMENTS - IL2015488	1	INADEQUATE PRESSURE TANK	2420	12/17/1982
HEATHERFIELD SUBDIVISION - IL0635150	2	INADEQUATE PRESSURE TANK	75	9/17/1982
HETTICK - IL1170500	5	TRICHALOMETHANE	182	6/15/2002
HIGHLAND SUBDIVISION - IL0895530	2	INADEQUATE PRESSURE TANK	60	9/16/1983
HILLVIEW SUBDIVISION - IL1975800	2	INADEQUATE PRESSURE TANK	100	3/15/1985
HOLY FAMILY VILLA - IL0310280	2	INADEQUATE PRESSURE TANK	200	9/15/1999
INGALLS PARK SUBDIVISION - IL1975880	2	INADEQUATE PRESSURE TANK	745	9/16/1983
LAKE LYNWOOD WATER SYSTEM - IL0735330	1	INADEQUATE PRESSURE TANK	75	8/31/1981
LARCHMONT SUBDIVISION - IL2015290	1	INADEQUATE PRESSURE TANK	64	6/17/1983
LARSON COURT APARTMENTS - IL1615728	1	INADEQUATE PRESSURE TANK	58	1/14/1982
LEGEND LAKES WATER ASSOCIATION - IL2015300	1	INADEQUATE PRESSURE TANK	283	3/14/1991
LIBERTY PARK HOMEOWNERS ASSOCIATION - IL0435600	2	INADEQUATE PRESSURE TANK	837	9/17/1992
LINDENWOOD WATER ASSOCIATION - IL1415300	1	INADEQUATE PRESSURE TANK	50	1/13/1982
LISBON NORTH, INC. - IL0631000	2	INADEQUATE PRESSURE TANK	30	9/14/1990
LONDON MILLS - IL0574620	5	INADEQUATE PRESSURE TANK	447	12/14/1984
LYNN WATER ASSOCIATION INC - IL0735100	1	INADEQUATE PRESSURE TANK	100	3/15/1995
ER CORPORATION - IL0995336	1	INADEQUATE PRESSURE TANK	110	3/18/1983
M C L W SYSTEM, INC. - IL1315150	1	INADEQUATE SOURCE	98	3/20/1981

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<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTING DATE</i>
MOUND PWD - IL1635050	6	INADEQUATE PLANT CAPACITY	2200	6/17/1996
NORTH HENDERSON – IL1310300	1	INADEQUATE HYDROPNEUMATIC STORAGE	184	7/1/2011
NORTHWEST BELMONT IMPRV ASSN - IL0435900	2	INADEQUATE PRESSURE TANK	78	9/29/1981
OAK RIDGE SD - IL2035300	1	INADEQUATE PRESSURE TANK	240	3/20/1981
OSCO MUTUAL WATER SUPPLY COMPANY, INC. - IL0735200	1	INADEQUATE PRESSURE TANK	115	12/15/1989
PANAMA - IL0054720	6	TTHM, DBP, INAD STORAGE	380	1/1/2006
POLO DR AND SADDLE RD SUBDIVISION - IL0437000	2	INADEQUATE PRESSURE TANK	90	12/17/1982
PORTS SULLIVAN LAKE OWNERS ASSOCIATION - IL0971160	2	INADEQUATE PRESSURE TANK	293	6/15/1999
PRAIRIE RIDGE ASSOCIATION - IL1115730	2	INADEQUATE PRESSURE TANK	130	10/1/2004
PRAIRIE ROAD PUMP ASSOCIATION- IL2015100	1	INADEQUATE STORAGE	150	1/1/2006
RIDGECREST NORTH SUBDIVISION - IL0635250	2	INADEQUATE PRESSURE TANK	60	9/16/1993
SHAWNITA TRC WATER ASSOCIATION - IL1977690	2	INADEQUATE PRESSURE TANK	125	9/17/1992
SILVIS HEIGHTS WATER CORP - IL1615750	1	INADEQUATE HYDRO STORAGE	1600	12/1/2003
SKYVIEW SBDV - IL0915526	2	INADEQUATE PRESSURE TANK	45	3/16/1990
STRATFORD WEST APARTMENTS - IL1095200	5	INADEQUATE PRESSURE TANK	39	12/17/1982
SUBURBAN HEIGHTS SUBDIVISION - IL1615800	1	INADEQUATE PRESSURE TANK	82	12/16/1983
SUNNY HILL ESTATES SUBDIVISION - IL0735300	1	INADEQUATE PRESSURE TANK	525	6/15/2000
SUNNYLAND SUBDIVISION - IL1977730	2	INADEQUATE PRESSURE TANK	350	9/16/1983
SWEDONA WATER ASSOCIATION - IL1315200	1	INADEQUATE PRESSURE TANK	157	6/15/1990
SYLVAN LAKE 1ST SUBDIVISION - IL0977100	2	INADEQUATE PRESSURE TANK	210	6/14/1991
TOWNERS SUBDIVISION - IL0977250	2	INADEQUATE PRESSURE TANK	210	1/14/1982
UTILITIES INC HOLIDAY HILLS - IL1115350	2	INADEQUATE PRESSURE TANK	729	9/16/1983

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<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTING DATE</i>
UTL INC-LAKE HOLIDAY - IL0995200	1	INAD SOURCE & TREATMENT PLT	5460	9/15/1998
UTL INC-NORTHERN HILLS UTILITIES COMPANY - IL1775050	1	INADEQUATE PRESSURE TANK	500	3/15/1996
UTL INC-WALK-UP WOODS WATER COMPANY - IL1115800	2	INADEQUATE PRESSURE TANK	654	12/17/1982
WIENEN ESTATES - IL0850030	1	INADEQUATE PRESSURE TANK	70	12/15/1997
WONDER LAKE WATER COMPANY - IL1115750	2	INADEQUATE PRESSURE TANK	1442	6/16/1994

WATER SYSTEMS REMOVED FROM PREVIOUS LIST

ATHENS – IL1290050

MENARD RURAL WATER COOP – IL1290010

PATOKA – IL1210400

WEST SHORE PARK SBDV – IL0977370

WEST SHORELAND SBDV – IL0977050

* DENOTES ADDED WATER SUPPLIES

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Illinois Environmental Protection Agency
Division of Public Water Supplies
Critical Review List - Public Water Supplies

OCTOBER 2011

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTING DATE</i>
ANDALUSIA - IL1610050	1	INADEQUATE PRESSURE TANK	1050	12/1/2003
ANNA-JONESBORO WATER COMMISSION - IL1815050	7	LACKS EXISTING TREATMENT CAPACITY	36	7/1/2011
ANNA WATER COMMISSION - IL1810050	7	**	5750	7/1/2011
BEASON CHESTNUT PWD - IL1075150	5	INAD PLANT & SOURCE CAP	600	6/15/2004
CANTON - IL0570250	5	INSUFFICIENT TREATMENT CAPACITY	13932	3/15/2007
CEDARVILLE - IL1770050	1	EMERGENCY POWER	800	1/1/2006
COLLINSVILLE - IL1194280	6	INADEQUATE STORAGE	29500	1/1/2008
OLUMBIA - IL1330050	6	INADEQUATE PUMPING CAPACITY	8365	3/15/1998
EDWARDSVILLE - IL1190250	5	INSUFFICIENT PLANT CAPACITY TO HANDLE PEAK SYSTEM WATER DEMAND	24,900	9/16/2008
EFFINGHAM - IL0490250	4	INADEQUATE DISINFECTION	12384	7/1/2006
ELIZABETH - IL0850150	1	LOW SYSTEM PRESSURE	682	6/15/1999
ELLIS GROVE - IL1570200	6	INSUFFICIENT STORAGE CAPACITY	720	10/1/2007
EXETER-MERRITT WATER COOP - IL1710010	5	INADEQUATE PRESSURE TANK	428	10/1/2004
GALENA - IL0850200	1	LOW SYSTEM PRESSURE	3640	6/15/1999
GRIGGSVILLE - IL1490300	5	INADEQUATE TREATMENT PLANT CAPACITY	1259	10/1/2006
HAMEL - IL1190450	6	INADEQUATE STORAGE CAPACITY	650	1/1/2006

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HOLIDAY SHORES SD - IL1195110	6	INADEQUATE STORAGE CAPACITY	3192	1/1/2006
IL AMERICAN-ALTON	6	APPROACHING WATER TREATMENT PLANT CAPACITY	51922	4/1/2009
IL AMERICAN-E ST. LOUIS - IL1635040	6	APPROACHING INADEQUATE STORAGE CAPACITY	155382	1/01/2011
JONESBORO PWS – IL1810250	7	**	1853	7/1/2011
JOY - IL1310100	1	LOW SYSTEM PRESSURE	373	6/15/1999
LA SALLE - IL0990300	1	INAD PLANT & SOURCE CAPACITY	9700	11/1/2004
LACON - IL1230100	1	UNDERSIZED WATERMAINS	1979	1/1/2006
LICK CREEK PWD – IL1815100	7	**	1929	7/1/2011
MALDEN - IL0110550	1	UNDERSIZED WATERMAINS	370	1/1/2006
MARION - IL1990550	7	INADEQUATE SOURCE CAPACITY	14610	11/1/2001
MARYVILLE – IL1190750	5	INADEQUATE STORAGE	800	3/17/2008
MASON CITY - IL1250350	5	INADEQUATE STORAGE CAPACITY	2558	1/1/2006
MATHERSVILLE - IL1310200	1	INADEQUATE SYSTEM PRESSURE	793	9/13/2000
MC HENRY SHORES WATER COMPANY - IL1115020	2	LOW SYSTEM PRESSURE	1813	9/17/1992
O'FALLON – IL1631100	2	INADEQUATE STORAGE CAPACITY	43596	10/1/2006
SCALES MOUND - IL0850400	1	LOW SYSTEM PRESSURE	400	9/15/1997
SENECA - IL0991050	1	INADEQUATE PLANT CAPACITY AND UNDERSIZED WATER MAINS	2053	6/15/1999
SHAWNEE VALLEY PWD – IL1815550	7	**	952	7/1/2011
STOCKTON - IL0850450	1	LOW SYSTEM PRESSURE	1871	6/15/1984
SUMNER - IL1010300	7	LOW SYSTEM PRESSURE	1481	12/13/1985

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UTL INC-LAKE MARIAN WATER CORPORATION - IL0895200	2	INAD PRES STORAGE & LOW SYS PRES	924	9/14/1984
WALNUT HILL - IL1210600	6	LOW SYSTEM PRESSURE	1470	6/14/1985
WATERLOO - IL1330300	6	INADEQUATE STORAGE	7614	10/1/2004
WITT – IL1350850	5	INADEQUATE TREATMENT CAPACITY	991	3/17/2008
WORDEN - IL1191200	6	INADEQUATE STORAGE CAPACITY	906	1/1/2006

WATER SYSTEMS REMOVED FROM PREVIOUS LIST

SOUTH HIGHWAY WATER DISTRICT – IL0775400

*** DENOTES ADDED WATER SUPPLIES**

**** THESE PUBLIC WATER SUPPLIES OBTAIN WATER FROM ANNA-JONESBORO WATER COMMISSION (IL1815050) WHICH LACKS EXISTING TREATMENT CAPACITY.**

Restricted Status/Critical Review

The Environmental Protection Act prohibits the Agency from issuing a construction permit that will cause or extend a violation. A construction permit to expand the distribution system cannot be granted when a water supply has a maximum contaminant level or treatment technique violation, an inadequate source of raw water supply, inadequate treatment plant capacity, finished water storage or distribution system pressure. A Restricted Status List is published quarterly in the Illinois Pollution Control Board Environmental Register to notify those persons considering expansion of a water supply distribution system of that status before large sums of money have been spent on items such as land acquisition, financing and engineering fees. A companion Critical Review List is published concurrently with the Restricted Status List and has the water supplies that are approaching a point where the supply could be placed on Restricted Status. A permit application from a supply on Critical Review will be examined carefully to ensure that the proposed construction will not cause a violation. Restricted Status and Critical Review are presented as a combined list with the status of the water supply denoted as either RS (Restricted Status) or CR (Critical Review). The current list reflects the status as of October 1, 2011. An asterisk, *, beside the water supply indicates public water supplies that have been added to the Restricted Status/Critical Review list since the previous publication.

Restricted Status List

The Restricted Status List was developed to give additional notification to officials of public water supplies which are in violation of 35 Ill. Adm. Code, Subtitle F: Public Water Supplies, Chapter I or the Illinois Environmental Protection Act.

The Restricted Status List will include all Public Water Supplies for which the Agency has information indicating a violation of any of the following requirements: Finished water quality requirements of 35 Ill. Adm. Code, Part 604, Subparts B and C; maintenance of adequate pressure on all parts of the distribution system under all conditions of demand; meeting raw water quantity requirements of 35 Ill. Adm. Code 604.502; or maintenance of treatment facilities capable of providing water "assuredly adequate in quantity" as required by Section 18 of the Illinois Environmental Protection Act.

A public water supply on the Restricted Status List will not be issued permits for water main extensions, except for certain limited situations, or unless the supply has been granted a variance from the Illinois Pollution Control Board for the violation, or from permit issuance requirements of Section 39 of the Act.

This list is continually being revised as new information becomes available, and therefore, specific inquiries as to the status of any public water supply should be directed to the Division of Public Water Supplies for final determination.

Critical Review List

The Critical Review List was developed to give additional notification to officials of public water supplies which may be close to being in violation of 35 Ill. Adm. Code, Subtitle F: Public Water Supplies, Chapter I or the Illinois Environmental Protection Act.

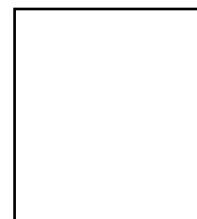
A supply will be placed on the Critical Review List when Agency records indicate that it is approaching any of the violations that would place it on the Restricted Status List.

This list is continually being revised as new information becomes available, and therefore, specific inquiries as to the status of any public water supply should be directed to the Division of Public Water Supplies for final determination.

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

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

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