



ENVIRONMENTAL REGISTER



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RULEMAKING UPDATE

Triennial Water Quality Review Amendments Proposed For First Notice, R94-1(B)

On July 18, 1996, the Board proposed amendments to the Illinois water quality regulations on ammonia nitrogen for First Notice Publication in the Illinois Register. The amendments are based on a mandatory triennial review of the Illinois stream water quality regulations conducted by the Illinois EPA (Agency), as required under the federal Clean Water Act (33 U.S.C. §§ 1251 et seq.). The larger Agency proposal amends Parts 302 and 304 of the Water Pollution Control regulations to revise the general water quality standards for ammonia nitrogen, mercury, and lead; secondary contact and indigenous aquatic life standards; and other regulations. The segment of the proceeding involved in subdocket R94-1(B) relates to ammonia nitrogen. The segment of the proceeding adopted on May 16, 1996, designated subdocket R94-1(A), related to mercury and lead.

The Agency filed the proposal, docketed by the Board as R94-1, on February 24, 1994, and the Board accepted it on March 17, 1994. (Cont'd on p. 2)



WATER LAW CONFERENCE

The Illinois Water Resources Center, the Illinois Department of Natural Resources and other groups are sponsoring a one day conference on Water Law. The conference, at Jumer's Chateau in Bloomington, Illinois, is scheduled for October 23, 1996.

The conference will address two recent comprehensive water studies, water law issues, and concerns regarding the current legal structure. For more information, see page 26-27.

BOARD UPDATE

Adjusted Standards And Combined Sewer Overflow Determinations Lists

Pursuant to Section 28.1(d)(3) of the Environmental Protection Act, the Board is publishing in this issue of the Environmental Register a list of all final determinations on adjusted standards made within fiscal year 1996 (July 1, 1995 through June 30, 1996). Accompanying that listing is a list of all final determinations on combined sewer overflow exceptions during the fiscal year. To receive a copy of any of these determinations, please write to the Clerk of the Board and specify the docket number of the case. A copy of the adjusted standards list will appear in the Illinois Register, as required by Section 28.1(d)(3). For the complete listing of adjusted standards see page 22.

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RULEMAKING UPDATE

(Cont'd from p.1)

The Board decided to proceed on the proposal as a Section 28.2 federally required rule on May 5, 1994. The Board proposed amendments based on the R94-1 proposal for First Notice publication in the Illinois Register on September 15, 1994, and Notices of Proposed Amendments appeared in the Register on September 30, 1994. The Board held a pre-hearing conference on the proposal on November 10 and 22, 1994 and January 26 and November 8, 1995.

The Board severed the docket on January 4, 1996, when it proposed the subdocket R94-1(A) amendments for First Notice publication in the Illinois Register. A Notice of Proposed Amendments appeared in the January 26, 1996 Register. The Board proposed the amendments for Second Notice review by the Joint Committee on Administrative Rules (JCAR) on March 21, 1996. On May 16, 1996, the Board adopted the R94-1(A) amendments, after receiving a Certificate of No Objection from JCAR. The R94-1(A) amendments became effective on May 24, when filed with the Secretary of State. A Notice of Adopted Amendments appeared in the June 7, 1996 issue of the Illinois Register (at 20 Ill. Reg. 7682). (See issues 487, Oct., 1994; 503, Apr., 1996 & 505, June, 1996.)

Direct questions to Diane F. O'Neill, at 312-814-6062 (Internet address: doneill@pcb016r1.state.il.us). Request copies of Board orders from the Board's Chicago receptionist, at 312-814-3620. Please refer to docket R94-1(B).

Wastewater Pretreatment Amendments Adopted, R96-12

The Board adopted identical-in-substance amendments to the Illinois wastewater pretreatment regulations for public comment on July 18, 1996. The update docket, R96-12, included USEPA amendments that occurred to the federal regulations upon which the Illinois rules are based between July 1 and December 31, 1995. During that time USEPA amended its 40 CFR 136 regulations three times in ways that could potentially impact the Illinois wastewater pretreatment program by adding analytical procedures. On August 2, 1995 (60 Fed. Reg. 39586), USEPA added to an analytical procedure for determining polychlorinated biphenyls (PCBs) in wastewater. On August 28, 1995 (60 Fed. Reg. 44670), USEPA further added procedures for determining total Kjeldahl nitrogen (TKN) in wastewaters. Finally, on October 16, 1995 (60 Fed. Reg. 53529), USEPA added whole effluent toxicity (WET) testing methods. Part 310 of the Illinois rules incorporates 40 CFR 136 by reference, so the Board updated that provision incorporating the new methods.

The Board proposed the amendments for public comment on April 18, 1996. A Notice of Proposed Amendments appeared in the May 3, 1996 Illinois Register, at 20 Ill. Reg. 6126, and the public comment period expired 45 days after that date on June 17, 1996. Direct questions to Diane F. O'Neill, at 312-814-6062 (Internet address: doneill@pcb016r1.state.il.us). Request copies of the Board's opinion and order from Victoria Agyeman, at 312-814-3620 (Internet address: vagyeman@pcb016r1.state.il.us). Please refer to docket number R96-12. ♦

APPPELLATE UPDATE

Clarendon Hills Bridal Center Learsi and Co., Inc.) v. The Illinois Pollution Control Board and the Illinois Environmental Protection Agency No. 2-96-0083, slip op. (Second District July 31, 1996) (unpublished Rule 23 order).

This case involves an appeal by Clarendon Hills Bridal Center (Learsi and Co., Inc.) (Learsi) from a Board decision which denied Learsi reimbursement for some of the expenses incurred when it removed underground storage tanks (USTs) from its property.

In October of 1990, Learsi discovered through soil tests that widespread petroleum contamination existed at the site in question and notified the Emergency Services

Disaster Agency that a release had occurred at the site. At the end of October of 1990, three USTs were found on the site and a fourth UST was discovered later. In order to qualify for reimbursement from the UST Fund, Learsi obtained a corrective action plan from GSC Environmental, the consultants working on the remediation project. The corrective action plan was approved by the Illinois Environmental Protection Agency (Agency) in January of 1991.

During the time the plan was awaiting approval by the Agency, the excavated portion of the site collected 8 to 10 feet of rainwater. The Agency told Learsi that the water could be pumped into a sewer but that a discharge permit would be needed to do this and that the permit could take up to four months to obtain. Learsi instead pumped the water and disposed of it as a special waste.

Learsi completed the cleanup and the Agency issued a clean closure letter for the site. Learsi then submitted a reimbursement request for \$825,080.31 in corrective action costs to the Agency on June 29, 1992. On February 18, 1993, the Agency sent a final determination letter and voucher to Learsi disallowing \$45,786.95 in expenses and Learsi appealed to the Board. The February 18, 1993, letter misstated the amount requested by Learsi for reimbursement. A representative for Learsi contacted the Agency about the mistake and on April 29, 1993, the Agency issued a clarification of its earlier letter. The second letter denied \$414,906.60 of the claimed expenses. After a hearing, the Board affirmed the Agency's decision to deny reimbursement of \$330,434.37 of the \$331,404.05 in contested costs.

In the appeal, Learsi argued the Board erred when it denied its reimbursement request because the request was not on Agency forms. Learsi contended that the Agency policy requiring time and materials forms or a competitive bid could not be enforced because the policy has not been promulgated as a rule in accordance with the Administrative Procedures Act (APA) [5 ILCS 100/1-1 et seq.].

The Second District observed that the Agency accountants testified that, although the Agency preferred the use of its own forms, it was not necessary for the owner to submit the information in a particular manner. However, since the statute requires that the Agency determine the reasonableness of a cost, the owner had to provide the information in a way that demonstrated the reasonableness of the cost. One way of doing this is through competitive bidding. The Agency accountant testified that while the Agency preferred that the process include publication and consideration of at least three bids, that there could be times when only two bids were acceptable or where publication was not required.

In reviewing this testimony, the Second District found that the Agency did not have any requirements other than that the owner must demonstrate the reasonableness of the cost of the corrective action. The court found that the Agency did not mandate that owners follow a particular method in order for there to be a reasonableness determination in favor of an owner. Instead, the Agency was simply suggesting ways in which reasonableness could be established. This, the court held, was not an adoption of a rule requiring APA compliance. It was instead an interpretation of statutory language as it applied to particular facts. Thus, the court found that Learsi was not denied reimbursement based upon any improperly promulgated Agency policy.

Next, Learsi argued that the Board's decision was against the manifest weight of the evidence. More specifically, Learsi contended that the Board erred in not considering evidence admitted at the Board hearing but

not submitted to the Agency. The first piece of evidence was a handwritten note which the Board hearing officer did not admit at hearing. The Board in its opinion stated that even if the evidence had been admissible it was insufficient to constitute a competitive bid. On a motion for reconsideration by Learsi, the Board acknowledged that the note was admitted into evidence but stated that the admission did not affect the determination and outcome in the case.

The other piece of evidence the Board allegedly did not consider was testimony about what an invoice from a trucking company was for when the information was not contained on the invoice. The Board in its opinion imposed the evidentiary rule applicable in permit appeal cases which disallows information from being part of the record in the Board proceeding which was not available to the Agency at the time it makes its determination. The Board did this despite the fact that, in previous UST cases, it had allowed new evidence into the record because the Agency had not promulgated rules identifying the type of information necessary to complete a reimbursement application. The Board reasoned that, in this case, Learsi knew or was obligated to know that it was required to demonstrate that the disputed cost was for corrective action. Although the court disagreed with the Board's reasoning, it agreed that previous Board cases allowing new information to come into evidence were distinguishable and held that no new evidence may come in at the Board hearing. The court emphasized that the question before the Board was whether the application as submitted to the Agency meets the requirements of the Act.

The final argument made by Learsi was that the evidence offered at hearing showed that the corrective action costs it incurred were reasonable. The Board found that the evidence supported the Agency's determination that certain costs were not reasonable. The court held that the Board had considered all the relevant evidence and that the Board's decision on the contested items was not against the manifest weight of the evidence.♦

CDT Landfill Corp. v. County of Will No. 3-96-0043 slip. op. (Third District August 12, 1996) (unpublished rule 23 order).

This case involved an appeal by CDT Landfill Corp. (CDT) of the issuance of administrative citations for violations of section 21(o)(9) of the Environmental Protection Act (Act) [415 ILCS 5/21(o)(9)]. The Board found that CDT had violated the Act and the Third District affirmed the Board's ruling.

CDT is the operator of a landfill in Will County (County). CDT operates pursuant to a permit issued by the Illinois Environmental Protection Agency (Agency).

The Agency has delegated to the County the right to issue administrative citations within Will County pursuant to section 4(r) of the Act.

In December of 1994 and January of 1995, the County issued three citations for violation of section 21(o)(9) of the Act. The citations were issued based upon on-site inspections for exceedance of height limits depicted in CDT's development plan which was part of CDT's permit. In December of 1995, the Board issued an order with one dissent, finding that CDT violated Section 21(o)(9) of the Act for all but one of the citations. CDT appealed to the Third District the remaining two violations.

The Board in its order determined that CDT's height limitations in the development plan applied not only at closure but also during landfill operations. The Board found that structural integrity, proper drainage, stability and maintenance, were all things that would be affected by the height limitations during operation of the landfill. Additionally, the Board found that CDT's permit referred to two dimensional boundaries of trench markings and waste footprints as stated in the development plan. Fi-

nally, the Board held that the plan was part of the permit and that the permit did not allow CDT to operate above the height limitations in the plan.

The Third District found that the Board's decision was not against the manifest weight of the evidence. More specifically, the court found that CDT's plan contained height limitations which were intended to be applied during operations.

Finally, CDT argued that the standard of proof in administrative citations should be heightened. They contended that because the violations could subject them to thousands of dollars in fines that the preponderance of the evidence standard was not high enough. The Third District disagreed. The court stated that the test for whether to heighten the standard was a balance between the public interest and the private interests sought to be protected. In this case, the court found that the protection of the public's health, safety, and welfare, outweighed any interest CDT had in not receiving an administrative citation. ♦

BOARD RULES ON CATERPILLAR CASE

On August 1, 1996, the Board moved an order concerning International Union, United Automobile Aerospace and Agricultural Implement Workers of America and UAW Local 974; and Citizens for a Better Environment v. Caterpillar, Inc. This citizens enforcement case concerned soil and groundwater contamination at Caterpillar's East Peoria manufacturing facility. In a seven-count complaint filed September 1, 1994, complainants alleged that Caterpillar committed seven violations of the Environmental Protection Act (Act) and 14 violations of corresponding Board regulations. The alleged violations flowed from Caterpillar's discovery of the soil and groundwater contamination occurring as a result of a now-closed dry cleaning operation at the facility. The alleged violations concerned the way in which Caterpillar managed the contaminated soil which was excavated from the ground.

Specifically, complainants alleged violations of Resource Conservation and Recovery Act (RCRA) Environmental Protection Act provisions and RCRA regulations including: Section 21(e) for unlawful operation of a waste treatment, storage and disposal site; Section 21(f) for operating a hazardous waste management facility without interim status; Section 21(f)(1) and 35 Ill. Adm. Code 703.151 and 703.180 for constructing and operating a new hazardous waste management facility without

a hazardous waste permit; Section 21(f)(2) and Sections 702.121(a) and (b), 703.126, 703.152(a), 703.154, and

703.155(a)-(c) for operating in violation of Board hazardous waste regulations; Section 21(f)(3) and 703.121 for failure to apply for and obtain a post-closure permit; and, Section 21(f) for unlawful storage of hazardous waste in excess of the 90-day hazardous waste on-site accumulation limit. Concerning water and groundwater violations of the Act, complainants alleged Section 12(a) for causing or allowing the discharge of any contaminants so as to cause water pollution. Complainants sought declaratory relief, specifically requesting the maximum allowable civil penalty allowed by law, in the amount of \$200,000,000. Complainants also sought injunctive relief in this matter.

The Board voted unanimously on August 1, 1996, that Caterpillar properly managed the excavated soil containing hazardous waste pursuant to Illinois RCRA closure requirements; however, the Board found Caterpillar technically out of compliance for approximately a two-year period. Pertaining to the hazardous waste violations, the Board found Caterpillar in violation of Sections 21(e) and 21(f)(1) of the Act and Sections 722.134, 703.121(a), 703.152(a), 703.154, and 703.155 of the corresponding Board regulations. The Board also found Caterpillar in violation of Section 12(a) of the Act for discharging contaminants into the groundwater. The Board did not order any civil penalties or remedies, finding that Caterpillar has already committed to a

RCRA closure plan and continues to remediate its groundwater contamination problem. A copy of the Board's 38-page decision may be requested from the Clerk's office. Direct questions to Amy Hoogasian at 312-814-8917 (Internet address: ahoogasi@pcb016r1.state.il.us). Request copies of the Board's opinion and order from Victoria Agyeman at 312-814-3620 (Internet address: vagyeman@pcb016r1.state.il.us). Please refer to docket number PCB 94-240. ♦

SIGNIFICANT FEDERAL ACTIONS

The Board continues its series of reports on recent federal actions from the Federal Register that are of interest to the Board and the regulated community. Below are highlighted over 35 such actions that occurred in July, 1996:

G Grants Available for Sustainable Development Projects

On July 1, 1996 (61 Fed. Reg. 33913), USEPA solicited applicants for the federal Sustainable Development Challenge Grant program. The program, which arises from the President's March 16, 1995 report, "Reinventing Environmental Regulation," and given a high priority by USEPA, is intended to "encourage community, business, and government to work cooperatively to develop flexible, locally-oriented approaches that link place-based environmental management with sustainable development and revitalization." USEPA stated that there are a limited number of grants available for fiscal year 1996 and that it intends full implementation of the program in fiscal year 1997. In addition to soliciting for grant applicants, USEPA sought comment on the design for full implementation. Among examples of sustainable development projects, USEPA cited demonstration of community-based agricultural pollution prevention practices, the design and establishment of an eco-industrial park, a plan for managing timber lands, and sound urban redevelopment as an alternative to suburban sprawl. Eligible applicants include not-for-profit private agencies, institutions, and organizations and public agencies, institutions and organizations. Grants will be classified into two groups: up to \$50,000 and between \$50,000 and \$100,000. The program requires at least a 20 percent non-federal match of the total project budget. ♦

CAA NESHAP Adopted for Off-Site Waste and Recovery Operations

On July 1, 1996 (61 Fed. Reg. 34139), USEPA adopted Clean Air Act (CAA) national emission standards for

hazardous air pollutants (NESHAP) applicable to off-site waste and recovery operations. The NESHAP will regulate the hazardous air pollutant (HAP) emissions from types of facilities that USEPA has determined are major sources (emitting 10 tons per year of any single HAP or 25 tons per year in aggregated HAPs) of one or more of 98 specified HAP compounds and which receive certain wastes, used oil, and used solvents from off-site locations for treatment, storage, or disposal or recovery. The rule will require application of maximum achievable control technology (MACT) to tanks, containers, surface impoundments, oil-water separators, drains and other material conveyance systems, process vents, and equipment leaks. USEPA estimated that the NESHAP will reduce HAP emissions by 82 percent or 47,000 tons per year for this category. It estimated that the nationwide capital equipment cost of the NESHAP is about \$42 million and the annual cost is \$18 million, or about \$380 per ton of HAP emissions eliminated. ♦

Federal CAA Title V Permit Rules Adopted

On July 1, 1996 (61 Fed. Reg. 34201), USEPA adopted the rules under which it will issue federal Clean Air Act (CAA) Title V permits. Under the federal CAA Title V operating permit program, the states bear primary responsibility for issuing Title V permits. The new rules are for federal issuance of permits in areas either lacking an approved Title V permit program or an adequately administered program. The rules are effective July 31, 1996. In adopting the rules, codified as 40 CFR 71, USEPA noted that it is considering amendments to the 40 CFR 70 requirements for state Title V permit programs and that any amendments to 40 CFR 70 will require corresponding amendments to the new 40 CFR 71 rules. In response to requests for delay, USEPA stated that it was adopting the 40 CFR 71 permit rules at this time, rather than wait to finalize amendments to the 40 CFR 70 requirements for state-issued permits, because the CAA required adoption of the rules by November 15, 1995.

(Note: USEPA granted interim approval of the Illinois Clean Air Act Title V air operating permit program (CAAPP) on March 7, 1995 (at 60 Fed. Reg. 12478). See issue 493, Apr., 1995. The non-renewable interim approval expires March 7, 1997. Illinois must cure certain deficiencies in its operating permit program to gain full approval from USEPA: correct certain deficiencies in the insignificant activities regulations, amend Section 39.5(13)(c)(vi) of the Act to require the use of the significant modification procedure to incorporate emissions trades into CAAPP permits, develop regulations defining enhanced NSR for implementing 40 CFR 70.7(d)(1)(v), and

incorporate the federal acid rain provisions into the Act by reference.

The one-year time period for submittal of permit applications and three-year period for application processing began with the interim approval. Illinois must submit a complete corrected program package for USEPA review by September 9, 1996, if USEPA finds bad faith on the part of the state, or if USEPA disapproves that package, USEPA will be required to apply sanctions to the state, and could be required to promulgate a federal implementation plan for the state.

USEPA also approved Illinois' federally enforceable state operating permit program (FESOP) for limitations on hazardous air pollutants (HAPs) under CAA § 112 and the preconstruction permitting program for the purposes of implementing the federal CAA § 112(g) rules between when USEPA promulgates final regulations and when Illinois adopts § 112(g) regulations.) ♦

Conditionally Exempt Small Quantity Generator Waste May Go Only to Landfills Meeting Certain Requirements

On July 1, 1996 (61 Fed. Reg. 34251), USEPA amended its RCRA Subtitle C hazardous waste and Subtitle D solid waste facility and activity classification rules to prohibit the disposal of conditionally exempt small quantity generator (CESQG) waste at nonhazardous, non-municipal solid waste landfills (non-MSWLFs) that do not meet certain standards. The rules establish location restrictions and groundwater monitoring and corrective action standards for landfills that accept CESQG waste. Among the location provisions are prohibitions relating to location in a 100-year floodplain or wetland. The amendments clarify that the CESQG may dispose of its waste at a MSWLF subject to the 40 CFR 258 standards or in a facility that meets the new standards incorporated by the amendments into 40 CFR 257.

The amendments are generally effective on January 1, 1998. However, the clarifications applicable to the CESQG are effective on January 1, 1997 (with a compliance deadline of January 1, 1998), and the groundwater monitoring and corrective action requirements are effective on July 1, 1998.

(Note: USEPA undertook this action pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA). That means that they will go into effect in Illinois, as a matter of federal law, when effective at the federal level; there will be no delay in effective date until Illinois incorporates the amendments.)

The Board will have to include segments of this matter in the RCRA Subtitle C hazardous waste update docket for the period July 1 through December 31, 1996, which is not yet reserved. The questions remain whether the Board will

have to make additional amendments to the nonhazardous waste landfill rules and what procedure the Board should follow for making those amendments. The major part of these amendments do not directly relate to either the federal 40 CFR 258 municipal solid waste landfill (MSWLF) regulations, which is the basis for the Board's RCRA Subtitle D identical-in-substance mandate of Section 22.40(a) of the Act, or the 40 CFR 260 through 273 RCRA Subtitle C rules, which are the basis for our identical-in-substance mandate of Section 22.4(a) of the Act. They may, nevertheless, be what USEPA considers an essential element of a RCRA Subtitle C or Subtitle D program that it desires the state to incorporate. It may be possible that a Section 27 general rulemaking or Section 28.1 federally-required rulemaking proceeding will be necessary to fully incorporate these amendments.) ♦

Effluent Guideline Plan Proposed

On July 3, 1996 (61 Fed. Reg. 35041), USEPA proposed a new wastewater effluent guidelines plan. It is the plan by which USEPA intends to develop new and revised effluent guidelines and pretreatment standards. USEPA invited comment on the plan before it proceeds to adopt it. The plan is mandated biennially by the Clean Water Act (CWA). The last plan published was for 1994, in the August 26, 1994 (59 Fed. Reg. 44234) issue of the Federal Register.

Among the priorities listed in the new proposed plan is the continued development of 10 rules outlined in the 1994 plan that will affect pulp, paper, and paperboard; pesticide chemicals; coastal oil and gas extraction; centralized waste treatment; pharmaceutical manufacturing; metal products and machinery; landfills and incinerators; industrial laundries; and transportation equipment cleaning facilities. USEPA projects completion of all the guidelines, except that for pulp, paper, and paperboard facilities, between 1996 and 1999, depending on funding. USEPA further intends to begin development of revised guidelines for the iron and steel industry, complete preliminary studies of the photographic processing and chemical formulating and packaging industries, and plan development of guidelines for seven additional, as yet unidentified industries for adoption between 2000 and 2003. The candidates for such guideline development include petroleum refining, textile mill, inorganic chemical, steam electric power generating, photographic processing, and chemical formulating and packaging facilities. One factor in consideration of any guidelines for the steam electric power generating industry is the need for control of zebra mussels.

USEPA stated that it selects categories for guideline development based on three basic factors: environmental factors, utility to states and publicly-owned treatment works

(POTWs), and economic factors. The environmental factors involve comparison of the discharges of various categories to approximate risk to human health and the environment. The specific environmental factors include the total priority pollutants discharged, the total pollutants discharged, the total priority toxic pounds-equivalent discharged, the number of carcinogens present, the number of facilities discharging to water quality-impaired receiving waters, and the number of documented cases of sediment contamination. Among the specific factors for gauging the utility to POTWs are the average priority pollutants discharged, the average priority toxic pounds-equivalent discharged, and the number of discharging facilities. The economic factors include the cost and economic achievability of additional controls and investment cycle.

USEPA stated that it developed its current effluent guidelines plan pursuant to the consent decree in NRDC v. Browner, No. 89-2980 (D.D.C. Jan. 31, 1992), as subsequently modified, which commits USEPA to taking final action on effluent guidelines, to conduct preliminary studies for others, and to form an advisory committee, the Effluent Guidelines Task Force. USEPA intends to develop the new and revised guidelines according to its own priorities under the consent decree. ♦

CAA Certification Program Adopted for Gasoline Detergent Additives; Fuels and Fuel Additives Testing Rules Proposed and Amended

On July 5, 1996 (61 Fed. Reg. 35309), USEPA adopted a program for certification of detergent additives used in gasoline motor fuels for control of intake valve deposits and port fuel injector deposits. An interim program, adopted on October 14, 1994 (59 Fed. Reg. 54678), has been in place to aid implementation of the requirement of section 211(l) of the Clean Air Act (CAA) that effective January 1, 1995 gasoline motor fuels contain detergents to control engine deposits. The new regulations will establish standardized testing procedures and performance standards to ensure adequate deposits control. USEPA stated that the control of deposits reduces nitrogen oxides (NO_x), hydrocarbons (HC), and carbon monoxide (CO) emissions in engine exhaust. Control of deposits further enhances fuel economy.

On July 11, 1996 (61 Fed. Reg. 36506), USEPA adopted a direct final rule amending the CAA testing requirements for registration of fuels and fuel additives. The rule makes minor amendments to the health-effects testing requirements for exposure of animals to evaporate and engine exhaust emissions. Among other amendments, the rule allows greater flexibility in selection of a test engine and clarifies the exposure time, oxygen purity, background measurements, driving schedules, exposure concentration, and dilution system requirements. A notice

of proposed rule in the same issue of the Federal Register (61 Fed. Reg. 36535) proposed further amendments to the registration requirements. Along with clarifying and streamlining the regulations, the amendments would no longer require those who solely blend additives to fuel to register as fuel manufacturers. ♦

Opt-Out Procedures for CAA Reformulated Gasoline Program; Comment Requested on Prospective Denial of Reconsideration of Phase II Standards

On July 8, 1996 (61 Fed. Reg. 35673), USEPA adopted procedures for states that voluntarily opted into the federal Clean Air Act (CAA) reformulated gasoline program to opt out of the program. The rules, effective August 7, 1996, apply only to opt-out requests submitted prior to December 31, 1997. USEPA intends to adopt separate rules applicable to later opt-out requests. The rule also removed areas from the program in response to requests from the states of Maine, New York, and Pennsylvania.

Section 211(k) of the CAA requires the use of reformulated gasoline in the nine largest U.S. cities with serious ozone problems. States are allowed to opt into the program for other cities and areas. Phase I of the reformulated gasoline program, adopted on February 16, 1994 (59 Fed. Reg. 7716), effective December 15, 1993, is intended to reduce the emission of volatile organic material (VOM) through the reformulated fuel. Phase II of the program would also reduce nitrogen oxides (NO_x) emissions. The 1993 rules did not include opt-out procedures.

In an unrelated action, on July 9, 1996 (61 Fed. Reg. 35960), USEPA solicited comment on its intent to reconsider the Phase II reformulated gasoline standards. The Phase II standards will control NO_x emissions beginning in 2000. The American Petroleum Institute (API) petitioned for reconsideration of the Phase II rule in 1995, contending that the standards were contrary to the goals of the CAA, that USEPA overstated the potential air quality benefits of the rule in adopting it, and that the standards are not a cost-effective strategy for ozone control. USEPA disagreed and stated that the petition did not present new information not considered when it originally adopted the Phase II standards. USEPA expressed interest in considering any such new information and invited comment on its intent not to reconsider the standards. USEPA further solicited comment on the effects of delaying the implementation of the Phase II standards. ♦

Wastewater Pretreatment Standards Amended for Leather Tanning and Finishing Facilities

On July 8, 1996 (61 Fed. Reg. 35680), USEPA adopted a direct final rule that amends the wastewater pretreatment

standards for certain new (PSNS) and existing (PSES) facilities in the leather tanning and finishing category. The amendments are effective October 7, 1996 unless earlier expressly withdrawn. The facilities for which the standards are revised are those that conduct dehairing operations and discharge wastewater into the collection system of a publicly owned treatment works (POTW). The amendments will eliminate the upper (alkaline) pH limit for discharges from four subcategories of facilities that perform dehairing, and they will allow local POTW operators to establish a site-specific alternative limitation based on local conditions. The associated notice of proposed regulation appeared in the same issue of the Federal Register (61 Fed. Reg. 35705).

USEPA undertook this action in response to a petition from the industry. To lower the pH, facilities were often forced to acidify their wastewater, which threatened worker safety through the possible generation of toxic hydrogen sulfide gas. USEPA further stated that relieving the facilities of the need to use acid would reduce operating costs, and some POTWs actually use the alkaline waste to help neutralize other, acidic wastestreams.

(Note: The Board will need to include this action in the identical-in-substance wastewater pretreatment update docket for the period July 1 through December 31, 1996. That docket is not yet reserved.) ♦

Proposed Amendment of CAA Transportation Conformity Rule and Solicitation for Participation in Pilot Program

On July 9, 1996 (61 Fed. Reg. 35994), USEPA proposed amendments to the Clean Air Act (CAA) transportation conformity rule (TCR) to create and implement a conformity pilot program. USEPA also solicited participants for such a program. The pilot program would exempt up to six areas from the existing TCR requirements to allow three years of experimentation into alternative conformity procedures. The intent is to allow states greater flexibility in meeting the CAA transportation conformity requirements by allowing the use of procedures that are more suitable to the particular area or conditions.

Section 176(c) of the CAA requires that all transportation activities conform to state air quality implementation plans (SIPs). A conforming activity will not produce new air quality violations, worsen existing violations, or delay timely attainment of national ambient air quality standards (NAAQSs). USEPA adopted the TCR to implement the CAA transportation conformity requirements as 40 CFR 51 and 93, on November 24, 1993 (58 Fed. Reg. 62188). (USEPA subsequently amended it on August 7 and November 14, 1995 (60 Fed. Reg. 40098 and 57179).) In a separate notice in the same issue of the

Federal Register (61 Fed. Reg. 36111), USEPA proposed a third set of amendments to allow more flexible and streamlined implementation of the TCR, by allowing states to use motor vehicle emissions budgets to be used in evaluating a project, in place of the "build/no-build" test. Among the proposed amendments were also the use of modeling tailored to the particular area and allowing rural areas to choose among several tests. USEPA stated that successful experimentation in the pilot program could result in further amendment to the TCR process and procedures.

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CAA Findings of Failure to Submit a Required SIP for an Ozone Nonattainment Area Entered Against Illinois and Sister States

On July 10, 1996 (61 Fed. Reg. 36292), USEPA adopted a final rule that made formal findings under the Clean Air Act (CAA) against Illinois, nine sister states, and the District of Columbia of failure to submit a required state implementation plan (SIP) for nine ozone nonattainment areas. USEPA entered the finding because it concluded that these entities had failed to submit a required "rate of progress" (ROP) SIP. The entry of the finding, effective on July 3, 1996, starts the CAA 18-month timeclock for imposition of mandatory federal sanctions against the states for the failure. Unless a state submits the necessary SIP, sanctions will be imposed against it within 18 months, by January 3, 1998.

Section 182(c) of the CAA requires states with serious, severe, or extreme ozone nonattainment areas to submit SIPs that would reduce the emissions of precursor volatile organic material (VOM) in those areas at the rate of nine percent every three years, beginning in 1996 and ending when they attain the ozone national ambient air quality standards (NAAQS). This SIP is called the ROP SIP. It further required the affected states to submit an attainment demonstration for the ROP SIP by November 15, 1994. For a variety of reasons, such a delay in the development of necessary federal guidance and ozone transport, some states were unable to achieve this deadline. USEPA sent out a memorandum on March 2, 1995 that offered the alternative submittals. USEPA divided the submittals into two phases and offered the opportunity for later submittal of the required SIP elements. Phase I, due at the end of 1995, was to include a SIP providing for the first nine percent ROP by the end of 1999, a SIP commitment to submit remaining ROP reductions at a specified time after 1996 no later than 1999, and a SIP commitment to submit the attainment demonstration by mid-1997, to be followed by any rules necessary for implementation of the SIP by the end of

1999. The Phase II submittals were the mentioned remaining elements. Illinois, the nine sister states, and the District of Columbia have been unable to meet the Phase I deadlines.

Section 179(a) of the CAA mandates sanctions against any state on the basis of four findings by USEPA. The first finding, the one made in this notice, is that the state has failed to timely submit a SIP required under the Act. If a state has failed to make the required SIP submittal within 18 months, the first sanction, federal offset requirements, will go into effect. If the state has still failed to make the submittal within six months of imposition of offsets, the highway funding sanction will be imposed and USEPA will be required to implement a federal implementation plan (FIP) for the area within 2 years of the finding, by July 3, 1998. On the other hand, the sanctions clock will stop if USEPA makes a finding that the state has made a complete SIP submittal. ♦

A Amended CAA State HAP Program Approval Procedures

On July 10, 1996 (61 Fed. Reg. 36295), USEPA adopted a direct final rule that amends the procedures for approval of state hazardous air pollutant (HAP) programs under the Clean Air Act (CAA). USEPA amended the procedures to clarify the rules, reduce the regulatory burden, and afford more flexibility to the states. A notice of proposed rule appeared in the same issue of the Federal Register (61 Fed. Reg. 36326).

The amendments, effective August 19, 1996 unless expressly withdrawn before that time, will allow up-front approval of the state mechanism for implementing existing and unchanged federal CAA section 112 standards, obviating the need for submission of individual delegation requests by the states on a rule-by-rule basis. USEPA further eliminated provisions as unnecessary. It removed a mandatory 6-month reporting requirement as duplicative of the reporting requirements already included in the individual maximum achievable control technology (MACT) standards. It eliminated a requirement for coordination on accident investigations as reiterating a requirement of the CAA. USEPA also revised its rules to provide for approval of prohibitory state program elements that act to limit sources' potentials to emit specific pollutants. ♦

M Meetings and Technical Workshop on Drinking Water Issues

On July 10, 1996 (61 Fed. Reg. 36328), USEPA announced a meeting on streamlining the approval of

Clean Water Act (CWA) and Safe Drinking Water Act (SDWA) analytical methods. This meeting is the fourth in a series of meetings held since last Fall to outline plans for methods flexibility and streamlining the process for evaluating and allowing the use of new analytical technologies. The meeting was scheduled for July 24, 1996 in Denver, Colorado. The meeting was to consider such topics as the range of acceptable modifications to approved methods that do not require approval of an alternative method, standardization of quality control and acceptance criteria, streamlining the approval process to timely take advantage of emerging analytical technologies, and the harmonization and standardization of methods across the several USEPA programs.

On July 18, 1996 (61 Fed. Reg. 37464), USEPA announced a meeting to discuss options for its role in laboratory performance evaluations for the purposes of the CWA and SDWA. USEPA stated that it is presently reevaluating its role in laboratory performance evaluations due to its lack of adequate funding and its inability to create a dedicated fund for deposit of user fees. USEPA presently has three laboratory performance evaluation programs: water supply, water pollution, and Discharge Monitoring Report (DMR) quality assurance. USEPA stated that it had discussed the possibility of the National Institute of Standards and Technology (NIST) assuming this rule, but that NIST determined that such would be inconsistent with its mission. USEPA has eight other options under consideration, each discussed in the draft report, "Externalization of EPA's Water Laboratory Performance Evaluation Programs." The meeting is scheduled for August 27, 1996 in Washington, D.C. ♦

P Proposed Restrictions on the Use of Pesticides to Protect Groundwater Supplies

On July 10, 1996 (61 Fed. Reg. 36368), USEPA announced that it was to hold a meeting of the State FIFRA Issues Research and Evaluation Group on July 15 and 16 in Arlington, Virginia. Among the topics the group was to discuss was the proposed pesticide state management plans (SMPs). USEPA proposed restrictions on the use of five pesticides (alachlor, atrazine, cyanazine, metolachlor, and simazine) identified as probable or possible carcinogens on June 26, 1996 (61 Fed. Reg. 33259). The proposed restrictions would allow states to protect groundwater resources through the development of SMPs, which will be implemented in the context of a larger comprehensive state groundwater protection program (CSGWPP). A CSGWPP, which describes the state's overall approach to groundwater protection, is designed

to integrate state and federal groundwater protection efforts. Under the proposed rules, USEPA would evaluate a state plan for pesticide use restrictions and use its authorities under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to restrict the use of the pesticide. ♦

Notice of Petition to Register Acetic Acid as a FIFRA Pesticide; Experimental Use Permit Issued for Illinois Use of Another Pesticide

On July 10, 1996 (61 Fed. Reg. 36369), USEPA published a notice of a petition to register a pesticide with an active ingredient not used in any pesticide product previously registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pesticide was to use acetic acid (ethanoic acid) at a concentration of 25 percent for nonselective control of herbaceous and grass weeds on noncrop, right-of-way, and industrial lands. (Acetic acid, at a concentration of about five percent, is the major component of vinegar.)

In the same issue of the Federal Register (61 Fed. Reg. 36377), USEPA gave notice that it had issued experimental use permits under FIFRA. One of those permits allows the use in 1996 and 1997 of 328.04 pounds of an herbicide on 4,000 acres of soybeans in 28 states to test the control of various weeds. The herbicide is the 3-oxetanyl ester of 2-[[[(4,6-dimethyl-2-pyrimidinyl)-amino]carbonyl]amino]sulfonyl]benzoic acid. ♦

Draft Guidance on Environmental Justice Available

On July 12, 1996 (61 Fed. Reg. 36727), USEPA announced the availability of draft guidance on environmental justice in its National Environmental Policy Act (NEPA) analyses. A Presidential memorandum of February, 1994 requires federal agencies to incorporate an environmental justice assessment into their ongoing projects and future planning. It requires consideration of environmental, human health, economic, and social effects of federal actions, including the effects on minority communities and low-income communities. ♦

Goals Published for CWA Effluent Guidelines and Pretreatment Standards and CAA New Source Performance Standards for Pulp and Paper Facilities

On July 15, 1996 (61 Fed. Reg. 36835), USEPA published a document describing its goals and preliminary analysis relating to Goals Published for Clean Water Act (CWA) effluent guidelines and pretreatment standards and Clean Air Act (CAA) new source performance standards for emission of hazardous air pollutants (HAPs) from pulp and paper facilities. USEPA proposed integrated standards for reductions in discharge of water pollutants and emission of HAPs from these facilities on December 17, 1993 (58 Fed. Reg. 66078) and corrected the proposal on March 17, 1994 (59 Fed. Reg. 12567). As a result of litigation in *Environmental Defense Fund v. Thomas*, No. 85-0973 (D.D.C.), USEPA was to have issued final regulations relating to the dioxin and furan discharges from certain members of the industry by June 17, 1996, but was unable to meet that deadline. Since the proposal, USEPA has announced the availability of new data under consideration on several occasions (60 Fed. Reg. 9813, Feb. 22, 1993; July 5, 1995 (60 Fed. Reg. 34938; Mar. 8, 1996, 61 Fed. Reg. 9383), and has held meetings with interested persons on the proposed rules. The current notice stated that USEPA presently evaluating all the comments and data received and that the final standards will be based on different technologies than those originally contemplated for the bleached papergrade kraft and soda and papergrade sulfite facilities. USEPA stated that it intends to adopt the standards for these two subcategories of the industry based on these new technologies, and that will continue its evaluation of the other eight proposed subcategories. ♦

USEPA Advisory Committee Meetings

On July 15, 1996 (61 Fed. Reg. 36881), USEPA announced that the Environmental Financial Advisory Board was to meet in San Francisco, California on August 15 and 16, 1996. The purpose was to discuss the development of a strategic action agenda for the year on such issues as brownfields redevelopment, private sector participation in delivering environmental services, financial tools to pay for sustainable environmental systems, and funding options for drinking water systems.

On July 16, 1996 (62 Fed. Reg. 37051), USEPA announced that the National Environmental Education Advisory Council was to meet August 5 and 6, 1996 in Washington, D.C. The purpose of this meeting was to aid USEPA's implementation of the National Environmental Education Act of 1990. The council was to review the council's newly available draft report to

Congress assessing environmental education in this country. ♦

Advanced Notice of Decisions Whether to Retain or Revise the CAA NAAQS for Ozone and Particulate Matter Based on Review

On July 18, 1996 (61 Fed. Reg. 37427), USEPA announced that it was to conduct a public meetings on its intent to propose decisions by November 29, 1996 whether to retain or revise the National Ambient Air Quality Standards (NAAQSs) developed under the Clean Air Act (CAA) for ozone and particulate matter (PM). The meetings were scheduled for July 25, 1996, in Philadelphia, Pennsylvania, and August 5, 1996, in St. Louis, Missouri.

On June 12, 1996 (61 Fed. Reg. 29719), USEPA published an advance notice of its intent to propose decisions by November 29, 1996 whether to retain or revise the NAAQSs for ozone and PM. USEPA stated that it used the advanced notice to identify key issues it is considering in deriving its decisions on the NAAQSs. The November 29 date for proposal of USEPA's determinations derived from a judicial order in *American Lung Association v. Browner*, 884 F. Supp. 345 (D. Ariz. 1994). (See issue 506, July, 1996.) ♦

On Reconsideration, Exemption from Ban Proposed for HCFC-Containing Fire Portable Extinguishers

On July 18, 1996 (61 Fed. Reg. 37430), USEPA proposed an exemption from the Class II nonessential products ban for hydrochlorofluorocarbon- (HCFC- or halon-) containing fire extinguishers for non-residential uses. USEPA undertook this action in reconsideration of an earlier ban imposed because it had determined that suitable substitutes to HCFC existed.

USEPA implemented section 610 of the Clean Air Act (CAA) on December 30, 1993 by adopting regulations banning the use of Class II ozone-depleting substances in nonessential foam or plastic, aerosol, and pressurized products. The Section 610 ban was self-implementing, effective January 1, 1994, but USEPA codified it to clarify definitions and provide exemptions, as provided by the CAA. From that regulation, USEPA exempted the use of HCFC-containing fire extinguishers for certain aircraft and marine uses until suitable substitutes were available. The expanded ban applies to all non-residential use of HCFC-containing portable fire extinguishers. USEPA stated that the significant new uses policy (SNAP) does not review the efficiency of substitutes, making SNAP unreliable for review of potential substitute fire extinguishants. USEPA

reconsidered its earlier determination based on its conclusion that no suitable substitutes exist at this time. ♦

Permits Improvement Team Concept Paper and Draft Recommendations Available

On July 19, 1996 (61 Fed. Reg. 37744), USEPA announced the availability of a concept paper and draft recommendations from the Permits Improvement Team (PIT). USEPA created PIT to evaluate its permitting programs and those of the states and develop recommendations for improvements in efficiency and process. USEPA intends to use the paper as an overall guide for reforms. USEPA stated that the individual region and program offices can evaluate and incorporate any changes based on comments on the report. ♦

Proposed Amendment of Army EIS Regulations

On July 22, 1996 (61 Fed. Reg. 37865), the Department of the Army proposed amendments to its Regulation 200-2. Army Regulation 200-2 implements the National Environmental Policy Act of 1969 (NEPA), which requires federal agencies to conduct environmental impact studies (EISs) prior to engaging activities that might have an impact. The Army stated that the amendments expanded a list of categorical exclusions, separated the Comprehensive Environmental Response, Compensation, and Recovery Act (CERCLA) from NEPA, and delegated the authority to approve EISs. ♦

Proposed Amendments to CAA NSR and PSD Rules

On July 23, 1996 (61 Fed. Reg. 38249), USEPA proposed amendments to the Clean Air Act (CAA) new source review (NSR) and prevention of significant deterioration (PSD) regulations of 40 CFR 51 and 52. USEPA undertook this action largely in response to the recommendations of the Clean Air Advisory Committee Subcommittee on NSR Reform. USEPA stated that the proposed amendments would be the first comprehensive overhaul of the system in 15 years. Some of the amendments are further prompted by the CAA amendments of 1990, to resolve issues that have prevented some states from fully implementing the program and causing uncertainties in the program.

Among the key features of the amendments indicated by USEPA as designed to relieve regulatory burden were the following: deregulation of changes at "clean" emissions units and "clean" facilities, promotion of

voluntary plant-wide limits, the encouragement of pollution prevention and innovative control technologies, enhanced public awareness provisions, revised requirements for control technology determinations, better coordination of permit reviews, increased State flexibility, and more offset credits available to nonattainment area sources. Proposed deregulatory changes highlighted by USEPA were the exclusion of hazardous air pollutants (HAPs) from the PSD requirements, and relaxation of requirements on the substitution of ozone-depleting substances (ODS) with lower potency. Amendments highlighted as proposed based on requirements mandated by the 1990 CAA amendments were (1) revised major source thresholds and emissions offset ratios for sources according to the severity of a nonattainment area's ambient air quality problem, (2) special requirements for determining major modifications of sources in serious and severe ozone nonattainment areas, and (3) requirements for the submittal of control technology information into USEPA's informational clearinghouse. USEPA stated that the proposal also includes "housekeeping" revisions to the NSR rules relating to technology review, complete application criteria, and public participation. ♦

M Meeting of Advisory Committee for Acute Exposure Guidelines Levels for Hazardous Substances

On July 24, 1996 (61 Fed. Reg. 38446), USEPA announced a meeting of the Advisory Committee for Acute Exposure Guidelines Levels for Hazardous Substances (NAC/AEGL) on August 5-7, 1996 in Washington, D.C. USEPA stated that among the chemicals up for discussion are ammonia, methyl mercaptan, hydrazine, hydrogen fluoride, hydrogen cyanide, cyanogen chloride, and 1,2-dichloroethylene. ♦

Draft Priority List of Hazardous Substances Prepared for Department of Energy NPL Sites

On July 24, 1996 (61 Fed. Reg. 38451), the Department of Health and Human Services Agency for Toxic Substances and Disease Registry (HHS) published a draft listing of hazardous substances found on Department of Energy (DOE) sites on the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) National Priorities List (NPL). HHS prepared the list in cooperation with USEPA pursuant to a provision of CERCLA that required the preparation of lists of the most common hazardous substances found on federal

and non-federal NPL sites. The list is used to determine the order in which HHS develops toxicological profiles for toxic substances. The list considers frequency of occurrence, toxicity, and the potential for human exposure in prioritizing the substances. HHS used 22 DOE NPL sites in assembling the listing of the top 20 radionuclides and top 20 non-radionuclides at these sites. ♦

Approval of Illinois Motor Vehicle Refinishing 15% ROP Revision

On July 25, 1996 (61 Fed. Reg. 38577), USEPA published a direct final rule approving the ozone state implementation plan (SIP) revision for the motor vehicle refinishing emissions regulations adopted to implement the federal 15% rate of progress (ROP) requirements. A notice of proposed rule appeared in the same issue of the Federal Register (61 Fed. Reg. 38683).

The Board adopted the regulations as Part VI of the state ROP rules on April 20, 1995, under docket R94-31. (See issue 494, May, 1995.) The Part VI regulations lower the allowable volatile organic material (VOM) emissions from motor vehicle refinishing operations in the Chicago and Metro-East areas by imposing limitations on the VOM content of coatings and surface preparation materials, requiring the use of specific coatings applicators and applicator cleaning equipment, and providing a control equipment alternative. The regulations further impose record-keeping and reporting requirements on refinishers. USEPA stated that the approved Part IV ROP rules will reduce VOM emissions by 16.3 tons per day (tpd) in the Chicago area and 1.2 tpd in the Metro-East area. ♦

Approval of Illinois Vehicle Inspection and Maintenance Rules

On July 25, 1996 (61 Fed. Reg. 38582), USEPA approved portions of the Illinois vehicle inspection and maintenance (VIM) program. It conditionally approved other portions based on a letter from the Illinois EPA (Agency) committing to submit certain items to USEPA within one year. The revision provides for the implementation of the VIM program in the Chicago and Metro-East areas, which, according to USEPA, will reduce volatile organic material emissions in the state by over 38 tons per day.

The Vehicle Emissions Inspection Law of 1995 (VEIL; 625 ILCS 5/13B), provided authority for the Agency to implement an enhanced VIM program for the Metro-East area and certain portions of the Chicago nonattainment area and mandated that the Board adopt

implementing regulations. The Board adopted the enhanced VIM regulations on December 1, 1994 in dockets R94-19 and R94-20. (See issue 490, Jan., 1995.) Section 182(b) and (c) of the federal Clean Air Act (CAA) requires the use of VIM programs in areas not meeting the national ambient air quality standards (NAAQS) for ozone and/or carbon monoxide. The CAA specifies the use of "basic" VIM programs in "moderate" nonattainment areas and "marginal" nonattainment areas with existing VIM programs. It requires the use of "enhanced" VIM programs in "serious," "severe," and "extreme" ozone nonattainment areas with urbanized populations of 200,000 or more. In Illinois, the Chicago and Metro-East St. Louis (Metro-East) areas are classified as "severe" and "moderate" nonattainment for ozone, respectively, and as such are subject to the VIM requirement.

In reviewing the Illinois program, USEPA noted that the Chicago area to which the Illinois enhanced VIM program applies includes Chicago, Aurora, Crystal Lake, Elgin, Joliet, and Round Lake Beach-McHenry urbanized areas. Since the CAA does not require enhanced VIM in urbanized areas with a population less than 200,000, only the basic VIM program would have otherwise been required in the Aurora, Crystal Lake, Elgin, Joliet, and Round Lake Beach-McHenry areas and in the Metro-East area. USEPA granted conditional approval to segments of the program because Illinois needed only to submit an executed contract for vehicle testing and amendments to regulations to obtain full approval. The existing program deficiencies that USEPA was giving Illinois a year to correct included the need for documentation addressing program evaluation, testing operator certification, inadequacies in the fleet testing provisions, public information and consumer protection, product recalls, on-road testing, and regular audits of program enforcement. The state has one year to submit the required documentation to maintain the conditional approval. ♦

Non-Aerosol Forms of Hydrochloric Acid, Diethyl Phthalate & di-(2-ethylhexyl)adipate Deleted from EPCRA Reporting Requirements

On July 25, 1996 (61 Fed. Reg. 38600), USEPA deleted non-aerosol forms of hydrochloric acid from the list of substances whose release facilities must report under the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). Upon petition of BASF Corp., E.I. duPont de Nemours, Monsanto Co., and Vulcan Materials Co., USEPA took this action based on its determination that non-aerosol forms of hydrochloric acid do not have acute, chronic, or

environmental effects. Aerosol forms of hydrochloric acid include mists, vapors, gas, and fog. USEPA stated that it is presently similarly reevaluating the listings for nitric and phosphoric acids.

On July 29, 1996 (61 Fed. Reg. 39356), USEPA deleted diethyl phthalate (DEP) from the list of EPCRA reporting substances. USEPA undertook this action in response to a petition from the Fragrance Materials Association. It reviewed the available data and determined that DEP cannot reasonably be expected to cause adverse human health or environmental effects. USEPA very specifically highlighted that although phthalates have generally been linked with hormone disruption effects, it is unaware of any data specifically attributing such effects to DEP.

On July 31, 1996 (61 Fed. Reg. 39891), USEPA deleted di-(2-ethylhexyl)adipate (DEHA) from the list of EPCRA reporting substances. USEPA concluded that DEHA met the delisting criteria of EPCRA based on a petition from the Chemical Manufacturers Association (CMA). Upon review, USEPA concluded that DEHA does not cause acute adverse human health effects at the concentrations likely to be encountered outside facility boundaries, that it does not cause systemic, developmental, and reproductive effects except at high doses, that it has a low chronic toxicity, and that DEHA does not pose a significant environmental threat. ♦

Draft Methodologies Invited for Land Disposal Program Flexibility Act Surface Impoundment Study

On July 25, 1996 (61 Fed. Reg. 38684), USEPA invited draft methodologies for a surface impoundment study under the Land Disposal Program Flexibility Act of 1996. That legislation overruled segments of the decision in *Chemical Waste Management v. EPA*, 976 F.2d (D.C. Cir. 1992), cert. denied, -- U.S. --, 113 S. Ct. 1961 (1993), relating to managing decharacterized hazardous wastes in wastewater treatment systems or by underground injection. The legislation also mandated that USEPA complete a study within five years of the environmental and human health effects of managing decharacterized wastes in wastewater treatment system surface impoundments or in Class I non-hazardous injection wells. USEPA stated that it is seeking information to begin the segment of the study dealing with surface impoundments. It invited the submission of methodologies for undertaking the study. USEPA stated that the study could result in further regulation of these facilities managing the decharacterized waste, since the legislation authorizes such regulations as necessary for protection of human health and the environment. ♦

Low-Enhanced Standard Option Added to CAA Vehicle Inspection and Maintenance Requirements

On July 25, 1996 (61 Fed. Reg. 39031), in a supplemental final rule, USEPA added a low enhanced performance option to the Clean Air Act (CAA) vehicle inspection and maintenance (VIM) Requirements. The low enhanced option will apply, effective September 23, 1996, in qualifying Northeast Ozone Transport Region (OTR) states (defined under the CAA as comprising states in the northeastern U.S., not including Illinois). The amendments would allow ozone attainment areas, marginal nonattainment areas, and moderate nonattainment areas not having urbanized populations greater than 200,000 to use the low enhanced option and achieve emissions reductions equivalent or greater to the high enhanced option by other means. The low enhanced option would include annual emissions testing of 1968 model year (MY) and newer light duty vehicles and light duty trucks, on-board diagnostics checks of all MY 1996 and newer vehicles, remote sensing for MY 1968-1975 vehicles, catalyst checks on MY 1975 and newer vehicles, and PCV checks on pre-MY 1975 vehicles. USEPA stated that the emissions reduction targets for the low-enhanced VIM requirements are less than those for the pre-existing basic VIM requirements. ♦

Comments Sought on CAA Industrial Combustion Coordinated Rulemaking Information Collection Request

On July 29, 1996 (61 Fed. Reg. 39450), USEPA solicited comment on the Industrial Combustion Coordinated Rulemaking (ICCR) Information Collection Request (ICR) prior to submitting the request to the Office of Management and Budget (OMB) for review. Sections 112 and 129 of the Clean Air Act (CAA) require USEPA to develop regulations that will limit the emission of hazardous air pollutants (HAPs) and priority pollutants from combustion sources. Subject sources include industrial, commercial, and institutional boilers; process heaters; waste incinerators; and stationary internal combustion engines that burn oil, natural gas, coal, wood, and non-hazardous wastes. USEPA intends working with stakeholders in the context of the ICCR to develop efficient regulations. (See issue 506, July, 1996.) USEPA stated, however, that it intends to issue the ICR if the information gathered through the ICCR

by January, 1997 is inadequate for assembling regulations. The data gained by USEPA through the ICCR or ICR will aid USEPA in assembling the required rules. ♦

Public Meetings on the Applicability of the USDOT Hazardous Materials Regulations to Loading, Unloading, and Storage

In an advanced notice of proposed rulemaking (ANPRM) dated July 29, 1996 (61 Fed. Reg. 39521), The U.S. Department of Transportation Research and Special Projects Administration (RSPA) announced meetings scheduled September 13, 1996, in Atlanta, Georgia; September 25, 1996, in Sacramento California; and October 30, 1996, in Philadelphia, Pennsylvania. RSPA explained that it has issued numerous interpretations, consistency determinations, and preemption determinations of its regulations as to the coverage of the hazardous materials regulations (HMR) to particular situations, but that the results of those interpretations are not widely known. RSPA is considering clarifying amendments of its HMR, to include those interpretation in the text of the rules. RSPA stated further that some of those determinations have become outdated, requiring their modification. RSPA further noted that enhanced clarity of the HMR will aid in determining the applicability of segments of USEPA and Occupational Safety and Health Administration rules whose applicability is dependent on the inapplicability of the HMR. ♦

Administrative Records of CERCLA Response Actions Available

On July 30, 1996 (61 Fed. Reg. 39646), USEPA published a notice of the availability of the administrative records in response actions under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The responses occurred at numerous facilities across the country at non-federal facilities, including 25 in Illinois:

- Amoco Chemical (Joliet Landfill), Will County
- Beloit Corp, Winnebago County
- Bisbee Lindeed Company, Cook County
- Byron Salvage Yard, Ogle County
- Dupage County Landfill/Blackwell Forest Preserve, Dupage County
- Ethyl Corp., Ethyl Petroleum Additives Div., St. Clair County
- H.O.D. Landfill, Lake County
- Hawkins Property, Sangamon County
- IBS Dioxin Site, Peoria County

- Ilada Energy Co., Alexander County
- Kerr-McGee (Kress Creek/West Brand Of DuPage River), Dupage County
- Kerr-McGee Reed Keppler Park, Dupage County
- Kerr-McGee Residential Areas, Dupage County
- Kerr-McGee Sewage Treatment Plant Site, Dupage County
- Lenz Oil Service Inc., Cook County
- Manito/Hall Mercury Site, Tazewell County
- MIG/Dewane Landfill, Boone County
- Mr. Chrome Bumper, Cook County
- Muscle-Ag, Rock Island County
- Old La Salle Dump, La Salle County
- Ottawa Radiation Areas, LaSalle County
- Outboard Marine Corporation, Lake County
- Pagel's Pit, Winnebago County
- Riverdale Chemical, Cook County
- Yeoman Creek Landfill, Lake County

USEPA stated that the records available were the basis for selection of response actions at the sites.

(Note: On June 17, 1996 (61 Fed. Reg. 30510), USEPA published the updated National Priorities List (NPL). (See issue 506, July, 1996.) The two lists differ. The current listing includes eight sites that did not appear in that NPL listing: Bisbee Lindeed Company, Ethyl Corp., Hawkins Property, IBS Dioxin Site, Manito/Hall Mercury Site, Mr. Chrome Bumper, Muscle-Ag, and Old LaSalle Dump. On the other hand, the NPL listing included 11 sites that did not appear on the current listing of sites for which records are available: Acme Solvent Reclaiming, Adams County Quincy Landfills 2 & 3, Cross Brothers Pail Recycling, Galesburg/Koppers Co., Interstate Pollution Control, Inc., Jennison-Wright Corp., Parsons Casket Hardware Co., Southeast Rockford groundwater contamination, Tri-County Landfill/Waste Management of Illinois, Wauconda Sand & Gravel, and Woodstock Municipal Landfill.) ♦

Proposed Streamlined Procedures for Modification of POTW Wastewater Pretreatment Programs

On July 30, 1996 (61 Fed. Reg. 39803), USEPA proposed amendments to the requirements for modifying wastewater pretreatment programs incorporated into a publicly owned treatment work's (POTW's) NPDES permit. USEPA proposed amendments to streamline the procedures for obtaining the modifications, for the purpose of reducing the cost and burden of obtaining such modifications.

Under the federal pretreatment regulations, a POTW must submit documentation indicating the adequacy of its pretreatment program. When approved, the entire program—including legal authorities, compliance assurance procedures, adequate funding, a local limit development demonstration, an enforcement response plan, and a list of significant industrial users is incorporated as an enforceable condition of the POTW's NPDES permit. The federal regulations require that a POTW follow certain procedures in making a “significant change” in its program. Such change would include changes to legal authorities, changes resulting in less stringent local limits, changes to the POTW's mechanism to control significant industrial users, changes in the POTW's method for implementing categorical pretreatment standards, decreases in the frequency of industrial user self monitoring or reporting, decreases in the frequency of the POTW's inspection or sampling of the industrial user, changes to the POTW's confidentiality procedures, significant reduction in the POTW's resources, and changes in the POTW's sewage sludge disposal and management practices. Currently, the procedure for review of the permit modification is the same as for initial review of the POTW's pretreatment program. The proposed amendments would reduce the number of items that are considered “significant changes,” allow more rapid implementation if no adverse comments are received, and shortening notice periods. USEPA further invited comment on ways that it may implement the pretreatment program without including the program as an NPDES permit condition. ♦

Thirty-eighth TSCA Interagency Testing Committee Report Submitted to USEPA

On July 30, 1996 (61 Fed. Reg. 39831), USEPA published notice that the Toxic Substances Control Act (TSCA) Interagency Testing Committee (ITC) had submitted its 38th report to the Administrator of USEPA, as required semiannually under section 4(e) of TSCA. The report, published in full, recommended that USEPA add 18 nonylphenol ethoxylates to the priority list of substances recommended for testing rules and delete white phosphorus, two high production volume chemicals (diethylene glycol dimethyl ether and diethylene glycol monoethyl ether acetate), and two oxygenated gasoline additives (ethyl tert-butyl ether and tert-amyl methyl ether) from the list. Under TSCA, USEPA may issue regulations that require testing of chemicals and chemical groups to determine the risks they pose to human health or the environment. ♦

Current Listing Published of States Where a CAA Federal Operating Permit Program is Effective

On July 31, 1996 (61 Fed. Reg. 39877), USEPA published a listing (current as of date) of jurisdictions in which there is a Clean Air Act (CAA) federal operating permits program. Under the CAA and implementing regulations, the states bear the primary responsibility for issuing Title V operating permits. However, where the state does not have an approved permit program, USEPA will conduct the review and issue the permits. As explained by USEPA, regulations setting forth the procedures for federal issuance of operating permits appeared in the July 1, 1996 Federal Register (61 Fed. Reg. 34202) and became effective on July 31. (See above item re federal Title V permit rules.) The published listing indicates those jurisdictions in which the new procedures for federal permit review became effective. All or part of 11 states and three territories are listed.

(Note: USEPA approved the Illinois Title V permit program on November 22, 1995 (60 Fed. Reg. 57834; see issue 499, Dec., 1995). Therefore, Illinois is unaffected by this listing.) ♦

Reports Available on Utility of TSCA Data

On July 31, 1996 (61 Fed. Reg. 39958), USEPA announced that reports are available prepared by contractors on the utility to state environmental protection and public health efforts of the data submitted by manufacturers pursuant to the Toxic Substances Control Act (TSCA). The reports were

prepared by the Georgia Department of Natural Resources, the Illinois Environmental Protection Agency, the New York State Department of Environmental Conservation, and the Wisconsin Department of Natural Resources. USEPA contracted with the four state agencies for the purpose of determining the utility of the TSCA information, including confidential business information, to the states. The states submitted the reports in May and June, 1996. The reports indicated, inter alia, that the information provided insight into the toxic effects of manufactured chemicals, the facilities and processes producing them, and how they are used. The states found that the information would be useful in improving risk assessments, in the permitting process, in identifying instances where regulatory relief may be appropriate, and in fostering intergovernmental cooperation. ♦

Pesticide Application for Genetically-Engineered Corn

On July 31, 1996 (61 Fed. Reg. 39959), USEPA published notice that it had received an application for pesticide registration from DeKalb Genetics Corp. for an active ingredient not previously registered. The active ingredient for which registration was sought was corn borer-resistant corn containing insecticidal Bt protein II, which contains the plant pesticide active ingredient *Bacillus thuringiensis kurstaki* CryIA(c) d-endotoxin and the genetic material necessary for its production in corn at 100 percent. ♦

FINAL DECISIONS 7/18/96

86-2 In the Matter of: Petition of the City of LaSalle for Exception to the Combined Sewer Overflow Regulations - The Board granted the City of LaSalle an exception with conditions, from the prohibition of the water pollution control regulations against combined sewer overflows, as it relates to retention of the first flush of storm flows, from the requirement that 10 times average dry weather flows receive at least primary treatment, and from the deadlines for compliance. Board Members J. Theodore Meyer and M. McFawn dissented

94-244 Rodney B. Nelson, MD v. Kane County Forest Preserve, Jack E. Cook, Chairman, and the Kane County Board, Warren Kammer, Chairman - The Board concluded that the complainant had failed to prove that

the respondent had contaminated groundwater and threatened to cause pollution of the Fox River and dismissed this citizen's water enforcement action against a Kane County facility.

95-73 Dennis Manarchy, Mary Beth Manarchy, Chris Mandoline, and Beverly Kagy-Mandoline v. JJJ Associates, Inc., d/b/a The Gotham Nightclub - The Board found that the Cook County respondents had caused noise pollution in violation of the Act and Board and ordered them to cease and desist from further violation.

95-100 C & S Recycling v. EPA - The Board denied a motion for stay and granted the Agency's motion for summary judgment and affirmed the Agency's denial of a land permit for this Cook County recycling center. Board Member J. Theodore Meyer dissented.

95-155 General Business Forms, Inc. v. EPA - The Board granted this Cook County facility a variance, subject to conditions, from certain volatile organic material emissions requirements of the air pollution control regulations applicable to lithographic printing facilities located in the Chicago metropolitan area.

96-2 People of the State of Illinois. v. Phoenix Oil Company- The Board accepted a stipulation and settlement agreement in this air enforcement action against a Cook County facility, ordered the respondent to pay a civil penalty of \$6,000.00, and ordered it to cease and desist from further violation.

96-38 People of the State of Illinois. v. City of Metropolis- The Board accepted a stipulation and settlement agreement in this land and water enforcement action involving a Massac County facility, ordered the respondent to pay a civil penalty of \$10,000.00, and it to cease and desist from further violation.

96-125 Color Communications, Inc. v. EPA - The Board affirmed the Agency's denial of an air permit and directed this Cook County petitioner to file one complete application covering both of its facilities. Board Member Joseph Yi concurred. Board Members J. Theodore Meyer and Emmett E. Dunham dissented.

96-138 Stepan Company v. EPA - The Board granted voluntary withdrawal of this underground storage tank fund reimbursement determination appeal involving a Cook County facility.

96-171 Exel Sales, Inc. v. EPA - The Board granted voluntary dismissal of this underground storage tank fund reimbursement determination appeal involving a Winnebago County facility.

96-202 People of the State of Illinois. v. Donald and Robert Hastie, d/b/a Hastie Trucking and Mining Company, a partnership - The Board accepted a stipulation and settlement agreement in this air enforcement action against a Hardin County facility, ordered the respondents to pay a civil penalty of \$3,000.00, and ordered them to cease and desist from further violation. Board Member J. Theodore Meyer dissented.

96-224 D'Arcy Oldsmobile v. EPA - Having previously granted a request for an extension of time to file, the Board dismissed this reserved docket because no underground storage tank fund reimbursement determination appeal was timely filed on behalf of this Will County facility.

96-253 People of the State of Illinois. v. Material Service Corporation - The Board accepted a stipulation and settlement agreement in this water and mining-related pollution control enforcement action involving a Kane County facilities, ordered the respondents to pay a civil penalty of \$5,000.00, and ordered it to cease and desist from further violation. Board Member J. Theodore Meyer dissented.

97-14 Rexam Medical Packaging, Inc. (Formerly DRG Medical Packaging, Inc.) v. EPA - Upon receipt of an Agency recommendation, the Board granted this Lake County facility a 45-day provisional variance from the testing deadline set forth in the 15-month variance granted October 19, 1995 in PCB 95-99 from certain of the air pollution control regulations applicable to the emission of volatile organic material from flexographic printing presses in the Chicago metropolitan area.

97-15 City of Paris v. EPA - Upon receipt of an Agency recommendation, the Board granted this Edgar County waste treatment facility a 45-day provisional variance from certain five-day biochemical oxygen demand (BOD₅), suspended solids, and ammonia requirements of the water pollution regulations.

97-16 Olin Ordnance, Marion Operations v. EPA - Upon receipt of an Agency recommendation, the Board granted this Williamson County facility a 45-day provisional variance from the prohibition of the air pollution control regulations against open burning.

AC 96-48 County of Jackson v. Southern Illinois Regional Landfill - The Board entered a default order, finding that this Jackson County respondent had violated Sections 21(o)(5) and 21(o)(12) of the Act and ordering it to pay a civil penalty of \$1,000.00.

AC 96-49 County of Jackson v. Southern Illinois Regional Landfill - The Board entered a default order, finding that this Jackson County respondent had violated Sections 21(o)(5) and 21(o)(12) of the Act and it to pay a civil penalty of \$1,000.00.

AC 96-50 County of La Salle v. Lone Star Industries - The Board entered a default order, finding that this LaSalle County respondent had violated Sections 21(p)(1), 21(p)(3), and 21(p)(4) of the Act and ordering it to pay a civil penalty of \$1,500.00.

AC 96-55 EPA v. Ray Stokes and Bidleman, d/b/a Rays and Bidleman's Tree Card, and Michael Rengel - The Board granted voluntary withdrawal of this

administrative citation against Peoria County respondents.

R96-12 In the Matter of: Pretreatment Update, USEPA Regulations (July 1, 1995 through December 31, 1996) - *See Rulemaking Update.*

NEW CASES 7/18/96

96-254 Marathon Oil Co. v. EPA - The Board denied involuntary dismissal and accepted an amended petition for a variance from certain particulate emissions requirements of the air pollution control regulations filed on behalf of this Crawford County facility.

96-256 People of the State of Illinois v. Crier Development Company and Bradley S. Cowell - The Board received this water enforcement action against a DuPage County facility for hearing.

96-258 Crawford Automotive Company v. EPA - The Board accepted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of a Cook County facility.

96-259 North Shore School District #112 v. EPA - The Board accepted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of a Lake County facility.

96-260 People of the State of Illinois v. Pipe and Piling Supplies (USA), Ltd. - The Board received this air enforcement action against a LaSalle County facility for hearing.

96-261 People of the State of Illinois v. G.M. Demolition Corporation - The Board received this air enforcement action against a Cook/Kankakee County facility for hearing.

96-262 People of the State of Illinois v. R. Frietsch and Company, Inc. - The Board received this air enforcement action against a Peoria/Tazewell County facility for hearing.

96-263 People of the State of Illinois v. Field Container Company, Ltd., and Field Container Management Corporation - The Board received this air enforcement action against a Cook County facility for hearing.

96-264 People of the State of Illinois v. American Waste Processing, Ltd. - The Board received this RCRA Subtitle C enforcement action involving a Cook County facility for hearing.

96-265 Edward M. Pearl v. Bicoastal Corporation, Singer Corporation, Controls Corporation of America Employee Profit Sharing and Retirement Trust, and Eaton Corporation - The Board held this citizen's land, special waste, and RCRA Subtitle C enforcement action against a Cook County facility for a frivolous and duplicitous determination.

96-266 J. Clarke Baker & Company and Real Estate Fund, Inc. v. Brunswick Corporation, L & J Engineering, Inc., GPE Controls, Inc., and Vapor Corporation - The Board held this citizens' land, special waste, and RCRA Subtitle C enforcement action against a Cook County facility for a frivolous and duplicitous determination.

96-267 People of the State of Illinois v. Atlas Dismantling Corporation, and Cary Corners Partnership - The Board received

this air enforcement action against a Cook County facility for hearing.

97-1 Lawrence Cadillac v. EPA - The Board accepted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of a Cook County facility.

97-2 People of the State of Illinois v Jersey Sanitation Corporation - The Board received this air, water, and land enforcement action against a Jersey County facility for hearing.

97-3 T & H Machine, Inc. v. EPA - The Board accepted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of a DuPage County facility.

97-4 Reckitt & Coleman, Inc. v. EPA - The Board accepted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of a Cook County facility.

97-5 Herb Treder (Site Classification and Completion Report) v. EPA - The Board accepted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of a Cook County facility.

97-6 Herb Treder (High Priority Corrective Action Plan and 45-Day Report) v. EPA - The Board accepted this request for a 90-day extension of time to file a underground storage tank appeal on behalf of a Cook County facility.

97-7 Herb Treder (High Priority Corrective Action Completion Report) v. EPA - The Board accepted this request for a 90-day extension of time to file a underground storage tank appeal on behalf of a Cook County facility.

97-8 People of the State of Illinois v Canton Industrial Corporation - The Board received this used tire and land enforcement action against a Jersey County facility for hearing.

97-9 People of the State of Illinois v. C & S Recycling, Inc., Flood Brothers Disposal Company, Inc., William Flood, individually, and as President of C & S Recycling, and Brian Flood, individually, and as Treasurer of C & S Recycling - The Board received this land enforcement action against a Cook County facility for hearing.

97-10 People of the State of Illinois v Allsteel, Inc. - The Board received this RCRA Subtitle C enforcement action against a Kane County facility for hearing.

97-11 People of the State of Illinois v White & Brewer Trucking - The Board received this water, groundwater, and land enforcement action against a Montgomery County facility for hearing.

97-12 Amoco Oil Company v. Office of State Fire Marshal - The Board accepted this underground storage tank fund reimbursement determination appeal involving a Cook County facility for hearing.

97-13 Village of Rockdale v. EPA - The Board held this petition for a variance for a Will County facility from the standards for issuance and restricted status requirements of the public water supply regulations, as they relate to the combined radium content and gross alpha activity of the petitioner's water, for the Agency recommendation.

97-14 Rexam Medical Packaging, Inc. (Formerly DRG Medical Packaging, Inc.) v. EPA - *See Final Actions*

97-15 City of Paris v. EPA - *See Final Actions*

97-16 City of Paris v. EPA - *See Final Actions*

AC 96-56 County of Jackson v. James Qualls - The Board received an administrative citation against a Jackson County respondent.

AC 96-57 County of Jackson v. Southern Illinois Regional Landfill - The Board received an administrative citation against a Jackson County respondent.

AC 96-58 County of Jackson v. Gary Easton - The Board received an administrative citation against a Jackson County respondent.

AC 96-59 County of Jackson v. Greg Burris, individually, and d/b/a Burris Disposal Service - The Board received an administrative citation against a Jackson County respondent.

AC 96-60 County of Will v. Arthur Hammel - The Board received an administrative citation against a Will County respondent.

AC 96-61 County of Will v. First United Bank, Trust #1279 - The Board received an administrative citation against a Will County respondent.

AC 97-1 EPA v. Banner Disposal, Inc. - The Board received an administrative citation against a Fulton County respondent.

AC 97-2 EPA v. Joseph C. Smith and Laverne A. Smith - The Board received an administrative citation against Jersey County respondents.

AC 97-3 County of Will v. Charlotte Raymond, Dominick Raymond, Joseph Raymond, Margaret Flamini, Frank Raymond, Jr., Andrea Domzalski, and Annette Stilts - The Board received an administrative citation against Will County respondents.

AC 97-4 EPA v. Joseph C. Smith and Laverne A. Smith
 - The Board received an administrative citation against Jersey County respondents.

AS 96-12 In the Matter of: Petition of Illinois Department of Transportation, District 8 for an Adjusted Standard from 35 Ill. Adm. Code Part 302.208, 302.124 and 302.203 (if required) - The Board acknowledged receipt of this petition for a adjusted standard from certain requirements on behalf of a St. Clair County facility and held it pending receipt of publication.

AS 96-11 In the Matter of: Chemetco, Inc. petition for an Adjusted Standard from 35 Ill. Adm. Code Part 720.131(a) & (c) - The Board held this petition for a solid waste determination under the land pollution control (hazardous waste) regulations for a Madison County facility pending receipt of publication.

CALENDAR OF HEARINGS

All hearings held by the Board are open to the public. Times and locations are subject to cancellation and rescheduling without notice. Confirmation of hearing dates and times is available by calling the Clerk of the Board at 312- 814-6931.

14-Aug-96 10:00 A.M.	PCB 96-107 R, Air	<u>People of the State of Illinois v. ESG Watts, Inc.</u> County Building, County Board Room, 1504 Third Avenue, Rock Island, Illinois
16-Aug-96 10:00 A.M.	R96-017 R, Air	<u>In the Matter of: Exemptions from State Permit Requirements, Amendments to 35 Ill. Adm. Code 201 and 214</u> James R. Thompson Center, 100 West Randolph, Room 9-040, Chicago, Illinois
19-Aug-96 09:00 A.M.	PCB 96-053 N-E, Citizens	<u>David and Susi Shelton v. Steven and Nancy Crown</u> James R. Thompson Center, 100 West Randolph, Room 9-040, Chicago, Illinois
20-Aug-96 09:00 A.M.	PCB 96-053 N-E, Citizens	<u>David and Susi Shelton v. Steven and Nancy Crown</u> James R. Thompson Center, 100 West Randolph, Room 9-040, Chicago, Illinois
21-Aug-96 09:00 A.M.	PCB 96-053 N-E, Citizens	<u>David and Susi Shelton v. Steven and Nancy Crown</u> James R. Thompson Center, 100 West Randolph, Room 9-040, Chicago, Illinois
21-Aug-96 10:00 A.M.	PCB 95-162 L-V	<u>Illinois Landfill, Inc. v. IEPA</u> -Vermillion County Court House Annex, County Board Room, 6 North Vermillion, Danville, Illinois
23-Aug-96 09:00 A.M.	PCB 96-211 P-A, Air	<u>Hydrosol, Inc. v. IEPA</u> -James R. Thompson Center, 100 West Randolph, Room 9-040, Chicago, Illinois
28-Aug-96 02:00 P.M.	AC 96-051 AC	<u>Montgomery County v Envotech Illinois, Inc.</u> -Montgomery County Court House, Courthouse Square, Hillsboro, Illinois
4-Sept-96 10:00 A.M.	PCB 96-252 UST-FRD	<u>Martin & Beyley, Inc. Huck's Food Store #15) v. IEPA</u> Salem City Hall, City Council Room, 101 South Broadway, Salem, Illinois
10-Sept-96 10:00 A.M.	PCB 95-072 UST-FRD	<u>Burwell Oil Services Inc., d/b/a Total G. B. Oil v. IEPA</u> Pekin City Hall, City Council Chambers, 400 Margaret Street, Pekin, Illinois
20-Sept-96 10:00 A.M.	PCB 96-184 A-V	<u>J.M. Sweeney Co. v. IEPA</u> -Lake Zurich Village Hall, Lower Conference Room, 70 E. Main St., Lake Zurich, Illinois
27-Sept-96 10:00 A.M.	PCB 96-110 N-E, Citizens	<u>Sara Scarpino and Margaret Scarpino v. Henry Pratt Company</u> -Old Kane County Courthouse, Courtroom 110, 100 South Third Street, Geneva, Illinois

Calendar Code

3d P	Third Party Action	A-C	Administrative Citation
A-E	Air Enforcement	A-S	Adjusted Standard
A-V	Air Variance	CSO	Combined Sewer Overflow Exception
GW	Groundwater	HW Delist	RCRA Hazardous Waste Delisting
L-E	Land Enforcement	L-S-R	Landfill Siting Review

L-V	Land Variance	MW	Medical Waste (Biological Materials)
N-E	Noise Enforcement	N-V	Noise Variance
P-A	Permit Appeal	PWS-E	Public Water Supply Enforcement
PWS-V	Public Water Supply Variance	R	Regulatory Proceeding
RCRA	Resource Conservation and Recovery Act proceeding (hazardous waste only)	SO ₂	SO ₂ Alternative Standards (35 ILL. ADM. CODE 302.211(f))
SWH-E	Special Waste Hauling Enforcement	SWH-V	Special Waste Hauling Variance
T	Thermal Demonstration Rule	T-C	Tax Certifications
T-S	Trade Secrets	UST-Appeal	Underground Storage Tank Corrective Action Appeal
UST-E	Underground Storage Tank Enforcement	UST-FRD	Underground Storage Tank Fund Reimbursement Determination
W-E	Water Enforcement	W-V	Water Variance
WWS	Water-Well Setback Exception		

ADJUSTED STANDARDS AND COMBINED SEWER OVERFLOW DETERMINATIONS LISTS

Section 28.1(d)(3) of the Environmental Protection Act (Act) [415 ILCS 5/28.1(d)(3)] requires the Board to annually publish in the Illinois Register and the Environmental Register a listing of all determinations made pursuant to Section 28.1 at the end of each fiscal year. This notice sets forth all adjusted standard and combined sewer overflow exception determinations made by the Board during fiscal year 1996 (July 1, 1995 through June 30, 1996).

Final Actions Taken by the Pollution Control Board
in Adjusted Standards Proceedings
during Fiscal Year 1996
(between July 1, 1995 and June 30, 1996)

<u>Docket/Docket Title</u>	<u>Final Determination</u>
AS 91-13: <u>In the Matter of: Petition of City of Rock Island for an Adjusted Standard from 35 Ill. Adm. Code 304</u>	On October 19, 1995, the Board granted this Rock Island facility an adjusted standard from the total suspended solids, iron, and manganese effluent standards of the water pollution control regulations for the discharge on an intermittent basis of wastewater from its potable water treatment sedimentation basins to Black Hawk Creek, subject to conditions.
AS 93-1: <u>In the Matter of: Petition of Quantum Chemical Corp., USI Div., for an Adjusted Standard from 35 Ill. Adm. Code 304.120(c)</u>	On June 6, 1996, the Board granted this Grundy County facility an adjusted standard from certain biochemical oxygen demand and total suspended solids effluent requirements of the water pollution control regulations.
AS 93-4: <u>In the Matter of: Petition of Conversions Systems, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 811 (Liner)</u>	On July 7, 1995, the Board granted the petitioner an adjusted standard from certain of the landfill liner and intermediate cover requirements of the land pollution control regulations for landfills using its Poz-O-Tec® process and materials, subject to conditions; the Board reserved rulemaking docket R96-1 to consider incorporating this adjusted standard into a rule of general applicability. (The Second Notice period for R96-1 ends on August 14, 1996, leaving the Board free to adopt regulations in this regard.)
AS 93-5: <u>In the Matter of: Petition of Conversions Systems, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 811 (Monofill)</u>	On July 7, 1995, the Board granted the petitioner an adjusted standard from certain of the landfill compaction, liner, leachate, and intermediate and final cover requirements of the land pollution control regulations for monofills using its Poz-O-Tec® process and materials, subject to conditions; the Board reserved rulemaking docket R96-1 to consider incorporating this adjusted standard into a rule of general applicability. (The Second Notice period for R96-1 ends on August 14, 1996, leaving the Board free to adopt regulations in this regard.)
AS 94-2: <u>In the Matter of: Petition of the Solar Corp. and the IEPA for an Adjusted Standard from 35 Ill. Adm. Code 218.Subpart PP</u>	On July 20, 1995, the Board granted this Lake County facility an adjusted standard from certain of the requirements of the air pollution control regulations otherwise applicable to emissions of volatile organic material from miscellaneous product manufacturing processes, subject to conditions.

AS 94-3: In the Matter of: Petition of Outboard Marine Corp. (OMC Waukegan Facility) for an Adjusted Standard from 35 Ill. Adm. Code 218

On December 7, 1995, the Board granted this Lake County facility an adjusted standard, subject to conditions, from certain of the volatile organic material (VOM) emissions and recordkeeping requirements of the air pollution control regulations applicable to "other units" (a marine engine die casting operation) in the Chicago metropolitan area.

AS 94-4: In the Matter of: Petition of Chase Products Co. for an Adjusted Standard from 35 Ill. Adm. Code 218.Subpart DD

On May 16, 1996, the Board granted this Cook County facility an adjusted standard, subject to conditions, from certain of the volatile organic material emissions requirements of the air pollution control regulations applicable in the Chicago metropolitan area.

AS 94-8: In the Matter of: Petition of Acme Steel Co. and LTV Steel Co. for an Adjusted Standard from 35 Ill. Adm. Code Sections 302.211

On July 7, 1995, the Board the granted the petitioners an adjusted standard from the thermal discharge requirements of the water pollution control regulations for their Cook County facilities, as that section would apply to their discharges to the Calumet River between the 95th Street Bridge and the O'Brien Lock and Dam.

AS 94-15: In the Matter of: Petition of Lone Star Industries, Inc. for an Adjusted Standard from 35 Ill. Adm. Code Section 811.320(d)

On August 24, 1995, the Board denied an adjusted standard from certain of the land pollution control (landfill) regulations pertaining to establishing the background concentration of contaminants in the groundwater at this LaSalle County facility.

AS 94-19: In the Matter of: Petition of Hepworth U.S. Holdings, Inc., Manley Brothers, and Silica Sand Trust for Adjusted Standard from Treatment of Overflows and Bypass Regulations 35 Ill. Adm. Code 620.410

On November 16, 1995, the Board granted this LaSalle County facility an adjusted standard, subject to conditions, from the Class I Groundwater quality standards for lead, nickel, and arsenic, applicable to the 50-acre northwest portion of the 550-acre facility.

AS 95-1: In the Matter of: Petition of Tommy House Tire Co. for an Adjusted Standard from 35 Ill. Adm. Code 848.202 (b)(1), (b)(2) and (b)(5)

The Board granted this Macon County facility an adjusted standard with conditions, from the tire and building separation requirements of the land pollution control (used tire) regulations. On June 6, 1996, the Board granted reconsideration and removed a condition from the adjusted standard.

AS 95-3: In the Matter of: The Joint Petition of the City of Metropolis and the EPA for an Adjusted Standard from 35 Ill. Adm. Code 304 for Suspended Solids, 5-Day Biochemical Oxygen Demand (BOD₅) and Ammonia Nitrogen

On June 6, 1996, the Board granted this Massac County petitioner an adjusted standard, with conditions, from certain of the biochemical oxygen demand, total suspended solids, and ammonia nitrogen effluent requirements of the water pollution control regulations.

AS 95-4: In the Matter of: Petition of the Metropolitan Water Reclamation District of Greater Chicago for an Adjusted Standard from 35 Ill. Adm. Code Part 811, 812, and 817 (Sludge Application)

On August 24, 1995, the Board granted this Cook County petitioner an adjusted standard from certain of the land pollution control regulations to allow the use of wastewater sludge in lieu of soil for final cover at certain types of landfills.

AS 95-7: In the Matter of: Petition of Western Lion Limited for an Adjusted Standard from 35 Ill. Adm. Code 814.Subpart C

On July 20, 1995, the Board found that the petitioner had not timely filed a certification of publication and dismissed this petition filed on behalf of a Coles County facility for an adjusted standard from certain of the closure requirements of the land pollution control regulations.

AS 95-8: In the Matter of: Petition of Illinois Department of Transportation, District 8 for an Adjusted Standard from 35 Ill. Adm. Code 304.124

On October 20, 1995, the Board granted this Madison County facility an adjusted standard as recommended by the Agency from the iron effluent requirements of the water pollution control regulations, subject to conditions, to allow the continued discharge of groundwater from its deep well system into the Mississippi river; but the Board found that since the petition requested relief only as to iron, there was insufficient information in the record to support a similar adjusted standard applicable to the petitioner's discharges of total suspended solids.

AS 96-1: In the Matter of: Petition of Illinois Power Co. (Baldwin Power Plant) for an Adjusted Standard from 35 Ill. Adm. Code 302.208 and 304.105

On May 2, 1996, the Board granted this Randolph and St. Clair County facility an adjusted standard, subject to conditions, from certain of the boron effluent requirements of the water pollution control regulations standard for its discharges into the Kaskaskia River.

AS 96-2: In the Matter of: Petition of Western Lion Limited for an Adjusted Standard from 35 Ill. Adm. Code 814.Subpart C

On January 4, 1996, the Board granted voluntary withdrawal of this petition filed on behalf of a Coles County facility for an adjusted standard from certain of the land pollution control (landfill) regulations applicable to chemical and putrescible waste landfills that will remain open after September 18, 1997.

AS 96-3: In the Matter of: Petition of Cabot Corp. for an Adjusted Standard from 35 Ill. Adm. Code 738.Subpart B

On March 7, 1996, the Board granted this Douglas County facility an adjusted standard, with conditions, from certain of the land disposal restriction requirements of the underground injection control rules of the land pollution control regulations.

AS 96-4: In the Matter of: Petition of Laidlaw Waste Systems, Inc. (Coles County Landfill) for an Adjusted Standard from 35 Ill. Adm. Code 811.319(d)(3)(A) and 811.317(b)

On December 20, 1995, the Board granted voluntary dismissal, without prejudice, of this petition for an adjusted standard from certain of the groundwater impact assessment and assessment monitoring requirements of the land pollution control (landfill) regulations.

AS 96-5: In the Matter of: Petition of Illinois Department of Transportation, District 8 for an Adjusted Standard from 35 Ill. Adm. Code 304.124

On April 4, 1996, the Board granted this Madison County facility an adjusted standard, with conditions, from the total suspended solids effluent requirements of the water pollution control regulations.

AS 96-8: In the Matter of: Petition of Central Illinois Light Co. (Duck Creek Station) for an Adjusted Standard from 35 Ill. Adm. Code 302.208 and 304.05

On June 22, 1995, the Board granted this Fulton County facility an adjusted standard, with conditions, from certain boron effluent discharge requirements and water quality standards of the water pollution control regulations.

Final Actions Taken by the Pollution Control Board
in Combined Sewer Overflow Proceedings
during Fiscal Year 1996
(between July 1, 1995 and June 30, 1996)

86-2: Petition of the City of La Salle for
Exception to the Combined Sewer
Overflow Regulations

On December 20, 1995, the Board denied this LaSalle County petitioner a permanent exception to the combined sewer overflow regulations due to water quality effects of the discharge and closed the docket. On February 15, 1996, the Board granted reconsideration, vacated its prior order, and accepted a second amended petition for hearing. (On November 3, 1994, the Board granted the petitioner an extension of a temporary exception from the prohibition against discharge of combined sewer overflows until December 1, 1995. The Board granted an adjusted standard based on this petition on July 18, 1996.)

Address written comments or request copies concerning the substance of the rulemaking, noting the appropriate docket number, as follows:

Name: Dorothy Gunn, Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, IL 60601
Telephone: 312-814-3620

Address questions concerning this notice, noting the appropriate docket number, as follows:

Name: Michael J. McCambridge, Attorney
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, IL 60601
Telephone: 312-814-6924
Internet: mmccambr@pcb016r1.state.il.us

**Illinois Water Law:
Challenges and Opportunities**

October 23, 1996

in conjunction with:

**Biennial Conference
Illinois Section, American Water Resources Association**

October 22, 1996

Jumer's Chateau
1601 Jumer Drive
Bloomington, IL 61704

GENERAL INFORMATION:

Location: The Water Law Conference will be held at Jumer's Chateau, 1601 Jumer Drive, Bloomington, Illinois. On the preceding day, at the same facility, the Illinois section of the American Water Resources Association will hold its biennial conference.

Lodging: For persons wishing to attend both meetings, and for those arriving early for the Water Law Conference, sleeping accommodations are available at the rate of \$69.00 plus tax (single) or \$78.00 plus tax (double). Room reservations should be made by contacting Jumer's at (309)662-2020 by October 1, 1996.

Registration Fee

- Water Law Conference only: \$60.00
- Illinois Section, AWRA Conference only: \$60.00
- Registration for both conferences: \$100.00

The fees will cover a continental breakfast, lunch, coffee breaks, and conference materials.

See following page for Registration form and program schedule.

TO REGISTER:

Print and fill out the following form and return it to:

Water Conferences
Water Resources Center
Institute for Environmental Studies
University of Illinois at Urbana-Champaign
1101 W. Peabody Drive
Urbana, IL 61801
Phone: 217-333-0536
Fax: 217-244-8583

Please Check the appropriate box:

- Water Law Conference, October 23, 1996, \$60.00
Illinois Section, AWRA Conference, October 22, 1996, \$60.00
Both conferences, \$100.00

Name:
Organization:
Address:
City, State, Zip:

Please include check payable to University of Illinois/Water Resources Center.

PROGRAM SCHEDULE:

- 8:00 am -- Registration and Continental Breakfast
9:00 am -- Welcome
9:30 am -- Water Law I: Survey of Eastern Water Law
10:30 am -- Refreshment Break
10:45 am -- Water Law II: Analysis of Illinois Water Law
11:45 am -- Focus Session I: Surface Withdrawals and Instream Flows
12:30 pm -- Lunch
1:45 pm -- Focus Session II: Groundwater Withdrawals
2:30 pm -- Focus Session III: Access and Recreation Uses
3:15 pm -- Refreshment Break
3:30 pm -- Concurrent Sessions A
4:15 pm -- Concurrent Sessions B
5:00 pm -- Conference Closing