

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

IN THE MATTER OF:

PETITION OF CATERPILLAR INC.  
FOR AN ADJUSTED STANDARD FROM  
35 ILL. ADMIN. CODE  
620.410(a) AND 817.106(a)

)  
)  
) AS 13-005  
) (Adjusted Standard)  
)  
)  
)



ORIGINAL  
NOTICE

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STATE OF ILLINOIS  
Pollution Control Board

John Therriault  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

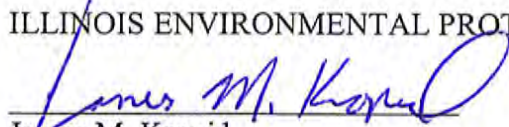
John W. Watson  
Daniel R. De Deo  
Baker & McKenzie LLP  
300 East Randolph Street  
Suite 5000  
Chicago, IL 60601

Carol Webb  
Hearing Officer  
IPCB  
1021 North Grand Ave. East  
P.O. Box 19274  
Springfield, IL 62794

PLEASE TAKE NOTICE that I have today filed with the office of the Clerk of the Pollution Control Board an **APPEARANCE** and **RECOMMENDATION TO PETITION FOR ADJUSTED STANDARD**, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

  
James M. Kropid  
Division of Legal Counsel  
1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
217/782-9143 (TDD)  
Dated: August 9, 2013

BEFORE THE POLLUTION CONTROL BOARD  
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)

APPEARANCE

The undersigned hereby enters his appearance in the above-captioned matter as  
counsel for the Illinois Environmental Protection Agency.

Respectfully submitted,

  
James M. Kropid

Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, IL 62702-4059  
217/782-5544  
217/782-9143 (TDD)  
Dated: August 9, 2013

**BEFORE THE POLLUTION CONTROL BOARD  
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**AS 13-005  
(Adjusted Standard)**

**RECOMMENDATION TO PETITION FOR ADJUSTED STANDARD**

NOW COMES the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, James Kropid, Assistant Counsel, and, pursuant to 35 Ill. Adm. Code 104.416, hereby submits a recommendation to the Illinois Pollution Control Board (“Board”) in response to the Petition of Caterpillar Inc. (“Petition”) filed by Caterpillar Inc. on June 27, 2013. The Petitioner is seeking an adjusted standard from the 35 Ill. Adm. Code Part 620.410(a) Class I groundwater standard (“groundwater standard”) regarding Total Dissolved Solids (“TDS”) at the Mapleton Landfill (“Landfill”) located in Peoria County, Illinois. If the proposed adjusted standard is granted, the maximum allowable leachate concentration (“MALC”) for TDS could be adjusted from 1,200 milligrams per liter (mg/L) to 2,539 mg/L. The Illinois EPA recommends that the Board grant the adjusted standard request with the understanding that a change in the TDS MALC would only be applicable to Landfill leachate. In support and in explanation of this recommendation, the Illinois EPA states as follows:

**BACKGROUND**

1. The Petitioner owns and operates an iron foundry located south of the Village of Mapleton, Peoria County, Illinois. The Landfill, situated on the southeastern part of the foundry site, is a foundry waste landfill operating pursuant to the requirements of 35 Ill. Adm. Code Part



817 and permit 1995-154-LFM (“Permit”), which was originally issued by the Illinois EPA on April 30, 1997.

2. The Landfill is permitted to dispose of a wide variety of “potentially usable wastes”, as defined in 35 Ill. Adm. Code 810.103 and as governed by its Permit. (See Petition Exhibit 1 at 6.)

3. The Permit requires the Petitioner to monitor leachate at the Landfill to confirm compliance with the MALCs. The groundwater quality standard applicable to TDS at the Landfill, per 35 Ill. Adm. Code 817.416(a)(1)(A), is the Board-established standard of 1,200 mg/L for Class I groundwater pursuant to 35 Ill. Adm. Code 620.410(a). Since monitoring under the Permit began in 1997, leachate sample results for TDS have shown concentrations consistently above the MALC. Because of these exceedances, the Petitioner is not in compliance with the terms of the Permit.

4. In order to meet the applicable regulatory requirements, Petitioner, through the Petition filed on June 27, 2013, is seeking an adjusted standard from 35 Ill. Adm. Code Part 620.410(a).

5. The Petition requests an increase in the groundwater quality standard for TDS from 1,200 mg/L to 2,539 mg/L.

6. The Board has not yet accepted the Petition and has made no finding as whether the Petition satisfies the content requirements of 35 Ill. Admin. Code 104.406.

7. This recommendation is submitted pursuant to 35 Ill. Admin. Code 104.416, which requires the Illinois EPA to file a recommendation with the Board within 45 days after the filing of this Petition.

## COMMENTS ON CERTAIN FACTS PRESENTED IN THE PETITION

8. The Petition seems to contain an apparent contradiction regarding the calculation of the proposed TDS Background Threshold Value (“BTV”). Petitioner states, “In this situation, the upgradient TDS data set was used to develop a BTV for background TDS levels in groundwater *uninfluenced by the Landfill*, and the resulting BTV for TDS in upgradient groundwater is 2,539 mg/L”. [emphasis added] (Petition at 8.) However, the Petitioner also states, “...the BTV has been calculated *from Landfill leachate values*”. [emphasis added] (Petition at 31.)

9. It is the understanding of the Illinois EPA that the Petitioner used background (that is, uninfluenced by the landfill) groundwater values to calculate the proposed BTV. However, it is unknown whether this contradiction is simply a misstatement or misunderstanding of the facts or if it is something that requires additional explanation and/or scrutiny.

### SECTION 104.406 FACTORS

10. In order for the Board to grant the request for an adjusted standard increasing the allowable limit of TDS, Petitioner must satisfactorily address all informational requirements set forth in Section 104.406 of the Board’s procedural regulations (35 Ill. Adm. Code 104.406). The Illinois EPA must respond to each issue raised by these requirements. It should be noted that the Petitioner sent the Illinois EPA a draft version of the Petition for review and comment on June 29, 2012. Since that time, discussions and information exchanges concerning the issues associated with this adjusted standard have occurred between Petitioner and the Illinois EPA. Petitioner has satisfactorily addressed the questions and comments presented by the Illinois EPA during this period and the information used to do this has been incorporated in the Petition. This explains the brevity in considering and responding to the informational requirements.

**Section 104.406(a) – Standard from which adjusted standard is sought**

The Illinois EPA does not take issue with the Petitioner’s statements on this subject.

**Section 104.406(b) – Regulation of general applicability**

The Illinois EPA does not take issue with the Petitioner’s statements on this subject.

**Section 104.406(c) – Level of justification**

The Illinois EPA does not take issue with the Petitioner’s statements on this subject.

**Section 104.406(d) – Petitioner’s activities**

The Illinois EPA does not take issue with the Petitioner’s statements on this subject.

**Section 104.406(e) – Efforts necessary to comply**

The Illinois EPA does not take issue with the Petitioner’s statements on this subject.

**Section 104.406(f) – Proposed adjusted standard**

As discussed, the Landfill is allowed to dispose of potentially usable waste generated from its foundry pursuant to the terms and conditions of the Permit (Petition Exhibit 1 at 6.) Pursuant to 35 Ill. Adm. Code 817.106(a), the MALC for TDS in potentially usable wastes is 1,200 mg/L. This is the same value as the Class I standard for groundwater per 35 Ill. Adm. Code 620.410(a). If the adjusted standard is granted, the Illinois EPA is concerned that the Petitioner would be allowed to dispose of waste streams that exceed the TDS MALC for potentially usable waste. Since the Petitioner is presumably not seeking an adjusted standard for that purpose, the Petition and the findings should clearly indicate that, if granted, the adjusted standard will not be used as a means to accept or dispose of said waste streams.

The Petition appears to address this concern as part of the factual background by stating, “The relief requested is limited solely to changing the TDS MALC applicable to leachate.” (Petition at 3.) However there is no specific mention of this limitation in the proposed adjusted

standard. (Petition at 21, 22.) For the sake of clarity, the Illinois EPA recommends that if relief is granted, the findings indicate that the adjusted groundwater standard and/or MALC of 2,539 mg/L is only applicable to leachate and not to potentially usable waste.

**Section 104.406(g) – Quantitative and qualitative impact on the environment**

The Illinois EPA does not take issue with the Petitioner’s statements on this subject.

**Section 104.406(h) – Justification of the proposed adjusted standard**

The Illinois EPA does not take issue with the Petitioner’s statements on this subject.

**Section 104.406(i) – Consistency with federal law**

The Illinois EPA does not take issue with the Petitioner’s statements on this subject.

**Section 104.406(j) – Hearing**

The Illinois EPA does not take issue with the Petitioner’s statements on this subject.

**Section 104.406(k) – Supporting documents**

The Illinois EPA does not take issue with the Petitioner’s statements on this subject.

**Section 104.406(l) – Additional Information**

The Illinois EPA does not take issue with the Petitioner’s statements on this subject.

**CONCLUSION**

FOR the reasons more fully set forth herein and in the Petition, the Illinois EPA respectfully recommends that Petitioner’s request for an adjusted standard for TDS be granted as it applies to leachate.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,



James M. Kropid

Assistant Counsel

Division of Legal Counsel

1021 North Grand Avenue, East

P.O. Box 19276

Springfield, Illinois 62794-9276

217/782-5544

217/782-9143 (TDD)

Dated: August 9, 2013

This filing submitted on recycled paper.



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AUG 14 2013

STATE OF ILLINOIS  
Pollution Control Board

**CERTIFICATE OF SERVICE**

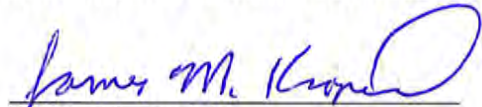
I, the undersigned, hereby certify that on August 9, 2013, I served the **APPEARANCE** and **RECOMMENDATION TO PETITION FOR ADJUSTED STANDARD**, by placing true and correct copies thereof in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with first class postage affixed, upon the following named persons:

John Therriault  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

John W. Watson  
Daniel R. De Deo  
Baker & McKenzie LLP  
300 East Randolph Street  
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