



ENVIRONMENTAL REGISTER



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RULEMAKING UPDATE

NEW AIR TOXICS PROPOSAL ACCEPTED, OLD DOCKETS DISMISSED, R96-4 & R90-1(C) & (D)

The Board issued an order on November 2, 1995 that accepted an October 13, 1995 proposal from the Agency relating to toxic air contaminants. At the same time, the Board dismissed older subdockets R90-1(C), relating to toxic air contaminant reporting requirements, and R90-1(D), relating to adding styrene to the list of toxic air contaminants. The Board consolidated the subject matter of the older subdockets into new docket R96-4.

The new R96-4 toxic air contaminants proposal was intended by the Agency to update the existing Illinois toxic air contaminants (ITAC) list at 35 Ill. Adm. Code 232. It would add substances designated as federal hazardous air pollutants (HAPs) pursuant to section 112(b) of the Clean Air Act (CAA) and compounds designated by U.S. EPA as of concern under its "Great Waters" program under section 112(m) of the CAA. The proposal would also require all sources that meet certain requirements to submit an ITAC source report for calendar year (*Cont'd on p. 2*)



BOARD AND STAFF NOW ACCESSIBLE ON THE INTERNET

As part of an ongoing effort to increase public access to the Board, Board members and staff are now accessible on the Internet. A list of the internet addresses for selected Board staff *appears on p. 20* of this issue.

LEGISLATIVE UPDATE

GOVERNOR EDGAR SIGNS UST FUNDING BILL

On December 14, 1995, Governor Jim Edgar signed P.A. 89-428 (formerly SB 721) into law, effective January 1, 1996. P.A. 89-428 includes, among more diverse legislation, the Environmental Impact Fee Law, which imposes an environmental impact fee of \$60 per 7,500 gallons on the receiver of motor fuel sold or delivered in Illinois, Payable into the Underground Storage Tank Fund (UST Fund). This new fee, which will expire by its own terms on January 1, 2003, is anticipated to raise \$46 million per year for UST cleanup reimbursement. The bill further made several amendments to the Environmental Protection Act (415 ILCS 5/57, 57.1, 57.2, 57.5 through 57.8, 57.10, 57.12 & 57.14):

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1996, and it would correct typographical errors in the existing ITAC list.

In accepting the lengthy proposal, the Board waived some of its procedural requirements relating to the number of copies of documents filed. The Board further granted expedited consideration of the proposal to the extent consistent with the Environmental Protection Act. Direct questions to Charles M. Feinen, at 312-814-3473 (Internet address: (cfeinen@pcb016r1.state.il.us)). Request copies of Board orders from Victoria Agyeman, at 312-814-3620 (Internet address: vagyeman@pcb016r1.state.il.us). Please refer to docket R96-4, R90-1(C), or R90-1(D), as appropriate.

**P_{MI10} CLEANUP
 AMENDMENTS PROPOSAL
 ACCEPTED, PROPOSED FOR
 FIRST NOTICE, R96-5**

On November 14, 1995, the Board proposed amendments to the Illinois regulations pertaining to particulate matter having a diameter less than 10 microns (PM10). The Board has also scheduled hearings on the proposed rules, as indicated below. The amendments would address U.S. EPA concerns over the existing state PM10 rules. The proposed amendments would make a number of clarifying amendments to the regulations. They would also add discrete opacity limits for basic oxygen furnace shop, coke oven

combustion stack, and electric arc furnace roof ventilator emissions.

The federal Clean Air Act (CAA), as amended in 1990, requires the submission of a state implementation plan (SIP) for PM10 for all areas classified by U.S. EPA as moderate nonattainment for PM10. The Lake Calumet, McCook, and Granite City areas in Illinois are so classified by U.S. EPA. Based on an Agency proposal, the Board adopted the PM10 regulations for those areas on April 9, 1992, in docket R91-35. (See issue 450, Apr. 22, 1992.) The Agency submitted the rules to U.S. EPA for SIP review, and U.S. EPA granted its conditional approval of the SIP on November 18, 1994 (at 59 Fed. Reg. 59653), after receiving a March 2, 1994 commitment letter by the Agency to correct certain deficiencies in the program within one year. U.S. EPA conditioned the approval because it perceived certain deficiencies in the Illinois PM10 SIP submittal. These deficiencies were described by U.S. EPA in the Federal Register as summarized below:

1. Illinois had underestimated certain emissions of Granite City Steel, Acme Steel, LTV Steel, CWM Chemical Services, CPC International, and GM Electromotive Division;
2. Illinois' submittal had not adequately addressed maintenance of the national ambient air quality standard (NAAQS) for PM10 in the nonattainment areas;
3. Section 212.443(a) of the rules exempted coke ovens from the opacity limitations, which served to delay enforcement of mass loading violations by LTV Steel;

4. The rules that apply to electric arc furnace roof vents of American Steel Foundries were unenforceable because the stacks could not be tested;

5. Section 212.107 of the rules could have been misinterpreted as requiring the use of Method 22 to test opacity limits;

6. The measurement methods set forth in each of Sections 212.107 through 212.110 were not always consistent (and should have been integrated into Section 212.110); and

7. Several exemptions from mass limitations intended for small, well-controlled sources with no visible emissions could have been misinterpreted to exclude other sources (and should be clarified as to what sources and when they apply in the opinion of U.S. EPA).

The Agency proposed and the Board accepted these amendments pursuant to the "fast-track" provisions of Section 28.5 of the Act. Section 28.5 requires the Board to proceed within set time-frames toward the adoption of the proposed amendments. The Board lacks any discretion under the statute to adjust these time-frames under any circumstances. Under Section 28.5(o), the Board must have adopted the proposal for Second Notice within 130 days on receipt of the proposal from the Agency. Section 28.5(p) requires that the Board must adopt and file final rules based on the proposal within 21 days of when it receives a Certificate of No Objection from JCAR.

The statute requires the Board to schedule three hearing dates, each for a prescribed purpose. The first day of hearing is reserved for presentations by the Agency and

questions of Agency witnesses. The second scheduled day of hearing, if it occurs, is reserved for **RULEMAKING UPDATE** (cont'd from page 2)

presentations by affected entities and all other interested persons. The third scheduled day of hearing, if it occurs, is reserved for any Agency response and responses of other parties. The hearings will be continued from day to day, as necessary, until all business is completed. However, the second and third hearing dates are subject to cancellation if the level of public interest and participation so warrant. The Board has scheduled hearings to occur as follows:

10:00 a.m., Friday, January 5, 1996 James R. Thompson Center,

Room 9-031, 100 West Randolph Street, Chicago

10:00 a.m., Friday, February 2, 1996 James R. Thompson Center, Room 2-025, 100 West Randolph Street, Chicago

10:00 a.m., Friday, February 16, 1995 Law Enforcement Training Building, 600 South Second Street, Third Floor, Conference Room, Springfield

The hearing officer has ordered the submission of prefiled testimony and exhibits to all persons on the service list by specified deadlines. These are December 26, 1995 for the first day of hearing, January 18, 1996 for the second day, and February 6, 1996 for the third.

The 45-day First Notice public comment period began for the proposed amendments when the Notices of Proposed Amendment appeared in the Illinois Register on December 1, 1995 for Parts 211 and 212 (19 Ill. Reg. 15925 & 15940). After the First Notice Period expires, on January 15, 1996, the Board will be free to propose the amendments for Second Notice review by the Joint Committee on Administrative Rules (JCAR). Direct questions to the hearing officer, Marie E. Tipsord, at 312-814-4925 or 618-498-9803 (Internet address: mtipsord@pcb016r1.state.il.us). Request copies of Board orders from Victoria Agyeman, at 312-814-3620 (Internet address: vagyeman@pcb016r1.state.il.us). Please refer to docket R96-5. ❖

LEGISLATIVE UPDATE (cont'd from page 1)

- The Agency must propose regulations to the Board within six months that set forth criteria when the Agency may require a site owner or operator to further investigate or remediate a site after the Agency has already issued a "no further remediation letter". The Board must adopt regulations within six months of receiving the proposal.
- The Agency must propose regulations to the Board within six months that set forth criteria when the Agency may require a site owner or operator to engage in further groundwater monitoring after the Agency has already issued a "no further remediation letter". The Board must adopt

regulations within six months of receiving the proposal.

- The Agency must propose regulations to the Board within six months that set forth risk-based criteria for determining when a site owner or operator may defer corrective action at a site at times when the UST Fund balance is inadequately low, based on risk to human health and the environment. The Board must adopt regulations within six months of receiving the proposal. (Replaces existing provisions in the Act.)
- The Agency is authorized to develop a priority list for reimbursements at times when the UST Fund balance is inadequately low.
- Instances where the Agency fails to act within the 30 and 120 statutory deadlines will be

deemed "rejected" (rather than the current "approved" in the Act). The 60-day limit is eliminated for the Agency to redesignate a site from "low-priority" to "high priority".

- A failure of the Office of the State Fire Marshall (OSFM) to certify removal within 30 days will be deemed "rejected" (rather than the current "approved" in the Act).
- Tank owners or operators will remain eligible for reimbursement in instances where the OSFM later rescinds a certification of "no release" or "minor release" made between September 13, 1993 and August 1, 1994, thus requiring notification to the Illinois Emergency Management Agency (IEMA). The eligibility date will be

based on the date of the OSFM's initial inspection.

- The bill clarifies that the burden of reporting a release to IEMA and performing a site

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(cont'd from page 3)

- assessment at the time of tank removal will be on the tank owner or operator, and that the OSFM may require an owner or operator to report any suspected release.
- The owner or operator will have 35 days (now 30 days) to incorporate Agency-required changes to its corrective action plan (or to appeal the decision to the Board).
- Costs recovered by the state in remedial action shall be deposited back into the fund from which they originated; all punitive damages will go into the UST Fund.
- A new definition of "audit" will clarify the Agency's authority to use a UST audit to review any corrective action.
- An expanded definition of "occurrence" will clarify that it includes multiple releases at a site (making the term mean the same as its federal counterpart).
- Authorizes the Board to prescribe alternatives by rule to the Berg Circular for physical soil classification.

The current UST funding provision passed the House with a vote of 49-0-7 and the Senate with a vote of 88-11-15.

(Editor's note: Since SB 721 principally deals with crime, most notably with sex-offender

notification, litigation has been threatened over whether the bill violated the Constitutional "single subject matter" requirement.)❖

GENERAL ASSEMBLY
ACCEPTS AMENDATORY VETO OF ALTERNATIVE FUELS LEGISLATION

The General assembly accepted Governor Jim Edgar's amendatory veto of SB 276, and that legislation became effective on November 17, 1995. Now designated P.A. 89-410, the Clean Alternate Fuels Act relates to the state promoting and encouraging the use of alternative, cleaner-burning fuels in fleet vehicles.

The Alternate Clean Fuels Act establishes a program for issuing rebates to owners of alternative fuel vehicles in the Chicago metropolitan area to help cover the cost of vehicle conversion, the original equipment manufacturer cost differential, or the fuel cost differential. Rebate funds are available on first-come, first-served basis. Through the rebate program, a fleet owner may recover up to \$4,000 per vehicle for up to 150 vehicles per location or for a total of 300 vehicles. Vehicles owned by the federal government and those registered outside Illinois are not eligible for rebates. The Alternate Clean Fuels Act defines an alternative fuel as liquified petroleum gas (LPG), compressed natural gas (CNG), minimum 80% ethanol, bio-based methanol, biomass-derived fuel, or electricity.

To fund the rebates, the bill creates the Alternate Fuels Fund and impose user fees on owners. The bill will charge the Agency

with the function of collecting the \$20 per vehicle fee from owners of fleets of 10 or more vehicles in the Chicago metropolitan area. State, county, and local government vehicles, rental vehicles, antique vehicles, electric vehicles, and motorcycles are exempt from the fee. The fees will apply in fiscal years 1996 through 1999 (i.e., until June 30, 2000). Four-fifths of the funds received will be appropriated to the rebate program, and one-fifth to an ethanol fuel research program under the direction of the Agency. That research program, which expires in 2000 or when funds are no longer available, will seek ways to reduce the costs of producing ethanol fuels, new ethanol engine technologies, and ethanol refueling systems to increase the viability of ethanol fuels.

The new law creates a nine-member Alternate Fuels Advisory Board, with eight members appointed by the Governor and chaired by the Director of the IEPA. The board will include two members from each of the ethanol and natural gas industries; one member from each of the liquid petroleum, electric, and heavy duty engine manufacturing industries; and one member from among private fleet operators. The Committee will make recommendations for Agency regulations to implement the ethanol research and fleet conversion rebate provisions of the bill.

The Alternate Clean Fuels Act mandates that the Agency dedicate sufficient resources to implement the program and promulgate rules to achieve certain objectives within 90 days of the bill's becoming law. The regulations and resources would relate to the ethanol

research program and the fleet conversion rebate program.

Governor Jim Edgar amendatorily vetoed SB 276 with specific recommendations for changes on July 21, 1995. (See **LEGISLATIVE UPDATE** (cont'd from page 4)

issue 496, Aug.-Sept., 1995.) He returned the bill because he recognized that it would expand the use of alternative fuels and lead to cleaner air. However, Governor Edgar felt that small businesses would not be in a position to benefit from the program that the legislation would establish. Governor Edgars' principal concern was that larger corporations would have the resources to move rapidly to take advantage of funds that the legislation would make available on a first-come, first-served basis.

He stated that the limited funds available would then be rapidly consumed by a small group of fleet operators. The Governor recommended that the Alternate Fuels Advisory Board be authorized to provide incentives for small businesses and small fleet operators. He further recommended the deletion of the "first-come, first-served" language in the bill, in order to assure that small businesses have a fair chance of obtaining available grants.

Governor Edgar also believed that the bill's provision for Agency collection of the specified fee from fleet operators charged that task to a state agency that was ill-equipped to deal with it. He stated that the bill would force the Agency to collect the fee by mail and that the Agency lacked enforcement authority under the bill to deal with

non-responders. Governor Edgar stated that he felt the Secretary of State's office would be in a better position to collect the fees and administer the program.

Finally, Governor Edgar stated that the bill should do more to further its objective of encouraging the development of public alternative fuel fueling stations. He believed that the Bill should authorize the Alternate Fuels Advisory Board to provide grants that provide for contractual partnerships between fleet owners and operators and the fuel servicing industry. The partnerships would assure that the funds available from the fleet owner fee would be used to establish alternative fuel servicing stations. ❖

APPELLATE UPDATE

SUPREME COURT HOLDS THAT MUNICIPALITIES LACKED STANDING TO CHALLENGE A COOK COUNTY ZONING APPROVAL OF A LANDFILL

In the recent decision in City of Elgin v. Cook County (Nov. 2, 1995), nos. 76775 and 76776, a case not directly involving the Board, the Illinois supreme court affirmed in part and reversed in part an appellate court decision in a case involving the siting and preliminary construction of a new pollution control facility. The court ruled that the plaintiffs lacked standing to challenge the siting approval granted for construction of a new landfill. The Court held that extraterritorial challenges to local ordinances

approving pollution control facility siting under Section 39(c) of the Act are impermissible. The Board has exclusive jurisdiction under the Act to hear appeals of local approvals of siting of pollution control facilities, and that the Act did not apply to such a decision by Cook County did not alter this result. Further, the Court held that a third party could not use a challenge to a local zoning decision to mount a collateral attack on an Agency permit decision.

Twenty eight municipalities in the Northwestern Municipal Conference (NWMC), representing nearly a million Cook County residents, joined together to create the Solid Waste Agency of Northern Cook County (SWANCC). They formed SWANCC, a municipal joint-action agency, to address recycling,

composting and waste reduction efforts in the area they collectively represented. Their goal was to reduce the amount of solid waste sent to landfills in their communities by 40 to 45 percent by 1996, and to construct a balefill, a landfill designed to hold large bales of compacted solid waste.

SWANCC applied to the Cook County zoning board of appeals for a special planned use development permit to construct the balefill on the Cook County 410 acres of a 543 acre parcel located in Cook and Kane Counties. The Villages of Bartlett and South Elgin and the City of Elgin objected to the permit. The Cook County board of zoning appeals unanimously recommended approval of the application, and the Cook County board granted preliminary approval, conditioned on a development permit by the Illinois

Environmental Protection Agency (Agency). The Agency granted SWANCC a construction permit, conditioned on SWANCC obtaining any necessary federal approvals. The Cook County Board granted final zoning approval for the landfill. Since the development plan included filling standing waters on the site,

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approval of the U.S. Army Corps of Engineers was necessary to develop the site. The Army Corps has twice refused to issue a necessary permit because standing water in some of the mined areas on the site needed to be filled, and SWANCC appealed that decision in federal court (*Solid Waste Agency of Northern Illinois v. United State Army Corps of Engineers* (N.D.Ill.), No. 94-C-7489), which is still pending.

The Villages of Bartlett, South Elgin, and Wayne; the City of Elgin; and Hanover Township challenged the zoning approval by filing a complaint against Cook County, NWMC, the Chicago Gravel Company, and SWANCC in the Cook County circuit court. They contended that the grant of zoning approval was arbitrary and capricious, that the Cook County board used deficient procedures, that the landfill would cause environmental harm, and that the landfill would economically injure them in their corporate capacity. On motion of the plaintiffs, the circuit court struck all counts of the complaint and refused to accept an amended complaint. On appeal, in *City of Elgin v. County of Cook* (1st Dist. 1993), 257 Ill. App. 3d 186, 629 N.E.2d 86, the appellate court reversed the dismissal of the count relating to economic impact on the plaintiffs, holding that the

plaintiffs had standing to raise the issue, and it affirmed dismissal of all other counts. SWANCC appealed this decision, and the plaintiffs cross-appealed.

The City of Elgin, the Village of Bartlett, a citizens' group, and an individual simultaneously filed an action against SWANCC in the Kane County circuit court, with a complaint very similar to that filed in the Cook County court. The Kane County court issued a temporary restraining order prohibiting SWANCC from cutting trees and developing the site. The court allowed the Kane County State's Attorney to intervene, and it allowed the State's Attorney to amend the complaint to add a count challenging the landfill development on the grounds that SWANCC had not obtained the siting approval of the Kane County board pursuant to Section 39.2 of the Environmental Protection Act (Act), since part of the site was in Kane County. The Kane County circuit court involuntarily dismissed all counts of this complaint except the amendment relating to Section 39.2 of the Act. The court twice denied dismissal of the complaint and dissolution of the restraining order, and SWANCC appealed these denials to the Second District. The Illinois Supreme Court granted SWANCC's motion for consolidation of the First and Second District appeals in the First District. The First District affirmed the Kane County court's order declining to vacate the restraining order.

SWANCC appealed the appellate court's two decisions from the Cook and Kane County lawsuits to the Supreme Court. The Supreme Court held that the Cook County circuit court properly dismissed the count of the

complaint relating to Section 39.2 of the Act and reversed the appellate court's reversal on that issue.

The Court held that the plaintiffs lacked standing to challenge the Cook County Board's zoning ordinance. It stated that the Act would not allow a direct appeal of the Agency's grant of a development permit to the Board. Third parties are prohibited from filing an appeal with the Board of an Agency grant of a permit, and the Board is authorized to hear permit appeals where the Agency denies the permit or grants it with conditions. The Court characterized the plaintiff's challenges to the zoning ordinance as an indirect way to accomplish these things that the Act prohibits.

It held that it could not overturn a zoning ordinance on the basis of any irregularities in its adoption, but a court can only address defects based on the state or federal constitutions or statutes. Since the portion of the complaint that challenged the procedure used to adopt the zoning ordinance alleged no such defect, dismissal was appropriate.

In response to a contention that the ordinance was defective because Cook County had abdicated its responsibility under Section 39 of the Act by deferring to the Agency on the environmental soundness of the planned facility, the Court held that Section 39.2 siting approval does not require that the county board "act as a local environmental protection agency in considering a proposed site". The Court further noted that Section 39.2(h) of the Act expressly exempted Cook County from the pollution control facility siting requirements of 39.2, so the county was not bound to consider the factors of Section

39.2(a). Reliance on the Agency's expertise was not an abdication of statutory responsibility.

The Court stated that the allegations relating to the environmental impact of the proposed site were "an impermissible collateral attack on the Agency development permit". The contention that the challenge

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was actually directed at the Cook County ordinance "does not withstand scrutiny", in the opinion of the Supreme Court. The Act confers exclusive jurisdiction to hear challenges of Agency permit decisions on the Board. It held that no challenge to the zoning ordinance was permissible in the courts to the extent the ordinance relied on the Agency's judgment in issuing a development permit. In response to the challenges raised based on the economic impact of the facility on the municipal plaintiffs in their corporate capacities, i.e., based on the prospective impact on property values and tax revenues, the Supreme Court held that the plaintiffs lacked standing to raise the issues in this context. It distinguished this case from others that concluded that one municipality may sue another to challenge a zoning decision that would have such an impact; those other cases did not involve pollution control facility siting and the Act. The Court observed that the General Assembly intended to address environmental issues in a statewide, unified way under the Act, and the Board has exclusive jurisdiction to hear appeals of pollution control facility siting decisions under Section 40.1(b). Had Section 39.2 of the Act applied to the Cook County

approval of the site, the plaintiffs in the Cook County circuit court would have been required to appeal the decision in the first instance with the Board. Since the Sections 39.2 and 40.1 review and appeal provisions did not apply, the Supreme Court held that there was no appeal possible of the Cook County zoning ordinance involved. It stated, "[I]t would be anomalous to allow third parties . . . to challenge local zoning ordinances authorizing the siting of regional pollution control facilities. . . . Extraterritorial third-party challenges to these siting decisions to the courts of this State are incompatible with the purposes of the Act."

On the appeal of the Kane County court decision, the Supreme Court observed that siting approval for the facility would have been required if the facility were located in Kane County. It noted that nothing in the proposed development suggested that any using any part of the 123 acres of the parcel that are located in Kane County. Since nothing in the permit application indicated any development would occur in Kane County, no such local siting approval was required under the Act. The Supreme Court rejected the argument that the entire 543 acre site, including the 123 acres in Kane County, was a single "facility" that would require the approval by the Kane County board. Section 39.2 of the Act did not apply to the facility. On this basis also, the Court held that SWANCC did not violate the notice provisions of 39.2(b).

On the issue of alleged prospective environmental harm from the facility, the Supreme Court noted that the Act would allow the filing of an enforcement action for violations of the Act and

regulations, but it held that such allegations were premature and constituted an impermissible collateral attack on the Agency's decision to grant the development permit. Finally, the Court rejected arguments that the felling of trees and other activities at the site would violate section 404 of the federal Clean Water Act or any fiduciary duty of SWANCC, and that the plaintiffs in the Kane County court action had failed to state a cause under article XI of the Illinois Constitution, relating to a right to a healthful environment.

Justices Nickels and McMorroff dissented from the majority opinion. Justice Nickels wrote that he would have distinguished the challenge to a zoning ordinance, a type of action traditionally allowed, from a challenge to an Agency permit decision under the Act. He would have further held that the plaintiffs had standing to file the challenges under the case law distinguished by the majority. ❖

FOR YOUR INFO**SIGNIFICANT RECENT
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 8 such actions that occurred in November, 1995:

Proposed Delayed Compliance
Deadline for Gasoline
Distribution NESHAP

On November 7, 1995 (60 Fed. Reg. 56133), U.S. EPA proposed delaying the compliance deadline for the National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Gasoline Distribution NESHAP). U.S. EPA adopted the Gasoline Distribution NESHAP on December 14, 1994 (59 Fed. Reg. 64303), with a notification and compliance deadline of December 14, 1995. It regulates the emission of hazardous air pollutants (HAPs) from new and existing bulk gasoline terminals and pipeline breakout stations that are major sources of HAP emissions. The proposal would revise the notification deadline to the later of December 14, 1996 or one year after the source first becomes subject to the NESHAP. It would amend the deadline by which sources subject to the NESHAP must implement leak controls to December 14, 1997.

In proposing the delayed deadlines, U.S. EPA explained that it adopted two mechanisms for determining whether a source was a major source subject to the

regulations. The first mechanism was a set of screening equations for determining potential emissions based on the HAP content of gasoline, gasoline throughput, and emissions rates from equipment. The second mechanism was a case-by-case emissions inventory review. Only bulk terminals and pipeline breakout stations that had no other source of HAP emissions could use the first mechanism, which U.S. EPA originally anticipated would constitute 75 percent of all of these source.

Through a petition filed by the American Petroleum Institute, U.S. EPA learned that nearly all bulk terminals and pipeline breakout stations have other sources of HAP emissions. Further, U.S. EPA explained that federal compliance guideline documents issued on May 16, 1995 would require that a bulk terminal or pipeline breakout station would have to have achieved area source status prior to December 15, 1995 in order to avoid being treated as a major source subject to the NESHAP. U.S. EPA stated that it was proposing a delay in the NESHAP compliance deadline due to the availability of practical means for sources to limit their potential to emit and due to the proximity of the May 16, 1995 release date to the original December 14, 1995 compliance deadline.

(Editor's note: Under Sections 9.1 and 39.5 of the Act, the federal NESHAPS are directly enforceable in Illinois.) ❖

Federal SIP Approval of Part
V 15% ROP Plan

On November 8, 1995 (60 Fed. Reg. 56238), U.S. EPA published a direct final rule approving the Part V 15 percent reduction of pollution

(Part V 15% ROP) plan state implementation plan revisions. The approval will become effective January 8, 1996 unless formally withdrawn by U.S. EPA prior to that date. The accompanying notice of proposed amendments appeared on the same date (60 Fed. Reg. 56279).

The Board adopted the Part V 15% ROP amendments for the Chicago and Metro-East areas on April 20, 1995, under docket R94-31. The regulations lowered the allowable VOM emissions from lithographic printing operations in the Chicago and Metro-East areas. They added definitions of non-heatset and sheet-fed lithographic printing, as-applied foundation solution, and alcohol. The regulations further established control measures for VOM emissions from lithographic printers in the Chicago and Metro-East areas. The Part V regulations also made minor corrective amendments to the pre-existing regulations. The Agency, in filing the proposal that resulted in the Part V amendments, contemplated that the Part V amendments would affect about 113 facilities in the Chicago area and one source in the Metro-East area. It estimated that the Part V regulations would reduce VOM emissions by 4.0 tpd in the Chicago area and by minimal amounts in the Metro-East area. The amendments were effective on May 9, 1995.❖

(More FYI on p. 9)

FOR YOUR INFO
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Proposed New Determination of When Military Munitions and Explosives Are Hazardous Waste; Proposed Revision of Corrective Action Requirements for Explosives; Proposed Amendment of Definition of "On-Site"

On November 8, 1995 (60 Fed. Reg. 56468), U.S. EPA proposed amendments to the RCRA Subtitle C regulations pursuant to the Federal Facilities Compliance Act of 1992, which added Section 3002(y) to RCRA (42 U.S.C. § 6924(y)). The amendments would identify when conventional and chemical military munitions become a hazardous waste and what transportation and storage requirements would apply to those munitions that have become hazardous waste or to spent munitions. The amendments would also revise the regulations applicable to emergency responses involving those munitions by military and civilian personnel. Finally, the amendments would revise the definition of "on-site", as it would apply to all generators of hazardous waste.

U.S. EPA has proposed making the determination of when military munitions become hazardous waste by focusing on the determination of when it is a solid waste, rather than by redefining hazardous waste. U.S. EPA has basically proposed that munitions are "discarded", and become hazardous waste, when they are removed for destruction or disposal. U.S. EPA has further proposed that persons engaged in emergency response actions involving military and civilian explosives are not subject to the

RCRA generator and transportation requirements. U.S. EPA also proposed amendment of the definition of "on-site" to encourage consolidation of waste at single central locations, rather than at several locations under the control of the generator, and it sought comment on whether to retain the packaging and labelling requirements relating to these consolidating shipments.❖

Delayed Effective Date for RCRA Subtitle C Subpart CC Organic Material Emissions Regulations

On November 13, 1995 (60 Fed. Reg. 56952), U.S. EPA delayed the effective date for the RCRA Subtitle C hazardous waste organic material emissions rules. The 40 CFR 264 and 265, Subpart CC rules apply to regulate the emission of organic material from tanks, containers, and surface impoundments containing hazardous waste. The stay, effective December 6, 1995, the date they were formerly effective, delays the compliance deadline until June 6, 1996. U.S. EPA stated that it solicited comment on the adopted rules on August 14, 1995 and that it presently anticipates completing its evaluation of the comments received in January, 1996. It will then publish its decision on whether or how it will amend the rules in response to the comments received.

U.S. EPA adopted the Subpart CC regulations on December 6, 1994 (59 Fed. Reg. 62896), and stayed those rules until December 6, 1995 on May 19, 1995 (60 Fed. Reg. 26828). On September 29, 1995 (60 Fed. Reg. 50426), U.S. EPA stayed part of the rules as they

apply to tanks and containers used to contain certain organic peroxide manufacturing wastes. (See memo of November 2, 1995.) In granting the broader stay, U.S. EPA explained that the only aspect of the regulations that is affected at this point is the deadline for compliance, and not the content of the rules. U.S. EPA particularly stressed that the stay would not affect the ultimate compliance deadline of December 8, 1997 set forth in the rules. U.S. EPA also stressed that it is also not considering changes in the requirements for covers for tanks and surface impoundments.

(Editor's note: As this issue was prepared for distribution, the Board had received and granted a request for expedited consideration of this stay. The Board will include this stay in the RCRA Subtitle C update docket R95-20, which nominally covers federal amendments during the period January 1 through June 30, 1995.)

Amendments to Transportation Conformity Rules

On November 14, 1995 (60 Fed. Reg. 57179), U.S. EPA adopted amendments to the transportation conformity rules. The proposed amendments would allow certain transportation control measures (TCMs) to proceed even if their conformity status has lapsed. To proceed the TCMs must have been included in an approved state implementation plan (SIP) or federal implementation plan (FIP). The present transportation conformity rules would require that the TCM be halted when the conformity status has lapsed. The statutory conformity grace period

FOR YOUR INFO**(cont'd from page 9)**

will expire on November 15, 1995. This action would grant relief primarily to those TCMs begun under the grace period in areas that have failed to demonstrate conformity. To comply with the amendments, a transportation conformity SIP revision must be submitted to U.S. EPA by November 14, 1996. Section 176(c)(3)(A)(iii) of the Clean Air Act (CAA) requires a demonstration of the conformity with the applicable ozone and/or carbon monoxide SIP of all transportation plans and transportation improvement programs (TIPs) in nonattainment areas. The state may not build the project unless implementation of the TIP will result in lowered vehicle emissions than those in the 1990 base-line inventory. Section 182(b)(1) requires the states to submit plans for annual reductions in volatile organic compound (VOC) and NO_x emissions in the nonattainment areas. (See issue 496, Aug.-Sept., 1995.)❖

Federal Approval of Illinois Air Toxics Program

On November 22, 1995 (60 Fed. Reg. 57834), U.S. EPA published a direct final rule approving the Illinois air toxic control program for the regulation of hazardous air pollutants (HAPs) as it pertains to sources not required to have a federal 40 CFR 70 (CAAA Title V) permit. This action supplemented the interim approval granted on March 7, 1995 (60 Fed. Reg. 12478) of the Illinois CAAA Title V permit program, which covered HAP emissions from sources required to have a

Title V permit. (See memo of March 22, 1995.) The direct final rule approval covers only those sources not required to have a Title V permit. U.S. EPA approved the program because it met the requirements for federal delegation to the state: (1) the state program is no less stringent than the federal program, (2) the state had adequate authority and resources for implementation, (3) the implementation schedule is sufficiently expeditious, and (4) the program otherwise complies with federal guidelines for state programs. The associated notice of proposed approval simultaneously appeared in the Register (60 Fed. Reg. 57846).

The direct final approval covers implementation of all existing and future federal HAP requirements, except those pertaining to control of emergency HAP releases, and all national emission standards for hazardous air pollutants (NESHAPs), except for those radionuclides, from sources not subject to the federal part 70 permit requirements. Upon promulgation by U.S. EPA of a new CAA section 112 standard, the Agency automatically has the authority to directly implement the federal standard under Section 39.5 of the Act. U.S. EPA announced that effective immediately, all contacts relating to HAP emissions from sources in Illinois are to go to the Agency, rather than to U.S. EPA Region V.❖

Extension of Exemption from LDRs for Cabot Corp.

On November 28, 1995 (60 Fed. Reg. 58623), U.S. EPA published notice of its intent to extend an exemption from the land disposal restrictions (LDRs) for

Cabot Corporation's Tuscola, Illinois facility. If granted, the "no migration" exemption would allow Cabot to continue underground injection of RCRA Subtitle C characteristic hazardous waste D002 (corrosive) and listed hazardous waste F003 (spent non-halogenated solvents) and F039 (hazardous waste leachate) into a new Class I injection well.

The LDRs adopted by U.S. EPA pursuant to the Hazardous and Solid Waste Amendments of 1984 prohibit the land disposal of hazardous waste except under very narrow circumstances. Underground injection is one form of land disposal to which the LDRs apply. One condition that would allow the continued injection of hazardous waste, called a "no migration" exemption under 40 CFR 148.20, is if U.S. EPA makes a determination that the well owner or operator has demonstrated that no migration of hazardous waste or hazardous waste constituents from the confining zone would result within the next 10,000 years through the continued land disposal. U.S. EPA initially issued such an exemption to Cabot's Tuscola facility on August 24, 1990 (55 Fed. Reg. 34739) pertaining to its well no. 1. U.S. EPA expanded the exemption on February 4, 1991 to include its well no. 2. and expanded it on November 4, 1994 to include an additional waste. The intended exemption would allow Cabot to use new well no. 3 and later retire existing well no.1 from service.

(Editor's note: The Board granted Cabot an adjusted standard from the corresponding Illinois LDRs for well nos. 1 and 2 on February 17, 1994. See issue 480, Mar., 1994. A petition pertaining to well no. 3 is presently pending

FOR YOUR INFO

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before the Board. See issue 497, Oct., 1995.) ❖

Removal of Asbestos from Initial List of Categories of HAP Sources

On November 30, 1995 (60 Fed. Reg. 61550), U.S. EPA stated that it was deleting asbestos processing from its initial list of

sources of hazardous air pollutants (HAPs). This means that U.S. EPA will not develop national emission standards for HAP (NESHAPs) for this category of sources. U.S. EPA stated that it took this action after public comments and further study indicated that these sources emit far less asbestos than originally estimated when it proposed the industry source category on July 16, 1992 (58 Fed. Reg. 63941). As

a result, U.S. EPA concluded that no source in the category would emit asbestos in quantities that would pose an individual lifetime risk of cancer greater than one in a million (10-6). The asbestos processing category would have included 174 sources across the country. ❖

FINAL ACTIONS

November 2, 1995 BOARD MEETING

94-374 Eagle Ridge Inn and Resort (The Branigar Organization) v. EPA - The Board granted voluntary withdrawal of this underground storage tank fund reimbursement determination appeal involving a JoDaviess County facility.

95-57 Forrest Williams, d/b/a Williams Mobil v. EPA - The Board granted voluntary dismissal of this underground storage tank appeal involving a Lake County facility. Consolidated with PCB 95-58.

95-58 Forrest Williams, d/b/a Williams Mobil v. EPA - The Board granted voluntary withdrawal of this underground storage tank reimbursement determination appeal involving a Lake County facility. Consolidated with PCB 95-57.

95-88 Field Container Company, L.P., Elk Grove Facility v. EPA - The Board granted voluntary dismissal of this air permit appeal involving a Cook County facility.

95-176 People of the State of Illinois v. Pro-Pak Industries, Inc. - The Board accepted a stipulation and settlement agreement in this air enforcement action involving a DuPage County facility, ordered the respondent to pay a civil penalty of \$1,500.00, and ordered the respondent to cease and desist from further violation. J. Theodore Meyer concurred.

96-6 Spectrulite Consortium, Inc. v. EPA - The Board granted a 15-month variance from the fugitive particulate

matter (PM10) emissions requirements of the air pollution control regulations, in order to allow this Madison County facility to operate two magnesium pot furnaces at a time, subject to conditions. Board Member M. McFawn concurred.

96-8 Alloy Engineering & Casting Company v. EPA - The Board granted voluntary withdrawal of a request for a 90-day extension of time to file an air permit appeal on behalf of this Champaign County facility.

96-15 Southern Food Park, Inc. (Carterville/Han-Dee Mart #35) v. EPA - Having previously granted a request for a 90-day extension, the Board dismissed this reserved docket because no underground storage tank reimbursement determination appeal was filed on behalf of this Williamson County facility.

96-16 Richard Kurtz (45-Day Report) v. EPA - Having previously granted a request for a 90-day extension, the Board dismissed this reserved docket because no underground storage tank appeal was filed on behalf of this Stephenson County facility.

96-17 Richard Kurtz (Site Classification) v. EPA - Having previously granted a request for a 90-day extension, the Board dismissed this reserved docket because no underground storage tank appeal was filed on behalf of this Stephenson County facility.

96-18 Richard Kurtz (Low Priority Ground Water Monitoring Plan) v. EPA - Having previously granted a request for a 90-day extension, the Board dismissed this reserved docket because no underground storage tank appeal was filed on behalf of this Stephenson County facility.

FINAL ACTIONS (Cont'd from page 11)

96-19 Flynn Ready-Mix Concrete (Site Classification Work Plan) v. EPA - Having previously granted a request for a 90-day extension, the Board dismissed this reserved docket because no underground storage tank appeal was filed on behalf of this JoDaviess County facility. Consolidated with PCB 96-35.)

96-35 Flynn Ready-Mix Concrete (Site Classification Completeness Report) v. EPA - Having previously granted a request for a 90-day extension, the Board dismissed this reserved docket because no underground storage tank appeal was filed on behalf of this JoDaviess County facility. (Consolidated with PCB 96-35.)

96-93 Olin Hunt Specialty Products v. EPA - Upon receipt of an Agency recommendation, the Board granted a 10-day provisional variance from the ninety 90-day limitation on the accumulation of hazardous waste at this Winnebago County facility, subject to conditions.

96-94 Citgo Petroleum Corporation v. EPA - Upon receipt of an Agency recommendation, the Board granted this Cook County facility a 45-day provisional variance from the prohibition of the water pollution control regulations against discharge of pollutants except in accordance with an NPDES permit, subject to conditions, in order to allow hydrostatic testing of a gasoline storage tank.

AC 96-17 EPA v. Community Landfill Corporation - The Board entered a default order, finding that this Kankakee County respondent had violated Section 21(p)(1) of the Act and ordering it to pay a civil penalty of \$500.00.

R90-1(C) In the Matter of: Toxic Air Contaminant List, Reporting Requirements (35 Ill. Adm. Code Part 232) - See Rulemaking Update.

R90-1(D) In the Matter of: Toxic Air Contaminant List, Styrene (35 Ill. Adm. Code Part 232, Appendix A) - See Rulemaking Update.❖

November 16, 1995 BOARD MEETING

89-177 CWM Chemical Services, inc. v. EPA and People of the State of Illinois as Intervenor - The Board

granted voluntary dismissal of this RCRA permit appeal involving a Cook County facility.

91-11 Burlington Northern Railroad Company v. EPA - The Board granted voluntary withdrawal of this RCRA permit appeal involving a Knox County facility.

91-38 American Waste Processing, Ltd. v. EPA - The Board granted voluntary dismissal of this RCRA permit appeal involving a Cook County facility.

94-148 Chemical Waste Management, Inc. v. EPA - The Board granted voluntary dismissal of this air permit appeal involving a Cook County facility. Consolidated with PCB 94-162, PCB 94-169, and PCB 94-170.

94-162 Chemical Waste Management, Inc. v. EPA - The Board granted voluntary dismissal of this air permit appeal involving a Cook County facility. Consolidated with PCB 94-148, PCB 94-169, and PCB 94-170.

94-169 Chemical Waste Management, Inc. v. EPA - The Board granted voluntary dismissal of this air permit appeal involving a Cook County facility. Consolidated with PCB 94-148, PCB 94-162, and PCB 94-170.

94-170 Chemical Waste Management, Inc. v. EPA - The Board granted voluntary dismissal of this air permit appeal involving a Cook County facility. Consolidated with PCB 94-148, PCB 94-162, and PCB 94-169.

94-204 Mary Lou Powell v. Mr. M. Ceisel and Laser Express Auto Bath - The Board granted voluntary withdrawal of this citizen's noise enforcement action against a DuPage County facility.

94-233 Amoco Oil Company v. EPA - The Board granted voluntary withdrawal of this underground storage tank fund reimbursement determination appeal involving a DeKalb County facility.

95-116 Kelly-Williamson company v. EPA - The Board affirmed the Agency's denial of reimbursement in this underground storage tank fund reimbursement determination involving a Boone County facility.

96-33 City of Monmouth v. EPA - The Board granted this Warren County facility five-year variance, subject to conditions, from the standards for issuance and restrict status requirements of the public water supply

regulations, as they relate to the radium-226 and radium-228 content and gross alpha particle activity of its water.

FINAL ACTIONS (Cont'd from page 12)

96-56 Village of Plainfield v. EPA - The Board granted this Will County facility five-year variance, subject to conditions, from the standards for issuance and restrict status requirements of the public water supply regulations, as they relate to the radium-226 and radium-228 content and gross alpha particle activity of its water.

96-80 People of the State of Illinois v. Behr Precious Metals, Inc. - The Board accepted a stipulation and settlement agreement in this air enforcement action against a Winnebago County facility, ordered the respondent to pay a civil penalty of \$10,000.00, and ordered it to cease and desist from further violation. J. Theodore Meyer dissented.

96-104 DeKalb Sanitary District v. EPA - Upon receipt of an Agency recommendation, the Board granted a 45-day provisional variance, subject to conditions, from certain of the carbonaceous biochemical oxygen demand, total suspended solids, and ammonia nitrogen requirements of the water pollution control regulations, in order to allow the continuation of operations during repairs of this DeKalb County wastewater treatment facility.

96-105 Uno-Ven Company v. EPA - Upon receipt of an Agency recommendation, the Board granted this Cook County facility a 45-day provisional variance, subject to conditions, from the prohibition of the water pollution control regulations against discharge of pollutants except in accordance with an NPDES permit, in order to allow the Uno-Ven to hydrostatically test a gasoline storage tank.

AC 96-25 EPA v. Fred Smith, Jr. - The Board entered a default order, finding that this Macoupin County respondent had violated Section 21(p)(1) of the Act and ordering him to pay a civil penalty of \$500.00.

AS 94-19 In the Matter of: Petition of Hepworth U.S. Holdings, Inc., Manley Brothers of Indiana, Inc. and the Silica Sand Trust for an Adjusted Standard From 35 Ill. Adm. Code 620.410 - 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❖

NEW CASES

November 2, 1995 BOARD MEETING

96-28 Freightliner of Chicago, Inc. v. EPA - Having previously granted a 90-day extension of time to file, the Board accepted this underground storage tank fund reimbursement determination appeal involving a Lake County facility for hearing.

96-84 Forest Preserve District of DuPage County, Illinois v. Mineral and Land Resources Corporation, Southwind Financial, Ltd. formerly know as Abbott Contractors, Inc., Bluff City Materials, Inc. as Assignee of Abbott Contractors, Inc. - The Board held this citizen's land and water enforcement action against a DuPage County facility for a frivolous and duplicitous determination.

96-85 The County of Kane, Illinois and Waste Management of Illinois, Inc. (Settler's Hill Facility) v. EPA - The Board accepted this land permit appeal involving a Kane County facility for hearing.

96-86 BFI Modern Landfill #1 & #2 v. EPA - Having received a notice of 90-day extension of time to file, the Board reserved this docket for any land permit appeal that may be filed on behalf of this St. Clair County facility.

96-87 Dwight - #17 v. EPA - Having received a notice of 90-day extension of time to file, the Board reserved this docket for any underground storage tank fund reimbursement determination appeal that may be filed on behalf of this Livingston County facility.

96-88 Kean Oil Company (Chicago Ridge Facility) v. EPA - Having received a notice of 90-day extension of time to file, the Board reserved this docket for any underground storage tank fund reimbursement determination appeal that may be filed on behalf of this Cook County facility.

96-89 Gilbert & Bennett Manufacturing Company (Blue Island Facility) v. EPA - Having received a notice of 90-day extension of time to file, the Board reserved this docket for any RCRA Part B post-closure care permit

appeal that may be filed on behalf of this Cook County facility.

NEW CASES (Cont'd from page 13)

96-90 Graham C-Stores, Inc. (Roselle Facility) v. EPA - The Board accepted this petition for a variance filed on behalf of this DuPage County facility from the Stage II gasoline vapor recovery requirements of the air pollution control regulations for hearing.

96-91 SPILL, Madison County Conservation Alliance, Sierra Club, Nameoki Township Clerk Helen Hawkins, Kathy Andria, Shirley Crain, Glenda Fulkerson, John Gall, Thelma Orr, Ron Shaw and Pearl Stogsdill v. City of Madison and Metro-East LLC - The Board provisionally accepted this third-party pollution control facility (landfill) siting appeal involving a proposed Madison County facility for hearing and ordered the filing of an amended petition that includes the decision from which relief is sought.

96-92 Amoco Oil Company (Elmhurst Facility) v. EPA - The Board held this notice of 90-day extension of time to file an underground storage tank appeal on behalf of this DuPage County facility.

96-93 Olin Hunt Specialty Products v. EPA - See Final Actions.

96-94 Citgo Petroleum Corporation v. EPA - See Final Actions.

96-95 Allied Signal, Inc. (Metropolis Facility) v. EPA - The Board accepted this NPDES permit appeal involving a Massac County facility for hearing.

AC 96-14 County of Will v. CDT Landfill - The Board accepted an appeal of this administrative citation against a Will County facility for hearing.

AC 96-15 County of Will v. CDT Landfill - The Board accepted an appeal of this administrative citation against a Will County facility for hearing.

AC 96-18 County of Will v. CDT Landfill - The Board received an administrative citation against a Will County respondent.

R96-4 In the Matter of: Listing of Federal Hazardous Air Pollutants, Great Lakes Commission Toxic Compounds and Great Waters Program Toxic Compounds, and Source Reporting for Illinois Toxic Air Contaminants: Amendments to 35 Ill. Adm. Code 232- See Rulemaking Update.❖

November 16, 1995 BOARD MEETING

96-47 Joseph Bogacz v. Commonwealth Edison Company - The Board found that this citizen's air enforcement action against a Cook County facility was neither frivolous nor duplicitous, denied the respondent's motion to dismiss, and accepted the complaint for hearing.

96-57 Laidlaw Waste Systems, Inc. (Coles County Landfill) v. EPA - The Board accepted this land permit appeal involving a Coles County facility for hearing.

96-69 Thomas Corning and Kimberly Corning v. Thurela's and Pam and Arthur Hegji, as owners - The Board found that this citizen's noise enforcement action against a Lake County facility was neither frivolous nor duplicitous, denied the respondent's motion to dismiss, and accepted the complaint for hearing.

96-92 Amoco Oil Company (Elmhurst Facility) v. EPA - Having received a notice of 90-day extension of time to file, the Board reserved this docket for any underground storage tank appeal that may be filed on behalf of this DuPage County facility.

96-96 General Electric Control Products v. EPA - Having received a notice of 90-day extension of time to file, the Board reserved this docket for any water permit appeal that may be filed on behalf of this Whiteside County facility.

96-97 People of the State of Illinois v. Village of Thompsonville - The Board received this water enforcement action against a Franklin County facility for hearing.

96-98 People of the State of Illinois v. Skokie Valley Asphalt, Inc. - The Board received this water enforcement action against a Lake County facility for hearing.

96-99 The Belleville Development, L.P. v. EPA - The Board denied involuntary dismissal of this NPDES permit appeal involving a St. Clair County facility and ordered the petitioner to file a second amended petition that cures certain defects.

NEW CASES (Cont'd from page 14)

96-100 Florida Plastics International, Inc. v. EPA - Having received a notice of 90-day extension of time to file, the Board reserved this docket for any air permit appeal that may be filed on behalf of this Cook County facility.

96-101 Horsehead Resource Development Company, Inc. v. EPA - Having received a notice of 90-day extension of time to file, the Board reserved this docket for the purpose of resolving any potential issue regarding timeliness of this RCRA permit appeal filed on behalf of this Cook County facility and accepted the appeal for hearing.

96-102 Kathe's Auto Service Center v. EPA - The Board accepted this underground storage tank fund reimbursement determination appeal involving a Cook County facility for hearing.

96-103 People of the State of Illinois v. Central Decal Company - Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action against a Cook and DuPage County facility, the Board ordered publication of the required newspaper notice.

96-104 DeKalb Sanitary District v. EPA - See Final Actions.

96-105 Uno-Ven Company v. EPA See Final Actions.

96-106 People of the State of Illinois v. Beloit Corporation - Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action against a Winnebago County facility, the Board ordered publication of the required newspaper notice.

AC 96-19 County of Will v. CDT Landfill - The Board received an administrative citation against a Will County respondent.

AC 96-20 EPA v. James O. Weir - The Board received an administrative citation against a Rock Island County respondent.

AC 96-21 EPA v. Envirofil of Illinois, Inc. - The Board received an administrative citation against a McDonough County respondent.

AC 96-22 EPA v. James Ethridge - The Board received an administrative citation against a Rock Island County respondent.

AC 96-23 EPA v. Paul Bunyon and Charles Groszek - The Board received an administrative citation against a Grundy County respondent.

AC 96-24 County of Jackson v. Randy McBride - The Board received an administrative citation against a Jackson County respondent.

R96-5 In the Matter of: Visible and Particulate Matter Emissions-Conditional Approval and Clean Up Amendments to 35 Ill. Adm. Code Parts 211 and 212 - See Rulemaking Update.❖

CALENDAR OF HEARINGS

All hearings held by the Board are open to the public. Pollution Control Board Meetings (highlighted) are usually open to the public but public participation is generally not allowed. Times and locations are subject to cancellation and rescheduling without notice. Confirmation of hearing dates and times is available from the Clerk of the Board at 312- 814-6931.

December 5 10:00 a.m.	AS 95-3 Water	<u>In the Matter of: The Joint Petition of the Illinois Environmental Protection Agency and the City of Metropolis for an Adjusted Standard from 35 Ill. Adm. Code 304, for Suspended Solids and 5-Day Biological Oxygen Demand (BOD-5) - Metropolis City Hall, City Council Chambers, 106 West 5th Street, Metropolis.</u>
December 5 10:30 a.m.	PCB 94-243 P-A, Land	<u>ESG Watts, Inc. (Taylor Ridge Landfill) v. EPA - Rock Island County Office Building, Third Floor, 1504 Third Avenue, Rock Island.</u>
December 7 10:30 a.m.		<u>Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago</u>
December 11 9:00 a.m.	R 94-146 N-E, Citizens	<u>Dorothy L. Hoffman v. City of Columbia - Columbia City Hall, City Council Room, 208 South Rapp, Columbia.</u>
December 12 10:00 a.m.	PCB 96-22 N-E, Citizens	<u>Lew D'Souza and Patricia D'Souza v. Richard Marraccini and Joanne Marraccini - Elk Grove Village Hall, 901 Wellington, Elk Grove Village.</u>
December 12 10:30 a.m.	PCB 96-79 L-S-R, 3d P	<u>Those Opposed to Area Landfills (T.O.T.A.L.), a Concerned Citizens' Group v. City of Salem - Salem City Hall, Council Chambers, 101 South Broadway, Salem. (Consolidated with PCB 96-82.)</u>
December 13 10:00 a.m.	PCB 96-60 L-S-R, 3d P	<u>Concerned Citizens of Williamson County and Rev. Paul Crain and Rose Rowell, as members of Concerned Citizens of Williamson County, et al. v. Bill Kibler Development Corp., a/k/a Kibler Development Corp. and the Williamson County Board of Commissioners - Williamson County Courthouse, 200 West Jefferson, Marion.</u>
December 14 10:00 a.m.	PCB 96-60 L-S-R, 3d P	<u>Concerned Citizens of Williamson County and Rev. Paul Crain and Rose Rowell, as members of Concerned Citizens of Williamson County, et al. v. Bill Kibler Development Corp., a/k/a Kibler Development Corp. and the Williamson County Board of Commissioners - Williamson County Courthouse, 200 West Jefferson, Marion.</u>

December 15 10:00 a.m.	R 96-1 R, Land	<u>In the Matter of: Proposed Standards for Conversion Systems: Poz-O-Tec Liner Caps and Monofills; 35 Ill. Adm. Code 807, 810, 811, and 816</u> - Illinois Pollution Control Board, 600 South Second Street, Suite 402, Springfield.
December 18 10:00 a.m.	AC 95-43 AC	<u>Montgomery County v. Clifford D. Crispens, Jacqueline R. Crispens and Line Pilot Bungee, Inc. (Litchfield/Crispens)</u> - Montgomery County Courthouse, Courtroom 1, 120 North Main Street, Hillsboro.
December 20 2:00 p.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-031, Chicago
December 21 1:00 p.m.	PCB 94-146 N-E, Citizens'	<u>Dorothy L. Hoffman v. City of Columbia</u> - Columbia City Hall, City Council Room, 208 South Rapp, Columbia.
December 21 1:00 p.m.	PCB 95-122 UST-E, Citizens'	<u>Olive Streit and Lisa Streit v. Oberweis Dairy, Inc., Richard J. Fetzer and Johnnie W. Ward, d/b/a Serve-N-Save, and Richard J. Fetzer, individually, Amoco Oil Company, Mobil Oil Corporation</u> - Old Kane County Courthouse, Courtroom 110, 100 South Third Street, Geneva.
December 22 9:30 a.m.	PCB 95-122 UST-E, Citizens'	<u>Olive Streit and Lisa Streit v. Oberweis Dairy, Inc., Richard J. Fetzer and Johnnie W. Ward, d/b/a Serve-N-Save, and Richard J. Fetzer, individually, Amoco Oil Company, Mobil Oil Corporation</u> - Old Kane County Courthouse, Courtroom 110, 100 South Third Street, Geneva.
January 4 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
January 5 9:30 a.m.	PCB 95-112 P-A, Air	<u>John C. Justice, d/b/a Microcosm v. EPA</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
January 5 10:00 a.m.	R 96-5 R, Air	<u>In the Matter of: Visible and Particulate Matter Emissions - Conditional Approval and Clean Up: Amendments to 35 Ill. Adm. Code 211 and 212</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
January 8 9:30 a.m.	PCB 96-91 L-S-R, 3d P	<u>SPILL, Madison County Conservation Alliance, Sierra Club, Nameoki Township Clerk Helen Hawkins, Kathy Andria, Shirley Crain, Glenda Fulkerson, John Gall, Thelma Orr, Ron Shaw and Pearl Stogsdill v. City of Madison and Metro-East, L.L.C.</u> - Regional State Headquarters Complex, IDOT Classroom, 1100 East Port Plaza Drive, Collinsville.
January 18 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
January 19 10:00 a.m.	PCB 95-150 A-V	<u>Marathon Oil Company v. EPA</u> - Crawford County Courthouse, Grand Jury Room, Robinson.

January 19 9:30 a.m.	PCB 95-155 A-V	<u>General Business Forms, Inc. v. EPA</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
January 24 10:00 a.m.	AS 96-2 Land	<u>In the Matter of: Petition of Western Lion Limited for an Adjusted Standard from 35 Ill. Adm. Code 814.Subpart C</u> - The City Building, City Council Chambers, 208 North 19th Street, Mattoon.
February 1 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
February 2 10:00 a.m.	R 96-5 R, Air	<u>In the Matter of: Visible and Particulate Matter Emissions - Conditional Approval and Clean Up: Amendments to 35 Ill. Adm. Code 211 and 212</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
February 15 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
February 16 10:00 a.m.	PCB 96-85 P-A, Land	<u>The County of Kane, Illinois and Waste Management of Illinois, Inc. (Settler's Hill Facility) v. EPA</u> - Old Kane County Courthouse, Room 110, 100 South Third, Geneva.
February 16 10:00 a.m.	R 96-5 R, Air	<u>In the Matter of: Visible and Particulate Matter Emissions - Conditional Approval and Clean Up: Amendments to 35 Ill. Adm. Code 211 and 212</u> - Law Enforcement Training Building, 600 South Second Street, Third Floor, Conference Room, Springfield.
March 7 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
March 21 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
April 4 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
April 18 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
May 2 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
May 16 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago

June 6 **Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago**
10:30 a.m.

June 20 **Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago**
10:30 a.m.

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 proceeding (hazardous waste only)
RCRA	Resource Conservation and Recovery Act	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		

BOARD STAFF ADDRESSES ON THE INTERNET

The following are IPCB reference sources for case and process information, to order copies of opinions and orders through the Clerk's Office (for preparation and pick-up or for mail delivery), and management contacts.

<i>Attorneys to Board Members</i>	<i>Internet E-Mail Address</i>	<i>Telephone number</i>
Vogel, Musette-(Board Chairman Manning)	mvogel@pcb084r1.state.il.us	217-524-8509
Hoogasian, Amy-(Board Chairman Manning)	ahoogasi@pcb016r1.state.il.us	312-814-8917
Desharnais, Kevin-(Board Member MFawn)	kdesharn@pcb016r1.state.il.us	312-814-6926
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**ILLINOIS POLLUTION CONTROL BOARD
HOME PAGE ON THE WORLD WIDE WEB (INTERNET)**

The Illinois Pollution Control Board (IPCB) maintains a Home Page on the Internet (World Wide Web) which is located within the State of Illinois Home Page under the State Agencies option. The Page can be accessed through any of the commercial on-line services (America On-Line and Compuserve, for example). The address of the Illinois Home Page is:

<http://www.state.il.us/>

The IPCB Page will disseminate information about the Board and its activities. The following is a listing of information which is currently available or will be available in the near future:

- ◆ Board Member Profiles Biographical information of Board members.
- ◆ Board Meeting Dates and Agendas Listing of regularly scheduled Board meetings and tentative meeting agendas.
- ◆ Information Services Listing of IPCB contacts and a summary discussion of the Board's process.
- ◆ Pending Rulemakings Monthly update of rulemaking activity pending before the Board.
- ◆ Procedural Rules Full listing of the Board's procedural rules.
- ◆ Legislation Compilation of recently enacted legislation affecting the Board.
- ◆ Newsletters Identical to the hard copy version of the IPCB's Newsletter.
Includes, among other things, an update on IPCB decisions in the appellate courts, significant federal actions, final action taken on cases, and new cases filed with the IPCB.
- ◆ Annual Reports An electronic version of annual reports. Includes the 25th Anniversary/FY95 Annual Report.

Any questions or comments may be addressed to Kevin St. Angel at the IPCB by phone at (217) 524-8510 or via e-mail at the following address: kstangel@pcb084R1.state.il.us.

ILLINOIS POLLUTION CONTROL BOARD PHOTOCOPYING FEES/DOCUMENT DISTRIBUTION POLICY

It has become necessary, effective August 1, 1995 to raise the per page rates for IPCB documents to better reflect the actual costs of reproduction and distribution. Significant resources, both human and material, are expended to locate, photocopy and in the case of those wanting to pay later for copies received, the resources required to maintain a billing system. Your understanding will be appreciated.

The IPCB's revised rates/policy are as follows:

- ◆ A single opinion and order will be furnished on request without cost, irrespective of length, with the dissenting and/or concurring opinion(s). Requests for multiple opinions and orders are 75 cents per page.
- ◆ Hearing Transcripts are 75 cents per page.
- ◆ All other documents are 75 cents per page.
- ◆ The following State Agencies are, upon request, provided copies of opinions and orders and transcripts free of charge:
 - Illinois Attorney General's Office (AG)
 - Illinois Environmental Protection Agency (IEPA)
 - Illinois Department of Natural Resources (DNR)
- ◆ Requests for copies will be honored in as timely a manner as possible. Requests for copies by mail will be honored. The Board reserves the right to add a postage charge to large bulk mailings.

ENVIRONMENTAL REGISTER MAILING LIST

The *Environmental Register* is now available in the Pollution Control Board's Home Page on the World Wide Web which is accessible through the Illinois Home Page at

<http://www.state.il.us/>

Providing the *Register* on the World Wide Web will allow for the more timely dissemination of information that can be read at your convenience. As the *Register* is now provided free of charge through the Internet, those wishing to receive hard copies through the mail will be charged a yearly subscription fee. Exceptions may apply to not-for-profit organizations. The yearly subscription fee of \$20 will help defray production and distribution costs. Free copies will still be available at Board offices.

If you still wish to receive a hard copy of the *Register*, please fill out the form below and return it with a check payable to the Illinois Pollution Control Board in the amount of \$20 before January 1, 1996. Mail all responses to:

**Victoria Agyeman
Illinois Pollution Control Board
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601**

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The Illinois Pollution Control Board is an independent seven member board which adopts the environmental control standards for the State of Illinois and rules on enforcement actions and other environmental disputes. The Board Members are:

Claire A. Manning, Chairman
Springfield, Illinois

Emmett E. Dunham II
Elmhurst, Illinois

Ronald C. Flemal
DeKalb, Illinois

G. Tanner Girard
Grafton, Illinois

Marili McFawn
Palatine, Illinois

J. Theodore Meyer
Chicago, Illinois

Joseph Yi
Park Ridge, Illinois

The Environmental Register is a newsletter published by the Board monthly. The Register provides updates on rulemakings and other information, lists final actions, and contains the Board's hearing calendar. The Register is provided free of charge.

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