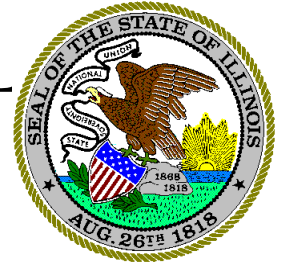


# ENVIRONMENTAL REGISTER



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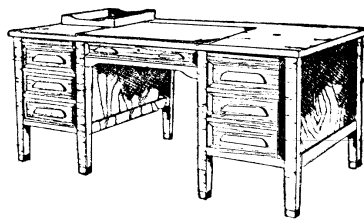
## LEGISLATIVE UPDATE

### ILLINOIS GENERAL ASSEMBLY VOTES TO REPEAL RETAIL RATE LAW

Just one day after Governor called for the repeal of the State's Retail Rate Law in his State-of-the-State address, both houses of the Illinois General Assembly voted, on January 11, 1996, to repeal the Law for waste incinerators throughout Illinois. The bill left the Retail Rate Law intact for those landfills in the State that generate and recover methane. Because the bill did not contain a grandfather clause, it would impact all those incinerators now proposed, currently under construction, or currently in operation. While the federal PERPA Law already requires electric utilities to purchase power from waste-to-energy facilities (such as waste incinerators), the federal law (*Cont'd on p.2*)

### BOARD UPDATES PRO BONO ATTORNEY LIST

The Illinois Pollution Control Board maintains a list of pro bono attorneys for individuals that request such assistance. To be added to the this list please contact the Clerk of the Board, Dorothy Gunn, at (312)814-6931 (internet address dgunn@pcb016r1.state.il.us).



### MESSAGE FROM THE DESK OF THE CHAIRMAN

On January 18, 1996, The Illinois Pollution Control Board adopted an updated set of administrative rules. These rules reflect changes in the Board's operations over the last ten years.

The revised administrative rules indicate recent innovations in the Board's public service, including a home page on the World Wide Web, that I am sure will be of great use to all of the Environmental Register Subscribers. Please see a complete version of the rules *beginning on p. 19.*

## FOR YOUR INFORMATION

### USEPA APPROVES CHICAGO OZONE SIP TO SUPERCEDE FIP

In a direct final rule dated January 26, 1996 (61 Fed. Reg. 2423) and effective on March 26, 1996, unless earlier withdrawn by *Federal Register* notice, USEPA approved the final installment of the state implementation plan (SIP) under the Clean Air Act (CAA) for the Chicago area. The approved rules are the reasonably available control technology (RACT) regulations, as amended by the Board on September 9, 1993, in R93-9, and January 6, 1994 in R93-14. The approved regulations apply to certain major sources in the Chicago area for which USEPA has not developed a Control Technology Guideline (CTG sources). USEPA noted in granting the approval that Illinois must still develop RACT requirements for 11 non-CTG (*Cont'd on p. 2*)

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**LEGISLATIVE UPDATE (Cont'd)**

does not stipulate how much the utility must pay for the purchase of such power. The Illinois Retail Rate Law (passed in 1987 as an economic development incentive for poorer communities to attract new jobs through the construction of such facilities) required the Illinois Commerce Commission to require electric utilities not only to purchase the power, but to pay the higher incinerator's cost for generating the power. The utility would

then be held harmless by being reimbursed by the State for the difference between the higher and lower cost through a state income tax credit. Once the capital costs of building the incinerator were paid off, the owner of the incinerator was required to repay the State for the cost of the tax credit. The Governor has not yet acted on HB 1523.

**FOR YOUR INFORMATION****ILLINOIS ASSOCIATION OF WATER POLLUTION CONTROL OPERATORS TO HOLD 61<sup>ST</sup> ANNUAL CONFERENCE**

The Illinois Association of Water Pollution Control Operators will hold its 61<sup>st</sup> Annual conference April 22-26, 1996 at the Holiday Inn East Exhibition and Convention Center, Springfield, Illinois. The three and a half day program includes a two and a half day technical program with an emphasis on wastewater treatment plant operations and maintenance, a first day wastewater treatment plant operations workshop on safety, and an IAWPCO awards program for Wastewater Plant and Operator-of-the-Year recognition.

**ILLINOIS EPA PUBLISHED NOTICE OF DERIVED WATER QUALITY CRITERIA**

A Notice of Public Information appeared in the January 5, 1996 issue of the *Illinois Register*, at 20 Ill. Reg. 649, from the Illinois EPA (Agency). The notice sets forth the listing of derived water quality criteria used in Illinois during the period of August 1 through October 31, 1995. This listing is required under Part 302, Subpart F of the Illinois water pollution control regulations. Those rules require the Agency to evaluate various scientific data and develop the stream water-specific water quality criteria and to publish and periodically update the list of the developed criteria. It is one of several quarterly lists that the Agency has had published in the *Register* since October, 1993. The list included acute and chronic toxicity and human health levels in various Illinois waterways in 46 entries for 44 contaminants.

**BOARD AND AGENCY REGULATORY AGENDAS APPEAR IN THE ILLINOIS REGISTER**

Regulatory Agenda appeared in the January 19, 1996 issue of the *Illinois Register*, at 20 Ill. Reg. 1286. The Board's agenda was assembled in cooperation with the Illinois EPA (Agency), since the Agency submits a major number of the regulatory proposals that the Board receives. The agenda set forth 27 rulemaking actions that the Board and Agency reasonably foresee the Board proposing within the next few months. The agenda includes prospective actions that have not yet reached the proposed rule stage. The agenda entries describe the possible actions and the regulations they might affect, and each indicates where to direct questions and comments.

A week later, in the January 26, 1996 issue of the *Register*, at 20 Ill. Reg. 1663, the Agency's January 1996 Regulatory Agenda appeared. The Agency's agenda listed four regulatory proposals that the Agency might foreseeably undertake pursuant to its own rulemaking authority, independent of the Board.

**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 13 such actions that occurred in December, 1995 and 8 that occurred in January, 1996:

**Approval of Chicago RACT SIP to Supersede FIP (R93-9 & R93-14)**

(Continued from p.1) source categories, but that the approval superseded the final elements of the federal implementation plan (FIP) adopted by USEPA for the Chicago metropolitan area on June 29, 1990 (55 Fed. Reg. 46562). The accompanying notice of proposed amendments appeared the same day (61 Fed. Reg. 2464).

The R93-9 amendments were a cleanup of the existing Part 218 regulations, originally adopted by the Board in R91-7, on July 25, 1991. The R91-7 rules of Part 218, as amended through R93-9, established RACT

requirements for the Chicago metropolitan area. The R93-14 amendments apply to major sources in the Chicago metropolitan area: those that emit or have the potential to emit 25 tons per year or more of volatile organic material (VOM). The R93-14 established RACT requirements for two CTG source categories and for sources for which USEPA had not developed a CTG (non-CTG sources). The CTG sources for which RACT requirements were adopted in R93-14 were the flexographic and rotogravure printing industry and petroleum dry cleaners. The R93-14 amendments adopted RACT requirements for several non-CTG sources, including the polyester resin products manufacturing, aerosol can filling, leather coating, glass manufacturing, and miscellaneous leaks categories. USEPA stated that the Illinois EPA (Agency) estimated a deduction in VOM emissions in the Chicago area of 2.78 tons per day from 119 sources through the R93-9 and R93-14 amendments.

In approving the Illinois SIP submittal, USEPA explained that section 182(b)(2) of the Clean Air Act (CAA), as amended in 1990, divided the universe of sources into three categories: (1) those for which USEPA had developed a CTG (including 29 categories); (2) those for which USEPA had not developed a CTG but for which USEPA was to have developed a CTG by November, 1993 (including 13 source categories); and (3) those not covered by a CTG. The states were to have adopted RACT requirements for all the CTG sources and for all major non-CTG sources (those emitting 100 tons per year or more of VOM) prior to the amendments under pre-existing federal law. The 1990 CAA amendments required USEPA to develop CTGs for 13 source categories by November, 1993. The 1990 amendments also required the states to submit regulations for non-CTG sources by November, 1992, but it allowed the states to defer action on the 13 source categories for which USEPA was to develop a CTG. If USEPA did not develop a CTG for a source category by November, 1993, the 1990 amendments allowed the states until November, 1994 to submit RACT requirements for the deferred source categories, with implementation to occur by May, 1995. USEPA actually developed CTG for only two of the 13 source categories: the synthetic chemical manufacturing industry (SOCMI) and reactors and distillation categories. Thus, USEPA did not develop CTG for 11 source categories.

The Agency submitted the R93-9 amendments for federal approval on October 21, 1993 and the R93-14 amendments on March 4, 1994. Dubbed by USEPA as the "catch-up" rules, they were intended to satisfy the non-CTG source requirements of section 182(b)(2) of the

CAA. USEPA noted, however, that the submittal did not include the requirements for those 11 non-CTG sources for which USEPA was required to develop, but had not yet developed, a CTG. Thus, USEPA noted that Illinois must still develop and gain approval for RACT requirements for those 11 categories.

Significantly, USEPA recounted the SIP approvals for the Chicago area RACT regulations and concluded that the approvals have now superseded the FIP. USEPA stated that the approval of January 26, which becomes effective together with some of the Part 218 rules on September 9, 1994 (59 Fed. Reg. 46562), now replaces the FIP as the federally-enforceable rules for the area, with two exceptions: (1) the FIP remains operative until the SIP approval becomes effective (March 26, 1996, unless USEPA formally withdraws the approval before that time); and (2) the federal stay or federal site-specific rule remains effective as to those individual sources that obtained relief from USEPA from the FIP.

*(Editor's Note: As of November 30, 1995, the following groups of Chicago-area companies had obtained stays or site-specific relief from USEPA that was still codified at 40 CFR 52.741(z): (1) Riverside Laboratories, Inc., members of the Printing Industries Association of Illinois/Indiana, R.R. Donnelley & Sons Co., General Motors Corp., Reynolds Metals Co., Stepan Co., and Duo-Fast Corp. (60-day stay until August 30, 1991); and (2) Duo-Fast Corp. and Stepan Chemical Co. (indefinite stay pending reconsideration.)*

## **P**roposed Amended NPDES Permit Application Forms

U.S. EPA proposed amendment of the existing NPDES permit application forms on December 6, 1995 (60 Fed. Reg. 62546). U.S. EPA stated that it proposed amendment of the existing forms to make it easier for permit applicants to submit required information and for permitting authorities (the states) to review that information. The new form 2A and accompanying regulations would replace existing form A and Short Form A to account for changes in the NPDES program since they were devised in 1973. Form 2A would also consolidate information on toxics monitoring, whole effluent toxicity testing, pretreatment facility and hazardous waste contributions, and combined sewer overflows. A new proposed form 2S would replace the existing Interim Sewage Sludge application form. Significant among the proposed accompanying amended regulations would be requirements for whole effluent toxicity testing and testing sewage sludge for the priority

pollutants. U.S. EPA estimated that the use of the new forms would reduce the average estimated annual paperwork burden on permitted facilities by about ten percent, or about 9,000 hours, by making it easier for facilities to submit the information and by reducing follow-up requests for additional information.

## **N**otice of Approved State Acid Rain Programs

On December 7, 1995 (60 Fed. Reg. 62846), U.S. EPA published a list of the states that have submitted an acid rain program which U.S. EPA has approved. Title IV-A and V of the Clean Air Act, as amended in 1990 (42 U.S.C. §§ 7651-7651o), require U.S. EPA to establish a program to reduce emissions of pollutants (primarily nitrogen oxides (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>)) that contribute to the deposition of acidic precipitation (acid rain). Key to this program is U.S. EPA review and approval of state-submitted plans for compliance. U.S. EPA has reviewed and approved plans from a number of states, and it published the notice for public information purposes.

U.S. EPA grouped the states into three categories: A, B, and C, indicating the status of each state's program. Category A states have approved Title V permit programs sufficient for issuing Phase II acid rain permits. Category B states do not yet have final approval of their Title V permit programs, but which have sufficient authority to perform permit review up to the point of issuance of draft permits. U.S. EPA anticipates granting final approval of Category B Title V permit programs some time in 1996. Category C states do not have approved Title V permit programs and lack sufficient authority for permitting because they lack adequate Title V permit and acid rain regulations or because U.S. EPA has rejected their Title V programs. U.S. EPA will issue the initial permits in states not approved (Category A) by January 1, 1997.

The states (or portions of states) and their plan approval categories (by U.S. EPA region) are as follows:

### Region I:

- Category A: None
- Category B: Massachusetts\*, New Hampshire, Rhode Island\*, and Vermont\*
- Category C: Connecticut and Maine

### Region II:

- Category A: None
- Category B: New Jersey\*
- Category C: New York

### Region III:

- Category A: West Virginia

- Category B: Delaware, Maryland, Pennsylvania, and Washington DC
- Category C: Virginia

### Region IV:

- Category A: Florida\* and South Carolina\*
- Category B: Alabama\* (including Huntsville and Jefferson County), Georgia, Kentucky (including Jefferson\* County), Mississippi, North Carolina (including western), and Tennessee\* (including Chattanooga-Hamilton, Knox, Memphis-Shelby\*, and Nashville-Davidson Counties)
- Category C: None

### Region V:

- Category A: Illinois, Indiana\*, Minnesota\*, and Wisconsin\*
- Category B: Michigan\* and Ohio
- Category C: None

### Region VI:

- Category A: Arkansas, Louisiana, and New Mexico\* (including Albuquerque)
- Category B: Oklahoma and Texas\*
- Category C: None

### Region VII:

- Category A: Iowa and Nebraska (including Lincoln-Lancaster\* and Omaha\*-Douglas Counties)
- Category B: Kansas and Missouri
- Category C: None

### Region VIII:

- Category A: North Dakota\*, South Dakota\*, and Utah
- Category B: Colorado\*, Montana, and Wyoming
- Category C: None

### Region IX:

- Category A: California (Bay Area, Imperial County\*, Monterey Bay, and North Coast\*) and Nevada (Clark County)
- Category B: Arizona (including Maricoupa\*, Pima, and Pinal Counties), California (Mojave Desert\* and San Diego\* and San Luis Obispo\* Counties, South Coast\*, and Ventura County\*), and Nevada\*
- Category C: None

### Region X:

- Category A: Oregon, Washington (including Northwest, Olympic, Puget Sound,

Southwest, Spokane, Benton-Franklin, and Yakima)

Category B: Idaho\*

Category C: None

U.S. EPA last published a listing of states that had submitted acceptable acid rain programs on October 11, 1995 (60 Fed. Reg. 52911). (See issue 498, Nov., 1995.) The states (and areas within states) indicated in that listing are indicated above by an asterisk (\*).

### **New Model CERCLA De Minimis Contributor Consent Decree**

On December 7, 1995 (60 Fed. Reg. 62849), U.S. EPA published revised *de minimis* contributor model consent decrees for use in cost recovery actions under the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA; 42 U.S.C. §§ 9601 *et seq.*) These new models, one a judicial consent decree and the other an administrative consent order, supersede the interim model published on October 19, 1987 (52 Fed. Reg. 43393). U.S. EPA stated that the new models represented its latest thinking on CERCLA section 122(g)(1)(A) *de minimis* contributor settlements, to be used by Department of Justice and U.S. EPA in negotiating these agreements. U.S. EPA stated that it developed the models based on current practices in the hope of bringing about increased fairness and national uniformity and streamlined review and approval in the settlements.

### **NESHAPs for Wood Furniture Manufacturing Operations**

On December 7, 1995 (60 Fed. Reg. 62930), U.S. EPA adopted national emission standards for hazardous air pollutants (NESHAPs) for the Wood Furniture Manufacturing Operations source category. The regulations of new 40 CFR 63, subpart JJ establish hazardous air pollutant (HAP) emissions standards for major new and existing sources based on the maximum achievable control technology (MACT). U.S. EPA stated that many facilities in this source category can emit more than major source threshold of 25 tons per year (tpy) (23 megagrams per year (Mg/y)) of various HAPs, such as toluene, xylene, methanol, methyl ethyl ketone, methyl isobutyl ketone, glycol ethers, and formaldehyde. In adopting the standards, U.S. EPA estimated that the regulations would reduce the 32,795 tpy (29,759 Mg/y) in HAP emissions from sources in this category by workplace standards to reduce the amount of volatile organic material (VOM)-containing materials. U.S. EPA estimated that the cost of implementing the rules would

be about \$15.3 million nationally, at an average rate of \$466 per ton (\$513 per megagram) of HAP reduction.

### **Delayed Compliance Deadline for Gasoline Distribution NESHAP**

On December 8, 1995 (60 Fed. Reg. 62991), U.S. EPA adopted a partial delay in 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 adopted partial stay delays the compliance deadline by three months, until March 7, 1996. U.S. EPA stated that it is considering the further delay described in its November 7, 1995 (60 Fed. Reg. 56133) proposed amendments, which was until the later of December 14, 1996 or one year after the source first becomes subject to the NESHAP. In the proposal, U.S. EPA also stated that it would amend the deadline by which sources subject to the NESHAP must implement leak controls to December 14, 1997. (*See issue 499, Dec., 1995.*)

In adopting the partial stay, U.S. EPA explained that it adopted two mechanisms in the original rule 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 sources.

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, as described on November 7, 1995, 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 in adopting the partial stay that it did so due to grounds for reconsideration that arose after the public comment period. The open issues related to the

timing of potential to emit limitations, the acceptable methods for limiting the potential to emit, and the scope of the emissions equations. In adopting the partial stay, U.S. EPA stated that it will complete its reconsideration of the NESHAP compliance deadline prior to the expiration of the partial stay. The partial stay affects all existing sources in the gasoline distribution (Stage I) category. U.S. EPA stated in its November 7 proposal that it would delay the effective date 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: The federal NESHAPs are directly enforceable in Illinois, so no Board action is necessary to make them applicable as a matter of Illinois law.)*

### **P**ublic Participation Procedures for Hazardous Waste Permitting

On December 11, 1995 (60 Fed. Reg. 63417), U.S. EPA adopted amendments to the RCRA Subtitle C hazardous waste permitting procedural regulations. U.S. EPA explained that the amendments, effective June 11, 1996, will improve the hazardous waste program by providing earlier opportunities for public involvement and expanded access to information throughout the permitting process and the operational life of the facility. Although the new rules will apply to every facility, U.S. EPA explained that they will not require facilities already involved in the process of obtaining a permit to step back in the process to apply the amended procedures at prior stages. Rather, the rules will apply forward from the stage in which the facility presently finds itself. The amendments will not become effective in authorized states until adopted by the state.

There are a handful of requirements that the amendments will impose on the permit applicant. First, an applicant must hold an informal public meeting before it submits its permit application. The applicant will be required to give public notice of the meeting by newspaper advertisement, by broadcast announcement, and by a sign posted at or near the subject facility. The rules will require the permitting authority to give mailed direct notice to interested persons of the filing of the permit application, indicating where they can review the application as the authority reviews it. Where the permitting authority feels the level of public participation warrants, it can require the permit applicant to set up, at any time during the pendency of the permit application or the operational life of the facility, an information repository including whatever information the authority

deems appropriate to accommodate the level of public inquiry. Finally, hazardous waste combustion facilities, such as hazardous waste incinerators, will be required to give advanced public notice before they conduct trial burns.

As proposed on June 2, 1994 (59 Fed. Reg. 28680), U.S. EPA contemplated RCRA Subtitle C permitting amendments relating to hazardous waste combustion facilities and amendments relating to public participation in the permitting process. U.S. EPA adopted the public participation segments that it intended; it did not yet finalize the combustion process permitting aspects of the proposed amendments. U.S. EPA explained that in its effort to promote both greater flexibility for the permit-writing authority and enhanced public access to the process, it chose to rely on guidance rather than regulatory text in many instances.

*(Editor's Note: These federal amendments are within the time-frame of the presently-reserved R96-10 RCRA Subtitle C Update docket. The Board will initiate a proposal for public comment in this docket some time in the next few months that will include any necessary amendments of the Illinois hazardous waste permit rules prompted by this federal action.)*

### **C**ERCLA Enforcement Against Lenders and Governmental Entities That Acquire Property Involuntarily

On December 11, 1995 (60 Fed. Reg. 63517), U.S. EPA announced its intent to apply the "lender liability rule" as federal guidance as an enforcement policy. U.S. EPA adopted the lender liability rule amendments to 40 CFR 300 on April 29, 1992 (57 Fed. Reg. 18344) as a regulation. They governed the liability of governmental and lender property owners that acquired title to property involuntarily, such as through mortgage foreclosure or for nonpayment of taxes. The court of appeals vacated the rules in 1994, in *Kelley v. EPA*, 15 F.3d 1100 (DC Cir.), *reh'g denied sub nom. American Bankers Ass'n v. Kelly*, 25 F.3d 1088 (DC Cir. 1994), *cert. denied*, -- U.S. --, 115 S. Ct. 900 (1995). As a policy memorandum, the application as guidance will guide U.S. EPA and U.S. DOJ in the exercise of their enforcement discretion under CERCLA.

When it adopted the rule, U.S. EPA attempted to clarify Sections 101(20)(D) and 101(35)(A) of CERCLA, which define "owner or operator" and "contractual relationship". U.S. EPA stated that neither the statute nor the case law provided sufficient explanation of when a property transfer was involuntary. By the rule, U.S. EPA attempted to add the definiteness it perceived

necessary. The *Kelley* court vacated the rule as beyond U.S. EPA's authority to adopt as a binding regulation. In adopting the rule as a policy memorandum, U.S. EPA noted that nothing in the *Kelley* opinion precluded it and the DOJ from pursuing the rule as an enforcement policy.

### **A**nnouncement of XL Community Pilot Program

On December 12, 1995 (60 Fed. Reg. 63711), U.S. EPA announced the XL community pilot program, a pilot project intended to allow greater regulatory flexibility for local governments, communities, states, federally-recognized tribes, and others. The project would allow regulated entities to develop and demonstrate alternative strategies that would replace existing regulatory requirements if they can produce greater environmental benefits than the requirements they would replace. This is the second segment of an initiative to develop innovative alternatives to the present command-and-control system of environmental regulation and management.

U.S. EPA undertook the first segment of this program by a notice that appeared in the *Federal Register* on May 23, 1995 (60 Fed. Reg. 27282). The three pilot projects in the first segment invited proposals on three pilot projects related to the XL program for facilities, the industry-wide or sector-based XL program, and an XL program for regulated government facilities. These proposals respond to a March 16, 1995 Presidential announcement contained in "Reinventing Environmental Regulation". U.S. EPA's goal is to implement 50 projects in the four XL program areas. (See issue 495, June, 1995.)

For each project, the regulated entities will receive greater regulatory flexibility in exchange for a commitment to achieve greater environmental benefits by the alternative means. U.S. EPA intends to implement these projects in conjunction with the states. It stated that it will evaluate proposals based on environmental results, costs savings and paperwork reduction, stakeholder (interested local persons) support, innovation and multimedia pollution prevention, transferability (into U.S. EPA programs or to other industries), feasibility, monitoring and reporting, and its shifting of the burdens of risk.

### **P**roposed NESHAPs Amendments to Not Require CAAA Title V Permits of All Sources

On December 13, 1995 (60 Fed. Reg. 64002), U.S. EPA proposed amendments that would not require Clean Air Act Amendments (CAAA) Title V permits for all sources to which several source categories of national

emission standards for hazardous air pollutants (NESHAPs) apply. The source categories included were those applicable to chrome electroplating, ethylene oxide fumigation, and perchloroethylene dry cleaning (40 CFR 63, subparts N, O, and M). The sources will still be required to meet the substantive maximum available control technology (MACT) standards of the regulations, but U.S. EPA intended to reduce the paperwork burden of permit processing for the states. Accompanying amendments to the NESHAP for secondary lead smelters (40 CFR 63, subpart X) would clarify that the Title V permit requirements would still apply to those sources.

*(Editor's Note: The federal NESHAPs are directly enforceable in Illinois, so no Board action is necessary to make them applicable as a matter of Illinois law.)*

### **N**ESHAPs for Shipbuilding and Ship Repair Facilities

On December 15, 1995 (60 Fed. Reg. 64330), U.S. EPA adopted national emission standards for hazardous air pollutants (NESHAPs) for the Shipbuilding and Ship Repair (Surface Coating) Operations source category. The regulations establish hazardous air pollutant (HAP) emissions standards for major new sources based on the maximum achievable control technology (MACT). In adopting the standards, U.S. EPA estimated that the regulations would reduce the 920 tons (837 megagrams) in baseline emissions of HAPs from sources in this category by 350 tons (318.5 megagrams) per year, or by about 24 percent. U.S. EPA estimated that the cost of implementing the rules would be about \$2 million nationally beyond baseline.

### **S**tationary Source Performance Standards for Municipal Waste Combustors

On December 19, 1995 (60 Fed. Reg. 65387), U.S. EPA added standards of performance for new municipal waste combustor (MWC) units and emission guidelines for existing MWCs. The standards and guidelines apply to MWCs that have a capacity to combust 35 megagrams per day (about 40 tons per day) of municipal solid waste. They include standards for MWC organics (dioxins and furans), MWC metals (cadmium, lead, mercury, particulate matter, and opacity), MWC acid gasses (hydrogen chloride and sulfur dioxide), nitrogen oxides, and MWC fugitive ash emissions. They also include MWC operating practices (carbon monoxide, load, flue gas temperature at the particulate matter control device inlet, and operator training and certification) requirements. For new MWC facilities, the standards require a siting analysis and materials separation plan.

Simultaneous with adopting the new regulations, U.S. EPA published a direct final rule (60 Fed. Reg. 65382, with associated notice of proposed amendments at 65437) that will amend the rules to clarify certain of the provisions.

U.S. EPA also published its reasons for not prohibiting the combustion of lead-acid batteries in MWCs (60 Fed. Reg. 65438). U.S. EPA determined, when it adopted the original MWC regulations in 1991, that it was unnecessary to impose a prohibition because control of lead emissions could be achieved by other regulatory means. This decision was challenged in court, in *NRDC v. Reilly*, 963 F.2d 1147 (DC Cir. 1992), and the result was a remand for further elaboration of U.S. EPA's reasons for not imposing a prohibition. U.S. EPA stated in reaffirming its decision that due to the high rate of recycling of lead-acid batteries (about 95%), the free availability of outlets for tendering used batteries for recycling, the existence of battery recycling laws in 37 states, the estimated appearance of one battery in every 340 to 790 tons of waste sent to landfills, batteries' contribution of lead to municipal solid waste is very slight in relation to other sources of lead, at about 3 percent to 16 percent of the total.

### **P**roposed Hazardous Waste Identification Rule

On December 21, 1995 (60 Fed. Reg. 66344), U.S. EPA proposed amendments to the rules for identification of hazardous waste that would exclude certain listed hazardous waste and wastes derived from or mixed with listed waste from regulation under RCRA Subtitle C. Accompanying these proposed risk-based amendments, called the Hazardous Waste Identification Rule, were proposed amendments to the hazardous waste land disposal restrictions of 40 CFR 268 and a tentative response to a petition for rulemaking filed by the Chemical Manufacturers Association.

Under the new Hazardous Waste Identification Rule, a listed waste or a waste that is mixed with or derived from a listed hazardous waste ("mixtures and derived-from rule" waste; all so-called "Subpart D" wastes) would be no longer subject to regulation as hazardous waste if it meets certain requirements. First, the waste must have no hazardous constituents in concentrations above a new "exit level". Second, the waste must exhibit no characteristic of hazardous waste (so-called "Subpart C" waste). U.S. EPA stated that it set the risk-based exit levels to assure low risk to human health and the environment through management of the waste outside the RCRA Subtitle C regulations. As a result of this constituent-specific analysis, U.S. EPA proposed land

disposal restriction (LDR) levels for constituents formerly not assigned an LDR level. U.S. EPA further said that it intends to propose amendments in the future that would similarly apply to contaminated media from corrective actions.

Under the regulations that have existed since the inception of hazardous waste regulation (May 19, 1980, 45 Fed. Reg. 33066), a Subpart D waste, any mixture containing Subpart D waste, and any material derived from Subpart D waste always remained a hazardous waste, without regard to whether it exhibited any characteristic of hazardous waste. That rule, in a somewhat tortured history, was several times the subject of litigation in the federal courts. One of the challenges, *Environmental Technology Council v. Browner*, No. 94-2119 (D.D.C. May 3, 1993) resulted in a settlement agreement in which U.S. EPA committed to propose the present amendments.

### **F**ederal Voluntary Cleanup Initiative Policy

On December 22, 1995 (60 Fed. Reg. 66706), U.S. EPA issued a final policy statement to encourage regulated entities to voluntarily discover, disclose, and correct environmental violations. In the policy, U.S. EPA offers incentives for regulated entities to engage in prompt reporting and voluntary corrective action, including the elimination or substantial reduction of civil penalties and not recommending cases for criminal prosecution. U.S. EPA stated that it developed the policy in conjunction with the U.S. Department of Justice, states, public interest groups, and the regulated community.

*(Editor's Note: The State of Illinois operates a similar program through the Illinois EPA, in cooperation with the Department of Commerce and Community Affairs (DCCA). The program, called the "Clean Break" program, is specifically oriented towards aiding small businesses achieve compliance. See issue 500, Jan., 1996.)*

### **A**lternative Fuel/Clean-Fuel Vehicle Amendments

On January 2, 1996 (61 Fed. Reg. 122), USEPA adopted a direct final rule intended to clarify and streamline certain requirements of its clean-fuel and alternative fuel vehicles. Anticipating expansion of the alternative fuel vehicle industry over the next few years, USEPA temporarily reduced the certification burden for aftermarket vehicle converters, to aid those entities in recovering their certification costs. The amendments allow small-volume manufacturers (selling fewer than 10,000 vehicles per year) to use USEPA-assigned



emission deterioration values, rather than requiring the manufacturer to accumulate mileage on prototype vehicles, through model year 2000. Accompanying amendments include additional options for inherently low-emission vehicle (ILEV) external label dimensions. Another two amendments to the California Pilot Program change the method for determining a manufacturer's clean-fuel vehicle sales quota and the method of administering credits, in order to reduce the paperwork burden on the manufacturer. Finally, USEPA made technical amendments to its Clean Fuel Fleet Program and California Pilot Program. The associated notice of proposed amendments simultaneously appeared at 61 Fed. Reg. 140.

In a final regulation appearing on the same day, January 2, 1996 (61 Fed. Reg. 129), USEPA made additional amendments to its clean-fuel vehicle regulations. It withdrew a 10,000-vehicle sales limit imposed on small-volume manufacturers seeking certification of their conversion configurations. USEPA withdrew the limit, adopted by a direct final rule dated September 30, 1994 (59 Fed. Reg. 50042), because it received adverse public comment within the comment period of that rule.

### **A**mmendments to Phase-Out of Ozone-Depleting Chemicals

On January 19, 1996 (61 Fed. Reg. 1284), USEPA published a final listing of the global warming potentials of class I and class II controlled ozone-depleting substances. USEPA published the potentials, citing the early 1995 United Nations Environment Programme (UNEP) document, "Scientific Assessment of Ozone Depletion: 1994", pursuant to section 602(e) of the Clean Air Act (CAA; 42 U.S.C. §7671a(e)). Section 602(e) required USEPA to adopt a list of Class I and Class II ozone-depleting substances, together with their GWPs, consistent with the Montreal Protocol. USEPA stated that it relied on three principal documents in deriving the list: the 1995 UNEP document, a 1995 document from the Intergovernmental Panel on Climate Change, "Radiative Forcing of Climate Change and An Evaluation of the IPCC IS92 Emission Scenarios", and an article from the Journal of Geophysical Research, "On the Evaluation of Halocarbon Radiative Forcing and Global Warming Potentials".

USEPA adopted the listing of global warming potentials (GWPs) based on an October 6, 1995 (60 Fed. Reg. 52357) proposal. (See memo of November 2, 1995.) Included in the 40 CFR 82, Subpart A, Appendix I list are GWPs for 16 Class I and Class II ozone-depleting

substances. USEPA proposed the list, as to pursuant to its mandate under Section 602(e) of the Clean Air Act, as amended in 1990. The proposed GWPs, projected at 20 years, 100 years, and 500 years for each substance, are intended as an index of each compound to survive in the atmosphere and participate in the "greenhouse effect" global warming. The GWP indices are based on three factors: the capacity to absorb infrared radiation, the residence time in the atmosphere, and the time over which the radiative effects will be considered. USEPA explained that the first two of these factors are technical, and the third is based on the interests of the users of the compound. USEPA stated that these synthetic compounds in the atmosphere (and other natural ones, like carbon dioxide and water vapor) absorb infrared radiation emitted by the Earth and prevent its emission into space, thus trapping heat. USEPA noted that Section 602(e) of the Clean Air Act requires that the listing of GWPs "not be construed to be the basis of any additional regulations".

The 16 class I and class II controlled substances included six chlorofluorocarbons (CFC-11, CFC-12, CFC-13, CFC-113, CFC-114, and CFC-115), one halon (H-1301), two chlorinated compounds (carbon tetrachloride and methyl chloride), and seven hydrochlorofluorocarbons (HCFC-22, HCFC-141b, HCFC-142b, HCFC-123, HCFC-124, HCFC-225ca, and HCFC-225cb). Under December 10 and 30, 1993 (58 Fed. Reg. 65081 and 69235) regulations for phase out of ozone-depleting substances, amended on May 10, 1995 (60 Fed. Reg. 24970), chlorofluorocarbon (CFC), carbon tetrachloride, methyl chloroform, and hydrobromofluorocarbon production (collectively, class I substances) was to be phased out by January 1, 1996, and halon (tetrafluoroethylene polymer) production was to have been phased out January 1, 1994. The regulations allow for limited exemptions from the phase-out bans. Under the phase-out rules for class I substances, the conditions pertaining to allowable production are as follows: they are either transformed or destroyed, the controlled substance is exported to article 5 (developing) countries, or it is produced for essential uses consistent with essential use allowances. The conditions for allowable import of the substances are as follows: they are either transformed or destroyed, they are previously used (including recycled and reclaimed), they are imported for essential uses consistent with essential use allowances, they are transshipped to another signatory to the Montreal Protocol, or they are imported using destruction and transformation credits. The hydrochlorofluorocarbons (HCFCs) are class II substances, not class I substances. Thus, they are not the subject of the production bans.

*(Editor's Note: In the present Illinois Section 211.7150 and federal 40 CFR 51.100(s) definition of VOM, the following exempt compounds are class I compounds (subject to 1996 phase-out and for which GWPs were set forth):*

*1,1,1-trichloroethane (methyl chloroform)  
1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113)  
trichlorofluoromethane (CFC-11)  
dichlorodifluoromethane (CFC-12)  
chlorodifluoromethane (HCFC-22)  
1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)  
and chloropentafluoroethane (CFC-115)*

*In those definitions, the following VOM-exempted compounds are class II compounds (not subject to 1996 phase-out but for which USEPA published GWPs):*

*1,1,1-trifluoro-2,2-dichloroethane (HCFC-123)  
1,1-dichloro-1-fluoroethane (HCFC-141b)  
1-chloro-1,1-difluoroethane (HCFC-142b)  
and 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)*

*The following VOM-exempted compounds set forth in those definitions are also class II compounds (not subject to 1996 phase-out and for which USEPA did not publish a GWPs):*

*1,1,1,2-tetrafluoroethane (HFC-134a)  
pentafluoroethane (HFC-125)  
1,1,2,2-tetrafluoroethane (HFC-134)  
1,1,1-trifluoroethane (HFC-143a)  
and 1,1-difluoroethane (HFC-152a)*

*The following two compounds are exempt from the definition and are not subject to the Montreal Protocol:*

*methylene chloride (dichloromethane)  
and trifluoromethane (HFC-23)*

*The phase-out on the production and importation of many of the exempted compounds will greatly curtail use of these substances. However, residual use will continue because there are exempted uses and the Protocol directly affects production and importation, not use.*

## **P**roposed Nitrogen Oxides Emissions Limitations

On January 19, 1996 (61 Fed. Reg. 1442), USEPA proposed amendments to the nitrogen oxides (NO<sub>x</sub>) emissions regulations to lower emissions of this pollutant from coal-fired boilers. The proposed amendments would lower the existing emission limits for all Phase I and Phase II dry bottom wall-fired and tangentially-fired coal-burning boilers (Group 1). It would further establish new limitations for other types of Phase II coal-fired boilers, such as cyclones, cell burners, wet-bottom burners, vertically-fired boilers, and fluidized-bed

combusters. USEPA estimates emissions annualized reductions from the lowered Group 1 emissions of about 1.54 million tons of NO<sub>x</sub> by 2000 through the amendments, at an average cost of \$208 per ton removed. It further estimated an additional 820,000 tons reduced from Phase II units, at an annualized cost of \$172 per ton removed. In proposing the regulation, USEPA stated that NO<sub>x</sub> is the conventional air pollutant (sulfur dioxide, ozone, nitrogen oxides, particulates, and to actually increase in output since passage of the Clean Air Act (CAA) in 1970, with a seven percent increase in emissions nationwide.

USEPA adopted the NO<sub>x</sub> emission limitations on March 22, 1994 (59 Fed. Reg. 13538), using low NO<sub>x</sub> burner technology or an AEL for those units that could not achieve the limitations using low NO<sub>x</sub> burner technology. The court vacated the rule and remanded it to USEPA in *Alabama Power Co. v. EPA*, 40 F.3d 450 (DC Cir. 1994), holding that USEPA had exceeded its statutory authority in adopting the rule. On April 13, 1995 (60 Fed. Reg. 18751), USEPA adopted a direct final rule that reinstated amended nitrogen oxides (NO<sub>x</sub>) emission limitations on coal-fired utility units in response to the remand, in order to cure defects in the rules cited by the court. (*See issue 495, May, 1995.*)

## **N**otice to Secretary of Agriculture re Restricted Sale of Certain Pesticides

On January 24, 1996 (61 Fed. Reg. 1884), USEPA gave the Secretary of Agriculture a 60-day notice of its intent to propose sale restrictions on certain pesticides. Section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 U.S.C. § 136w(a)(2)(A)) requires USEPA to give the Secretary of Agriculture at least 60 days of advanced notice before it submits such a proposed action for publication in the *Federal Register*. USEPA stated that it is considering proposing restrictions on the use and sale of five pesticides, atrazine, simazine, cyanazine, alachlor, and metolachlor through the use of State Management Plans due to their potential for contaminating groundwater. USEPA also sent copies of the prospective proposed rules to the designated House and Senate committees and to the Scientific Advisory Panel as also required by FIFRA.

*(Editor's Note: Alachlor, atrazine, and simazine are all regulated drinking water contaminants, for which USEPA has established a maximum contaminant level (MCL) under the national primary drinking water standards. Metolachlor is an unregulated contaminant, in that USEPA has not established an MCL for it, but*

USEPA does require drinking water suppliers to monitor for it.)

### **S**upplemental Proposed Rule Regarding Mining and Mineral Processing Wastes

On January 25, 1996 (61 Fed. Reg. 2338), USEPA proposed supplemental amendments to the proposed Phase IV land disposal restrictions. These supplemental amendments pertain to mining and mineral processing wastes. Among other things, the supplemental proposed amendments would clarify the existing Bevill exclusion for mining wastes, revise the definition of hazardous waste as it applies to mineral processing wastes, and impose treatment standards for mineral processing wastes. USEPA stated that it hopes to encourage sound recycling of the affected wastes and to ensure their proper treatment and disposal. To obtain an exclusion from the definition of waste, management of the affected materials must meet certain conditions, such as legitimate recycling, short storage periods, and cause no environmental contamination. Mineral processing secondary materials would also fall under the regulations and be excluded under certain conditions. Further, USEPA is proposing the use of the toxicity characteristic test (TCLP) for determining whether the process wastes exhibit the characteristic of toxicity. The amendments would also exclude recycled scrap metal and shredded circuit boards from RCRA Subtitle C regulation.

### **N**O<sub>x</sub> Exemption for Lake Michigan States (Illinois, Indiana, Michigan, and Wisconsin)

On January 26, 1996 (61 Fed. Reg. 2428) USEPA granted a Clean Air Act (CAA) § 182(f) exemption from the reasonably available control technology (RACT), new source review (NSR), vehicle inspection and maintenance (I/M), and conformity requirements for nitrogen oxides (NO<sub>x</sub>). The covered area includes portions of Illinois, Indiana, Michigan, and Wisconsin that bound Lake Michigan. Generally, the NO<sub>x</sub> requirements apply in ozone nonattainment areas. The NSR, RACT, I/M, and conformity requirements apply to major stationary sources of NO<sub>x</sub> in these areas.

The July 13, 1994 petition by the Lake Michigan Air Directors Consortium, on behalf of the four states, requested relief from the § 182 NO<sub>x</sub> requirements in the Lake Michigan Ozone Study modeling domain. The Chicago Metropolitan Statistical Area was included in the petition area. § 182(f) allows an exemption from the RACT and NSR requirements if USEPA determines

either that air quality benefits are actually greater without further NO<sub>x</sub> reductions or that further reductions would not contribute to attainment of the national ambient air quality standard (NAAQS) for ozone.

The petition disclosed that Chicago, Grand Rapids, Milwaukee, and other areas included are affected by ozone transported into the area from outside. USEPA attributed 80 to 100 parts per billion (ppb) of ozone to those extrinsic sources. That, combined with downwind transfer of ozone precursors makes the broader area's ozone problem a regional problem that requires a regional solution. The Urban Airshed Model (UAM-V) was used to project anticipated 1996 and 2007 emissions levels to test whether VOC-plus-NO<sub>x</sub> controls, VOC-only controls, or NO<sub>x</sub>-only controls resulted in the least ozone peak concentrations above the 120 ppb NAAQS. (Controls assumed a 40 percent reduction in the pollutant of concern.) The VOC-only controls indicated the smallest area with peak ozone concentrations above 120 ppb. USEPA further concluded that NO<sub>x</sub> point source growth would not exacerbate the area's ozone problems.

USEPA approved the petition filed by the four states based on its conclusion that further NO<sub>x</sub> reductions would not contribute to attainment of the NAAQS for ozone. Although the petition did not expressly request relief from the I/M requirements with regard to NO<sub>x</sub>, USEPA included that program in the approval. USEPA views these approvals as subject to reversal in the event further information so warrants (ie if further modeling indicates a benefit for ozone attainment). USEPA stated that the approval stopped the 24-month sanctions clocks that were running for the states' failures to submit a complete NO<sub>x</sub> RACT SIP submittal.

USEPA originally proposed granting the exemption on March 6, 1995 (at 60 Fed. Reg. 12180). (*See issue 493, Apr., 1995.*) USEPA received several comments in response to the proposal. After evaluation of the comments, USEPA concluded that the comments did not warrant revision of the exemption as proposed. The approval as to Illinois is now codified as 40 CFR 52.726(k).

### **D**eadline Extended for Filing Facility TRI Reports

On January 29, 1996 (61 Fed. Reg. 2722), USEPA extended the deadline for filing facility toxic release inventory (TRI) reports. The new deadline for calendar year 1995 releases is August 1, 1996. Normally the reports are due July 1 of each year for the preceding calendar year. USEPA explained that it was unavoidably delayed in preparing and distributing the reporting pack-

age, so it extended the deadline by a month to allow adequate time for full and accurate reporting.

## FINAL ACTIONS - JANUARY 4, 1996 BOARD MEETING

**94-157** Community Trust Bank (Wilson's Service Center) v. EPA - The Board granted voluntary dismissal of this underground storage tank fund reimbursement determination appeal involving a Marion County facility.

**94-332** Western Lion Limited v. EPA - The Board granted voluntary withdrawal of this land permit appeal involving a Marion County facility.

**96-87** Dwight - #17 v. EPA - Having previously granted a request for a 90-day extension of time to file, the Board dismissed this docket because no underground storage tank fund reimbursement determination appeal was timely filed on behalf of this Livingston County facility.

**96-89** Gilbert & Bennett Manufacturing Company v. EPA - Having previously granted a request for a 90-day extension of time to file, the Board dismissed this docket because no RCRA permit appeal was timely filed on behalf of this Cook County facility. Board Member M. McFawn abstained.

**96-96** General Electric Control Products v. EPA - Having previously granted a request for a 90-day extension of time to file, the Board dismissed this docket because no water permit appeal was timely filed on behalf of this Whiteside County facility.

**96-120** People of the State of Illinois v. Dealers Ready Mix Company, d/b/a Frams Material Corporation - The Board accepted a stipulation and settlement agreement in this air and mine pollution enforcement action against a McHenry County facility, ordered the respondent 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.

**96-150** Envirite Corporation v. EPA - Upon receipt of an Agency recommendation, the Board granted a 30-day extension of the ninety 90-day limitation on the accumulation of hazardous waste at this Cook County facility.

**AC 95-6** EPA v. A-Reliable Auto Parts and Wreckers, Inc., a/k/a Scrap Processors - Having previously found that the Cook County respondent had violated Sections 21(p)(1) and 21(p)(3) of the Act, the Board ordered the

respondent to pay a civil penalty of \$1,000.00 and \$650.51 in costs. Chairman C. A. Manning dissented.

**AC 96-23** EPA v. Paul Bunyon and Charles Groszek - The Board entered a default order, finding that the Grundy County respondents had violated Section 21(p)(1) and 21(p)(3) of the Act and ordering them to pay a civil penalty of \$1,000.00.

**AC 96-24** County of Jackson v. Randy McBride - The Board entered a default order, finding that the Jackson County respondent had violated Section 21(p)(1) of the Act and ordering him to pay a civil penalty of \$500.00.

**AC 96-25** Will County v. RWS Development Corporation - The Board entered a default order, finding that the Will County respondent had violated Section 21(p)(1) of the Act and ordering it to pay a civil penalty of \$1500.00.

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

## FINAL ACTIONS - JANUARY 18, 1996 BOARD MEETING

**91-208** Ashland Chemical, Inc. v. EPA - The Board granted voluntary withdrawal of this RCRA permit appeal involving a Cook County facility.

**94-274** People of the State of Illinois v. Chicago Steel Rule Die and Fabricators 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 \$25,000.00, and ordered it to cease and desist from further violation.

**95-165** Richard Buri v. Batavia Concrete, Inc. - The Board granted the voluntary dismissal of this citizen's RCRA, public water supply, and underground storage tank enforcement action against a Kane County facility.

**96-100** Florida Plastics International, Inc. v. EPA - Having previously granted a request for a 90-day extension of time to file, the Board dismissed this docket

because no air permit appeal was timely filed on behalf of this Cook County facility.

**96-159** General Electric Company, Inc. v. EPA - Upon receipt of an Agency recommendation, the Board granted this LaSalle County facility a 45-day provisional variance from the total residual chlorine effluent requirements of the water pollution control regulations, in order to allow it to continue operating during a period of wastewater treatment plant malfunction.

**AC 96-20** EPA v. James O. Weir - The Board vacated its default order of December 20, 1995 and granted voluntary dismissal of this administrative citation against a Rock Island facility upon the Agency's representation that it had failed to timely serve a copy of the citation on the respondent.

**AC 96-26** EPA v. Richard Vaughn, d/b/a Richard's Tire Hauling - The Board entered a default order, finding that this Hamilton County respondent had violated Section 21(p)(1) of the Act and ordering him to pay a civil penalty of \$500.00.

**AC 96-27** EPA v. Richard Vaughn, d/b/a Richard's Tire Hauling - The Board entered a default order, finding that this Hamilton County respondent had violated Section 21(p)(1) and 21(p)(3) of the Act and ordering him to pay a civil penalty of \$1,000.00.

**R81-19** In the Matter of: Proposed Site-Specific Water Pollution Rules and Regulations Applicable to Citizens Utilities Company of Illinois Discharge to Lily Cache Creek - *See Rulemaking Update.*

## NEW CASES - JANUARY 4, 1996 BOARD MEETING

**96-52** Kean Brothers, Inc. v. EPA - The Board granted petitioner's motion for reconsideration, reinstated this docket, corrected the caption to accurately name the parties, and accepted this underground storage tank appeal involving a Cook County facility for hearing.

**96-86** BFI Modern Landfill #1 and #2 v. EPA - Having previously granted a 90-day extension of time to file, the Board accepted this timely-filed petition for a land permit appeal involving a St. Clair County facility for hearing.

**96-92** Amoco Oil Company (Elmhurst Facility) v. EPA - Having previously granted a 90-day extension of time to file, the Board accepted this petition for an underground storage tank appeal involving a DuPage County facility for hearing.

**96-134** Schilling Petroleum Company (Hi Horse Mobil) v. EPA - Having received a notice of 90-day extension of time to file of time to file, the Board reserved this docket for any underground storage tank fund determination appeal that may be filed on behalf of this St. Clair County facility.

**96-135** Schilling Petroleum Company (Site Classification Completion Report) v. EPA - Having received a notice of 90-day extension of time to file of time to file, the Board reserved this docket for any underground storage tank appeal that may be filed on behalf of this St. Clair County facility.

**96-136** People of the State of Illinois v. Steve Kulovsek, d/b/a WSH Management Group, and d/b/a Kulovsek Excavating - The Board received this air enforcement action against a McHenry County facility for hearing.

**96-137** People of the State of Illinois v. Kimball Hill, Inc. - The Board received this water enforcement action against a Lake County facility for hearing.

**96-138** Stapan Company (Northfield Facility) v. EPA - The Board accepted this underground storage tank appeal involving a Cook County facility for hearing.

**96-139** Village of Henderson v. EPA - Having received a notice of 90-day extension of time to file of time to file, the Board reserved this docket for any public water supply permit appeal that may be filed on behalf of this Knox County facility.

**96-140** Nunda Water Utility Co., Inc. v. EPA - The Board ordered the filing of an amended petition for a variance from certain of the public water supply regulations on behalf of this McHenry County facility.

**96-141** Butterick Company v. EPA - Having received a notice of 90-day extension of time to file of time to file, the Board reserved this docket for any land permit appeal that may be filed on behalf of this Cook County facility.

**96-142** People of the State of Illinois v. A. E. Staley Manufacturing Company - The Board received this air enforcement action against a Macon County facility for hearing.

**96-143** People of the State of Illinois v. Michel Grain Company, Inc., d/b/a Michel Fertilizer and Carlyle Michel - The Board received this water enforcement action against a Jefferson County facility for hearing.

**96-144** People of the State of Illinois v. Coastal Mart, Inc. - The Board received this underground storage tank enforcement action against a Morgan County facility for hearing.

**96-145** People of the State of Illinois v. Schmidt Bros. Landscaping & Excavating, Inc. - The Board received this air and land enforcement action against a Will County facility for hearing.

**96-146** Heritage Environmental Services, Inc. v. EPA - The Board accepted this RCRA permit appeal involving a Cook County facility for hearing.

**96-147** People of the State of Illinois v. Illinois Cement Company - Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action against a LaSalle County facility, the Board ordered publication of the required newspaper notice.

**96-148** People of the State of Illinois v. U.S. Dismantlement Corporation - The Board received this air enforcement action against a Cook County facility for hearing.

**96-149** People of the State of Illinois v. Wittridge Builders - The Board received this air enforcement action against a Cook County facility for hearing.

**96-150** Envirite Corporation v. EPA - *See Final Actions.*

**96-151** Keith F. Boyer v. Felecia Harris, a/k/a Felecia Dawkins, and Chicagoland Mortgage Corporation - The Board held this citizen's land enforcement action against a Cook County facility for a frivolous and duplicitous determination.

**AC 96-32** County of Vermilion v. Illinois Landfill, Inc. - The Board received an administrative citation against a Vermilion County respondent.

**AS 96-6** In the Matter of: Petition of Amoco Oil Company for an Adjusted Standard From 35 Ill. Adm. Code 721.Subpart D - The Board acknowledged receipt of this petition for a hazardous waste delisting filed on behalf of a Fulton County facility and held it pending receipt of proof of publication.

## **NEW CASES - JANUARY 18, 1996 BOARD MEETING**

**96-152** Burlington Northern Railroad 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 Fulton County facility.

**96-153** People of the State of Illinois v. MP Melrose Park Associates, Ltd. - Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water and underground storage tank enforcement action against a Cook County facility, the Board ordered publication of the required newspaper notice.

**96-154** Village of Oswego v. EPA - The Board held this petition filed on behalf of a Kendall County facility for a variance from the restricted status and standards for issuance requirements of the public water supply regulations, as they apply to combined radium content of the petitioner's water, for an Agency recommendation.

**96-155** West Suburban Recycling and Energy Center, L.P. v. EPA - The Board on its own motion consolidated this land permit appeal involving a Cook County facility with the air permit appeal for the same facility, PCB 96-156, and accepted them for hearing.

**96-156** West Suburban Recycling and Energy Center, L.P. v. EPA - The Board on its own motion consolidated this air permit appeal involving a Cook County facility

with the land permit appeal for the same facility, PCB 96-155, and accepted them for hearing.

**96-157** People of the State of Illinois v. City of Toluca- The Board received this water enforcement action against a Marshall County facility for hearing.

**96-158** Frederick Cooper Lamps, Inc. v. EPA - Having received a notice of 90-day extension of time to file 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.

**96-159** General Electric Company, Inc. v. EPA - *See Final Actions.*

**AC 96-33** EPA v. Stanley Thompson - The Board received an administrative citation against a Kendall County respondent.

**R96-14** In the Matter of: Illinois Pollution control Board Administrative Rules: Organization, Public Information and Proceedings (2 Ill. Adm. Code 2175.10 through 2175.380)- *See Rulemaking Update.*

**R96-15** In the Matter of: Illinois Pollution control Board Administrative Rules: Organization, Public Information and Proceedings (2 Ill. Adm. Code 2175.100 through 2175.600)- *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.

<b>February 1</b>		<b>Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago</b>
<b>10:30 a.m.</b>		
February 6	R 96-13	<u>In the Matter of: 15% ROP Plan: Clean-Up Part II: Amendments to 35 Ill. Adm. Code 218 and 219</u> - James R. Thompson Center, Suite 9-040, 100 West Randolph Street, Chicago.
10:00 a.m.	R, Air	
February 9	PCB 95-119	<u>West Suburban Recycling and Energy Center v. EPA</u> - James R. Thompson Center, Suite 9-040, 100 West Randolph Street, Chicago. (Consolidated with PCB 95-125.)
9:30 a.m.	P-A, Land	
<b>February 15</b>		<b>Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago</b>
<b>10:30 a.m.</b>		
February 15	PCB 95-119	<u>West Suburban Recycling and Energy Center v. EPA</u> - State of Illinois Building, 5th Floor, Room C-500, 160 North LaSalle Street, Chicago. (Consolidated with PCB 95-125.)
10:00 a.m.	P-A, Land	
February 16	PCB 95-119	<u>West Suburban Recycling and Energy Center v. EPA</u> - State of Illinois Building, 5th Floor, Room C-500, 160 North LaSalle Street, Chicago. (Consolidated with PCB 95-125.)
10:00 a.m.	P-A, Land	



February 20 9:30 a.m.	PCB 95-119 P-A, Land	<u>West Suburban Recycling and Energy Center v. EPA</u> - James R. Thompson Center, Suite 2-025, 100 West Randolph Street, Chicago. (Consolidated with PCB 95-125.)
February 21 9:30 a.m.	PCB 95-119 P-A, Land	<u>West Suburban Recycling and Energy Center v. EPA</u> - James R. Thompson Center, Suite 2-025, 100 West Randolph Street, Chicago. (Consolidated with PCB 95-125.)
February 22 9:30 a.m.	PCB 95-119 P-A, Land	<u>West Suburban Recycling and Energy Center v. EPA</u> - State of Illinois Building, Room C-500, 160 North LaSalle Street, Chicago. (Consolidated with PCB 95-125.)
February 22 10:00 a.m.	R 94-1(B) R, Water	<u>In the Matter of: Triennial Water Quality Review: Amendments to 35 Ill. Adm. Code 302.202, 302.212, 302.213, 304.122 &amp; 304.301 (Ammonia Nitrogen)</u> - James R. Thompson Center, Room 9-040, 100 West Randolph Street, Chicago.
February 23 10:00 a.m.	PCB 95-119 P-A, Land	<u>West Suburban Recycling and Energy Center v. EPA</u> - State of Illinois Building, 5th Floor, Room C-500, 160 North LaSalle Street, Chicago. (Consolidated with PCB 95-125.)
February 23 9:30 a.m.	R 96-4 R, Air	<u>In the Matter of: Listing of Federal Hazardous Air Pollutants, Greatlakes Commission's Toxic Compounds and Great Waters Program Toxic Compounds, and Source Reporting for Illinois Toxic Air Contaminants: Amendments to 35 Ill. Adm. Code 232</u> - Illinois Police Training Board, Conference Room, Third Floor, 600 South Second Street, Springfield.
February 27 10:00 a.m.	R 96-1 R, Land	<u>In the Matter of: Proposed Alternative Standards for New Utility Waste Landfills: Amendments to 35 Ill. Adm. Code 816</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
<b>March 7 10:30 a.m.</b>		<b>Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago</b>
March 7 10:00 a.m.	R 96-13 R, Air	<u>In the Matter of: 15% ROP Plan: Clean-Up Part II: Amendments to 35 Ill. Adm. Code 218 and 219</u> - James R. Thompson Center, Suite 9-025, 100 West Randolph Street, Chicago.
March 12 10:30 a.m.	PCB 95-73 N-E, Citizens	<u>Dennis Manarchy, Mary Beth Manarchy, Chris Mandoline, Beverly Kagy-Mandoline, Surrounding Neighbors v. The Gotham Nightclub, JJJ &amp; Associates, Inc.</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
March 20 10:00 a.m.	PCB 94-27 A-V	<u>Marathon Oil Company v. EPA</u> - Crawford County Courthouse, Grand Jury Room, Court Street, Robinson.
March 20 10:00 a.m.	PCB 94-150 A-V	<u>Marathon Oil Company v. EPA</u> - Crawford County Courthouse, Grand Jury Room, Court Street, Robinson.

<b>March 21 10:30 a.m.</b>		<b>Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago</b>
March 21 10:00 a.m.	R 96-13 R, Air	<u>In the Matter of: 15% ROP Plan: Clean-Up Part II: Amendments to 35 Ill. Adm. Code 218 and 219</u> - James R. Thompson Center, Suite 9-025, 100 West Randolph Street, Chicago.
<b>April 4 10:30 a.m.</b>		<b>Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago</b>
<b>April 18 10:30 a.m.</b>		<b>Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago</b>
<b>May 2 10:30 a.m.</b>		<b>Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago</b>
<b>May 16 10:30 a.m.</b>		<b>Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago</b>
<b>June 6 10:30 a.m.</b>		<b>Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago</b>
<b>June 20 10:30 a.m.</b>		<b>Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago</b>

**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 <sub>2</sub>	SO <sub>2</sub> 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		

## **RULEMAKING UPDATE**

### **T**RIENNIAL WATER QUALITY REVIEW AMENDMENTS PROPOSED FOR SECOND FIRST NOTICE, R94-1(A) & (B)

On January 4, 1996, the Board proposed amendments to the Illinois water pollution control regulations based on a proposal filed by the Illinois EPA (Agency). The Agency submitted its proposal after conducting its triennial review of Illinois stream water quality to satisfy the requirements of the federal Clean Water Act (33 U.S.C. §§1251 *et seq.*) The Board's order severed docket R94-1 into subdockets A and B, to deal with lead and mercury (subdocket A) separately from ammonia nitrogen (subdocket B). The amendments proposed for second First Notice publication in the *Illinois Register* related to lead and mercury water quality standards. A Notice of Proposed Amendments appeared in the January 26, 1996 *Register*, beginning the 45-day public comment period.

As previously reported *see issue 500, Jan., 1996*) the Board has scheduled a public hearing on the subdocket in the triennial water quality review proceeding relating to ammonia nitrogen, R94-1(B). The hearing will occur as follows:

10:00 a.m., Thursday, February 22, 1996  
James R. Thompson Center, Room 9-040  
100 West Randolph Street  
Chicago

The hearing officer order scheduling the hearing required the filing of pre-filed testimony by January 26, 1996 and the filing of pre-filed questions by February 9, 1996. That order outlines 14 specific questions in four informational categories that the Board wants addressed at the hearing. The informational categories relate to the current position of U.S. EPA on ammonia nitrogen, sister states' standards, regulatory impact, and technical aspects of the proposal.

The larger Illinois EPA (Agency) water quality proposal, docketed by the Board as R94-1, proceeded from a mandatory triennial review of the Illinois stream water quality regulations required under the federal Clean Water Act (33 U.S.C. §§1251 *et seq.*). The Agency filed the proposal on February 24, 1994, and the Board accepted it on March 17, 1994. The Board decided to proceed on the proposal as a Section 28.2

federally required rule on May 5, 1994. The larger proposal would amend Parts 302 and 304 of the Water Pollution Control regulations to revise the standards for ammonia nitrogen, mercury, and lead general water quality standards; secondary contact and indigenous aquatic life standards; and other regulations.

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 in Chicago on November 8, 1995. As observed in the hearing officer order scheduling the pre-hearing conference, those Notices have since expired, and the Board will have to consider the proposal again for First Notice publication. The Board has already conducted three public hearings on the proposal, on November 10, 1994 and January 26, 1995, in Chicago, and on November 22, 1994, in Springfield. (*Issues 481, April, 1994; 483, June, 1994, 487, Oct., 1994 & 497, Oct., 1995.*)

Direct questions to Diane F. O'Neill, at 312-814-6062 (Internet: doneill@pcb016r1.state.il.us. Please refer to docket R94-1.

### **C**ITIZENS UTILITIES SITE-SPECIFIC RULEMAKING DISMISSED, R81-19

On January 18, 1996, the Board granted voluntary dismissal of docket R81-19, a site-specific rulemaking proceeding involving wastewater discharges of Citizens Utilities Company into the Lily Cache Creek. The petitioner's motion to dismiss stated that the Illinois EPA had issued a revised NPDES permit to the DuPage County facility as a result of settlement of a federal enforcement action, rendering the rulemaking petition moot. The petition was before the Board on remand from the Third District, in *Citizens Utilities Co. v. PCB* (3d Dist. 1991), 216 Ill. App. 3d 629, 576 N.E.2d 415. Direct questions to Musette H. Vogel, at 217-524-8509 (Internet: mvogel@pcb084r1.state.il.us. (Please refer to docket R81-19.)

### **B**OARD ADOPTS AMENDED TITLE 2 ADMINISTRATIVE RULES

The full opinion and order of the Board begins on the following page.

**ILLINOIS POLLUTION CONTROL BOARD**

January 18, 1996

IN THE MATTER OF:	)	
	)	
ILLINOIS POLLUTION CONTROL	)	
BOARD ADMINISTRATIVE RULES:	)	R96-15
ORGANIZATION, PUBLIC	)	(Rulemaking)
INFORMATION AND PROCEEDINGS.	)	

Adopted Rule.    Final Order

**OPINION AND ORDER OF THE BOARD (by C.A. Manning):**

Pursuant to Section 5-15 of the Illinois Administrative Procedure Act (APA) (5 ILCS 100/5-15) and Section 140/4 of the Freedom of Information Act (FOIA) (5 ILCS 140/4), the Board is required to maintain current administrative rules which describe how the Board is organized, how it operates, and how it provides the public access to information. These rules are intended to implement the mandates set forth in those statutes. Additionally, the Board also takes final action today in R96-14 to repeal the Board's former administrative rules found at 2 Ill. Adm. Code 2175 of the Administrative Code.

As the administrative rules were last adopted and amended over ten (10) years ago, in 1984, these rules reflect the various changes in the Board's operation which have occurred since that time and include a current organizational chart. Additionally, these rules reflect the most current innovations of the Board's public access and the electronic address of the Board's Home Page found at the World Wide Web of the Internet. The rules explain that the Board's Home Page can be accessed for timely information on the Board's meeting schedules and agendas, minutes of regular Board meetings, rulemakings, legislative updates, Appellate Court updates, biographical information on Board Members, staff information, pending environmental regulations and for copies of the Board's monthly newsletter *Environmental Register*.

These administrative rules are effective immediately upon filing with the Secretary of State. They will be published in the *Illinois Register* and will appear in the Illinois Administrative Code at 2 Ill. Adm. Code 2175. Additionally, the rules will be immediately placed on the Board's Home Page of the World Wide Web of the Internet and they will appear in the *Environmental Register*.

**ORDER**

The Board hereby adopts the following rules as 2 Ill. Adm. Code 2175.100 through 2175.600:

**TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE E: MISCELLANEOUS STATE AGENCIES  
CHAPTER XXVII: POLLUTION CONTROL BOARD**

**PART 2175  
ORGANIZATION, PUBLIC INFORMATION, AND TYPES OF PROCEEDINGS**

**SUBPART A: INTRODUCTION AND ORGANIZATION**

Section

- 2175.100 Summary and Purpose
- 2175.105 Board Membership
- 2175.110 Organization and Supervisory Relationships
- 2175.115 Location of Offices
- 2175.120 Board Meetings
- 2175.125 Public Notice of Board Meetings
- 2175.130 Agenda of Board Meetings
- 2175.135 Minutes of Board Meetings
- 2175.140 Accessibility of Board Meetings and Hearings

**SUBPART B: FEES AND FORMS OF PAYMENT**

Section

- 2175.200 Filing Fees
- 2175.205 Photocopying Fees
- 2175.210 Photocopying Procedures
- 2175.215 Forms of Payment
- 2175.220 Other Fees/Costs

**SUBPART C: PUBLIC INFORMATION**

Section

- 2175.300 Files Open to Reasonable Public Inspection
- 2175.305 Publications
- 2175.310 Board's Home Page on World Wide Web Internet
- 2175.315 Documents Available from the Clerk's Office
- 2175.320 Requests For Information

**SUBPART D: ACCESS TO BOARD RULES**

Section

- 2175.400 Access to Board Rules in the Illinois Administrative Code

**SUBPART E: RULEMAKING**

Section

- 2175.500 Proposals
- 2175.505 Initial Hearing
- 2175.510 First Notice
- 2175.515 Second Notice
- 2175.520 Adopted Rules
- 2175.525 Emergency Rules
- 2175.530 Peremptory Rules
- 2175.535 Adoption of Federal Regulations

**SUBPART F: ADJUDICATORY PROCEEDINGS**

Section  
2175.600 Adjudicatory Proceedings

**APPENDIX A: ORGANIZATIONAL CHART**

**AUTHORITY:** Implementing Section 5-15 of the Illinois Administrative Procedure Act (5 ILCS 100/5-15) and authorized by Section 5 of the Illinois Environmental Protection Act (415 ILCS 5/5).

**SOURCE:** Administrative rules adopted at 3 Ill. Reg. 23, p. 96, effective May 29, 1983; repealed by operation of law effective October 1, 1984; new rules adopted at 9 Ill. Reg. 107, effective December 21, 1984; old rules repealed and new rules adopted at @ Ill. Reg. \_\_, effective \_\_\_\_\_, 1996.

**SUBPART A: INTRODUCTION AND ORGANIZATION**

**Section 2175.100 Summary & Purpose**

As required by Section 5-15 of the Illinois Administrative Procedure Act (APA) (5 ILCS 100/5-15) and Section 140/4 of the Freedom of Information Act (FOIA) (5 ILCS 140/4), this Part sets forth the administrative rules which apply to the Illinois Pollution Control Board (Board). These rules are intended to generally explain what the Board is, how the Board is organized and operates, and how the public can get information from the Board. These rules do not explain, and are not intended to explain, the Board’s procedural requirements for processing rules and cases. Those procedural rules are found at 35 Ill. Adm. Code 101-120.

**Section 2175.105 Board Membership**

- a) The Board was created pursuant to Section 5 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/5). The Board is a quasi-legislative and quasi-judicial administrative agency responsible for adopting environmental regulations and deciding certain environmental disputes and cases brought pursuant to the Illinois Environmental Protection Act. The Board determines, defines and implements environmental control standards in accordance with the Illinois Environmental Protection Act.
- b) The Board is comprised of seven technically qualified members. The members are appointed by Governor with the advice and consent of the Senate, for a term of three years.
- c) The Governor designates one member to serve as Chairman. The Chairman serves at the pleasure of the Governor and is responsible for the administration of the Board.

**Section 2175.110 Organization and Supervisory Relationships**

- a) Each member of the Board is aided by a confidential assistant who may be an attorney or who may have an advanced technical degree, and a personal secretary. The Chairman may have two confidential assistants and a personal secretary.
- b) In order to carry out its functions, the Board is comprised of the following offices and units: Clerk’s Office, Legal Unit, Hearings Unit, Technical Unit, and Fiscal Unit. The function of each is as follows:
  - 1) Clerk’s Office. This Office is responsible for the processing, maintenance and distribution of all case related materials of the Board. The Clerk’s Office is located in Chicago.

- 2) Legal Unit. This unit is responsible for general legal functions of the Board and case or rule-related legal responsibilities, as designated by the Chairman.
  - 3) Technical Unit. This unit is comprised of environmental specialists responsible for gathering such technical and scientific data as may be required by the Board in the performance of its duties and for advising the Board on technical issues related to pending cases and rulemakings, as assigned by the Chairman.
  - 4) Hearings Unit. Under the direction of a Chief Hearing Officer, this unit is comprised of attorneys responsible for conducting Board hearings throughout the state, making such rulings as may be necessary at hearing, and generally managing the Board's adjudicatory caseload.
  - 5) Fiscal Office. Under the direction of a Fiscal Officer, this unit is responsible for budgeting, expenditures, procurement, computer operations, and related duties.
- c) The Board also employs other professional staff to carry out its functions and mandates, including but not limited to an Executive Coordinator, a Public Affairs Coordinator, a Human Services Coordinator, and a Legislative and Governmental Affairs Coordinator.
- d) Organizational relationships are shown in the organizational chart in Appendix A at the end of this Part. Detailed descriptions of the specific responsibilities and duties of each of the job titles are maintained in the Chicago office.

#### Section 2175.115      **Location of Offices**

- a) The Board maintains two central offices, one in Chicago and one in Springfield. The Board may also maintain satellite offices in various regions of the State.
- b) The Clerk's Office is located in the Chicago Office. The address and general telephone number of the Chicago office is:
 

Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph St.  
Suite 11-500  
Chicago, Illinois 60601  
(312)-814-3620  
(312) 814-3669 (Fax)
- c) The Office of the Chairman, the Fiscal Office, and the Legislative/Government Affairs Coordinator are located in the Springfield office. The address and general telephone number of the Springfield office is:
 

Illinois Pollution Control Board  
600 South Second Street  
Suite 402  
Springfield, Illinois 62704  
(217)-524-8500  
(217) 524-8508 (Fax)
- d) The Board maintains satellite offices in the following locations:
 

Illinois Pollution Control Board

110 South State Street  
Jerseyville, Illinois 62052  
(618) 498-9802  
(618) 498-5934 (Fax)

Illinois Pollution Control Board  
148 North Third Street  
PO Box 505  
DeKalb, Illinois 60115  
(815) 753-1904  
(815) 753-1970 (Fax)

**Section 2175.120 Board Meetings**

- a) The Board makes all decisions on adjudicatory cases and regulatory matters at open meetings of the Board noticed and held in accordance with the Open Meetings Act (5 ILCS 120/1 et seq). The Board may hold closed meetings pursuant to Section 120/2(a) of the Open Meetings Act (5 ILCS 120/2(a)).
- b) Meetings may be held when a quorum, constituted by four members of the Board, is present. Four affirmative votes are required for any final determinations of the Board, except in a proceeding to remove a seal under Section 34(d) of the Illinois Environmental Protection Act (415 ILCS 5/34(d)).
- c) Meetings may be held with Board members physically present or present telephonically.
- d) Section 5 of the Illinois Environmental Protection Act requires the Board to hold at least one meeting each month and allows the Board to hold special and emergency meetings (415 ILCS 5/5). The Chairman or two Board Members may call a special meeting of the Board.

**Section 2175.125 Public Notice of Open Board Meetings**

- a) Public Notice of Regular Meetings Regular Board meetings are generally held every first and third Thursday of the month at the James R. Thompson Center (JTRC) in Chicago, but dates, times and locations are subject to change. Notification of these meetings is given in the Board's *Environmental Register* and on the Board's Home Page (see Section 2175.310). Notification of all Board meetings is also posted pursuant to the Open Meetings Act (5 ILCS 120/2.02 and 2.03). The schedule of meetings also appears at the end of every regular meeting agenda.
- b) Teleconferencing. The Board attempts to hold one meeting every quarter via teleconferencing equipment, with hook-ups in, at least, Chicago and Springfield. Both locations are open to the public.
- c) Public Notice of Special or Emergency Meeting Notice of special or emergency meetings will generally be given to all Board members and the public 48 hours prior to the meeting. The notice will include a copy of the agenda and will comply with the Open Meetings Act. If, however, a majority of the Board certifies that an emergency exists and exigencies of time are such that the 48-notice must be dispensed with, a special meeting may be called by the Chairman or two Board Members merely by posting notice in the Board's offices and giving notice to the public as far in advance as is practicable, but prior to the holding of such meeting.
- d) Notice to Media The Board gives notice of regular, special or emergency meetings to any news medium which has filed an annual request for such notice under Section 2.02(b) of the Open Meetings Act (5 ILCS 120/2.02(b)).



**Section 2175.130 Agenda of Board Meetings**

- a) The Board maintains an agenda of its open Board meetings in accordance with a section 2.02 of the Open Meetings Act (5 ILCS 120/2.02) Board agendas contain the list of cases and motions that may be decided by the Board at that meeting and are posted at the Board's offices and on the Board's Home Page (see Section 2175.310).
- b) The Board does not generally place any item on the agenda that has been filed less than two full days before a scheduled Board meeting.
- c) The Board may also issue an addendum to the agenda and, as provided for in Section 2.02(a) of the Open Meetings Act (5 ILCS 120/2.02(a)), may consider items not specifically set forth on the agenda.

**Section 2175.135 Minutes of Board Meetings**

The Board will keep minutes of all meetings. Minutes of all meetings subject to the Open Meetings Act shall be available to the public at the Clerk's Office or on the Board's Home Page (see Section 2175.302) within seven days of approval of the minutes. The minutes will include the time, date, and place of the meeting, the items decided and the numeric decision vote.

**Section 2175.140 Accessibility of Board Meetings and Hearings**

In compliance with the Americans with Disabilities Act and other applicable federal and state laws, the Board will make every effort to hold public meetings and hearings in facilities which are accessible to people with disabilities. Persons requiring such services should contact Dorothy Gunn, Clerk of the Board, at 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601 or at 312/814-3620 within five (5) days prior to a Board meeting or hearing.

**SUBPART B: FEES AND FORMS OF PAYMENT****Section 2175.200 Filing Fees**

- a) A person filing an action for which a filing fee is prescribed by the Illinois Environmental Protection Act shall pay that fee at the time the petition is presented to the Clerk for filing.
- b) The following initial filings require filing fees and will only be considered filed when accompanied by the appropriate fee, which may be paid in the form of government voucher, money order or check made payable to the Illinois Pollution Control Board, but which may not be paid in cash:
  - 1) Petition for Site-Specific Regulation, \$75.
  - 2) Petition for Variance, \$75.
  - 3) Petition for Review of Agency Permit Decision, UST Decision, or any other final appeal determination pursuant to Section 40 of the Illinois Environmental Protection Act (415 ILCS 5/40), \$75.
  - 4) Petition to Contest Local Government Pollution Control Facility Siting Decision, pursuant to Section 40.1 of the Illinois Environmental Protection Act (415 ILCS 5/40.1), \$75; and,
  - 5) Petition for Adjusted Standard, pursuant to Section 28.1 of the Illinois Environmental Protection Act (415 ILCS 5/28.1), \$75.

- c) The Clerk will refuse to file any petition which is not accompanied by the required fee. The fee must be paid in the form specified in Section 2175.215 of these rules.

**Section 2175.205 Photocopying Fees**

All files, records, and data may be copied at Board offices in Chicago upon payment of reasonable reproduction fees (415 ILCS 5/7) as follows:

- a) A copy of a single opinion and order will be furnished on request without cost, irrespective of length, with the dissenting and/or concurring opinion(s). Copies of multiple opinions and orders cost 75 cents per page.
- b) Hearing Transcripts cost 75 cents per page.
- c) All other documents cost 75 cents per page.
- d) State agencies are, upon request, provided copies of opinions and orders and transcripts free of charge.

**Section 2175.210 Photocopying Procedures**

- a) All files, records, and data may be copied at Board offices in Chicago upon payment. (415 ILCS 5/7.)
- b) The Board will contract for any copying that would impose a substantial administrative burden on the Board. The person requesting such copies will be charged the reproduction charges incurred by the Board.
- c) Requests for copies will be honored in as timely a manner as possible. Requests for copies by mail will be honored. However, the Board reserves the right to charge the requesting party for the mailing costs incurred by the Board.

**Section 2175.215 Forms Of Payment**

- a) Any amount over \$10 must be paid by check or money order made payable to the Illinois Pollution-Control Board. A state agency may use an Office of the Comptroller voucher to remit payment for filing fees and photocopy charges.
- b) In the event that a check for filing fees, paid pursuant to Section 7.5 of the Illinois Environmental Protection Act is not honored by petitioner's bank, the Fiscal Officer may require that payment be made within 48 hours by certified check or money order. Failure to make payment may subject the parties to sanctions, including penalties as provided for in the Board's procedural rules. (See 35 Ill. Adm. Code 101-120.)
- c) In the event that a check for photocopying charges is not honored by the remitter's bank, the Fiscal Officer may require that payment be made within 48 hours by certified check or money order. The Fiscal Officer may also require that photocopy fees be paid only by certified check or money orders prior to the conveyance of material for any firm or individual who remits to the Board a check which subsequently is not honored by the remitter's bank.

**Section 2175.220 Other Fees/Costs**

The Board may, in its procedural rules (see 35 Ill. Adm. Code 101-120), provide for the payment of certain types of its costs where appropriate.

## SUBPART C: PUBLIC INFORMATION

## Section 2175.300 Files Open to Reasonable Inspection

- a) The Clerk will maintain files containing all information submitted to or produced by the Board or any of its members relating to matters within the Board's jurisdiction. Without limiting the foregoing, the files will include: pleadings, motions, notices, minutes, transcripts, exhibits, orders and opinions, proposed and adopted regulations, the *Environmental Register* and other Board releases, business records, and informal complaints.
- b) Pursuant to the Illinois State Records Act, the Clerk shall maintain for five (5) years, all documents submitted by the parties in rulemaking and adjudicatory cases (5 ILCS 160/1). After five (5) years, the documents shall be microfilmed and the microfilm shall be maintained by the Board. Documents microfilmed for the Board's record are subject to destruction unless the parties request that the documents be returned at the closure of the five-(5) year period. Over-sized exhibits which are not capable of being microfilmed will be returned to the parties at their request or destroyed.
- c) All files, records, and data, other than personnel files, are maintained by the Clerk's Office and are available from the Clerk of the Board, in the Board's Chicago office only. Such types of material include but are not limited to:
  - 1) Documents filed within a case including, but not limited to appearances, pleadings, exhibits, motions, transcripts of hearings, and public comments;
  - 2) Opinions & Orders of the Board;
  - 3) Copies of documents published by the Board for use by the general public, such as the *Environmental Register*.
- d) The files, records, and data of the Board are open to reasonable public inspection and copying in the Board's Chicago office, except for information exempted pursuant to Section 7 of the Freedom of Information Act (5 ILCS 140/7), including but not limited to, information which constitutes a trade secret; information privileged against introduction in judicial proceedings; internal communication between the Board and/or staff; draft orders and opinions and orders; and technical unit memoranda.
- e) The Board has adopted procedural rules at 35 Ill. Adm. Code 120 to establish the procedures to be taken by any person to obtain trade secret protection as described in Section 7 of the Illinois Environmental Protection Act (415 ILCS 5/7). (See 35 Ill. Adm. Code 101-120.)

## Section 2175.305 Publications

- a) *Environmental Register*
  - 1) The Board will publish an *Environmental Register* containing reports of the Board's activities and notices of meetings and hearings. Single copies are provided free of charge at the Board's Chicago and Springfield Offices.
  - 2) A yearly hard copy subscription may be purchased, at a cost of \$20 to defer reproduction and distribution charges, by contacting the Board's Chicago office. Government entities and not-for-profit organizations properly categorized as such under the Internal Revenue Code may request a free hard copy subscription to the *Environmental Register*. Proof of organizational status is required.

- 3) The *Environmental Register* is provided free of charge on the Board's Home Page as described at Section 2175.310.
- b) Opinions, Orders, Regulations
- 1) Copies of opinions and orders of the Board are available upon request as provided at Section 2175.205(a).
  - 2) The Board's opinions and orders are also available through various commercial services including LEXIS and Westlaw.
  - 3) The Board's regulations are published in the *Illinois Register* (see Section 2175.305(d)) and by various commercial services. They are also published periodically by the Agency by subtitle and are available as quantities permit free of charge from the Board's Chicago office.
- c) Annual Report
- 1) The Board publishes an Annual Report of the Chairman. The report includes information regarding the Board's membership, regulatory and case activities for the fiscal year, a summary of legislative activity affecting the Board, a summary of Board decisions reviewed by the courts during the fiscal year, and information on administrative activities.
  - 2) When completed and printed, the Annual Report is available free of charge in reasonable quantities from the Board's Chicago and Springfield Offices.
- d) *Illinois Register*
- 1) Required Filings The *Illinois Register* is a publication containing all state regulations and is published by and available from the Office of the Secretary of State and various commercial services. The Board is required to publish the following information in the *Illinois Register*:
    - A. Notice of all proposed and adopted regulations as required by Section 5-40 of the APA. The notices describe the rules, contain contact names for questions and provide directions for participation at public hearings and submission of written comments.
    - B. Notice of all emergency and preemptory regulations as required by Sections 5-45 and 5-46 of the Illinois Administrative Procedure Act (5 ILCS 100/5-45 and 5/46). The notices describe the rules and contain contact names for questions.
    - C. Results of Board determinations in adjusted standards proceedings pursuant to Section 28.1 of the Illinois Environmental Protection Act (415 ILCS 5/28.1). The Board publishes this list at the close of each fiscal year, in July or August depending upon the *Illinois Register* publication schedule.
    - D. A regulatory agenda which sets forth rules which the Board may be considering during a six-month period. This agenda is to list rules in advance of publication of the notices described in subsection (d)(i) of this section. The regulatory agenda appears in January/February or July/August of each year, depending upon the *Illinois Register* publication schedule. The agenda describes the anticipated rules, contains contact names for questions, and provides directions for public participation.

- 2) Discretionary filings, Section 7.3 of the Illinois Environmental Protection Act (415 ILCS 5/7.3) and Section 5-70(b) of the Illinois Administrative Procedure Act (5 ILCS 100/5-15) allow the Board to publish other documents concerning its activities. These include, but are not limited to, notices of public hearings, and notices of proposed and adopted identical in substance rules as discussed in Section 7.2 of the Illinois Environmental Protection Act (415 ILCS 5/7.2).

**Section 2175.310 Board's Home Page on World Wide Web Internet**

- a) The Board maintains a Home Page on the World Wide Web of the Internet. The information on the Home Page is continuously updated. The Board's Home Page includes, but is not limited to, the following information:
- 1) Board Members' Profiles
  - 2) *Environmental Register*
  - 3) Board Meeting Dates and Agendas
  - 4) Procedural Rules
  - 5) Administrative Rules
  - 6) Annual Reports
  - 7) Summary of Pending Rulemakings
  - 8) Summary of Recent Legislation Affecting the Board
- b) The information on the Board's Home Page can be downloaded free of Board charges. The Home Page can be accessed through the Internet using any commercially available on-line service. The Home Page can be accessed directly via the following electronic address:

<http://www.state.il.us/pcb/pcbhp.htm>

- c) The Board's Home Page can also be accessed through State of Illinois Home Page (under the "Agencies" option) at the following electronic address:

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

**Section 2175.315 Documents Prepared by the Clerk's Office**

Various documents are routinely prepared by and for the Clerk's office for internal use by the Board and are also available for inspection and copying. These include, but are not limited to, docket sheets, listings of cases by type and tracking sheets. Copies will be available within five (5) working days of a request at a cost of \$5.00 per page.

**Section 2175.320 Requests for Information**

- a) Informal requests for information may be made to any Board office. Informal requests will be filled promptly upon receipt of the request. However where a request for information maintained by the Clerk's Office is made at other than the Chicago office, some delay may be necessary to allow for the Clerk's office to provide the material. Inspection of documents can only take place at the Clerk's office.
- b) A Formal request for information pursuant to the Freedom of Information Act (FOIA) shall state that it is a formal request pursuant to FOIA. The formal request shall be addressed to the Clerk of the Board, who shall date stamp the request upon receipt. All formal requests will be processed pursuant to the time frame requirements set forth in FOIA. The FOIA requires an initial response to the request be made within seven (7) working days of receipt of the formal request, subject to ~~extension~~.

- 1) Any person whose formal request is denied by the Clerk may appeal such denial by filing a written notice of appeal addressed to the Chairman of the Board. The notice of appeal shall include a copy of the formal request, the Clerk’s denial letter, and a statement of why the person believes the denial was improper. The Chairman will determine in writing whether the Clerk’s denial was proper or improper, and will notify the person within seven (7) working days after receipt of the notice.
- 2) If the Chairman affirms the denial or fails to take action within seven (7) working days, the person may file suit in circuit court for injunctive or declaratory relief pursuant to Section 140/11 of the FOIA (5 ILCS 140/11).

**SUBPART D: ACCESS TO BOARD RULES**

**Section 2175.400 Access to Board Rules in the Illinois Administrative Code**

- a) All Board rules have been codified under Title 35 of the Illinois Administrative Code since October, 1983. Each general area of regulation has been assigned a particular Subtitle as set out below:

<u>SUBTITLE</u>	<u>SUBJECT MATTER</u>
A	Procedural Rules
B	Air Rules
C	Water Rules
D	Mine Rules
E	Livestock Waste
F	Public Water Supplies
G	Waste Disposal
H	Noise Rules
I	Nuclear Radiation
M	Biological Materials

- b) The Subtitles listed in Subsection (a), above, also include some rules of the Environmental Protection Agency and the Department of Natural Resources. The Board’s rules appear at Chapter I of each of the Subtitles.

**SUBPART E: RULEMAKING**

**Section 2175.500 Proposals**

- a) Rulemaking procedures are set out in 35 Ill. Adm. Code 102.
- b) Proposals for the adoption, amendment or repeal of a substantive regulation may be made by the Environmental Protection Agency (Agency), the Illinois Department of Natural Resources (Department), the Board or any member of the public. Proposals made by the Agency, Department or Board are automatically scheduled for hearings.
- c) In the case of a proposal made by a member of the public, the proposal must be accompanied by a petition signed by 200 persons, specifying home addresses, unless that requirement is waived by the Board. When the proposal is accompanied by a petition, the matter is placed on the agenda for Board decision. Generally, the Board will authorize a hearing unless it determines that the proposal is plainly devoid of merit, or deals with a subject on which a hearing has been held within the preceding six months, or is not accompanied by an adequate statement of supporting reasons. The proponent will be notified of an adverse decision and of the reasons for such a decision.

**Section 2175.505 Initial Hearing**

- a) All hearings on regulatory proposals are conducted according to 35 Ill. Adm. Code 102. These hearings are open to the public, and at such hearings, the public is permitted to examine the record, examine witnesses (except as limited by the Hearing Officer), testify and submit evidence.
- b) Unless otherwise directed by the Hearing Officer or the Board, the record remains open for public comment for a minimum of 14 days following the close of the hearing. Any person may make a written submission on the proposal within this period or during the first notice period pursuant to the Administrative Procedure Act (APA) (5 ILCS 100/5-5 et seq.).

**Section 2175.510 First Notice**

- a) The Board may adopt a proposed rule for first notice pursuant to Section 40 of the APA at any time after a regulatory proceeding is initiated (5 ILCS 100/5-40). Generally the Board does not proceed to first notice until merit and economic hearings have concluded and comments have been received unless there is a need to proceed more expeditiously.
- b) The public has a right to comment on the proposed rules during the first notice period and retains all other rights set out in Section 40 of the APA (5 ILCS 100/5-40).
- c) Pursuant to the Section 28 of the Illinois Environmental Protection Act, the Board may, in general, revise the proposed regulation before adoption without conducting further hearings (415 ILCS 5/28).

**Section 2175.515****Second Notice**

- a) Upon termination of the first notice period, the Board may adopt the proposal for second notice pursuant to Section 40 of the APA (5 ILCS 100/5-40), for review by the Joint Committee on Administrative Rules (JCAR).
- b) After the second notice period has commenced, the proposed rules will only be amended in response to JCAR recommendations.

**Section 2175.520 Adopted Rules**

- a) At the conclusion of the second notice period the Board may adopt a final opinion and order adopting the new rules and setting forth the reasons for adoption.
- b) The adopted rules are then filed with the Secretary of State and are published in the *Illinois Register* along with supporting information.

**Section 2175.525 Emergency Rules**

Pursuant to the Illinois Emergency Services and Disaster Act of 1975 (65 ILCS 5/1), on proclamation by the Governor, that a disaster emergency exists, or when the Board finds that a severe public health emergency is involved in relation to any proposed regulation, then such regulation shall take effect without delay and the Board may proceed with the required economic impact hearings while the regulation continues in effect. When such an emergency exists the customary 45 day notice provision is waived; however, notice and text of the emergency rule must be published in the *Illinois Register*. An emergency rule is effective for a maximum period of 150 days pursuant to Section 45 of the APA (415 ILCS 5/45), but it may be adopted as a permanent rule by following usual rulemaking procedures.

**Section 2175.530 Peremptory Rules**

When the Board is required by federal law, federal rules and regulations or by a court order to adopt a certain rule, that rule need not be published in the *Illinois Register* until it has been adopted pursuant to Section 40 of the APA (5 ILCS 100/5-70.) However, notice and text of the adopted rule must be published in the *Illinois Register* pursuant to Section 70 of the APA. (5 ILCS 100/5-70.)

**Section 2175.535 Adoption of Federal Regulations**

The Board adopts regulations in the following programs pursuant to Section 7.2 of the Illinois Environmental Protection Act (415 ILCS 5/7.2) that are identical in substance to federal regulations and which are exempt from Sections 5-35 and 5-40 of the Administrative Procedure Act (5 ILCS 100/5-35 and 5-40):

- a) Exemptions from the definition of volatile organic material: Section 9.1(e) of the Illinois Environmental Protection Act (415 ILCS 5/9.1(e),
- b) Underground injection control (UIC): Section 13(c) of the Illinois Environmental Protection Act (415 ILCS 5/13(c),
- c) Wastewater pretreatment: Section 13.3 of the Illinois Environmental Protection Act (415 ILCS 5/13.3),
- d) Safe Drinking Water Act (SDWA): Section 17.5 of the Illinois Environmental Protection Act (415 ILCS 5/17.5),
- e) Resource Conservation and Recovery Act Subtitle C hazardous waste (RCRA Subtitle C): Section 22.4(a) of the Illinois Environmental Protection Act (415 ILCS 5/22.4(a)),
- f) Resource Conservation and Recovery Act Subtitle I underground storage tank (UST): Section 22.4(d) of the Illinois Environmental Protection Act (415 ILCS 5/22.4(d)),
- g) Resource Conservation and Recovery Act Subtitle D municipal solid waste landfills (RCRA Subtitle D): Section 22.40(a) of the Illinois Environmental Protection Act (415 ILCS 5/22.40(a)).

**SUBPART F: ADJUDICATORY PROCEEDINGS****Section 2175.600 Adjudicatory Proceedings**

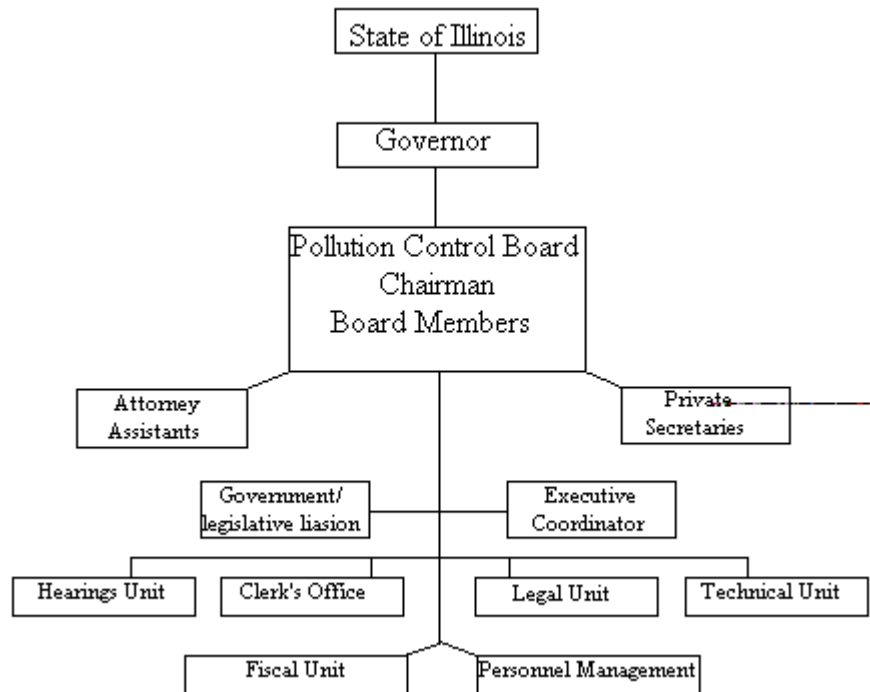
- a) The Board is authorized to hear the following types of adjudicatory cases. See 35 Ill. Adm. Code 101-120 for procedural rules governing the processing of these cases.
  - 1) Enforcement Action. The Illinois Attorney General or any person may initiate an enforcement action by the filing of a complaint pursuant to Section 31 of the Illinois Environmental Protection Act (415 ILCS 5/31).
  - 2) Permit Appeal. Any person who has been denied a permit or who has been issued a permit by the Illinois Environmental Protection Agency pursuant to Section 39 of the Illinois Environmental Protection Act (415 ILCS 5/39) with one or more conditions to which that person objects may file a petition with the Board for a review of the Agency's action.
  - 3) Pollution Control Facility Siting Review. An applicant for local siting approval of a pollution control facility who has been denied such approval by a county board or the governing body of a



municipality or third party who participated in the public hearing conducted by a county board or the governing body of a municipality may contest that decision by filing a petition for hearing pursuant to Section 40.1(a) of the Illinois Environmental Protection Act (415 ILCS 5/40.1(a)).

- 4) Variations/Adjusted Standards. Any person adversely affected by a Board rule or order may file a petition for a variance or adjusted standard pursuant to Section 37 of the Illinois Environmental Protection Act (415 ILCS 5/37).
- 5) Trade Secret Determination. Any person who is adversely affected by a trade secret determination made by the Illinois Environmental Protection Agency or the Illinois Department of Natural Resources may contest that determination to the Board.
- 6) Appeal of OSFM Denial of Eligibility to UST Program Owners or operators of underground storage tanks who have been denied eligibility to access the underground storage tank reimbursement fund by the Office of State Fire Marshal may petition for review pursuant to Section 57.9(c) of the Illinois Environmental Protection Act (415 ILCS 5/57.9(c)).
- 7) Appeal of Agency Decisions Regarding UST Program Owners or operators of underground storage tanks who have been denied reimbursement by the Agency may petition for review pursuant to Section 40 of the Illinois Environmental Protection Act (415 ILCS 5/40).
- 8) Pollution Control Facility Certifications Application for a pollution control facility certificate demonstrating that a particular facility is entitled to tax treatment as a pollution control facility as defined in Section 11-10 of the Property Tax Code may be filed with the Board pursuant to Sections 11-25 and 11-30 of that Code (35 ILCS 200/11-25 and 11-30).
- 9) Administrative Citations. The Agency or a unit of local government delegated authority by the Agency, may issue administrative citations for violations of the Illinois Environmental Protection Act, Section 21, and these citations shall be enforceable by filing copies with the Board pursuant to Section 31.1 of the Illinois Environmental Protection Act. (415 ILCS 5/31.1) The respondent named in the administrative citation may file a petition for review with the Board.
- 10) Water Well Setback Exceptions. A water well owner may petition the Board for an exception from the water well setback requirements of the Illinois Environmental Protection Act by filing a petition with the Board and the Agency pursuant to Section 14.2 of the Illinois Environmental Protection Act. (415 ILCS 5/14.2.)
- 11) Other. Any other proceedings which are authorized by the Illinois Environmental Protection Act or procedural rules may be brought before the Board pursuant to statutory authority and any Board regulations adopted thereunder.

APPENDIX A  
ORGANIZATIONAL CHART



IT IS SO ORDERED.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
DIVISION OF WATER POLLUTION CONTROL  
RESTRICTED STATUS LIST

In order to comply with 35 Illinois Administrative Code Section 306.401 Illinois Pollution Control Board Regulations, the Illinois EPA has prepared the following list of facilities which are on Restricted Status. Restricted Status is defined as the Agency determination that a sewer or lift station has reached hydraulic capacity or that a sewage treatment plant has reached design capacity, such that additional sewer connection permits may no longer be issued without causing a violation of the Act or Regulations. Please note that the list is continually being revised to reflect the current situation. Therefore, if you have any questions on the capability of a treatment facility or transport system, please contact this Agency for a final determination. This listing reflects the status as of December 31, 1995.

Facility names followed by an asterisk (\*) indicates that construction is underway to ultimately alleviate problems which resulted in imposition of Restricted Status. Facilities followed by a double asterisk (\*\*) are additions to the list.

<u>FACILITY NAME</u>	<u>RESPONSIBLE AUTHORITY</u>	<u>COUNTY</u>	<u>REMAINING CAPACITY</u>
Athens STP	City of Athens	Menard	0
Bourbonnais (Belle Aire Subd.)	Village of Bourbonnais	Kankakee	0
Camelot Utilities - Wastewater Collection System	Camelot Utilities	Will	0
Camp Point (a portion mh 60-68)	Village of Camp Point	Adams	0
Candlewick Lake STP	Consumer Ill. Water Co.	Boone	0
Canton - S.S. Surcharging New Salem, 4th Ave., Sycamore, Sycamore Terr., Main Street	City of Canton	Fulton	0
Chapin (North and South Main Terminal L.S.)	Village of Chapin	Morgan	0
Clearview S.D.	Clearview S.D.	McLean	0
East Alton STP	City of East Alton	Madison	0
Farmington	City of Farmington	Fulton	0
Highview Estates	Highview Water Co.	Tazewell	0
Lake Zurich - Knollwood, Minonski, Main Ls's	Village of Lake Zurich	Lake	0
Maple Lawn Homes STP	Maple Lawn Homes	Woodford	0
Riverton (Sewer System-Partial)	Village of Riverton	Sangamon	0
Rosewood Heights S.D.- Ninth Street LS	Rosewood Heights S.D.	Madison	0
Round Lake Beach- Oaktree Subd. Pumping Sta.**	America Today, Inc.	Lake	0
Sullivan Lake Development STP	Lake Development	Lake	0
Taylorville Shawnee Ave. Pump Station	City of Taylorville	Christian	0
Utilities Unlimited	Utilities Unlimited	Will	0
Viriden (Sewer System-Partial)	Viriden S.D.	Macoupin	0
Washington (Devonshire Estates)	City of Washington	Tazewell	0
Washington (Rolling Meadows)	City of Washington	Tazewell	0
Watseka STP	City of Watseka	Iroquois	0

Deletions from previous Quarterly Report None

**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
DIVISION OF WATER POLLUTION CONTROL  
CRITICAL REVIEW LIST**

In order to comply with 35 Illinois Administrative Code Section 306.401, Illinois Pollution Control Board ~~Regulation~~ the Illinois Environmental Protection Agency has prepared the following list of facilities which are on Critical Review. Critical Review as defined as the Agency determination that a sewer or lift station is approaching hydraulic capacity or that a sewage treatment plant is approaching design capacity such that additional sewer connection permit applications will require close scrutiny to determine whether issuance would result in a violation of the Act or Regulations. Please note that these lists are continually being revised to reflect the current situation. Therefore, if you have any questions on the capability of a treatment facility or transport system, please contact the Agency for a final determination. This listing reflects the status as of December 31, 1995.

Facility names followed by a double asterisk are additions to the list.

<u>FACILITY NAME</u>	<u>RESPONSIBLE AUTHORITY</u>	<u>COUNTY</u>	<u>REMAINING CAPACITY</u>	<u>PE ADDED SINCE LAST LIST</u>
Beecher STP	Village of Beecher	Will***	176	187
Benton-Southeast STP	City of Benton	Franklin	60	0
Bethalto (L.S. #1)	Village of Bethalto	Madison	87	0
Bolingbrook STP 2	Village of Bolingbrook	Will	630	0
Braidwood STP	City of Braidwood	Will	526	14
Carrier Mills	Village of Carrier Mills	Saline	836	0
Carrollton	City of Carrollton	Greene	140	0
Chester	City of Chester	Randolph	26	0
Crest Hill - West STP	City of Crest Hill	Will	0	200
Creve Coeur	Village of Creve Coeur	Tazewell	2,330	0
Downers Grove Sanitary Dist.	Downers Grove S.D.	DuPage	8,181	141
Earlville	City of Earlville	LaSalle	215	0
East Dundee STP	Village of E. Dundee	Kane	983	0
Elkville	Village of Elkville	Jackson	6	0
Elmhurst	City of Elmhurst	DuPage	0	49
Findlay	Village of Findlay	Shelby	60	0
Hebron	Village of Hebron	McHenry	0	0
Herrin	City of Herrin	Williamson	735	165
Herscher	Village of Herscher	Kankakee	365	0
Highland STP	City of Highland	Madison	523	607
Hoopeston	City of Hoopeston'	Vermilion	0	0
Kildeer-Bishop-Ridge STP	Village of Kildeer	Lake	40	0
CLPWD-Deerfield Rd. Interceptor	County of Lake Public Works Department	Lake	***	0
CLPWD-Diamond-Sylvan STP	County of Lake Public Works Department	Lake	248	0
Lake in the Hills S.D.	Village of Lake in the Hills	McHenry	1,650	787
Manhattan	Village of Manhattan	Will	0	0
Milan	Village of Milan	Rock Island	1,122	0
Moline (North Slope)	City of Moline	Rock Island	1,151	0
Mundelein STP	Village of Mendelein	Lake	583	297
O'Fallon	City of O'Fallon	St. Clair	650	0
Orangeville	Village of Orangeville	Stephenson	0	60
Pearl City	Village of Pearl City	Stephenson	0	35
Peotone	Village of Peotone	Will	195	0
Rock Island (Main)	City of Rock Island	Rock Island	5,001	0
Round Lake-Rosewood Sewage Pumping Station**	Village of Round Lake	Lake	97	0
Sycamore (Southwest)	City of Sycamore	DeKalb	0	0
Thompsonville STP	Village of Thompsonville	Franklin	35	0

Deletetions from previous quarterly reporNone

\*\*\*Contact IEPA - Permit Section

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