
ENVIRONMENTAL REGISTER

No. 494 *Illinois Pollution Control Board News* May, 1995

BOARD SCHEDULES ADDITIONAL "PROCESS" MEETINGS IN MAY AND JUNE

The Board has scheduled additional "process" meetings during May and June. These meetings will occur May 25 and June 8, 22, and 29, 1995. At these process meetings, the Board will deal with routine matters, such as accepting new cases, provisional variances, and routine motions. These newly-scheduled process meetings are in addition to the previously-scheduled regular Board meetings of May 4 and 18 and June 1 and 15.

RULEMAKING UPDATE

LOCATION OF WASTE MANAGEMENT FACILITIES IN 100-YEAR FLOODPLAINS INQUIRY HEARING TO OCCUR IN JUNE, R94-34

The Board intends to conduct an initial inquiry hearing in the matter of the location of solid waste management facilities in 100-year floodplains in Collinsville on June 28, 1995. The hearing officer will limit the scope of this first hearing to consideration of the public health and environmental impacts of locating hazardous and nonhazardous waste landfills in the floodplains. Issues relating to the impacts of other types of facilities, such as waste incinerators, surface impoundments, transfer stations, and treatment plants, are reserved for future hearings.

On December 14, 1994, the Board granted a motion filed by the Illinois Environmental Protection Agency (Agency) requesting that the Board hold inquiry hearings on the current statutory and regulatory status of landfills and other waste handling or treatment facilities in relation to Illinois' floodplains and floodways, and whether there is a public health or environmental impact. Currently, hazardous and non-hazardous landfills, in addition to surface impoundments, incinerators, and waste transfer

stations, may be located within 100-year floodplains. The Agency's motion for an inquiry hearing referenced the document, Floodplain Management: Local Floodplain Administrator's Manual, March 1993, Illinois Department of Transportation Division of Water Resources, in which the Illinois Department of Transportation stated that there is a higher risk of damage to facilities and contamination to the environment when a facility is located in the floodway portion of a floodplain, as opposed to the flood fringe.

The Agency's request arises from concerns that public health and the environment could be threatened during a 100-year flood when there is flooding of these types of facilities.

The Board authorized these inquiry hearings in order to solicit and consider public comment from private citizens, the regulated community, the various environmental agencies, and local Illinois communities, in order to obtain a clearer picture of the current statutory and regulatory scheme governing floodplain and floodway management and the location of waste handling facilities within Illinois' 100-year floodplains. The goal of these inquiry hearings is to allow the Board, through the receipt of public comment and testimony, to assemble an opinion and order that provides an overview of the problem and

the status of public opinion and the law. The object is to determine whether regulatory or statutory amendment is appropriate.

In requesting the public inquiry hearings, the Agency has requested that the comments or testimony presented in these inquiry hearings provide information on the following four questions:

- What type of facilities need to be regulated or prohibited from location within the floodplain?
- Should the entire floodplain be regulated or just the floodway?
- Should the 100-year floodplain be regulated or also the 500-year floodplain?
- If the Board were to decide that facilities should be regulated, or prohibited from location within the floodplain, then should new regulations affect currently permitted facilities or just new facilities and expansions?

The Board has tentatively scheduled an initial public hearing to occur as follows:

10:00 a.m., June 28, 1995
 Illinois Department of Transportation
 IDOT Classroom
 1100 EastPort Plaza Drive
 Collinsville.

The Board will limit the scope of the initial hearing testimony will be limited to the specific issue of the public health or environmental impact of the hazardous and nonhazardous landfills being located in Illinois' 100-year floodplains. The Board intends future hearings on the issues of how other waste-related facilities such as incinerators, surface impoundments, waste treatment plants, and waste transfer stations may impact public health and the environment if located in the floodways.

The Board will give the Agency an opportunity to share its experience in regulating and enforcing the Illinois statutory and regulatory provisions governing landfills located in the 100-year floodplains and its opinion regarding public health and environmental impact. The Agency will also offer testimony about its experience with the Great Flood of 1993.

Persons interested in appearing on the notice list, in participating in this proceeding, or in obtaining a copy of the hearing officer order relating to the public hearing should contact the hearing officer, Musette Vogel, at 217-524-8509. The Board has requested that the Agency file a synopsis of its intended

presentation in advance of the hearing, by June 14, 1995. Copies of the pre-filed testimony will be available from Vicki VonLanken, at the Agency, 2200 Churchill Road, Springfield, 217-782-5544, when it is available. Request copies of the Board order of December 14, 1994 from Victoria Agyeman, at 312-814-6924. Please refer to docket R94-34.

CLEAN-FUEL FLEET PROGRAM PROPOSAL FILED AND PROPOSED FOR FIRST NOTICE, R95-12

The Illinois EPA (Agency) filed a Section 28.5 "fast-track" rulemaking proposal on March 30, 1995 to establish clean-fuel fleet program requirements in Illinois. The Board proposed the regulations for First Notice publication in the Illinois Register on April 6, 1995. The public comment period will begin upon publication and will continue for 45 days from that date. (Editor's note: The Secretary of State has scheduled the Notice of Proposed Amendments to appear in the May 12, 1995 issue of the Illinois Register, so the APA public comment period will end on June 26.)

The Agency stated in its rulemaking proposal that these rules are necessitated by the federal Clean Air Act Amendments of 1990 (CAAA). The CAAA requires a reduction in ozone precursor emissions in areas that are nonattainment for ozone. As part of the federal requirements, states must adopt a clean-fuel fleet program for areas that are federally-designated as serious, severe, and extreme for ozone nonattainment.

The Chicago metropolitan area is designated as severe, so a clean-fuel fleet program is required for that part of the state. The program would require fleet owners that acquire new motor vehicles to use a specified minimum percentage of clean-fuel vehicles (CFFVs), which meet low emissions requirements established by U.S. EPA, as part of those fleets, beginning with model year 1998.

The Board accepted the clean-fuel fleet program rulemaking proposal pursuant to the "fast-track" rule-making provisions of Section 28.5 of the Environmental Protection Act (Act). Section 28.5 requires the Board to proceed within set time-frames toward the adoption of the proposed amendments. The Board lacks any discretion under the statute to adjust these time-frames under any circumstances. Under Section 28.5(o), the Board must have adopted the regulations for Second Notice within 130 days on receipt of the regulations from the Agency. Section 28.5(p) requires that the Board must adopt and file

final rules based on the regulations within 21 days of when it receives a Certificate of No Objection from JCAR.

The statute requires the Board to schedule three hearing dates, each for a prescribed purpose. The first day of hearing is reserved for presentations by the Agency and questions of Agency witnesses. The second scheduled day of hearing, if it occurs, is reserved for presentations by affected entities and all other interested persons. The third scheduled day of hearing, if it occurs, is reserved for any Agency response and responses of other parties. The hearings will be continued from day to day, as necessary, until all business is completed. However, the second and third hearing dates are subject to cancellation if the level of public interest and participation so warrant. The Board has scheduled hearings to occur at the James R. Thompson Center, 100 West Randolph Street, Room 9-040, Chicago, as follows:

10:00 a.m., Thursday, May 19, 1995

10:00 a.m., Friday, June 16, 1995

10:00 a.m., Friday, June 30, 1995

Direct questions on the clean-fuel fleet program proposal to Chuck Feinen, at 312-814-3473. Request copies of the First Notice opinion and order from Victoria Agyeman, at 312-814-6920. Please refer to docket R95-12.

PARTS IV, V & VI 15% ROP ADOPTED, R94-21, R94-31 & R94-32

On April 20, 1995, the Board adopted three more parts of the 15 percent rate of progress (ROP) plan. These three parts, the Part IV Regulations, docketed as R94-21, the Part V ROP regulations, docketed as R94-31, and the Part VI regulations, docketed as R94-32, are segments of regulatory amendments necessitated by the federal Clean Air Act Amendments of 1990 (CAAA).

The CAAA requires a reduction in ozone precursor emissions in areas designated as moderate or severe nonattainment for ozone. In sum, all the seven ROP plan segments would seek a 15 percent 1990 VOM emissions levels in the Chicago and Metro-East St. Louis areas. The Agency has stated that the state is federally required to reduce VOM emissions by 250 tons per day (tpd) in the Chicago area and by 27 tpd in the Metro-East area. (See issues 483, June, 1994; 484, July, 1994; 485, Aug., 1994; 486, Sept., 1994; 487, Oct., 1994; 488, Nov., 1994 & 492, Mar., 1995.)

The adoption of these three parts of the ROP plan leaves only the Part VII segment, docketed as R94-33, for further Board action. The Board had previously completed three others of the seven 15% ROP proceedings: R94-12, R94-16, and R94-16. (Editor's note: At the time this issue was assembled, the Part VII 15% ROP Plan matter was adopted at the Board meeting of May 4, 1995.)

The Board accepted each of the seven 15% ROP plan rulemaking proposals pursuant to the "fast-track" rulemaking provisions of Section 28.5 of the Environmental Protection Act (Act). Section 28.5 requires the Board to proceed within set time-frames toward the adoption of the proposed amendments. The Board lacks any discretion under the statute to adjust these time-frames under any circumstances. Under Section 28.5(o), the Board must have adopted the regulations for Second Notice within 130 days on receipt of the regulations from the Agency. Section 28.5(p) requires that the Board must adopt and file final rules based on the regulations within 21 days of when it receives a Certificate of No Objection from JCAR.

The three parts of the Illinois ROP plan that were the subject of April adoption by the Board and their procedural histories are described as follows:

Part IV 15% ROP Regulations, R94-21

The Part IV 15% ROP regulations, docketed as R94-21, lower the allowable VOM content of coatings for several categories of surface coaters: the can, paper, coil, fabric, vinyl, metal furniture, baked large appliance, and miscellaneous parts and products coating categories. The Part IV regulations also impose reductions in VOM emissions from sources in the automotive/transportation and business machine plastic parts coating categories that exceed specified emissions levels. The regulations further make the VOM emissions limits applicable to wood furniture coating operations at a lowered threshold. The Part IV regulations also require specified controls on synthetic organic chemical manufacturing industry (SOCMI) distillation and reactor processes and on bakery industry ovens. Finally, the amendments make a number of minor amendments and corrections to the regulations, largely in response to comments submitted by U.S. EPA and affected entities.

The Illinois EPA (Agency), in filing the proposal that resulted in the Part IV amendments, contemplated that the coatings operations amendments would reduce VOM emissions by 10.16 tpd in the Chicago area and by 0.39 tpd in the Metro-East area. It estimated that

the automotive/transportation surface coating aspects of the proposal would reduce VOM emissions by 0.28 tpd in the Chicago area, but it anticipated no reductions in the Metro-East area. The Agency anticipated no VOM reductions from either of the wood furniture coating or the SOCOMI amendments in the Chicago or the Metro-East areas. Rather, the Agency included the wood furniture coating controls to avoid expected future increases in emissions and the SOCOMI amendments to incorporate a new federal control technology guideline (CTG) as RACT. The Agency expected a 0.98 tpd reduction in VOM emissions in the Chicago area and no reduction in the Metro-East area from the bakery oven amendments.

The Agency filed the Part IV 15% ROP proposal on September 12, 1994. The Board proposed the amendments for First Notice publication in the Illinois Register on September 15, 1994. The Board conducted public hearings on these amendments on November 4 and December 2 and 16, 1994. On January 26, 1995, the Board proposed the Part VI 15% ROP plan for Second Notice review by the Joint Committee on Administrative Rules (JCAR), and JCAR issued Certificates of No Objection relating to the amendments on March 14, 1995. That freed the Board to adopt the amendments. The amendments will become effective when filed with the Secretary of State. (Editor's note: At the time this issue was assembled, the Board was making final preparations for filing the Parts IV, V, and VI 15% ROP amendments together during the first week in May.)

Direct questions on the Part IV regulations to Marie E. Tipsord, at 312-814-4925 or 618-498-9803. Please refer to docket R94-21.

Part V 15% ROP Regulations, R94-31

The Part V regulations lower the allowable VOM emissions from lithographic printing operations in the Chicago and Metro-East areas. The Part V regulations add definitions of non-heatset and sheet-fed lithographic printing, as-applied foundation solution, and alcohol. The regulations further establish control measures for VOM emissions from lithographic printers in the Chicago and Metro-East areas. The Part V regulations also make minor corrective amendments to the existing regulations.

The Agency, in filing the proposal that resulted in the Part V amendments, contemplated that the Part V amendments would affect about 113 facilities in the Chicago area and one source in the Metro-East area. It estimated that the Part V regulations would reduce VOM emissions by 4.0 tpd in the Chicago area and by

minimal amounts in the Metro-East area.

The Agency filed the Part V regulations with the Board on October 28, 1994, and the Board proposed it for First Notice publication in the Illinois Register on November 3, 1994. The Board conducted hearings on these amendments in R94-31 on December 15, 1994 and January 9, 1995. The Notices of Proposed Amendments appeared in the Illinois Register on December 2, 1994, and the First Notice public comment period ended on January 16, 1995. The Board proposed the amendments for Second Notice review by JCAR on February 23, 1995, and JCAR issued Certificates of No Objection relating to the amendments on March 14, 1995. That freed the Board to adopt the amendments. The amendments will become effective when filed with the Secretary of State. (See the editor's note under Part IV above.)

Direct questions on the Part V regulations to Kevin Desharnais, at 312-814-6926. Please refer to docket R94-31.

Part VI 15% ROP Regulations, R94-32

The Part VI regulations lower the allowable VOM emissions from motor vehicle refinishing operations in the Chicago and Metro-East areas. The Part VI regulations impose limitations on the VOM content of coatings and surface preparation materials, require the use of specific coatings applicators and applicator cleaning equipment, and provide a control equipment alternative. The regulations further impose record-keeping and reporting requirements on refinishers.

The Agency, in filing the proposal that resulted in the Part IV amendments, contemplated that the Part VI amendments would reduce VOM emissions by 16.3 tpd in the Chicago area. The Agency estimate of reduction of VOM emissions in the Metro-East area was 1.2 tpd.

The Agency filed the Part VI regulations on October 28, 1995. On November 3, 1994, the Board proposed the Part VI ROP amendments for First Notice publication in the Illinois Register. Notices of Proposed Amendments appeared in the December 9, 1994 Illinois Register, starting the First Notice period. The Board conducted one public hearing on these amendments in R94-32 on December 16, 1994. The First Notice public comment period ended on January 23, 1995. The Board proposed the amendments for Second Notice review by JCAR on February 16, 1995, and JCAR issued Certificates of No Objection relating to the amendments on March 14, 1995. That freed the Board to adopt the amendments. (See the editor's note under Part IV above.)

Direct questions on the Part VI regulations to Audrey Lozuk, at 312-814-6923. Please refer to docket R94-32.

Request copies of any of the Board's actions on these amendments from Victoria Agyeman, at 312-814-6920. Please refer to the appropriate docket number.

SPECIAL WASTE VEHICLE NUMBER HEARINGS TO OCCUR IN JUNE, R95-11

The Board will conduct two public hearing in R95-11 in order to consider amending 35 Ill. Adm. Code 809.401. In this rulemaking the Board will gather testimony and hear evidence relating to changing the present requirement for marking the special waste hauler identification number on transport vehicles.

On March 16, 1995, the Board opened a docket to consider amendment of the special waste hauler requirements of the land pollution control regulations and authorized two hearings in the matter. (See issue 493, Apr., 1995.) The proceeding is considering replacing the existing requirement for marking transport vehicles with a special waste hauler permit number with a requirement that documentation indicating the permit number accompany the vehicle. A letter from the American Trucking Association (ATA) prompted this proceeding. The letter raised the issue of whether Section 809.401 of the special waste hauling regulations may have been preempted by the federal law, as interpreted by the U.S. Department of Transportation. The ATA suggested an amendment to Section 809.401 that was jointly drafted with the Agency.

In this rulemaking, the ATA and the Agency will present testimony in favor of amending Section 809.401 and have agreed to submit pre-filed testimony. The pre-filed testimony will be available after June 1, 1995 and can be obtained by contacting the Clerk's office. Time permitting, any member of the public may offer testimony, public comment or ask questions of the ATA and Agency witnesses at the June 7, 1995 hearing. Additionally, a public comment period is available until July 15, 1995 for any person interested in providing written comment.

The hearings are scheduled to take place as follows:

10:00 a.m., June 7, 1995
J.R.Thompson Center, Room 9-40
100 West Randolph Street,
Chicago.

10:00 a.m., June 21, 1995
Illinois Pollution Control Board
600 South Second Street, Suite 402
Springfield.

Both hearings are subject to cancellation with prior notice. Direct questions to Musette H. Vogel, at 217-524-8509. Request copies of the Board's March 16, 1995 order authorizing the matter for hearing from Victoria Agyeman, at 312-814-6920. Please refer to docket R95-11.

BOARD GRANTS EXPEDITED CONSIDERATION OF AMENDMENTS TO THE DEFINITION OF VOM, R95-2

On April 20, 1995, the Board proposed amendments, under docket number R95-2, to the definition of volatile organic material (VOM) for the purposes of the air pollution control regulations. The identical-in-substance amendments respond to a U.S. EPA amendment of its definition of volatile organic compound, which is the basis for the Illinois definition of VOM. The R95-2 docket includes this amendment as the only federal amendment that occurred in the update period July 1 through December 31, 1994. The 45-day public comment period will begin when a Notice of Proposed Amendments appears in the Illinois Register. After that time, the Board will be free to immediately adopt the amendments. (Editor's note: The Notice of Proposed Amendments will appear in the May 12, 1995 Illinois Register, so the public comment period will end on June 26, 1995.)

The proposed action follows the federal amendments. On October 5, 1994, U.S. EPA added one compound and a class of compounds to the list of chemical species that are exempted from the definition of VOM and, hence, are exempted from regulation for control of ozone precursors. The single compound is parachlorobenzotrifluoride (PCBTF), whose standard International Union of Pure and Applied Chemistry (IUPAC) name is p-chlorotrifluoromethylbenzene (or alternative common name is o-chloro- α,α,α -trifluorotoluene). The class of compounds are cyclic, branched, or linear completely-methylated siloxanes. The effect of this federal action was to exempt the emissions of these materials from controls for the purposes of state implementation plans for ozone--i.e., industries no longer needed to control emissions of these materials, and states could no longer take credit for their control as part of state implementation plans (SIPs).

The Board granted an Agency request for expedited consideration of the October 5 federal amendments on March 16, 1995. Attached to the Agency request were letters directed to the Agency from Occidental Chemical Corporation and Dow Corning Corporation requesting that Illinois amend the Illinois definition of VOM to include the new exemptions. (See issue 493, Apr., 1995.) The Board has scheduled one public hearing on the proposed rules, as required by the federal Clean Air Act, to occur as follows:

1:30 p.m., Wednesday, June 14, 1995
James R. Thompson Center, Suite 11-500
100 West Randolph Street
Chicago.

Direct questions to the hearing officer, Michael J. McCambridge, at 312-814-6924. Request copies of the proposed amendments from Victoria Agyeman, at 312-814-6920. Please refer to docket R95-2.

APPELLATE UPDATE

SECOND DISTRICT HOLDS THAT THE FAILURE TO ASSURE TIMELY DELIVERY OF INDIVIDUAL NOTICE OF A PETITION FOR LOCAL SITING APPROVAL DEPRIVED THE COUNTY BOARD OF JURISDICTION TO HEAR THE PETITION; INITIALLY RAISING IT ON APPEAL TO THE PCB DID NOT WAIVE THE ISSUE

An appellate court recently affirmed the Board's reversal of local siting approval for a regional pollution control facility. In *Ogle County Board v. PCB* (2d Dist. Apr. 20, 1995), No. 2-94-0074, the Second District held that the 14-day prior individual written notice requirement of Section 39.2(b) of the Act was a jurisdictional prerequisite to the county board's authority to hear the application for approval.

The court also held that the challenger had standing to challenge the siting approval and the fact that he did not raise the issue of notice until after his appeal was pending before the Board did not constitute a waiver of that issue.

Browning-Ferris Industries of Illinois, Inc. (BFI) sent individual written notices to certain required individuals of its intent to file an application for local siting approval of a landfill expansion with the Ogle County Board (county board) by registered mail 17 days prior to the filing of its application. The post office placed a notice slip pertaining to the attempt to deliver one of those written notices in the local state

senator's post office box on the next day. The state senator's agent signed for delivery of the written notice 11 days before the filing of the petition. The county board conducted proceedings on the application and granted local siting approval.

The challenger appealed the county board decision to the Pollution Control Board (Board). BFI asserted that the challenger lacked standing to maintain the appeal. At the public hearing before the Board, the challenger first raised the issue of the county board's lack of jurisdiction due to the defective individual notice to the state senator. The Board vacated the county board's grant of siting approval, in *Browning-Ferris Industries of Illinois, Inc. v. Ogle County Board* (Oct. 7, 1993), PCB 93-114 (see issue 476, Nov. 3, 1993), holding that the challenger had standing to appeal the county board's determination and that the individual notice to the local state senator was defective, so that the county board lacked jurisdiction to grant the approval.

BFI appealed the Board's reversal to the Second District appellate court. It raised the issue of the challenger's standing to appeal the county board's decision. It also argued that the individual notice to the state senator fulfilled the statutory requirements. Finally, BFI asserted that the challenger had waived any issue of defective individual notice by not raising it earlier in the proceedings.

On the issue of standing to appeal the county board's decision, the court examined the statutory language of Section 40.1(b). It noted that the requirement that the appellant be "affected by" the local siting approval is the controlling language for determining standing to appeal. The Second District distinguished local siting appeals from other cases where the appellant sought injunctive relief or challenged the constitutionality of the underlying statute and the court held that there was no standing. (Citing *Stark v. PCB* (1st Dist. 1988), 177 Ill. App. 3d 293, 532 N.E.2d 293; *Village of Lake in the Hills v. Laidlaw Waste Systems, Inc.* (2d Dist. 1986), 143 Ill. App. 3d 285, 492 N.E.2d 969.) The court looked to the facts of the case to determine whether the challenger had standing to appeal the county board's decision: the challenger lived 10 miles from the proposed facility, he was a director of a business located 2½ miles from the site, his business dealt with the farm that is presently located on the site of the proposed facility, and the proposed facility could cause an increase in the price of disposal of wastes from the challenger's businesses. Based on these facts, the court concluded that the challenger was so

located as to be affected by the proposed facility for the purposes of Section 40.1(b). Thus, the record supported the Board's conclusion that the challenger had standing to appeal the county board's siting approval.

In analyzing whether the challenger had standing as a third person to raise the specific issue of defective individual notice to the state senator, the Second District observed that an agency acts without jurisdiction if it acts outside the scope of its statutory authority. The court noted that "jurisdiction" has three aspects in the context of administrative law: personal jurisdiction, subject-matter jurisdiction, and the scope of the agency's legislative authority. Noting that the Act generally conferred subject-matter jurisdiction on the county board for siting approval for the siting of the regional pollution control facility, the Second District stated that the siting applicant must comply with the notice requirements of Section 39.2(b) before the county board has jurisdiction over the particular case. Finding no reason to restrict the case law relating to the published notice requirements (citing *Concerned Boone Citizens, Inc. v. M.I.G. Investments, Inc.* (2d Dist. 1986), 144 Ill. App. 3d 334, 494 N.E.2d 180; *Kane County Defenders, Inc. v. PCB* (2d Dist. 1985), 139 Ill. App. 3d 588, 487 N.E.2d 748), the court held that a failure to comply with the individual notice requirements produces the same result: it deprives the county board of jurisdiction to consider the application. Since an order entered by an administrative agency that lacked the authority to enter that order is void, the Second District concluded that the challenger could not have waived the issue of defective individual notice by raising it late in the proceedings.

The Second District appellate court then considered whether the individual notice to the state senator was in fact defective. It noted that the Board had held that the applicant must file the individual notices sufficiently in advance so there is a reasonable expectation of receipt 14 days prior to the filing of the application. The court noted that the Illinois Supreme Court held, in the context of a forcible entry and detainer action, that certified mail is not considered complete until received (citing *Avdich v. Kleinert* (1977), 69 Ill. 2d 1, 370 N.E.2d 504). The Second District found no reason to distinguish the situation of an individual notice under Section 39.2(b) from personal notice in the context of forcible entry and detainer actions, and it held that "return receipt requested" in Section 39.2(b) indicates a legislative intent that delivery must be completed at least 14 days

prior to the filing of the application for siting approval. Noting that there was no evidence that the senator had avoided delivery of the notice, the court concluded that the individual notice to the state senator was defective because the senator's agent had signed for its receipt fewer than 14 days before BFI filed the petition.

Finally, observing again that the defective individual notice deprived the county board of jurisdiction to hear the landfill siting application, and repeating that a challenge to defective notice could be raised at any time, the Second District affirmed the Board's determination on the final issue. The court concluded that the Board did not abuse its discretion and deny BFI fundamental fairness in its denial of additional time and another hearing to address the issue of defective notice.

Presiding Justice McLaren wrote a separate dissent.

He would have interpreted the 14-day requirement of Section 39.2(b) as pertaining to mailing, rather than receipt of the individual notice. He would have further held that the failure to raise the issue of defective individual notice at an earlier stage in the proceedings constituted a waiver of the issue. Finally, justice McLaren would have held that the senator was constructively served when the notice was placed in the mail, based on the language of Section 39.2(b).

FOR YOUR INFORMATION

BOARD ESTABLISHES NEW AGENDA MANAGEMENT PROCEDURES

As part of an ongoing effort to streamline practice before the Board, the Board has established new agenda management procedures. In addition to reorganizing the format of the Board Meeting Agenda, and making stylistic changes, the Board has created a new schedule of the agenda's availability to the public, as well as new filing deadlines for items to appear on the agenda.

The agenda is now available to the public after 10:30 a.m. each Tuesday preceding a scheduled Board Meeting. Only cases or regulatory matters that are filed prior to 4:30 on the Monday prior to the Board Meeting will appear on the Agenda. If necessary, the Board may make an addendum to the agenda available to the public by 2:00 p.m. on the Wednesday prior a Board Meeting Scheduled on Thursday. The addendum will list any provisional variances or new cases that are filed by noon on that Wednesday. However, matters or motions filed after 4:30 p.m.

Monday will appear on the agenda only at the discretion of the Board.

Importantly, because the agenda lists all filings that the Board has received in that matter until it adopts an order or takes other action, the agenda now specifically states that the appearance of an item on the agenda does not necessarily indicate that action will be taken at that Board Meeting. The Board may hold an item for Board action in the future.

RESTRICTED STATUS AND CRITICAL REVIEW LISTS FOR SEWAGE TREATMENT IN THIS ISSUE

The Illinois Environmental Protection Agency, Division of Water Pollution Control, is publishing copies of the Division's Restricted Status and Critical Review lists at the end of this issue of the Environmental Register. These lists reflect the status as of March 31, 1995.

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 six such actions:

Delayed Effective Date for RCRA Subtitle D Financial Assurance Requirements

On April 7, 1995 (60 Fed. Reg. 17649), U.S. EPA delayed the effective date for the RCRA Subtitle D municipal solid waste landfill financial assurance requirements. The new effective date for 40 CFR 258, subpart G is April 7, 1997. The effective date was formerly April 7, 1995 (or October 7, 1995 for very small, remote landfills). (Editor's note: As this issue was prepared for printing, the Board adopted a proposal for public comment at the meeting of May 4, 1995 under docket number R95-13 relating to this revised date.)

Phase II NPDES Stormwater Discharge Permits

On April 7, 1995 (60 Fed. Reg. 17950), U.S. EPA published a direct final rule to establish the permit application process for Phase II NPDES stormwater discharge permits. Phase II stormwater discharges include all discharges that are exclusively stormwater discharges that are not Phase I stormwater discharges.

The regulations divide the universe of Phase II stormwater point source discharges into two tiers. The first

tier includes those Phase II discharges that the state determines are either contributing to water quality violations or significant pollutants to the stream. These dischargers must apply for a permit within 180 days of notice by the state. All other Phase II dischargers must apply within six years of the effective date of August 2, 1995.

The Clean Water Act amendments of 1987 required U.S. EPA to permit and regulate stormwater discharges. However, it prohibited U.S. EPA from demanding NPDES permit applications for stormwater discharges until October 1, 1994, with enumerated exceptions, known as Phase I discharges. Phase I discharges, for which U.S. EPA was allowed to demand a permit application, included the following: (1) those permitted prior to February 4, 1987, (2) discharges associated with industrial activity, (3) discharges from separate large municipal stormwater systems (serving a population of 250,000 or more), (4) discharges from separate medium municipal stormwater systems (serving a population from 100,000 to less than 250,000), and (5) discharges that the permitting authority (U.S. EPA or the state) had determined were either contributing to water quality violations or significant pollutants to the stream. Stormwater discharges excluded by statute from the permitting requirements are stormwater runoff from mining and oil and gas facilities if the discharge is not contaminated with overburden, raw material, product, byproduct, or waste on the site of the operations. Excluded from the statutory definition of point source (and, hence, from permitting) is agricultural runoff. Under the statute, U.S. EPA was to have issued Phase II NPDES regulations governing the excluded discharges by October 1, 1993.

U.S. EPA stated that it intends to publish proposed rules by September 1, 1997 to establish more detailed Phase II NPDES rules, possibly imposing NPDES discharge requirements, and to refine the Phase I rules. It anticipates adoption of those rules by March 1, 1999. U.S. EPA stated that it was unprepared to promulgate substantive regulations at this time because a number of problems have been identified that will require resolution before it finalizes NPDES stormwater regulations. It said that it can resolve some of the problems by regulation, but some resolutions will require legislative action.

Acid Rain Permit Program

On April 11, 1995 (60 Fed. Reg. 18462), U.S. EPA adopted a direct final rule amending the acid rain

permit program. The amendments, effective May 22, 1995, revised the reduced utilization rules in response to a settlement of several petitions for review. U.S. EPA stated that the amendments reduce the recordskeeping and reporting requirements for utilities.

U.S. EPA promulgated the acid rain permit program on January 11, 1993 (58 Fed. Reg. 3590). Phase I of the program applied to older and more polluting units; it began on January 1, 1995 and ends December 31, 1999. Phase II applies to all power generating units; it begins January 1, 2000. To avoid utilities shifting production to Phase II units to save Phase I allowances without any reduction in sulfur dioxide (SO₂) emissions, the CAA required submission of a reduced utilization plan if the utility intends to shift production to save Phase I allowances.

A Phase I unit is underutilized if its average fuel consumption falls below the 1985 through 1987 average. The CAA provides that a utility must compensate at the end of the year for emissions resulting from underutilization.

The January 11, 1993 regulations imposed requirements for submission of reduced utilization plans and surrender of allowances for underutilization.

A plan was necessary if the underutilization was for the purpose of complying with the SO₂ emissions requirements; it was not if the underutilization was incidental to utility operations. The April 11, 1995 amendments change this so that a plan is not needed if the allowance surrender and reporting requirements were met by the utility. They also clarified and revised segments of the dispatch system and Phase I unit apportionment, and emission rate calculation provisions, which enter into the allowance surrender calculations.

NO_x Emissions Reduction Program

On April 13, 1995, U.S. EPA adopted a direct final rule that reinstates amended nitrogen oxides (NO_x) emission limitations on coal-fired utility units. U.S. EPA stated that it did this in response to a judicial remand in *Alabama Power Co. v. EPA*, 40 F.3d 450 (D.C. Cir. 1994). The newly-issued regulations are intended to cure the defects in the rules cited by that court on appeal. The low NO_x burner technology definition was revised to comply with the decision. U.S. EPA stated that it further amended the compliance date for Phase I NO_x emission limitations, alternative emission limitation (AEL) provisions, and NO_x emissions averaging provisions. U.S. EPA

described the changes in the newly-issued regulations as reducing the burdens of compliance, extending compliance dates, and increasing compliance flexibility.

U.S. EPA adopted the NO_x emission limitations on March 22, 1994 (59 Fed. Reg. 13538), using low NO_x burner technology or an AEL for those units that could not achieve the limitations using low NO_x burner technology. The Alabama Power Co. court vacated the rule and remanded it to U.S. EPA, holding that U.S. EPA had exceeded its statutory authority in adopting the rule. On March 28, 1995, U.S. EPA environmental groups, and utility representatives entered into an agreement addressing the issues raised by the March 22, 1994 rules and the November 29, 1994 judicial remand.

Results of the Third Annual EPA/CBOT SO₂ Emissions Allowances Auction

On April 24, 1995 (60 Fed. Reg. 20086), U.S. EPA published the results of the March 27, 1995 sulfur dioxide (SO₂) emissions allowances trading at the Chicago Board of Trade (CBOT). The auction sold spot (1995), 6-year (2001), and 7-year (2002) allowances. The sales raised \$22,835,296, which U.S. EPA will turn over to the utilities from which it withheld the allowances or which offered the allowances.

The federal acid rain program provides for trading in emission allowances to reduce the total amount of acid rain-causing pollutants emitted, in this instance SO₂ by coal-fired utilities. An allowance is a transferable authorization to emit a quantity of the pollutant of concern. U.S. EPA issued allowances to certain existing utility facilities, and ultimately all utilities will receive allowances and be required to use them to emit SO₂. In issuing the allowances, U.S. EPA withheld 2.8 percent of them from the utilities. It was that small withheld segment and those contributed by utilities that were the subject of the auction.

The results for the three categories of allowances at auction were as follows:

CBOT received 89 bids for 255,371 1995 allowances. The auction sold 58,306 allowances (50,000 withheld and 8,306 voluntarily contributed) to 46 successful bidders for \$6,676,386 in the spot auction. The prices for 1995 allowances ranged from \$130.00 to \$350.00.

CBOT received 24 bids for 70,286 2001

allowances. The auction sold 25,400 allowances (25,000 withheld and 400 contributed) to nine bidders for \$3,319,026. The prices ranged from \$128.00 to \$160.00.

CBOT received 37 bids for 236,928 2002 allowances. The auction sold 100,400 allowances (100,000 withheld and 400 contributed) to 17 bidders for \$12,839,884. The prices ranged from \$126.00 to \$160.00.

Federal Title V Permits

On April 27, 1995 (60 Fed. Reg. 20804), U.S. EPA proposed rules for the issuance of federal Clean Air Act Amendments (CAAA) Title V permits. The proposed rules would establish the terms and procedures for federal issuance of Title V permits. Whereas U.S. EPA anticipates that the states will take the primary role in issuing these permits. The proposed rules would provide for those instances when there is no authorized state permit program or U.S. EPA determines the state program is not adequately administered. U.S. EPA intends to issue the permits under the rules to clarify applicable requirements for the facility, to enhance understanding of those requirements, and to enhance compliance.

**POLLUTION CONTROL BOARD
ELECTRONIC BULLETIN BOARD SYSTEM (BBS)**

The Pollution Control Board operates an electronic BBS at 312-814-1590. The BBS is available 24 hours a day, 7 days a week, to anyone with access to a computer and a modem - there is no charge for access to the BBS. The best communications settings are 8 data bits (or data length 8), no parity (or parity = none) and 1 stop bit, i.e., 8-N-1. The best terminal emulation is ANSI-BBS or just ANSI. The BBS contains Board Agendas, Environmental Registers, Annual Reports, and various documents about the Board.

You may download these documents to your computer. For additional information contact Sandy Wiley at the Board Offices 312-814-3623.

u
l
l
c
f
a
v
t
a
l
a

FINAL ACTIONS - April 6, 1995 BOARD MEETING

- 94-387 Mr. "C" Food & Liquor, Inc. v. Office of the State Fire Marshal - The Board granted voluntary withdrawal of this underground storage tank appeal involving a Cook County facility.

AC 94-54 EPA v Envirite Corporation - The Board granted voluntary withdrawal of the petition for review and entered a default order, finding that the Livingston County respondent had violated Sections 21(o)(5) and (o)(12) of the Act and ordering it to pay a civil penalty of \$1,000.00.
- 95-6 Silver Glen Estates v. EPA - The Board granted this Kane County facility a variance from the standards for issuance and restricted status provisions of the public water supply regulations, as these provisions relate to the standards for combined radium and gross alpha particle activity, subject to conditions.

AC 94-96 EPA v. M.K. O'Hara Construction, Inc., Kenneth O'Hara and Madalyn O'Hara - The Board found after hearing that the Cass County respondents had violated Section 21(p)(1) of the Act and ordered the submission of costs prior to issuance of a final order assessing a penalty. (Consolidated with AC 94-97.)
- 95-120 City of Crystal Lake v. EPA - Upon receipt of an Agency recommendation, the Board granted this McHenry County facility a 45-day provisional variance from the barium effluent requirements of the water pollution control regulations, subject to conditions.

AC 94-97 EPA v. M.K. O'Hara Construction, Inc., Kenneth O'Hara and Madalyn O'Hara - The Board found after hearing that the Cass County respondents had violated Section 21(p)(1) of the Act and ordered the submission of costs prior to issuance of a final order assessing a penalty. (Consolidated with AC 94-96.)
- 95-121 Illinois Power Company (Baldwin Power Station) v. EPA - Upon receipt of an Agency recommendation, the Board granted this St. Clair and Randolph County facility a 45-day provisional variance from the total suspended solids effluent requirements of the water pollution control regulations, subject to conditions.

AC 95-13 EPA v. Staunton Fuel & Material, Inc. - The Board entered a default order, finding that the Macoupin County respondent had violated Sections 21(o)(1) and 21(o)(3) of the Act and ordering it to pay a civil penalty of \$1,000.00.
- 95-123 Argonne National Laboratory - East v. EPA - Upon receipt of an Agency recommendation, the Board granted this DuPage County facility a 45-day provisional variance from the total dissolved solids, copper, and ammonia-nitrogen effluent requirements of the water pollution control regulations, subject to conditions.

AS 94-12 In the Matter of: Petition of Waste Management of Illinois, Inc. for an Adjusted Standard From 35 Ill. Adm. Code Sections 807.665(b) and 811.714(b) - The Board granted the petitioner's facilities located throughout Illinois an adjusted standard from certain of the financial assurance requirements of the land pollution control (non-hazardous waste landfill) regulations, with conditions. Board Member J. Theodore Meyer dissented.
- AC 94-8 EPA v. Atkinson Landfill Company - The Board entered a default order, finding that the Henry County respondent had violated Sections 21(o)(5), (o)(9), and (o)(12) of the Act and ordering it to pay a civil penalty of \$1,500.00 and hearing costs in the amount of \$726.06.

AS 94-16 In the Matter of: Petition of the City of Wood River for an Adjusted Standard From Treatment of Overflows and Bypass

Regulations 35 Ill. Adm. Code 306.305(a) and (b) - The Board granted this Madison County facility an adjusted standard from the first flush treatment requirements of the combined sewer overflow provisions of the water pollution control regulations for its combined sewer overflows into the Mississippi River, subject to conditions.

NEW CASES - April 6, 1995 BOARD MEETING

- | | | |
|--------|--|--|
| 95-51 | <u>Don Carson Steinheimer and Ray Darrow Steinheimer as Co-Executors of the Estate of Irene D. Steinheimer, deceased v. GTE North, Inc.</u> - The Board determined that this citizen's underground storage tank enforcement action against a Morgan County facility was neither frivolous nor duplicitous and accepted it for hearing. | Lake County facility for hearing. |
| 95-105 | <u>Saline County Landfill v. EPA</u> - The Board, having received a request for a 90-day extension of time to file a permit appeal pursuant to P.A. 88-690, reserved this docket for any land permit appeal filed on behalf of this Saline County facility. | 95-112 <u>John C. Justice, d/b/a Microcosm v. EPA</u> - The Board accepted this air permit appeal involving a Cook County facility for hearing. |
| 95-108 | <u>Village of Lake in the Hills v. EPA</u> - The Board held this petition for a variance from the standards for issuance and restricted status requirements of the public water supply regulations, as they relate to barium, filed on behalf of a McHenry County facility for an Agency recommendation. | 95-113 <u>White Glove of Morton Grove v. Amoco Oil Company</u> - The Board held this citizens' underground storage tank enforcement action against a Cook County facility for a frivolous and duplicitous determination. |
| 95-109 | <u>ESG Watts, Inc. (Sangamon Valley Landfill) v. EPA</u> - The Board accepted this land permit appeal involving a Sangamon County facility for hearing. | 95-114 <u>People of the State of Illinois v. C.P. Inorganics, Inc., n/k/a Phibro-Tech, Inc.</u> - Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action against a Will County facility, the Board ordered publication of the required newspaper notice. |
| 95-110 | <u>ESG Watts, Inc. (Taylor Ridge/Andalusia Landfill) v. EPA</u> - The Board accepted this land permit appeal involving a Rock Island County facility for hearing. | 95-115 <u>Illico Independent Oil Company v. EPA</u> - The Board accepted this underground storage tank reimbursement determination appeal involving a Tazewell County facility for hearing. |
| 95-111 | <u>Thomas Brown (Tom's Corner Facility) v. EPA</u> - The Board accepted this petition for a variance from the air pollution control regulatory requirements for installation and operation of Stage II gasoline vapor recovery equipment at this | 95-116 <u>Kelley-Williamson Company v. EPA</u> - The Board ordered the filing of an amended petition in this underground storage tank reimbursement determination appeal involving a Boone County facility. |
| | | 95-117 <u>Kean Brothers, Inc. v. EPA</u> - The Board accepted this petition for a variance from the air pollution control regulatory requirements for installation and operation of Stage II gasoline vapor recovery equipment at this Cook County facility for |

- hearing. Champaign County respondent.
- 95-118 Jack Pease, d/b/a Glacier Lake Extraction v. EPA - The Board accepted this mining permit appeal involving a McHenry County facility for hearing. AC 95-23 County of Vermilion v. Brickyard Disposal & Recycling, Inc. - The Board received an administrative citation against a Vermilion County respondent.
- 95-119 West Suburban Recycling and Energy Center v. EPA - The Board, having received a request for a 90-day extension of time to file a permit appeal pursuant to P.A. 88-690, reserved this docket for any land permit appeal filed on behalf of this Cook County facility. (Consolidated with PCB 95-125.) AC 95-24 County of Vermilion v. Brickyard Disposal
- 95-120 City of Crystal Lake v. EPA - See Final Actions.
- 95-121 Illinois Power Company (Baldwin Power Station) v. EPA - See Final Actions.
- 95-122 Olive Streit and Lisa Streit v. Oberweis Dairy, Inc., Richard Fetzer and Johnnie W. Ward, d/b/a Serve-N-Save, and Richard J. Fetzer, individually, Amoco Oil Company, Mobil Oil Corporation, and EPA - The Board held this citizens' underground storage tank enforcement action against a Kane County facility for a frivolous and duplicitous determination.
- 95-123 Argonne National Laboratory - East v. EPA - See Final Actions.
- 95-124 People of the State of Illinois v. Lebanon Chemical Corporation - The Board accepted this air enforcement action against a Vermilion facility for hearing.
- 95-125 West Suburban Recycling and Energy Center v. EPA - The Board, having received a request for a 90-day extension of time to file a permit appeal pursuant to P.A. 88-690, reserved this docket for any land permit appeal filed on behalf of this Cook County facility. (Consolidated with PCB 95-119.)
- AC 95-22 EPA v. Clayton G. Pope and Karen N. Pope - The Board received an administrative citation against a

& Recycling, Inc. - The Board received an administrative citation against a Vermilion County respondent.

AC 95-25 EPA v. Fred Smith, Jr. - The Board received an administrative citation against a Macoupin County respondent.

AC 95-26 EPA v. Orville Bartels and Frank Blair - The Board received an administrative citation against a Cass County respondent.

AS 95-3 In the Matter of: The Joint Petition of the EPA and the City of Metropolis for an Adjusted Standard From 35 Ill. Adm. Code Part 304 for Suspended Solids, 5-Day Biological Oxygen Demand (BOD₅) and Ammonia Nitrogen - The Board held this petition for an adjusted standard from the suspended solids and ammonia nitrogen effluent requirements of the water pollution control regulations pending receipt of proof of publication.

AS 95-4 In the Matter of: Petition of the Metropolitan Water Reclamation District of Greater Chicago for an Adjusted Standard From 35 Ill. Adm. Codes 811, 812, and 817 (Sludge Application) - The Board held this petition for an adjusted standard from certain of the land pollution control regulations to allow the use of wastewater sludge for final cover at landfills pending receipt of proof of publication.

NEW CASES - April 13, 1995 SPECIAL BOARD MEETING

95-126 Excel Corporation v. EPA - The Board accepted this NPDES permit appeal involving a Cass County facility for hearing.

nois, Inc. - The Board received an administrative citation against a Fulton Coun-

95-127 Meyer Steel Drum, Inc. v. EPA - The Board, having received a request for a 90-day extension of time to file a permit appeal pursuant to P.A. 88-690, reserved this docket for any air permit appeal filed on behalf of this Cook County facility.

AC 95-27 EPA v. Browning-Ferris Industries of Illi-

ty respondent.

AS 95-3 In the Matter of: The Joint Petition of the EPA and the City of Metropolis for an Adjusted Standard From 35 Ill. Adm. Code Part 304 for Suspended Solids, 5-Day Biological Oxygen Demand (BOD-5) and Ammonia Nitrogen - The Board accepted a joint petition for an adjusted standard from the suspended solids and ammonia nitrogen effluent standards of the water pollution control regulations filed on behalf of a Massac County facility for hearing.

FINAL ACTIONS - April 20, 1995 BOARD MEETING

- 92-164 People of the State of Illinois v. Berniece Kershaw and Darwin Dale Kershaw, d/b/a Kershaw Mobile Home Park - On the respondents' motion, the Board reconsidered, vacated, and reissued a segment of its April 8, 1993 opinion an order in this water enforcement action against a Henry County facility, ordering the respondents to pay a civil penalty of \$30,000.00 and \$5,190.69 in costs and attorneys' fees to the Attorney General's Office and ordering them to cease and desist from further violation. Board Member J. Theodore Meyer dissented.
- 94-273 People of the State of Illinois v. Metals Technology Corporation - The Board granted voluntary dismissal of this Emergency Planning and Community Rights to Know Act (EPCRA) enforcement action against a DuPage County facility.
- 95-42 Village of North Aurora v. EPA - The Board granted this Kane County facility a five-year variance from the standards for issuance and restricted status requirements of the public water supply regulations, as they relate to radium-226 and radium-228, subject to conditions.
- 95-49 Glenbard Wastewater Authority v. EPA - The Board granted this DuPage County facility a six-month variance from the total suspended solids (TSS) effluent requirements of the water pollution control regulations, subject to conditions.
- 95-129 Berkley Auto Service v. EPA - Upon receipt of an Agency recommendation, the Board granted this Cook County gasoline dispensing facility a 16-day extension of previous provisional variances granted in PCB 94-363, PCB 95-17, and PCB 95-83 from the air pollution control regulations that require the installation and operation of Stage II vapor recovery equipment.
- 95-130 Amoco Oil Company (Woodridge and Ar-
- lington Heights Facilities) v. EPA - Upon receipt of an Agency recommendation, the Board granted two Cook and DuPage County gasoline dispensing facilities a 45-day extension of a previous provisional variance granted in PCB 94-263 from the air pollution control regulations that require the installation and operation of Stage II vapor recovery equipment.
- 95-131 Norbert Janisch and Sibi Kadalimatton v. EPA - Upon receipt of an Agency recommendation, the Board granted this DuPage County gasoline dispensing facility a 45-day extension of a previous provisional variance granted in PCB 94-263 from the air pollution control regulations that require the installation and operation of Stage II vapor recovery equipment.
- 95-132 The Finishing Company v. EPA - Upon receipt of an Agency recommendation, the Board granted a 30-day provisional variance from the 90-day limitation on the accumulation of hazardous wastes at this Cook County facility.
- AC 94-5 EPA v. James Bennett and Kerry J. Henson - The Board found insufficient evidence after hearing to sustain a finding of violation and dismissed this administrative citation against Hancock County respondents. Chairman C. A. Manning and Board Member J. Yi dissented.
- AC 94-76 Sangamon County v. SLC of Springfield, Inc. - The Board entered an order after hearing, finding that the Sangamon County respondent had violated Section 21(p)(1) and dismissing the allegation that it violated Section 21(p)(3) of the Act and order it to pay a civil penalty of \$500.00. Hearing costs were not assessed. Board Member Marili McFawn dissented.
- R94-21 In the Matter of: 15% ROP Plan Control Measures For VOM Emissions-Part IV: Tightening Surface Coating Standards;

- | | | | |
|--------|---|--------|--|
| | <p><u>Surface Coating of Automotive/Transportation and Business Machine Plastic Parts; Wood Furniture Coating; Reactor Processes and Distillation Operation Processes in SOCFMI; and Bakery Ovens, Amendments to 35 Ill. Adm. Code Parts 211, 218, and 219 - See Rulemaking Update.</u></p> | R94-32 | <p><u>In the Matter of: 15% ROP Plan Control Measures For VOM Emissions-Part VI: Motor Vehicle Refinishing, Amendments to 35 Ill. Adm. Code Parts 211, 218, and 219 - See Rulemaking Update.</u></p> |
| R94-31 | <p><u>In the Matter of: 15% ROP Plan Control Measures For VOM Emissions-Part V: Control of Volatile Organic Compound Emissions From Lithographic Printing, Amendments to 35 Ill. Adm. Code Parts 211, 218, and 219 - See Rulemaking Update.</u></p> | | |

NEW CASES - April 20, 1995 BOARD MEETING

- | | | | |
|--------|--|----------|--|
| 95-128 | <p><u>Cathy Bevis, Gladys Shreve, Rick Moore, Eleanor Towns, Eleanor Morris, Leonard Morris, Eddie Breeze, Louise Breeze, Mary Lee Cunningham, Lyle Rutger, Marie Rutger, Charles Walker and Lenora Walker v. Wayne County Board, Wayne County - The Board held this third party appeal of a siting approval for a proposed Wayne County regional pollution control facility (landfill) for a frivolous and duplicitous determination.</u></p> | AC 95-28 | <p><u>Sangamon County v. ESG Watts, Inc. - The Board received an administrative citation against a Sangamon County respondent.</u></p> |
| | | AC 95-29 | <p><u>Sangamon County v. ESG Watts, Inc. - The Board received an administrative citation against a Sangamon County respondent.</u></p> |
| | | AC 95-30 | <p><u>EPA v. Knox County Landfill Committee - The Board received an administrative citation against a Knox County respondent.</u></p> |
| 95-129 | <p><u>Berkley Auto Service v. EPA - See Final Actions.</u></p> | | |
| 95-130 | <p><u>Amoco Oil Company Woodridge and Arlington Heights Facilities) v. EPA - See Final Actions.</u></p> | R95-2 | <p><u>In the Matter of: Exemptions From The Definition of VOM, USEPA Recommended Policy Amendments (July 1, 1994 through December 31, 1994) - See Rulemaking Update.</u></p> |
| 95-131 | <p><u>Norbert Janisch and Sibi Kadalimatton v. EPA - See Final Actions.</u></p> | | |
| 95-132 | <p><u>The Finishing Company v. EPA - See Final Actions.</u></p> | R95-13 | <p><u>In the Matter of: RCRA Subtitle D Update, Delayed Effective Date of USEPA Financial Assurance Regulations (April 7, 1995) - See Rulemaking Update.</u></p> |

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.

May 1 10:00 a.m.	PCB 95-75 P-A, Air	<u>Medical Disposal Services, Inc. (Harvey Site) v. EPA - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago. (Consolidated with PCB 95-76.)</u>
May 4 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
May 8 8:30 a.m.	PCB 94-240 RCRA-E, Citizens	<u>International Union, United Automobile, Aerospace and Agricultural Implement Workers of America and UAW Local 974; and Citizens for a Better Environment v. Catepillar, Inc.; EPA, Party-in-Interest - Federal Building, Court Room 121, 100 Northeast Monroe, Peoria.</u>
May 9 8:30 a.m.	PCB 94-240 RCRA-E, Citizens	<u>International Union, United Automobile, Aerospace and Agricultural Implement Workers of America and UAW Local 974; and Citizens for a Better Environment v. Catepillar, Inc.; EPA, Party-in-Interest - Federal Building, Court Room 121, 100 Northeast Monroe, Peoria.</u>
May 9 9:00 a.m.	PCB 94-371 WWSE	<u>City of Elgin v. EPA - Kane County Courthouse, Courtroom 110, 100 South Third Street, Geneva.</u>
May 10 10:00 a.m.	AC 94-94 AC	<u>EPA v. Wayne D. Alberts and Sharon J. Alberts (Atlanta/Alberts) - Illinois Pollution Control Board, Suite 402, 600 South Second Street, Springfield.</u>
May 10 8:30 a.m.	PCB 94-240 RCRA-E, Citizens	<u>International Union, United Automobile, Aerospace and Agricultural Implement Workers of America and UAW Local 974; and Citizens for a Better Environment v. Catepillar, Inc.; EPA, Party-in-Interest - Federal Building, Court Room 121, 100 Northeast Monroe, Peoria.</u>
May 10 10:00 a.m.	PCB 95-89 UST-FRD	<u>Eugene W. Graham (Libertyville Citgo) v. EPA - Libertyville Village Hall, Board Room, 118 West Cook Street, Libertyville.</u>
May 11 8:30 a.m.	PCB 94-240 RCRA-E, Citizens	<u>International Union, United Automobile, Aerospace and Agricultural Implement Workers of America and UAW Local 974; and Citizens for a Better Environment v. Catepillar, Inc.; EPA, Party-in-Interest - Federal Building, Court Room 121, 100 Northeast Monroe, Peoria.</u>
May 11 10:00 a.m.	PCB 95-75 P-A, Air	<u>Medical Disposal Services, Inc. (Harvey Site) v. EPA - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.</u>
May 15 10:00 a.m.	PCB 94-184 UST-FRD	<u>R.P. Lumber Company, Inc. v. OSFM - Illinois Pollution Control Board, Suite 402, 600 South Second Street, Springfield.</u>
May 15 10:00 a.m.	PCB 95-103 A-V	<u>Polyfoam Packers Corporation v. EPA - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.</u>

May 18 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
May 19 10:00 a.m.	PCB 93-15 N-E, Citizens	<u>Dorothy Furlan and Michael Furlan v. University of Illinois School of Medicine</u> - Winnebago County Courthouse, County Board Room 817, 400 West State Street, Rockford.
May 19 10:00 a.m.	R 95-12 R, Air	<u>In the Matter of: Clean-Fuel Program, Proposed 35 Ill. Adm. Code 241</u> - James R. Thompson Center, Room 9-040, 100 West Randolph Street, Chicago.
May 22 10:00 a.m.	PCB 95-73 N-E, Citizens	<u>Dennis Manarchy, Mary Beth Manarchy, Chris Mandoline, Beverly Kagy-Madoline, Surrounding Neighbors v. The Gotham Nightclub & JJJ Associates, Inc.</u> - James R. Thompson Center, Room 11-500, 100 West Randolph Street, Chicago.
May 25 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Suite 11-500, Chicago
May 25 10:00 a.m.	PCB 94-393 UST-FRD	<u>Peoria School District #150 - Hines School v. EPA</u> - Peoria County Board Offices, Room 403, 324 Main Street, Peoria.
May 25 1:00 p.m.	PCB 95-97 A-V	<u>Town & Country Gas & Food Mart, Inc. v. EPA</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
May 25 9:00 a.m.	PCB 95-102 A-V	<u>Shell Oil Company v. EPA</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
May 26 9:00 a.m.	PCB 95-117 A-V	<u>Kean Brothers, Inc. v. EPA</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
May 30 10:00 a.m.	PCB 95-98 L-V, RCRA	<u>BTL Specialty Resins Corporation v. EPA</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
May 31 10:00 a.m.	PCB 94-312 UST-FRD	<u>Spraylat Corporation v. EPA</u> - James R. Thompson Center, Room 11-500, 100 West Randolph Street, Chicago.
May 31 10:00 a.m.	PCB 95-118 P-A, Mining	<u>Jack Pease, d/b/a Glacier Lake Extraction v. EPA</u> - McHenry County Government Center, B170, 2200 North Seminary Avenue, Woodstock.
June 1 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
June 1 1:00 p.m.	AS 94-3 Air	<u>In the Matter of: Joint Petition of Outboard Marine Corporation (OMC Waukegan Facility) and the EPA for an Adjusted Standard from 35 Ill. Adm. Code 218</u> - Lake County Courthouse, Conference Room C, 10th Floor, 18 North County Street, Waukegan.
June 1 10:00 a.m.	PCB 94-297 A-V	<u>J.M. Sweeney Co. v. EPA</u> - Lake Zurich Village Hall, 70 East Main Street, Lake Zurich.

June 1 1:00 p.m.	PCB 94-370 A-V	<u>The Dow Chemical Company (Dow Joliet Site) v. EPA</u> - Illinois Pollution Control Board, 600 South Second Street, Suite 402, Springfield.
June 2 11:00 a.m.	PCB 95-39 A-V	<u>W.R. Grace & Co. - Conn, Grace Construction Products v. EPA</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
June 6 11:00 a.m.	PCB 95-111 A-V	<u>Thomas Brown (Tom's Corner Facility) v. EPA</u> - Waukegan Public Library, Auditorium, 128 North County Street, Waukegan.
June 8 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Suite 11-500, Chicago
June 9 10:00 a.m.	PCB 92-60 UST-FRD	<u>Kean Oil Company v. EPA</u> - McHenry County Government Center, Room B-164, 2200 North Seminary, Woodstock.
June 14 10:00 a.m.	PCB 94-191 P-A, NPDES	<u>Arco Products Company, a division of Atlantic Richfield Company v. EPA</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
June 14 1:30 p.m.	R 95-2 R, Air	<u>In the Matter of: Exemptions from the Definition of VOM, U.S. EPA Recommended Policy Amendments (July 1 through December 31, 1994)</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
June 15 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
June 16 10:00 a.m.	R 95-12 R, Air	<u>In the Matter of: Clean-Fuel Program, Proposed 35 Ill. Adm. Code 241</u> - James R. Thompson Center, Room 9-040, 100 West Randolph Street, Chicago.
June 16 10:00 a.m.	AC 95-6 AC	<u>EPA v. Reliable Auto Parts & Wreckers, Inc., a/k/a Scrap Processors (Blue Island/Scrap Processors)</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
June 21 1:00 p.m.	PCB 94-136 UST-FRD	<u>Elmhurst-Chicago Stone Company v. EPA</u> - DuPage County Board Office, Third Floor, 421 North County Farm Road, Wheaton.
June 22 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Suite 11-500, Chicago
June 29 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Suite 11-500, Chicago
June 29 10:30 a.m.	AS 91-8 Air	<u>In the Matter of: Petition of Reynolds Metals Company and the EPA for an Adjusted Standard from 35 Ill. Adm. Code 218.980</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.

June 30 10:00 a.m.	R 95-12 R, Air	In the Matter of: Clean-Fuel Program, Proposed 35 Ill. Adm. Code 241 - James R. Thompson Center, Room 9-040, 100 West Randolph Street, Chicago.
July 6 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
July 20 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
August 3 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
August 17 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
September 7 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
September 21 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
October 5 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
October 19 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
November 2 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago
November 16 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago

Calendar Code

3d P	Third Party Action	A-CAdministrative Citation
A-E	Air Enforcement	A-SAadjusted Standard
A-V	Air Variance	CSOCombined Sewer Overflow Exception
GW	Groundwater	HW DelistRCRA Hazardous Waste Delisting
L-E	Land Enforcement	L-S-RLandfill Siting Review
L-V	Land Variance	MWMedical Waste (Biological Materials)
N-E	Noise Enforcement	N-VNoise Variance
P-A	Permit Appeal	PWS-EPublic Water Supply Enforcement
PWS-V	Public Water Supply Variance	RRegulatory Proceeding proceeding (hazardous waste only)
RCRA	Resource Conservation and Recovery Act	S02S02 Alternative Standards (35 ILL. ADM. CODE 302.211(f))
SWH-E	Special Waste Hauling Enforcement	SWH-VSpecial Waste Hauling Variance

T	Thermal Demonstration Rule	T-CTax Certifications
T-S	Trade Secrets	UST-AppealUnderground Storage Tank Corrective Action Appeal
UST-E	Underground Storage Tank Enforcement	UST-FRDUnderground Storage Tank Fund Reim- bursement Determination
W-E	Water Enforcement	W-VWater Variance
WWS	Water-Well Setback Exception	

ENVIRONMENTAL REGISTER MAILING LIST

The Board is updating the mailing list for the Environmental Register. The Board desires to assure that the names of those who desire to receive regular free copies of the Register will appear on the mailing list. If you no longer wish to directly receive regular issues of the Register, please fill out the address label below, indicating you wish, and return it to the Board as soon as possible. If you do not presently receive the Register on a regular basis, please submit the indicated appropriate mailing information below, indicating that you want your name added to the list.

Please return the completed form to:

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

----- CUT HERE -----

Environmental Register Mailing List

Name

Company/Firm Name

Address

City/State/Zip

Yes, I wish to receive regular free copies of the Environmental Register.

No, I do not want to receive the Environmental Register; please remove my name from the mailing list.

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 March 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>
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	City of Canton	Fulton	0
New Salem, 4th Ave., Sycamore, Sycamore Terr., Main Street			
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
Stockton STP	Village of Stockton	JoDavieess	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 : DeKalb-NW 8" Submain, Elmwood, Galesburg, Round Lake - Cedar Lake Rd. & Rosewood Sewage Pumping Stas.

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 Regulations, 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 March 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***	0	0
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	0	0
Braidwood STP	City of Braidwood	Will	0	0
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	0
Creve Coeur	Village of Creve Coeur	Tazewell	2,330	0
Derby Meadows Utility Co. STP	Derby Meadows Utility Co.	Will	0	0

Downers Grove Sanitary Dist.	Downers Grove S.D.	DuPage	8,588	7
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	118	0
Herrin	City of Herrin	Williamson	***	0
Herscher	Village of Herscher	Kankakee	365	0
Highland STP	City of Highland	Madison	830	0
Hoopeston	City of Hoopeston'	Vermilion	0	92
Kildeer-Bishop-Ridge STP	Village of Kildeer	Lake	40	0
CLPWD-DeerfieldRd. Interceptor		County of Lake Public Works		Lake ***
	0			
	Department			
CLPWD-Diamond-Sylvan STP**	County of Lake Public Works	Lake	248	0
	Department			
Lake in the Hills S.D.	Village of Lake in the Hills	McHenry	0	2,493
Manhattan**	Village of Manhattan	Will	174	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	900	0
O'Fallon	City of O'Fallon	St. Clair	487	1,156
Orangeville	Village of Orangeville	Stephenson	0	0
Pearl City	Village of Pearl City	Stephenson	0	0
Peotone	Village of Peotone	Will	370	0
Rock Island (Main)	City of Rock Island	Rock Island	5,001	0
Sycamore (Southwest)	City of Sycamore	DeKalb	0	0
Thompsonville STP	Village of Thompsonville	Franklin	35	0

Deletetions from previous quarterly report : None

***Contact IEPA - Permit Section

MM:sp5439c/2-5

Printed by Authority of the State of Illinois, May, 1995, 2,000 copies, order #57701.

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

The Board Members are:

Claire A. Manning, Chairman
Springfield, Illinois

Emmett E. Dunham II
Elmhurst, Illinois

Ronald C. Flemal
DeKalb, Illinois

G. Tanner Girard
Grafton, Illinois

Marili McFawn
Palatine, Illinois

J. Theodore Meyer
Chicago, Illinois

Joseph Yi
Park Ridge, Illinois

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

Illinois Pollution Control Board
State of Illinois Center, 11-500
100 West Randolph Street
Chicago, Illinois 60601
(312) 814-3620

Address Correction Requested.

Bulk Rate
U.S. Postage
PAID
Chicago, IL
Permit No.2088