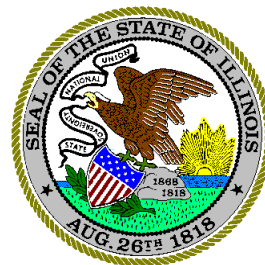




# ENVIRONMENTAL REGISTER



No. 508 ♦ A Publication of the Illinois Pollution Control Board ♦ September, 1996

## RULEMAKING UPDATE

### **N**ew Utility Waste Landfill Standards Proposed For Second Notice, R96-1

The Board adopted alternative standards for new utility waste landfills on August 15, 1996. The new Part 816 standards establish an alternative means of satisfying the liner and cap requirements for certain new landfills. They allow owners and operators of chemical waste landfills that accept only flue gas desulfurization (FGD) sludges and coal combustion ash from electric utilities to use these materials stabilized using the proprietary, patented Poz-O-Tec process as liner and cap material. The rules alternatively allow monofilling of Poz-O-Tec materials without a liner and cap.

The rules mirror adjusted standards granted to Conversion Systems, Inc. in AS 93-4 and AS 93-5, on July 7, 1995. In granting the adjusted standards, the Board initiated this rulemaking in the belief that a rule of general applicability was a more appropriate method to allow the use of the Poz-O-Tec materials. (See issue 496, Aug., 1995.) The Board proposed alternative standards for new utility waste landfills for first notice publication in the Illinois Register on September 21, 1995. Notices of (Cont'd on p. 2)

## BOARD UPDATE

### **P**rocedural Rules to be Proposed at October 3rd Board Meeting

On October 3, 1996 the Board will be moving an opinion and order which proposes revised procedural rules for public comment. The public comment period will last from October 3 until December 15, 1996, and will be followed by hearings on January 16 and 24, 1997 in Springfield and Chicago respectively.

To obtain a copy of the procedural rules opinion and order, please fill out the form on page 23.

### **B**oard Welcomes New Employee to Staff

The Board welcomes Cynthia Ervin to staff. Ms. Ervin, Board Chairman Claire Manning's new assistant, will be working in the Board's (Cont'd on p. 2)

## APPELLATE UPDATE

### **C**ommunity Landfill Corp. v. Illinois Pollution Control Board and Illinois Environmental Protection Agency, No. 3-96- 0182 slip op. (Third District August 8, 1996)(unpublished rule 23 order).

This case involved an appeal by Community Landfill Corporation (CLC) of a Board order denying CLC a variance from the significant modification permit application (SIGMOD) filing deadline requirement established by the Agency under 35 Ill. Adm. Code 814.104(c). The Third District set aside the Board's decision issued in *Community Landfill Corp. v. Illinois Environmental Protection Agency*, PCB 95-137, (September 21, 1995) Board Member Meyer dissenting.

The City of Morris (City) owns two adjoining parcels used as landfill sites. (Cont'd on p.3)

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## **BOARD STAFF UPDATE**

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Springfield office.

Ms. Ervin earned a Juris Doctorate at Washington University School of Law and a Bachelor of Science in Political Science at Bradley University. She is a recipient of the American Jurisprudence Award for Pretrial Practice and Procedure, and is a member of Phi Alpha Delta Law Fraternity.

Ms. Ervin has substantial clerking experience in the courts. For four years she served as a staff attorney of the Fourth District Appellate Court and for two years she was a clerk with the Illinois Supreme Court. Before joining the Board's staff Ms. Ervin was employed in the Criminal Appeals Division of the Illinois Attorney General's Office.

The Chairman, Board, and staff hope that you will join them in welcoming Ms. Ervin.

## **RULEMAKING UPDATE**

(Cont'd from p.1)

proposed amendments and rules appeared in the October 31, 1995 Illinois Register, at 19 Ill. Reg. 14260 (Part 816), 14280 (Part 807), and 14286 (Part 811), starting the 45-day public comment period. (See issue 497, Oct., 1995.) The Board conducted two hearings on the proposed rules, on December 18, 1995 in Springfield and March 8, 1996 in Chicago. The Board proposed the rules for second notice review by the Joint Committee on Administrative Rules (JCAR) on June 20, 1996, and received a certificate of no objection from JCAR dated July 23, 1996. (See issue 506, July, 1996.) The amendments were filed with the Secretary of State on August 15, 1996, and notices of adopted amendments appeared in the September 6, 1996 issue of the Illinois Register, at 20 Ill. Reg. 11985 (Part 810) and 12000 (Part 811). The Board delayed filing Part 816 to correct minor errors in the text.

Direct questions to Chuck Feinen, at 312-814-3473 (Internet address: [cfeinen@pcb016r1.state.il.us](mailto:cfeinen@pcb016r1.state.il.us)). Request copies from Victoria Agyeman, at 312-814-3620 (Internet address: [vagyeman@pcb016r1.state.il.us](mailto:vagyeman@pcb016r1.state.il.us)). Please refer to docket R96-1. ♦

**A**mendments to the Steel and Foundry Industry Waste Regulations Proposed for First Notice, R96-3

On August 1, 1996, the Board proposed amendments to the steel and foundry industry waste landfill regulations for First Notice Publication in the Illinois Register. The proposed amendments, docketed as R96-3, are based on a petition filed by the Illinois Cast Metals Association on September 6, 1995 and amended on February 26, 1996. (See issue 497, Oct., 1995.) At present, the existing steel and foundry industry waste landfill regulations prohibit construction of new landfill units within a regulated recharge area or within 1200 feet of Class I or Class III groundwater. The Association would have the Board create an exemption for those facilities that can demonstrate no potential to impact groundwater.

The Board conducted public hearings on the proposal on June 24, 1996, in Chicago, and June 26, 1996, in Edwardsville. Hearings scheduled earlier for November, 1995 did not occur at the request of the petitioner for an opportunity to amend its petition. Direct questions to the hearing officer, Audrey Lozuk-Lawless, at 312-814-6923 (Internet address: [alozukla@pcb016r1.state.il.us](mailto:alozukla@pcb016r1.state.il.us)). Request copies from Victoria Agyeman, at 312-814-3620 (Internet address: [vagyeman@pcb016r1.state.il.us](mailto:vagyeman@pcb016r1.state.il.us)). Please refer to docket R96-3. ♦

**U**ppdate Amendments to the Air Toxics Regulations Proposed for First Notice, R96-4

On August 15, 1996, the Board proposed amendments to the toxic air contaminants regulations for First Notice publication in the Illinois Register. The proposed amendments, docketed as R96-4, would add several substances either designated as federal hazardous air pollutants (HAPs) pursuant to section 112(b) of the Clean Air Act (CAA) or designated by USEPA as of concern under its "Great Waters" program under section 112(m) of the CAA. The proposal would also require all sources that meet certain requirements to submit an Illinois toxic air contaminants (ITAC) source report for calendar year 1996, and it would correct typographical errors in the existing ITAC list.

The Agency filed its proposal on October 13, 1995 to update the existing ITAC list at 35 Ill. Adm. Code 232. The Board issued an order on November 2, 1995 that accepted the proposal and dismissing older subdockets R90-1(C), relating to toxic air contaminant reporting requirements, and R90-1(D), relating to adding styrene to the list of toxic air contaminants. (See issue 499, Dec., 1995.) The Board consolidated the subject matter of the older subdockets into new docket R96-4.

Direct questions to Charles M. Feinen, at 312-814-3473 (Internet address: cfeinen@pcb016r1.state.il.us). Request copies of Board orders from Victoria Agyeman, at 312-814-3620 (Internet address: vagyeman@pcb016r1.state.il.us). Please refer to docket R96-4. ♦

## **APPELLATE UPDATE**

(Cont'd from p.1)

The City operated parcel A until 1980. In 1982 the City entered into a lease agreement allowing CLC to operate Parcel B. From 1992 through November of 1994 the City and CLC were in negotiations for the closure of the existing landfill and the opening of another site. In November of 1994, the Morris City Council passed an ordinance allowing CLC to re-open and expand parcel A and to close parcel B.

The City and CLC were required by 35 Ill. Adm. Code 814.104(c) to file their SIGMOD applications by June 15, 1993 for the two parcels. The June 15, 1993 date was established by the Agency; the City and CLC were notified twice of the deadline. The SIGMODs were not filed by June 15, 1993. However, after the City passed its ordinance in November of 1994, CLC hired an environmental engineering firm to complete and file the SIGMODs.

On February 27, 1995, CLC's engineers met with representatives from the Agency to discuss technical aspects of the SIGMOD applications. At that time, the Agency refused to consider the SIGMOD applications until any issues arising from CLC's failure to file by June 15, 1993 were resolved. One member of the Agency staff suggested that CLC seek a variance from the Board.

CLC filed a petition for variance with the Board on April 26, 1995 and the Agency recommended that the variance be denied. On September 21, 1995, after hearing, the Board denied the variance, holding that CLC had not shown an arbitrary and unreasonable hardship within the meaning of the Environmental Protection Act (Act) (415 ILCS 5/1 et. seq.). More specifically, the Board refused to grant a retroactive variance because it found that CLC's hardship was self-imposed and that the compliance efforts of CLC did not show good faith or due diligence, Board Member Meyer dissenting. CLC filed a motion for reconsideration, arguing "new material facts" regarding two prior Board decisions which were cited in the Board's opinion. The Board denied the motion with Board Member Meyer dissenting.

CLC in its appeal argued that the facts of this case were similar to those in Atkinson Landfill Co., Inc. v. Illinois Environmental Protection Agency, PCB 94-259 (January 11, 1995) and Envirite Corp. v. Illinois

Environmental Protection Agency, PCB 94-161 (August 11, 1994). These cases had been distinguished by the Board in its opinion. In both cases, the landfills filed variance requests asking for extensions of the filing date for their SIGMOD applications after the filing deadline had passed. In both cases, the Board granted the variance.

The court found that the Board's decision in CLC was a misapplication of prior Board precedents. Additionally, it held that the extra time, effort, and expense which would have been required by both CLC and the Agency to prepare and evaluate additional SIGMOD applications if CLC originally filed in June of 1992 and then re-filed after its negotiations were complete, constituted an arbitrary and unreasonable hardship. The court also noted CLC's continuing compliance with all other applicable state and federal regulations.

Finally, the Third District explained that it must balance the Board's need to enforce its regulations against the nominal harm to the environment caused by CLC's non-compliance and the likely loss of substantial revenue to the "innocent people of Morris" if CLC could not operate the landfill. In balancing the equities, the court found CLC should be granted the short prospective variance. However, the court did find that CLC's lack of due diligence and unexplained failure to seek the variance for 22 months after the filing deadline was troubling and therefore, denied CLC a retroactive variance. ♦

Wilmer Brockman, Jr. And First Midwest Bank/Illinois As Trustee Under Trust No. 757 v. Illinois Environmental Protection Agency and Illinois Pollution Control Board, Nos. 3-94-0175 and 3-95-0207 slip op. (Third District August 23, 1996)(unpublished rule 23 order).

This case involved two appeals by Wilmer Brockman Jr. (Brockman) of Agency permit denials which were affirmed by the Board in Wilmer Brockman, Jr. And First Midwest Bank/Illinois v. Illinois Environmental Protection Agency, PCB 93-162 (February 3, 1995) and PCB 94-207 (February 16, 1995). The appellate court consolidated the appeals and affirmed the Board.

In 1993 Brockman appealed to the Board an Agency denial of a permit authorizing the temporary suspension of waste acceptance. The 177 acre parcel of property involved had been granted a landfill development permit in 1975 but had not accepted waste since 1982. In fact, only the 7 acre Carus Disposal Area was ever issued an operating permit. The Carus Area operation was closed in 1982 and the Agency's records indicated that the entire landfill was closed at that time.

The first temporary suspension permit application filed by Brockman was on June 15, 1993. This application was deemed incomplete and the Agency noted on the denial letter that its records showed the facility as being closed. The Board affirmed the Agency's denial of the permit finding that a temporary suspension permit could not be issued without a closure plan. The appellate court stayed the appeal pending the outcome of Brockman's second application to the Agency for a permit.

On May 31, 1994, Brockman submitted a second application for a temporary suspension permit. This second application included a closure plan. The Agency also denied the second application for a temporary suspension permit stating, as it had in the first denial, that a permit for a closed facility was "inappropriate and unnecessary." On appeal, the Board affirmed the Agency. The Board held that the Agency properly denied the permit because the site was closed. The Board came to the conclusion that the site was closed because the only operating permit for the site was for an area which was closed. Brockman appealed the decision to the Third District.

While the second appeal was before the Board, Brockman filed a motion to stay the proceedings until the Third District ruled upon the initial appeal. Attached to this motion, Brockman filed a waiver of the Board's decision deadline until February 28, 1995. However, the appellate court stayed the proceedings of the first appeal before it pending the outcome of the second appeal pending before the Board and based upon this, the Board denied Brockman's motion to stay the proceedings. Subsequently, Brockman filed a new waiver of the decision deadline, this time until December 16, 1994. The Board made its decision on February 16, 1995.

Brockman argued in the appeal that the Board's decision was untimely and that the permit should be granted by operation of law as provided for in section 40 of the Environmental Protection Act (Act) (415 ILCS 5/40). Brockman contended that the Board's denial of the motion for stay was also a denial of the attached waiver of the decision deadline. Additionally, Brockman argued that the filing of the second waiver until December 14, 1994 rescinded the prior waiver which extended until February 28, 1995.

The court found that the Board's rules regarding waivers are "clear and unambiguous" and that Brockman neither rescinded nor revoked the original waiver granting the Board until February 28, 1995 to make a decision. Additionally, the court held that neither the Board's denial of the motion to stay nor Brockman's filing of a second waiver caused the first waiver to be withdrawn or rejected. Thus, the court held that the Board's decision entered on February 16, 1996 was timely and did not violate section 40 of the Act.

Brockman next argued that the Board acted beyond its authority because it relied upon a different rationale than the Agency when it affirmed the permit denial. The court found that the Board's reasoning was "sufficiently consistent" with that of the Agency in the first appeal since both the Agency and the Board found that Brockman failed to provide sufficient information with the first application to allow the Agency to issue a permit. In the second appeal, the Agency denied Brockman because it was "inappropriate and unnecessary" to issue a permit for a closed site. The Board affirmed the Agency on appeal, reasoning that the Agency had properly denied the application on the basis of the site being closed. Here again, the court found the Board's decision relied on the same fundamental reasoning as the Agency's decision. The court also stated, "the Board need not parrot the precise wording of the IEPA to stay within the bounds of its statutory authority."

Brockman then argued that he did not need a current operating permit because the landfill's development permit allowed him to get a temporary suspension permit without an operating permit being in place. The court found that this argument was not supported by the statute. The court held that section 39(c) of the Act requires a landfill owner to have a current operating permit prior to the application for, or the issuance of, a temporary suspension permit. Additionally, since an operating permit is required for the initial acceptance of waste, a facility without an operating permit would have no need for a permit to temporarily suspend waste acceptance since it could not accept waste without the operating permit.

The court found that the operating permit for the Carus Area became invalid when it closed in 1982. The court also held that the landfill would require siting approval from an appropriate governing body prior to the issuance of a new operating permit. Finally, the court found that the public interest would not be served by allowing a landfill which had not operated in a decade to avoid local siting by applying for a temporary suspension permit. ♦

## ESG Watts Decision Published

Environmental Register number 506 contained an appellate summary of ESG Watts, Inc., v. The Illinois Pollution Control Board, and the People of the State of Illinois, No. 4-95-0642 slip op. \_\_Ill.App.3d\_\_, N.E. 2d., \_\_Ill.Dec.\_\_, (Fourth District June 28, 1996) (unpublished Rule 23 order). On, August 12, 1996, the Board's motion to publish was granted by the Fourth District and the Rule 23 order was withdrawn. The opinion was refiled as an opinion nunc pro tunc.

As you may remember, this case was before the appellate court on an appeal by ESG Watts (Watts) of the \$60,000 penalty imposed by the Board for its failure to timely pay solid waste fees and failure to timely submit reports required to be filed by landfill operators by the Environmental Protection Act (Act) (415 ILCS 5/1 et. seq.) and environmental regulations promulgated under the Act. In the appeal, Watts admitted to violating the

Act but argued that the penalty was excessive because the violations caused no environmental harm. Additionally, Watts argued that the Board improperly considered past violations when assessing the penalty. The Fourth District disagreed with Watts and affirmed the Board opinion and order issued in People v. Watts, PCB 94-127 (May 4, 1995). ♦

## **SIGNIFICANT FEDERAL ACTIONS**

The Board continues its series of reports on recent federal announcements and actions from the Federal Register that are of interest to the Board and the regulated community. Below are highlighted over 60 such announcements and actions that appeared in August, 1996:

### **Industrial Combustion Coordinated Rulemaking Advisory Committee Formed**

On August 2, 1996 (61 Fed. Reg. 40413), USEPA announced the formation of the Industrial Combustion Coordinated Rulemaking Advisory Committee pursuant to the Federal Advisory Committee Act. USEPA stated that the Committee's members will include members from environmental, public health, pollution prevention, and environmental justice groups; state regulators; affected sources; combustion, emission control, and monitoring and testing equipment manufacturers; fuel producers and suppliers; labor and academic research; and USEPA. USEPA hopes that through the Committee, it can build a consensus on a regulatory approach before it proposes regulations for combustion source emissions. ♦

### **Meeting on Proposed National CAA VOC Emission Standards for Architectural Coatings**

On August 1, 1996 (61 Fed. Reg. 40161), USEPA published a notice of a public meeting to discuss the proposed volatile organic compound (VOC) emissions standards for architectural coatings. The meeting was scheduled for August 13, 1996 in Rosemont, Illinois.

USEPA proposed the VOC emissions standards on June 25, 1996 (61 Fed. Reg. 32729), as a segment of its program to limit VOC emissions from consumer and commercial products for U.S. sale and distribution, pursuant to section 183(e) of the federal Clean Air Act (CAA), based on its determination that emissions from consumer products can contribute to tropospheric ozone formation. The proposed rule would define an "architectural coating" as "a coating recommended for

field application to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs" and impose limitations on the VOC content of 55 categories of architectural coatings. It would also impose product labeling, testing, recordkeeping, and reporting requirements. As an alternative to compliance with the VOC limitation, USEPA is considering allowing a product importer or manufacturer to pay an "exceedance fee" to keep its product on the market. USEPA estimated that the rule would nationally reduce VOC emissions from these products by 106,000 tons per year (tpy), or by 20 percent of the 530,000 tpy in base year 1990 emissions. USEPA stated in the proposal that it anticipated timely adoption of the rules so that they will become effective as to coatings imported or manufactured for sale or distribution in the U.S. on and after April 1, 1997. (See issue 507, Aug., 1996.)

(Note: On April 2, 1996 (61 Fed. Reg. 14531), in a related set of rules under CAA section 183(e), USEPA proposed VOC emission standards for consumer products. USEPA estimated that those proposed emission standards would reduce VOC emissions nationally by 90,000 tons per year. In proposing those regulations, USEPA noted that four states presently have regulations governing the VOC content of some consumer products: California, Massachusetts, New York, and Texas. Further, 13 states submitted VOC reductions through a federal consumer products regulation as part of their 15 percent ROP plans. Representatives of the consumer products industry expressed concern over the effect of multiple standards nationwide. In response, USEPA proposed one rule that would regulate the VOC content of 24 categories of consumer products, ranging from air fresheners to automotive and household cleaners, hairsprays, adhesives, household pesticides, nail polish removers, and shaving creams. See issue 504, May, 1996.) ♦

### **Supplemental Standards of Ethical Conduct Adopted for USEPA Personnel**

On August 2, 1996 (61 Fed. Reg. 41499), USEPA adopted supplemental standards of ethical conduct for its personnel. The standards, issued with the concurrence of the Office of Government Ethics (OGE), supplement more

general ethics rules adopted by the OGE for executive branch employees on August 7, 1992 (57 Fed. Reg. 35006). The new USEPA rules address ethical issues unique to USEPA. They prohibit certain outside financial interests, including outside employment, and require prior approval of certain types of outside employment. The new rules withdrew superseded segments of the prior USEPA standards of conduct, replacing them with cross-references to the OGE rules. ♦

### **A**pproval of Illinois RCRA Subtitle C Hazardous Waste Program (R92-1, R92-10, R93-4 & R93-16)

On August 5, 1996 (61 Fed. Reg. 40520), USEPA adopted an immediate final rule that approves major segments of the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste regulations. The approval, effective October 4, 1996, unless earlier withdrawn, approves the Illinois counterparts to various federal program amendments adopted by USEPA between August, 1991 and May, 1993. The Board adopted the relevant amendments to the Illinois Regulations between July 1, 1992 and June 30, 1993. This includes Board docket numbers R92-1, R92-10, R93-4, and R93-16. Among the subject matters covered are the land disposal unit leak detection system requirements, the used and waste oil regulations, the land disposal restrictions for newly listed wastes, the coke by-product and chlorinated toluenes production waste hazardous waste listings, the toxicity characteristic leaching procedure (TCLP), and corrective action management unit (CAMU) rules.

(Note: The sets of state regulations remaining outstanding with regard to USEPA review are R94-7, adopted by the Board on June 23, 1994; R94-17, adopted October 20, 1994; R95-6, adopted on June 1 & 15, 1995; and R95-20, adopted on June 20, 1996.) ♦

### **E**PCRA Meeting on Addition of Industry Groups Subject to Reporting

On August 5, 1996 (61 Fed. Reg. 40637), USEPA published notice of a public meeting on a proposal to add industry groups to those subject to the Emergency Planning and Community Right-to-Know Act (EPCRA) reporting requirements. The meeting, scheduled for August 19, 1996 in Chicago, Illinois, was intended to allow dialog on the basis for USEPA's contemplated action. USEPA is considering adding seven industry groups to those subject to reporting: metal mining, coal mining, electric utilities, commercial hazardous waste treatment, wholesale chemicals and allied products, wholesale petroleum bulk stations, and solvent recovery services. This is the third scheduled meeting on the USEPA proposal.

USEPA proposed the addition of seven industry groups to the reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA) on June 27, 1996 (61 Fed. Reg. 33587). On the same date (61 Fed. Reg. 33619), USEPA announced the first two public meetings on its proposal, on August 7, 1996 in San Francisco and August 14, 1996 in Washington, DC (See issue Aug., 1996.) ♦

### **M**eetings on Implementation of FIFRA Worker Protection Standards

On August 5, 1996 (61 Fed. Reg. 40638), USEPA announced public meetings to solicit information on the implementation of its Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) worker protection standards. The meetings were scheduled for August 7, 1996, in Portageville, Missouri, and August 21, 1996, in Tipton, Indiana. USEPA seeks input based on the initial experiences from workers, growers, and others on the first year of implementation of its pesticide worker safety rules. USEPA adopted those rules on August 21, 1992, with certain requirements becoming effective on April 21, 1993 and the rest on April 15, 1994. The rules include various requirements relating to access to sites of pesticide application, worker training, and reporting. ♦

### **P**roposed Federal Energy Code for Commercial and Multi-Family High Rise Residential Buildings

On August 6, 1996 (61 Fed. Reg. 40881), the Department of Energy (DOE), Office of Energy Efficiency and Renewable Energy proposed an energy code for new commercial and multi-family high rise residential buildings. The proposed rules would apply to federally-funded buildings pursuant to the Energy Conservation and Production Act. They would alter the present January 30, 1989 federal interim standards to conform with the voluntary building energy codes in the areas of lighting, ventilation, motors, building envelopes, fenestration rating procedures, and heating and cooling equipment testing procedures. Among the many statutory mandates for development of the rules, the DOE must consult with USEPA and others on potential radon and other indoor air pollutant problems with buildings. The proposed code would set standards for a wide array of buildings and uses, including for laboratories, dormitories, offices, retail, storage, athletics, and places of worship. DOE stated that a future rulemaking would address residential single- and multi-family buildings. ♦

## Vehicle Inspection and Maintenance/On-Board Vehicle Diagnostics Requirements Amended

On August 6, 1996 (61 Fed. Reg. 40939), USEPA amended the Clean Air Act (CAA) vehicle inspection and maintenance (VIM) requirements. The amendments will require checks of the on-board vehicle diagnostic (OBD) check systems of all vehicles so equipped as part of the basic and enhanced VIM procedures. The amendments are effective on October 7, 1996, and it will require states implementing VIM programs to update those programs to include the diagnostics checks. The diagnostic checks will be required of VIM inspections performed after January 1, 1998, but vehicles whose systems do not pass the OBD test will not automatically fail the emissions test until after December 31, 1999.

(Note: The Board adopted the present basic VIM program R85-25, in 1986, and the enhanced program in dockets R94-19 and R94-20, in 1994. See above item regarding federal approval of the Illinois program.) ♦

## Guidelines Adopted for Evaluating Environmental Effects of Radiofrequency Radiation

On August 7, 1996 (61 Fed. Reg. 41006), the Federal Communications Commission (FCC) adopted guidelines for evaluating the environmental effects of radiofrequency (RF) radiation from regulated (licensed and unlicensed) transmitters under the National Environmental Policy Act of 1969 (NEPA). The guidelines impose maximum permissible exposure (MPE) limits for electric and magnetic field strength and power density for transmitters that operate in the range of 300 kilohertz (kHz) ( $3 \times 10^5$  cycles per second (cps)) to 100 gigahertz (GHz) ( $1 \times 10^{11}$  cps). They are based on a 1986 report of the National Council on Radiation Protection and Measurements, entitled "Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields," and on 1992 guidelines of the Institute of Electrical and Electronic Engineers, Inc. that were adopted by the American National Standards Institute (ANSI).

The FCC stated that NEPA requires the evaluation of the environmental effects of RF radiation. It said that the new guidelines reflect newer scientific studies of the biological effects of this radiation. The FCC believed that the guidelines will ensure adequate protection of the exposed public and workers. Covered by the rules are various types of transmitters, including mobile cellular telephones, citizens band radios, FM radio transmitters, and wireless control radios. The regulations include study, recordkeeping, and reporting requirements. In deriving the new guidelines, the FCC considered the comments of USEPA and the Food and Drug Administration on various issues. ♦

## Meeting on Whole Effluent Toxicity Implementation

On August 7, 1996 (61 Fed. Reg. 41149), USEPA announced a meeting on whole effluent toxicity implementation issues. The meeting was scheduled for September 24 through 26 in Washington, DC. USEPA stated that it is considering amendments to the whole effluent toxicity testing and monitoring program, used as part of the NPDES permit program, based on issues raised in the last few years of experience in implementing the program. USEPA broadly broke those issues into four main categories: water quality and standards, exposure assumption, permitting, and compliance and enforcement issues. ♦

## Draft Cleaner Technologies Substitutes Assessment of Lithographic Blanket Washes Available

On August 7, 1996 (61 Fed. Reg. 41155), USEPA announced the a draft cleaner technologies substitutes assessment of lithographic blanket washes. USEPA worked together with the lithographic printing industry to evaluate 37 different blanket wash systems and produce the draft report as part of its Design for Environment Lithography Project. The intent is to provide information to aid lithographic printers in making informed decisions about the blanket wash products they use. ♦

## Solicitation for Computational Science and Environmental Education Cooperative Agreements Program

On August 7, 1996 (61 Fed. Reg. 41237), USEPA solicited preproposals for the Computational Science and Environmental Education (EarthVision) Cooperative Agreements Program for fiscal year 1996. USEPA stated that \$1 million in funds is available for the program for FY 1996 and \$3 million through FY 1998. The object is to study computational models for real-world environmental systems that are either too large or too small for laboratory replication and testing. Institutes of higher learning, public agencies, and not-for-profit organizations may be eligible for grants under the program, as authorized under the Clean Water Act, Clean Air Act, Solid Waste Disposal Act, Safe Drinking Water Act, or National Environmental Policy Act. ♦

## CAA SIP Approval for Illinois Volatile Organic Liquid Storage Operations Rules

On August 8, 1996 (61 Fed. Reg. 41338), USEPA adopted a direct final rule granting Clean Air Act (CAA) state implementation plan (SIP) approval to Illinois regulations pertaining to volatile organic material (VOL)

storage operations in the metropolitan Chicago and East St. Louis areas. USEPA stated that the rules are intended, in part, to satisfy the non-Control Technology Guideline control requirements of the CAA, because USEPA has not developed a CTG for the VOL storage source category. The SIP approval is effective on October 7, 1996 unless earlier withdrawn as a result of significant adverse comments. The associated notice of proposed rule appeared in the same issue of the Federal Register (61 Fed. Reg. 41372).

The Board adopted the approved rules as Part III reduction of pollution (ROP) amendments on October 20, 1994, under docket number R94-16. (See issue 488, Nov., 1994.) The Part III ROP amendments made the standards of Parts 218 and 219, Subpart B, "Organic Emissions from Storage and Loading Operations," and Subpart V, "Total Resource Effectiveness" (TRE), more stringent. The Part III rules added the federal Alternative Control Technology (ACT) recommended controls for VOLs and volatile petroleum liquids (VPLs). It was anticipated that the TRE amendments would reduce VOM emissions by 4.05 tpd in the metropolitan Chicago area by 1996 and by an additional 1.58 tpd by 1999. The VOL/VPL amendments were expected to reduce the VOM emissions by 2.18 tpd in the Chicago area. No reductions were anticipated in the Metro-East area. The Part III 15% ROP amendments were filed with the Secretary of State and became effective on November 15, 1994. ♦

### **L**aSalle County Redesignated to Attainment for Particulate Matter

On August 8, 1996 (61 Fed. Reg. 41342), USEPA adopted a direct final rule that redesignated the Oglesby area in LaSalle County as attainment for particulate matter. Portions of LaSalle County were formerly designated as moderate nonattainment when USEPA adopted a standard for particulate matter with a nominal aerodynamic diameter of 10 microns or less (PM<sub>10</sub>) under the Clean Air Act Amendments of 1990 (CAAA). That portion of LaSalle County, the Lake Calumet area of Cook County, and portions of the Granite City area of Madison County were the three PM<sub>10</sub> nonattainment areas of Illinois. The redesignation is effective on October 7, 1996 unless earlier withdrawn as a result of significant adverse comments. The accompanying notice of proposed rule appeared in the same issue of the Federal Register (61 Fed. Reg. 41372).

USEPA approved the PM<sub>10</sub> state implementation plan (SIP) for LaSalle County on October 21, 1993 (58 Fed. Reg. 54291). Among the many requirements to gain redesignation of the area to attainment, federal law required Illinois to demonstrate that control measures in the area SIP would maintain the area in an attainment status. The national ambient air quality standard (NAAQS) for PM<sub>10</sub> is 50 micrograms per cubic meter of

air (µg/m), annual arithmetic mean, with no more than one expected annual exceedance per year. USEPA noted that there has been no exceedance of the PM<sub>10</sub> NAAQS in the Oglesby area since 1990. ♦

### **F**inal Report on Formaldehyde Exposure Testing Pilot Study Available

On August 8, 1996 (61 Fed. Reg. 41411), USEPA announced the availability of a final report on a pilot study of testing indoor air emissions of formaldehyde gas from urea-formaldehyde pressed wood building materials. USEPA stated that it would submit the report for peer review in September, 1996 after seeking public comments.

Urea-formaldehyde pressed wood products include particleboard, hardwood plywood, and medium-density fiberboard used in such products as doors, cabinets, and furniture. USEPA stated that indoor emissions of urea-formaldehyde gas emitted from these products can cause eye, nose, and respiratory irritation. USEPA published the need for testing under the Toxic Substances Control Act (TSCA), in its Master Testing List on December 23, 1992 (57 Fed. Reg. 61240), to better characterize formaldehyde levels in housing and determine whether there is a need for further regulation. USEPA held a public meeting in 1993 to discuss its prospective testing protocol. After the National Particleboard Association submitted an alternative testing regime, USEPA adapted that regime for the pilot study. ♦

### **R**egulations Amended for Facilities Transferring Oil or Hazardous Materials in Bulk

On August 8, 1996 (61 Fed. Reg. 41451), the U.S. Department of Transportation Coast Guard amended its regulations governing facilities that transfer oil or hazardous materials in bulk. The Coast Guard stated that the amendments, effective February 5, 1977, were intended to update and clarify the present rules, in order to provide greater safety and environmental protection. Among the amendments are the codification of the impact a 1994 memorandum of agreement in which offshore facilities became under the jurisdiction of the Department of Interior, the addition and modification of definitions, and modifications to the facility operations and management requirements. ♦

### **J**oint USEPA/Chemical Manufacturers Association Survey to Enhance Compliance

On August 9, 1996 (61 Fed. Reg. 41605), USEPA announced that it was submitting an information collection request to the Office of Management and Budget for review and approval. USEPA explained that it is working together with the Chemical Manufacturers Association

(CMA) on the Root Cause Analysis Project to analyze past compliance information of CMA member companies that voluntarily decide to participate. The information to be reviewed will consist of civil and judicial enforcement actions pending during fiscal years 1990 through 1995. The survey portion of the project will seek information from the participants on the causes for their noncompliance, their actions to achieve compliance, and any suggestions they may have for pollution prevention opportunities to improve compliance. The object is to identify fundamental causes of noncompliance and common features or trends among the causes and develop recommendations for innovative compliance management and pollution prevention, to help facilities achieve and maintain compliance. ♦

### **N**ominations Sought for National Advisory Council for Environmental Policy and Technology

On August 9, 1996 (61 Fed. Reg. 41606), USEPA requested nominations for vacancies on the National Advisory Council for Environmental Policy and Technology. The Council is concentrating on studying incentives for promotion of a community-based approach to environmental protection (CBEP), to assess the suitability of USEPA's information systems to supporting CBEP, and to identify criteria for gauging USEPA's efforts at regulatory reinvention. Projects include the Common Sense Initiative, Performance Partnerships, the XL projects, and CBEP. ♦

### **M**eeting of the Industrial Non-Hazardous Waste Policy Dialogue Committee

On August 9, 1996 (61 Fed. Reg. 41608), USEPA announced a meeting of the Industrial Non-Hazardous Waste Policy Dialogue Committee. The meeting was scheduled for September 11 and 12, 1996, in Arlington, Virginia. The committee is charged with aiding USEPA in the development of guidance for the management of non-hazardous industrial waste in land-based disposal units. This is waste that is neither hazardous, under Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), nor municipal solid waste, under RCRA Subtitle D. USEPA estimated that 7.6 billion tons of this material is generated annually in the U.S. and disposed of on site in landfills, surface impoundments, waste piles, and land application units. USEPA stated that this material includes materials that could become regulated as RCRA Subtitle C waste at some future time, and it presents a broad range of risk to human health and the environment. The topics of discussion will include risk management, liner system designs, groundwater monitoring, facility location, waste minimization, and public participation. ♦

### **I**nterpretive Policy Released on Reapplication Requirements for Municipal Separate Stormwater Sewer Systems

On August 9, 1996 (61 Fed. Reg. 41697), USEPA issued an interpretive policy memorandum on permit reapplication requirements for separate municipal stormwater sewer systems (MS4s). Under the policy, effective May 17, 1996, USEPA stated that permit writers and applicants had discretion to customize the reapplication requirements on a case-by-case basis. USEPA said that the fourth year annual report would constitute the principal reapplication document. USEPA will not require use of the entire part 1 and 2 process of the initial permit. Under 1990 amendments to the Clean Water Act (CWA), municipalities with populations greater than 100,000 were required to have permits for their MS4s. Many MS4 permits are due to expire, and reissuance of permits will be necessary for those systems. ♦

### **M**etal Products and Machinery Industry Phase II Survey Submitted to OMB for Approval

On August 12, 1996 (61 Fed. Reg. 41786), USEPA announced that it had submitted an information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval. The ICR is the "1996 Metal Products and Machinery Industry Phase II Survey" (MP&M Phase II survey). USEPA stated that it will seek through the ICR the technical and economic information necessary to develop effluent limitations and guidelines for MP&M Phase II activities. These include operations at sites that manufacture, maintain, or repair metal products and machinery in certain industry categories. USEPA estimated that the cost of this ICR would be about \$3.5 million nationally. USEPA plans the concurrent use of both short-form and more comprehensive long-form survey instruments. ♦

### **U**dated Guideline on Air Quality Models Published

On August 12, 1996 (61 Fed. Reg. 41837), USEPA published an updated "Guideline on Air Quality Models." USEPA originally codified the guideline as 40 CFR 51, appendix W in July, 1993. It has now reformatted it to comport with the Code of Federal Regulations requirements. USEPA further used the opportunity to update and correct segments of the text and references to it in segments of parts 51 and 52. ♦

## Compliance Assurance Monitoring Under Consideration for CAA Enhanced Monitoring and Compliance Certification Requirements

On August 13, 1996 (61 Fed. Reg. 41991), USEPA announced that it has compliance assurance monitoring (CAM) under consideration for use in the Clean Air Act (CAA) Titles V and VII enhanced monitoring and compliance certification requirements. USEPA has made a revised version of the CAM approach available for comment and has scheduled a public hearing for September 10, 1996, in Research Triangle Park, North Carolina, to obtain public comment on the approach.

USEPA proposed Title V enhanced monitoring and compliance certification requirements on October 22, 1993 (58 Fed. Reg. 54648). It sought comment on the CAM approach on September 13, 1995 (60 Fed. Reg. 48679), posting a draft CAM rule for comment. USEPA presently intends to adopt the Title V enhanced monitoring and compliance certification requirements by July, 1997, using the revised CAM approach. USEPA stated that it has combined the Title V and Title VII enhanced monitoring and periodic reporting requirements into the revised CAM approach so that there would be a single, integrated set of requirements. ♦

## Proposed Non-Listing as Hazardous Waste of 14 Waste Solvents per Environmental Defense Fund v. Browner

On August 14, 1996 (61 Fed. Reg. 42317), USEPA proposed not to list 14 used solvent-related wastes as RCRA Subtitle C hazardous waste. The proposed determination relates to spent solvents, distillation bottoms from the recovery of the solvents, and spent mixtures of them. The 14 solvents are cumene, phenol, isophorone, acetonitrile, furfural, epichlorohydrin, methyl chloride, ethylene dibromide, benzyl chloride, p-dichlorobenzene, 2-methoxyethanol, 2-methoxyethanol acetate, 2-ethoxyethanol acetate, and cyclohexanol. In proposing not to regulate the wastes as listed hazardous waste, USEPA noted that most of the wastes are already regulated under Subtitle C as hazardous waste by virtue of their exhibiting a characteristic of hazardous waste or being mixed with wastes that are themselves listed as hazardous. Further, in proposing not to regulate the wastes as listed wastes, USEPA was not required to propose amendment of the reportable quantities set forth under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) regulations.

USEPA proposed the non-listings as a result of a settlement of the litigation in *Environmental Defense Fund v. Browner*, No. 89-0598 (D.D.C.). The December 9, 1994 consent decree required USEPA to propose whether or not to regulate these wastes as listed hazardous wastes

from non-specific sources by July 31, 1996 and take final action by May 31, 1997. The consent decree further required USEPA to undertake study of seven additional solvent wastes and issue a final report on their use, toxicity, and waste management by August 30, 1996. Those seven additional solvents are diethylamine, aniline, ethylene oxide, allyl chloride, 1,4-dioxane, 1,1-dichloroethylene, and bromoform. USEPA stated that although the consent decree did not require evaluation of the seven additional wastes, it could decide to list them in a future rulemaking. ♦

## Comment Invited on Intended Hydrogeomorphic Approach for Assessing Wetland Functions

On August 16, 1996 (61 Fed. Reg. 42593), the Department of Defense, Army Corps of Engineers voluntarily set forth its intent and invited comment on its prospective strategy in developing the Hydrogeomorphic Approach for Assessing Wetland Functions (HGM Approach). To implement the Clinton Administration's Wetlands Plan, the National Interagency Implementation Team is developing the HGM Approach to evaluate wetlands permit applications submitted under section 404 of the Clean Water Act. The Implementation Team includes Corps of Engineers, USEPA, the Natural Resource Conservation Service, the Federal Highways Administration, and the U.S. Fish and Wildlife Service. The Corps stated that the HGM Approach will increase the accuracy of wetland function assessments, allow for reproducibility in results, and reduce the time required for assessments.

The Army Corps stated that the HGM Approach is based on three fundamental factors that influence how wetlands function: position in the landscape (geomorphic setting), water source (hydrology), and the flow and fluctuation of water in the wetland (hydrodynamics). It would classify wetlands based on their function, define functions that each class of wetlands performs, and establish the range of functioning of each wetland. Regional assessment models would be developed based on the functional profile that describes the physical, biological, and chemical characteristics of regional wetland subclasses.

The Army Corps explained that the goal is to develop sufficient assessment models to address 80 percent of the Section 404 permit workload requiring wetland function assessments over the next two years. It stated that the development of about 25 to 30 regional subclass models will be necessary. The Corps stated that the model will focus primarily on wetlands function, rather than on wetlands value. Through the Army Corps, the Implementation Team sought comment and public participation. The development of the HGM Approach will occur in two phases: Phase A, development by an

interdisciplinary team of wetlands experts, and Phase B, application by the Army Corps to wetland permits evaluation. ♦

### **D**raft Technical Guidance Document Available on Biological Criteria for Streams and Small Rivers

On August 16, 1996 (61 Fed. Reg. 42610), USEPA announced the availability of a draft guidance document: "Biological Criteria: Technical Guidance for Streams and Small Rivers." USEPA stated that the document is for use with another, entitled "Rapid Bioassessment Protocols for Use in Streams and Rivers: Benthic Macro-invertebrates and Fish," released in 1989. The purpose is to aid states in developing biological water quality criteria for stream and small river surveys, adding biological integrity measurements to the physical and chemical measurements already in practice. USEPA stated that this biological guidance document is the first of its sort; future guidance documents will address, in approximate order of their prospective appearance, the biological quality of lakes and reservoirs, estuarine and coastal marine waters, rivers, wetlands, and, possibly, coral reefs. ♦

### **F**inal Oxyfuels Information Needs Report Available

On August 16, 1996 (61 Fed. Reg. 42611), USEPA announced the availability of a final report, entitled "Oxyfuels Information Needs." The report, prepared through the cooperative efforts of USEPA's offices of Research and Development; Air and Radiation, and Prevention, Pesticides, and Toxic Substances, highlights the types of information needed to enhance scientific understanding of the risks and benefits of the use of oxygenated fuels and reformulated gasoline (collectively "oxyfuels") relative to those of conventional gasoline. USEPA stated that in addition to providing background information and outlining a general framework for comparative risk assessments of fuels, the report summarizes available information, focuses on work presently underway or planned, and highlights currently unfilled data needs. USEPA intends to use the report in prioritizing its future efforts. ♦

### **T**SCA Testing Data Received on Two Commodity Chemicals

On August 16, 1996 (61 Fed. Reg. 42611), USEPA announced that it had received testing data required under the Toxic Substances Control Act relating to commodity chemicals: tert-amyl methyl ether (TAME) and methyl isobutyl ketone (MIBK). The American Petroleum Institute (API) submitted two reports on TAME, which is under consideration for use as a gasoline additive:

"CHO/HGPRT Mutation Assay" and "Chromosome Aberrations in Chinese Hamster Ovary (CHO) Cells." The Chemical Manufacturers Association (CMA) Ketones Panel submitted a report on MIBK, a common solvent: "Methyl Isobutyl Ketone: A Thirteen-Week Schedule-Controlled Operant Behavior Study in the Rat." ♦

### **P**ost-Rebuilt Particulate Emissions Rates for Urban Buses Published

On August 16, 1996 (61 Fed. Reg. 42763), USEPA published a listing of the post-rebuilt particulate matter (PM) emissions rates from urban bus engines for equipment certified prior to July, 1996. The published PM emission levels, together with those published on September 2, 1994 (59 Fed. Reg. 45626) relating to equipment certified prior to July, 1994, is for use by fleet operators in calculating their fleet emissions levels for years 1998 and later.

Under section 219(d) of the Clean Air Act (CAA), on April 21, 1993 (58 Fed. Reg. 21359), USEPA established emission standards or control technology requirements for certain 1993 and earlier model year buses whose engines are rebuilt or replaced. Under the regulations, fleet owners may select compliance options 1 or 2. Option 1 establishes PM emission standards for each rebuilt or replaced engine. Option 2 is a fleet averaging program for each vehicle with a rebuilt or replaced engine that sets forth average PM emission targets for the operator's fleet.

USEPA explained that no equipment had been certified as of July 1, 1996 as meeting the 0.10 grams of PM per British horsepower-hour standard for less than the life-cycle cost requirement of \$7,940 (1992 dollars). Four manufacturers' equipment had received six certifications by that date as meeting the 25 percent reduction requirement for less than the life-cycle cost requirement of \$2000 (1992 dollars). The published PM emission rates are for that equipment for use by fleet operators under the Option 2 averaging regime. ♦

### **R**evised Interim Guidance for Performance Partnership Grant Program Published

On August 19, 1996 (61 Fed. Reg. 42887), USEPA published revised interim guidance for its Performance Partnership Grant (PPG) program for state environmental programs. Under the PPG program, USEPA seeks to give the states more flexibility in addressing their highest environmental priorities, improve environmental performance, and strengthen their relationships with USEPA. It allows states to combine funds from two or more of the eligible grant programs into a single PPG within the eligibilities of those individual programs, thus allowing multi-media programs. USEPA originally published interim guidance for the PPG program in

December, 1995. The new revised interim guidance clarifies that original document and further reflects an intervening grant of Congressional authorization for the PPG program. ♦

### New Petition for a No-Migration Exemption for DOE Waste Isolation Pilot Plant in New Mexico

On August 19, 1996 (61 Fed. Reg. 42899), USEPA published notice that it had received a petition from the Department of Energy (DOE) for a no-migration exemption from the Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste land disposal restrictions (LDRs). The exemption sought would be for the land disposal of hazardous waste at the DOE Waste Isolation Pilot Plant (WIPP) repository in New Mexico. USEPA noted that the WIPP will engage in the above- and below-ground storage and disposal of hazardous waste, and that USEPA will render its determination whether the WIPP meets the radiation protection standards together with its determination on the no-migration exemption sought. USEPA further noted that legislation presently pending in Congress would exempt the WIPP from the RCRA LDRs, mooted the petition. ♦

### Draft Canada-US Strategy for the Virtual Elimination of Persistent Toxic Substances in the Great Lakes Available, Comment Sought

On August 19, 1996 (61 Fed. Reg. 42902), USEPA announced the availability of a "Draft Canada-United States Strategy for the Virtual Elimination of Persistent Toxic Substances in the Great Lakes" and sought public comment on the draft. Adopted pursuant to the Great Lakes Water Quality Agreement of 1978 between the U.S. and Canada, as amended by a 1987 protocol, the Strategy seeks the virtual elimination of the discharge of persistent toxic substances into the Great Lakes, particularly those that bioaccumulate. It provides a framework for pursuing such elimination. The virtual elimination of persistent toxic substances will be sought by a combination of voluntary, regulatory, and incentive-based means, with a primary emphasis on voluntary means. The primary focus is on the Great Lakes Basin, but a larger geographic area will address atmospheric deposition of pollutants into the Basin. USEPA held public meetings during development of the Draft Strategy in 1993 through 1995. ♦

### Census of Environmental Goods and Services

On August 20, 1996 (61 Fed. Reg. 43041), the Department of Commerce Bureau of the Census published a notice that it is conducting a survey of environmental products and services for 1995. The Bureau stated that the

purpose of the survey would be to measure the environmental industry and to use the survey results as a tool to promote international trade in environmental goods. The data sought from a selected sample of providers of environmental goods and services will include employment and wages in environmental businesses, the shipments of goods and receipts for environmental services, and the value of exports of environmental goods and services. The Bureau earlier announced its intent to conduct the survey on June 17, 1996 (61 Fed. Reg. 30592). (See memo of July 23, 1996.) ♦

### Proposed CERCLA Settlement for Automatic Industrial Plating, Inc. Site in Schaumburg

On August 20, 1996 (61 Fed. Reg. 43056), USEPA published notice of a proposed administrative settlement under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) pertaining to the Automatic Industrial Plating, Inc. site in Schaumburg, Illinois. Under the proposed settlement, Wolfgang and Mary Damsch would pay \$3,000 for response costs incurred by USEPA at the site. ♦

### Final Environmental Impact Study Available for the St. Clair County Corridor Transit Improvements Project

On August 23, 1996 (61 Fed. Reg. 43544), USEPA announced that it had received a final environmental impact statement (EIS) for the St. Clair County Corridor transit improvements project. Earlier, on June 7, 1996 (61 Fed. Reg. 29094), USEPA had announced the availability of a draft supplement to an economic impact study relating to the St. Clair County Corridor transit improvements Metrolink extension project from East St. Louis to the Mid-America Airport in St. Clair County. ♦

### Settlement Proposed in Chemical Manufacturers Association v. EPA; Proposed Clarifying Amendments to the NESHAP for SOCM and Other Processes Subject to the Negotiated Rulemaking for Equipment Leaks

On August 26, 1996 (61 Fed. Reg. 43698), USEPA proposed corrective amendments to the national emission standards for hazardous air pollutants (NESHAP) on April 22, 1994 (59 Fed. Reg. 19402) applicable to the synthetic organic chemical manufacturing industry (SOCMI) and other processes subject to the negotiated rulemaking for equipment leaks. USEPA adopted the NESHAP on April 22 and June 6, 1994 (59 Fed. Reg. 19402 and 29196), referred to as the hazardous organic NESHAP or HON. Suits challenging the rules were filed in Chemical Manufacturers Association v. EPA, nos. 94-1463 and 94-

1465 (D.C. Cir.), raising more than 75 technical issues on the structure and applicability of the rules. USEPA proposed the corrective and clarifying amendments to address all the issues raised in that litigation. On August 23, 1996 (61 Fed. Reg. 43544), USEPA announced the proposed settlement of the Chemical Manufacturers Association litigation. Pursuant to that settlement, USEPA intends to adopt the corrective and clarifying amendments by December 31, 1996 and allow applications for extensions of the April, 1997 compliance deadline of up to four months. An extended compliance deadline of April 22, 1999 is included in the proposed amendments with regard to process wastewater, maintenance wastewater, heat exchangers, and certain in-process equipment. ♦

### **P**olicy Released on Interim Approach Water Quality-Based Effluent Limitations for Stormwater Permits

On August 26, 1996 (61 Fed. Reg. 43761), USEPA issued notice of a policy that outlines an interim approach for incorporating water quality-based effluent limitations into NPDES stormwater permits. USEPA intends to use the interim approach to reduce the threat of wet-weather flows to stream water quality, aid the states in solving wet-weather flow-related problems, and reduce the burden of the Phase I stormwater permit program. The policy employs best management practices (BMPs) in initial permits and contemplates expanded or enhanced BMPs for subsequent permits. The policy will not affect existing permits or technology-based standards. Although the policy applies only to USEPA, USEPA encouraged states to adopt similar policies. The policy may be amended in the future as a result of dialog between USEPA and the Urban Wet Weather Flows Federal Advisory Committee. ♦

### **E**mergency Revision of Phase III Land Disposal Restrictions Treatment Standards for Listed Carbamate Wastes

On August 26, 1996 (61 Fed. Reg. 43923), USEPA adopted an immediate final rule that incorporated emergency amendments into the Phase III land disposal restrictions (LDRS) treatment standards for listed hazardous wastes from carbamate pesticide production. USEPA adopted the Phase III LDRs on April 8, 1996 (61 Fed. Reg. 15565), among other things instituting the treatment standards for carbamate wastes. (See memo of May 9, 1996.) USEPA adopted the emergency amendments because it became aware that laboratory standard samples (used to calibrate instruments) do not exist for many of the carbamates involved in the original Phase III rule. This meant that treatment facilities could not certify that the treated waste met the best demonstrated available technology (BDAT)-based treatment standards.

For this reason, USEPA suspended the treatment standards for one year, allowing the use of any methodology that achieves the constituent concentration levels or using any of the alternative treatment technology specified in the Phase III rule. USEPA also suspended the treatment requirement for ignitable, reactive, and corrosive characteristic waste in which carbamate waste constituents are expected as underlying hazardous constituents. USEPA anticipates that the capacity will exist by the end of the year for commercial laboratories to perform the required analyses.

(Note: This action technically falls within the nominal timeframe of the RCRA Subtitle C docket for the period July 1 through December 31, 1996, which is as yet unassigned. It is possible, however, that the Board may include this action in the reserved RCRA Subtitle C update docket, R97-5, for the period January 1 through June 30, 1996, since it directly affects federal amendments of April 8, 1996 amendments that are included in that docket.) ♦

### **C**AA RACT Control Technology Guideline Available for Shipbuilding and Ship Repair Operations

On August 27, 1996 (61 Fed. Reg. 44050), USEPA announced that the Clean Air Act (CAA) reasonably available control technology (RACT) control technology guideline (CTG) is available for shipbuilding and ship repair surface coating operations. The CTG, in conjunction with the previously-published alternative control techniques (ACT) for these operations, is intended to aid states in implementing RACT for control of volatile organic material (VOM) emissions for the purposes of implementing the national ambient air quality standards (NAAQS) for ozone. Under federal law, the states are to assure that sources implement the RACT contained in the CTG no later than August 27, 1998.

USEPA stated that VOM emissions from shipbuilding and ship repair surface coating operations include xylene, toluene, ethyl benzene, isopropyl alcohol, butyl alcohol, ethyl alcohol, methanol, methyl ethyl ketone, methyl isobutyl ketone, ethylene glycol, and glycol ethers. It estimated that employing the best available control measures (BACM) of the CTG will reduce VOM emissions from these sources by 1,370 tons per year from the 35 major source shipyards nationally, at an annual cost of \$1.1 million. Those costs are over and above the \$2.0 million cost for implementing the national emission standards for hazardous air pollutants (NESHAP) adopted for this category on December 15, 1995 (60 Fed. Reg. 64330). USEPA said that the CTG relies on the use of low-volatility coatings as the only feasible means of reducing VOM emissions from these sources. ♦

## Final Report Available on Air Quality Criteria for Ozone and Photochemical Oxidants

On August 27, 1996 (61 Fed. Reg. 44057), USEPA announced the release of a final report from the Office of Research and Development, entitled "Air Quality Criteria for Ozone and Related Photochemical Oxidants." This document evaluates the latest scientific information on the effects of ozone and related photochemical oxidants on human health and the environment. This information will be used by USEPA as a basis for its decisions relating to the national ambient air quality standards (NAAQS) for ozone.

Note: I have a copy of the executive summary of this report that I can provide upon request. USEPA published an advance notice of its intent to propose decisions by November 29, 1996 whether to retain or revise the NAAQS for ozone. The November 29 date for proposal of USEPA's determinations derived from a judicial order in *American Lung Association v. Browner*, 884 F. Supp. 345 (D. Ariz. 1994). That order, relating to PM only, imposed a June 28, 1997 deadline for adoption of any final USEPA decision. (See memo of July 23, 1996.) ♦

## Final Unified Toxic Substances and Pesticides Testing Guidelines Available

On August 28, 1996 (61 Fed. Reg. 44308), USEPA announced the creation of a unified library for test guidelines and the release of two final testing guidelines: "Series 830--Product Properties Test Guidelines" and "Series 860--Residue Chemistry Test Guidelines." The Office of Prevention, Pesticides and Toxic Substances (OPPT) is engaged in a long-term project of harmonizing test guidelines among OPPT, the Office of Pesticide Programs, and the Organization for Economic Cooperation and Development. The methods will be for use for the purposes of testing under 40 CFR 158 and 795 through 799. They will ultimately be published in ten series:

- Series 810--Product Performance Test Guidelines
- Series 830--Product Properties Test Guidelines
- Series 835--Fate, Transport and Transformation Test Guidelines
- Series 840--Spray Drift Test Guidelines
- Series 850--Ecological Effects Test Guidelines
- Series 860--Residue Chemistry Test Guidelines
- Series 870--Health Effects Test Guidelines
- Series 875--Occupational and Residential Exposure Test Guidelines
- Series 880--Biochemicals Test Guidelines
- Series 885--Microbial Pesticide Test Guidelines

USEPA previously made the final series 875, 880, and 885 testing guidelines available to the public (61 Fed. Reg. 8279, Mar. 4, 1996). ♦

## Lead-Based Paint Identification and Abatement Activities Requirements Adopted

On August 29, 1996 (61 Fed. Reg. 45777), USEPA adopted regulations pertaining to the training and certification of personnel conducting lead-based paint activities in target housing and child-occupied facilities. USEPA stated that the regulations are intended to assure proper training and certification of persons engaged in lead-based paint identification and abatement, that training programs for these workers provide adequate instruction and are accredited, and that the work is conducted reliably, effectively, and safely. USEPA also adopted regulations providing for authorization of state programs to administer and enforce the substantive rules.

USEPA noted that states may apply for program authorization as early as October 28, 1996. USEPA will itself begin implementing the substantive rules in non-authorized states before August 31, 1998, which is also the first date when training programs may first apply for accreditation. Effective August 30, 1999, no person may engage in lead-based paint activities in a USEPA-administered state without certification, and all activities must be performed according to the federal standards. Persons in those states may apply to USEPA for certification after March 1, 1999. ♦

## Updated California On-Board Vehicle Diagnostic Requirements Adopted

On August 30, 1996 (61 Fed. Reg. 45898), USEPA adopted amendments to its on-board vehicle (OBD) system regulations to allow amended California OBD II requirements to satisfy the federal requirements. USEPA initially allowed compliance using the California OBD II requirements on February 19, 1993 (58 Fed. Reg. 9468). The State of California revised its OBD II requirements in 1995, and the present amendments update the federal requirements to allow those state revisions. The only exception is that USEPA will not require compliance with the anti-tampering provisions of the California rules. ♦

## Miscellaneous Federal Meetings

Meeting of: Common Sense Initiative Council Automobile Manufacturing Sector Subcommittee  
 Date and Location: August 20, 1996 in Washington, D.C.  
 Announced purpose: To discuss how the teams or subcommittee should manage projects forward, including those having implications outside the auto sector. The CSIC-AMS has formed three project teams--Regulatory Initiatives, Alternative Sector Regulatory System/Community Technical Assistance, and Life Cycle Management/Supplier

Notice citation: 61 Fed. Reg. 40415, August 2, 1996

Meeting of: Effluent Guidelines Task Force

Date and Location: September 17, 1996 in Washington, D.C.

Announced purpose: The task force advises USEPA on the long-term strategy for the effluent guidelines program and provides recommendations on expediting the development of effluent guidelines.

Notice citation: 61 Fed. Reg. 42609, August 16, 1996

Meeting of: National Advisory Council for Environmental Policy and Technology, Community-Based Environmental Protection Committee

Date and Location: September 10 and 11, 1996, Seattle, Washington

Announced purpose: To discuss planned recommendations to USEPA. The Committee was formed to advise USEPA on opportunities for harmonizing environmental policy, economic activity, and ecosystem management.

Notice citation: 61 Fed. Reg. 42901, August 19, 1996

Meeting of: USEPA, Office of Pesticide Programs

Date and Location: August 21, 1996, Tipton, Indiana

Announced purpose: To solicit information from the interested public on their experience in the first year of implementation of USEPA's pesticide worker protection standards. This is one of a series of meetings being held around the country on this matter. USEPA seeks input based on the initial experiences from workers, growers, and others on the first year of implementation of its pesticide worker safety rules. USEPA adopted those rules on August 21, 1992, with certain requirements becoming effective on April 21, 1993 and the rest on April 15, 1994. The rules include various requirements relating to access to sites of pesticide application, worker training, and reporting. (See memo of Aug. 15, 1996)(see article p. 6)  
Notice citation: 61 Fed. Reg. 42901, August 19, 1996

Meeting of: Office of Air Quality Planning and Strategy; Clean Air Act Advisory Committee, NSR Reform Subcommittee

Date and Location: Public hearing rescheduled to September 16, 1996 and Advisory Committee meeting on September 17, 1996, in Research Triangle Park, North Carolina

Announced purpose: On the proposed new source review (NSR) reform rulemaking (61 Fed. Reg. 38249, July 23, 1996), which would amend the procedures and requirements for review of implementation plans relating to NSR programs. (See memo of July 23, 1996.)

Notice citation: 61 Fed. Reg. 43030, August 20, 1996

Meeting of: National Advisory Council for Environmental Policy and Technology, Environmental Information,

Economics and Technology Committee, Environmental Statistics Subcommittee

Date and Location: September 10 and 11, 1996, in Washington, D.C.

Announced purpose: To discuss and offer critical advice on initiatives of the USEPA Office of Strategic Planning and Environmental Data. The Subcommittee was formed to provide recommendations and advice to USEPA relating to statistical products and activities and to explore informational gaps from the perspective of users of these data products.

Notice citation: 61 Fed. Reg. 43055, August 20, 1996

Meeting of: Environmental Laboratory Board

Date and Location: September 5, 1996, Washington, D.C. (teleconference)

Announced purpose: To discuss options for laboratory performance evaluation samples. On July 18, 1996 (61 Fed. Reg. 37464), USEPA announced an earlier August 27, 1996 meeting and announced that it is presently reevaluating its role in laboratory performance evaluations. USEPA has three laboratory performance evaluation programs: water supply, water pollution, and Discharge Monitoring Report (DMR) quality assurance. USEPA stated that it has eight other options under consideration, each discussed in the draft report, "Externalization of EPA's Water Laboratory Performance Evaluation Programs."

Notice citation: 61 Fed. Reg. 43055, August 20, 1996

Meeting of: Nuclear Waste Technical Review Board

Date and Location: October 9 and 10, 1996, in Arlington, Virginia

Announced purpose: To hear updates on the Yucca Mountain exploration and testing program and viability assessment and repository advanced conceptual design, with an emphasis on the effects of different thermal loads on underground geology and hydrology. To review USEPA's proposed standards for release of radionuclides from the proposed repository.

Notice citation: 61 Fed. Reg. 43095, August 20, 1996

Meeting of: Science Advisory Board, Integrated Risk Project, Risk Reduction Options Subcommittee

Date and Location: September 11 and 12, 1996, in Washington, D.C.

Announced purpose: To review the strategic directions and approach to research of the National Risk Management Research Laboratory. To continue work begun at the June, 1996 meetings, at which the Subcommittee heard presentations on options for risk reduction. To note consultation with USEPA, Office of Solid Waste on the process for a surface impoundment study under the Land Disposal Program Flexibility Act of 1996, which mandated that USEPA complete a study within five years of the

environmental and human health effects of managing decharacterized wastes in wastewater treatment system surface impoundments or in Class I non-hazardous injection wells. (See memo of August 15, 1996 re announcement at 61 Fed. Reg. 38684, July 25, 1996.)  
Notice citation: 61 Fed. Reg. 43240, August 21, 1996

Meeting of: Science Advisory Board, Environmental Engineering Committee  
Date and Location: September 25 through 27, 1996, in Cincinnati, Ohio  
Announced purpose: To receive report of the Superfund Innovative Technology Evaluation (SITE) Subcommittee on the technical aspects of implementing the SITE program.  
Notice citation: 61 Fed. Reg. 43240, August 21, 1996

Meeting of: Sanitary Sewer Overflows Advisory Subcommittee  
Date and Location: September 9 and 10, 1996, in Alexandria, Virginia  
Announced purpose: To discuss approaches and key issues involved in an overall sanitary sewer overflow (SSO) strategy.  
Notice citation: 61 Fed. Reg. 43545, August 23, 1996

Meeting of: Science Advisory Board, Executive Committee  
Date and Location: September 17 and 18, 1996  
Announced purpose: To receive updates from committees and subcommittees, on topics including forecasting future water issues, biocriteria for lakes and streams, and a model for cumulative human exposure to toxicants.  
Notice citation: 61 Fed. Reg. 43545, August 23, 1996

Meeting of: Science Advisory Board, Ecological Processes and Effects Committee  
Date and Location: September 19 and 20, 1996  
Announced purpose: To review and approve subcommittee reports, including a draft report from the Structural Marsh Subcommittee on the current science underlying structural marsh management, and to review USEPA's proposed guidelines for ecological risk assessment, which USEPA intends to print in a September issue of the Federal Register.  
Notice citation: 61 Fed. Reg. 43545, August 23, 1996

Meeting of: USEPA, Office of Pollution Prevention and Toxics, Chemical Control Division  
Date and Location: September 12, 1996, Washington, D.C.  
Announced purpose: To implement the regulatory reinvention process as it relates to the Toxic Substances

Control Act (TSCA) section 8(d) reporting process by seeking prospective ways to amend the reporting requirements to ease the burden of compliance while maintaining or enhancing human health and the environment.

Notice citation: 61 Fed. Reg. 43546, August 23, 1996

Meeting of: National Advisory Council for Environmental Policy and Technology, Reinvention Criteria Committee  
Date and Location: September 10, 1996  
Announced purpose: To obtain perspectives from the public on criteria USEPA can use to measure the success and progress of reinvention projects and to identify criteria for promoting self-certification.  
Notice citation: 61 Fed. Reg. 43760, August 26, 1996

Meeting of: National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances  
Date and Location: September 17 through 19, 1996, in Washington, D.C.

Announced purpose: To address the acute toxicology and acute exposure guideline levels (AEGLs) for ammonia, methyl mercaptan, hydrogen fluoride, and cyanogen chloride, and the development of AEGLs for hydrogen cyanide, 1,2-dichloroethylene, arsine, dimethyldichlorosilane, and nitric acid.

Notice citation: 61 Fed. Reg. 44307, August 28, 1996

Meeting of: Risk Assessment Forum

Date and Location: September 10 and 11, 1996, in Bethesda, Maryland

Announced purpose: This workshop will focus on the use of the benchmark dose approach in cancer and noncancer risk assessments and discuss general principles as they will be discussed in the draft guidance under development, entitled "Benchmark Dose Technical Guidance Document."

Notice citation: 61 Fed. Reg. 44308, August 28, 1996 ♦

## **FINAL DECISIONS 8/1/96**

94-240 International Union, United Automobile, Aerospace and Agricultural Implement Workers of America and UAW Local 974 and Citizens For a Better Environment v. Caterpillar, Inc., EPA, Party-in-Interest - The Board found that this Peoria County respondent had violated Sections 12(a), 21(e) and 21(f)(1) of the Environmental Protection Act and certain RCRA Subtitle C hazardous waste regulations, but the Board found that the respondent had properly managed the excavated soil containing hazardous waste pursuant to the RCRA interim status closure requirements. The Board held that no civil penalty or any other remedy was appropriate based on the facts of this case.

95-117 Kean Brothers, Inc. v. EPA - The Board granted voluntary withdrawal of 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.

96-52 Raleigh Realty Corporation v. EPA - The Board granted voluntary withdrawal of this underground storage tank fund reimbursement determination appeal involving a Cook County facility.

96-102 Kathe's Auto Service Center v. EPA - The Board summary judgment and affirmed the Agency's denial of this Cook County petitioner's request for reimbursement in this underground storage tank fund reimbursement determination appeal because the tank and contaminated soil removal was early action.

96-169 People of the State of Illinois. v. Kerr-McGee Refining Corporation - The Board accepted a stipulation and settlement agreement in this water enforcement action against a Greene County facility, ordered the respondent to pay a civil penalty of \$35,000.00, and ordered it to cease and desist from further violation.

97-24 Grace Container Products v. EPA - Upon receipt of an Agency recommendation, the Board granted this Cook County facility a 45-day provisional variance, with conditions, from certain of the volatile organic material emissions provisions of the air pollution control regulations that are applicable to miscellaneous formulation manufacturing processes in the Chicago metropolitan area.

AC 96-53 EPA v. Elmer Meints - The Board entered a default order, finding that this Livingston County respondent had violated Sections 21(p)(1) and 21(p)(3) of

the Act and ordering it to pay a civil penalty of \$1,000.00.

AS 96-11 In the Matter: of: Chemetco, Inc. petition for an Adjusted Standard from 35 Ill. Adm. Code Part 720.131(a), (C) - The Board found that the petitioner had not timely filed a certificate of publication and dismissed this petition filed on behalf of a Madison County facility for a solid waste determination (adjusted standard) pursuant to the RCRA Subtitle C hazardous waste regulations.

## **FINAL DECISIONS 8/15/96**

94-388 Amoco Oil Company v. EPA - The Board granted voluntary withdrawal of this underground storage tank appeal involving a DuPage County facility.

96-92 Amoco Oil Company v. EPA - The Board voluntarily dismissed this underground storage tank reimbursement determination appeal involving a DuPage County facility.

96-158 Frederick Cooper Lamps, Inc. v. EPA - The Board granted summary judgment and affirmed the Agency's denial of a permit for the construction and operation of a Cook County clear lacquer applicator and curing oven, determining that the activity would be subject to the metal furniture coating requirements of the air pollution control regulations applicable in the Chicago metropolitan area.

96-182 A.F. Moore & Associates v. EPA - The Board reversed the denial of the Corrective Action Completion in this underground storage tank appeal involving a Cook County facility.

96-195 City of Prospect Heights v. EPA - The Board denied an extension of a prior variance. granted March 28, 1991 in docket PCB 91-224, from the restricted status and standards of issuance provisions of the public water supplies regulations, as they relate to the combined radium content of the drinking water provided by this Cook County facility, because most recent composite samples of the water demonstrated compliance with the radium standard.

96-218 Mobil Oil Corporation v. EPA - The Board granted this Will County facility an extension of a prior variance, granted March 3, 1994 in docket in PCB 93-151, from certain of the ammonia nitrogen effluent requirements of the water pollution control regulations, subject to conditions, as they apply to this Will County facility's wastewater discharges to the Des Plaines River.

96-227 Raytheon Aircraft Services v. EPA - Having previously granted a request for an extension of time to file, the Board dismissed this reserved docket because no underground storage tank fund reimbursement determination appeal was timely filed on behalf of this Cook County facility.

96-228 Graham Oldsmobile v. EPA - Having previously granted a request for an extension of time to file, the Board dismissed this reserved docket because no underground storage tank fund reimbursement determination appeal was timely filed on behalf of this Will County facility.

96-231 The U.S. Department of Energy and the University of Chicago v. EPA - Having previously granted a request for an extension of time to file, the Board dismissed this reserved docket because no underground storage tank appeal was timely filed on behalf of this DuPage County facility.

96-236 Shell Oil Products Company v. EPA - The Board dismissed docket because the Cook County facility had failed to timely file an amended petition for a variance from certain of the risk-based soil remediation requirements of the land pollution control (underground storage tank) regulations, as instructed in a Board order dated June 6, 1996.

96-241 Shell Oil Products Company v. EPA - Having previously granted a request for an extension of time to file, the Board dismissed this reserved docket because no underground storage tank appeal was timely filed on behalf of this Will County facility.

96-257 People of the State of Illinois v. Rockford Blacktop Construction Company - The Board accepted a stipulation and settlement agreement in this water enforcement action against a Winnebago County respondent, ordered the respondent to pay a civil penalty of \$8,500.00, and ordered it to cease and desist from further violation.

96-267 People of the State of Illinois v Atlas Dismantling Corporation, and Cary Corners Partnership The Board accepted a stipulation and settlement agreement in this water enforcement action against McHenry County respondents, ordered the respondents to pay a total civil penalty of \$6,700.00, and ordered them to cease and desist from further violation.

97-32 Village of Ashland v. EPA - Upon receipt of an Agency recommendation, the Board granted this Cass County facility a 45-day provisional variance from certain total suspended solids, biochemical oxygen

demand, and ammonia nitrogen effluent requirements of the water pollution control regulations, subject to conditions.

AC 96-54 EPA v. Finger Refuse Service, Inc. - The Board entered a default order, finding that this Lee County respondent had violated Section 21(p)(1) of the Act and ordering it to pay a civil penalty of \$500.00.

**AS 96-9** In the Matter of: Petition of Commonwealth Edison Company for an Adjusted Standard from 35 Ill. Adm. Code Parts 811, 814 - The Board granted this Will County facility an adjusted standard, with conditions, from certain leachate collection, monitoring well location, groundwater monitoring, final cover, zone of attenuation, and other requirements of the solid waste disposal (non-hazardous solid waste landfill) regulations.

**R96-1** In the Matter of: Proposed Alternative Standards for Coal Combustion Power Generating Facilities Waste Landfills; 35 Ill. Adm. Code Part 816 - *See Rulemaking Update.*

**R96-1** In the Matter of: Proposed Alternative Standards for Coal Combustion Power Generating Facilities Waste Landfills; 35 Ill. Adm. Code Part 816 - The Board adopted alternative standards for new utility waste landfills that establish an alternative means of satisfying the liner and cap requirements for certain new landfills by allowing owners and operators of landfills that accept only flue gas desulfurization (FGD) sludges and coal combustion ash from electric utilities to use stabilized materials as liner and cap material or to monofill the stabilized materials without a liner and cap.

## **NEW CASES 8/1/96**

**96-250** White & Brewer Trucking v. EPA Having previously granted a request for an extension of time to file, and having received a timely-filed petition, the Board accepted this land permit appeal involving a Montgomery County facility for hearing.

**97-17** Irma L. Lopez, Jose Martinez, Joel R. Garay and Jose Gonzalez v. Celotex Corporation, Allied-Signal, Inc., and the EPA - The Board held this citizen's RCRA Subtitle C enforcement action against a Cook County facility for a frivolous and duplicitous determination.

**97-18** Laidlaw Waste Systems, Inc. v. EPA - The Board accepted this request for an extension of time to file and reserved this docket for any land permit appeal that may be filed on behalf of this Coles County facility.

**97-19** Laidlaw Waste Systems, Inc. v. EPA The Board accepted this request for an extension of time to file and reserved this docket for any land permit appeal that may be filed on behalf of this Madison County facility.

**97-20** People of the State of Illinois v. Bentronics Corporation - The Board received this water enforcement action against a DuPage County facility for hearing.

**97-21** DeKalb Sanitary District v. EPA - The Board held this petition filed on behalf of a DeKalb County facility for a variance during a period of treatment plant maintenance and repairs from certain effluent biochemical oxygen demand and total suspended solids requirements of the water pollution control regulations for the Agency recommendation.

**97-22** NPK Storage, Inc. v. EPA The Board accepted this request for an extension of time to file and reserved this docket for any underground storage tank appeal that may be filed on behalf of Macon County facility.

**97-23** The City of Lockport v. EPA - The Board accepted this NPDES permit appeal involving a Montgomery County facility for hearing.

**97-24** Grace Container Products v. EPA - See Final Actions

AC 97-5 Vermilion County v. Lowell Null and M & N Pallet, Inc. (Hoopeston/M & N Pallet) - The Board received an administrative citation against Vermilion County respondents.

## **NEW CASES 8/15/96**

**96-247** Macon County Landfill #2 & #3 v. EPA Having previously granted a request for an extension of time to

file, and having received a timely-filed land permit appeal involving this Macon County facility the Board accepted the petition for hearing.

**97-25** Grimms Pharmacy v. EPA - Having received a request for an extension of time to file, the Board reserved this docket for any underground storage tank appeal that may be filed on behalf of this Kane County facility.

**97-26** People of the State of Illinois v. Central Illinois Public Service Company - The Board received this water enforcement action against a Crawford County facility for hearing.

**97-27** Glenbard Wastewater Authority v. EPA - The Board held this petition filed on behalf of a DuPage County facility for an extension of a variance, previously granted on April 20, 1995 in docket PCB 95-49, from certain of the total suspended solids effluent requirements of the water pollution control regulations for the Agency recommendation.

**97-28** Village of Lynwood v. Cook County Board of Commissioners and J.T. Einodes Company - The Board accepted this pollution control facility (landfill) siting appeal involving a proposed Cook County facility for hearing.

**96-29** Citizens Opposed to Additional Landfills and Harvey C. Pitt v. Greater Egypt Regional Environmental Complex a/k/a Gere Properties, Inc., and the Perry County Board of Commissioners - The Board accepted this pollution control facility (landfill) siting appeal involving a proposed Perry County facility for hearing.

**97-30** People of the State of Illinois v. Shell Oil Company - The Board accepted this air enforcement action involving a Madison County facility for hearing.

**97-31** People of the State of Illinois v. Johnnie Mae Hendricks - The Board received this land enforcement action against a Macoupin County facility for hearing.

**97-32** Village of Ashland v. EPA - See Final Actions

AC 97-6 Will County v. Trust #72-22960 - The Board received an administrative citation against this Will County respondent.

**AS 97-1** In the Matter of: American River Transportation Company petition for an Adjusted Standard from 35 Ill. Adm. Code Parts 809.201, 809.301, 809.302 and 809.504 The Board acknowledged receipt of this petition for an adjusted standard from certain requirements on behalf of a LaSalle County facility and held it pending receipt of publication.

**AS 97-2** In the Matter of: Chemetco, Inc. petition for an Adjusted Standard from 35 Ill. Adm. Code Part 720.131(a), (c) The Board acknowledged receipt of this petition for an adjusted standard from certain requirements on behalf of a Madison County facility and held it pending receipt of publication.

## CALENDAR OF HEARINGS

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

Date & Time	Case # & Type	Case Name and Location
18-Sep-96 10:30 A.M.	PCB 96-151 L-E, Citizens	<u>Keith F. Boyer v. Felecia Harris, a/k/a Felecia Dawkins, and Chicagoland Mortgage Corporation--James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago, Illinois</u>
19-Sep-96 10:00 A.M.	PCB 96-021 A-E	<u>People of the State of Illinois v. Diamond Plating Company--Madison County Administration Building, 157 North Main Street, Edwardsville, Illinois</u>
19-Sep-96 09:00 A.M.	PCB 96-221 P-A, Air	<u>Hydrosol, Inc. v. IEPA--James R. Thompson Center, Suite 11-630, 100 West Randolph Street, Chicago, Illinois</u>
20-Sep-96 10:00 A.M.	PCB 96-184 A-V	<u>J.M. Sweeney Co. v. IPEA--Lake Zurich Village Hall, Lower Conference Room, 70 East Main Street, Lake Zurich, Illinois</u>
26-Sep-96 10:30 A.M.	PCB 96-254 A-V	<u>Marathon Oil Company v. IEPA--Crawford County Courthouse, Grand Jury Room, Court Street, Robinson, Illinois</u>
27-Sep-96 11:00 A.M.	AC 95-026 AC	<u>IEPA v. Orville Bartels and Frank Blair (Chanderville/Bartels) IEPA Docket No. 181-95-AC--City Building, behind the County Building, West side of square, Virginia, Illinois</u>
2-Oct-96 09:30 A.M.	PCB 97-029 L-S-R, Third Party	<u>Citizens Opposed to Additional Landfills and Harvey C. Pitt individually and as a member of Citizens Opposed to Additional Landfills v. Greater Egypt Regional Environmental Complex, a/k/a Gere Properties, Inc., and the Perry County Board of Commissions--DuQuoin City Hall, 28 South Washington Street, DuQuoin, Illinois</u>
08-Oct-96 10:30 A.M.	PCB 96-058 UST-FRD	<u>Effingham tire Center v. IEPA--Effingham County Office building, County Boardroom, 101 North Fourth Street, Effingham, Illinois</u>
11-Oct-96 10:00 A.M.	PCB 96-110 N-E, Citizens	<u>Sara Scarpino and Margaret Scarpino v. Henry Pratt Company--Old Kane County Courthouse, Courtroom 110, 100 South Third Street, Geneva, Illinois</u>
25-Oct-96 10:00 A.M.	R96-18 PWS, Rule	<u>Amendments to 35 Ill. Adm. Code Subtitle F (Parts 601 through 620)--Old Kane County Courthouse, 100 South Third Street, Room 110, Geneva, Illinois</u>
29-Oct-96 10:00 A.M.	PCB 96-107 A, W & L-E	<u>People of the State of Illinois v. ESG Watts, Inc.--County Building, County Board Room, 1504 Third Avenue, Rock Island, Illinois</u>
30-Oct-96 10:00 A.M.	R96-18 PWS, Rule	<u>Amendments to 35 Ill. Adm. Code Subtitle F (Parts 601 through 620)--Old Kane County Courthouse, 100 South Third Street, Room 110, Geneva, Illinois</u>

For an explanation of abbreviations used above see the Calendar Code on the following page.

Calendar Code

3d P	Third Party Action	A-C	Administrative Citation
A-E	Air Enforcement	A-S	Adjusted Standard
A-V	Air Variance	CSO	Combined Sewer Overflow Exception
GW	Groundwater	HW Delist	RCRA Hazardous Waste Delisting
L-E	Land Enforcement	L-S-R	Landfill Siting Review
L-V	Land Variance	MW	Medical Waste (Biological Materials)
N-E	Noise Enforcement	N-V	Noise Variance
P-A	Permit Appeal	PWS-E	Public Water Supply Enforcement
PWS-V	Public Water Supply Variance	R	Regulatory Proceeding
RCRA	Resource Conservation and Recovery Act proceeding (hazardous waste only)	S0 <sub>2</sub>	S0 <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		

Illinois Water Law:  
Challenges and Opportunities  
October 23, 1996

**GENERAL INFORMATION:**

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

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

**Registration Fee:**

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

**TO REGISTER:**

Fill out the following form and return it to:

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

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Please Check the appropriate box:

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

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

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


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ILLINOIS WATER LAW: PROGRAM SCHEDULE:

8:00 am -- Registration and Continental Breakfast	2:30 pm -- Focus Session III: Access and Recreation Uses
9:00 am -- Welcome	
9:30 am -- Water Law I: Survey of Eastern Water Law	3:15 pm -- Refreshment Break
10:30 am -- Refreshment Break	3:30 pm -- Concurrent Sessions A
10:45 am -- Water Law II: Analysis of Illinois Water Law	<ul style="list-style-type: none"> <li>• Water Rights</li> <li>• Drought Management</li> </ul>
11:45 am -- Focus Session I: Surface Withdrawals and Instream Flows	4:15 pm -- Concurrent Sessions B
12:30 pm -- Lunch	<ul style="list-style-type: none"> <li>• Climate Change</li> <li>• State/Local Authority and Coordination</li> </ul>
1:45 pm -- Focus Session II: Groundwater Withdrawals	5:00 pm -- Conference Closing

## BOARD PROCEDURAL RULES

To receive a copy of the Board's proposed Procedural Rules Revisions please fill out and mail this form to the Board Chicago office, or call (312)814-3620, or send the information via email to: [dbrown@pcb016R1.state.il.us](mailto:dbrown@pcb016R1.state.il.us)

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Please send one copy of the Illinois Pollution Control Board's proposed Procedural Rules Revisions to:

Name: \_\_\_\_\_

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_