



ENVIRONMENTAL REGISTER



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RULEMAKING UPDATE

Board Adopts Toxic Air Contaminants Amendments, R96-4

On May 1, 1997, the Board adopted amendments to the toxic air contaminants regulations. The Agency filed its proposal on October 13, 1995, to update the existing Illinois Toxic Air Contaminant (ITAC) list at 35 Ill. Adm. Code 232. The Board issued an order on November 2, 1995, that accepted the proposal and dismissed older subdockets relating to toxic air contaminant reporting requirements (R90-1(C)), and adding styrene to the list of toxic air contaminants (R90-1(D)). (See issue 499, December 1995.) The Board consolidated the subject matter of the older subdockets into R96-4.

First notice of the proposed amendments was adopted by the Board on (*Cont'd on p. 2*)

STAFF VACANCY

The IPCB is currently seeking applicants for a vacant environmental scientist position.

Those interested in the full time position should complete an application with the Department of Central Management Services. Please note that the absolute veteran preference applies.

For more information on the position, contact IPCB Personnel Manager, Gale O'Neal at 217-782-7499 or 600 South Second Street, Suite 402, Springfield, IL, 62704.

APPELLATE UPDATE

Concerned Adjoining Owners, a Concerned Citizen's Group and Those Opposed to Area Landfills (T.O.T.A.L.), a Concerned Citizen's Group v. The Pollution Control Board, The City of Salem, Roger Kinney, City Manager of the City of Salem, and Roger Friedrichs, No. 5-96-0244 (Fifth District April 18, 1997) (unpublished rule 23 order).

This case involves an appeal from the Board decision in T.O.T.A.L. and Concerned Adjoining Owners v. City of Salem, Roger Kinney, City Manager and Roger Freidricks, PCB 96-79 and PCB 96-82 (consolidated) (March 7, 1996) affirming the decision of the City of Salem which granted siting approval for an extension of an existing landfill and for a new landfill. On appeal the Concerned Adjoining Owners (CAO) and T.O.T.A.L. each argued that the Board's decision should be reversed because the hearing before the Salem City Council (City Council) was fundamentally (*Cont'd on p. 5*)

FEDERAL ACTIONS

USEPA Finalizes Treatment and Disposal Rule Amend- ments

USEPA has finalized treatment standards for hazardous wastes generated from wood preserving operations and is making a conforming amendment to the standard for wastes from production of chlorinated aliphatics which carry the F024 hazardous waste code. (62 Fed. Reg. 25997 (May 12, 1997).) The USEPA believes that these treatment standards will minimize threats to human health and the environment otherwise posed by these wastes. In addition, this final rule revises the land disposal restrictions (LDR) program to significantly reduce paperwork requirements by 1.6 million hours. The rule also finalizes the decision to employ polymerization as an alternative method of treatment for certain ignitable wastes. The rule also finalizes the decision not to ban certain wastes from biological treatment, because there is no need to classify these (*Cont'd on p. 7*)

Inside This Issue

♦	Final Decisions	p9
♦	New Cases	p11
♦	Calendar of Hearings	p13

RULEMAKING UPDATE

(Cont'd from p.1)

August 1, 1996, and published in the *Illinois Register* on August 23, 1996, at 20 Ill. Reg. 11440. The Board proposed the amendments for second notice on March 20, 1997. The Joint Committee on Administrative Rules voted "no objection" to the Board taking final action on this matter on April 15, 1997.

The amendments 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 a concern under its "Great Waters" program under section 112(m) of the CAA. The amendments also require all sources that meet certain requirements to submit an ITAC source report for calendar year 1996, and corrects typographical errors in the existing ITAC list.

Direct questions to Charles M. Feinen, at 312-814-3473 (internet address: cfeinen@pcb084r1.state.il.us). Request copies of Board orders from Victoria Agyeman, at 312-814-3620 (internet address: vagyeman@pcb084r1.state.il.us). Please refer to docket R96-4. ♦

Board Adopts Amendments to Public Water Supply and Groundwater Regulations, R96-18

On May 1, 1997, the Board adopted amendments to the Subtitle F public water supplies regulations. First notice was adopted by the Board on November 21, 1996, and published in the *Illinois Register* on December 20, 1996 at 20 Ill. Reg. 15863. The Board proposed the amendments for second notice on March 20, 1997. On April 15, 1997, the Joint Committee on Administrative Rules voted "no objection" to the Board taking final action on this matter.

The Subtitle F regulations include the Illinois drinking water rules, the federally-derived Safe Drinking Water Act (SDWA) rules, the groundwater quality rules, and the groundwater protection rules. The opening of docket R96-18 followed a June 20, 1996, request by the Illinois Environmental Protection Agency (Agency) that the Board consider certain amendments requested in another proceeding as a separate petition for rulemaking. The amendments basically fall into three categories: (1) amendments to update and correct several provisions throughout the text, (2) amendments that would allow the Agency to issue construction permits, notwithstanding the fact that a supply is listed on "restricted status" for a violation of the radium MCL, and (3) revision of the authority note for the groundwater quality regulations, to reflect that they were adopted pursuant to the Environmental Protection Act. See issue 514, April 1997, for a

procedural history of the rulemaking.

Direct questions to Amy Muran Felton at 312-814-7011 (internet address: amuranfe@pcb084r1.state.il.us). Request copies of Board orders from Victoria Agyeman, at 312-814-3620 (internet address: vagyeman@pcb084r1.state.il.us). Please refer to docket R96-18. ♦

Board Revises April 17, 1997 Order in T.A.C.O., R97-12(B)

On May 1, 1997, the Board made a procedural correction and vacated its April 17, 1997 opinion and order which opened docket R97-12(B). This docket was reserved for the purpose of considering the adoption of a "mixture" rule, a rule which requires that an applicant consider the cumulative effect of similar-acting contaminants at a site when developing the appropriate remediation objectives. The April order had directed that the proposed rule be filed with the Secretary of State for first notice publication. After receipt of the proposal, however, the Secretary of State informed the Board that it would not publish the proposal for first notice because the amendments were being proposed to rules in the new Part 742, which has not been adopted. The new Part 742 is proposed in R97-12(A), which the Board anticipates finalizing during June 1997.

The Board vacated its order of April 17, 1997, replacing it with the May 1, 1997, opinion and order which directs that this matter proceed to hearing as scheduled. Two hearings on the amendments were scheduled, one on May 21, 1997 in Chicago, and a second hearing on May 29, 1997 in Springfield. Please contact the hearing officer, Amy Muran Felton at 312-814-7011 (internet address: amuranfe@pcb084r1.state.il.us) to present testimony or questions at the hearings.

Direct questions to Amy Muran Felton at 312-814-7011 (internet address: amuranfe@pcb084r1.state.il.us) or Charles Feinen at 312-814-3473 (cfeinen@pcb084r1.state.il.us). Request copies of Board orders from Victoria Agyeman, at 312-814-3620 (internet address: vagyeman@pcb084r1.state.il.us). Please refer to docket R97-12(B). ♦

Three Reserved Identical-in Substance Dockets Dismissed (R97-18, R97-19 and R97-22); and Reason for Delay Order in Consolidated RCRA Docket, R96-10, R97-3 and R97-5

On May 1, 1997, the Board dismissed three identical-in-substance rulemaking dockets that it had reserved for any United States Environmental Protection Agency (USEPA) amendments for the period of July 1 through December 31, 1996. Pursuant to Sections 17.5, 13(c) and 22.4(d) of the Environmental Protection Act (Act), the Board opens new dockets twice a year and proposes

amendments to the Illinois regulations for drinking water, underground injection control and underground storage tanks that are identical-in-substance rules. The identical-in-substance rules, as defined in Section 7.2 of the Act, propose amendments to the Illinois regulations that are similar to those proposed by the USEPA.

The Board dismissed R97-18, Safe Drinking Water Update because the USEPA did not amend 40 CFR 141 through 143 during the time period. USEPA did approve the amendments to the Illinois Safe Drinking Water Act program adopted by the Board through December 13, 1995. (61 Fed. Reg. 50485, September 26, 1996.) The Board also dismissed R97-19, UIC Update because USEPA did not amend 40 CFR 144 through 148 in any way that would require Board action during the time period. The Board also dismissed R97-22, UST Update because USEPA did not amend its UST regulations at 40 CFR 281 through 283 during the time period.

In other business on May 1, 1997, the Board issued a second reason for delay order in the consolidated RCRA Update docket (R96-10, R97-3 and R97-5). In this docket, the Board is preparing to propose amendments to the RCRA Subtitle C hazardous waste and underground injection control regulations. The docket includes amendments to the RCRA regulations during the period from July 1, 1995 through June 30, 1996 and amendments to the UIC regulations from January 1 through June 30, 1996.

Section 7.2(a) of the Act requires the Board to complete its identical-in-substance rulemakings within one-year after the date of the USEPA action. Section 7.2(b) allows the Board to extend the deadline by publication of a reason delay notice in the *Illinois Register*. The Board previously adopted a reason for delay order in this matter on October 17, 1996. The Board anticipates preparing a proposal for public comment in this matter in mid-June or July and filing the adopted amendments by October 15, 1997.

Direct questions to Michael McCambridge at 312-814-6924 (internet address: mmccambridg@pcb084r1.state.il.us). Request copies of Board orders from Victoria Agyeman, at 312-814-3620 (internet address: vagyeman@pcb084r1.state.il.us). Please refer to the corresponding docket number: R97-18, Safe Drinking Water Update; R97-19, UIC Update; R97-22, UST Update; R96-10, R97-3, R97-5, RCRA Update. ♦

Board Proposes Wastewater Pretreatment Amendments (R97-23)

On May 1, 1997, the Board proposed identical-in-substance amendments to the wastewater pretreatment rules for public comment. The amendments will be published in the *Illinois Register* and the Board will accept comments on the amendments for a period of 45

days after the publication. Docket R97-23 includes federal amendments that occurred in the period July 1 through December 30, 1996.

On July 8, 1996, USEPA by direct final rule modified the pretreatment standards for certain facilities in the leather tanning and finishing point source category that conduct unhairing operations and that discharge process wastewater to publicly owned treatment works (POTW) (61 Fed. Reg. 35680). USEPA revised the existing pretreatment standards to eliminate the upper (alkaline) pH limits for four subcategories. These revisions apply to the standards in Subparts A, B, F, and H of 40 CFR Part 425 at Sections 425.15, 425.25, 425.65 and 425.85. These sections are incorporated in the pretreatment regulations for the State of Illinois at 35 Ill. Adm. Code 307.3501, 307.3502, 307.3506 and 307.3508.

On November 6, 1996, USEPA promulgated regulations that limit the discharge of pollutants into POTWs by facilities that formulate, package or repackage pesticide products (61 Fed. Reg. 57517). These regulations cover facilities in the subcategories of the Pesticide Chemicals Point Source Category; Subcategory C: Pesticide Formulating, Packaging, and Repackaging (PFPR) and Subcategory E: Agricultural Refilling Establishments. The Board incorporates the pretreatment standards for pesticide formulating, packaging, and repackaging facilities in Section 307.6503, and proposes updating these sections to incorporate the standards as amended. The Board proposes the creation of a new section 307.6505 to incorporate the pretreatment regulations adopted by USEPA for agricultural refilling establishments.

On December 16, 1996, USEPA promulgated rules limiting the discharge of pollutants into waters of the United States and the introduction of pollutants into POTWs by facilities in the coastal subcategory of the oil and gas extraction point source category (61 Fed. Reg. 66085). The Board proposes no amendments in response to these regulations, since Illinois pretreatment regulations do not contain regulations pertaining to these types of facilities and the Board believes that no facilities in this category are in operation in Illinois.

Direct questions to Diane F. O'Neill at 312-814-6062 (internet address: doneill@pcb084r1.state.il.us). Request copies of Board orders from Victoria Agyeman, at 312-814-3620 (internet address: vagyeman@pcb084r1.state.il.us). Please refer to docket R97-23. ♦

Livestock Waste Regulations Adopted, R97-15(A)

On May 15, 1997, the Board adopted livestock waste regulations to implement the provisions of the Livestock Management Facilities Act (LMFAct) (510 ILCS 77/1 *et seq.*, adopted as P.A. 89-456, eff. May 21, 1996). The rules set forth administrative requirements such as standards and procedures that the Department of Agriculture must follow in making various administrative determinations under the rules. The rules also contain a section that mandates that records be kept of all determinations, and that such records are subject to public inspection.

Regarding setbacks, the regulations require that new livestock management and livestock waste handling facilities provide notification to the Department of Agriculture of their intent to build, prior to construction. Further, the Board rules provide a process that is designed to ensure that all statutory setback distances are adhered to and that notice is given to all owners of property located within the setback area. The rules provide that, for measuring setbacks from common places of assembly where the primary activity of the place is outdoors, the setbacks be measured from the nearest corner of the property line of the common place of assembly. The Department of Agriculture is also required to certify that the applicable setback distances have been complied with before construction begins.

The LMFAct allows for the Department of Agriculture to provide for a decrease of the statutory setbacks if innovative designs are incorporated into the facility. In these cases, the Board rules require that the owner or operator attach to the request for decrease a certification by a Licensed Professional Engineer that the innovative design incorporated into the facility will achieve a greater amount of odor protection than the waived setbacks. The rules also substantially mirror the provisions of the LMFAct and provide that setbacks may be decreased when waivers are obtained from owners of occupied residences, non-farm businesses, and common places of assembly that are located within the setback area. The request for a setback decrease must be in writing, and the owner or operator seeking the decrease must attach to the request copies of the written and notarized waivers from the owner(s) of the property located within the setback area. The rules further provide that the Department of Agriculture must notify the owner or operator in writing of the setback decrease within 30 days after receipt of the request for decrease.

Regarding design of lagoons, the rules require specific design standards for livestock waste lagoons which are in accord with established engineering practices. Specifically, the rules require that the owner or operator of a new or modified lagoon register that lagoon with the Department of Agriculture and hire a Licensed Professional Engineer or Licensed Professional Geologist to perform a site investigation prior to construction. The site investigation requires soil borings to determine the distance of the lagoon bottom to any aquifer material. Depending on the proximity of aquifer material, liners and/or groundwater monitoring will be required. Construction can only begin after proper licensed

professional certification is made to the Department of Agriculture. The regulations also allow the Department of Agriculture to require changes in design that might be necessary to protect the groundwater. Moreover, the rules direct the Department of Agriculture, as a condition of the issuance of a livestock waste lagoon registration, to conduct periodic site inspections to assess the degree of compliance with the requirements of the LMFAct.

Regarding the management of livestock management facilities, the rules provide that waste management plans be prepared by certain facilities that meet the statutory threshold animal unit requirement. The rules also set forth provisions concerning the application of livestock waste to the land. Moreover, the rules establish that a livestock waste handling facility that serves a certain number of animal units be managed by a certified livestock manager. Regarding penalties, the rules provide that the Department of Agriculture may issue cease-and-desist orders, and otherwise order necessary penalties for the violation of any of the rules. Regarding financial assurance and requirements for closure, the rules recite the statutory language. Finally, where the LMFAct allows the Department of Agriculture to grant an alternative, modification, or waiver of the rules, the Board rules set forth a specific process to ensure that any such alternative, modification, or waiver is environmentally protective.

The Board adopted the new rules for first notice on December 20, 1996. On March 20, 1997, the Board adopted the rules for second notice review by the Joint Committee on Administrative Rules (JCAR). JCAR considered the rules at its April 15, 1997 meeting. The Board thereafter made certain changes to the rules in response to suggestions by JCAR. These changes included clarifying the relationship between the final rules and the emergency rules, changing the definition of "occupied residence," amending the application rate of waste to the land, and clarifying who is an owner for purposes of notification.

The rules became effective upon filing with the Secretary of State's Office on May 20, 1997, and replace the emergency rules adopted in R97-14 on October 29, 1996, and extended on March 20, 1997. The rules are to be implemented by the Department of Agriculture and are codified in new Part 506 in Subtitle E of the Illinois Administrative Code, along with existing Board regulations on agriculture-related pollution.

Direct questions to Cynthia Ervin 217-356-8509 (internet address: cervin@pcb084r1.state.il.us). Request copies of Board orders from Victoria Agyeman, at 312-814-3620 (internet address: vagyeman@pcb084r1.state.il.us). Please refer to docket R97-15(A). ♦

Board Adopts VOM Rule Exemptions, R97-17

On May 15, 1997, the Board adopted amendments to the definition of VOM at 35 Ill. Adm. Code 211.7150 in Docket R97-17. The amendment adds 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC 43-10mee), 1,2-dichloro 1,1,2,2,3-pentafluoropropane (HCFC 225ca), and 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HCFC 225cb) to the list of chemical compounds that are exempted from the definition of VOM. This regulation exempts these compounds from reasonably available control technology (RACT) regulation due to their negligible contribution to tropospheric ozone formation. These amendments are identical to the revision in the federal amendment that appeared at 61 Fed. Reg. 52848 on October 8, 1996.

On March 6, 1997, the Board proposed the amendments for public comment. The amendments were published in the *Illinois Register* on March 21, 1997, at 21 Ill. Reg. 3393. Hearing was held in Chicago, Illinois on April 2, 1997.

Direct questions to Amy Muran Felton at 312-814-7011 (internet address: amuranfe@pcb084r1.state.il.us). Request copies of Board orders from Victoria Agyeman, at 312-814-3620 (internet address: vagyeman@pcb084r1.state.il.us). Please refer to docket R97-17. ♦

APPELLATE UPDATE

(Cont'd from p. 1)

unfair, and because the decision was against the manifest weight of the evidence because the applicant did not meet his burden of proof. Additionally, T.O.T.A.L. alone argued that the City Council did not have jurisdiction to rule on the siting application and CAO argued that the Board improperly refused to consider its position.

In 1994, four days prior to the hearings on the siting application, Salem purchased 40 acres of land outside of the city limits and annexed it into the city. This land was purchased for the new landfill. By annexing the property, Salem became responsible for making the decision on siting under the Environmental Protection Act (Act) (415 ILCS 5/39.2(a).) If the property had not been annexed, the Marion County Board would have been responsible for the hearing and decision on the siting application.

At the hearing before the City Council, objectors argued that the City Council was biased since it had already expended tax money on the property in contemplation of the new regional pollution control facility being sited. The objectors also argued that the hearing was fundamentally unfair since the siting decision was made by the same City Council that had spent \$120,000 for the purchase of 40 acres of land for the landfill site. People

testified at hearing on behalf of the applicant and the objectors. The objectors tried to call Mr. Kinney (the applicant) as a witness at hearing, but since he objected and the hearing officer ruled in his favor, he did not testify. On September 11, 1995, the City Council approved the siting applications for both the expansion of the existing landfill and the new landfill.

The Fifth District began its analysis with consideration of the objectors' fundamental fairness argument. The court recognized that in this case as in E and E Hauling v. Pollution Control Board, 107 Ill. 2d 33 (1985), a governmental body with an interest in the outcome of a siting decision, even an economic one, may lawfully still decide the siting issue. Therefore, the Fifth District affirmed the Board and found that the siting hearing was not fundamentally unfair simply because the city officials had an interest in the outcome of the decision.

The court also rejected the idea that the city officials were biased and had formed an opinion on the siting prior to the siting hearing. The court again turned to E and E Hauling, reiterating that the city officials had not prejudged the siting criteria in the Act, simply by having opinions about the proposed landfill prior to the filing of the siting application. More specifically, the court found that the decision makers in this case had not made prejudgments about the siting criteria. The court based this finding on the fact that the city officials had asked relevant questions of the witnesses regarding the criteria and did not demonstrate any bias for or against siting approval.

The Fifth District then found that T.O.T.A.L. had waived seven of its fundamental fairness arguments by failing to support them with any authority. As to the remaining three arguments, the court disagreed with T.O.T.A.L.'s assertions that 1) the objectors were severely limited in presenting evidence on economics and profitability of the proposed landfill and expansion, 2) T.O.T.A.L. was prejudiced by the applicant's failure to disclose an expert witness who was not named in the siting application, and 3) the City Council did not follow its own rules regarding the conduct of the hearing; the court disagreed.

The court found that T.O.T.A.L. was not prejudiced by Kinney's failure to address economics, since economics is not a specifically listed siting criterion in the Act. Therefore, the court held that consideration of economics is discretionary not mandatory. As for the non-disclosure of the expert witness, the court found the argument without merit. The court stated that no law required that witnesses at siting hearings be disclosed. Additionally, the court pointed out that the witness in question was the first witness in a series of four days of hearings held over a period of 16 days and that the objectors were given the opportunity to cross-examine the witness. The objectors also called three of their own witnesses to contradict his

testimony. The court also found that the procedures followed at the siting hearing were fair.

The court elaborated that the objectors were given an opportunity to be heard and to cross-examine witnesses. The court further remarked that the record reflected impartial rulings on evidence. The court also stated that not all people who author reports which are relied upon in a siting application must be called as a witness. Additionally, the court pointed out that the right to cross-examine a witness is not unlimited. The court explained that parties cannot cross-examine people who submit written comments and that all authors of reports need not be present at hearing.

The Fifth District next addressed the arguments on specific siting criteria and found that the city's decisions on criteria (i) and (iii) were not against the manifest weight of the evidence. The court also addressed T.O.T.A.L.'s argument that the City of Salem did not have jurisdiction to rule on the siting application. T.O.T.A.L. argued that, because the City of Salem did not follow the statutory requirements of the Municipal Code (65 ILCS 5/11-76.1-1 and, 11-76.1-3) when annexing the property for the proposed landfill, Salem had no jurisdiction to rule on the siting application.

The court found that the Board properly determined that it did not have authority to decide whether the annexation and purchase of the property was conducted in accordance with the applicable standards. The court stated that the Board's authority is limited to that granted by its enabling statute, which does not extend to the Municipal Code. Additionally, the Fifth District found that the Board was correct in finding that since the Marion County Circuit Court had dismissed the action before it with prejudice dealing with this issue, the Board should proceed with the case as if the City of Salem had jurisdiction to hear the siting application. Finally, the court found that the issue of proper jurisdiction was waived on review since T.O.T.A.L. failed to cite any authority for the idea that if the City of Salem failed to comply with the Municipal Code when purchasing and annexing the property that it would be deprived of jurisdiction at the siting hearing.

Finally, the Fifth District rejected CAO's argument that the Board failed to consider its position at hearing. Stating that the claim was meritless, the court found that the Board had clearly indicated that it had considered all the evidence presented and the arguments made by both CAO and T.O.T.A.L. The Board's decision was accordingly affirmed in all respects. ♦

SIGNIFICANT FEDERAL ACTIONS

(Cont'd from p. 1)

wastes as "nonamenable." The rule also clarifies an exception from LDR requirements for *de minimis* amounts of characteristic wastewaters. Finally, the rule excludes processed circuit boards and scrap metal from RCRA regulation which is intended to promote the goal of safe recycling. These amendments are effective August 11, 1997, except for Sections 148.18(b) and 268.30(b) which are effective May 12, 1999.

The Board will consider adoption of similar amendments to Illinois' regulations in the identical-in-substance rulemaking which the Board will open to consider amendments by USEPA to Subtitle C during the period of January 1 through June 30, 1997. ♦

Mineral Processing & Metal Waste Disposal Amendments Proposed

USEPA proposed a rule related to treatment standards for certain metal wastes and wastes from mineral processing. (62 Fed. Reg. 26041 (May 12, 1997).) USEPA is seeking comment on additional provisions and on new data. The proposed rule would revise universal treatment standards (UTS) for twelve metal constituents when they are in hazardous waste. Affected wastes include: TC metal wastes (those containing high levels of certain metals), mineral processing wastes, and other metal-bearing wastes. These treatment standards are being revised to provide consistency in the Land Disposal Restriction standards while minimizing threats to human health and the environment. The proposed rule also addresses the sampling method for compliance with treatment standards. USEPA is seeking comment on a conditional exclusion for secondary mineral processing materials, on co-processing of materials in Bevill-exempt mining units, and on whether certain mineral processing and mining wastes currently excluded from federal hazardous waste regulations warrant regulatory controls. Also included is an exclusion from the definition of solid waste for certain materials reused by wood preserving operations, a clarified policy on USEPA-approved variances from hazardous waste treatment, and a prohibition on the use of most hazardous wastes as fill material. Comments on the proposed rule must be submitted to the USEPA by July 11, 1997. ♦

Dioxin Related Amendments to Toxic Chemical Release Reporting Requirements Proposed

USEPA is proposing to add a chemical category that includes dioxin and 27 dioxin-like compounds to the list

of toxic chemicals subject 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). (62 Fed. Reg. 24887 (May 7, 1997).) USEPA believes that dioxin and the dioxin-like compounds that are included in the petition, meet the criteria for addition to the list of toxic substances as established in EPCRA section 313(d)(2)(B). USEPA is also proposing to modify the existing EPCRA section 313 listing for polychlorinated biphenyls (PCBs) in order to exclude those PCBs that are included in the proposed dioxin and dioxin-like compounds category. Comments on the proposal should be submitted to the USEPA by July 7, 1997. ♦

USEPA Seeks Comments On National Hazardous Air Pollutants Policy & Standards

USEPA published a notice of data availability and invitation for comment on May 2, 1997, on the following information pertaining to the proposed revised standards for hazardous waste combustors (61 FR 17358 (April 19, 1996)): report on the status of setting national emission standards for hazardous air pollutants (NESHAPS) based on the revised emissions database; report on the selection of pollutants and source categories, including area and major sources; report on the status of various implementation issues, including compliance dates, compliance requirements, performance testing, and notification and reporting requirements; and report on the status of permit requirements, including waste minimization incentives. (The notice inadvertently omitted four paragraphs and contained six incorrect numbers. Corrections to the notice were published on May 12, 1997 at 62 Fed. Reg. 25877.) ♦

Emission Standards and Test Procedure Amendments for Aircraft Engines Proposed

USEPA proposes amendments to the existing United States regulations governing the exhaust emissions from new commercial aircraft gas turbine engines. (62 Fed. Reg. 25355 (May 8, 1997).) Under the authority of section 231 of the Clean Air Act (CAA), USEPA is promulgating new emission standards for oxides of nitrogen (NO_x) and carbon monoxide (CO) for newly manufactured and newly certified commercial aircraft gas turbine engines with rated thrust greater than 26.7 kilonewtons (kN). This action will codify into federal law the current voluntary NO_x (a two-staged NO_x standard) and CO emission standards of the United Nations International Civil Aviation Organization (ICAO), and thereby bring the United States emission standards into

alignment with the internationally adopted standards. This rulemaking will also establish general consistency between the United States and international standards, requirements, and test procedures. These amendments are effective July 7, 1997 unless notice of adverse comments is received by the USEPA prior to June 9, 1997.

Plутonium Packaging-Containment Requirements: Amendment Being Considered

The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to remove canisters containing vitrified high-level waste (HLW) containing plutonium from the packaging requirement for double containment. (62 Fed. Reg. 25146 (May 8, 1997).) This amendment is being proposed in response to a petition for rulemaking submitted by the Department of Energy (DOE). This proposed rule would also make a minor correction to the usage of metric and English units to be consistent with existing NRC policy. Comments should be submitted to NRC by July 22, 1997. ♦

National Advisory Committee Publishes List of Priority Chemicals for Guideline Development

The National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL), established by the USEPA under the Federal Advisory Committee Act (FACA), develops exposure guidelines on an ongoing basis to assist federal, state, and other organization needs for short-term hazardous chemical exposure information. An initial listing of 85 priority chemicals was published in the *Federal Register* (62 Fed. Reg. 27733 (May 21, 1997)) to facilitate participation by the public in the AEGL process. Sixteen (16) of these priority chemicals have already been addressed by the NAC/AEGL and they anticipate that proposed AEGL values and an accompanying rationale for approximately 13 chemicals will be published in the *Federal Register* for comment within the next several months. NAC/AEGL encourages the submission of acute toxicology data or other pertinent information on these chemicals and all other chemicals on the list to the USEPA.

The list of 85 priority chemicals is a composite of numerous priority lists of acutely toxic chemicals and represents the selection of chemicals for AEGL development by the NAC/AEGL during the next 2 to 3 years. The list has been assembled from the individual lists of chemicals nominated by NAC/AEGL member organizations for AEGL development. The NAC/AEGL intends to address at least 30 chemicals per year in the AEGL development process and, therefore, this list of chemicals will be expanded as the NAC/AEGL continues to focus on chemicals of interest to its member organizations. ♦

CERCLA Prospective Purchaser Agreement Proposed for Chicago Site

In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. Sec. 9601, et seq., USEPA provided notice that a proposed prospective purchaser agreement for the autodeposition site in Chicago, Illinois has been executed by Greenfield Partners, Ltd. (Greenfield). (62 Fed. Reg. 26314 (May 13, 1997).) The agreement has been submitted to the U.S. Attorney General for approval. The proposed prospective purchaser agreement would resolve certain potential claims of the United States under Sections 106 and 107 of CERCLA, 42 U.S.C. Secs. 9606 and 9607, and Section 7003 of the Solid Waste Disposal Act, as amended, 42 U.S.C. Sec. 6973, against Greenfield Partners. The proposed settlement would require Greenfield Partners to perform work at the site valued at approximately \$140,000. Comments on the proposed purchaser agreement were to be filed with the USEPA by June 12, 1997. ♦

Hydrochloric Acid: Some Solutions Proposed to be Removed from List of Regulated Substances and Thresholds for Accidental Release Prevention Regulations

USEPA proposed modifications to the list of regulated substances and threshold quantities of the accidental release prevention regulations authorized by section 112(r) of the Clean Air Act as amended. (62 Fed. Reg. 27992 (May 22, 1997).) USEPA proposes to vacate the listing and related threshold for hydrochloric acid solutions with less than 37% concentrations of hydrogen chloride. The current listing and threshold for all other regulated substances, including hydrochloric acid solutions with 37% or greater concentrations and the listing and threshold for anhydrous hydrogen chloride, are unaffected by the proposed amendment. Entities potentially affected by this action include those facilities having more than the 15,000 pound threshold quantity of hydrochloric acid solutions with concentrations of less than 37% hydrogen chloride. Comments must be submitted to the USEPA before June 23, 1997. ♦

FINAL DECISIONS 5/1/97

96-262 People of the State of Illinois v. R. Frietsch and Company, Inc. - The Board accepted a stipulation and settlement agreement in this air action involving a Tazewell County facility, ordered the respondent to pay a civil penalty of \$8,000, and ordered the respondent to cease and desist from further violation.

97-126 Land and Lakes/Willow Ranch v. IEPA - Having previously granted a request for a 90-day extension, the Board dismissed the matter because no permit appeal was timely filed on behalf of this Will County facility.

97-184 Berlin Industries v. IEPA - Upon receipt of an Agency recommendation, the Board granted this DuPage County facility a 4-day provisional variance, subject to conditions, from certain air emission requirements of the air pollution control regulations, as set forth in 35 Ill. Adm. Code 218.407(a)(1)(E).

AC 97-48 Will County v. American Fly Ash - The Board granted complaint's motion for withdrawal of this administrative citation involving a Will County facility.

AC 97-49 Will County v. American Fly Ash - The Board granted complaint's motion for withdrawal of this administrative citation involving a Will County facility.

AC 97-50 Will County v. American Fly Ash - The Board granted complaint's motion for withdrawal of this administrative citation involving a Will County facility.

AC 97-51 Will County v. American Fly Ash - The Board granted complaint's motion for withdrawal of this administrative citation involving a Will County facility.

AC 97-52 Will County v. American Fly Ash - The Board granted complaint's motion for withdrawal of this administrative citation involving a Will County facility.

R96-4 In the Matter of: Listing of Federal Hazardous Air Pollutants, Great Lakes Commission Toxic Compounds and Great Waters Program Toxic Air Compounds, and Source Reporting for Illinois Toxic Air Contaminants: Amendments to 35 Ill. Adm. Code 232 - The Board adopted amendments to its existing air pollution control rules. *See Rulemaking Update.*

R96-18 In the Matter of : Amendments to 35 Ill. Adm. Code Subtitle F (Parts 601 through 620) - The Board adopted amendments to its existing public water supply and ground water rules. *See Rulemaking Update.*

R97-18 In the Matter of: Safe Drinking Water Update, USEPA Regulations (July 1 through December 31, 1996) - The Board dismissed this reserved identical-in-substance docket because the USEPA did not amend its Safe Drinking Water regulations during the update period of July 1 through December 31, 1996. *See Rulemaking Update.*

R97-19 In the Matter of: UIC Update, USEPA Regulations (July 1 through December 31, 1996) - The Board dismissed this reserved identical-in-substance docket as no USEPA amendments required Board action to amend its underground injection regulations during the update period of July 1 through December 31, 1996. *See Rulemaking Update.*

R97-22 In the Matter of: UST Update, USEPA Regulations (July 1 through December 31, 1996) - The Board dismissed this reserved identical-in-substance docket as no USEPA amendments required Board action to amend its underground storage tank regulations during the update period of July 1 through December 31, 1996. *See Rulemaking Update.*

FINAL DECISIONS 5/15/97

96-118 People of the State of Illinois v. Dennis Fults d/b/a St. Clair Construction and Paving - The Board entered a final order requiring the respondent to pay \$3,304.38 in costs. This order supplements the Board's interim order of March 20, 1997 which ordered this Madison County respondent to pay a civil penalty of \$10,000, and ordered the respondent to cease and desist from further violation.

96-245 People of the State of Illinois v. Pamarco, Inc. - The Board accepted a stipulation and settlement agreement in this air action involving a Kane County facility, ordered the respondent to pay a civil penalty of \$12,500, and ordered the respondent to cease and desist from further violations.

97-86 Agribusiness, (formerly known as Beden/Vigoro Industries) v. IEPA - The Board granted petitioner's motion for withdrawal of this underground storage tank appeal involving a Clinton County facility.

97-105 Tri Star Marketing, Inc. v. IEPA - The Board granted petitioner's motion for withdrawal of this underground storage tank appeal involving a Coles County facility.

97-129 Pinewood Mobile Home Park v. IEPA - The Board granted this Peoria County facility a variance, subject to conditions, from the standards of issuance and restricted status provisions of the public water supplies regulations, as they would otherwise relate to nitrate content and hydropneumatic storage capacity.

97-155 Shell Oil Products Company v. IEPA - Having previously granted a request for a 90-day extension, the Board dismissed the matter because no underground storage tank appeal was timely filed on behalf of this DuPage County facility.

97-160 Browning-Ferris Industries of Illinois, Inc. v. IEPA - Having previously granted a request for a 90-day extension, the Board dismissed the matter because no permit appeal was timely filed on behalf of this Ogle County facility.

97-190 White Cap, Inc. v. IEPA - The Board granted petitioner's motion for withdrawal of this request for a 90 day extension of time in which to file a permit appeal involving a Cook County facility.

97-200 City of Mattoon v. IEPA - Upon receipt of an Agency recommendation, the Board granted this Coles County facility a 45-day provisional variance, subject to conditions, from certain effluent discharge requirements of the water pollution control regulations, as set forth in 35 Ill. Adm. Code 304.120(c) and 304.141(a) and imposed by National Pollutant Discharge Elimination System Permit (NPDES) No. IL0029831. Board Member K.M. Hennessey abstained.

97-201 Fox Waterway Agency v. IEPA - Upon receipt of an Agency recommendation, the Board granted this McHenry County facility a 45-day provisional variance, subject to conditions, from certain effluent discharge requirements of the water pollution control regulations, as set forth in 35 Ill. Adm. Code 304.105, 304.106, 304.123(b), and 304.124 of the Board's water regulations and imposed by Operating Permit No. 1993-EA-3060, for effluent discharged from Project One Ackerman Island, Fox Lake, Illinois. Board Member K.M. Hennessey abstained.

97-202 Commonwealth Edison Company (Zion Power Station) v. IEPA - Upon receipt of an Agency recommendation, the Board granted this Lake County facility a 45-day provisional variance, subject to conditions, from certain effluent discharge requirements of the water pollution control regulations, as set forth in 35 Ill. Adm. Code 304.141(b) and 309.102 of the Board's water regulations. Board Member K.M. Hennessey abstained.

AC 96-57 County of Jackson v. Southern Illinois Regional Landfill - The Board entered a final order requiring the respondent to pay \$121.65 in hearing costs and to pay a civil penalty of \$2,000. This order amends and supplements the Board's interim order of December 19, 1996 which found that this Jackson County respondent had violated Sections 21(o)(1),(2),(5) and (12) of the Environmental Protection Act.

AC 96-58 County of Jackson v. Gary Easton - The Board entered a final order requiring the respondent to pay \$152.25 in hearing costs and to pay a civil penalty of \$2,000. This order supplements and amends the Board's interim order of December 19, 1996 which found that this Jackson County respondent had violated Sections 21(p)(1),(2),(5) and (6) of the Environmental Protection Act.

AC 97-53 County of Will v. Ernest Angelina - The Board entered a default order, finding that this Will County respondent had violated Sections 21(p)(1) and 21(p)(3) of the Environmental Protection Act and ordering him to pay a civil penalty of \$1,000.

AC 97-54 County of Will v. Space Available Corporation - The Board entered a default order, finding that this Will County respondent had violated Sections 21(p)(1) and 21(p)(3) of the Environmental Protection Act and ordering it to pay a civil penalty of \$1,000.

AC 97-56 County of Will v. Alan Beemsterboer, individually and d/b/a Dutch Barn Landscaping - The Board granted complainant's motion for withdrawal of this administrative citation involving a Will County facility.

AS 97-3 In the Matter of: Petition of Shell Wood River Refining Company for an Adjusted Standard from 35 Ill. Adm. Code Part 725.213 and 725.321 - The Board granted an adjusted standard, with conditions, from 35 Ill. Adm. Code Part 725.213 and 725.321, standards pertaining to the closure and design of wastewater treatment ponds.

R97-15(A) In the Matter of: Livestock Waste Regulations 35 Ill. Adm. Code 506 - The Board adopted new regulations to replace existing emergency rules implementing the Livestock Facilities Management Act. Board Members R.C. Flemal and G.T. Girard dissented. *See Rulemaking Update.*

R97-17 In the Matter of: Exemptions from the Definition of VOM, USEPA Amendments (July 1, through December 31, 1996; HFC 43-10mee and HCFC 225ca and cb) - The Board adopted amendments to its existing air pollution control rules. *See Rulemaking Update.*

NEW CASES 5/1/97

97-140 North Shore Sanitary District Citgo v. IEPA - The Board accepted for hearing this appeal of a land permit on behalf of a Lake County facility.

97-144 Laidlaw Waste Systems, Inc. v. IEPA - The Board accepted for hearing this appeal of a land permit on behalf of a Coles County facility.

97-150 McKay Contractors, Inc. v. IEPA - The Board accepted for hearing this underground storage tank appeal on behalf of a Cook County facility.

97-176 Schuller International Corporation v. IEPA - The

Board accepted this request for 90-day extension of time to file an underground storage tank appeal on behalf of a Lake County facility.

97-182 Ingleside Citgo v. IEPA - The Board accepted this request for 90-day extension of time to file an underground storage tank appeal on behalf of a Lake County facility.

97-183 Trust Number 5439, by its Trustee, The Amalgamated Trust and Savings Bank v. Shell Oil Company - The Board held this citizen's air enforcement action against a Cook County facility for a frivolous and duplicitous determination.

97-184 Berlin Industries v. IEPA *See Final Actions.*

97-188 People of the State of Illinois v. Dan Loepker - The Board received for hearing this water enforcement action against a Clinton County facility.

97-189 Frederick Cooper Lamps, Inc. v. IEPA - The Board accepted for hearing this air permit appeal on behalf of a Cook County facility.

97-191 People of the State of Illinois v. Galva Foundry Company - The Board received for hearing this RCRA enforcement action against a Henry County facility.

AC 97-59 Montgomery County v. Envotech Illinois, Inc. - The Board received an administrative citation against this Montgomery County respondent.

AC 97-60 IEPA v. Stacy Hess - The Board received an administrative citation against this Tazewell County respondent.

AC 97-61 IEPA v. William Decker - The Board received an administrative citation against this Livingston County respondent.

AS 97-9 In the Matter of: Petition of Recycle Technologies, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 720.131(c) - The Board acknowledged receipt of this petition for a adjusted standard from certain requirements on behalf of a Lake County facility and held it pending receipt of certificate publication.

R97-28 Site-Specific Petition of Mobil Oil Corporation for Relief from 35 Ill. Adm. Code 304.122, Ammonia Nitrogen Effluent Standards - The Board held this proposal for further review.

NEW CASES 5/15/97

97-153 D & Landfill, Inc. v. IEPA - The Board accepted for hearing this appeal of a land permit on behalf of a Bond County facility.

97-162 Swearingin Services, Inc. v. IEPA - The Board accepted for hearing this underground storage tank appeal on behalf of a Jersey County facility.

97-163 Swearingin Services, Inc. v. IEPA - The Board accepted for hearing this underground storage tank appeal on behalf of a Jersey County facility.

97-164 Swearingin Services, Inc. v. IEPA - The Board accepted for hearing this underground storage tank appeal on behalf of a Jersey County facility.

97-165 Swearingin Services, Inc. v. IEPA - The Board accepted for hearing this underground storage tank appeal on behalf of a Jersey County facility.

97-166 Swearingin Services, Inc. v. IEPA - The Board accepted for hearing this underground storage tank appeal on behalf of a Jersey County facility.

97-185 Old Elm Country Club v. IEPA - The Board accepted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of a Lake County facility.

97-186 Elouisa Farrales v. Office of State Fire Marshal - The Board accepted for hearing this underground storage tank appeal on behalf of a Cook County facility.

97-187 Martin Oil Marketing, Inc. v. IEPA - The Board accepted for hearing this underground storage tank appeal on behalf of a Rock Island County facility.

97-190 White Cap, Inc. v. IEPA - *See Final Actions*

97-192 People of the State of Illinois v. Sundale Sewer Corporation - The Board received for hearing this water enforcement action against a Tazewell County facility.

97-193 People of the State of Illinois v. Community Landfill Company - The Board received for hearing this land enforcement action against a Grundy County facility.

97-195 W. R. Meadow, Inc. v. IEPA - The Board accepted for hearing this appeal of an air permit on behalf of a Kane County facility.

97-196 People of the State of Illinois v. Di Mucci Development Corporation of Round Lake, Inc. - The Board received for hearing this water enforcement action against a Lake County facility.

97-200 City of Mattoon v. IEPA *See Final Actions.*

97-201 Fox Waterway Agency v. IEPA *See Final Actions.*

97-202 Commonwealth Edison Company (Zion Power Station) v. IEPA *See Final Actions.*

97-203 People of the State of Illinois v. Spirco Environmental, Inc. - The Board received for hearing this air enforcement action against a Peoria County facility.

AC 97-62 Will County v. Crown-Trygg Corporation - The Board received an administrative citation against this Will County respondent.

AC 97-63 Will County v. Derrick Craig - The Board received an administrative citation against this Will County respondent.

AC 97-64 Wayne County Health Department v. John Barnes - The Board received an administrative citation against this Wayne County respondent.

AC 97-65 IEPA v. Peter Gomez and Teri Wakeland - The Board received an administrative citation against these Mercer County respondents.

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
6/16/97 10:30 AM	AC 94-028 AC	Sangamon County v. ESG Watts, Inc. - State Police Training Board, Conference Room, Third Floor, 600 South Second Street, Springfield, Illinois
6/18/97 9:00 AM	AC 94-028 AC	Sangamon County v. ESG Watts, Inc. - State Police Training Board, Conference Room, Third Floor, 600 South Second Street, Springfield, Illinois
6/20/97 10:00 AM	PCB 91-028 P-A, NPDES	Acme Steel Company v. IEPA - (Consolidated with PCB 92-2) James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago, Illinois
6/20/97 10:00 AM	R 97-027 R, Land	In the Matter of: Revision of the Waste Disposal Rules: Amendment to 35 Ill. Adm. Code 817.101 - Illinois State Library, Room 403, 300 South Second Street, Springfield, Illinois
7/2/97 11:00 AM	R97-028 Water	In the Matter of: Site-Specific Petition of Mobile Oil Corporation for Relief From 35 Ill. Adm. Code 304.122 Ammonia Nitrogen Effluent Standards - Bolingbrook Village Hall, Board Room, 375 West Briar Cliff, Bolingbrook, Illinois
7/14/97 9:30 AM	PCB 97-162 UST-FRD	Swearingin Services, Inc. v. IEPA - State Police Training Board, Conference Room, Third Floor, 600 South Second Street, Springfield, Illinois
7/16/97 10:00 AM	PCB 97-120 UST-FRD	Ingleside Citgo Services, Inc. v. IEPA - Lake Zurich Village Hall, Council Chambers, Lower Level, 70 East Main Street, Lake Zurich, Illinois
7/17/97 10:00 AM	PCB 97-143 W-E, Citizens	Jeffrey J. Webb v. City of Anna, Illinois - Anna City Hall, Conference Room, 123 Davis Street, Anna, Illinois
7/28/97 10:00 AM	R97-025 R, Water	In the Matter of: Conforming Amendments for the Great Lakes Initiative: 35 Ill. Adm. Code Part 302.101-443 - Waukegan Port District, Conference Room, 555 South Harbor Place, Waukegan, Illinois

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)	SO ₂	SO ₂ Alternative Standards (35 ILL. ADM. CODE 302.211(f))
SWH-E	Special Waste Hauling Enforcement	SWH-V	Special Waste Hauling Variance
T	Thermal Demonstration Rule	T-C	Tax Certifications
T-S	Trade Secrets	UST-Appeal	Underground Storage Tank Corrective Action Appeal
UST-E	Underground Storage Tank Enforcement	UST-FRD	Underground Storage Tank Fund Reimbursement Determination
W-E	Water Enforcement	W-V	Water Variance
WWS	Water-Well Setback Exception		