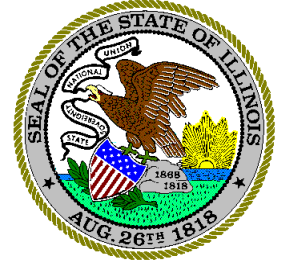




ENVIRONMENTAL REGISTER



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BOARD DECISION

Board Finds Violation in Hog Farm Odor Case; PCB 96-68

On February 20, 1997, the Board took action on a citizens' enforcement case brought by several residents of the Village of Kinderhook in Pike County, Illinois. The Board found that M'Orr Pork, Inc. violated the Environmental Protection Act and Board regulations in the operation of its hog confinement facility. Based on the evidence presented, the Board found that the odors from the confinement building and outdoor waste lagoon caused unreasonable interference with the residents' enjoyment of their lives and property.

The Board's interim order requires M'Orr Pork, Inc. to conduct an evaluation of measures for controlling the odor and to submit the findings of the evaluation to the Board by May 20, 1997. The Board will issue a final order in this case after the findings of the evaluation are submitted.

Direct questions to Richard McGill at 312-814-6983 (internet address: rmcgill@pcb084r1.state.il.us).

Request copies of Board interim opinion and order from the Board's Chicago receptionist at 312-814-3620. Refer to docket PCB 96-68.



BOARD STAFF UPDATE

Congratulations to Board Member Assistant Kevin Desharnais

Congratulations are in order for Kevin Desharnais, attorney assistant to Board member Marili McFawn. Kevin recently accepted an associate position with Mayer, Brown & Platt, a Chicago law firm, where he will continue to practice environmental law.

Kevin will be greatly missed after his three-year tenure with the Board, in which he has handled countless enforcement actions, appeals, variances, adjusted standards, and rulemakings. He has gone above and beyond the call of duty as an attorney assistant, representing the Board in appellate court as a special assistant attorney general, and handling complex rulemakings such as composting and Tiered Approach to (Cont'd on p.2)

RULEMAKING UPDATE

R94-34, Landfills-Within 100-year Floodplain, Dismissed

On February 20, 1997 the Board adopted an opinion and order concerning the regulation of landfills in the 100-year floodplain. The Board found that it could not determine whether additional regulations on landfills located in the 100-year floodplain are warranted at this time, or whether a ban on these landfills is needed. The Board obtained evidence on the subject from an inquiry hearing held in Collinsville, Illinois, on June 28, 1995. The inquiry hearing was held in response to a motion filed by the Illinois Environmental Protection Agency on December 2, 1994, requesting that the Board hold an inquiry hearing on whether "landfills and other waste treatment and transfer facilities should be located within a 100-year floodplain." (Cont'd on p.4)

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STAFF UPDATE

(Cont'd from p.1)

Corrective Actions. The Board and staff hope that you will join them in congratulating Mr. Desharnais on his new position. ♦

Board Welcomes New Human Resource Manager

The Board welcomes Gale O'Neal to staff. Ms. O'Neal, the Board's new Human Resources Manager, will be working in the Board's Springfield office.

Ms. O'Neal has a rich history of service in the personnel field for the State of Illinois. She has previously worked with the Illinois Department of Transportation and the Illinois Department of Central Management Services

Please join the Board and staff in welcoming Ms. O'Neal. ♦

Congratulations to Joe D'Alessandro

The Board and staff congratulate Joe D'Alessandro on his promotion to Manager of Administrative Services. Mr. D'Alessandro has served the Board as Fiscal Officer since October of 1990, working in the Board's Chicago office for three years and in the Springfield office for four years. Joe, while continuing to perform his previous role as Fiscal Officer, will now be in charge of all administrative services for the Board.

The Board and staff hope that you will join them in congratulating Mr. D'Alessandro on his promotion. ♦

APPELLATE UPDATE

ESG WATTS, INC. v. ILLINOIS POLLUTION CONTROL BOARD AND ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, consolidated with **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY v. ILLINOIS POLLUTION CONTROL BOARD**, and **ESG WATTS, INC.**, (Third District No. 3-96-0533, February 6, 1997).

This case involves an appeal of the Board's decision in PCB 94-243 (3/2/96) affirming the Agency's denial of seven waste stream permit applications and the Agency's appeal of a Board sanction in the same case. The sanction required the Agency to pay Watts' costs (\$1,250) for filing a motion and reply brief necessitated by the Agency's failure to meet the Board's briefing deadline.

The Third District (1)affirmed the Board's decision to uphold the denial of the permits and (2)reversed the Board's sanction of the Agency.

Watts owns three landfills in Illinois. The appeal in this case pertained only to the Taylor Ridge Landfill site located in Rock Island County. In 1994 Watts began applying for renewal permits for generic waste streams and for two new permits to receive different types of waste at the Taylor Ridge Landfill. The Agency denied the permits based on section 39(i)(1) of the Act. Section 39(i)(1) allows the Agency to consider the permittee's prior experience in waste management, including any repeated violations of the Act or regulations, federal law, or local laws. The Agency also denied six of the seven permits because of "technical difficulties" with the permit applications.

As evidence of the repeated violations, the Agency cited a circuit court action and 19 administrative citations against Watts which took place over a seven year period. The circuit court action concerned violations at Watt's Sangamon Valley Landfill, not the Taylor Ridge site. The circuit court judgment resulted in a \$350,000 penalty against Watts and took place six months before the first denial. Only four of the administrative citation violations took place at Taylor Ridge, of which the most recent was issued in 1989.

Watts appealed the Agency's permit denials to the Board and the Board upheld the denials. The Board noted that the technical difficulties cited by the Agency were unsupported by the record. The Board upheld the denial based on Watt's prior history of violations.

On appeal, Watts asserted that the Agency's review of violations which occurred at other facilities owned by Watts was improper. The court, however, upheld the Board's finding that Section 39(i) is operator-specific but not facility-specific and that it is proper to consider violations at other sites owned by the same operator. Watts also asserted on appeal that the Board applied an improper standard of review when looking at the Agency's denial. Watts contended that, since Section 39(a) states that the Agency shall issue a permit upon proof that a facility will not cause a violation of the Act, the Board should have reviewed the Agency's decision to see whether the Agency acted in an arbitrary and capricious manner.

The Third District sustained the Board's finding that the arbitrary or capricious standard was overly deferential and inappropriate. The court stated that the Board should review that information that the Agency relied upon to make its decision and that the burden should be on the petitioner to prove that it is entitled to a permit and that the Agency's reasons for denial were either insufficient or improper.

Watts next argued that the Agency exercised an improper pre-determination to deny the permits. Watts contended that the Agency, before it received a response to the letters sent to Watts explaining the potential reasons for denials and requesting an explanation as to why the denials would be improper (The Wells letters), had already decided to deny the permits. (See, Wells Manufacturing v. IEPA, 195 Ill. App. 3d 593, 552 N.E.2d 1074 (1990) which required the Agency to provide the permit applicant with an opportunity to submit information which would disprove the alleged violations.) Watts argued that the sending of the Wells letters in the instant case was a sham because the Agency had already decided to deny the applications prior to the responses to the Wells letter being mailed back by Watts. The court found that the Board's decision finding that the permit reviewer reviewed the responses and discussed them with others at the Agency was not against the manifest weight of the evidence.

Watts also argued on appeal that the Agency could not meet its statutory obligation to investigate the conduct of applicants because it did not have any guidelines for the enforcement of Section 39(i). Watts argued that because the Agency did not have guidelines, the result was a discretionary application of Section 39(i) in violation of the Equal Protection clause of the United States Constitution. On review, the Third District stressed that the Agency cannot be expected to adopt procedures for every conceivable circumstance. Additionally, the court found that, although no written procedures existed, the evaluation process used by the Agency was sufficient. The court also noted that because the decision by the Agency was reviewed by the Board the "safeguards of due process" were provided. As for the equal protection claim, the Third District found no evidence of intentional and purposeful discrimination by the Agency.

Although Watts failed to raise it before the Board, the court allowed Watts to raise the issue of improper delegation of authority on appeal. Watts argued that the legislature's delegation of discretionary authority to the Agency in Section 39(i) was invalid. Watts asserted that the legislature did not provide any intelligible standards for the Agency to follow when enforcing Section 39(i). The court disagreed, finding instead that the legislature provided appropriate standards to guide the Agency's use of Section 39(i).

Watts next contended that the Agency acted improperly when it considered non-adjudicated violations. The court stated that if the Agency had relied only on the alleged violation to deny the permit, the court would have agreed with Watts, but the record clearly showed that the reasons set out in the denial letters were sufficient to support the Agency's actions. Therefore, the court found

that the permit reviewer's consideration of the non-adjudicated violation was not prejudicial and did not taint the Agency's decision.

In summary, the Third District found that the Board's decision was not against the manifest weight of the evidence and upheld the Board's decision to uphold the Agency's denial of the seven permit applications.

Also at issue in this case was the Board's exercise of its sanctioning authority. The Agency argued before the court that the Board did not have the authority to impose the sanction of attorney fees upon the Agency. The facts involved were that after the hearing on the permit appeals, Watts filed its post-hearing brief on January 12, 1996 pursuant to the briefing schedule set out by the hearing officer. The Agency however, failed to file its response brief on January 26, 1996 as required. The Agency finally filed the brief with a motion to file instanter on February 7, 1996. Watts moved to strike the brief. The Board found that because this was a case of first impression that having both briefs was desirable so it allowed the Agency to file the brief but ordered it to pay a sanction of \$1,250 to Watts for legal expenses incurred by Watts in its attempt to exclude the Agency's brief.

The Third District found that the Board did not have any specific statutory authority nor any agreement between the parties which would allow it to order the Agency to pay attorney's fees to Watts. The court found that Grigoleit Co. v. Illinois Pollution Control Board, 245 Ill. App. 3d 337, 613 N.E.2d 371 (1993) was not persuasive in this case. In Grigoleit, the court found that attorney's fees were appropriate based on the Board's broad discretion to impose sanctions. The Grigoleit decision pointed to the Board's procedural rules as evidence that it had sanctioning power. In the current case, the court found that the Board's procedural rules did not specifically mention attorney's fees as available as a sanction. Therefore, the court reversed the Board's decision ordering the Agency to pay attorney's fees to Watts. ♦

RULEMAKING UPDATE

(Cont'd from p.1)

Because of the broad differences of opinion at hearing on whether landfills located in the 100-year floodplain should be further regulated, the Board recommended that Chairman Manning request that the Natural Resources Coordinating Council (NRCC) appoint a committee to study the issue. The NRCC is composed of directors and key staff of several state agencies selected to examine and develop environmental policies that are multi-agency in scope.

In its opinion and order, the Board noted that damage from the record floods within the past 25 years has shown that we must reevaluate all human activities in floodplains. While the evidence presented at the inquiry hearing did not prove that additional regulations on landfills located in the 100-year floodplain were warranted, the Board stated that common sense and the good use of natural resources indicate that additional regulations or an outright ban may be necessary in the future. The Board determined that it is necessary to continue to evaluate the current regulations and public policy surrounding the existence of landfills in the 100 year floodplain.

Direct questions to Marie Tipsord at 312-814-4925 or 618-498-5934 (internet address: mtipsord@pcb084r1.state.il.us). Request copies of Board orders from the Board's Chicago receptionist at 312-814-3620. Please refer to docket R94-34. ♦

Site Remediation Program (Brownfield) Regulations Proposed for First Notice, R97-11

On February 6, 1996, the Board proposed for first notice procedures and standards for the Site Remediation Program (SRP) which was established under Title XVII of the Illinois Environmental Protection Act. (415 ILCS 5/58-58.12, as added by P.A. 89-431 (1995)). The Illinois Environmental Protection Agency filed a proposal with the Board on September 16, 1996. Hearings were held on November 25-26, 1996 in Chicago, Illinois and on December 17-18, 1996 in Springfield, Illinois. The Board proposes a new Part 740, Site Remediation Program to establish procedures for the investigative and remedial activities at sites where there is a release, threatened release, or suspected release of hazardous substances, pesticides or petroleum and for the review and approval of those activities. The Board is also amending Part 620, Groundwater Quality, to provide consistency in cross referencing between Part 620 and the new Part 740.

The proposed SRP is voluntary; any person performing site investigation or remediation may elect to proceed under the SRP. The proposed rule requires the Remediation Applicant (RA) to submit an application and enter a service agreement with the Agency before performing a site investigation. If contamination is discovered, the RA must propose remedial objectives. Further, if remediation is necessary to achieve compliance with the objectives, the RA must propose a remedial action plan. After the plan is approved by the Agency, the RA must submit a remedial action completion report to show that the objectives have been achieved. The Agency will issue a No Further Remediation (NFR) Letter upon approval of the completion report. The NFR Letter is considered to be prima facie evidence that the site does not constitute a threat to human health and the environment.

The proposal establishes a program which is designed to ensure cleanup of contaminated property in Illinois based on an analysis of risks associated with current and future uses of the site. The proposed SRP provides incentives to cleanup abandoned or under-used property within the State of Illinois.

The proposal for first notice of the SRP appeared in the Illinois Register on February 21, 1997 at 21 Ill. Reg. 2571. The related amendments to the groundwater quality standards were printed at 21 Ill. Reg. 2562. Comments on the proposal should be filed with the Board on or before April 7, 1997.

Direct questions to Amy Hoogasian at 312-814-8917 (internet address: ahoogasi@pcb084r1.state.il.us). Request copies of Board orders from the Board's Chicago receptionist at 312 814-3620. Please refer to docket R97-11. ♦

Perchloroethylene Exempted from Definition of VOM, R96-16

On February 6, 1997, the Board adopted an amendment to the definition of VOM at 35 Ill. Adm. Code 211.7150 in Docket R96-16. The amendment added perchloroethylene to the list of chemical compounds that are exempted from the definition of VOM. This action exempts perchloroethylene from reasonably available control technology (RACT) regulation due to its negligible photochemical reactivity. This action is identical to the revision in the federal amendment that appeared at 61 Fed. Reg. 4588 (February 7, 1996). Board Member J. Theodore Meyer dissented.

A notice of proposed amendment appeared in the Illinois Register on November 1, 1996 at 20 Ill. Reg. 14116. A hearing on the matter was held in Chicago on November 20, 1996. During the public comment period, the Board received three public comments. The adopted

amendment appeared in the Illinois Register on February 21, 1997 at 21 Ill. Reg. 2641.

Direct questions to Amy Muran at 312-814-7011 (internet address: amuran@pcb084r1.state.il.us). Request copies of Board orders from the Board's Chicago receptionist at 312 814-3620. Please refer to docket R96-16. ♦

SIGNIFICANT FEDERAL ACTIONS

United States Environmental Protection Agency Approves Illinois State Implementation Plan for Shipbuilding and Aerospace Industries

On October 11, 1996, Illinois submitted a negative declaration regarding the need for rules controlling air emissions from sources in two classifications. The two categories are "Shipbuilding and Ship Repair Industry" or "Marine Coating" and "Aerospace Manufacturing and Rework Industry" or "Aerospace Coatings". The declaration indicates that the State of Illinois has determined that there are no major sources in these categories in Illinois' ozone nonattainment areas. The United States Environmental Protection Agency (USEPA) approved Illinois' finding that no additional control measures are needed and adopted the approval as direct final rules on February 11, 1997. Approval of the plan for the shipbuilding industry was published on February 11, 1997 at 62 Fed. Reg. 6126. The aerospace industry approval was also published on February 11 at 62 Fed. Reg. 6127. Comments on the direct final rules can be submitted to the USEPA through March 13, 1997. ♦

Clean Air: NO_x and Other Emission Standards for Locomotives and Locomotive Engines

USEPA proposed rules for the control of emissions from locomotives and engines used in locomotives on February 11, 1997 at 62 Fed. Reg. 6365. The primary focus of the proposal is on reduction of the emissions of oxides of nitrogen. The proposed rules also include standards for the emissions of hydrocarbons, carbon monoxide, particulate matter and smoke. The proposal includes provisions to implement the standards and to ensure that the standards are met in-use. The provisions include certification test procedures, and assembly line and in-use compliance testing programs. The proposal also includes an emission averaging, banking, and trading program. USEPA is also proposing regulations that would preempt certain state and local requirements relating to the control of emissions from new locomotives and new locomotive engines. The proposed rule is

required by section 213(a)(5) of the Clean Air Act (CAA) (42 U.S.C.A 7401 et. seq.). A public hearing is scheduled for March 13, 1997. Comments on the proposed rules can be submitted to the USEPA through April 14, 1997. This rule, if adopted by USEPA, would be proposed to the Board by the Illinois Environmental Protection Agency as a CAA fast-track rulemaking pursuant to Section 28.5 of the Environmental Protection Act (Act) (415 ILCS 5/28.5).

Water Quality: Draft Total Maximum Daily Load (TMDL) Program Implementation Strategy Issued

On February 5, 1997 at 62 Fed. Reg. 5392, USEPA announced the availability of a Draft TMDL Program Implementation Strategy and requested public comment on the draft. The draft explains USEPA's vision, priorities and steps that USEPA will take to help States meet the program requirements. The TMDL program addresses waters that do not meet State water quality standards even after pollution sources have implemented required pollution controls. A TMDL allocates pollutant loadings among pollution sources in a watershed, and is a basis for taking the actions needed to restore a waterbody. Comments on the draft should be submitted to USEPA before May 5, 1996. ♦

Toxics: Revocation of Significant New Use Rule

USEPA has revoked some and proposes to revoke other significant new use rules (SNUR) promulgated under 5(a)(2) of the Toxic Substances Control Act. On February 4, 1997 at 62 Fed. Reg. 5157, USEPA revoked the SNUR for substituted cyclohexyldiamino ethyl esters. This final rule is effective on March 6, 1997. Also on February 4, 1997 at 62 Fed. Reg. 5196, USEPA proposed revoking the SNUR for aliphatic ester. Comments on this proposal can be submitted to the USEPA by March 6, 1997. On February 11, 1997 at 62 Fed. Reg. 6160, USEPA proposed revoking the SNUR for alkenoic acid, trisubstituted-benzyl-disubstituted-phenyl ester and alkenoic acid, trisubstituted-phenylalkyl-disubstituted-phenyl ester. Comments on this proposal must be received by the USEPA before March 13, 1997. ♦

Sulfur Dioxide Measurement: Equivalent Measurement Method Designated

On February 14, 1997 at 62 Fed. Reg. 6968 in accordance with 40 CFR part 53, USEPA designated another equivalent method for the measurement of ambient concentrations of sulfur dioxide. The new

equivalent method is an automated method (analyzer) that utilizes a measurement principle based on pulsed UV fluorescence. ♦

Hazardous Waste Identification and Management: Military Munitions Rule Adopted

On February 12, 1997 at 62 Fed. Reg. 6621, USEPA finalized a rule that identifies when conventional and chemical military munitions become a hazardous waste under the Resource Conservation and Recovery Act (RCRA), and that provides for the safe storage and transport of such waste. The rule also amends existing regulations regarding emergency responses involving both military and non-military munitions and explosives. The rule also exempts all generators and transporters of hazardous waste, not just the military, from the RCRA manifest procedure requirement for the transportation of hazardous waste on public or private right-of-ways on or along the border of contiguous properties, under the control of the same person, regardless of whether the contiguous properties are divided by right-of-ways. The Board will be adopting rules "identical in substance" to these USEPA rules pursuant to Section 7.5 of the Act in RCRA Update of USEPA Actions from 1-1-97 thru 6-30-97 (Note: No docket number is presently assigned to this rulemaking). ♦

Proposed Consent Decree for Sherwin-Williams, Chicago Facility

Notice of a proposed partial consent decree in United States v. The Sherwin-Williams Company, Civil Action No. 93-C-4267, was published on February 19, 1997 at 62 Fed. Reg. 7473. The proposed consent decree was lodged with the United States District Court for the Northern District of Illinois on February 6, 1997. Under the terms of the proposed consent decree, Sherwin-Williams will pay a civil penalty of \$4.7 million, perform supplemental environmental projects that will cost the company a total of \$1.1 million, undertake a corrective action to investigate and remediate contamination to the soil and groundwater at and emanating from the company's Chicago facility, and perform other injunctive relief. The Department of Justice will receive comments relating to the proposed consent decree through March 21, 1997. ♦

Corrected Tables: Treatment Standards for Hazardous Waste and Universal Treatment Standards

On February 19, 1997 at 62 Fed. Reg. 7501, USEPA published updated and corrected versions of two

tables, "Treatment Standards for Hazardous Wastes" at Sec. 268.40, and "Universal Treatment Standards" at Sec. 268.48, incorporating all revisions to the treatment standards promulgated since the Phase III Final Rule. The two tables were published on April 8, 1996, Land Disposal Restrictions (LDR) Phase III; Final Rule and Partial Withdrawal and Amendment of Final Rule. These corrected tables will eliminate confusion as to what levels of treatment must be achieved by the regulated community as they comply with the LDR requirements. The LDR requirements including the corrected tables are part of the "identical in substance" rulemaking, consolidated docket R96-10/R97-5 RCRA Update of USEPA Actions from 7-1-95 thru 6-30-96. The Board is currently preparing the proposal for public comment in this Docket. ♦

USEPA Agrees to Schedule for National Emission Standards for Hazardous Air Pollutants (NESHAPs) for Manufacturers of Pharmaceutical Products

On February 21, 1997 at 62 Fed. Reg. 8012, USEPA provided notice of a proposed settlement agreement entered into by USEPA and the Natural Resources Defense Council (NRDC). The proposed settlement agreement establishes a schedule for when USEPA intends to take final action on the NESHAPs for manufacturers of pharmaceutical products. The proposed settlement agreement accompanies revisions to a consent decree entered into by USEPA and NRDC in establishing schedules for USEPA's issuance, inter alia, of a number of effluent guidelines and standards under section 304(m) of the Clean Water Act, including effluent guidelines for pharmaceutical manufacturers. USEPA is agreeing to undertake the NESHAP rulemaking for the pharmaceutical manufacturers on the same schedule as the effluent guidelines for pharmaceutical manufacturers. Written comments relating to the settlement may be filed with the USEPA through March 24, 1997. ♦

NESHAPs for Petroleum Refineries Amended

On February 21, 1997 at 62 Fed. Reg. 7937, USEPA in a direct final rule, expanded and clarified definitions in the "National Emission Standards for Hazardous Air Pollutants: Petroleum Refineries". The rules were issued as a final rule on August 18, 1995 at 60 Fed. Reg. 43243 as subpart CC of 40 CFR part 63. USEPA adds a definition for annual average true vapor pressure and clarifies the definition of HAP content applicability cut-off for group I storage vessels.

Comments should be submitted to the USEPA before March 24, 1997. The rule is effective April 22, 1997 unless withdrawn by USEPA. Pursuant to Section 9.1(b) of the Environmental Protection Act, these and all NESHAP standards are “applicable in the State of Illinois and are enforceable under the Act” without rulemaking action by the Board. ♦

Gasoline Distribution (Stage I) NESHAPs Amended

On February 28, 1997 at 62 Fed. Reg. 9087, by direct final rule, USEPA adopted amendments to the “National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I)” (the “Gasoline Distribution NESHAP”). The amendments implement a proposed settlement agreement with the American Petroleum Institute noticed for

comment on November 15, 1996 regarding improvements in the screening equations for determining applicability of the Gasoline Distribution NESHAP. USEPA also makes some clarifications to the NESHAP that were requested by other parties. The proposed rule was published on February 28, 1997 at 62 Fed. Reg. 9140. Comments on the proposed rule should be submitted by March 31, 1997 unless a hearing is requested in the matter before March 10, 1997. If a hearing is requested, it will be held on March 14, 1997 and comments will be due by April 14, 1997. The direct final rule remains effective upon publication unless specifically amended or withdrawn by USEPA. Pursuant to Section 9.1(b) of the Environmental Protection Act these and all NESHAP standards are “applicable in the State of Illinois and are enforceable under the Act” without rulemaking action by the Board. ♦

FINAL DECISIONS

91-75 Community Consolidated School District No. 15 v. IEPA - The Board voluntary dismissed this underground storage tank fund appeal involving a Cook County facility.

95-105 Saline County Landfill v. IEPA - The Board granted voluntary withdrawal of this land permit appeal involving a Saline County facility.

96-95 AlliedSignal, Inc. v. IEPA - The Board granted voluntary withdrawal of this water and NPDES permit appeal involving a Massac County facility. Board Member K. Hennessey abstained.

96-130 People of the State of Illinois v. Parco Asbestos Removal Co., Inc. - The Board accepted a stipulation and settlement agreement in this air action against a Cook County facility, ordered the respondent to pay a civil penalty of \$4,000.00, and ordered the respondent to cease and desist from further violation.

96-133 People of the State of Illinois v. Village of Tilton - The Board accepted a stipulation and settlement agreement in this water action against a Vermilion County facility, ordered the respondent to pay a civil penalty of \$1,000.00, and ordered the respondent to cease and desist from further violation. Board Member K. Hennessey abstained.

96-193 W.R. Grace & Co.-Conn v. IEPA - The Board granted this Cook County facility a variance from 35 Ill. Adm. Code 218.106(c), 218.940(b), 218.946, 218.948, 218.Subpart QQ, 218.Subpart UU of the Board’s air regulations and Section 9(b) of the Act, subject to

conditions, for various testing, emission control and related recordkeeping and reporting requirements. Board Member M. McFawn concurred.

97-58 W.R. Meadows, Inc. v. IEPA - The Board granted respondent’s motion to dismiss, finding that the Board does not have the mandate to grant variance relief from permit conditions.

97-76 Regent Investment Corporation. IEPA - The Board voluntary dismissed this underground storage tank appeal involving a Cook County facility.

97-132 Clark Refining & Marketing, Inc. v. IEPA - Upon receipt of an Agency recommendation, the Board granted a thirty (30)-day provisional variance from the ninety (90)-day limitation on the accumulation of hazardous wastes at this Madison County facility.

AC 97-44 IEPA v. Tazewell Recycling and Disposal Facility - The Board entered a default order, finding that this Tazewell County respondent had violated Section 21(o)(5) of the Act and ordering him to pay a civil penalty of \$500.00.

AC 97-46 County of LaSalle v. Ace Auto Salvage, Inc.
- The Board entered a default order, finding that this LaSalle County respondent had violated Sections 21(p)(1), 21(p)(3) and 21(p)(4), 21(p)(6) of the Act and ordering him to pay a civil penalty of \$2,000.00.

R96-16 In the Matter of : Exemptions from the Definition of VOM, USEPA Amendments (February 7, 1997; Perchloroethylene) - The Board adopted identical-in-substance amendments to the definition of volatile organic material (VOM). Board Member J. Theodore Meyer dissented. - **See Rulemaking Update**

FINAL DECISIONS

94-232 Browning-Ferris Industries of Illinois, Inc. v. IEPA - The Board voluntarily dismissed this land permit appeal involving a DuPage County facility.

96-69 Thomas Corning and Kimberly Corning v. Thurela's, Pam and Arthur Hegji as Owners - The Board accepted a stipulation and settlement agreement in this citizens' noise enforcement action against a Lake County facility.

96-260 People of the State of Illinois v. Pipe and Piling Supplies (U.S.A.), Ltd. - The Board accepted a stipulation and settlement agreement in this air action against a LaSalle County facility, ordered the respondent to pay a civil penalty of \$18,000.00, and ordered the respondent to cease and desist from further violation.

97-77 Village of Lake Zurich v. IEPA - The Board granted this Lake 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 radium content of drinking water.

R94-34 In the Matter of: Landfill, Waste Treatment and Transfer Facilities located within 100-Year Floodplains
- The Board closed this docket finding that further action by the Board is unwarranted. **See Rulemaking Update**

NEW CASES

97-121 Matteson WHP Partnership v. James W. Martin and Eva D. Martin, individually and d/b/a Martin's of

Matteson - The Board accepted this citizen's land and water enforcement action against a Cook County facility for hearing. Board Member K. Hennessey abstained.

97-124 Herb Treder (Site Classification Completion Report) v. IEPA - The Board accepted this request for an extension of time to file a underground storage tank appeal on behalf of a Lake County facility.

97-125 Herb Treder (Physical Soil Classification) v. IEPA - The Board accepted this request for an extension of time to file a underground storage tank appeal on behalf of a Lake County facility.

97-126 Land and Lakes Company (Willow Ranch) v. IEPA - The Board accepted this request for an extension of time to file a underground storage tank appeal on behalf of a Will County facility.

97-127 People of the State of Illinois v. Pettibone Corporation - The Board received this EPCRA enforcement action against a DuPage County facility for hearing.

97-128 People of the State of Illinois v. Belle-Aire Fragrances, Inc. - Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this EPCRA enforcement action against a Lake County facility, the Board ordered publication of the required newspaper notice.

97-129 Pinewood Mobile Home Park v. IEPA - The Board held this petition for water variance for the Agency recommendation involving a Peoria County facility.

97-130 People of the State of Illinois v. Pettibone Corporation - The Board received this air enforcement action against a Champaign County facility for hearing.

97-132 Clark Refining & Marketing, Inc. v. IEPA - **See Final Actions**

NEW CASES

97-104 Continental Waste Industries of Illinois, Inc. v. IEPA - The Board accepted this land permit appeal involving a Jefferson County facility for hearing.

97-112 Land and Lakes Company (Willow Ranch) v. IEPA - The Board accepted this underground storage tank appeal on behalf of a Cook County facility for hearing.

97-126 Land and Lakes Company v. IEPA - The Board accepted this request for 90-day extension of time to file a land permit appeal on behalf of a Will County facility.

97-133 People of the State of Illinois v. Douglas Furniture of California - The Board received this EPCRA enforcement action against a Cook County facility for hearing.

97-134 Dayton Hudson Corporation v. Cardinal Industries, Inc., and David E. Cardinal, Jr. - The Board held this citizen's RCRA enforcement action against a DuPage County facility for a frivolous and duplicitous determination.

97-135 People of the State of Illinois v. Champion Environmental Services, Inc. - The Board received this air enforcement action against a Cook County facility for hearing.

97-136 Edmund and Mary Radkiewicz v. Chevron Products Company - The Board held this citizen's underground storage tank enforcement action against a DuPage County facility for a frivolous and duplicitous determination.

97-137 City of Joliet v. IEPA - The Board held this petition for water variance for the Agency recommendation involving a Will County facility.

97-138 People of the State of Illinois v. LeRoy Cech d/b/a L7K American Wrecking - The Board received this air enforcement action against a Will County facility for hearing.

97-139 Residents Against a Polluted Environment and the Edmund B. Thornton Foundation v. County of LaSalle and Landcomp Corporation v. IEPA - The Board accepted this third party appeal of a local siting approval involving a LaSalle County facility for hearing.

AS 97-7 Petition of Southern Illinois Regional Landfill, Inc. (SIRL) for an Adjusted Standard from 35 Ill. Adm. Code 811.309 The Board acknowledged receipt of this petition for an adjusted standard from certain landfill leachate treatment requirements on behalf of a Jackson 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
3/10/97 9:00 AM	R97-013 R, Air	<u>In the Matter of: Emissions Reduction Market System Adoption of 35 Ill. Adm. Code 205 and Amendments to 35 Ill. Adm. Code 106</u> - James R. Thompson Center, Room 9-040, 100 West Randolph Street Chicago, Illinois 60601
3/11/97 10:00 AM	AS 97-002 Land, RCRA	<u>In the Matter of: Petition of Chemetco, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 720.131(a) and (c)</u> - State Regional Office Building, IDOT, Class Room, 1100 East Port Plaza Drive, Collinsville, Illinois
3/12/97 10:00 AM	PCB 97-008 L-E, Tires	<u>People of the State of Illinois V. Canton Industrial Corporation</u> - Illinois Pollution Control Board, Suite 402, 600 South Second Street Springfield, Illinois 62704
3/13/97 10:30 AM	PCB 96-233 L&GW-E	<u>People of the State of Illinois V. ESG Watts, Inc.</u> - Mercer County Courthouse, Small Courtroom Third Floor, 100 South East Third St. Aledo, Illinois 61231
3/18/97 10:00 AM	PCB 97-111 L&GW-E	<u>People of the State of Illinois V. John Prior and Industrial Salvage, Inc.</u> - Illinois Pollution Control Board, Suite 402, 600 South Second Street Springfield, Illinois 62704
4/1/97 9:30 AM	PCB 95-122 UST-E, Citizens	<u>Olive Streit and Lisa Streit v. Oberweis Dairy, Inc., Richard J. Fetzer and Johnnie W. Ward, (1/b/a Serve-N-Save, and Richard J. Fetaer, individually, Amoco Oil Company, Mobil Oil Corporation</u> - Kane County Courthouse, Room 250, 100 South Third Street, Geneva, Illinois 61105
4/1/97 10:00AM	R97-024 R, Air	<u>In the Matter of: 9% ROP Plan Control Measures from VOM Emissions-Tightening Cold Cleaning Requirements: Amendments to 35 Ill. Adm. Code Parts 211, 218 and 219, Subpart E</u> - James R Thompson Center, Room 2-025, 100 West Randolph, Chicago, Illinois
4/2/97 9:30 AM	PCB 95-122 UST-E, Citizens	<u>Olive Streit and Lisa Streit V. Oberweis Dairy, Inc., Richard J. Fetaer and Jolmnie W. Ward, d/b/a Serve-N- Save, and Richard J. Fetaer, individually, Amoco Oil Company, Mobil Oil Corporation</u> - Kane County Courthouse, Room 250, 100 South Third Street, Geneva, Illinois
4/2/97 1:30 PM	R97-017 R, Air	<u>In the Matter of: Exemptions from Definitions of VOM, USEPA Amendments (July1, 1996 through December 31, 1996)</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago, Illinois
4/3/97 9:30 AM	PCB 95-122 UST-E, Citizens	<u>Olive Streit and Lisa Streit V. Oberweis Dairy, Inc., Richard J. Fetzer and Johnnie W. Ward, d/b/a Serve-N- Save, and Richard J. Fetaer, individually, Amoco Oil Company, Mobil Oil Corporation</u> - Kane County Courthouse, Room 250, 100 South Third Street, Geneva, Illinois
4/4/97 9:30 AM	PCB 95-122 UST-E, Citizens	<u>Olive Streit and Lisa Streit V. Oberweis Dairy, Inc., Richard J. Fetzer and Johnnie W. Ward, d/b/a Serve-N- Save, and Richard J. Fetaer, individually, Amoco Oil Company, Mobil Oil Corporation</u> - Kane County Courthouse, Room 250, 100 South Third Street, Geneva, Illinois
4/14/97 10:00 AM	PCB 94-256 L-E, Citizens	<u>DoALL Company, DoALL Credit Corporation, and Rams-Head Company V. Skokie Valley Asphalt Company, Inc.</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago, Illinois
4/15/97 10:00AM	R97-024 R, Air	<u>In the Matter of: 9% ROP Plan Control Measures from VOM Emissions-Tightening Cold Cleaning Requirements: Amendments to 35 Ill. Adm. Code Parts 211, 218 and 219, Subpart E</u> - James R Thompson Center, Room 9-040, 100 West Randolph, Chicago, Illinois

4/17/97 10:00 AM	AS 97-005 Air	In the Matter of: Petition of the Louis Berlarian Company, d/b/a The Swenson Spreader for an Adjusted Standard from 35 Ill. Adm. Code Part 215, Subpart F - Ogles County Courthouse, Basement Conference Room, 100 South Fourth Street, Oregon, 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

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 ₂	S0 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		