

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



DECEMBER 3, 1998 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

ANNOUNCEMENTS

After calling the meeting to order, Chairman Manning welcomed members of the public and staff to the meeting.

ROLL CALL

The Clerk of the Board called the roll and all Board Members answered present except for Board Member Yi who was absent due to illness.

APPROVAL OF MINUTES

Minutes of the November 19, 1998 meeting were approved by a vote of 6-0.

RULEMAKINGS

R97-16	<u>In the Matter of: Proportionate Share Liability (35 Ill. Adm. Code 741)</u> - The Board adopted a second notice opinion and order in this proposed rulemaking to establish procedures for determining proportionate share liability in environmental actions.	5-1 Flemal Dissented R, Land
R98-21)	<u>In the Matter of: RCRA Update, USEPA Regulations (July 1, 1997 through December 31, 1997); RCRA Update, USEPA Regulations (January 1, 1998 through June 30, 1998); UIC Update, USEPA Regulations (January 1, 1998 through June 30, 1998)</u> - The motion for expedited consideration by Clark Refining & Marketing, Inc. will be decided with the case-in chief.	R, Land
R99-2)		
R99-7)		

ADJUSTED STANDARDS (CONTINUED)

R99-8	<u>In the Matter of: Permitting Procedures for the Lake Michigan Basin 35 Ill. Adm. Code 301 and 309.141</u> - The Board granted the Illinois Environmental Protection Agency's motion for extension of time to file a response and the Illinois Environmental Regulatory Group's motion for leave to file a reply.	6-0 R, Water
R99-10	<u>In the Matter of: Hospital/Medical/Infectious Waste Incinerators: Adoption of 35 Ill. Adm. Code 229</u> - The Board accepted the Illinois Environmental Protection Agency's proposal to amend the Board's air pollution control regulations, granted motion to waive the requirement, and adopted a first notice opinion and order.	6-0 R, Air

ADJUSTED STANDARDS

AS 99-5	<u>In the Matter of: Petition of Abbott Laboratories for an Adjusted Standard from 35 Ill. Adm. Code 302.208 and 304.105</u> - The Board acknowledged receipt of this petition for an adjusted standard on behalf of a Lake County facility and held it pending receipt of certificate of publication.	Water, NPDES
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ADMINISTRATIVE CITATIONS

AC 99-10	<u>County of Will v. Douglas Adams</u> - The Board found that this Will County respondent violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (1996)) and ordered respondent to pay a civil penalty of \$500.	6-0
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ADJUDICATORY CASES

Decisions

PCB 98-160	<u>Devro-Teepak, Inc. (Permit Application No. 95120325) v. IEPA;</u>	6-0
PCB 98-161	<u>and Devro-Teepak, Inc. (Permit Application No. 95120326) v. IEPA</u> - The Board affirmed in part and reversed in part the Illinois Environmental Protection Agency's denial of petitioner's request for trade secret protection in both its Clean Air Act Permit Program permit applications on behalf of a Vermilion County facility.	T-S

ADJUDICATORY CASES (CONTINUED)**MOTIONS AND OTHER MATTERS (CONTINUED)**

PCB 99-55 People of the State of Illinois v. Symons Corporation - The Board granted relief from the hearing requirement of Section 31(c)(2) of the Environmental Protection Act (415 ILCS 5/31(c)(2) (1996)), accepted a stipulation and settlement agreement in this air enforcement action involving a Cook County facility, ordered respondent to pay a civil penalty of \$17,500, and to cease and desist from further violations. 6-0
A-E

Motions and Other Matters

PCB 94-288 People of the State of Illinois v. Diversified Abatement Contractors, Inc., an Illinois corporation, and John Nordigian individually and as president of and Diversified Abatement Contractors, Inc. - Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action against a Lake County facility, the Board ordered publication of the required newspaper notice. 6-0
A-E,
Citizens

PCB 94-373 People of the State of Illinois v. Wayne Berger and Berger Waste Management, Inc. - Respondents' motion for sanctions will be decided with the case-in chief in this land enforcement action involving a Richland County facility. L-E

PCB 96-261 People of the State of Illinois v. G.M. Demolition Corporation - The Board granted respondent's motion for additional time to file a response in this air enforcement action involving a facility located in Cook and Kankakee Counties. 6-0
A-E

PCB 97-94 Jerry Austman and Theresa Strahm v. Amoco Oil Company - The Board granted the parties' joint motion to dismiss this citizen's underground storage tank enforcement action involving an Livingston County facility. 6-0
UST-E,
Citizens

ADJUDICATORY CASES (CONTINUED)
MOTIONS AND OTHER MATTERS (CONTINUED)

PCB 97-115	<u>People of the State of Illinois v. Citizens Utilities Company of Illinois, an Illinois corporation and successor by merger to Metro Utility Company</u> - Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action against a Kane County facility, the Board ordered publication of the required newspaper notice.	6-0 W-E
PCB 97-168	<u>People of the State of Illinois v. Old World Industries, Inc., and Specialty Sealant Tapes, Inc.</u> - No action taken.	L-E
PCB 98-2	<u>ESG Watts, Inc. (Sangamon Valley Landfill) v. Sangamon County, Illinois</u> - The Board denied petitioner's motion to set aside certain hearing officer orders in this landfill siting appeal involving a Sangamon County facility.	6-0 L-S-R
PCB 98-18	<u>James R. and Lucille J. Metz v. United States Postal Service and Bradley Real Estate</u> - No action taken.	N-E, Citizens
PCB 98-31	<u>Roy K. Johnson v. Archer Daniel Midland-Demeter Hoopeston Division</u> - No action taken.	A&N-E, Citizens
PCB 98-52	<u>Commonwealth Edison Company v. IEPA</u> - The Board referred respondent's motion to postpone filing the answer and record to the hearing officer for disposition in this National Pollutant Discharge Elimination System permit appeal involving a Mason County facility.	P-A, NPDES
PCB 98-54	<u>Edward Malina v. Jean Day</u> - No action taken.	UST-E, Citizens
PCB 98-80	<u>People of the State of Illinois v. Craig Linton and Randy Rowe</u> - The Board denied complainant's motion for summary judgment in this land enforcement action involving a LaSalle County facility.	6-0 L-E, Tires

ADJUDICATORY CASES (CONTINUED)**MOTIONS AND OTHER MATTERS (CONTINUED)**

PCB 98-81	<u>Charter Hall Homeowner's Association and Jeff Cohen v. Overland Transportation Systems, Inc. and D.P. Cartage, Inc.</u> - The Board denied respondents' motion for reconsideration and clarification and complainants' motion for leave to file an amended complaint in this citizens' noise enforcement action involving a Cook County facility.	6-0 N-E, Citizens
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PCB 98-114	<u>David Mulvain v. Village of Durand</u> - The Board denied respondent's motion for summary judgment in this citizen's water enforcement action involving a Winnebago County facility.	6-0 W-E, Citizens
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PCB 98-173	<u>McHenry County Defenders, Inc. v. IEPA and The City of Woodstock</u> - The Board granted petitioner's motion for voluntary dismissal of this National Pollutant Discharge Elimination System permit appeal involving an McHenry County facility.	6-0 P-A, NPDES
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PCB 99-27	<u>People of the State of Illinois v. James and Carol Gilmer</u> - No action taken.	RCRA, W-E
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PCB 99-46	<u>Illinois State Toll Highway Authority, Belvidere Oasis on I-90 West Bound (North) v. IEPA</u> - 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 Boone County facility.	5-0 Melas abstained UST-Appeal 90-Day Ext.
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PCB 99-47	<u>Illinois State Toll Highway Authority, Belvidere Oasis on I-90 East Bound (South) v. IEPA</u> - 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 Boone County facility.	5-0 Melas abstained UST-Appeal 90-Day Ext.

ADJUDICATORY CASES (CONTINUED)
MOTIONS AND OTHER MATTERS (CONTINUED)

PCB 99-60	<u>The Pillsbury Company v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this request for trade secret determination involving a Kane County facility.	6-0 T-S
PCB 99-64	<u>Jean S. Dixon v. Joseph Behr & Sons, Inc.</u> - The Board held for a later duplicitous/frivolous determination this citizen's noise enforcement action involving a Winnebago County facility.	N-E, Citizens
PCB 99-67	<u>City of Elgin v. IEPA</u> - The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of a Cook County facility.	6-0 UST-Appeal 90-Day Ext.
PCB 99-68	<u>Huntsman Chemical Corporation v. IEPA</u> - The Board granted this request for a 90-day extension of time to file an air permit appeal on behalf of a LaSalle County facility.	6-0 P-A, 90-Day Ext.
PCB 99-69	<u>Land and Lakes Company v. Randolph County Board of Commissioners</u> - The Board accepted for hearing this pollution control facility siting appeal involving a Randolph County facility.	6-0 P-C-F-S-R
PCB 99-70	<u>Will County Sheriff's Department v. IEPA</u> - The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of a Will County facility.	6-0 UST-Appeal 90-Day Ext.
PCB 99-71	<u>Carl and Nina Brunson v. MCI WorldCom, Inc. and IXC Carrier, Inc.</u> - The Board held for a later duplicitous/frivolous determination this citizens' noise enforcement action involving a Jasper County facility.	N-E, Citizens

CASES PENDING DECISION

R98-14	<u>In the Matter of: Petition of PDV Midwest Refining, L.L.C. for a Site-Specific Rulemaking Amendment to 35 Ill. Adm. Code 304.213</u> - Adopted Rule, Final Order, Opinion and Order	Yi R, Water
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R98-21)	<u>In the Matter of: RCRA Update, USEPA Regulations (July 1, 1997 through December 31, 1997); In the Matter of: RCRA Update, USEPA Regulations (January 1, 1998 through June 30, 1998); In the Matter of UIC Update, USEPA Regulations (January 1, 1998 through June 30, 1998) - Adopted Rule, Final Order, Opinion and Order</u>	Hennessey R, Land
R99-2)		
R99-7)		
R98-29	<u>In the Matter of: Nonhazardous Special Waste Hauling and the Uniform Program 35 Ill. Adm. Code 809 (Pursuant to P.A. 90-219) Proposed Rule, First Notice, Opinion and Order (See Agency Motion to Sever Docket and the Proposed Amendments to Parts 809 and 807)</u>	Yi R, Land
R99-9	<u>In the Matter of: Hearings Pursuant to Specific Rules, Proposed New Subpart K, Involuntary Termination Procedures for EMSA's, 35 Ill. Adm. Code 106, Subpart K - Proposed Rule, Second Notice, Opinion and Order</u>	Hennessey Manning McFawn R, Proc. Rule
PCB 99-21	<u>Central Illinois Light Company (Duck Creek Station) v. IEPA (due 12/28)</u>	Flemal W-V, NPDES

ADJOURNMENT

Moved and seconded, by a vote of 6-0, Chairman Manning adjourned the meeting at 11:02 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, hereby certify that the above minutes were approved this 17th day of December 1998 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

MEETING AGENDA



DECEMBER 3, 1998 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

ANNOUNCEMENTS

The Pollution Control Board welcomes the public to this open meeting. During the meeting itself, only the Board members or staff that are recognized by the Chairman are allowed to speak. If you have any questions about anything that occurred at the meeting, please feel free, after the meeting, to direct your questions to any one of the many staff members in attendance.

Appearance of an item on the agenda does not guarantee that the Board will take action on that item, since the Board may decide to hold the item over for additional review and action at a later meeting. Thank you for your interest.

ROLL CALL

APPROVAL OF MINUTES

November 19, 1998

RULEMAKINGS

R97-16	<u>In the Matter of: Proportionate Share Liability (35 Ill. Adm. Code 741)</u> - Proposed Rule, Second Notice, Opinion and Order	Manning McFawn Hennessey R, Land
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RULEMAKINGS (CONTINUED)

R98-21)	<u>In the Matter of: RCRA Update, USEPA Regulations (July 1, 1997 through December 31, 1997); RCRA Update, USEPA Regulations (January 1, 1998 through June 30, 1998); UIC Update, USEPA Regulations (January 1, 1998 through June 30, 1998) -</u>	Hennessey
R99-2)	<u>Petition for Expedited Consideration by Clark Refining & Marketing, Inc. (11/24)</u>	R, Land
R99-7)		

R99-8	<u>In the Matter of: Permitting Procedures for the Lake Michigan Basin 35 Ill. Adm. Code 301 and 309.141 - Agency Motion for Extension of Time to Respond to the Illinois Environmental Regulatory Group's Motion to Dismiss (11/2), People's Response to Illinois Environmental Regulatory Group's Motion to Dismiss (11/17), Agency Response to Illinois Environmental Regulatory Group's Motion to Dismiss (11/19), Illinois Environmental Regulatory Group's Motion for Leave to File a Reply to Responses of the Illinois Environmental Protection Agency and the Illinois Attorney General's Office to its Motion to Dismiss and Reply (11/30)</u>	Girard Manning Melas R, Water
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R99-10	<u>In the Matter of: Hospital/Medical/Infectious Waste Incinerators: Adoption of 35 Ill. Adm. Code 229 - Proposed Rule, First Notice, Opinion and Order</u>	Flemal R, Air
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ADJUSTED STANDARDS

AS 99-5	<u>In the Matter of: Petition of Abbott Laboratories for an Adjusted Standard from 35 Ill. Adm. Code 302.208 and 304.105 - Awaiting Certificate of Publication - No Order</u>	Melas Water, NPDES
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ADMINISTRATIVE CITATIONS

AC 99-10	<u>County of Will v. J.D. Roberts - Default Order</u>	Manning
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ADJUDICATORY CASES

Decisions

PCB 98-160	<u>Devro-Teepak, Inc. (Permit Application No. 95120325) v. IEPA;</u>	Manning
PCB 98-161	<u>and Devro-Teepak, Inc. (Permit Application No. 95120326) v. IEPA (due 12/4)</u>	T-S

PCB 99-55	<u>People of the State of Illinois v. Symons Corporation - Stipulation</u>	Manning A-E
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Provisional Variances

Since the Board must decide provisional variances within forty-eight hours of their filing, any provisional variances filed prior to this meeting will be included here.

Motions and Other Matters

Additional motions on the following cases filed prior to this meeting may be included here.

PCB 94-288	<u>People of the State of Illinois v. John Nordigian and Diversified Abatement Contractors, Inc. - Motion to Request Relief from Hearing Requirement (11/30)</u>	Hennessey A-E
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PCB 94-373	<u>People of the State of Illinois v. Wayne Berger and Berger Waste Management, Inc. - Respondents' Motion for Sanctions (11/25)</u>	McFawn L-E
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PCB 96-261	<u>People of the State of Illinois v. G.M. Demolition Corporation - Complainant's Motion for Reconsideration of October 1, 1998 Opinion and Order (11/4), Respondent's Motion for Additional Time to File a Response (11/18)</u>	Melas A-E
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PCB 97-94	<u>Jerry Austman and Theresa Strahm v. Amoco Oil Company - Joint Motion to Dismiss with Prejudice (11/24)</u>	Manning USE-E, Citizens
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ADJUDICATORY CASES (CONTINUED)

Motions and Other Matters (Continued)

PCB 97-115 People of the State of Illinois v. Citizens Utilities Company of Illinois - Agreed Motion to Request Relief from Hearing Requirement (11/25) Flemal
W-E

PCB 97-168 People of the State of Illinois v. Old World Industries, Inc. and Specialty Sealant Tapes, Inc. - Respondent Old World Industries, Inc.'s Motion for Certificate of Appeal and to Stay the Pending Proceedings and Memorandum of Law in Support of its Motion for Certificate of Appeal and to Stay the Pending Proceedings (10/22). Complainant's Response to Respondent Old World Industries, Inc.'s Motion for Certificate of Appeal and to Stay Pending Proceedings (11/5) Manning
L-E

PCB 98-2 ESG Watts, Inc. (Sangamon Valley Landfill) v. Sangamon County, Illinois - Petitioner's Motion to Set Aside Hearing Officer Order (11/2), Petitioner's Motion to Set Aside Hearing Officer Regarding George Jamison and James Stone (11/2), Respondent's Response to Petitioner's Motion to Set Aside Hearing Officer Order and Respondent's Response to Petitioner's Motion to Set Aside Hearing Officer Order Regarding George Jamison and James Stone (11/9), Petitioner's Motion to File Reply to Respondent's Responses to Motions to Set Aside Hearing Officer Orders and Reply to Respondent's Responses to Motions to Set Aside Hearing Officer Orders (11/18) Hennessey
L-S-R

PCB 98-18 James R. and Lucille J. Metz v. United States Postal Service and Bradley Real Estate - Respondent United States Postal Service's Motion for Reconsideration of October 15, 1998 Order and Memorandum in Support of Motion for Reconsideration (11/24) Girard
N-E,
Citizens

ADJUDICATORY CASES (CONTINUED)

Motions and Other Matters (Continued)

PCB 98-31	<u>Roy K. Johnson v. Archer Daniel Midland-Demeter Hoopeston Division</u> - Respondent's Memorandum in Support of its Motion for Summary Judgment and Motion for Summary Judgment (9/18), Complainant's Memorandum in Opposition to Respondent's Motion for Summary Judgment (10/8), Respondent's Reply in Support of its Motion for Summary Judgment (10/21)	Hennessey A&N-E, Citizens
PCB 98-52	<u>Commonwealth Edison Company v. IEPA</u> - Agency Motion to Postpone Filing the Answer and Record (11/23)	Flemal P-A, NPDES
PCB 98-54	<u>Edward Malina v. Jean Day</u> - Complainant's Motion for Summary Judgment and Memorandum in Support of Summary Judgment (10/30)	Yi UST-E
PCB 98-80	<u>People of the State of Illinois v. Craig Linton and Randy Rowe</u> - Complainant's Motion for Summary Judgment (9/29)	McFawn L-E, Tires
PCB 98-81	<u>Charter Hall Homeowner's Association and Jeff Cohen v. Overland Transportation Systems, Inc., and D.P. Cartage, Inc.</u> - Respondents' Motion for Reconsideration and Clarification of the Board's Interim Order of October 1, 1998 (11/5), Complainants' Response to Respondents Motion for Reconsideration and Clarification of the Board's Interim Order of October 1, 1998 and Motion to Add Additional Plaintiffs (11/19), Respondents' Response to Complainants' Motion to Add Additional Complainants (11/30)	Hennessey N-E, Citizens
PCB 98-114	<u>David Mulvain v. Village of Durand</u> - Respondent's Motion for Summary Judgment (10/7), Complainant's Response to Respondent's Motion for Summary Judgment (11/2), Respondent's Reply to Complainant's Answer to Respondent's Motion for Summary Judgment (11/13)	Girard W-E, Citizens

ADJUDICATORY CASES (CONTINUED)

Motions and Other Matters (Continued)

PCB 98-173	<u>McHenry County Defenders, Inc. v. IEPA and The City of Woodstock</u> - Petitioner's Motion to Withdraw Permit Appeal (11/30)	Girard P-A, NPDES
PCB 99-27	<u>People of the State of Illinois v. James and Carol Gilmer</u> - Respondents' Motion to Dismiss Count I of the Complaint (11/9)	Girard RCRA, W-E
PCB 99-46	<u>Illinois State Toll Highway Authority, Belvidere Oasis on I-90 West Bound (North) v. IEPA</u> - Dismissal Order	Manning UST-Appeal 90-Day Ext.
PCB 99-47	<u>Illinois State Toll Highway Authority, Belvidere Oasis on I-90 East Bound (South) v. IEPA</u> - Dismissal Order	Manning UST-Appeal 90-Day Ext.
PCB 99-60	<u>The Pillsbury Company v. IEPA</u> - Petitioner's Motion to Withdraw Petition for In Camera Permit Appeal and Trade Secret Determination and Application for Determination of Non-Disclosable Trade Secret Information (11/25)	Flemal T-S
PCB 99-64	<u>Jean S. Dixon v. Joseph Behr & Sons, Inc.</u> - Duplicitous/Frivolous Determination	McFawn N-E, Citizens
PCB 99-67	<u>City of Elgin v. IEPA</u> - Joint Request for 90-Day Extension of Appeal Period (11/17) - Order	Manning UST-Appeal 90-Day Ext.
PCB 99-68	<u>Huntsman Chemical Corporation v. IEPA</u> - Petitioner's Joint Request for 90-Day Extension of Appeal Period (11/19) - Order	Manning P-A, 90-Day Ext.
PCB 99-69	<u>Land and Lakes Company v. Randolph County Board of Commissioners</u> - Accept for Hearing Order	Girard P-C-F-S-R

ADJUDICATORY CASES (CONTINUED)

Motions and Other Matters (Continued)

PCB 99-70	<u>Will County Sheriff's Department v. IEPA</u> - Joint Request for 90-Day Extension of Appeal Period (11/24) - Order	Manning UST-Appeal 90-Day Ext.
PCB 99-71	<u>Carl and Nina Brunson v. MCI WorldCom, Inc. and IXC Carrier, Inc.</u> - Hold for Duplicitous/Frivolous Determination - No Order	N-E, Citizens

CASES PENDING DECISION

R98-14	<u>In the Matter of: Petition of PDV Midwest Refining, L.L.C. for a Site-Specific Rulemaking Amendment to 35 Ill. Adm. Code 304.213</u> - Adopted Rule, Final Order, Opinion and Order	Yi R, Water
R98-21) R99-2) R99-7)	<u>In the Matter of: RCRA Update, USEPA Regulations (July 1, 1997 through December 31, 1997); In the Matter of: RCRA Update, USEPA Regulations (January 1, 1998 through June 30, 1998); In the Matter of UIC Update, USEPA Regulations (January 1, 1998 through June 30, 1998)</u> - Adopted Rule, Final Order, Opinion and Order	Hennessey R, Land
R98-29	<u>In the Matter of: Non-Hazardous Special Waste Hauling and the Uniform Program 35 Ill. Adm. Code 809 (Pursuant to P.A. 90-219)</u> - Proposed Rule, First Notice, Opinion and Order (See Agency Motion to Sever Docket and the Proposed Amendments to Parts 809 and 807 filed 11/2)	Melas R, Land
R99-9	<u>In the Matter of: Hearings Pursuant to Specific Rules, Proposed New Subpart K, Involuntary Termination Procedures for EMSA's, 35 Ill. Adm. Code 106, Subpart K</u> - Proposed Rule, Second Notice, Opinion and Order	Hennessey Manning McFawn R, Proc. Rule
