

ILLINOIS POLLUTION CONTROL BOARD
August 13, 1992

IN THE MATTER OF:)
)
PETITION OF CABOT CORPORATION) R92-16
TO UPDATE UIC REGULATIONS OR,) (Identical in Substance)
IN THE ALTERNATIVE, FOR AN) (Rulemaking)
ADJUSTED STANDARD FROM 35 ILL.) (Also see AS 92-8)
ADM. CODE 738.SUBPART B)

Proposed Rule. Dismissal Order.

ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on a petition filed August 3, 1992, by Cabot Corporation (Cabot), requesting a site-specific "no migration exemption" from the underground injection control (UIC) land disposal prohibitions in 35 Ill. Adm. Code 738.Subpart B. USEPA has granted an exemption from the federal UIC rules. Cabot asks that the Board either grant a State exemption by way of adopting a site-specific identical in substance rule pursuant to Section 13(c) of the Act, or, alternatively, by granting an adjusted standard pursuant to Section 28.1 of the Act. The Board docketed the petition as a regulatory petition.

40 CFR 148 and 35 Ill. Adm. Code 738 prohibit the disposal of certain hazardous waste in UIC wells. 40 CFR 148.20 et seq. establishes a procedure for obtaining an "exemption" from the prohibition on injection. The Board adopted identical in substance rules in R89-2. 35 Ill. Adm. Code 738.120 et seq. provide for the use of "adjusted standards" pursuant to Section 28.1 of the Act for granting "exemptions" at the State level.

This matter concerns two UIC wells owned by Cab-O-Sil Division, Cabot Corporation, located at Tuscola, in Douglas County. These are described as Wells No. 1 and 2.

USEPA proposed exemptions for these wells at 55 Fed. Reg. 34739, August 24, 1990. USEPA published a notice of exemption for Well No. 2 at 55 Fed. Reg. 49340, November 27, 1990, and for Well No. 1 at 56 Fed. Reg. 5826, February 13, 1991.

The Board initially docketed the petition as a regulatory petition. However, upon further consideration, neither the Board nor USEPA rule provides for regulatory action on a "no-migration" exemption". USEPA has not taken regulatory action. Rather, it has published Federal Register notices of non-regulatory actions which appear to be similar to adjusted standards. The UIC actions are not rules, and will not appear in the CFR.

0135-0471

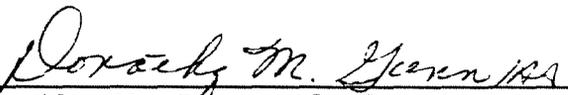
Section 13(c) of the Act requires the Board to adopt rules which are "identical in substance" to federal regulations. In this case, there are no regulations.

This Docket is therefore dismissed. The Board will open an adjusted standards docket on this same day to address the alternative prayer in the petition, which will be docketed as AS92-8.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1041, provides for appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (But see also 35 Ill. Adm. Code 101.246, Motions for Reconsiderations, and Castenada v. Illinois Human Rights Commission (1989), 132 Ill.2d 304, 547 N.E.2d 437.)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 13th day of August, 1992, by a vote of 7-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board