

# ENVIRONMENTAL REGISTER

## *Illinois Pollution Control Board News*

**No. 439**

**November 6, 1991**

### **RULEMAKING UPDATE**

#### **BOARD GRANTS MOTIONS TO AMEND; RETURNS TO FIRST NOTICE IN PM-10 PROPOSAL (R91-22)**

On October 10, 1991, and again on October 24, 1991, the Board granted a series of motions, filed by the Illinois Environmental Protection Agency (Agency), to amend the proposed rules governing PM-10 emissions in the McCook, Lake Calumet, and Granite City areas. (R91-22.) The Agency filed a motion to amend the proposal on September 30, 1991, adding several sections applicable to the Granite City area, and the Board granted that motion on October 10. However, the Board also noted that because of the complexity of the amendments, the Administrative Procedure Act (APA) required that the entire proposal be published for a "second" first notice in the Illinois Register. The Agency subsequently filed two additional motions to amend on October 22 and 23, 1991. The Board granted those motions on October 24, 1991. Because the Board, at the Agency's request, had not yet submitted the paperwork necessary for publication of the October 10 "second" first notice, the Board was able to integrate the language proposed in the two October motions to amend with the language in the October 10 order. This resulted in an amended "second" first notice.

In both its October 10 and October 24 orders, the Board expressed its frustration that the amendments meant further delay in the resolution of this proceeding. These rules have a November 15, 1991, federal deadline. However, as the Board has stated repeatedly in its orders in this proceeding, it is literally impossible under Illinois law to meet that November 15 deadline, given that the original proposal was filed by the Agency on August 19, 1991. The amendments, and the resulting necessity of a "second" first notice publication, will delay the completion of the proceeding further. However, the Board is committed to resolving this proceeding as expeditiously as possible.

The rules will be published in the Illinois Register in the near future. Copies of the Board's orders can be obtained from the Clerk of the Board at 312/814-3620. Questions on the proceeding should be directed to Elizabeth Schroer Harvey at 312/814-6921.

#### **BOARD OPENS CLEAN AIR ACT AMENDMENT DOCKET SERIES, R91-27 THROUGH R91-37; ASKS FOR COMMENTS**

In an unusual move precipitated by looming federal State Implementation Plan (SIP) submission deadlines, the Board at its October 24, 1991 meeting opened a series of rulemaking dockets on its own motion. The purpose of the eleven (11) new dockets is to accommodate rulemaking required under the 1990 federal Clean Air Act Amendments (CAAA). Most of these rulemaking dockets are required to be completed at least 15 days prior to the November 15, 1992 federal deadline for filing of a SIP addressing ozone and SO<sub>2</sub> emissions. The remaining dockets address those PM-10 emission requirements that are not subject to the November 15, 1991 SIP submittal deadline; they are due

in 1994. Two previously opened Board dockets (R91-21 and R91-22) addressed PM-10 provisions that the CAAA requires to be submitted by November 15, 1991.

In its opening orders, the Board noted that once a CAAA rulemaking proposal is received by the Board, current Illinois law requires it to, inter alia, publish notices, require or consider requiring an Economic Impact Statement (EIS), conduct at least two hearings and submit to legislative oversight prior to adoption of any rule. Under these circumstances, even under available expedited procedures for federally required rules, it may be difficult to timely complete action on the several dockets which must be submitted in November of 1992. To date, none of the required proposals have been received by the Board.

In addition to alerting all participants of the need to take the necessary steps to meet federal deadlines, the Board's orders highlight the need for prompt filing of CAAA proposals; according to the orders, those rulemakings required to be completed by November 1992 should be filed no later than November 15, 1991. The orders also direct participants to identify to the Board, no later than November 4, 1991, any other CAAA regulatory proceedings required for submission to USEPA before November 1992, and request the USEPA to provide the status of development of applicable federal guidance documents.

Finally, the orders designate Phil Van Ness, the Board's Intergovernmental Affairs Attorney, as coordinator of discussions on the status of CAAA activities of the Board. He is required to keep both the IEPA and USEPA informed of the progress of these regulatory proceedings.

The new CAAA rulemaking dockets are as follows (assigned Board member indicated in parenthesis):

1. RACT - 25 ton per year Sources: R91-27 (J. Anderson)
2. RACT - Geographical Expansion for the Chicago CMSA: R91-28 (J. Theodore Meyer)
3. RACT - Geographical Expansion for the St. Louis MSA: R91-29 (J. C. Marlin)
4. Stage II Vapor Recovery for Chicago and St. Louis Area: R91-30 (R. Flemal)
5. Employee Trip Reduction Program: R91-31 (B. Forcade)
6. Granite City SO<sub>2</sub> Emission Limits: R91-32 (J.D. Dumelle)
7. Alton SO<sub>2</sub> Emission Limits: R91-33 (M. Nardulli)
8. Southeast Chicago SO<sub>2</sub> Emission Limits: R91-34 (J. Anderson)
9. PM-10 Ambient Limits: R91-35 (J. Theodore Meyer)
10. Episode Regulations for PM-10: R91-36 (R. Flemal)
11. Contingency Measures for PM-10: R91-37 (B. Forcade)

**PROPOSAL TO EXTEND RCRA WOOD PRESERVER DATES (R91-26)**

On October 24, 1991, the Board opened a new Docket, R91-26, to address certain compliance dates for wood preserving drip pads, adopted in connection with a recent RCRA Update, R91-1.

On August 8, 1991, the Board entered a final Opinion and Order in R91-1. Among other things, the Board adopted new regulations governing wood preservers. These rules were derived from USEPA regulations adopted at 55 Fed. Reg. 50450, December 6, 1990. USEPA published a stay of the wood preserving rules at 56 Fed. Reg. 27332, June 13, 1991. The Board addressed the stay in R91-1, even though it was outside the normal batch period for the Docket. The Board adopted the USEPA wood preserving rules, along with USEPA's language staying the rules.

To qualify for the USEPA stay, wood preservers had to notify USEPA by August 6, 1991, that they intended to upgrade drip pads by placing an impermeable coating on the surface. Wood preservers also have to notify USEPA by November 6, 1991, with a plan and financial commitments for the upgrading, which must be completed by February 6, 1992. In adopting R91-1, the Board extended to November 6, 1991, the initial notification requirement with respect to the F034 and F035 wood preserving wastes.

Since the R91-1 rules were filed, the Board has received several calls from wood preservers claiming that the coating operation requires outdoor temperatures in excess of 70° F. It is therefore physically impossible to

comply with the conditions of the stay by preparing a plan and carrying out the coating operation before February 6, at least in Illinois.

The Board is therefore proposing to extend the compliance date to July 1, 1992. The Board will also extend the date for the plan and financial commitments to February 6, 1992, to give wood preservers time to file the plan and financial commitments after these rules become effective.

The proposed rules will appear in the Illinois Register shortly. The Board will receive public comment for 45 days after the date of publication in the Illinois Register. Persons who are on the RCRA notice list will be on this notice list. Others should contact Morton Dorothy at 217/333-5575.

**RESTRICTED STATUS AND CRITICAL REVIEW LISTS FOR SEWAGE TREATMENT IN THIS ISSUE**

The Illinois Environmental Protection Agency, Division of Water Pollution Control, is publishing copies of the Division's Restricted Status and Critical Review lists in this issue of the Environmental Register. These lists reflect the status as of September 30, 1991.

**BOARD AND STAFF ACTIVITIES**

Board Member Ronald C. Flemal addressed the Illinois Groundwater Association's fall meeting on October 23. He spoke on the topic: The Illinois Pollution Control Board and Groundwater.

**FINAL ACTION - OCTOBER 24, 1991 BOARD MEETING**

**PCB 85-95** Citizens Utilities Co. of Illinois v. IEPA and Village of Bolingbrook, Intervenor - The Board granted petitioner variance from the Board's water pollution regulations, with conditions, relating to the ammonia nitrogen water quality standard for its Will County facility. Board Member B. Forcade concurred. Board Member R. Flemal abstained.

**PCB 89-106** D & B Refuse Service, Inc. v. IEPA - The Board found Agency denial reasons nos. 2, 3, 4 and 5 inadequate to support a denial of approval of petitioner's closure/post closure plan. The remaining denial reasons not being challenged, the Board affirmed the Agency's denial of the plan for petitioner's Moultrie County facility.

**PCB 91-2** Olin Corp., a Virginia Corp. v. IEPA - The Board accepted the Agency's Amended Recommendation and granted petitioner variance, with conditions, from the Board's air pollution regulations relating to open burning for its Williamson County facility.

**PCB 91-171** Monsanto Co. v. IEPA - This matter was dismissed on petitioner's motion.

**AC 90-64(B)** St. Clair County v. Louis I. Mund - The Board ordered respondent to pay \$272.31 as compensation for hearing costs incurred by the Board for deposit into the General Revenue Fund concerning its St. Clair County facility and closed the docket.

**AC 90-65(B)** St. Clair County v. Arthur Fields d/b/a Arthur Fields Co. - The Board ordered respondent to pay \$246.06 as

compensation for hearing costs incurred by the Board for deposit into the General Revenue Fund concerning its St. Clair County facility and closed the docket.

**AC 90-66(B)** St. Clair County v. Sandra L. Petroff d/b/a Petroff Trucking Co. - The Board ordered respondent to pay \$246.06 as compensation for hearing costs incurred by the Board for deposit into the General Revenue Fund concerning its St. Clair County facility and closed the docket.

**AC 90-67(B)** St. Clair County v. Timothy E. Doctor d/b/a Maclair Asphalt, Inc. - The Board ordered respondent to pay \$246.06 as compensation for hearing costs incurred by the Board for deposit into the General Revenue Fund concerning its St. Clair County facility and closed the docket.

**AC 90-91(A & B)** IEPA v. Bernard Leitschuh - The Board found respondent violated Section 21(q)(1) and 21(q)(3) of the Act, ordered respondent to pay a civil penalty of \$1,000 payable to the Illinois Environmental Protection Trust Fund, closed Docket A, opened Docket B and ordered the Agency and the Board to file a statement of hearing costs supported by affidavit with service upon respondent concerning respondent's Montgomery County facility.

**AC 91-17(B)** IEPA v. Ronald Feldman d/b/a Felco Co. - The Board ordered respondent to pay \$743.26 as compensation for hearing costs incurred by the Board and Agency for deposit into the General Revenue Fund concerning its Cook County facility and closed the docket. Board Member J. Theodore Meyer dissented.

**AC 91-40** IEPA v. Curtis A. Newlan - The Board found respondent violated Section 21(q)(1) of the Act and imposed a fine of \$500.

**AC 91-41** St. Clair County v. James Womack, d/b/a Womack Brothers - The Board found respondent violated Section 21(q)(1) of the Act and imposed a fine of

\$500.

**AC 91-42** St. Clair County v. Joe Hammel - The Board found respondent violated Sections 21(q)(1) and 21(q)(3) of the Act and imposed a fine of \$1,000.

**R88-8** In The Matter Of: Census of Solid Waste Management Facilities Exempt from the Permit Requirement as Provided in Section 21(d) of the Act - The Board reopened this matter to formally take notice of the Agency's and DENR's responses filed on October 15, 1991, and reaffirmed its August 26, 1991 Opinion and Order dismissing this proceeding and closing this docket, now effective October 24, 1991.

### **NEW CASES - OCTOBER 24, 1991 BOARD MEETING**

**PCB 91-136** Don Bolander v. Monticello Bus Service, Wayne Kruger, President - Complainant alleges violations of the Board's noise pollution regulations at respondent's Piatt County facility. Held until November 7, 1991.

**PCB 91-152** Envirite Corp. v. IEPA and Peoria Disposal Co. et al. - Complainant alleges violations of the Act relating to hazardous wastes at a Peoria County Landfill. Held until November 7, 1991.

**PCB 91-172** John Plosila v. Bandito Barney's et al. - Complainant alleges violations of Board noise pollution regulations at respondent's Kane County facility. The Board denied respondent's motion to dismiss and accepted the matter for hearing.

**PCB 91-183** Thomas J. Sneed et al v. Frank Farrar, First Bank & Trust Co. - Complainant alleges violations of Board noise pollution regulations at respondent's Alexander County facility. Held until November 7, 1991.

**PCB 91-194** Residents of Cedarville v. Village of Cedarville. -Complainants allege violations of Board water pollution regulations at respondent's Stephenson County facility. Held until November 7, 1991.

**PCB 91-195** Scott A. Thomas et al v. Carry Companies of Illinois, Inc. - Complainants allege violations of the

Act and Board air and noise pollution regulations at respondent's Macon County facility. Held until November 7, 1991.

**PCB 91-196** Safety-Kleen Corp. v. IEPA - Petitioner seeks review of the Agency's partial denial of an application for partial modification of petitioner's supplemental permit for its Cook County facility. Accepted for hearing.

**PCB 91-197** Cabot Corp. v. IEPA - Petitioner seeks review of certain conditions imposed by the Agency in the RCRA closure plan permit for its Douglas County facility. Accepted for hearing.

**PCB 91-198** Enterprise Rent-A-Car (Cook County Chicago) v. IEPA - Petitioner seeks review of an underground storage tank reimbursement determination concerning its Cook County facility. Accepted for hearing.

**PCB 91-199** Commonwealth Edison Co. (Byron Nuclear Power Station) - Petitioner seeks NPDES permit review for its Ogle County facility. Accepted for hearing.

**PCB 91-200** Borden Chemicals and Plastics Operating Partnership v. IEPA - Petitioner seeks NPDES permit review for its Sangamon County facility. Accepted for hearing.

### **CALENDAR OF HEARINGS**

All hearings held by the Board are open to the public. All Pollution Control Board Meetings (highlighted) are open to the public but public participation is generally not allowed. Times and locations are subject to cancellation and rescheduling without notice. Confirmation of hearing dates and times is available from the Clerk of the Board at (312) 814-6931.

November 8 9:30 a.m.	PCB 89-177 P-A	<u>CWM Chemical Services, Inc. v. EPA and People of the State of Illinois</u> - Loyola Law School, Room 160, Corboy Courtroom, 1 East Pearson, Chicago.
November 8 10:00 a.m.	PCB 91-163 UST-FRD	<u>Clinton County Oil Co., Inc., and Hoffman/Meier's Shell and Clarence Meier v. EPA</u> - City Council Chambers, 850 Franklin St., Carlyle.
November 12 10:00 a.m.	PCB 90-141 P-A	<u>FIW, Inc. v. EPA</u> - Rockford Public Library, Room A, Lower Level, 215 N. Wyman St., Rockford.
November 13 10:00 a.m.	PCB 91-173 W-V	<u>Marathon Oil Company v. EPA</u> - Robinson Township Public Library, 606 N. Jefferson, Robinson.
November 14	AS 90-4	<u>In the Matter of Granite City Division of National Steel for Adjusted Standards from 35 Ill.</u>

10:00 a.m.	A-S	<u>Adm. Code 302.102, 302.208, 302.210 and Subpart F, Procedures for Determining Water Quality Criteria</u> - City Hall, Mayor's Conference Room, Second Floor, 200 Edison Avenue, Granite City.
November 14 9:30 a.m.	PCB 89-177 P-A	<u>CWM Chemical Services, Inc. v. EPA and People of the State of Illinois</u> - Loyola Law School, Room 160, Corboy Courtroom, 1 East Pearson, Chicago.
November 15 9:30 a.m.	PCB 89-177 P-A	<u>CWM Chemical Services, Inc. v. EPA and People of the State of Illinois</u> - Loyola Law School, Room 160, Corboy Courtroom, 1 East Pearson, Chicago.
November 18 10:00 a.m.	AC 91-31 A-C	<u>EPA v. Randall Loveless</u> - Macoupin County Courthouse, Ground Level, East First Street, Carlinville.
November 19 10:00 a.m.	PCB 91-17 P-A	<u>BF Goodrich Corporation (Henry Facility) v. EPA</u> - Marshall County Courthouse, County Board Room, 122 N. Prairie, Lacon.
November 19 1:00 p.m.	PCB 89-177 P-A	<u>CWM Chemical Services, Inc. v. EPA and People of the State of Illinois</u> - Loyola Law School, Room 160, Corboy Courtroom, 1 East Pearson, Chicago.
November 20 9:30 a.m.	PCB 89-177 P-A	<u>CWM Chemical Services, Inc. v. EPA and People of the State of Illinois</u> - Loyola Law School, Room 160, Corboy Courtroom, 1 East Pearson, Chicago.
<b>November 21</b>		<b>Pollution Control Board Meeting, State of Illinois Center, 100 W. Randolph St., Conference Room 9-040, Chicago.</b>
November 21 10:30 a.m.	PCB 90-8 P-A	<u>The City of Metropolis v. EPA</u> - Metropolis City Hall, City Council Chambers, 106 W. 5th St., Metropolis.
November 25 10:00 a.m.	PCB 90-201 N-E	<u>David L. Dravis and Margo Dravis v. M &amp; D AG, Jerry McGinn, and Bert Davis</u> - Coliseum Building, Second Floor, 212 Third Avenue, Sterling.
November 25 10:00 a.m.	R 91-25 R	<u>In the Matter of Amendments to 35 Ill. Adm. Code Subtitle H: Noise - Pertaining to Definitions, Measurement Procedures, and Sound Emission Standards Relating to Certain Noise Sources</u> - State of Illinois Center, 100 W. Randolph St., Room 9-040, Chicago.
November 26 10:00 a.m.	R 91-25 R	<u>In the Matter of Amendments to 35 Ill. Adm. Code Subtitle H: Noise - Pertaining to Definitions, Measurement Procedures, and Sound Emission Standards Relating to Certain Noise Sources</u> - State of Illinois Center, 100 W. Randolph St., Room 9-040, Chicago.
November 27 9:30 a.m.	PCB 91-128 N-E	<u>Oather Druen, Evelyn Druen, and Amy Pirtle v. James Leonard</u> - Criminal Justice Center, 707 Etna Road, Ottawa.
December 2 9:30 a.m.	PCB 91-191 UST-FRD	<u>Grand Soo, Inc., v. EPA</u> - State of Illinois Center, 100 W. Randolph St., Suite 11-500, Chicago.
<b>December 5</b>		<b>Pollution Control Board Meeting, State of Illinois Center, 100 W. Randolph St., Conference Room 9-040, Chicago.</b>
December 5 10:00 a.m.	PCB 91-95 P-A	<u>Staunton Landfill, Inc. v. EPA</u> - Macoupin County Courthouse, County Boardroom (Basement), Carlinville.
December 12 10:00 a.m.	PCB 91-138 UST-FRD	<u>Kronon Motor Sales v. EPA</u> - State of Illinois Center, 100 W. Randolph St., Suite 11-500, Chicago.
December 13 10:00 a.m.	PCB 91-50 N-E	<u>Karl Christ and Helen Christ v. Compost Enterprises, Inc.</u> - McHenry City Hall, 333 S. Green St., McHenry.
December 16 10:00 a.m.	PCB 91-57 P-A	<u>Monsanto Company v. EPA</u> - Sauget Village Hall, 2897 Falling Springs Road, Sauget.
December 17 10:00 a.m.	PCB 91-30 N-E	<u>Susan Curtis and Marcy Diesing v. Material Service Corporation</u> - Crystal Lake City Hall, Council Chambers, 101 W. Municipal Complex, Crystal Lake.
December 18 10:00 a.m.	PCB 91-30 N-E	<u>Susan Curtis and Marcy Diesing v. Material Service Corporation</u> - Crystal Lake City Hall, Council Chambers, 101 W. Municipal Complex, Crystal Lake.
<b>December 19</b>		<b>Pollution Control Board Meeting, State of Illinois Center, 100 W. Randolph St.,</b>

Conference Room 9-040, Chicago.

December 20  
10:00 a.m.

AC 91-38  
A-C

EPA v. Danny Mains - Bond County Courthouse, 200 W. College, Greenville.

**Calendar Code**

A-C	Administrative Citation	A-E	Air Enforcement
A-S	Adjusted Standard	A-V	Air Variance
CSO	Combined Sewer Overflow Exception	L-E	Land Enforcement
L-S-R	Landfill Siting Review	L-V	Land Variance
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
SO <sub>2</sub>	SO <sub>2</sub> Alternative Standards	SWH-E	Special Waste Hauling Enforcement
SWH-V	Special Waste Hauling Variance	T	Thermal Demonstration Rule (35 ILL. ADM. CODE 302.211(F))
T-C	Tax Certifications	T-S	Trade Secrets
W-E	Water Enforcement	W-V	Water Variance
WWS	Water-Well Setback Exception		
UST-FRD	Underground Storage Tank Fund Reimbursement Determination		

The Illinois Pollution Control Board is an independent seven member board which adopts the environmental control standards for the State of Illinois and rules on enforcement actions and other environmental disputes. The Board Members are:

John C. Marlin, Chairman  
Urbana, Illinois

Joan G. Anderson  
Western Springs, Illinois

Jacob D. Dumelle  
Oak Park, Illinois

Ronald C. Flemal  
Dekalb, Illinois

Bill S. Forcade  
Nardulli  
Chicago, Illinois

J. Theodore Meyer  
Chicago, Illinois

Michael L.  
Chicago, Illinois

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**SUBSCRIPTION SERVICE FOR BOARD OPINIONS AND REGULATIONS**

Copies of Opinions issued by the Board in enforcement, variance, permit and landfill site location suitability appeals, plus regulatory matters are available in looseleaf form on an annual subscription basis. Loose-leaf binders included.

**ENVIRONMENTAL REGISTER**

The Environmental Register is a newsletter published by the Board after every Board meeting. The Register provides updates on rulemakings, lists the final actions taken at the Board meeting, contains the Board's hearing calendar and provides other useful information on environmental issues.

**Call for more detailed descriptions and order forms.**

REGULATIONS FOR THE DESIGN AND OPERATION OF NONHAZARDOUS WASTE LANDFILLS - Available on Diskette

The compilation includes the Board's Opinions and Orders in the R88-7 and the predecessor R84-17D dockets (approximately 850 pages) and the supporting background document and detailed responses to comments of the Scientific/ Technical Section (approximately 775 pages). In addition, the compilation contains executive summaries and an overview of the Board's functions and operations. The diskettes totalling over 1600 pages have been put together using Wordperfect 5.0 word processing software. The diskettes, available in either 5.25" or 3.5" size, can be purchased from the Illinois Pollution Control Board for \$100 per set. Please use the form below to speed your request. Diskettes will be sent by First Class mail.

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