

ENVIRONMENTAL REGISTER

Illinois Pollution Control Board News

No. 477

December, 1993

**MARILI McFAWN, EMMETT E. DUNHAM II APPOINTED TO BOARD;
MEMBER RONALD C. FLEMAL REAPPOINTED;
MEMBER JOAN G. ANDERSON RESIGNS**

The Board and staff welcome two new members and the reappointment of another. Governor Edgar announced his appointment of two new Board members on November 12, 1993. He appointed Marili McFawn, of Palatine, and Emmett E. Dunham II, of Elmhurst. These new Board members will occupy the seats recently vacated by Joan G. Anderson (*see below*) and Bill S. Forcade. (*See issue 476, Nov. 3, 1993.*) On the same date, the Governor reappointed Dr. Ronald C. Flemal to the Board. Both Ms. McFawn and Mr. Dunham come to the Board with impressive credentials. **APPOINTMENTS continued on page 3**

INFORMATION SERVICES AVAILABLE FROM THE BOARD

See the inside of this page for details on informational items available from the Board. These items include a subscription service for Board opinions and orders and copies of the landfill regulations in electronic format.

The Board also maintains an electronic Bulletin Board System (BBS) at 312-814-1590. There is no charge for access to the BBS. See the inside of this page for details.

GOVERNOR SIGNS AMENDMENTS TO SUBTITLE D LANDFILL PROVISIONS

On November 16, 1993, Governor signed into law Public Act 88-512 (formerly House Bill 299). These amendments, effective upon becoming law, include certain amendments to the RCRA Subtitle D provisions recently added to the Environmental Protection Act in P.A. 88-496. These were in response to recent U.S. EPA amendments to its RCRA Subtitle D regulations. (*See issue 475, October 6, 1993.*) They extend the deadline for compliance with the Illinois Subtitle D landfill requirements until April 8, 1994 for smaller landfills accepting less than 100 tons of waste per day. This deadline is also similarly extended for landfills that the Illinois EPA has determined are necessary to accept flood debris. The deadline for compliance with the financial responsibility requirements is extended until April 8, 1995. The amendments are drafted so that they are retroactive from October 9, 1993.

RULEMAKING UPDATE

CLEAN AIR ACT CHICAGO OZONE RACT 25 TONS PER YEAR RULEMAKING PROPOSED FOR SECOND NOTICE, R93-14

On November 18, 1993 the Board proposed for Second Notice review by the Joint Committee on Administrative rules (JCAR), under docket number R93-14, certain amendments to the Illinois' Air Pollution Control regulations pertaining to emissions of volatile organic materials in the Chicago metropolitan statistical area. The proceeding, entitled *In the Matter of: Reasonably Available Control Technology for Major Sources Emitting Volatile Organic Materials in the Chicago Ozone Nonattainment Area: 25 Tons*, would amend Parts 211 (general VOM provisions) and 218 (Chicago metropolitan area VOM provisions). The Illinois EPA (Agency) filed the proposal, and the Board proposed it for First Notice publication in the *Illinois Register* on July 22, 1993, pursuant to Section 28.5 of the Environmental Protection Act--a

provision that limits the Board's discretion in proceeding with an Agency-filed proposal, and which requires the Board to proceed very rapidly. (415 ILCS 5/28.5; *see issue 473, Aug. 4, 1993.*) The Board conducted public hearings on the proposal on August 31 and September 21, 1993. The proposed amendments represent one segment of Illinois' submittal of a complete State Implementation Plan (SIP) to the U.S. Environmental Protection Agency (USEPA).

Section 182(a) of the Clean Air Act Amendments of 1990

CHICAGO RACT continued on page 4

**ENVIRONMENTAL INFORMATION SERVICES
AVAILABLE FROM THE BOARD**

The Board has the following information available:

POLLUTION CONTROL BOARD ELECTRONIC BULLETIN BOARD SYSTEM (BBS). The Pollution Control Board operates an electronic BBS at 312-814-1590. The BBS is available 24 hours a day, 7 days a week, to anyone with access to a computer and a modem - there is no charge for access to the BBS. The best communications settings are 8 data bits (or data length 8), no parity (or parity = none) and 1 stop bit, i.e., 8-N-1. The best terminal emulation is ANSI-BBS or just ANSI. The BBS contains Board Agendas, Environmental Registers, Annual Reports, and various documents about the Board. You may download these documents to your computer. For additional information contact Bill Forcade at the Board Offices 312-814-3620.

SUBSCRIPTION SERVICE OF BOARD OPINIONS AND ORDERS. The subscription service comprises all the Opinions and Orders issued by the Pollution Control Board in a fiscal year (July 1 through June 30). The Board meets approximately twice monthly in order to issue Opinions and Orders.. Usually no later than the end of each month, a volume is issued containing the Opinions and Orders of the Board from the preceding month.

HARD COPIES OF BOARD OPINIONS AND ORDERS FOR FISCAL YEAR 1992 (July 1, 1991 through June 30, 1992) **ARE AVAILABLE FOR IMMEDIATE DELIVERY.** The cost is \$350.00 per set.

Two formats will be offered starting July 1 of this year (FY93): a hard paper copy for \$350.00 per year and an electronic version for \$275.00 per year. The electronic version will consist of Opinions and Orders in the WordPerfect 5.1 format on either 3.5" or 5.25" inch diskettes. The electronic format will allow for word searches and other useful tools provided by the WordPerfect software.

When ordering, please specify the choice of either the hard copy or electronic version. If ordering the electronic version, please specify 3.5" or 5.25" diskettes.

SUBSCRIPTION SERVICE FOR BOARD OPINIONS AND ORDERS

Enclosed is a check in the amount of _____ made payable to the Illinois Pollution Control Board for the subscription service to the Board's opinions and orders.

Name _____ Fiscal Year Ordered _____

(FY92 available in hard copy only).

Address _____

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Hard Copy Cost per FY: \$350.00

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Please send to:(5.25" 1.2 MB or 3.5" 1.44 MB)

Joseph D'Alessandro

Illinois Pollution Control Board

100 W. Randolph St., Ste. 11-500

Chicago, IL 60601

**COPIES OF ILLINOIS LANDFILL REGULATIONS AND SUPPORTING DOCUMENTS
AVAILABLE ON DISKETTE**

Copies of the Illinois landfill regulations and supporting documents are available on diskette. This consists of the Board's landfill regulations and other supporting background documentation. This is offered only in an electronic version which consists of WordPerfect 5.1, on either 3.5" or 5.25" inch diskettes. The electronic format will allow for word searches and other useful tools provided by the WordPerfect software. The cost is \$100.00.

When ordering, please specify the choice of either the 3.5" or 5.25" diskettes.

DISKETTE SET FOR NONHAZARDOUS WASTE LANDFILL REGULATIONS

Enclosed is a check in the amount of \$_____ made payable to the Illinois Pollution Control Board for purchase of _____ set(s) of diskettes at \$100.00 per set.

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Please send to:

Joseph D'Alessandro, Fiscal Officer
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph St., Ste 11-500
Chicago, IL 60601

APPOINTMENTS *continued from page 1*

Ms. McFawn, a lawyer, has had significant experience in private practice and with government. She was a partner in the law firm of Schiff, Hardin & Waite. She worked for the firm from 1985 through 1990, concentrating on environmental matters. She represented various industries in regulatory and judicial proceedings, including before the Board and the Illinois EPA. Before entering private practice, from 1981 through 1984, Ms. McFawn worked as an attorney-assistant to three Board members: current Member J. Theodore Meyer, former Vice-Chairman Irvin Goodman, and former Chairman Jacob D. Dumelle. Prior to working for the Board, she worked as an enforcement staff attorney for the Air Pollution Control and Public Water Supplies Divisions of the Illinois EPA. Ms. McFawn received her B.A. in English, with minors in education and philosophy, in 1975 from Xavier University, in Cincinnati, Ohio. She received her Juris Doctor in 1979 from the Loyola University School of Law in Chicago. She is a member of the American Bar Association and the Illinois State Bar Association. She was formerly a member of the Chicago Bar Association, Environmental Law Committee.

Mr. Dunham, a biologist and lawyer, has had significant technical and regulatory compliance experience. He was formerly a Regulatory Compliance Engineer for the Acme Resin Division of Borden, Inc., in Westchester, Illinois, from 1988 until his appointment to the Board. He had primary responsibility for the environmental, occupational safety and industrial hygiene matters for seven Acme Resin Division plants, including liaison for the press and governmental agencies, regulatory compliance, and environmental- and safety-related customer assistance. Between 1985 and 1988, Mr. Dunham was Environmental Manager for The Enterprise Companies, and later Valspar Corporation, in Chicago, with responsibility for environmental, occupational safety and industrial hygiene matters for numerous plants, and for advising company management in environmental matters. Mr. Dunham worked for the Water Reclamation District of Greater Chicago (formerly the Metropolitan Sanitary District of Greater Chicago), in Chicago, from 1973 through 1985. He held positions as a Pollution Control Officer, in the Industrial Waste Division; a Microbiologist, in the Research Division; and a laboratory technician. Mr. Dunham received his B.S. in Biology from the University of Illinois at Chicago in 1974, with a minor Chemistry. He earned his M.S. in Biology in 1981 from Northeastern Illinois University. He has taken courses in Environmental and Chemical Engineering at the Illinois Institute of Technology, and he received his Juris Doctor, with honors, from the Illinois Institute of Technology, Chicago-Kent College of Law in 1991. He is an Illinois-licensed Professional Engineer in Training and has been a member of the Illinois Manufacturer's

Association and the Environmental Quality Committee.

With the announcement of the appointment of two new members, Governor Edgar announced the reappointment of Member Ronald C. Flemal, of DeKalb, to the Board. Dr. Flemal has served as a member of the Board since 1985. He has participated in and authored numerous significant Board actions in this time. Some of his most recent contributions have been a set of regulations designed to protect Illinois groundwaters and a set of regulatory standards for groundwater protection. Prior to his initial appointment, he was a Professor of Geology at Northern Illinois University, from 1967 to 1985. Dr. Flemal received his Ph.D. in Geology from Princeton University, in New Jersey, and his B.S. in Geology from Northwestern University, in Evanston. He is a member of the American Association for the Advancement of Science, the Illinois State Bar Association (lay member), and the Environmental Law Council.

Former Member Joan G. Anderson announced her resignation effective November 15, 1993. Mrs. Anderson, of Western Springs, was initially appointed to the Board in 1980. During her tenure, Mrs. Anderson authored numerous significant Board decisions. Among the regulations authored by Mrs. Anderson are most of those pertaining to landfills, hazardous waste, underground injection control, and the Illinois counterpart to the federal requirements for drinking water. Mrs. Anderson was also a prime architect of the Board's identical-in-substance rulemaking and adjusted standard procedures. Prior to her appointment to the Board, Mrs. Anderson served three years as the Director of the Department of Registration and Education; served as an elected Commissioner of the Water Reclamation District of Greater Chicago (formerly the Metropolitan Sanitary District of Greater Chicago); was an elected Trustee of the College of DuPage, serving as its Vice-Chairman; was an elected delegate to the 1970 Sixth Constitutional Convention, which drafted the current Illinois Constitution; and was a special consultant to the Illinois Department of Local Government Affairs. Mrs. Anderson received her B.S. in bacteriology, with highest honors, with dual minors in chemistry and mathematics, from the University of Illinois at Champaign-Urbana. Mrs. Anderson has served in various capacities with a number of boards and committees. Included among these are the State Comptroller's County Audit Advisory Committee, the State Advisory Council for Solid Waste Management Grants, the Institute of Government and Public Affairs at the University of Illinois, the Board of Trustees of Illinois 2000, the State Board of the League of Women Voters, the Cook County League of Women Voters, and the American Association of University Women. The Board deeply appreciates that Mrs. Anderson's public contributions included service on the Board.

CHICAGO RACT continued from page 1

(CAAA) required Illinois to have adopted and submitted its proposed SIP by November 15, 1992. The purpose of the R93-14 proposed amendments is to make certain modifications to Parts 211 and 218 for U.S. EPA approval. Among other amendments, the proposed amendments would make the RACT regulations applicable to sources that emit more than 25 tons of volatile organic material per year in the Chicago metropolitan area. The existing regulations impose a 100 ton per year threshold.

The Administrative Procedure Act (5 ILCS 100/1-1 *et seq.*) allows JCAR 45 days to review the proposed amendments. Either after JCAR has issued a Certificate of No Objection or 45 days have elapsed since JCAR received the Second Notice package, the Board can proceed to adopt them. Direct questions to Elizabeth S. Harvey, at 312-814-6921. (Please refer to docket R93-14.)

AMENDMENTS TO EXISTING SITE-SPECIFIC RULE PROPOSED FOR FIRST NOTICE, R93-8

On November 18, 1993, the Board proposed amendments to a site-specific rule for Second Notice. The site-specific water pollution control rule involved applied to UNO-VEN's predecessor-in-interest, Union Oil Co. of California, for the effluent from a refinery located in Will County, near Lemont. The Chicago Sanitary and Ship Canal is the receiving stream.

The proposed amendments would change the rule to reflect the change in ownership of the facility to the petitioner, UNO-VEN Co.; they would add a monthly-averaged concentration-based effluent limitation for ammonia nitrogen; the amendments

would require annual reporting of nitrogen in feedstock; and they would extend the ultimate expiration date of the rule until December 31, 2001.

The Board proposed the amendments on August 26, 1993 for First Notice publication in the *Illinois Register*. (Issue 474, Sept 9, 1993.) The Board will be free to adopt the proposed amendments after either the Joint Committee on Administrative Rules (JCAR) submits its Certificate of No Objection or 45 days have elapsed from when JCAR received the Second Notice package, whichever comes first. Direct questions to Diane O'Neill, at 312-814-6062. (Please refer to docket R93-8.)

REPEAL OF STAGE II VAPOR RECOVERY PROPOSED FOR FIRST NOTICE FOR THE METRO-EAST AREA, R93-28

On November 4, 1993, the Board proposed the repeal of the Stage II vapor recovery rules that presently apply in the metropolitan East St. Louis statistical area (Madison, Monroe, and St. Clair Counties in Illinois). The Stage II rules require gasoline dispensers (primarily gasoline service stations) to install and maintain equipment to control the release of gasoline vapors while dispensing fuel. The rules are a part of the reasonably available control technology (RACT) regulations for the control of ground-level ozone formation in the Metro East non-attainment area.

The Illinois EPA (Agency) filed a proposal on October 21, 1993 for the repeal of these regulations. The Agency indicated that the U.S. EPA intends to promulgate regulations requiring on-board vehicle controls for gasoline vapor recovery systems. This federal action, which will possibly obviate the need for controls at the dispensing facility, are anticipated by the end of January,

1994. The Board granted an Agency motion for expedited decision on October 21, 1993 (*Issue 476, Nov. 3, 1993*) and proposed the repeal, contingent on the appearance of the new U.S. EPA on-board vehicle controls, so that no time is lost in the repeal of the Stage II rules if they prove no longer necessary for the Metro East area.

The Board adopted the Stage II regulations on August 13, 1992, in docket R91-30. (*Issue 456, Sept. 2, 1992.*) In docket R93-10, the Board adopted an emergency rule on petition from the Agency that had the effect of delaying a May 1, 1993 effective date until October 15. In that proceeding, the Agency indicated its intent to file for a repeal of the regulations. (*Issue 471, June 16, 1993.*) The proposed repeal would not affect the similar Stage II vapor recovery rules that presently apply in the Chicago metropolitan area. Direct questions to Michelle C. Dresdow, at 815-753-0947. (Please refer to docket R93-28.)

PETITION ACCEPTED FOR AMENDMENTS TO GROUNDWATER QUALITY STANDARDS, R93-27

On November 4, 1993, the Board accepted a petition for rulemaking for hearing from the Illinois EPA (Agency). The petition, filed October 18, 1993, proposed that the Board amend the Illinois groundwater quality standards of Part 620 of the Board's rules to include additional contaminants. These contaminants are chemical species for which the U.S. EPA has adopted maximum contaminant levels for the purposes of the Safe Drinking Water Act regulations (found at 40 CFR 141 and 35 Ill. Adm. Code 611). The Board found that the rulemaking proposal substantially meet the requirements for such a proposal and accepted it for hearing, authorizing the hearing officer to require the Agency to provide any additional necessary information. Direct questions to Michelle C. Dresdow, at 815-753-0947. (Please refer to docket R93-27.)

APPELLATE UPDATE

FIFTH DISTRICT AFFIRMS BOARD AFFIRMANCE OF LOCAL SITING APPROVAL

In a decision filed November 23, 1993, in case no. 5-91-0807, the Fifth District Appellate Court affirmed the Board's October 10, 1991 affirmance of a regional pollution control facility approval in PCB 91-106: *Worthen v. Village of Roxana*. The court determined that it had jurisdiction to hear the appeal, that the Board had employed the proper standard of review, that the Board's decision on the merits of the proposed landfill was not against the manifest weight of the evidence, and that the Solid Waste Planning and Recycling Act did not preclude acceptance of wastes from outside the county involved.

The court confronted the issue of whether it had jurisdiction under unique circumstances. The petitioners for appellate review had filed its petition within the 35 days required by Section 41(a) of the Act, but it named only the respondents before the Board as respondents on appeal. The petitioners promptly moved to amend the caption to name the Board as a respondent, but not within the 35 day limit. The respondents had, however, timely

served the Board with the petition. The court held that despite the fact that Supreme Court Rule 335 requires the naming of the Board as a respondent in the caption, the case law that would deprive it of jurisdiction and require dismissal of the appeal did not apply in the narrow circumstances of this appeal. The court concluded that where the petitioners inadvertently did not name a necessary respondent in the caption, the appellate court has jurisdiction to hear the appeal where that respondent was timely served with the petition and the petitioners promptly moved to amend the caption to correct the defect.

The Fifth District followed other recent decisions and determined that it did not lack jurisdiction because the petitioners did not move for Board reconsideration. The Board had argued that dismissal was required because the petitioners had not filed such a motion before filing their appeal. Noting the recent decisions of the Third and Fourth Districts in *Strube v. PCB* (3d Dist. 1993), 242 Ill. App. 3d 822, 610 N.E.2d 717, *Grigoleit Co. v. PCB* (4th Dist. 1993), 245 Ill. App. 3d 337, 613 N.E.2d 371, and *Land & Lakes Co. v. PCB* (3d Dist. 1993), 245 Ill. App. 3d 631, 616 N.E.2d 349, the court followed them. (*See issues 468, Apr. 7, 1993; 470, May 19, 1993 & 471, June 16, 1993.*) It held that a motion for Board reconsideration was not a necessary prerequisite to an appeal under the doctrine of exhaustion of administrative remedies because the Board renders its decisions as a whole.

The court further determined that the Board had employed the proper standard of review in rendering its decision and that that decision was supported by the manifest weight of the evidence. The petitioners had argued that the essential facts were not in dispute, so the Board should have determined the issues as matters of law. The Board had concluded that the issues before it were issues of fact and mixed issues of fact and law, so it must employ the "manifest weight of the evidence" standard of review. The court concluded that since the facts were disputed, the appropriate standard was the "manifest weight" standard--both before the Board and before the court. Therefore, the Board had applied the appropriate standard.

The court then affirmed the Board's decision on the merits of the application for approval. In the course of this review, the Fifth District significantly upheld the Board's conclusion that it is for the applicant for siting approval to determine the are planned to be served by the facility, and the court found that the petitioners had no authority for their contention that a regional pollution control facility may accept waste from only that area. The court also significantly held that the unit of local government involved was free to interpret the regional waste plan involved, notwithstanding the testimony of that plan's author as to its terms. The court agreed with the Board that the record included conflicting evidence on the plan's terms because the author was not a person in authority in the county for which he drafted it.

As a final issue, the Fifth District confronted whether the Solid Waste Planning and Recycling Act (415 ILCS 15/1 *et seq.*) precludes importation of waste from outside a county required to adopt a waste management plan. The petitioners had argued that this was true for new and

expanding landfills. The court held that the requirement to plan for locally-generated waste needs did not include such a limitation.

FIFTH DISTRICT AFFIRMS A BOARD REVERSAL OF AN AGENCY REIMBURSEMENT DETERMINATION AND ADJUSTMENT OF THE DEDUCTIBLE AMOUNT; THE BOARD IS LIMITED TO THE AGENCY RECORD IN APPEALS OF UST REIMBURSEMENT DETERMINATION APPEALS

The Fifth District Court of Appeals affirmed a Board underground storage tank reimbursement determination appeal in a decision dated November 23, 1993, in *EPA v. PCB*, no. 5-92-0468. The court determined that the Board properly restricted the scope of its review to the record before the Agency at the time it made its deductibility determination and the manifest weight of the evidence supported the Board's conclusion in *Clinton County Oil Co. v. EPA* (June 4, 1992), PCB 91-163, that the tank owner did not have notice of the leak prior to July 28, 1989.

The applicant for reimbursement had removed the registered tanks at issue late in 1988. In the course of tank removal, the applicant and other persons present, including a representative of the Office of the State Fire Marshall, did not notice any soil or groundwater contamination in the excavation. In 1991, the applicant discovered significant subsurface contamination and engaged in extensive remediation. The applicant submitted for reimbursement from the Agency, stating that the contamination resulted from a tank overflow. The Agency requested additional information and later determined that the applicant was eligible for reimbursement at a deductible amount of \$ 50,000 because the applicant must have been aware of the release in 1988 when it excavated the tanks. At hearing before the Board, several witnesses testified that there was no release apparent when the tank was excavated in 1988. The Agency later argued in its post-hearing brief that the applicant was wholly ineligible for reimbursement because it had known of the product overflow prior to 1989 and the record indicated that the applicant had falsified its reimbursement application.

On review, the Board held that it was constrained to decide on the record before the Agency when the Agency made its eligibility determination. The Board held that eligibility was beyond the scope of its review and concluded from the Agency record and the testimony of the witnesses that the applicant was not aware of the release prior to 1989. The Board therefore adjusted the deductible amount to \$ 10,000. The Agency appealed the Board's decision.

The appellate court rejected the Agency's arguments that the Board must consider the applicant's eligibility for reimbursement. The court rejected cases involving NPDES permit appeals as support for the argument that the Board should have considered hearing evidence on the issue of eligibility; the court noted that Board procedural rule 105.102(b)(8) pertains only to the special case of NPDES appeals. The court held that Illinois case law restricts the Board to the Agency record upon which it made its eligibility determination. It rejected the

Agency's arguments based on its limited resources to investigate claims before determining eligibility. The court held that fundamental fairness would not allow the Agency to reopen a "final determination" on eligibility on appeal--even when new evidence drew that determination into question. The court stated that the Agency has an unrestricted opportunity to engage in inquiry before making its decision, and it noted that the Agency had actually done so in this instance and received additional information from the applicant upon request.

On the issue of whether the applicant was aware of the release when it unearthed the tanks in 1988, the court held that the manifest weight of the evidence supported the Board's conclusion that it was not. The court noted that the hearing testimony of several witnesses present when the tanks were removed indicated that none saw any apparent contamination. The court stated that the Agency's only evidence that the applicant was aware of the contamination was based on the 1988 removal of the tanks.

FOR YOUR INFORMATION

BOARD MEMBER DELIVERS SEMINAR

Board Member G. Tanner Girard delivered an environmental engineering seminar on November 17, 1993.

This seminar, conducted at the Robert R. McCormick School of Engineering and Applied Science of Northwestern University, in Evanston, was for graduate engineering students and professors. Dr. Girard spoke on environmental regulation in Illinois.

FINAL ACTIONS - November 4, 1993, 1993 BOARD MEETING

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|--------|---|----------|--|
| 91-157 | <u>People of the State of Illinois v. The Grigoleit Company</u> - The Board granted a joint motion to modify the Board's order entered October 21, 1993 on a stipulation and settlement agreement in this land enforcement action against a Macon County facility. | 93-163 | <u>Villages of Granville & Mark v. EPA</u> - The Board granted this Putnam County facility a variance with conditions until November 4, 1998 from the standards of issuance and restricted status provisions of the public water supplies regulations, as they relate to the standards for combined radium-226 and radium-228 in drinking water. |
| 91-234 | <u>Safety-Kleen Corporation v. EPA</u> - The Board granted voluntary dismissal of this RCRA permit appeal involving a Tazewell and Peoria County facility. | 93-208 | <u>Shell Oil Company v. EPA</u> - Upon receipt of an Agency recommendation, the Board granted a 45-day provisional variance from the Stage II vapor recovery requirements of the air pollution control regulations for 121 of the petitioner's facilities located in Cook, DuPage, Kane, Lake, McHenry and Will Counties. |
| 91-257 | <u>Commonwealth Edison Company (Cordova Facility) v. EPA</u> - The Board granted voluntary withdrawal of this NPDES permit appeal involving a Rock Island County facility. | 93-209 | <u>Calumet Park Citgo v. EPA</u> - Upon receipt of an Agency recommendation, the Board granted a 45-day provisional variance from the Stage II vapor recovery requirements of the air pollution control regulations for the petitioner's facility located in Cook County. |
| 92-68 | <u>People of the State of Illinois v. Chem-Plate Industries, Inc.</u> - The Board accepted a stipulation and settlement agreement filed by the parties in this land enforcement action against a Cook County facility, ordered the respondent to pay a civil penalty of \$8000.00, and ordered the respondent to cease and desist from further violation. | 93-210 | <u>Bell Fuels, Incorporated v. EPA</u> - Upon receipt of an Agency recommendation, the Board granted a 45-day provisional variance from the Stage II vapor recovery requirements of the air pollution control regulations for the petitioner's facility located in Kane County. |
| 93-76 | <u>Nicor National Illinois, Inc. v. EPA</u> - The Board granted voluntary dismissal of this RCRA permit appeal involving a Madison County facility. | 93-211 | <u>Bargeway Oil Company v. EPA</u> - Upon receipt of an Agency recommendation, the Board granted a 45-day provisional variance from the Stage II vapor recovery requirements of the air pollution control regulations for the petitioner's facility located in DuPage County. |
| 93-105 | <u>Divane Bros. Electric Co. v. EPA</u> - The Board granted the Agency's motion for summary judgment and dismissed this underground storage tank reimbursement determination appeal involving a Cook County facility. J. Anderson dissented. | 93-212 | <u>Mobil Oil Corporation v. EPA</u> - Upon receipt of an Agency recommendation, the Board granted a 45-day provisional variance from the Stage II vapor recovery requirements of the air pollution control regulations for 46 of the petitioner's facilities located in Cook, DuPage, Lake, and Will Counties. |
| 93-140 | <u>CP Inorganics, Inc. v. EPA</u> - The Board granted voluntary dismissal of this air permit appeal involving a Will County facility. | AC 91-32 | <u>County of Ogle v. Rochelle Disposal Service, Inc., and City of Rochelle, Illinois</u> - The Board granted reconsideration and reaffirmed its order of September 23, 1993 |
| 93-147 | <u>Village of Grantfork v. EPA</u> - The Board granted this Madison County facility a variance with conditions until February 28, 1996 from the standards of issuance and restricted status provisions of the public water supplies regulations, as they relate to the total trihalomethanes (TTHM) standard in drinking water. | | |

	that assessed hearing costs incurred by the Board and County and a civil penalty of \$1,000.00 against this Ogle County respondent.		respondent to pay a civil penalty of \$500.00.
AC 92-64	<u>County of Ogle v. Rochelle Disposal Service, Inc., and City of Rochelle, Illinois</u> - The Board granted reconsideration and reaffirmed its order of August 26, 1993 that assessed hearing costs incurred by the Board and County and a civil penalty of \$500.00 against this Ogle County respondent.	AC 93-41	<u>Sangamon County v. Stanley Ray Stewart</u> - The Board entered a default order finding that this Sangamon County respondent had violated Section 21(p)(1), 21(p)(2), and 21(p)(3) of the Act and ordered the respondent to pay a civil penalty of \$1,500.00.
AC 93-6	<u>Sangamon County v. Ruth Ann Sheppard and Steve Sheppard</u> - The Board found that this Sangamon County respondent had violated Section 21(p)(1) of the Act, ordered the respondents to pay a civil penalty of \$500.00, and required the county to file a statement of hearing costs within 30 days.	AC 93-43	<u>IEPA v. Joseph C. Powell and Della I. Powell</u> - The Board entered a default order finding that this Menard County respondent had violated Section 21(p)(1) and 21(p)(5) of the Act and ordered the respondents to pay a civil penalty of \$1,000.00.
AC 93-40	<u>Sangamon County v. Carl Sennings</u> - The Board entered a default order finding that this Sangamon County respondent had violated Section 21(p)(1) of the Act and ordered the	AC 93-44	<u>IEPA v. Atkinson Landfill Company</u> - The Board entered a default order finding that this McHenry County respondent had violated Section 21(p)(5) of the Act and ordered the respondent to pay a civil penalty of \$500.00.
		AC 93-55	<u>Sangamon County v. Lou Messervy</u> - The Board granted voluntary dismissal of this administrative citation filed against a Sangamon County respondent.
		AS 93-3	<u>Petitioner of Douglas Furniture of California and the Illinois Environmental Protection Agency for an Adjusted Standard from 35 Ill. Adm. Code 218.204</u> - The Board granted this Cook County facility an adjusted standard from limitation on volatile organic material content of coating used in the Chicago metropolitan non-attainment area for ozone.

NEW CASES - November 4, 1993, 1993 BOARD MEETING

93-166	<u>Mobil Oil Corporation v. EPA</u> - The Board accepted for hearing the amended petition for an air variance, which involves 95 facilities located in various counties in the Chicago ozone nonattainment area.	93-197	<u>UNO-VEN Company v. EPA</u> - The Board accepted the petition for a variance from certain of the water pollution control regulations for this Will County facility and held this matter for the Agency's recommendation.
93-178	<u>General Chemical Corporation (Chemical Manufacturing Plant) v. EPA</u> - The Board accepted the amended petition and held this for air variance involving a St. Clair County facility for the Agency's recommendation.	93-202	<u>Horsehead Resource Development Company, Inc. v. EPA</u> - The Board accepted this land permit appeal for hearing involving a Cook County facility.
93-195	<u>City of Herrin v. EPA</u> - The Board accepted this land permit appeal for hearing involving a Williamson County facility.	93-203	<u>The Galesburg Sanitary District v. EPA</u> - The Board accepted this NPDES permit appeal for hearing involving a Nox County facility.
93-196	<u>TRW, Inc. v. EPA</u> - The Board requested an amended petition for a variance from certain of the air pollution control regulations for its Clark County facility.	93-204	<u>Mark and Jeanne Doruff, William and Marla Bolen, Ralph and Karen Nuzzo, Gary</u>

	and Valerie Braun, Roman and Geri Maluk, Jagvir and Vicki Singh, Arthur and Nellie Reyes, and Dan Rodriguez v. Bloomingdale Elementary School District 13 and FGM, Inc. - The Board held this citizens' noise enforcement action against a DuPage County facility for a frivolous and duplicitous determination.		Tazewell County facility.
93-205	<u>Safety-Kleen Corporation (Dolton Recycle Center) v. EPA</u> - The Board accepted this RCRA permit appeal for hearing involving a Cook County facility.	93-207	<u>Naval Training Center Great Lakes, United States Department of the Navy v. EPA</u> - The Board requested an amended petition in this air variance proceeding involving a Lake County facility.
		93-208	<u>Shell Oil Company v. EPA</u> - See Final Actions.
		93-209	<u>Calumet Park Citgo v. EPA</u> - See Final Actions.
93-206	<u>Safety-Kleen Corporation (Pekin Service Center) v. EPA</u> - The Board accepted this RCRA permit appeal for hearing involving a	93-210	<u>Bell Fuels, Incorporated v. EPA</u> - See Final Actions.
		93-211	<u>Bargeway Oil Company v. EPA</u> - See Final Actions.
		93-212	<u>Mobil Oil Corporation v. EPA</u> - See Final Actions.

FINAL ACTIONS - November 18, 1993, 1993 BOARD MEETING

92-101	<u>Shell Oil Company (Wood River Manufacturing Complex) v. EPA</u> - The Board granted voluntary dismissal of this air permit appeal involving a Madison County facility.		regulations for the petitioner's facility located in Cook County.
92-180	<u>We-Shred-It, Inc. v. EPA</u> - The Board granted We-Shred-It a variance for its Christian County facility, subject to conditions, from certain of the land pollution control regulations relating to storage of used tires.	93-218	<u>Delta Sonic Carwash Systems, Inc. v. EPA</u> - Upon receipt of an Agency recommendation, the Board granted a 45-day provisional variance from the Stage II vapor recovery requirements of the air pollution control regulations for the petitioner's facility located in Cook County.
93-39	<u>Kewanee Community Unit School District No. 229 v. EPA</u> - The Board granted the petitioner's motion to dismiss with prejudice this underground storage tank reimbursement appeal involving a Henry County facility.	93-219	<u>Frank Service, Inc. v. EPA</u> - Upon receipt of an Agency recommendation, the Board granted a 45-day provisional variance from the Stage II vapor recovery requirements of the air pollution control regulations for the petitioner's facility located in Cook County.
93-123	<u>Earl Luster Trust v. EPA</u> - The Board granted voluntary dismissal of this underground storage tank reimbursement appeal involving a Christian County facility.	93-220	<u>Seneca Corporation, Moutray's Amoco v. EPA</u> - Upon receipt of an Agency recommendation, the Board granted a 45-day provisional variance from the Stage II vapor recovery requirements of the air pollution control regulations for the petitioner's facility located in Kane County.
93-156	<u>LaSalle National Bank T/U/T 4699 v. EPA</u> - The Board granted voluntary dismissal of this underground storage tank reimbursement appeal involving a Cook County facility.	93-221	<u>Naval Training Center Great Lakes, United States Department of the Navy v. EPA</u> - Upon receipt of an Agency recommendation, the Board granted a 45-day provisional variance from the Stage II vapor recovery requirements of the air pollution control regulations for the petitioner's facility located in Lake County.
93-217	<u>The Hertz Corporation v. EPA</u> - Upon receipt of an Agency recommendation, the Board granted a 45-day provisional variance from the Stage II vapor recovery requirements of the air pollution control	93-222	<u>Martin Oil Marketing, Ltd. v. EPA</u> - Upon

- receipt of an Agency recommendation, the Board granted a 45-day provisional variance from the Stage II vapor recovery requirements of the air pollution control regulations for 8 of the petitioner's facilities located in Cook and DuPage Counties.
- 93-223 SuperAmerica Group, Inc. v. EPA - Upon receipt of an Agency recommendation, the Board granted a 45-day provisional variance from the Stage II vapor recovery requirements of the air pollution control regulations for 7 of the petitioner's facilities located in Cook, DuPage, and Lake Counties.
- 93-224 T.M.L. Associates Inc. d/b/a Amoco Food Shop, The Crossing v. EPA - Upon receipt of an Agency recommendation, the Board granted a 45-day provisional variance from the Stage II vapor recovery requirements of the air pollution control regulations for the petitioner's facility located in Kane County.
- AC 93-39 IEPA v. Clinton Landfill, Inc. - The Board granted the joint motion to replace Clinton Landfill replace Peoria Disposal as named respondent, entered an order finding that the respondent had violated Section 21(o)(2) and 21(o)(5) of the Act at its DeWitt County facility, and ordered the respondent to pay a civil penalty of \$1,000.00.
- AC 93-46 County of Jackson v. Robert Waldron - The Board entered a default order, finding that the respondent had violated Section 21(p)(1), 21(p)(3), and 21(p)(5) of the Act at its Jackson County facility, and ordered the respondent to pay a civil penalty of \$1,500.00.
- AC 93-47 County of Jackson v. Richard Wallace - The Board entered a default order, finding that the
- respondent had violated Section 21(p)(1) of the Act at its Jackson County facility, and ordered the respondent to pay a civil penalty of \$500.00.
- AC 93-48 IEPA v. Raymond Carter and Pamela S. Carter - The Board entered a default order, finding that the respondents had violated Section 21(p)(1) of the Act at its Macoupin County facility, and ordered the respondents to pay a civil penalty of \$500.00.
- AC 93-49 County of Jackson v. Patrick Cheak - The Board entered a default order, finding that the respondent had violated Section 21(p)(1) and 21(p)(5) of the Act at its Jackson County facility, and ordered the respondent to pay a civil penalty of \$500.00.
- AC 93-50 Sangamon County v. Peter Rapacz - The Board entered a default order, finding that the respondent had violated Section 21(p)(1) and 21(p)(3) of the Act at its Sangamon County facility, and ordered the respondent to pay a civil penalty of \$1,000.00.
- AC 93-51 Sangamon County v. Peter Rapacz - The Board entered a default order, finding that the respondent had violated Section 21(p)(1) and 21(p)(3) of the Act at its Sangamon County facility, and ordered the respondent to pay a civil penalty of \$1,000.00.
- AC 93-58 Williamson County Solid Waste Office v. Jim Jobe - The Board found that service upon the Board was not perfected within the 10 day time period, thereby depriving the Board of jurisdiction in this matter, and dismissed this administrative citation against the respondent for alleged violations at his Williamson County facility.
- AS 93-2 In the Matter of: Petition of Borden Chemicals & Plastics Operating Limited Partnership for an Adjusted Standard from 35 Ill. Adm. Code 302.208 - The Board granted this Sangamon County facility an adjusted standard from the general use water quality standard for sulfate.

NEW CASES - November 18, 1993, 1993 BOARD MEETING

- 93-183 Edgewater Beach Apartments Corp. v. EPA - The Board accepted the amended petition for review of an Agency underground storage tank reimbursement determination for hearing involving a Cook County facility.
- 93-213 Texaco Refining and Marketing, Inc. (Lockport Plant) v. EPA - The Board accepted this RCRA permit appeal for hearing involving a Will County facility.
- 93-214 People of the State of Illinois v. Handy & Harman - Upon receipt of proposed stipulation and settlement agreement and an agreed motion for relief from the hearing requirement in this air enforcement action against a Cook County facility, the Board ordered publication of the required newspaper notice.

93-215	<u>Marvin Damron v. IEPA and Tomahawk Group, Inc.</u> - The Board requested an amended petition in this third party NPDES permit appeal involving a Henry County facility.	93-219	<u>Frank Service, Inc. v. EPA</u> - See Final Actions.
93-216	<u>People of the State of Illinois v. Aluminum Coil Anodizing Corporation</u> - Upon receipt of proposed stipulation and settlement agreement and an agreed motion for relief from hearing the requirement in this air enforcement action against a Cook County facility, the Board ordered publication of the required newspaper notice.	93-220	<u>Seneca Corporation, Moutray's Amoco v. EPA</u> - See Final Actions.
93-217	<u>The Hertz Corporation v. EPA</u> - See Final Actions.	93-221	<u>Naval Training Center Great Lakes, United States Department of the Navy v. EPA</u> - See Final Actions.
93-218	<u>Delta Sonic Carwash Systems, Inc. v. EPA</u> - See Final Actions.	93-222	<u>Martin Oil Marketing, Ltd. v. EPA</u> - See Final Actions.
		93-223	<u>SuperAmerica Group, Inc. v. EPA</u> - See Final Actions.
		93-224	<u>T.M.L. Associates Inc. d/b/a Amoco Food Shop, The Crossing v. EPA</u> - See Final Actions.
		93-225	<u>People of the State of Illinois v. Parkview Metal Products, Inc.</u> - The Board accepted this air enforcement action against a Cook County facility for hearing.
		93-226	<u>Dimitri's Auto Service v. EPA</u> - The Board accepted this underground storage tank reimbursement appeal for hearing involving a facility in Cook County.
		93-227	<u>Village of Princeville v. EPA</u> - The Board held this public water supply variance petition involving a Peoria County facility for the Agency's recommendation.

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.

December 2 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago.
December 6 9:00 a.m.	PCB 93-138 P-A, RCRA	<u>Safety-Kleen Corp. (Urbana Service Center Facility) v. EPA</u> - Urbana City Building, First Floor, 400 South Vine Street, Urbana.
December 6 11:30 a.m.	PCB 93-162 P-A, Land	<u>Wilmer Brockman, Jr. and First Midwest Bank of Joliet v. EPA</u> , Government Center, County Board Room, 707 Etna Road, Ottawa.
December 7 1:00 p.m.	R93-28 R, Air	<u>In the Matter of: Stage II Vapor Recovery in the Metro East Area: Repeal of 35 Ill. Adm. Code 219.586</u> , Illinois Department of Transportation, 1100 Eastport Plaza, Classroom, Collinsville.
December 8 10:00 a.m.	R93-24 R, Air	<u>In the Matter of: Amendments to the Rules for Permit Appeals and Hearings Pursuant to Specific Rules, 35 Ill. Adm. Code 105 and 106</u> - Capitol Building, Room 400, Springfield.

December 8 9:30 a.m.	R93-26 R, Land	<u>In the Matter of: Amendments to the Rules for Clean Air Act Permit Appeals and Hearings Pursuant to Specific Rules, 35 Ill. Adm. Code 105 & 106</u> - Capitol Building, Room 400, Springfield.
December 15 10:00 a.m.	PCB 93-55 UST-FRD	<u>Clarendon Hills/Bridal Center (Learsi & Co., Inc.) v. EPA</u> - Clarendon Hills Village Hall, Board Room, 1 North Prospect Avenue, Clarendon Hills.
December 16 10:30 a.m.		Pollution Control Board Meeting, James R. Thompson Center, 100 W. Randolph St., Conference Room 9-040, Chicago.
December 17 10:00 a.m.	PCB 93-195 P-A, Land	<u>City of Herrin v. EPA</u> - State of Illinois Regional Office Building, 2309 West Main Street, West Conference Room, Marion.
December 23 10:00 a.m.	PCB 92-33 UST-E, Citizens	<u>Erich J. Mandel v. Thaddeus G. Kulpaka</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
December 29 10:00 a.m.	PCB 93-151 W-V, NPDES	<u>Mobil Oil Corporation (Joliet Refinery) v. EPA</u> - Will County Office Building, Board Room, 2nd Floor, 302 North Chicago Street, Joliet.
January 6 10:00 a.m.	PCB 93-128 P-A, RCRA	<u>National Coatings, Inc. v. EPA</u> - County Board Room, Knox County Courthouse, 200 South Cherry Street, Galesburg.
January 10 9:00 a.m.	PCB 91-197 P-A, RCRA	<u>Cabot Corporation (Tuscola Facility) v. EPA</u> - Douglas County Courthouse, First Floor, County Board Room, 401 South Center Street, Tuscola.
January 11 10:00 a.m.	PCB 93-183 UST-FRD	<u>Edgewater Beach Apartments Corp. v. EPA</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
January 14 10:00 a.m.	PCB 93-226 UST-FRD	<u>Dimitri's Auto Service v. EPA</u> - Evergreen Park Village Hall, Board Room, 2nd Floor, 9418 South Kedzie Avenue, Evergreen Park.
January 24 9:00 a.m.	PCB 93-87 A-E	<u>People of the State of Illinois v. South Holland Metal Finishing Co., Inc.</u> - James R. Thompson Center, Suite 11-500, 100 West Randolph Street, Chicago.
January 27 10:00 a.m.	R93-26 R, Air	<u>In the Matter of: Amendments to New Source Review Rules, 35 Ill. Adm. Code 203</u> - Illinois Pollution Control Board, 600 South Second Street, Springfield.
February 2 9:00 a.m.	AC 93-42 AC	<u>Sangamon County v. Norman Clark and Brenda Bertrand (Springfield Township/Clark) SCDPH-93-AC-9</u> - Illinois Pollution Control Board, 600 South Second Street, Springfield.
February 16 10:00 a.m.	PCB 91-11 P-A, RCRA	<u>Burlington Northern Railroad Company v. EPA</u> - Knox County Courthouse, 200 South Cherry Street, Galesburg.

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
S0 ₂	S0 ₂ 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-E	Underground Storage Tank Enforcement
UST-FRD	Underground Storage Tank Fund Reimbursement Determination		

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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:

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The Environmental Register is a newsletter published by the Board after every Board meeting. The Register provides updates on rulemakings and other information, lists final actions, and contains the Board's hearing calendar. The Register is provided free of charge.

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Address Correction Requested.