

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR FORMAL BOARD MEETING, OCTOBER 28, 1970
SOUTHERN ILLINOIS UNIVERSITY: EDWARDSVILLE, ILLINOIS.

The Board first resolved itself into a hearing panel to receive testimony relative to #R70-7, the proposed revisions to the air pollution episode regulations, with Mr. Lawton as hearing officer. A full transcript of the hearing was taken and appears in the file of that proceeding. Mr. Currie described his alternative draft of the proposed revisions, which had been given limited circulation before. He explained that the principal difference between the Agency's original proposal and his alternative draft was that the latter incorporated into the regulations themselves a number of specific requirements for action to be taken when an alert is called. The existing regulations and the Agency proposal both rely heavily on alert action plans worked out by the Agency with individual pollution sources. While individual action plans would continue in any case to spell out the details, Mr. Currie said, his draft was intended to give greater guidance for the contents of these plans and to give some assurance that action would be taken even if there is a delay in working out the individual plans.

Mr. Rossin of the Argonne National Laboratory submitted comments relating to Mr. Currie's alternative draft and in support of the step-by-step several-stage episode control strategy embodied in the EPA proposal and in the alternative draft.

Mr. Stallings of the Environmental Protection Agency presented several amendments to its proposed revisions, chief among which were a tightening of the carbon monoxide alert levels and an acceleration of mandatory traffic control from the emergency to the red alert stage. Mr. Stallings also reported that the Agency had no objection to incorporating more specific action requirements in the regulations themselves.

Mr. Rossin then explained an entirely new suggested strategy for carbon monoxide alerts, based upon a prediction of carboxyhemoglobin levels in the light of atmospheric concentrations, exposure times, and meteorological conditions. Moreover, the suggested strategy would distinguish at the action level between short-term episodes caused by such events as traffic jams and those of longer duration. He stressed that since 90% of the CO in the Chicago area comes from vehicles, there was little to be gained from attempts to control other sources. Mr. Currie observed that the new strategy represented a significant advance over present thinking but agreed with Mr. Kissel that any regulations arising from the Argonne strategy ought to be made more specific and objective as to the factors to be considered in predicting the carboxyhemoglobin levels that would

precipitate an alert. While the new approach was being worked out, he said, the Board should adopt a more conventional strategy in order that some action could be taken when needed.

Mr. Marvin Kagan of Caterpillar Tractor expressed concern lest episodes be called for an entire SMSA when only a small area was actually affected. Mr. Currie assured him that this was not the Board's intention.

Mr. William F. Hoelscher of the Tri-Cities Manufacturing Association questioned the wisdom of requiring a cutback of process emissions at yellow alert, doubted the Board's power to order businesses closed during episodes, and asked for additional time to submit further views.

After additional testimony, Mr. Lawton announced that the record would remain open for additional comments, Mr. Currie said he would prepare a proposed final draft for publication by the Board, and the hearing was adjourned.

The Board then turned to regular business. Mr. Currie described the functions of the Board and the rights of public participation. Mr. Kissel announced that the EPA had been granted leave to intervene as complainant in #70-7,12,13, and 14, the North Shore Sanitary District cases. Minutes of the October 8 and 14 meetings were approved with minor changes. Mr. Currie urged public support for the Anti-Pollution Bond Issue, stressing that the Board would enforce compliance with the pollution regulations whether or not the issue passed and that its passage would alleviate the tax burden on local communities.

Mr. Lawton summarized an opinion he had prepared for Board consideration in #70-5, EPA v. Neal Auto Salvage, finding on the basis of eyewitness testimony a violation of the statute and regulations forbidding salvage operations by open burning, ordering that Neal cease and desist from such burning and imposing a fine of \$1000. The presence of a burning truck in a salvage yard, Mr. Lawton said, imposes a burden on the owner to bring forward any explanatory justification, and there is an obligation on the owner to control even accidental fires. The opinion and order were approved by a vote of 5-0.

Noting that the respondent in Neal had argued for delay on the ground that he had not thought the complaint required a formal hearing, Mr. Kissel pointed out that the public should take note that there would be a quick and a formal hearing in all cases. Delays familiar to the courts would not be tolerated.

The Neal decision "should make clear", Mr. Currie added, "that if anybody hasn't got the word yet, conducting salvage operations by open burning is finished in the State of Illinois".

Mr. Lawton presented a proposed opinion in #70-11, Olin Corp. v. EPA, a petition for extension of a variance permitting open burning of explosive wastes at its plant in East Alton. Finding that no safe alternatives were yet available for disposal of these wastes, Mr. Lawton recommended a grant for four months on several conditions, which among other things required the submission of periodic reports on burning activities and on efforts to secure alternative disposal means and provided for reopening the case even before the four-month period had expired if harm to the neighbors were reported or if better disposal methods were found. Mr. Lawton stressed that the Board viewed the grant of a variance as "an unusual remedy" not to be granted without a strong showing of arbitrary hardship. To forbid open burning in this case would confront Olin with the unrealistic alternatives of either "blowing up its plant or closing down its entire operation". Such drastic consequences were not warranted since "the operation...has not produced any discernible impact on the area or its residents".

Mr. Karl Buehler of the Madison County Bureau of Sanitation, Pure Air and Pure Water urged the Board to deny the variance and pointed to a recent case in which local officials had forbidden the burning of tires. He said he had not received notice of the Olin hearing. Mr. Dumelle and Mr. Currie discussed the efforts of the Board to give notice of variance hearings and other proceedings to all interested people, noting that the statute requires the Agency to notify people in the area of the requested variance, that notice had been given in its newsletter and in the newspapers, and that the best way to be sure of notice was to be on the Board's mailing list. Mr. Currie added that the burning of tires was quite a different matter from the burning of explosive wastes. There were alternative means of disposing of tires; when alternative means of disposing of explosives were found, the Board would require that they be employed. The opinion and order proposed by Mr. Lawton were approved 5-0.

The Board then unanimously voted to authorize hearings in the following variance cases:

#70-23,	<u>Marquette Cement Co. v. EPA;</u>
#70-24,	<u>Wagner Castings v. EPA;</u>
#70-25,	<u>Olin Corp. v. EPA</u> (a case distinct from the variance granted the same company in #70-11);
#70-26,	<u>Pet, Inc. v. EPA;</u>
#70-27,	<u>Medusa Cement v. EPA.</u>

Mr. Currie observed that the experience of the first Olin case demonstrated the desirability of the Board's holding hearings to be sure of the facts before passing on variance applications and to give everyone the right to be heard before granting permission for, in some cases, substantial and lengthy violations of the regulations. He noted that the particulate regulations had gone into effect in 1967; that they had given a year's grace period for submitting compliance programs, and that the Board was now receiving some such programs for the first time after the lapse of more than three years. "I intend to look with something of a jaundiced eye", he said, "on requests for more time by people who have had two years or three years and who have done nothing about it". The Board should look closely, he added, at whether such delays were excusable and further at whether as much time was required for compliance as was requested in some of the pending petitions.

The Board then unanimously authorized public hearings in #R70-8, Mr. Dumelle's new proposal for the adoption of state-wide effluent standards for a number of water contaminants. The figures in his proposal, he said, were taken with some changes from Technical Release 20-22 of the Sanitary Water Board, which according to Director Klassen of the EPA were unenforceable guidelines rather than regulations. In addition, Mr. Dumelle proposed to ban the use of cooling water for dilution of effluents not otherwise meeting the standards and a phosphate limit of 3 ppm was proposed to take effect in January 1972. Water quality standards alone, Mr. Dumelle explained, had proved ineffective; "what is needed is a legally enforceable limit on what comes out of an outfall". We must, he added, "switch from the old philosophy of what will the water take... to the philosophy of what can we keep out of the water..." Mr. Kissel observed that although Mr. Dumelle's proposal spoke largely to chemical contaminants, the present implementation plans for water quality standards, which were enforceable regulations, contained effluent limits for BOD and suspended solids from both municipal and industrial sources.

The Board then unanimously authorized public hearings on #R70-9, Mr. Currie's proposal for air quality standards governing carbon monoxide, hydrocarbons, oxidants, lead and nitrogen oxides in the Chicago and St. Louis air quality control regions. The figures proposed, Mr. Currie said, were those submitted to the old Air Pollution Control Board by its staff last Spring, and they were put forward in the interest of stimulating discussion.

The Board reconvened after lunch to sit as a hearing panel in #R70-3, to receive testimony on the proposal to accelerate the dates for secondary sewage treatment along the Mississippi River to 1973 in the upper part of the

river and 1975 below. Mr. Currie asked the Board to make the date 1973 in the entire river, saying that if construction is possible by that time in the upper river it is possible in the lower river as well. Dr. Aaron Rosen of the FWQA testified as to the advantages of secondary treatment, and several municipalities expressed their concern over the proposed new timetable on the basis of financial pressures. A full transcript was taken and is on file in #R70-3, and the record remained open for further comments.

At the close of this hearing the Board resumed its regular business. Mr. Currie noted that the agenda called for general discussions of the water quality problems of the Mississippi and of the air quality problems of the East St. Louis area, but that time did not permit conducting those discussions that day. He said the Board would return before long to go more deeply into those problems and that a preliminary statement on the Mississippi was available from the Board offices. He noted that Illinois was behind schedule in the development of an implementation plan for sulfur and particulate air quality standards in the area, that such a plan was to be developed probably before the end of 1970, on the basis of a report expected in November from Argonne National Laboratory on the adequacy of the emission limitations earlier proposed to achieve the air quality standards, and that he understood the Illinois particulate regulations might have to be tightened to be as restrictive as those of Missouri.


In response to a question from the audience, Mr. Currie noted that there was an ambiguity over the relation between the statutory ban on open burning and the old regulations allowing backyard incineration, as applied to the burning of leaves. The Board, he said, would not hazard an advisory opinion on the issue but would be happy to decide it if a complaint were filed. Mr. Leonard Van Camp protested that several local law-enforcement officials, contacted with respect to an open burning problem, professed ignorance of the Environmental Protection Act and refused to exercise their duties to enforce its provisions as specified in section 44. Mr. Lawton pointed out that the Act allows local agencies to adopt and enforce their own restrictions on leaf burning and that they might be in a better position to enforce such limitations. Mr. Aldrich urged the Board and others to take care that alternative methods of leaf disposal, such as plastic bags, not create serious ecological problems of their own. Mr. Currie noted that the entire subject of possible recycling of solid wastes was being studied by the Institute for Environmental Quality, which would submit a report to the Board.

After discussions of subscriptions to Board opinions, the availability of transcripts, university programs for ecological education, and the upcoming hearing on the Board's

first application for a nuclear facilities permit, Mr. Currie pointed out the Board's need for information, urging university faculty or students to undertake literature surveys for the Board on various topics within its jurisdiction.

Mr. Cliff Fore then noted the importance of adequate training for sewage plant operators, observing that even the best plant will not prevent pollution if improperly operated. In answer to Mr. Currie's question he agreed to make suggestions for amending the present regulations for training and certification of operators, which he said needed revision. Mr. Leonard Van Camp urged the Board not to overlook the problem of brine from water treatment plants, and Mr. Dumelle noted that discharge of such brines to the Mississippi River was illegal.

I, Regina E. Ryan, certify that the Board has approved the above minutes this 9th day of December 1970.


Regina E. Ryan
Clerk of the Board