

# ENVIRONMENTAL REGISTER

*Illinois Pollution Control Board News*

**No. 457**

**September 30, 1992**

## 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.

### **RULEMAKING UPDATE**

#### **PROPOSED SECOND NOTICE FOR RECYCLED PAPER PROCEDURAL AMENDMENTS, R92-7**

On September 17, 1992, the Board proposed for second notice certain amendments to the procedural rule requiring use of recycled paper. Business and Professional People for the Public Interest (BPI) filed a petition on May 19, 1992 to amend the recycled paper rule because the statutory definition of recycled paper has been revised and recodified by the General Assembly.

The current recycled paper rule (35 Ill.Adm.Code 101.103(d)) refers to the Illinois Solid Waste Management Act for the definition of "postconsumer waste". After amendment by the General Assembly (P.A. 87-485, effective January 1, 1992), that statute now requires that recycled paper contain at least 50% "recovered paper material", and establishes a phased-in schedule under which the percentage of postconsumer material in "recovered paper material" is 20% in 1992, increasing to 50% by the year 2000. The statutory amendments also include new definitions of "deinked stock", and "postconsumer material".

The Board received only one substantive comment on the proposal during the first notice period. The Sierra Club, Illinois Chapter, noted that it supported the initial adoption of the recycled paper rule, and stated that it supports BPI's proposal making technical changes in the rule. After considering the record, the Board proposed the amendments for second notice. The Board will now submit the proposed amendments for review by the Joint Committee on Administrative Rules.

Copies of the second notice opinion and order (including the text of the changes) are available from the Clerk's Office at 312-814-3620. Address questions to Elizabeth Schroer Harvey, at 312-814-6921. (Refer to docket R92-7.)

#### **RCRA UPDATE ADOPTED, R92-1**

On September 17, 1992, the Board adopted a final opinion and order in the RCRA update proceeding, R92-1, concerning amendments that appeared in the Federal Register between July 1 and December 31, 1991. This update includes two minor amendments concerning liability insurance, new addresses for hazardous waste export notices, and a new procedure for modifying the locations of monitoring wells at interim status facilities.

The Board also responded to comments received in the prior RCRA update docket, R91-13, regarding the applicability of the

corrosivity test for hazardous waste to non-liquid wastes. In the proposed opinion in R91-2 of May 7, 1992, the Board requested comment on a suggested standardized test for non-liquid wastes.

The Board also requested comment as to whether the corrosivity characteristic applied only to liquid wastes. Although no comment was received, the Board found on further review that USEPA twice discussed the applicability of the corrosivity test to non-liquids. In each instance it was clear that the corrosivity characteristic applied only to liquid waste. The Board therefore dropped the proposed test and replaced it with an explanatory note referencing USEPA discussions of the applicability of the corrosivity characteristic to non-liquid wastes.

The Board will not file the adopted rules with the Administrative Code Division until after October 16, 1992, to allow time for post-adoption comments from the agencies involved in the authorization process.

Direct questions to Morton Dorothy, at 217-333-5575. (Refer to docket R92-1.)

#### **WATER TOXICS PROPOSAL ACCEPTED, R92-8**

On September 3, 1992, the Board accepted a proposal for hearing to amend portions of the water pollution control rules that would further limit discharges of toxic pollutants. The proposal was filed by the Illinois Chapter of the Sierra Club, Citizens for a Better Environment, Lake Michigan Federation, and the McHenry County Defenders. The Board docketed this rulemaking as R92-8.

In a statement accompanying the proposal, the petitioners noted that "[t]he amendments to the water quality rules proposed are designed to limit further and eventually eliminate the discharge of toxic and bioaccumulative pollutants, establish more enforceable water quality criteria and develop effective plans for limiting pollution in watersheds seriously affected by nonpoint pollution." Specifically proposed are additional numeric general water quality standards for 36 chemicals, methods to determine whole effluent toxicity-based criteria, and methods to determine and utilize bioaccumulation factors. The petitioners propose to limit the term of site-specific rules and exemptions to five years as well as to require inclusion and consideration of additional information in applications for NPDES and pretreatment permits.

This proposal also requests the addition of a Watershed Planning Process, which would require development of a comprehensive watershed plan for waterbodies that contain chemical contaminants in excess of water quality standards or which fail to meet newly

proposed biological integrity standards.

The Board anticipates scheduling public hearings in this matter in the near future, but at the request of the proponents hearings will not occur until after January 1, 1993. Persons interested in receiving notice of hearings and future Board actions on this docket should contact Barbara Higgins, 104 W. University Ave., Urbana, IL 61801 (217-333-5573), and request to be added to the R92-8 Notice List. Those interested in receiving a copy of the proposal should contact the Clerk of the Board at 100 W. Randolph, Suite 11-500, Chicago, Illinois 60601 (312-814-3620). Address questions to Deborah Frank, 104 W. University Ave., Urbana, IL 61801 (217-333-5574). (Please refer to docket R92-8 in all requests.)

**ENVIRONMENTAL INFORMATION SERVICES  
AVAILABLE FROM THE BOARD**

The Board has the following information available:

**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 (DOS) 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.

**LANDFILL REGULATIONS.** 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 (DOS) 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.

All checks should be made payable to the Pollution Control Board. Direct all orders to Joe D'Alessandro, Fiscal Officer, Pollution Control Board, 100 West Randolph Room 11-500, Chicago, Illinois 60601.

**FOR YOUR INFORMATION**

**THE AGENCY CANNOT DENY ACCESS TO UST FUND BASED ON THE AVAILABILITY OF FUNDS, PCB 92-31**

On September 17, 1992, in City of Roodhouse v. IEPA, PCB 92-31, the Board affirmed in part and reversed in part the Agency's denial of reimbursement to Roodhouse from the State's Underground Storage Tank Fund. Roodhouse had incurred unusually high costs in

response to the contamination of its water supply due to a leak of fuel from an underground storage tank located in close proximity to its water supply wells. The Board affirmed the Agency's denial, as unreasonable, of certain overnight mail charges. The Board reversed the Agency on the greater portion of the costs, which the Agency denied as not constituting corrective action costs. The costs disallowed included engineering travel costs, legal costs associated with contracts and right-of-way acquisitions to secure a back-up water supply, legal and engineering costs associated with City Council meetings, and the adjustment for 15% handling charges. In reversing the Agency, the Board rejected the argument

that the costs were properly disallowed because the activities did not constitute corrective action, in that they were unreasonable based on the diminished availability of monies at that time in the Fund.

**BOARD MEMBER ANDERSON SPOKE ON ENVIRONMENTAL SEMINAR CRUISE**

Board Member Joan Anderson was a speaker at Eileen Johnston's Waterways Cruise and Environmental Workshop, aboard the Wendella on September 26, 1992. She highlighted various aspects of recent Board rulemaking proceedings, including amendments to the Safe Drinking Water Act and RCRA hazardous waste program rules, various proceedings prompted by the new federal Clean Air Act Amendments, and other areas such as underground injection control and the use of recycled paper in filings before the Board.

**TENTATIVE PUBLIC HEARING DATE FOR AIR TOXICS REPORTING REQUIREMENTS, R90-1(C)**

The Board has tentatively arranged Friday, December 4, 1992, as the date for a public hearing in R90-1(C), the rulemaking involving toxic air contaminants reporting requirements. The exact time and location are yet to be determined. Direct questions to Deborah Frank, at 217-333-5574. (Please refer to docket R90-1(C).)

**UPDATE TO ENVIRONMENTAL REGISTER MAILING LIST**

The Board is updating the mailing list for the Environmental Register. This is the second annual update of the mailing list for the mailings of the Register. The Board desires to minimize the impact of these mailings on our budget by assuring that only those who desire to receive regular free copies of the Register will appear on the list. If you would like to continue to receive it, please fill out the address label located on the next to last page of this issue and return it to the Board as soon as possible.

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***FINAL ACTIONS - September 17, 1992 BOARD MEETING***

PCB 90-244 General Electric v. IEPA - The Board granted the petitioner's motion for voluntary dismissal of its RCRA permit appeal for its Whiteside County facility.

PCB 91-31 Rockford Products v. IEPA - The Board granted Rockford Products Corporation's motion to withdraw its RCRA permit appeal for its Winnebago County facility.

PCB 91-50 Karl & Helen Christ v. Compost Enterprises, Inc. - The Board granted complainants' motion to dismiss their citizens' noise enforcement complaint.

PCB 91-172 John Plosila v. Bandito Barney's First American Bank (Wallace Wolff) under Trust No. 89-008, and Thom P. McNamee - The Board granted complainants' motion to dismiss their citizens' noise enforcement complaint.

PCB 91-237 Laidlaw Environmental Services of Illinois, Inc. v. IEPA - The Board granted petitioner's motion to voluntarily dismiss its RCRA permit appeal for its Winnebago County facility.

PCB 91-238 Laidlaw Environmental Services of Illinois, Inc. v. IEPA - The Board granted petitioner's motion to voluntarily dismiss its RCRA permit appeal for its Winnebago County facility.

PCB 92-31 City of Roodhouse v. IEPA - The Board reversed the Agency's determination that certain legal fees, consultant fees, and other costs were not reimbursible in this underground storage tank reimbursement determination appeal involving a Greene County facility. See For Your Information.

PCB 92-75 Estate of Larry Junkin, by Patricia Junkin, Executrix v. IEPA - The Board granted petitioner's motion to dismiss its

appeal of the Agency's underground storage tank fund determination relating to its Champaign County facility.

PCB 92-79 U.S. Department of Energy and The University of Chicago v. IEPA - The Board granted petitioners' motion to withdraw its land permit appeal for its DuPage County facility.

PCB 92-106 American Fly Ash Company v. IEPA - The Board granted petitioner's joint motion to dismiss its land permit appeal for its Tazewell, Will, and Lake County facilities.

PCB 92-133 Cabot Corporation v. IEPA - Upon receipt of an Agency recommendation, the Board granted a provisional variance that will allow Cabot Corporation to accumulate hazardous waste at its Douglas County facility for an additional 30 days beyond the 90 days allowed by the RCRA regulations.

AC 92-59 Sangamon County v. L.P. Fleck, Jr. - The Board found respondent violated Sections 21(p)(1) and 21(p)(3) of the Act and imposed a fine of \$1,000 .00 payable to the Sangamon County Health Department.

AS 90-6 In the Matter of: Petition of the Marathon Petroleum Company, for an Adjusted Standard to Allow Land Disposal of a Waste Prohibited under 35 Ill. Adm. Code 728.130 through 728.139 - The Board granted Marathon

Petroleum Company's motion to voluntarily dismiss its adjusted standard from the RCRA land disposal regulations for its Crawford County facility.

R90-1(A) In the Matter of: Toxic Air Contaminants List (35 Ill. Adm. Code 232 - See Rulemaking Update.

R92-1 In the Matter of: RCRA Update, USEPA Regulations (7-1-91 - 12-31-91) - See Rulemaking Update.

**NEW CASES - September 17, 1992 BOARD MEETING**

PCB 92-131 C.O.A.L. (Citizens Opposed to Additional Landfills) - The Board accepted for hearing this third-party regional pollution control facility siting appeal for a Perry County landfill.

PCB 92-132 Leroy Brown & Sons, Inc. v. County Board of McDonough County, Illinois - The Board accepted this regional pollution control facility siting appeal for a McDonough County landfill for hearing.

PCB 92-133 Cabot Corporation v. IEPA - See Final Actions.

R 92-17 In the Matter of: Petition of the U.S. Army Engineer District, Rock Island, For a Dredged Material Placement Regulation Applicable to the Illinois Waterway between LaGrange Lock and Dam (Mile 80.2) and Lockport Lock (Mile 291) - The Board waived the 200-signature requirement and accepted for hearing this water pollution control rulemaking proposal.

**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.

<b>October 1</b>		<b>Pollution Control Board Meeting, State of Illinois Center, 100 W. Randolph St., Conference Room 9-040, Chicago.</b>
October 1 1:15 p.m.	AC 92-41 AC	<u>EPA v. Lakewood Homes &amp; Development Co., Inc.</u> - Law Offices of James T.J. Keating, Suite 1220, 542 S. Dearborn St., Chicago.
October 2 9:15 a.m.	AC 92-51 AC	<u>EPA v. John McCullum and Nina J. McCullum</u> - Peoria County Courthouse, County Board Room, 324 Main St., Peoria.
October 2 10:00 a.m.	AC 92-50 AC	<u>Logan County Health Department v. Lincoln/Logan Landfill, Inc.</u> - Logan County Courthouse, 601 Broadway, Lincoln.
October 2 10:00 a.m.	AC 92-39 AC	<u>County of Jackson v. Leslie Norman Fred, Sr., d/b/a Murphysboro/Norman Fred Trucking</u> - Jackson County Courthouse Board Room, First Floor, Murphysboro.
October 6 9:00 a.m.	PCB 92-88 UST-FRD	<u>Southern Food Park, Inc. v. EPA</u> - Franklin County Courthouse, County Board Room, Public Square, Benton.
October 7 9:00 a.m.	PCB 92-88 UST-FRD	<u>Southern Food Park, Inc. v. EPA</u> - Franklin County Courthouse, County Board Room, Public Square, Benton.
October 8 9:30 a.m.	PCB 91-38 P-A	<u>American Waste Processing, Ltd. v. EPA</u> - State of Illinois Center, Suite 11-500, 100 W. Randolph St., Chicago.
October 8 10:00 a.m.	AC 91-32 AC	<u>County of Ogle v. Rochelle Disposal Services, Inc.</u> - Ogle County Courthouse, State's Attorney's Conference Room, 4th and Washington Streets, Oregon.
October 13 9:00 a.m.	PCB 92-111 UST-FRD	<u>Russell L. Bacon v. IEPA</u> - Law & Justice Center, Dining Room, 104 W. Front Street, Bloomington.

October 13 9:30 a.m.	PCB 91-56 P-A	<u>Douglas Furniture of California, Inc. v. EPA</u> - State of Illinois Center, Suite 11-500, 100 W. Randolph St., Chicago.
October 13 10:00 a.m.	PCB 92-17 UST-FRD	<u>Tim's Standard/Freeport v. IEPA</u> - Council Chambers, Freeport City Hall, 230 W. Stephenson St., Freeport.
October 14 9:30 a.m.	PCB 91-38 P-A	<u>American Waste Procssing, Ltd. v. EPA</u> - State of Illinois Center, EPA Conference Room, Fourth Floor, 100 W. Randolph St., Chicago.
October 14 10:00 a.m.	AS 92-4 Air	<u>In the Matter of: Joint Petition of Detroit Diesel Corporation, Navistar International Transportation Corporation, Cummins Engine Company and the Engine Manufacturers Association for Adjusted Standards from 35 Ill. Adm. Code 240.141</u> - State of Illinois Center, Suite 11-500, 100 W. Randolph St., Chicago,
October 15 9:30 a.m.	PCB 91-38 P-A	<u>American Waste Processing, Ltd. v. EPA</u> - State of Illinois Center, EPA Conference Room, Fourth Floor, 100 W. Randolph St., Chicago.
October 16 10:00 a.m.	PCB 91-53 A-E	<u>People of the State of Illinois v. Enamellers and Japanners, Inc.</u> - State of Illinois Center, Suite 11-500, 100 W. Randolph St., Chicago.
October 19 10:00 a.m.	PCB 91-134 P-A	<u>Safety-Kleen Corporation (Elgin Recycle Center) v. EPA</u> - State of Illinois Center, Suite 11-500, 100 W. Randolph St., Chicago.
<b>October 15</b>		<b>Pollution Control Board Meeting, State of Illinois Center, 100 W. Randolph St., Conference Room 9-040, Chicago.</b>
October 20 9:30 a.m.	PCB 91-235 A-V	<u>Marsco MFG. Co. v. EPA</u> - State of Illinois Center, Suite 11-500, 100 W. Randolph St., Chicago.
October 22 9:00 a.m.	AC 92-55 AC	<u>County of Christian v. Max Wayman and Carlotta J. Wayman</u> - Christian County Court House, County Board Room, Second Floor, 101 S. Main, Taylorville.
October 27 9:30 a.m.	PCB 91-154 L-E	<u>Carrell and Mary Bates v. Edward E. Brake; Ella F. Brake; Eugene Gale Heiser, in his individual capacity and d/b/a Heiser Oil &amp; Gas Company and Heiser Oil &amp; Gas Co., an Illinois Corporation; and Amoco Oil Company</u> - Fisher Village Hall, Council Chambers, 104 W. Front St., Fisher.
October 27 10:00 a.m.	PCB 92-99 UST-FRD	<u>A.B. Dick Company v. EPA</u> - State of Illinois Center, Suite 11-500, 100 W. Randolph St., Chicago.
October 28 9:30 a.m.	PCB 91-154 L-E	<u>Carrell and Mary Bates v. Edward E. Brake; Ella F. Brake; Eugene Gale Heiser, in his individual capacity and d/b/a Heiser Oil &amp; Gas Company and Heiser Oil &amp; Gas Co., an Illinois Corporation; and Amoco Oil Company</u> - Fisher Village Hall, Council Chambers, 104 W. Front St., Fisher.
October 28 10:00 a.m.	PCB 92-122 UST-FRD	<u>F and R Enterprises, Inc. v. EPA</u> - State of Illinois Center, Suite 11-500, 100 W. Randolph St., Chicago.
<b>October 29</b>		<b>Pollution Control Board Meeting, State of Illinois Center, 100 W. Randolph St., Conference Room 9-040, Chicago.</b>
November 5 9:30 a.m.	PCB 91-38 P-A	<u>American Waste Processing, Ltd. v. EPA</u> - State of Illinois Center, Suite 11-500, 100 W. Randolph St., Chicago.
November 12 10:00 a.m.	AC 92-26 AC	<u>County of Ogle v. City of Rochelle and Rochelle Disposal Service, Inc. (Rochelle Municipal #2 Landfill)</u> - Ogle County Courthouse, 4th and Washington Streets, Oregon.
November 12 10:00 a.m.	PCB 92-80 L-E	<u>Lake County Forest Preserve District v. Neil Ostro; Janet Ostro; and Big Foot Enterprises</u> - County Building, Room 1002, 18 N. County Rd., Waukegan.

<b>November 19</b>		<b>Pollution Control Board Meeting, State of Illinois Center, 100 W. Randolph St., Conference Room 9-040, Chicago.</b>
November 20 10:00 a.m.	AS 92-5 AS	<u>In the Matter of: Petition of D &amp; L Landfill, Inc. and D &amp; L Disposal, for Adjusted Standard from 35 Ill. Adm. Code Sections 814.104(a), 914.401 and 814.501 - Bond County Courthouse, Main Courtroom, 200 W. College, Greenville.</u>
<b>December 3</b>		<b>Pollution Control Board Meeting, State of Illinois Center, 100 W. Randolph St., Conference Room 9-040, Chicago.</b>
December 4 10:00 a.m.	AS 91-11 AS	<u>In the Matter of: Petition of the Illinois-American Water Company for an Adjusted Standard from 35 Ill. Adm. Code 304.124 (Iron and TSS only) for the Water Company's East St. Louis Public Water Supply Facility - Belleville City Hall, Council Chambers, 10 S. Illinois Street, Belleville.</u>
December 8 10:00 a.m.	PCB 91-262 UST-FRD	<u>The Pumper, Inc. v. EPA - Hinsdale Public Library, Lower Level Conference Room, 20 E. Maple Street, Hinsdale.</u>
December 9 9:30 a.m.	AS 92-7 AS	<u>In the Matter of: Petition of Illinois Power Company (Vermilion Power Station) for Adjusted Standards from 35 Ill. Adm. Code Sec. 302.208(e) - Danville City Hall Council Chambers, 204 N. Hazel St., Danville.</u>
December 11 10:00 a.m.	AS 91-12 AS	<u>In the Matter of: Petition of Illinois-American Water Company for an Adjusted Standard from 35 Ill. Adm. Code 304.124 (Iron and TSS only) for the Water Company's Cairo Public Water Supply Facility - Alexander County Courthouse, Small Courtroom, 2000 Washington Street, Cairo.</u>
December 15 10:00 a.m.	PCB 92-70 L-E	<u>People of the State of Illinois v. Union Carbide Industrial Gases, Inc. - State of Illinois Center, Suite 11-500, 100 W. Randolph St., Chicago.</u>
December 16 9:00 a.m.	PCB 92-33 UST-E	<u>Erich J. Mandel v. Thaddeus G. Kulpaka - State of Illinois Center, Suite 11-500, 100 W. Randolph St., Chicago.</u>
<b>December 17</b>		<b>Pollution Control Board Meeting, State of Illinois Center, 100 W. Randolph St., Conference Room 9-040, Chicago.</b>
January 21 10:00 a.m.	PCB 91-157 L-E	<u>People of the State of Illinois v. The Grigoleit Company - Decatur Civic Center, Second Floor Conference Room, 1 Civic Center Plaza, Decatur.</u>
January 22 10:00 a.m.	PCB 91-157 L-E	<u>People of the State of Illinois v. The Grigoleit Company - Decatur Civic Center, Second Floor Conference Room, 1 Civic Center Plaza, Decatur.</u>

**Calendar Codes**

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

**ENVIRONMENTAL REGISTER NEWSLETTER FOR THE LATEST DEVELOPMENTS**

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.

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Joan G. Anderson  
Western Springs, Illinois

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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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