

# ENVIRONMENTAL REGISTER

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**No. 435**

**September 11, 1991**

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## **BOARD ACCEPTS NEW PM-10 PROPOSAL; ISSUES FIRST NOTICE**

On August 22, 1991, the Board accepted for hearing a rulemaking proposal from the Illinois Environmental Protection Agency (Agency), docketed as R91-22. The proposal is intended to regulate particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers, which is known as PM-10. The proposal is directed at the McCook and Lake Calumet areas of Cook County, Illinois, and the Granite City area of Madison County, Illinois. The Board's August 22 order accepting the proposal for hearing started the timeclock for the Board's economic impact study (EIS) determination, pursuant to Section 28.2 of the Environmental Protection Act (Act). The Board also accepted the Agency's certification that this proposal is federally required.

On August 26, 1991, the Board sent the proposal to first notice. The Board stated that it has not adopted any substantive position on the merits of the proposal, but noted that publishing the proposal at this time will maximize the opportunity for public comment. The proposal will be published shortly in the Illinois Register. Additionally, two hearings will be held in October. Copies of the Board's first notice opinion and order, which contains the text of the proposed rules, can be obtained by contacting the Clerk at 312/814-3620. Questions on this proceeding should be directed to Elizabeth Schroer Harvey, hearing officer, at 312/814-6921.

## **SECOND NOTICE FOR R91-6 PM-10 EMISSION LIMITS**

On August 22, 1991, the Board voted 7-0 to send the proposed rule involving PM-10 emissions for the portland cement manufacturing plant and quarry operations of Lone Star Industries in Oglesby, LaSalle County to second notice.

This rulemaking is federally required and will become part of the Illinois State Implementation Plan ("SIP") for PM-10. Second notice begins the period of time within which the Joint Committee on Administrative Rules may comment on the proposed regulations. Copies of the Board's second notice opinion and order are available upon request from the Clerk of the Board. Questions concerning this proposal may be directed to Marie E. Tipsord at 312/814-4925.

## **LEGISLATION AMENDS SECTION 31 OF THE ENVIRONMENTAL PROTECTION ACT**

On August 13, 1991, the Governor signed into law legislation amending Section 31 of the Environmental Protection Act. The amendment allows the parties in certain enforcement cases to request relief from the requirement of a hearing, where the parties have submitted to the Board a stipulation and proposal for settlement. The new law, Public Act 87-0134, was effective immediately.

The obvious intent of the new law is to avoid unnecessary expenses to the State and to other parties. Historically, the Board estimates from a review of its records, that fewer than 5% of the hearings conducted for review of such proposed settlements are attended by any member of the public. The law provides that the Board may, in its discretion, deny the request and also that any person may, within 21 days of newspaper notice from the Board, demand in writing that a hearing be held. Where hearing is requested, the Board will be obligated to conduct a hearing despite the parties' request.

As Section 31(a)(2) is written, the parties must file their request for relief from the hearing requirement at the same time as their stipulation and proposal for settlement is filed. However, it appears that if no hearing has yet been scheduled, the parties may amend their stipulation and proposal for settlement along with a request for relief.

**BOARD PROPOSES DIESEL VEHICLE EXHAUST OPACITY LIMITS FOR FIRST NOTICE (R90-20)**

On July 25, 1991 the Board proposed R90-20 for first notice. The proposed rule follows the California snap-accelerator general opacity limit of 40%. This rule requires that a vehicle be placed in neutral and the accelerator floored until maximum engine speed is attained. An opacity meter then records the density of the emitted exhaust smoke. An additional rule would limit exhaust opacity to 20% after 10 seconds while a vehicle is in motion.

Diesel emissions are considered to be probable human carcinogen (cancer-causing). In addition, more than 90% of diesel particles emitted are less than one micron (one-millionth of a meter) in size.

Particles smaller in size than 10 microns have been correlated with "excess" (i.e. premature) deaths of 60,000 people annually in the United States.

The Board has scheduled two public hearings for this rule on September 19th and October 3rd. See the calendar for locations and time. Questions on this proceeding should be directed to Tim Dwyer at 312/814-6923.

**BOARD AND STAFF ACTIVITIES**

Board Member Jacob D. Dumelle was reappointed to a one-year term as Chairman of the Oak Park Environmental and Energy Commission by Village President, John F. Philbin. Mr. Dumelle has served on the commission since January 1971.

**FINAL ACTIONS - AUGUST 22, 1991 BOARD MEETING**

PCB 86-57  
PCB 86-62  
Consolidated

Village of Sauget v. IEPA - This matter was remanded to the Agency for further action consistent with the Fifth District Appellate Court Opinion.

PCB 88-78

Abbott Laboratories v. IEPA - Based on effective dates of R86-10, R88-14 and the filing date, the Board found no variance was necessary and dismissed this matter.

PCB 89-157  
Docket B

People of the State of Illinois v. Clybourn Metal Finishing Co. - The Board ordered respondent to pay \$2,741.80 as hearing costs expended by the Attorney General for deposit into the Hazardous Waste Fund and closed the docket. Chairman J. Marlin and Board Member J. Anderson dissented. Board Member J. Theodore Meyer concurred.

PCB 90-145

Joseph P. Comer and Michelle S. Comer, d/b/a Flamingo Lake v. Gallatin National Co. - This matter was dismissed on a joint motion.

PCB 90-242

The Ensign Bickford Co. and the Trojan Corp. v. IEPA - The Board accepted the Agency Recommendation and granted petitioner variance, with conditions, from the Board's air pollution regulations for its Union County facility.

PCB 91-12

Zeigler Coal Co. v. IEPA - The Board accepted the Agency Recommendation and granted petitioner variance, with conditions, from the Board's mine-related water pollution regulations for its Randolph County facility.

PCB 91-32

Village of Carbon Hill v. IEPA - The Board accepted the Agency's Amended Recommendation and granted petitioner variance, with conditions, from the Board's public water supplies regulations concerning Standards for Issuance and Restricted Status relating to combined radium-226 and radium-228 and gross alpha particle activity in drinking water for its Grundy County facility. Board Members J.D. Dumelle and B. Forcade dissented.

PCB 91-112

Williamson Adhesives, Inc. IEPA - The Board granted summary judgement in favor of the Agency, affirmed the Agency decision that disallowed reimbursement from the underground storage tank reimbursement fund and closed the docket concerning petitioner's Cook County facility.

PCB 91-143

Motorola, Inc. v. IEPA - The Board accepted the Agency Recommendation and granted petitioner provisional variance from the Board's 90-day on-site limitations for hazardous wastes for its Cook County facility. Board Members J.D. Dumelle and B. Forcade concurred.

PCB 91-144

Village of Stillman Valley v. IEPA - The Board accepted the Agency Recommendation and granted petitioner provisional variance, with conditions, from the Board's water pollution regulations for its Ogle County facility. Board Members J.D. Dumelle and B. Forcade concurred.

- PCB 91-145      City of Galva v. IEPA - The Board accepted the Agency Recommendation and granted petitioner provisional variance, with conditions, from the Board's water pollution regulations for its Henry County facility. Board Members J.D. Dumelle and B. Forcade concurred.
- AC 89-145      IEPA v. Roger Miller - This matter was dismissed on the Agency's motion.
- AC 90-64  
A & B      St. Clair County v. Louis I. Mund - The Board found respondent violated Section 21(q)(1) and (3) of the Act, imposed a penalty of \$1,000 payable to the St. Clair County Landfill Citation Fund, closed Docket A, opened Docket B and ordered the County and Board to file statements of hearing costs, supported by affidavit with the Clerk of the Board, with service upon the respondent concerning its St. Clair County facility.
- AC 90-65  
A & B      St. Clair County v. Arthur Fields d/b/a Arthur Fields Co. - The Board found respondent violated Section 21(q)(1) and (3) of the Act, imposed a penalty of \$1,000 payable to the St. Clair County Landfill Citation Fund, closed Docket A, opened Docket B and ordered the County and Board to file statements of hearing costs supported by affidavit with the Clerk of the Board, with service upon the respondent concerning its St. Clair County facility.
- AC 90-66  
A & B      St. Clair County v. Sandra L. Petroff d/b/a Petroff Trucking Co. - The Board found respondent violated Section 21(q)(1) and (3) of the Act, imposed a penalty of \$1,000 payable to the St. Clair County Landfill Citation Fund, closed Docket A, opened Docket B and ordered the County and Board to file statements of hearing costs supported by affidavit with the Clerk of the Board, with service upon the respondent concerning its St. Clair County facility.
- AC 90-67  
A & B      St. Clair County v. Timothy E. Doctor d/b/a Maclair Asphalt, Inc. - The Board found respondent violated Section 21(q)(1) and (3) of the Act, imposed a penalty of \$1,000 payable to the St. Clair County Landfill Citation Fund, closed Docket A, opened Docket B, and ordered the County and Board to file statements of hearing costs supported by affidavit with the Clerk of the Board, with service upon the respondent concerning its St. Clair County facility.
- AC 91-35      Jackson County Health Dept. v. Arthur Gale - The Board found respondent violated Sections 21(q)(1) and (21)(q)(5) of the Act and imposed a fine of \$1,000.
- AC 91-36      Jackson County Health Dept. v. James Qualls - The Board found respondent violated Sections 21(q)(1), 21(q)(5) and 21(q)(5) of the Act and imposed a fine of \$1,500.

#### NEW CASES - AUGUST 22, 1991 BOARD MEETING

- PCB 91-128      Oather Druen, Evelyn Druen and Amy Pirtle - v. James Leonard - Complainants allege violations of the Board's noise regulations at respondent's LaSalle County facility. Set for hearing.
- PCB 91-136      Don Bolander v. Monticello Bus Service, Wayne Kruger Pres. - Complainant alleges violations of the Act and the Board noise and air pollution regulations at respondent's Platt County facility. Held for duplicitous/frivolous determination.
- PCB 91-137      Amoco Oil Co. (Wood River Plant) v. IEPA - Petitioner seeks NPDES permit review for its Madison County facility. Set for hearing.
- PCB 91-138      Kronon Motor Sales, Inc. v. IEPA - Petitioner seeks review of an underground storage tank determination concerning its Cook County facility. Set for hearing.
- PCB 91-139      R. Lavin & Sons, Inc. v. IEPA - Petitioner seeks review of NPDES permit conditions imposed by the Agency for its Lake County facility. Additional information requested.
- PCB 91-140      Waste Management of Illinois, Inc., a Corp. v. IEPA - Petitioner seeks review of RCRA closure plan permit conditions imposed by the Agency for its Will County facility. Accepted for hearing.
- PCB 91-141      Christian County Landfill, Inc. v. IEPA - Petitioner seeks review of permit denial for its Christian County facility. Accepted for hearing.
- PCB 91-142      IEPA v. Broadwell Landfill, Inc., an Illinois Corp. - Complainant alleges violations of the Act and Board air

- pollution regulations at respondent's Logan County Landfill. Hearing mandatory.
- PCB 91-143 Motorola, Inc. v. IEPA - See Final Actions.
- PCB 91-144 Village of Stillman Valley v. IEPA - See Final Actions.
- PCB 91-145 City of Galva v. IEPA - See Final Actions.
- PCB 91-146 James W. Turner, Sr. v. Richard P. Toft, President, Chicago Title & Trust Co. - Complainant alleges violations of the Board's noise pollution regulations at respondent's McLean County facility. Held for September 12, 1991 Board meeting.
- PCB 91-147 James W. Turner, Sr. v. Mark Edmiston - Complainant alleges violations of the Board's noise pollution regulations at respondent's McLean County facility. Held for duplicitous/frivolous determination.
- PCB 91-148 James W. Turner, Sr. v. Don Franke - Complainant alleges violations of the Board's noise pollution regulations at respondent's McLean County facility. Held for duplicitous/frivolous determination.
- PCB 91-149 Minnesota Mining and Manufacturing Co. v. IEPA -Petitioner seeks a declaration of compliance or variance concerning the Board's air pollution regulations for its Cook County facility. Set for hearing.
- PCB 91-150 People of the State of Illinois v. World's Finest Chocolate, Inc. - Complainant alleges violations of the Act and Board air pollution regulations at respondent's Cook County facility. The Board ordered the parties to file within 30 days of the date of its order, a request for relief from the requirement for a hearing and in the absence of such filing, the matter be set for hearing concerning respondent's Cook County facility.

#### FINAL ACTIONS - AUGUST 26, 1991 SPECIAL BOARD MEETING

- PCB 90-102 State Oil Co. v. Dr. and Mrs. James Krone and the Illinois Environmental Protection Agency - The Board granted petitioner a well water setback exception, with conditions, for its McHenry County facility. Board Member J.D. Dumelle dissented.
- PCB 91-7 Land and Lakes Co. et al v. Village of Romeoville Respondent and County of Will et al Intervenors -The Board deemed issued petitioner's request for siting approval of its proposed landfill due to failure of respondent to comply with Sections 39.2(d) and 39.2(e) of the Act. Board Member R.C. Flemal concurred and Board Member J.D. Dumelle dissented.
- PCB 91-72 Clean Quality Resources, Inc. v. Marion County Board - The Board affirmed the decision of the Marion County Board denying approval for a new regional pollution control facility in Marion County. Board Member J.D. Dumelle concurred.
- R88-8 Census of Section 21(d) Facilities - This matter was dismissed on the motion of the Illinois Environmental Regulatory Group.

#### CALENDAR

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| September 16<br>10:00 a.m. | P-A | <u>Olin Corporation v. EPA</u> - PCB 89-178, Alton City Hall, 101 E. Third St., Alton.  |
| September 16<br>10:00 a.m. | N-E | <u>Vito Zivoli &amp; Stella Podczerwinski v. Somebody's Bar &amp; Restaurant and Progress Inc. II</u> - PCB 90-200, State of Illinois Center, 100 W. Randolph St., Suite 11-500, Chicago.   |
| September 18<br>9:00 a.m.  | R   | <u>In the Matter of: Repeal of 35 Ill. Adm. Code 809. Subpart I: Hazardous (Infectious) Hospital Waste</u> - R91-18, State of Illinois Center, 100 W. Randolph, Room 9-031, Chicago.        |
| September 18<br>11:00 a.m. | R   | <u>In the Matter of: Potentially Infectious Medical Waste (PIMW): Treatment, Storage, and Transfer Facilities</u> - R91-20, State of Illinois Center, 100 W. Randolph, Room 9-031, Chicago. |
| September 18<br>11:00 a.m. | R   | <u>In the Matter of: Potentially Infectious Medical Waste (PIMW): Transportation, Packaging, and Labeling</u> - R91-21, State of Illinois Center, 100 W. Randolph, Room 9-031, Chicago.     |
| September 19<br>10:00 a.m. | R   | <u>In the Matter of: Diesel Vehicle Exhaust Opacity Limits</u> - R90-20, State of Illinois Center, 100 W. Randolph, Room 9-040, Chicago.  |
| September 19               | R   | <u>In the Matter of: Repeal of 35 Ill. Adm. Code 809. Subpart I: Hazardous (Infectious) Hospital Waste</u> -  |

10:00 a.m.		R91-18, Research Institute Building, Conference Room, 148 N. Third St., DeKalb.
September 20 9:30 a.m.	P-A	<u>American Steel &amp; Wire Corporation v. EPA</u> - PCB 90-188, Will County Courthouse, Room 439, 14 W. Jefferson St., Joliet.
September 23 10:00 a.m.	PWS-E	<u>Wonder View Improvement Association v. Northern Illinois Utilities, Inc.</u> - PCB 91-48, McHenry City Hall, 333 S. Green, McHenry.
September 25 10:00 a.m.	P-A	<u>Monsanto Company v. EPA</u> - PCB 91-57, Sauget Village Hall, 2897 Falling Springs Rd. Sauget.
<b>September 26</b>		<b>Pollution Control Board Meeting, State of Illinois Center, 100 W. Randolph St., Conference Room 9-040, Chicago.</b>
September 26 10:00 a.m.	N-E	<u>Flamingo Lake, Joseph P. Comer and Michelle S. Comer v. Gallatin National Company and Senator Roger A. Keats, President</u> - PCB 90-145, Canton City Hall, Council Chambers, 210 E. Chestnut St., Canton.
September 26 10:00 a.m.	UST-FRD	<u>Beer Motors Inc. v. EPA</u> - PCB 91-120, Law Office of Delman & Hurwitz, 4709 W. Golf Road, Suite 1010, Skokie.
September 27 9:30 a.m.	A-E	<u>People of the State of Illinois v. Colwell/General, Inc.</u> - PCB 89-180, State of Illinois Center, 100 W. Randolph St., Suite 11-500, Chicago.
September 27 9:00 a.m.	R	<u>Management of Used and Waste Tires (35 Ill. Adm. Code 848)</u> - R90-9(B), State of Illinois Center, 100 W. Randolph St., Room 9-031, Chicago.
October 2 9:00 a.m.	A-C	<u>EPA v. Randall Loveless</u> - AC 91-31, Macoupin County Courthouse, East 1st Street, Ground Level, Carlinville.
October 2 10:00 a.m.	W-E	<u>Herman W. Prescott v. City of Sycamore</u> - PCB 90-187, Holmes Student Center, Lucinda & Normal Road, Room 505, DeKalb.
October 3 10:00 a.m.	N-E	<u>Karl Christ and Helen Christ v. Compost Enterprises, Inc.</u> - PCB 91-50, McHenry City Hall, 333 S. Green St., McHenry.
October 3 10:00 a.m.	W-E	<u>Herman W. Prescott v. City of Sycamore</u> - PCB 90-187, Holmes Student Center, Lucinda & Normal Road, Room 505, DeKalb.
October 3 10:00 a.m.	R	<u>In the Matter of: Diesel Vehicle Exhaust Opacity Limits</u> - R90-20, State Capitol Building, Committee Room 118, Springfield.
October 7 9:30 a.m.	P-A	<u>CWM Chemical Services, Inc. v. EPA and People of the State of Illinois</u> - PCB 89-177, Loyola Law School, Corboy Courtroom, 1 East Pearson, Chicago.
October 8 9:30 a.m.	P-A	<u>CWM Chemical Services, Inc. v. EPA and People of the State of Illinois</u> - PCB 89-177, Loyola Law School, Corboy Courtroom, 1 East Pearson, Chicago.
October 8 10:00 a.m.	A-E	<u>People of the State of Illinois v. Condecor, Inc.</u> - PCB 91-122, Mundelein City Hall, Board Room, 440 East Hawley, Mundelein.
October 9 9:30 a.m.	P-A	<u>CWM Chemical Services, Inc. v. EPA and People of the State of Illinois</u> - PCB 89-177, Loyola Law School, Corboy Courtroom, 1 East Pearson, Chicago.
October 10 10:30 a.m.	P-A	<u>The Celotex Corporation v. EPA</u> - PCB 90-197, Adams County Building, Small Jury Room, 521 Vermont St., Quincy.
October 10 10:00 a.m.	N-E	<u>David L. Dravis &amp; Margo Dravis v. M &amp; D AG, Jerry McGinn, and Bert Davis</u> - PCB 90-201, Coliseum Building, 212 3rd Avenue, 2nd Floor, Sterling.
October 10 10:00 a.m.	P-A Air	<u>Quantum Chemical Corporation, USI Division v. EPA</u> - PCB 91-132, Grundy County Courthouse, 111 E. Washington St., Morris.
<b>October 10</b>		<b>Pollution Control Board Meeting, State of Illinois Center, 100 W. Randolph St., Conference Room 9-040, Chicago.</b>

October 15 10:00 a.m.	N-E A-E	<u>Susan Curtis and Marcy Diesing v. Material Service Corporation</u> - PCB 91-30, Crystal Lake City Hall, Council Chambers, 100 W. Municipal Complex, Crystal Lake.
October 16 10:00 a.m.	N-E A-E	<u>Susan Curtis and Marcy Diesing v. Material Service Corporation</u> - PCB 91-30, Crystal Lake City Hall, Council Chambers, 100 W. Municipal Complex, Crystal Lake.
October 17 10:00 a.m.	P-A	<u>Indian Refining Limited Partnership v. EPA</u> - PCB 91-110, Lawrenceville Civic Center, Downstairs Meeting Room, 700 E. State St., Lawrenceville.
October 22 10:00 a.m.	P-A	<u>Burlington Northern Railroad Company v. EPA</u> - PCB 91-11, Knox County Courthouse, Conference Room, 110 S. Cherry St., Galesburg.
October 23 10:00 a.m.	P-A	<u>Staunton Landfill, Inc. v. EPA</u> - PCB 91-95, Macoupin County Courthouse Boardroom (basement), Carlinville.
<b>October 24</b>		<b>Pollution Control Board Meeting, State of Illinois Center, 100 W. Randolph St., Conference Room 9-040, Chicago.</b>
<b>November 7</b>		<b>Pollution Control Board Meeting, State of Illinois Center, 100 W. Randolph St., Conference Room 9-040, Chicago.</b>
November 14 10:00 a.m.	A-S	<u>In the Matter of Granite City Division of National Steel for Adjusted Standards from 35 Ill. Adm. Code 301.102, 302.208, 302.210 and Subpart F, Procedures for Determining Water Quality Criteria</u> - AS 90-4, City Hall, Mayor's Conference Room, Second Floor, 200 Edison Avenue, Granite City.
November 14 9:30 a.m.	P-A	<u>Stephan Company v. EPA</u> - PCB 90-42, Will County Courthouse, 14 W. Jefferson St., Joliet.
<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.	P-A	<u>The City of Metropolis v. EPA</u> - PCB 90-8, Metropolis City Hall, City Council Chambers, 106 W. 5th St., Metropolis.
<b>December 5</b>		<b>Pollution Control Board Meeting, State of Illinois Center, 100 W. Randolph St., Conference Room 9-040, Chicago.</b>

## 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		