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Lake Michigan States Section Air & Waste Management Association Newsletter[®]



*Lake Michigan States Section
of the
Air & Waste Management
Association*

Wishes all of its members the happiest of holidays and invites you to join us at our

Annual Holiday Reception December 4, 2003

Don't miss the opportunity to kick off the holiday season, network with fellow environmental professionals and meet students who are, or will shortly be, entering our exciting profession. There will be no cost to attend this year's holiday reception as it is being sponsored by the LM-A&WMA Board of Directors and their firms.

LOCATION: IIT Stuart School of Business
565 West Adams
Chicago, Illinois

TIME: 5:00 p.m.

COST: No Charge –
Please feel free to bring a guest!

R.S.V.P. By November 26, 2003 to
Robin Pelsis at (847) 202-0418 or
lm_awma@ameritech.net

*If your firm would be interested in being a sponsor,
please contact Robin Pelsis at the number listed above.*



New Members

Jeffrey Barry
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University of Illinois at Chicago

Joshua McClure
University of Illinois

Priscillia Ng
Integrated Env. Solution

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Call for Volunteers

The LM-A&WMA Section is seeking *volunteers* to participate in the following activities:

Environmental Authors: Our LM-A&WMA Board Secretary, James Harrington, is always looking for talented writers to contribute articles on current environmental issues to the quarterly Lake Michigan States Section Newsletter. If you have interesting information to share from industry, government, academia or consulting, please contact **Jim Harrington** at 312-750-8619 or jharrington@mcguirewoods.com.

Open Board Meetings: If you are an interested LM-A&WMA member and would like to become more active or if you would like to present an issue or idea to our Board, come and attend one of our open Board meetings. Contact LM-A&WMA's Admin, **Robin Pelsis**, at 847-202-0418 to find the date and location of the next Board meeting or to be placed on the meeting agenda.

Advisory Committee: Our Section formed an Advisory Committee for our members who are interested in being actively involved with the A&WMA Board and its conference planning activities. If you have such an interest, please contact our LM-A&WMA Board Chair, **Diana Jagiella**, at 309-999-6309.

Wetlands Initiative Luncheon

LM-A&WMA invites you to join them along with the Union League Club's Environmental Group for a luncheon presentation on the Wetlands Initiative.

The December 5, 2003 luncheon meeting will feature a presentation by the Wetlands Initiative on wetland restoration projects. The Wetlands Initiative was founded in 1994. Its principal focus is the restoration of wetland resources in the Midwest to reduce flood damage, improve water quality, and increase biodiversity and wildlife habitat. The presentation will feature the recent restoration of 2,600 acres of marginal farmland along the Illinois River at Hennepin, restoration projects along the Chicago River, and a description of nutrient "farming," a market-based solution to reducing nitrogen and phosphorous loads from surface-water runoff. The presentation will include three officers of The Wetlands Initiative — Albert E. Pyott, John L. Tuohy and Donald L. Hey.

WHEN: Friday, December 5, 2003

WHERE: Union League Club
65 W. Jackson Blvd. (at Federal)
Chicago, IL

TIME: 11:30 refreshments
12:00 lunch
12:30 presentation

COST: \$40 for A&WMA Members
\$50 for non-members
Members of ULC should make their reservations directly with the ULC.

R.S.V.P. by Wednesday, December 3, 2003 to:

Robin Pelsis
Phone: 847-202-0427
E-mail: lm_awma@ameritech.net

Additional information on the Wetlands Initiative can be found on the LM-A&WMA website at http://www.lmawma.org/index_files/2003wetlandsinitiative.pdf

Spill Prevention Control and Countermeasure (SPCC) Plan

By: William Graham, Compliance Partners

The most common violation noted by Region 5 USEPA SPCC inspectors is failure to have an SPCC Plan at a facility that is required to have one. A common response from facility personnel is: "I never heard of it!". In this case, inspectors have little choice but to propose a violation and fine. Where a facility has an SPCC or program that fails to meet some of the requirements, inspectors will normally propose a compromise solution allowing the facility to upgrade its SPCC and practices; a fine may be waived. Such compromises are unlikely for facilities that experience spills or where personnel fail to cooperate. (B. Carr, USEPA Region 5, 10/15/2003).

An effective step a facility can make to reduce enforcement risk is to evaluate whether it requires an SPCC Plan. The facility may then prepare and implement one.

Does My Facility Need an SPCC Plan?

A useful way to address this question is to start by assuming the facility **does** require an SPCC Plan, consider the regulations, and document why the facility may not require an SPCC Plan.

A useful step is to prepare a complete inventory of permanent and temporary on-site bulk storage containers. This can be used to document either no SPCC is

required, or to identify areas requiring secondary containment under the SPCC rules. The inventory and determination can be redone if modifications occur to the facility or its operations. Note that the threshold oil capacity of 1320 gallons is equivalent to only **two dozen 55 gallon drums** being on site, even temporarily. Make these determinations to document whether an SPCC is required:

- The facility is a **transportation-related** pipeline, truck en route, rail tank car en route or marine loading facility. Therefore, no SPCC is required.
- The capacity of above-ground **bulk storage containers** for **oil** handled on site never exceeds 1320 gallons, nor does completely buried oil storage capacity exceed 42,000 gallons, and
- Due to its location, the facility could not reasonably be expected to discharge oil into navigable waters of the U.S. or adjoining shorelines. Therefore, no SPCC is required.

Bulk Storage Container "*means any container used to store oil. These containers are used for purposes including, but not limited to, the storage of oil prior to use, while being used, or prior to*

distribution in commerce. Oil-filed electrical, operating, or manufacturing equipment is not a bulk storage container." Containers of less than 55 gallons capacity are exempted [40 CFR 112.1(d)(2)(ii)]

Oil is defined broadly to include "*oil of any kind or in any form, including, but not limited to: fats, oils, or greases of animal, fish, or marine mammal origin; vegetable oils, including oils from seeds, nuts, fruits, or kernels; and other oils and greases, including petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse, or oil mixed with wastes other than dredged spoil.*" [40 CFR 112.2]

For more information visit the USEPA web: <http://www.epa.gov/oilspill/opprfaqs.htm#what>

Send Us
Your
News!



LM-A&WMA wants to share your news. Send your announcements of new employees, new location, awarding of a job, etc. to lm_awma@ameritech.net. Your announcement will be included in the next issue of this newsletter. Newsletters are published on a quarterly basis.

FEES, FEES AND MORE FEES:

The Price of Permits Has Just Gotten Pricier

*By Claire A. Manning, Posegate & Denes, P.C.**

In an attempt to resolve the state's current budget crisis, the Governor and the Illinois' 93rd General Assembly passed whopping fee increases, many of them on environmental fees and permits — substantially increasing the cost of doing business in this state. The fee increases were contained in Senate Bill 1903, the FY 2004 Budget Implementation Act, which was signed into law by Governor Blagojevich on June 20, 2003 and is now Public Act 93-32. The revenue expected from these increases (estimated to be at least \$60 million new dollars per year) will more than replace the \$22 million in General Revenue Funding (GRF) that has been eliminated from the budgets of the Illinois EPA (\$21.2 million) and the Illinois Pollution Control Board (\$800,000).

Apparently, the State plans to use the excess to replenish the empty coffers of the state GRF, the fund that represents the income the state receives annually from general taxpayer dollars. Of the many environmental fees that will see these increases, most of which are scheduled to take effect July 1, 2003 (the first day of the state's FY 04 fiscal year), the fee for the National Pollution Discharge Elimination System (NPDES) is perhaps the most notable. Fees from the NPDES, and its related water programs, are expected to generate more than \$26 million per year. Following is a synopsis of

the state's new and increased environmental fees, by environmental media.

Air. The state's air program currently collects about \$11 annually for two types of permits: Title V and Non-Title V. With the new and increased air-related fee changes made in the Budget Implementation Act, that amount will increase to almost \$24 million annually. The largest portion of this increase will result from increased Title V permit fees, which are required for all major emission sources (more than 100 tons annually). The State first began collecting Title V permit fees, as required by the Clean Air Act, from these major sources (utilities, oil refineries and large manufacturers) in FY 93. The fees are based upon tons of emissions and the current average charge per ton is about \$23.50, which results in a revenue stream of approximately \$10 million per year. Pursuant to SB 1903, the per-ton fee is increased by about 40%, making the average per-ton fee approximately \$40, and increasing the yearly revenue stream that EPA collects from Title V permits to \$17.4 million per year.

Non-title V Clean Air Act permits will also see an increase. Those sources permitted to emit less than 25 tons per year currently pay a fee of \$100 annually. That fee will now be \$200. Those sources permitted to emit at least 25 tons,

but less than 100 tons per year, currently pay a fee of \$1,000. That fee will now be \$1,800. For those non-major sources permitted to emit at least 100 tons per year, the fees will increase from \$13.50 per ton to \$18 per ton, with a \$2,500 - \$3,500 cap. The expected additional revenue that will result from these non-major source permit increases is approximately \$1 million, increasing the money generated for Non-Title V permit fees to approximately \$2.3 million per year.

Also, entirely new air fees will also be imposed as follows. For construction projects, a fee for an air construction permit will now be imposed, at an average of \$2,000 per construction project, for an estimated \$2 million in new revenue. For asbestos demolition or renovation projects, a \$150 fee project (payable by the owner or contractor) will be assessed for an estimated \$650,000 in new revenue. Finally, an alternate fuels user fee, which had been previously collected but sunset on June 30, 2002, has been permanently reinstated. The user fee, at a charge of \$20 per vehicle, applies to fleet operators of 10 or more alternate fuel vehicles who are located within the ozone non-attainment areas. The fee generates \$1.5 million per year and is allocated to the IEPA and to the renamed Department of Commerce and Economic Opportunity.

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NJDEP'S Initiative to Recover Natural Resource Damages

By: *E. Lynn Grayson¹, Jenner & Block*

The New Jersey Department of Environmental Protection (NJDEP) recently launched an aggressive program to recover for losses and injuries resulting from natural resource damages. Federal and state trustees traditionally lack sufficient resources to appropriately address these complex matters. NJDEP's new initiative overcomes this common problem by attempting to shift the necessary assessment and restoration work to private parties as well as encouraging speedy resolution of legal liabilities. This innovative effort by NJDEP imposes significant burdens and challenges on targeted private parties.

In late September, 2003, over 4,000 parties received the Notice of Intent to Initiative Litigation for Natural Resource Damages signed by Peter Harvey, Attorney General of New Jersey, and Bradley Campbell, NJDEP's Commissioner. The letter advised parties for the first time that each was legally responsible for natural resource damages caused by hazardous discharges. The letter also permitted 10 days for a response and promised litigation seeking recovery for natural resource damages, penalties, costs, interests and all other relief possible if a timely response was not received.

The letter results from the joint efforts of NJDEP's Site Remediation Program as well as the Office of

Natural Resource Restoration. Working to ensure the public's right to compensation for natural resource injuries, NJDEP has developed a program that boasts some rather unique, legally questionable aspects:

1. NJDEP sought and received new legislation extending the applicable statute of limitations to bring natural resource damage claims to four years beginning January 1, 2002, or completion of a preliminary site assessment, site investigation or remedial investigation, whichever is later.
2. NJDEP's primary focus is on alleged damages to groundwater designated as an environmentally sensitive resource – NJDEP considers groundwater to be injured when contaminants are above New Jersey Groundwater Quality Standards.
3. NJDEP's litigation threat against parties failing to cooperate is bolstered by the State's retention of the New Orleans-based plaintiffs firm, Allan Kanner and Associates, and the designation of Allan Kanner as special counsel.
4. NJDEP's development of a groundwater injury calculation formula that

quantifies adverse impacts to groundwater and therefore injuries to the State's allegedly pristine drinking water sources.

Federal and state legal authorities provide a complex regulatory scheme to assess and restore natural resources. NJDEP relies upon these statutes and regulations for guidance but its new program appears more based upon the Technical Requirements for Site Remediation. This document addresses remediation of contaminated sites and requires collection of data to assess and restore injured natural resources as part of the typical site characterization process. NJDEP Policy Directive 2003-07 provides greater detail about the State's natural resource initiatives including screening process, excluded claims, settlement policies and interaction with other NJDEP programs.

A particularly troubling aspect of NJDEP's new program is the reliance on information provided to the State by parties voluntarily conducting cleanups. In fact, it appears that parties that have cleaned up a site or are in the process of doing so, are to be the State's initial targets. NJDEP's actions seem inconsistent with cooperative industry outreach

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Old is New at www.lmawma.org

→ Looking for the presentation materials from a conference you missed?

→ Can't find that old newsletter article you saved?

The information you need is now at your fingertips. An **Archive** page has been added to the Lake Michigan States Section web site. Look on the **Archive** page for speakers' presentation materials from these recent conferences:

Air Quality Conference

October 24, 2003

Willowbrook, Illinois

Revised SPCC Rules Webcast

September 8, 2003

Chicago, Illinois

Homeland Security Conference

August 21, 2003

Chicago, Illinois

State of Waste Conference

March 14, 2003

Naperville, Illinois

Air Quality Conference

October 23, 2002

Willowbrook, Illinois

To find the materials from the always-popular *Information on the Internet Workshop*, go to the **Links** page. All of the URL's explored at the February 11, 2003 workshop are available there. Use these links for quick access to environmental and health/safety regulations, guidance, compliance assistance resources, data warehouse, state and federal agencies, hotlines, clearinghouses, maps, MSDS's, and many other useful on-line environmental resources.

The **Links** page is also a gateway to many of our Section members' corporate web pages. These pages contain a wealth of information on locally available environmental services, environmentally preferable products, innovations, and exemplary environmental performance. To get your company's name included in this directory, just send a note to webmaster@lmawma.org.

Quarterly Section newsletters from the past two to three years are available on-line from the **Archive** page. Look there for summaries of recent of regulatory developments and helpful analysis by Section members.

Newsletters, presentations, and everything else on our web site can be easily searched using the new Google Search box located on the main **News** page.

Take a minute right now to add www.lmawma.org to your list of favorite web sites. Use it to for quick access to the archives and to find news of upcoming Lake Michigan States Section conferences and networking events.

Illinois EPA Approves PAH Background Studies

By: Mike Reese & Dan Podraza, Boelter & Yates, Inc.

The long anticipated PAH (polycyclic aromatic hydrocarbons a.k.a PNA) background studies have been completed. Independent studies were completed by the City of Chicago and the Electric Power Research Institute. Both studies have been reviewed and approved by the Illinois EPA for use in developing site-specific remediation objectives in accordance with TACO (Tiered Approach to Corrective Action Objectives, 35 IAC Part 742).

Illinois EPA-approved background concentrations for carcinogenic PAHs for the City of Chicago, other metropolitan statistical areas (MSA, refer to TACO), and non-MSA are outlined in the table below:

Background Carcinogenic PAH 95th Percentile Concentrations (mg/kg)

PAH Name	Chicago	Within MSA	Outside of MSA
Benzo(a)anthracene	1.1	1.8	0.72
Benzo(b)fluoranthene	1.5	2.0	0.70
Benzo(k)fluoranthene	1.0	1.7	0.63
Benzo(a)pyrene	1.3	2.1	0.98
Chrysene	1.1	2.7	1.1
Dibenzo(a,h)anthracene	0.20	0.42	0.15
Indeno(1,2,3-c,d)pyrene	0.86	1.6	0.51

Source: <http://www.epa.state.il.us/land>

PAHs have historically presented technical challenges to site cleanups since their presence can be unrelated to chemical spills/releases and many have low cleanup objectives. In many instances, the only alternatives for obtaining a No Further Remediation (NFR) determination have been to either remove or cap PAH-containing soils.

Additional information regarding the studies and Illinois EPA's guidance for their use can be found at: <http://www.epa.state.il.us/land>.



Lake Michigan States Section of the Air & Waste Management Association thanks the following companies for being an **Exhibitor** or **Sponsor** at the October Air Quality Management Conference.

EXHIBITORS



ENVIRONMENTAL BUSINESS STRATEGIES, INC.



SPONSORS:



The Price of Permits (con't.)

Land. The IEPA Bureau of Land (BOL) typically collects almost \$18 million annually. In FY04, the BOL is expected to collect almost \$40 million. Virtually every fee collected by this Bureau will increase; some will more than double. By far, the largest increase will come from an increase in the Solid Waste Management Tipping Fee. These fees were established in 1994 and have not been increased since. These fees are paid by landfill operators who, as a practical matter, can pass them along to those who generate the waste (municipalities, business, individuals). Based upon the volume of the waste accepted, the fees are measured by cubic yards or tons. Currently, the charge is 45 cents per cubic yard or 95 cents per ton. That generates \$12 million per year. Effective July 1, 2003, the fees will raise to 95 cents per cubic yard or \$2 per ton. The increase is expected to generate an additional \$13.8 million per year for a total of \$25.8 million per year.

Increases in Subtitle D tipping fees, which are fees assessed independently of the solid waste management fee, are expected to generate another \$1.2 million in revenue per year, for total revenue of \$2.7 million per year. Required since 1994, and not raised since, the fees currently range between 5.5 cents per cubic yard or 12 cents per ton. As of July 1, 2003, the fees will be 10.2 cents per cubic yard or 22 cents per ton.

Fees related to hazardous waste generation and disposal will also increase. Tipping fees for hazard-

ous waste landfills currently range between \$250 and \$35,000 per year (depending on the type of treatment or disposal as well as whether the waste was generated on or off site). Those fees will increase to a new range of \$500 - \$70,000 per year. Additionally, a new annual fee of \$500 was established for large generators of hazardous waste. These tipping fees are expected to raise the current revenue collected for hazardous waste disposal from \$139,250 to \$931,750. As for generators of hazardous waste, the waste manifest fee will rise from \$1 per manifest to \$3 per manifest, doubling the current revenue collected from this fee from \$500,000 to \$1 million. The manifest fee was first established in 1989 and has never been increased.

The Potentially Infectious Medical Waste (PIMW) program will also see substantial fee increases. First established in 1993 as part of a new federal program, PIMW includes such materials as bandages, needles, gauze, etc. Because PIMW disposal is distinct from disposal of regular waste (PIMW waste can be incinerated but, if its being sent to a landfill it has to first be treated), all three PIMW fees (manifest, hauling permit and transportation fees) are charged to the transporter of the PIMW who, in turn, passes the cost along to the generator (hospitals, doctors' offices, etc.). The manifest fee will increase from \$2 to \$4, doubling the revenue collected from this fee from \$342,500 to \$685,000. The

hauling permit fee will increase from \$1,000 per year to \$2,000, doubling the revenue annually collected from this fee from \$15,000 to \$30,000. Finally, the PIMW transportation fee will increase from 1.5 cents per pound to 3 cents per pound, doubling the increase annually collected from this fee from \$680,000 to \$1.36 million.

The new legislation also increases fees related to the disposal of used tires and creates new fees related to the sale of new tires. Revenues collected from the used tire program will continue to be earmarked to the various state agencies responsible for implementing the Used Tire Management Act: IEPA, Department of Commerce and Economic Opportunity, Department of Public Health, Department of Natural Resources, Department of Agriculture and the Pollution Control Board. The current fee of \$1 per tire will be increased to \$2 per tire. The legislation also provides for a \$2 fee that must be paid on the retail sale of all new and used tires. Additionally, the legislation provides for a 50 cents per tire fee assessment on top of the \$2 fee. This assessment is earmarked to assist the Department of Natural Resources (Natural History Survey) and the Department of Public Health in their efforts to combat the West Nile Virus. The assessment will sunset on December 31, 2007.

Water. By far, water related environmental permits are among the most greatly impacted by

The Price of Permits (con't.)

Budget Implementation Act. Currently, the Bureau of Water collects only \$933,280 in water-related fees. In Fiscal Year 04, it's expected to collect almost \$26 million more. Most of this increase (about \$24 million) is due to the imposition of new NPDES permit fees. While NPDES permits have been required for all discharges of pollutants into any waters or streams in Illinois at least since the passage of the federal Clean Water Act, no fee has ever been assessed for these permits. NPDES permit holders are, for the most part, municipalities, industry, and mines. Combined Animal Feedlot Operations (CAFOs) have been exempted from the fee legislation. CAFOs are large livestock operations. While they do not currently need an NPDES permit, they will need one once state implementation of the federal CAFO rule is finalized.

NPDES permits will cost anywhere from \$500 to \$50,000 per year, depending on the type of facility and the volume of the discharge. For publicly owned treatment works (POTWs), semi-public and PWS facilities, the new fees will be: \$1,500 (less than 0.1 million gallons per day (MGD) discharge); \$5,000 (less than 0.1 MGD but more than 0.5 MGD), \$7,500; (more than .5 MGD but less than 1.0 MGD), \$15,000 (more than 1.0 MGD but less than 5.0 MGD), \$30,000 (more than 5 MGD but less than 10 MGD), \$50,000 (more than 10 MGD). For industrial facility discharges, the new fees are as follows. For minor facilities, with no toxic

discharge, \$1,000 (for less than .01 MGD); \$2,500 (for more than .01 but less than .1 MGD); \$10,000 (for more than 1 MGD). For minor facilities, with toxic discharges, the fees will be \$15,000 (less than or equal to .25 MGD) or \$20,000 (more than .25 MGD). For major facilities, the fees will be: \$30,000 (with no toxic discharge) or \$50,000 (with toxic discharge).

For storm water permits, there will be a new charge for municipalities that are required to get a Phase 2 storm water permit (\$1,000 per facility) and for related construction permits (\$500 each). Also, a water quality certification fee will be imposed (at a cost of \$350 or 1% of the gross value of the proposed project, whichever is greater, but not to exceed \$10,000) and a water quality certification charge (\$1,500).

Also contained in the Budget Implementation Act is a new Pretreatment Fee that will require sources who discharge industrial wastewater into publicly owned or regulated treatment works to pay a pretreatment permit fee. Also, entities who land apply industrial sludge (such as the Water Reclamation District of Greater Chicago) or spray irrigate their industrial wastewater will now have to pay a pretreatment fee. These pretreatment fees will range from \$1,000 to \$6,000 per permit, depending on the type of facility and the degree to which the wastewater may require pretreatment prior to being discharged. The fees are expected to generate \$1 million annually.

In addition to these new water-related fees, the Budget Implementation Act increases two existing fees: the Sewer Construction Permit Fee and the Water Main Construction Permit Fee. These fees are typically paid by developers and home builders and together have generated approximately \$1 million annually. The new legislation doubles the fees, and the amount generated in FY 04 from these increases is now expected to be about \$2 million.

Transfer of Special Funds. In an attempt to further bolster the state's general revenue fund, the Budget Implementation Act earmarked significant amounts of money that remained as fiscal year end balances in various special state funds and transferred those monies to the state General Revenue Fund. The environmental funds which were impacted are: the Hazardous Waste Fund, \$500,000; the Landfill Closure and Post-Closure Fund, \$250,000; the Solid Waste Management Revolving Loan Fund, \$2,000,000; the Public Health Water Permit Fund, \$90,000; the Community Water Supply Laboratory Fund, \$500,000; the Environmental Protection Special Projects Fund, \$150,000; the Petroleum Violation Fund, \$2,000,000; and, importantly, the Underground Storage Tank Fund, \$12,100,000.

Additionally, Section 8g(o) of the new law provides that, at the direction of the Governor, the Comptroller may transfer an

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amount not to exceed \$35,000,000 from the state's Underground Storage Tank Fund to be placed in the state's Vehicle Inspection Fund. This latter transfer was enacted to help solve a budgetary gap in the state's Vehicle Inspection and Maintenance (VIM) program. The program costs the IEPA about \$65 million to operate each year. The program had been funded by the federal Congestion Mitigation Air Quality fund, but that funding expired. The remaining \$30 million necessary to operate the VIM program comes to the IEPA as monthly transfers from the State's Motor Fuel Tax Fund.

In order to bolster the Underground Storage Tank fund that, as explained above, has been used to replenish other funds, the Budget Implementation Act reduces (from 2% to 1.75%) the discount for record-keeping that petroleum marketers and retailers had been entitled to take off the existing fee they pay for the delivery of gasoline (\$60 payable for every 7,500 gallons of gasoline delivered). This discount reduction is expected to generate an addition \$3 million annually for the Leaking Underground Storage tank Fund.

General Appropriations to IEPA and IPCB. While the changes brought forth in the Budget Implementation Act are substantial, an equally substantial change, and one that is certainly subtler, is the subject of yet another piece of legislation, HB 3771, the appropriations bill for the IEPA and the Pollution Control Board.

Since the enactment of the Illinois Environmental Act in the early 1970's, these agencies' budgets were separate and independent, reflecting the separate and independent nature of their functions. Now, for the first time ever, the Pollution Control Board's budget has been included in the IEPA's budget and the share of general revenue that goes into that budget is minimal. In prior years, the Pollution Control Board was funded at about \$3 million dollars, with only about \$800,000 of that money coming from the general revenue fund (the rest came from the Environmental Protection Trust Fund, the Clean Air Act Fund, the Permit and Inspection Fund, the Used Tire Management Act Fund, and the Pollution Control Board Fund.) At least 75% of the entire Board allocation was used for personnel costs. Now, the Board is a line item in the IEPA budget — and a line item that's about \$1 million less than it was last year. (See Section 57 of HB 3771, entitled "the Pollution Control Board Division.") The expectation is that savings will be realized because the Board's administrative operations (fiscal, personnel, computers, etc.) can now be folded into the IEPA.

As for the IEPA, it's lost the majority of its general revenue funding. In years past, the IEPA received around \$22 million in general revenue dollars, which it used to fund its general "front office" costs and program costs that could not be earmarked to any particular federally or state statutorily derived program. Now,

it has been allocated only \$2,800,000 from the general revenue fund, and \$2 million of that amount is earmarked specially for the Agency's Green Illinois program (\$1 million) and the Agency's Household Hazardous Waste Collection Program (another \$1 million). The IEPA's regulatory programs are now almost entirely dependent on fees paid by the entities it regulates.

Impact. Obviously, the fees set forth above will have a major impact on all those municipalities, industries and companies who perform services or produce products that require environmental regulation. Industry lobbying was heavy but, regardless, industry was hit heavy. No doubt many of these fees will be passed along from the producer to the consumer. For this reason, along with a myriad of others, these fees are quite arguably a "tax." Whether each of these taxes is legal and/or constitutional, is a question that I leave for another article, another day or, better yet, since I'm no longer the Chairman of the Pollution Control Board but instead engaged in the private practice of law, the right client!

** Claire A. Manning of Posegate & Denes, P.C. is also the Former Chairman, Illinois Pollution Control Board and Member, ISBA Environmental Law Section Council*

Illinois Salutes 22 Businesses and Organizations for P2 Achievements

Governor Rod R. Blagojevich recently named 22 Illinois companies and organizations winners of the Governor's Pollution Prevention Awards for significant achievements in helping the environment and the economy. The 17th annual Governor's Pollution Prevention Awards were presented in Springfield during a luncheon hosted by the Waste Management and Research Center (WMRC), a division of the Illinois Department of Natural Resources.

The recipients reported Pollution Prevention (P2) projects with combined annual savings of \$13.4 million in material and disposal costs. The companies prevented nearly 127,500 tons of waste materials from being released into the environment and saved more than 40 million gallons of water from being sent to treatment facilities.

Applicants were judged in statewide competition on criteria including technological innovation, environmental significance, economic benefits and commitment to pollution prevention. WMRC pollution prevention engineers reviewed the applications, while the Illinois Environmental Protection Agency determined company environmental compliance.

The Innovate Illinois Award also was presented to International Truck and Engine Corporation during the Springfield event. International won the award for its Green Diesel Technology, an innovative integration of clean air technology and diesel performance made possible through years of product design and engineering. The new technology utilizes the benefits of a catalyzed diesel particulate filter and low-sulfur fuel in combination with an exclusive engine performance design that significantly lowers the emissions and odor of diesel-powered buses and trucks. The Innovate Illinois Award includes a scholarship provided by external sources, which is provided to a student at an Illinois college or university.

Information on the Governor's Pollution Prevention Awards program and technical assistance on pollution prevention are available from the Waste Management and Research Center, One East Hazelwood Drive, Champaign, IL 61820, phone 217/333-8940, www.wmrc.uiuc.edu.

A complete listing of the 2003 Illinois Governor's Pollution Prevention Awards recipients can be found on the LM-A&WMA website.



New Members (con't.)

Naren Prasad
Chicago Dept. of Environment

William Tokash
The Retec Group, Inc.

Loren Trick
Earth Tech

Maria Val-Martin

Tom Worthington
R. R. Donnelley & Sons Company

NJDEP'S Initiative (con't.)

efforts to remediate impacted properties and brownfields sites. Given the aggressive, adversarial nature of the natural resource matters pursued to date, parties will more carefully examine any voluntary work with NJDEP in light of the increased risks of adverse action.

The NJDEP's natural resource initiative imposes a new scheme upon private parties to advance alleged claims and recover damages. The ultimate success of the program depends upon the cooperation of targeted parties in accepting the unorthodox means of resolving natural resource damage liabilities and more important, if any such settlement makes overall business sense.

¹ E. Lynn Grayson is a Past Chair of the LM-A&WMA and a Partner in the Environmental, Energy and Natural Resources Group at Jenner & Block.



Lake Michigan States Section
Air & Waste Management Association
11 Pleasant Hill Blvd.
Palatine, IL 60067

RETURN SERVICE REQUESTED

**LAKE MICHIGAN
STATES SECTION
2003-04 OFFICERS &
DIRECTORS**

Chair: Diana Jagiella
Howard and Howard

Vice-Chair: Robert C. Wells
Wells Environmental Sys.

Secretary: James Harrington
McGuire Woods
Ross & Hardies

Treasurer: Dale Kalina
R. R. Donnelley and Sons Co.

Membership: Michael Reese
Boelter-Yates, Inc.

National Rep: Paul Farber
Sargent & Lundy

Outgoing Chair: Eric E. Boyd
Seyfarth Shaw

Directors:

Lawrence Fieber
Burns & McDonnell

George Nassos
Illinois Institute of Technology
Stuart Graduate School of Business

Mark Roach
Clean Air Engineering

Suresh Relwani
RK& Associates

Peter Scheff
University of Illinois @ Chicago
School of Public Health

Carol Schweiger
DUR-O-WAL

William D. Seith
Attorney at Law

Jeffrey Wentz
Baker Environmental, Inc.

Upcoming Events - Mark Your Calendars!

December 4, 2003 - 4:00 p.m.

Board of Directors Meeting
IIT Stuart - Chicago

December 4, 2003 - 5:00 p.m.

Annual Holiday Reception
IIT Stuart - Chicago

December 5, 2003 - 11:30 a.m.

Wetlands Initiative Luncheon (See invite on page 2)
Union League Club

January 20, 2004

Managing Your Air Permit (Sponsored by IERG and IEPA)
Northfield Inn & Suites
Springfield, Illinois

February 13, 2004 - Half Day

Technical Tools for Air Compliance Management
Willowbrook Holiday Inn (tentative)
Willowbrook, Illinois

March 25, 2004 - Full Day

CICI RCRA Conference (Co-sponsored by LM-A&WMA & CECI)
Naperville Holiday Inn (tentative)
Naperville, Illinois

