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# Environmental Register

May 2009 - Number 659

The Environmental Register is a Publication of the Illinois Pollution Control Board

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G. Tanner Girard, Acting Chairman

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# Letter from the Chairman

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During May, the Board continued to progress on a number of open rulemaking dockets. The Board adopted some air rules, while proceeding to second notice in dockets which have been expedited. The Board continued to hold hearings in R08-9, Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304 217, holding the 29<sup>th</sup> day of hearings since the rulemaking was proposed on October 26, 2007. Below, I've summarized other recent activity. More specific information about these proceedings is available through the Clerk's Office Online (COOL) on our Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

R07-19 Section 27 Proposed Rules for Nitrogen Oxide (NO<sub>x</sub>) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Parts 211 and 217: On May 21, 2009, the Board adopted a second-notice opinion and order.

R08-9 Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304 217: The Board held three additional days of hearing in May and has scheduled additional days of hearing in Chicago during July and August.

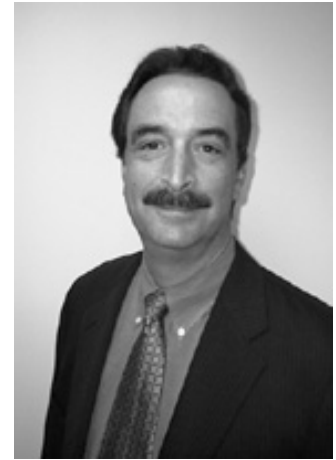
R08-17 Standards and Limitations for Organic Material Emissions for Area Sources Proposed New 35 Ill. Adm. Code Part 223: On May 7, 2009, after the Joint Committee on Administrative Rules (JCAR) issued a "Certificate of No Objection," the Board approved a final order adopting these regulations.

R08-19 Nitrogen Oxides Emissions From Various Source Categories, Amendments to 35 Ill. Adm. Code Parts 211 and 217: At its meeting on May 7, 2009, the Board adopted a first-notice opinion and order. *See* 33 Ill. Reg. 6896, 6921 (May 22, 2009).

R09-8 In the Matter of: Proposed Site Specific Rule for City of Springfield, Illinois, Office of Public Utilities, City Water, Light and Power, and Springfield Metro Sanitary District From 35 Ill. Adm. Code Section 302.208(g): On May 21, 2009, after JCAR issued a Certificate of No Objection, the Board approved a final order adopting this site-specific rule.

R09-20 In the Matter of: Nitrogen Oxide (NO<sub>x</sub>) Trading Program Sunset Provisions for Electric Generating Units (EGU's): New 35 Ill. Adm. Code 217.751: At its meeting on May 7, 2009, the Board accepted this rulemaking proposal filed by the Illinois Environmental Protection Agency and authorized first-notice publication of the proposal without comment on its substantive merits. Hearing will take place June 18, 2009, in Chicago and July 23, 2009, in Springfield.

The Board welcomes citizen participation in environmental rulemaking. More information can be found on our website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).



Sincerely,

A handwritten signature in black ink that reads "G. Tanner Girard". The signature is written in a cursive, flowing style.

Dr. G. Tanner Girard

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## Rulemaking Update

### **Board Adopts Final Rules In the Matter of: Proposed New 35 Ill. Adm. Code Part 223 Standards and Limitations for Organic Material Emissions for Area Sources (R08-17)**

The Illinois Pollution Control Board, on May 7, 2009, adopted final rules amending its air pollution regulations. The rules are based on the January 2, 2008, the Illinois Environmental Protection Agency (IEPA) rulemaking proposal docketed as In the Matter of: Proposed New 35 Ill. Adm. Code Part 223 Standards and Limitations for Organic Material Emissions for Area Sources (R08-17). The final rules are intended to reduce emissions of volatile organic material (VOM or VOC) from various product categories.

In an October 16, 2008 first-notice opinion and order, the Board proposed to regulate VOM emissions from consumer and commercial products and architectural and industrial maintenance products. In its March 19, 2009 second notice order, the Board extended the implementation date to July 1, 2009 in response to public comment.

The Board's final rules make only three specific technical changes recommended by the Joint Committee on Administrative Rules (JCAR). JCAR voted on April 21, 2009 to issue a certificate of no objection to these rules.

Copies of the Board's and hearing officer's orders may be obtained by calling the Clerk's office at 312-814-3620, or by downloading copies from the Board's Website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

### **Board Adopts Expedited First Notice Proposal After Hearings in In the Matter of: Amendments to 35 Ill. Adm. Code 217, Nitrogen Oxides Emissions, and 35 Ill. Adm. Code 211 (R08-19)**

The Illinois Pollution Control Board, on May 7, 2009 adopted a first notice opinion and order proposing to amend Parts 211 and 217 of the Board's air pollution regulations. The rules are based on the May 9, 2008 Illinois Environmental Protection Agency (IEPA) proposal, docketed as In the Matter of: Amendments to 35 Ill. Adm. Code 217, Nitrogen Oxides Emissions, and 35 Ill. Adm. Code 211 (R08-19). On April 2, 2009, the Board by order agreed to expedite this proceeding to facilitate State submission to the United States Environmental Protection Agency of an approvable State Implementation Plan (SIP) for ozone attainment; nitrogen oxides (NO<sub>x</sub>) is one of the two primary precursors for the formation of ozone. *See* Environmental Register, No. 658 at pp.2-3 (Aor. 2009).

The first notice proposal reflects comments the Board received at the three hearings held on the proposal, and includes IEPA's January 30, 2009 and March 23, 2009 amendments to the proposal based on negotiations with interested parties.

Generally, the proposed amendments will control emissions from major stationary sources in nonattainment areas, and from emission units including industrial boilers, process heaters, glass melting furnaces, cement kilns, lime kilns, furnaces used in steelmaking and aluminum melting, and fossil fuel-fired stationary boilers at such sources.

The IEPA states that it intends proposal to satisfy Illinois' obligation to submit a SIP to address the requirements under the federal Clean Air Act for major stationary sources of NO<sub>x</sub> in areas designated as nonattainment with respect to National Ambient Air Quality Standards.

Publication of these proposed amendments in the *Illinois Register* will begin a 45-day public comment period.

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Copies of the Board's and hearing officer's orders may be obtained by calling the Clerk's office at 312-814-3620, or by downloading copies from the Board's Website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

For additional information contact Tim Fox at 312-814- 6085; e-mail address [foxt@ipcb.state.il.us](mailto:foxt@ipcb.state.il.us).

### **In the Matter of: Nitrogen Oxide (NOx) Trading Program Sunset Provisions for Electric Generating Units (EGUs): New 35 Ill. Adm. Code 217.751 (R09-20)**

On May 7, 2009, the Illinois Pollution Control Board accepted for hearing and authorized first notice publication, without comment on the merits, of an April 21, 2009 Illinois Environmental Protection Agency (IEPA) proposal that would sunset the provisions of the Nitrogen Oxides (NOx) Trading Program rules for electrical generating units (EGUs). The rulemaking proposal is docketed as In the Matter of: Nitrogen Oxide (NOx) Trading Program Sunset Provisions for Electric Generating Units (EGUs): New 35 Ill. Adm. Code 217.751. Along with this proposal, IEPA filed a motion for expedited review requesting immediate first notice publication and the scheduling of hearings as soon as possible.

In its statement of reasons, the IEPA states that Illinois adopted both the NOx rules at 35 Ill. Adm. Code Part 217 and the Clean Air Interstate Rule (CAIR) at 35 Ill. Adm. Code Part 225 after adoption of similar rules by the United States Environmental Protection Agency (USEPA). USEPA has approved both sets of rules for inclusion in the State Implementation Plan (SIP) for ozone attainment. As do the USEPA rules, the CAIR provisions as set forth in 35 Ill. Code Part 225.Subpart E include a trading program for control of NOx emissions during the ozone season that replaces the provisions in Part 217.Subpart W for EGUs beginning with the 2009 control period (May 1 through September 30) and thereafter.

But, due to a federal court ruling concerning the federal CAIR rules in *North Carolina v. USEPA*, 531 F.3d 896 (C.A.D.C. Cir. 2008), USEPA must take additional action concerning its rules. To solve the problem, in 40 CFR 51.123(bb)(1)(i), USEPA has provided that states such as Illinois with approved CAIR programs may revise their applicable SIP so that the provisions of the NOx SIP Call Trading Program do not apply to affected EGUs.

IEPA's proposal requesting the Board to amend the Illinois rules is the first step to revision of the SIP. IEPA correctly states that EGUs must comply with two sets of duplicative administrative requirements for the 2009 ozone season and beyond: the CAIR requirements at Part 225 and the Illinois NOx Trading Program at Part 217. To address and remove the duplication, the IEPA proposes to sunset the provisions of the NOx Trading Program, by adding a new Part 217.751 to sunset the rules beginning with the 2009 ozone control season.

The Board denied the motion for expedited consideration, but authorized first-notice publication of the proposal without comment on the proposal's merits. The Board stated that it simply cannot grant expedited consideration to every rulemaking, noting that it was currently giving expedited treatment to three other air rulemakings. Hearings are scheduled for June 18, 2009 in Chicago and July 23, 2009 in Springfield. Procedural details concerning the pre-filing of testimony are contained in a May 13, 2009 hearing officer order.

Publication of these proposed amendments in the *Illinois Register* will begin a 45-day public comment period, during which anyone may file a public comment with the Board. The Board encourages persons to file public comments on these proposed amendments. The docket number for this rulemaking, R09-20, should be included on any public comment.

Public comments must be filed with the Clerk of the Board at the following address:

Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street, Suite 11-500  
Chicago, IL 60601

In addition, public comments may be filed electronically through COOL at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629

Copies of the Board's and hearing officer's orders may be obtained by calling the Clerk's office at 312-814-3620, or by downloading copies from the Board's Website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

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For more information contact Kathleen Crowley at 312-814-6929 or email at [crowlek@ipcb.state.il.us](mailto:crowlek@ipcb.state.il.us).

### **Board Adopts Second Notice Proposal in In the Matter of: Section 27 Proposed Rules for Nitrogen Oxide (NO<sub>x</sub>) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Parts 211 and 217 (R07-19)**

On May 21, 2009, the Illinois Pollution Control Board adopted for second notice review by the Joint Committee on Administrative Rules amendments to its regulations governing emission of nitrogen oxides (NO<sub>x</sub>). The amendments are based on a 2007 Illinois Environmental Protection Agency (IEPA) proposal docketed as In the Matter of: Section 27 Proposed Rules for Nitrogen Oxide (NO<sub>x</sub>) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Parts 211 and 217 (R07-19). On April 2, 2009, the Board by order agreed to expedite this proceeding to facilitate State submission to the United States Environmental Protection Agency of an approvable State Implementation Plan (SIP) for ozone attainment; nitrogen oxides (NO<sub>x</sub>) is one of the two primary precursors for the formation of ozone. *See* Environmental Register, No. 658 at pp.2-3 (Aor. 2009).

The second-notice amendments are intended to control NO<sub>x</sub> emissions from engines and turbines located at 100 ton per year sources located in the Greater Chicago and Metro East/St. Louis nonattainment areas with a capacity of 500 brake horsepower or 3.5 megawatts. The IEPA stated that the proposed regulations would help Illinois meet Clean Air Act requirements for NO<sub>x</sub> reasonably available control technology under the eight-hour National Ambient Air Quality Standard for ozone and would also improve air quality by reducing precursors of fine particulate matter.

On January 10, 2008, the Board granted a motion by IEPA to proceed with an amended proposal in this rulemaking. The Board has held two public hearings on the amended proposal.

Copies of the Board's and hearing officer's orders may be obtained by calling the Clerk's office at 312-814-3620, or by downloading copies from the Board's Website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

### **Board Adopts Final Rules in In the Matter of: Proposed Site Specific Rule for City of Springfield, Illinois, Office of Public Utilities, City, Water, Light and Power and Springfield Metro Sanitary District From 35 Ill. Adm. Code Section 302.208(g) (R09-8)**

The Illinois Pollution Control Board, on May 21, 2009, adopted final rules in an opinion and order in In the Matter of Proposed Site Specific rule for City of Springfield, Illinois, Office of Public Utilities, City, Water Light and Power and Springfield Metro Sanitary District from 35 Ill. Adm. Code Section 302.208(g), R09-8 (Apr. 2, 2009).

On August 29, 2008, the City of Springfield, Office of Public Utilities, City Water, Light, and Power (CWLP), and Springfield Metro Sanitary District (District) proposed this site-specific rulemaking for alternative water quality standards for boron. The Board held hearings on November 3 and December 16, 2008.

The adopted rule establishes an alternative water quality standard for boron from the point of discharge at Outfall 007 from the District's Spring Creek Sanitary Treatment Plant to the Sangamon River, to the confluence with the Illinois River, and in the Illinois River 100 yards downstream from confluence of the Sangamon River. Section 302.208(g) (35 Ill. Adm. Code 302.208(g)) of the Board's water quality rules sets a general use boron water quality standard of 1.0 milligrams per liter (mg/L) and Section 304.105 (35 Ill. Adm. Code 304.105)) of the Board's rules provides that the District's discharge cannot violate that standard. The Board has not adopted an effluent standard for boron; nor has the Illinois Environmental Protection Agency imposed an effluent limit on the District's discharge from Outfall 7 in the District's National Pollutant Discharge Elimination Permit (NPDES).

The Board found that the rule as proposed is technically feasible, economically reasonable, protective of human health and the environment. The site specific rule will enable the District to accept pretreated industrial effluent from CWLP's power plant. CWLP's power plant effluent causes increased boron levels in the effluent stream and is necessary to meet the power needs for the City of Springfield and surrounding communities. This site specific rule allows CWLP to operate the power plants in compliance with the NPDES permits and State and Federal air regulations.

Copies of the Board's and hearing officer's orders may be obtained by calling the Clerk's office at 312-814-3620, or by downloading copies from the Board's Website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

## Board Actions

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**May 7, 2009**

**Via Video Conference**

**Springfield and Chicago, Illinois**

### Rulemakings

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|---------------|---|------------|
| <b>R08-17</b> | <u>In the Matter of: Standards and Limitations for Organic Material Emissions for Area Sources Proposed New 35 Ill. Adm. Code Part 223</u> – The Board adopted a final opinion and order in this rulemaking amending the Board's air pollution control regulations.   | 5-0<br>Air |
| <b>R08-19</b> | <u>In the Matter of: Nitrogen Oxides Emissions From Various Source Categories, Amendments to 35 Ill. Adm. Code Parts 211 and 217</u> – The Board adopted a first notice opinion and order in this rulemaking to amend the Board's air pollution control regulations.  | 5-0<br>Air |
| <b>R09-20</b> | <u>In the Matter of: Nitrogen Oxide (NOx) Trading Program Sunset Provisions for Electric Generating Units (EGU's): New 35 Ill. Adm. Code 217.751</u> – The Board accepted for hearing the Illinois Environmental Protection Agency's April 21, 2009 proposal to amend the Board's air pollution control regulations. The Board also authorized a first notice proposal for publication, without comments on the merits, and denied the motion for expedited decision. | 5-0<br>Air |

### Administrative Citations

- |                 |  |     |
|-----------------|--|-----|
| <b>AC 09-34</b> | <u>IEPA v. Jack Campbell</u> – The Board found that this White County respondent violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1),(p)(7) (2006)), and ordered respondent to pay a civil penalty of \$3,000.  | 5-0 |
| <b>AC 09-36</b> | <u>County of Sangamon v. Landers' Children Family, LLC</u> – The Board found that this Sangamon County respondent violated Sections 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2006)), and ordered respondent to pay a civil penalty of \$4,500. | 5-0 |
| <b>AC 09-38</b> | <u>IEPA v. Thomas, Wayne and Valerie Hill</u> – The Board found that these Union County respondents violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1),(p)(7) (2006)), and ordered respondents to pay a civil penalty of \$1,500.  | 5-0 |
| <b>AC 09-39</b> | <u>IEPA v. Donald Sapp</u> – The Board directed respondent to file an amended petition for review on or before June 8, 2009, or this action will be subject to dismissal.  | 5-0 |

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**Adjudicatory Cases**

<b>PCB 04-116</b>	<u>Oasis Industries, Inc. v. IEPA</u> – The Board granted this Kane County facility’s motion for voluntary dismissal of this permit appeal.	5-0 P-A, Air
<b>PCB 07-146</b>	<u>Fox Moraine, LLC v. United City of Yorkville, City Council: Kendall County, Intervenor</u> – The Board granted petitioner’s motion to “check out” a copy of the record for use in writing its closing brief. The record must be returned by petitioner on June 12, 2009.	5-0 P-C-F-S-R
<b>PCB 08-12</b>	<u>Loretta Thigpen v. Morton Mobile Home Park, LLC, d/b/a Edgewood Terrace Mobile Home Park</u> – The Board granted this Tazewell County complainant’s motion for voluntary dismissal of this citizen’s enforcement action.	5-0 W-E, Citizens
<b>PCB 08-45</b>	<u>People of the State of Illinois v. Distinctive Homes, Ltd and Distinctive Companies, Ltd.</u> – In this water enforcement action concerning a Cook County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2006)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$10,000, and to cease and desist from further violations.	5-0 W-E
<b>PCB 08-62</b>	<u>People of the State of Illinois v. Carri Scharf Materials Company, d/b/a Farmdale Sand &amp; Gravel Pit</u> – In this water enforcement action concerning a Tazewell County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2006)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$7,000, and to cease and desist from further violations.	5-0 W-E
<b>PCB 09-16</b>	<u>People of the State of Illinois v. MII, Inc.</u> – In this water enforcement action concerning a Cook County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2006)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$15,000, and to cease and desist from further violations. Respondent also agreed to pay investigative costs in the amount of \$10,000.	5-0 L,N-E
<b>PCB 09-25</b>	<u>City of Joliet v. IEPA</u> – The Board denied petitioner’s motion to strike portions of respondent’s response brief and affirmed respondent’s September 12, 2008 denial of petitioner’s requested permit modification.	4-1 Johnson dissented P-A, Water
<b>PCB 09-36</b>	<u>Apollo Plastics Corporation v IEPA</u> – The Board granted this Cook County facility’s motion for voluntary dismissal of this permit appeal.	5-0 P-A, Air
<b>PCB 09-44</b>	<u>Apollo Plastics Corporation v IEPA</u> – The Board granted this Cook County facility’s motion for voluntary dismissal of this permit appeal.	5-0 P-A, Air
<b>PCB 09-48</b>	<u>Dynegy Midwest Generation v. IEPA</u> – The Board grants petitioner a variance for a period beginning July 1, 2009 until March 31, 2010 from the requirements of Sections 35 Ill. Adm. Code 225.233(c)(1 )(A), 225.233(c)(2), 225.233(c)(5), and 225.210(b) and (d), subject to the conditions.	5-0 A-V

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<b>PCB 09-66</b>	<u>Elmhurst Memorial Healthcare and Elmhurst Memorial Hospital v. Chevron U.S.A., Inc.</u> – The Board found that the complaint was neither duplicative nor frivolous and accepted for hearing this citizen’s land enforcement action involving a site located in DuPage County.	5-0 Citizens L-E
<b>PCB 09-67</b>	<u>Prime Location Properties, LLC v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Massac County facility.	5-0 UST Appeal
<b>PCB 09-73</b>	<u>People of the State of Illinois v. Summer Ridge, L.L.C. and Stark Excavating, Inc.</u> – In this water enforcement action concerning a Peoria County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2006)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$15,000, and to cease and desist from further violations.	5-0 W-E
<b>PCB 09-82</b>	<u>Sangamon Prairie Pork Farm - Williamsville v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Sangamon Prairie Pork Farm located in Sangamon County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
<b>PCB 09-83</b>	<u>North Fork Pork, LLC - West Point v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of North Fork Pork, LLC located in Hancock County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
<b>PCB 09-84</b>	<u>Red Oak Hills, LLC - New Salem v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Red Oak Hills, LLC located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
<b>PCB 09-85</b>	<u>Dan Reed - Illinois City v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Dan Reed located in Rock Island County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
<b>PCB 09-86</b>	<u>Red Oak Hills, LLC - Newman v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Red Oak Hills, LLC located in Douglas County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
<b>PCB 09-87</b>	<u>Dickerson Petroleum, Inc. v. IEPA</u> – The Board directed petitioner to file an amended petition on or before June 8, 2009, or this action will be subject to dismissal.	5-0 UST Appeal



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<b>PCB 09-88</b>	<u>Deer View LLC - West Point v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Deer View LLC located in Hancock County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
<b>PCB 09-89</b>	<u>Lone Hollow, LLC - Bowen v. IEPA</u> – <u>Deer View LLC - West Point v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Lone Hollow, LLC located in Hancock County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
<b>PCB 09-90</b>	<u>Wildcat Farms, LLC - Dallas City v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Wildcat Farms, LLC located in Hancock County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
<b>PCB 09-91</b>	<u>People of the State of Illinois v. Ken Rawson, individually</u> – Board accepted for hearing this water enforcement action involving a site located in McHenry County.	5-0 W-E
<b>PCB 09-92</b>	<u>Dynegy Midwest Generation (Tilton Energy Center) v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Vermillion County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.	5-0 P-A, Air
<b>PCB 09-93</b>	<u>Ameren Energy Generating Company and Gibson City Power Plant v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Ford County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.	5-0 P-A, Air
<b>PCB 09-94</b>	<u>Ameren Energy Generating Company, Electric Energy, Inc., and Midwest Electric Power, Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Massac County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.	5-0 P-A, Air
<b>PCB 09-95</b>	<u>Ameren Energy Generating Company and Venice Power Plant v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Madison County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.	5-0 P-A, Air
<b>PCB 09-96</b>	<u>Holland Energy, LLC v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Shelby County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.	5-0 P-A, Air
<b>PCB 09-97</b>	<u>Ameren Energy Generating Company and Elgin Energy Center v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Cook County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.	5-0 P-A, Air
<b>PCB 09-98</b>	<u>Amerenue and Raccoon Creek Power Plant v. IEPA</u> – The Board accepted for	5-0

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	hearing this permit appeal involving a Clay County facility. No action was taken on petitioner's motion for partial stay of specified conditions in the construction permit.	P-A, Air
<b>PCB 09-99</b>	<u>Union Electric Company d/b/a Amerenue and Goose Creek Power Plant v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Cook County facility. No action was taken on petitioner's motion for partial stay of specified conditions in the construction permit.	5-0 P-A, Air
<b>PCB 09-100</b>	<u>Union Electronic Company d/b/a Amerenue and Kinmundy Power Plant v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Marion County facility. No action was taken on petitioner's motion for partial stay of specified conditions in the construction permit.	5-0 P-A, Air
<b>PCB 09-101</b>	<u>Ameren Energy Generating Company and Grand Tower Power Plant v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Jackson County facility. No action was taken on petitioner's motion for partial stay of specified conditions in the construction permit.	5-0 P-A, Air
<b>PCB 09-103</b>	<u>Sangamon Prairie Port Farm – Williamsville v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Sangamon Prairie Pork Farm located in Sangamon County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
<b>PCB 09-104</b>	<u>People of the State of Illinois v. Village of Rockton</u> – The Board accepted for hearing this water enforcement action involving a site located in Winnebago County.	5-0 W-E

### **May 21, 2009 Via Video Conference Springfield and Chicago, Illinois**

#### **Rulemakings**

<b>R07-19</b>	<u>In the Matter of : Section 27 Proposed Rules for Nitrogen Oxide (NOx) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Parts 211 and 217</u> – The Board adopted a second notice opinion and order in this rulemaking to amend the Board's air pollution control regulations.	5-0 Air
<b>R09-8</b>	<u>In the Matter of: Proposed Site Specific Rule for City of Springfield, Illinois, Office of Public Utilities, City Water, Light and Power and Springfield Metro Sanitary District From 35 Ill. Adm. Code Section 302.208(g)</u> – The Board adopted a final opinion and order in this rulemaking amending the Board's water pollution control regulations.	5-0 Water

## Adjusted Standards

<b>AS 09-3</b>	<u>In the Matter of: Petition of Westwood Lands, Inc. for an Adjusted Standard from Portions of 35 Ill. Adm. Code 807.104 and 35 Ill. Adm. Code 810.103 or in the Alternative, a Finding of Inapplicability</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies on or before June 22, 2009, the first business day after the 30th day after this order, or the petition would be subject to dismissal. The Board denied petitioner’s motion for expedited review.	5-0 Land
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## Administrative Citations

<b>AC 07-30</b>	<u>IEPA v. Bobby G. Myers and Donald D. Myers</u> – The Board entered an interim opinion and order finding respondents violated Sections 21(p)(1) and (p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3) (2006)) and assessed a penalty of \$3,000. The Board ordered the Clerk of the Board and the Illinois Environmental Protection Agency to file on or before June 22, 2009, a statement of hearing costs, supported by affidavit, with service on respondent. Respondents may respond to the cost statement within 21 days of service of those statements.	5-0
<b>AC 09-24</b>	<u>IEPA v. Quinn &amp; Glenna Hunley</u> – The Board granted respondents’ motion to withdraw and dismissed their amended petition to contest the administrative citation. The Board found that these respondents violated Sections 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2006)) and assessed a penalty of \$1,500 in this administrative citation involving a Edwards County facility.	5-0

## Adjudicatory Cases

<b>PCB 08-17</b>	<u>People of the State of Illinois v. Felker Pharmacy, Inc., and Rod Bennett Construction, Inc.</u> – In this water enforcement action concerning a Lee County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2006)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$7,500, and to cease and desist from further violations.	5-0 W-E
<b>PCB 09-20</b>	<u>People of the State of Illinois v. Lewis Development, LLC</u> – In this water enforcement action concerning a Peoria County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2006)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$7,500, and to cease and desist from further violations.	5-0 W-E
<b>PCB 09-32</b>	<u>People of the State of Illinois v. Whalen Manufacturing Company, an Illinois corporation, and Yetter Manufacturing Company</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a McDonough County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
<b>PCB 09-62</b>	<u>John Tarkowski v. IEPA</u> – The Board dismissed this petition for hearing because of petitioner’s failure to file proof of proper service on respondent.	5-0 A-E

## Environmental Register – May 2009

<b>PCB 09-105</b>	<u>People of the State of Illinois v. R. A. Cullinan &amp; Sons, Inc.</u> – The Board accepted for hearing this land enforcement action involving a site located in Tazewell County.	5-0 L-E
<b>PCB 09-106</b>	<u>BP Products North America, Inc. - Main Plant v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Madison County facility.	5-0 P-A, Water 90-Day Extension
<b>PCB 09-107</b>	<u>People of the State of Illinois v. Tate and Lyle Ingredients Americas, Inc.</u> – The Board accepted for hearing this air enforcement action involving a site located in Macon County.	5-0 A-E
<b>PCB 09-108</b>	<u>People of the State of Illinois v. Apollo Plastics Corporation</u> – The Board accepted for hearing this air enforcement action involving a site located in Cook County.	5-0 A-E
<b>PCB 09-109</b>	<u>Mertz Motor Co. v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Madison County facility.	5-0 UST Appeal 90-Day Extension

## New Cases

### May 7, 2009 Board Meeting

**09-82** Sangamon Prairie Pork Farm - Williamsville v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Sangamon Prairie Pork Farm located in Sangamon County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

**09-83** North Fork Pork, LLC - West Point v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of North Fork Pork, LLC located in Hancock County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

**09-84** Red Oak Hills, LLC - New Salem v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Red Oak Hills, LLC located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

**09-85** Dan Reed - Illinois City v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Dan Reed located in Rock Island County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

**09-86** Red Oak Hills, LLC - Newman v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Red Oak Hills, LLC located in Douglas County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

**09-87** Dickerson Petroleum, Inc. v. IEPA – The Board directed petitioner to file an amended petition on or before June 8, 2009, or this action will be subject to dismissal.

**09-88** Deer View LLC - West Point v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Deer View LLC located in Hancock

## Environmental Register – May 2009

County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

**09-89** Lone Hollow, LLC - Bowen v. IEPA – Deer View LLC - West Point v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Lone Hollow, LLC located in Hancock County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

**09-90** Wildcat Farms, LLC - Dallas City v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Wildcat Farms, LLC located in Hancock County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

**09-91** People of the State of Illinois v. Ken Rawson, individually – Board accepted for hearing this water enforcement action involving a site located in McHenry County.

**09-92** Dynergy Midwest Generation (Tilton Energy Center) v. IEPA – The Board accepted for hearing this permit appeal involving a Vermillion County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

**09-93** Ameren Energy Generating Company and Gibson City Power Plant v. IEPA – The Board accepted for hearing this permit appeal involving a Ford County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

**09-94** Ameren Energy Generating Company, Electric Energy, Inc., and Midwest Electric Power, Inc. v. IEPA – The Board accepted for hearing this permit appeal involving a Massac County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

**09-95** Ameren Energy Generating Company and Venice Power Plant v. IEPA – The Board accepted for hearing this permit appeal involving a Madison County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

**09-96** Holland Energy, LLC v. IEPA – The Board accepted for hearing this permit appeal involving a Shelby County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

**09-97** Ameren Energy Generating Company and Elgin Energy Center v. IEPA – The Board accepted for hearing this permit appeal involving a Cook County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

**09-98** Amerenue and Raccoon Creek Power Plant v. IEPA – The Board accepted for hearing this permit appeal involving a Clay County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

**09-99** Union Electric Company d/b/a Amerenue and Goose Creek Power Plant v. IEPA – The Board accepted for hearing this permit appeal involving a Cook County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

**09-100** Union Electronic Company d/b/a Amerenue and Kinmundy Power Plant v. IEPA – The Board accepted for hearing this permit appeal involving a Marion County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

**09-101** Ameren Energy Generating Company and Grand Tower Power Plant v. IEPA – The Board accepted for hearing this permit appeal involving a Jackson County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.

**09-102** Peter Arendovich v. the Illinois State Toll Highway Authority – No action taken.

**09-103** Sangamon Prairie Port Farm – Williamsville v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Sangamon Prairie Pork Farm located in Sangamon County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

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**09-104** People of the State of Illinois v. Village of Rockton – The Board accepted for hearing this water enforcement action involving a site located in Winnebago County.

**AC 09-40** IEPA v. Thomas and Valerie Hill – The Board accepted an administrative citation against these Union County respondents.

### May 21, 2009 Board Meeting

**09-105** People of the State of Illinois v. R. A. Cullinan & Sons, Inc. – The Board accepted for hearing this land enforcement action involving a site located in Tazewell County.

**09-106** BP Products North America, Inc. - Main Plant v. IEPA – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Madison County facility.

**09-107** People of the State of Illinois v. Tate and Lyle Ingredients Americas, Inc. – The Board accepted for hearing this air enforcement action involving a site located in Macon County.

**09-108** People of the State of Illinois v. Apollo Plastics Corporation – The Board accepted for hearing this air enforcement action involving a site located in Cook County.

**09-109** Mertz Motor Co. v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Madison County facility.

**AC 09-41** IEPA v. Mark A. Lewis – The Board accepted an administrative citation against this Clay County respondent.

**AC 09-42** IEPA v. Brian Collins – The Board accepted an administrative citation against this Franklin County respondent.

**AC 09-43** IEPA v. The Blickhan Family Corporation, Inc. & Blick's Construction Co. Inc – The Board accepted an administrative citation against these Adams County respondents.

**AC 09-44** IEPA v. Gordon Investment Group, LLC – The Board accepted an administrative citation against this McDonough County respondent.

**AC 09-45** IEPA v. Stanley Mouser – The Board accepted an administrative citation against this Alexander County respondent.

**AC 09-46** IEPA v. C. John Blickhan – The Board accepted an administrative citation against this Adams County respondent.

## Calendar

<b>6/4/09 11:00 AM</b>	<b>Illinois Pollution Control Board Meeting</b>		<b>James R. Thompson Center 100 W. Randolph Street Chicago</b>
6/17/09 9:30 AM	PCB 09-67	<u>Prime Location Properties, LLC v. IEPA</u>	Illinois Pollution Control Board Hearing Room 1021 N. Grand Avenue East, North Entrance Springfield

Environmental Register – May 2009

<p><b>6/18/09</b> 11:00 AM</p>	<p><b>Illinois Pollution Control Board Meeting</b></p>		<p><b>Videconference</b>   <b>James R. Thompson Center</b>  <b>100 W. Randolph Street</b>  <b>Chicago</b>  <b>And</b>  <b>Illinois Pollution Control Board</b>  <b>Hearing Room (1244 N, First</b>  <b>Floor)</b>  <b>1021 N. Grand Avenue East</b>  <b>(North Entrance)</b>  <b>Springfield</b></p>
<p>6/23/09 9:00 AM</p>	<p>PCB 09-38</p>	<p><u>Ameren Energy Generating Company v. IEPA</u></p>	<p>City Hall County Chambers 120 E. Ryder Street Litchfield</p>
<p>6/29/09 9:00 AM</p>	<p>PCB 04-16</p>	<p><u>People of the State of Illinois v. Packing Personified, Inc., and Illinois corporation</u></p>	<p>City Hall Council Room 2<sup>nd</sup> Floor 209 North York Street Elmhurst</p>
<p>6/30/09 9:00 AM</p>	<p>PCB 04-16</p>	<p><u>People of the State of Illinois v. Packing Personified, Inc., and Illinois corporation</u></p>	<p>City Hall Council Room 2<sup>nd</sup> Floor 209 North York Street Elmhurst</p>
<p>7/16/09 9:30 AM</p>	<p>PCB 05-14</p>	<p><u>People of the State of Illinois v. Michael Collins, d/b/a C &amp; R Construction</u></p>	<p>St. Clair County Building Room 402 10 Public Square Belleville</p>
<p><b>7/23/09</b> 11:00 AM</p>	<p><b>Illinois Pollution Control Board Meeting</b></p>		<p><b>Videconference</b>   <b>James R. Thompson Center</b>  <b>100 W. Randolph Street</b>  <b>Chicago</b>  <b>And</b>  <b>Illinois Pollution Control Board</b>  <b>Hearing Room (1244 N, First</b>  <b>Floor)</b>  <b>1021 N. Grand Avenue East</b>  <b>(North Entrance)</b>  <b>Springfield</b></p>
<p>7/23/09 1:00 PM</p>	<p>R09-20</p>	<p><u>In the Matter of: Nitrogen Oxide (NOx) Trading Program Sunset Provisions for electric Generating Units (EGU's): News 35 Ill. Adm. Code 217.751</u></p>	<p>IEPA Office Building Room 1244N, First Floor 1021 North Grand Avenue East Springfield</p>

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<p>7/28/09 9:00 AM</p>	<p>R08-09</p>	<p><u>In the Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304</u></p> <p><b>(Continues until complete or through July 29, 2009)</b></p>	<p>Michael Bilandic Building Room N-502 160 N. LaSalle Chicago</p>
<p><b>8/6/09 11:00 AM</b></p>	<p><b>Illinois Pollution Control Board Meeting</b></p>		<p><b>James R. Thompson Center 100 W. Randolph Street Chicago And</b></p>
<p>8/13/09 9:00 AM</p>	<p>R08-09</p>	<p><u>In the Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304</u></p>	<p>Michael Bilandic Building Room N-505 160 N. LaSalle Chicago</p>
<p>8/14/09 9:00 AM</p>	<p>R08-09</p>	<p><u>In the Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304</u></p>	<p>James R. Thompson Center Room 9-031 100 W. Randolph Chicago</p>
<p><b>8/20/09 11:00 AM</b></p>	<p><b>Illinois Pollution Control Board Meeting</b></p>		<p><b>James R. Thompson Center 100 W. Randolph Street Chicago</b></p>
<p>8/26/09 9:30 AM</p>	<p>PCB 07-45</p>	<p><u>People of the State of Illinois v. General Waste Services, Inc., and Illinois corporation</u></p>	<p>St. Clair County Building Room 402 10 Public Square Belleville</p>





The Illinois Pollution Control Board is an independent five-member board that adopts environmental control standards, rules on enforcement actions, and other environmental disputes for the State of Illinois.

The *Environmental Register* is published monthly by the Board, and contains updates on rulemakings, descriptions of final decisions, the Board's hearing calendar, and other environmental law information.

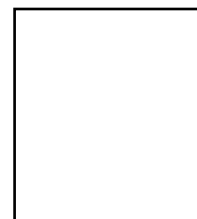
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