
Environmental Register

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

Thomas Holbrook, Chairman

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Letter from the Chairman

During May, the Board acted in several rulemaking dockets, and I've summarized that activity below. As always, information about these rulemakings is available through the Clerk's Office Online (COOL) at our Web site at www.ipcb.state.il.us.

On May 3, 2012, the Board issued its final opinion and order in Standards and Limitations for Organic Material Emissions for Area Sources; Amendments to 35 Ill. Adm. Code Part 223 (R12-8). The Board adopted rules based on an Illinois Environmental Protection Agency proposal to reduce emissions of volatile organic material (VOM) from various consumer and commercial products and aerosol coatings.

On May 17, 2012, the Board adopted a second-notice opinion and order in Setback Zone for Fayette Water Company Community Water Supply; Amendments to 35 Ill. Adm. Code 618 (R11-25). The proposal would establish a maximum setback zone for six wells owned by the Fayette Water Company in Fayette County and would also reorganize Part 618 to accommodate future establishment of any additional maximum setback zones.

On May 18, 2012, the Board first-notice proposal in Tiered Approach to Corrective Action Objectives (TACO) (Indoor Inhalation): Amendments to 35 Ill. Adm. Code 742 (R11-9) appeared in the *Illinois Register*. 36 Ill. Reg. 7340 (May 18, 2012). In its first-notice opinion and order, the Board proposed a new exposure route under TACO: indoor inhalation. To protect building occupants, this exposure route addresses the potential for vapors to migrate into buildings from underlying volatile chemicals in soil or groundwater.

On May 18, 2012, the Board's first-notice proposal in Gasoline Volatility Standards and Motor Vehicle Refinishing; Proposed Amendments to 35 Ill. Adm. Code Parts 211, 215, 218, and 219 (R12-24) appeared in the *Illinois Register*. 36 Ill Reg. 6913, 6934, 6950, 6975 (May 18, 2012).

The proposal would repeal gasoline volatility standards in ozone attainment areas, since these have been replaced by federal standards. It would also repeal standards in the Chicago and Metro-East non-attainment areas because they have "essentially been superseded by Illinois participation in the Federal reformulated gasoline (RFG) program."

Please visit our website (www.ipcb.state.il.us) for more information on the rulemakings described above, as well as information on our docket of contested cases.

Finally, I send my best wishes to Tanner Girard on his retirement. First as a Board member and then as both Acting Chairman and Executive Director, Tanner became well-known for his technical expertise, his work ethic, and his commitment to the Board's environmental work. After 20 years in those different roles, Tanner gained irreplaceable knowledge and perspective. I know that my Board colleagues and the Board's staff have a great sense of respect and friendship for him.

Tanner, please accept my congratulations for 20 years of outstanding service and success. I hope that the future brings you many more years of in the company of family and friends and continued success in environmental protection.



Sincerely,

A handwritten signature in dark ink that reads "Thomas Holbrook". The signature is written in a cursive style with a large, sweeping initial "T".

Thomas Holbrook
Chairman

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Rulemaking Update

Board Adopts Amendments Reducing Volatile Organic Material Emissions From Various Consumer And Commercial Products And Aerosol Coatings, R12-8

On May 3, 2012, the Illinois Pollution Control Board adopted as final rules amendments to Part 223 of the Board's regulations addressing volatile organic material (VOM) emissions from various consumer products and aerosol coatings. On July 13, 2011, the Illinois Environmental Protection Agency (IEPA) filed the proposal, which is docketed as In the Matter of: Standards and Limitations for Organic Material Emissions for Area Sources: Amendments to 35 Ill. Adm. Code Part 223, R12-8. The rules were filed with the Secretary of State and became effective on May 4, 2012, and were published at 36 Ill. Reg. Vol. 7569 (May 19, 2012). Specifically, the amendments to Part 223 "include limits in percent VOM by weight for adhesive removers, contact adhesives, non-aerosol antistatic products, electrical cleaners, engine degreasers, fabric refreshers, footwear or leather care products, graffiti removers, hair styling products, shaving gels, and wood cleaners." The amendments to the existing Architectural and Industrial Maintenance rule clarify it and simplify compliance.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded from the Web without charge. Hard copies may be obtained from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6]. The Clerk of the Board's address is: Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601.

For more information contact Tim Fox at 312-814-6085 or email at foxt@ipcb.state.il.us.

Board Adopts Second-Notice Proposal to Establish a Setback Zone for Several Community Water Supply Wells Owned by Fayette Water Company, R11-25

On May 17, 2012, the Board adopted a second notice opinion and order in a rulemaking proposal to establish a maximum setback zone for six community water supply (CWS) wells owned by Fayette Water Company in Fayette County. The wells are situated in the Kaskaskia River flood plain and serve as the supply of drinking water for portions of Fayette, Shelby, and Kaskaskia Counties. The proposal was filed by the Illinois Environmental Protection Agency (IEPA) on April 21, 2011, and is docketed as In the Matter of: Setback Zone for Fayette Water Company Community Water Supply: Amendments to 35 Ill. Adm. Code 618, R11-25. The Joint Committee on Administrative Rules (JCAR) has scheduled its second notice review of the proposal under the Illinois Administrative Procedure Act for the June 12, 2012 JCAR meeting.

The rulemaking proposes a maximum circular setback zone of 1,000 feet. The IEPA states that it "considers these wells to be geologically sensitive and concluded that all the water system's wells are highly vulnerable to contamination." The regulation is intended to prevent contamination of the groundwater. The proposal would also reorganize Part 618 to accommodate future establishment of additional maximum setback zones.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded from the Web without charge. Hard copies may be obtained from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5

PCB 11-43	<u>KCBX Terminals Company v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of these consolidated permit appeals.	P-A, Air
PCB 12-95	<u>Anielle Lipe and Nykole Gillette v. IEPA (Bureau of Air, Permit Section)</u> – The Board granted the Illinois Environmental Protection Agency’s motion to dismiss this citizens enforcement action concerning an air permit issued to a Cook County concrete and asphalt crushing facility.	5-0 A-E, Citizens
PCB 12-121	<u>Midwest Generation, LLC - Waukegan Generating Station v. IEPA</u> – The Board accepted for hearing a request for variance involving a Lake County facility.	4-0 Holbrook abstained A-V
PCB 12-122	<u>People of the State of Illinois v. Douglas Schroeder</u> – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement, and an agreed motion to request relief from the hearing requirement in this land and water enforcement action involving a facility located in McLean County facility, the Board ordered publication of the required newspaper notice.	5-0 L,W-E
PCB 12-123	<u>People of the State of Illinois v. Roxana Landfill, Inc., Midwest Sanitary Service, Inc., WRB Refining LP, and ConocoPhillips Company</u> – Upon receipt of a complaint accompanied by a two separate proposed stipulation and settlement agreement as to Midwest Sanitary Service, Inc., WRB Refining, LP, and ConocoPhillips Company, and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a facility located in Madison County facility, the Board ordered publication of the required newspaper notice. The Board also accepted this enforcement action as to Roxana Landfill, Inc. only.	4-0 Holbrook abstained L-E
PCB 12-124	<u>Broadus Oil Company 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 LaSalle County facility.	5-0 UST Appeal, 90-Day Ext.

May 17, 2012
Via Videoconference
Springfield and Chicago, Illinois

Rulemakings

R 11-25	<u>In the Matter of: Standards and Limitations for Organic Material Emissions for Area Sources; Amendments to 35 Ill. Adm. Code Part 223</u> – The Board adopted a second notice opinion and order in this rulemaking proposal to amend the Board’s public water supplies regulations.	5-0 PWS
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Adjusted Standards

AS 12-3	<u>Petition of Midway RACs, LLC for Adjusted Standard from 35 Ill. Adm. Code 218.586</u> – The Board directed petitioner to file an amended petition curing noted deficiencies by June 15, 2012 or this matter may be dismissed.	3-0 Holbrook and Zalewski abstained Air
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Administrative Citations

AC 12-33	<u>IEPA v. Shapiro Brothers of Illinois, Inc. d/b/a Milano Metals and Recycling</u> – The Board found that this Jefferson County respondent violated Sections 21(p)(1), 21(p)(6), and 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 21(p)(6), 55(k)(1) (2010)), and ordered respondent to pay a civil penalty of \$4,500.	5-0
AC 12-34	<u>IEPA v. Best One Tire & Service of Fairfield, Inc. and Rogers & Associates</u> – The Board found that this Shelby County respondent violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 21(p)(3), 21(p)(7) (2010)), and ordered respondent to pay a civil penalty of \$4,500.	5-0
AC 12-36	<u>IEPA v. Mark H. & Linda A. Hagen</u> – The Board granted complainant’s motion to voluntarily dismiss the administrative citation.	5-0
AC 12-38	<u>IEPA v. Funk Builders, Inc.</u> – The Board accepted for hearing respondents’ petition for review of this administrative citation involving a Woodford County facility.	5-0
AC 12-39	<u>IEPA v. CMH Homes, Inc. and David R. Moser</u> – The Board accepted for hearing CMH Homes, Inc.’s (CMH) petition for review of this administrative citation involving a Jefferson County facility. The Board found that David R. Moser defaulted by failing to timely to file a petition for review. The Board withheld issuing a final order regarding David R. Moser until the Board makes its final decision regarding CMH.	5-0
AC 12-40	<u>IEPA v. Michael Brooks</u> – The Board found that this Shelby County respondent violated Sections 21(p)(1) and 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 55(k)(1) (2010)), and ordered respondent to pay a civil penalty of \$3,000.	5-0
AC 12-41	<u>IEPA v. Louis K. Niemeyer</u> – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Coles County facility.	5-0
AC 12-42	<u>IEPA v. John K. Croslow (IEPA File No. 80-12-AC)</u> – The Board found that this Lawrence County respondent violated Sections 21(p)(1), 21(p)(3), 21(p)(7), and 55(k)(1) of the Environmental Protection Act ((415 ILCS 5/21(p)(1), 21(p)(3), 21(p)(7), 55(k)(1) (2010)), and ordered respondent to pay a civil penalty of \$6,000.	5-0

AC 12-43	<u>IEPA v. John K. Croslow (IEPA File No. 81-12-AC)</u> – The Board found that this Lawrence County respondent violated Sections 55(k)(1), (k)(2), and (k)(3) of the Environmental Protection Act (415 ILCS 5/55(k)(1), (k)(2), (k)(3) (2010)), and ordered respondent to pay a civil penalty of \$4,500.	5-0
AC 12-50	<u>County of LaSalle v. Tax Lien Investments</u> – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a LaSalle County facility.	5-0

Adjudicatory Cases

PCB 04-16	<u>People of the State of Illinois v. Packaging Personified, Inc.</u> , – The Board granted the complainant’s motion to stay this proceeding until the Board issues an order that addresses the complainant’s motion for reconsideration of the Board’s March 1, 2012 order. The Board denied respondent’s motion to issue an order adopting the company’s proposed schedule for record completion. The Board’s September 8, 2011 order continues to be stayed pending final Board action.	5-0 Glosser and Zalewski concurred A-E
PCB 06-81	<u>People of the State of Illinois v. Briggs Industries, Inc.</u> – In this land and water enforcement action concerning a Crawford 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$6,000.00, and to cease and desist from further violations.	5-0 L, W-E
PCB 11-56	<u>Green Oil Company v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage appeal.	5-0 UST Appeal
PCB 11-74	<u>People of the State of Illinois v. Adolf M. Lo and Renee C. Lo d/b/a Lo Farms</u> – In this air and water enforcement action concerning a Champaign 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$10,000.00, and to cease and desist from further violations.	5-0 A, W-E
PCB 11-89	<u>Gary Cooper v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage appeal.	5-0 UST Appeal
PCB 11-105	<u>People of the State of Illinois v. Kolb-Lena Bresse Bleu, Inc., Kolb-Lena, Inc., and Zausner Foods Corp.</u> , – In this air enforcement action concerning a Stephenson 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$27,000.00, and to cease and desist from further violations.	5-0 A-E
PCB 12-29	<u>Gary Cooper v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage appeal.	5-0 UST Appeal

PCB 12-35	<u>People of the State of Illinois v. Six M. Corporation, Inc., William Maxwell, and Marilyn Maxwell, and Joinder of James McIlvain as Necessary Party</u> – In response to respondents’ motion for reconsideration, the Board vacated its order of February 12, 2012.	5-0 W-E
PCB 12-49	<u>United States Steel Corporation v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this variance petition.	4-0 Holbrook abstained A-V
PCB 12-53	<u>A & H Implement Company v. IEPA</u> – The Board accepted for hearing this underground storage appeal involving a Effingham County facility. The Board denied the Illinois Environmental Protection Agency’s motion to dismiss	5-0 UST Appeal
PCB 12-64	<u>People of the State of Illinois v. Cordray Brothers, Inc.</u> , – In this water enforcement action concerning an Ogle 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$7,700.00, and to cease and desist from further violations.	5-0 W-E
PCB 12-120	<u>People of the State of Illinois v. S. H. Bell Co., Inc.</u> – In this air 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$15,000.00, and to cease and desist from further violations.	5-0 A-E
PCB 12-125	<u>People of the State of Illinois v. LaSalle Street Capital, Inc., an affiliate of Bank of America, National Association</u> – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement, and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a facility located in Cook County facility, the Board ordered publication of the required newspaper notice.	5-0 A-E
PCB 12-127	<u>Evergreen FS, Inc. v. Office of the State Fire Marshal</u> – The Board accepted for hearing this underground storage tank appeal involving a Livingston County facility.	5-0 UST Appeal

New Cases

May 3, 2012 Board Meeting

12-122 People of the State of Illinois v. Roxana Landfill, Inc., Midwest Sanitary Service, Inc., WRB Refining LP, and ConocoPhillips Company – Upon receipt of a complaint accompanied by a two separate proposed stipulation and settlement agreement as to Midwest Sanitary Service, Inc., WRB Refining, LP, and ConocoPhillips Company, and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a facility located in Madison County facility, the Board ordered publication of the required newspaper notice. The Board also accepted this enforcement action as to Roxana Landfill, Inc. only.

12-123 Broadus Oil Company 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 LaSalle County facility.

AC 12-48 IEPA v. Ruth White – The Board accepted an administrative citation against this Stephenson County respondent.

AC 12-49 County of Sangamon v. Michael Hoyle – The Board accepted an administrative citation against this Sangamon County respondent.

May 17, 2012 Board Meeting

12-125 People of the State of Illinois v. LaSalle Street Capital, Inc., an affiliate of Bank of America, National Association – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement, and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a facility located in Cook County facility, the Board ordered publication of the required newspaper notice.

12-126 Ameren Energy Resources v. IEPA – No action taken.

12-127 Evergreen FS, Inc. v. Office of the State Fire Marshal – The Board accepted for hearing this underground storage tank appeal involving a Livingston County facility.

AC 12-50 County of LaSalle v. Tax Lien Investments – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a LaSalle County facility.

AC 12-51 IEPA v. Northern Illinois Service Company – The Board accepted an administrative citation against this Winnebago County respondent.

AC 12-52 IEPA v. J. & R Tire Service, Inc.– The Board accepted an administrative citation against this Hancock County respondent.

Provisional Variance

IEPA 12-15 Downers Grove Sanitary District v. Illinois Environmental Protection Agency -- The Illinois Environmental Protection Agency granted Downers Grove Sanitary District’s (District) request for a provisional variance from the following requirement in its NPDES permit IL0028380: “Excess flow facilities shall not be utilized until the main treatment facility is receiving its maximum flow.” The provisional variance is needed to allow the District to discharge all treated effluent from Outfall 002 while it performs necessary maintenance on Outfall 001. The provisional variance, which is, subject to conditions, is for only the five-day period to occur between May 14 and May 18, 2012.

IEPA 12-16 Exelon Generating Company, L.L.C Quad Cities Nuclear Power Station v. Illinois Environmental Protection Agency–The Illinois Environmental Protection Agency granted, subject to conditions, Exelon Generating Company’s request for a provisional variance from May 26, 2012 through May 29, 2012. Exelon’s Quad Cities Nuclear Power Station (Quad Cities) is allowed to exceed the maximum temperature limit in Special Condition 7B of NPDES Permit IL0005037 by more than 5-degrees (83-degrees for May), or 2-degrees above ambient river temperature, whichever is greater. To justify its request, Exelon stated that when the ambient river temperatures approach or exceed the non-excursion hour limits, Quad Cities has no option other than to use excursion hours. Once its allotment of excursion hours is depleted, Quad Cities must cease operating altogether to maintain compliance with the NPDES Permit. According to Exelon, partial deratings or adding cooling facilities (such as cooling towers) will not allow Quad Cities to achieve compliance with a limit that already is exceeded even before any heat is added as a result of Station operations.

Public Act 93-0152 (Senate Bill 222) amended Sections 35-37 of the Illinois Environmental Act (415 ILCS 5/5(b) (2010)) so that provisional variances are issued by the Illinois Environmental Protection Agency (IEPA). If the IEPA grants a provisional variance, then the IEPA must file a copy of its written decision with the Board. The Board must maintain copies of the provisional variances for public inspection. Copies of provisional variances

can be obtained by contacting the Clerk's Office at (312) 814-3620, or by visiting the Board's Website at www.ipcb.state.il.us. If the IEPA denies a provisional variance request, then the applicant may initiate a proceeding with the Board for a full variance.

Calendar

6/7/2012 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
6/21/2012 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
7/10/2012 10:00 AM	PCB 12-121	<u>Midwest Generation, LLC Variance – Waukegan Generating Station v. IEPA</u>	Waukegan City Hall City Council Chambers 2 nd Floor 100 N. Martin Luther King Ave. Waukegan
7/12/2012 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
7/26/2012 11:00 am	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
8/7/2012 10:00 AM	PCB 12-101	<u>ConocoPhillips Company Permit Appeal v. IEPA</u>	County Board Room 203 Madison County Administration Building 157 N. Main St. Edwardsville
8/9/2012 11:00 am	Illinois Pollution Control Board Meeting		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
8/21/2012 10:00 AM	R12-23	<u>In the Matter of: Concentrated Animal Feeding Operations (CAFOs): Proposed Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504</u> (Continues until completed or through August 23, 2012)	IEPA Sangamo Room 1021 N. Grand Avenue East (North Entrance) Springfield

8/23/2012 11:00 am	Illinois Pollution Control Board Meeting		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
9/6/2012 11:00 am	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
9/20/2012 11:00 am	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
10/4/2012 11:00 am	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
10/16/2012 10:00 AM	R12-23	<u>In the Matter of: Concentrated Animal Feeding Operations (CAFOs): Proposed Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504</u>	St. Clair County Court House County Board Meeting Room B-564 5 th Floor 10 Public Square Belleville
10/18/2012 11:00 am	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
10/23/2012 10:00 AM	R12-23	<u>In the Matter of: Concentrated Animal Feeding Operations (CAFOs): Proposed Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504</u>	Brookens Administrative Center Lyle Shields (County Board) Meeting Room 1776 E. Washington Urbana
10/30/2012 10:00 am	R12-23	<u>In the Matter of: Concentrated Animal Feeding Operations (CAFOs): Proposed Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504</u>	DeKalb Municipal Building City Council Chambers Room 200 200 S. 4 th Street DeKalb

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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