
Environmental Register

December 2012 - Number 702

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

Thomas Holbrook, Chairman

Board Members:

Jennifer A. Burke, Deanna Glosser, Jerome D. O'Leary, and Carrie Zalewski

Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601
(312) 814-3620
(312) 814-6032 TDD

Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
(217) 524-8500

Web Site: <http://www.ipcb.state.il.us>

Letter from the Chairman

During December, the Board acted in several rulemaking dockets, and I've summarized much of 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 December 6, 2012, the Board adopted a second-notice opinion and order in Proposed Amendments to Special Waste Hauling Permit Regulations to Implement Public Act 97-1081: 35 Ill. Adm. Code 809.204 and 809.212 (R13-8). The Board proposes these amendments to implement a provision of Public Act 97-1081, effective August 24, 2012, which amends Section 22.2(l) of the Environmental Protection Act (Act) by extending the duration of special waste hauling permits from one year to three years. *See* 36 Ill. Reg. 14600 (Oct. 5, 2012). The Board's proposal appears on the agenda of the January 8, 2013 meeting of the Joint Committee on Administrative Rules.



On December 6, 2012, the Board adopted a second-notice opinion and order in Proposed Amendment to 35 Ill. Adm. Code 101.108(d) Conforming to P. A. 93-509 Re: Board Majority (R13-9). The Board proposed to amend its procedural rules to clarify that the affirmative vote of a three-member majority of the five-member Board is required to adopt a Board decision. The Board's proposal appears on the agenda of JCAR's January 8, 2013 meeting.

On December 20, 2012, the Board held a hearing in VOM Update, USEPA Amendments (January 1, 2012 through June 30, 2012) (R13-1). In this identical-in-substance rulemaking, the Board

Issued for public comment a proposal that would add one compound to the list of those exempted from the definition of VOM. *See* 36 Ill. Reg. 15575 (Nov. 9, 2012).

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.

Also, I'm pleased to report that Governor Quinn has appointed Jerome D. O'Leary to the Board. Prior to his appointment, Mr. O'Leary was the Director of Energy from 2006 to 2011 and an International Representative from 1992 to 2006 for the United Association of Plumbers & Pipefitters. He was also Business Manager of the Plumbers & Pipefitters Local 25. Over the years, Mr. O'Leary was employed by various contractors performing the installation of piping systems on power plants, refineries, boilers, food production plants, chemical plants, manufacturing plants, and water and waste plants. Additionally, Mr. O'Leary has been involved in reviewing many draft air and water permits for proposed facilities, including gas and coal fired power plants, ethanol and petroleum refineries, and coal to synthetic gas plants. Mr. O'Leary is a member of the American Society of Mechanical Engineers. His expertise will be an asset to the Board, and we look forward to working with him.

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

Inside This Issue:

RULEMAKING UPDATE	P. 1
BOARD ACTIONS	P. 2
NEW CASES	P. 6
BOARD CALENDAR	P. 7

Rulemaking Update

Board Adopts Second Notice Proposal to Amend Solid Waste and Special Waste Hauling Regulations, R13-8

On December 6, 2012, the Pollution Control Board proposed amendments to its solid waste and special waste hauling regulations for second-notice review by the Joint Committee on Administrative Rules (JCAR). The rulemaking is docketed as In the Matter of: Proposed Amendments to Special Waste Hauling Permit Regulations to Implement Public Act 97-1081: 35 Ill. Adm. Code 809.204 and 809.212, R13-8. JCAR has scheduled review of these rules at its January 8, 2013 meeting.

The proposed amendments would implement a provision of Public Act 97-1081 amending Section 22.2(1) of the Environmental Protection Act by extending the duration of special waste hauling permits from one year to three years. Administrative economies are anticipated for both the regulated community and the Illinois Environmental Protection Agency. The Board held public hearings on the proposal on October 18 and November 15, 2012.

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 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 tim.fox@illinois.gov.

Board Adopts Second Notice Proposal to Update Procedural Rule Re Board Majority, R13-9

On December 6, 2012, the Pollution Control Board adopted for second notice review by the Joint Committee on Administrative Rules (JCAR) a single amendment to the Board's existing procedural rule codified at 35 Ill. Adm. Code 101.108(d) "Board Proceedings." The rulemaking is docketed as In the Matter of: Proposed Amendment to 35 Ill. Adm. Code 101.108 9(d) Conforming to P.A. 93-509 Re Board Majority, R13-9. JCAR has scheduled review of the proposed rule at its January 8, 2013 meeting. The proposed amendment updates the rule, adopted in 2000, to provide that the Board takes action by the affirmative vote of a three-Member majority of this five Member Board is required to adopt a Board decision.

The Board has not held a hearing on the proposed rule, as no hearing was requested during the first notice period.

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

For more information contact Kathleen Crowley at (312)-814-6929 or email at Kathleen.Crowley@illinois.gov.

Board Actions

December 6, 2012
Chicago, Illinois

Rulemakings

- R13-8** In the Matter of: Proposed Amendments to Special Waste Hauling Permit Regulations to Implement Public Act 97-1081: 35 Ill. Adm. Code 809.204 and 809.212 – The Board adopted a second notice opinion and order in this rulemaking proposal to amend the Board’s solid waste and special waste hauling regulations. 5-0
Land
- R13-9** In the Matter of: Proposed Amendment to 35 Ill. Adm. Code 101.108(d) Conforming to P. A. 93-509 Re: Board Majority – The Board adopted a second notice opinion and order in this rulemaking proposal to amend the Board’s procedural rules. 5-0
Proc

Adjusted Standards

- AS 12-3** Petition of Midway RACs, LLC for Adjusted Standard from 35 Ill. Adm. Code 218.586 – The Board granted Midway RACs an adjusted standard from the Stage II vapor recovery system requirements at its Cook County facility. 3-0
Holbrook,
Zalewski
abstained
Air

Administrative Citations

- AC 12-29** IEPA v. H&M Salvage & Discount Co. and Carl Hagler – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Perry County facility, the Board found that respondents had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2010)) and ordered respondents to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motion to dismiss respondents’ petition for review. To effectuate the parties’ intent that respondents pay a total civil penalty of \$1,500, the Board on its own motion, dismissed the alleged violations of Sections 21(p)(7) and 55(k)(1) of the Act (415 ILCS 5/21(p)(1) and 55(k)(1) (2010)). 5-0
- AC 13-14** IEPA v. Paul Curtis – The Board found that this Morgan County respondent violated Sections 21(p)(1) and 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (3) (2010)), and ordered respondent to pay a civil penalty of \$3,000. 5-0
- AC 13-16** IEPA v. Frank Lamchick – The Board dismissed respondent’s petition for review for failure to timely file an amended petition as directed. IEPA v. Frank Lamchick, AC 13-16 (Oct. 18, 2012). The Board found that this Bureau County respondent violated 21(p)(1) and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (7) (2010)), and ordered respondent to pay a civil penalty of \$3,000. 5-0

AC 13-18	<u>IEPA v. Kenneth Hails</u> – The Board accepted respondent’s petition for review involving a Jefferson County facility, but directed respondent to file an amended petition to cure deficiencies.	5-0
AC 13-20	<u>IEPA v. Thomas E. Barker and John H. & Debra L. Barker</u> – The Board accepted for hearing respondents’ amended petition for review of this administrative citation involving a Greene County facility.	5-0
AC 13-21	<u>IEPA v. Steven B. Meuser & Deborah S. Meuser and Meuser Construction & Excavation, Inc.</u> – The Board accepted respondents’ petition for review involving a Ford County facility, but directed respondents to file an amended petition to cure deficiencies.	5-0

Adjudicatory Cases

PCB 11-53	<u>People of the State of Illinois v. Village of Spring Grove</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a McHenry County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 12-106	<u>WRB Refining LLC (Wastewater Treatment Upgrade Project) v. IEPA</u> – The Board denied the Roxanna Community Unit School District’s motion for leave to intervene. The Board accepted the Illinois Environmental Protection Agency’s recommendation. The Board found and certified that specified facilities of WRB Refining, LLC located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	4-0 Holbrook abstained T-C, W
PCB 12-107	<u>WRB Refining LLC (New Units Condensate Recovery Project) v. IEPA</u> – The Board denied the Roxanna Community Unit School District’s motion for leave to intervene. The Board accepted the Illinois Environmental Protection Agency’s recommendation. The Board found and certified that specified facilities of WRB Refining, LLC located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	4-0 Holbrook abstained T-C, W
PCB 12-108	<u>WRB Refining LLC (New Units Water Recycle Project) v. IEPA</u> – The Board denied the Roxanna Community Unit School District’s motion for leave to intervene. The Board accepted the Illinois Environmental Protection Agency’s recommendation. The Board found and certified that specified facilities of WRB Refining, LLC located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	4-0 Holbrook abstained T-C, W
PCB 12-109	<u>WRB Refining LLC (WWTP CPI Header Upgrade Project) v. IEPA</u> – The Board denied the Roxanna Community Unit School District’s motion for leave to intervene. The Board accepted the Illinois Environmental Protection Agency’s recommendation. The Board found and certified that specified facilities of WRB Refining, LLC located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	4-0 Holbrook abstained T-C, W

PCB 12-110	<u>WRB Refining LLC (New Sour Water Stripper Project) v. IEPA</u> The Board denied the Roxanna Community Unit School District’s motion for leave to intervene. The Board accepted the Illinois Environmental Protection Agency’s recommendation. The Board found and certified that specified facilities of WRB Refining, LLC located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	4-0 Holbrook abstained T-C, W
PCB 12-111	<u>WRB Refining LLC (Wood Stove Sewer Repair Project) v. IEPA</u> – The Board denied the Roxanna Community Unit School District’s motion for leave to intervene. The Board accepted the Illinois Environmental Protection Agency’s recommendation. The Board found and certified that specified facilities of WRB Refining, LLC located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	4-0 Holbrook abstained T-C, W
PCB 12-113	<u>WRB Refining, LLC (WWTP CPI Header Bypass Project) v. IEPA</u> – The Board denied the Roxanna Community Unit School District’s motion for leave to intervene. The Board accepted the Illinois Environmental Protection Agency’s recommendation. The Board found and certified that specified facilities of WRB Refining, LLC located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	4-0 Holbrook abstained T-C, W
PCB 12-114	<u>WRB Refining, LLC (SPCC Oil Spill Containment Upgrades and SPCC Dike Restoration) v. IEPA</u> – The Board denied the Roxanna Community Unit School District’s motion for leave to intervene. The Board accepted the Illinois Environmental Protection Agency’s recommendation. The Board found and certified that specified facilities of WRB Refining, LLC located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	4-0 Holbrook abstained T-C, W
PCB 12-115	<u>WRB Refining, LLC (Waste Water Flow Meter for NPDES Project) v. IEPA</u> – The Board denied the Roxanna Community Unit School District’s motion for leave to intervene. The Board accepted the Illinois Environmental Protection Agency’s recommendation. The Board found and certified that specified facilities of WRB Refining, LLC located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	4-0 Holbrook abstained T-C, W
PCB 12-116	<u>WRB Refining, LLC (Hartford Load Docks Project) v. IEPA</u> – The Board denied the Roxanna Community Unit School District’s motion for leave to intervene. The Board accepted the Illinois Environmental Protection Agency’s recommendation. The Board found and certified that specified facilities of WRB Refining, LLC located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	4-0 Holbrook abstained T-C, W
PCB 12-117	<u>WRB Refining, LLC (Hartford Integration Water Pollution Prevention Projects) v. IEPA</u> – The Board denied the Roxanna Community Unit School District’s motion for leave to intervene. The Board accepted the Illinois Environmental Protection Agency’s recommendation. The Board found and certified that specified facilities of WRB Refining, LLC located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	4-0 Holbrook abstained T-C, W

PCB 12-123	<u>People of the State of Illinois v. Roxana Landfill, Inc.</u> – In this land enforcement action concerning a Madison 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 \$7,000.00, and to cease and desist from further violations. Additionally, to offset additional penalties, Roxana Landfill must perform a Supplemental Environment Project (SEP), with a value of \$7,000. Under the SEP, over the next 3 years Roxana Landfill must provide 200 tons of landfill disposal capacity valued at a gate rate of \$35.00 per ton.	4-0 Holbrook abstained L-E
PCB 13-5	<u>People of the State of Illinois v. Daniel Lee Szafranski, individually and as Trustee of the Daniel Lee Szafranski Trust</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a LaSalle County facility, the Board ordered publication of the required newspaper notice.	5-0 L-E
PCB 13-14	<u>People of the State of Illinois v. Donald J. Sherman and James A. Sherman, as Trustees of the First Restatement of the Suzann M. Jennings Trust Agreement, Dated December 19, 1997</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Kane County facility, the Board ordered publication of the required newspaper notice.	5-0 L-E
PCB 13-23	<u>People of the State of Illinois v. Village of Pingree Grove</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 water enforcement action involving a facility located in Kane County, the Board accepted the complaint and ordered publication of the required newspaper notice.	5-0 W-E

**December 20, 2012
Chicago, Illinois**

Adjudicatory Cases

PCB 06-75	<u>The City of Springfield v. IEPA</u> – The Board granted the parties’ motion to withdraw the November 26, 2012 joint motion. The Board deems the parties’ motion to hold this matter at its December 6, 2012 Board meeting as moot.	5-0 P-A, Air
PCB 10-12	<u>People of the State of Illinois v. Hicks Oils & Hicksgas, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Tazewell County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 10-75	<u>Chicago Coke Co., Inc, an Illinois corporation v. IEPA; Natural Resource Defense Council and Sierra Club as Intervenors</u> – The Board denied petitioner’s motions to strike summary judgment. The Board granted petitioner’s motions for leave to file replies.	5-0 P-A, Air
PCB 13-18	<u>People of the State of Illinois v. Two Rivers FS, Inc.</u> – In this air enforcement action concerning a Pike County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act	5-0 A-E

(415 ILCS 5/31(c)(1) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$25,000.00, and to cease and desist from further violations.

PCB 13-24	<u>Midwest Generation, LLC v. IEPA</u> – The Board accepted for hearing without ruling upon its sufficiency, a request for variance involving five facilities located in the following counties, Cook, Peoria, Tazewell, and Will.	4-0 Holbrook abstained A-V
PCB 13-25	<u>People of the State of Illinois v. Diversified Labeling Solutions, Inc.</u> , – The Board accepted for hearing this land enforcement action concerning a DuPage County facility.	5-0 A-E
PCB 13-26	<u>People of the State of Illinois v. Bag Makers, Inc.</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 McHenry County facility, the Board accepted the complaint and ordered publication of the required newspaper notice.	5-0 A-E
PCB 13-28	<u>People of the State of Illinois v. Atkinson Landfill Company</u> – The Board accepted for hearing this land enforcement action concerning a Henry County facility.	5-0 W-E

New Cases

December 6, 2012 Board Meeting

13-23 People of the State of Illinois v. Village of Pingree Grove – 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 water enforcement action involving a facility located in Kane County, the Board accepted the complaint and ordered publication of the required newspaper notice.

13-24 Midwest Generation, LLC v. IEPA – No action taken.

AC 13-22 IEPA v. William Braden – The Board accepted an administrative citation against this Saline County respondent.

December 20, 2012 Board Meeting

13-25 People of the State of Illinois v. Diversified Labeling Solutions, Inc., – The Board accepted for hearing this land enforcement action concerning a DuPage County facility.

13-26 People of the State of Illinois v. Bag Makers, Inc. – 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 McHenry County facility, the Board ordered publication of the required newspaper notice.

13-27 Sierra Club v. Midwest Generation, LLC – No action taken.

13-28 People of the State of Illinois v. Atkinson Landfill Company – The Board accepted for hearing this land enforcement action concerning a Henry County facility.

AC 13-23 IEPA v. IL Valley Urban Lumberjacks, LLC – The Board accepted an administrative citation against this LaSalle County respondent.

Calendar

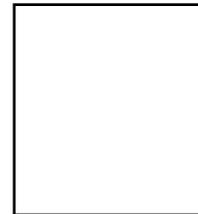
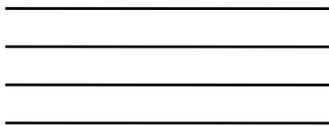
1/10/2012 11:00 AM	Illinois Pollution Control Board Meeting		Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago
1/24/2012 11:00 AM	Illinois Pollution Control Board Meeting		Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago
1/29/2013 9:00 AM	PCB 13-24	<u>Midwest Generation LLC v. IEPA</u>	Joliet Junior College Health Professions Center Building U Room 1022 1215 Houbolt Road Joliet
2/7/2012 11:00 AM	Illinois Pollution Control Board Meeting		Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago
2/21/2012 11:00 AM	Illinois Pollution Control Board Meeting		Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago
2/26/2013 10:30 AM	PCB 10-48	<u>Broadus Oil Company – Streator v. IEPA</u>	Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East (North Entrance) Springfield
2/26/2013 10:30 AM	PCB 11-63	<u>Beverly Powers f/d/b/a Dick's Super Service v. IEPA</u>	Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East (North Entrance) Springfield
2/26/2013 10:30 AM	PCB 11-76	<u>Warsaw Itco v. IEPA</u>	Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East (North Entrance) Springfield
3/7/2012 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

3/21/2012 11:00 AM	Illinois Pollution Control Board Meeting	Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago
-------------------------------	---	--

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.

-----CUT HERE-----



Illinois Pollution Control Board
Environmental Register Coordinator
1021 N. Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274