
Environmental Register

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

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 Board

During August, the Board acted in a number of its rulemaking dockets, and that activity is summarized below. As always, information about these dockets is available through the Clerk's Office Online (COOL) at the Board's Web site at www.ipcb.state.il.us.

On August 9, 2013, the Secretary of State published amended air rules adopted by the Board in National Ambient Air Quality Standards, USEPA Regulations (July 1, 2012 through December 31, 2012), R13-11. 37 Ill. Reg. 12882 (Aug. 9, 2013). Under Section 10(H) of the Environmental Protection Act, enacted by Public Act 97-945 and effective August 10, 2012, the Board is now required to adopt ambient air quality standards identical-in-substance to those adopted by the United States Environmental Protection Agency under Section 109 of the Clean Air Act.

On August 15, 2013, the Board scheduled a hearing in R8-9(D), Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System (CAWS) and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304, on water quality standards and criteria for meeting proposed aquatic life uses. The hearing will take place on September 23, 2013, in Chicago and is intended to conclude testimony by and questions of the Illinois Environmental Protection Agency (IEPA) and the motion to amend the rulemaking proposal.

On August 22, 2013, the Board adopted a second-notice proposal in Technical Corrections to 35 Ill. Adm. Code 620.420, R8-18(B), and the matter appears on the agenda of the September 17, 2013 meeting of the Joint Committee on Administrative Rules. In its proposal, the Board seeks to clarify amendments to the groundwater quality standards adopted in 2012. *See* 37 Ill. Reg. 6123 (May 10, 2013).

On August 27, 2013, the Board held the first hearing in Springfield in R13-20, Procedural Rules for Alternative Thermal Effluent Limitations Under Section 316(a) of the Clean Water Act: Proposed New 35 Ill. Adm. Code Part 106, Subpart K and Amended Section 304.141(c). The second hearing will take place on October 16, 2013, in Chicago. On July 11, 2013, the Board submitted the IEPA's proposed rules to first-notice publication without commenting on its substantive merits. *See* 37 Ill. Reg. 11843 (July 26, 2013).

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.

The colleagues of Dr. Deanna Glosser congratulate her on her August 30, 2013 re-appointment to the Board. Since her initial appointment, she has brought a great deal of expertise to the Board's decision-making. As her colleagues, we are grateful to have the benefit of her experience and send her best wishes for a productive three-year term.

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Rulemaking Update

Board Adopts Second-Notice Technical Corrections to Recently-Adopted Amendments of Groundwater Quality Standards

The Board, on August 22, 2013, proposed, for second-notice review by the Joint Committee on Administrative Rules (JCAR), technical corrections to recently-adopted amendments of the Part 620 groundwater quality standards (GQS). On April 18, 2013, the Board opened a subdocket B in this proceeding and proposed first-notice amendments consisting of three technical corrections to the GQS amendments adopted by the Board on October 4, 2012 (Proposed Amendments to Groundwater Quality Standards (35 Ill. Adm. Code 620), R08-18). The technical corrections are needed due to scribes' errors that occurred during the R08-18 rulemaking.

R08-18(B) was opened solely to make several technical corrections to Section 620.420(b)(1) (35 Ill. Adm. Code 620.420(b)(1)), which lists organic chemicals and corresponding concentrations and provides that the concentrations must not be exceeded in Class II general resource groundwater. The amendments proposed in subdocket B remedy the inadvertent (1) deletion of trichloroethylene and its Class II GQS, (2) modification of the 1,1,2-trichloroethane Class II GQS, and (3) failure to place an asterisk next to the dibenzo(a,h)anthracene Class II GQS to reflect that the chemical is carcinogenic.

The Board has already held the public hearings required by the Environmental Protection Act during the R08-18 rulemaking. The Board received no request for an additional hearing in subdocket B. In addition, the Board received no public comment on subdocket B's first-notice amendments, which were unchanged at second notice.

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 (2012)). The address is Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601. For more information, contact Richard McGill at 312-814-6983 or richard.mcgill@illinois.gov.

Board Actions

August 8, 2013

Via videoconference

Springfield and Chicago, Illinois

Adjusted Standards

- | | | |
|---------|---|--------------|
| AS 13-4 | <u>In the Matter of: Petition of Brickyard Disposal & Recycling, Inc. Pursuant to 35 Ill. Adm. Code 814.402(b)(3)</u> – The Board accepted the petition for adjusted standard, but directed petitioner to file an amended petition to cure deficiencies on or before September 9, 2013. | 4-0
Land |
| AS 13-5 | <u>In the Matter of: Petition of Caterpillar, Inc. for an Adjusted Standard From 35 Ill. Admin. Code 620.410(a) and 817.106(a)</u> – The Board accepted the petition for adjusted standard, but reserved ruling on the motion for expedited decision. | 4-0
Water |

Administrative Citations

- | | | |
|----------|---|-----|
| AC 13-42 | <u>IEPA v. James & Pam Green</u> – The Board accepted respondents’ amended petition for review, but directed respondents to file a second amended petition to cure deficiencies on or before September 9, 2013. | 4-0 |
| AC 13-55 | <u>County of Perry v. Union Pacific Railroad Company</u> – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Perry County facility. | 4-0 |
| AC 13-56 | <u>IEPA v. Gale Hinze, individually and d/b/a Ag Fab LLC</u> – The Board found that this Bureau County respondent violated Sections 55(k)(1) and 55(k)(4) of the Environmental Protection Act (415 ILCS 5/55(k)(1), (k)(4) (2010)), and ordered respondent to pay a civil penalty of \$3,000. | 4-0 |
| AC 13-57 | <u>County of Perry v. Donald and Pam Keene (Site Code: 1450155055)</u> – The Board found that these Perry County respondents violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 21(p)(7) (2010)), and ordered respondents to pay a civil penalty of \$3,000. | 4-0 |
| AC 13-58 | <u>County of Perry v. Donald and Pam Keene (Site Code: 1450155057)</u> – The Board found that these Perry County respondents 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 respondents to pay a civil penalty of \$3,000. | 4-0 |
| AC 13-59 | <u>IEPA v. Donna Cockerill and Mark Johnson</u> – The Board accepted respondents’ petition for review, but directed respondents to file an amended petition to cure deficiencies on or before September 9, 2013. | 4-0 |
| AC 14-7 | <u>IEPA v. John Croslow d/b/a Croslow's Auto Repair</u> – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Lawrence County facility. | 4-0 |

Adjudicatory Cases

PCB 11-63	<u>Beverly Powers f/d/b/a Dick's Super Service v. IEPA</u> – The Board affirmed the Illinois Environmental Protection Agency’s February 17, 2011 denial of petitioner’s requested fourth Corrective Action Plan budget amendment.	4-0 UST Appeal
PCB 11-76	<u>Warsaw Itco v. IEPA</u> – The Board affirmed the Illinois Environmental Protection Agency’s March 18, 2011 modification of petitioner’s amended Corrective Action Plan budget.	4-0 UST Appeal
PCB 12-101	<u>Phillips 66 Company (f/k/a ConocoPhillips Company) v. IEPA</u> – The Board denied petitioner’s motion for stay pending appeal.	3-0 Burke abstained W-PA, NPDES
PCB 13-19 PCB 13-20 (cons.)	<u>People of the State of Illinois v. Sheridan-Joliet Land Development, LLC, and Sheridan Sand & Gravel Co. (4201 Road Site)</u> – The Board granted respondents’ motions to consolidate PCB 13-19 and PCB 13-20. The Board denied complainant’s motions to strike respondents’ “objections” to the complainant’s motions for leave to file surreplies concerning the motions to strike or dismiss. The Board granted complainant’s motions for leave to file surreplies to respondents’ replies in support of the motions to strike or dismiss. The Board granted complainant’s motions for leave to file surreplies to respondents’ replies in support of the motions to strike or dismiss. The Board denied respondents’ motions to strike the amended notices of filing of the complaints and to strike or dismiss the complaints.	4-0 L-E
PCB 13-28	<u>People of the State of Illinois v. Atkinson Landfill Company</u> – The Board denied respondent’s motion to consolidate PCB 13-28 with PCB 13-60 and 13-61. The Board also denied respondent’s motion for stay. The Board reserved ruling on the other pending motions.	4-0 W-E
PCB 13-37	<u>Texaco, Inc., v. IEPA</u> – The Board granted parties’ motion for voluntary dismissal of this permit appeal.	4-0 UST Appeal
PCB 13-60	<u>People of the State of Illinois v. Village of Atkinson</u> – In this water enforcement action concerning a Henry 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 \$2,000.00, and to cease and desist from further violations.	4-0 W-E
PCB 13-61	<u>People of the State of Illinois v. City of Galva</u> – In this water enforcement action concerning a Henry 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 \$2,000.00, and to cease and desist from further violations.	4-0 W-E
PCB 13-68	<u>Leslie C. Ko v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal.	4-0 UST Appeal
PCB 14-10	<u>Illinois Power Holdings, LLC, AmerenEnergy Medina Valley Cogen, LLC, and Ameren Energy Resources, LLC as Co-Petitioner v. IEPA</u> – The Board accepted for hearing a request for variance from the sulfur dioxide emission rate provisions of the multi-pollutant standards involving seven facilities	4-0 A-V

located in the following counties Montgomery, Fulton, Peoria, Massac, Crawford, Morgan, and Jasper.

PCB 14-11	<u>Kent Zimmerman Farms v. IEPA</u> – The Board found and certified that specified facilities of Kent Zimmerman Farms located in Livingston 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 T-C, W
PCB 14-12	<u>BMI Farms, LLC v. IEPA</u> – The Board found and certified that specified facilities of BMI Farms, LLC located in Brown 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 T-C, W
PCB 14-13	<u>People of the State of Illinois v. Bingham Commercial Construction, Inc.</u> – The Board accepted for hearing this water enforcement action concerning an Ogle County facility.	4-0 W-E
PCB 14-14	<u>People of the State of Illinois v. Donley Trucking, Inc.</u> – The Board accepted for hearing this land and water enforcement action concerning a Sangamon County facility.	4-0 L, W-E

August 22, 2013 Chicago, Illinois

Rulemakings

R08-18(B)	<u>In the Matter of: Technical Corrections to 35 Ill. Adm. Code 620.420</u> – The Board adopted a second notice opinion and order in this rulemaking to amend the Board’s public water supply pollution regulations.	4-0 PWS
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Administrative Citations

AC 14-1	<u>IEPA v. Wanda L. Clark</u> – The Board found that this Hamilton County respondent violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 21(p)(7) (2012)), and ordered respondent to pay a civil penalty of \$3,000.	4-0
AC 14-2	<u>IEPA v. Robert Johnson</u> – The Board found that this Hamilton County respondent violated Sections 21(p)(1), (p)(3) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3) and (p)(7) (2012)), and ordered respondent to pay a civil penalty of \$4,500.	4-0
AC 14-5	<u>IEPA v. Illinois Railway LLC</u> – The Board found that this Winnebago 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) (2012)), and ordered respondent to pay a civil penalty of \$3,000.	4-0

Adjudicatory Cases

PCB 12-54	<u>United States Steel Corporation v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal.	4-0 P-A, Air
PCB 12-94 (See also PCB 14-4)	<u>CITGO Petroleum Corporation and PDV Midwest Refining, L.L.C. v. IEPA</u> – The Board granted petitioner’s motion to stay proceedings until September 12, 2013, noting that a waiver of the decision deadline had been filed in PCB 14-4.	4-0 W-V
PCB 12-135	<u>Dynegy Midwest Generation, LLC v. IEPA</u> – The Board granted petitioner’s motion to stay proceedings until February 20, 2014.	4-0 A-V
PCB 13-35 PCB 13-36 (Cons.)	<u>People of the State of Illinois v. The Board of Trustees of the University of Illinois (East Campus)</u> <u>People of the State of Illinois v. The Board of Trustees of the University of Illinois (West Campus)</u> – The Board granted the parties’ joint motion to extend the stay of proceedings until September 19, 2013.	4-0 A-E
PCB 13-51	<u>People of the State of Illinois v. Midwest Environmental Consulting Services, Inc. and Universal Asbestos Removal, Inc.</u> – Upon receipt of two stipulations and proposed settlement agreements and agreed motions to request relief from the hearing requirement in this air enforcement action involving a Bureau County facility, the Board ordered publication of the required newspaper notices.	4-0 A-E
PCB 14-4 (See also PCB 12-94)	<u>CITGO Petroleum Corporation and PDV Midwest Refining, L.L.C. v. IEPA</u> – The Board granted petitioner’s motion to stay proceedings until September 12, 2013, noting that a waiver of the decision deadline had been filed in PCB 14-4.	4-0 W-V
PCB 14-15	<u>Borgic Enterprises, Inc. - Newton v. IEPA</u> – The Board found and certified that specified facilities of Borgic Enterprises, Inc. located in Jasper County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2012)).	4-0 T-C, W
PCB 14-16	<u>People of the State of Illinois v. C & M Contractors of Missouri, LLC</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 McDonough County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E

New Cases

August 8, 2013 Board Meeting

AC14-8 County of Montgomery v. Vernon Weber – The Board accepted an administrative citation against this Montgomery County respondent.

PCB 14-11 Kent Zimmerman Farms v. IEPA – The Board found and certified that specified facilities of Kent Zimmerman Farms located in Livingston County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).

PCB 14-12 BMI Farms, LLC v. IEPA – The Board found and certified that specified facilities of BMI Farms, LLC located in Brown County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).

PCB 14-13 People of the State of Illinois v. Bingham Commercial Construction, Inc. – The Board accepted for hearing this water enforcement action concerning an Ogle County facility.

PCB 14-14 People of the State of Illinois v. Donley Trucking, Inc. – The Board accepted for hearing this land and water enforcement action concerning a Sangamon County facility.

August 22, 2013

AC14-10 County of DuPage v. McKeown Classic Homes, Inc. – The Board accepted an administrative citation against this DuPage County respondent.

AC14-9 IEPA v. Daniel Dawson – The Board accepted an administrative citation against this McLean County respondent.

PCB 14-15 Borgic Enterprises, Inc. - Newton v. IEPA – The Board found and certified that specified facilities of Borgic Enterprises, Inc. located in Jasper County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2012)).

PCB 14-16 People of the State of Illinois v. C & M Contractors of Missouri, LLC – 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 McDonough County facility, the Board ordered publication of the required newspaper notice.

Calendar

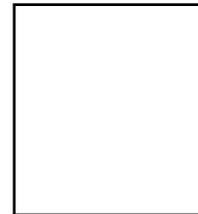
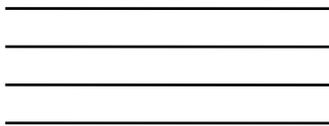
9/5/2013 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center Hearing Room 100 W. Randolph Street Chicago
9/19/2013 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago
9/17/2013 9:00 AM	PCB 10-104	<u>Waste Management of Illinois, Inc. v. DeKalb County Board</u>	DeKalb County Legislative Center Gathertorium Room 1 st Floor 200 N. Main Street Sycamore

9/17/2013 9:00 AM	PCB 14-10	<u>Illinois Power Holdings, LLC, AmerenEnergy Media Valley Cogen, LLC, and Ameren Energy Resources, LLC v. IEPA</u>	Illinois Environmental Protection Agency Sangamo Room 1021 North Grand Avenue East North Entrance Springfield
9/23/2013 9:30 AM	R08-09(D)	<u>In the Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System (CAWS) and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304</u>	Michael A Bilandic Building Room N-502 160 North LaSalle Street Chicago
10/3/2013 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center Hearing Room 100 W. Randolph Street Chicago
10/16/2013 11:00 AM	R13-20	<u>In the Matter of: Procedural Rules for Alternative Thermal Effluent Limitations Under Section 316(a) of the Clean Water Act: Proposed New 35 Ill. Adm. Code Part 106, Subpart K and Amended Section 304.141(c)</u>	Michael A. Bilandic Building Room N-502 106 N. LaSalle Street Chicago
10/17/2013 11:00 AM	Illinois Pollution Control Board Meeting		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.

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