
Environmental Register

September 2011 - Number 687

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

G. Tanner Girard, Acting Chairman

Board Members:

Thomas E. Johnson, Andrea S. Moore, Carrie Zalewski, and Jennifer A. Burke

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

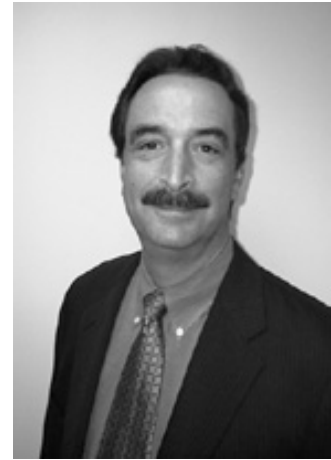
During September, as usual, the Board had substantial actions in several rulemakings and contested cases. For details, please visit our website at www.ipcb.state.il.us. The remainder of this letter will be devoted to honoring the service of departing Board Member, Gary Blankenship, and welcoming new Board Member, Jennifer A. Burke.

Board Member Blankenship was appointed to the Board in 2008. Before joining the Board, he had served since 1981 as the Business Manager and Financial Secretary Treasurer for Plumbers & Pipefitters Local #422, a 1350-member organization in Joliet. In addition, he has served as Vice President of the Illinois Pipe Trades Association, Financial Secretary for the Will and Grundy Counties Building Trades Council, and was a member of the Strategic Planning Committee for the United Association of Plumbers and Pipefitters International Union. He also implemented a five-year training program for Pipefitter Apprentices that included constructing and maintaining air and water pollution control systems.

Member Blankenship's commitment and experience contributed immeasurably to the Board's work. Member Blankenship has earned the appreciation, respect, and friendship of many persons, particularly his fellow Board members and the Board's staff. He has our fond best wishes for success and happiness in all of his future endeavors.

Jennifer A. Burke was appointed to the Board on September 12, 2011, by Governor Pat Quinn. Prior to joining the Board, Member Burke served as Senior Counsel to the City of Chicago in the Department of Law. While at the City of Chicago, Member Burke focused on environmental matters including Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Resource Conservation and Recovery Act (RCRA) litigation, brownfield redevelopment, and compliance with air, waste, asbestos, and lead regulations. Member Burke previously was a partner in the law firm of Jenner & Block in Chicago representing clients in various environmental matters including environmental enforcement, toxic tort litigation, insurance coverage litigation, cost recovery litigation, and environmental due diligence in corporate transactions.

Member Burke received her law degree from Chicago-Kent College of Law and the Bachelor of Science degree in Biology from Georgetown University in Washington, D.C. Member Burke lives in Chicago. Her professional experience and educational background will be a valuable addition to the Board. We extend our congratulations on her appointment and look forward to working together as Members of the Pollution Control Board.



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

Inside This Issue:

RULEMAKING UPDATE	P. 1
BOARD ACTIONS	P. 4
NEW CASES	P. 10
BOARD CALENDAR	P. 13

Rulemaking Update

Board Adopts Second Notice Proposal in Rulemaking to Clarify Financial Assurance Requirements in Illinois' Nonhazardous Solid Waste Landfill Regulations, R10-9(A)

The Board, on September 8, 2011, adopted for second-notice additional amendments to its waste disposal regulations in a rulemaking docketed as In the Matter of: Financial Assurance Instruments – Renewal and Terms: Amendments to 35 Ill. Adm. Code 807.Subpart F and Appendix A, 810.104, 811.Subparts C, G and Appendix A, R10-09(A). There are no substantive changes between the second notice proposal Board's June 16, 2011 first notice proposal, published at 35 Ill. Reg. 10490 (July 8, 2010), 2010). The Joint Committee on Administrative Rules has scheduled the rules for review at its October 11, 2011 meeting, as required by the Administrative Procedure Act. *See 5 ILCS 100/5-40(c) (2010)*).

This "trailer docket" proposes additional amendments to the rules recently adopted by the Board in the main docket. In the Matter of: Financial Assurance Instruments – Renewal and Terms: Amendments to 35 Ill. Adm. Code 807.Subpart F and Appendix A, 810.104, 811.Subparts C, G and Appendix A, R10-09 (June 16, 2011). There, the Board updated its rules to correspond with the hazardous waste financial assurance standards derived from the federal Resource Conservation and Recovery Act (RCRA) Subtitle C (42 U.S.C. 6921 *et seq.* (2007)) hazardous waste regulations and the Board's other financial assurance programs.

The Illinois Environmental Protection Agency (IEPA) was the proponent in R10-9. In its final order in R10-9, the Board noted additional amendments proposed by the IEPA following the Board's adoption of its second notice opinion and order in R10-9. The Board determined that the best course of action would be to open a Subdocket A to address the additional IEPA amendments.

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

Board Adopts Second Notice Clean-up Amendments to Air Rules, R09-19

On September 22, 2011, the Board adopted a second-notice opinion and order in R09-19, In the Matter of: Air Quality Standards Clean-Up: Amendments to 35 Ill. Adm. Code Part 243. The second notice proposal contains amendments requested by the rule proponent, the Illinois Environmental Protection Agency (IEPA), in its second errata sheet. Otherwise, there are no substantive changes between the second notice proposal and November 10, 2010 first notice proposal, published at 34 Ill. Reg. 15513 (Nov. 19, 2010). The Joint Committee on Administrative Rules has scheduled the rule for review at its October 11, 2011 meeting, as required by the Administrative Procedure Act. *See 5 ILCS 100/5-40(c) (2010)*).

The proposal would amend Part 243 of the Board's regulations to reflect updated federal air quality standards for ozone, particulate matter, and lead. The proposal also includes technical corrections to Parts 217 and 223. The Board has held two public hearings on the IEPA proposal filed on December 1, 2008.

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 at costs determined according to Section 6 of the Freedom of Information Act (5 ILCS 140/6 (2010)) at the following

Environmental Register – September 2011

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

Board Adopts Final Rules Sunsetting Trading Provisions of the NOx SIP Call Trading Program, R11-8

On September 22, 2011, the Board adopted final amendments to the Board's air rules. The Illinois Environmental Protection Agency (IEPA), on August 19, 2010, filed the proposal that was docketed as In the Matter of: NOx Trading Program Sunset Provisions for Non-Electric Generating Units: Amendments to 35 Ill. Adm. Code Part 217.Subpart U, R11-08. The Joint Committee on Administrative Rules voted a certificate of no objection to the rules at its September 13, 2011 meeting. The amendments sunset the trading provisions of the Nitrogen Oxide SIP Call Trading Program (NOx Trading Program) for non-electric generating units (non-EGUs). The sole provisions amended involve the holding and trading provisions for NOx allowances in Part 217.Subpart U. In a federal court ruling concerning the federal Clean Air Interstate (CAIR) rules in North Carolina v. USEPA, 550 F.3d 1176 (C.A.D.C. Cir. 2008), the court reinstated that CAIR began implementation with the original 2009 control period. As a result of the court action, IEPA explains that Illinois non-EGUs no longer need to comply with the NOx Trading Program requirements for holding and trading NOx allowances for any control period after 2008 because USEPA no longer allocates allowances for the NOx Trading Program. Therefore, Subpart U is now moot where it requires that non-EGUs hold their allowances for the 2010 season.

Fifty-two existing non-EGU units, four of which are no longer operating, and two new non-EGU units were subject to the NOx Trading Program. The affected units are no longer subject to the holding and trading provisions of the NOx Trading Program.

The adopted amendments will become final upon filing with the Secretary of State.

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

The Board Adopts Tighter Rules for Hospital/Medical/Infectious Waste Incinerators, R11-20

The Board, on September 22, 2011, adopted amendments to the Board's air quality standards rules for "Hospital/Medical/Infectious Waste Incinerators" (HMIWI). The proposed rules were filed on December 23, 2010 by the Illinois Environmental Protection Agency (IEPA) and docketed as In the Matter of: Amendments to 35 Ill. Adm. Code Part 229: Hospital/Medical/Infectious Waste Incinerators, R11-20. These rules will become effective upon filing with the Secretary of State.

The adopted rules reflect the United States Environmental Protection Agency's (USEPA) October 2009 amendments to the federal air quality standards, including new source performance standards (NSPS), and emissions guidelines (EG). Changes include revised emissions standards that are more stringent than existing ones, revised waste management plan provisions for greater flexibility in demonstrating compliance, and removal of an existing startup, shutdown, and malfunction provision.

The compliance date for the new rules is January 1, 2014. The Stericycle, Inc. facility in Clinton, the only existing facility to which the rules apply, has testified that it believes it can comply with the rules as amended.

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

The Board Adopts for First Notice a Proposal to Amend Underground Storage Tank Regulations, R11-22

On September 22, 2011, the Board adopted for first notice a proposal to amend the Board's underground storage tank (UST) regulations. On February 18, 2011, the Illinois Environmental Protection Agency (IEPA) filed the original rulemaking proposal, which is docketed as In the Matter of: Underground Storage Tanks (35 Ill. Adm. Code 731) and Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732 and 734), R11-22. Publication of the proposed rules in the Illinois Register will start a 45-day written public comment period.

The IEPA filed the proposal pursuant to Public Act 96-908 (P.A. 96-908), which was signed into law and became effective on June 8, 2010. The IEPA stated that P.A. 96-908 amended and added provisions to Title XVI of the Environmental Protection Act, which addresses USTs. The IEPA stated that is sought to update Part 731 of the Board's regulations "to clarify the application of Part 734 to owners and operators subject to Title XVI. . . ." The IEPA proposed repealing Part 732 "because it no longer has any application after the enactment of P.A. 96-908." The IEPA also sought to amend Part 734 to reflect statutory amendments adopted in P.A. 96-908.

The Board held two public hearings in this rulemaking: the first on May 10, 2011, in Springfield, and the second on June 16, 2011, in Chicago.

Publication of these proposed amendments in the *Illinois Register* will begin a 45-day public comment period, during which any person 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, R11-22, should be indicated on the public comment.

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

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] at the following address: 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 Further Amending Volatile Organic Material Emissions Control Regulations, R11-23(A)

On September 22, 2011, the Illinois Pollution Control Board adopted for second-notice review by the Joint Committee on Administrative Rules (JCAR) a proposal amending its air pollution regulations addressing emission of volatile organic material (VOM). The rulemaking is docketed as In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions From Group IV Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 218.208, and 219.208, R11-23(A). There are no substantive changes between this proposal and the Board's June 16, 2011 first notice proposal published at 35 Ill. Reg. 10189, 10207 (July 1, 2011). The Joint Committee on Administrative Rules has scheduled the rule for review at its October 11, 2011 meeting, as required by the Administrative Procedure Act. *See* 5 ILCS 100/5-40(c) (2010)).

This "trailer docket" proposes additional amendments to the rules recently adopted by the Board in the main docket. In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions From Group IV Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 218.208, and 219.208, R11-23 (June 16, 2011). The IEPA proposed amending Sections 218.208 and 219.208 by adding a "small container exemption" for pleasure craft surface coating operations. The Board, on June 16, 2011, opened this Subdocket (A) in order to address those two sections, neither of which had been included in the IEPA's original proposal.

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

Board Actions

September 8, 2011

Chicago, Illinois

Rulemakings

- | | | |
|------------------|---|-------------|
| R 10-9(A) | <u>In the Matter of: Financial Assurance Instruments--Renewal and Terms: Amendments to 35 Ill. Adm. Code 807.Subpart F, 810.104 and 811.Subpart G</u> – The Board adopted a second notice opinion and order in this rulemaking to amend the Board’s land pollution control regulations. | 5-0
Land |
|------------------|---|-------------|

Administrative Citations

- | | | |
|-----------------|---|-----|
| AC 9-35 | <u>IEPA v. William and Patricia Hajek</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a DeKalb County facility, the Board found that respondents had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2008)) 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 respondent pay a total civil penalty of \$1,500, the Board on its own motion, dismissed the alleged violations of Section 21(p)(7) of the Act. | 5-0 |
| AC 11-14 | <u>IEPA v. Jason Johnson Sr.</u> – The Board granted complainant’s motion to voluntarily dismiss the administrative citation. | 5-0 |
| AC 11-23 | <u>IEPA v. Dennis Weiler</u> – The Board denied respondent’s motion to reconsider. | 5-0 |
| AC 11-31 | <u>IEPA v. Patrick D. and Monique D. Patterson</u> – The Board found that these Sangamon County respondents violated Section 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (3), and (7) (2010)), and ordered respondents to pay a civil penalty of \$4,500. | 5-0 |
| AC 12-1 | <u>IEPA v. Gaylon L. and Lois J. Harrell</u> – The Board accepted respondents’ petition for review for hearing. | 5-0 |

Adjudicatory Cases

- | | | |
|------------------|--|------------|
| PCB 04-16 | <u>People of the State of Illinois v. Packaging Personified, Inc.</u> – In this air enforcement action concerning a DuPage County facility, the Board found that Packaging violated the following: the Environmental Protection Act at 415 ILCS 5/9(a), 9(b), 39.5(5)(a), and 39.5(6)(b) (2010); the Board’s regulations at 35 Ill. Adm. Code 201.142, 201.143, 201.302(a), 203.201, 203.203(a), 203.301, 203.601, 205.300(a), 205.310(a)(1), 218.401(a), and 218.404(c); IEPA’s regulations at 35 Ill. Adm. Code 254.137(a), 254.501, and 270.201(b); and Conditions 5, 15, and 16 of construction permit 03030016 issued on August 13, 2003. The Board ordered the respondent to pay a total civil penalty of \$456,313.57, and to cease and desist from further violations. | 5-0
A-E |
| PCB 06-63 | <u>Dyneyg Midwest Generation, Inc. (Baldwin Energy Complex) v. IEPA</u> – The | P-A, Air |

Environmental Register – September 2011

	Board granted Dynegy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynegy Midwest Generation, Inc.” to “Dynegy Midwest Generation, LLC”.	5-0
PCB 06-71	<u>Dynegy Midwest Generation, Inc. (Havana Power Station) v. IEPA</u> – The Board granted Dynegy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynegy Midwest Generation, Inc.” to “Dynegy Midwest Generation, LLC”.	P-A, Air 5-0
PCB 06-72	<u>Dynegy Midwest Generation, Inc. (Hennepin Power Station) v. IEPA</u> – The Board granted Dynegy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynegy Midwest Generation, Inc.” to “Dynegy Midwest Generation, LLC”.	P-A, Air 5-0
PCB 06-73	<u>Dynegy Midwest Generation, Inc. (Vermilion Power Station) v. IEPA</u> – The Board granted Dynegy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynegy Midwest Generation, Inc.” to “Dynegy Midwest Generation, LLC”.	P-A, Air 5-0
PCB 06-74	<u>Dynegy Midwest Generation, Inc. (Wood River Power Station) v. IEPA</u> – The Board granted Dynegy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynegy Midwest Generation, Inc.” to “Dynegy Midwest Generation, LLC”.	P-A, Air 5-0
PCB 06-194	<u>Dynegy Midwest Generation, Inc. (Vermilion Power Station) v. IEPA</u> – The Board granted Dynegy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynegy Midwest Generation, Inc.” to “Dynegy Midwest Generation, LLC”.	P-A, Air 5-0
PCB 07-115	<u>Dynegy Midwest Generation, Inc. (Havana Power Station) v. IEPA</u> – The Board granted Dynegy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynegy Midwest Generation, Inc.” to “Dynegy Midwest Generation, LLC”.	P-A, Air 5-0
PCB 07-123	<u>Dynegy Midwest Generation, Inc. (Hennepin Power Station) v. IEPA</u> – The Board granted Dynegy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynegy Midwest Generation, Inc.” to “Dynegy Midwest Generation, LLC”.	P-A, Air 5-0
PCB 08-66	<u>Dynegy Midwest Generation, Inc. (Baldwin Energy Complex) v. IEPA</u> – The Board granted Dynegy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynegy Midwest Generation, Inc.” to “Dynegy Midwest Generation, LLC”.	P-A, Air 5-0
PCB 09-6	<u>Dynegy Midwest Generation, Inc. (Wood River Power Station) v. IEPA</u> – The Board granted Dynegy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynegy Midwest Generation, Inc.” to “Dynegy Midwest Generation, LLC”.	P-A, Air 5-0
PCB 09-9	<u>Dynegy Midwest Generation, Inc. (Baldwin Energy Complex) v. IEPA</u> – The Board granted Dynegy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynegy Midwest Generation, Inc.” to “Dynegy Midwest Generation, LLC”.	P-A, Air 5-0
PCB 10-9	<u>People of the State of Illinois v. Waste Hauling Landfill, Inc., Jerry Camfield,</u>	L-E

Environmental Register – September 2011

	<u>A. E. Staley Manufacturing Co., Aramark Uniform Services, Inc., Bell Sports, Inc., Borden Chemical Co., Bridgestone/Firestone, Inc., Climate Control, Inc., Caterpillar, Inc., Combe Laboratories, Inc., General Electric Railcar Services Corporation, P & H Manufacturing, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement as to Combe Laboratories, Inc., and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Macon County facility, the Board ordered publication of the required newspaper notice. In a separate order, the Board dismissed Triple S Refining Corporation as a respondent in this cost recovery action.	5-0
PCB 10-108	<u>People of the State of Illinois v. William Charles Real Estate Investment, L.L.C.</u> – In this water enforcement action concerning a Winnebago 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 \$10,000.00, and to cease and desist from further violations.	5-0 W-E
PCB 11-6	<u>People of the State of Illinois v. American Construction, LLC, Inc., and Real Estate Elmhurst, LLC</u> – In this water enforcement action concerning a DuPage 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 as to American Construction, LLC only , and ordered respondent to pay a total civil penalty of \$2,500.00, and to cease and desist from further violations.	5-0 W-E
PCB 11-21	<u>People of the State of Illinois v. Prairieland Investment Group, LLC, and Kevin S. Cook, d/b/a KC Construction</u> – In this air enforcement action concerning a Hancock 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 as to Prairieland Investment Group, LLC, and ordered the respondent to pay a total civil penalty of \$50,000.00, and to cease and desist from further violations.	5-0 A-E
PCB 11-54	<u>People of the State of Illinois v. Stewart Spreading, Inc.</u> – In this air enforcement action concerning a Kendall 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 \$13,000.00, and to cease and desist from further violations.	5-0 A, W-E
PCB 11-86 PCB 12-46 (cons.)	<u>ExxonMobil Oil Corporation v. IEPA</u> –The Board accepted ExxonMobil’s (petitioner) September 2, 2011 filing as a new petition for variance and granted petitioner’s motion for hearing. The Board consolidated PCB 11-86 and PCB 12-46 for hearing and decision.	5-0 A-V
PCB 12-14	<u>Center Point Energy, Mississippi River Transmission, LLC v. IEPA</u> – The Board granted petitioner Center Point Energy – Mississippi River Transmission, LLC motion to allow Garry L. Keele and Bryan A. Fuller to appeal pro hac vice on its behalf.	5-0 P-A, Air

Environmental Register – September 2011

PCB 12-15	<u>Gary Szczeblewski v. State Fire Marshall, Divison of Petroleum & Chemical Safety</u> – The Board ordered petitioner to file an amended petition curing the noted deficiencies on or before September 30, 2011, or this docket will be dismissed.	5-0 UST Appeal
PCB 12-23	<u>Beneficial Reuse Management, LLC and Southern Illinois Power Cooperative v. IEPA</u> – The Board granted petitioners’ motion for a stay of the permit’s contested conditions.	5-0 P-A, Water
PCB 12-27	<u>People of the State of Illinois v. Industrial Enclosure Corporation</u> – The Board accepted for hearing this land enforcement action involving a site located in Kane County.	5-0 L-E
PCB 12-28	<u>People of the State of Illinois v. Strout Crossing, LLC, Jerry Webster, and Mark Webster</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 Pike County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 12-29	<u>Gary Cooper v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Champaign County facility.	5-0 UST Appeal
PCB 12-30	<u>Village of Downers Grove 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 DuPage County facility.	5-0 UST Appeal 90- Day Extension
PCB 12-31	<u>Jeff and Mitzi Sharer - Little York (Property ID No. 05-016-007-01) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Jeff and Mitzi Sharer - Little York located in Henderson County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
PCB 12-32	<u>Jeff and Mitzi Sharer - Little York (Property ID No. 05-015-004-00) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Jeff and Mitzi Sharer - Little York located in Henderson County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
PCB 12-33	<u>Deborah Ann Rousoncles v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Deborah Ann Rousoncles located in Henderson County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
PCB 12-34	<u>ExxonMobil Oil Corporation, New Source Review Project v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of ExxonMobil Oil Company Farms located in Will County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, A

Environmental Register – September 2011

PCB 12-35	<u>People of the State of Illinois v. Six M. Corporation, Inc., William Maxwell, and Marilyn Maxwell</u> – The Board accepted for hearing this water enforcement action involving a site located in De Witt County.	5-0 W-E
PCB 12-36	<u>Marathon Petroleum Company, LLC, Reformulated Gasoline Blending System v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Marathon Petroleum Company, LLC located in Crawford County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, A
PCB 12-37	<u>WRB Refining, LLC, Boiler No. 17 NOx v. IEPA</u> – Upon receipt of 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)).	5-0 T-C, A
PCB 12-38	<u>WRB Refining, LLC, Distilling West H-28 NOx Reduction v. IEPA</u> – Upon receipt of 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)).	5-0 T-C, A
PCB 12-39	<u>WRB Refining, LLC, Gasoline SZorb Unit v. IEPA</u> – Upon receipt of 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)).	5-0 T-C, A
PCB 12-40	<u>WRB Refining, LLC, Ultralow Sulfur Diesel v. IEPA</u> – Upon receipt of 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)).	5-0 T-C, A
PCB 12-41	<u>Marathon Petroleum Company, LLC, Carbon Canisters and Degasser for Caustic Storage Tanks v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Marathon Petroleum Company, LLC located in Crawford County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, A
PCB 12-42	<u>Bernie’s Wood River Gas v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Madison County facility.	UST Appeal 5-0
PCB 12-43	<u>People of the State of Illinois v. Forbo Adhesives, 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 air enforcement action involving a Grundy County facility, the Board ordered publication of the required newspaper notice.	A-E 5-0
PCB 12-45	<u>JKL Pork, LLC - Minock (Property ID No. 04-01-300-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the	5-0 T-C, W

Environmental Register – September 2011

Board found and certified that specified facilities of JKL Pork, LLC - Minock located in Woodford County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).

September 22, 2011 Chicago, Illinois

Rulemakings

- | | | |
|-------------------|--|-------------|
| R 09-19 | <u>In the Matter of Air Quality Standards Clean-up: Amendments to 35 Ill. Adm. Code Part 243</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 |
| R 11-8 | <u>In the Matter of: NOx Trading Program Sunset Provisions for Non-Electric Generation Units ("Non-EGU."): Amendments to 35 Ill. Adm. Code Part 217. Subpart U</u> – The Board adopted a final opinion and order in this rulemaking proposal which amends the Board’s air pollution control regulations. | 5-0
Air |
| R 11-20 | <u>In the Matter of: Amendments to 35 Ill. Adm. Code Part 229: Hospital/Medical/Infectious Waste Incinerators</u> – The Board adopted a final opinion and order in this rulemaking proposal which amends the Board’s air pollution control regulations. | 5-0
Air |
| R 11-22 | <u>In the Matter of: Amendments Under P.A. 96-908 to Regulations of Underground Storage Tanks (UST) and Petroleum Leaking UST: 35 Ill. Adm. Code 731, 732, and 734</u> – The Board adopted a first notice opinion and order in this rulemaking to amend the Board’s land pollution control regulations. | 5-0
Land |
| R 11-23(A) | <u>In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions from Group II and Group IV Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 211, 218, and 219</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 |

Administrative Citations

- | | | |
|-----------------|--|-----|
| AC 11-28 | <u>IEPA v. Thad and Linda Shafer</u> – The Board granted complainant’s motion to voluntarily dismiss the administrative citation against Linda Shafer. | 5-0 |
| AC 11-32 | <u>IEPA v. Brandon DeHart and Robert Evans</u> – Since no amended petition on behalf of Brandon DeHart was filed as ordered in the Board’s August 4, 2011 order, the previously filed petition for review was dismissed; Robert Evans failed to file a petition. The Board found that these Pike County respondents violated Section 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (3), and (7) (2010)), and ordered respondents to pay a civil penalty of \$4,500. | 5-0 |

Adjudicatory Cases

- | | | |
|-------------------|---|-------------------|
| PCB 01-122 | <u>McHenry Storage v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal. | 5-0
UST Appeal |
|-------------------|---|-------------------|

Environmental Register – September 2011

PCB 08-89	<u>People of the State of Illinois v. Gelco Management & Developers LLC</u> – In this air enforcement action concerning a Franklin 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 \$45,000.00, and to cease and desist from further violations.	5-0 A-E
PCB 10-70	<u>Wheeling/GWA Auto Shop v. IEPA</u> – In a July 7, 2011 interim opinion and order, the Board granted petitioner’s motion for summary judgment and denied that of the Illinois Environmental Protection Agency’s (IEPA). The Board reversed the IEPA’s February 2, 2010 reduction of \$78,915.86 in petitioner’s corrective action plan budget and remanded the matter to the IEPA to consider the merits of that portion of petitioner’s budget. In its September 22, 2011 final order, the Board directed the IEPA to reimburse petitioner from the UST Fund for legal fees and costs in the amount of \$17,030.46.	5-0 UST Appeal
PCB 12-24	<u>Chronister Oil Co. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal.	5-0 UST Appeal
PCB 12-47	<u>JMTR, LLC-Erie v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of JMTR, LLC-Erie located in Whiteside County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
PCB 12-48	<u>People of the State of Illinois v. Phoenix Corporation of the Quad Cities</u> – The Board accepted for hearing this water enforcement action involving a site located in Carroll County.	5-0 W-E
PCB 12-49	<u>United States Steel Corporation v. IEPA</u> –The Board accepted this petition for variance, pursuant to Section 38(b) of the Act (415 ILCS 5/38(b) (2010)). The Board also confirmed that U.S. Steel’s filing of the variance petition within 20 days of the effective date of the R11-24 Nox rules stayed operation of the January 1, 2015 deadline for compliance of the contested conditions.	5-0 A-V

New Cases

September 8, 2011 Board Meeting

12-27 People of the State of Illinois v. Industrial Enclosure Corporation – The Board accepted for hearing this land enforcement action involving a site located in Kane County.

12-28 People of the State of Illinois v. Strout Crossing, LLC, Jerry Webster, and Mark Webster – 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 Pike County facility, the Board ordered publication of the required newspaper notice.

12-29 Gary Cooper v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Champaign County facility.

Environmental Register – September 2011

12-30 Village of Downers Grove 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 DuPage County facility.

12-31 Jeff and Mitzi Sharer - Little York (Property ID No. 05-016-007-01) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Jeff and Mitzi Sharer - Little York located in Henderson County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).

12-32 Jeff and Mitzi Sharer - Little York (Property ID No. 05-015-004-00) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Jeff and Mitzi Sharer - Little York located in Henderson County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).

12-33 Deborah Ann Rousoncles v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Deborah Ann Rousoncles located in Henderson County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).

12-34 ExxonMobil Oil Corporation, New Source Review Project v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of ExxonMobil Oil Company Farms located in Will County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).

12-35 People of the State of Illinois v. Six M. Corporation, Inc., William Maxwell, and Marilyn Maxwell – The Board accepted for hearing this water enforcement action involving a site located in De Witt County.

12-36 Marathon Petroleum Company, LLC, Reformulated Gasoline Blending System v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Marathon Petroleum Company, LLC located in Crawford County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).

12-37 WRB Refining, LLC, Boiler No. 17 NOx v. IEPA – Upon receipt of 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)).

12-38 WRB Refining, LLC, Distilling West H-28 NOx Reduction v. IEPA – Upon receipt of 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)).

12-39 WRB Refining, LLC, Gasoline SZorb Unit v. IEPA – Upon receipt of 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)).

12-40 WRB Refining, LLC, Ultralow Sulfur Diesel v. IEPA – Upon receipt of 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)).

12-41 Marathon Petroleum Company, LLC, Carbon Canisters and Degasser for Caustic Storage Tanks v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Marathon Petroleum Company, LLC located in Crawford County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).

Environmental Register – September 2011

12-42 Bernie's Wood River Gas v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Madison County facility.

12-43 People of the State of Illinois v. Forbo Adhesives, 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 air enforcement action involving a Grundy County facility, the Board ordered publication of the required newspaper notice.

12-44 Anielle Lipe and Nykole Gillette v. Village of Richton Park – No action taken.

12-45 JKL Pork, LLC - Minock (Property ID No. 04-01-300-001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of JKL Pork, LLC - Minock located in Woodford County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).

12-46 ExxonMobil Oil Corporation v. IEPA – The Board accepted ExxonMobil's (petitioner) September 2, 2011 filing as a new petition for variance and granted petitioner's motion for hearing. The Board consolidated PCB 11-86 and PCB 12-46 for hearing and decision.

September 22, 2011 Board Meeting

12-47 JMTR, LLC-Erie v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of JMTR, LLC-Erie located in Whiteside County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).

12-48 People of the State of Illinois v. Phoenix Corporation of the Quad Cities – The Board accepted for hearing this water enforcement action involving a site located in Carroll County.

12-49 United States Steel Corporation v. IEPA – The Board accepted this petition for variance, pursuant to Section 38(b) of the Act (415 ILCS 5/38(b) (2010)). The Board also confirmed that U.S. Steel's filing of the variance petition within 20 days of the effective date of the R11-24 NO_x rules stayed operation of the January 1, 2015 deadline for compliance of the contested conditions.

12-50 Commonwealth Edison Co. v. Frederick K. Slayton, Ann Vole Slayton, and Cioni Excavating, Inc. – No action taken.

AS 12-1 In the Matter of: Petition of Cabot Corporation for an Adjusted Standard from 35 Ill. Adm. Code Part 738, Subpart B – No action taken.

AC 12-2 IEPA v. David and Vivian Wright – The Board accepted an administrative citation against these Fayette County respondents.

Calendar

10/5/2011 1:00 PM	R12-10	<u>In the Matter of: Registration of Smaller Sources (ROSS): New 35 Ill. Adm. Code 201.175</u>	Illinois Pollution Control Board Conference Room First Floor 1021 N. Grand Avenue East (North Entrance) Springfield
10/6/2011 9:00 AM	R12-08	<u>In the Matter of: Standards and Limitations for Organic Material Emissions for Area Sources; Amendments to 35 Ill. Adm. Code Part 223</u>	Illinois Pollution Control Board Conference Room First Floor 1021 N. Grand Avenue East (North Entrance) Springfield
10/6/2011 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
10/20/2011 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
10/25/2011 10:00 AM	PCB 09-102	<u>Peter Arendovich v. the Illinois State Toll Highway Authority</u>	Lemont Village Hall Board Room 418 Main Street Lemont
10/25/2011 11:00 AM	R12-09	<u>In the Matter of Proposed Amendments to Clean Construction or Demolition Debris (CCDD) Fill Operations: Proposed Amendments to 35 Ill. Adm. Code 1100</u> (Continues until complete or through October 26, 2011)	James R. Thompson Center Room 2-025 100 W. Randolph Street Chicago
10/27/2011 11:00 AM	R08-09(B)	<u>In the Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System (CAWS) and the Lower Des Plains River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304</u>	James R. Thompson Center Room 2-025 100 W. Randolph Street Chicago
10/27/2011 1:00 PM	R12-10	<u>In the Matter of: Registration of Smaller Sources (ROSS): New 35 Ill. Adm. Code 201.175</u>	Illinois Pollution Control Board Conference Room, 11-512 James R. Thompson Center 100 W. Randolph Street Chicago
11/2/2011 10:00 AM	AC 11-13	<u>IEPA v. Ray Newingham (IEPA File No. 305-10-AC)</u>	City Hall Council Room 621 S. Main St. Carrollton

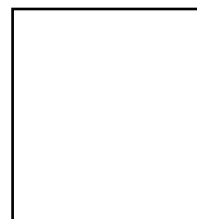
Environmental Register – September 2011

11/2/2011 10:30 AM	AC 10-21	<u>IEPA v. David Charles Bettis (IEPA File No. 124-10-AC)</u>	City Hall Council Room 621 S. Main St. Carrollton
11/3/2011 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
11/8/2011 10:30 AM	AC 10-30	<u>County of Jackson v. Frances Klink (Site Code: 0778145040)</u>	Jackson County Courthouse Courtroom 5, First Floor 1001 Walnut Murphysboro
11/17/2011 9:00 AM	R12-12	<u>In the Matter of: Revision of Enhanced Vehicle Emission Inspection and Maintenance (I/M) Regulations: Amendments to 35 Ill. Adm. Code Part 240</u>	James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago
11/17/2011 1:00 PM	R12-08	<u>In the Matter of: Standards and Limitations for Organic Material Emissions for Area Sources: Amendments to 35 Ill. Adm. Code Part 223</u>	Illinois Pollution Control Board Conference Room, 11-512 James R. Thompson 100 W. Randolph Street Chicago
11/17/2011 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
11/30/2011 9:00 AM	R12-12	<u>In the Matter of: Revision of Enhanced Vehicle Emission Inspection and Maintenance (I/M) Regulations: Amendments to 35 Ill. Adm. Code Part 240</u>	Madison County Administration Building Room 145 157 N. Main Street Edwardsville

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