
Environmental Register

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

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Letter from the Chairman

In December, the Board took action on two rulemakings that have generated public comment. Below, these recent activities are summarized. As always, information about these proceedings is available through the Clerk's Office Online (COOL) at our Web site at www.ipcb.state.il.us.

On December 19, 2013, the Board adopted final amendments in Vapor Recovery Rules: Amendments to 35 Ill. Adm. Code Parts 201, 218, and 219 (R13-18), which will have a calendar-year 2013 effective date. This will allow the State of Illinois to timely realize additional emission reduction benefits achievable by using only on-board refueling vapor recovery (ORVR) systems. The amendments include the phase-out of Stage II vapor recovery systems at the pump nozzles of gasoline dispensing facilities (GDFs) in the Chicago ozone nonattainment area (NAA). The phase-out is based upon the determination of the United States Environmental Protection Agency that there is widespread use of ORVR throughout the national motor vehicle fleet. ORVR systems are incompatible with most of the Stage II equipment used at GDFs in the Chicago NAA. Simultaneously using ORVR and incompatible Stage II systems results in greater refueling emissions than if only ORVR were to be used. Owners and operators of existing GDFs in the Chicago ozone NAA are allowed to begin decommissioning Stage II systems on January 1, 2014, but must comply with Stage II requirements until decommissioning begins. The Board also repealed overlapping Stage I registration requirements in the Chicago and Metro-East ozone NAAs. Finally, applicable throughout the State are clarifications to State air permitting exemptions and amendments for Title V or CAAPP "insignificant activities."

On December 19, 2013, the Board adopted a first-notice opinion and order in Amendments to Primary Drinking Water Standards: 35 Ill. Adm. Code 611.490 (R14-9). The rulemaking amends the Illinois Primary Drinking Water Standards relating to certification of laboratories analyzing drinking water samples. Specifically, the proposed amendments would allow a drinking water supplier to use a laboratory certified by a sister state for a parameter where no United States Environmental Protection Agency-certified or Illinois-certified laboratory exists for that parameter. Currently, laboratories used must be certified and approved either by the USPEA or the Illinois Environmental Protection Agency. The Board has conducted two public hearings in this matter. The Board will receive public comments on the proposed amendments for a period of no less than 45 days after the notice of these proposed amendments appears in the *Illinois Register*.

I would also like to announce that over the next few months, the Board will be making changes to improve its Agenda. Please watch for these changes.

Please visit the Board website at www.ipcb.state.il.us for information on the rulemakings listed above as well as other Board rulemaking dockets and contested cases.



Sincerely,

A handwritten signature in cursive script that reads "Deanna Glosser". The ink is dark and the signature is fluid and legible.

Deanna Glosser, Ph.D.
Chairman

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Appellate Update

Supreme Court Affirms Dismissal of School District's Appeals for Lack of Jurisdiction in Tax Certification Cases

Board of Education of Roxana Community School District No. 1 v. Pollution Control Board, 2013 IL 115473

On November 21, 2013, the Illinois Supreme Court affirmed the Fourth District Appellate Court's decision that the appellate court has no jurisdiction to hear appeals brought by Roxana School District. The School District sought direct administrative review of Board decisions rendered in "pollution control facility" (PCF) tax certification proceedings.

The Fourth District had held (2-1) that it lacks jurisdiction to hear Roxana School District's 28 petitions for review of Board orders in which the Board did the following: (1) denied the School District's motions for intervention in 28 PCF tax certification proceedings; and (2) granted, on IEPA's recommendation, WRB Refining, LLC's tax certification applications, thereby certifying various systems and devices as PCFs at the company's Wood River petroleum refinery in Roxana, Madison County. The certifications afford preferential tax treatment for the PCFs, which Roxana School District maintained would deprive it of tax revenue. The Fourth District found that pursuant to Section 11-60 of the Property Tax Code (Code) (35 ILCS 200/11-60 (2012)), review of a Board decision in a PCF tax certification proceeding may be sought only by the tax certification applicant, like WRB, and then, only in circuit court. According to the Fourth District, to accept Roxana School District's argument (that Section 41 of the Environmental Protection Act (Act) (415 ILCS 5/41 (2012)) provides jurisdiction for direct appeals to the appellate court from tax certification cases) would "effectively render meaningless section 11-60 of the Code" and allow applicants to "engage in forum shopping." 2012 IL App (4th) 120174-U, ¶ 25. The Fourth District dismissed the appeals for lack of jurisdiction. The Board dockets that were at issue are PCB 12-39, PCB 12-40, PCB 12-65 through PCB 12-84, and PCB 12-86 through PCB 12-91.

Though it affirmed the Fourth District majority's judgment, the Supreme Court provided "different reasoning" for the lack of jurisdiction. 2013 IL 115473, ¶ 17. It was uncontested that the Code's appeal provision, Section 11-60, provided the School District no rights to appeal: the School District is not an applicant for (or a holder of) a PCF certificate that has been aggrieved by a Board decision, "and, in any case, such appeals must be brought in circuit court." *Id.* at ¶ 18. According to the Supreme Court, the Fourth District majority held that Section 11-60 of the Code "leaves no room for resort to [the Act's appeal provision, Section 41] in cases involving certification of [PCFs]." *Id.* at ¶ 19. The high court then stated "we need not go that far" because "even if section 41 were not completely supplanted by section 11-60 with regard to appeals in such cases," Section 41 would still be unavailable to the School District. *Id.*

Roxana School District argued that it could appeal directly to the appellate court because it fell within the fourth category of petitioners listed in Section 41 of the Act, which permits appeals by "any party adversely affected by a final order or determination of the Board." 2013 IL 115473, ¶ 20. The Supreme Court disagreed, citing its decision in Lake County Contractors Ass'n v. Pollution Control Board, 54 Ill. 2d 16, 21 (1973). Lake County Contractors held that "to be a 'party' within the meaning of the fourth category of section 41, one must have been an actual party of record in the underlying proceedings before the Board." *Id.* at ¶ 20. Because Roxana School District "was denied leave to intervene in these proceedings, it is not and cannot be deemed to have ever been a party to the litigation." *Id.*

The Supreme Court quickly dispensed with the argument that jurisdiction exists based upon the second category of petitioners listed in Section 41 of the Act, which permits appeals by “any person who filed a complaint on which a hearing was denied.” 2013 IL 115473, ¶ 21. The Supreme Court found that Roxana School District “did not file a complaint at all,” adding that “[t]here is no meaningful sense in which a petition to intervene can be considered a complaint.” *Id.* The high court therefore ruled that “[t]he contrary view taken by the appellate court in *Citizens Against the Randolph Landfill (CARL) v. Pollution Control Board*, 178 Ill. App. 3d 686, 692 ([4th Dist.] 1988), is untenable, and we reject it.” *Id.*

The Supreme Court also rejected the position that appeals in PCF certification proceedings should be made directly to appellate court under Section 41 of the Act when brought by *third parties*, but to circuit court under Section 11-60 of the Code when brought by *the PCF certificate applicant*. Finding that this interpretation would “yield absurd results” because “the particular court to which an appeal must be brought would differ depending on the particular litigant who brought it,” the Supreme Court observed: “We are unaware of any other situation in Illinois law where this occurs, and we can conceive of no sound reason why the legislature would possibly have wanted to create such a dual-track system with respect to appeals in [PCF] certification proceedings.” 2013 IL 115473, ¶¶ 22, 23.

The high court recognized that “legitimate concerns may arise when the only parties permitted to participate in the regulatory process are regulators and the companies they regulate,” but reasoned that such concerns are “a matter for the General Assembly.” 2013 IL 115473, ¶ 25 (“courts may not rewrite statutes to make them consistent with the court’s idea of orderliness and public policy”). The Supreme Court concluded by noting that taxing bodies like the School District “have been given some voice in how certified [PCFs] within their borders are ultimately taxed.” *Id.* at ¶ 26. This opportunity, however, comes not at the PCF certification stage, but rather “later, when the Department of Revenue actually assesses the value of those facilities.” *Id.*

Fourth District Reverses Circuit Court’s Findings of No Open Meetings Act Violations by the Board

Roxana Community Unit School District No. 1 v. Environmental Protection Agency, 2013 IL App (4th) 120825

On November 14, 2013, the Fourth District Appellate Court reversed the Sangamon County Circuit Court’s rulings that the Board did not violate the Open Meetings Act (OMA) (5 ILCS 120 (2012)). The Fourth District found, as alleged by Roxana School District and other local taxing districts (plaintiffs), that the Board violated the OMA in two ways: first, by using Closed Deliberative Sessions (CDS) to consider matters ineligible for an exception to the OMA’s open meeting requirement; and second, by prohibiting members of the public from addressing the Board at open meetings. The appellate court also found that IEPA violated the Freedom of Information Act (5 ILCS 140 (2012)), which is not further discussed here. Any petition for leave to appeal the Fourth District’s decision to the Illinois Supreme Court is presently due January 23, 2014.

The Sangamon County Circuit Court had issued an order finding that the Board did not violate the OMA as claimed by plaintiffs. Their complaint alleged, among other things, that the Board’s conduct of its regular open and closed meetings violated the OMA. The complaint sought relief with respect to both concluded and then-pending Board proceedings involving numerous “pollution control facility” (PCF) tax certification applications submitted by WRB Refining, LLC. Plaintiffs were opposed to the Board certifying that various systems and devices at WRB’s Wood River petroleum refinery in Roxana, Madison County are PCFs. The certifications provide preferential tax treatment for the PCFs, which plaintiffs asserted would deprive them of tax revenue. The Board dockets at issue are PCB 12-39, PCB 12-40, PCB 12-65 through PCB 12-84, and PCB 12-86 through PCB 12-91, which are the same cases that were at issue before the Illinois Supreme Court in Board of Education of Roxana Community School District No. 1 v. Pollution Control Board, 2013 IL 115473.

The Fourth District Appellate Court described the “overarching dispute” as concerning “the procedure the Board employed to grant certification of identified WRB infrastructure improvements as [PCFs].” 2013 IL App (4th) 120825, ¶ 46. The Fourth District first noted that the “plain language” of Section 2(c)(4) of the OMA (5 ILCS 120/2(c)(4) (2012)) allows the Board to “conduct a closed session to consider ‘evidence or testimony’ that was ‘presented in an open or closed hearing’ to a ‘quasi-judicial body.’” *Id.* at ¶ 55. Strictly construing this exception to the open meeting requirement, as the OMA requires (*id.* at ¶¶ 50, 54), the appellate court found “no such evidence or testimony existed [in the Board’s WRB tax certification proceedings] that would warrant consideration in a [CDS] under that exception” (*id.* at ¶ 55). The Fourth District relied heavily upon “the overarching policy in this state that the people’s business be conducted openly to inform the public.” *Id.* at ¶ 56.

The appellate court also found that the Board “prohibited public comment” at open meetings, and instead “restricted the opportunity to address [the Board] to written filings.” 2013 IL App (4th) 120825, ¶¶ 57, 58. The Fourth District

concluded that this violated Section 2.06(g) of the OMA (5 ILCS 120/2.06(g) (2012)), which provides that “[a]ny person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body.” *Id.* at ¶57.

The Fourth District therefore reversed the circuit court and remanded the case “for further proceedings consistent with the guidance contained herein, which includes plaintiffs’ pursuit of appropriate remedies.” 2013 IL App (4th) 120825, ¶59.

Rulemaking Update

Board Consolidates Three “Identical-in-Substance” Rulemaking Dockets and Proposes Updates to Incorporations by Reference, R14-1, R14-2, R14-3 (consol.)

On December 5, 2013, the Board consolidated three rulemaking dockets and proposed amendments for public comment. The three dockets follow: UIC Update, USEPA Amendments (January 1, 2013 through June 30, 2013), R14-1; RCRA Subtitle D Update, USEPA Amendments (January 1, 2013 through June 30, 2013), R14-2; and RCRA Subtitle C Update, USEPA Amendments (January 1, 2013 through June 30, 2013), R14-3. This consolidated “identical-in-substance” rulemaking proposes updates to incorporations by reference in three distinct subject matter areas: the Illinois underground injection control (UIC) regulations; the Resource Conservation and Recovery Act (RCRA) Subtitle D Municipal Solid Waste Landfill (MSWLF) regulations; and the RCRA Subtitle C hazardous waste regulations. The Board also includes a single correction to a hazardous waste rule at the request of the Joint Committee on Administrative Rules (JCAR).

The United States Environmental Protection Agency (USEPA) did not amend its regulations in any of the three subject areas during the period of January 2013 through June 30, 2013. Rather, the Board has determined that the amendments are needed to ensure that the Illinois regulations are “identical in substance” to the federal requirements from which the Board derived them.

This proposal for public comment would update the version of federal regulations incorporated by reference to the latest version of the *Code of Federal Regulations*. The incorporations by reference in 35 Ill. Adm. Code 720.111 relate to the UIC and RCRA Subtitle C hazardous waste regulations. The incorporations by reference in 35 Ill. Adm. Code 810.104 relate to the RCRA Subtitle D MSWLF regulations. This proposal would also make a single non-substantive correction to 35 Ill. Adm. Code 727.240 as requested by JCAR in the wake of the recently completed amendments in RCRA Subtitle C Update, USPEA Amendments (July 1, 2012 through December 31, 2012), R13-15 (Sept. 5, 2013).

The Board will receive public comments on this proposal for a period of 45 days following publication in the *Illinois Register*. After that time, the Board will immediately consider adoption of the amendments, making any necessary changes made evident through public comments.

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

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

In addition, public comments may be filed electronically through the Clerk’s Office On-Line (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.

For more information, please contact Michael McCambridge at 312-814-6983 or michael.mccambridge@illinois.gov.

Board Adopts Final Amendments to Vapor Recovery Rules, R13-18

The Board, on December 19, 2013, adopted a final-notice opinion and order to amend the Board’s air pollution rules. The Illinois Environmental Protection Agency had initiated the proceeding by filing a rulemaking proposal on March 18, 2013. The rulemaking is docketed as Vapor Recovery Rules: Amendments to 35 Ill. Adm. Code Parts 201, 218, and 219, R13-18.

The Board adopted final amendments to its air pollution rules at 35 Ill. Adm. Code 201, 218, and 219 and filed the amendments with the Secretary of State. The effective date of the amendments is December 23, 2013. Having the rules take effect in 2013 allows the State of Illinois to timely realize additional emission reduction benefits achievable by using only on-board refueling vapor recovery (ORVR) systems.

The amendments include the phase-out of Stage II vapor recovery systems at the pump nozzles of gasoline dispensing facilities (GDFs) in the Chicago ozone nonattainment area (NAA). The phase-out is based upon the determination of USEPA that there is widespread use of ORVR throughout the national motor vehicle fleet. ORVR systems are incompatible with most of the Stage II equipment used at GDFs in the Chicago NAA. Simultaneously using ORVR and incompatible Stage II systems results in greater refueling emissions than if only ORVR were to be used. Modeling shows that starting in January 2014, due to this incompatibility, ORVR alone will produce greater reductions in refueling emissions than ORVR plus Stage Two.

Owners and operators of existing GDFs (*i.e.*, operating at any time before January 1, 2014) in the Chicago ozone NAA are allowed to begin decommissioning Stage II systems on January 1, 2014, but must comply with Stage II requirements until decommissioning begins. Decommissioning must be completed by December 31, 2016. Additionally, the amendments remove the requirement for installing Stage II systems at new GDFs in the Chicago ozone NAA (*i.e.*, operating for the first time on or after January 1, 2014).

The Board also repealed overlapping Stage I registration requirements in the Chicago and Metro-East ozone NAAs. Finally, applicable throughout the State are clarifications to State air permitting exemptions and amendments for Title V or Clean Air Act Permitting Program (CAAPP) “insignificant activities.”

For more information, please contact Richard McGill at 312-814-6983 or richard.mcgill@illinois.gov.

Board Adopts First-Notice Proposal to Amend Laboratory Certification for Analyzing Drinking Water, R14-9

The Board, on December 19, 2013, adopted a first-notice opinion and order to amend the Illinois Primary Drinking Water Standards relating to certification of laboratories analyzing drinking water samples. Specifically, the proposed amendments would allow a drinking water supplier to use a laboratory certified by a sister state for a parameter if no USEPA-certified or Illinois-certified laboratory exists for that parameter. Currently, laboratories used must be certified and approved either by the USEPA or the Illinois Environmental Protection Agency (IEPA). On September 19, 2013, IEPA filed this rulemaking, docketed as Amendments to Primary Drinking Water Standards: 35 Ill. Adm. Code 611.490, R14-9.

The Board has conducted two public hearings in this proceeding. The Board will receive public comments on the proposed amendments for a period of no less than 45 days after first notice of these proposed amendments appears in the *Illinois Register*. After the conclusion of the public comment period and consideration of the record assembled, the Board may propose the amendments for second-notice review by the Joint Committee on Administrative Rules (JCAR).

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

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

In addition, public comments may be filed electronically through the Clerk’s Office On-Line (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.

For more information, please contact Michael McCambridge at 312-814-6983 or michael.mccambridge@illinois.gov.

Board Actions

December 5, 2013

Chicago, Illinois

Rulemakings

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|--------------|--|-------------|
| R14-1 | <u>UIC Update, USEPA Amendments (January 1, 2013 through June 30, 2013)</u> <u>RCRA Subtitle D (Municipal Solid Waste Landfill) USEPA Amendments</u> | 4-0 Land |
| R14-2 | <u>(January 1, 2013 through June 30, 2013)</u> <u>RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (January</u> | |
| R14-3 | <u>1, 2013 through June 30, 2013)</u> – The Board on its own motion consolidated these “identical-in-substance” rulemakings to amend the Board’s underground injection control, hazardous waste and Municipal Solid Waste Landfill regulations, and adopted a proposal for public comment. | |

Administrative Citations

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|-----------------|---|-----|
| AC 14-19 | <u>IEPA v. Boudie's Auto Shop</u> – The Board found that this LaSalle County respondent violated Section 55(k)(1) of the Environmental Protection Act (415 ILCS 55(k)(1) (2012)), and ordered respondent to pay a civil penalty of \$1,500. | 4-0 |
| AC 14-20 | <u>IEPA v. Frank Root</u> – The Board accepted respondent’s petition for review involving a Macoupin County facility, but directed respondent to file an amended petition to cure specified deficiencies. | 4-0 |
| AC 14-22 | <u>IEPA v. Roger Ray</u> – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Moultrie County facility. | 4-0 |
| AC 14-23 | <u>IEPA v. Cord Shaffer</u> – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Champaign County facility. | 4-0 |
| AC 14-24 | <u>IEPA v. Gwendolyn Sutton & Milton "Rusty" Sutton</u> – The Board granted complainant’s motion for withdrawal of this administrative citation as to Gwendolyn Sutton. The docket remains open as to Milton “Rusty” Sutton. | 4-0 |
| AC 14-25 | <u>IEPA v. Karla F. Kopp</u> – The Board granted complainant’s motion for withdrawal of this administrative citation and closed the docket. | 4-0 |
| AC 14-26 | <u>IEPA v. G and E Five, LLC and Northwind RAS, LLC</u> – The Board accepted an administrative citation against these Winnebago County respondents. | |
| AC 14-27 | <u>IEPA v. Steven and Anthony Sohn</u> – The Board accepted an administrative citation against these Pike County respondents. | |

AC 14-28 IEPA v. Doc's Recycling – The Board accepted an administrative citation against this Wayne County respondent.

AC 14-29 County of LaSalle v. Wes and Jessica Whittaker – The Board accepted an administrative citation against these LaSalle County respondents.

Adjudicatory Cases

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| PCB 13-22 | <u>Mahomet Valley Water Authority, City of Champaign, Illinois, Donald R. Gerard, City of Urbana, Illinois, Laurel Lunt Prussing, City of Bloomington, Illinois, County of Champaign, Illinois, County of Piatt, Illinois, Town of Normal Illinois, Village of Savoy, Illinois, and City of Decatur, Illinois v. Clinton Landfill, Inc.; People of the State of Illinois as Intervenor</u> – The Board denied the motion for reconsideration of complainants and intervenor People of the State of Illinois. | 4-0 L-E, Citizens |
| PCB 14-18 | <u>The Premcor Refining Group, Inc. v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Tazewell County facility. | 4-0 UST Appeal 90 Day Ext. |
| PCB 14-25 | <u>Will Scarlet Properties, L.L.C. v. IEPA</u> – The Board accepted for hearing this permit appeal involving petitioner's facility, Old Will Scarlet Mine located in Saline and Williamson Counties. No action was taken on petitioner's motion for partial stay of specified conditions. | 4-0 W-PA, NPDES |
| PCB 14-35 | <u>Greuel Holdings, LLC - East Moline v. IEPA</u> – The Board found and certified that specified facilities of Greuel Holdings, LLC located in McDonough 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 14-37 | <u>4th Meridian Farm, Inc. v. IEPA</u> – The Board found and certified that specified facilities of 4th Meridian Farm, Inc. located in Knox 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 14-38 | <u>EJS LLC v. IEPA</u> – The Board found and certified that specified facilities of EJS, LLC located in Stephenson 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 14-39 | <u>People of the State of Illinois v. Bradley Property, LLC, Bradley Auto Spa, LLC, and A-K Underground, Inc.</u> – The Board accepted for hearing this water enforcement action concerning a facility located in Kankakee County. | 4-0 W-E |
| PCB 14-40 | <u>People of the State of Illinois v. St. Elizabeth's Hospital of the Hospital Sisters of the Third Order of St. Francis</u> – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement, and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a St. Clair County facility, the Board ordered publication of the required newspaper notice. | 4-0 L-E |
| PCB 14-41 | <u>Amerenenergy Resources Generating Company v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Fulton County facility. | 4-0 L-PA |

December 19, 2013
Chicago, Illinois

Rulemakings

- R13-18** In the Matter of: Vapor Recovery Rules: Amendments to 35 Ill. Adm. Code Parts 201, 218, and 219 – The Board adopted a final opinion and order in this rulemaking to amend the Board’s air pollution control regulations. 4-0
Air
- R14-9** In the Matter of: Proposed Amendments to Primary Drinking Water Standards: 35 Ill. Adm. Code 611.490 – The Board adopted a first notice opinion and order in this rulemaking to amend the Board’s drinking water regulations. 4-0
Water

Administrative Citations

- AC 12-53** IEPA v. Thomas E. Porter, Beverly J. Bible, and Todd & Tabitha Booten d/b/a C & T Recycling – The Board entered a final opinion and order requiring respondents to pay hearing costs of the Illinois Environmental Protection Agency and the Board in the amount of \$549.25 and a civil penalty of \$3,000. This order follows the Board’s interim order of September 5, 2013, which found that respondents had violated Sections 21(p) (1) and (3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (3) (2012)). 4-0
- AC 14-4** IEPA v. Mark & Cheryl Rogers – The Board entered a final opinion and order denying respondents’ request to reconsider the Board’s November 7, 2013 decision. 4-0
- AC 14-21** IEPA v. Bernard Coil and Angie Ratliff – The Board found that these Morgan County respondents violated Sections 21(p)(1) and 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and 55(k)(1) (2012)), and ordered respondents to pay a civil penalty of \$3,000. 4-0
- AC 14-24** IEPA v. Milton "Rusty" Sutton – The Board found that this Jersey County respondent violated Sections 21(p)(1) and 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 21(p)(3) (2012)), and ordered respondent to pay a civil penalty of \$3,000. 4-0
- AC 14-26** IEPA v. G and E Five, LLC and Northwind RAS, LLC – The Board granted complainant’s motion for withdrawal of this administrative citation as to G and E Five, LLC. The docket remains open as to Northwind RAS, LLC. 4-0
- AC 14-29** County of LaSalle v. Wes and Jessica Whittaker – The Board found that these LaSalle County respondents violated Sections 21(p)(1) and 21(p)(2) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 21(p)(2) (2012)), and ordered respondents to pay a civil penalty of \$3,000. 4-0

Adjudicatory Cases

- PCB 04-16** People of the State of Illinois v. Packaging Personified, Inc.– The Board reaffirmed the civil penalty amount ordered on September 8, 2011. *See Packaging*, PCB 04-16 (Sept. 8, 2011). The Board assessed a \$356,313.57 economic benefit penalty and a \$100,000 non-economic penalty for a total penalty of \$456,313.57. 4-0
A-E

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| PCB 07-13 | <u>People of the State of Illinois v. Ray F. Landers, individually, and Equipping the Saints Ministry</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement relating to respondent Landers only in this air enforcement action involving a Sangamon County facility, the Board ordered publication of the required newspaper notice as to respondent Landers. | 4-0 A-E |
| PCB 12-128 | <u>Wood River Acquisitions, LLC and Heritage Transport, LLC v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal. | 4-0 L-PA |
| PCB 13-39 | <u>KCBX Terminals Company v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no permit appeal was filed on behalf of this Cook County facility. | 4-0 P-A, Air 90 Day Ext. |
| PCB 14-6 | <u>Jon Chvalovsky v. Exelon and Commonwealth Edison</u> – The Board dismissed this citizens enforcement action for failure to file an amended complaint addressing deficiencies specified in the Board’s October 3, 2013 order. | 3-0 Burke abstained N-E, Citizens |
| PCB 14-25 | <u>Will Scarlet Properties, L.L.C. v. IEPA</u> – The Board granted petitioner’s motion for partial stay of the contested conditions within the National Pollutant Discharge Elimination System permit. | 4-0 W-PA, NPDES |
| PCB 14-32 | <u>Enbridge Pipelines (Southern Lights), LLC (installation of cathodic protection on the product storage tanks) v. IEPA</u> – The Board denied certification for specified facilities of Enbridge Pipelines located in Will County as 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 14-42 | <u>Enbridge Pipelines LLC Tank No. 1 Internal Floating Roof v. IEPA</u> – The Board found and certified that specified facilities of Enbridge Pipelines 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 (2012)). | 4-0 T-C, A |
| PCB 14-43 | <u>Enbridge Pipelines LLC Tank No. 1 Internal Floating Roof v. IEPA</u> – The Board found and certified that specified facilities of Enbridge Pipelines 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 (2012)). | 4-0 T-C, A |
| PCB 14-44 | <u>Dynergy Midwest Generation, Inc. Flue Gas Desulfurization System, PM Collection Device and Sorbent Injection system for Baldwin Station, Unit No. 3 v. IEPA</u> – The Board found and certified that specified facilities of Dynergy Midwest Generation, Inc. located in Randolph 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, A |
| PCB 14-45 | <u>Dynergy Midwest Generation, Inc. Flue Gas Desulfurization System, PM Collection Device and Sorbent Injection system for Baldwin Station, Units No. 1 & 2 v. IEPA</u> – The Board found and certified that specified facilities of Dynergy Midwest Generation, Inc. located in Randolph 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, A |
| PCB 14-46 | <u>Dynergy Midwest Generation, Inc. Mercury Sorbent Trap Monitoring System for Baldwin Station, Unit No. 1 v. IEPA</u> – The Board found and certified that specified facilities of Dynergy Midwest Generation, Inc. located in Randolph | 4-0 T-C, A |

County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2012)).

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| PCB 14-47 | <u>Dynegy Midwest Generation, Inc. Mercury Sorbent Trap Monitoring System for Baldwin Station, Unit No. 2 v. IEPA</u> – The Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. located in Randolph 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, A |
| PCB 14-48 | <u>Dynegy Midwest Generation, Inc. Mercury Sorbent Trap Monitoring System for Baldwin Station, Unit No. 3 v. IEPA</u> – The Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. located in Randolph 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, A |
| PCB 14-49 | <u>Dynegy Midwest Generation, Inc. Agglomerator Systems for Havana Station, Unit No. 6, Boiler No. 9 v. IEPA</u> – The Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. located in Mason 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, A |
| PCB 14-50 | <u>Dynegy Midwest Generation, Inc. Flue Gas Desulfurization System, PM Collection Device and Sorbent Injection System for Havana Station, Unit No. 6, Boiler No. 9 v. IEPA</u> – The Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. located in Mason 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, A |
| PCB 14-51 | <u>Dynegy Midwest Generation, Inc. Sodium Sulfate Additive System for Havana Station, Unit No. 6, Boiler No. 9 v. IEPA</u> – The Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. located in Mason 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, A |
| PCB 14-52 | <u>Dynegy Midwest Generation, Inc. Mercury Sorbent Trap Monitoring System for Havana Station, Unit No. 6, Boiler No. 9 v. IEPA</u> – The Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. located in Mason 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, A |
| PCB 14-53 | <u>Dynegy Midwest Generation, Inc. Fogging System for Barge Unloading Coal Tower, Hennepin Station v. IEPA</u> – The Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. located in Putnam 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, A |
| PCB 14-54 | <u>Dynegy Midwest Generation, Inc. Mercury Sorbent Trap Monitoring Systems for Hennepin Station, Units No. 1 & 2 v. IEPA</u> – The Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. located in Putnam 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, A |
| PCB 14-55 | <u>Dynegy Midwest Generation, Inc. PM Collection Devices and Sorbent Injection Systems for Hennepin Station, Units No. 1 & 2 v. IEPA</u> – The Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. located in Putnam County are pollution control facilities for the purpose of | 4-0 T-C, A |

preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2012)).

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| PCB 14-56 | <u>Dynegy Midwest Generation, Inc. Fabric Filter Dust Collector System for Wood River Station, Rail Car Coal Unloading v. IEPA</u> – The Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. 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 (2012)). | 4-0 T-C, A |
| PCB 14-57 | <u>Dynegy Midwest Generation, Inc. Mercury Sorbent Trap Monitoring System for Wood River Station, Unit No. 4 v. IEPA</u> – The Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. 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 (2012)). | 4-0 T-C, A |
| PCB 14-58 | <u>Dynegy Midwest Generation, Inc. Mercury Sorbent Trap Monitoring System for Wood River Station, Unit No. 5 v. IEPA</u> – The Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. 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 (2012)). | 4-0 T-C, A |
| PCB 14-59 | <u>Dynegy Midwest Generation, Inc. Sorbent Injection System and Fabric Filter Dust Collector System for Wood River Station, Unit No. 5 v. IEPA</u> – The Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. 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 (2012)). | 4-0 T-C, A |
| PCB 14-60 | <u>People of the State of Illinois v. William Blankenship</u> – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement, and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a facility located in Marion County facility, the Board ordered publication of the required newspaper notice. | 4-0 L-E |

New Cases

December 5, 2013 Board Meeting

AC 14-26 IEPA v. G and E Five, LLC and Northwind RAS, LLC – The Board accepted an administrative citation against these Winnebago County respondents.

AC 14-27 IEPA v. Steven and Anthony Sohn – The Board accepted an administrative citation against these Pike County respondents.

AC 14-28 IEPA v. Doc's Recycling – The Board accepted an administrative citation against this Wayne County respondent.

AC 14-29 County of LaSalle v. Wes and Jessica Whittaker – The Board accepted an administrative citation against these LaSalle County respondents.

14-39 People of the State of Illinois v. Bradley Property, LLC, Bradley Auto Spa, LLC, and A-K Underground, Inc. – The Board accepted for hearing this water enforcement action concerning a facility located in Kankakee County.

14-40 People of the State of Illinois v. St. Elizabeth's Hospital of the Hospital Sisters of the Third Order of St. Francis – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement, and an

agreed motion to request relief from the hearing requirement in this land enforcement action involving a St. Clair County facility, the Board ordered publication of the required newspaper notice.

14-41 Amerenergy Resources Generating Company v. IEPA – The Board accepted for hearing this permit appeal involving a Fulton County facility.

14-42 4th Meridian Farm, Inc. v. IEPA – No action taken.

14-43 EJS LLC v. IEPA – No action taken.

14-44 Dynegy Midwest Generation, Inc. Flue Gas Desulfurization System, PM Collection Device and Sorbent Injection system for Baldwin Station, Unit No. 3 v. IEPA – No action taken.

14-45 Dynegy Midwest Generation, Inc. Flue Gas Desulfurization System, PM Collection Device and Sorbent Injection system for Baldwin Station, Units No. 1 & 2 v. IEPA – No action taken.

14-46 Dynegy Midwest Generation, Inc. Mercury Sorbent Trap Monitoring System for Baldwin Station, Unit No. 1 v. IEPA – No action taken.

14-47 Dynegy Midwest Generation, Inc. Mercury Sorbent Trap Monitoring System for Baldwin Station, Unit No. 2 v. IEPA – No action taken.

14-48 Dynegy Midwest Generation, Inc. Mercury Sorbent Trap Monitoring System for Baldwin Station, Unit No. 3 v. IEPA – No action taken.

14-49 Dynegy Midwest Generation, Inc. Agglomerator Systems for Havana Station, Unit No. 6, Boiler No. 9 v. IEPA – No action taken.

14-50 Dynegy Midwest Generation, Inc. Flue Gas Desulfurization System, PM Collection Device and Sorbent Injection System for Havana Station, Unit No. 6, Boiler No. 9 v. IEPA – No action taken.

14-51 Dynegy Midwest Generation, Inc. Sodium Sulfate Additive System for Havana Station, Unit No. 6, Boiler No. 9 v. IEPA – No action taken.

14-52 Dynegy Midwest Generation, Inc. Mercury Sorbent Trap Monitoring System for Havana Station, Unit No. 6, Boiler No. 9 v. IEPA – No action taken.

14-53 Dynegy Midwest Generation, Inc. Fogging System for Barge Unloading Coal Tower, Hennepin Station v. IEPA – No action taken.

14-54 Dynegy Midwest Generation, Inc. Mercury Sorbent Trap Monitoring Systems for Hennepin Station, Units No. 1 & 2 v. IEPA – No action taken.

14-55 Dynegy Midwest Generation, Inc. PM Collection Devices and Sorbent Injection Systems for Hennepin Station, Units No. 1 & 2 v. IEPA – No action taken.

14-56 Dynegy Midwest Generation, Inc. Fabric Filter Dust Collector System for Wood River Station, Rail Car Coal Unloading v. IEPA – No action taken.

14-57 Dynegy Midwest Generation, Inc. Mercury Sorbent Trap Monitoring System for Wood River Station, Unit No. 4 v. IEPA – No action taken.

14-58 Dynegy Midwest Generation, Inc. Mercury Sorbent Trap Monitoring System for Wood River Station, Unit No. 5 v. IEPA – No action taken.

14-59 Dynegy Midwest Generation, Inc. Sorbent Injection System and Fabric Filter Dust Collector System for Wood River Station, Unit No. 5 v. IEPA – No action taken.

December 19, 2013

AC 14-30 IEPA v. Donald Meyer – The Board accepted an administrative citation against this Mason County respondent.

AS 14-1 In the Matter of: Proposed Amendments to Primary Drinking Water Standards: 35 Ill. Adm. Code 611.490 – No action taken.

- 14-60** People of the State of Illinois v. William Blankenship – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement, and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a facility located in Marion County facility, the Board ordered publication of the required newspaper notice.
- 14-61** ExxonMobil Oil Corporation, Mobile Source Air Toxics Phase II - Fractionator, Joliet Refinery v. IEPA – No action taken.
- 14-62** Marathon Petroleum Company, LP, Mobile source Air Toxics Phase II - Benzene Extraction Unit, Robinson Refinery v. IEPA – No action taken.
- 14-63** Suncoke Energy, Inc., Lime Spray Dryer Absorber, Fabric Filter Baghouse Systems, Afterburner Tunnel System for Heat Recovery Steam Ovens, and Other Coal Handling Control Measures for Heat Recovery Coke Plant v. IEPA – No action taken.
- 14-64** Western Grain Marketing, LLC, Cyclone Baghouses, Rushville Grain Elevator v. IEPA – No action taken.
- 14-65** WRB Refining, LLC, Sulfur Removal from Coker LPG v. IEPA – No action taken.
- 14-66** WRB Refining, LLC, Mobile Source Air Toxics Phase II, Benzene Reduction Unit v. IEPA – No action taken.
- 14-67** WRB Refining, LLC, Ultralow NOx Burners for Heaters H-4 & H-5 of Catalytic Reformer No. 3 v. IEPA – No action taken.
- 14-68** Midwest Generation, LLC, Low NOx Over-fire Air System for Joliet Station No. 9, Unit No. 6, Boiler No. 5 v. IEPA – No action taken.
- 14-69** Midwest Generation, LLC, Fabric Filter Dust Collector System for Joliet Station No. 9, Unit No. 6, Breaker Building v. IEPA – No action taken.
- 14-70** Midwest Generation, LLC, Fabric Filter Dust Collector System for Joliet Station No. 29, Units No. 7 & 8 v. IEPA – No action taken.
- 14-71** Midwest Generation, LLC, Low NOx Burner System with Over-fire Air System for Joliet Station No. 29, Unit No. 7, v. IEPA – No action taken.
- 14-72** Midwest Generation, LLC, Low NOx Burner System with separated Over-fire Air System for Joliet Station No. 29, Unit No. 8 v. IEPA – No action taken.
- 14-73** Midwest Generation, LLC, Low NOx Over-fire Air Systems for Powerton Station, Unit No. 5, Boilers No. 51 & 52 v. IEPA – No action taken.
- 14-74** Midwest Generation, LLC, Low NOx Over-fire Air System for Powerton Station, Unit No. 6, Boiler No. 61 v. IEPA – No action taken.
- 14-75** Midwest Generation, LLC, Wet Dust Extractor System for Powerton Station v. IEPA – No action taken.
- 14-76** Midwest Generation, LLC, Electrostatic Precipitator for Waukegan Station, Unit No. 7 v. IEPA – No action taken.
- 14-77** Midwest Generation, LLC, Fabric Filter Dust Collector System for Waukegan Station, Breaker Building v. IEPA – No action taken.
- 14-78** Midwest Generation, LLC, Low NOx Burner System with Separated Over-fire Air System for Waukegan Station, Unit No. 7 v. IEPA – No action taken.
- 14-79** Midwest Generation, LLC, Electrostatic Precipitator for Will County Station, Unit No. 4 v. IEPA – No action taken.
- 14-80** Midwest Generation, LLC, Low NOx Burner System with Separated Over-fire Air System for Will County Station, Unit No. 3 v. IEPA – No action taken.
- 14-81** BNSF Railway Company v. Indian Creek Development Company and JB Industries, Inc. – No action taken.
- 14-82** United States Steel Corporation, Low NOx Burners v. IEPA – No action taken.

14-83 WRB Refining, LLC, Dual Pump Seals, Pump Fugitive Emissions Program v. IEPA – No action taken.

14-84 WRB Refining, LLC, Storage Tank Upgrades v. IEPA – No action taken.

14-85 WRB Refining, LLC, NOx Analyzer Systems for Boiler Nos. 15, 16, & 17, Fuel Gas Boilers v. IEPA – No action taken.

14-86 WRB Refining, LLC, Dual Pump Seals, New Units' Project v. IEPA – No action taken.

14-87 WRB Refining, LLC, MACT II Compliance Project for Fluid Catalytic Cracking Unit No. 1 v. IEPA – No action taken.

14-88 WRB Refining, LLC, Return to Service and Additional Tie-in Projects, Flare Gas Recovery Compressor v. IEPA – No action taken.

14-89 WRB Refining, LLC, Sewer Master Box Cover Repairs v. IEPA – No action taken.

14-90 Saint Gobain Container, Inc., Catalyst-Embedded Ceramic Filter system for Glass Furnace Exhaust v. IEPA – No action taken.

Calendar

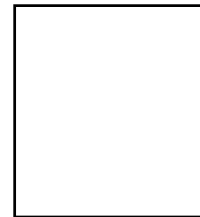
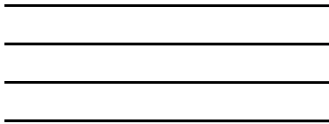
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| 1/8/2014 11:00 AM | R14-19 | <u>In the Matter of: Standards and Limitations for Certain Sources of Lead: Proposed 35 Ill. Adm. Code 226</u> | James R. Thompson Center 100 W. Randolph Street, Room 9-039 Chicago |
| 1/9/2014 11:00 AM | Illinois Pollution 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 |
| 1/14/2014 11:00 AM | AC 12-48 | <u>IEPA v. Ruth White (IEPA file No. 89-12-AC)</u> | James R. Thompson Center Room 11-512 100 W. Randolph Street Chicago |
| 1/23/2014 11:00 AM | Illinois Pollution Control Board Meeting | | James R. Thompson Center 100 W. Randolph Street Chicago |
| 1/29/2014 10:00 AM | AC 13-7 | <u>IEPA v. Robert Manker (IEPA file No. 175-12-AC)</u> | City Hall Community Room (basement) 200 West Douglas Avenue Jacksonville |
| 2/5/2014 10:00 AM | PCB 14-01 | <u>Chatham BP, LLC v. IEPA</u> | Pollution Control Board Hearing Room 1021 North Grand Avenue East Springfield |
| 2/5/2014 11:00 AM | R14-19 | <u>In the Matter of: Standards and Limitations for Certain Sources of Lead: Proposed 35 Ill. Adm. Code 226</u> | James R. Thompson Center 100 W. Randolph Street, Room 0-039 Chicago |

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| <p>2/6/2014 11:00 AM</p> | <p>Illinois Pollution Control Board Meeting</p> | | <p>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</p> |
| <p>2/19/2014 11:00 AM</p> | <p>R14-19</p> | <p><u>In the Matter of: Standards and</u> <u>Limitations for Certain Sources of</u> <u>Lead: Proposed 35 Ill. Adm. Code 226</u></p> | <p>James R. Thompson Center 100 W. Randolph Street, Room 0-039 Chicago</p> |
| <p>2/20/2014 11:00 AM</p> | <p>Illinois Pollution Control Board Meeting</p> | | <p>James R. Thompson Center 100 W. Randolph Street Chicago</p> |
| <p>2/26/2014 11:00 AM</p> | <p>R14-10</p> | <p><u>In the Matter of: Coal combustion</u> <u>Waste (CCW) Ash Ponds and Surface</u> <u>Impoundments at Power Generating</u> <u>Facilities: Proposed new 35 Ill. Adm.</u> <u>Code 841</u></p> <p>(Continues until complete or through February 27, 2014)</p> | <p>Illinois EPA Sangamo Room 1021 N. Grand Avenue E (North Entrance) Springfield</p> |
| <p>3/6/2014 11:00 AM</p> | <p>Illinois Pollution Control Board Meeting</p> | | <p>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</p> |
| <p>3/20/2014 11:00 AM</p> | <p>Illinois Pollution Control Board Meeting</p> | | <p>James R. Thompson Center 100 W. Randolph Street Chicago</p> |

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

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

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Environmental Register Coordinator
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