Environmental Register

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Dr. Deanna Glosser, Chairman

Board Members: Jennifer A. Burke, Jerome D. O'Leary, and Carrie Zalewski

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Letter from the Chairman

In December, the Board took action in certain contested cases that have generated public interest. Below, these recent activities are summarized.

On December 18, 2014, the Board ruled on cross-motions for summary judgment in a series of permit appeals concerning issuance of National Pollutant Discharge Elimination System Permit Program permits to the Metropolitan Water Reclamation District of Greater Chicago (District) by the Illinois Environmental Protection Agency (IEPA). The District appealed permits issued for the Calumet Plant and the O'Brien Plant (case numbers PCB 14-103 and PCB 14-104) and Prairie Rivers Network, Natural Resources Defense Council, Sierra Club, Environmental Law &



Policy Center, Friends of Chicago River, and Gulf Restoration Network (Environmental Groups) filed third party appeals for those two plants as well as the Stickney Plant (case numbers PCB 14-106, PCB 14-107, and PCB 14-108). In the cases brought by the District, it contended that daily grab sampling for fecal coliform bacteria and continuous monitoring for dissolved oxygen are not required to meet the provisions of the Act or Board regulations. The Board found that the District met its burden of proving that five-day per week sampling for fecal coliform would not violate the Act or Board regulations. However, the District has not met its burden of proving that daily grab sampling for dissolved oxygen would not violate the Act or Board regulations.

In the cases filed by the Environmental Groups, it was contended that IEPA's issuance of the three permits violated the Act or Board regulations for four reasons: (1) IEPA failed to include permit conditions ensuring that discharges of phosphorus and nitrogen do not violate water quality standards; (2) the permitted compliance schedules for phosphorus discharges are not justified; (3) the permits fail to prohibit overflows from sanitary sewers; and (4) IEPA failed to respond to public comments on drafts of the permits. After reviewing the arguments of the parties, the Board granted summary judgment in favor of IEPA and the District and affirmed IEPA's issuance of the permits to the District.

Also on December 18, 2014, the Board reviewed a decision by the Village Board of Caseyville granting siting approval for a transfer station. *See* Roxana Landfill, Inc v. Village Board of the Village of Caseyville, Illinois; Village Of Caseyville, Illinois; and Caseyville Transfer Station, L.L.C. and Village of Fairmont City, Illinois v. Village of Caseyville, Illinois, Board of Trustees and Caseyville Transfer Station, L.L.C., PCB 15-65 and 15-69. The Board found that Roxana and Fairmont City failed to establish that Caseyville lacked jurisdiction, that Caseyville's siting procedures were fundamentally unfair, or that Caseyville's determination on any of the five challenged siting criteria was against the manifest weight of the evidence. The Board affirmed Caseyville's decision approving the siting application for a transfer station.

Specific details on these contested cases are available through the Clerk's Office Online (COOL) at our Web site at www.ipcb.state.il.us.

Sincerely,

Deanna Glosser, Ph.D.

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Chairman

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Rulemaking Update	

Board Adopts "Identical-In-Substance" Amendments for RCRA Hazardous Waste Update, R15-1

In this "identical-in-substance" rulemaking, the Board on December 18, 2014, adopted updates to Illinois' Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste regulations. RCRA Subtitle C Update, USEPA Amendments (January 1, 2014 through June 30, 2014), R15-1. The updates concern two sets of United States Environmental Protection Agency (USEPA) amendments to the federal hazardous waste requirements. First, on February 7, 2014, USEPA modified the hazardous waste manifest provisions to accommodate a national electronic manifest system called the "e-Manifest System." Second, on June 26, 2014, USEPA revised the cathode ray tube (CRT) rules to enhance the tracking of used CRTs exported for reuse and recycling.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's website and may be downloaded without charge. Hard copies may be obtained from the Clerk's Office (Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601) upon payment of reproduction fees as prescribed by the Freedom of Information Act.

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

Board Actions

December 4, 2014 Via videoconference Springfield and Chicago, Illinois

judgment.

Administrative Citations AC 13-60 IEPA v. James Harris – The Board entered an interim opinion and order 4-0 finding respondent violated Sections 5/21(p)(1), (p)(3), (p)(4), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(4), (p)(7) (2012)) and assessing a penalty of \$12,000. The Board ordered the Clerk of the Board and the Illinois Environmental Protection Agency to file by January 5, 2015, a statement of hearing costs, supported by affidavit, with service on respondents. Respondent may respond to the cost statements within 21 days of service of those statements. AC 14-54 IEPA v. Brian & Tina Page – In response to a joint stipulation and settlement 4-0 agreement in this administrative citation action involving a Marshall County facility, the Board found that respondents had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2012)) 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 violation of Section 21(p)(7) of the Act. AC 15-1 IEPA v. Dale White and Shawn & Amanda Depew - The Board denied 4-0 respondent Shawn Depew's motion for reconsideration of the Board's September 18, 2014 decision. AC 15-14 IEPA v. Russell and Deborah Janssen - The Board accepted respondents' 4-0 petition for review involving an Ogle County facility, but directed respondents to file an amended petition to cure deficiencies specified in the order. AC 15-15 IEPA v. Henry J. Herbert d/b/a Joe's Auto Salvage & Towing - The Board 4-0 found that this Franklin County respondent violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1)(2012)), and ordered respondent to pay a civil penalty of \$1,500. AC 15-18 IEPA v. Charles Wessel and CL Wessel Heavy Equipment, Inc. - The Board 4-0 accepted respondents' petition for review involving a Tazewell County facility. AC 15-19 IEPA v. Susan Voris and Mark Pratt – The Board accepted respondent Susan 4-0 Voris's petition for review involving a Randolph County facility. **Adjudicatory Cases** PCB 03-12 People of the State of Illinois v. NACME Steel Processing, LLC 4-0

(Air-Enforcement) – The Board denied complainant's motion for summary

PCB 13-27	<u>Sierra Club v. Midwest Generation, LLC</u> (Air-Enforcement, Citizen's) – No action taken.	
PCB 13-49	Akzo Nobel Surface Chemistry LLC v. IEPA (Water, Permit Appeal, NPDES) – The Board granted petitioner's motion for voluntary dismissal of this permit appeal.	4-0
PCB 14-2	People of the State of Illinois v. Demolition Excavating Group, Inc., Rhonda Fisher, and Edward Fisher (Land-Enforcement) – The Board granted complainant's motion to deem facts admitted.	4-0
PCB 14-131	<u>Piasa Motor Fuels, Inc. v. IEPA</u> (UST-Permit Appeal) – The Board granted respondent's motion to file record instanter. The Board affirmed in part and reversed in part the Illinois Environmental Protection Agency's determinations. Petitioner may file statement of legal costs on or before January 5, 2015.	4-(
PCB 15-14	PAK-AGS, Inc. v. IEPA (UST-Permit Appeal) – The Board granted Illinois Environmental Protection Agency's (Agency) motions for leave to reply. The Board denied the Agency's motion to strike. The Board reversed the Agency's June 23, 2014 determination and ordered the Agency to pay \$16,595.90 in reimbursement for Stage 1 Site Investigation actual costs to petitioner. Petitioner may file statement of legal costs on or before January 5, 2015.	4-(
PCB 15-57	<u>Piasa Motor Fuels, LLC v. IEPA</u> (UST-Permit Appeal, 90 day Extension) – 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 Madison County facility.	4-(
PCB 15-65 PCB 15-69	Roxana Landfill, Inc. v. Village Board of the Village of Caseyville, Illinois; Village of Caseyville, Illinois; and Caseyville Transfer Station, L.L.C Village of Fairmont City, Illinois v. Village of Caseyville, Illinois Board of Trustees and Caseyville Transfer Station, L.L.C. (Land, Pollution Control Facility Siting Review, Third Party) – No action taken.	
PCB 15-84	Allen McAfee v. IEPA (UST-Permit Appeal) – The Board denied respondent's motion to dismiss.	4-0
PCB 15-89	Ameren Missouri and Goose Creek Energy Center v. IEPA (Air-Permit Appeal, CAAPP) – The Board granted petitioner's motion to stay the effectiveness of certain contested conditions within the Clean Air Act Permit Program permit.	4-(
PCB 15-90	Amer Samawi v. IEPA (UST-Permit Appeal) – The Board accepted for hearing this underground storage tank appeal on behalf of this Cook County facility.	4-0
PCB 15-96	J & M Auto Enterprises, Inc., d/b/a Pete's Service Center v. IEPA (UST-Permit Appeal, 90-Day Ext.) – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.	4-0

PCB 15-97	Thomas Renner, Jr. v. IEPA (UST-Permit Appeal) – The Board accepted for hearing this underground storage tank appeal on behalf of this St. Clair County facility.	4-0
PCB 15-98	Kenneth Clardy v. IEPA (UST-Permit Appeal) – The Board accepted for hearing this underground storage tank appeal on behalf of this Hardin County facility.	4-0
PCB 15-99	Mary Jane Bennett v. IEPA (UST-Permit Appeal) – The Board accepted for hearing this underground storage tank appeal on behalf of this Union County facility.	4-0
PCB 15-100	P & M Service Center v. IEPA (UST-Permit Appeal) – The Board accepted for hearing this underground storage tank appeal on behalf of this McDonough County facility.	4-0
PCB 15-101	Bloom Fuel, Inc. v. IEPA (UST-Permit Appeal, 90-Day Ext.) – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Christian County facility.	4-0
November 20 Chicago, Illin	•	
Rulemakings R12-23 (A)	In the Matter of: Concentrated Animal Feeding Operations (CAFOs)): Proposed Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504 (Water) – The Board denied the Agricultural Coalition's application for non-disclosure as moot.	4-0
R15-1	RCRA Subtitle C Update, USEPA Amendments (January 1, 2014 through June 30, 2014) (Land) – The Board adopted a final opinion and order in this "identical-insubstance" rulemaking amending the Board's hazardous waste regulations.	4-0
Administrati	ve Citations	
AC 15-11	IEPA v. Randy Koberczky – The Board found that this Bond 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 15-17	<u>IEPA v. Bernard and Carolyn Carr and Jeffrey Yerk</u> – The Board accepted respondent Jeffrey Yerk's petition for review involving an Ogle County facility, but directed respondent to file an amended petition to cure deficiencies specified in the order.	4-0

AC 15-19	<u>IEPA v. Susan Voris and Mark Pratt</u> – The Board accepted respondent Mark Pratt's petition for review involving a Randolph County facility.	
AC 15-20	County of Jackson v. Christopher Will — The Board found that this Jackson County respondent violated Section 21(p)(1), 21(p)(3), 21(p)(5), and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), 21(p)(5), and (p)(7) (2012)), and ordered respondent to pay a civil penalty of \$10,500.	4-0
Adjudicatory	Cases	
PCB 06-115	People of the State of Illinois v. National City Environmental, LLC, and National City Recycling, LLC (Land-Enforcement) – In this land enforcement action concerning a St. Clair 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) (2012)), accepted a stipulation and settlement agreement, and ordered respondents to pay a total civil penalty of \$75,000.00, and to cease and desist from further violations.	4-0
PCB 13-27	<u>Sierra Club v. Midwest Generation, LLC</u> (Air-Enforcement, Citizen's) – No action taken.	
PCB 14-1	Chatham BP, LLC v. IEPA (UST-Permit Appeal) – The Board granted petitioner's motion for reconsideration and modified the Board's September 4, 2014 opinion and order. The Board accepted petitioner's October 7, 2014 motion for authorization of payment of legal fees and accompanying affidavit and exhibit. The Board reserved ruling on whether to exercise its discretion under Section 57.8(l) of the Environmental Protection Act (415 ILCS 5/57.8(l) (2012)) to award legal fees.	4-0
PCB 14-103 PCB 14-104	Metropolitan Water Reclamation District of Greater Chicago (Calumet Plant, NPDES Permit No. IL0028061) v. Illinois Environmental Protection Agency Metropolitan Water Reclamation District of Greater Chicago (O'Brien Plant, NPDES Permit No. IL0028088) v. Illinois Environmental Protection Agency (Water-Permit Appeal, NPDES) – The Board granted summary judgment in part to both parties. The Board affirmed the Agency's imposition of continuous monitoring for dissolved oxygen at petitioner's O'Brien Plant. But the Board found the Agency's decision to require daily sampling for fecal coliform not necessary under the Act or Board regulations.	4-0
PCB 14-106	Prairie Rivers Network, Natural Resources Defense Council, Sierra Club, Environmental Law & Policy Center, Friends of Chicago River, and Gulf Restoration Network v. Illinois Environmental Protection Agency and Metropolitan Water Reclamation District of Greater Chicago	4-0
PCB 14-107	Prairie Rivers Network, Natural Resources Defense Council, Sierra Club, Environmental Law & Policy Center, Friends of Chicago River, and Gulf Restoration Network v. Illinois Environmental Protection Agency and Metropolitan Water Reclamation District of Greater Chicago (Calumet Plant, Permit No. 28061)	
PCB 14-108	Prairie Rivers Network, Natural Resources Defense Council, Sierra Club, Environmental Law & Policy Center, Friends of Chicago River, and Gulf Restoration Network v. Illinois Environmental Protection Agency and Metropolitan Water Reclamation District of Greater Chicago (Stickney Plant, Permit No. 28053) (Water-Permit Appeal, NPDES) – The Board granted summary judgment to	

respondents and against petitioners.

PCB 15-59	William Ozga v. IEPA (UST-Permit Appeal, 90 day Extension) – 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 Lake County facility.	4-0
PCB 15-65 PCB 15-69	Roxana Landfill, Inc. v. Village Board of the Village of Caseyville, Illinois; Village of Caseyville, Illinois; and Caseyville Transfer Station, L.L.C Village of Fairmont City, Illinois v. Village of Caseyville, Illinois Board of Trustees and Caseyville Transfer Station, L.L.C. (Land, Pollution Control Facility Siting Review, Third Party) – The Board affirmed the Village of Caseyville's grant of siting approval for Caseyville Transfer Station, L.L.C.'s proposed transfer station.	4-0
PCB 15-78	People of the State of Illinois v. Sun Ag, Inc. (Water -Enforcement) – In this water enforcement action concerning a Tazewell 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) (2012)), accepted a stipulation and settlement agreement, and ordered respondent to pay a total civil penalty of \$6,000.00, and to cease and desist from further violations.	4-0
PCB 15-102	Green Oil Company v. IEPA (UST-Permit Appeal) – The Board accepted for hearing this underground storage tank appeal on behalf of this Sangamon_County facility.	4-0
PCB 15-103	Homegrown Properties, Inc. v. IEPA (UST-Permit Appeal) – The Board accepted for hearing this underground storage tank appeal on behalf of this Piatt County facility.	4-0
PCB 15-105	People of the State of Illinois v. Mexichem Specialty Resins, Inc. (Air -Enforcement) – 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 Marshall County facility, the Board ordered publication of the required newspaper notice.	4-0
PCB 15-106	People of the State of Illinois v. Clean Harbors Environmental Services, Inc. (Land -Enforcement) – 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 Madison County facility, the Board ordered publication of the required newspaper notice.	3-0 Zalewski abstained
PCB 15-107	People of the State of Illinois v. Capron Mfg. Co. (Land -Enforcement) – 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 Boone County facility, the Board ordered publication of the required newspaper notice.	4-0
PCB 15-108	<u>Distressed Properties, Inc. v. IEPA</u> (UST-Permit Appeal, 90-Day Ext.) – The Board granted this request for a 90-	4-0

day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.

PCB 15-109 People of the State of Illinois v. Gold Standard Baking, Inc.

4-0

(Air-Enforcement) – The Board accepted for hearing this air enforcement action concerning a facility located in Cook County.

New Cases

December 4, 2014 Board Meeting

AC 15-21 County of Sangamon v. Joe Chernis, Jr. and Midwest Demolition and Scrap, Inc. – The Board accepted an administrative citation against these Sangamon County respondents.

AC 15-22 IEPA v. Todd Brashear d/b/a Clark County Roll-Off – The Board accepted an administrative citation against this Clark County respondent.

PCB 15-96 J & M Auto Enterprises, Inc., d/b/a Pete's Service Center v. IEPA

(UST-Permit Appeal, 90-Day Ext.) – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.

PCB 15-97 Thomas Renner, Jr. v. IEPA

(UST-Permit Appeal) – The Board accepted for hearing this underground storage tank appeal on behalf of this St. Clair County facility.

PCB 15-98 Kenneth Clardy v. IEPA

(UST-Permit Appeal) – The Board accepted for hearing this underground storage tank appeal on behalf of this Hardin County facility.

PCB 15-99 Mary Jane Bennett v. IEPA

(UST-Permit Appeal) – The Board accepted for hearing this underground storage tank appeal on behalf of this Union County facility.

PCB 15-100 P & M Service Center v. IEPA

(UST-Permit Appeal) – The Board accepted for hearing this underground storage tank appeal on behalf of this McDonough County facility.

PCB 15-101 Bloom Fuel, Inc. v. IEPA

(UST-Permit Appeal, 90-Day Ext.) – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Christian County facility.

December 18, 2014

PCB 15-102 Green Oil Company v. IEPA

(UST-Permit Appeal) – The Board accepted for hearing this underground storage tank appeal on behalf of this Sangamon County facility.

PCB 15-103 Homegrown Properties, Inc. v. IEPA

(UST-Permit Appeal) – The Board accepted for hearing this underground storage tank appeal on behalf of this Piatt County facility.

PCB 15-105 People of the State of Illinois v. Mexichem Specialty Resins, Inc.

(Air -Enforcement) – 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 Marshall County facility, the Board ordered publication of the required newspaper notice.

PCB 15-106 People of the State of Illinois v. Clean Harbors Environmental Services, Inc.

(Land -Enforcement) – 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 Madison County facility, the Board ordered publication of the required newspaper notice.

PCB 15-107 People of the State of Illinois v. Capron Mfg. Co.

(Land -Enforcement) – 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 Boone County facility, the Board ordered publication of the required newspaper notice.

PCB 15-108 Distressed Properties, Inc. v. IEPA

(UST-Permit Appeal, 90-Day Ext.) – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.

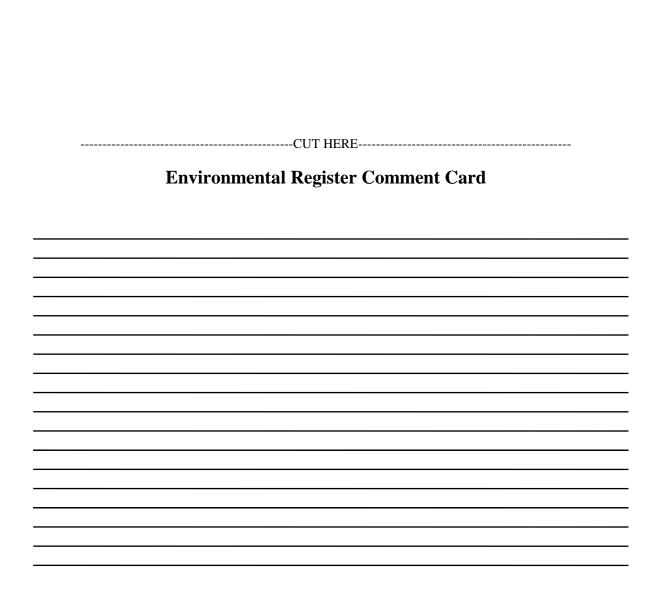
PCB 15-109 People of the State of Illinois v. Gold Standard Baking, Inc.

(Air-Enforcement) – The Board accepted for hearing this air enforcement action concerning a facility located in Cook County.

Calendar

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1/8/2015 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 Pollution Control Board Hearing Room 1021 N. Grand Avenue East Room 2012 N Springfield
1/22/2015 11:00 AM	Illinois Pollution Control Board Meeting	Chicago James R. Thompson Center 100 W. Randolph Street Chicago
2/5/2015 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 Pollution Control Board Hearing Room 1021 N. Grand Avenue East Room 2012 N Springfield
2/19/2015 11:00 AM	Illinois Pollution Control Board Meeting	Chicago James R. Thompson Center 100 W. Randolph Street Chicago
3/5/2015 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 Pollution Control Board Hearing Room 1021 N. Grand Avenue East Room 2012 N Springfield

3/19/2015 11:00 AM	Illinois Pollution Control Board Meeting	Chicago James R. Thompson Center 100 W. Randolph Street Chicago
4/2/2015 11:00 AM	Illinois Pollution Control Board Meeting	Chicago James R. Thompson Center 100 W. Randolph Street Chicago
4/16/2015 11:00 AM	Illinois Pollution Control Board Meeting	Chicago James R. Thompson Center 100 W. Randolph Street Chicago
5/7/2015 11:00 AM	Illinois Pollution Control Board Meeting	Chicago James R. Thompson Center 100 W. Randolph Street Chicago
5/21/2015 11:00 AM	Illinois Pollution Control Board Meeting	Chicago James R. Thompson Center 100 W. Randolph Street Chicago
6/4/2015 11:00 AM	Illinois Pollution Control Board Meeting	Chicago James R. Thompson Center 100 W. Randolph Street Chicago
6/18/2015 11:00 AM	Illinois Pollution Control Board Meeting	Chicago James R. Thompson Center 100 W. Randolph Street Chicago



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

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

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