

ILLINOIS POLLUTION CONTROL BOARD
January 16, 2020

IN THE MATTER OF:)
)
PROPOSED NEW 35 ILL. ADM. CODE 249) R20-18
ETHYLENE OXIDE AMBIENT AIR) (Rulemaking - Air)
MONITORING)

Proposed Rule. First Notice.

OPINION AND ORDER OF THE BOARD (by B.K. Carter):

On December 17, 2019, the Illinois Environmental Protection Agency (IEPA) filed a proposal to add new Part 250 to the Board's air pollution regulations. A Statement of Reasons (SR) and Technical Support Document were included with the IEPA's proposal. In this order, the Board accepts IEPA's proposal for hearing. Without commenting on the substantive merits of IEPA's proposal, the Board also directs its Clerk to submit the proposal to first-notice publication in the *Illinois Register*. The proposed rule appears in an addendum to this order.

AMBIENT AIR MONITORING

New Section 9.16(n)¹ of the Environmental Protection Act (Act) (415 ILCS 5/9.16(n) amended in P.A. 101-22, eff. June 21, 2019) requires the IEPA to develop a system to ascertain ambient baseline levels of ethylene oxide (EtO) across Illinois. SR at 1. EtO is a flammable gas that is used in two ways: 1) it can be combined with other chemicals, resulting in a wide array of consumer products, including detergents, solvents, plastics, antifreeze, textiles, and adhesives; and 2) it is used as a sterilizing agent for medical equipment and a fumigating agent for food products. SR at 2. EtO is also an unintended byproduct of certain processes, including combustion. *Id.* at 3. Sources of EtO emissions include plants, microbes, human exhalation, cigarette smoke, automobile exhaust, and industrial sources (*e.g.* commercial sterilizers and chemical facilities). *Id.* EtO is one of 187 Hazardous Air Pollutants (HAPs) regulated under Section 112 of the Clean Air Act (42 U. S. C. §7412).

IEPA proposes this rule for the specific purpose of satisfying the statutory mandate to collect ambient monitoring data for EtO in order to supplement the monitoring being conducted by the United States Environmental Protection Agency (USEPA). SR at 1. IEPA's proposal provides a mechanism to collect ambient air samples to determine the background levels of EtO throughout the State. *Id.*

IEPA states the purpose of this rule is not to establish an ambient standard for EtO in Illinois. SR at 2. Currently, there are no federal ambient air quality standards for HAPs, including EtO, other than lead. *Id.* IEPA explains that HAPs are historically regulated through

¹ Public Acts 101-22 and 101-23 (eff. June 21, 2019) both added new Section 9.16 to the Act.

facility level emissions standards because HAPs generally are emitted in smaller quantities and impacts are more localized. *Id.*

IEPA indicates that ambient monitoring will provide data regarding EtO and enable the State to determine the average baseline background concentrations. SR at 2. IEPA determined that a six-month monitoring period, with samples collected every 12 days, will meet the requirements of Section 9.16(n) (415 ILCS 5/9.16(n) amended in P.A. 101-22, eff. June 21, 2019).

PROPOSED RULE

IEPA's proposal requires monitoring of EtO statewide with monitoring stations in Northbrook, Schiller Park, Nilwood, Alton, and Bondville. SR at 9. Samples will be collected every 12 days and each sample will be collected over approximately 24 hours. Prop. Section 249.110(a). IEPA will place the air monitoring results on its website within 30 days of receipt of the data. Prop. Section 249.115. The provisions will sunset 24 months after the effective date of the rule. Prop. Section 249.120.

FIRST-NOTICE PUBLICATION AND COMMENT

Without commenting on the substantive merits of IEPA's proposal, the Board directs its Clerk to provide first-notice publication of the proposal in the *Illinois Register* under the Illinois Administrative Procedure Act (APA) (5 ILCS 100/5-40(b) (2018)). However, the Board will need to make one nonsubstantive change to the proposed rule. Under the Illinois Secretary of State's system (*see generally* 1 Ill. Adm. Code 100.Subpart A), Part 250 falls into Chapter II, Illinois Environmental Protection Agency rules. Therefore, the Board will propose this new rule as Part 249, and amend the caption in this order to so reflect.

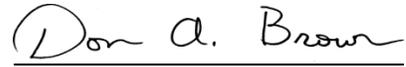
Publication of the proposal in the *Illinois Register* begins a period of at least 45 days during which any person may file a public comment with the Board. Comments should include this rulemaking's docket number R20-18. Comments must be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website (www.ipcb.state.il.us). Questions about filing comments can be directed to the Clerk's Office at 312-814-3461.

ORDER

1. The Board accepts IEPA's proposal for hearing.
2. Without comment on the substantive merits of IEPA's proposal, the Board directs its Clerk to provide first-notice publication of the proposal in the *Illinois Register* under the APA. The proposed rule appears as an addendum to this order.
3. The Board directs the assigned hearing officer to proceed to hearing under the rulemaking provisions of the Act and the Board's procedural rules (415 ILCS 5/27, 28 (2018); 35 Ill. Adm. Code 102).

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 16, 2020, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above a horizontal line.

Don A. Brown, Clerk
Illinois Pollution Control Board