

ILLINOIS POLLUTION CONTROL BOARD
March 22, 2018

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IN THE MATTER OF:)
)
AMENDMENT TO 35 ILL. ADM. CODE 205,) R18-22
EMISSIONS REDUCTION MARKET SYSTEM) (Rulemaking - Air)

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF HEARING

The Board recently amended its procedural rules to provide that “[a]ny Board hearing may be held by videoconference.” The amended rule lists factors that a hearing officer considers when determining whether to hold a hearing by videoconference. 35 Ill. Adm. Code 101.600(b); *see* Procedural Rule Amendments: Proposed Amendments to 35 Ill. Adm. Code 101 through 125, R16-17, slip op. at 31 (May 19, 2016).

The Board has accepted for hearing a rulemaking proposal that would add to the Board’s air pollution regulation a single section establishing a “sunset” date for the Emissions Reduction Market System (ERMS). In its Statement of Reasons, the Illinois Environmental Protection Agency (IEPA) states that it expects to call one witness to testify at hearing. Based on these factors, the Board does not now expect the hearings to be lengthy, complex, or contentious. The Board expects its videoconference facilities to accommodate attendance and participation at these hearings. Finally, videoconference hearings would reduce the time and cost of travel for the Board, IEPA, and participants such as regulated entities. Having considered these factors, the Board concludes to conduct both hearings by videoconference between its offices. 35 Ill. Adm. Code 101.600(b).

DATES, TIMES, AND LOCATIONS:

FIRST HEARING: Thursday, May 10, 2018, beginning at 9:00 AM

BY VIDEOCONFERENCE BETWEEN

IPCB CHICAGO HEARING ROOM Room 11-512 James R. Thompson Center 100 W. Randolph Street	IPCB SPRINGFIELD HEARING ROOM Conference Room 1244N, 1st Floor 1021 N. Grand Ave. E. North Entrance
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SECOND HEARING: Thursday, June 7, 2018, beginning at 9:00 AM

BY VIDEOCONFERENCE BETWEEN

IPCB CHICAGO HEARING ROOM Room 11-512 James R. Thompson Center 100 W. Randolph Street	IPCB SPRINGFIELD HEARING ROOM Conference Room 1244N, 1st Floor 1021 N. Grand Ave. E. North Entrance
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PURPOSE OF HEARINGS: Merit and Economic
PRESIDING BOARD MEMBER: Katie Papadimitriu
HEARING OFFICER: Timothy Fox

HEARING OFFICER ORDER

On February 22, 2018, IEPA filed a proposal to establish a “sunset” date of April 30, 2018, for the Emissions Reduction Market System (ERMS) (*see* 35 Ill. Adm. Code 205). IEPA states that ERMS no longer provides additional emission reductions or environmental benefit so that a “sunset” will eliminate unnecessary regulation. *See* 415 ILCS 5/27(a) (2016); 35 Ill. Adm. Code 102.208. On March 22, 2018, the Board accepted the amended petition for hearing and directed its assigned hearing officer to schedule and proceed to hearing.

Hearings and Pre-Filed Testimony

The Board will conduct two hearings to allow IEPA and any other interested participant to testify and comment on the merits and economic impact of the proposed rule. *See* 415 ILCS 5/28(a) (2016); 35 Ill. Adm. Code 102.412(a).

Unless the Board, hearing officer, Clerk, or procedural rules provide otherwise, all documents in this proceeding must be filed electronically through the Clerk’s Office On-Line (COOL). 35 Ill. Adm. Code 101.302(h), 101.1000(c), 101.Subpart J.

Participants pre-filing testimony for either of the two hearings are directed to serve it on all persons on the Service List at the time of pre-filing. *See* 35 Ill. Adm. Code 102.424(c). Before filing any document with the Board’s Clerk, please obtain the current version of the Service List through COOL on the Board’s Web site (www.ipcb.state.il.us) or by calling the Clerk’s Office at 312-814-3461. Documents may generally be served by e-mail if the recipient has consented to e-mail service and has not revoked the consent. 35 Ill. Adm. Code 101.1060. Participants in this rulemaking are encouraged to provide consent to e-mail service of documents. *See* 35 Ill. Adm. Code 101.1070(a).

All persons wishing to testify at either hearing will be sworn in and subject to questioning. 35 Ill. Adm. Code 102.428(a). At both hearings, all pre-filed testimony will be entered into the record as if read. *See* 35 Ill. Adm. Code 102.424(f). A brief introduction or summary of the testimony will be allowed if a witness wishes to provide one before responding to questions.

For a videoconference hearing, any document to be offered as a hearing exhibit must be received by the Clerk’s Office at least 24 hours before the scheduled start of the hearing. 35 Ill. Adm. Code 102.424(h). If not filed at least 24 hours before the scheduled start of the videoconference hearing, the document will not be admitted as an exhibit at the hearing but may be filed as a public comment after the hearing. *Id.*

Participants wishing to offer a public comment during either of the two hearings will be allowed to do so as time allows before the end of a hearing. Participants may also file post-hearing comments. *See* 35 Ill. Adm. Code 102.108(b).

First Hearing

Participants who intend to testify at the first hearing are directed to pre-file all of their testimony and all related exhibits no later than Thursday, April 26, 2018. *See* 35 Ill. Adm. Code 102.424(a).

Although Section 27 of the Act (415 ILCS 5/27 (2016)) does not set the order of the hearing, the hearing officer intends to begin with witnesses for IEPA. *See* 35 Ill. Adm. Code 102.428(c). After testimony on behalf of IEPA, other participants who pre-file testimony may testify and respond to questions as time allows. Participants who do not pre-file testimony may testify as time allows after the Board completes the pre-filed testimony and questions based on it.

Second Hearing

Participants who intend to testify at the second hearing are directed to pre-file all of their testimony and all related exhibits no later than Thursday, May 24, 2018. *See* 35 Ill. Adm. Code 102.424(a).

The hearing officer intends to begin the second hearing with any participants who pre-filed testimony for the first hearing but were not able to testify and respond to questions before the end of that hearing. Next, participants who pre-filed testimony for the second hearing will present that testimony and respond to questions. Participants who did not pre-file testimony for the second hearing will be allowed to testify and respond to questions as time permits. *See* 35 Ill. Adm. Code 104.424(g).

In a letter dated March 22, 2018, the Board requested that the Department of Commerce and Economic Opportunity (DCEO) conduct an economic impact study of the amended proposal and respond to the request by May 7, 2018. At the second hearing, the Board will also receive testimony on any study conducted by DCEO or DCEO's decision not to conduct one. *See* 415 ILCS 5/27(b) (2016).

Service and Notice Lists

The Board has established and will maintain both a Notice List and Service List for this proceeding. *See* 35 Ill. Adm. Code 102.422(a), (b). The Notice List includes participants who wish to receive only the Board's opinions and orders and hearing officer orders. 35 Ill. Adm. Code 102.422(a). The Service List includes participants who expect to participate more actively and wish also to receive other filings such as pre-filed testimony. *See* 35 Ill. Adm. Code 102.422(b).

Note that any interested person may request electronic notice of filings by providing an e-mail address through COOL under this docket number R18-22. This electronic notice includes notice of filing of documents that are not typically provided to persons on the Notice List. In addition, COOL provides links to documents filed with the Board, and those documents can be viewed, downloaded, and printed free of charge as soon as they are posted to the Board's Web site.

IT IS SO ORDERED.



Timothy Fox, Hearing Officer
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