

ILLINOIS POLLUTION CONTROL BOARD

July 28, 2020

IN THE MATTER OF:)
)
PROPOSED NEW 35 ILL. ADM. CODE 250) R20-18
ETHYLENE OXIDE AMBIENT AIR) (Rulemaking - Air)
MONITORING)

NOTICE OF HEARING

DATES, TIMES, AND PLACES:

SECOND HEARING: Thursday, September 10, 2020, beginning at 1:00 PM

BY VIDEOCONFERENCE BETWEEN

BOARD SPRINGFIELD HEARING ROOM
Conference Room 1244N, 1st floor
1021 N. Grand Ave. E.
North Entrance

BOARD CHICAGO HEARING ROOM
Room 11-512
James R. Thompson Center
100 W. Randolph Street,
Chicago, Illinois 60601

Due to the Coronavirus Disease (COVID-19), and the Executive Orders in effect at the time of this notice, the Board is including an additional platform to encourage participation and public safety. If anybody has questions please contact the Hearing Officer, Mark Kaminski, at 312-814-3886, or by email at Mark.Kaminski@Illinois.Gov. If there are connection issues, please contact Marie Tipsord at 312-814-4925.

BY COMPUTER

Click this link:

<https://illinois.webex.com/illinois/j.php?MTID=mb2317b090c01591b88ce316980c96cec>

This will take you to the Webex page for the hearing. Enter your information and click the “Join Now” button. You may be

prompted for a Meeting Number or Password which can be found below.

BY PHONE

Call US Toll: 1-312-535-8110, or US Toll: 1-415-655-0002 and when prompted enter the meeting number, below.

Meeting number (access code): 133 166 4066

Meeting password: mPSsE9Mjx55

PURPOSE OF HEARING:

Merit and Economic

ATTENDING BOARD MEMBERS:

Brenda K. Carter

HEARING OFFICER:

Mark G. Kaminski

HEARING OFFICER ORDER

On January 16, 2020, the Board directed 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)). The Board further directed 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).

Today, dates are set for the second hearing in this proceeding. Several previously scheduled hearings were cancelled due to the COVID-19 Pandemic, and the subsequent restrictions on public gatherings and travel. The first hearing was held on June 25, 2020 in Chicago, by videoconference in Springfield, and via webex connection at 1:00 p.m.. The second hearing will be held on September 10, 2020 in Springfield, by videoconference in Chicago, and via webex connection at 1p.m.. Parties may attend. Any and all parties may attend and participate in the hearing in Springfield, Chicago, or via the webex link and phone number referenced above.

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.

Prefiled testimony was submitted for the first hearing. Any additional prefiled testimony must be filed with the Board by 4:30 p.m. on August 20, 2020. Any prefiled questions based upon the prefiled testimony or first hearing testimony must be filed with the Board by 4:30 p.m. on August 27, 2020. If participants wish to prefile answers, those answers should be prefiled by September 9, 2020.

The hearing will begin with any additional testimony from the Illinois Environmental Protection Agency (IEPA). After the IEPA, the order for testifying will be established by the

hearing officer, after consultation with any other parties who have prefiled any additional testimony, on September 10, 2020.

After hearing all prefiled testimony, the Board will accept public comment on the record. A sign-up sheet will be available in the Springfield and Chicago hearing rooms until 3 p.m. the day of the hearing for persons to sign up to provide public comment. In addition, anyone wishing to provide oral public comment during the hearing may notify the hearing officer up until September 9, 2020 by email or phone. Participants wishing to offer a public comment 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). If all prefiled testimony is completed, and no one is present at that time who wishes to make a public comment, the Board will conclude the first hearing.

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.

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. IEPA proposes this rule for the specific purpose of satisfying the statutory mandate to collect monitoring data for EtO to supplement the monitoring being conducted by the United States Environmental Protection Agency (USEPA). IEPA determined that a six-month monitoring period, with samples collected every 12 days for 5 sites throughout the State 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). IEPA's proposal provides a mechanism to collect ambient air samples to determine the background levels of EtO.

Section 27(b) Requirements

These hearings will also fulfill the statutory obligations under Section 27(b) of the Environmental Protection Act (Act) (415 ILCS 5/27(b) (2016)). Section 27(b) of the Act requires the Board to request the Department of Commerce and Economic Opportunity to conduct an economic impact study on certain proposed rules prior to adoption of those rules. If DCEO chooses to conduct the economic impact study, DCEO has 30 to 45 days after such request to produce a study of the economic impact of the proposed rules. The Board must then make the economic impact study, or DCEO's explanation for not conducting the study, available to the public at least 20 days before a public hearing on the economic impact of the proposed rules. The Board sent DCEO the request on January 16, 2020.

Written Public Comment

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

Written public comment may be filed with the Board at any time until the conclusion of the comment period. That date will be announced by hearing officer order after the close of hearings. If you have any questions regarding written public comment you may contact the hearing officer or the Clerk of the Board.

Availability of Filings

All filings in this proceeding will be available on the Board's web page at www.ipcb.state.il.us and participants may file electronically on the Board's web page. The prefiled testimony and prefiled questions must be served on the persons on the service list.

IT IS SO ORDERED.

Mark Kaminski
Hearing Officer
Illinois Pollution Control Board
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