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ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
 )  
AMENDMENTS TO 35 ILL. ADM. ) R 18-21  
CODE SUBTITLE B ) (Rulemaking - Air)

HEARING  
October 3, 2024  
9:00 a.m.  
1021 North Grand Avenue E  
Springfield, IL

BOARD MEMBERS PRESENT

Michael Mankowski

BOARD STAFF PRESENT

Anupama Paruchuri, Advisor to Mr. Mankowski

Reported In Person By:

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1 HEARING OFFICER:

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4 Illinois Pollution Control Board  
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6 APPEARANCES:

7 MARIE TIPSORD  
8 General Counsel  
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11 FOR THE IEPA

12 DANA VETTERHOFFER  
13 Deputy General Counsel  
14 Air Regulatory Unit  
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18 (217) 782-5544  
19 dana.vetterhoffer@illinois.gov

17 ALSO PRESENT:

18 RORY DAVIS - Manager of the Regulatory  
19 Development Unit in the Air  
20 Quality Planning Section, Bureau  
21 of Air

21 STANLEY DANIEL - Environmental  
22 Protection Engineer, Regulatory  
23 Development Unit, Air Quality  
24 Planning Section, Bureau of Air

1                   HEARING OFFICER FOX: Good morning and  
2 welcome to this Illinois Pollution Control Board  
3 hearing. My name is Tim Fox, and I am the assigned  
4 hearing officer for this rulemaking proceeding  
5 entitled "Amendments to 35 Illinois Administrative  
6 Code Subtitle B," the Board's Air Rules. The Board  
7 docket for this proceeding is R 18-21.

8                   To get started, I want to quickly go through  
9 three preliminary items: introductions, the Board's  
10 procedure to date, and then a proposed order for this  
11 hearing.

12                   First, introductions. Today, present from  
13 the Board in addition to me are, at my right, Board  
14 Member Michael Mankowski, the lead Board member  
15 assigned to this docket, also Marie Tipsord -- that's  
16 spelled T-i-p-s-o-r-d -- the Board's general counsel,  
17 and also Anu Paruchuri, whose surname I believe is  
18 spelled P-a-r-u-c-h-u-r-i.

19                   Second of all, I wanted to offer a quick  
20 summary of the Board's procedure to date. On January  
21 10 of 2018, The Illinois Environmental Protection  
22 Agency, or IEPA, filed a rulemaking proposal under the  
23 Governor's Executive Order 16-13. That order directed  
24 state agencies to review their rules and determine

1 those that are outdated, repetitive, confusing,  
2 unnecessary, or harmful to the state's economy; and it  
3 ordered agencies to amend or repeal those regulations  
4 as necessary.

5 IEPA, in 2018, proposed numerous changes to  
6 the subtitles of the Board rules, including the  
7 Subtitle B Air Rules. At that time, the Board had  
8 begun its own review of its rules, including the Air  
9 Rules.

10 On February 8 of 2018 the Board accepted  
11 IEPA's proposal for hearing. Then in an order on  
12 March 22 of 2018, the Board opened eight additional  
13 dockets to separately consider each of the other  
14 subtitles of the Board's rules and then continued in  
15 this docket, R 18-21, to consider only the amendments  
16 to the Subtitle B Air Rules.

17 On June 6 of 2024, the Board adopted a  
18 proposal for public comment, which requested comment  
19 both generally and on 167 specific matters.

20 In an order on June 12 of 2024, the Hearing  
21 Officer scheduled two hearings, the first of which is,  
22 of course, taking place today and the second on  
23 November 7 of 2024. The Board published notice of the  
24 two hearings in 11 newspapers statewide, all of which

1 took place beginning on July 10 and ending on July 17  
2 of this year.

3 The June 12, 2024, Hearing Officer order  
4 directed participants intending to testify at this  
5 hearing to prefile testimony and any related exhibits  
6 by Thursday, September 26 of 2024.

7 The Board did not receive any prefiled  
8 testimony for this hearing today. However, on that  
9 date, the Board received from IEPA Public Comment 10,  
10 which responded to each of the specific questions in  
11 the Board's June 6 order. Public Comment 10 states  
12 that it has not filed its testimony, although IEPA  
13 intended to have representatives available to respond  
14 to further questions.

15 Third, our proposed order for this hearing  
16 will begin with any persons who have signed in or  
17 otherwise indicate that they would like to offer  
18 public comment on the Board's proposal for public  
19 comment.

20 Since the Board did not receive any prefiled  
21 testimony for this hearing, we can then see if there's  
22 anyone who did not prefile testimony but would like to  
23 testify today. Under the Board's rules, Section  
24 102.424(g), testimony that is not prefiled is allowed

1 as time permits and where it will not prejudice  
2 another participant.

3           Next, we can turn to IEPA's Public Comment  
4 10, under Section 102.424(f) of the Board's procedural  
5 rules, "Testimony, questions, and responses that are  
6 prefiled will entered into the record as if  
7 read . . ."

8           IEPA, as I mentioned, did intend to have  
9 representatives available to respond to further  
10 questions. The Board does have one that it would wish  
11 to pose to the Agency, and we can see whether there  
12 are other participants who would like to raise a  
13 question. We can then determine whether there's  
14 anyone else who is not present now at the beginning of  
15 the hearing but would like to offer a public comment  
16 before we adjourn.

17           Finally, this proceeding is governed by  
18 Board's procedural rules. All information that is  
19 relevant that is not repetitious or privileged will be  
20 admitted into the record. Please bear in mind that  
21 any questions today posed by Board's members or staff  
22 are intended solely to help develop a clear and  
23 complete record for the ultimate decision by the Board  
24 and they do not reflect any decision on the proposal,

1 the testimony, the comments, or the questions.

2 For the sake of our court reporter, finally,  
3 please speak clearly. Avoid speaking at the same time  
4 as one another, and we can help produce a clear  
5 transcript.

6 Any questions about the order of proceeding?

7 (No response.)

8 HEARING OFFICER FOX: Very good. Ms.  
9 Vetterhoffer, if I can ask you to begin, just to  
10 identify the representatives of the Agency, including  
11 yourself, for the record, please.

12 MS. VETTERHOFFER: Sure. I am Dana  
13 Vetterhoffer. I'm the Deputy General Counsel of the  
14 Air Regulatory Unit for the Illinois EPA. With me  
15 today is Rory Davis. He's the manager of the  
16 Regulatory Development Unit in the Air Quality  
17 Planning Section in the Bureau of Air at the Illinois  
18 EPA.

19 Also with us today is Stanley Daniel,  
20 D-a-n-i-e-l, an environmental protection engineer in  
21 the Regulatory Development Unit in the Air Quality  
22 Planning Section of the Bureau of Air. Both Mr. Davis  
23 and Mr. Daniel are available for any questions that  
24 the Board members or other participants might have.

1 HEARING OFFICER FOX: Thanks very much, Ms.  
2 Vetterhoffer. We've come to the point where we can  
3 ascertain whether there's anyone who wishes to offer a  
4 public comment on the Board's proposal.

5 Ms. Tipsord is indicating that the sign-in  
6 sheet is blank, that no one has so indicated. I'm not  
7 seeing anyone who indicates that they wish to offer  
8 one.

9 I'm going to verify as well that there's not  
10 anyone who wishes to testify today. Again,  
11 Ms. Tipsord is indicating that no one has so indicated  
12 in writing, and I'm not seeing who so indicates in  
13 person.

14 We can move ahead then to the Agency's  
15 Public Comment Number 10. As I indicated, the Board  
16 does have a single question; and if the court reporter  
17 would swear in the Agency's witnesses, we can turn to  
18 that very quickly.

19 (Rory Davis and Stanley Daniel  
20 sworn to tell the truth.)

21 HEARING OFFICER FOX: Thank you very much.  
22 Mr. Davis, Mr. Daniel, I have a single question; and  
23 I'll certainly defer to you on the most appropriate  
24 person to answer it. The Board has received, has



1 review Public Comment Number 10, and we want to let  
2 you know that we appreciate the level of detail and  
3 the answers you have provided to us.

4           The question I have is this: The Board, of  
5 course, did propose a number of other revisions to the  
6 Subtitle B rules that were not the subject of specific  
7 questions, and I wanted to see whether the Agency has  
8 any intention or plan to respond more generally to the  
9 revisions that the Board had proposed.

10           MR. DAVIS: At this time, we have not had  
11 time to review those. We will take a look at those;  
12 and if we have any comments, we'll get those in prior  
13 to the second hearing.

14           I guess the question would be: Those were  
15 revisions to -- well, they're redline revisions that  
16 are found in each section, not having to do with the  
17 documents or the updating of documents?

18           HEARING OFFICER FOX: Yes -- and I'm sorry  
19 if I wasn't clear -- any of the proposed revisions  
20 that were not the subject of one of the specific 167  
21 questions.

22           MR. DAVIS: We will take a look; and if we  
23 see anything that we'd like to make comments on, we'll  
24 get those in prior to the second hearing.

1 HEARING OFFICER FOX: Excellent. Thank you  
2 very much, Mr. Davis. Any follow-up from Member  
3 Mankowski or any of the Board staff?

4 (No response.)

5 HEARING OFFICER FOX: All right. That  
6 resolves our single question. Mr. Davis, if you want  
7 to continue your answer? I'm sorry.

8 MR. DAVIS: Well, on a different topic. We  
9 did try to answer all of the questions, a lot of them  
10 were having to do with ASTM standards -- that's  
11 American Society for Testing and Materials -- and a  
12 number of other documents that the Board asked whether  
13 we should be updating those.

14 There are several documents that we were not  
15 able to locate. I would say that we are still working  
16 with our Agency librarian to locate those; so this may  
17 not be the end of all of the documents that we are  
18 going to try to locate.

19 Additionally, there were some referenced  
20 methods documents where the Agency was not able to  
21 locate the referenced document in the existing rules,  
22 even if we were able to locate the updated version.

23 For instance, if there were a standard that  
24 was dated 1956, in most cases, we tried to compare the

1 referenced document to the most updated. In those  
2 cases where we weren't able to find the oldest or the  
3 referenced, we would take the oldest we could find --  
4 in that case, maybe like a 1971 version -- that we  
5 would compare to make sure that there was no  
6 substantive change that would be brought about by  
7 updating the reference. But in those cases also, we  
8 are still trying to locate those that are the  
9 referenced in order to provide them to the Board.

10           So that's just kind of a distinction I  
11 wanted to put on the record, that in some cases, there  
12 are some old documents that are tough to locate, and  
13 we're doing our best to advise the Board whether we  
14 should update those on that basis.

15           The other, I guess, question for the Board  
16 that the Agency had was -- well, we have not yet  
17 purchased those referenced documents. The Agency has  
18 looked into the budget for that purchase. We were  
19 going to wait until the Board accepted the  
20 recommendation from the Agency to update the  
21 references until we started purchasing those. So  
22 we'll await the Board's -- I guess it could be between  
23 the first and second hearing, or we could just wait  
24 until after the second hearing to start that process

1 of actually obtaining them for providing them to the  
2 Board.

3 HEARING OFFICER FOX: If I may ask two  
4 follow-up questions? I believe, in Public Comment  
5 Number 10, where there was a more subsequent version  
6 of a method or standard that the Agency didn't oppose  
7 updating the rules with, that the Agency's comment was  
8 that it awaited a more specific signal a later point  
9 in the rulemaking process before proceeding to obtain  
10 copies of those updated documents. Is that a fair  
11 assessment?

12 MR. DAVIS: Yes.

13 HEARING OFFICER FOX: Very good. And I had  
14 one other follow-up question, Mr. Davis.

15 In addressing the issue the Agency had with  
16 the difficulty of finding some of the older sources  
17 and confirming that there were appropriately updated  
18 versions, it sounded as if the Agency may wish to  
19 supplement Public Comment Number 10 possibly with  
20 additional information about those updated materials.  
21 Is that a correct assessment?

22 MR. DAVIS: That's correct.

23 HEARING OFFICER FOX: Very good. And we  
24 certainly will be dealing with the second hearing and

1 the associated deadlines and a post hearing comment  
2 deadline before we adjourn today. So perhaps that  
3 will be helpful in thinking through the timing on  
4 that.

5 MR. DAVIS: Okay.

6 HEARING OFFICER FOX: Did we have any other  
7 follow-up questions for the Agency, Member Mankowski?

8 MR. MANKOWSKI: (Shaking head from side to  
9 side.)

10 HEARING OFFICER FOX: Neither seeing nor  
11 hearing any, I can confirm again that the list to sign  
12 in to offer comment remains blank; so we do not have  
13 any public participants, members of the general  
14 public, who are present to offer comment or to testify  
15 on this proposal today.

16 I do want to move on quickly to the issue of  
17 the Economic Impact Study, which I will raise at the  
18 second hearing as well.

19 Under Section 27(B) of the Environmental  
20 Protection Act, the Board must request that the  
21 Department of Commerce and Economic Opportunity, or  
22 DCEO, conduct an Economic Impact Study of proposed  
23 rules before the Board adopts them. The Board then  
24 must make either the study or the Department's

1 explanation for not conducting one available to the  
2 public at least 20 days before a public hearing.

3 In a letter dated June 6 of 2024, the  
4 Board's Chair, Barbara Flynn Currie, requested that  
5 DCEO conduct an Economic Impact Study of this precise  
6 rulemaking proposal, and the Board requested a  
7 response no later than September 30, 2024. To date,  
8 it has received no response to that request.

9 Is there anyone who would like to testify or  
10 comment regarding either the Board's request for a  
11 study or DCEO's response?

12 (No response.)

13 HEARING OFFICER FOX: Neither seeing nor  
14 hearing any, let me again determine, for the sake of  
15 thoroughness, whether there's anyone who wishes to  
16 comment or testify.

17 (No response.)

18 HEARING OFFICER FOX: Neither seeing nor  
19 hearing that there's anyone who wishes to do so, let  
20 us go off the record just for a moment. We can take a  
21 short time to discuss a few procedural issues before  
22 we can adjourn.

23 (Discussion held off the record.)

24 HEARING OFFICER FOX: After going off the

1 record briefly to discuss procedural issues, we can  
2 confirm today that the second hearing will take place  
3 as scheduled on Thursday, November 7, of 2024  
4 beginning at 9:00 a.m. in the Bilandic Building in  
5 Chicago with a deadline of Thursday, October 31, 2024,  
6 to prefile testimony.

7           Copies of the transcript of today's hearing  
8 are expected to be available by Thursday, October 10,  
9 of 2024. When the Board does receive the transcript,  
10 it will be posted on the Clerk's Office Online, or  
11 COOL, on the Board's website right away; and from  
12 there, it can be viewed and copied and printed.

13           Are there any other matters we need to  
14 address at this time?

15                                 (No response.)

16           HEARING OFFICER FOX: Neither seeing nor  
17 hearing any indication that there are, I would like to  
18 thank everyone for participating today, and our  
19 hearing is adjourned. Thank you.

20

21                                 (Hearing concluded at 9:20 a.m.)

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1 STATE OF ILLINOIS )  
 ) SS  
2 COUNTY OF DeWITT )

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4 I, BRENDA ZEITLER, CSR, License No.  
084-004062, in and for the state of Illinois, do  
5 hereby certify that the foregoing transcript from the  
hearing by the Illinois Pollution Control Board was  
6 taken on the 3rd day of October, 2024, and that said  
hearing was taken down in stenographic notes,  
7 afterwards reduced to typewriting by me, and is a true  
and accurate transcription of the testimony.

8

9 I do hereby certify that I am a  
disinterested person in this cause of action, that I  
am not a relative of any party or any attorney of  
10 record in this cause or an attorney for any party  
herein or otherwise interested in the event of this  
11 action, and that I am not in the employ of the  
attorneys for either party.

12

13 IN WITNESS WHEREOF, I have hereunto set my hand  
this 10th day of October, 2024.

14

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Brenda Zeitler, CSR

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