

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE A: GENERAL PROVISIONS

CHAPTER I: ENVIRONMENTAL PROTECTION AGENCY

PART 164

PROCEDURES FOR INFORMATIONAL AND QUASI-LEGISLATIVE PUBLIC HEARINGS

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164.401 Summary and Agency Statement

AUTHORITY: Implementing and authorized by Section 4 of the Environmental Protection Act (Ill. Rev. Stat. 1981, ch. 111-1/2, par.1004) and Section 5-10(e)(1) of The Illinois Administrative Procedure Act (Ill. Rev. Stat., 1991, ch. 127, par 1005-10(e)(1)).

SOURCE: Adopted and codified at 7 Ill. Reg. 372, effective January 10, 1983; amended at 42 Ill. Reg. 15986, effective August 1, 2018.

SUBPART A: INTRODUCTION

Section 164.101 Purpose

These procedures are intended:

- a) To provide opportunity for the public to understand and comment on proposed actions of the Illinois Environmental Protection Agency (Agency);

- b) To establish procedures by which the Agency consults interested or affected members of the public;
- c) To enable the Agency to fully consider and respond to public concerns;
- d) To encourage cooperation between the Agency and other governmental bodies charged with protecting the environment; and
- e) To foster openness among the Agency, other governmental bodies, and the public.

Section 164.102 Applicability

These procedures apply to agency hearings in informational or quasi-legislative proceedings when hearings are required by law or when the Director of the Agency determines that a public hearing shall be held. These procedures do not apply to contested cases or permit hearings for which other rules apply.

SUBPART B: PROCEDURES FOR INFORMATIONAL PUBLIC HEARINGS

Section 164.201 Notice

- a) Notice of a hearing under this Part shall be given at least 30 days before the hearing.
- b) The notice shall include:
 - 1) The date, time, and place of the hearing;
 - 2) The purpose of the hearing;
 - 3) Identification of the Agency Bureau sponsoring the hearing and any other sponsor if the hearing is jointly sponsored;
 - 4) A reference to the particular Sections of the statutes and rules involved;
 - 5) The name, address, and telephone number of a contact person from whom additional information regarding the hearing may be obtained;
 - 6) A statement regarding the submission of written comments;
 - 7) A statement that a copy of the procedural rules governing the hearing is available upon request; and
 - 8) Other information as determined by the Agency or required by law.
- c) Notice of the hearing shall be given by prominent placement at a dedicated page on the Agency's website. The notice shall remain on the Agency's website for the duration of the public comment period. If the Agency's website is unavailable for a prolonged period of time, the comment period will be extended for an equivalent amount of time. Notice of hearing shall also be given as follows:
 - 1) If, pursuant to the Act or other applicable law, newspaper notice is required for the matter at issue, notice shall be by advertisement in a newspaper of general circulation in the affected geographical area;

- 2) If the Director of the Agency or his/her designee determines, for a particular matter, that additional notice would serve the interests of the public or of the Agency, notice shall be by advertisement in a newspaper of general circulation in the affected geographical area or by notice in the Illinois Register. In making this determination, the Agency shall consider public interest.
- d) Notice will also be provided to:
 - 1) Interested or affected persons and organizations of which the Agency is aware or who have requested notification of public hearings or of Agency actions relating to the subject matter of the hearing.
 - 2) Other persons as determined by the Agency or as required by law.

(Source: Amended at 42 Ill. Reg. 15986, effective August 1, 2018)

Section 164.202 Hearing Officer

- a) The Hearing Officer shall be designated by the Director of the Agency.
- b) The Hearing Officer shall have all authority necessary to conduct a fair and orderly hearing including, but not limited to, the authority to:
 - 1) Schedule the hearing;
 - 2) Regulate the course of the hearing;
 - 3) Administer oaths and affirmations;
 - 4) Examine witnesses and direct witnesses to testify;
 - 5) Require persons who testify to do so under oath;
 - 6) Reasonably limit the scope and duration of testimony or questioning of witnesses; and
 - 7) Extend the time limits for making written submissions.

Section 164.203 Conduct of Hearing

- a) The Hearing Officer shall make an opening statement which shall include the following points:
 - 1) The purpose of the hearing;
 - 2) Issues involved in the decision, if any, to be made by the Agency;
 - 3) Tentative determinations, if any, already made by the Agency;
 - 4) Factors which the Agency will consider in making the decision;
 - 5) Information and comments to be solicited from the public at the hearing;
 - 6) a statement as to what questioning, if any, will be permitted by the Hearing Officer.
- b) The Hearing Officer shall read into the record the names and other identifying information of persons who have submitted written statements prior to the hearing.
- c) The Hearing Officer shall allow relevant oral statements and all written statements at the hearing.
- d) The Hearing Officer shall admit relevant exhibits into the record.
- e) The Hearing Officer may make a closing statement and shall set a date when the hearing record will close. Unless the Hearing Officer provides otherwise, this date shall be 30 days from the date of the last scheduled hearing.

Section 164.204 Questions

The Hearing Officer may allow relevant questions by any person or any witness or agency representative.

Section 164.205 Written Submissions

Any person may file written submissions either before or during the hearing or prior to the close of the record. Written submissions may be filed with the contact person named in the Notice or with the Hearing Officer.

SUBPART C: HEARING RECORD

Section 164.301 Contents

- a) The Hearing Officer shall prepare a record of all hearings held under these procedures.
- b) This record shall contain:
 - 1) A transcript of the proceedings, including all written submissions and exhibits, or an audio recording of the proceeding;
 - 2) A list of witnesses and submitters of written material;
 - 3) Written submissions and exhibits; and
 - 4) When required by law any recommendations made by the Hearing Officer.

Section 164.302 Access

Any person may inspect and copy the record pursuant to Agency rules.

SUBPART D: RESPONSE TO HEARING

Section 164.401 Summary and Agency Statement

- a) The Agency shall prepare a general summary of comments and statements in the hearing record and shall respond to the questions and comments either individually or by category.
- b) The Agency shall also prepare a statement of its conclusions, proposed actions and justifications for its proposed actions.
- c) The summary and Agency statement shall be available to the public upon request to the Agency.
- d) The summary shall be available to the public within 45 days after closing of the record unless the Hearing Officer provides otherwise.