

ILLINOIS POLLUTION CONTROL BOARD

June 3, 2005

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STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
)  
PROPOSED AMENDMENTS TO ) R04-25  
DISSOLVED OXYGEN STANDARD 35 ILL. ) (Rulemaking - Water)  
ADM. CODE 302.206 )

**NOTICE OF HEARING**

DATE, TIME, PLACE:

THIRD HEARING: THURSDAY, AUGUST 25, 2005, 10:30 a.m.

Michael A. Bilandic Building  
160 North LaSalle, 5th Floor  
Room N505  
Chicago, Illinois

PURPOSE OF HEARING: Merit and economic  
ATTENDING BOARD MEMBER: Andrea S. Moore  
HEARING OFFICER: Richard R. McGill, Jr.

In compliance with the Americans With Disabilities Act and other applicable federal and State laws, the hearings will be accessible to individuals with disabilities. Persons requiring auxiliary aids should contact Dorothy Gunn, Clerk of the Board, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601, at telephone number (312) 814-3669, or TDD number (312) 814-6032, at least five days before the particular hearing.

## **HEARING OFFICER ORDER**

On April 19, 2004, the Board received a rulemaking proposal from the Illinois Association of Wastewater Agencies (IAWA). IAWA seeks to amend the Board's rule establishing general use water quality standards for dissolved oxygen (35 Ill. Adm. Code 302.206). In a May 6, 2004 order, the Board accepted the proposal for hearing. The Board held the first hearing on June 29, 2004, in Chicago, and the second hearing on August 12, 2004, in Springfield.

At the conclusion of the second hearing, the participants asked the hearing officer to conduct a status conference call in one month, rather than proceed to schedule a third hearing at that time. The participants would use the status conference call solely to report on their readiness for a third hearing. As requested and after providing notice, the hearing officer, on September 13, 2004, conducted the status conference call, in which anyone could participate. As requested by the participants, the hearing officer continued to conduct status conference calls in the same manner on a monthly basis, through December 2004.

During the December 2004 status conference call, the participants asked that the hearing officer require IAWA to file a written status report in one month, rather than conduct another status conference call, to learn whether the participants were ready for a third hearing. Accordingly, IAWA filed a status report in January 2005, and as requested by IAWA, the hearing officer continued to require monthly status reports, which IAWA filed through May 2005. In its May 31, 2005 status report, IAWA states that based on discussions at a May 4, 2005 stakeholder meeting, "it was generally agreed that we should attempt to schedule a third hearing." Status Report at 1. IAWA asks the hearing officer to schedule a third hearing "so that this matter can move forward" and suggests several August 2005 dates for the hearing. *Id.* at 1-2.

As noted above, and consistent with the request in IAWA's last status report, the third hearing in this rulemaking is scheduled for August 25, 2005, in Chicago, beginning at 10:30 a.m. The purpose of the hearing is to allow the Board to receive testimony from the Illinois Environmental Protection Agency, the Illinois Department of Natural Resources, IAWA, and other interested participants on the merits and economic impact of the rulemaking proposal. At hearing, all persons who testify will be sworn and subject to questioning.

Those who wish to testify at the third hearing must prefile their testimony and any related exhibits with the Board no later than August 4, 2005. *See* 35 Ill. Adm. Code 102.424. The "mailbox rule" (35 Ill. Adm. Code 101.300(b)(2)) does not apply to this filing—therefore, the Clerk of the Board must *receive* the prefiled testimony by August 4, 2005. Those who prefile must be prepared to provide oral summaries of their prefiled testimony at hearing. Others who did not prefile may testify at the third hearing only as time permits and at the discretion of the Hearing Officer.

IAWA's proposal and other filings in this rulemaking, including the transcripts of the first two hearings, may be obtained on the Board's Web Site through the Clerk's Office On-Line (COOL) at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). Please note that as part of the Board's voluntary electronic

filing pilot project, prefiled testimony may be filed through the Board's COOL. Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

Prefiled testimony filed with the Board must also be served on the hearing officer and on those persons on the Service List. Before filing with the Clerk, please check with Sandy Wiley at (312) 814-3623 or [wileys@ipcb.state.il.us](mailto:wileys@ipcb.state.il.us) or the hearing officer to ensure that you have the most recent version of the Service List.

IT IS SO ORDERED.



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