

ILLINOIS POLLUTION CONTROL BOARD

November 21, 2013

IN THE MATTER OF:)
)
STANDARDS AND LIMITATIONS FOR) R14-19
CERTAIN SOURCES OF LEAD;) (Rulemaking - Air)
PROPOSED 35 ILL. ADM. CODE 226)

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STATE OF ILLINOIS
Pollution Control Board

NOTICE OF HEARINGS

DATES, TIMES, AND LOCATIONS:

FIRST HEARING: BEGINNING WEDNESDAY, JANUARY 8, 2014

11:00 AM
James R. Thompson Center
Room 9-039
100 W. Randolph St.
Chicago, Illinois

AND, IF BUSINESS REMAINS AT THE END OF HEARING ON THAT DAY,
RESUMING ON THURSDAY, JANUARY 9, 2014, AT 9:00 AM AT THE SAME
LOCATION

PURPOSE OF HEARING: Agency testimony and questions (415 ILCS 5/28.5 (2012))

SECOND HEARING: BEGINNING WEDNESDAY, FEBRUARY 5, 2014

11:00 AM
James R. Thompson Center
Room 9-039
100 W. Randolph St.
Chicago, Illinois

AND, IF BUSINESS REMAINS AT THE END OF HEARING ON THAT DAY,
RESUMING ON THURSDAY, FEBRUARY 6, 2014, AT 9:00 AM AT THE SAME
LOCATION

PURPOSE OF HEARING: General testimony and questions (415 ILCS 5/28.5 (2012))

THIRD HEARING: BEGINNING WEDNESDAY, FEBRUARY 19, 2014

11:00 AM
James R. Thompson Center
Room 9-039
100 W. Randolph St.
Chicago, Illinois

AND, IF BUSINESS REMAINS AT THE END OF HEARING ON THAT DAY,
RESUMING ON THURSDAY, FEBRUARY 20, 2014, AT 9:00 AM AT THE SAME
LOCATION

PURPOSE OF HEARING: Agency response (415 ILCS 5/28.5 (2012))
ATTENDING BOARD MEMBER: Carrie K. Zalewski
HEARING OFFICER: Chad M. Kruse

HEARING OFFICER ORDER

The Illinois Environmental Protection Agency (Agency) filed this proposal pursuant to Section 28.5 of the Environmental Protection Act (Act) (415 ILCS 5/28.5 (2012)). Section 28.5 requires the Board to proceed toward adoption of the proposed regulation by meeting a series of strict deadlines. The Board has applied those deadlines to this proceeding in its opinion and order issued today.

Section 28.5 narrows each hearing to a specific purpose and establishes other procedural requirements, as follows:

Under Section 28.5 of the Act:

the first hearing “shall be confined to testimony by and questions of the Agency’s witnesses concerning the scope, applicability, and basis of the rule.” 415 ILCS 5/28.5(f)(1) (2012).

the Board may cancel the second and third hearings if the Agency and affected entities agree on the rule, if the United States Environmental Protection Agency has not informed the Board of any unresolved objection to the rule, and if no other interested party contests the rule or seeks to present additional evidence. 415 ILCS 5/28.5(f)(1)(A) (2012).

“[w]ithin 7 days after the first hearing, any person may request that the second hearing be held.” 415 ILCS 5/28.5(f)(1) (2012).

the second hearing, if necessary, “shall be devoted to presentation of testimony, documents, and comments by affected entities and all other interested parties.” 415 ILCS 5/28.5(f)(2) (2012).

the third hearing, if necessary, “shall be devoted solely to any Agency response to the material submitted at the second hearing and to any response by other parties. The Third hearing shall be cancelled if the Agency indicates to the Board that it does not intend to introduce additional material.” 415 ILCS 5/28.5(f)(3) (2012).

“[t]he Board shall require the written submission of all testimony at least 10 days before a hearing, with simultaneous service to all participants of record in the proceedings as of 15 days prior to hearing, unless a waiver is granted by the Board for good cause.” 415 ILCS 5/28.5(f) (2012).

“[f]ollowing the hearings, the Board shall close the record 14 days after the availability of the transcript.” 415 ILCS 5/28.5(k) (2012).

The Board has no discretion to adjust the strict deadlines set forth in Section 28.5 of the Act. *See* 415 ILCS 5/28.5 (2012). Therefore, the first hearing will go forward on Wednesday, January 8, 2014, and is not subject to continuation or cancellation. If the second and third hearings are necessary, both will begin on the dates set above in this order. While the Board’s request for an economic impact study, pursuant to Section 27(b) of the Act, may be addressed at the first hearing, if the second hearing is held as scheduled, participants may also address the economic impact study at that time.

Service and Notice Lists

The hearing officer will establish and maintain both a Notice List and a Service List for this proceeding. *See* 35 Ill. Adm. Code 102.422(a), (b). The Notice List includes participants who wish to receive copies only of the Board’s opinions and orders and hearing officer orders. 35 Ill. Adm. Code 102.422(a). The Service List for this rulemaking is the list of persons who wish to participate actively in this proceeding and receive not only the Board’s opinions and orders but also other filings such as pre-filed testimony, questions, and responses. *See* 35 Ill. Adm. Code 102.422(b).

Note that interested persons may now request electronic notice of filings by providing their e-mail address through COOL under this docket number R14-19. This electronic notice includes notice of the 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. For more information about the option of electronic notice or COOL, please consult either the Board’s Web site at www.ipcb.state.il.us or John Therriault, the Board’s Clerk, at (312) 814-3629.

Prefiling of Testimony

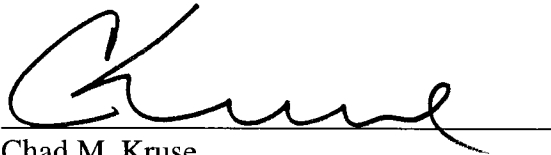
Section 28.5 of the Act sets forth strict deadlines for prefiling testimony:

[t]he Board shall require the written submission of all testimony at least 10 days before a hearing, with simultaneous service to all participants of record in the

proceeding as of 15 days prior to the hearing, unless a waiver is granted by the Board for good cause. 415 ILCS 5/28.5(f) (2012).

For purposes of serving prefiled testimony, the service list will close at 4:30 PM on December 24, 2013, January 21, 2014, and February 4, 2014, for each respective hearing. The service list will be available from the hearing officer after 9:30 AM the following Board business day. In the case of the December 24, 2013 deadline for the first hearing, the service list will be available after 9:30 AM on December 26, 2013. Corresponding with the above dates, prefiled testimony must be filed on or before December 29, 2013, January 26, 2014, and February 9, 2014, for each respective hearing. For purposes of service of prefiled testimony on the Board for any of the three scheduled hearings, the mailbox rule of 35 Ill. Adm. Code 101.300(c) does not apply.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Chad M. Kruse', is written over a horizontal line.

Chad M. Kruse
Hearing Officer
Illinois Pollution Control Board
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Chicago, Illinois 60601
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chad.kruse@illinois.gov