

ILLINOIS POLLUTION CONTROL BOARD

July 30, 2018

IN THE MATTER OF )  
 )  
AMENDMENTS TO 35 ILL. ADM. CODE ) R18-29  
SUBTITLE M: BIOLOGICAL MATERIALS ) (Rulemaking – Biological Materials)

**NOTICE OF HEARING**

**DATES, TIMES, AND LOCATIONS**

**FIRST HEARING:** September 11, 2018, beginning at 10:00 am, to be continued if necessary to September 12, 2018, beginning at 10:00 am.

By videoconference between:

IPCB CHICAGO HEARING ROOM Room 11-512 James R. Thompson Center 100 W. Randolph Chicago Illinois, 60601	and	IPCB SPRINGFIELD HEARING ROOM Conference Room 1244 N, 1st Floor Illinois Environmental Protection Agency 1021 N. Grands Avenue East, North Entrance Springfield, Illinois 62702
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**SECOND HEARING:** October 17, 2018, beginning at 10:00 am, to be continued if necessary to October 18, 2018, beginning at 1:30 pm.

By videoconference between:

IPCB CHICAGO HEARING ROOM Room 11-512 James R. Thompson Center 100 W. Randolph Chicago Illinois, 60601	and	IPCB SPRINGFIELD HEARING ROOM Conference Room 1244 N, 1st Floor Illinois Environmental Protection Agency 1021 N. Grands Avenue East, North Entrance Springfield, Illinois 62702
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<b>PURPOSE OF HEARING:</b>	Merit and Economic
<b>ATTENDING BOARD MEMBERS:</b>	Carrie Zalewski
<b>HEARING OFFICER:</b>	Martin Klein

**HEARING OFFICER ORDER**

The Board opened this docket on March 22, 2018, to amend the Board's biological waste rules under Part 102 of the Board's procedural rules (35 Ill. Adm. Code 102. Subpart B) and Sections 27 and 28 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/27, 28 (2016)). This review is part of the Board's broader review of its rules that began in the summer of 2016.

The biological waste rules affected are located at 35 Ill. Adm. Code 1420, 1421, and 1422. The treatment, storage, transportation, packaging, labeling, and transfer facilities of potentially

infectious medical waste are addressed in these rules. The proposed changes involve updating definitions, references, and procedures. The proposed amendments also clarify language in some sections and remove provisions that are no longer applicable or necessary.

The public comment period is open, and the Board has invited comments on all aspects of the proposal. Written comments must be filed with the Clerk and served on the service list in accordance with 35 Ill. Adm. Code 101.Subpart C. 35 Ill. Adm. Code 102.108(c). The Board will accept written comments a date that the hearing officer will set after receiving the transcript of the second hearing. 35 Ill. Adm. Code 102.108(b). Today's order sets the dates for the hearings and the prefiling deadlines for written testimony and questions.

The Board recently amended its procedural rules to provide that “[a]ny Board hearing may be held by videoconference.” The amended rule provides factors that a hearing officer will consider in determining whether to hold a hearing by videoconference. 35 Ill. Adm. Code 101.600(b); *see Procedural Rule Amendments: Proposed Amendments to 35 Ill. Adm. Code 101 through 125, R16-17, slip op. at 31 (May 19, 2016)*. Videoconference hearings reduce travel costs and ensure efficient use of time and resources by participants and their witnesses as well as the Board members and staff. This rulemaking also concerns entire state and is not tied to any specific geographic location. Based on these considerations, the Board will conduct the hearings by videoconference between its offices. 35 Ill. Adm. Code 101.600(b).

### **Hearings and Pre-Filed Testimony**

The Board will conduct two hearings to allow IEPA and any other interested participant to testify and comment on the specific questions posed by the Board, as well as the merits and economic impact of the proposed rule. *See* 415 ILCS 5/28(a) (2016); 35 Ill. Adm. Code 102.412(a).

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.

Participants pre-filing testimony for either of the two hearings are directed to serve it on all persons on the Service List at the time of pre-filing. *See* 35 Ill. Adm. Code 102.424(c). Before filing any document with the Board's Clerk, please obtain the current version of the Service List through COOL on the Board's Web site ([pcb.illinois.gov](http://pcb.illinois.gov)) or by calling the Clerk's Office at 312-814-3461. Documents may generally be served by e-mail if the recipient has consented to e-mail service and has not revoked the consent. 35 Ill. Adm. Code 101.1060. Participants in this rulemaking are encouraged to provide consent to e-mail service of documents. *See* 35 Ill. Adm. Code 101.1070(a).

All persons wishing to testify at either hearing will be sworn in and subject to questioning. 35 Ill. Adm. Code 102.428(a). At both hearings, all pre-filed testimony will be entered into the record as if read. *See* 35 Ill. Adm. Code 102.424(f). A brief introduction or summary of the testimony will be allowed if a witness wishes to provide one before responding to questions.

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.*

Participants wishing to offer a public comment during either of the two hearings 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).

### **First Hearing**

Participants who intend to testify at the first hearing are directed to pre-file their testimony and related exhibits no later than August 24, 2018. *See* 35 Ill. Adm. Code 102.424(a). To ensure an efficient and expeditious hearing, participants who intend to ask questions during the hearing must pre-file their questions no later than August 30, 2018.

Although Section 27 of the Act (415 ILCS 5/27 (2016)) does not set the order of the hearing, the hearing officer intends to begin with witnesses for IEPA, if any testimony is provided. *See* 35 Ill. Adm. Code 102.428(c). After testimony on behalf of IEPA, other participants who pre-file testimony may testify and respond to questions as time allows. Participants who do not pre-file testimony may testify as time allows after the Board completes the pre-filed testimony and questions based on it.

### **Second Hearing**

Participants who intend to testify at the second hearing are directed to pre-file their testimony and all related exhibits no later than October 3, 2018. *See* 35 Ill. Adm. Code 102.424(a). To ensure an efficient and expeditious hearing, participants who intend to ask questions during the hearing must pre-file their questions no later than October 10, 2018.

The hearing officer intends to begin the second hearing with any participants who pre-filed testimony for the first hearing but were not able to testify and respond to questions before the end of that hearing. Next, participants who pre-filed testimony for the second hearing will present that testimony and respond to questions. Participants who did not pre-file testimony for the second hearing will be allowed to testify and respond to questions as time permits. *See* 35 Ill. Adm. Code 104.424(g).

In a letter dated May 10, 2018, the Board requested that the Department of Commerce and Economic Opportunity (DCEO) conduct an economic impact study of the amended proposal and respond to the request by June 25, 2018. At the second hearing, the Board will also receive testimony on any study conducted by DCEO or DCEO's decision not to conduct one. *See* 415 ILCS 5/27(b) (2016).

### **Pre-Filing Procedures**

All filings in this proceeding will be available on the Board's website at [pcb.illinois.gov](http://pcb.illinois.gov). 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.

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 allowed at the hearing but may be filed as a public comment after the hearing. *Id.*

The pre-filed testimony and pre-filed questions must be served on the persons on the Service List at the time of pre-filing. 35 Ill. Adm. Code 102.424(c). Service may be done by e-mail if the recipient has consented to e-mail service and has not revoked the consent. 35 Ill. Adm. Code 101.1060. Participants in this rulemaking are encouraged to provide consent to email service of documents. *See* 35 Ill. Adm. Code 101.1070(a). Before filing any document, please obtain the current version of the Service List through COOL on the Board's website ([pcb.illinois.gov](http://pcb.illinois.gov)) or by calling the Clerk's Office at 312-814-3461.

The hearing officer intends to begin each hearing with any participants who pre-filed testimony for the hearing. Participants who did not pre-file testimony will be allowed to testify and respond to questions as time permits. *See* 35 Ill. Adm. Code 101.628, 102.114, and 102.424(g).

For both hearings, all pre-filed testimony and questions will be entered into the record as if read. 35 Ill. Adm. Code 102.424(f). A brief introduction to or summary of the testimony will be allowed if a witness wishes to provide one before responding to questions. Participants wishing to offer a public comment during either of the two hearings will be allowed to do so as time allows before the end of a hearing. Participants may also file post hearing comments. 35 Ill. Adm. Code 102.108(b).

#### Service and Notice Lists

The hearing officer and Clerk's Office maintain a Notice List and Service List for this proceeding. 35 Ill. Adm. Code 102.422(a), (b). The Notice List includes participants who wish to receive only the Board's opinions and orders and hearing officer orders. 35 Ill. 4 Adm. Code 102.422(a). The Service List includes participants who expect to participate more actively and wish also to receive other filings such as pre-filed testimony and questions. 35 Ill. Adm. Code 102.422(b). Any interested person may also request electronic notice of filings by providing an email address through COOL under this docket number R18-29. This electronic notice includes notice of 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 website.

IT IS SO ORDERED.



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