

ILLINOIS POLLUTION CONTROL BOARD  
March 17, 2011

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STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
)  
UNDERGROUND STORAGE TANKS (35 ) R11-22  
ILL. ADM. CODE 731) AND PETROLEUM ) (Rulemaking - Land)  
LEAKING UNDERGROUND STORAGE )  
TANKS (35 ILL. ADM. CODE 732 AND 734))

ORIGINAL

**NOTICE OF HEARINGS**

DATE, TIME, AND LOCATION:

TUESDAY, MAY 10, 2011

1:00 PM  
Illinois Pollution Control Board Conference Room, First Floor  
1021 N. Grand Ave. East  
(North Entrance)  
Springfield, Illinois

AND, IF BUSINESS REMAINS AT THE END OF THE HEARING ON THAT DAY,  
CONTINUING ON WEDNESDAY, MAY 11, 2011, AT 9:00 AM AT THE SAME  
LOCATION.

THURSDAY, JUNE 16, 2011

1:00 PM  
Illinois Pollution Control Board Videoconference Room 11-512  
100 W. Randolph St.  
Chicago, Illinois

AND, IF BUSINESS REMAINS AT THE END OF THE HEARING ON THAT DAY,  
CONTINUING ON FRIDAY, JUNE 17, 2011, AT 9:00 AM AT THE SAME LOCATION.

PURPOSE OF HEARINGS: Merit and Economic  
ATTENDING BOARD MEMBER: Andrea S. Moore  
HEARING OFFICER: Timothy J. Fox

**HEARING OFFICER ORDER**

On February 18, 2011, the Illinois Environmental Protection Agency (Agency) filed a rulemaking proposal to amend the Board's underground storage tank (UST) regulations. The Agency submitted its proposal pursuant to Public Act 96-908 (P.A. 96-908), which was signed into law and became effective on June 8, 2010. The Agency states that P.A. 96-908 amended

and added provision to Title XVI of the Environmental Protection Act (Act), which addresses USTs. The Board will conduct two hearings in order to allow the Agency and any other interested participants the opportunity to present testimony on the merits and economic impact of the proposal. *See* 415 ILCS 5/28(a) (2008). At hearing, all persons wishing to testify will be sworn in and subject to questioning. The Board will also receive any testimony on any economic impact study (EcIS) conducted by the Department of Commerce and Economic Opportunity (DCEO) on the proposed rules or on DCEO's decision not to perform an EcIS. *See* 415 ILCS 5/27(b) (2008).

### **Pre-Filing Deadlines**

Participants who intend to testify at hearing are urged to pre-file their testimony and are directed to serve pre-filed testimony on all persons on the Service List. Before filing pre-filed testimony or any other document with the Clerk, please check with the Clerk to obtain the most recent version of the Service List.

Participants who wish to testify at the first hearing are directed to pre-file all of their testimony and any related exhibits no later than Tuesday, April 26, 2011. Participants who wish to testify at the second hearing are directed to pre-file all of their testimony and any related exhibits no later than Thursday, June 2, 2011. The "mailbox rule" at 35 Ill. Adm. Code 101.300(b)(2) does not apply to the filing of any of this pre-filed testimony, and the Board's Clerk must receive these documents before the close of business on these deadlines. However, documents may be filed electronically through the Clerk's Office On-Line (COOL) from the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). 35 Ill. Adm. Code 101.302(d). Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

### **Order of Hearing**

Although Section 27 of the Act (415 ILCS 5/27 (2008)) does not limit the first hearing to the testimony of the proponent, the hearing officer intends to begin the first hearing with the Agency's presentation of its proposal. After the Agency has addressed all questions from other participants, and if time permits before the conclusion of the first hearing, other participants who have pre-filed testimony may then testify and respond to questions. Participants who do not pre-file testimony for the first hearing will be allowed to testify and respond to questions as time permits after the conclusion of pre-filed testimony and questions based upon it. For the first hearing, all pre-filed testimony will be entered into the record as if read. *See* 35 Ill. Adm. Code 102.424(f). A brief summary of testimony will be allowed if a witness wishes to provide one before responding to questions.

The hearing officer intends to begin the second hearing with any participants who pre-filed testimony for the first hearing and were not able to testify at that time. Participants who pre-filed testimony for the second hearing will then present that testimony and respond to questions. Participants who do not pre-file testimony for the second hearing will be allowed to testify and respond to questions as time permits after the conclusion of pre-filed testimony and questions based upon it. As at the first hearing, all testimony pre-filed for the second hearing will also be entered into the record as if read. *See* 35 Ill. Adm. Code 102.424(f). A brief

summary of pre-filed testimony will be allowed if a witness wishes to provide one before responding to questions.

Participant wishing to offer a public comment at either hearing will be allowed to do so if time permits at the close of the testimony and questions. The Board's procedural rules also include an opportunity to file post-hearing comments. *See* 35 Ill. Adm. Code 102.108(b).

### 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. *See* 35 Ill. Adm. Code 102.422(b).

The Board begins this rulemaking proceeding by including in the Service List and Notice List a number of persons and entities that have appeared on the corresponding lists in recent UST proceedings. While the Board will mail a copy of the Board's March 17, 2011, order and this hearing officer order to each of them, the Board will maintain on the Notice List or Service List only those entities requesting to be maintained on it. The Board requests that any entity wishing to remain on the either the Notice List or Service List provide the information requested in the form attached to this order as Attachment A and return the form to the Board by Friday, April 1, 2011.

Note that interested persons may now request electronic notice of filings by providing their e-mail address through COOL under this docket number R11-22. 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](http://www.ipcb.state.il.us) or John Therriault, the Board's Assistant Clerk, at (312) 814-3629.

IT IS SO ORDERED.



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Timothy J. Fox  
Hearing Officer  
Illinois Pollution Control Board  
100 W. Randolph St., Suite 11-500  
Chicago, Illinois 60601  
312-814-6085  
foxt@ipcb.state.il.us

**ATTACHMENT A**

To Hearing Officer Order of March 17, 2011

Underground Storage Tanks (35 Ill. Adm. Code 731) and Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732 and 734) (R11-22)

I wish to added to the (please check one)

\_\_\_\_\_ Service List

\_\_\_\_\_ Notice List

in the Illinois Pollution Control Board rulemaking proceeding identified above:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Organization or Company

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

**PLEASE SUPPLY THIS INFORMATION BY FRIDAY, APRIL 1, 2011, TO:**

Lynn Patras, Illinois Pollution Control Board

E-mail:

patrasl @ipcb.state.il.us

Fax:

312-814-3669

Mail:

100 W. Randolph St., Suite 11-500  
James R. Thompson Center  
Chicago, Illinois 60601