

ILLINOIS POLLUTION CONTROL BOARD  
August 18, 2011

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STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
)  
REGISTRATION OF SMALLER SOURCES ) R12-10  
(ROSS): NEW 35 ILL. ADM. CODE 201.175 ) (Rulemaking - Air)

**NOTICE OF HEARINGS**

DATE, TIME, AND LOCATION:

ORIGINAL

WEDNESDAY, OCTOBER 5, 2011

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

THURSDAY, OCTOBER 27, 2011

1:00 PM  
Illinois Pollution Control Board Conference Room 11-512  
James R. Thompson Center  
100 W. Randolph St.  
Chicago, Illinois

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

**HEARING OFFICER ORDER**

On August 15, 2011, the Illinois Environmental Protection Agency (Agency) filed a proposal to amend the Board's air pollution regulations by adding a program for Registration of Smaller Sources (ROSS) as a new Section 201.175. *See* 35 Ill. Adm. Code 201 (Permits and General Provisions). The Agency stated that it proposed a ROSS program in order to meet the requirements of Section 9.14 of the Environmental Protection Act (Act). 415 ILCS 5/9.14 (2010); *see* Public Act 97-0095, eff. July 12, 2011. Section 9.14(d) provides that:

[t]he Agency shall propose rules to implement the registration of smaller sources program. Within 120 days after the Agency proposes those rules, the Board shall adopt rules to implement the registration of smaller sources program. These rules may be subsequently amended from time to time pursuant to a proposal filed with the Board by any person, and any necessary amendments shall be adopted by the

Board within 120 days after proposal. Such amendments may provide for the alteration or revision of the initial criteria included in subsection (a) of this Section. Subsection (b) of Section 27 of this Act and the rulemaking provisions of the Illinois Administrative Procedure Act do not apply to rules adopted by the Board under this Section. 415 ILCS 5/9.14(d) (2010); *see* 415 ILCS 5/27(b) (2010), Public Act 97-0095, eff. July 12, 2011.

Accordingly, the Board is required to adopt rules on or before Tuesday, December 13, 2011. The last scheduled Board meeting preceding that date will take place on Thursday, December 1, 2011.

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) (2010). At hearing, all persons wishing to testify will be sworn in and subject to questioning. 35 Ill. Adm. Code 102.424(f), 102.428(a), (c).

Section 27(b) of the Act (415 ILCS 5/27(b) (2010)), which addresses requests by the Board that the Department of Commerce and Economic Opportunity (DCEO) conduct an economic impact study (EcIS) of proposed rules, does not apply to rules filed under Section 9.14 of the Act. 415 ILCS 5/9.14(d), 27(b) (2010); *see* Public Act 97-0095, eff. July 12, 2011. Accordingly, the Board has not requested that DCEO conduct an EcIS of this proposal, and neither hearing will address the specific issue of an EcIS.

### **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. *See* 35 Ill. Adm. Code 102.424(c). 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 Wednesday, September 21, 2011. *See* 35 Ill. Adm. Code 102.424(a). 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, October 13, 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.

Accompanying the Agency's rulemaking proposal was testimony by Mr. Jim Ross and by Mr. Edwin C. Bakowski. If the Agency wishes those documents to serve as pre-filed testimony for the first hearing, it need not re-file them. However, if the Agency wishes to amend or supplement that testimony for the first hearing, it is directed to do so on or before Wednesday, September 21, 2011.

### **Order of Hearing**

Although Section 27 of the Act (415 ILCS 5/27 (2010)) 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. *See* 35 Ill. Adm. Code 102.428(c). 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 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 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).

Note that interested persons may now request electronic notice of filings by providing their e-mail address through COOL under this docket number R12-10. 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  
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