

ILLINOIS POLLUTION CONTROL BOARD
November 21, 2011

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO) R12-13
NONHAZARDOUS SPECIAL WASTE) (Rulemaking - Land)
HAULING AND THE UNIFORM)
PROGRAM: 35 ILL. ADM. CODE 809)

NOTICE OF HEARINGS

DATE, TIME, AND LOCATION:

THURSDAY, JANUARY 12, 2012

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

WEDNESDAY, FEBRUARY 15, 2012

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: Thomas A. Holbrook
HEARING OFFICER: Timothy J. Fox

HEARING OFFICER ORDER

On October 28, 2011, the Illinois Environmental Protection Agency (Agency) filed a proposal to amend Part 809 of the Board's solid waste and special waste hauling regulations. *See* 35 Ill. Adm. Code 809. The Agency indicated that Public Act 97-0220 became law July 28, 2011, and effectively abolished the Uniform Hazardous Materials Transportation and Permit Program (Uniform Program). In the Statement of Reasons filed with its proposal, the Agency stated that the "proposed amendments to Part 809 are necessary to remove all references to the Uniform Program from the Waste Hauling regulation."

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

In compliance with the Americans with Disabilities Act and other applicable federal and State laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact John Therriault, Assistant Clerk of the Board, at 100 West Randolph St., Suite 11-500, Chicago, Illinois 60601, at telephone number 312/814-6931, fax number 312/814-3669, or TDD number 312/814-6032, five days prior to the hearing.

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), (b). 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) (2010).

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 Thursday, December 29, 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 Wednesday, February 1, 2012. 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. 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 (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 R12-13. 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 Assistant Clerk, at (312) 814-3629.

IT IS SO ORDERED.



Timothy J. Fox
Hearing Officer
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