

ILLINOIS POLLUTION CONTROL BOARD  
July 24, 2014

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IN THE MATTER OF: )  
)  
STANDARDS AND REQUIREMENTS FOR ) R14-23  
POTABLE WATER WELL SURVEYS AND ) (Rulemaking - Water)  
COMMUNITY RELATIONS ACTIVITIES )  
PERFORMED IN CONJUNCTION WITH )  
AGENCY NOTICES OF THREATS FROM )  
CONTAMINATION: PROPOSED )  
AMENDMENTS TO 35 ILL. ADM. CODE )  
1600 )

STATE OF ILLINOIS  
Pollution Control Board

 ORIGINAL

**NOTICE OF HEARINGS**

DATES, TIMES, AND LOCATIONS:

FIRST HEARING: THURSDAY, SEPTEMBER 4, 2014

1:00 PM  
Illinois Pollution Control Board Conference Room  
1021 N. Grand Ave E., north entrance  
Springfield, Illinois

SECOND HEARING: THURSDAY, OCTOBER 16, 2014

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: Jerome D. O'Leary  
HEARING OFFICER: Timothy J. Fox

**HEARING OFFICER ORDER**

On June 17, 2014, the Illinois Environmental Protection Agency (Agency) filed a proposal to amend Part 1600 of the Board's Subtitle O Right to Know regulations. Accompanying the proposal was a Statement of Reasons (SR). The Right to Know rules implement Section 25d of the Environmental Protection Act (Act), which requires public notification "when contamination poses a threat of exposure above the appropriate remediation objectives on one or more offsite properties." SR at 1, citing 35 Ill. Adm. Code 1600; *see* 415 ILCS 5/25d (2012). The Agency states that subsequent legislative and rulemaking actions have

added soil gas as a medium of concern and added indoor inhalation as an exposure route. *See* SR at 1-2; Public Act 96-903, eff. Aug. 24, 2009 (adding soil gas as medium of concern); Tiered Approach to Corrective Action Objectives (TACO) (Indoor Inhalation): Amendments to 35 Ill. Adm. Code 742, R11-9 (May 16, 2013) (adding indoor inhalation exposure route). In response to these actions, the Agency proposes to amend the Right to Know rules to require notice to specified members of the public if “measured offsite soil gas contamination from the site where the release occurred poses a threat of exposure above the appropriate Tier I remediation objectives; or measured offsite groundwater contamination from volatile chemicals poses a threat of indoor inhalation exposure above the appropriate Tier I remediation objectives.” SR at 2, 5.

The Board will conduct two hearings in order to allow the Agency and any other interested participants the opportunity to present testimony and public comments on the merits and economic impact of the proposal. *See* 415 ILCS 5/28(a) (2012). At hearing, all persons wishing to testify will be sworn in and subject to questioning. The Board will also receive testimony on any economic impact study conducted by the Department of Commerce and Economic Opportunity (DCEO) on the proposed rules or on DCEO’s decision not to perform a study. *See* 415 ILCS 5/27(b) (2012).

### **Hearings**

In setting hearing dates and various filing deadlines, the Board has considered factors including its general workload and rulemaking activity now underway.

#### **First Hearing**

In its Statement of Reasons, the Agency stated that it expects to present testimony by six of its employees during the Board’s hearings on its proposal: Mr. Bradley Frost, Ms. Carol Fuller, Ms. Heather Nifong, Mr. Richard Cobb, Ms. Joyce Munie, and Ms. Tracey Hurley. SR at 11-12. Consequently, for the first hearing the Board expects that the Agency will pre-file testimony by Mr. Frost, Ms. Fuller, Ms. Nifong, Mr. Cobb, Ms. Munie, and Ms. Hurley. *See* 35 Ill. Adm. Code 102.424(a).

Participants, including the Agency, who intend to testify at the first hearing are directed to pre-file all of their testimony and any related exhibits no later than Thursday, August 21, 2014. Participants pre-filing testimony for the first hearing are directed to serve pre-filed testimony on all persons on the Service List at the time of pre-filing. *See* 35 Ill. Adm. Code 102.424(c). Before filing pre-filed testimony or any other document with the Clerk, please obtain the most recent version of the Service List through the Clerk’s Office On-Line (COOL) on the Board’s Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)) or by contacting the Clerk’s Office at 312-814-3629.

In order to expedite the first hearing and make it more efficient, participants are directed to pre-file written questions based on any testimony pre-filed for the first hearing no later than Thursday, August 28, 2014. *See* 35 Ill. Adm. Code 104.424(b).

The “mailbox rule” (*see* 35 Ill. Adm. Code 101.300(b)(2)) does not apply to the filing of any of the pre-filed testimony or pre-filed questions, and the Board’s Clerk must receive these documents before 4:30 PM on the respective deadlines. However, documents may be filed electronically though COOL. *See* 35 Ill. Adm. Code 101.302(d) (prior approval of electronic filing). Any questions about electronic filing should be directed to the Clerk’s Office at (312) 814-3629.

Although Section 27 of the Act (415 ILCS 5/27 (2012)) does not establish the order of the first hearing or limit it to the proponent’s testimony, 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.

For the first hearing, all pre-filed testimony and questions will be entered into the record as if read. *See* 35 Ill. Adm. Code 102.424(f). A brief introduction or summary of pre-filed testimony will be allowed if a witness wishes to provide one before responding to questions.

Participants wishing to offer a public comment during the first hearing will be allowed to do so if time permits. The Board’s procedural rules also include an opportunity to file post-hearing comments. *See* 35 Ill. Adm. Code 102.108(b).

### **Second Hearing**

Participants who intend to testify at the second hearing are directed to pre-file all of their testimony and any related exhibits no later than Thursday, October 2, 2014. Participants pre-filing testimony for the second hearing are directed to serve pre-filed testimony on all persons on the Service List at the time of pre-filing. *See* 35 Ill. Adm. Code 102.424(c). Before filing pre-filed testimony or any other document with the Clerk, please obtain the most recent version of the Service List through the Clerk’s Office On-Line (COOL) on the Board’s Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)) or by contacting the Clerk’s Office at 312-814-3629.

In order to expedite the second hearing and make it more efficient, participants are directed to pre-file written questions based on any testimony pre-filed for the second hearing no later than Thursday, October 9, 2014. *See* 35 Ill. Adm. Code 104.424(b).

The “mailbox rule” (*see* 35 Ill. Adm. Code 101.300(b)(2)) does not apply to the filing of this pre-filed testimony or pre-filed questions, and the Board’s Clerk must receive these documents before 4:30 PM on the respective deadlines. However, documents may be filed electronically though COOL. *See* 35 Ill. Adm. Code 101.302(d) (prior approval of electronic filing). Any questions about electronic filing should be directed to the Clerk’s Office at (312) 814-3629.

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 and address questions at that time. Next, participants who pre-filed testimony for the second hearing will present that

testimony and respond to questions. Participants who do not pre-file testimony for the second hearing will then 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 pre-filed testimony and questions will be entered into the record as if read. *See* 35 Ill. Adm. Code 102.424(f). A brief introduction or summary of pre-filed testimony will be allowed if a witness wishes to provide one before responding to questions.

Participants wishing to offer a public comment at the second hearing will be allowed to do so if time permits. 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 and questions. *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 R14-23. 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 Clerk, at (312) 814-3629.

IT IS SO ORDERED.



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