

ILLINOIS POLLUTION CONTROL BOARD

June 29, 2015

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
WATER POLLUTION: PROPOSED) R15-24
AMENDMENTS TO 35 ILL. ADM. CODE) (Rulemaking - Water)
PART 309)

NOTICE OF HEARING

DATES, TIMES, AND PLACES:

ORIGINAL

FIRST HEARING: TUESDAY, AUGUST 25, 2015, at 11:00 A.M.

Illinois Pollution Control Board
Conference Room 1244
1021 N. Grand Ave. East, North Entrance
Springfield, Illinois

SECOND HEARING: THURSDAY, SEPTEMBER 24, 2015, at 11:00 A.M.

Illinois Pollution Control Board
Room 9-034
James R. Thompson Center
100 W. Randolph St.
Chicago, Illinois

PURPOSE OF HEARINGS: Merit and Economic
ATTENDING BOARD MEMBER: Gerald M. Keenan
HEARING OFFICER: Jason E. James

HEARING OFFICER ORDER

On June 1, 2015, the Illinois Environmental Protection Agency (Agency) filed a proposal to amend Part 309 of the Board's water pollution regulations (35 Ill. Adm. Code 309). Accompanying the proposal were documents including a Statement of Reasons (SR) and a motion for acceptance of the proposal. See 35 Ill. Adm. Code 102.202 (Proposal Contents for Regulations of General Applicability).

The Agency states that the proposed amendments relate to (1) Part 309, Subpart A, Section 309.104 (35 Ill. Adm. Code 309.104); and (2) Part 309, Subpart B (35 Ill. Adm. Code

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 Theriault, 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.

309, Subpart B). SR at 1. According to the Agency, one purpose of the proposed amendments to Section 309.104, which imposes requirements for renewal of National Pollutant Discharge Elimination (NPDES) permits, is to update the regulations to “model federal regulations at 40 C.F.R. 122.6 and 122.21(d).” SR at 6. The second purpose, the Agency adds, is “to give the Agency flexibility when a [permit] renewal application has been filed late for just causes”; the amendments would allow the Agency to grant permission for a permit holder to submit an NPDES permit renewal application less than 180 days before the permit is to expire. SR at 6.

On June 4, 2015, the Board issued an order accepting the proposal for hearing and directing the assigned hearing officer to schedule and proceed to hearing.

Hearings and Prefiling of Testimony

Two hearings are presently scheduled, as stated in the above notice. The first hearing will be held in Springfield, beginning at 11:00 a.m. on August 25, 2015. The second hearing will be held in Chicago, beginning at 11:00 a.m. on September 24, 2015. The purpose of these hearings is to allow the Board to receive testimony from the Agency and other interested participants on the merits and economic impact of the rulemaking proposal. At hearing, all persons who testify will be sworn and subject to questioning.

The hearing officer intends to begin the first hearing with the Agency’s testimony in support of its proposal. Any person who wishes to testify at the first hearing must pre-file his or her testimony and any related exhibits with the Clerk of the Board no later than July 24, 2015. The hearing officer directs participants to pre-file questions no later than August 14, 2015, for witnesses who pre-filed testimony. At the 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 testimony will be allowed if a witness wishes to provide one before responding to questions.

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

Any person who intends to testify at the second hearing must pre-file his or her testimony and any related exhibits no later than September 10, 2015. Questions based on any testimony pre-filed for the second hearing must be filed no later than September 17, 2015. At the 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 testimony will be allowed if a witness wishes to provide one before beginning to respond to questions.

If necessary, the hearing officer will begin the second hearing by concluding the Agency’s testimony and questions based upon it. Next, participants who pre-filed testimony for the second hearing will present that testimony and respond to questions. As time permits after the conclusion of pre-filed testimony and questions based upon it, participants who do not pre-file testimony for the second hearing will then be allowed to testify and respond to questions.

Participants wishing to offer public comments during the hearing will be allowed to do so if time permits at the close of testimony and questions.

The “mailbox rule” (*see* 35 Ill. Adm. Code 101.300(b)(2)) does not apply to the filing of pre-filed testimony or pre-filed questions, and the Board’s Clerk must therefore receive these documents before the close of business on the respective deadlines. These documents may also be filed electronically through COOL. Any questions about electronic filing should be directed to the Clerk’s Office at (312) 814-3629.

Service and Notice Lists

The hearing officer has established a Service List and will maintain a Notice List for this proceeding. *See* 35 Ill. Adm. Code 102.422(a), (b). The Service List for this rulemaking includes persons expected to participate actively in this proceeding. Those persons will receive not only the Board’s opinions and orders in this docket but also other filings such as pre-filed testimony and questions. *See* 35 Ill. Adm. Code 102.422(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).

IT IS SO ORDERED.



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