

ILLINOIS POLLUTION CONTROL BOARD

November 2, 2018

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)	
)	
AMENDMENTS TO 35 ILL. ADM. CODE)	R18-24
SUBTITLE D: MINE RELATED WATER)	(Rulemaking - Water)
POLLUTION)	

NOTICE OF HEARING

On July 26, 2018, the Board proposed amendments to its mine-related water pollution rules for public comment. The proposal intends “to remove redundant or unnecessary language, replace outdated language update, statutory references, and reorganize provisions to clarify them.” The Board’s order states that it intends these revisions to be non-substantive in nature.

The Board recently amended its procedural rules to provide that “[a]ny Board hearing may be held by videoconference.” The amended rule lists factors that a hearing officer considers when determining whether to hold a hearing by videoconference. 35 Ill. Adm. Code 101.600(b); see Procedural Rule Amendments: Proposed Amendments to 35 Ill. Adm. Code 101 through 125, R16-17, slip op. at 31 (May 19, 2016).

Based on the nature of its proposal for public comment, the Board does not expect the required hearings to be lengthy, complex, or contentious. The Board expects its videoconference facilities to accommodate attendance and participation at these hearings. Finally, videoconference hearings would reduce the time and cost of travel for the Board, IEPA, and participants such as regulated entities. Having considered these factors, the Board concludes to conduct both hearings by videoconference between its offices. 35 Ill. Adm. Code 101.600(b).

DATES, TIMES, AND LOCATIONS:

FIRST HEARING: Thursday, December 6, 2018, beginning at 9:00 AM

BY VIDEOCONFERENCE BETWEEN	
IPCB CHICAGO HEARING ROOM	IPCB SPRINGFIELD HEARING ROOM
Room 11-512	Conference Room 1244N, 1st Floor
James R. Thompson Center	1021 N. Grand Ave. E.
100 W. Randolph Street	North Entrance

SECOND HEARING: Thursday, December 20, 2018, beginning at 9:00 AM

BY VIDEOCONFERENCE BETWEEN	
IPCB CHICAGO HEARING ROOM	IPCB SPRINGFIELD HEARING ROOM
Room 11-512	Conference Room 1244N, 1st Floor
James R. Thompson Center	1021 N. Grand Ave. E.
100 W. Randolph Street	North Entrance

PURPOSE OF HEARINGS:	Merit and Economic
PRESIDING BOARD MEMBERS:	Cynthia M. Santos and Brenda K. Carter
HEARING OFFICERS:	Timothy Fox and Natalie Winquist

HEARING OFFICER ORDER

Hearings and Pre-Filed Testimony

The Board will conduct two hearings to allow IEPA and any other interested participants to testify and comment on the merits and economic impact of the proposed rule. *See* 415 ILCS 5/28(a) (2016); 35 Ill. Adm. Code 102.412(a).

The Board's proposal for public comment welcomes comment on all aspects of the proposal. However, the Board specifically requested comment on five questions. The Board requests that participants submit testimony that includes responses to these questions.

Participants pre-filing testimony for either of the two hearings are directed to serve it on all persons on the Service List at the time of pre-filing. *See* 35 Ill. Adm. Code 102.424(c). Before filing any document with the Board's Clerk, please obtain the current version of the Service List through COOL on the Board's Web site (pcb.illinois.gov) or by calling the Clerk's Office at 312-814-3461. Documents may generally be served by e-mail if the recipient has consented to e-mail service and has not revoked the consent. 35 Ill. Adm. Code 101.1060. Participants in this rulemaking are encouraged to provide consent to e-mail service of documents. *See* 35 Ill. Adm. Code 101.1070(a).

All persons wishing to testify at either hearing will be sworn in and subject to questioning. 35 Ill. Adm. Code 102.428(a). At both hearings, all pre-filed testimony will be entered into the record as if read. *See* 35 Ill. Adm. Code 102.424(f). A brief introduction or summary of the pre-filed testimony will be allowed if a witness wishes to provide one before responding to questions.

For a videoconference hearing, any document to be offered as a hearing exhibit must be received by the Clerk's Office at least 24 hours before the scheduled start of the hearing. 35 Ill. Adm. Code 102.424(h). If not filed at least 24 hours before the scheduled start of the videoconference hearing, the document will not be admitted as an exhibit at the hearing but may be filed as a public comment after the hearing. *Id.*

Participants wishing to offer a public comment will be allowed to do so as time allows before the end of a hearing. Participants may also file post-hearing comments. *See* 35 Ill. Adm. Code 102.108(b).

Unless the Board, hearing officer, Clerk, or procedural rules provide otherwise, all documents in this proceeding must be filed electronically through the Clerk's Office On-Line (COOL). 35 Ill. Adm. Code 101.302(h), 101.1000(c), 101.Subpart J.

First Hearing

Participants who intend to testify at the first hearing are directed to pre-file all their testimony and related exhibits no later than Thursday, November 29, 2018. *See* 35 Ill. Adm. Code 102.424(a).

Although Section 27 of the Act (415 ILCS 5/27 (2016)) does not set the order of the hearing, the hearing officer intends to begin the first hearing with witnesses who pre-filed testimony for it. *See* 35 Ill. Adm. Code 102.428(c). After those witnesses have testified, participants who do not pre-file testimony may testify as time allows after the Board completes the pre-filed testimony and questions based on it.

Second Hearing

Participants who intend to testify at the second hearing are directed to pre-file all their testimony and related exhibits no later than Thursday, December 13, 2018. *See* 35 Ill. Adm. Code 102.424(a).

The hearing officer intends to begin the second hearing with any participants who pre-filed testimony for the first hearing but were not able to testify and respond to questions before the end of that hearing. Next, participants who pre-filed testimony for the second hearing will present that testimony and respond to questions. Participants who did not pre-file testimony for the second hearing will be allowed to testify and respond to questions as time permits. *See* 35 Ill. Adm. Code 104.424(g).

In a letter dated October 24, 2018, the Board requested that the Department of Commerce and Economic Opportunity (DCEO) conduct an economic impact study of the amended proposal and respond to the request by November 30, 2018. At the second hearing, the Board will receive testimony on any study conducted by DCEO or DCEO's decision not to conduct one. *See* 415 ILCS 5/27(b) (2016).

Service and Notice Lists

The Board has established and will maintain both a Notice List and Service List for this proceeding. *See* 35 Ill. Adm. Code 102.422(a), (b). The Notice List includes participants who wish to receive only the Board's opinions and orders and hearing officer orders. 35 Ill. Adm. Code 102.422(a). The Service List includes participants who expect to participate more actively and wish also to receive other filings such as pre-filed testimony. *See* 35 Ill. Adm. Code 102.422(b).

Note that any interested person may request electronic notice of filings by providing an e-mail address through COOL under this docket number R18-24. This electronic notice includes notice of 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.

IT IS SO ORDERED.



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