

ILLINOIS POLLUTION CONTROL BOARD
November 4, 2021

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM. CODE) R 18-23
SUBTITLE C: WATER POLLUTION) (Rulemaking - Water)

NOTICE OF HEARING

In 2016, the Board began reviewing its rules to identify obsolete, repetitive, confusing, or otherwise unnecessary language. In 2018, the Illinois Environmental Protection Agency (IEPA) filed a proposal to update the Board's environmental rules across multiple media and subject areas, including the water pollution rules in Subtitle C (35 Ill. Adm. Code 301-310, 312). The Board accepted IEPA's proposal and split it into eight dockets – each dedicated to non-substantive amendments in a single subtitle of the Board's rules. This docket R18-23 addresses only the Board's Subtitle C water pollution regulations.

On November 4, 2021, the Board proposed amendments to Subtitle C for public comment. The proposed amendments consist both of those proposed by IEPA and by the Board.

The Board's procedural rules provide that “[a]ny Board hearing may be held by videoconference.” The rules list factors that hearing officers consider when determining whether to hold a hearing by videoconference. 35 Ill. Adm. Code 101.600(b).

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 that its videoconference facilities will accommodate attendance and participation at these hearings. Finally, videoconference hearings would reduce the time and cost of travel for the Board and such potential participants as the Illinois Environmental Protection Agency (IEPA) and regulated entities. Having considered these factors, the Board concludes to conduct both of the required hearings by videoconference between its offices in Chicago and Springfield. 35 Ill. Adm. Code 101.600(b).

DATES, TIMES, AND LOCATIONS:

FIRST HEARING: Thursday, January 6, 2022, beginning at 10:00 AM

Please note that there is a regular Board videoconference meeting scheduled at 11:00 AM on this date. If necessary, the hearing officer will recess the hearing for that meeting and then reconvene the hearing soon after the Board meeting adjourns.

BY VIDEOCONFERENCE BETWEEN

IPCB CHICAGO HEARING ROOM and IPCB SPRINGFIELD HEARING ROOM

Conference Room 11-512

Conference Room 1244N, First Floor

James R. Thompson Center
100 W. Randolph Street

1021 N. Grand Ave. E.
North Entrance

SECOND HEARING: Thursday, February 3, 2022, beginning at 10:00 AM

Please note that there is a regular Board videoconference meeting scheduled at 11:00 AM on this date. If necessary, the hearing officer will recess the hearing for that meeting and then re-convene the hearing soon after the Board meeting adjourns.

BY VIDEOCONFERENCE BETWEEN

IPCB CHICAGO HEARING ROOM and IPCB SPRINGFIELD HEARING ROOM

Conference Room 11-512
James R. Thompson Center
100 W. Randolph Street

Conference Room 1244N, First Floor
1021 N. Grand Ave. E.
North Entrance

PURPOSE OF HEARINGS:

Merit and Economic

PRESIDING BOARD MEMBERS:

Cynthia M. Santos and Jennifer Van Wie

HEARING OFFICERS:

Timothy Fox and Mark Kaminski

HEARING OFFICER ORDER

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) (2020); 35 Ill. Adm. Code 102.412(a).

Hearings and Pre-filed Testimony

The Board's November 4, 2021 proposal for public comment welcomes comment on all aspects of the proposal. However, the Board specifically requested comment on a number of matters. The Board requests that participants submit testimony that includes responses to these requests for comment.

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 the Clerk's Office On-Line (COOL) on the Board's Web site (<https://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 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 these videoconference hearings, the Board's rules require that 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.*

Unless the Board, hearing officer, Clerk, or procedural rules provide otherwise, all documents in this proceeding must be filed electronically through 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, December 30, 2021. *See* 35 Ill. Adm. Code 102.424(a).

Although Section 27 of the Act (415 ILCS 5/27 (2020)) does not set the order of the hearing, the hearing officers intend to begin the first hearing with witnesses who pre-filed testimony. *See* 35 Ill. Adm. Code 102.428(c). After those witnesses have testified and responded to questions, participants who did not pre-file testimony may testify as time allows.

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 electronically. *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 their testimony and related exhibits no later than Thursday, January 27, 2022. *See* 35 Ill. Adm. Code 102.424(a).

The hearing officers intend 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).

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 electronically. *See* 35 Ill. Adm. Code 102.108(b).

In a letter dated October 26, 2021, the Board's Chair 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 December 10, 2021. 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) (2020).

Service and Notice Lists

The Board has established and will maintain both a Notice List and Service List for this proceeding. 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 R18-23. 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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