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APPEARANCES:

MR. TIMOTHY FOX, Hearing Officer (via video)

MS. CYNTHIA SANTOS, Board Member

MS. JENNIFER VAN WIE, Board Member

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

BY: MS. SARA TERRANOVA (via video)

MR. NICK KONDELIS (via video)

1021 North Grand Avenue East

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(217) 782-5544

On behalf of the Illinois

Environmental Protection Agency;

HEPLER BROOM, LLC

BY: MS. MELISSA BROWN (via video)

4340 Acer Grove Drive

Springfield, Illinois 62711

(217) 993-6077

On behalf of the Illinois

Environmental Regulatory Group.

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ALSO PRESENT:

MS. YETUNDE AGVESOLA (via video)

MR. DARIN LECRONE (via video)

MR. SCOTT TWAIT (via video)

1 HEARING OFFICER FOX: Good morning everyone,
2 and welcome to this Illinois Pollution Control
3 board hearing. My name is Tim Fox, and Mark
4 Kaminski and I are the assigned hearing officers
5 for this rulemaking proceeding entitled, Amendments
6 to 35 Illinois Administrative Code, Subtitle C, as
7 in Charlie, Water Pollution. The board docket
8 number for this rulemaking is R18-23.

9 I am the only representative of the Board
10 present here in the Springfield office. I do want
11 the record to reflect that present there in the
12 Chicago office are Board Members Cynthia Santos and
13 Jennifer Van Wie who are jointly assigned to this
14 rulemaking.

15 Member Van Wie and Santos, are there any
16 other representatives of the Board present in
17 Chicago this morning?

18 MS. SANTOS: Not at this moment right now.

19 HEARING OFFICER FOX: Okay. Thanks very much.

20 This hearing -- jumping on to the
21 procedural background, this hearing is governed by
22 the Board's procedural rules so that all
23 information that is relevant and is not repetitious
24 or privileged will be admitted into the record.

1 The Board published notice of this hearing on
2 November 10, 2021, in both the Chicago Sun Times
3 and the Springfield Journal Register.

4 Please keep in mind that any questions
5 posed today by the Board or its staff are intended
6 solely to help develop a clear and complete record
7 for the Board's decision and do not reflect any
8 decision on the proposal, the testimony or
9 questions.

10 For the sake of our court reporter in
11 Chicago, please speak clearly and avoid speaking at
12 the same time as another person so that we can
13 produce a clear transcript.

14 On January 10 of 2018, the IEPA filed a
15 rulemaking proposal under the governor's Executive
16 Order 16-13. That order directed state agencies to
17 review regulations and determine those that are
18 either outdated, repetitive, confusing, unnecessary
19 or harmful to the state's economy, and the order
20 directed agencies to amend or repeal those
21 regulations as necessary.

22 IEPA proposed numerous changes to
23 Subtitle C, and at that time the Board had begun
24 its own review of this rule. On March 22 of 2018,

1 the Board opened this docket specifically to
2 address the water pollution regulations.

3 On November 4 of 2021, the Board
4 proposed -- adopted a proposal for public comment
5 which requested comment both generally and on
6 41 specific matters. We are today of course
7 holding the first hearing of this rulemaking.

8 On November 4 of 2021, the hearing
9 officers directed participants intending to testify
10 at this hearing to pre-file their testimony by
11 December 30 of 2021.

12 On December 30, the Board did receive
13 IEPA's responses to the Board's requests for
14 comments; but IEPA did not identify a witness, and
15 no other participant pre-filed testimony or comment
16 by that deadline.

17 I do want to note for this video hearing
18 and any other, a document to be offered as a
19 hearing exhibit must have been received by the
20 Board's clerk at least 24 hours before the
21 scheduled start of the hearing. The Board also did
22 not receive any exhibits before that deadline. I
23 do want to express that the rules specifically
24 allow any document that is not allowed as a hearing

1 exhibit can be filed later as a public comment.
2 Also, I want to stress that we have a second
3 hearing scheduled in four weeks on Thursday,
4 February 3.

5 At this point I'd like to ask,
6 Miss Terranova and Miss Brown, may I impose upon
7 you to identify the participants for the record
8 before we get under way.

9 MS. TERRANOVA: I'm Sarah Terranova,
10 T-e-r-r-a-n-o-v-a, attorney with Illinois EPA. And
11 also here from the Division of Legal Counsel --
12 I'll let you introduce yourself.

13 MR. KONDELIS: Nick Kondelis, K-o-n-d-e-l-i-s,
14 attorney for Illinois EPA.

15 MS. TERRANOVA: And then technical staff we
16 have Darin LeCrone, Scott Twait and Yetunde, and I
17 don't know your last name, but I'm gonna let each
18 of you go through and introduce yourself and spell
19 your last name.

20 MR. LECRONE: Darin LeCrone D-a-r-i-n,
21 L-e-C-r-o-n-e, I'm the manager of the Permit
22 Section.

23 MR. TWAIT: Scott Twait, T-w-a-i-t, and I'm the
24 manager of the Water Quality Standards Section.

1 MS. AGVESOLA: Yetunde Agvesola, Y-e-t-u-n-d-e,
2 A-g-v-e-s-o-l-a.

3 MS. TERRANOVA: What's your title?

4 MS. AGVESOLA: I'm an environmental protection
5 specialist with the Water Pollution Department.

6 HEARING OFFICER FOX: Miss Terranova, thank you
7 very much.

8 Miss Brown?

9 MS. BROWN: I'm Melissa Brown, M-e-l-i-s-s-a,
10 B-r-o-w-n, I'm outside counsel for the Illinois
11 Environmental Regulatory Group, also IERG, I-E-R-G.

12 HEARING OFFICER FOX: Thank you, Miss Brown.

13 I want to step next to the order of our
14 proposed order for our hearing. We can begin by
15 identifying any person who wishes to offer a public
16 comment. There is a sign-in sheet both here in
17 Springfield and in Chicago on which persons can
18 indicate that they would like to offer a comment.
19 I can see that the sheet in Springfield is blank.

20 Member Van Wie, Member Santos, are you
21 aware that there's anyone there who wishes to
22 comment?

23 MS. SANTOS: No.

24 HEARING OFFICER FOX: Not at this point, very

1 good.

2 At that point we then turn to pre-filed
3 testimony. As I mentioned, we did not receive any.
4 However, the agency has made available a witness or
5 witnesses to respond to questions. And I do have
6 at least a single question for the Board, and I
7 believe Miss Brown has questions on behalf of IERG.
8 We can turn to those.

9 Next we can determine whether there is
10 anyone who did not pre-file testimony but does wish
11 to testify here today. That would be allowed under
12 the Board's rules. We can then determine once
13 again whether there's anyone who wishes to offer
14 public comment. Any questions about the order of
15 our proceeding? It's a fairly simple one.

16 I believe Miss Terranova, we're prepared
17 at this point to have the court reporter swear in
18 Mr. LeCrone. Would it perhaps be wise to swear in
19 each of the three agency witnesses so they're
20 prepared to respond?

21 MS. TERRANOVA: It depends on the Board's
22 question, but I would say at least Darin and then
23 at least either Scott or Yetunde. So, please, one
24 of the two based on your reference. Actually, all

1 of them.

2 HEARING OFFICER FOX: Very good. It's the
3 agency's sense that it is efficient to swear in the
4 three witnesses so that they're available to
5 respond to questions.

6 If the court reporter would swear in those
7 three.

8 (WHEREUPON, the witness was
9 duly sworn.)

10 HEARING OFFICER FOX: Miss Brown, I believe we
11 reached the point where we can turn to you and the
12 questions you apparently have.

13 MS. BROWN: Thank you.

14 MS. BROWN:

15 Q. Good morning, Mr. LeCrone. My name is
16 Melissa Brown, Illinois Environmental Regulatory
17 Group, I just have a few questions for you today.

18 As it was stated I believe in the Board --
19 one of the Board's most recent orders that the
20 proposed revisions here are, excuse me,
21 nonsubstantive cleanup revisions. Was it the
22 agency's intent for these proposed revisions to be
23 nonsubstantive cleanup revisions?

24 A. Yes. The intent was for them to be

1 nonsubstantive language and cleanup only.

2 **Q. Okay. And are these proposed revisions**
3 **subject to US EPA review and approval?**

4 A. I'm not a hundred percent certain. Some
5 will be, I believe. The ones -- the portions that
6 deal with US EPA delegated programs I'm sure we'll
7 have to send to them, but all of them probably will
8 not require US EPA approval.

9 **Q. Do you have a sense about, you know,**
10 **how -- roughly an estimate of how much of the**
11 **proposed revisions would be subject to review or**
12 **approval?**

13 A. Assuming the Part 302 is water quality
14 standards and any portion of 309 that would deal
15 with the NPS program, maybe the portions that deal
16 with pretreatment language. Even though we're not
17 a delegated pretreatment authority, they may still
18 want to the review and approval those sections as
19 well. Part 303 will also need US EPA approval.

20 **Q. Have the proposed revisions been submitted**
21 **to US EPA at this point for any formal pre-review**
22 **process?**

23 A. I don't know about formal pre-review, but
24 we have a copy of the US EPA on the proposed

1 changes as an informal review to see if they've got
2 any concerns. And we have not heard back from
3 them.

4 Q. Thank you. That was my next question.

5 So then just to clarify, you have not
6 heard that back yet from US EPA, and you have not
7 heard any concerns as of yet as to the proposed
8 revisions from US EPA?

9 A. Correct.

10 Q. All right. So then right now there's --
11 the proposed revisions have been sent to US EPA,
12 and then is it -- to confirm your understanding
13 that once these proposed revisions are adopted by
14 the Board, that they will, at least portions of
15 them that you've listed, will be submitted to
16 US EPA for a formal review and approval process?

17 A. I believe that's correct, yes.

18 Q. And are you aware of generally the time
19 frames for that formal review and approval process
20 generally?

21 A. I think that once we submit them to them
22 formally, I think they have -- is it 60 days to
23 approve and 90 days to disapprove?

24 Q. Okay.

1 MS. TERRANOVA: I have to look that up for
2 sure.

3 MS. BROWN: That's fine. Thank you.

4 BY MS. BROWN:

5 Q. And then so with -- I guess taking both
6 together both informal review that's occurring
7 right now by US EPA as well as the formal review
8 that will occur after the Board adopts these
9 proposed revisions, is it your or the agency's
10 understanding that US EPA can comment and express
11 any thoughts or concerns they have with the
12 provisions and the regulations as a whole, not just
13 the minor nonsubstantive comments that the agency
14 is proposing?

15 A. I don't know the answer to that, but I --
16 yeah, I just don't know.

17 Q. Okay. And just to rephrase, also to make
18 it more general is, I guess getting to the question
19 of is it possible that US EPA's review, both the
20 informal process and the formal process, can be
21 broader than just the proposed revisions, the
22 minor, nonsubstantive proposed revisions that are
23 the subject of this rulemaking?

24 A. I would hope that they wouldn't comment on

1 things that aren't related to this rulemaking, and
2 I suppose they could if they chose to. But it's
3 why we try to send this stuff to them ahead of
4 time, give them a heads up of what the intent is in
5 order to streamline that review and hopefully keep
6 it limited to the issues that are at hand with this
7 ruling.

8 **Q. Last question just to confirm again and**
9 **wrap it up, you have not heard any concerns at this**
10 **point from US EPA?**

11 A. No. I have not.

12 MS. BROWN: That's all I have. Thank you very
13 much.

14 HEARING OFFICER FOX: Thank you, Miss Brown.

15 As I mentioned to Miss Terranova, the
16 Board does have one question that it wishes to
17 raise, and I can phrase it this way for the agency.

18 Of the Board's questions in its November 4
19 order, Number 34, as a result of your hearing
20 officer's error, inadvertently asks about a
21 Subsection B that does not exist. We appreciate
22 the agency's efforts to answer that question. Our
23 only request is that since it was not as clear as
24 it might have been, we would just request that the

1 agency look at the response that it submitted to us
2 on December 30 and see whether they wish to revise
3 their answer or propose a different cross-reference
4 in that answer.

5 Any questions about that, Miss Terranova?

6 MS. TERRANOVA: No.

7 HEARING OFFICER FOX: Very good. And that was
8 something the agency can prepare either for the
9 second hearing on February 3 or for post-hearing
10 comments that would become due at a deadline we'll
11 set at that second hearing, that would be perfectly
12 fine.

13 MS. TERRANOVA: Thank you.

14 HEARING OFFICER FOX: Did either Member Van Wie
15 or member Santos have any questions for the
16 agency's witnesses?

17 MS. SANTOS: No.

18 MS. VAN WIE: No.

19 HEARING OFFICER FOX: Was there anyone else
20 there in Chicago that might wish to ask a question
21 or at this point can we move on?

22 MS. SANTOS: Move on.

23 HEARING OFFICER FOX: Excellent.

24 I'm assuming, Miss Brown, you wrapped up

1 your questions? She indicates that she has.

2 I do want to confirm also just as a matter
3 of business, is there anyone who did not pre-file
4 testimony that does wish to testify here at this
5 hearing today?

6 I see no indication here in Springfield
7 that anyone falls into that category.

8 MS. SANTOS: None here in Chicago.

9 HEARING OFFICER FOX: I thought I saw you
10 shaking your head, Member Santos, and we can move
11 on at this point.

12 To clarify once again, anyone who -- is
13 there anyone who wishes to offer a public comment?

14 I'm not seeing or hearing anyone here in
15 Springfield.

16 Member Van Wie, I see you shaking your
17 head that there is not anyone there either.

18 I think we reached a point at which we can
19 move on to the issue of economic impact study.

20 Section 27B of the Environmental Protection Act
21 provides that the Board must request that the
22 Department of Commerce and Economic Opportunity, or
23 DCEO, conduct an economic impact study of the
24 proposed rules before the Board adopts them. The

1 Board then must make either the study or the
2 department's explanation for not conducting one
3 available to the public at least 20 days before
4 public hearing.

5 In a letter dated October 26 of 2021, the
6 Board's chair, Barbara Flynn Currie, requested that
7 DCEO conduct an economic impact study of this
8 proposal, and the Board requested specifically a
9 response no later December 10 of 2021.

10 On November 17 of 2021, the Board received
11 a response from the acting director of DCEO which
12 respectfully declined the request to perform a
13 study.

14 Is there anyone who would like to testify
15 or comment either on the Board's request or DCEO's
16 response?

17 I'm not seeing anyone who wishes to do so
18 here. I see Member Santos indicating that there's
19 not anyone in Chicago.

20 Let me turn to a couple of procedural
21 issues before which I think we can adjourn quite
22 quickly. There is a second hearing in this docket
23 scheduled for Thursday, February 3 of 2022, at
24 10:00 a.m. by video conference just as this hearing

1 is between the Board in Chicago and Springfield
2 offices. The deadline to pre-file testimony in the
3 original order is February, I'm sorry, January 27
4 of 2022, seven days before the scheduled hearing.

5 For that video hearing, any document, I
6 want to stress, that any participant wishes to
7 introduce as an exhibit must be received by the
8 Board's clerk at least 24 hours before the
9 scheduled start of the hearing, and that of course
10 may be submitted electronically through the clerk's
11 office online.

12 Our court reporter indicates the
13 transcript of today's hearing are expected to be
14 available no later than Friday, January 14 of 2022.
15 When the Board receives that, they will be posted
16 right away to the clerk's office online where it
17 can be viewed and printed.

18 Are there any matters that need to be
19 addressed at this time before we adjourn this
20 hearing?

21 I'm not seeing any indication here in
22 Springfield. It sounds like there is no indication
23 either in Chicago.

24 I thank everyone for their participation

1 which is appreciated. We can adjourn, and thanks
2 again to all of you.

3 (WHEREUPON, the hearing was
4 adjourned at 10:20 a.m.)

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1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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4 RAELENE STAMM being first duly sworn, on
5 oath says that she is a court reporter doing
6 business in the City of Chicago; and that she
7 reported in shorthand the proceedings of said
8 hearing, and that the foregoing is a true and
9 correct transcript of her shorthand notes so taken
10 as aforesaid, and contains the proceedings given at
11 said hearing.

12
13 _____

14 Certified Shorthand Reporter

<p style="text-align: center;">A</p> <p>A-g-v-e-s-o-l-a 8:2 a.m 1:15 17:24 19:4 above-entitled 1:11 Acer 2:19 Act 16:20 acting 17:11 address 6:2 addressed 18:19 adjourn 17:21 18:19 19:1 adjourned 19:4 Adm 1:6 Administrative 4:6 admitted 4:24 adopted 6:4 12:13 adopts 13:8 16:24 aforesaid 20:10 agencies 5:16,20 agency 2:7,15 9:4 9:19 13:13 14:17 15:1,8 agency's 10:3,22 13:9 14:22 15:16 Agvesola 3:3 8:1,1 8:4 ahead 14:3 allow 6:24 allowed 6:24 9:11 amend 5:20 Amendments 1:5 4:5 answer 13:15 14:22 15:3,4 apparently 10:12 APPEARANCES 2:1 appreciate 14:21 appreciated 19:1 approval 11:3,8</p>	<p>11:12,18,19 12:16,19 approve 12:23 asks 14:20 assigned 4:4,13 assuming 11:13 15:24 attorney 7:10,14 authority 11:17 available 9:4 10:4 17:3 18:14 Avenue 2:10 avoid 5:11 aware 8:21 12:18</p> <hr/> <p style="text-align: center;">B</p> <p>B 14:21 B-r-o-w-n 8:10 back 12:2,6 background 4:21 Barbara 17:6 based 9:24 begun 5:23 behalf 2:14,22 9:7 believe 9:7,16 10:10,18 11:5 12:17 blank 8:19 board 1:1,13 2:4,5 4:3,7,9,12,16 5:1,5,23 6:1,3 6:12,21 9:6 10:18 12:14 13:8 14:16 16:21,24 17:1,8 17:10 18:1,15 20:1 Board's 4:22 5:7 6:13,20 9:12,21 10:19 14:18 17:6,15 18:8 Box 2:11 broader 13:21 BROOM 2:17 Brown 2:18 7:6</p>	<p>8:8,9,9,12 9:7 10:10,13,14,16 13:3,4 14:12,14 15:24 business 16:3 20:6</p> <hr/> <p style="text-align: center;">C</p> <p>C 1:6 4:6 5:23 called 1:12 category 16:7 cause 1:11 certain 11:4 Certified 20:14 chair 17:6 changes 5:22 12:1 Charlie 4:7 Chicago 1:13 4:12 4:17 5:2,11 8:17 15:20 16:8 17:19 18:1,23 20:6 chose 14:2 City 20:6 clarify 12:5 16:12 cleanup 10:21,23 11:1 clear 5:6,13 14:23 clearly 5:11 clerk 6:20 18:8 clerk's 18:10,16 Code 1:6 4:6 commencing 1:15 comment 6:4,5,15 7:1 8:16,18,22 9:14 13:10,24 16:13 17:15 comments 6:14 13:13 15:10 Commerce 16:22 complete 5:6 concerns 12:2,7 13:11 14:9 conduct 16:23 17:7 conducting 17:2</p>	<p>conference 17:24 confirm 12:12 14:8 16:2 confusing 5:18 contains 20:10 Control 1:1,13 4:2 20:1 copy 11:24 correct 12:9,17 20:9 counsel 7:11 8:10 couple 17:20 course 6:6 18:9 court 5:10 9:17 10:6 18:12 20:5 cross-reference 15:3 CSR 1:22 Currie 17:6 Cynthia 2:4 4:12</p> <hr/> <p style="text-align: center;">D</p> <p>D-a-r-i-n 7:20 Darin 3:4 7:16,20 9:22 dated 17:5 day 1:14 days 12:22,23 17:3 18:4 DCEO 16:23 17:7 17:11 DCEO's 17:15 deadline 6:16,22 15:10 18:2 deal 11:6,14,15 December 6:11,12 15:2 17:9 decision 5:7,8 declined 17:12 delegated 11:6,17 Department 8:5 16:22 department's 17:2 depends 9:21</p>	<p>determine 5:17 9:9,12 develop 5:6 different 15:3 directed 5:16,20 6:9 director 17:11 disapprove 12:23 Division 7:11 docket 4:7 6:1 17:22 document 6:18,24 18:5 doing 20:5 Drive 2:19 due 15:10 duly 10:9 20:4</p> <hr/> <p style="text-align: center;">E</p> <p>East 2:10 economic 16:19 16:22,23 17:7 economy 5:19 efficient 10:3 efforts 14:22 either 5:18 9:23 15:8,14 16:17 17:1,15 18:23 electronically 18:10 entitled 4:5 environmental 2:7,15,23 8:4,11 10:16 16:20 EPA 7:10,14 11:3 11:6,8,19,21,24 12:6,8,11,16 13:7,10 14:10 EPA's 13:19 error 14:20 estimate 11:10 Excellent 15:23 excuse 10:20 Executive 5:15 exhibit 6:19 7:1</p>
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