

ILLINOIS POLLUTION CONTROL BOARD
February 19, 2026

MODERN PLATING CORPORATION,)	
)	
Petitioner,)	
)	
v.)	PCB 26-31
)	(Permit Appeal – RCRA)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by A. Tin):

On November 6, 2025, at the parties’ request, the Board extended until February 9, 2026, the time period for Modern Plating Corporation (Modern Plating) to appeal a September 30, 2025 determination of the Illinois Environmental Protection Agency. The determination concerns Modern Plating’s corrective action management unit located at 701 South Hancock Avenue, Freeport, Stephenson County. On February 3, 2026, Modern Plating timely filed a petition asking the Board to review the Agency’s determination. *See* 415 ILCS 5/40(a)(1) (2024); 35 Ill. Adm. Code 101.300(b), 105.206. Additionally, on February 3, 2025, Modern Plating filed a motion to stay the effectiveness of the contested permit conditions. For the reasons below, the Board accepts the petition for review.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2024)), the Agency is the permitting authority, responsible for administering Illinois’ regulatory programs to protect the environment. If the Agency denies a permit or grants one with conditions, the permit applicant may appeal the Agency’s decision to the Board. *See* 415 ILCS 5/4, 5, 40(a)(1) (2024); 35 Ill. Adm. Code 105.Subpart B. In this case, the Agency issued Modern Plating a revised Resource Conservation and Recovery Act (RCRA) Post-Closure Permit regarding Modern Plating’s Stephenson County facility. Modern Plating appeals on the grounds that the Agency has arbitrarily and capriciously changed the method used to calculate post-closure financial assurance obligations. Modern Plating’s petition meets the content requirements of 35 Ill. Adm. Code 105.210.

The Board accepts the petition for hearing. Modern Plating has the burden of proof. 415 ILCS 5/40(a)(1) (2024); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its permit decision. *See* 35 Ill. Adm. Code 105.214(a). Accordingly, though the Board hearing affords a permit applicant the opportunity to challenge the Agency’s reasons for denying or conditionally granting the permit, information developed after the Agency’s decision typically is not admitted at hearing or considered by the Board. *See* Alton Packaging Corp. v. PCB, 162 Ill. App. 3d 731, 738, 516 N.E.2d 275, 280 (5th Dist. 1987); Community Landfill Co. & City of Morris v. IEPA,

PCB 01-170 (Dec. 6, 2001), *aff'd sub nom. Community Landfill Co. & City of Morris v. PCB & IEPA*, 331 Ill. App. 3d 1056, 772 N.E.2d 231 (3rd Dist. 2002).

Upon its own motion or the motion of any party, the Board or the hearing officer may order that the hearing be held by videoconference. In deciding whether to hold the hearing by videoconference, factors that the Board or the hearing officer will consider include cost-effectiveness, efficiency, facility accommodations, witness availability, public interest, the parties' preferences, and the proceeding's complexity and contentiousness. *See* 35 Ill. Adm. Code 101.600(b), 105.110.

Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2024)), which only Modern Plating may extend by waiver (*see* 35 Ill. Adm. Code 101.308). On February 4, 2026, Modern Plating filed an open waiver of the 120-day decision deadline, which extends the Board's time to issue a final decision beyond the statutory 120-day period. As a result, there is currently no statutory deadline for Board action. For reference, the 120th day after the petition was received would have been June 2, 2026, and the Board meeting immediately before that date would have been May 28, 2026. *See* 35 Ill. Adm. Code 105.114.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by March 5, 2026, which is 30 days after the Board received Modern Plating's petition. *See* 35 Ill. Adm. Code 105.116(a), 105.212(a). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. *See* 35 Ill. Adm. Code 105.116(a). The record must comply with the Board's requirements for content, organization, and certification. *See* 35 Ill. Adm. Code 101.1030(g), 105.116(b), 105.212(b). In addition, the Agency must file the record electronically instead of on paper. Specifically, the record must be filed through the Clerk's Office On-Line (COOL) or on compact disk or other portable electronic data storage device and, to the extent technically feasible, in text-searchable Adobe PDF. *See* 35 Ill. Adm. Code 101.302(h)(2)(A), 105.116(a).¹

Accompanying Modern Plating's petition for review is a motion to stay the effectiveness of contested permit conditions. No objection to the motion was filed by the Agency. Accordingly, the Board grants the motion to stay the effectiveness of the contested permit conditions pending the Board's final action on the petition for review or until the Board orders otherwise.

IT IS SO ORDERED.

¹ Any questions about filing the record in an electronic format should be directed to the Clerk's Office at (312) 814-3620 or (312) 814-3461.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 19, 2026, by a vote of 5-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above a horizontal line.

Don A. Brown, Clerk
Illinois Pollution Control Board