

ILLINOIS POLLUTION CONTROL BOARD
September 13, 1990

IN THE MATTER OF:)
)
CORRECTION TO) R90-16
35 ILL.ADM.CODE 102.162) (Rulemaking)

PROPOSED RULE. SECOND NOTICE.

OPINION AND ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on its own motion. On May 10, 1990, the Board adopted a final Opinion and Order in Procedural Rules Revision 35 Ill.Adm.Code 102 and 106 (Subparts D, E, and F), R88-5(B). That rulemaking adopted new procedural rules governing regulatory proceedings. The rules were filed with the Secretary of State (and thus became effective) on May 24, 1990. The rules were then published in the Illinois Register on June 8, 1990, at 14 Ill.Reg. 9210.

The Board subsequently discovered that because of an administrative error, Section 102.162 "Notice of Hearing" was not included in the filing with the Secretary of State. (Section 102.162 was, however, included in the Illinois Register publication. See 14 Ill.Reg. 9226.) In order to correct this error, the Board must proceed through regular rulemaking procedures established by the Administrative Procedure Act (APA), Ill. Rev. Stat. 1989, ch. 127, par. 1001 et seq. (See 1 Ill. Adm. Code 240(d).) Therefore, on July 3, 1990, the Board opened this docket for the sole purpose of filing Section 102.162 "Notice of Hearing", as adopted in R88-5(B), with the Secretary of State. The proposed rule was published in the Illinois Register on July 20, 1990, at 14 Ill. Reg. 11666.

The Board received only two public comments during first notice. The Department of Commerce and Community Affairs stated that this proposed rule will have no effect on small businesses. (P.C. #1.) The Administrative Code Unit noted one clerical correction which must be made in the filing of the rule; the Board will make that correction. (P.C. #2.) The Board finds no reason to alter its proposal, and will proceed to second notice.

ORDER

The Board hereby proposes the following amendment for second notice, to be filed with the Joint Committee on Administrative Rules:

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARD

PART 102
REGULATORY AND INFORMATIONAL
HEARINGS AND PROCEEDINGS

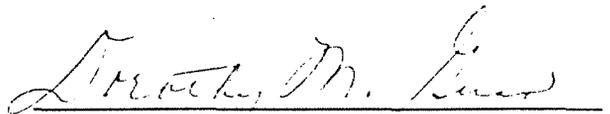
Section 102.162 Notice Of Hearing

- a) The hearing officer will set a time and place for hearing. The Clerk shall give notice of the date of the hearing as follows:
 - 1) By notice in the Board's Environmental Register; and
 - 2) At least 20 days prior to the hearing date, by public advertisement in a newspaper of general circulation in the county in which the hearing is to be held. Where required by federal law, including but not limited to air pollution and RCRA proposals, newspaper notice shall be published at least 30 days prior to the hearing date.
- b) The hearing officer will give notice by mail to the proponent and to all persons who have submitted their names and addresses to the Clerk concerning the proposal.
- c) Hearings which are continued on the hearing record for a period of 45 days or less do not require notice that complies with subsections (a) and (b).

(Source: Added at 14 Ill. Reg. _____, effective _____)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 13th day of September, 1990, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board