

ILLINOIS POLLUTION CONTROL BOARD
December 16, 2022

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DEC 16 2022

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM. CODE) R 23-18
PARTS 201, 202, AND 212) (Rulemaking – Air)

NOTICE OF HEARINGS

Below, the Board sets a schedule of hearings intended to meet its rulemaking requirements and statutory deadlines under the “fast-track” procedures of Section 28.5 of the Environmental Protection Act (415 ILCS 5/28.5 (2020)).

DATES, TIMES, AND LOCATIONS:

Please note that, on each of the three following dates, the Board will hold a regularly-scheduled Board meeting at 11:00 AM. If necessary, the Board will recess the hearing in time to conduct the meeting and then resume the hearing after the meeting adjourns.

FIRST HEARING:

Thursday, January 19, 2023, beginning at 9:00 AM

Illinois Pollution Control Board Conference Room, First Floor
1021 North Grand Avenue East, Springfield (North Entrance)

Under Section 28.5(f)(1), the first hearing “shall be confined to testimony by and questions of the Agency’s witnesses concerning the scope, applicability, and basis of the rule.”

Also under Section 28.5(f)(1), “[w]ithin 7 days after the first hearing, any person may request that the second hearing be held.”

SECOND HEARING:

Thursday, February 16, 2023, beginning at 9:00 AM

Michael A. Bilandic Building Room N 505
160 North LaSalle Street, Chicago

Under Section 28.5(f)(2), the second hearing “shall be devoted to presentation of testimony, documents, and comments by affected entities and all other interested parties.”

THID HEARING (IF NECESSARY)

Thursday, March 2, 2023, beginning at 9:00 AM

Illinois Pollution Control Board Conference Room, First Floor
1021 North Grand Avenue East, Springfield (North Entrance)

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 Under Section 28.5(f)(3), the third hearing “shall be devoted solely to any Agency response to the material submitted at the second hearing and to any response by other parties. The third hearing shall be cancelled if the Agency indicates to the Board that it does not intend to introduce any additional material.”

PURPOSE OF HEARINGS: Merit and Economic
 PRESIDING BOARD MEMBERS: Michelle Gibson
 HEARING OFFICER: Timothy Fox and Chloe Salk

HEARING OFFICER ORDER

Statutory Requirements

On December 7, 2022, the Illinois Environmental Protection Agency (IEPA) filed a rulemaking proposal to amend Parts 201, 202, and 212 of the Board’s air pollution regulations. *See* 35 Ill. Adm. Code 201, 202, 212. IEPA proposes to remove provisions allowing for advance permission to continue operating during a malfunction or to violate emission standards during start-up. In an order dated December 15, 2022, the Board accepted the proposal for hearing and submitted it to first-notice publication in the *Illinois Register* without commenting on its substantive merits.

IEPA filed the proposal under the “fast-track” procedures of Section 28.5 of the Act. *See* 415 ILCS 5/28.5 (2020). Section 28.5 requires the Board to proceed toward adoption of the proposed rules by meeting a series of specific deadlines. The Act provides the Board no discretion to waive or extend those deadlines. *See* 415 ILCS 5/28.5 (2020). The Board has applied these deadlines in this Notice of Hearing and Hearing Officer Order.

Service and Notice Lists

The Board will establish and maintain Service and Notice Lists for this proceeding.

All persons on the Notice List will receive notice of Board opinions and orders and hearing officer orders. 35 Ill. Adm. Code 102.422(a). From the Clerk’s Office On-Line (COOL) on the Board website (pcb.illinois.gov), persons can request to receive electronic notice for this docket number R 23-18. The electronic notice generates an email when the Board receives and docket a filing in this proceeding. These newly-filed documents will then be available to view and download free of charge from COOL. One possible exception to this availability may be voluminous filings, which will nonetheless be available through the Board’s Clerk’ Office.

Under Section 102.422(b) of the Board’s procedural rules,

[t]he hearing officer may establish a service list for any regulatory proceeding, in addition to the notice list. The hearing officer may direct participants to serve copies of all documents upon the persons listed on the service list. . . . For

purposes of fast-track rulemakings under Section 28.5 of the Act, participants of record will be the individuals on the service list. 35 Ill. Adm. Code 102.422(b).

In addition to receiving notice of Board opinions and orders and hearing officer orders, persons on the Service List receive filings such as pre-filed testimony. The Service List is intended for persons such as those who will testify and participate actively in this rulemaking.

Pre-filed Testimony

Section 28.5(f) provides that “[t]he Board must require the written submission of all testimony at least 10 days before a hearing, with simultaneous service to all participants of record in the proceeding as of 15 days prior to hearing, unless a waiver is granted by the Board for good cause.”

Participants may obtain the current version of the Service List through COOL on the Board’s website at pcb.illinois.gov or by calling the Clerk’s Office at 312-814-3461.

Unless the Board, hearing officer, Clerk, or procedural rules provides otherwise, all pre-filed testimony and other documents in this proceeding must be filed electronically through COOL. 35 Ill. Adm. Code 101.302(h), 101.1000(c), 101.Subpart J.

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).

First Hearing

For purposes of serving pre-filed testimony for the first hearing, the Service List will close on Wednesday, January 4, 2023.

For the first hearing, pre-filed testimony and related exhibits must be filed with the Board and served on all persons on the Service List by Monday, January 9, 2023.

Second Hearing

For purposes of serving pre-filed testimony for the second hearing, the Service List will close on Wednesday, February 1, 2023.

For the second hearing, pre-filed testimony and related exhibits must be filed with the Board and served on all persons on the Service List by Monday, February 6, 2023.

Third Hearing

For purposes of serving pre-filed testimony for the third hearing, the Service List will close on Wednesday, February 15, 2023.

For the third hearing, pre-filed testimony and related exhibits must be filed with the Board and served on all persons on the Service List by Friday, February 17, 2023.

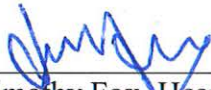
Hearings

All persons testifying at any of the hearings will be sworn in and subject to questioning. 35 Ill. Adm. Code 102.428(a). 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.

Participants wishing to offer a public comment will be allowed to do so as time allows

In a letter dated December 16, 2022, 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 Friday, January 27, 2023. *See* 415 ILCS 5/27(b) (2020). At the second hearing, the Board also will receive testimony on any study conducted by DCEO or on DCEO's decision not to conduct one.

IT IS SO ORDERED.



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