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STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD  
May 3, 2011

IN THE MATTER OF:

**ORIGINAL**

TRIENNIAL REVIEW OF WATER  
QUALITY STANDARDS FOR BORON,  
FLUORIDE AND MANGANESE:  
AMENDMENTS TO 35 ILL. ADM. CODE  
302.SUBPARTS B, C, E, F AND 303.312

R11-18  
(Rulemaking - Water)

**NOTICE OF HEARING**

DATES, TIMES, PLACES:

Tuesday, June 21, 2011  
9:00 a.m.  
Illinois Environmental Protection Agency Office  
Sangamo Training Room  
1021 N. Grand Avenue East  
Springfield, IL

Tuesday, July 26, 2011  
11:00 a.m.  
JAMES R. THOMPSON CENTER  
Room 2-025  
100 W. Randolph St.  
Chicago, IL

PURPOSE OF HEARING:

Merit and economic

ATTENDING BOARD MEMBER:

Carrie Zalewski

HEARING OFFICER:

Kathleen M. Crowley

**HEARING OFFICER ORDER**

**Procedural History**

On December 2, 2010, the Illinois Environmental Protection Agency (Agency or IEPA) filed a rulemaking proposal for amendments to the Board's water quality standard (WQS) rules pursuant to the general rulemakings provisions of Section 27 of the Illinois Environmental Protection Act (Act), 415 ILCS 5/27 (2008) and the Boards procedural rules at 35 Ill. Adm. Code 102. In a December 16, 2011 order, the Board accepted the proposal for hearing.

In the Statement of Reasons (SR) accompanying the proposal, the Agency stated that this is the culmination of the "triennial review" of standards required by the Federal Water Pollution Control Act (FWPCA or Clean Water Act), 33 USC 1313. SR at 1. The proposal "includes updated [WQS] for boron, fluoride and manganese and a handful of clean-up amendments and updates to [35 Ill. Adm. Code] Part 302 ...and a repeal of Section 303.312." SR at 1-2.

The Agency proposes updates to the boron, fluoride, and manganese WQS, both as to the General Use standard in 35 Ill. Adm. Code 302.208 itself as well as to the Public and Food Processing Water Supply standards in 35 Ill. Adm. 302.Subpart C and 302.Subpart F. The Agency proposes to make changes in boron, fluoride, and manganese standards as set forth in the Statement of Reasons at pp. 4-6. In PC #1 filed January 18, 2011 at p. 2, the Agency has presented the existing standards and the proposed changes in tabular form, which it is prepared to address as hearing, to replace those contained in the Board's December 16, 2011 order. (The Agency proposal, Statement of Reasons, and PC #1 are available on the Board's Web site at [www.ipc.state.il.us](http://www.ipc.state.il.us).)

### **The Hearings**

The Board will conduct two hearings in order to allow the proponent and any other interested participants the opportunity to present testimony on the merits and economic impact of the rulemaking proposal. At hearing, all persons who testify will be sworn in and subject to questioning.

As indicated above in the notice of hearings, the first hearing will begin on Tuesday, June 21, 2011 and will continue until the day's business is completed, but in no event later than 5:00 p.m. The second hearing is scheduled to begin Tuesday July 26, 2011 and will continue until the day's business is completed, but in no event later than 4:30 p.m. However, given the hearing officer's present inability to assess the length of these hearings, and potential participants are advised to arrive in timely fashion, as the hearings will be adjourned when no one present wishes to present testimony or ask questions.

### **Pre-Filing Deadlines**

Participants who intend to testify must pre-file their testimony and serve the testimony on the hearing officer and all persons on the Service List. Before filing pre-filed testimony or any other document with the Clerk, please check for the most recent version of the Service List with the hearing officer or the Clerk's Office.

Participants in the first hearing on June 21, 2011 are directed to pre-file all of their testimony and any related exhibits no later than Monday, May 23, 2011. Under Section 27 of the Act (415 ILCS 5/27 (2006)), the first hearing is not limited to the testimony of the proponent. But, the hearing officer presently intends to allow the Agency as proponent to present the testimony of all of its witnesses before hearing the testimony of other participants. Therefore, any other person wishing to testify at the first hearing should also pre-file their testimony by May 23, 2011. To further maximize hearing efficiency, participants are requested to review testimony pre-filed by others, and to pre-file questions concerning that testimony on or before Monday, June 13, 2011.

Participants wishing to testify at the second hearing on July 26, 2011 are directed to pre-file all of their testimony and any related exhibits no later than Friday, July 8, 2011. Participants are again requested to review testimony pre-filed by others, and to pre-file questions concerning that testimony on or before Thursday, July 21, 2011.

The "mailbox rule" at 35 Ill. Adm. Code 101.300(b)(2) does not apply to the filing of this pre-filed testimony, and the Board's Clerk must therefore receive these documents before the close of business on the specified dates. However, pre-filed testimony and other documents may be filed electronically through the Clerk's Office On-Line (COOL) from the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

### **Order of Hearings**

All pre-filed testimony will be entered into the record as if read, unless unanticipated circumstances dictate otherwise. *See* 35 Ill. Adm. Code 102.424(f). A brief summary of testimony will be allowed if a witness wishes to provide one before responding to questions. Participants who do not pre-file testimony will be allowed to testify as time permits only after the conclusion of pre-filed testimony and questions based upon it. Similarly, any participant who wishes to offer a public comment will be allowed to do so as time permits at the close of pre-filed testimony and the questions based upon it. Consequently, any person wishing to testify at either of the two hearings is urged to pre-file their testimony in order to ensure that they have an opportunity to testify. In addition, the Board's procedural rules provide that "[t]he Board will accept written comments from any person concerning the proposed regulations during the first notice period." 35 Ill. Adm. Code 102.604.

The hearing scheduled to begin on June 21, 2011, will begin with the Agency's presentation of its case as the proponent. After the Agency has answered all questions from other participants, and if time permits before the conclusion of the first hearing, other persons who have pre-filed may testify. Based on the information currently available, the hearing officer believes she has reserved sufficient time for each hearing and anticipates that any person who wishes to testify will have an opportunity for testimony and any cross-examination. In the event that any person who pre-files testimony for the first hearing cannot testify on June 21, 2011, because time does not allow it, that person will be given priority to testify on July 26, 2011. Persons who pre-file questions will be given priority in questioning other participants.

The July 26, 2011 hearing will begin with any testimony from any participant who pre-filed testimony for the first hearing and who was not able to testify at that time. Participants who pre-filed testimony for the second hearing will then present that testimony. Persons who pre-file questions will be given priority in questioning other participants.

Any participant who wishes to offer a public comment at either hearing will be allowed to do so if time permits at the close of pre-filed testimony and the questions based upon it. Again, written public comments may be submitted to the Board. *See* 35 Ill. Adm. Code 102.604.

Finally, the hearing officer, upon agreement of the participants or upon motion to the hearing officer, may change the order of testimony at these hearings. *See* 35 Ill. Adm. Code 102.420, citing 35 Ill. Adm. Code 101.Subpart F.

### **Service and Notice Lists**

The Board will establish a notice list and a service list for this proceeding. Persons wishing to be added to either list may contact the Clerk's Office or the hearing officer.

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).

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 all Board actions and hearing officer orders, persons on the service list will receive pre-filed testimony and other filings in this proceeding.

The service list is intended for persons such as those who will testify and participate actively in this rulemaking. Persons on the Service List for this rulemaking receive not only the Board's opinions and orders but also other filings such as pre-filed testimony and public comments. But, persons on the service list are also required to serve copies of the filings they make on other persons on the service list. Please note that the participants are free to waive service of hard copy of documents and to receive service only by electronic means: counsel for one law firm, Schiff Hardin, has already done so in this proceeding by filing of April 14, 2011.

Interested persons may now request electronic notice of filings by providing their e-mail address through COOL under this docket number: R11-18. This electronic notice includes notice of the 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. For more information about the option of electronic notice or COOL, consult either the Board's Web site at [www.ipc.state.il.us](http://www.ipc.state.il.us) or John Therriault, the Board's Assistant Clerk, at (312) 814-3629.

At the close of the second hearing, the hearing officer will set a date by which the record will close and all public comments must be submitted. *See* 35 Ill. Adm. Code 102.108. As the Board is aware that the Agency would appreciate Board decision making as soon as possible, the post-hearing comment period will not be lengthy unless unanticipated circumstances dictate otherwise.

IT IS SO ORDERED.

Kathleen M. Crowley

Kathleen M. Crowley

Hearing Officer, Illinois Pollution Control Board

100 West Randolph Street, Suite 11-500

Chicago, Illinois 60601

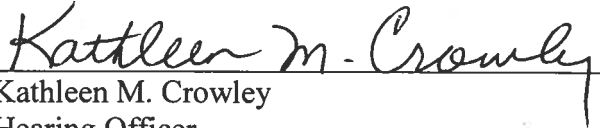
(312) 814-6929 [crowlek@ipcb.state.il.us](mailto:crowlek@ipcb.state.il.us)

## CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on May 3, 2011, to each of the persons on the attached list.

It is also hereby certified that a true copy of the foregoing order was hand delivered to the following on May 3, 2011.

John T. Therriault  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph St, Ste. 11-500  
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Kathleen M. Crowley  
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R2011-018  
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Marathon Petroleum Company, LLC  
Robinson Refinery, Refinery Office Building  
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Robinson, IL 62454

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Ameren Energy Generating Company  
17751 North Cilco Road  
Canton, IL 61520

R2011-018  
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Village of Itasca  
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Itasca, IL 60143-1740

R2011-018  
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City of Galva  
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Village of Bolingbrook  
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Marion, IL 62959-8500

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Libertyville, IL 60048

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Akzo Nobel Surface Chemistry, LLC  
8005 N. Tabler  
Moris, IL 60525-1569



R2011-018

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Alcoa Extrusions, Inc.  
5555 East Highway 6  
Morris, IL 60450

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James Machin

TRC

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City of Centralia  
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R2011-018

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City of Du Quoin  
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R2011-018

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City of Highland  
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R2011-018

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Village of Hanover Park  
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Hanover Park, IL 60133

R2011-018

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Nucor Steel Inc.  
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Bourbonnais, IL 60914

R2011-018

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NL Properties  
601 Northwest Avenue  
Northlake, IL 60610

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Rock Island SW STP  
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City of O'Fallon  
255 South Lincoln  
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Scott Air Force Base  
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Village of Roselle  
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Roselle, IL 60172

R2011-018

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Village of Itasca  
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Itasca, IL 60143

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U. S. Steel - Granite City Works  
20th & State Street  
Granite City , IL 62040

R2011-018

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Dynegy Midwest Generation  
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Alton, IL 62002

R2011-018

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Modine Manufacturing Company  
4400 Ringwood Road  
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R2011-018

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Springfield City Water, Light and Power  
3100 Stevenson Drive  
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Springfield Sanitary District  
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