

ILLINOIS POLLUTION CONTROL BOARD
September 18, 2018

IN THE MATTER OF:)
)
PROPOSED NEW 35 ILL. ADM. CODE 204,) R19-1
PREVENTION OF SIGNIFICANT) (Rulemaking - Air)
DETERIORATION, AMENDMENTS TO 35)
ILL. ADM. CODE PARTS 101, 105, 203, 211,))
and 215.)

NOTICE OF HEARING

DATES, TIMES, AND PLACES:

FIRST HEARING: November 27, 2018, 9:00 am to 4:30 pm, to be continued, if necessary, to
November 28, 2018, 1:00 pm to 4:30 pm.

By videoconference between:

IPCB Chicago Hearing Room Room 11-512 James R. Thompson Center 100 W. Randolph Chicago, IL 60601	and	IPCB Springfield Hearing Room Conference Room 1244 N, 1 st Floor Illinois Environmental Protection Agency 1021 N. Grand Avenue East, North Entrance Springfield, IL
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SECOND HEARING: January 15, 2019, 9:00 am to 4:30 pm, to be continued, if necessary, to
January 16, 2019, 1:00 pm to 4:30 pm.

By videoconference between:

IPCB Chicago Hearing Room Room 11-512 James R. Thompson Center 100 W. Randolph Chicago, IL 60601	and	IPCB Springfield Hearing Room Conference Room 1244 N, 1 st Floor Illinois Environmental Protection Agency 1021 N. Grand Avenue East, North Entrance Springfield, IL
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PURPOSE OF HEARINGS: Merit and Economic

ATTENDING BOARD MEMBERS: Katie Papadimitriou, Carrie K. Zalewski

HEARING OFFICER: Tetyana Rabczak

HEARING OFFICER ORDER

On July 2, 2018, the Illinois Environmental Protection Agency (IEPA) filed a proposal to amend the Board's air pollution regulations. The proposal seeks to establish a state Prevention of Significant Deterioration (PSD) permitting program in Illinois and the procedures for that program. On August 23, 2018, the Board accepted IEPA's proposal for public comment without sending it to first notice and directed its hearing officers to proceed to hearings. This order schedules two hearings and sets pre-filing deadlines for those hearing and discusses hearing and pre-filing procedures. See 415 ILCS 5/28(a) (2016); 35 Ill. Adm. Code 101.600.

Proposed Rules

The federal Clean Air Act (CAA) generally requires states to submit State Implementation Plans (SIPs) adopting PSD and nonattainment New Source Review (NaNSR) permit programs. 42 U.S.C. §§ 7410, 7475, 7502. Since 1981, IEPA has fulfilled its PSD obligations by implementing the federal PSD permit program in Illinois for the United States Environmental Protection Agency (USEPA) under a delegation agreement.

Newly adopted Section 9.1 of the Illinois Environmental Protection Act (Act), effective Jan. 1, 2016 (415 ILCS 5/9.1 (2016)), requires the Board to adopt regulations establishing PSD and NaNSR programs. 415 ILCS 9.1(c) (2016). Proposed rulemaking will enable IEPA to assume from USEPA full responsibility for PSD permitting in Illinois and make the Board responsible for any administrative review of PSD permit determinations issued by IEPA. IEPA currently administers the NaNSR program through Part 203 of the Board's air pollution regulations. 35 Ill. Adm. Code 203. IEPA's [proposal](#) and proposed [rule text](#) are available on the Board's website at <https://pcb.illinois.gov> in this rulemaking docket [R19-1](#).

Hearing Dates and Pre-filing Deadlines

First Hearing is scheduled to begin on November 27, 2018, from 9 am to 4:30 pm, and will continue to November 28th, 1 pm to 4:30 pm, if necessary. It is dedicated to the testimony filed with the Board before the hearing and questions based on any such testimony, as well as public comments. The Board will also receive testimony on any economic impact study conducted by the Department of Commerce and Economic Opportunity (DCEO) on the proposed rules or on DCEO's decision not to perform a study. Section 27(b) of the Act requires the Board to request the DCEO to conduct a study of an economic impact of certain proposed rules prior to their adoption. See 415 ILCS 5/27(b) (2016). The Board sent the request to DCEO on September 11, 2018. The Board must then make the economic impact study, or DCEO's explanation for not conducting it, available to the public at least 20 days before the public hearing. See 415 ILCS 5/27(b) (2016).

The hearing will be held by videoconference between the Board's Chicago and Springfield offices. The hearing officer will be in Chicago.

Pre-filed testimony is due November 12, 2018. Participants who intend to testify at the first hearing are directed to pre-file their testimony and any related exhibits by said deadline. *See* 35 Ill. Adm. Code 102.424(b).

Pre-filed questions are due November 19, 2018. To expedite the hearing and make it more efficient, participants are directed to pre-file written questions based on any testimony pre-filed before the hearing. *See* 35 Ill. Adm. Code 102.424(b).

Second hearing is scheduled to begin on January 15, 2019, at 9 am to 4:30 pm, and will continue to January 16th, 1 pm to 4:30 pm, if necessary. It is dedicated to testimony filed with the Board before the hearing and questions based on any such testimony, as well as any public comments.

The hearing will be held by videoconference between the Board's Chicago and Springfield offices. The hearing officer will be in Springfield.

Pre-filed testimony is due December 17, 2018.

Pre-filed questions are due January 7, 2019.

Hearing by Videoconference

The Board's procedural rules allow the Board to hold any hearing by videoconference. 35 Ill. Adm. Code 101.600(b). Videoconference hearings reduce travel costs and ensure efficient use of time and resources by participants and their witnesses as well as the Board members and staff. This rulemaking also concerns entire state and is not tied to any specific geographic location. Based on these considerations, the Board will conduct the hearings by videoconference between its offices. 35 Ill. Adm. Code 101.600(b).

Pre-Filing Procedures

All filings in this proceeding will be available on the Board's website at <https://pcb.illinois.gov> in the rulemaking docket [R19-1](#). Unless the Board, hearing officer, Clerk, or procedural rules provide otherwise, all documents in this proceeding must be filed electronically through the [Clerk's Office On-Line \(COOL\)](#). 35 Ill. Adm. Code 101.302(h), 101.1000(c), 101.Subpart J.

Because the hearings in this proceeding are held by videoconference, to afford all participants equal access, any document to be offered as a hearing exhibit must be received by the Clerk's Office at least 24 hours before the scheduled start of the hearing. 35 Ill. Adm. Code 102.424(h). If not filed before the hearing, the document will not be allowed at the hearing but may be filed as a public comment after the hearing. *Id.*

The pre-filed testimony and pre-filed questions must be served on the persons on the Service List at the time of filing. *See* 35 Ill. Adm. Code 102.424(c). Service may be done by e-mail on a recipient that has consented to e-mail service and has not revoked the 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). Before filing any document, please obtain the current version of the Service List on the rulemaking's docket [R19-1](#) webpage or by calling the Clerk's Office at 312-814-3461.

The hearing officer intends to begin each hearing with any participants who pre-filed testimony for the hearing. Participants that don't pre-file testimony will be allowed to testify and respond to questions as time permits. *See* 35 Ill. Adm. Code 101.628, 102.114, and 102.424(g).

For both hearings, all pre-filed testimony and questions will be entered into the record as if read. *See* 35 Ill. Adm. Code 102.424(f). A brief introduction to or summary of the testimony will be allowed if a witness wishes to provide one before responding to questions. Participants wishing to offer a public comment during either of the two hearings will be allowed to do so as time allows before the end of a hearing. Participants may also file post hearing comments. *See* 35 Ill. Adm. Code 102.108(b).

Service and Notice Lists

The hearing officer and Clerk's Office maintain a Notice List and Service List for this proceeding. *See* 35 Ill. Adm. Code 102.422(a), (b). The Notice List includes participants who wish to receive only the Board's opinions and orders and hearing officer orders. 35 Ill. Adm. Code 102.422(a). The Service List includes participants who expect to participate more actively and wish also to receive other filings such as pre-filed testimony and questions. *See* 35 Ill. Adm. Code 102.422(b). 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 website. Any person interested in being added to this docket's Notice List must contact Clerk's Office at 312-814-3461.

IT IS SO ORDERED.



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