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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register. The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings. The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2018

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ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Procedures for Informational and Quasi-Legislative Public Hearings

2) **Code Citation:** 35 Ill. Adm. Code 164

3) **Section Number:** 164.201  
   **Adopted Action:** Amendment

4) **Statutory Authority:** Implementing and authorized by Section 4 of the Illinois Environmental Protection Act [415 ILCS 5/4], and Section 5-10(a) of the Illinois Administrative Procedure Act [5 ILCS 100].

5) **Effective Date of Rule:** August 1, 2018

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) **A copy of the adopted rule is on file in the Illinois Environmental Protection Agency’s principal office and is available for public inspection.**

9) **Notice of Proposal published in the Illinois Register:** 41 Ill. Reg. 14851; December 8, 2017

10) **Has JCAR issued a Statement of Objection to this rulemaking?** No

11) **Differences between Proposal and Final Version:** None

12) **Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR?** None were made.

13) **Will this rulemaking replace any emergency rule currently in effect?** No

14) **Are there any rulemakings pending on this Part?** No

15) **Summary and Purpose of Rulemaking:** The amendments are intended to address a final rule promulgated by USEPA revising the public notice provisions of the New Source Review, Title V and Outer Continental Shelf permit programs. (See 81 Federal Register 71613). The final rule removes the mandatory requirement to provide public notice of a draft permit (as well as certain other program actions) through publication in a
ENVIRONMENTAL PROTECTION AGENCY

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newspaper. Instead, the final rule requires e-notice for some actions and allows e-notice for others. Accordingly, the Illinois EPA is revising its own rules to allow for e-notice where applicable including those regarding notice of informational hearings. These amendments also update statutory and regulatory references.

16) Information and questions regarding this adopted rule shall be directed to:

Charles Matoesian, Assistant Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19726
Springfield IL 62794-9276

217/782-5544

The full text of the Adopted Amendment begins on the next page:
ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: ENVIRONMENTAL PROTECTION AGENCY

PART 164
PROCEDURES FOR INFORMATIONAL AND QUASI-LEGISLATIVE PUBLIC HEARINGS

SUBPART A: INTRODUCTION

Section
164.101 Purpose
164.102 Applicability

SUBPART B: PROCEDURES FOR INFORMATIONAL PUBLIC HEARINGS

Section
164.201 Notice
164.202 Hearing Officer
164.203 Conduct of Hearing
164.204 Questions
164.205 Written Submissions

SUBPART C: HEARING RECORD

Section
164.301 Contents
164.302 Access

SUBPART D: RESPONSE TO HEARING

Section
164.401 Summary and Agency Statement

AUTHORITY: Implementing and authorized by Section 4 of the Environmental Protection Act [425 ILCS 5] and Section 5-10(a) of the Illinois Administrative Procedure Act [5 ILCS 100].

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SUBPART B: PROCEDURES FOR INFORMATIONAL PUBLIC HEARINGS

Section 164.201 Notice

a) Notice of a hearing under this Part these procedures shall be given at least 30 days before the hearing.

b) The notice shall include:

1) The date, time, and place of the hearing;

2) The purpose of the hearing;

3) Identification of the Agency Bureau division sponsoring the hearing and any other sponsor if the hearing is jointly sponsored;

4) A reference to the particular Section sections of the statutes and rules involved;

5) The name, address, and telephone number of a contact person from whom additional information regarding the hearing may be obtained;

6) A statement regarding the submission of written comments;

7) A statement that a copy of the procedural rules governing the hearing is available upon request; and

8) Other information as determined by the Agency or required by law.

c) Notice of the hearing shall be given by prominent placement at a dedicated page on the Agency's website. The notice shall remain on the Agency's website for the duration of the public comment period. If the Agency's website is unavailable for a prolonged period of time, the comment period will be extended for an equivalent amount of time. Notice of hearing shall also be given as follows: by advertisement in a newspaper of general circulation in the affected geographical area or by notice in the Illinois Register.
ENVIRONMENTAL PROTECTION AGENCY

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1) If, pursuant to the Act or other applicable law, newspaper notice is required for the matter at issue, notice shall be by advertisement in a newspaper of general circulation in the affected geographical area.

2) If the Director of the Agency or his/her designee determines, for a particular matter, that additional notice would serve the interests of the public or of the Agency, notice shall be by advertisement in a newspaper of general circulation in the affected geographical area or by notice in the Illinois Register. In making this determination, the Agency shall consider public interest.

d) Notice will also be provided to:

1) Interested or affected persons and organizations of which the Agency is aware or who have requested notification of public hearings or of Agency actions relating to the subject matter of the hearing.

2) Other persons as determined by the Agency or as required by law.

(Source: Amended at 42 Ill. Reg. 15986, effective August 1, 2018)
ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Procedures for Permit and Closure Plan Hearings

2) **Code Citation:** 35 Ill. Adm. Code 166

3) **Section Number:** Adopted Action:
   166.130 Amendment

4) **Statutory Authority:** Implementing and authorized by Section 4 of the Illinois Environmental Protection Act. [415 ILCS 5/4], and Section 5-10(a)(i) of the Illinois Administrative Procedure Act [5 ILCS 100].

5) **Effective Date of Rule:** August 1, 2018

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rule contain incorporations by reference?** No

8) **A copy of the adopted rule, including any material incorporated by reference, is on file in the Illinois Environmental Protection Agency’s principal office and is available for public inspection.**

9) **Notice of Proposal published in the Illinois Register:** 41 Ill. Reg. 14856; December 8, 2017

10) **Has JCAR issued a Statement of Objection to this rulemaking?** No

11) **Differences between Proposal and Final Version:** Minor wording/verbiage changes were made to subsections (c)(5) and (d)(10).

12) **Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this rulemaking replace any emergency rule currently in effect?** No

14) **Are there any rulemakings pending on this Part?** No

15) **Summary and Purpose of Rulemaking:** The amendments are intended to address a final rule promulgated by USEPA revising the public notice provisions of the New Source Review, Title V and Outer Continental Shelf permit programs. (See 81 Federal Register
ENIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

71613). The final rule removes the mandatory requirement to provide public notice of a draft permit (as well as certain other program actions) through publication in a newspaper. Instead, the final rule requires e-notice for some actions and allows e-notice for others. Accordingly, the Illinois EPA is revising its own rules to allow for e-notice where applicable. These amendments also update statutory and regulatory references.

16) Information and questions regarding this adopted rule shall be directed to:

Charles Matoesian, Assistant Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19726
Springfield IL 62794-9276
217/782-5544

The full text of the Adopted Amendment begins on the next page:
ENIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 166
PROCEDURES FOR PERMIT AND CLOSURE PLAN HEARINGS

SUBPART A: INFORMATIONAL PERMIT AND CLOSURE PLAN HEARINGS

Section
166.101 Purpose
166.110 Applicability
166.120 Definitions
166.130 Notice
166.140 Hearing Officer
166.150 Hearing Board
166.160 Conduct of Hearing
166.170 Questions
166.180 Contents of the Record
166.190 Access to the Record
166.191 Closure of the Record
166.192 Contents of Responsiveness Summary
166.193 Severability

SUBPART B: CONTESTED CASE PERMIT HEARINGS

Section
166.201 Purpose
166.202 Applicability
166.203 Definitions
166.210 Commencement of a Contested Case Permit Hearing
166.220 Notice
166.221 Form of Documents
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166.223 Service of Documents and Proof of Service
166.224 Motions
166.225 Computation of Time
166.226 Pre-Hearing Conferences
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166.227 Discovery
166.228 Admissions
166.230 Hearing Officer
166.235 Intervention
166.240 Conduct of the Hearing
166.250 Rules of Evidence
166.255 Burden of Proof
166.260 Testimony and Cross-Examination of Witnesses
166.265 Official Notice
166.270 Records in Other Proceedings
166.275 Documentary Evidence
166.276 Exhibits
166.280 Transcript of Hearing
166.285 Proposed Finding of Fact and Conclusions of Law
166.290 Proposal for Decision
166.291 Contents of the Record
166.292 Decision in Contested Case
166.295 Sanctions
166.296 Ex parte Consultations
166.297 Right to Legal Counsel

AUTHORITY: Implementing and authorized by Section 4 of the Environmental Protection Act [415 ILCS 5] and Section 5-10(a)(i) of the Illinois Administrative Procedure Act [5 ILCS 100].


SUBPART A: INFORMATIONAL PERMIT AND CLOSURE PLAN HEARINGS

Section 166.130 Notice

a) Notice of hearing shall be given at least 45 days before the date of hearing by prominent placement at a dedicated page on the Agency's website placed in a public newspaper in the area in which the facility for which the permit or closure plan is requested is located or as otherwise required by law. The notice shall remain on the Agency's website for the duration of the public comment period. If the Agency's website is unavailable for a prolonged period of time, the comment
ENVIRONMENTAL PROTECTION AGENCY

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period will be extended for an equivalent amount of time. If, pursuant to the Act or other applicable law, newspaper notice is required for the type of permit or closure plan at issue, notice shall also be given by advertisement in a newspaper of general circulation in the affected geographical area.

b) If the Director of the Agency or his/her designee determines, for a particular permit or closure plan, that additional notice would serve the interests of the public or of the Agency, notice shall also be by advertisement in a newspaper of general circulation in the affected geographical area or by notice in the Illinois Register. In making this determination, the Agency shall consider public interest. Notice shall be published once weekly for three successive weeks, and the first notice of a hearing shall be given at least 45 days before the date of the hearing.

c) A copy of the Notice and the closure plan or proposed permit and fact sheet shall be provided by electronic mail or mailed to:

1) The State's attorney of the county in which the facility is located;

2) The Chairman of the County Board of the county in which the facility is located;

3) Each member of the General Assembly from the legislative district in which the facility is located;

4) The chief executive officer and the clerk of each municipality, any portion of which is within three miles of the facility; and

5) Persons on a mailing list developed by the Agency which includes those who requested in writing to be included on such a list.

d) The notice shall include the following information:

1) The date, time, and place of the public hearing;

2) The purpose of the hearing;

3) The name and address of each permit or closure plan applicant and the location or address of the facility for which the permit or closure plan is
ENIRONMENTAL PROTECTION AGENCY

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sought;

4) The type of permit sought and the applicable federal and State regulations that require or authorize the granting of the permit or closure plan by the Agency;

5) A brief description of the activities or operations at the facility for which the permit is requested;

6) Identification of the Agency BureauDivision sponsoring the hearing, and any other sponsor if the hearing is jointly sponsored;

7) The name of any waterway to which any discharge is to be made and a short description of the location of each such discharge on the waterway under any proposed NPDES permit, if applicable;

8) A statement of issues to be considered;

9) The name, address, and telephone number of the Agency contact person from whom additional information regarding the hearing may be obtained; and

10) A statement of applicable Pollution Control Board rules governing the issuance of the permit or closure plan that is the subject of the hearing.

(Source: Amended at 42 Ill. Reg. 15991, effective August 1, 2018)
ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Public Participation in the Air Pollution Control Permit Program

2) **Code Citation:** 35 Ill. Adm. Code 252

3) **Section Numbers:**
   - 252.201  Adoption
   - 252.204  Adoption

4) **Statutory Authority:** Implementing and authorized by Section 4, 9.1(d), 9.1(e), 39, 39.1(c) and 39.1(d) of the Environmental Protection Act [415 ILCS 5/4, 9.1(d), 9.1(e), 39, 39.1(c) and 39.1(d)].

5) **Effective Date of Rules:** August 1, 2018

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted rules is on file in the Illinois Environmental Protection Agency's principal office and is available for public inspection.

9) **Notice of Proposal published in the Illinois Register:** 41 Ill. Reg. 14862; December 8, 2017.

10) **Has JCAR issued a Statement of Objection to this rulemaking?** No

11) **Differences between Proposal and Final Version:** Significant clarifications have been added.

12) **Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this rulemaking replace any emergency rule currently in effect?** No

14) **Are there any rulemakings pending on this Part?** No

15) **Summary and Purpose of Rulemaking:** The amendments are intended to address a final rule promulgated by USEPA revising the public notice provisions of the New Source Review, Title V and Outer Continental Shelf permit programs. (See 81 Federal Register...
ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

71613). The final rule removes the mandatory requirement to provide public notice of a draft permit (as well as certain other program actions) through publication in a newspaper. Instead, the final rule requires e-notice for some actions and allows e-notice for others. Accordingly, the Illinois EPA is revising its own rules to allow for e-notice where applicable to conform with federal standards. These amendments also update statutory and regulatory references.

16) Information and questions regarding these adopted rules shall be directed to:

Charles Matoesian, Assistant Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19726
Springfield IL 62794-9276

217/782-5544

The full text of the Adopted Amendments begins on the next page:
ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 252
PUBLIC PARTICIPATION IN THE
AIR POLLUTION CONTROL PERMIT PROGRAM

SUBPART A: INTRODUCTION

Section
252.101 Purpose
252.102 Applicability
252.103 Application for a Prevention of Significant Deterioration Permit
252.104 Definitions
252.105 Consolidation

SUBPART B: PROCEDURES FOR PUBLIC REVIEW

Section
252.201 Notice and Opportunity to Comment
252.202 Draft Permit
252.203 Fact Sheet and Statement of Basis
252.204 Availability of Documents
252.205 Opportunity for Public Hearing
252.206 Procedures for Public Hearings

SUBPART C: USEPA REVIEW AND OBJECTION PROCEDURES

Section
252.301 USEPA Review and Objection

SUBPART D: AGENCY ACTION

Section
252.401 Final Permit Action

AUTHORITY: Implementing and authorized by Sections 4, 9.1(d), 9.1(e), 39, 39.1(c) and 39.1(d) of the Environmental Protection Act [415 ILCS 5/4, 9.1(d), 9.1(e), 39, 39.1(c) and
ENVMONMENTAL PROTECTION AGENCY

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39.1(d).[1]


SUBPART B: PROCEDURES FOR PUBLIC REVIEW

Section 252.201 Notice and Opportunity to Comment

a) The Agency shall issue a notice for the issuance of any permit described in Section 252.102 of this Part and renewal of any operating permit described in Section 252.102 of this Part, and permit actions described in Section 252.103 of this Part.

b) The notice shall be given to:

1) The public, by prominent placement at a dedicated page on the Agency's website. The notice shall remain on the Agency's website for the duration of the public comment period. If the Agency's website is unavailable for a prolonged period of time, the comment period will be extended for an equivalent amount of time. Notice shall also be by advertisement in a newspaper of general circulation in the area where the source is located if either at least one time, by display advertisement in a newspaper of general circulation in the area where the source is located:

A) The Director of the Agency or his/her designee determines, for a particular permit, that additional notice would serve the interests of the public or of the Agency. In making this determination, the Agency shall consider public interest; or

B) Pursuant to the Act or other applicable law, notice is required to be published in a newspaper for the type of permit at issue:

2) Local government air pollution control offices within Illinois that are in the area affected by the source;

3) The chief executives of the municipality and county in which the source is
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to be located, including the mayor or president, clerk, county board
chairman, county clerk, and state's attorney;

4) Members of the General Assembly from the legislative district in which
the source is located;

5) Any state whose air quality may be affected and that which is contiguous
to Illinois or which is within 50 miles of the source;

6) Other officials and agencies identified in 40 CFR 51.24(g)(iv) (1983), for
PSD sources only;

7) The permit applicant; and

8) Persons on the public participation mailing list for the air pollution control
permit program.

c) The notice shall include:

1) The name and address of the applicant and the source, and the name and
address of the Agency;

2) The location of the source if different from the applicant's address;

3) The activity or activities involved in the permit action;

4) For a proposed significant modification, a description of the change in the
amount or character of the emissions that which may result from the
modification;

5) The preliminary decision of the Agency to grant the permit;

6) For the issuance of a PSD permit, the degree of ambient air increment
consumed by the project;

7) For a case-by-case MACT determination pursuant to section 112(g) and Section 412(i) of the CAA, a description of the emission
limitation or work practice standard in the draft permit that constitutes
MACT;
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8) The location of the documents available for public review;

9) A request for written comments on the Agency's draft proposed permit;

10) The date the comment period closed by which comments must be postmarked;

11) Instructions on how to request a public hearing if a decision to hold a hearing has not already been made pursuant to Section 252.205(a) or (b); and

12) The name, address, and telephone number of the Agency contact person from whom the public may obtain additional information.

(Agency Note: Material properly claimed as trade secret or confidential pursuant to Sections 7 and 7.1 of the Act and 2 Ill. Adm. Code, Part 1827 will not be subject to public disclosure under this Part. An applicant claiming a trade secret shall provide, in addition to the complete application, a copy of the application for public notice in which the material claimed as trade secret has been deleted.)

d) The notice to the permit applicant shall also include the draft permit and fact sheet or statement of basis required by Section 252.203 of this Part.

e) The notice shall provide for a 30-day public comment period. The Agency may extend the comment period on written request if any applicable statutory period for the Agency decision, as prescribed in Section 39 of the Act, allows for an extension.

(Source: Amended at 42 Ill. Reg. 15997, effective August 1, 2018)

Section 252.204 Availability of Documents

a) Copies of the following documents shall be made available for public inspection during the public comment period:

1) The public notice;
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2) The fact sheet or statement of basis;

3) The draft permit; and

4) The permit application, including any compliance plans.

b) A copy of the draft permit shall be placed at a dedicated page on the Agency's website for the duration of the public comment period. Copies of the other documents listed in subsection (a) shall be available for review at:

1) The Bureau of Air's Division of Air Pollution Control's offices at 1021 North Grand Avenue East, Springfield, IL, Illinois 62794-9276; and

2) The Bureau of Air's Division of Air Pollution Control's regional or district office closest to the location of the source.

c) All documents listed in subsection (a) above shall also be available in accordance with procedures of the Agency and of the Pollution Control Board adopted pursuant to 35 Ill. Adm. Code 1304-20; and Sections 7 and 7.1 of the Act.

(Source: Amended at 42 Ill. Reg. 15997, effective August 1, 2018)