**Section 104.550 Recommendation and Response**

a) Unless otherwise ordered by the hearing officer or the Board, the Agency must file a recommendation with the Board within 45 days after the Board determines that a petition is in substantial compliance under Section 104.545.

b) At a minimum, the Agency's recommendation must include:

1) An analysis of:

A) whether the petitioner made its demonstration under Section 104.560, including the petitioner's proposed highest attainable condition;

B) whether the proposed TLWQS is consistent with applicable federal laws and regulations and satisfies the requirements of Section 38.5 of the Act and this Part; and

C) eligibility criteria to be adopted by the Board to be used at the time of renewal or modification of an individual's federal NPDES permit or at the time an individual files an application for certification under section 401 of the federal Clean Water Act to obtain coverage under a Board-approved TLWQS, when applicable;

2) any information relevant to the disposition of the petition, including any past or pending enforcement actions against petitioner;

3) whether the Board should adopt, adopt with conditions, or deny the petitioner's requested TLWQS;

4) the recommended term of the TLWQS; and

5) a list of persons that are seeking coverage under the TLWQS at the time of the adoption of the TLWQS.

c) The petitioner or any person may file a question or response to the Agency's recommendation within 14 days after the Agency files its recommendation.

d) Concurrent with the filing of the recommendation with the Board, the Agency must transmit a copy of its recommendation, along with a copy of the TLWQS petition, to USEPA.

(Source: Added at 42 Ill. Reg. 7922, effective April 27, 2018)