

ILLINOIS POLLUTION CONTROL BOARD
November 7, 2008

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM. CODE) R09-10
225: CONTROL OF EMISSIONS FROM) (Rulemaking - Air)
LARGE COMBUSTION SOURCES)
(MERCURY MONITORING))

NOTICE OF HEARINGS

DATES, TIMES, AND LOCATIONS:

FIRST HEARING: WEDNESDAY, DECEMBER 17, 2008

9:00 AM
Illinois Environmental Protection Agency Office Building
Training Room, 1214 West
1021 N. Grand Ave. East, North Entrance
Springfield, Illinois

SECOND HEARING: TUESDAY, JANUARY 13, 2009

11:00 AM
James R. Thompson Center
100 W. Randolph Street
Room 11-512 (Illinois Pollution Control Board Videoconference Room)
Chicago, Illinois

PURPOSE OF HEARINGS: Merit and Economic

ATTENDING BOARD MEMBER: Andrea S. Moore

HEARING OFFICER: Timothy J. Fox

HEARING OFFICER ORDER

On October 3, 2008, the Board received from the Illinois Environmental Protection Agency (Agency) a proposal to amend Part 225 of the Board's air pollution regulations (35 Ill. Adm. Code 225). Generally, the Agency proposes to amend those regulations by recreating certain monitoring provisions of the federal Clean Air Mercury Rule (CAMR), which was recently vacated by a federal court, and adding those provisions to Illinois' mercury rule. In an order dated November 5, 2008, the Board accepted the Agency's proposal for hearing, granted the Agency's request for waiver of specified copy requirements, and granted the Agency's

In compliance with the Americans with Disabilities Act and other applicable federal and State laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact John Therriault, Assistant Clerk of the Board, at 100 West Randolph St., Suite 11-500, Chicago, Illinois 60601, at telephone number 312/814-6931, fax number 312/814-3669, or TDD number 312/814-6032, five days prior to the hearing.

motion for expedited review. In the same order, the Board directed its Clerk to cause *Illinois Register* publication of the Agency's proposal for first notice without commenting on the substantive merits of the proposal. The Board also directed the hearing officer to expeditiously schedule and proceed to hearing in this matter.

The Board will conduct two hearings in order to allow the Agency as proponent and any other interested participants the opportunity to present testimony on the merits and economic impact of the rulemaking proposal. At the two hearings, all persons who testify will be sworn in and subject to questioning. The Board will also receive any testimony on any economic impact study (EcIS) conducted by the Department of Commerce and Economic Opportunity (DCEO) on the proposed rules or on DCEO's decision not to perform an EcIS.

In setting hearing dates, the Board has considered and accommodated its general workload and the numerous days of rulemaking hearings now scheduled. As indicated above in the notice of hearings, the first hearing will take place in Springfield on Wednesday, December 17, 2008, and the second hearing will take place in Chicago on Tuesday, January 13, 2009.

Pre-Filing Deadlines

Participants who intend to testify at hearing are urged to pre-file their testimony and directed to serve any pre-filed testimony on the hearing officer and all persons on the Service List in this proceeding. Before filing pre-filed testimony or any other document with the Clerk, please check with the Board's Clerk to obtain the most recent version of the Service List.

Participants who wish to testify at the first hearing are directed to pre-file all of their testimony and any related exhibits no later than Wednesday, December 3, 2008. Although Section 27 of the Environmental Protection Act (415 ILCS 5/27 (2006)) does not limit the first hearing to the testimony of the proponent, 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 who have pre-filed testimony. Nonetheless, any person wishing to testify at the first hearing should pre-file testimony by the deadline of Wednesday, December 3, 2008.

Participants who wish to testify at the second hearing are directed to pre-file all of their testimony and any related exhibits no later than Tuesday, January 6, 2009.

The "mailbox rule" at 35 Ill. Adm. Code 101.300(b)(2) does not apply to the filing of any of this pre-filed testimony, and the Board's Clerk must receive these documents before the close of business on the specified dates. However, 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. Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

Order of Hearings

The hearing scheduled to take place on December 17, 2008, will begin with the Agency's presentation of its case as the proponent. All pre-filed testimony will be entered into the record.

as if read. *See* 35 Ill. Adm. Code 102.424(f). For the first hearing, a brief summary of testimony will be allowed if a witness wishes to provide one before responding to questions from other participants.

After the Agency has addressed all questions from other participants, and if time permits before the conclusion of the first hearing, other participants who have pre-filed testimony may testify. Participants who do not pre-file testimony will be allowed to testify as time permits after the conclusion of pre-filed testimony and questions based upon it. Consequently, any person wishing to testify at the first hearing is again urged to pre-file.

The hearing scheduled to take place on January 13, 2009 will begin with participants who pre-filed testimony for the first hearing and were not able to testify at that time. Participants who pre-filed testimony for the second hearing will then present that testimony.

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 questions based upon it. The Board's procedural rules also include an opportunity to file written post-hearing comments. *See* 35 Ill. Adm. Code 102.108(b). The rules also 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.

Service and Notice Lists

The Service List for this rulemaking is the list of persons who wish to participate actively in this proceeding and to receive not only the Board's opinions and orders but also other filings such as pre-filed testimony and public comments. The Notice List includes participants who wish to receive only the Board's opinions and orders and hearing officer orders.

The Board will send a copy of its November 5, 2008, order accepting the Agency's proposal for hearing and this November 10, 2008, notice of hearings and hearing officer order to all entities or persons who appeared on either the Service List or Notice List in R06-25, Proposed New 35 Ill. Adm. Code 225: Control of Emissions from Large Combustion Sources (Mercury), in which the Board on December 21, 2006 adopted Illinois' mercury rule.

Because subsequent opinions and orders in this proceeding are expected to be lengthy, the Board will send copies of those subsequent opinions and orders only to those who specifically indicate that they wish to remain on either the Service List or Notice list in this docket R09-10. Any entity or person wishing to remain on either the Service List or Notice List must provide the information requested in the form attached to this order as Attachment A and return the form to the Board by Wednesday, November 26, 2008. Please note that any person who has filed an appearance or who files an appearance will be automatically placed on the service list and will not be removed from it.

Note that interested persons may now request electronic notice of filings by providing their e-mail address through COOL under this docket number R09-10. This electronic notice under this docket includes notice of the filing of documents that are not typically provided to persons on the Notice List that are not

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, please consult either the Board's Web site at www.ipcb.state.il.us or John Therriault, the Board's Assistant Clerk, at (312) 814-3629.

IT IS SO ORDERED.

Timothy J. Fox
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, Illinois 60601
312-814-6085
foxt@ipcb.state.il.us

ATTACHMENT A

To Hearing Officer Order of November 10, 2008

In the Matter of: Proposed Amendments to 35 Ill. Adm. Code 225: Control of Emissions from Large Combustion Sources (Mercury Monitoring) (R09-10)

In order to ensure that all interested participants in this proceeding appear as they wish on either the Service List or the Notice List, please return the form below indicating the list on which you wish to be placed. As indicated in the order above, the Board will send copies of subsequent opinions and orders in this docket only to those who specifically indicate on this form that they wish to remain on either the Service List or Notice list. Anyone who has already filed an appearance or who files an appearance will be automatically placed on the Service List and will not be removed.

In R09-10, I wish to be placed on the _____ Notice List OR _____ Service List.

Name: _____

Business/Organization: _____

Address: _____

City, State, Zip: _____

PLEASE RETURN THIS FORM BY WEDNESDAY, NOVEMBER 26, 2008 TO:

Lynn Patras, Illinois Pollution Control Board

E-mail:

patrasl@ipcb.state.il.us

Fax:

312-814-3669

Mail or Hand Delivery:

100 W. Randolph St., Suite 11-500

James R. Thompson Center

Chicago, IL 60601