

ORIGINAL

ILLINOIS POLLUTION CONTROL BOARD
December 23, 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 RESCHEDULED HEARING

DATE, TIME, AND LOCATION:

TUESDAY, FEBRUARY 10, 2009

9:00 AM
James R. Thompson Center
100 W. Randolph St.
Room 11-512 (Illinois Pollution Control Board Videoconference Room)
Chicago, Illinois

PURPOSE OF HEARING: 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 recreate certain monitoring provisions of the federal Clean Air Mercury Rule (CAMR), which was recently vacated by a federal court, and add those provisions to Illinois' mercury rule. In an order dated November 5, 2008, the Board accepted the Agency's proposal, granted the Agency's motion for expedited review, and directed the Clerk to cause *Illinois Register* publication of the proposal for first notice without commenting on the substantive merits of the proposal.

In an order dated November 7, 2008, the hearing officer scheduled two hearings: the first on Wednesday, December 17, 2008, in Springfield, and the second on Tuesday, January 13, 2009, in Chicago. At the conclusion of the first hearing, and without opposition from any of the participants present, the Board postponed the second hearing in order to allow sufficient time for the filing of various documents, including responses to questions posed to the Agency on the

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.

record and a second *errata* sheet. Consequently, the hearing originally scheduled to take place on Tuesday, January 13, 2009, is cancelled.

The Board will conduct the hearing in order to receive testimony on the merits and economic impact of the Agency's rulemaking proposal. At hearing, all persons who testify will be sworn in and subject to questioning. As indicated above in the notice of rescheduled hearing, the second hearing will now take place on Tuesday, February 10, 2009, in Chicago.

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. 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.

At the conclusion of the first hearing, and without opposition from any of the participants present, the hearing officer established pre-hearing deadlines. First, the deadline for the Agency to submit its responses to questions raised on the record and reflected in the transcripts of the first hearing and its *errata* sheet is Wednesday, January 14, 2009. Second, the deadline for any participant to pre-file testimony for the second hearing is Monday February 2, 2009.

The "mailbox rule" at 35 Ill. Adm. Code 101.300(b)(2) does not apply to the filing of any of these pre-hearing filings. The Board's Clerk must receive these documents before the close of business on the specified date. Although 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, all electronic or approved fax filings must be received by the Clerk's Office no later than 4:30 PM on the due date. Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

Pre-Hearing Conference Call

At the conclusion of the first hearing, participants sought a pre-hearing conference call, and the hearing officer agreed to schedule a such a call on Monday, January 12, 2009 at 10 AM. **Any participant wishing to take part in that conference call must notify the hearing officer at foxt@ipcb.state.il.us by 4:30 PM on Thursday, January 8, 2009.** After determining the number of participants wishing to take part and arranging for that number of callers, the hearing officer will e-mail dialing instructions for taking part in that call.

Order of Hearing

At the second hearing, all pre-filed testimony will be entered into the record as if read. *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.

The Board will determine the order in which it will hear the testimony of witnesses who have prefiled testimony on February 10, 2009 before the hearing begins. Participants who do not

pre-file testimony for this additional hearing will be allowed to testify as time permits after the conclusion of pre-filed testimony and questions based upon it.

Any participant who wishes to offer a public comment will be allowed to do so if time permits at the close of the testimony and questions based upon it. The Board's procedural rules also include an opportunity to file 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.

Interested persons may now request electronic notice of filings by providing their e-mail address through COOL under this docket number R09-10. 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, 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
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