

ILLINOIS POLLUTION CONTROL BOARD
May 24, 2010

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
REASONABLY AVAILABLE CONTROL) R10-20
TECHNOLOGY (RACT) FOR VOLATILE) (Rulemaking - Air)
ORGANIC MATERIAL EMISSIONS FROM)
GROUP IV CONSUMER & COMMERCIAL)
PRODUCTS: PROPOSED AMENDMENTS)
TO 35 ILL. ADM. CODE 211, 218, AND 219)

ORIGINAL

HEARING OFFICER ORDER

The second hearing in this “fast-track” rulemaking docket took place as scheduled on Wednesday, May 19, 2010, in Chicago. The Board received the transcript of that hearing (Tr.2) on Friday, May 21, 2010.

Section 28.5(f)(3) of the Environmental Protection Act (Act), which addresses hearings in “fast-track” rulemaking proceedings, provides that

[t]he third hearing shall be scheduled to commence within 14 days after the first day of the second hearing and shall be devoted solely to the [Illinois Environmental Protection] Agency response to the material submitted at the second hearing and to any response by other parties. The third hearing shall be cancelled if the Agency indicates to the Board that it does not intend to introduce any additional material. Public Act 96-0308, eff. Aug. 11, 2009 (P.A. 96-0308) (reenacting repealed Section 28.5).

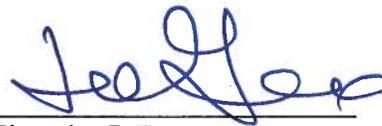
In an order dated March 18, 2010, the hearing officer directed that “[a]ll pre-filed testimony for the third hearing must be submitted no later than Friday, May 21, 2010.” *See* Tr.2 at 69, P.A. 96-0308 (requiring pre-filing at least 10 days before hearing). During the second hearing, counsel for the Agency reported that it “is unclear at this time whether it intends to introduce additional material, but we will make that decision within the next couple of days.” Tr.2 at 69. Counsel for the Agency agreed that, if it did not pre-file testimony for a third hearing by the deadline of May, 21, 2010, the Agency would indicate its intent to cancel the third hearing. *Id.*

The Agency did not pre-file testimony for a third hearing on or before the deadline of May 21, 2010. Accordingly, the third hearing scheduled to take place on June 2, 2010, is cancelled. *See* P.A. 96-0308 (Section 28.2(f)(3)).

Section 28.5(k) of the Act provides that, “[f]ollowing the hearings, the Board must close the record 14 days after the availability of the transcript.” P.A. 96-0308 (Section 28.5(k)). With the cancellation of the third hearing, the hearings in this proceeding concluded on Wednesday, May 19, 2010. On Friday, May 21, 2010, the Board received the transcript of the second and final hearing. Accordingly, the statutory 14-day comment period will close Friday, June 4, 2010.

The "mailbox rule" (35 Ill. Adm. Code 101.300(b)(2)) does not apply to the filing of post-hearing comments, and the Board's Clerk must receive any post-hearing comments before the close of business on Friday, June 4, 2010. Although documents may be filed electronically through the Clerk's Office On-Line from the Board's Web site (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 June 4, 2010. Questions about electronic filing should be directed to the Clerk's Office at 312-814-3629.

IT IS SO ORDERED.



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