

ILLINOIS POLLUTION CONTROL BOARD
December 10, 2010

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
PROPOSED SITE-SPECIFIC RULE) R11-17
AMENDMENT APPLICABLE TO SAINT-) (Site-Specific Rulemaking - Air)
GOBAIN CONTAINERS, INC. AT 35 ILL.)
ADM. CODE 217.152(b))

NOTICE OF HEARING

DATE, TIME, AND LOCATION:

THURSDAY, FEBRUARY 3, 2011

2:00 PM
Room 9-040, James R. Thompson Center
100 W. Randolph Street
Chicago, Illinois

PURPOSE OF HEARING: Merit and Economic

ATTENDING BOARD MEMBER: Andrea S. Moore

HEARING OFFICER: Timothy J. Fox

HEARING OFFICER ORDER

On November 24, 2010, Saint-Gobain Containers, Inc. (SGCI) filed a petition for site-specific rulemaking (Pet.). SGCI owns and operates a glass manufacturing plant, including three glass melting furnaces, at 13850 Cottage Grove Avenue in Dolton. Pet. at 2, 5. SGCI states that the Board's air pollution regulations require "such glass melting furnaces located in ozone and PM_{2.5} nonattainment areas in Illinois to meet a NO_x emissions limitation of 5.0 lb/ton of glass produced, by January 1, 2012." *Id.* at 2, citing 35 Ill. Adm. Code 217.204. SGCI further states that the regulations include an alternative compliance date of December 31, 2014 for units "required to meet emissions limitations for NO_x, as measured using a continuous emissions monitoring system, and included within a legally enforceable order on or before December 31, 2009, whereby such emissions limitations are less than 30 percent of the emissions limitations set forth under Section 217.204." 35 Ill. Adm. 217.152(b); *see* Pet. at 2, 8-10.

SGCI sought that alternative compliance date "because of an agreement that was being negotiated between SGCI, the United States Environmental Protection Agency, the Illinois Attorney General's office, the Illinois EPA [Environmental Protection Agency] and certain other states" at the time the Board promulgated Section 217.152. Pet. at 2; citing Nitrogen Oxides Emissions from Various Source Categories: Amendments to 35 Ill. Adm. Code Parts 211 and

217, R 08-19 (May 7, 2009) (first-notice opinion and order): *see* 35 Ill. Adm. Code 217.152. SGCI suggests that, while the participants in the Board's rulemaking process expected a qualifying agreement by the December 31, 2009, "the United States District Court for the Western District of Washington did not enter a Consent Decree meeting the requirements of 35 Ill. Adm. Code 217.152(b) until May 7, 2010. Pet. at 2-3; *see id.* at 8-11; *id.*, Exh. C (Agency letter). SGCI states that, in order for its Dolton plant to qualify for the December 31, 2014 compliance date, it proposes to amend Section 217.152(b) by changing the deadline for obtaining a legally enforceable order to May 7, 2010. Pet. at 3, 10.

The Board will conduct one hearing in order to allow SGCI and any other interested participants the opportunity to present testimony on the merits and economic impact of the proposal. At hearing, all persons who wish to 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.

Pre-Filing Deadlines

Participants who intend to testify at hearing are urged to pre-file their testimony and are directed to serve pre-filed testimony on 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.

Participants who wish to testify at the hearing are directed to pre-file all of their testimony and any related exhibits no later than Thursday, January 20, 2011.

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 Thursday, January 20, 2010. 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 Hearing

At hearing, all pre-filed testimony will be entered into the record as if read. *See* 35 Ill. Adm. Code 102.424(f). The hearing officer intends to begin the hearing by allowing SGCI as the proponent to present the pre-filed testimony of all of its witnesses. A witness may offer a brief summary of pre-filed testimony if he or she wishes to provide one before turning to questions. After SGCI addresses questions from other participants, other persons who have pre-filed testimony will testify. Participants who do not pre-file testimony will be allowed to testify after the conclusion of pre-filed testimony and questions based upon it.

Any participant who wishes to offer a public comment at the hearing will be allowed to do so at the close of pre-filed testimony and questions based upon it. In addition, the Board's procedural rules include an opportunity to file post-hearing comments. *See* 35 Ill. Adm. Code

102.108(b). Those rules also provide that, during any first notice period, “[t]he Board will accept written comments from any person concerning the proposal.” 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 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.

Note that interested persons may now request electronic notice of filings by providing their e-mail address through COOL under this docket number R11-17. This 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.



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