

ILLINOIS POLLUTION CONTROL BOARD
May 31, 2013

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
VAPOR RECOVERY RULES:) R13-18
AMENDMENTS TO 35 ILL. ADM. CODE) (Rulemaking - Air)
PARTS 201, 218, and 219)



ORIGINAL

HEARING OFFICER ORDER

On March 18, 2013, the Illinois Environmental Protection Agency (IEPA) filed a rulemaking proposal to amend the Board's air pollution rules at 35 Ill. Adm. Code 201, 218, and 219. The proposal includes the phase out of Stage II vapor recovery systems at gasoline dispensing operations in the Chicago ozone nonattainment area. First-notice publication of the proposed amendments appeared in the *Illinois Register* on May 10, 2013. See 37 Ill. Reg. 6028, 6054, 6083 (May 10, 2013).

The second of two scheduled hearings will be held in Chicago, beginning at 1:00 p.m. on June 5, 2013. The deadline to pre-file testimony for the hearing was May 30, 2013. Only IEPA pre-filed testimony. Attached to this order are Board staff questions for the witnesses of IEPA. These questions will be taken up at the second hearing. IEPA is not required to present written responses to the attached questions before or at hearing. The hearing officer will, of course, provide opportunities for other participants attending the hearing to pose questions to IEPA.

IT IS SO ORDERED.

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ATTACHMENT TO HEARING OFFICER ORDER

May 31, 2013

Board Staff Questions for Second Hearing

Docket R13-18, *Vapor Recovery Rules: Amendments to
35 Ill. Adm. Code Parts 201, 218, and 219*

IEPA Forms

1. IEPA's draft form entitled "Notice of Intent to Decommission Stage II Vapor Recovery Equipment" (Notice of Intent) is provided as Exhibit 1 to Darwin Burkhart's pre-filed testimony.
 - a. The top of page 1 of the Notice of Intent calls for the form to be "submitted to the Illinois EPA at least 10 days prior to commencing Stage II decommissioning." This language is nearly identical to the rule language of proposed Section 218.586(i)(2)(A). In IEPA's view, will an owner or operator comply with the rule by simply *sending* the completed Notice of Intent to IEPA (*e.g.*, placing in U.S. Mail with sufficient postage) at least 10 days in advance, or must IEPA have *received* the completed form at least 10 days in advance?
 - b. The first box to complete on the Notice of Intent calls for the "Proposed Date of Decommissioning," with "(m/dd/yyyy)" provided. As decommissioning may take more than one day to perform, should the form ask for the proposed date on which decommissioning will commence or the proposed dates on which decommissioning will be performed?

2. IEPA's draft form entitled "Stage II Decommissioning Checklist" (Checklist) is provided as Exhibit 2 to Mr. Burkhart's pre-filed testimony.
 - a. The top of page 1 of the Checklist calls for the form to be "submitted to the Illinois EPA within 30 days after the completion of decommissioning." This language is similar to the rule language of proposed Section 218.586(i)(2)(C): "Within 30 days after completion of the decommissioning . . . , the owner or operator shall provide the completed [Checklist] to the Agency." In IEPA's view, will an owner or operator comply with the rule by simply *sending* the completed Checklist to IEPA (*e.g.*, placing in U.S. Mail with sufficient postage) within 30 days after completing decommissioning, or must IEPA have *received* the completed form within the 30 days?
 - b. The first box to complete on the Checklist calls for the "Date of Decommissioning Stage II Equipment," with "(m/dd/yyyy)" provided. As decommissioning may take more than one day to perform, should the form ask for the date on which decommissioning was completed or the dates on which the decommissioning was performed?

Technical Support Document

1. On pages 4 and 5 of Chuck Gebhardt's pre-filed testimony, in response to questions about the Technical Support Document (TSD) referring to the "2014 cross-over point" (TSD at 8, 9), Mr. Gebhardt states that IEPA "modeled July" and that the 0.07 ton per day difference is "for July 2014." Please explain IEPA's reasoning for selecting January 1, 2014, to initiate the Stage II phase out rather than July 1, 2014.
2. On page 5 of Mr. Gebhardt's pre-filed testimony, Mr. Gebhardt states that IEPA believes refueling emissions would decrease over time even with ORVR plus Stage II "because newer vehicles with better gas mileage are replacing older vehicles with poor mileage." Does the better gas mileage result in reduced refueling emissions because less time is spent filling up at the pump and less fuel is dispensed?

Miscellaneous

1. If a company owns used Stage II vapor recovery equipment and opens, in the Chicago nonattainment area, a "new gasoline dispensing operation that commences operating for the first time on or after January 1, 2014," might the company have any economic incentive to make use of its used Stage II equipment at the new operation? *See* proposed Section 218.586(d)(2).
 - a. If the new operation did make use of used Stage II vapor recovery equipment, would the proposed rules require decommissioning of the Stage II equipment? *See* proposed Section 218.586(i) ("operation subject at any time to subsection (c) above shall decommission"); *see also* proposed Section 218.586(d)(2) ("subsection (c) above shall not apply to any new gasoline dispensing operation").
 - b. Should "any new gasoline dispensing operation that commences operating for the first time on or after January 1, 2014," be *prohibited* from using Stage II vapor recovery equipment? *See* proposed Section 218.586(d)(2) (makes Stage II vapor recovery requirement *inapplicable* to new operations).
2. Please provide references to programs for contractors to obtain "dispenser-manufacturer certifications and training," as this language is used in proposed Section 218.586(i)(2)(i).