

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF:	)	
	)	R06-25
PROPOSED NEW 35 ILL. ADM. CODE 225	)	(Rulemaking – Air)
CONTROL OF EMISSIONS FROM	)	
LARGE COMBUSTION SOURCES	)	

**NOTICE**

TO: Dorothy Gunn	Marie Tipsord
Clerk	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
James R. Thompson Center	James R. Thompson Center
100 West Randolph St., Suite 11-500	100 West Randolph St., Suite 11-500
Chicago, IL 60601-3218	Chicago, IL 60601-3218
(Electronic Mail)	(First Class Mail)

**SEE ATTACHED SERVICE LIST**

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the MOTION CONCERNING GUIDELINES AND FORMAT OF FIRST HEARING, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/\_\_\_\_\_  
Charles E. Matoesian  
Assistant Counsel  
Division of Legal Counsel

DATED: April 3, 2006

1021 North Grand Avenue East  
P. O. Box 19276  
Springfield, IL 62794-9276  
217/782-5544

**THIS FILING IS SUBMITTED  
ON RECYCLED PAPER**

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
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PROPOSED NEW 35 ILL. ADM. CODE 225 ) R06-25  
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**MOTION CONCERNING GUIDELINES AND FORMAT OF FIRST HEARING**

NOW COMES the Proponent, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (Illinois EPA), by one of its attorneys, and pursuant to 35 Ill. Adm. Code 101.502, moves that the Hearing Officer issue an order setting forth the guidelines and format of the first hearing scheduled for May 8, 2006. In support of its Motion, the Illinois EPA respectfully states as follows:

As the Illinois EPA stated in its Motion to Hold Required Hearings in Springfield that was filed with the rulemaking proposal on March 14, 2006, the Illinois EPA held public outreach meetings and numerous industry and environmental organization representatives participated in these meetings and expressed significant interest in this rulemaking proposal. Consistent with this strong public interest, and the fact that Section 102.304 of the Board's procedural rules states that the first hearing "is reserved for the Agency's testimony and questions of the Agency's witnesses," the Illinois EPA proposes the following format for the conduct of the first hearing so as to maximize State resources.

The Illinois EPA moves that to assure smooth operation of the first hearing and to ensure an orderly flow of questioning, the examination of witnesses follow a structure based upon specified topics being presented on particular days. The areas encompassed within the chapters of the Illinois EPA's *Technical Support Document for Reducing Mercury Emissions from Coal-Fired Electric Generating Units* ("TSD"), listed as follows, are useful in setting the format of the hearing:

Chapter 1.0	Introduction
Chapter 2.0	Background Information on Mercury
Chapter 3.0	Mercury Impacts on Human Health
Chapter 4.0	Mercury Impaired Waters in Illinois
Chapter 5.0	Deposition of Mercury
Chapter 6.0	Regulatory Activities – Federal and Other States
Chapter 7.0	Illinois Mercury Emissions Standards for Coal-Fired Electric Generating Units
Chapter 8.0	Technical Feasibility of Controlling Mercury Emissions from Coal-Fired Power Plants in Illinois
Chapter 9.0	Economic Modeling
Chapter 10.0	Other Relevant Issues and Additional Considerations

A hearing structure based upon the above subject areas allows witnesses to concentrate on the particular area covered for a given day rather than attempting to prepare for all fields of questioning. Devoting particular days to specific topics will also maintain clarity as the record of the proceedings is created. Further, use of a schedule such as the one proposed herein will allow all parties to gauge the progress of the hearing. This will help facilitate the conduct of the hearing.

In addition, restricting questioning to particular topics will help conserve State resources, as the outside expert witnesses will not be required to be present for an indeterminate time. Rather, each expert can provide his or her testimony for the hearing on the appropriate day. Moreover, one of the Illinois EPA's expert witnesses, Dr. Deborah Rice, is only available to testify on May 8 due to a prior commitment. Such a system will greatly reduce State expenses involved with the hearing. For these reasons, the Illinois EPA recommends the following schedule for the format of the first hearing:

<u>Day</u>	<u>Areas Covered</u>
Monday, May 8	Chapter 1.0 Introduction Chapter 2.0 Background Information on Mercury Chapter 3.0 Mercury Impacts on Human Health
Tuesday, May 9	Chapter 4.0 Mercury Impaired Waters in Illinois Chapter 5.0 Deposition of Mercury Chapter 9.0 Economic Modeling

Wednesday, May 10	Chapter 6.0	Regulatory Activities – Federal and Other States
	Chapter 7.0	Illinois Mercury Emissions Standards for Coal-Fired Electric Generating Units
Thursday, May 11	Chapter 8.0	Technical Feasibility of Controlling Mercury Emissions from Coal-Fired Power Plants in Illinois
	Chapter 10.0	Other Relevant Issues and Additional Considerations

In the event that questions on one topic area do extend beyond the allotted day, it is suggested that that line of inquiry be continued at the start of the following day. As can be seen, the suggested order of topics largely follows the order of the TSD. This is both logical and will allow most outside experts to finish testifying on Tuesday. If essential questions arise that can only be answered by a particular expert witness who has already testified, the Illinois EPA suggests that the witness be allowed to respond with written answers.

This arrangement ensures that the flow of questioning proceed in an orderly fashion and follow a logical order. It further provides that all parties can prepare for the same topics at the same time. As the point of a public hearing is to gather information, this system will reduce confusion over the content and direction of questioning. Finally, it conserves scarce State resources in a time of budget concern.

WHEREFORE, for the reasons set forth above, the Illinois EPA moves that the Hearing Officer enter an order setting the guidelines and format of the first hearing as indicated above.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/ \_\_\_\_\_  
Charles E. Matoesian  
Assistant Counsel  
Division of Legal Counsel

DATED: April 3, 2006

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STATE OF ILLINOIS	)	
	)	SS
COUNTY OF SANGAMON	)	
	)	

**CERTIFICATE OF SERVICE**

I, the undersigned, an attorney, state that I have served electronically the attached MOTION CONCERNING GUIDELINES AND FORMAT OF FIRST HEARING upon the following person:

Dorothy Gunn  
Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph St., Suite 11-500  
Chicago, IL 60601-3218

and mailing it by first-class mail from Springfield, Illinois, with sufficient postage affixed to the following persons:

**SEE ATTACHED SERVICE LIST**

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

/s/ \_\_\_\_\_  
Charles E. Matoesian  
Assistant Counsel  
Division of Legal Counsel

Dated: April 3, 2006

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