

**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(MERCURY)	)	

**NOTICE**

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

**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 FOR LEAVE TO FILE INSTANTER PRE-FILED QUESTIONS, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL  
 PROTECTION AGENCY

By: \_\_\_\_\_  
 John J. Kim  
 Managing Attorney  
 Air Regulatory Unit  
 Division of Legal Counsel

DATED: August 8, 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**

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

**MOTION FOR LEAVE TO FILE INSTANTER PRE-FILED QUESTIONS**

NOW COMES the Proponent, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), by one of its attorneys, and pursuant to 35 Ill. Adm. Code 101.500, moves that the Illinois Pollution Control Board (“Board”) grant the Illinois EPA leave to file instanter its Pre-filed Questions. In support of its Motion, the Illinois EPA states as follows:

1. On June 28, 2006, the Hearing Officer issued an order which provided, *inter alia*, two different schedules for filing and responding to pre-filed testimony. Specifically, participants to the upcoming hearing to be held in Chicago, Illinois, beginning on August 14, 2006, could submit pre-filed testimony on either July 24, 2006, or July 28, 2006. In turn, parties wishing to file pre-filed questions of the pre-filed testimony were required to submit such questions by August 4, 2006, or August 7, 2006, respectively.

2. Late on July 28, 2006, the Illinois EPA received copies of pre-filed testimony from participants to this rulemaking proceeding. The Illinois EPA received testimony of 11 different witnesses for which pre-filed questions were warranted.

3. The time needed to review this pre-filed testimony, and prepare comments related thereto, slightly exceeded the time otherwise allowed by the Board in its order. The Illinois EPA agreed to the time frame imposed in the order, and spent considerable resources in an effort to comply with that deadline.

4. Unfortunately, the pre-filed questions were not completed by 4 p.m. on August 7, 2006, to allow for a timely filing. However, the pre-filed questions were completed shortly after 4 p.m. on that date, and were provided to all participants via electronic mail just after 4:30 p.m. on August 7<sup>th</sup>. Thus, the participants whose witnesses need to review and prepare to respond to the Illinois EPA's pre-filed questions received those questions less than one hour after the deadline imposed in the June 28, 2006 order. This delay, although regrettable, is so short as to not result in any prejudice on the part of those affected participants.

5. Further, although the Illinois EPA's submitted pre-filed questions will not be deemed filed until August 8, 2006, the Illinois EPA did submit via the Board's COOL filing system those questions prior to 4:30 p.m. on August 7<sup>th</sup>. Therefore, Board staff that wished to review the pre-filed questions had access to the questions no more than 30 minutes later than the time of the filing deadline.

6. The Illinois EPA regrets missing the filing deadline for its pre-filed questions, no matter how slim the margin of such delay. The time spent in crafting the pre-filed questions was intended to result in an expeditious hearing to be convened in Chicago, and hopefully the time spent on the questions will benefit all parties to this proceeding.

WHEREFORE, for the reasons set forth above, the Illinois EPA respectfully moves that the Board grant leave to file instanter the Illinois EPA's pre-filed questions.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: \_\_\_\_\_  
John J. Kim  
Managing Attorney  
Air Regulatory Unit  
Division of Legal Counsel

DATED: August 8, 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 FOR LEAVE TO FILE INSTANTER PRE-FILED QUESTIONS 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

\_\_\_\_\_  
John J. Kim  
Managing Attorney  
Air Regulatory Unit  
Division of Legal Counsel

Dated: August 8, 2006

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