

ILLINOIS POLLUTION CONTROL BOARD
DECEMBER 8, 2009

RECEIVED
CLERK'S OFFICE

DEC 11 2009

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF: REASONABLY)
AVAILABLE CONTROL TECHNOLOGY)
FOR VOLATILE ORGANIC MATERIAL)
EMISSIONS FROM GROUP TO)
CONSUMER AND COMMERCIAL) R10-8
PRODUCTS, PROPOSED AMENDMENTS)
TO 35 ILLINOIS ADMINISTRATIVE)
CODE 211, 218, and 219.)
)

REPORT OF PROCEEDINGS at the hearing of the
above-entitled cause, taken before Rebecca A.
Graziano, Certified Shorthand Reporter within and
for the County of Cook and State of Illinois, at the
Thompson Center, Room 9-040, Chicago, Illinois,
commencing at the hour of 9:00 a.m. on the 8th day
of December, A.D., 2009.

A P P E A R A N C E S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

ILLINOIS POLLUTION CONTROL BOARD

Mr. Timothy J. Fox
Ms. Carrie Zalewski
Mr. G. Tanner Girard
Ms. Andrea S. Moore
Mr. Anand Rao
Mr. Gary Blankenship

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Ms. Dana Vetterhoffer
Mr. David Bloomberg

1 MR. FOX: Good morning and welcome to
2 this Illinois Pollution Control Board hearing. My
3 name is Tim Fox, and I am the hearing officer for
4 this rulemaking proceeding, which is entitled, In
5 the matter of Reasonably Available Control
6 Technology, RACT -- pronounced RACT -- for volatile
7 organic material emissions from group to consumer
8 and commercial products, proposed amendments to
9 35 Illinois Administrative Code 211, 218, and 219.

10 I want to introduce, also present
11 from the board today, the following: At my
12 immediate right is Board Member Andrea S. Moore, who
13 is the board member assigned to this rulemaking. To
14 her right is the board's acting chair,
15 Dr. G. Tanner Girard. To my far left is Board
16 Member Gary Blankenship, and at my immediate left is
17 Anand Rao of the Board's technical unit. We are
18 expecting also to see Board Member Carrie Zalewski
19 -- spelled Z-a-l-e-w-s-k-i -- who has let us know
20 that the inclement weather has delayed her a moment
21 or two.

22 Moving on, the board docket number
23 for this rulemaking is R10-8. The Illinois
24 Environmental Protection Agency, IEPA, filed this

1 proposal on July 9th of 2009. And in an order dated
2 August 6th of 2009, the Board accepted the Agency's
3 proposal for hearing. Please note that on
4 September 14th of 2009 the IEPA filed a motion to
5 amend its proposal. The Board granted that motion,
6 which was unopposed, in an order dated October 15th
7 of 2009.

8 Also, please note that the IEPA,
9 yesterday on December 7th of 2009, filed with the
10 Board a second motion to amend its rulemaking
11 proposal. Under the Board's procedural rules, that
12 motion opens a 14-day response period, and the Board
13 itself will address the substance of that motion at
14 a later date.

15 Today we are holding the second
16 hearing in this rulemaking. The first took place on
17 October 27th, 2009, in Edwardsville, Madison County,
18 Illinois. In an order dated October 28th of 2009,
19 the hearing officer directed participants wishing to
20 pre-file testimony for this second hearing to do so
21 no later than November 17th of 2009. The same order
22 directed participants to pre-file questions based on
23 that pre-filed testimony no later than December 3rd,
24 2009.

1 The record in this docket shows
2 that no participant has pre-filed testimony or
3 questions for this hearing. If any participant does
4 wish to provide testimony today, there is a sign-up
5 sheet and pens just inside the door of this room
6 adjacent to the court reporter. Like any witnesses
7 who had pre-filed testimony, those who had not done
8 so would be sworn and would be subject to questions
9 about their testimony.

10 I can see clearly those sign-up
11 sheets do not reflect that any person wishes to
12 offer testimony, and there is no one present this
13 morning, other than members of the Board, the Board
14 staff, or representatives of the Agency. Without
15 pre-filed testimony, we would begin with testimony
16 by those who did not pre-file it. However, that is
17 a moot point in the absence of anyone indicating
18 that they wish to do so.

19 We would then customarily turn to
20 questions on the part of those who had not pre-filed
21 them, but Mr. Rao of the Board's technical staff
22 assures me that he has no additional questions after
23 the first hearing, and consequently we do not have
24 anyone present who wishes to ask additional

1 questions of the Agency about its amended proposal.

2 As time would permit, after the
3 conclusion of any testimony or questions,
4 participants may, of course, offer public comment.
5 My intention this morning is in the absence of any
6 pre-filed testimony or other oral testimony or
7 questions, simply to go off the record in a moment
8 or two, because we are having inclement weather that
9 would allow anyone who was delayed to assure that
10 they could take part if they did wish to offer any
11 testimony or ask any questions.

12 Just for the record, this
13 proceeding is governed by the Board's procedural
14 rules, all information that is relevant and that is
15 not repetitious or privileged will be admitted into
16 the record. And in the event that the board members
17 or board staff do have any questions, those are
18 intended solely to help develop a clear and complete
19 record for the board's ultimate decision, and do not
20 reflect any judgment or conclusion regarding the
21 proposal.

22 Before we, as I had indicated, do
23 go off the record for a short time, is there any
24 question at all about the proceedings?

1 Ms. Vetterhoffer, it's probably appropriate, just
2 for the record, for you to identify those
3 representatives of the Agency are present. And if
4 this is an appropriate time to do that, please feel
5 free to go ahead.

6 MS. VETTERHOFFER: I'm Dana
7 Vetterhoffer with the Illinois EPA.

8 MR. BLOOMBERG: I am David Blumberg,
9 compliance unit manager of the Bureau of Air,
10 Illinois EPA.

11 MR. FOX: And having taken care of
12 some of those introductory matters, let's go off the
13 record and resume in 15 minutes.

14 (Whereupon, a discussion was had
15 off the record.)

16 MR. FOX: Thank you, first of all, for
17 everyone's patience in going off the record. We
18 have not had anyone else physically appear who might
19 wish to offer any testimony or pose any questions,
20 and the sign-up sheet that was left available for
21 anyone who might wish to offer testimony remains
22 blank. So clearly there was no one interested in
23 addressing the substance of the Agency's amended
24 proposal or their motion to amend that that was

1 filed yesterday on December 7th.

2 I do want to move onto the issue
3 off an economic impact study. Since 1998,
4 Section 27-B of the Environmental Protection Act has
5 required that the Board request that the department,
6 now known as the Department of Commerce and Economic
7 Opportunity, or DCEO, conduct an economic impact
8 study of proposed rules before the Board adopts
9 rules. The Board must make either the economic
10 impact study or the Department's explanation for not
11 conducting one available to the public at least
12 20 days before a hearing.

13 In a letter dated August 6th,
14 2009, the Board, through acting chairman, Dr.
15 Girard, requested that DCEO conduct that economic
16 impact study on this proposal, and to date the Board
17 has received nothing from DCEO responding to that
18 request. Is there anyone who would like to testify
19 or otherwise offer comment regarding the request
20 from the board to DCEO?

21 Neither seeing nor hearing any
22 interest in doing so, I do want the record to
23 reflect that Board Member Carrie Zalewski has
24 arrived and is seated next to Dr. Girard.

1 I also want to address, before we
2 adjourn, the issue of filing post-hearing comments.
3 Before it takes any action on the Agency's amended
4 proposal, the Board will hold open a post-hearing
5 comment ending on Monday, December 28th. The board
6 does expect to receive the transcript by Friday,
7 December 11th, while the 14-day comment period would
8 customarily run until Friday, December 25th. That
9 is, of course, Christmas Day, and a state holiday,
10 which will push that 14-day deadline until the
11 following Monday, the 28th.

12 I will issue a hearing officer
13 order very shortly that clarifies, for the record
14 and for any participants, that those comments would
15 be due on that date of Monday, December 28th.
16 Again, the copies of the transcript are expected to
17 be available to the Board by Friday, December 11th,
18 2009. And once it is filed with the Board, that
19 transcript will be available very quickly on the
20 Board's website.

21 In addition, for the record,
22 anyone may file written public comments in this
23 rulemaking with the clerk. The Board comments may
24 be filed electronically through the Board's clerk's

1 office on line or COOL, C-O-O-L. Any questions
2 about electronic filing through COOL should be
3 directed to the clerk's office.

4 And finally, any filings with the
5 Board, whether paper or electronic, must also be
6 served on the hearing officer, and all persons or
7 entities on the service list. And again, before
8 filing with the clerk, please contact the clerk's
9 office to ensure that you have the most recent
10 version of the service list.

11 If anyone has questions about
12 procedural aspects of the rulemaking, they may
13 always reach me, as the hearing officer, through the
14 contact information that is listed on the Board's
15 website.

16 For the record also, no other
17 hearings are now scheduled in this rulemaking, and
18 the Board would not expect to schedule any
19 additional hearings.

20 Are there matters of any kind that
21 any of the participants would like to address on the
22 record before we adjourn? Seeing no hands or any
23 indication that there are questions, I certainly
24 would like to thank the Agency for their travel to

1 this very brief hearing, and for your help and for
2 your testimony including the first hearing. Thank
3 you again, and we can adjourn.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

1 STATE OF ILLINOIS)
2 COUNTY OF COOK) SS

3

4

5

REBECCA A. GRAZIANO, being first

6

duly sworn on oath says that she is a court reporter

7

doing business in the City of Chicago; that she

8

reported in shorthand the proceedings given at the

9

taking of said hearing and that the foregoing is a

10

true and correct transcript of her shorthand notes

11

so taken as aforesaid and contains all the

12

proceedings given at said hearing.

13

14

15

Rebecca Graziano
REBECCA A. GRAZIANO, CSR
29 South LaSalle Street, Suite 850
Chicago, Illinois 60603
License No.: 084-004659

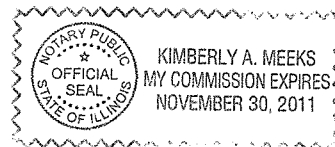
16

17

18

19

SUBSCRIBED AND SWORN TO
before me this 11th day
of December, A.D., 2009.



20

21

Kimberly A Meeks
Notary Public

22

23

24

A	Anand 2:5 3:17	8:20,23 9:4 9:5,17,18	commercial 1:4 3:8	DCEO 8:7,15 8:17,20	event 6:16
about 5:9 6:1 6:24 10:2 10:11	Andrea 2:5 3:12	9:23 10:5 10:18	complete 6:18	deadline 9:10	everyone's 7:17
above-entit... 1:9	anyone 5:17 5:24 6:9	board's 3:14 3:17 4:11	compliance 7:9	December 1:1,14 4:9	expect 9:6 10:18
absence 5:17 6:5	7:18,21 8:18 9:22	5:21 6:13 6:19 9:20	conclusion 6:3,20	4:23 8:1 9:5 9:7,8,15,17	expected 9:16
accepted 4:2	10:11	9:24 10:14	conduct 8:7 8:15	decision 6:19	expecting 3:18
Act 8:4	appear 7:18	brief 11:1	conducting 8:11	delayed 3:20 6:9	explanation 8:10
acting 3:14 8:14	appropriate 7:1,4	Bureau 7:9	consequently 5:23	department 8:5,6	<hr/> F <hr/>
action 9:3	arrived 8:24	business 12:7	consumer 1:4 3:7	Departmen... 8:10	far 3:15
addition 9:21	aspects 10:12	<hr/> C <hr/>	contact 10:8 10:14	develop 6:18	feel 7:4
additional 5:22,24 10:19	assigned 3:13	C 2:1	contains 12:11	directed 4:19 4:22 10:3	file 9:22
address 4:13 9:1 10:21	assure 6:9	care 7:11	Control 1:1,3 2:2 3:2,5	discussion 7:14	filed 3:24 4:4 4:9 8:1 9:18 9:24
addressing 7:23	assures 5:22	Carrie 2:4 3:18 8:23	Cook 1:11 12:2	docket 3:22 5:1	filing 9:2 10:2,8
adjacent 5:6	August 4:2 8:13	cause 1:9	COOL 10:1 10:2	doing 8:22 12:7	filings 10:4
adjourn 9:2 10:22 11:3	available 1:3 3:5 7:20	Center 1:12	copies 9:16	done 5:7	finally 10:4
Administr... 1:5 3:9	8:11 9:17 9:19	certainly 10:23	correct 12:10	door 5:5	first 4:16 5:23 7:16
admitted 6:15	A.D 1:14 12:20	Certified 1:10	County 1:11 4:17 12:2	Dr 3:15 8:14 8:24	following 3:11 9:11
adopts 8:8	a.m 1:13	chair 3:14	course 6:4 9:9	due 9:15	foregoing 12:9
aforesaid 12:11	<hr/> B <hr/>	chairman 8:14	CSR 12:15	duly 12:6	Fox 2:3 3:1,3 7:11,16
after 5:22 6:2	based 4:22	Chicago 1:12 12:7,16	customarily 5:19 9:8	<hr/> E <hr/>	free 7:5
again 9:16 10:7 11:3	before 1:9 6:22 8:8,12	Christmas 9:9	court 5:6 12:6	E 2:1,1	Friday 9:6,8 9:17
Agency 2:7 3:24 5:14	9:1,3 10:7 10:22 12:19	City 12:7	CSR 12:15	economic 8:3 8:6,7,9,15	from 1:4 3:7 3:11 8:17 8:20
6:1 7:3 10:24	begin 5:15	clarifies 9:13	course 6:4 9:9	Edwardsvi... 4:17	<hr/> G <hr/>
Agency's 4:2 7:23 9:3	being 12:5	clear 6:18	C-O-O-L 10:1	either 8:9	G 2:4 3:15
ahead 7:5	blank 7:22	clearly 5:10 7:22	commencing 1:13	electronic 10:2,5	Gary 2:6 3:16
Air 7:9	Blankenship 2:6 3:16	clerk 9:23 10:8	comment 6:4 8:19 9:5,7	electronica... 9:24	Girard 2:4 3:15 8:15 8:24
allow 6:9	Bloomberg 2:9 7:8	clerk's 9:24 10:3,8	comments 9:2,14,22 9:23	emissions 1:4 3:7	given 12:8,12
always 10:13	Blumberg 7:8	Code 1:6 3:9	Commerce 8:6	ending 9:5	go 6:7,23 7:5 7:12
amend 4:5,10 7:24	board 1:1 2:2 3:2,11,12	commencing 1:13	Dana 2:8 7:6	ensure 10:9	going 7:17
amended 6:1 7:23 9:3	3:13,15,18 3:22 4:2,5	comment 6:4 8:19 9:5,7	date 4:14 8:16 9:15	entities 10:7	Good 3:1
amendments 1:5 3:8	4:10,12 5:13,13	comments 9:2,14,22 9:23	dated 4:1,6 4:18 8:13	entitled 3:4	
	6:16,17 8:5 8:8,9,14,16	Commerce 8:6	David 2:9 7:8	Environme... 2:7 3:24 8:4	
			day 1:13 9:9 12:19	EPA 7:7,10	
			days 8:12		

governed 6:13	5:17	M	O	persons 10:6	questions
granted 4:5	indication 10:23	Madison 4:17	oath 12:6	physically 7:18	4:22 5:3,8
Graziano 1:10 12:5	information 6:14 10:14	make 8:9	October 4:6	place 4:16	5:20,22 6:1
12:15	inside 5:5	manager 7:9	off 6:7,23	please 4:3,8	6:3,7,11,17
group 1:4 3:7	intended 6:18	material 1:3	7:12,15,17	7:4 10:8	7:19 10:1
H	intention 6:5	3:7	8:3	point 5:17	10:11,23
hands 10:22	interest 8:22	matter 1:2	offer 5:12 6:4	Pollution 1:1	quickly 9:19
having 6:8	interested 7:22	3:5	6:10 7:19	2:2 3:2	R
7:11	introduce 3:10	matters 7:12	7:21 8:19	pose 7:19	R 2:1
hearing 1:8	introductory 7:12	10:20	office 10:1,3	post-hearing 9:2,4	RACT 3:6,6
3:2,3 4:3,16	issue 8:2 9:2	may 6:4 9:22	10:9	9:2,4	Rao 2:5 3:17
4:19,20 5:3	9:12	9:23 10:12	officer 3:3	present 3:10	5:21
5:23 8:12	J	member 3:12	4:19 9:12	5:12,24 7:3	reach 10:13
8:21 9:12	J 2:3	3:13,16,18	10:6,13	pre-file 4:20	Reasonably 1:2 3:5
10:6,13	judgment 6:20	8:23	once 9:18	4:22 5:16	Rebecca 1:9
11:1,2 12:9	July 4:1	members 5:13 6:16	one 5:12 7:22	pre-filed 4:23 5:2,7	12:5,15
12:12	just 5:5 6:12	might 7:18	8:11	5:15,20 6:6	receive 9:6
hearings 10:17,19	7:1	7:21	onto 8:2	privileged 6:15	received 8:17
help 6:18	K	minutes 7:13	open 9:4	probably 7:1	recent 10:9
11:1	kind 10:20	moment 3:20	opens 4:12	procedural 4:11 6:13	record 5:1
her 3:14,20	know 3:19	6:7	Opportunity 8:7	10:12	6:7,12,16
12:10	known 8:6	Monday 9:5	oral 6:6	proceeding 3:4 6:13	6:19,23 7:2
hold 9:4	L	9:11,15	order 4:1,6	proceedings 1:8 6:24	7:13,15,17
holding 4:15	LaSalle 12:16	Moore 2:5	4:18,21	12:8,12	8:22 9:13
holiday 9:9	later 4:14,21	3:12	9:13	products 1:5	9:21 10:16
hour 1:13	4:23	moot 5:17	organic 1:3	3:8	10:22
I	least 8:11	morning 3:1	3:7	pronounced 3:6	reflect 5:11
identify 7:2	left 3:15,16	5:13 6:5	other 5:13	proposal 4:1	6:20 8:23
IEPA 3:24	7:20	most 10:9	6:6 10:16	4:3,5,11 6:1	regarding 6:20 8:19
4:4,8	let 3:19	motion 4:4,5	otherwise 8:19	6:21 7:24	relevant 6:14
Illinois 1:1,5	letter 8:13	4:10,12,13	P	8:16 9:4	remains 7:21
1:11,12 2:2	let's 7:12	7:24	P 2:1,1	proposed 1:5	repetitious 6:15
2:7 3:2,9,23	License 12:17	move 8:2	paper 10:5	3:8 8:8	REPORT 1:8
4:18 7:7,10	like 5:6 8:18	Moving 3:22	part 5:20	Protection 2:7 3:24 8:4	reported 12:8
12:1,16	10:21,24	must 8:9 10:5	6:10	provide 5:4	reporter 1:10
immediate 3:12,16	line 10:1	N	participant 5:2,3	public 6:4	5:6 12:6
impact 8:3,7	list 10:7,10	N 2:1	participants 4:19,22 6:4	8:11 9:22	representat... 5:14 7:3
8:10,16	listed 10:14	name 3:3	9:14 10:21	12:21	request 8:5
inclement 3:20 6:8		Neither 8:21	patience 7:17	push 9:10	8:18,19
including 11:2		next 8:24	pens 5:5	Q	requested 8:15
inclement 3:20 6:8		Notary 12:21	period 4:12	question 6:24	required 8:5
indicated 6:22		note 4:3,8	9:7		responding 8:17
indicating		notes 12:10	permit 6:2		
		nothing 8:17	person 5:11		
		November 4:21			
		number 3:22			

response 4:12	solely 6:18	Tim 3:3	8:1	8th 1:13
resume 7:13	some 7:12	time 6:2,23	_____	850 12:16
right 3:12,14	South 12:16	7:4	Z	_____
room 1:12	spelled 3:19	Timothy 2:3	Zalewski 2:4	9
5:5	SS 12:1	today 3:11	3:18 8:23	9th 4:1
rulemaking	staff 5:14,21	4:15 5:4	Z-a-l-e-w-s...	9-040 1:12
3:4,13,23	6:17	transcript	3:19	9:00 1:13
4:10,16	state 1:11 9:9	9:6,16,19	_____	
9:23 10:12	12:1	12:10	0	
10:17	Street 12:16	travel 10:24	084-004659	
rules 4:11	study 8:3,8	true 12:10	12:17	
6:14 8:8,9	8:10,16	turn 5:19	_____	
run 9:8	subject 5:8	two 3:21 6:8	1	
R10-8 1:4	SUBSCRI...	_____	11th 9:7,17	
3:23	12:19	U	14th 4:4	
_____	substance	ultimate 6:19	14-day 4:12	
S	4:13 7:23	Under 4:11	9:7,10	
S 2:1,5 3:12	Suite 12:16	unit 3:17 7:9	15 7:13	
same 4:21	sworn 5:8	unopposed	15th 4:6	
says 12:6	12:6,19	4:6	17th 4:21	
schedule	_____	until 9:8,10	1998 8:3	
10:18	T	_____	_____	
scheduled	take 6:10	V	2	
10:17	taken 1:9	version 10:10	20 8:12	
seated 8:24	7:11 12:11	very 9:13,19	2009 1:1,14	
second 4:10	takes 9:3	11:1	4:1,2,4,7,9	
4:15,20	taking 12:9	Vetterhoffer	4:17,18,21	
Section 8:4	Tanner 2:4	2:8 7:1,6,7	4:24 8:14	
see 3:18 5:10	3:15	volatile 1:3	9:18 12:20	
seeing 8:21	technical	3:6	211 1:6 3:9	
10:22	3:17 5:21	_____	218 1:6 3:9	
September	Technology	W	219 1:6 3:9	
4:4	1:3 3:6	want 3:10 8:2	25th 9:8	
served 10:6	testify 8:18	8:22 9:1	27th 4:17	
service 10:7	testimony	weather 3:20	27-B 8:4	
10:10	4:20,23 5:2	6:8	28th 4:18 9:5	
sheet 5:5	5:4,7,9,12	website 9:20	9:11,15	
7:20	5:15,15 6:3	10:15	29 12:16	
sheets 5:11	6:6,6,11	welcome 3:1	_____	
short 6:23	7:19,21	while 9:7	3	
shorthand	11:2	wish 5:4,18	3rd 4:23	
1:10 12:8	thank 7:16	6:10 7:19	35 1:5 3:9	
12:10	10:24 11:2	7:21	_____	
shortly 9:13	their 5:9 7:24	wishes 5:11	6	
shows 5:1	10:24	5:24	6th 4:2 8:13	
sign-up 5:4	Thompson	wishing 4:19	60603 12:16	
5:10 7:20	1:12	witnesses 5:6	_____	
simply 6:7	through 8:14	written 9:22	7	
Since 8:3	9:24 10:2	_____	7th 4:9 8:1	
	10:13	Y	_____	
		yesterday 4:9	8	
			8 1:1	