

ILLINOIS POLLUTION CONTROL BOARD

June 15, 2007

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
SECTION 27 PROPOSED RULES FOR) R07-19
NITROGEN OXIDE (NO_x) EMISSIONS) (Rulemaking - Air)
FROM STATIONARY RECIPROCATING)
INTERNAL COMBUSTION ENGINES AND)
TURBINES: AMENDMENTS TO 35 ILL.)
ADM. CODE PARTS 211 AND 217)

NOTICE OF HEARINGS

DATES, TIMES, AND LOCATIONS:

FIRST HEARING: TUESDAY, SEPTEMBER 18, 2007, CONTINUING, IF
NECESSARY, THROUGH FRIDAY, SEPTEMBER 28, 2007,
OR UNTIL BUSINESS IS COMPLETE, AT

9:00 AM
Illinois Environmental Protection Agency Office Building
Training Room, 1214 West
1021 N. Grand Ave. East, North Entrance
Springfield, Illinois

SECOND HEARING: MONDAY, NOVEMBER 5, 2007, CONTINUING, IF
NECESSARY, THROUGH FRIDAY, NOVEMBER 9, 2007, OR
UNTIL BUSINESS IS COMPLETE, AT

9:00 AM
James R. Thompson Center
Room 2-025
100 W. Randolph St.
Chicago, Illinois

AND RESUMING, IF NECESSARY, ON TUESDAY,
NOVEMBER 13, 2007 THROUGH FRIDAY, NOVEMBER 16,
2007, OR UNTIL BUSINESS IS COMPLETE, AT

9:00 AM
James R. Thompson Center
Room 11-512 (Illinois Pollution Control Board Conference Room)
100 W. Randolph St.
Chicago, Illinois

In compliance with the Americans with Disabilities Act and other applicable federal and State laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact John Therriault, Assistant Clerk of the Board, at 100 West Randolph St., Suite 11-500, Chicago, Illinois 60601, at telephone number 312/814-6931, fax number 312/814-3669, or TDD number 312/814-6032, five days prior to the hearing.

PURPOSE OF HEARINGS: Merit and Economic

ATTENDING BOARD MEMBER: Andrea S. Moore

HEARING OFFICER: Timothy J. Fox

HEARING OFFICER ORDER

The Board opened this docket by an order dated May 17, 2007. On April 6, 2007, the Board received from the Illinois Environmental Protection Agency (Agency) a proposal to amend Section 201.146 and Parts 211 and 217 of the Board's regulations, which concern air pollution. *See* 35 Ill. Adm. Code 201.146, 211, 217. Specifically, the proposal addressed the control of nitrogen oxides (NO_x) emissions from stationary reciprocating internal combustion engines and turbines. In an order dated May 17, 2007, the Board bifurcated the proposal by continuing to consider only the portion applicable to engines affected by the NO_x State Implementation Plan Call Phase II under the procedures of Section 28.5 of the Environmental Protection Act (Act) (415 ILCS 5/28.5(2006)) in docket R07-18. Section 28.5 provides for "fast-track" proceedings applying "solely to the adoption of rules proposed by the Agency and required to be adopted by the State under the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (CAAA)." 415 ILCS 5/28.5(a) (2006). Also in the May 17, 2007 order, the Board opened this docket R07-19 and directed the Clerk to cause publication of the remainder of the Agency's original proposal for first notice under Sections 27 and 28 of the Act without commenting on the merits of the proposal.

The Board will conduct two hearings to allow the proponent and any other interested participants the opportunity to present testimony on the merits and economic impact of the rulemaking proposal. At hearing, all persons who 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.

As indicated above in the notice of hearings, the hearing scheduled to begin on Tuesday, September 18, 2007, will continue, if necessary, through Friday, September 28, 2007. The hearing officer recognizes that the Yom Kippur holiday begins Friday, September 21, 2007, and does not intend to conduct the hearing in any manner that would conflict with observation of that holiday by any participant. The second hearing scheduled to begin Monday, November 5, 2007, will continue, if necessary, to Friday, November 16, 2007. Because of the State Veterans' Day holiday on Monday, November 12, 2007, the second hearing will not convene on that date.

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 is the list of persons who wish to receive only the Board's opinions and orders and the hearing officer orders. Note that interested persons may now request electronic notice of filings by providing their e-mail address through the Clerk's Office On-Line (COOL) under this docket number R07-19. This electronic

notice includes notice of the filing of documents that are not typically provided to persons on the Notice List. Through COOL, those documents may 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, 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.

Pre-Filing Deadlines

Participants who intend to testify at the first hearing must pre-file their testimony and serve the testimony on the hearing officer and all persons on the service list. Before filing pre-filed testimony or any other document with the Clerk, please check for the most recent version of the Service List with the hearing officer or the Clerk's Office.

Participants in the first hearing are directed to pre-file all of their testimony and any related exhibits no later than Monday, August 27, 2007. Under Section 27 of the Act (415 ILCS 5/27 (2006)), the first hearing is not limited to the testimony of the proponent. But, the hearing officer presently intends to allow the Agency to present the testimony of all of its witnesses before hearing the testimony of other participants. Therefore, any person wishing to testify at the first hearing should pre-file their testimony by August 27, 2007. Those participating in the first hearing are directed to pre-file questions based upon that pre-filed testimony by Monday, September 10, 2007. Participants in the second hearing are directed to pre-file all of their testimony and any related exhibits no later than Monday, October 15, 2007. Those participating in the second hearing are directed to pre-file questions based upon that pre-filed testimony by Monday, October 29, 2007.

The "mailbox rule" at 35 Ill. Adm. Code 101.300(b)(2) does not apply to the filing of this pre-filed testimony or pre-filed questions, and the Clerk must receive these documents before the close of business on the specified dates. However, pre-filed testimony, pre-filed questions, and other documents may be filed electronically through 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 Hearings

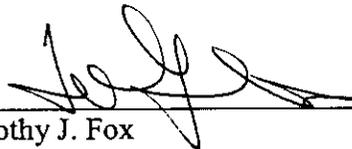
All pre-filed testimony will be entered into the record as if read (35 Ill. Adm. Code 102.424(f)). Although a brief summary of testimony will be allowed if a witness wishes, the hearing officer prefers that the witnesses proceed immediately to answering the pre-filed question posed to them. Participants who do not pre-file testimony will be allowed to testify as time permits at the close of pre-filed testimony and the questions based upon it. Similarly, any participant who wishes to offer a public comment will be allowed to do so as time permits at the close of pre-filed testimony and the questions based upon it. Consequently, any person wishing to testify at either of the two hearings is urged to pre-file their testimony in order to ensure that they have an opportunity to testify. In addition, the Board's procedural rules provide that "[t]he Board will accept written comments from any person concerning the proposed regulations during the first notice period." 35 Ill. Adm. Code 102.604.

The hearing scheduled to begin on September 18, 2007, will begin with the Agency's presentation of its case as the proponent. After the Agency has answered all pre-filed questions, and if time permits before the conclusion of the first hearing, other persons who have pre-filed may testify. The Board has reserved ample time for each hearing and anticipates that any person who wishes to testify will have an opportunity for testimony and any cross-examination. In the unlikely event that any person who pre-files testimony for the September 18, 2007 hearing cannot testify because time does not allow, that person will be permitted to testify at the beginning of the November 5, 2007 hearing.

The November 5, 2007 hearing will begin with anyone who pre-filed testimony for the September 18, 2007 hearing and who was not able to testify at that time. Following that testimony will be the testimony of participants who both support the Agency's proposal and have pre-filed testimony. The participants who oppose the Agency's proposal in whole or in part will then present their pre-filed testimony. Any participant who wishes to offer a public comment at the second hearing will be allowed to do so only if time permits at the close of pre-filed testimony and the questions based upon it. Again, written public comments may be submitted to the Board.

The hearing officer, upon agreement of the participants or upon motion to the hearing officer, may change the order of testimony at these hearings. *See* 35 Ill. Adm. Code 102.420, citing 35 Ill. Adm. Code 101. Subpart F.

IT IS SO ORDERED.



Timothy J. Fox
Hearing Officer
Illinois Pollution Control Board
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