

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

MOTION TO WITHDRAW TESTIMONY

NOW COMES the Proponent, the Illinois Environmental Protection Agency (Illinois EPA), by its attorneys, and pursuant to 35 Ill. Adm. Code 101.500 and 102.402, hereby requests that the Illinois Pollution Control Board (Board) grant the Illinois EPA leave to withdraw the testimony of Robert Kaleel, Yoginder Mahajan, Michael Koerber and Scott Leopold. In support of this Motion, the Illinois EPA states as follows:

1. On April 20, 2007, following the filing by the Illinois EPA of its proposal entitled, “Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Section 201.146, and Parts 211 and 217,” the Hearing Officer entered an order scheduling hearings and dates for prefiling testimony. The first hearing was scheduled for May 21, 2007, with service by the Illinois EPA of prefiled testimony required by May 11, 2007.

2. After the Illinois EPA’ filed testimony on May 11th, the Board ruled on May 17, 2007, on the Opponents’ Objections to the use of fast-track rulemaking procedures for the Illinois EPA’s above proposal. It entered an order bifurcating the rulemaking into two dockets. The order acknowledged that the hearing scheduled for Monday, May 21, 2007, would concern only engines affected by the NO_x SIP Call Phase II requirements. This significantly narrowed

the scope of the hearing scheduled for May 21st on R07-18.

3. On May 18, 2007, the Illinois EPA requested that pursuant to that order that the testimony of Michael Koerber and Scott Leopold be withdrawn from docket R07-18. The hearing officer granted that motion orally at hearing on May 21, 2007.

4. Also as part the Board's May 17, 2007, it electronically transferred all the documents, including the Illinois EPA's prefiled written testimony from R07-18 to the second docket R07-19. R07-19 is also more narrow in scope than the original docket in which the Illinois EPA filed the testimony of Robert Kaleel, Michael Koerber, Scott Leopold, and Yoginder Mahajan. The Illinois EPA is now in the process of evaluating how best to support the amended regulatory proposal. As the scope of the rulemaking has been narrowed and the testimony of Robert Kaleel, Michael Koerber, Scott Leopold, and Yoginder Mahajan concerns more than the issues addressed in new docket R07-19, to facilitate a hearing focused on the relevant issues, the Illinois EPA is requesting that the testimony of Robert Kaleel, Michael Koerber, Scott Leopold, and Yoginder Mahajan be withdrawn.

5. No prejudice will result from the granting of this request, as the Hearing Officer on June 15, 2007, provided a schedule for submission of testimony that allows the Illinois EPA until August 27, 2007, to file testimony in the new docket R07-19. This request is will facilitate a hearing more focused on the relevant issues.

WHEREFORE, for the reasons stated above, the Illinois EPA hereby respectfully requests that the Board grant the Illinois EPA's Motion to Withdraw Testimony.

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

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DATED: July 19, 2007

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