

ILLINOIS POLLUTION CONTROL BOARD
April 17, 2008

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)

ORDER OF THE BOARD (by A.S. Moore):

In an order dated May 17, 2007, the Board in this docket sent a rulemaking proposal to first notice without commenting on its merits. *See* 31 Ill. Reg. 7702 (June 8, 2007). In the same order, the Board bifurcated that proposal from rulemaking docket R07-18, which the Illinois Environmental Protection Agency (Agency) had filed on April 6, 2007. As the Board on January 10, 2008, granted the Agency's motion to proceed in this docket with an amended proposal, the Board below directs the Clerk to withdraw the first-notice of this rulemaking published in the *Illinois Register* on June 8, 2007.

Below, the Board provides an abbreviated procedural history before concluding to withdraw first-notice publication in this docket. The Board anticipates that this step will help eliminate the risk of confusion about the scope of the hearings in this matter.

ABBREVIATED PROCEDURAL HISTORY

On April 6, 2007, the Agency filed a rulemaking proposal intended to reduce emissions of nitrogen oxides (NO_x) from stationary reciprocating engines and turbines, which the Board docketed as R07-18. In an order dated May 17, 2007, the Board concluded that the Agency's entire proposal was not "required to be adopted" by the Clean Air Act (CAA) under Section 28.5 of the Environmental Protection Act (Act). 415 ILCS 5/28.5 (2006). Accordingly, the Board bifurcated the proposal by continuing to consider, in docket R07-18, only the portion applicable to the 28 internal combustion engines affected by the NO_x State Implementation Plan (SIP) Call Phase II under Section 28.5 "fast-track" procedures. The Board directed the publication of the remainder of the Agency's proposal for first notice under the general rulemaking provisions of Sections 27 and 28 of the Act (415 ILCS 5/27, 28 (2006)) in docket R07-19 without commenting on the merits of the proposal. The Board adopted final rules in R07-18 on September 20, 2007. See Fast-Track Rules Under Nitrogen Oxide (NO_x) SIP Call Phase II: Amendments to 35 Ill. Adm. Code Section 201.146 and Parts 211 and 217, R07-18 (Sept. 20, 2007); see also 31 Ill. Reg. 14254-71 (Oct. 12, 2007).

On June 15, 2007, the hearing officer issued an order in R07-19 scheduling a first hearing beginning September 18, 2007 in Springfield with prefiled testimony due to be filed by August 27, 2007, and prefiled questions based on that testimony due to be filed by September 10, 2007.

The same order scheduled a second hearing beginning November 5, 2007 in Chicago with prefiled testimony due to be filed by October 15, 2007, and prefiled questions based on that testimony due to be filed by October 29, 2007.

On August 23, 2007, the Agency filed a motion to cancel the scheduled hearings and associated prefiling deadline. In an order dated August 27, 2007, the hearing officer granted the motion. At the direction of the hearing officer, the Agency has since filed two status reports, a first on October 31, 2007, and a second, on November 19, 2007, which indicated that the Agency would file an amended proposal with the Board before the end of December 2007.

On December 20, 2007, the Agency filed its "Motion to Proceed with Amended Proposal and Withdraw Testimony." On January 3, 2008, the Illinois Environmental Regulatory Group filed its response.

In an order dated January 10, 2008, the Board granted the Agency's motion to proceed with the amended proposal and directed the assigned hearing officer to proceed to hearing under the rulemaking provisions of the Act and the Board's procedural rules. The Board also granted the Agency's motion to withdraw testimony submitted in support of the original proposal on May 11, 2007, and directed the Clerk to withdraw the specified testimony from the record of this proceeding.

CONCLUSION

As the Board on January 10, 2008, granted the Agency's motion to proceed in this docket with an amended proposal, the Board below directs the Clerk to withdraw the first-notice publication of this rulemaking. *See* 31 Ill. Reg. 7702 (June 8, 2007). The Board anticipates that this step will help eliminate the risk of confusion about the scope of the hearings in this matter.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 17, 2008, by a vote of 4-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board