

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)
)

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have served by electronically mailing the attached MOTION TO FILE INSTANTER AND RESPONSE TO POST-HEARING COMMENT of the Illinois Environmental Protection Agency upon the following persons:

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ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

/s/ _____
Rachel L. Doctors
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Dated: February 10, 2009

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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 AND 217)

**MOTION TO FILE INSTANTER AND
RESPONSE TO POST-HEARING COMMENT**

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), by its attorneys, and hereby submits its response to a comment submitted by Illinois Environmental Regulatory Group (“IERG”) on February 6, 2009, four days after the First Notice Comment deadline of February 2, 2009, and a Motion to File Instanter in the above rulemaking proceeding. As the comment was not submitted to the Illinois Pollution Control Board (“Board”) or served upon the Illinois EPA until after the comment deadline, and the Illinois EPA did not become aware of the contents of the comment until February 9, 2009, of the following week, the Illinois EPA could not submit a response by the February 2, 2009, deadline. The Illinois EPA moves the Board to grant its request for leave to file a response to the comment instanter.

IERG is requesting that the requirement that a replacement unit be used for the same purpose be eliminated for replacement units that have lower emissions. The Illinois EPA noted in its comment filed on February 5, 2009, that it disagreed with this concept but did not further its explanation because at that time IERG had not provided a basis for the request.

After receiving the comment, the Illinois EPA would like to restate its disagreement with IERG’s proposed language regarding ”replacement units.” The concept of including a replacement unit in the averaging provisions of the rule was proposed by the natural gas pipeline

industry to allow for and encourage the replacement of engines with newer, and cleaner engines. The concept as introduced by the pipeline industry, and as agreed to by the Illinois EPA, involved replacement of engines or turbines with new engines or turbines with substantially equivalent capacity that are used for the same purpose.

IERG is seeking a last minute revision of this concept that is inconsistent with the Illinois EPA's intent. Although IERG complains that the "...Illinois EPA's language as to 'same purpose' is dangerously vague," IERG justifies its position using a hypothetical example.

Ironically, the hypothetical new unit in IERG's example would probably qualify as a replacement unit under the IEPA's proposal. This is because its purpose would be to supply power to existing processes at the source. Without specific information, it is not possible to determine if IERG's proposal provides such a benefit to the public or the environment. The Illinois EPA, therefore, opposes the proposed language.

More generally, IERG claims that their proposed language will provide environmental benefit. Moreover, the Illinois EPA believes that IERG's proposed language could well have the opposite effect. IERG correctly points out that new emission units may be subject to requirements such as LAER, BACT and NSPS. These requirements are typically more stringent than the requirements of this rulemaking. Including such units in an averaging plan could remove a source's obligation to reduce emissions from existing units not subject to these requirements, thus causing emissions increases, not decreases as IERG postulates. While the proposed language would require that the replacement of units be accompanied by a decrease in emissions, comparing the existing units that are being replaced and the new units, does not address the implications of this decrease in emissions with the other existing units that are not being replaced. Consideration of "purpose" is needed to address the broader implication of being allowed to have emission units participate in an emissions averaging plan.

The Illinois EPA opposes the last minute attempt to amend the proposal, which has been developed after several years of negotiations with affected stakeholders, and has been the subject of two Board hearings. IERG had multiple opportunities to raise this issue to both the Illinois EPA and the Board in a timely manner and did not do so. The Illinois EPA would note that it engaged in extensive outreach during the development of the rule. IERG also had an opportunity to present this information at either the first Board hearing held in Edwardsville on April 9, 2008, or second hearing in Chicago on May 7, 2008.

The Illinois EPA respectfully submits this Motion For Leave to File Instanter and Response to Comment and requests that the Board take this response into consideration.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Rachel L. Doctors
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DATED: February 10, 2009

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