

ILLINOIS POLLUTION CONTROL BOARD  
February 25, 2011

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STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
)  
REVISION OF ENHANCED VEHICLE ) R11-19  
EMISSION INSPECTION AND ) (Rulemaking - Air)  
MAINTENANCE (I/M) REGULATIONS: )  
AMENDMENTS TO 35 ILL. ADM. CODE )  
240 )

ORIGINAL

**HEARING OFFICER ORDER**

The first hearing in this proceeding concluded on February 10, 2011, and the Clerk received the transcript of that hearing (Tr.) on February 14, 2011. On February 24, 2011, the Illinois Environmental Protection Agency (Agency) filed a "Motion to Correct Transcript" (Mot.) of the February 10, 2011 hearing in this matter. The Agency lists 20 errors in the transcript and "respectfully moves that the Hearing Officer correct" them. Mot. at 1, citing 35 Ill. Adm. Code 101.604 ("Any party or witness may file a motion with the hearing officer to correct the transcript within 21 days after receipt of the transcript in the Clerk's Office.").

The Board's procedural rules provide that, "[w]ithin 14 days after service of a motion, a party may file a response to the motion. . . . Unless undue delay or material prejudice would result, neither the Board nor the hearing officer will grant any motion before expiration of the 14 day response period except in deadline driven proceedings where no waiver has been filed." 35 Ill. Adm. Code 101.500(d). On December 8, 2010, the Agency filed a rulemaking proposal under authorities including the Vehicle Emissions Inspection Law of 2005 (VEIL). *See* 625 ILCS 5/13C-20(a) (2008) (Rules and standards). The VEIL requires the Board to adopt regulations in this proceeding by April 7, 2011, and includes no provision for a waiver of that 120-day deadline. *See id.* In addition, a hearing officer order dated February 24, 2011, set a deadline of March 4, 2011, to file post-hearing comments. Because a deadline applies to adoption of rules in this docket, and to avoid undue delay in clarifying the record on which post-hearing comments may in part be based, the hearing officer proceeds below to decide the motion. *See* 35 Ill. Adm. Code 101.502 (Motions Directed to the Hearing Officer), 101.610(n) (Duties and Authority of the Haring Officer).

Having reviewed the transcript of the February 10, 2011 hearing and the substance of the motion, the Board modifies one of the Agency's requested corrections. Between page 13, line 24 and page 14, line 1, the transcript includes the following language: "The joint committee on this rulemaking has filed a requested and." Tr. at 13-14. The Agency moves that this language be corrected to read "The Joint Committee on Administrative Rulemaking has filed and requested an." Mot. at 2. As the Illinois Administrative Procedure Act establishes a Joint Committee on Administrative Rules (5 ILCS 100/5-90 (2008)), this correction is modified to read "The Joint Committee on Administrative Rules has filed and requested an."

The Agency's motion is granted, and the transcript will be corrected, with the one modification noted in the preceding paragraph, as requested by the Agency.

As noted above, the deadline to file post-hearing comments in this proceeding is Friday, March 4, 2011. As provided in the hearing officer order setting that deadline, the "mailbox rule" at 35 Ill. Adm. Code 101.300(b)(2) does not apply to the filing of post-hearing comments, and the Board's Clerk must receive these comments at or before the close of business on Friday, March 4, 2011. The order also approved filing post-hearing comments by electronic transmission or facsimile. *See* 35 Ill. Adm. Code 101.302(d).

IT IS SO ORDERED.



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