

## **Board Divides a Proposal to Reduce Transport of Nitrogen Oxide Emissions**

On May 17, 2007, the Illinois Pollution Control Board divided an Illinois Environmental Protection Agency (IEPA) rulemaking proposal (R07-18) into two rulemaking dockets. One docket will be an expedited, statutory fast-track rulemaking intended to satisfy Illinois' obligations under the United States Environmental Protection Agency's nitrogen oxides (NO<sub>x</sub>) State Implementation Plan (SIP) Call Phase II. The other rulemaking docket will be a general rulemaking encompassing the other elements of the original proposal.

The IEPA proposal was originally docketed as NO<sub>x</sub> Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Section 201.146 and Parts 211 and 217 (R07-18). In response to objections filed by a consortium of natural gas suppliers and the Illinois Environmental Regulatory Group (IERG), the Board bifurcated the original proposal into two dockets: Fast-Track Rules under Nitrogen Oxide (NO<sub>x</sub>) SIP Call Phase II Amendments to 35 Ill. Adm. Code Section 201.146 and Parts 211 and 217 (R07-18) and Section 27 Proposed Rules for Nitrogen Oxide (NO<sub>x</sub>) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Parts 211 and 217 (R07-19).

On April 6, 2007, the Board accepted IEPA's proposal pursuant to Section 28.5 of the Illinois Environmental Protection Act (Act). Section 28.5 of the Act requires the Board to proceed toward adoption of the proposed regulation by meeting a series of strict deadlines. The natural gas suppliers and IERG maintained that the entire proposal is not "required to be adopted" under the provisions of the federal Clean Air Act. Both objectors argued that the Board should bifurcate this proceeding to consider the portion of the proposed rule applicable to NO<sub>x</sub> SIP Call Phase II units in one docket proceeding under Section 28.5 and to consider the remainder of the proposal in a second docket proceeding under Section 27.

After carefully examining the arguments, the Board found that the entirety of the IEPA's proposal should not be considered under Section 28.5 in this rulemaking. The Board found that only the portion of the proposal applicable to the Phase II NO<sub>x</sub> SIP Call Engines should proceed pursuant to Section 28.5. The Board will proceed as set forth in the April 19, 2007 hearing officer order with the Phase II NO<sub>x</sub> SIP Call Engines.

With regard to the remainder of the proposal, the Board directed the Clerk to cause publication of the remainder of the proposal for first notice without commenting on the merits of the proposal under Section 27 and 28 of the Act in docket R07-19.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded from the Web without charge. Hard copies may be obtained for \$.75 per page from the Clerk's office at 312-814-3629, or by writing to the Clerk's office:

Clerk of the Board

Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

For more information contact Tim Fox at 312-814-6085 or email at [foxt@ipcb.state.il.us](mailto:foxt@ipcb.state.il.us).