

ILLINOIS POLLUTION CONTROL BOARD

September 5, 2013

IN THE MATTER OF:)
NATIONAL AMBIENT AIR QUALITY) R14-6
STANDARDS, USEPA REGULATIONS) (Identical-in-Substance Rulemaking - Air)
(January 1, 2013 through June 30, 2012,)
July 3, 2013, and August 5, 2013))

NOTICE OF HEARINGS

TYPE OF HEARING: Merit hearing

DATE AND LOCATION:

Simultaneously hearing at two locations via teleconference, as follows:

1:00 p.m., October 31, 2013

James R. Thompson Center
Illinois Pollution Control Board Hearing Room
100 West Randolph Street, Room 11-512
Chicago

and

Sangamo Building
Illinois Pollution Control Board Hearing Room
1021 North Grand Avenue
Springfield

ATTENDING BOARD MEMBER: Jennifer A. Burke

HEARING OFFICER: Michael J. McCambridge
312-814-6924

DATED: September 5, 2013

For the sake of expedience, the Hearing Officer encourages the pre-submission of testimony and exhibits, but will not require such pre-submission. **Any person wishing to submit oral testimony, rather than pre-submitting testimony for introduction into the record as though read, should notify the Hearing Officer no later than October 24, 2013.**

HEARING OFFICER ORDER

Scope of the Hearing¹

The Board reserved this docket pursuant to Sections 7.2 and 10(H) of the Environmental Protection Act (Act) (415 ILCS 5/7.2 and 10(H) (2012)) to update the Illinois ambient air quality regulations to include all current federal NAAQSs adopted and amended by the United States Environmental Protection Agency (USEPA) during the period January 1, 2013 through June 30, 2013.

Section 10(H) mandates that the Board adopt ambient air quality standards that are identical-in-substance with National Ambient Air Quality Standards (NAAQS) adopted by USEPA pursuant to 42 U.S.C. § 7409 (2011). NAAQSs apply to ambient air, and each constitutes a determination of the maximum level of a criteria pollutant that is allowable consistent with human health (a primary standard) and public welfare (a secondary standard). 42 U.S.C. § 7409(b) (2011). As of June 30, 2013, the federal regulations included 20 NAAQS for six criteria pollutants: carbon monoxide, lead nitrogen oxides, ozone, particulate matter, and sulfur oxides. *See generally* 40 C.F.R. 50 (2013). USEPA has codified those NAAQS in 40 C.F.R. 50.

This proceeding updates the Illinois ambient air quality standards to accommodate amendments and other relevant USEPA actions with regard to NAAQS that occurred during the period January 1, 2013 through June 30, 2013. During this period, USEPA took the following actions:

January 15, 2013 (78 Fed. Reg. 3086): USEPA adopted the new 2012 primary 24-hour and annual average NAAQS for PM_{2.5}. USEPA further revised the interpretation of the NAAQS for PM_{2.5}.

June 27, 2013: USEPA updated the “List of Designated Reference and Equivalent Methods.”

Since June 30, 2013, USEPA took two more actions that the Board determined to include in this proceeding. The later actions are the following:

July 3, 2013 (78 Fed. Reg. 40000): USEPA established a new FRM for measuring lead in total suspended particulate matter for the purposes of the lead NAAQS.

August 5, 2013 (78 Fed. Reg. 47191): USEPA made area designations for the 2010 NAAQS for sulfur dioxide.

¹ The Board does not usually hold public hearings on identical-in-substance rules. This hearing is held as required by Section 110 of the federal Clean Air Act (42 U.S.C. § 7410 (2011)), because this proceeding would entail a SIP revision.

Sections 7.2 and 10(H) of the Act (415 ILCS 5/7.2 and 10(H) (2012)) provide the Board little discretion but to adopt amendments that are identical-in-substance to the federal NAAQS. Section 10(H) states in pertinent part as follows:

In accordance with subsection (b) of Section 7.2, the Board shall adopt ambient air quality standards specifying the maximum permissible short-term and long-term concentrations of various contaminants in the atmosphere; those standards shall be identical in substance to the national ambient air quality standards promulgated by the Administrator of the United States Environmental Protection Agency in accordance with Section 109 of the Clean Air Act. 415 ILCS 5/10(H) (2012).

Section 7.2 adds the following limitations relative to the scope of the Board's discretion:

In the context of a mandate that the Board adopt regulations to secure federal authorization of a program, regulations that are "identical in substance" means State regulations which require the same actions with respect to protection of the environment, by the same group of affected persons, as would federal regulations if USEPA administered the subject program in Illinois . . . [T]he Board shall adopt the verbatim text of such USEPA regulations as are necessary and appropriate for authorization of the program. In adopting "identical in substance" regulations, the only changes that may be made by the Board to the federal regulations are those changes that are necessary for compliance with the Illinois Administrative Code, and technical changes that in no way change the scope or meaning of any portion of the regulations. 415 ILCS 5/7.2 (2012).

For these reasons, the Board lacks the discretion to address the technical merits of any of the federal NAAQSs involved in this proceeding. The Board has discretion only how best to incorporate the NAAQSs into the Illinois ambient air quality regulations.

Notice and Service Lists

Pursuant to 35 Ill. Adm. Code 102.422, a notice and service list will be established. Persons on the notice list will receive notice of all Board actions and Hearing Officer orders. 35 Ill. Adm. Code 102.422(a). In comparison, Section 102.422(b) states in part:

The hearing officer may establish a service list for any regulatory proceeding, in addition to the notice list. The hearing officer may direct participants to serve copies of all documents upon the persons listed on the service list. 35 Ill. Adm. Code 102.422(b).

Persons on the service list will receive notice of Board actions and Hearing Officer orders, as well as testimony and filings in the proceeding. The service list is reserved for persons who will be testifying and participating in the rulemaking. With the development of the Board's website (www.ipcb.state.il.us), COOL system and electronic filing, all prefiled testimony, public comments, and other filings will be available for viewing and downloading expeditiously. The

only exception will be voluminous filings, which will be available on request. Furthermore, with the development of COOL, persons not on the service list, who wish to file a public comment and only a public comment, need not serve their comments on the service list in this proceeding.

The following persons are on the service list:

Charles Matoesian, Attorney
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276

Alec Davis
Illinois Environmental Regulatory Group
215 East Adams Street
Springfield, Illinois 62701

Michael J. McCambridge, Hearing Officer
Illinois Pollution Control Board
100 West Randolph St., Suite 11-500
Chicago, Illinois 60601

To be placed on either the “Notice List” or the “Service List” contact the Hearing Officer at the address or phone number below. You may also sign up using the COOL system for “e notify” as well as for the notice list. “E Notify” is a system whereby an email is automatically sent when a filing is docketed in the COOL system. This system will notify participants of filings almost immediately and the documents will be available for viewing, downloading, or printing.

Pre-filing of Testimony

The Hearing Officer will allow the submission of pre-filed testimony for the hearing. In the discretion of the Hearing Officer, pre-filed testimony will be entered into the record as if read upon request of the testifying party, after that person has been sworn on the record. Pre-filed testimony for the hearing must be served upon all persons on the service list as of 4:30 p.m., October 17, 2013. Persons may receive a copy of the service list either from the COOL system through the Board’s website (www.ipcb.state.il.us) or by contacting the Hearing Officer or the Clerk of the Board (312-814-3629) after 9:30 a.m. on October 17, 2013. All testimony must be submitted to the Board and all persons on the service list no later than October 24, 2013.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Michael J. McCambridge", written over a horizontal line.

Michael J. McCambridge
Hearing Officer
Illinois Pollution Control Board
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Chicago, Illinois 60601
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