

ILLINOIS POLLUTION CONTROL BOARD

May 8, 2018

IN THE MATTER OF:)
)
AMENDMENT TO 35 ILL. ADM. CODE) R18-22
PART 205, EMISSIONS REDUCTION) (Rulemaking - Air)
MARKET PROGRAM)

STATE OF ILLINOIS
Pollution Control Board
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In its Notice of Hearing and Hearing Officer Order on March 22, 2018, the Board directed participants intending to testify at the first hearing to pre-file all of their testimony and related exhibits no later than Thursday, April 26, 2018. On that date, the Board received pre-filed testimony on behalf of the Illinois Environmental Protection Agency (IEPA) from Mr. Buzz Asselmeier.

The Board and its staff have reviewed his pre-filed testimony and documents including IEPA's Statement of Reasons and Technical Support Document. To expedite the hearing and make it more efficient, the Board submits its questions for IEPA in Attachment A to this order. The Board may ask follow-up questions during the hearing.

IT IS SO ORDERED.



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Attachment A to Hearing Officer Order of May 8, 2018

General

1. Please explain why IEPA proposed to add a sunset date to the ERMS regulations instead of repealing them.
2. If the Board adopts the proposed April 30, 2018, sunset date, does IEPA expect later to propose repealing Part 205?
3. In its Statement of Reasons, IEPA argues that its anti-backsliding analysis under Section 110(l) of the CAA demonstrates that the proposal “will not interfere with attainment or maintenance of any applicable NAAQS, RFP, or any other applicable requirement set forth in the CAA.” SR at 5.

Has USEPA reviewed IEPA’s Section 110(l) demonstration? If so, has USEPA made any determination whether the demonstration satisfies the CAA requirements? If so, please submit that determination into the record.

4. IEPA states that ERMS intended to provide “sources with more flexibility than is typically present in ‘command and control’ regulations” to achieve additional emission reductions needed for the post-1999 ozone Rate of Progress (“ROP”) plan for the now revoked 1979 1-hour ozone standard. TSD at 1.

IEPA states that several state and federal regulations have been promulgated since adoption of ERMS and that total allowable VOM emissions are lower under these regulations than under ERMS. SR at 3-4.

Please clarify whether the newer regulations are generally “command and control” requirements for reduction of VOMs.

5. Do the newer regulations, such as the Reasonably Available Control Technology (RACT) VOM rules, allow market-based mechanisms like ERMS as a compliance option for affected sources?
6. If so, did IEPA consider expanding ERMS to address VOM reductions required by the newer regulations and allow affected sources to use a market-based option to achieve the necessary reductions?
7. IEPA states that sunseting ERMS “will not impose any new requirement or any new cost. Indeed, the provision is expected to reduce the administrative burden for sources and the Agency for rules that are no longer providing any environmental benefit. Therefore, sunseting ERMS program is both technically feasible and economically reasonable.” TSD at 5.

Please comment on whether, in addition to this administrative benefit, there would be an economic benefit for entities that purchase ATUs. Please provide a summary of annual ATU transactions for the last five years (2012-2017), including the cost of ATUs (average and range), and the names of sources selling and purchasing the ATUs.

Mr. Asselmeier

8. Your testimony states that ozone concentrations have decreased 34% from 135 parts per billion in 1978-1987 to 89 parts per billion in 2008-2017. IEPA Test. at 2.

However, Figure 3 shows 8-hour maximum ozone concentrations increasing from 2013 to 2017. Do you attribute this to fluctuating year-to-year summer meteorological conditions? If not, please explain this increase in the maximum ozone concentrations.

9. Your testimony also states that “ERMS has ceased to be a market system and is now simply functioning the same as the current New Source Review rules.” IEPA Test. at 2. Please explain how ERMS functions similarly to New Source Review. Please comment on whether New Source Review rules have also become ineffective.
10. In a question docketed as Public Comment 2, the Joint Committee on Administrative Rules (JCAR) noted the proposed sunset date of April 30, 2018, and asked whether rulemaking procedures require a later date. The final paragraph of your pre-filed testimony explains IEPA’s choice of its proposed sunset date.

Is the Board correct that this paragraph intends to respond to JCAR’s question? If not, is there anything you’d add to the paragraph to respond to JCAR?

11. When preparing its rulemaking proposal, did IEPA conduct any program of outreach to the regulated entities? If so, please describe that outreach and indicate whether any of the regulated entities opposed the proposal filed with the Board.