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STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
December 16, 2004

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM. CODE) R05-11
205, EMISSIONS REDUCTION MARKET) (Air Rulemaking)
SYSTEM, AND 35 ILL. ADM. CODE 211)

NOTICE OF HEARINGS

DATE, TIME, AND PLACE:

JANUARY 27, 2005
1:00 P.M.
JAMES R. THOMPSON CENTER
100 WEST RANDOLPH STREET
ROOM 2-029
CHICAGO, ILLINOIS 60601

FEBRUARY 22, 2005
10:30 A.M.
JAMES R. THOMPSON CENTER
100 WEST RANDOLPH STREET
ROOM 2-027
CHICAGO, ILLINOIS 60601

PURPOSE OF HEARING: Merit and Economic
ATTENDING BOARD MEMBERS: Thomas E. Johnson
HEARING OFFICER: John Knittle

HEARING OFFICER ORDER

Background

On November 19, 2004, the Illinois Environmental Protection Agency (Agency) filed a proposal for rulemaking pursuant to Sections 9.8, 27 and 28 of Environmental Protection Act (Act). 415 ILCS 5/9.8, 27 and 28 (2002). The Agency proposes to amend the Board's air rules, specifically the rules relating to Emissions Reduction Market System (ERMS).

In compliance with the Americans with Disabilities Act and other applicable federal and State laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact Dorothy Gunn, Clerk of the Board, at 100 West Randolph St., Suite 11-500, Chicago, Illinois 60601, at telephone number 312/814-6931, fax number 312/814-3669, or TDD number 312/814-6032, five days prior to the hearing.

The Agency asserts that revisions to ERMS are needed because the United States Environmental Protection Agency (USEPA) is revoking the 1-hour ozone national ambient air quality standard (NAAQS) effective on June 15, 2005. Agency Statement of Reasons at 2. The Agency asserts that this change will result in less facilities being subject to the rules and a corresponding loss of approximately 330 tons of VOM emissions reductions for each seasonal allotment period. Agency Statement of Reasons at 3. The Agency asserts that this rulemaking is necessary to ensure that ERMS remains in place in its current form so the required VOM emissions reductions in the Chicago area is maintained. Agency Statement of Reasons at 4.

On December 2, 2004, the Board opened a new regulatory docket for this matter, and sent this proposal to first notice under the Administrative Procedure Act (5 ILCS 100/5-5 *et seq.* (2002)) without commenting on the merits of the proposal. The Board also directed that a hearing be scheduled on the proposal.

Hearings

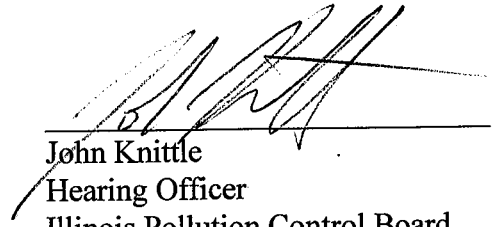
Persons wishing to testify at the first hearing shall prefile the testimony with the Board and serve the testimony on the hearing officer and all persons on the service list no later than January 14, 2005. Persons may receive a copy of the service list by contacting the hearing officer or Nancy Miller at (217) 278-3109.

The parties are directed to participate in a final pre-hearing telephone status conference on Friday, January 14, 2005 at 9:30 a.m. The petitioner shall initiate the call. At that time, the parties must be prepared to disclose witnesses for the hearing, and address any final pre-hearing issues.

This hearing will also be held to fulfill the requirements of Section 27(b) of the Environmental Protection Act (Act). 415 ILCS 5/27(b) (2000). Section 27(b) of the Act requires the Board to request DCEO (formerly Department of Commerce and Community Affairs) to conduct an economic impact study (EcIS) on certain proposed rules prior to adoption of those rules. If DCEO chooses to conduct the EcIS, they have 30 to 45 days after such request to produce a study of the economic impact of the proposed rules. The Board must then make the EcIS, or DCEO's explanation for not conducting the study, available to the public at least 20 days before a public hearing on the economic impact of the proposed rules.

On December 9, 2004, the Board requested that DCEO conduct an economic impact study for the above-referenced rulemakings. In a letter dated April 17, 2003, DCEO stated that it does not have the financial resources to perform such analyses or contract a private vendor for their completion. DCEO offered the April 17, 2003 letter as its formal response to all current and future proposed Board rulemakings and DCEO's statutory obligation to perform an ECIS. Both letters are available for review at the Board's Chicago Office, James R. Thompson Center, 100 West Randolph, Suite 11-500, Chicago, Illinois.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'J. Knittle', is written over a horizontal line.

John Knittle
Hearing Officer
Illinois Pollution Control Board
2125 South First Street
Champaign, Illinois 61820
(217) 278-3111