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1 ILLINOIS POLLUTION CONTROL BOARD  
2 January 27, 2005

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

9

10 TRANSCRIPT OF PROCEEDINGS had in the  
11 above-entitled matter at Suite 2-029, 100 West  
12 Randolph Street, Chicago, Illinois, on the 27th day  
13 of January, A.D. 2005, at 1:00 p.m.

14

15 BEFORE: BOARD MEMBER THOMAS E. JOHNSON;  
16 BOARD MEMBER G. TANNER GIRARD, Ph.D. ;  
17 BOARD MEMBER NICHOLAS J. MELAS.

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21 REPORTED BY: LAURIE KEELING, CSR  
22 CSR License No. 84-4507

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1 MR. KNITTLE: Hello. My name is John  
2 Knittle. I am a hearing officer for this  
3 rulemaking proceeding, Board Docket R-05-11,  
4 in the matter of the amendments to 35 Ill.  
5 Adm. Code 205, Emissions reduction Market  
6 System and 35 Ill Adm. Code 211.

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8 Present with us today from the Illinois  
9 Pollution Control Board are our board  
10 members, Tom Johnson, Tanner Girard, and Nick  
11 Melas. Also from the board are Anand Rao and  
12 Alisa Liu.

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14 And we are all present here, and I want  
15 to introduce Member Johnson, who is the board  
16 member who is coordinating this rulemaking.  
17 Do you have anything you want to say,  
18 Mr. Johnson?

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20 MR. JOHNSON: Welcome, and it looks  
21 like we are going to get this done in a short  
22 order.

23

24 MR. KNITTLE: As you know, the ERMS  
system -- I am going to give a little  
background here just for the record. Even  
though there's -- I should note this as well.  
No members of the public are present here

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1 today.

2 Everyone is either with the Agency or  
3 with IERG who has filed the appearance. The  
4 ERMS system is a cap and trade program that  
5 involves VOM emissions in the Chicago area.  
6 It was adopted by the Board on November 20,

7 1997, and received approval by the United  
8 States Environmental Protection Agency as  
9 part of the Illinois state implementation  
10 plan for ozone effective November 14, 2001.

11 It's designed to reduce BOM emissions  
12 in the Chicago nonattainment area below the  
13 levels required by reasonably available  
14 control technology and other emission  
15 standards.

16 The proposed revisions to this program  
17 effect only sources in the Chicago ozone  
18 nonattainment area. In a statement of  
19 reasons, the Agency asserts that these  
20 revisions are needed because the US EPA is  
21 revoking the one-hour Ozone National Ambient  
22 Quality Standard effective on June 15, 2005.

23 The Agency contends that the revocation  
24 of the one-hour standard will effect

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1 applicability thresholds currently the source  
2 of subject to the CAAPP. I should say the  
3 Clean Air Act Permit Program are those with  
4 potential to emit 25 tons of VOM.

5 Once the one-hour standard is revoked,  
6 however, the applicability threshold will be  
7 raised to 100 tons. This would result in  
8 less facilities being subject to rules and  
9 the corresponding loss of approximately 330  
10 tons of VOM reductions for each seasonal  
11 allotment period.

12 So the Agency asserts that it must  
13 ensure the ERMS remain in place in its  
14 current form so that the required BOM  
15 emissions reduction in the Chicago area is  
16 maintained. As you know, on December 2 the  
17 board granted a motion for expedited review  
18 in this matter.

19 The Agency claims this is necessary to  
20 ensure the rulemaking is promulgated by June  
21 15. As a result, the board accepted the  
22 proposal and also sent the proposal of first  
23 notice under the Administrative Procedure Act  
24 without commenting on the merits of the

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1 proposal. This notice was published in the  
2 Illinois Register on December 17.

3 Also on December 9, 2004, the board  
4 asked the Department of Commerce Economic  
5 Opportunity to conduct an economic impact  
6 study for the rulemaking. On January 20,  
7 2005, the Board received a response from DCO  
8 indicating that it will not perform an  
9 economic impact study on this rule.

10 The statute requires that we make this  
11 available to the public for 20 days before  
12 the hearing. Since we didn't get this 20  
13 days before this hearing, this hearing will

14 not be the economic impact study hearing. We  
15 will hold that on February 22 to fulfill the  
16 requirements of Section 27(b) of the act.

17 We also accepted some prefile testimony  
18 on January 18 by Agency employee David  
19 Bloomberg. We accepted this testimony. And  
20 also with that testimony, the Agency filed an  
21 errata sheet which we will discuss later.

22 At this point I want to ask the Agency  
23 to introduce themselves.

24 MR. MATOESIAN: Good afternoon, ladies  
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1 and gentlemen. My name is Charles Matoesian,  
2 assistant counsel to the Illinois  
3 Environmental Agency. I am here today  
4 representing the Illinois EPA's to this  
5 rulemaking docketed as R05-11 in the matter  
6 of the amendments 35 Ill. Adm. Code, 205,  
7 emissions reduction market system and 35 Ill.  
8 Adm. Code, 211.

9 First, I would like to thank you, the  
10 Board, for granting our motion for expedited  
11 review. This rulemaking proposal is to  
12 amend the emissions reduction market systems,  
13 or ERMS, to ensure that the ERMS remains in  
14 place in it's current form so as to maintain  
15 the required BOM emission reductions in the  
16 Chicago area in response to the  
17 implementation of the eight-hour Ozone  
18 National Ambient Air Quality Standard.

19 As Mr. Knittle pointed out, on June 15,  
20 2005, the United States Environmental  
21 Protection Agency is revoking the one-hour  
22 Ozone National Ambient Air Quality Standard  
23 including the associated designations and  
24 classification.

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1 To avoid the loss in ERMS reduction,  
2 this rulemaking is being submitted so that  
3 the ERMS will remain in place in its current  
4 form, and maintain the required VOM or  
5 emission reduction in the Chicago area  
6 regardless of the nonattainment  
7 classification or attainment designation of  
8 the Chicago area. This rulemaking  
9 accomplishes that goal.

10 With me today is Mr. David Bloomberg,  
11 manager of the compliance section of the  
12 Division of Air. He is here to answer any  
13 questions that you may have. Mr. Bloomberg  
14 submitted pretrial testimony on January 14,  
15 2005. At that same time, we submitted an  
16 errata sheet making several relatively minor  
17 changes to the rules that Mr. Bloomberg can  
18 explain.

19 At this time I would move the Board to  
20 accept Mr. Bloomberg's pretrial testimony as

21 if it were read into the record and ask that  
22 Mr. Bloomberg be sworn in.

23 MR. KNITTLE: Thank you. Any  
24 objections? I see none. We will accept the

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1 testimony as it is read. Will you swear the  
2 witness in, please?

3 (WHEREUPON, the witness was duly  
4 sworn.)

5 MR. KNITTLE: Do you have anything  
6 further, Mr. Matoesian.

7 MR. MATOESIAN: No.

8 MR. KNITTLE: Do the Board members or  
9 anyone have any questions for Mr. Bloomberg?

10 MR. RAO: I have a couple.

11 MR. KNITTLE: Do you guys have  
12 anything that you want to ask first?

13 MR. JOHNSON: No, I don't think so.

14 MR. KNITTLE: Mr. Rao, you're up for  
15 some questions.

16 MR. RAO: I have a few questions on  
17 the changes to the errata sheet.

18 MR. BLOOMBERG: Okay.

19 MR. RAO: Basically clarification type  
20 of questions. On Item No. 2, I believe it's  
21 Section 205.150.

22 MR. BLOOMBERG: Uh-huh.

23 MR. RAO: The proposed change talks  
24 about the offset ratios. And the last

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1 sentence of Subsection (f)(1) gives reference  
2 to an offset ratio of 1.3 to 1.0. Are other  
3 previously affected outset ratio -- can you  
4 explain what other offsets are applicable  
5 under the rules?

6 MR. BLOOMBERG: Well, what we were  
7 trying to do here, and that's the reason this  
8 was amended was because we felt it wasn't  
9 clear in the original version, was that as  
10 things change, for example, in moderate, I  
11 believe the ratio is 1.15 to 1.0. If we were  
12 to be bumped up from moderate, if we didn't  
13 attain in time where it would be bumped up to  
14 serious, the ratio would be, I think it's 1.2  
15 to 1.0.

16 MR. JOHNSON: Severe; is that right?  
17 It's serious, right?

18 MR. BLOOMBERG: They're serious before  
19 severe.

20 MR. JOHNSON: All right.

21 MR. BLOOMBERG: And what we're saying  
22 is once we move from the 1.3 to 1.0, then you  
23 will somewhere else. Well, if someone makes  
24 a major modification during that time, they

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1 will subject to the ratio in effect at that  
2 time. So if it was bumped up to 1.2, these

3 sources would not have to meet 1.2. They  
4 would just have to meet what was effective at  
5 the time that it occurred.

6 MR. RAO: In a related question, could  
7 you explain, just for the record, why when  
8 the eight-hour standard kicks in, you know,  
9 Illinois, the Chicago area, is classified as  
10 moderate as opposed to severe under the  
11 one-hour? Is that because of all of the  
12 reductions that have been achieved over a  
13 period of time?

14 MR. BLOOMBERG: Part of it is from  
15 reductions. Part of it is just a different  
16 measure. As you may know, we were very close  
17 to coming into attainment president with the  
18 one-hour standard and would have except for a  
19 very bad bout of weather that bumped up  
20 temperatures, kept the air stagnant and put  
21 the monitors over.

22 So there have definitely been  
23 reductions, and the air quality has gotten  
24 better as far as ozone is concerned. So that

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1 is part of the reason.

2 The other one is that -- simply that  
3 the eight-hour standard uses a different  
4 measurement criteria to the one hour --  
5 compared to the one-hour.

6 MR. RAO: My second question is on  
7 Item 6. It deals with Section 205.310,  
8 Subsection E, which addresses the public  
9 notice requirement. In the proposed  
10 language, you have made a change to include  
11 FESOP permits also along with the draft CAAPP  
12 permit.

13 In the existing language for the CAAPP  
14 permit, the notice requirements were supposed  
15 to be made in accordance with Section 39.58,  
16 which spells out the notice requirement. In  
17 the proposal, you have deleted that reference  
18 to Section 39.58.

19 Could you explain what procedures the  
20 Agency follows for notice requirement?

21 MR. BLOOMBERG: It will still be the  
22 same notice requirements; however, the FESOP  
23 does not necessarily follow those same notice  
24 requirements. So we didn't -- we felt that

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1 leaving it in there would be confusing. And  
2 actually in the original draft of the rule,  
3 there were several places -- the original  
4 redraft, I guess I should say. There were  
5 several places where he added more FESOP and  
6 similarly we took out language that only  
7 referenced CAAPP.

8 We discussed it with IERG ahead of  
9 time, and they didn't have a problem with it.

10 We discussed it with our legal people. And  
11 since there really is only one way of doing  
12 public notice for CAAPP --  
13 MR. RAO: Okay.  
14 MR. BLOOMBERG: -- we felt it would be  
15 fine to remove that.  
16 MR. RAO: So you would still follow  
17 the CAAPP requirements?  
18 MR. BLOOMBERG: Yeah. We would still  
19 follow the requirements.  
20 MR. RAO: Just making sure.  
21 MR. NEWTON: Can I ask a question?  
22 MR. RAO: Sure.  
23 MR. NEWTON: You would follow the  
24 requirements that were applicable to the

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1 specific -- if it was CAAPP, they would  
2 follow CAAPP?  
3 MR. BLOOMBERG: Right.  
4 MR. NEWTON: If they follow FESOP,  
5 they'll follow FESOP.  
6 MR. BLOOMBERG: Correct.  
7 MR. RAO: So the FESOP rules also have  
8 their own notice requirements?  
9 MR. BLOOMBERG: Yes.  
10 MR. RAO: So FESOP  
11 MR. BLOOMBERG: Yes.  
12 MR. RAO: And my last question deals  
13 with changes proposed in Section 205.316. It  
14 deals with FESOP permits for ERMS sources.  
15 One of the changes or items that you made is  
16 to capture all of the sources that you  
17 regulate by adding this new participating  
18 source in the rules in certain sections.  
19 For example, in Subsection A it deals  
20 with any participating or new participating  
21 source.  
22 MR. BLOOMBERG: Yes.  
23 MR. RAO: And when you go to  
24 Subsection B, says when implementing the

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1 baseline emission and allotment for a  
2 participating source -- but a new  
3 participating source is not addressed in that  
4 section. Is that an old cite or -- I saw a  
5 number of provisions where, you know,  
6 sometimes both participating and new  
7 participating sources are used. Sometimes  
8 it's just the participating source. I wanted  
9 to make sure that, you know, the intent is  
10 clear or if there are some sections where it  
11 has been missed.  
12 MR. BLOOMBERG: No.  
13 MR. RAO: Okay.  
14 MR. BLOOMBERG: The new participating  
15 sources do not get a baseline or an  
16 allotment.

17 MR. RAO: Okay.  
18 MR. BLOOMBERG: So, therefore, we did  
19 not include them when discussing that.  
20 MR. RAO: Okay.  
21 MR. BLOOMBERG: So that was done on  
22 purpose.  
23 MR. RAO: Thanks. That's it.  
24 MR. KNITTLE: Anything else?

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1 MS. LIU: I have one question,  
2 somewhat unrelated. I was wondering how the  
3 revocation of the one-hour ozone standard is  
4 going to affect the attainment status of the  
5 Metro East area and if there are going to be  
6 any affects on our rules at all.

7 MR. BLOOMBERG: I do not know how it  
8 will affect it. That's not my area.  
9 However, I do not believe we have any rules  
10 similar to ERMS in the Metro East.  
11 Obviously, ERMS only applies to the Chicago  
12 area. Most of our rules have a specific  
13 applicability level as we are putting in  
14 here, 25 tons or 100 tons or whatever. So  
15 there shouldn't be any rules that are  
16 affected in the Metro East.

17 MS. LIU: Thank you.

18 MR. JOHNSON: Isn't the eight-hour  
19 standard supposed to be more stringent than  
20 the one-hour?

21 MR. BLOOMBERG: I don't claim to be an  
22 expert on the two, but it's supposed to be,  
23 as I understand it, a better measurement of  
24 the way pollution affects people, and that

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1 generally, we are not just there for  
2 one hour. We are not just breathing the air  
3 for one hour.

4 MR. KNITTLE: Hopefully we are  
5 breathing it for 24 hours.

6 Anything further, Alisa?

7 MS. LIU: No.

8 MR. KNITTLE: Mr. Rao?

9 MR. RAO: No.

10 MR. KNITTLE: I have no questions.  
11 Anybody from the Board?

12 MR. JOHNSON: Not I.

13 MR. MELAS: Not I.

14 MR. GIRARD: No.

15 MR. KNITTLE: I think we have pretty  
16 much covered the end of today's proceeding.  
17 I want to note for the record that it is  
18 almost 1:25 p.m. We started this hearing at  
19 1:00 p.m. today. There are still no members  
20 of the public present. Were they here, they  
21 would, of course, be given the opportunity to  
22 ask questions and participate in the hearing.

23 If there were anybody here, I would

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note that. We have a notice and a sign-up

1 sheet set out for people to sign up if they'd  
2 like, but there is nobody here.

3 I have nothing further. If anyone has  
4 any questions about the procedural aspects of  
5 this rulemaking, I can be reached, as you all  
6 know, at 278-3111, area code 217. Or you can  
7 e-mail me. My e-mail address is on the  
8 board's website.

9 The transcript of today's hearing will  
10 be available by -- can we go off the record  
11 for a second?

12 (WHEREUPON, a discussion was had  
13 off the record.)

14 MR. KNITTLE: We are back on will  
15 record.

16 The transcript of today's hearing  
17 should be ready on Wednesday, February 3,  
18 2005. Copies of the transcript will be  
19 available shortly after that on the Board's  
20 website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us) as well as  
21 previous Board hearing officer orders.

22 We will be having another hearing,  
23 already noticed up, for February 22, in the  
24 room next door, which is Room 2-027 at the

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1 James R. Thompson Center, 100 West Randolph  
2 Street, Chicago, Illinois 60601.

3 That's all I have. Thank you very  
4 much.

5 (WHEREUPON, the proceedings were  
6 adjourned.)

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1 STATE OF ILLINOIS )  
2 ) SS:  
3 COUNTY OF COOK )  
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5 I, LAURIE KEELING, a Certified Shorthand



6 Reporter of the State of Illinois, do hereby certify  
7 that I reported in shorthand the proceedings had at  
8 the hearing aforesaid, and that the foregoing is a  
9 true, complete, and correct transcript of the  
10 proceedings of said hearing as appears from my  
11 stenographic notes so taken and transcribed under my  
12 personal direction.

13 IN WITNESS WHEREOF, I do hereunto set my  
14 hand at Chicago, Illinois, this 2nd day of  
15 February 2005.

16  
17 Certified Shorthand Reporter

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19 CSR Certificate No. 84-4507

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