



Lee R. Cunningham
 Corporate Environmental Counsel
 cunningham@admworld.com

P.C. #11

August 12, 2009

Mr. Timothy Fox, Hearing Officer
 Illinois Pollution Control Board
 James R. Thompson Center
 100 W. Randolph
 Suite 11-500
 Chicago, Illinois 60601

RECEIVED
CLERK'S OFFICE

AUG 13 2009

STATE OF ILLINOIS
Pollution Control Board

RE: Rulemaking R2006-22, In the Matter of: NO_x Trading Program: Amendments to 35 Ill. Adm. Code Part 217; Response to Motions by the Illinois Environmental Regulatory Group

Mr. Fox:

The Illinois Pollution Control Board's ("Board") August 6, 2009 Order requested responses to the Illinois Environmental Regulatory Group's ("IERG") Motion for Emergency Rule and Motion for Expedited Action on IERG's Alternative Proposal (collectively "Motions"). In response to the Board's request, the Archer Daniels Midland Company ("ADM") offers the following:

1. ADM's Decatur and Peoria Plants are subject to the NO_x Budget Rule, 35 Ill. Admin. Code Part 217, Subpart U. Among the non-EGU's affected by IERG's Motions, ADM's Decatur Cogeneration Plant alone has historically been allocated 1666 allowances out of a total of 4882 allowances. As a result, ADM is the largest single entity affected by this rule.
2. As part of a federal consent decree, ADM agreed to install Selective non-Catalytic Reduction (SNCR) equipment to reduce nitrogen oxides (NO_x) on six boilers at its

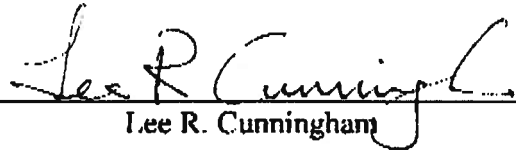
Decatur Cogeneration Plant. The consent decree did not require this installation to be accomplished until 2012.

3. However, due largely to the provisions of the NOx Budget Rule, ADM opted to install SNCR on the boilers at its Decatur plant in 2006. In the subsequent three years, NOx emissions were greatly reduced by the addition of this control equipment.
4. ADM has not received NOx allowances for the 2009 ozone season, nor for any subsequent years. As a result, ADM is subject to potential enforcement due to Illinois EPA's failure to adopt an approvable SIP to allow USEPA to issue such allowances.
5. The current version of the NOx Budget Rule, 35 Ill. Admin. Code Part 217, Subpart U is a valid and enforceable regulation in Illinois that requires subject sources to hold NOx allowances for each ton of NOx emitted during the ozone season by November 30 of the applicable year. Since USEPA is no longer issuing allowances for the NOx Budget Trading Program, affected entities including ADM are left with no viable means of compliance. It is unclear whether affected non-EGUs could purchase CAIR allowances in order to comply, and even if they could do so, the purchase of sufficient CAIR allowances would be extremely expensive.
6. In addition to the legal jeopardy, the lack of a valid rule places upon the affected non-EGUs, the inability to trade excess allowances which removes the incentive to over-control emissions and penalizes the entities, such as ADM, that have already done so.
7. Under the market incentives of the NOx Budget Rule, affected non-EGUs have reduced their collective ozone season emissions to approximately 53% of their allocations. Absent such incentives, it is questionable whether this degree of emission control will be maintained.

In light of the above, ADM requests that the Board grant IERG's Motion for Emergency Rule in order to require that 2009 NOx allowances be distributed to affected sources, and grant IERG's Motion for Expedited Action on IERG's Alternative Proposal in order to bring NOx SIP Call budget units into the CAIR NOx Ozone Season Trading Program for the 2009 control period and beyond.

Respectfully submitted,

Archer Daniels Midland Company

By: 
Lee R. Cunningham

Corporate Environmental Counsel
Archer Daniels Midland Company
4666 Faries Parkway, P.O. Box 1470, Decatur, IL 62526
217-451-4883