



DAVID A SYKUTA
Executive Director

DAN FICHHOLZ
Associate Director

400 W. Monroe, Suite 205 • Springfield, IL 62704 • 217/544-7404 • FAX 217/523-5131

August 13, 2009

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

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AUG 13 2009

STATE OF ILLINOIS
Pollution Control Board

P.C.#12

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

Mr. Fox:

I am writing on behalf of the Illinois Petroleum Council in response to the Illinois Pollution Control Board's ("Board") August 6, 2009 Order requesting 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"). We would like to offer our support for the Motions, and urge the Board to consider the following in ruling on the Motions:

1. We believe it is in the best interest of business in Illinois to adopt rules, such as the emergency rule and alternative proposal described in the Motions, that require NOx allowances to be distributed for the 2009 ozone season, as well as subsequent control periods.
2. Our membership includes companies that are owners or operators of budget units subject to the current Subpart U. 35 Ill. Admin. Code Part 217.Subpart U.
3. We understand that no sources subject to the current Subpart U have received allocations of NOx allowances for the 2009 ozone season, nor for any subsequent years.
4. We understand that the current version of 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.
5. We understand that the USEPA is no longer issuing allowances for the NOx Budget Trading Program, as would be required to satisfy the above described requirement.

6. We understand that NOx allowances could potentially be obtained through the purchase of Clean Air Interstate Rule ("CAIR") NOx allowances, although we are uncertain whether those allowances would be legally sufficient to satisfy the Subpart U requirement to hold NOx SIP Call allowances. Nor, even if sufficient, could our members demonstrate compliance with the requirement, due to their inability to obtain CAIR compliance accounts from the USEPA Clean Air Markets Division ("CAMD"), absent a federally approved trading program in Illinois.

7. We are concerned that our members, through no fault of their own, may be in violation of both the law and their Clean Air Act Permit Program ("CAAPP") permits, if immediate action is not taken to remedy the above described circumstances. The potential for violation of an applicable regulation and/or CAAPP permit condition could subject them to federal, state, or third-party enforcement actions, in addition to being required to disclose the potential liability on Securities and Exchange Commission filings.

The Illinois Petroleum Council appreciates the opportunity to provide this response. In light of the above, we request that the Board grant IERG's Motion for Emergency Rule in order to require that 2009 NOx allowances be distributed to impacted 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 2010 control period and beyond.

Respectfully submitted,



By: David A. Sykuta

David A. Sykuta
Executive Director
Illinois Petroleum Council
400 W. Monroe Street, Suite 205
Springfield, IL 62704
217-544-7404