

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
NO_x TRADING PROGRAM:) R06-22
AMENDMENTS TO 35 ILL.) (Rulemaking – Air)
CODE PART 217)

NOTICE

John Therriault, Assistant Clerk
Timothy Fox, Hearing Officer
Illinois Pollution Control Board
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Katherine Hodge
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PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the attached MOTION TO FILE INSTANTER AND FOR EXTENSION OF TIME TO FILE STATUS REPORT of the Illinois Environmental Protection Agency a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

By: /s/

Rachel Doctors, Assistant Counsel
Division of Legal Counsel

DATED: October 21, 2009
P.O. Box 19276
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
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AMENDMENTS TO 35 ILL.) (Rulemaking – Air)
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MOTION TO FILE INSTANTER AND FOR EXTENSION OF
TIME TO FILE STATUS REPORT

NOW COMES the Illinois Environmental Protection Agency (“Illinois EPA”), by and through its attorneys, and pursuant to 35 Ill. Adm. Code 101.522, hereby files a Motion to File Instanter and for Extension of Time to Status Report pursuant to the Illinois Pollution Control Board’s August 20, 2009 Order, and, respectfully requests that the Illinois Pollution Control Board (“Board”) grants this motion for filing instanter and extension. In support of its Motion, the Illinois EPA states as follows:

1. On August 3, 2009, Illinois Environmental Regulatory Group (“IERG”) filed a MOTION FOR EMERGENCY RULE and MOTION FOR EXPEDITED ACTION ON THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP’S ALTERNATIVE PROPOSAL.
2. On August 6, 2009, the Board directed participants to file responses to the motions no later than Thursday, August 13, 2009. The Illinois EPA filed a response on August 13, 2009, and IERG filed a reply on August 17, 2009.
3. On August 20, 2009, the Board denied IERG’s Motions for Emergency Rulemaking and ordered the Agency to file a Status Report on or before October 19, 2009, indicating whether and when it will be filing a withdrawal of this docket and submitting a new proposal addressing Non-EGUs and NO_x emissions.
4. On September 14, 2009, IERG filed a Motion for Reconsideration and Clarification arguing that the Board had misapplied the law when IERG’s Motions for Emergency Rulemaking were denied.

Electronic Filing - Received, Clerk's Office, Octobre 21, 2009

5. On September 28, 2009, the Illinois EPA filed Motion to File Instanter and Motion for Extension to File a Response seeking an extension of time to October 12, 2009, for the response to the Motion for Reconsideration and Clarification.

6. On October 1, 2009, the Hearing Officer granted an extension until October 13, 2009.

7. On September 24, 2009, the Illinois EPA received a letter from USEPA confirming that Non-EGUs were not required to hold allowances for the 2009 control period. A copy of that letter is attached.

8. On October 14, 2009, the Illinois EPA filed another Motion for Extension for Filing a Response to the Motion for Reconsideration and Clarification, until October 26, 2009.

9. On October 15, 2009, IERG withdrew the portion of its Motion for Reconsideration and Clarification that concerned the Reconsideration, but left the issue of clarification before the Board.

10. The Illinois EPA and IERG have had discussions concerning the issues related to Docket R06-22, but were unable to meet in person until October 20, 2009.

11. This Motion for Extension would have been filed on October 19, 2009, but the parties were not able to confer until October 20, 2009. At that meeting, the parties discussed the proposed relief sought in this Motion requesting the Extension for filing the Status Report until November 10, 2009. The IERG has indicated that it will not object to the extension.

WHEREFORE, for the reasons stated above, the Illinois EPA respectfully requests that the Board or Hearing Officer grant this Motion for filing Instanter and Extension, and allow the Illinois EPA up to and including November 10, 2009, to file a Status Report for Docket R06-22.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/_____

Rachel Doctors, Assistant Counsel
Air Regulatory Unit
Division of Legal Counsel

DATED: October 21, 2009

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)
)

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have served electronically the attached MOTION TO FILE INSTANTER AND FOR EXTENSION OF TIME TO FILE STATUS REPORT of the Illinois Environmental Protection Agency upon the following persons:

John Therriault, Assistant Clerk
Timothy Fox, Hearing Officer
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ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

/s/

Rachel Doctors, Assistant Counsel
Air Regulatory Unit
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Dated: October 21, 2009

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