

Board Adopts First-Notice Opinion and Order for a Rulemaking Proposal that Would Amend Provisions of the NOx SIP Call Trading Program

On May 19, the Board adopted for first-notice publication in the *Illinois Register* a proposal amending the Board's air rules. The Illinois Environmental Protection Agency (IEPA), on August 19, 2010, filed the proposal that was docketed as In the Matter of: NOx Trading Program Sunset Provisions for Non-Electric Generating Units: Amendments to 35 Ill. Adm. Code Party 217.Subpart U (R11-08).

The IEPA's proposal would sunset the trading provisions of the Nitrogen Oxide SIP Call Trading Program (NOx Trading Program) for non-electric generating units (non-EGUs). The sole provisions to be amended involve the holding and trading provisions for NOx allowances in Part 217.Subpart U. Due to a federal court ruling concerning the federal CAIR rules in *North Carolina v. USEPA*, 550 F.3d 1176 (C.A.D.C. Cir. 2008), the court reinstated that CAIR begin implementation with the original 2009 control period. As a result of the court action, IEPA explains that Illinois, Non-Electric Generating Units (EGUs) no longer need to comply with the NOx Trading Program requirements for holding and trading NOx allowances for any control period after 2008 because UEPA no longer allocates allowances for the NOx Trading Program. Therefore, Subpart U is now moot where it requires that Non-EGUs hold their allowances for the 2010 season.

Fifty-two existing non-EGU units, four of which are no longer operating, and two new non-EGU units are currently subject to the NOx Trading Program. The affected units and will not be subject to the holding and trading provisions of the NOx Trading Program if the Board sunsets these provisions of Subpart U. However, to ensure that Illinois continues to satisfy its NOx budget, Non-EGUs must continue monitoring, reporting, and recordkeeping under Subpart U.

The Board conducted two hearings in this matter: one in Springfield and one in Chicago.

Publication of these proposed amendments in the *Illinois Register* will begin a 45-day public comment period, during which anyone may file a public comment with the Board. The Board encourages persons to file public comments on these proposed amendments. The docket number for this rulemaking, R11-8, should be indicated on the public comment.

Public comments must be filed with the Clerk of the Board. Public comments may be filed at the following address:

Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

In addition, public comments may be filed electronically through COOL at www.ipcb.state.il.us. Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded from the Web without charge. Hard copies may be obtained from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

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