



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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DOUGLAS P. SCOTT, DIRECTOR

217/782-3397
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RECEIVED
CLERK'S OFFICE

MAR 23 2009

March 20, 2009

STATE OF ILLINOIS
Pollution Control Board

ORIGINAL

Dr. G. Tanner Girard
Acting Chairman
Illinois Pollution Control Board
100 West Randolph Street
Chicago, Illinois 60601

RE: R07-19 & R08-19: Request to Expedite to Avoid Federal Sanctions

Dear Dr. Girard:

I am writing to emphasize the urgent need for the adoption of two pending rulemakings in front of the Illinois Pollution Control Board (Board) on Nitrogen Oxides (NOx) Reasonably Available Control Technology (RACT). Specifically, the two rules are:

1. R07-19: NOx Emissions from Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 IAC Section 201.146 and Parts 211 and 217; and
2. R08-19: Amendments to 35 Ill. Adm. Code 217, Nitrogen Oxides Emissions, and 35 IAC 211.

The State of Illinois faces potential dire consequences in the form of federal sanctions should either of these rules fail to be adopted prior to September 24, 2009.

Please find attached a March 12, 2009 letter sent to me from the Bharat Mathur, Acting Regional Administrator, United States Environmental Protection Agency (USEPA) Region V. The letter provides background information and also expresses the urgent need for adoption of these rules. Note that the USEPA letter clearly outlines that the first of these sanctions will commence September 24, 2009, and further sanctions follow shortly thereafter, and are automatic. Needless to say, these sanctions are serious and would jeopardize Illinois' efforts to receive federal stimulus money from the American Recovery and Reinvestment Act of 2009 (ARRA).

The time available to avoid the implementation of sanctions is very short. Sanctions can best be avoided if the Board acts quickly to adopt the NOx RACT rules. I encourage the Board to adopt the above-referenced NOx Rules as quickly as possible to avoid the imposition of the sanctions.

Please let me know of any actions that I may take to aid in the Board's adoption of these rules in as quick a manner as possible. I sincerely appreciate your efforts as we continue forward on our joint mission to protect public health and the environment.

Very truly yours,

A handwritten signature in black ink that reads "Douglas P. Scott". The signature is written in a cursive style with a large initial 'D'.

Douglas P. Scott
Director

Attachment



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 12 2009

REPLY TO THE ATTENTION OF

R-19J

Douglas P. Scott, Director
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Dear Mr. Scott:

The State of Illinois needs to address the findings of failure to submit required ozone State Implementation Plan (SIP) elements previously identified by the U.S. Environmental Protection Agency in a March 17, 2008, letter and in a March 24, 2008, final rule (73 FR 15416). The final rule began a sanctions clock that, if not terminated or stayed by EPA, will result in the implementation of several sanctions in the Chicago and Metro-East St. Louis 8-hour ozone nonattainment areas, as early as September 2009. I am sending this letter to request expedited action by the Illinois Environmental Protection Agency (IEPA) and the Illinois Pollution Control Board (IPCB) to complete the ozone SIP development and adoption process for the missing SIP elements (discussed below) to avoid implementation of sanctions.

Failure to submit the following SIP elements were identified in the March 17, 2008, letter and the March 24, 2008, final rule.

1. Chicago ozone nonattainment area:
 - a. an 8-hour ozone Reasonable Further Progress (RFP) plan
 - b. an 8-hour ozone attainment demonstration
 - c. Volatile Organic Compounds (VOC) Reasonably Available Control Technology (RACT) rule certification (or new rules for source categories lacking existing RACT rules) for source categories covered by Control Technique Guidelines (CTGs) issued prior to September 15, 2006, or for major non-CTG sources
 - d. Nitrogen Oxides (NOx) RACT rules
2. Metro-East St. Louis ozone nonattainment area:
 - a. NOx RACT rules

The specific timing for the various sanctions that could be triggered if Illinois continues to fail to adopt and submit the required SIP elements are as follows.

If, by September 24, 2009, Illinois has not submitted all of the required SIP elements listed above (including final, adopted VOC and NOx RACT rules where applicable), pursuant to section 179(a) of the Act and 40 CFR 52.31, the new source offset sanction, identified in section 179(b)(2) of the Act, will apply in the Chicago and Metro-East St. Louis areas. The increased new source emissions offset ratio (2:1) will make it more difficult for new sources to locate in the nonattainment areas.

If, by six months after imposition of the first sanction, Illinois has not submitted the required SIP elements, highway sanctions will be implemented in accordance with 40 CFR 52.31. This may adversely affect Federal funding of new highway projects, including highway project funding under the American Recovery and Reinvestment Act of 2009, and would restrict the types of highway projects that the State and local governments can implement.

Finally, if by March 24, 2010, Illinois has not submitted the required SIP elements and EPA has not approved these SIP revisions, section 110(c) of the Act provides for EPA to promulgate Federal Implementation Plans (FIPs) to replace the missing SIP elements. If it is necessary for EPA to promulgate a FIP, EPA may pay the costs of developing and promulgating this plan with section 105 funds that would otherwise be given to Illinois.

EPA is very concerned that the time available to avoid the implementation of sanctions in this case is very short. We look forward to working closely with Illinois to ensure that the Act's requirements are met in a timely manner and to avoid adverse consequences of failure to do so. If you have any questions about this issue, please contact me or Cheryl Newton at 312-353-6730.

Sincerely,



Bharat Mathur
Acting Regional Administrator

cc: Laurel Kroack, Director
Bureau of Air, Illinois EPA