

Board Adopts Second-Notice Opinion and Order for Proposed Amendments to Provisions of the NOx SIP Call Trading Program

On August 4, 2011, the Board adopted for second-notice review by the Joint Committee on Administrative Rules 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 Part 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-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 USEPA 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 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.

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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