



**Illinois Manufacturers' Association**

[www.ima-net.org](http://www.ima-net.org)

1211 West 22nd Street • Suite 620 • Oak Brook, Illinois 60523 • 630-368-5300 • Fax: 630-218-7467  
August 11, 2009 220 East Adams Street • Springfield, Illinois 62701 • 217-522-1240 • Fax: 217-522-2367

Email: [ima@ima-net.org](mailto:ima@ima-net.org)

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

*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:

On behalf of the Illinois Manufacturers' Association (IMA), I respectfully urge the Illinois Pollution Control Board to act on pending motions for expedited action as it relates to distributing NOx allowances for the 2009 ozone season, as well as subsequent control periods. The Illinois Manufacturers' Association is a statewide business trade group representing nearly 4,000 member companies and nearly 600,000 employees.

This action is necessary because the Illinois General Assembly required the adoption of implementation of a Nitrogen Oxide (NOx) State Implementation Plan pursuant to Section 9.9 of the Act, 415 ILCS 5/9.9 and Trading Program for Specified NOx Generating Units (35 Ill. Admin. Code Part 217, Subpart U. This is still a valid regulation in Illinois despite the fact that the USEPA stated it will no longer issue NOX SIP call allowances after the 2008 ozone season. At this point, the Illinois EPA has failed to take any action to establish a new regulatory mechanism for issuing these allowances for sources subject to Subpart U for the 2009 ozone season.

The IMA supports action on these pending motions for the following reasons:

1. Many of our member companies own or operate budget units and are therefore subject to Subpart U.
2. The Illinois EPA has yet to issue any NOx allocation for the 2009 ozone season or subsequent years despite the fact that it is a valid and enforceable Illinois regulation.
3. Failure by the IL EPA to issue the NOx allowances could place manufacturing companies in jeopardy of violating the regulation that require subject sources to hold allowances by November 30 for each ton of NOx emitted during the ozone season.
4. It is our understanding that the USEPA is no longer issuing allowances for the NOx Budget Trading Program, as would be required to satisfy the above described requirement.

5. The IMA understands 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.
6. The IMA is concerned that our member companies, 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.

In light of the above, the IMA requests that the Board grant Motion for Emergency Rule in order to require that 2009 NOx allowances be distributed to impacted sources, and grant the Motion for Expedited Action on the 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.

Thank you for your consideration.



Mark Denzler  
Vice President – Government Affairs & Membership  
Illinois Manufacturers' Association  
220 E. Adams  
Springfield IL 62701  
(217) 522-1240