

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:)
)
Proposed procedural rules for the) DLC #81-08
Clean Air Interstate Rule (CAIR))
Clean Air Set-Asides (CASA))
)

Summary and Agency Statement
Following a Public Hearing on June 11, 2008

On June 11, 2008, the Illinois Environmental Protection Agency (“Illinois EPA”) held a public hearing in Springfield, Illinois, on the Procedural Rules for the Clean Air Interstate Rule (“CAIR”) Clean Air Set-Asides (“CASA”). Pursuant to 35 Ill. Adm. Code 164.401, the Illinois EPA has prepared this Summary and Agency Statement following the hearing.

The Illinois EPA proposes to submit these documents to the United States Environmental Protection Agency (“USEPA”) as State Implementation Plan (“SIP”) revisions. The CASA procedures set forth the procedures for determination and distribution of CAIR annual and ozone season CASA nitrogen oxide (“NO_x”) allowances as provided for under Subparts D and E of 35 Ill. Adm. Code Part 225. The rules provide the procedures for determining eligible CASA projects, establishing a CAIR CASA NO_x allowance database and distributing CAIR CASA NO_x allowances.

Notice for the June 11, 2008, public hearing was published by the Illinois EPA in accordance with the Illinois EPA’s “Procedures for Informational and Quasi-Legislative Public Hearings” (“Public Hearing Procedures”). On June 11, 2008, the public hearing was held to

gather comments and answer questions. Six members of the public attended the hearing and two questions were asked by the public and answered during the hearing by Illinois EPA representatives. The first question concerned the vintage of NO_x allowances and the fact that flow control no longer applied. The second question concerned the length of time that project sponsors had to comment on allowance distributions. The comment period ended July 11, 2008. Following the public hearing, the Illinois EPA received no comments from the public.

Publication of the Illinois EPA's production of this Summary and Agency Statement was delayed due to a decision by the United States Court of Appeals for the District of Columbia Circuit, vacating the Federal CAIR rule on July 11, 2008. *North Carolina v. EPA*, (D.C. Cir. App. No. 05-1244). After the Federal CAIR rule was vacated, the Illinois EPA did not proceed with the promulgation of the proposed CAIR CASA rules, because USEPA did not distribute CAIR NO_x allowances. However, on December 23, 2008, the appellate court reinstated the rule and required sources to comply with the Federal CAIR on schedule beginning January 1, 2009. *Id.* (December 23, 2008). As the CASA program is part of Illinois' CAIR rule as set forth at 35 Ill. Adm. Code Part 225, the Illinois EPA believes that it is advantageous to proceed at this time with the adoption of the procedures to implement CASA portion of the CAIR rule as adopted by the Illinois Pollution Control Board.

On behalf of Director Douglas P. Scott and the Illinois EPA staff, we would like to thank all those who participated at the public hearing and for your comments and questions.

Illinois Environmental Protection Agency

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