

ILLINOIS POLLUTION CONTROL BOARD  
August 22, 2019

IN THE MATTER OF: )  
)  
AMENDMENTS TO 35 ILL. ADM. CODE ) R18-20  
225.233, MULTI-POLLUTANT STANDARD ) (Rulemaking - Air)  
(MPS) )

Adopted Rule. Final Order.

OPINION AND ORDER OF THE BOARD (by K. Papadimitriou):

The Board today adopts final amendments to Section 225.233 of Part 225 of its air pollution control rules (35 Ill. Adm. Code 225.233). Section 225.233 contains the Multi-Pollutant Standards (MPS), which apply to eight downstate coal-fired power plants.

With only minor exceptions, the final amendments to Section 225.233 are unchanged from the amendments that the Board proposed at second notice. Accordingly, the Board does not repeat here its detailed discussions of the rule changes found in its second-notice opinion. See Amendments to 35 Ill. Adm. Code 225.233, Multi-Pollutant Standard (MPS), R18-20 (June 20, 2019) (second notice); see also Amendments to 35 Ill. Adm. Code 225.233, Multi-Pollutant Standard (MPS), R18-20 (Oct. 4, 2018) (second first notice).

In this opinion, the Board provides an abbreviated procedural history of the rulemaking, followed by an overview of the final amendments. The Board then issues its order, directing the Clerk to file the amendments with the Secretary of State. The amendments themselves, which will take effect upon filing with the Secretary of State (*see* 5 ILCS 100/5-40(d) (2018)), appear in the addendum to this opinion and order.

**PROCEDURAL HISTORY**

On October 2, 2017, the Illinois Environmental Protection Agency (IEPA) filed a rulemaking proposal to amend Section 225.233. On October 19, 2017, without substantive review, the Board proposed IEPA's amendments for first notice. The first-notice amendments were published in the *Illinois Register* on November 3, 2017 (41 Ill. Reg. 13299).

The Board held three hearings in 2018, each lasting two days: January 17 and 18, 2018, in Peoria; March 6 and 7, 2018, in Edwardsville; and April 16 and 17, 2018, in Springfield. At these hearings, ten witnesses testified; the Board's hearing officer admitted 47 hearing exhibits into the record; and the Board heard 119 oral public comments. Additionally, during the first-notice public comment period, the Board received 2,909 written public comments.

On October 4, 2018, the Board adopted a second first-notice opinion and order. The second first-notice amendments were published in the *Illinois Register* on October 26, 2018 (42 Ill. Reg. 19158).

Following the second first-notice publication, the Board held an additional hearing on January 29, 2019, in Springfield. At that hearing, four witnesses testified; the hearing officer admitted another three hearing exhibits; and the Board heard an additional eighteen oral public comments. The Board also received another 629 written public comments during the second first-notice public comment period.

On June 20, 2019, the Board proposed the amendments for second-notice review by the Joint Committee on Administrative Rules (JCAR). At its August 13, 2019 meeting, JCAR issued a “Certification of No Objection” to the proposed amendments, subject to a handful of non-substantive changes which the Board includes in the final rules.

### **OVERVIEW OF THE AMENDMENTS**

IEPA initiated this rulemaking to provide operational flexibility by combining the two existing MPS groups into one group and replacing the existing rate-based emission standards for sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) with annual mass-based limits. The final amendments adopt those two measures but impose more stringent limits than IEPA had originally proposed. The amendments also require specified reductions in allocation amounts when an electric generating unit (EGU) is transferred, permanently shut down, or temporarily shut down.

The final amendments set annual mass-based caps for SO<sub>2</sub> (34,500 tons per year) and NO<sub>x</sub> (19,000 tons per year), as well as an 11,500-ton NO<sub>x</sub> cap for the ozone season. These mass caps reduce allowable emissions from the current MPS regulations by 31,854 tons for SO<sub>2</sub> annually, 13,841 tons for NO<sub>x</sub> annually, and 2,266 tons for NO<sub>x</sub> during the ozone season. Further, as added at second notice, the final amendments require the permanent reduction of at least 2,000 megawatts (MW) of coal-fired electric generation from one or more EGUs in the MPS group. Based upon this rulemaking record, the Board reiterates its findings from its second first-notice and second-notice opinions, including the determination that the amendments are protective of human health and the environment.

Finally, rather than having submittals related to the 2,000-MW reduction due “[w]ithin 30 days after the effective date of this subsection” and “[w]ithin 45 days after the effective date of this subsection,” the Board, at JCAR’s request, amends the second-notice rule text at final adoption to provide specific due dates. The Board’s Clerk will file the final amendments tomorrow with the Office of the Secretary of State, which will give them an effective date of August 23, 2019. *See* 5 ILCS 100/5-40(d) (2018). Accordingly, the final amendments reflect the respective submittal due dates of September 23, 2019 and October 7, 2019. *See* subsections (l)(1) and (l)(3)(A) of Section 225.233.<sup>1</sup>

### **ORDER**

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<sup>1</sup> The 30th day after August 23, 2019, is September 22, 2019, which is a Sunday. Therefore, the Board uses September 23, 2019, which is a Monday and not a holiday. *See* 5 ILCS 70/1.11 (2018).

Consistent with this opinion, the Board directs the Clerk to submit the final amendments to the Office of the Secretary of State for publication in the *Illinois Register* and codification in the Illinois Administrative Code. The amendments appear in the addendum to this opinion and order. All additions are underlined; all deletions appear with strikethroughs.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2018); *see also* 35 Ill. Adm. Code 101.300(d), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 22, 2019, by a vote of 5-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board