BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
	)	R2023-018(A)
AMENDMENTS TO 35 ILL. ADM. CODE	)	(Rulemaking – Air)
PARTS 201, 202, AND 212	)	

NOTICE OF FILING

TO: Mr. Don A. Brown,
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Illinois Pollution Control Board
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Timothy Fox
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Hearing Officers
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(VIA ELECTRONIC MAIL)

(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board, **THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP'S POST-HEARING COMMENT**, copies of which are hereby served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP,

By:/s/ *Melissa S. Brown*
One of Its Attorneys

Dated: May 22, 2024

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	**)**	
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AMENDMENTS TO 35 ILL. ADM. CODE	**)**	**R 23-18(A)**
PARTS 201, 202, AND 212	**)**	**(Rulemaking – Air)**

THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP'S
POST-HEARING COMMENT

The ILLINOIS ENVIRONMENTAL REGULATORY GROUP ("IERG"), by and through its attorneys, HEPLERBROOM, LLC, and pursuant to the April 22, 2024 Hearing Officer Order, hereby submits to the Illinois Pollution Control Board ("Board") its Post-Hearing Comment in this sub-docket rulemaking.

I. INTRODUCTION

Removal of the startup, malfunction, and breakdown ("SMB") provisions in PCB R 23-18 detrimentally impacts facilities with fuel combustion emission sources, such as boilers and process heaters. By no longer being able to avail themselves of the prior SMB provisions, facilities with fuel combustion emissions sources will likely face noncompliance with the carbon monoxide ("CO") emissions limit in 35 Ill. Adm. Code 216.121 due to the nature of these sources during startup and shutdown. Regulatory relief, such as an alternative emission limitation ("AEL"), is needed for these sources to maintain continuous compliance at all times the fuel combustion emission sources are operating. IERG requests that the Board adopt its proposed AEL in relation to the CO standard in 35 Ill. Adm. Code 216.121.

II. BACKGROUND

IERG first proposed its AEL in PCB R 23-18. In PCB R 23-18, the Illinois Environmental Protection Agency ("Agency" or "Illinois EPA") proposed revisions to 35 Ill. Adm. Code Parts 201, 202, and 212 to remove provisions that allowed Illinois EPA to grant advance authorization

to sources to continue operating with excess emissions during a malfunction or breakdown or to violate emission limitations or standards during startup. Statement of Reasons, PCB R 23-18 (Dec. 7, 2022). IERG opposed Illinois EPA's proposal. Comment of IERG, PCB R 23-18 (Dec. 30, 2022); Pre-Filed Testimony of Kelly Thompson and David R. Wall for IERG, PCB R 23-18 (Feb. 6, 2023); Post-Hearing Comment of IERG, PCB R 23-18 (Mar. 7, 2023). IERG alternatively proposed two AELs – one concerning fluid catalytic cracking units and one concerning fuel combustion emission sources. Pre-Filed Testimony of Kelly Thompson and David R. Wall for IERG, PCB R 23-18 (Feb. 6, 2023); Post-Hearing Comment of IERG, PCB R 23-18 (Mar. 7, 2023). At Second Notice, the Board opened a sub-docket to explore the proposed AELs. Second Notice Opinion and Order, PCB R 23-18 (Apr. 6, 2023). Over the Joint Committee on Administrative Rule's ("JCAR") objection, the Board ultimately adopted Illinois EPA's proposal and declined to adopt the proposed AELs. Final Notice Opinion and Order, PCB R 23-18 (July 20, 2023).

On August 7, 2023, IERG filed its AEL Proposal concerning fuel combustion emission sources in this sub-docket rulemaking. IERG's Proposal for Regulations of General Applicability, PCB R 23-18(A) (Aug. 7, 2023). Hearings were held on the AEL Proposals on September 27 and November 1, 2023. On October 23, 2023, Illinois EPA filed a comment, requesting that the Board solicit additional information from the rulemaking proponents, including IERG. Illinois EPA's Comments, P.C. #5, R 23-18(A) (Oct. 23, 2023) (hereinafter "Illinois EPA's Comment"). A Motion for Additional Hearing was filed by the Attorney General's Office, requesting that a third hearing be scheduled to address any additional information that the rulemaking proponents may submit in response to Illinois EPA's Comment. Motion for Additional Hearing, PCB R 23-18(A) (October 26, 2023). The third hearing was held on April 15, 2024. IERG did not submit additional

information or data in response to Illinois EPA's Comment and, therefore, did not present a witness at the third hearing.

III. IERG's PROPOSAL

The CO standard in 35 Ill. Adm. Code 216.121 is infeasible for entities with fuel combustion emission sources to comply with during startup and shutdown. The Board's removal of SMB provisions in Part 201 will leave facilities with fuel combustion emission sources with no feasible option for compliance with Section 216.121 during periods of startup. Fuel combustion emission sources that are coal-fired and/or solid fuel-fired also do not have feasible options for compliance with Section 216.121 during shutdown.

In its Proposal, IERG proposes to provide alternative standards for CO that apply during periods of startup and shutdown so that entities with fuel combustion emission sources can operate in continuous compliance with the Board's regulations during all modes of operation. IERG proposes to amend 35 Ill. Adm. Code Part 216 as follows (which incorporates the Board's and JCAR's proposed revisions):

Section 216.103 Definitions

The definitions contained in 35 Ill. Adm. Code 201 and 211 apply to this Part. The definitions of "startup" and "shutdown" in 40 CFR 63.7575, incorporated by reference in Section 216.104, apply to Section 216.121(b).

Section 216.104 Incorporations by Reference

The following materials are incorporated by reference: non-dispersive infrared method, 40 CFR 60, Appendix A, Method 10 (1982); 40 CFR 63, Subpart DDDDD (2022) (including amendments published in 87 Fed. Reg. 60,816 (Oct. 6, 2022)). This Section incorporates no later editions or amendments.

Section 216.121 Fuel Combustion Emission Sources

a) ~~No~~A person ~~shall~~must not cause or allow the emission of carbon monoxide (CO) into the atmosphere from any fuel combustion emission source with actual heat

> input greater than 2.9 MW (10 mmbtu/hr) to exceed 200 ppm, corrected to 50 percent excess air.
>
> b) Despite subsection (a), during periods of startup and shutdown, any new or existing fuel combustion emission source must comply either with subsection (a) or the alternate non-numerical standards for these operating modes in 40 CFR 63, Subpart DDDDD, Table 3 Items 5 and 6, 40 CFR 63.7500(a)(3) and (f), 40 CFR 63.7505(e), 40 CFR 63.7535(b), and 40 CFR 63.7555(d)(9) through (12), incorporated by reference in Section 216.104.

IERG's Proposal for Regulations of General Applicability, PCB R 23-18(A), at 15, 24 (Aug. 7, 2023); Hearing Officer Order, PCB R 23-18(A) (Sept. 20, 2023); Public Comment #2, PCB R 23-18(A) (Sept. 7, 2023).

As explained in prior filings, the proposed alternative standards for CO are based on the federal standards in the National Emission Standards for Hazardous Air Pollutants ("NESHAP") Subpart DDDDD. To IERG's knowledge, many of the entities in Illinois with fuel combustion emission sources are already subject to either NESHAP Subpart DDDDD, which applies to major sources, or to NESHAP Subpart JJJJJJ, which applies to area sources and has similar requirements to those in Subpart DDDDD. *See* NESHAP for Industrial Commercial, and Institutional Boilers Area Sources, 40 CFR Part 63, Subpart JJJJJJ. Because IERG is proposing to incorporate federal work practice standards that many fuel combustion emission sources in the State are already subject to, IERG's Proposal will not result in any adverse harm to the environment or human health and the proposed requirements will be technically feasible and economically reasonable for sources to comply with.

IV. IERG'S PROPOSAL SATISFIES USEPA'S CRITERIA FOR AELS

The United States Environmental Protection Agency ("USEPA") has recognized that there are approaches to address emissions during startup, shutdown, and malfunction ("SSM") that are consistent with the requirements of the Clean Air Act. 80 Fed. Reg. 33840, 33844 (June 12, 2015).

USEPA explained that "SIPs may, rather than exempt emissions during SSM events, include emission limitations that subject those emissions to alternative numerical limitations or other technological control requirements *or work practice requirements* during startup and shutdown events, so long as those components of the emission limitations meet applicable CAA requirements." *Id*. (emphasis added). IERG's Proposal incorporates by references work practice requirements from the federal regulations that are applicable to boilers and process heaters during startup and shutdown. IERG addressed each of USEPA's seven AEL criteria in its Technical Support Document. Exhibit 1, Technical Support Document, IERG's Proposal for Rules of General Applicability, PCB R 23-18(A) (Aug. 7, 2023). IERG addresses the AEL criteria, along with Illinois EPA's comments raised in its October 23, 2023 Comment, below.

A. Criterion #1: The revision is limited to specific, narrowly defined source categories using specific control strategies (e.g., cogeneration facilities burning natural gas and using selective catalytic reduction).

IERG's proposed revisions to 35 Ill. Adm. Code Part 216 are limited to boilers and process heaters with actual heat input greater than 2.9 MW (10 mmbtu/hr). As proposed by IERG, this standard would continue to be the CO standard applicable during normal, steady-state operation. Facilities would then have the choice, during periods of startup or shutdown, to either comply with the 200 ppm standard or comply with the incorporated NESHAP Subpart DDDDD work practice standards. As such, IERG's Proposal is narrow in terms of applicability because it is limited to specific types of emission units – boilers and process heaters.

In its Comment, Illinois EPA argued that IERG should narrow the universe of affected sources. Illinois EPA's Comments, P.C. #5, PCB R 23-18(A), at 27 (Oct. 23, 2023). Specifically, the Agency said IERG should "identify sources that are actually in need of an alternative CO standard." *Id.* IERG is an Illinois non-profit corporation and is comprised of 49 member

companies that are regulated by government agencies that promulgate, enforce, or administer environmental laws, rules, regulations, or other policies. IERG's members represent a wide variety of industry types and source categories. Several of IERG's members expressed a concern with complying with the CO emissions limitation in Section 216.121 during periods of startup or shutdown of their boilers or process heaters. IERG decided to pursue a generally applicable AEL given that several members of IERG expressed concern with complying with Section 216.121 during startup and shutdown, as well as the potential for numerous other sources that are not IERG members, that likely have the same concern. Addressing this issue in one general rulemaking, as opposed to numerous site-specific regulatory relief proceedings, would be an efficient use of resources for the sources at issue, Illinois EPA, and the Board. IERG's proposed AEL is a mechanism to allow facilities with a boiler and process heater to maintain continuous compliance with the CO emission limitation in Section 216.121 during periods of startup and shutdown.

B. Criterion #2: Use of the control strategy for this source category is technically infeasible during startup or shutdown periods.

As explained in detail in IERG's Technical Support Document, CO is emitted from boilers and process heaters as a product of incomplete combustion. Factors that influence complete combustion include time, temperature, and turbulence. CO emissions can be minimized when boilers and process heaters operate at sufficiently high combustion temperature and with sufficient time and turbulence in the firebox to allow for more complete combustion to occur. These factors are not technically feasible to sufficiently achieve during startup conditions. It can take significant time during a boiler startup to reach sufficient operating temperature for good combustion, particularly when startup occurs after a longer period of shutdown. Heating the boiler or process heater too fast can result in refractory damage, with hot spots then forming in the boiler or process heater, degrading boiler or process heater performance.

Excess CO emissions during boiler or process heater shutdown are primarily limited to coal-fired and solid fuel-fired boilers and process heaters. For natural gas-fired boilers and process heaters, combustion ceases once the natural gas is stopped. Coal-fired and solid fuel-fired boilers and process heaters may have a longer residence time for fuel remaining in the combustor after fuel delivery is stopped. As a result, there can be a brief period of incomplete combustion as the fuel stops burning and bed temperature cools off, resulting in elevated CO emissions.

IERG is not aware of a technical means to control the excess CO emissions during startup periods, or during shutdown periods for coal-fired and solid fuel-fired boilers or process heaters, other than to follow standard procedures to achieve normal operating conditions as quickly as possible while minimizing potential damage to the combustion device. As explained in the Technical Support Document, in reviewing available data from some example boilers and process heaters in Illinois, the technical infeasibility to control CO emissions during startup becomes clear. In looking at example boilers with Continuous Emissions Monitoring System ("CEMS") data for CO emissions as well as data regarding firebox temperature, the relationship between emissions and temperature is profound. See Figure 1, Attachment 2, Technical Support Document. CO concentrations are elevated at the beginning of startup and remain elevated until firebox temperatures begin to approach the CO autoignition temperature, at which point the CO emissions fall drastically to barely measurable levels.

C. Criterion #4: As part of its justification of the SIP revision, the state analyzes the potential worst-case emissions that could occur during startup and shutdown based on the applicable AEL.

As explained in IERG's Proposal, annual air quality data for the State demonstrates that there are no violating CO monitors. Sources subject to NESHAP Subpart DDDDD have been utilizing the federal SSM provisions proposed to be incorporated by IERG since 2015. As shown

by the annual air quality data, this approach has had minimal or no impact on CO emissions in Illinois as CO emissions in Illinois are still at a fraction of the CO NAAQS. In its Comment, Illinois EPA requested that IERG provide a "quantification of emissions during those periods, durations of those periods, and discussion of potential environmental impact during those periods for specific sources and units in need of relief, and descriptions of what might be 'typical' worst-case emissions for those units during those periods. IERG should provide with its proposal worst-case quantification, modeling, and information related to modeling including the data inputs." IEPA Comment P.C. #5, at 26. Additional, site-specific analysis of worst-case emissions under this criterion is not necessary. USEPA has recognized that worst-case modeling would not always be needed to show that the proposed AEL does not interfere with attainment. 80 Fed. Reg. 33840, 33867 (June 12, 2015). The work practice requirements from NESHAP Subpart DDDDD that IERG proposes to incorporate have been used by numerous sources for almost a decade with no discernable impact on attainment of the CO NAAQS. Modeling is not needed because IERG's Proposal is not proposing a new emission limit for startup and shutdown but is simply incorporating by referencing the existing federal work practice requirements.

On June 15, 2023, USEPA approved Washington's State Implementation Plan ("SIP"). 88 Fed. Reg. 39210 (June 15, 2023). Washington had updated their definition of "transient mode of operation" to include:

> short-term operating periods, including periods of startup and shutdown. This term is used for facilitating development of alternative emission limitations (AELs) for startup and shutdown periods, as well as other short-term modes of operations such as soot blowing (also known as boiler lancing, grate cleaning, and refractory curing, during which a source is unable to meet otherwise applicable emissions limits.

Id. at 39212. Washington's submittal removed exemptions, like Illinois' prima facie defense provisions, from its regulations and replaced them with AELs that apply during these transient

modes of operation. *Id*. Washington's submittal was "specific to visible emission from certain pre-existing biomass boilers during soot blowing, grate cleaning, and planned startups and shutdowns as well as boilers and lime kilns during refractor curing." *Id*. USEPA found that Washington's SIP created more stringent emissions limitations. *Id*. Further, USEPA found that particulate matter ("PM") would not increase as a result of the revisions for two reasons: "(1) Washington's revised rules require compliance with AELs during transient modes of operations, whereas the prior version of the rules allowed sources to routinely avoid penalties for excess emissions; and (2) the preexisting emissions limits remain in place for non-transient modes of operation for these sources." *Id*.

Here, IERG's Proposal is simply allowing for compliance with established federal work practice requirements which service to minimize CO emissions during startup and shutdown. IERG's Proposal simply allows for, during periods of startup and shutdown, compliance with an existing federal standard that most sources already comply with. During all other modes of operation, other than startup and shutdown, the existing CO limitation in Section 216.121 would be applicable.

D. Criteria #3, #5, and #6: The AEL requires that frequency and duration of operation in startup and shutdown mode are minimized; all possible steps are taken to minimize the impact of emissions during startup and shutdown on ambient air quality; and that the facility is operated in a manner consistent with good practice for minimizing emissions.

IERG's proposed AEL addresses minimizing emissions during periods of startup and shutdown. The proposed AEL incorporates by reference the general duty to minimize emissions in NESHAP Subpart DDDDD. See, e.g., 40 CFR 63.7500(a)(3). This general duty also requires the source to operate the source, here the boilers and process heaters, in a manner consistent with safety and good air pollution control practices. Furthermore, the

proposed AEL incorporates by reference the work practice requirements of NESHAP Subpart DDDDD that require the use of clean fuels during startup and shutdown. *See, e.g.*, 40 CFR 63 Subpart DDDDD, Table 3, Rows 5 and 6.

E. Criterion #7: The AEL requires that the owner or operator's actions during startup and shutdown periods are documented by properly signed, contemporaneous operating logs or other relevant evidence.

IERG's proposed AEL incorporates provisions from NESHAP Subpart DDDDD that address this criterion. Specifically, the incorporated provisions require the facility to keep records of the calendar date, time, occurrence and duration of each startup and shutdown, among other records. *See, e.g.,* 40 CFR 63.7555.

V. D.C. CIRCUIT COURT OF APPEALS DECISION

On March 1, 2024, the U.S. Court of Appeals for the District of Columbia ("D.C. Circuit Court") issued a decision in *Environmental Committee of the Florida Electric Power Coordinating group, Inc. v. EPA, et al*. The case was a result of several petitions for review filed as to USEPA's SSM SIP Call. The D.C. Circuit Court vacated USEPA's SSM SIP Call with respect to several types of SSM SIP provisions. *Envir. Comm. Fl. Elec. Power Coordinating Group v. EPA*, No. 15-1239, page 68 (D.C. Cir. Mar. 1, 2024). While the State of Illinois was not among the petitioners in that case, Illinois' SMB provisions repealed in PCB R 23-18 fell under at least one of the types of SSM provisions as to which the SIP Call was vacated. As such, the basis for the Board's repeal of Illinois' SSM provisions in PCB R 23-18, i.e., USEPA's SIP Call, has been vacated.

Even though Illinois was not part of the review process, the discussions in the D.C. Circuit Court opinion were extremely broad and, other than Tennessee, did not discuss specific state SIPs. *See Envir. Comm. Fl. Elec. Power Coordinating Group v. EPA*, No. 15-1239, page 63 (D.C. Cir. Mar. 1, 2024) (denying the petition for review as to Tennessee's overbroad enforcement discretion

provisions). The D.C. Circuit Court's opinion should therefore be considered persuasive. In removing the SMB provisions in PCB R 23-18, Illinois EPA, and the Board, referred to USEPA's SIP Call as the basis and reasoning for the rulemaking. Illinois EPA gave no other justification for its Proposal other than the SIP Call. Therefore, the D.C. Circuit Court's opinion calls into question the basis for the Board's removal of the SMB provisions in PCB R 23-18. Illinois EPA should be required to provide new justification for why the SMB provisions should remain repealed in light of the D.C. Circuit Court's opinion.

However, IERG does not believe that the D.C. Circuit Court opinion should impact this sub-docket rulemaking. This sub-docket specifically addresses proposed AELs and does not propose general SMB provisions similar to those removed in PCB R 23-18. IERG requests that the Board move forward to Second Notice in this sub-docket rulemaking with the proposed AELs.

VI. CONCLUSION

Prior to the amendments adopted by the Board in PCB R 23-18, facilities with fuel combustion emission sources that had exceedances during SMB events could apply for and obtain SMB conditions in their permits. Facilities can no longer apply for such relief in their permits. Facilities with fuel combustion emission sources must now comply with the CO emissions limitation in 35 Ill. Adm. Code 216.121 at all times, including periods of SMB. However, many facilities with fuel combustion emission sources cannot continuously comply with Section 216.121 during periods of startup and shutdown due to nature of the fuel combustion emission sources during these periods. Regulatory relief is needed from the CO emissions limit in Section 216.121. IERG's proposed AEL, which is consistent with the federal regulations applicable to boilers and process heaters during startup and shutdown, will allow facilities with fuel combustion emission

sources to be in continuous compliance during all modes of operation. IERG requests that the Board adopt IERG's Proposal.

WHEREFORE, for the above and foregoing reasons, IERG hereby respectfully submits its Post-Hearing Comment and requests that the Board amend 35 Ill. Adm. Code Part 216 consistent with IERG's Proposal.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP

Dated: May 22, 2024

By: _____*/s/ Melissa S. Brown*_____
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CERTIFICATE OF SERVICE

I, the undersigned, on oath state the following: That I have served the attached **THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP'S POST-HEARING COMMENT,** via electronic mail upon:

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That the email transmission took place before 5:00 p.m. on May 22, 2024.

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/s/ *Melissa S. Brown*
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