

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM.) **R09-10**
CODE 225: CONTROL OF EMISSIONS) **(Rulemaking – Air)**
FROM LARGE COMBUSTION SOURCES)

NOTICE

TO: John Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
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SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S POST-HEARING COMMENTS TO THE FEBRUARY 10, 2009, HEARING ON THE PROPOSAL FOR AMENDING 35 ILL. ADM. CODE 225 a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: Charles E. Matoesian /s/

Charles E. Matoesian
Assistant Counsel
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DATED: March 6, 2009

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**THIS FILING IS SUBMITTED
ON RECYCLED PAPER**

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO) R09-10
35 ILL. ADM. CODE 225) (Rulemaking – Air)
CONTROL OF EMISSIONS FROM)
LARGE COMBUSTION SOURCES)

**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY’S POST-HEARING
COMMENTS TO THE FEBRUARY 10, 2009, HEARING ON THE PROPOSAL FOR
AMENDING 35 ILL. ADM. CODE 225**

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA” or “Agency”), by its attorneys, and hereby submits its post-hearing comments to the second hearing in the above rulemaking proceeding. The Illinois EPA has reviewed the transcript of the February 10, 2009, hearing and responds to the information presented as follows:

On January 5, 2006, it was announced that Illinois would pursue an aggressive proposal to reduce mercury emissions from Illinois’ coal-fired power plants by 90 percent beginning mid 2009. After nearly a full year of stakeholder meetings, contested public hearings, rulemaking procedural processes, and lengthy negotiations, the Illinois mercury rule (i.e., 35 Ill. Adm. Code Part 225 Subpart B) was unanimously approved by both the Illinois Pollution Control Board (“IPCB” or “Board”) and the Joint Committee on Administrative Rules. The Illinois mercury rule became effective on December 21, 2006. This rule requires coal-fired power plants in Illinois to achieve greater reductions of mercury and achieve these reductions more quickly than that proposed in May 2005 by the USEPA under the federal Clean Air Mercury Rule (“CAMR”).

On February 8, 2008, the United States Court of Appeals for the District of Columbia Circuit vacated the USEPA CAMR. This court action raised concerns regarding the status of certain federal provisions in 40 CFR Part 75 ("Part 75") dealing with the monitoring of mercury emissions. Due to the incorporation of several of these federal mercury monitoring provisions into the Illinois mercury rule and given the current uncertainty surrounding these provisions, the Illinois EPA determined that a revision to the Illinois mercury rule would be appropriate.

The proposed revisions are extremely limited in scope and do not include any revisions to the emission and control standards themselves. The primary focus of the proposed revisions is on the methods used to measure mercury emissions for the demonstration of compliance with the emissions and control requirements. Mercury monitoring via a continuous emissions monitoring system ("CEMS") will continue to be an option for measuring mercury emissions. The proposed revisions also add stack testing as an alternative method to monitoring. This will provide sources with flexibility in their methods used to measure mercury emissions for compliance demonstrations. Further proposed amendments to the rule include adding two approved sorbents for use in mercury control and reconstituting the provisions of Part 225, Subpart F (i.e., Combined Pollutant Standard) into Part 225, Subpart B. The Illinois EPA considers these last few amendments as "housekeeping" measures.

The Illinois EPA continues to support CEMS for measuring emissions of mercury from electric generating units (EGUs) for demonstrating compliance with the Illinois mercury rule. CEMS were deemed by the USEPA to be a technically feasible and economically reasonable method of measuring mercury emissions while promulgating CAMR, and these same methods were incorporated into the Illinois mercury rule.

Previously, the Illinois mercury rule incorporated federal Part 75 by reference. The proposed amendments include the appropriate provisions of Part 75 monitoring requirements, with noted changes. Such changes include the removal of provisions that were appropriate only with the existence of a national mercury trading program and a state-by-state emissions cap (e.g., bias adjustment factor, missing data substitution).

Stack testing provides a measure of flexibility and certainty for sources in demonstrating compliance and therefore is being proposed as a temporary means to demonstrate compliance during this time of uncertainty. This additional flexibility is also appropriate as Illinois is no longer required to demonstrate compliance with a mercury emissions cap for purposes of CAMR. The Illinois EPA has broad historic knowledge and experience with the use of stack testing for emissions measurement and compliance demonstrations. Quarterly stack testing, along with the monitoring of source operating parameters, will provide sources an alternative to CEMS monitoring of mercury emissions for a three-year period. The Illinois EPA anticipates that during this three-year window, new federal regulations will prescribe monitoring provisions for mercury emissions and that the Illinois EPA will either adopt, or otherwise allow the use of, those provisions to demonstrate compliance with the Illinois mercury rule going forward.

Shortly after the February vacatur of CAMR, the Illinois EPA began participating in national conference calls with interested states and the USEPA regarding the impact of the vacatur to state air programs. In these discussions, Illinois EPA was vocal in seeking guidance on how best to proceed given the uncertainty surrounding federal mercury control efforts. Illinois EPA continued to participate in these calls and had other direct contact with USEPA and other states throughout the rulemaking process.

The Illinois EPA has also worked with stakeholders throughout the rulemaking process to resolve outstanding issues and address expressed concerns. Stakeholders were officially notified of Illinois EPA's intent to revise the Illinois mercury rule on May 20th and 21st via a combination of letters and e-mails. Next, the Illinois EPA shared a draft of the proposed revised rule with all interested stakeholders, held meetings with several stakeholders, and then held a larger stakeholder meeting at Illinois EPA headquarters in Springfield. During the larger stakeholder meeting, the Illinois EPA discussed the proposed revisions, answered all questions, and listened to stakeholder concerns. On October 3, 2008, the Illinois EPA filed proposed amendments to the Illinois mercury rule with the IPCB. Included along with the proposed amendments were key documents of support for the rulemaking, including a Technical Support Document and Statement of Reasons. On October 28, 2008, the Illinois EPA filed a request for expedited review, which was later granted by the IPCB.

Discussions with stakeholders continued up to the first mercury hearing held in Springfield on December 17, 2008. At that hearing, the Illinois EPA provided testimony and had a panel of representatives answer questions before the Board. Several issues were raised by stakeholders, and the Illinois EPA committed to continue working to resolve the highlighted issues. Subsequent to the first hearing and prior to the second hearing, the Illinois EPA continued to have regular discussions with stakeholders in efforts to resolve any remaining issues. These efforts resulted in two erratas submitted by Illinois EPA to the IPCB before the second hearing. These discussions were very successful in resolving the vast majority of outstanding issues raised by stakeholders, including the issues addressed in stakeholder pre-filed testimony submitted to the IPCB prior to the second hearing.

These discussions have resulted in several of the companies openly supporting the revisions and others not expressing any concern with the proposed revisions. The second hearing was held in Chicago on February 10, 2009. Four affected sources provided testimony for the second hearing, namely: Midwest Generation, Dynegy, Ameren, and Dominion. All issues raised by Midwest Generation and Dynegy prior to the hearing were resolved prior to hearing and therefore both of these companies gave a statement to the IPCB urging them to adopt the rule as proposed by the IEPA.

As a testament to the success of the Illinois EPA and stakeholders in resolving the outstanding issues, at the second hearing, Scott Miller of Midwest Generation stated, "Since the last hearing in December and continuing after my pre-filed testimony had to be submitted, we have discussed those issues in more [sic] with IEPA and have reached resolution on all of them . . . we encourage the board to adopt it as the proposal has been revised through the three erratas and Mr. Bloomberg's additions this morning." Tr. 65, line 11. Likewise, Aric Dierix of Dynegy stated, "Dynegy encourages the board to adopt the proposed rules as amended by the three erratas and by Mr. Bloomberg's statement this morning regarding monitor availability determined on an annual basis beginning July 1, 2012." Tr. 79, line 16.

One of the issues during the first hearing was the Illinois EPA's interpretation of the term "optimum manner" as contained in Sections 225.233(c)(2) and 225.294(g). Part of the first hearing was spent with the Illinois EPA answering questions regarding what data companies needed to submit and how the data submitted by companies will be used to evaluate compliance with the requirement that units inject sorbent in an optimum manner. After the first hearing and prior to the second hearing, the Illinois EPA had discussions with the interested companies and was able to clarify the Illinois EPA's position and address industry's concerns on this matter. As

a result, the Illinois EPA opened the second hearing with a statement on optimum manner and both companies that had raised this as an issue stated later in the hearing that the Illinois EPA's statement on optimum manner addressed their concerns. The Illinois EPA believes that this issue is resolved and no further actions are necessary.

Another issue discussed at the first hearing was the Illinois EPA's need for mercury reduction efficiency and coal sampling data from units that have opted into the MPS and CPS. The Illinois EPA believes this is no longer a contentious issue; however, it was considered appropriate to provide final comments on this issue. Illinois EPA has demonstrated a clear need for both mercury reduction efficiency and coal sampling data. The mercury data on control efficiency provides valuable information to the Illinois EPA in regards to the effectiveness of control systems on the various types of configurations and units. A low mercury control efficiency is an indicator that further review of the mercury control system may be warranted. The Illinois EPA emphasizes that mercury coal content is needed to determine inlet mercury, which is necessary to determine mercury control efficiency and the level of mercury reduction obtained. Mercury coal content can vary greatly; therefore, a wide swing in mercury coal content could be an indicator of an associated wide swing in emissions or mercury control efficiency. The accurate measurement of mercury emissions is important in evaluating the overall effectiveness of the Illinois mercury rule as well as in providing the Agency with data regarding total mercury emissions in Illinois. The above information will also assist the Illinois EPA in future decisions regarding mercury control and in demonstrations that may be required by USEPA regarding mercury control and reductions in Illinois.

Midwest Generation

Turning to the specific concerns of Midwest Generation (“Midwest”), Scott Miller noted three topics in his pre-filed testimony. The first topic was the definition of “optimum manner.” Second, Mr. Miller noted the 75% monitor uptime requirement and suggested calculating monitor availability on an annual basis. Finally, Mr. Miller requested that the Board amend or delete the requirement in Section 225.294(g)(4) for correcting injection rates for the difference in temperature in certain plant configurations.

As noted above, all of these issues have been resolved. Mr. Miller’s concerns regarding the definition of “optimum manner” were settled as described above. Regarding the 75% monitor uptime requirement, Mr. Miller stated at hearing, “Mr. Bloomberg presented language this morning that had the – satisfactorily addresses this issue [75% data availability] and we encourage the board to incorporate the language into the rule. We agree that Mr. Bloomberg’s proposed language for appendix B, section 1.4(b)3(g)V [sic] clarifies the question regarding mercury errata [sic] and encourages the board to adopt that change.” Tr. 66, line 13. Finally, concerning the correction for differences in temperature regarding sorbent injection rates found in Section 225.294(g)(4), the Agency proposed amended language for this section in its third errata. Mr. Miller stated at hearing, “IEPA resolved our concerns regarding temperature correction in the third errata is acceptable – the language proposed is acceptable to Midwest Generation.” Tr. 66, line 21.

Dynergy

The issues raised by Aric D. Diericx representing Dynergy Midwest Generation (“Dynergy”) have also been put to rest. Mr. Diericx raised five points in his pre-filed testimony: the definition of “optimum manner,” the supposed “retrospective noncompliance exposure” presented by the proposed rule, the Section 225.233(c)(2) provision detailing flue gas

temperature corrections, the Agency's use of "excepted" versus "accepted," and finally, the proposed rule's mercury emission reduction calculation procedures.

These issues were taken into account by the Agency and resolved. Issues regarding the term "optimum manner" were resolved as discussed above. Similarly, the Agency amended the proposed rule in response to Mr. Diericx's concerns regarding retrospective noncompliance. Mr. Diericx then stated at hearing, "The agency has proposed language in the third errata to amend the retrospective noncompliance element of section 225.239(g)2 [sic], an issue also raised in my written testimony. The agencies [sic] proposal is acceptable to Dynegy and resolves this issue in this ruling [sic]." Tr. 79, line 2. Likewise, Mr. Diericx stated that the issue of "excepted" versus "accepted" had been resolved. Tr. 79, line 21. Regarding flue gas temperature correction, Mr. Diericx affirmed, "Dynegy supports the amendments to section 225.233(c)(2) regarding the temperature correction as the agency proposed in the third errata. We encourage the board to adopt this language." Tr. 78, line 22. Finally, Mr. Diericx testified at hearing, "Dynegy will not pursue further discussions on the last of our [topics] . . . alternative mercury calculations." Tr. 78, line 3. He also reiterated, "[A]ll of Dynegy's issues raised in my written testimony have been resolved." Tr. 79, line 14.

Dominion Kincaid

Regarding concerns raised by Dominion Kincaid ("Dominion"), Mr. David Nuckols listed seven topics to resolve in his pre-filed testimony: the period for calculating data availability; whether to phase in the 75% CEMS uptime requirement; weekly system integrity tests; quality assurance/quality control for non-mercury CEMS monitors; the status of certifying testing personnel by the Air Emissions Testing Bodies ("AETB"); the removal of the single trap adjustment factor for data collected by a single sorbent trap when one of the traps in a pair is

invalid; and whether to make the stack testing alternative permanent. However, at hearing Mr. Nuckols stated, "Our biggest concerns involve the use of missing data substitution and bias adjustment factors which have been addressed." Tr. 35 – 36, beginning line 24 of page 35.

The Agency has worked with Dominion to resolve many of the issues set forth in Mr. Nuckols' pre-filed testimony. Concerning the period for calculating data availability, Mr. Nuckols testified at hearing, "[W]e believe the proposal discussed in a conference call with David Bloomberg of Illinois EPA had the quarterly availability requirements while able to conduct STAC [sic] testing compliance in a 12-month rolling availability after that as a reasonable approach." Tr. 37, line 7. Likewise, regarding the single trap adjustment factor for sorbent traps when one fails, the Agency clarified at hearing that it had already proposed deleting this adjustment factor in its Third Errata. Tr. 40, lines 11-18. It should be noted that Mr. Nuckols referred to this as a "bias adjustment." However, the term "single trap adjustment factor" is the correct term.

On other issues, the Agency has worked to reduce or dispel any confusion. Concerning the status of relative accuracy testing by the AETB, Mr. Nuckols admitted at hearing that he was uncertain regarding the implications of the USEPA stay (offered as Exhibit 11) as it applies to AETB. Tr. 53, line 20. Mr. Nuckols was concerned, however, that sources would be required to comply with certain stayed requirements under the Agency's proposal. Tr. 55, line 2. In response to such concerns, the Agency clarified at hearing that the Illinois mercury rule would impose no burdens upon sources while the federal stay is in place, and that it is the Agency's position that, "assuming that the federal accreditation requirements are still stayed as of July '09, . . . there will be no requirements under the Illinois rule for accreditation." Tr. 55, lines 17-23; Tr. 56, lines 3-8.

Mr. Nuckols also raised general concerns about weekly system integrity tests. These concerns, however, were not specific to the Illinois rule. Tr. 50-51, generally. Furthermore, at hearing Mr. Nuckols admitted that there are no differences between the Agency's proposal and USEPA's original Part 75 requirements. Tr. At 49, line 8. Mr. Nuckols also presented inadequate justification for any revisions to weekly systems integrity test requirements. Regarding Dominion's proposed increase in the allowable measurement error, Mr. Nuckols admitted, "I can't say I have done extensive research to say that twice is the right number . . . I believe there are some justifications for not making the oxidized mercury calibration as stringent as the elemental mercury calibration, but I haven't gone through that exercise to try to prove that." (Tr. 50, line 9 through Tr. 51, line 8). Mr. Nuckols further admitted that he had not gathered any supporting data for Dominion's proposal showing how it would likely affect CEMS measurements. Tr. 51, line 9-13.

Next, in his pre-filed testimony, Mr. Nuckols expressed concerns regarding remaining references to NO_x and SO₂ in the Agency's proposed Appendix B and Exhibits to Appendix B. The Agency has made its best effort to remove NO_x and SO₂ provisions from its rulemaking proposal, and the Agency believes it has done so. As far as references to other non-mercury monitoring, such as CO₂ or flow, it was the Agency's intent to replicate the appropriate Part 75 provisions into the Illinois rule. If at some point an unintentional deviation is brought to the Agency's attention, the Agency is willing to work with sources to resolve the issue. Accordingly, the Agency does not see this as an immediate concern for this rulemaking. Further, the Agency opposes the addition of any language indicating that all conflicts between the Agency's Appendix B and 40 CFR Part 75 regarding monitoring for pollutants other than mercury will be resolved in favor of Part 75. Such language could have unforeseen

consequences and is overly broad and unnecessary, as the Agency is willing to work with sources to resolve such issues should they arise.

Regarding Mr. Nuckols' assertion in his pre-filed testimony that the Agency should eliminate the CEMS 75% uptime requirement for the first year, Mr. Nuckols testified at hearing that the revisions the Agency made regarding monitor data availability (which were contained in Exhibit 8, introduced at hearing) addressed his concerns on this issue. Tr. 46-47, generally. In addition, at hearing Mr. Anand Rao asked Mr. Nuckols, "With the changes proposed by the agency in the further errata sheet and some of the changes that were discussed today and the flexibility in the rules, do you still believe that you require like a – in the data reliability requirement?" Tr. 59, line 19. Mr. Nuckols replied, "The way we understand it, the changes should have about three years of operation with the ability to do a STAC [sic] test if we do get into trouble. Of course, we would like to have more flexibility in the future, but at this time, we're not asking for it." Tr. 60, line 1. Moreover, as stated above, should a problem occur in the future, the Agency is always willing to work with sources to resolve any differences and overcome any difficulties whenever possible. Therefore, no further changes to the Agency's proposal on this issue are necessary.

Finally, Dominion, alone of all the utilities, suggests making the stack testing alternative permanent in order to let CEMS technology mature. Again, it should be noted that sources have three years to overcome problems with their CEMS. In addition, CEMS are still considered the preferred mercury monitoring method by the Agency for the purposes of this rule, and likely will be considered the preferred monitoring method in any forthcoming federal mercury rules regulating the utility sector. It is also clear that industry is working to overcome remaining issues with mercury CEMS. The Illinois EPA anticipates that during the three-year window in

which stack testing is allowed as an alternative, new federal regulations will prescribe monitoring provisions for mercury emissions and the Illinois EPA will either adopt or otherwise allow the use of those provisions to demonstrate compliance with the Illinois mercury rule going forward. The use of CEMS is clearly the developing standard for the industry and thus must be dealt with. Recognizing this, the Agency has developed a rule allowing maximum flexibility for sources monitoring mercury and has gone to great lengths to allay concerns of stakeholders. In fact, all other utilities have accepted the use of CEMS for mercury monitoring.

Ameren

Regarding Ameren's position on the rulemaking, testimony was limited to Ameren's proposed revisions to Section 225.233(c)(2) of the MPS. The Illinois EPA is neutral on the proposed revisions by Ameren. Illinois EPA recognizes that there will be a slight environmental benefit as a result of the proposed revisions to the MPS, that there exists some regulatory uncertainty, and that these are challenging economic times. Therefore, Illinois EPA does not oppose the proposed Ameren revisions. In fact, the Illinois EPA has worked with Ameren to ensure that the proposed revisions would result in a slight environmental benefit. However, the Illinois EPA believes that the original agreement reached with Ameren and contained in the MPS was negotiated and agreed to in good faith. Both parties made some concessions in those agreements and accepted some risk. The Illinois EPA wants to make clear that our position is that the language in the MPS should not generally be amended, and that our neutral position in this case is not indicative of how we will treat any future attempt to further amend the MPS.

Response to Post-Hearing Comments filed by Midwest Generation and Dynegy

On pages 1-2 of its post-hearing comments, Dynegy states that sources in the MPS complying by stack testing are not required to submit coal data in semi-annual reports, but that such information must be maintained at the source. This is correct, but the Agency would like to clarify that the coal data would also need to be submitted as part of each required emissions test report.

On page 2 of its post-hearing comments, Dynegy suggests “that the Board allow for the period over which the daily samples are analyzed to correspond with the sorbent trap data capture period,” and further “suggests that the coal samples could be composited over a period of time corresponding to the sorbent trap sampling period.” However, there are currently no specifications within the proposed rule that would describe how such compositing would be accomplished. This compositing would require taking multiple two-pound grab samples (so in the Dynegy example of an eight-day cycle, the sample size would be 16 pounds) and reducing this amount of coal to the 0.11 pounds used for analysis. The difficulty of compositing multiple grab samples is ensuring that every grab sample is properly represented in the final sample for analysis. While there are ASTM methods for coal sample collection and preparation, these are not specified in relation to the proposed compositing, and thus the Agency opposes the inclusion of Dynegy’s suggested change to Section 225.265.

However, the Agency does not oppose the concept of compositing proposed by Dynegy. Sections 225.202(a) and 225.210(b)(1) both allow for alternatives to monitoring and measurement requirements in Sections 225.240 through 225.290 when such alternatives are submitted to the Agency and approved as described in those sections. The Agency is willing to review such an alternative in the case of a source requesting the ability to composite samples as described by Dynegy. Any request for an alternative submitted by the facility should contain a

detailed description of the proposed sampling program, and it should contain modified versions of the appropriate ASTM methods. Any modifications of the ASTM methods should also be explained as to why the modification is necessary.

On pages 3-4 of Dynegy's post-hearing comments and pages 3-4 of Midwest Generation's post-hearing comments, both note that the corrections made to Section 225.233(c)(2)(D) and Section 225.294(g)(4) to account for units equipped with sorbent injection prior to a hot-side ESP necessitate changes to Sections 225.233(c)(5)(B) and 225.294(j)(2) as well. The Agency agrees that changes need to be made; however, the change suggested by Dynegy and Midwest Generation is insufficient to address the totality of changes previously made to Sections 225.233(c)(2)(D) and 225.294(g)(4). As such, the Agency suggests the following rule modifications instead, accounting for the MPS, CPS, and TTBS (such proposed revisions were of course not included in the Agency's "Revised Proposal," submitted to the Board on February 19, 2009):

Section 225.233(c):

- 5) In addition to complying with the applicable recordkeeping and monitoring requirements in Sections 225.240 through 225.290, the owner or operator of an EGU that elects to comply with this Subpart B by means of this Section must also comply with the following additional requirements:
 - A) For the first 36 months that injection of sorbent is required, it must maintain records of the usage of sorbent, the flueexhaust gas flow rate from the EGU (and, if the unit is equipped with activated carbon injection prior to a hot-side electrostatic precipitator, flue gas temperature at the inlet of the hot-side electrostatic precipitator and in the stack), and the sorbent feed rate, in pounds per million actual cubic feet of flueexhaust gas ~~at the injection point~~, on a weekly average;
 - B) After the first 36 months that injection of sorbent is required, it must monitor activated sorbent feed rate to the EGU, flue gas temperature at the point of sorbent injection, and exhaust gas flow

~~rate in the stack from the EGU, and, if the unit is equipped with activated carbon injection prior to a hot-side electrostatic precipitator, flue gas temperature at the inlet of the hot-side electrostatic precipitator and in the stack. It must automatically recording this data and the sorbent carbon feed rate, in pounds per million actual cubic feet of flue exhaust gas at the injection point, on an hourly average; and~~

Section 225.234(c):

2) Monitoring and Recordkeeping Requirements.

In addition to complying with all applicable monitoring and recordkeeping requirements in Sections 225.240 through 225.290 or Section 225.239(c), (d), (e), (f)(1) and (2), (h)(2), and (i)(3) and (4), the owner or operator of an EGU operating pursuant to this Section must also:

- A) Through December 31, 2012, it must maintain records of the usage of activated carbon, the ~~flue exhaust~~ gas flow rate from the EGU (and, if the unit is equipped with activated carbon injection prior to a hot-side electrostatic precipitator, flue gas temperature at the inlet of the hot-side electrostatic precipitator and in the stack), and the activated carbon feed rate, in pounds per million actual cubic feet of ~~flue exhaust gas at the injection point~~, on a weekly average.
- B) Beginning January 1, 2013, it must monitor activated carbon feed rate to the EGU, ~~flue gas temperature at the point of sorbent injection, and exhaust gas flow rate from the EGU, in the stack,~~ and, if the unit is equipped with activated carbon injection prior to a hot-side electrostatic precipitator, flue gas temperature at the inlet of the hot-side electrostatic precipitator and in the stack. It must automatically recording this data and the activated carbon feed rate, in pounds per million actual cubic feet of flue exhaust gas at the injection point, on an hourly average.

Section 225.238(c):

c) Compliance Requirements.

- 1) Emission Control Requirements. The owner or operator of an EGU that is operating pursuant to this Section must continue to maintain and operate the EGU to comply with the criteria for eligibility for operation under this Section, except during an evaluation of the current sorbent, alternative

sorbents, or other techniques to control mercury emissions, as provided by subsection (e) of this Section.

- 2) Monitoring and Recordkeeping Requirements. In addition to complying with all applicable monitoring and recordkeeping requirements in Sections 225.240 through 225.290 or Section 225.239(c), (d), (e), (f)(1) and (2), (h)(2), and i(3) and (4), the owner or operator of a new EGU operating pursuant to this Section must also:
 - A) Monitor sorbent feed rate to the EGU, ~~flue gas temperature at the point of sorbent injection or other mercury control technique, gas flow rate in the stack, and, exhaust gas flow rate from the EGU, if the unit is equipped with activated carbon injection prior to a hot-side electrostatic precipitator, flue gas temperature at the inlet of the hot-side electrostatic precipitator and in the stack.~~ It must automatically recording this data and the sorbent feed rate, in pounds per million actual cubic feet of ~~flue~~exhaust gas at the injection point, on an hourly average.

Section 225.294(j):

- j) In addition to complying with the applicable recordkeeping and monitoring requirements in Sections 225.240 through 225.290, the owner or operator of an EGU that elects to comply with ~~this Subpart B~~Section 225.230(a) by means of Sections 225.291 through 225.299 ~~the CPS~~ must also comply with the following additional requirements:
 - 1) For the first 36 months that injection of sorbent is required, it must maintain records of the usage of sorbent, the ~~flue~~exhaust gas flow rate from the EGU (and, if the unit is equipped with activated carbon injection prior to a hot-side electrostatic precipitator, flue gas temperature at the inlet of the hot-side electrostatic precipitator and in the stack), and the sorbent feed rate, in pounds per million actual cubic feet of ~~flue~~exhaust gas ~~at the injection point,~~ on a weekly average;
 - 2) After the first 36 months that injection of sorbent is required, it must monitor activated sorbent feed rate to the EGU, ~~flue gas temperature at the point of sorbent injection, and exhaust gas flow rate from the EGU~~ in the stack, and, if the unit is equipped with activated carbon injection prior to a hot-side electrostatic precipitator, flue gas temperature at the inlet of the hot-side electrostatic precipitator and in the stack. It must, automatically recording this data and the sorbent carbon feed rate, in pounds per million actual cubic feet of ~~flue~~exhaust gas ~~at the injection point,~~ on an hourly average; and

On page 4 of its comments, Dynegy requests an extension of time to submit end-of-quarter reports when using excepted monitoring systems. The Agency agrees that Dynegy's request is reasonable. However, the Agency suggests that the Board add slightly different language than was suggested by Dynegy, simply for clarification purposes:

Section 225.290 Recordkeeping and Reporting

- b) Quarterly Reports. The owner or operator of a source with one or more EGUs using CEMS or excepted monitoring systems at any time during a calendar quarter must submit quarterly reports to the Agency as follows:
 - ...
 - 4) The owner or operator must submit each quarterly report to the Agency within 45 days following the end of the calendar quarter covered by the report, except that the owner or operator of an EGU that used an excepted monitoring system at any time during a calendar quarter must submit each quarterly report within 60 days following the end of the calendar quarter covered by the report.

Summary

Limited revisions to the Illinois mercury rule are appropriate in light of the vacatur of CAMR. The proposed revisions are focused on the methods allowed to measure mercury emissions for demonstration of compliance. The proposed revisions do not include any change to the emissions and control requirements for mercury emissions and therefore the level of mercury control required by the rule is not affected. The Illinois EPA urges the Board to adopt the proposed revisions.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
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CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have served electronically the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S POST-HEARING COMMENTS TO THE FEBRUARY 10, 2009, HEARING ON THE PROPOSAL FOR AMENDING 35 ILL. ADM. CODE 225, upon the following persons:

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