

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)	
)	
AMENDMENTS TO 35 ILL. ADM.)	R15-21
CODE PART 214, SULFUR)	(Rulemaking -Air)
LIMITATIONS, PART 217, NITROGEN)	
OXIDES EMISSIONS, AND PART 225,)	
CONTROL OF EMISSIONS FROM)	
LARGE COMBUSTION SOURCES)	

PCH 281

NOTICE OF FILING

TO: Mr. John T. Therriault	Mr. Daniel Robertson
Assistant Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 W. Randolph Street	100 W. Randolph Street
Suite 11-500	Suite 11-500
Chicago, Illinois 60601	Chicago, Illinois 60601
(VIA ELECTRONIC MAIL)	(VIA U.S. 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 **IERG'S POST-HEARING COMMENTS**, a copy of which is herewith served upon you.

Respectfully submitted,

Dated: August 28, 2015

By: /s/ Abby L. Allgire
Abby L. Allgire

Abby L. Allgire
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CERTIFICATE OF SERVICE

I, Abby L. Allgire, the undersigned, hereby certify that I have served the **IERG'S POST-HEARING COMMENTS** upon:

Mr. John T. Therriault
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via electronic mail on August 28, 2015; and upon:

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by depositing said documents in the United States Mail, postage prepaid, in
Springfield, Illinois on August 28, 2015.

/s/ Abby L. Allgire
Abby L. Allgire

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO) R15-21
SULFUR LIMITATIONS, NITROGEN) (Rulemaking – Air)
OXIDES EMISSIONS, AND CONTROL)
OF EMISSIONS FROM LARGE)
COMBUSTION SOURCES)
(35 ILL. ADM CODE PART 214, 217, 225))

IERG’S POST-HEARING COMMENTS

NOW COMES the ILLINOIS ENVIRONMENTAL REGULATORY GROUP ("IERG"), by and through its attorney, Abby L. Allgire, and, pursuant to the August 5, 2015, Hearing Officer Order, submits the following IERG’S POST HEARING COMMENTS to the Board.

IERG’s Post-Hearing Comments

IERG is a not-for-profit Illinois corporation affiliated with the Illinois Chamber of Commerce. IERG is comprised of 57-member companies that are regulated by governmental agencies that promulgate, enforce, or administer environmental laws, rules, regulations, or other policies. One of IERG's primary roles is to represent the interests of its members in rulemakings before the Illinois Pollution Control Board ("Board"). IERG appreciates the opportunity to participate in this proceeding and offers the following comments for consideration by the Board.

I. Introduction

IERG supports the Agency’s revised proposal in this rulemaking as the foundation of its State Implementation Plan ("SIP") to achieve attainment of the 2010 sulfur dioxide National Ambient Air Quality Standard ("NAAQS") as expeditiously as possible. IERG believes that an expedited review of the Agency’s proposal, as it has requested, is warranted and encourages the Board to proceed accordingly. In the following comments, IERG addresses a few elements of the Agency’s proposed rule and highlights certain facts in the record in support of the proposal.

IERG also believes the Agency has provided the relevant data and analysis sufficient to demonstrate that implementation of its sulfur dioxide emission reduction proposal will serve the purpose of ensuring that the Lemont and Pekin nonattainment areas will achieve compliance with the 2010 sulfur dioxide NAAQS in a timely manner.

IERG supports the Agency's proposal to require the statewide use of ultra-low sulfur diesel fuel (15 ppm) except for the limited exceptions specified in the proposed rule. Both Illinois EPA and affected sources indicated that liquid fuels meeting the 15 ppm ultra low sulfur diesel requirement are widely available in Illinois and economically reasonable. TSD, at 7. IERG also supports the revised recordkeeping requirements proposed in revisions to Sections 214.121, 214.122, 214.161, and 214.305. Finally, IERG encourages the Board to provide regulatory flexibility to the Agency and the regulated community in implementing a state plan.

II. Illinois' Air Quality Improvements and History

On July 23, 2015, IERG submitted the Amended Testimony of Dave Kolaz on Behalf of IERG, which, among other things, explains that, "The history of sulfur dioxide air quality standards and emission reductions in Illinois is useful for providing an overview of the evolution and focus of [air] quality [control] programs designed to limit emissions and meet these standards." Amended Testimony of David Kolaz on Behalf of IERG, at 3.

In the testimony, Mr. Kolaz walks through the primary and secondary sulfur dioxide air quality standards to show the timeline, beginning in 1971, of the promulgation of federal sulfur dioxide NAAQS and the emission reduction strategies, as well as approaches that Illinois took to bring nonattaining areas of Illinois into attainment with these standards. Mr. Kolaz concludes that, "The [2010] sulfur dioxide air quality standard is the central focus of this rulemaking and represents a significant tightening of the primary health standard that has existed for the last 39

years.” *Id.*, at 3. U.S. EPA designated the last remaining [1971] sulfur dioxide nonattainment area in Illinois as attainment in June 1995 and in doing so, commented that no monitored violations of the sulfur dioxide standard had occurred since 1977. *Id.*

Further, Mr. Kolaz explains that, “After the promulgation of the revised sulfur dioxide NAAQS in 2010, U.S. EPA designated two areas of the State as nonattainment for the new standard based on air monitoring data. These areas are the focus of the emission reductions contemplated by this proposed rulemaking and consist of three townships in the Lemont area and three townships in the Pekin area.” *Id.*, at 4.

In addition, the testimony presents an overview of the rulemaking efforts of the State beginning with the filing of its first sulfur dioxide rules in November 1971 and continuing with additional State and federal emission limits through the years. Mr. Kolaz states that, “The collective efforts of the State and federal programs have resulted in a dramatic decrease in sulfur dioxide emissions nationwide and in Illinois.” *Id.*, at 4. Mr. Kolaz’s testimony points out that there have been sulfur dioxide emission reductions of 87% from 1981 through 2013. *Id.* It is important to note that the 87% emission reductions following the last reported sulfur dioxide air quality violation in 1977, which was described previously. The Agency provided the annual average sulfur dioxide values for the Pekin and Lemont nonattainment monitors for the period from 1983 through 2014 to demonstrate the fact that the sulfur dioxide air quality conditions have been improving consistently for at least the last 30 years. Agency Exhibits H and I. The Agency’s data shows the improvement in air quality levels in the 1983 through 2014 period has been 78% for Lemont and 65% for Pekin, which is consistent with the emission reductions presented previously. *Id.*

As the above illustrates, Illinois has continued to improve its sulfur dioxide air quality over the years even after reaching attainment of the 1971 standard in 1977. This accomplishment is due not only to the efforts of the Illinois EPA and U.S. EPA, but also from the willingness of the regulated community to implement effective and efficient strategies to further improve air quality in the State. In fact, as presented in Appendix A of Mr. Kolaz's testimony, the latest air quality data (2012-2014) shows that the sulfur dioxide standard is already being met in the Lemont area. IERG believes the State will continue to see this trend of air quality improvements upon adoption of the Agency's proposal in this rulemaking.

III. Changes to Parts 217 and 225

IERG believes that the changes proposed by the Agency to Part 217 and Part 225 are pertinent to this rulemaking and should be approved. The purpose of this rulemaking, as stated in the Agency's Statement of Reasons in its initial filing of the proposal, is "to control emissions of sulfur dioxide ("SO₂") in and around areas designated as nonattainment with respect to the 2010 SO₂ National Ambient Air Quality Standard ("NAAQS")." Statement of Reasons, at 1. The changes proposed in Part 225 pertain to sulfur dioxide emissions relevant to sources that the Agency has included in its attainment modeling for the Lemont area. TSD, Table 6, at 29; August 4, 2015 transcript, at 194 (lines 6 through 23) and at 223 (line 24) through page 225 (line 8). The changes to Part 225 that the Agency has identified will result in lower area-wide sulfur dioxide emissions as the Agency testified. August 4, 2015 transcript, at 189 (line 11) through page 194 (line 23). The attainment modeling that the Agency has conducted shows that the sulfur dioxide NAAQS will be met with these changes. TSD, Section 7.1, at 28-29; August 4, 2015 transcript, at 194 (lines 6 through 23). The changes to Part 217 are from the conversion of the four coal-fired units that are the focus of the changes to Part 225. Statement of Reasons,

Subsection 2, at 9-10. The Agency has determined that no increase in nitrogen oxides emission will occur with the change to Part 217, and IERG agrees. TSD, Section 2.2, at 10-11; August 4, 2015 transcript, at 190 (lines 1 through 12). The Agency has further determined that no current State Implementation Plans for other federal requirements will be impacted by these changes. Agency TSD, at 11.

Further, Illinois EPA contended that it proposed the amendments to Part 225 in order to ensure that significant reductions from the fuel conversions in all pollutants will be permanent and enforceable. August 4, 2015 transcript, at 192. Additionally, the reductions in the heat inputs will result in a total reduction of 3,000 tons of NO_x from the CPS units. TSD, at 11.

IV. Necessity of Expedited Review

IERG encourages the Board to follow the expedited review process requested for this rulemaking. U.S. EPA's SIP submittal deadline, for which this rulemaking is a part, was April 6, 2015, over four months ago, i.e. 18 months after the effective date of area designations. *See* Clean Air Act Section 191 (a) and Federal Register/Vol. 78, No. 150/Monday, August 5, 2013, at 47193. The deadline for attaining the sulfur dioxide standard in Lemont and Pekin is October 4, 2018 which means that the air monitoring data for calendar years 2015 through 2017 must show attainment. *Id.* Therefore, these emission reductions need to be established and implemented as soon as possible since we are nearly through the first year of the three year average used to determine attainment. In order to move forward with the SIP approval process, the State must first get this rulemaking finished. Further delay in finalizing this rulemaking will additionally delay the environmental benefits of the planned reductions from the proposed emission limits.

V. Support of Agency's Revisions to Its Original Proposal

The Agency has proposed changes to its original language regarding recordkeeping requirements pertaining to sulfur content limits for its liquid fuel rules. Agency's Second Motion to Amend Rulemaking Proposal filed on July 7, 2015, at 1-9. This change retains the requirement that the owner or operator maintain records demonstrating that the sulfur content of the fuel comply with the limit in the rule. *Id.* The Agency's change proposes a requirement that is less prescriptive than originally proposed in recognition of the fact that an owner or operator can use several credible methods for demonstrating compliance including fuel supplier records, contracts, or testing. *Id.* In light of the regulatory flexibility provided by this change, IERG supports the revisions the Agency has submitted to Sections 214.121, 214.122, 214.161, and 214.305.

IERG withdrew a substantial part of its original pre-filed testimony in recognition of the Agency's decision to withdraw its proposed amendment to Section 214.301 instead of proceeding with its attempt to clarify this rule. Post Hearing Comments of the Illinois Environmental Protection Agency filed on July 23, 2015, at 6-7. Section 214.301 was promulgated in April 1972 and has not been revised since that time. Testimony of David Kolaz on Behalf of the Illinois Environmental Regulatory Group, filed July 17, 2015, at 6. There have been many new emission regulations promulgated in that time for specific emission units that IERG believes render 214.301 (General Limitation) obsolete thereby causing an unnecessary burden on the regulated community. Indeed, several of the regulations in the new Subpart AA were established to replace less restrictive emission limits derived from the application of 214.301. Due to the complexity in crafting appropriate regulatory language, IERG has agreed

with the Agency to address this issue in the near future rather than cause delay in this expedited rulemaking.

VI. Regulatory Flexibility

IERG supports the regulatory flexibility that the Agency has incorporated into this rule in various ways. For example, the emission limits contained in Section 214.603 were derived after extensive stakeholder outreach efforts with the regulated community and have resulted in an emission reduction plan that is both comprehensive and cost effective. As discussed previously, the changes to the recordkeeping requirements in Sections 214.121, 214.122, 214.161, and 214.305 provide assurance that compliance will be suitably documented while still allowing the regulated entity options for choosing a compliance demonstration method appropriate to their operations. IERG supports the statewide limit for ultra-low sulfur diesel fuel and commends the Agency for accommodating exceptions to the rule for specific circumstances where an undue hardship would be imposed. IERG understands that these exceptions were carefully incorporated into the Agency's modeling analysis which demonstrated that the nonattainment areas would not be adversely affected by these exceptions. IERG believes that the 30-day averaging approach for Powerton and the overarching emission reduction plans for Will County 3 and Joliet 6, 7, 8 provide operational flexibility while improving and protecting air quality conditions. Illinois' air quality will be greatly improved through the promulgation of this rule as proposed by the Agency and for this reason and for the reasonable operational flexibility it provides, IERG encourages its full approval.

VII. Conclusion

As indicated in the above comments, IERG supports the Agency's revised proposal in this rulemaking, as it will allow for achievement of the 2010 sulfur dioxide NAAQS as expeditiously as possible. Further, IERG continues to encourage the Board to accept the Agency's request for expedited review of this rulemaking since not only was the SIP deadline over four months ago, but delaying implementation of this rulemaking will delay the environmental benefits proposed by the emissions limits in the Agency's proposal.

IERG believes the Agency has provided the relevant data and analysis necessary to demonstrate that implementation of its proposal will serve the purpose of achieving compliance with the 2010 sulfur NAAQS in the Lemont and Pekin nonattainment areas as expeditiously as practicable. In addition, IERG supports the Agency's incorporation of various provisions that allow operational flexibility while effectively and efficiently achieving the necessary emission reductions to meet the fundamental purpose of this rulemaking.

Thank you for the opportunity to present these comments and for your consideration of the viewpoints expressed herein.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP

Dated: August 28, 2015

By /s/ Abby L. Allgire
One of Its Attorneys

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