

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

NOTICE OF FILING

TO: Mr. Don A. Brown, Clerk of the Board Illinois Pollution Control Board 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601	Timothy Fox Chloe Salk Hearing Officers Illinois Pollution Control Board 60 East Van Buren Street, Suite 630 Chicago, Illinois 60605
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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 **POST-HEARING COMMENT OF THE AMERICAN PETROLEUM INSTITUTE**, copies of which are hereby served upon you.

Respectfully submitted,
AMERICAN PETROLEUM INSTITUTE,

By: /s/ Alec Messina

Dated: March 7, 2023

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POST-HEARING COMMENT OF THE AMERICAN PETROLEUM INSTITUTE

NOW COMES, the American Petroleum Institute (API), by and through its attorneys, HEPLERBROOM, LLC, and pursuant to the February 21, 2023 Hearing Officer Order, submits the following Post-Hearing Comment for the Illinois Pollution Control Board’s (Board) consideration in this rulemaking.

API opposes the Illinois Environmental Protection Agency’s (IEPA) proposed amendments to Part 201 to remove the startup, malfunction, and breakdown (SMB) provisions without adding any alternative standards that apply during periods of SMB. Eliminating any provision for periods of SMB in the Board’s regulations will render numerous emission limitations and standards infeasible or impossible to meet.

API supports the Illinois Environmental Regulatory Group’s (IERG) proposed amendments to 35 Ill. Adm. Code 216.361 and requests that the Board adopt the proposed revisions. Section 216.361 imposes carbon monoxide (CO) emissions standards on specified petroleum and petrochemical processes, including fluid catalytic cracking units (FCCUs). Specifically, Section 216.361(a) prohibits causing or allowing the emission of a CO waste gas stream into the atmosphere unless such waste gas stream is burned in a direct flame afterburner or CO boiler so that the resulting concentration of CO in such waste gas stream is less than or equal to 200 ppm corrected to 50% excess air. 35 Ill. Adm. Code 216.361(a). Section 216.361 provides no provision or alternative standards for periods of SMB, notwithstanding the fact that it is

generally understood that CO emissions from FCCUs can vary widely during startup due to the complex procedures needed to eventually bring a unit and its air pollution controls to a steady state operating condition. *See, e.g.*, 80 Fed. Reg. 75178, 75211 (Dec. 1, 2015) (where USEPA in its 2015 update of the NESHAP applicable to FCCUs established alternative standards for startup and shutdown periods for the CO standard used as a surrogate for control of organic hazardous air pollutants). Indeed, IEPA has long been aware that facilities with FCCUs require provisions for operations during periods of SMB under this standard and has routinely provided case-by-case allowances in site-specific permits.

There are four refineries in Illinois that are subject to the CO standard in Section 216.361 and would be impacted by IEPA's proposal. Most or all of the FCCUs at the refineries in Illinois are controlled by CO boilers during steady-state operations. The CO standard in Section 216.361(a) is technically infeasible to achieve for refineries in Illinois during periods of SMB, particularly during startup. For a FCCU to operate properly and safely, it first must be brought up to the proper operating temperature, which is done through the combustion of torch oil. When combusting torch oil and bringing the unit up to temperature, elevated CO emissions occur. Depending on how long the FCCU had been shut down prior to the startup (i.e., how much it has cooled off), the startup can take hours or even days to safely reach the proper operating temperature. Additionally, typically the FCCUs will startup in full burn mode and the source will bypass the CO boiler during startup. This is because of safety and reliability concerns – starting up a FCCU in full burn mode through CO boilers is generally not safe due to the potential of formation of flammable mixtures from incomplete combustion. The American Fuel & Petrochemical Manufacturers Safety Bulletin on Flammable Mixture Accumulation in FCC Units during Non-Routine Operations specifically calls out the risk of incomplete combustion during

startup. Further, the U.S. Chemical Safety and Hazard Investigation Board (CSB) has consistently highlighted these risks for FCCU startup and has consistently advocated for diligence and detailed attention during this phase of operation. The primary goal of any startup is the prevention of any flammable mixtures by ensuring that complete combustion is occurring at all times. This results in higher CO emissions. It is simply not technically feasible to meet the CO standard during startup periods.

Establishing rule-specific SMB provisions in Section 216.361 would easily satisfy the United States Environmental Protection Agency's (USEPA) guidance that sets the parameters for approvable alternative standards for non-routine operations. USEPA makes it abundantly clear that states "can develop special, alternative emission limitations that apply during startup or shutdown if the source cannot meet the otherwise applicable emission limitation in the SIP." 80 Fed. Reg. at 33980. USEPA further explains that "SIP provisions may include alternative emission limitations for startup and shutdown as part of a continuously applicable emission limitation when properly developed and otherwise consistent with CAA requirements." *Id.* IERG's proposed revisions to Section 216.361 are narrowly tailored and meet each of USEPA's seven criteria, as explained in detail in API's and IERG's Pre-filed Testimonies.

Lastly, at the second hearing, the Attorney General's Office asked if API could provide further explanation as to the following statement in API's Pre-Filed Testimony: "... eliminating any provision for periods of startup, malfunction, and/or breakdown (SMB) in Illinois' air regulations will unfairly and unlawfully render numerous state emissions limitations and standards infeasible or impossible to meet." At hearing, API provided a response to the "unfairly" portion of this statement and stated that it would follow-up in its final post hearing comment as to the "unlawful" portion. Under Section 27 of the Illinois Environmental Protection Act (Act), 415 ILCS

5/27, the Board is required to consider technical feasibility when promulgating regulations. 415 ILCS 5/27(a) (“In promulgating regulations under this Act, the Board shall take into account the . . . technical feasibility and economic reasonableness of measuring or reducing the particular type of pollution.”). Here, the Board cannot conclude that Illinois EPA’s proposed revisions are technically feasible as it will result in inevitable noncompliance for many facilities, including refineries, if alternative standards are not adopted.

As explained in detail in IERG’s Pre-filed Testimony, the SMB provisions in Part 201 were implemented by Illinois EPA, in practice, as exemptions to the generally applicable emission standards, not solely as an affirmative defense to potential violations. Illinois EPA would not initiate enforcement for exceedances of emission standards during SMB events if the source’s permit contained SMB provisions. Therefore, adopting Illinois EPA’s proposal and removing the SMB provisions will drastically change the status quo, and will result in inevitable noncompliance for many facilities during SMB periods. Moreover, as further explained in IERG’s Pre-filed Testimony, the SMB provisions were taken into account by Illinois EPA and the Board when promulgating the generic numeric emission standards in 1972. The Board acknowledged that sources may be unable to comply with generally applicable emission standards during startup and that SMB provisions were needed. Because the Board adopted the general SMB provisions at that time, no site-specific SMB provisions have been necessary. However, if the general SMB provisions are removed per Illinois EPA’s proposal, then the Board should adopt site-specific SMB provisions to address emissions during SMB events.

API urges the Board to establish appropriately tailored rule-specific provisions for operation during periods of SMB in conjunction with finalizing the proposed elimination of the generally applicable SMB provision. Failure to do so will unavoidably cast numerous affected

sources into an impossible compliance situation because proper implementation of numerous Illinois source-specific air emissions standards depends on the existence of alternative standards for SMB periods. API requests that the Board adopt IERG's proposed revisions to Section 216.361 and the corresponding revisions to Sections 216.103 and 216.104.

API would like to thank the Board for the opportunity to submit this comment.

Respectfully Submitted,

AMERICAN PETROLEUM
INSTITUTE

Dated: March 7, 2023

By: /s/ Alec Messina

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CERTIFICATE OF SERVICE

I, the undersigned, on oath state the following: That I have served the attached **POST-HEARING COMMENT OF THE AMERICAN PETROLEUM INSTITUTE** via electronic mail upon:

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That my email address is Alec.Messina@heplerbroom.com

That the number of pages in the email transmission is 8.

That the email transmission took place before 5:00 p.m. on the March 7, 2023.

Date: March 7, 2023

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