

ILLINOIS POLLUTION CONTROL BOARD
September 19, 2024

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM. CODE) R 25-17
217, NITROGEN OXIDES EMISSIONS) (Rulemaking – Air)

HEARING OFFICER ORDER

On July 8, 2024, the Illinois Environmental Protection Agency (Agency) filed a rulemaking proposal to amend 35 Ill. Adm. Code 217 under Sections 10, 27, 28 and 28.2 of the Environmental Protection Act. On July 11, 2024, the Board accepted IEPA's proposal and directed the hearing officer to schedule and proceed to hearing. Without commenting on the merits of the proposal, the Board directed its Clerk to submit the proposal to first-notice publication. *See* 48 Ill. Reg. 11469 (Aug. 9., 2024). The hearing officer scheduled the first hearing for Thursday, September 26, 2024, with the deadline to pre-file testimony by Wednesday, August 21, 2024. On that date, the Agency pre-filed the testimony of Mr. Rory Davis.

The Board and its staff have reviewed the Agency's pre-filed testimony and submit with this order their questions, included as Attachment A. Anyone may respond to the attached questions, as well as any other pre-filed questions in the record.

All filings in this proceeding will be available on the Board's website at <https://pcb.illinois.gov/> in the rulemaking docket R25-17. Unless the Board, hearing officer, Clerk, or procedural rules provide otherwise, all documents in this proceeding must be filed electronically through the Clerk's Office On-Line. 35 Ill. Adm. Code 101.302(h), 101.1000(c), 101.Subpart J.

IT IS SO ORDERED.



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Proposed Section 217.150(a)(2)

- 1) Please comment on whether it would be acceptable after “Subparts E, F, G, H, I, and M” to strike the phrase “of this Part.”

Section 217.150(d)

- 2) Please explain what the phrase “good air pollution control practice” means in the context of Part 217, Subparts E, F, G, H, I, or M.
- 3) Also, please comment on whether subsection (d) should apply to emission units covered under other subparts such as Subparts Q and T.

Section 217.152(a)

- 4) Please comment on whether it would be acceptable to replace “such” with “the” to refer to “the total mass of emission from the period and the total heat input from the period.”

Proposed Section 217.155(b)(1)

- 5) Please comment on whether it would be acceptable to strike the phrase “set forth” and refer to the “applicable compliance date under Section 217.152.”
- 6) Also, please comment on whether it would be acceptable after “Subparts E, F, G, H, I, or M” to strike the phrase “of this Part.”

Proposed Section 217.155(b)(1)(A)

- 7) Please comment on whether it would be acceptable to replace “accordance” with “compliance” to refer to “performance testing performed in compliance with Section 217.157.”
- 8) Also, please comment on whether it would be acceptable after “Subparts E, F, G, H, I, or M as applicable” to strike the phrase “, of this Part.”

Proposed Section 217.155(b)(2)(A)

- 9) Please comment on whether it would be acceptable to replace “accordance” with “compliance” to refer to “performance testing performed in compliance with Section 217.154.”
- 10) Also, please comment on whether it would be acceptable after “Subparts E, F, G, H, I, or M as applicable” to strike the phrase “, of this Part.”

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Proposed Section 217.155(b)(2)(B)

- 11) Please comment on whether it would be acceptable after “Subparts E, F, G, H, I, or M as applicable” to strike the phrase “, of this Part.”

Proposed Section 217.156(g)

- 12) Please comment on whether it would be acceptable to strike “of this Part” twice where it follows “Subparts E, F, G, H, I, or M.”
- 13) Also please comment on whether it would be acceptable to replace “following” with “after” to refer to “sending the applicable report . . . within 30 days after the end of the applicable 30-day rolling average period.”

Proposed Section 217.156(l)

- 14) In the language proposed to apply “[o]n and after May 1, 2025,” please comment on whether it would be acceptable after “Subpart M” to strike the phrase “of this Part.”
- 15) Also, please comment on whether it would be acceptable to replace “accordance” with “compliance” to refer to complying “with the compliance certification and recordkeeping and reporting requirements in compliance with 40 CFR 75. . . .”

Proposed Section 217.156(m)

- 16) Please comment on whether it would be acceptable to strike the phrase “of this Part” where it follows “Subpart E, F, G, H, I, or M.”
- 17) Also, please comment on whether it would be acceptable to strike the word “along” to refer to submitting “the annual compliance certification report to the Agency with the Annual Emissions Report.”

Proposed Section 217.157(a)(4)

- 18) Please comment on whether it would be acceptable to strike the phrase “of this Part” twice where it follows “Subpart E” and “Subpart F.”
- 19) Also, please comment on whether it would be acceptable to strike the phrase “of this Section” twice where it follows “subsection (a)(8)(A)” and “subsection (a)(8).”
- 20) Also, please comment on whether it would be acceptable to replace “accordance” with “compliance” to refer to “an initial performance test conducted in compliance with subsection (a)(8)(A).”

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Proposed Section 217.157(a)(5)

- 21) In the final clause proposed to be added, please comment on whether it would be acceptable to strike the phrase “of this Section” where it follows “subsection (a)(8).”
- 22) Also, please comment on whether it would be appropriate to replace “accordance” with “compliance” to refer to “subsequent performance tests conducted in compliance with subsection (a)(8).”

Proposed Section 217.157(a)(7)

- 23) In the phrase proposed to be added, please comment on whether it would be acceptable to replace “accordance” with “compliance” to refer to “initial and subsequent performance test in compliance with subsection (a)(8).”

Proposed Section 217.157(a)(8)

- 24) Please comment on whether it would be acceptable to replace “subsequent to” with “after” to refer to “performance tests required by subsection (a) after an initial performance test.”

Proposed Section 217.157(a)(8)(B)

- 25) Please comment on whether it would be acceptable to replace “accordance” with “compliance” to refer to “the test conducted in compliance with the applicable test methods and procedures.”
- 26) Also, please comment on whether it would be acceptable to replace “receipt of” with “receiving” to refer to “90 days after receiving a notice to test.”

Section 217.157(c)

- 27) In language proposed to apply “[o]n and after May 1, 2025,” please comment on whether it would be acceptable to strike the phrase “of this Part” where it follows “Subpart M.”
- 28) Also, please comment on whether it would be acceptable to replace “accordance” with “compliance” to refer to “the measurement of NO_x emissions discharged into the atmosphere in compliance with 40 CFR 75.”

Section 217.158(c)

- 29) Please comment on whether it would be acceptable to strike the phrase “, but is not limited to,” to provide that “[t]he plan must include the following.”

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Section 217.158(c)(2)

- 30) Please comment on whether it would be acceptable to strike the phrase “of this Part” where it follows “Sections 217.164, 217.184, 217.204, 217.224, 217.244, and 217.344.”

Section 217.158(c)(3)

- 31) Please comment on whether it would be acceptable to strike the phrase “of this Section” where it follows “subsection (h).”

Section 217.158(f)(2)

- 32) Please comment on whether it would be acceptable to strike the phrase “of this Section” where it follows “subsection (c).”

Section 217.158(h)

- 33) Please comment on whether it would be acceptable in the key to the equation for $EM_{act(i)}$ to strike the phrase “of this Section” after “subsection (h)(1).”
- 34) Also, please comment on whether it would be acceptable in the key to the equation for $EM_{all(i)}$ to strike “of this Section” after “subsection (h)(2).”

Section 217.158(h)(2)

- 35) Please comment on whether it would be acceptable in the key to the equation for E_{all} to strike the phrase “of this Part” once after “Subpart E” and once after “Subpart F.”

Section 217.164(b)

- 36) Please comment on whether it would be appropriate in the key to the equation for B_{tUNG} to correct “inpu” to “input.”

Section 217.166(b)

- 37) Please comment on whether it would be acceptable to replace “accordance” with “compliance” to provide that “combustion tuning must be performed in compliance with 40 CFR 63.7540(a)(10)(i) through (vi).”

Section 217.186(b)

- 38) Please comment on whether it would be acceptable to replace “accordance” with “compliance” to provide that “combustion tuning must be performed in compliance with 40 CFR 63.7540(a)(10)(i) through (vi).”

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Section 217.244(a)

- 39) In the table of emission limitations, please comment whether it would be acceptable to correct two misspellings as “furance” to “Reheat furnace, cold air” and “Annealing furnace, cold air.”

Section 217.386(b)(1)

- 40) Please comment on whether it would be acceptable to strike the phrase “of this Part” where it follows “Appendix G.”

Section 217.388(b)(1)

- 41) Please comment on whether it would be acceptable to replace “means” with “mean” to agree with the subject of the sentence “references.”

Section 217.390(c)

- 42) Please comment on whether it would be acceptable to strike the phrase “, but is not limited to” to provide that “[t]he plan must include the following.”

Section 217.390(c)(3)

- 43) Please comment on whether it would be acceptable to strike the phrase “of this Section” where it follows “subsection (j).”

Section 217.390(g)(1)

- 44) Please comment on whether it would be acceptable to strike the phrase “of this Section” where it follows “subsection (c), (d), or (e).”

Section 217.390(j)

- 45) Please comment on whether it would be acceptable in the key to the equation for $EM_{all(i)}$ to strike the phrase “of this Section” after “subsection (k)(2) or (l)(2).”
- 46) Also, please comment on whether it would be acceptable in the key to the equation for $EM_{act(i)}$ to strike “of this Section” after “subsection (k)(1) or (l)(1).”

Section 217.390(k)

- 47) Please comment on whether it would be acceptable to strike the phrase “of this Section” where it follows “subsection (l).”

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Section 217.390(k)(2)

- 48) Please comment on whether it would be acceptable in the key to the equation for $EM_{act(i)}$ to strike the phrase “of this Section” after “subsection (k)(3) and (k)(5).”
- 49) Also, please comment on whether it would be acceptable in the key to the equation for $EM_{all(i)}$ to strike “of this Section” after “subsection (k)(3).”
- 50) Also, please comment on whether it would be acceptable in the key to the equation for $C_{d(all)}$ to strike “of this Section” after “subsection (k)(4), (k)(5), (k)(6), or (k)(7).”

Section 217.390(k)(4)

- 51) Please comment on whether it would be acceptable to strike the word “above” and the phrases “set forth” and “of this Section” to provide that “the allowable NO_x emission rate used in the equations in subsection (k)(2) must be the higher of . . .”

Section 217.390(k)(5)

- 52) Please comment on whether it would be acceptable in the first sentence to strike the phrase “set forth” twice and to strike the phrase “of this Section” twice to provide that “the allowable NO_x emission rate used in the equations in subsection (k)(2) must be the emissions concentration in Section 217.388(a)(1) or subsection (k)(6), when applicable, for the type of unit that was replaced.”

Section 217.388(k)(6)

- 53) Please comment on whether it would be acceptable to strike the phrases “set forth” and “of this Section” to provide that “allowable emissions rate used in the equations in subsection (k)(2) must be.”

Section 217.388(k)(6)(A)

- 54) Please comment on whether it would be acceptable to replace the phrase “Prior to” with “Before.”

Section 217.388(k)(7)

- 55) Please comment on whether it would be acceptable to strike word “above” and the phrases “set forth” and “of this Section” to provide that “the allowable NO_x emissions rate used in the equations in subsection (k)(2) must be . . .”

Section 217.388(l)

- 56) Please comment on whether it would be acceptable in the sentences proposed to become effective “[o]n and after May 1, 2025,” to strike the phrase “of this Section” once where

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it follows “subsection (l)(1),” once where it follows “subsection (l)(2),” and once where it follows “subsection (k).”

- 57) Also, please comment on whether it would be acceptable in the same sentence to replace “accordance” with “compliance” to refer to “the total mass of allowable NO_x emissions calculated in compliance with the equations in subsections (j) and (l)(2).”

Section 217.394(b)

- 58) Please comment on whether it would be acceptable to strike the phrase “of this Section” where it follows “subsection (d)(1) or (d)(2).”
- 59) Also, please comment on whether it would be acceptable to replace “accordance” with “compliance” to require that “[p]erformance testing . . . must be conducted . . . in compliance with this Section.”

Section 217.396(d)

- 60) Please comment on whether it would be acceptable to strike the word “along” to refer to submitting “the annual compliance certification report to the Agency with the Annual Emissions Report.”
- 61) Also, please comment on whether it would be acceptable to strike the phrase “the following” to require that “[t]he compliance report must include.”

Technical Support Document (TSD)

At page 3 under “Potentially Affected Source Descriptions,” the TSD states that “some sources may be unaffected if they have no units that will be subject to Part 217 emission limits, or if they were to limit source NO_x emissions to less than the applicability threshold of 50 TPY.”

- 62) Please clarify whether a source with PTE of 50 TPY that limits the actual emissions to less than 15 TPY would also be unaffected by the proposed rules.

At pages 3-4 under “Environmental Impact,” the TSD states that there will be NO_x emission reductions in both NAAs due to the proposed revisions, but the Agency does not provide any estimates of emission reductions.

- 63) Although additional data and source-specific information may not be available at this time, would it be possible for the Agency to provide an estimate of emissions reduction that would be achieved by implementing the proposed amendments compared to existing requirements?

At pages 4-5 under “Technical Feasibility and Economic Reasonableness,” the TSD states that “detailed cost-effectiveness estimates for specific control technologies are not provided because

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no sources in Illinois are likely to implement any new control strategies in order to comply with the proposed revisions.”

- 64) Please clarify whether none of the potentially affected sources would need to implement additional emissions controls to achieve compliance with the proposed amendments.
- 65) If not, please comment on whether some of the affected sources will be relying on existing control strategies that have been previously found by the Board to be technically feasible for NO_x control.
- 66) Please provide examples of existing control strategies that may be used to achieve compliance with the proposed amendments.
- 67) Also, please comment on whether implementation of the proposed RACT rules will bring both NAAs into attainment with the 2015 ozone NAAQS.

At page 5 under “Section 217.150 Applicability,” the TSD states that it is likely that both NAAs considered in this proceeding “will be reclassified as serious NAAs after the next attainment date of August 3, 2024.”

- 68) Please comment on whether USEPA has taken any formal action to reclassify the NAAs since the August 3rd attainment date.

At page 6 under “Section 217.152 Compliance Date and 30-Day Rolling Average Basis,” the TSD states that “[t]his updated averaging period may increase the effectiveness of the proposed emission limits in contributing to the prevention of ozone monitoring exceedances throughout the year.”

- 69) Please comment on whether the Agency can provide any examples of using emissions data from existing sources to show how the change in averaging period improves the effectiveness of the proposed emissions limits.

At page 6 under “Section 217.158 Emissions Averaging Plans,” the TSD notes that IEPA proposes that all emissions averaging plan (EAP) calculations must be done on a 30-day rolling average basis, instead of the ozone season (May 1 through September 30) and calendar year (January 1 through December 31) under the existing regulations.

- 70) Please comment on whether this proposed change would require any affected sources to significantly modify their EAPs or require them to implement additional control strategies to demonstrate compliance.

At page 7 under “Section 217.164 Emissions Limitations,” the TSD notes that the number of boilers affected by the proposed rules totals is “four to eight units in both NAAs total.”

- 71) Please clarify why there is a wide range in the number of affected boilers.

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- 72) Also, please clarify whether all affected boilers use non-solid fuel.
- 73) Also, please comment on how many of them currently have pre-combustion controls such as Low NO_x Burners (LNB), Flue Gas Recirculation (“FGR”), or a combination of the two.

At page 8 under “Section 217.184 Emissions Limitations,” the TSD states that the number of heaters affected by the proposed rules is “two to six units in both NAAs total.”

- 74) Please clarify why there is a wide range in the number of heaters.
- 75) Also, please comment on the type of controls, if any, that the affected heaters currently have.
- 76) If they do not have any controls, please comment on whether they will rely on EAPs to comply with the applicable limitations.

At page 9 under “Section 217.184 Emissions Limitations,” the TSD states that “[t]he existing Part 217 limits for process heaters are more stringent than those in Michigan and Wisconsin for all categories of process heater designs with emission limits under Subpart F.”

- 77) Please comment on how the Part 217 process heater limits compare with those in Ohio.

At page 9 under “Section 217.204 Emissions Limitations,” the TSD states that one of the two affected glass melting sources “is subject to a consent decree that requires significantly lower NO_x emissions limits than the proposed limits, and the other subject source is currently in the process of negotiating a consent decree.”

- 78) What are the NO_x limits of the affected source operating under the consent decree?
- 79) Regarding the second affected source, is the Agency involved in negotiating a consent decree?
- 80) If so, has the Agency recommended NO_x limits?
- 81) Also, please comment on whether the Subpart G NO_x limits should be lowered to be consistent with the source operating under the consent decree.

At page 9 under “Section 217.244 Emissions Limitations,” the TSD states that “[a]ny new units in this source category would be subject to the requirement to obtain a construction permit. It is unlikely that any new sources would be authorized to construct in either NAA without being subject to standard that would be more stringent than RACT.”

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82) Please explain the rationale.

At page 15 under “RACT Determination,” the TSD notes proposal in Section 217.388(a)(1)(D) to lower the emission limit “from 660 to 210 ppm for all diesel engines that are constructed on and after May 1, 2025. The TSD also states that “the current limit for the category has been determined by the Agency to be RACT for existing engines.” However, the changes proposed to Section 217.388(a)(1)(D) do not reflect this proposed intent for existing engines.

83) Please comment on this proposed subsection and, if necessary, propose rule language clearly reflecting that existing diesel engines are subject to a limit of 660 ppmv after May 1, 2025.

At page 16 of the TSD under “Low-Usage Units,” the TSD states that the Agency proposes to sunset Section 217.388(a)(3)(A) because “using aggregate source-wide NO_x PTE from all engines and turbines combined at a source . . . is an inappropriate threshold for determining what constitutes low-usage units. The TSD notes that, after adopting the Agency’s proposal, the source-wide applicability of 50 TPY in proposed Section 217.386(a-5) would apply.

84) Please comment on Section 217.388(a)(3)(A) should include language similar to proposed Section 217.390(a)(1)(A)(ii) to clarify that, on or after May 1, 2025, the threshold would be PTE of 50 TPY of NO_x.