

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

NOTICE OF FILING

TO: Mr. Don A. Brown, Daniel Pauley
Clerk of the Board Hearing Officer
Illinois Pollution Control Board Illinois Pollution Control Board
60 E Van Buren Street, Suite 630 60 E. Van Buren Street, Suite 630
Chicago, Illinois 60605 Chicago, Illinois 60605

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, **ENTRY OF APPEARANCE OF TREJAHN HUNTER, ENTRY OF APPEARANCE OF MELISSA S. BROWN, AND IERG'S PRE-FILED QUESTIONS FOR ILLINOIS EPA'S WITNESS**, copies of which are hereby served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP,

Dated: September 19, 2024

By: /s/ Melissa S. Brown

Melissa S. Brown
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Trejahn Hunter
Illinois Environmental Regulatory Group
215 East Adams Street
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CERTIFICATE OF SERVICE

I, the undersigned, on oath state the following: That I have served the attached the **ENTRY OF APPEARANCE OF TREJAHN HUNTER, ENTRY OF APPEARANCE OF MELISSA S. BROWN, AND IERG'S PRE-FILED QUESTIONS FOR ILLINOIS EPA'S WITNESS** via electronic mail upon:

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That my email address is Melissa.Brown@heplerbroom.com

That the number of pages in the email transmission is 11.

That the email transmission took place before 4:30 p.m. on September 19, 2024.

Date: September 19, 2024

/s/ Melissa S. Brown
Melissa S. Brown

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ENTRY OF APPEARANCE OF TREJAHN HUNTER

NOW COMES Trejahn Hunter and hereby enters his appearance in this matter on behalf
of the ILLINOIS ENVIRONMENTAL REGULATORY GROUP.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP,

By: /s/ Trejahn Hunter

Dated: September 19, 2024

Trejahn Hunter, ARDC #6340899
Illinois Environmental Regulatory Group
215 East Adams Street
Springfield, Illinois 62701
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ENTRY OF APPEARANCE OF MELISSA S. BROWN

NOW COMES Melissa S. Brown, of the law firm HEPLERBROOM, LLC, and hereby enters her appearance in this matter on behalf of the ILLINOIS ENVIRONMENTAL REGULATORY GROUP.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP,

Dated: September 19, 2024

By: /s/ Melissa S. Brown

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Melissa.Brown@heplerbroom.com

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IERG'S PRE-FILED QUESTIONS FOR ILLINOIS EPA'S WITNESS

NOW COMES, the ILLINOIS ENVIRONMENTAL REGULATORY GROUP ("IERG"), by and through its attorneys, and hereby files its Pre-Filed Questions for the Illinois Environmental Protection Agency's ("Illinois EPA" or "Agency") witness at the First Hearing scheduled for September 26, 2024.

Technical Support Document

1. Is it correct that USEPA defines Reasonably Available Control Technology ("RACT") as: "The lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility"? (emphasis added)
 - a. How does the Agency define "a particular source" as utilized by USEPA in the above definition?
2. Is it correct that under Sections 182(b)(2) and (f) of the Clean Air Act ("CAA") that State Implementation Plan ("SIP") RACT provisions shall apply to major stationary sources of oxides of nitrogen located specifically in a State's nonattainment areas ("NAAs")?
3. Would the Agency agree that Illinois' NOx RACT provisions to be approved into Illinois' SIP, as defined by USEPA and pertinent sections of the CAA, must be determined specifically for major stationary sources of NOx in the Chicago and Metro East NAAs?
 - a. If yes, what specific analysis did the Agency perform for major stationary sources of NOx in the Chicago and Metro East NAAs resulting in the determination that the proposed emission limits are achievable by control techniques that are technically feasible and economically reasonable for "particular source[s]" in the Chicago and Metro East NAAs?

- b. Did the Agency consider conducting source specific information requests prior to drafting the proposal to better understand the technical and financial impacts the proposed revisions may have on potentially affected sources in the Chicago and Metro East NAAs?
- c. What types of information did the Agency use to understand the technical and financial impacts of the proposed revisions on potentially affected sources in the Chicago and Metro East NAAs?
- d. Before filing the proposal, did the Agency review information regarding potentially affected sources that contradicts the Agency's determination that the proposed emission limits are achievable by control techniques that are technically feasible and economically reasonable for "particular source[s]" in the Chicago and Metro East NAAs?
 - i. If yes, did the Agency amend the proposed revisions prior to filing its proposal with the Board?
- e. Since filing the proposal, has the Agency reviewed any information for potentially affected sources that contradicts the Agency's pre-filing determination that the proposed emission limits are achievable by control techniques that are technically feasible and economically reasonable for "particular source[s]" in the Chicago and Metro East NAAs?
 - i. If yes, how has the Agency thereafter determined RACT for "particular source[s]" in the Chicago and Metro East NAAs?
- 4. Did the Agency consider any other economic factors for potentially affected sources in the Chicago and Metro East NAAs besides the costs of adding emission controls or implementing new control strategies in its economic reasonableness analysis?
 - a. If yes, what other economic factors did the Agency consider in its economic reasonableness analysis?
- 5. Is it correct that in the Agency's Appendix to the Technical Support Document ("TSD"), there are approximately 60 potentially affected sources in the Chicago and Metro East NAAs that the Agency identified as not having any economic impact from the proposed revisions?
 - a. Has the Agency's position changed with respect to the proposed revisions' economic impact for any of the sources listed in the Appendix to the TSD?

6. Can the Agency define “additional emission control[s]” and “new control strategies” as applied on pages 4 and 5 of the TSD?
 - a. In which specific categories did the Agency determine that all subject sources could achieve compliance without “additional emissions controls”?
7. What specific available information regarding NO_x control technologies has the Agency reviewed in drafting the proposal?
8. At this time, how many Title V sources within the Chicago and Metro East NAAs does the Agency expect will be subject to the proposed revisions?

Proposed Amendments to Part 217.150 Applicability

9. Is it correct that lowering the applicability threshold from 100 tons per year to 50 tons per year is not federally required at this time but is instead intended to proactively address potential future CAA requirements?
 - a. Is it correct that the Agency cannot produce estimates for how many newly subject sources there will be nor estimates for the impact to NO_x emission reductions that these newly subject sources will have?
 - b. If yes, how did the Agency weigh the interest of preemptively lowering the applicability threshold against unknown compliance capabilities by May 1, 2025, for an unknown number of potentially affected sources?

Proposed Amendments to Part 217.152 Compliance Date and 30-day Rolling Average Basis

10. Has the Agency had any communications with potentially affected sources who have conveyed that they will need additional time for capital planning, expenditures, permitting, installing additional emission controls or testing devices, resulting in the Agency’s determination that an extension from the May 1, 2025, compliance date is appropriate?
 - a. If yes, will the opportunity to request a compliance date extension be available for other potentially affected sources?
 - b. Does the Agency have any other alternative compliance options for potentially affected sources who will need additional time from the May 1, 2025, compliance date?

Proposed Amendments to Part 217.157 Testing and Monitoring

11. Is the Agency willing to revise Section 217.157 to include that representative pair testing is allowed where a source has identical emission units during the normal 5-year testing interval?
12. Will the Agency require sources to specify in testing protocols and subsequent testing reports whether testing was performed at “maximum operator capacity” or “normal maximum load,” in accordance with Sections 217.157(a)(8)(A) and (B)?
13. Is the Agency willing to revise and clarify Section 217.157(a)(4) to state that owners or operators with emission units subject to the proposed rule have two options, to either install a CEMS following 40 CFR 60 subpart A and appendix B, Performance Specifications 2 and 3, and appendix F, Quality Assurance Procedures or conduct a performance test?
14. Is the Agency willing to add a new subsection (a)(8) to Section 217.157 with language that provides owners or operators with emission units subject to the proposed rule the opportunity to submit alternate monitoring plans where installing monitoring or testing facilities for individual emission units is not possible and those units further demonstrate unique monitoring or performance testing situations?
15. Is the Agency willing to revise the performance test operating level under Section 217.157(a)(7)(A) of the proposed rule to be consistent with the operating level requirement for CEMS relative accuracy test audits (“RATAs”) which, under 40 CFR 60 Appendix B, Performance Specification 2, §8.4.1 requires operators of emission units equipped with CEMS to conduct a RATA annually at a level greater than 50% of normal load?
16. Is the Agency willing to revise Section 217.157(d) of the proposed rule to provide similar flexibility for multiple heaters venting to a common stack relying on a performance test? More specifically, is the Agency willing to revise Section 217.157(d) of the proposed rule to include that:

“If two or more emission units subject to Subpart E, F, G, H, I, M, or Q of this Part are served by a common stack and the owner or operator of such emission units is conducting a performance test, the owner or operator may, with written approval from the Agency, utilize a single performance test for the combination of emission units subject to Subpart E, F, G, H, I, M, or Q of this Part that share the common stack, provided such emission units are subject to an emissions averaging plan under this Part.”
17. Is the Agency willing to revise Section 217.157 of the proposed rule to provide for a reduction in the reporting burden in such scenarios where a facility with emission units that are individually compliant with the emission limits but are using a common stack and thus subject to subsection (d) which implies the requirement of using an emissions averaging plan and the reporting requirements for an emissions averaging plan?

- a. If not, can the Agency otherwise explain how a facility can reduce its reporting burden for common stack scenarios when all emission units are compliant so there is no need for an emissions averaging plan?

Proposed Amendments to Part 217.158 Emissions Averaging Plans

18. How many entities comply with current Part 217 by using the emission averaging provisions in Section 217.154?
19. How many entities currently conduct emission averaging amongst emission units within a single facility (“intra-site”)?
20. How many entities currently conduct emission averaging amongst emission units situated at multiple facilities (“inter-site”)?
21. USEPA indicated that an emissions averaging plan is a type of Economic Incentive Program (“EIP”), correct?
 - a. Did the Agency consider proposing the alternative EIP option of requiring “source specific emission caps” as opposed to an environmental write-off of 10 percent on calculated allowable emissions?
 - b. If so, can the Agency explain if it is a viable option and how it would work? If not, why?
 - c. Regarding the 10% environmental write-off for emission averaging, does that provision apply to intra-site averaging, inter-site averaging, or both?
 - d. The Agency reviewed the NO_x RACT rules of other states in formulating its proposal, including Ohio and Wisconsin, correct?
 - i. Did the Agency review emission-averaging provisions from other states?
 - ii. If yes, which states?
 - iii. For which reviewed states do the emissions-averaging provisions include a 10% write off, and for which do they not include a 10% write off?
 - iv. In the Agency’s opinion, has the 10% EIB been applied consistently in SIPs approved since the EIP was issued in 2001?
22. Is the Agency amenable to revising the proposal to include an alternative emission rate or plan for sources with varying emissions rates between normal operations and unit downtime operations during routine control device maintenance?

23. Is it correct that during the Agency's pre-proposal outreach, IERG submitted comments to the Agency on the pre-proposal draft revisions where IERG encouraged the Agency to keep essential petroleum refinery maintenance turnaround ("TA") exclusions in Sections 217.158(h) and (j), rather than eliminate them?
- a. What was the Agency's reasoning for not granting this request?
 - b. When first adopted, what was the original need and justification for including these TA provisions?
 - c. Since their adoption, have these TA provisions been used by regulated petroleum refineries?
 - d. Please provide the basis for the sunset of the TA provision. **Proposed**

Amendments to Part 217.160 Industrial Boilers Applicability Exemptions

24. Is it correct that during the Agency's pre-proposal outreach, IERG submitted comments to the Agency on the pre-proposal draft amendment revisions where IERG encouraged the Agency to keep essential back-up fuel exemptions?
- a. What was the Agency's reasoning for not granting this request?

Proposed Amendments to Part 217.390 Stationary Reciprocating Internal Combustion Engines and Turbines Emissions Averaging Plans

25. Is it correct that during the Agency's pre-proposal outreach, IERG submitted comments to the Agency on the pre-proposal draft amendment revisions where IERG encouraged the Agency to allow for the use of emission equations in Section 217.390 which are already in place and required under 40 CFR Part 75 for sources that already fall under those reporting requirements?
- a. What was the Agency's reasoning for not granting this request?

Proposed Amendments to Subpart U NO_x Control and Trading Program for Specified NO_x Generating Units

26. Is it correct that during the Agency's pre-proposal outreach, IERG submitted comments to the Agency on the pre-proposal draft amendment revisions where IERG encouraged the Agency to revise the requirements in Subpart U to incorporate additional monitoring and reporting flexibility provided five years ago by USEPA for non-electric generating units ("non-EGUs", i.e., boilers, combustion turbines, and combined cycle units) with design heat input greater than 250 mmBtu/hr?
- a. What was the Agency's reasoning for not granting this request?

Rulemaking Timeline

27. Is it correct that Illinois EPA became aware of Illinois' NO_x RACT SIP submittal deficiencies as early as 2011 and thereafter withdrew the submittals?
- a. Is it correct that the Chicago and St. Louis redesignations to moderate non-attainment for the 2015 ozone standards were based on air monitoring data from the 2018 – 2020 calendar years?
 - b. What factors have led to the Agency's Part 217 NO_x RACT revisions being proposed now in 2024, rather than at an earlier date?
 - c. Can the Agency provide Illinois' regulated community guidance and assurance about its intentions to timely consider, conduct outreach, and propose future federally required air rulemakings?

Respectfully Submitted,

THE ILLINOIS ENVIRONMENTAL
REGULATORY GROUP

Dated: September 19, 2024

By: /s/ Trejahn Hunter

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