

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM. CODE) R18-21
) (Rulemaking—Air)
SUBTITLE B)

NOTICE

TO: See attached Service List

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S SECOND COMMENTS, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Dana Vetterhoffer
Dana Vetterhoffer
Division of Legal Counsel

DATED: November 4, 2024

1021 North Grand Avenue East
PO Box 19276
Springfield, IL 62794-9276
217/782-5544
dana.vetterhoffer@illinois.gov

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
) R18-21
AMENDMENTS TO 35 ILL. ADM. CODE) (Rulemaking—Air)
SUBTITLE B)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S SECOND COMMENTS

The Illinois Environmental Protection Agency (“Illinois EPA” or “Agency”), by one of its attorneys, hereby submits its second set of comments in the above rulemaking proceeding.

While the Agency is not filing its responses as testimony, it will have a representative available at the November 7, 2024, hearing to answer any follow up questions. Below the Agency provides supplemental responses to certain questions in the Pollution Control Board’s (“Board”) June 6, 2024, Order regarding incorporations by reference. The Agency also provides comments regarding the Board’s proposed amendments. However, given the volume of the Board’s proposal and competing demand for limited Agency resources, the Agency has not been able to comprehensively review the Board’s proposal. These comments reflect issues or suggestions based on the Agency’s review.

Supplemental Responses to Board Questions Regarding Incorporations by Reference

Currently referenced ASTMs that have been located by the Agency since the first hearing:

1. With regard to the Board’s Question 16, the Agency located “ASTM Standard D 240-64: Standard Method of Test for HEAT OF COMBUSTION OF LIQUID HYDROCARBON FUELS BY BOMB CALORIMETER.” It does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the newer version “ASTM standard D240 – 19: Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter” if the Board advises that it intends to update this incorporation by reference.

2. With regard to the Board's Question 17, ASTM confirmed that ASTM Standard D 369-69 (1971) has never been published. The Agency could obtain an earlier published version "ASTM standard D 369 – 67 (73): Standard Method of Test for Specific Gravity of Creosote Fractions and Residue." It does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the newer version "ASTM standard D369-84(2002) Standard Test Method for Specific Gravity of Creosote Fractions and Residue" if the Board advises that it intends to update this incorporation by reference.
3. With regard to the Board's Question 18, the Agency located "ASTM Standard D 396-69: Standard Specification for Fuel Oils." It does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the newer version "ASTM standard D396-24: Standard Specification for Fuel Oils" if the Board advises that it intends to update this incorporation by reference.
4. With regard to the Board's Question 21, the Agency located "ASTM Standard D 975-68: Standard Classification of Diesel Fuel Oils." It does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the newer version "ASTM D975-24: Standard Specification for Diesel Fuel" if the Board advises that it intends to update this incorporation by reference.
5. With regard to the Board's Question 22, the Agency located "ASTM Standard D 1826-64: Standard Method of Test for CALORIFIC VALUE OF GASES IN NATURAL GAS RANGE BY CONTINUOUS RECORDING CALORIMETER." It does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the newer version "ASTM standard D1826-94(2017): Standard Test

Method for Calorific (Heating) Value of Gases in Natural Gas Range by Continuous Recording Calorimeter” if the Board advises that it intends to update this incorporation by reference.

6. With regard to the Board’s Question 24, the Agency located “ASTM Standard D 2880-71: Standard Specification for Gas Turbine Fuel Oils.” It does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the newer version “ASTM D2880-23: Standard Specification for Gas Turbine Fuel Oils” if the Board advises that it intends to update this incorporation by reference.

7. With regard to the Board’s Question 53, the Agency located “ASTM Standard D 1644-59: Standard Method of Test for Nonvolatile Content of Varnishes.” It does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the newer version “ASTM D1644-01(2023): Standard Test Methods for Nonvolatile Content of Varnishes” if the Board advises that it intends to update this incorporation by reference.

8. With regard to the Board’s Question 59, the Agency located “ASTM Standard D 97-66: Standard Method of Test for Pour Point.” It does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the newer version “ASTM Standard D 97-17b (2022): Standard Test Method for Pour Point of Petroleum Products” if the Board advises that it intends to update this incorporation by reference.

9. With regard to the Board’s Question 60, the Agency located “ASTM Standard D 1946-67: Standard Method for ANALYSIS OF REFORMED GAS BY GAS CHROMATOGRAPHY.” It does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the newer version “ASTM

standard D1946-90(2019): Standard Practice for Analysis of Reformed Gas by Gas Chromatography” if the Board advises that it intends to update this incorporation by reference.

10. With regard to the Board’s Question 91, ASTM confirmed that ASTM Standard D 369-69 (1971) has never been published. The agency could obtain an earlier published version “ASTM standard D 369 – 67 (73): Standard Method of Test for Specific Gravity of Creosote Fractions and Residue.” It does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the newer version “ASTM standard D369-84(2002) Standard Test Method for Specific Gravity of Creosote Fractions and Residue” if the Board advises that it intends to update this incorporation by reference.

11. With regard to the Board’s Question 92, the Agency located “ASTM Standard D 396-69: Standard Specification for Fuel Oils.” It does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the newer version “ASTM standard D396-24: Standard Specification for Fuel Oils” if the Board advises that it intends to update this incorporation by reference.

12. With regard to the Board’s Questions 93, the Agency located “ASTM Standard D 2880-71: Standard Specification for Gas Turbine Fuel Oils.” It does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the newer version “ASTM D2880-23: Standard Specification for Gas Turbine Fuel Oils” if the Board advises that it intends to update this incorporation by reference.

13. With regard to the Board’s Questions 94, the Agency located “ASTM Standard D 975-68: Standard Classification of Diesel Fuel Oils.” It does not appear that updating this ASTM

standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the newer version “ASTM D975-24: Standard Specification for Diesel Fuel” if the Board advises that it intends to update this incorporation by reference.

14. With regard to the Board’s Question 106, the Agency located “ASTM Standard D 97-66: Standard Method of Test for Pour Point”. It does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the newer version “ASTM Standard D 97-17b (2022): Standard Test Method for Pour Point of Petroleum Products” if the Board advises that it intends to update this incorporation by reference.

Currently referenced ASTMs that have still not been located:

15. With regard to the Board’s Question 64, the Agency could not locate ASTM Standard D 4953-89. However, the Agency could obtain a subsequent version “ASTM standard D 4953 – 99a: Standard Test Method for Vapor Pressure of Gasoline and Gasoline-Oxygenate Blends (Dry Method)” and compared it to the most recent version of the “ASTM standard D 4953-20: Standard Test Method for Vapor Pressure of Gasoline and Gasoline-Oxygenate Blends (Dry Method).” Based on the comparison done, it does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the most recent version if the Board advises that it intends to update this incorporation by reference.

16. With regard to the Board’s Question 99, the Agency could not locate ASTM Method D 3792-86. However, the Agency could obtain a subsequent version “ASTM standard 3792-79: Standard Test Method for Water Content of Water-Reducible Paints by Direct Injection into a Gas Chromatograph” and compared it to the most recent version of the “ASTM standard D3792-

16 (2002): Standard Test Method for Water Content of Coatings by Direct Injection Into a Gas Chromatograph.” Based on the comparison done, it does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the most recent version if the Board advises that it intends to update this incorporation by reference.

17. With regard to the Board’s Question 105, the Agency could not locate ASTM standard D 2372-85. However, the Agency could obtain a subsequent version “ASTM standard D 2372 – 85 (Reapproved 1999): Standard Practice for Separation of Vehicle from Solvent-Reducible Paints” and compared it to the most recent version of the “ASTM standard D2372-85(2022): Standard Practice for Separation of Vehicle from Solvent-Reducible Paints.” Based on the comparison done, it does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the most recent version if the Board advises that it intends to update this incorporation by reference.

18. With regard to the Board’s Question 134, the Agency could not locate ASTM Method D4359- 90 (2006). However, the Agency could obtain an earlier version “ASTM standard D 4359 – 90 (Reapproved 2000): Standard Test Method for Determining Whether a Material Is a Liquid or a Solid” and compared it to the most recent version of the “ASTM standard D4359- 90(2024): Standard Test Method for Determining Whether a Material Is a Liquid or a Solid.” Based on the comparison done, it does not appear that updating this ASTM standard will result in any substantive change for subject sources. The Agency will provide the Board with copies of the most recent version if the Board advises that it intends to update this incorporation by reference.

Agency Comments Regarding Proposed Revisions

The Agency's proposed rulemaking was limited in scope to removal of outdated, unnecessary, repetitive, or confusing provisions, but the Board's proposal takes a much broader approach including to reword approximately 2100 pages of Board air regulations consistent with its current verbiage preferences. While the Board is of course free to do so, in some instances the edits do not appear to be necessary or to enhance the clarity of the regulation, and in certain provisions, the amendments could create ambiguity or confusion. As stated above, because of the large volume of the proposed amendments, the Agency has not been able to fully assess whether unintended consequences may result, so it generally recommends that the rulemaking be pared back to the scope of the Agency's original proposal. The issues that the Agency did spot with the Board's proposal are detailed below.

The word "must" is misspelled several times. While there may be additional instances, the Agency noticed such typos on pages 206, 221, 224, 630, 1010, 1220, 1245, 1399, 1429, 1481, and 1556 of the proposed amendments. The word "not" is also misspelled on page 1527, and the Agency assumes that "shallo them must" on page 121 of the proposal is a typo. On page 1021, the Celsius abbreviation "C" should be in caps. In Section 211.970, "signatory" is deleted but no noun is inserted to replace it, just the letter "s." In Section 211.7150(b), "exclusion" should be inserted after "the" at the end of the last sentence.

In Section 201.144, the Board proposes revising "No person shall cause or allow" to "A person must cause or allow," which would substantively change this Section from requiring that owners/operators obtain a permit from the Agency to requiring that owners/operators do not obtain a permit the Agency. The word "not" needs to be inserted after "must." As the Board has made numerous similar types of re-wording changes in the proposal, the Agency requests that

prior to adoption the Board double check that no similar errors have occurred in other portions of its proposed revisions.

The Board changes many instances of “provided that” to “if.” Doing so has no substantive impact in most instances, but it does in certain provisions. For example, in Section 201.146(gg), the existing language exempts certain types of equipment located at a source that processes clothing, bedding, and other fabric items used at the source provided that any organic solvent present in those items that is retained shall be addressed as part of the VOM emissions from use of cleaning materials. This provision establishes a requirement that must be met if a source wants to utilize the exemption. Changing “provided that” to “if” (such that the provision essentially reads, “if the solvent must be addressed as part of the VOM emissions”) could be read as removing the “requirement” component. At best, the language is ambiguous. The Agency recommends that “provided that” be retained here and in any other similar instance in the Board’s proposed amendments. This same issue occurs in the Board’s proposed revisions to Section 201.210(b)(8), for instance.

In many provisions in the proposal, the Board proposes to remove what it views as extraneous language. While often there is no substantive impact from such revisions, in some instances the “extra” language is important for purposes of context or clarity. In those instances, the Agency recommends that existing language be retained. For example, in Section 201.146(iii)(4), the Board proposes deleting the second reference to “permitting requirements under,” making it ambiguous what requirements of Sections 165 or 173 of the CAA must be triggered. Either this language should be reinserted or more edits should be made to clarify that the first reference to “permitting requirements” extends to Sections 165 and 173 (to read, “trigger permitting requirements under Section 39.5 or section 165 or 173 of the CAA”). Similarly, in

Section 201.211(d), the Agency recommends that the phrase “frame stated” in the last sentence of this subsection be retained because deleting it (such that the provision would now read “...must submit the requested information to the Agency within the time in the request”) renders the language potentially confusing. The Agency also recommends that the word “frame” be retained in the second to last sentence for similar reasons. “Frame” is not extraneous in this context; it provides clarity since “time” does not necessarily mean the same thing as “time frame.” Also, in Section 203.107, “described in” should not be changed to “under,” as the former is more accurate in this context. Sources are not subject to emission limits under subsection (a) of this Section. This subsection simply describes emission limits established elsewhere. The same is true for subsection (b), as permit conditions are not established under this subsection.

In Section 201.301, the Board’s proposed subsection (a)(4) does not correspond to the introductory language, as it does not set forth information or records that owners/operators must maintain. The Board could move the language in subsection (a)(4) to the introduction, such that it would read, “The owner or operator of any emission source or air pollution control equipment must maintain the following records, which must be made available to the Agency at any reasonable time:”.

In Section 201.530(f), the address for the Illinois EPA that the Board proposes adding will not be the correct address by the time the Board adopts this rule, as the Agency is moving locations. The Agency recommends that the Board amend this and any similar language in the proposal to reference whatever address is noted on the Illinois EPA’s website, as set forth below:

f) Provide copies of all required reports and Notifications as follows:

1) One copy of the new or amended Notification must be sent to ~~the~~ Illinois Environmental Protection Agency Bureau of Air Permit Section (#11), at the address of the Illinois EPA's headquarters as designated on the Illinois EPA's website. P.O. Box 19506 Springfield, Illinois 62794-9506

2) One copy of all other reports and notices must be sent to: ~~the~~ Illinois Environmental Protection Agency Bureau of Air Compliance Section (#40), at the address of the Illinois EPA's headquarters as designated on the Illinois EPA's website. P.O. Box 19276 Springfield, Illinois 62794-9276

The Agency recommends that all edits to Part 203 be removed from this rulemaking. There is already a rulemaking pending before the Board addressing revisions to Part 203, R22-17, which has already proceeded to First Notice. To ensure there are no inconsistencies between the proposed revisions in R22-17 and this rulemaking, and to ensure there is no confusion at the federal level when USEPA is asked to review and approve the amendments in both rulemakings, the Agency recommends that no changes be made to Part 203 in this rule. Further, the Agency has not had an opportunity to perform a detailed review of the corresponding provisions in 40 CFR 51.165. As the Illinois EPA has indicated in other rulemaking dockets such as R19-1 and R22-17, the USEPA makes a distinction in its usage of "shall" and "must," so it is possible that some of the Board's proposed changes are inconsistent with federal requirements. Pursuant to the definition "nonattainment new source (NA NSR) permit" in Section 3.298 of the Act, 415 ILCS 5/3.298, SIP approval is key to the proposed revisions of R22-17. The practical effect of Illinois' definition of "NA NSR permit" is that any proposed revisions to Part 203 would not replace existing Part 203 until these new rules have been SIP-approved by the USEPA. In the interim, NA NSR permitting in Illinois would continue to be administered by the Illinois EPA

pursuant to existing Part 203. To ensure nothing hinders USEPA's approval of any amendments adopted by the Board in R22-17, no changes should be made to Part 203 here as they could be potentially problematic.

The Agency recommends that the proposed revisions to Part 205 be removed from the rulemaking. The Part has been sunset for many years so edits at this point have no effect or utility.

In Section 211.3370, the proposed placement of the phrase "both gas phase and liquid phase measurements and analysis to determine" does not make sense. The Agency recommends that the current language be retained.

Finally, the Agency noticed a minor error in the Board's existing regulations that, if the Board desired, could be addressed in this rulemaking. In Sections 215.122(b), 218.122(b) and 219.122(b), the 946-liter threshold abbreviation appears in the existing rule as a number one (1), instead of the letter l (or L).

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

By: /s/ Dana Vetterhoffer
Dana Vetterhoffer
Division of Legal Counsel

Dated: November 4, 2024
1021 North Grand Avenue East
PO Box 19276
Springfield, IL 62794-9276
217/782-5544

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state the following:

I have electronically served the attached ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S SECOND COMMENTS upon the following persons:

Don Brown
Timothy Fox
Illinois Pollution Control Board
60 East Van Buren Street, Suite 630
Chicago, IL 60605
Don.brown@illinois.gov
Tim.fox@illinois.gov

Renee Snow
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, IL 62702
renee.snow@illinois.gov

Nancy J. Tikalsky
Illinois Attorney General
69 West Washington Street, Suite 1800
Chicago, IL 60602
Nancy.Tikalsky@ilag.gov

My e-mail address is dana.vetterhoffer@illinois.gov. The number of pages in the e-mail transmission is 13. The e-mail transmission took place before 4:30 p.m.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

By: /s/ Dana Vetterhoffer
Dana Vetterhoffer
Division of Legal Counsel

Dated: November 4, 2024
1021 North Grand Avenue East
PO Box 19276
Springfield, IL 62794-9276
217/782-5544