

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PERMIT BY RULE FOR) **R17-009**
BOILERS:) **(Rulemaking - Air)**
AMENDMENTS TO: 35 ILL. ADM.)
CODE PARTS 201 and 211)

NOTICE

TO:

John Therriault, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Pollution Control Board the Comments of the Illinois Environmental Protection Agency on Pollution Control Board's Second Notice Opinion and Order, dated January 19, 2017, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Rachel L. Doctors
Assistant Counsel

DATED: February 14, 2017
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Comments of the Illinois Environmental Protection Agency on Pollution Control Board's
Second Notice Opinion and Order, dated January 19, 2017,

The Illinois Environmental Protection Agency ("Illinois EPA" or "Agency"), by its attorney, hereby submits its comments regarding the Pollution Control Board's Second Notice Opinion and Order, dated January 19, 2017 (hereinafter "Opinion"), in the above rulemaking. The Agency believes that the Board has misstated or misinterpreted the Agency's Post-Hearing Comments regarding the boiler tuning requirements in proposed Section 217.630: Nitrogen Oxide (NOx) Requirements, and would therefore like to clarify. In its Opinion, the Board states: "[T]he first-notice proposal's language would, for some types of boilers, inadvertently require compliance with both the State's NOx reasonably available control technology (RACT) requirements and similar federal requirements. Illinois EPA and IERG assert that requiring compliance with both at the same time is duplicative and unnecessary. The Board agrees and changes Section 201.630 at second notice so that only one of these requirements, as appropriate, applies to a boiler covered by a permit-by-rule." Opinion at page 3. (Emphasis added, footnotes omitted.)

However, in the Agency's explanation of the proposed amendments to Section 201.630 contained in the Agency's Post-Hearing Comments, dated December 16, 2016, the Agency explained:

"Subsection (a) [of Section 201.630] applies to sources subject to Subpart D of Part 217, i.e., sources located in ozone nonattainment areas. Subsection (b)

applies to emission units required to comply with the Subpart DDDDD NESHAP requirements. An owner and operator of a large PBR boiler may be subject to the requirements in both subsections (a) and (b) or only the requirements in subsection (b), depending on where the source is located. Subsection (c) requires smaller boilers that are not subject to either Part 217 or NESHAP requirements in subsections (a) and (b) to conduct combustion tuning. Even though these smaller boilers are not otherwise subject to the requirements in the boiler NESHAP, the NESHAP requirements for combustion tuning, including recording (sic) keeping requirements, must be complied with for the tuning.” (Agency’s Post-Hearing Comments for the Second Hearing) (Emphasis added.)

Hence, as explained in the Agency’s comments, while its proposed amendments were geared toward *minimizing* similar requirements, there may be some sources that are still subject to more than one requirement for boiler tuning due to their location in an ozone nonattainment area and their size. The proposed amendments merely sought to limit the overlap as much as possible. Therefore, while the final rule language accomplishes the intent of the Agency’s comments, the Board’s interpretation that no source would be subject to more than one requirement is a misstatement and could lead to confusion among sources and even possible SIP approval issues, as owners and operators must comply with all applicable requirements.

The Illinois Environmental Regulatory Group (“IERG”) supported the Illinois EPA’s revision to Section 201.630 and stated that the changes are necessary in order to harmonize the boiler tuning requirements in the regulation with federal tuning requirements. See IERG’s Post-Hearing Comments, dated December 16, 2016. As IERG explained:

“The NO_x RACT rules are applicable to boilers in the Metro-East or Chicago areas that emit five tons of NO_x during ozone season or 15 tons of NO_x annually, which may not apply to all facilities wishing to utilize a PBR. Additionally, some units permitted by the PBR might also have to comply with the federal tuning requirements. 40 CFR 63 DDDDD. IERG believes the language put forth by the Agency clarifies the requirements that are applicable to the various sources that may be subject to a PBR by only requiring PBR boiler

owner or operators to comply with the tuning requirements they are already otherwise subject to, and specify a requirement for those not subject to the NOx RACT or NESHAP rule.” *Id.*

WHEREFORE, for the reasons stated above the Illinois EPA respectfully submits the above comments and requests that the Board clarify in its final opinion and order that more than one of the boiler tuning requirements in Section 201.630 may apply to a boiler in certain cases.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Rachel L. Doctors
Assistant Counsel

DATED: February 14, 2017
P.O. Box 19276
Springfield, Illinois 62794-9276
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CERTIFICATE OF SERVICE

I, the undersigned, an attorney, affirm that I have served the attach Comments of the Illinois Environmental Protection Agency on Pollution Control Board’s Second Notice Opinion and Order, dated January 19, 2017, upon the following person by emailing it to the email address indicated below:

Jason James
Illinois Pollution Control Board
Jason.James@illinois.gov

I affirm that my e-mail address is rachel.doctors@illinois.gov; the number of pages in the e-mail transmission is six; and the e-mail transmission took place today before 5:00 p.m.

I also affirm that I am mailing the attached Comments of the Illinois Environmental Protection Agency on Pollution Control Board’s Opinion and Order Proposed Second Notice Order dated January 19, 2017, by first-class mail from Springfield, Illinois, with sufficient postage affixed to the following persons:

SEE ATTACHED SERVICE LIST

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/Rachel L. Doctors
Assistant Counsel

DATED: February 14, 2017

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