

ILLINOIS POLLUTION CONTROL BOARD
October 19, 2016

IN THE MATTER OF:)
)
PERMIT BY RULE FOR BOILERS:) R17-9
AMENDMENTS TO 35 ILL. ADM. CODE) (Rulemaking – Air)
PARTS 201 AND 211)

HEARING OFFICER ORDER

On August 23, 2016, the Illinois Environmental Protection Agency (Illinois EPA) filed a proposal to amend Parts 201 and 211 of the Board’s air pollution regulations (35 Ill. Adm. Code 201, 211). On September 8, 2016, the Board accepted Illinois EPA’s proposal for hearing. On September 22, 2016, the hearing officer scheduled the first hearing for October 26, 2016 in Chicago and Springfield. The order also set deadlines for written testimony (October 12, 2016) and for written questions based on the written testimony (October 19, 2016).

On October 12, 2016, Illinois EPA filed the written testimony of witness Mr. Rory Davis.

The Board and its staff have reviewed Illinois EPA’s proposal and the written testimony. The Board poses questions based on those filings in Attachment A to this order. The Board directs Illinois EPA to respond to them at the hearing on October 26, 2016. The Board may raise additional questions at the hearing.

IT IS SO ORDERED.



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QUESTIONS REGARDING THE TESTIMONY OF MR. RORY DAVIS

1. You state that the proposal will allow regulated sources to construct gas-fired boilers with less delay and reduce administrative burden for sources and the Agency. Testimony of Rory Davis at 3.
 - a. How does review of a PBR notification differ from the review of a regular permit application?
 - b. Illinois EPA processes an average of eight to twelve permit applications per year for natural gas-fired boilers that meet the heat input limitations of the proposed regulations. Technical Support Document at 7. On average, how much time does Illinois EPA take to review these permit applications?
 - c. Do you anticipate that boiler notification review will take less time than a regular permit application? If so, will Illinois EPA be able to perform a completeness review within 30 days of receiving a boiler Notification?
2. You state that the proposal eliminates the potential for any environmental impact beyond what would be expected if a source applied for a construction permit under the current regulations. Testimony of Rory Davis at 3. What specific regulatory provisions ensure that potential environmental impact is eliminated?
3. You state that the Illinois EPA consulted with USEPA concerning whether the proposal can be approved as a SIP amendment. Testimony of Rory Davis at 3. Did Illinois EPA contact regulated entities or other interested groups regarding its proposal? If so, did it receive any recommendations regarding the scope of the proposed PBR for gas-fired boilers? Did Illinois EPA consider these recommendations while preparing the proposal?

QUESTIONS REGARDING ILLINOIS EPA'S PROPOSAL

Permit-by-Rule in Other States

4. What other states in USEPA Region 5 allow air emissions units to be permitted by rule? When were permit-by-rule provisions from other states implemented? What types of emissions units are now covered under permit-by-rule in these states? In those states, is coverage under a permit-by-rule limited to only emissions units at facilities covered by a permit equivalent to a Clean Air Act Permit Program (CAAPP) permit? Or are emissions units allowed to be covered under a permit-by-rule at facilities that do not hold a CAAPP-equivalent permit?

Section 201.500 Purpose

5. To improve clarity in Section 201.500, could the phrase "following Subparts" be replaced with "following Subparts that address specific types of units covered by the PBR program" as follows:

The purpose of this Subpart is to implement the PBR program provided for in Section 39.12 of the Act for classes of emission units described in this and

following Subparts that address specific types of units covered by the PBR program.

Section 201.505 Applicability

6. Subsection (a)(4) in Section 201.505 prohibits a PBR unit as an element in a larger project that otherwise requires a construction permit under this Part or the Act. What types of larger projects not covered by subsection (a)(3) would require construction permits? Also, what thresholds delineate these larger projects?
7. Illinois EPA states that “the proposed amendments for this rulemaking only allow for PBR for boilers that meet the above criteria, the general provisions of Subpart M would apply to other PBR categories that may be proposed in the future.” Illinois EPA’s Statement of Reasons at 3.
The Illinois Environmental Protection Act states that “types of permits may include, but shall not be limited to, permits for open burning, certain package boilers and heaters using only natural gas or refinery gas, and certain internal combustion engines.” 415 ILCS 5/39.12.

Does Illinois EPA anticipate proposing PBR amendments for opening burning, heaters using only natural gas or refinery gas, or certain internal combustion engines? If so, would this be proposed within the next two years?

Section 201.510 Notice of Intent to Be Covered by a PBR (Notification)

8. Subsection (a) to Section 201.510 requires an owner or operator seeking a PBR to submit a “complete” notification, including fees, prior to commencing construction or modification of the emission unit.
 - (a) Must a “complete” notification include information listed in subsections (a)(1) through (a)(11), along with the additional information in Section 201.605?
 - (b) If so, is Illinois EPA planning to create a form for PBR boiler notifications for an applicant to submit the required information? Could the notification be submitted electronically? Could an electronic submission trigger an automatic acknowledgement from Illinois EPA that it received the notification?
 - (c) Subsection (b) requires Illinois EPA to acknowledge receipt of the notification within 30 days. Will the acknowledgement indicate that a notification is complete?
 - (d) If not, when will an applicant be notified that Illinois EPA’s review of the notification is complete?

9. Subsections (a)(3) and (a)(5) refer to reconstructed emission unit. Is reconstructing an emission unit considered a modification under Part 201? If not, should Section 201.505(a) apply to reconstructed emission units?
10. Under Subsection (a)(11), a “responsible official” must certify the notification. Is “responsible official” defined in Subtitle B? If not, could this term be replaced with the term “owner or operator”?

Section 201.515 Commencing Construction or Modification

11. Under Subsection (b) to Section 201.515, a PBR does not cover an emission unit if the notification is incomplete. Will the Agency notify the owner or operator when the notification is regarded complete?

Section 201.520 Modification or Change in Status of an Emission Unit Covered by a PBR

12. Subsection (b) to Section 201.520 requires an owner or operator to submit a new notification for a PBR for an emission unit if the modification would cause the source to become a major source of hazardous air pollutants. Why do the rules also require a new notification when the modification does not cause the source to become a major HAP source?

Section 201.530 Recordkeeping and Reporting

13. Subsection (b) to Section 201.530 requires the owner or operator to report the emission unit’s start-up date within thirty days after start-up, unless the applicable PBR specifies an earlier date. Why require notice after the start-up date rather than before start-up?
14. Subsection (d)(4) requires the owner or operator to submit the results of the performance test no later than 60 days after the completion of the test. Why allowing two months to submit test results?

Section 201.535 Authority to Operate

15. Would Illinois EPA object to modifying the third sentence in Section 201.535 as follows:

Pursuant to Section 39.5(14)(a)(vi) of the Act, the owner or operator may begin operating the emission unit immediately after it filinges such application.

Section 201.600 Applicability

16. Section 39.12 of the Act and Illinois EPA’s Statement of Reasons both refers to “package boilers.” Statement of Reasons at 1, 2. However, the term does not appear in the rulemaking proposal.

Regarding the boilers covered in proposed Subpart N, Illinois EPA states that, in some cases, “these boilers are ‘skid-mounted’ and relatively portable. These units are quite common across a range of industries, and are manufactured” Statement of Reasons at 7.

- (a) Define “package boiler” consistent with Section 39.12 of the Act.
 - (b) Are package boilers only ‘off-the-shelf’ units delivered as portable, skid-mounted systems? Are emissions from these factory-made boilers more predictable than boilers constructed onsite with non-standard features?
 - (c) Other than the limit on maximum design heat input capacity in proposed Section 201.600(a), what sections in the proposed rule define PBR eligibility for a boiler?
 - (d) Would the rule allow boilers eligible for a PBR to be constructed onsite from the ground up in any configuration, as long as they meet the maximum design heat input capacity limits of proposed Section 201.600(a)?
17. Illinois EPA describes the boilers covered under Subpart N as gas-fired “indirect” boilers. TSD at 7. Should the regulation’s language reflect this description? Or does subsection (d) limit Subpart N applies only to indirect boilers?
18. Why limit the heat input at the values proposed under subsections (a)(1) and (a)(2)? Should a PBR apply to any gas-fired indirect boilers with a capacity greater than 100 mmBtu/hr?
19. Illinois EPA states that “due to the applicability provisions of Section 201.600(c), liquid fuels could be only used as a backup fuel for more than 48 hours in a calendar year in the event of natural gas curtailment or supply interruption.” TSD at 5. Is the use of liquid fuel is limited to 48 hours or less in a calendar year? If so, add language to subsection (c) to reflect this intent.
20. The rule does not address start-up emissions. Might different types of boilers covered under the rule have different start-up emissions? Should start-up emissions be included in the emissions calculated under proposed subsections 201.605(c) and (d)?
21. Section 39.12 of the Environmental Protection Act allows the Board to adopt rules for “certain package boilers and heaters using only natural gas or refinery gas”. 415 ILCS 5/39.12. Proposed Section 201.600(b)-(c) would allow a boiler that “primarily burns pipeline natural gas, butane, propane, or refinery fuel gas” and uses diesel, butane or propane as a backup or reserve fuel. Section 39.12 of the Act specifically states, “only natural gas or refinery gas”. 415 ILCS 5/39.12(c) (emphasis added). Additionally,

Section 39.12 does not differentiate between primary fuel and backup or reserve fuel, nor does it mention butane, propane, or diesel.

- (a) Is Subpart N of the rulemaking proposal is consistent with these provisions in Section 39.12(c) of the Act?
- (b) Does the Board have authority allow more fuels than those provided by Section 39.12?

22. Illinois EPA shared “several drafts of rule with USEPA Region 5 and had multiple phone calls to discuss and resolve comments.” Statement of Reasons at 7. Did these discussions pertain to any issues that are currently unresolved?

Proposed Section 201.605 Boiler Notice of Intent to be Covered by a PBR (Notifications)

23. Subsection (b) to Section 201.605 pertains to a “temporary boiler” designation under federal regulations (40 C.F.R. 60.41(c), 63.7575, 63.11237). Are the pertinent criteria established in the federal regulations? If so, should they be referred to in the proposed regulation, as follows:

- b) Whether the boiler would be a temporary boiler as defined by 40 CFR 60.41c and 63.7575 or 63.11237 as incorporated by reference in Section 201.104, and, if it would be, a demonstration that the criteria set forth in the definition of a temporary boiler are met, and the expected period or periods in which the boiler would be at a location or locations at the source.

24. Proposed Section 201.605(c) requires the notification for a PBR to include the “potential emissions...based on continuous operation...” Proposed Section 201.605(d) requires the notification to include potential SO₂ emissions from diesel, butane, propane or refinery fuel gas.

- (a) Should section 201.605(c) specify the potential emissions are those from the primary fuel? Should it specify over what time period? Should it include an estimation of startup emissions?

For example:

201.605(c)

The potential emissions of individual pollutants from the boiler in lb/hr, tons/month and tons/year, including emissions of PM, PM₁₀ (including both filterable and condensable particulate), and SO₂, based on continuous operation of the boiler at its rated heat input capacity combusting it’s primary fuel, with supporting documentation and calculations.

Attachment A to October 19, 2016 Hearing Officer Order

- (b) Should section 201.605(d) specify the potential emissions are those from each fuel type the boiler would have the capability to burn? Should it specify over what time period? Should it require a differentiation of emissions between emissions from the primary and backup/reserve fuels?

For example:

201.605(d)

Whether the boiler will have the capability to burn diesel fuel, butane, propane, or refinery fuel gas, and if so, the potential SO₂ emissions of the boiler from the use of ~~such~~ each fuel type in lb/hr, tons/month and tons/year and the net difference in emissions from those calculated in 201.605(c).