

# ORIGINAL

Page 1

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

REPORT OF THE PROCEEDINGS held in the  
above entitled meeting before Chairman Jason  
James, called by the Illinois Pollution Control  
Board, taken by Steven Brickey, CSR, for the State  
of Illinois, Chicago, Illinois, on the 26th day of  
October, 2016.

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STATE OF ILLINOIS  
Pollution Control Board

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A P P E A R A N C E S

MR. JERRY KEENAN, Chairman  
MR. JASON JAMES, Board Member  
MS. JENNIFER BURKE, Board Member  
MR. JERRY O'LEARY, Board Member  
MR. THOMAS JOHNSON, Board Member

ALSO PRESENT, BOARD TECHNICAL STAFF:

MR. ANAND RAO  
MS. ALISA LIU

ALSO PRESENT:

MS. LYNN HEDGES  
MR. RORY DAVIS  
MR. DAVID BLOOMBERG  
MR. ALEC DAVIS  
MS. ANTONETTE PALUMBO  
MS. RACHEL DOCTORS  
MS. JACKIE SIMS  
MR. SCOTT MARSIK

1 HEARING OFFICER JAMES: Good  
2 afternoon. Welcome to the Illinois Pollution  
3 Control Board hearing. My name is Jason James and  
4 I'm the Hearing Officer for this rulemaking  
5 proceeding entitled Permit By Rule for Boilers:  
6 Amendments to 35 Ill. Adm. Code Parts 201 and 211.  
7 The Board docket for this rulemaking is R17-9.

8 This hearing is being conducted  
9 by a teleconference between Chicago and  
10 Springfield. Also present today from the Board  
11 are Chairman Jerry Keenan, the lead Board member  
12 for this rulemaking; Board Member Tom Johnson;  
13 Member Jerry O'Leary and Member Jennifer Burke.  
14 Also present from the Board's staff is Ms. Alisa  
15 Liu and Mr. Anand Rao of the Board's Technical  
16 Unit.

17 As background for today's  
18 hearing, the Illinois Environmental Protection  
19 Agency filed this rulemaking proposal with the  
20 Board on August 23rd, 2016. The Board accepted  
21 the proposal for hearing on September 8th, 2016.  
22 A Hearing Officer order dated September 22nd,  
23 2016, scheduled this hearing, the first of this  
24 rulemaking. That Hearing Officer order also set a

1 deadline of October 12th, 2016, to pre-file  
2 testimony for this hearing.

3                   The Board received pre-filed  
4 testimony regarding IEPA's proposal from Mr. Rory  
5 Davis on October 12th, 2016. I entered another  
6 Hearing Officer order on October 19th, 2016,  
7 posing questions by Board members and Board staff  
8 for IEPA's witness, which will be discussed today.  
9 The Illinois Environmental Regulatory Group also  
10 pre-filed questions for IEPA's witness on October  
11 19th, 2016. I'd like to note for the record that  
12 anybody who did not pre-file testimony may testify  
13 or offer comments today.

14                   We have representatives from  
15 Illinois Environmental Regulatory Group, IERG,  
16 here in Chicago. Is anybody else in Chicago or in  
17 Springfield going to testify, planning to testify  
18 or offer comment today? Okay. I don't see  
19 anybody here in Chicago or Springfield. I'll just  
20 check in again at the end of today's hearing to  
21 make sure nobody arrives in the interim.

22                   This proceeding is governed by  
23 the Board's procedural rules. All information  
24 that is relevant and not repetitious or privileged

1 will be admitted into the record. Any questions  
2 posed today by the Board and its members or staff  
3 are intended solely to assist in developing a  
4 clear and complete record for the Board's decision  
5 and don't reflect any prejudgment or bias  
6 concerning the proposal.

7 We'll begin this hearing with  
8 the pre-filed testimony of IEPA's witness. We  
9 will enter that pre-filed testimony into the  
10 record as if read. Next we will have the witness  
11 sworn in and allow him to give a brief summary of  
12 the pre-filed testimony if he wishes. After that,  
13 we will turn to questions regarding that witness's  
14 testimony. Anyone may question IEPA's witness and  
15 any members of the public present will be given  
16 first opportunity to pose questions. The Board or  
17 staff will then ask any follow-up questions they  
18 have. Please note that the Board may raise  
19 additional follow-up questions at the second  
20 hearing in this document currently scheduled for  
21 November 16th, 2016.

22 After the testimony and  
23 questions for IEPA's witness, we will allow anyone  
24 else to testify and as time allows the Board may

1 receive public comments on the proposal. For the  
2 benefit of the court reporter transcribing today's  
3 proceeding, please speak clearly and avoid  
4 speaking at the same time as another person so  
5 that we can help produce a clear transcript. This  
6 is especially important because today's hearing is  
7 being held over teleconference. So just be  
8 extra -- annunciate extra well and speak a little  
9 more slowly.

10 Does anybody have any questions  
11 at all about today's proceeding? Okay. Hearing  
12 none --

13 MR. KEENAN: Just for the record  
14 we're on videoconference, not teleconference.

15 HEARING OFFICER JAMES: Does the  
16 agency or any Board member have opening  
17 statements?

18 MS. DOCTORS: The agency -- this is  
19 Rachel Doctors speaking, assistant counsel for  
20 Illinois EPA in this regulatory matter. I believe  
21 that the Hearing Officer has covered what I would  
22 cover and the witnesses -- Rory Davis' testimony  
23 is going to be admitted as read. So we are ready  
24 to proceed with questions.

1 HEARING OFFICER JAMES: Okay.  
2 That's good. Turning to that pre-filed testimony  
3 if there are no objections we will enter the  
4 pre-filed testimony into the record as if read as  
5 provided in the September 22nd, 2016, Hearing  
6 Officer order. I don't see any objections here in  
7 Chicago. Are there any objections from  
8 Springfield? Okay. Hearing no objection, we'll  
9 enter the testimony into the record as if read.  
10 All right.

11 Then, Ms. Doctors, please  
12 introduce yourself and the witness just for the  
13 record so we can proceed to swear him in and then  
14 begin with questions.

15 MS. DOCTORS: My name is Rachel  
16 Doctors. I'm assistant counsel with the Illinois  
17 Environmental Protection Agency and today  
18 testifying we have Rory Davis who is an engineer  
19 in the air quality planning section and David  
20 Bloomberg who will also assist who is manager of  
21 the air quality planning section in the Bureau of  
22 Air for the Environmental Protection Agency.

23 HEARING OFFICER JAMES: Okay. And,  
24 with that, would the court reporter please swear

1 in the witness.

2 WHEREUPON:

3 RORY DAVIS and DAVID BLOOMBERG  
4 called as witnesses herein, having been first duly  
5 sworn, deposeth and saith as follows:

6 HEARING OFFICER JAMES: Okay. Does  
7 any member of the public in Chicago -- I don't  
8 see -- nobody in Chicago arrived since last time I  
9 asked, but did anybody in Springfield, member of  
10 the public, have any questions for IEPA? Okay.  
11 Seeing none, as I mentioned before, IERG pre-filed  
12 questions for IEPA and at this time I'll, barring  
13 objection, enter them into the record as if read  
14 so we don't have to repeat them right here and  
15 now. Okay.

16 Without any objection to that,  
17 we can go ahead and proceed to IEPA's responses to  
18 IERG's questions.

19 MS. DOCTORS: Excuse me. Can we  
20 start with -- this is Rachel Doctors speaking.

21 Can we start with the Board's  
22 questions first?

23 HEARING OFFICER JAMES: Sure.  
24 That's fine.



1 MS. DOCTORS: And is there a  
2 preference whether we read the question or we just  
3 say question one and then proceed with the answer,  
4 does the Board have a preference on that?

5 HEARING OFFICER JAMES: I think that  
6 we could probably just proceed without restating  
7 the question unless anybody here or in Springfield  
8 has an objection to that. It doesn't appear that  
9 anybody in Chicago has any objection and I didn't  
10 hear anybody in Springfield who has an objection.  
11 So let's go ahead and just go straight to the  
12 answers without reading the questions again.

13 MS. DOCTORS: Thank you. Then I'm  
14 going to turn it over to Rory Davis and David  
15 Bloomberg to start with answering the questions.

16 MR. DAVIS: Can I pause for a moment  
17 for people to finish reading the questions?

18 HEARING OFFICER JAMES: Sure. Let's  
19 take just a few minutes and go off the record to  
20 have -- allow people to read the questions.

21 (Whereupon, a discussion was had  
22 off the record.)

23 HEARING OFFICER JAMES: Before we  
24 proceed, I'll just officially enter the Board's

1 questions into the record as if read. So with  
2 that out of the way, we can move onto the Agency's  
3 responses to the Board's questions.

4 MR. DAVIS: Okay. The Agency  
5 response to question 1A, the review of a regular  
6 application for construction permit entails a  
7 project-specific technical review by a permit  
8 engineer usually leading to the development of a  
9 draft permit.

10 A construction permit is  
11 developed with conditions that are specifically  
12 crafted to address the unit that is being  
13 proposed. Because each construction permit must  
14 be project-specific, a draft of the permit is sent  
15 to the applicant for its review and comments  
16 before a permit is issued.

17 However, the review of PBR  
18 notifications will primarily be an administrative  
19 review for completeness. A necessary -- as  
20 necessary, a more technical review may be  
21 performed. However, this review will not involve  
22 the preparation of a project-specific permit.

23 The response for question 1B,  
24 for regular applications if the applicant does not

1 seek expedited review of the application for a  
2 special fee, the Agency has 90 days by statute for  
3 processing of a construction application.

4 Question 1C, the answer is yes.  
5 The Agency anticipates that boiler notification  
6 review will take less time than a regular permit  
7 application. Illinois EPA will endeavor to  
8 perform completeness reviews within 30 days.

9 MR. RAO: Can I ask a follow-up on  
10 that response?

11 MR. DAVIS: Sure.

12 MR. RAO: I think -- will the Agency  
13 notify the applicant in this case whoever is  
14 providing you the notification that -- whether  
15 their notification is complete or not within 30  
16 days?

17 MR. BLOOMBERG: This is David  
18 Bloomberg. I think that's what Rory's answer was.  
19 We will endeavor to perform a completeness review  
20 within 30 days.

21 MR. RAO: And if it's not complete,  
22 will you send a notification to the applicant?

23 MR. BLOOMBERG: That is the intent.

24 MR. RAO: Is that intent reflected

1 in the rules?

2 MR. BLOOMBERG: No.

3 MR. RAO: Should that --

4 MR. BLOOMBERG: The rule -- the rule  
5 simply states that as -- the proposed rule simply  
6 states that the company will be notified that the  
7 application has been received. The Agency, the  
8 Bureau of Air, is currently working on internal  
9 procedures, but as of now there is nothing in the  
10 rule that says a completeness review must be done  
11 because it is our understanding the industry is  
12 more interested in moving forward as quickly as  
13 possible once a PBR is submitted and if a company  
14 is concerned that they do not want to go forward  
15 without having a specific stamp of approval by the  
16 Agency, then they can go the normal construction  
17 permit route.

18 So the Agency will endeavor to  
19 perform the review and put it in the notification,  
20 but since it's unknown exactly how this will all  
21 go and how much -- how many of these we will get,  
22 I think we would like to keep it -- just say "You  
23 will get a notification," which is what was agreed  
24 upon with industry representatives as this rule

1 was being discussed.

2 MR. RAO: When you say notification,  
3 are you talking about the acknowledgment that the  
4 Agency sends that they have received the  
5 notification?

6 MR. BLOOMBERG: Yes. Sorry. I  
7 misused the term notification. An acknowledgment.

8 MR. RAO: And that is required  
9 within 30 days of you receiving the notification  
10 from an applicant, is that correct?

11 MR. BLOOMBERG: Yes. In the  
12 proposed rule, yes.

13 MR. RAO: So within 30 days if you  
14 have performed a completeness review, would it be  
15 burdensome for the Agency to also indicate whether  
16 the notification is complete in that  
17 acknowledgement?

18 MR. BLOOMBERG: No, the plan is  
19 currently after speaking to the permit section and  
20 the Bureau of Air management, the plan is in that  
21 acknowledgment to state that the application was  
22 complete or if it wasn't complete then to state  
23 that as well, but that is an internal plan at this  
24 point and we did not believe it would be necessary

1 to put that in the rule.

2 MR. RAO: Okay.

3 MR. DAVIS: Moving on. The Agency's  
4 response to question two.

5 To clarify, potential  
6 environmental impact from PBR units is not  
7 eliminated, but it is as stated eliminated beyond  
8 what would be expected if a source applied for a  
9 construction permit. The proposed amendments  
10 include requirements that are as stringent or more  
11 stringent than the requirements for units of this  
12 type that would be included in a construction  
13 permit if the current conventional permitting  
14 processes were followed.

15 These regulatory provisions  
16 include the limitations on the fuel type, the  
17 emissions control requirements and the limitations  
18 on the capacity of the unit. As such, the PBR  
19 proposal does not increase or decrease the  
20 applicable requirements for this type of emission  
21 unit. It merely changes how the owner or operator  
22 obtains authority to construct the emission unit.

23 Question three, the Illinois EPA  
24 consulted with the Illinois Environmental

1 Regulatory Group who told us they had consulted  
2 with their member companies and the Agency  
3 incorporated their recommendations into the  
4 proposal to the extent that they were approvable  
5 by the United States EPA.

6 MR. BLOOMBERG: This is David  
7 Bloomberg. I will be answering a few questions  
8 here.

9 Question four. It is important  
10 to note that each state has developed its own  
11 permitting system and that within that framework  
12 permit by rule procedures were then adopted to  
13 address different issues in those states. So, for  
14 example, in Illinois, there are already several  
15 mechanisms to reduce the burden on small sources  
16 obtaining authority to build and operate,  
17 including lifetime permits or ROSS, as well as a  
18 number of exemptions from the permit requirements  
19 set forth in 35 Ill. Adm. Code 201.146. Other  
20 states have pursued these same goals through  
21 different means.

22 With that said, based on the  
23 Agency's investigation, especially since receiving  
24 these questions, we have the following

1 information. Ohio has a PBR program, but it does  
2 not have the regulatory mechanisms I just  
3 mentioned to reduce regulatory burdens on smaller  
4 sources. Indiana has a PBR program, but requires  
5 sources to first obtain a construction permit.  
6 Minnesota does not have a permit by rule for air  
7 emissions, but it does use permit by rule for  
8 other types of facilities such as electronics  
9 recycling. Wisconsin has a registration program  
10 for smaller sources, but no PBR. Michigan does  
11 not appear to have any flexible permitting  
12 options. So either a source needs a permit or it  
13 is exempt.

14 Response to question five. The  
15 Illinois EPA agrees with the above change.

16 Response to question six. An  
17 example that I have used in describing this  
18 provision is suppose there is a printing facility  
19 that wants to add another room to its print shop.  
20 As part of this overall construction project, they  
21 want to add a printer, a dryer for that printer,  
22 an afterburner for the printer and a natural gas  
23 boiler for the room. This source would not be  
24 able to use permit by rule because the boiler is



1 just one part of an overall construction project  
2 that is all linked together and other units  
3 involved in that construction project require  
4 construction permits. As such, there is no  
5 specific threshold for such a project other than  
6 it would involve any other unit that needs a  
7 construction permit.

8                   Response to question seven. The  
9 Agency has been evaluating additional PBR's and  
10 will further do so by looking at the effectiveness  
11 and utility of this PBR. Any future timeframe is  
12 currently unknown.

13                   Response to question eight.  
14 Yes, plus also Subsection A-12. Sorry. That was  
15 8A.

16                   8B, the permit section does  
17 intend to create a form. For the rest of that  
18 question, the Agency is not currently able to have  
19 the notification submitted electronically. We  
20 appreciate the importance of such electronic  
21 submittals and are evaluating it for this and  
22 other purposes for the future.

23                   8C, as I mentioned earlier in  
24 response to other questions, the Agency will

1 endeavor to have the acknowledgement indicate the  
2 completeness status of a notification.

3 8D, if the Agency is unable to  
4 determine completeness prior to sending of  
5 acknowledgment of receipt, the applicant will  
6 likely only hear if and when the notification is  
7 found to be incomplete. However, again, as I  
8 mentioned, the intent is to include it in the  
9 30-day acknowledgment.

10 MR. RAO: Just a clarification. If  
11 when the Agency completes the review and finds the  
12 notification incomplete, will the Agency notify  
13 the applicant that the notification is incomplete?

14 MR. BLOOMBERG: If it's incomplete  
15 and it's determined to be incomplete before the  
16 acknowledgment is sent out, the intent is that the  
17 acknowledgment letter will say something to the  
18 effect of "We have received it. However, it is  
19 incomplete."

20 MR. RAO: Okay.

21 MR. ALEC DAVIS: Alec Davis.  
22 Illinois Environmental Regulatory Group.

23 Will the Agency continue to  
24 conduct a completeness review after 30 days has

1 elapsed for notifications or once the 30 days has  
2 elapsed will the Agency not be performing a  
3 completeness review?

4 MR. BLOOMBERG: I presume you mean  
5 if we do not complete the completeness review  
6 within the 30 days will it continue afterwards?

7 MR. ALEC DAVIS: Correct.

8 MR. BLOOMBERG: Again, just to  
9 restate, the intent is to complete it within the  
10 30 days. I don't know the answer to that  
11 otherwise. Another reminder that since a minor  
12 modification to the sources CAAPP permit is also  
13 submitted, even if it were not completed within 30  
14 days for some reason when it is put into the CAAPP  
15 permit obviously there will be review there as  
16 well.

17 MR. RAO: Will that happen after the  
18 construction is complete or the boiler is already  
19 installed in place?

20 MR. BLOOMBERG: In all likelihood,  
21 but also based on our understanding of how sources  
22 intend to -- or at least some sources intend to  
23 use PBR, construction may be complete before 30  
24 days are up. In many cases, sources may be

1 complete -- I'm sorry. Construction may be  
2 complete before we even receive the notification  
3 if -- you know, in certain emergency situations.

4 MR. RAO: Okay.

5 MR. BLOOMBERG: Response to question  
6 nine. Yes, degreed construction of an emission  
7 unit is considered a modification under Part 201.

8 MR. DAVIS: This is Rory Davis.  
9 Question ten, responsible official is defined in  
10 39.5 -- Section 39.5 of the Act. If the Board  
11 believes it would be clearer to note this  
12 reference in the rule, we can do so, the Agency  
13 can do that.

14 Question 11, the answer is not  
15 necessarily. I believe we have discussed this in  
16 previous answers. The purpose of the PBR  
17 procedure is to allow owners and operators to  
18 proceed once they have certified that they have  
19 satisfied the applicability and notification  
20 requirements. Question 12.

21 MR. RAO: I think the question was  
22 the applicant submits the notification with the  
23 certification and after the Agency receives the  
24 notification as a part of your review if you find

1 it incomplete, will that unit have a PBR?

2 MR. BLOOMBERG: If we find it  
3 incomplete, you're asking if they will have a PBR?

4 MR. RAO: Yes.

5 MR. BLOOMBERG: No, the rule  
6 specifically states that if a -- it must be a  
7 complete application and I believe that the  
8 sources that we have discussed this with  
9 understand that they must ensure their application  
10 is complete when they submit it.

11 MR. RAO: Okay.

12 MR. DAVIS: Question 12. A new  
13 modification is required for a modification to a  
14 PBR unit even when the modification does not make  
15 it a major source for HAP's. The new unit --  
16 sorry. The new notification will recertify that  
17 the modified unit is still applicable as a PBR  
18 unit under the applicable PBR subpart. Some  
19 modifications could increase the emissions level  
20 or change the process in such a way that may not  
21 allow the unit to remain under a PBR.

22 MR. BLOOMBERG: Response to question  
23 13. There are cases in which sources need to  
24 begin operation of the emission unit immediately

1 which was one driver for the permit by rule  
2 proposal. Requiring a source notify the Agency  
3 ahead of time would interfere with that purpose.  
4 Additionally, circumstances may change. A  
5 contractor may believe they need two days, but end  
6 up only needing one or more likely they may need a  
7 full week. Startups definitely do not always go  
8 as planned.

9 Response to question 14. This  
10 is a fairly standard condition for Stack Testing.  
11 It recognizes that time is necessary for the Stack  
12 Testing company to gather all the necessary data,  
13 verify the data, analyze the data and write the  
14 report.

15 Response to question 15. The  
16 Illinois EPA has no objection to the proposed  
17 change.

18 MR. DAVIS: Question 16. Package  
19 boiler is usually a factory made boiler that can  
20 be manufactured in a range of specifications.  
21 Generally, a package boiler is a unit that can be  
22 installed and available for use fairly quickly.  
23 The Agency did not include a definition for  
24 packaged boilers in the proposed amendments, but

1 the applicability for Subpart N201 and Section  
2 201.600 does encompass package boilers.

3 16(a)(1), generally boilers that  
4 would be considered package boilers would be made  
5 by a boiler manufacturer and be delivered for use  
6 needing to be hooked up to water supply,  
7 electrical supply, fuel supply, steam outlet and  
8 exhaust. Emissions from package boilers are not  
9 necessarily more predictable than boilers that  
10 could be constructed onsite at a source, but are  
11 generally sold to users with factory  
12 specifications detailing their emissions  
13 characteristics.

14 Answer to (a)(2). All of  
15 Section 201.600 defines the PBR eligibility for a  
16 boiler including Subsection's 201.600(a), (b), (c)  
17 and (d). Additionally, applicability includes the  
18 general requirements in Section 201.505.

19 Question (a)(3), nothing in the  
20 proposed amendments would preclude a boiler built  
21 onsite from being eligible for PBR. However, the  
22 boiler would have to meet the applicability  
23 requirements of Subsection's 201.600(a), (b), (c)  
24 and (d) as well as the general requirements in

1 Section 201.505.

2 Question 17, by stating that the  
3 emissions from the boiler must consist entirely of  
4 the products of fuel combustion the wording of  
5 Subsection 201.600(d) does indeed limit the  
6 applicability of the PBR rules to only boilers  
7 that are commonly known as indirect boilers.

8 Question 18, the heat input  
9 values in 201.600(a)(1) and (2) were chosen in  
10 order to ensure that the PBR units would not  
11 exceed the significant emissions threshold for new  
12 source review for any NSR pollutant including a  
13 margin of safety. Boilers of a capacity greater  
14 than 100 million BTU per hour would not  
15 necessarily meet that criteria. Both the US EPA  
16 and IERG have agreed to this capacity.

17 Question 19, a PBR unit would  
18 indeed be limited to 48 hours of liquid fuel use  
19 except in cases of natural gas curtailment or  
20 supply interruption. Those limits and exceptions  
21 are already contained within the federal  
22 references contained in Subsection C.

23 MR. RAO: So is the time limit 48  
24 hours or less than 48 hours?



1 MR. DAVIS: Yes, to use as a backup  
2 fuel it's limited to 48 hours, but we did want to  
3 include the possibility of curtailment or supply  
4 interruption.

5 MR. RAO: Is that reflected in the  
6 rule?

7 MR. DAVIS: It is referenced in --

8 MR. BLOOMBERG: It's --

9 MR. DAVIS: -- in 200.600 --  
10 201.600(c).

11 MR. BLOOMBERG: That is not written  
12 into the rule. It is written into the federal  
13 requirements that are referenced in the rule.

14 MR. RAO: Okay.

15 MR. BLOOMBERG: So, therefore, by  
16 saying they must meet those federal requirements,  
17 it brings in that -- both the limits and the  
18 exceptions to the limits.

19 MR. RAO: Okay. Thank you.

20 MR. DAVIS: Right. And that's in 40  
21 CFR 63.11237. And incorporated by reference in  
22 201.104.

23 HEARING OFFICER JAMES: We have one  
24 more follow-up question here in Chicago.

1 MR. GIGNAC: James Gignac with the  
2 Attorney General's Office and my last name is  
3 spelled G-I-G-N-A-C.

4 Just to clarify on the subject  
5 of using the diesel backup in the case of the gas  
6 curtailments or interruption.

7 Is it correct that there is no  
8 time limit on the duration that diesel fuel could  
9 be used in that circumstance?

10 MR. BLOOMBERG: I believe the time  
11 limit is as long as their curtailment or supply  
12 interruption.

13 MR. GIGNAC: Did the Agency consider  
14 imposing a time limit for the use of diesel fuel  
15 in the case of has curtailment or interruption?

16 MR. BLOOMBERG: No. Because that  
17 would basically be telling sources if there is a  
18 curtailment or interruption you must shutdown and  
19 for some sources that's simply not possible.  
20 These are emergency situations. I'm not sure how  
21 often it happens, but in talking to some  
22 electrical supplying -- like Peaker units it does  
23 not happen very often at all. I think maybe the  
24 most recent was the polar vortex. Don't quote me

1 on that, but it's very infrequent.

2 MR. GIGNAC: Thank you. Just going  
3 back to a previous question.

4 You mentioned that startups  
5 don't go as planned for these types of boilers.  
6 How long is a normal startup for a unit of this  
7 size?

8 MR. BLOOMBERG: We -- I'm not sure  
9 and also by startup what I was talking about there  
10 was simply literally how long it takes to plug it  
11 in and get it going. Not any sort of like  
12 sometimes it is referred to startup emissions in a  
13 different way. That's not what was intended in  
14 that way. It is just like any other construction  
15 project, not everything goes as planned and if we  
16 had sources tell the Agency ahead of time "This is  
17 the date of startup," well if it got pushed back a  
18 day because there was a lightening storm, then  
19 they would have to send us another notification.  
20 So that's why it's generally done after.

21 MR. GIGNAC: Well, I'm asking about  
22 the startup duration because in the -- one of the  
23 CFR definitions for the boiler that's in the  
24 proposed rule, the CFR also allows unlimited use

1 of diesel fuel during a startup.

2 Is that accurate and would the  
3 Agency consider proposing a definition for what  
4 constitutes a startup period?

5 MR. BLOOMBERG: We're going to have  
6 to look at that and respond in written comments.  
7 Which section did you say that was? Or rather  
8 which CFR section?

9 MR. GIGNAC: That would be 40 CFR  
10 63.11237 and just one last question.

11 When there is a fuel switching  
12 that takes place in these types of units, for  
13 example, switching from gas to diesel, does the  
14 Agency have a sense of how long that process  
15 normally takes? Is it instantaneous or is it --  
16 does it take a period of minutes or hours?

17 MR. BLOOMBERG: We'll have to look  
18 into that and get back to -- respond in written  
19 comments because anything we tell you right now  
20 wouldn't necessarily be spot on.

21 MR. GIGNAC: Thank you.

22 MR. RAO: David, I have a follow-up  
23 on that 48-hour limit which you indicated as  
24 referenced in the 40 CFR 63.11237. I could not

1 find anything, at least in my cursory review on my  
2 phone, which would be helpful if you can point me  
3 out to what definition or where exactly that limit  
4 comes up in the federal regulations?

5 MR. BLOOMBERG: I will have to  
6 double check on that and respond to it in the  
7 written comments.

8 MR. RAO: Okay. Thank you.

9 MR. BLOOMBERG: It's possible it's  
10 in the other CFR that's listed there, 40 CFR  
11 63.7575.

12 MR. RAO: I will review it, but if  
13 you can respond to it in writing, that will be  
14 helpful.

15 MR. BLOOMBERG: Sure. Question 20,  
16 it is not necessary for the rule to explicitly  
17 address startup of emissions. As a general  
18 matter, startup emissions are not included in  
19 determinations of potential emissions.

20 Question 21, we've answered both  
21 (a) and (b) together. So the answer for 21(a) and  
22 (b) the Illinois EPA believes that Section 39.12  
23 gives the Board the necessary authority. Section  
24 39.12 did not indicate that backup fuels would be

1 excluded, only that the boiler should be a boiler  
2 designed to burn natural gas or refinery gas.

3 Section 39.12(c) of the Act  
4 states the types of permits that may include, but  
5 shall not be limited to permit for and then the  
6 list of those permits and, therefore, it does not  
7 limit the type of fuel.

8 Question 22, there are no  
9 currently unresolved issues with the US EPA.

10 Question 23 -- I'm sorry.  
11 Section -- question 23 the Board has provided a  
12 suggested edit and the Agency is okay with the  
13 Board change.

14 Question 24, Illinois EPA agrees  
15 that the potential emissions should be in tons per  
16 year, but not -- does not believe that the  
17 additional amendments are necessary because  
18 calculation of potential emissions should already  
19 include the type of fuel expected to be burned.  
20 As noted earlier, startup emissions should not be  
21 included.

22 HEARING OFFICER JAMES: Okay. I  
23 believe --

24 MR. BLOOMBERG: That was question --

1 HEARING OFFICER JAMES: Sorry. Go  
2 ahead.

3 MR. BLOOMBERG: That was 24A. This  
4 would be question 24B. The Board has provided a  
5 suggested edit. The calculation of potential  
6 emissions should already include the type of fuel  
7 expected to be burned, the emissions from butane,  
8 propane and refinery fuel gas are essentially the  
9 same as those of natural gas. As such, no change  
10 is needed to the proposed rule.

11 HEARING OFFICER JAMES: Okay. Does  
12 any Board member or Board staff or anybody else  
13 either here or in Springfield have any additional  
14 follow-up questions? We have one here in Chicago.

15 MR. SYLVESTER: Good afternoon. My  
16 name is Steve Sylvester with the Attorney  
17 General's Office.

18 I just had a follow-up question  
19 regarding whether 39.12 allows for oil as a backup  
20 fuel if in the event that down the road a court  
21 was to find that Section 39.12 didn't allow for  
22 that, what would be the result of the PBR program  
23 for that sort of fuel?

24 MR. BLOOMBERG: I'm not a lawyer. I

1 can't answer that question. I don't -- I don't  
2 know how to answer that question. We can look  
3 into it.

4 MR. SYLVESTER: Is -- I guess the  
5 question is the program allows for the use of that  
6 fuel. If it was determined that that fuel  
7 couldn't be used, how would it affect the  
8 regulations?

9 MR. BLOOMBERG: I presume that we  
10 would need to take it out of the regulation.

11 MR. SYLVESTER: Fair enough. Thank  
12 you.

13 HEARING OFFICER JAMES: Does anybody  
14 have any additional follow-up questions? Okay.  
15 Seeing none here in Chicago or in Springfield, now  
16 we can move onto consideration of IERG's -- the  
17 responses to IERG's pre-filed questions.

18 MR. BLOOMBERG: All right. Response  
19 to IERG question one. We'll read this one just  
20 because it's short. "How will future updates for  
21 the reference material be incorporated into the  
22 regulations?" And the answer is in the same way  
23 as updates to reference material are always made,  
24 either the Agency will propose amendments to the



1 Board or -- the Board or any person has the  
2 authority pursuant to Section 28.6 of the Act to  
3 propose updates to incorporations by reference  
4 through a streamline regulatory process.

5 Response to question two, no.

6 Response to question three, the  
7 owner or operator will need to obtain -- will need  
8 to obtain a separate PBR for each unit, but may  
9 obtain PBR's up to the specified limit. Response  
10 to question four, not under the proposal as  
11 written. As the question notes, the source must  
12 have a CAAPP permit.

13 Question -- response to question  
14 five. The Agency is not certain about every PBR  
15 rule in other states and as we noted earlier in  
16 response to the Board's question every states PBR  
17 program is different in multiple ways.

18 Response to question six, no.  
19 The BOA permit section already uses the term NOI  
20 to mean notice of incompleteness. We, therefore,  
21 believe it would be confusing to have the same  
22 term mean something very different.

23 Response to question seven, the  
24 Agency is working on a possible and likely form.

1     However, it will probably be separate from the  
2     minor permit modification form.

3                     Response to question eight, the  
4     purpose of this provision is to ensure that the  
5     construction of two or more units that should  
6     properly be considered a single project for  
7     purposes of NSR are not improperly considered  
8     separate projects under the PBR rule. The  
9     provision responds to a concern expressed by US  
10    EPA that this possibility be appropriately guarded  
11    against in the PBR rule. The two-year timeframe  
12    was selected as the period of interest for 35 Ill.  
13    Adm. Code 201.501(a)(8) because it would be  
14    extraordinary for construction of the type of  
15    units addressed by the PBR to be separated by more  
16    than two years and still be part of the same  
17    project for the purpose of NSR.

18                    Response to question nine, these  
19    details are still being worked out, but at this  
20    point it appears the answer will be yes.

21                    Response to question ten, yes.

22                    Response to question 11, that is  
23    correct.

24                    Response to question 12, there

1 may be some minor differences between the PBR  
2 requirements and CAAPP requirements, but we need  
3 to remember that PBR is a substitute for a  
4 construction permit while a CAAPP is an operating  
5 permit.

6                   Response to question 13, this is  
7 a standard condition for Stack Testing. Often,  
8 things change in the company or the Stack Testing  
9 contractor may not know of an exact date 30 days  
10 ahead of time. So, typically, a general range is  
11 given at the 30-day notice and a specific date is  
12 given at the 5-day notice.

13                   MR. DAVIS: This is Rory Davis.  
14 Question 14, the answer is yes.

15                   Question 14A, the answer is also  
16 yes.

17                   Response to 15, actually, we  
18 don't have a response. We did not understand the  
19 question.

20                   MS. PALUMBO: This is Antonette  
21 Palumbo with IERG. This question came about as  
22 just a way to understand how the completeness of  
23 the notification will play a role in any  
24 enforcement actions that arise from the PBR and I

1 think that we've gotten some clarification in your  
2 earlier answers about notifying applicants of the  
3 completeness, but if you could just provide some  
4 sort of explanation or just some examples of how  
5 an incomplete application or a violation for an  
6 incomplete application would arise in an  
7 enforcement action for the PBR?

8 MR. BLOOMBERG: If a source submits  
9 an incomplete notification and takes advantage of  
10 the PBR and constructs and construction and  
11 operation are complete and it is determined that  
12 the notification was incomplete, then it would be  
13 up to the Bureau of Air's compliance staff to  
14 determine what the next steps would be. If it is  
15 something simple, then it might be easily fixed.  
16 If it's something more complicated such as the  
17 source was not actually eligible for the PBR, then  
18 there could be enforcement that proceeds.

19 MS. PALUMBO: Thank you.

20 MR. DAVIS: This is Rory Davis  
21 again. Question 16, does the Agency plan to  
22 define maximum design heat input capacity? No,  
23 the Agency believes that the term is sufficiently  
24 self-explanatory.

1                   Question 17, if there is a  
2 previously federally enforceable permit that  
3 acknowledges and limits the de-rating then the  
4 maximum heat input capacity would be the de-rated  
5 capacity. Otherwise, it would be the original  
6 design value.

7                   MR. BLOOMBERG: Response to question  
8 18, it is unclear to the Agency why IERG is  
9 requesting this change to the language as the  
10 Agency believes that the language is okay the way  
11 it is written.

12                   MR. DAVIS: Question 19, the Agency  
13 used the NOx RACT language so as to avoid having  
14 different requirements. With that said, if the  
15 final permit by rule language ends up being  
16 different than the language in NOx RACT or if it  
17 is different from a NESHAP requirement, then all  
18 of those requirements would apply.

19                   Question 19(a), it appears that  
20 most of the requirements would be covered by the  
21 NESHAP, but not necessarily all of them in exactly  
22 the same way. For example, the proposed rule has  
23 a requirement that the person conducting the  
24 tuning must be trained and there are specific

1 recordkeeping requirements for this proposed rule.

2 HEARING OFFICER JAMES: Does anybody  
3 else here in Chicago or Springfield have a  
4 follow-up question? I think we have one here in  
5 Chicago.

6 MR. SYLVESTER: Hi. Steven  
7 Sylvester again. Just a quick question on the  
8 diesel fuel backup -- backup fuel.

9 Does the Agency have any  
10 requirements on the sulfur content for the diesel  
11 fuel? Have they considered using ultra low sulfur  
12 diesel?

13 MR. BLOOMBERG: Ultra low sulfur  
14 diesel is already mandated statewide with a few  
15 exceptions via a rule passed by the Board last  
16 year.

17 MR. SYLVESTER: Is it possible to  
18 cross-reference that in these regulations?

19 MR. DAVIS: No. No stationary  
20 sources are allowed to use anything but 15 PPM  
21 sulfur diesel.

22 MR. BLOOMBERG: Yeah, nobody can use  
23 it by that rule and nobody is using it or nobody  
24 is buying it now. It's almost impossible to

1 purchase in Illinois.

2 MR. SYLVESTER: Thank you.

3 MR. ALEC DAVIS: We may have some  
4 follow up. If we can have a minute.

5 HEARING OFFICER JAMES: Sure. We'll  
6 take a minute or two off the record to consider  
7 additional follow-up questions.

8 (Whereupon, a discussion was had  
9 off the record.)

10 HEARING OFFICER JAMES: Okay. We'll  
11 go back on the record.

12 MS. PALUMBO: This is Antonette  
13 Palumbo with IERG. We just have a couple of  
14 follow-up questions for you.

15 Regarding question 18 in our  
16 pre-filed questions, can the Agency just clarify  
17 if they intend for Section 201.600(a)(2) to  
18 require the owner/operator to meet the emission  
19 limit to be able to demonstrate as much, is that  
20 the intent of that provision?

21 MR. BLOOMBERG: The intent is that  
22 the source must meet a NOx emission rate or limit  
23 of not greater than 0.05 pounds per million BTU.  
24 It is possible due to a conversation that I had

1 this morning we may need to modify this language a  
2 little bit and I did not realize that when I read  
3 you the earlier answer.

4 MS. PALUMBO: Okay.

5 MR. BLOOMBERG: So we will respond  
6 to that in writing.

7 MS. PALUMBO: And for question  
8 number 19 of our pre-filed questions, is the  
9 Agency's proposed rule more stringent than NESHP  
10 for the combustion tuning requirements?

11 MR. BLOOMBERG: It's different. I  
12 don't know how to define more stringent for  
13 combustion tuning. There are slightly different  
14 requirements. We're more specific in some areas  
15 and the NESHP is more specific in other areas.

16 MS. PALUMBO: And the sources would  
17 have to meet both requirements, is that correct?

18 MR. BLOOMBERG: Yes.

19 MS. PALUMBO: Okay. Will the Agency  
20 be available to answer questions at the next  
21 hearing?

22 MR. BLOOMBERG: Yes, but let me just  
23 backup one second here.

24 The sources would have to meet



1 both requirements if they are subject to that  
2 NESHAP.

3 MR. RAO: Okay. Is there any  
4 particular reason for the Agency to not propose  
5 consistent requirements with NESHAP here?

6 MR. BLOOMBERG: We proposed  
7 consistent requirements with Illinois regulations  
8 that cover Chicago and Metro East sources. We  
9 felt it was more important to be consistent within  
10 our own Illinois -- or the Board's own Illinois  
11 regulations which can be controlled by the Board  
12 as opposed to federal regulations which may change  
13 and are out of our control.

14 MR. RAO: Okay. And those  
15 regulations differ from NESHAP too, I'm assuming?

16 MR. BLOOMBERG: Yes, the ones that  
17 we have in this regulation, this proposal  
18 regulation, were pretty much copy and pasted from  
19 NOx RACT.

20 MR. RAO: Thank you.

21 HEARING OFFICER JAMES: Okay. Does  
22 anybody else either here or in Springfield have  
23 additional follow-up questions based on IERG's  
24 questions? I see none here in Chicago and I hear

1 none in Springfield. So I believe that wraps up  
2 the responses to the pre-filed questions.

3 Does anybody else have any new  
4 questions for the witness, either Board members,  
5 staff or any members of the public present? Okay.

6 Seeing none, that concludes the  
7 questioning of the witness and is there anybody  
8 else who wishes to testify or offer comment at the  
9 hearing today? I don't see anybody here in  
10 Chicago and I don't hear anybody in Springfield.  
11 So that's that. And we can adjourn today after a  
12 couple of quick announcements.

13 The second hearing in this  
14 docket has been scheduled to take place November  
15 16th, 2016, via video conference between Chicago  
16 and Springfield. The deadline that we set for  
17 pre-filing testimony is November 2nd, 2016. It  
18 would also be great if post-hearing comments  
19 concerning today's hearing could be filed by that  
20 date November 2nd. We also set a deadline of  
21 November 9th, 2016, to pre-file questions based on  
22 the pre-filed testimony. The Board expects to  
23 receive the transcript of this hearing soon and  
24 after the Board receives the transcript it will be

1 available on the Board's website  
2 [www.ipcb.state.il.us](http://www.ipcb.state.il.us). It will be available under  
3 this docket number R17-9.

4           Anyone can file written public  
5 comments in this rulemaking and file them with the  
6 clerk of the Board. Comments can be filed  
7 electronically through the Board's clerk's office  
8 online also known as COOL. Any questions about  
9 filing comments through COOL can be directed to  
10 the clerk's office. Filings with the Board must  
11 also be served on the Hearing Officer and anyone  
12 on the service list. So before filing check with  
13 the Board's clerk to make sure you have the most  
14 recent version of the service list.

15           If anyone has any questions  
16 about procedural aspects of this rulemaking, my  
17 contact information is posted on the Board's web  
18 page. Is there any other matter that needs to be  
19 addressed at this time? Okay. Seeing nobody  
20 raising any issues here in Chicago or in  
21 Springfield, I'd like to thank everybody for  
22 participating today and the hearing is adjourned.

23  
24

1 STATE OF ILLINOIS )  
2 ) SS.  
3 COUNTY OF COOK )  
4

5 I, Steven Brickey, Certified Shorthand  
6 Reporter, do hereby certify that I reported in  
7 shorthand the proceedings had at the closed  
8 meeting aforesaid, and that the foregoing is a  
9 true, complete and correct transcript of the audio  
10 proceedings of said closed meeting as appears from  
11 my stenographic notes so taken and transcribed  
12 under my personal direction.

13 Witness my official signature in and for  
14 Cook County, Illinois, on this \_\_\_\_\_ day of  
15 \_\_\_\_\_, A.D., 2016.

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