



March 31, 2025

Kimberly Schultz  
Executive Director  
Joint Committee on Administrative Rules  
Illinois General Assembly  
700 Stratton Building  
Springfield, IL 62706  
*Sent via email only: [KimberlyS@ilga.gov](mailto:KimberlyS@ilga.gov), [jcar@ilga.gov](mailto:jcar@ilga.gov)*

Subject: Comments Regarding Illinois Pollution Control Board Rulemaking R2025-017, In the Matter of Amendments to 35 Ill. Adm. Code 217, Nitrogen Oxides Emissions

Dear Ms. Schultz:

The Illinois Environmental Protection Agency ("Illinois EPA" or "Agency") respectfully submits these comments regarding the Illinois Pollution Control Board's ("Board") rulemaking proposal, R2025-017, currently being considered by the Joint Committee on Administrative Rules at Second Notice. A few proposed revisions appear to have been added by the Board to the proposed rule at the Second Notice stage of the rulemaking that were not in the First Notice version of the proposal that the Agency believes were likely in error.

By way of background, after notice of the proposed amendments was published in the Illinois Register, 48 Ill. Reg. 11469 (August 9, 2024), the Agency continued to engage in negotiations with interested parties on several issues, and thereafter, filed a total of five post-hearing comments that included suggested revisions to the proposed amendments. As a courtesy, with the final post-hearing comments, the Agency included a Word version of the proposed rule incorporating these suggested revisions. However, it has come to the Agency's attention that, while the Agency included these revisions in its post-hearing comments, the Agency's Word version of the proposed rule did not accurately reflect the revisions in some respects. Also, the Agency noticed a couple of inaccuracies in the Board's proposal, as well. Accordingly, the Agency proposes the following changes (in bold) so that the proposed amendments are commensurate with the Agency's suggested revisions that the Agency believes the Board intended to make and that the Board found technically feasible and economically reasonable:

1. Section 217.388(a)(1)(D) through (F) should read as follows:

Section 217.388 Control and Maintenance Requirements

\* \* \*

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- 1) Limits the discharge from an affected unit into the atmosphere of any gases that contain NO<sub>x</sub> to no more than:
  - A) 150 ppmv (corrected to 15 percent O<sub>2</sub> on a dry basis) for spark-ignited rich-burn engines;
  - B) 210 ppmv (corrected to 15 percent O<sub>2</sub> on a dry basis) for spark-ignited lean-burn engines, except for existing spark-ignited Worthington engines that are not listed in Appendix G;
  - C) 365 ppmv (corrected to 15 percent O<sub>2</sub> on a dry basis) for existing spark-ignited Worthington engines that are not listed in Appendix G;
  - D)
    - i) Before May 1, 2025, 660 ppmv (corrected to 15 percent O<sub>2</sub> on a dry basis) for diesel engines;
    - ii) On and after May 1, 2025, 210 ppmv (corrected to 15 percent O<sub>2</sub> on a dry basis) for diesel engines that are constructed on and after May 1, 2025;
  - E)
    - i) Before May 1, 2025, 42 ppmv (corrected to 15 percent O<sub>2</sub> on a dry basis) for gaseous fuel-fired turbines; and
    - ii) On and after May 1, 2025, 25 ppmv (corrected to 15 percent O<sub>2</sub> on a dry basis) for gaseous fuel-fired turbines;
  - F)
    - i) Before May 1, 2025, 96 ppmv (corrected to 15 percent O<sub>2</sub> on a dry basis) for liquid fuel-fired turbines; and
    - ii) On and after May 1, 2025, 65 ppmv (corrected to 15 percent O<sub>2</sub> on a dry basis) for liquid fuel-fired turbines.

\* \* \*

In the Second Notice version of the rule, the Board removed the fourth level of subsection that the Agency proposed under Section 217.388(a)(1)(D) through (F); however, Section 217.392(e) still cites specifically to Section 217.388(a)(1)(E)(i) and (ii), and it needs to do so as it establishes different compliance deadlines for the emissions standards in those subsections. In other words, the Board's deletion would have unintended substantive impact as it would be unclear which compliance date under Section 217.392(e) applied to which emissions standard in Section 217.388(a)(1)(E).

For consistency, fourth level subsections should also be added for Section 217.388(a)(1)(D) and (F) as well. If desired, headings could be added at the Section 217.388(a)(1)(D) through (F) levels for the different types of units (e.g., a heading of "Diesel engines" could be added for subsection (a)(1)(D), a heading of "Gaseous fuel-fired turbines" for subsection (a)(1)(E), and a heading of "Liquid fuel-fired turbines" for subsection (a)(1)(F)).

2. Section 217.390(l)(3) should read as follows:

Section 217.390 Emissions Averaging Plans

l) \*\*\*

3) \*\*\*

$C_{d(all)}$  = Allowable concentration of NO<sub>x</sub> in lb/dscf (allowable emissions concentration in ppmv specified in Section 217.388(a)(1) multiplied by 1.194 x ~~10<sup>-7</sup>~~) on a dry basis for the fuel used.

\* \* \*

j = subscript denoting each hour of operation of a given unit.

In  $C_{d(all)}$ , the “-7” should be a superscript, and the subscript j description is missing an “of”.

3. Section 217.394(b) should read as follows:

Section 217.394 Testing and Monitoring

\* \* \*

b) On and after May 1, 2025, an owner or operator of a reciprocating internal combustion engine or turbine, including those that are part of an emissions averaging plan, must either conduct performance testing or install and operate a CEMS in compliance with the requirements in this Section, as applicable, unless the engine or turbine operates as a low usage unit under Section 217.388(a)(3)(B). An owner or operator must conduct an initial performance test under subsection (d)(1) or (d)(2) of this Section. Performance testing of NO<sub>x</sub> emissions for engines and turbines for which construction or modification occurs after May 1, 2025, must be conducted within 60 days after achieving maximum operating rate but no later than 180 days after initial startup of the new or modified engine or turbine, in accordance with this Section. ~~e) Notwithstanding subsection (c), the owner or operator of a turbine subject to this Subpart and located at the petroleum refinery in Channahon must comply with the emissions concentration in Section 217.388(a)(1)(E)(i) on and after May 1, 2025, until January 1, 2028, and must comply with the emissions concentration in Section 217.388(a)(1)(E)(ii) on and after January 1, 2028. If performance testing was already conducted by an owner or operator under subsection (d) within five years before May 1, 2025, the owner or operator is not required to conduct an additional initial performance test.~~

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The Agency proposed the last sentence, above, in its post-hearing comments, filed with the Board on November 20, 2024, to be added to Subpart D [Section 217.154(a)] and Section 217.394(b) in Subpart Q of Part 217 to provide that if performance testing was already conducted by an owner or operator within five years before May 1, 2025, the owner or operator is not required to conduct an additional initial performance test. Without this provision, the owners of engines and turbines will not be able to avail themselves of the same provision that the owners of other emission units under Subpart D are able to. The Board does not appear to object to this provision as it did include it under Section 217.154(a), so the Agency assumes the omission under this subsection (b) in Section 217.394 was in error. In addition, the stricken sentence above is clearly out of place as it purports to be subsection (e). This is actually language from Section 217.392(e) of the Board's Second Notice version of the rule and is correctly set forth therein. Section 217.392(e) specifically pertains to compliance dates for turbines subject to Subpart Q located at a petroleum refinery in Channahon, whereas Section 217.394(b) governs performance testing of engines and turbines. Therefore, the Agency concludes that the Board mistakenly inserted Section 217.392(e) into the wrong section. It should be removed from Section 217.394 before a final rule is adopted, and the underlined language above should be added.

#### 4. Appendix I

Appendix I should read as follows:

Section 217.APPENDIX I: Compliance Dates for Certain Emission Units at Petroleum Refineries **and Petrochemical Facilities**

In the Agency's response to post-hearing comments, filed with the Board on December 19, 2024, the Agency indicated that while it had not had time to fully assess Equistar Chemicals, LP's ("Equistar") proposed revision to extend the compliance date for a number of its emission units, if the Board did decide to adopt Equistar's language, the Agency suggested provisions to lay the foundation for Equistar's proposed table under Appendix I. The Board's Second Notice version of the rule amendments includes Equistar's information in Appendix I, so the accompanying Appendix I heading needs to reference petrochemical facilities, such as Equistar, in addition to referencing petroleum refineries. This heading change appears to have been inadvertently left out of the Board's Second Notice proposal.

The Agency requests that the above changes be made to the proposed amendments under Part 217.

Also, in response to some questions recently received, the Agency notes that the compliance date in the proposed amendments is May 1, 2025. If the proposed amendments are adopted and effective on or before May 1, 2025, the Agency does not believe that there would be any issues regarding retroactive compliance with mandatory requirements. Sources that wish to utilize a certain optional compliance method immediately are required under the proposal to provide certain information to the Agency in advance, but this compliance method is not mandatory.

These optional provisions, the May 1, 2025, compliance deadline, and other provisions that tee off of the compliance deadline were part of the Board's First Notice version of the rule, so have been available to affected sources for over seven months for purposes of planning for compliance. However, out of an abundance of caution, because the Agency has recently received comments from some affected sources with concerns about the proximity of Board adoption with the May 1, 2025, compliance date, the Agency recommends that each reference to "May 1, 2025" in the rule be changed to "July 1, 2025" throughout the rule. There are other references to "May 1" in the rule, but those references should not be changed as they are not based on the compliance deadline. The United States Environmental Protection Agency has advised the Agency that adjustment of the compliance date to July 1, 2025, will not prevent the Agency from making a complete State Implementation Plan submittal by May 19, 2025, the impetus for the rulemaking. The Agency does *not* recommend that the deadline be extended any further, as the compliance date issue has been thoroughly vetted by the Board during the rulemaking process and as the Board's proposal already includes several compliance date extensions for certain facilities that demonstrated to the Board a need for more time to comply.

Sincerely,

/s/ Gina Roccaforte  
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Assistant Counsel  
Division of Legal Counsel