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To: [Brown, Don](#)
Cc: [Pauley, Daniel](#); [Bilbruck, Shannon O.](#)
Subject: FW: JCAR comments on 35-204-24-06655
Date: Tuesday, June 11, 2024 12:19:35 PM
Attachments: [35-204-24-06655 comments.docx](#)
[image001.png](#)

Good afternoon, Mr. Clerk:

Please docket, as a public comment in R22-17, this email message and its attachment of comments from JCAR.

Thank you.

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From: Rivas, Tobias <TobiasR@ilga.gov>
Sent: Tuesday, June 11, 2024 9:48 AM
To: McGill, Richard <Richard.McGill@illinois.gov>
Subject: [External] JCAR comments on 35-204-24-06655

Good morning,

Please see the attached for one small technical recommendation on the mentioned rulemaking.]

Toby Rivas
Joint Committee on Administrative Rules
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TobiasR@ilga.gov

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JCAR350204-2406655r01

1 TITLE 35: ENVIRONMENTAL PROTECTION
2 SUBTITLE B: AIR POLLUTION
3 CHAPTER I: POLLUTION CONTROL BOARD
4 SUBCHAPTER a: PERMITS AND GENERAL PROVISIONS

5
6 PART 204
7 PREVENTION OF SIGNIFICANT DETERIORATION

8
9 SUBPART A: GENERAL PROVISIONS

10
11 Section
12 204.100 Incorporations by Reference
13 204.110 Abbreviations and Acronyms
14 204.120 Severability

15
16 SUBPART B: DEFINITIONS

17
18 Section
19 204.200 Definitions
20 204.210 Actual Emissions
21 204.220 Adverse Impact on Visibility
22 204.230 Allowable Emissions
23 204.240 Baseline Actual Emissions
24 204.250 Baseline Area
25 204.260 Baseline Concentration
26 204.270 Begin Actual Construction
27 204.280 Best Available Control Technology (BACT)
28 204.290 Building, Structure, Facility, or Installation
29 204.300 Clean Coal Technology
30 204.310 Clean Coal Technology Demonstration Project
31 204.320 Commence
32 204.330 Complete
33 204.340 Construction
34 204.350 Dispersion Technique
35 204.360 Electric Utility Steam Generating Unit
36 204.370 Emissions Unit
37 204.380 Excessive Concentration
38 204.390 Federal Land Manager
39 204.400 Federally Enforceable
40 204.410 Fugitive Emissions
41 204.420 Good Engineering Practice
42 204.430 Greenhouse Gases (GHGs)
43 204.440 High Terrain
44 204.450 Indian Reservation

JCAR350204-2406655r01

45	204.460	Indian Governing Body
46	204.470	Innovative Control Technology
47	204.480	Low Terrain
48	204.490	Major Modification
49	204.500	Major Source Baseline Date
50	204.510	Major Stationary Source
51	204.520	Minor Source Baseline Date
52	204.530	Nearby
53	204.540	Necessary Preconstruction Approvals or Permits
54	204.550	Net Emissions Increase
55	204.560	Potential to Emit
56	204.570	Prevention of Significant Deterioration (PSD) Permit
57	204.580	Process Unit
58	204.590	Project
59	204.600	Projected Actual Emissions
60	204.610	Regulated NSR Pollutant
61	204.620	Replacement Unit
62	204.630	Repowering
63	204.640	Reviewing Authority
64	204.650	Secondary Emissions
65	204.660	Significant
66	204.670	Significant Emissions Increase
67	204.680	Stack in Existence
68	204.690	Stationary Source
69	204.700	Subject to Regulation
70	204.710	Temporary Clean Coal Technology Demonstration Project

71

SUBPART C: MAJOR STATIONARY SOURCES IN ATTAINMENT
AND UNCLASSIFIABLE AREAS

72

73

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75 Section

76 204.800 Applicability

77 204.810 Source Information

78 204.820 Source Obligation

79 204.830 Permit Expiration

80 204.840 Effect of Permits

81 204.850 Relaxation of a Source-Specific Limitation

82 204.860 Exemptions

83

84 SUBPART D: INCREMENT

85

86 Section

87 204.900 Ambient Air Increments

88 204.910 Ambient Air Ceilings

JCAR350204-2406655r01

89 204.920 Restrictions on Area Classifications

90 204.930 Redesignation

91

92 SUBPART E: STACK HEIGHTS

93

94 Section

95 204.1000 Stack Heights

96

97 SUBPART F: REQUIREMENTS FOR MAJOR STATIONARY SOURCES AND MAJOR

98 MODIFICATIONS IN ATTAINMENT AND UNCLASSIFIABLE AREAS

99

100 Section

101 204.1100 Control Technology Review

102 204.1110 Source Impact Analysis

103 204.1120 Air Quality Models

104 204.1130 Air Quality Analysis

105 204.1140 Additional Impact Analyses

106

107 SUBPART G: ADDITIONAL REQUIREMENTS FOR CLASS I AREAS

108

109 Section

110 204.1200 Additional Requirements for Sources Impacting Federal Class I Areas

111

112 SUBPART H: GENERAL OBLIGATIONS OF THE

113 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

114

115 Section

116 204.1300 Notification of Application Completeness to Applicants

117 204.1310 Transmittal of Application to USEPA

118 204.1320 Public Participation

119 204.1330 Issuance Within One Year of Submittal of Complete Application

120 204.1340 Permit Rescission

121

122 SUBPART I: NONAPPLICABILITY RECORDKEEPING AND REPORTING

123

124 Section

125 204.1400 Recordkeeping and Reporting Requirements for Certain Projects at Major

126 Stationary Sources

127

128 SUBPART J: INNOVATIVE CONTROL TECHNOLOGY

129

130 Section

131 204.1500 Innovative Control Technology

132

JCAR350204-2406655r01

133 SUBPART K: PLANTWIDE APPLICABILITY LIMITATION

134

135 Section

- 136 204.1600 Applicability
- 137 204.1610 Definitions
- 138 204.1620 Actuals PAL
- 139 204.1630 Allowable Emissions
- 140 204.1640 Continuous Emissions Monitoring System (CEMS)
- 141 204.1650 Continuous Emissions Rate Monitoring System (CERMS)
- 142 204.1660 Continuous Parameter Monitoring System (CPMS)
- 143 204.1670 Lowest Achievable Emission Rate (LAER)
- 144 204.1680 Major Emissions Unit
- 145 204.1690 Plantwide Applicability Limitation (PAL)
- 146 204.1700 PAL Effective Date
- 147 204.1710 PAL Effective Period
- 148 204.1720 PAL Major Modification
- 149 204.1730 PAL Permit
- 150 204.1740 PAL Pollutant
- 151 204.1750 Predictive Emissions Monitoring System (PEMS)
- 152 204.1760 Reasonably Achievable Control Technology (RACT)
- 153 204.1770 Significant Emissions Unit
- 154 204.1780 Small Emissions Unit
- 155 204.1790 Permit Application Requirements
- 156 204.1800 General Requirements for Establishing PAL
- 157 204.1810 Public Participation Requirements
- 158 204.1820 Setting the 10-Year Actuals PAL Level
- 159 204.1830 Contents of the PAL Permit
- 160 204.1840 Effective Period and Reopening a PAL Permit
- 161 204.1850 Expiration of a PAL
- 162 204.1860 Renewal of a PAL
- 163 204.1870 Increasing the PAL during the PAL Effective Period
- 164 204.1880 Monitoring Requirements
- 165 204.1890 Recordkeeping Requirements
- 166 204.1900 Reporting and Notification Requirements
- 167 204.1910 Transition Requirements

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169 AUTHORITY: Implementing Sections 9.1 and 10 and authorized by Sections 27 and 28 of the
170 Environmental Protection Act [415 ILCS 5/9.1, 10, 27 and 28].

171

172 SOURCE: Adopted in R19-1 at 44 Ill. Reg. 14923, effective September 4, 2020; amended in
173 R22-7 at 48 Ill. Reg. _____, effective _____.

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SUBPART B: DEFINITIONS

176

JCAR350204-2406655r01

177 **Section 204.290 Building, Structure, Facility, or Installation**

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- a) "Building, structure, facility, or installation" means all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities must be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., have the same first two-digit code) as described in the Standard Industrial Classification Manual (incorporated by reference in Section 204.100).

- b) Notwithstanding the provisions of subsection (a), building, structure, facility, or installation means, for onshore activities under Standard Industrial Classification (SIC) Major Group 13: Oil and Gas Extraction, all of the pollutant-emitting activities included in Major Group 13 that are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities must be considered adjacent if they are located on the same surface site, or if they are located on surface sites that are located within ¼ mile of one another (measured from the center of the equipment on the surface site) and they share equipment. Shared equipment includes, but is not limited to, produced fluids storage tanks, phase separators, natural gas dehydrators or emissions control devices. Surface site, as used in this subsection, has the same meaning as in 40 CFR 63.761.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 204.330 Complete

"Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 204.380 Excessive Concentration

"Excessive concentration" is defined for determining good engineering practice stack height under Section 204.420(a)(3) and means:

- a) For sources seeking credit for stack height exceeding that established under Section 204.420(a)(2), a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features that individually is at least 40 percent in excess of the maximum concentration experienced in the absence of

JCAR350204-2406655r01

221 such downwash, wakes, or eddy effects and that contributes to a total
222 concentration, due to emissions from all sources, that is greater than an ambient
223 air quality standard. For sources subject to this Part, an excessive concentration
224 alternatively means a maximum ground-level concentration due to emissions from
225 a stack due in whole or part to downwash, wakes, or eddy effects produced by
226 nearby structures or nearby terrain features that individually is at least 40 percent
227 in excess of the maximum concentration experienced in the absence of the
228 downwash, wakes, or eddy effects and greater than an ambient air increment
229 under Section 204.900. The allowable emission rate to be used in making
230 demonstrations of excessive concentration must be prescribed by the NSPS that is
231 applicable to the source category unless the owner or operator demonstrates that
232 this emission rate is infeasible. When those demonstrations are approved by the
233 Agency, an alternative emission rate must be established in consultation with the
234 source owner or operator.

- 235
- 236 b) For sources seeking credit for increases in existing stack heights up to the heights
237 established under Section 204.420(a)(2), either:
- 238
- 239 1) A maximum ground-level concentration due in whole or part to
240 downwash, wakes or eddy effects as provided in subsection (a), except
241 that the emission rate specified by the SIP (or, in the absence of such a
242 limit, the actual emission rate) must be used; or
- 243
- 244 2) The actual presence of a local nuisance caused by the existing stack, as
245 determined by the Agency; and
- 246
- 247 c) For sources seeking credit for a stack height determined under Section
248 204.420(a)(2) when the Agency requires the use of a field study or fluid model to
249 verify good engineering practice stack height, for sources seeking stack height
250 credit based on the aerodynamic influence of cooling towers, and for sources
251 seeking stack height credit based on the aerodynamic influence of structures not
252 adequately represented by the equations in Section 204.420(a)(2), a maximum
253 ground-level concentration due in whole or part to downwash, wakes or eddy
254 effects that is at least 40 percent in excess of the maximum concentration
255 experienced in the absence of the downwash, wakes, or eddy effects.

256
257 (Source: Amended at 48 Ill. Reg. _____, effective _____)

258

259 **Section 204.420 Good Engineering Practice**

- 260
- 261 a) "Good engineering practice", with respect to stack height, means the greater of:
- 262
- 263 1) 65 meters, measured from the ground-level elevation at the base of the
264 stack;

JCAR350204-2406655r01

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2) The following:

A) For a stack in existence on January 12, 1979, and for which the owner or operator had obtained all necessary preconstruction approvals or permits required under 40 CFR 51 and 52 (incorporated by reference in Section 204.100):

$$H_g = 2.5H,$$

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation;

B) For all other stacks:

$$H_g = H + 1.5L$$

where:

H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack;

H = height of nearby structure or structures measured from the ground-level elevation at the base of the stack;

L = lesser dimension, height, or projected width of nearby structure or structures provided, that USEPA or the Agency may require the use of a field study or fluid model to verify good engineering practice stack height for the source; or

3) The height demonstrated by a fluid model or a field study approved by USEPA or the Agency that ensures the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

b) For purposes of this definition, "stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 204.490 Major Modification

JCAR350204-2406655r01

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- a) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in:
 - 1) A significant emissions increase (as defined in Section 204.670) of a regulated NSR pollutant (as defined in Section 204.610) other than GHGs (as defined in Section 204.430); and
 - 2) A significant net emissions increase of that pollutant from the major stationary source.
- b) Any significant emissions increase (as defined in Section 204.670) from any emissions units or net emissions increase (as defined in Section 204.550) at a major stationary source that is significant for VOM or NO_x must be considered significant for ozone.
- c) A physical change or change in the method of operation must not include:
 - 1) Routine maintenance, repair and replacement;
 - 2) Use of an alternative fuel or raw material by reason of:
 - A) An order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791) (or any superseding legislation); or
 - B) A natural gas curtailment plan under the Federal Power Act (16 U.S.C. 791);
 - 3) Use of an alternative fuel by reason of an order or rule under section 125 of the CAA (42 U.S.C. 7425);
 - 4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
 - 5) Use of an alternative fuel or raw material by a stationary source that:
 - A) The source was capable of accommodating before January 6, 1975, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975 under 40 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143; or

JCAR350204-2406655r01

- 352 B) The source is approved to use under any permit issued under 40
353 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143;
354
355 6) An increase in the hours of operation or in the production rate, unless such
356 change would be prohibited under any federally enforceable permit
357 condition established after January 6, 1975, under 40 CFR 52.21, this Part,
358 or 35 Ill. Adm. Code 201.142 or 201.143;
359
360 7) Any change in ownership at a stationary source;
361
362 8) The installation, operation, cessation, or removal of a temporary clean coal
363 technology demonstration project, provided that the project complies with:
364
365 A) The Illinois SIP; and
366
367 B) Other requirements necessary to attain and maintain NAAQS
368 during the project and after it is terminated; or
369
370 9) The installation or operation of a permanent clean coal technology
371 demonstration project that constitutes repowering, provided that the
372 project does not result in an increase in the potential to emit of any
373 regulated pollutant emitted by the unit. This exemption will apply on a
374 pollutant-by-pollutant basis.
375
376 d) This definition will not apply to a particular regulated NSR pollutant when the
377 major stationary source is complying with Subpart K for a PAL for that pollutant.
378 Instead, the definition at Section 204.1720 will apply.
379

380 (Source: Amended at 48 Ill. Reg. _____, effective _____)
381

382 **Section 204.620 Replacement Unit** 383

384 "Replacement unit" means an emissions unit for which all the criteria listed in this Section are
385 met. No creditable emission reductions must be generated from shutting down the existing
386 emissions unit that is replaced.
387

- 388 a) The emissions unit is a reconstructed unit, within the meaning of 40 CFR
389 60.15(b)(1), or completely takes the place of an existing emissions unit.
390
391 b) The emissions unit is identical to or functionally equivalent to the replaced
392 emissions unit.
393

JCAR350204-2406655r01

- 394 c) The replacement does not alter the basic design parameter or parameters of the
395 process unit. Basic design parameters of a process unit must be determined as
396 follows:
397
- 398 1) Except as provided in subsection (c)(3), for a process unit at a steam
399 electric generating facility, the owner or operator may select as its basic
400 design parameters either maximum hourly heat input and maximum
401 hourly fuel consumption rate or maximum hourly electric output rate and
402 maximum steam flow rate. When establishing fuel consumption
403 specifications in terms of weight or volume, the minimum fuel quality
404 based on Btu content must be used for determining the basic design
405 parameter or parameters for a coal-fired electric utility steam generating
406 unit.
407
 - 408 2) Except as provided in subsection (c)(3), the basic design parameter or
409 parameters for any process unit that is not at a steam electric generating
410 facility are maximum rate of fuel or heat input, maximum rate of material
411 input, or maximum rate of product output. Combustion process units will
412 typically use maximum rate of fuel input. For sources having multiple end
413 products and raw materials, the owner or operator should consider the
414 primary product or primary raw material when selecting a basic design
415 parameter.
416
 - 417 3) If the owner or operator believes the basic design parameter or parameters
418 in subsections (c)(1) and (c)(2) are not appropriate for a specific industry
419 or type of process unit, the owner or operator may propose to the Agency
420 an alternative basic design parameter or parameters for the source's
421 process unit or units. If the Agency approves of the use of an alternative
422 basic design parameter or parameters, the Agency must issue a permit that
423 is legally enforceable, records such basic design parameter or parameters
424 and requires the owner or operator to comply with such parameter or
425 parameters.
426
 - 427 4) The owner or operator must use credible information, such as results of
428 historic maximum capability tests, design information from the
429 manufacturer, or engineering calculations, in establishing the magnitude of
430 the basic design parameter or parameters specified in subsections (c)(1)
431 and (c)(2).
432
 - 433 5) If design information is not available for a process unit, the owner or
434 operator must determine the process unit's basic design parameter or
435 parameters using the maximum value achieved by the process unit in the
436 five-year period immediately preceding the planned activity.
437

JCAR350204-2406655r01

- 438 6) Efficiency of a process unit is not a basic design parameter.
439
440 d) The replaced emissions unit is permanently removed from the major stationary
441 source, otherwise permanently disabled, or permanently barred from operation by
442 a permit that is enforceable as a practical matter. If the replaced emissions unit is
443 brought back into operation, it must constitute a new emissions unit.
444

445 (Source: Amended at 48 Ill. Reg. _____, effective _____)
446

447 SUBPART C: MAJOR STATIONARY SOURCES IN ATTAINMENT
448 AND UNCLASSIFIABLE AREAS
449

450 **Section 204.800 Applicability**
451

- 452 a) The requirements of this Part apply to the construction of any new major
453 stationary source (as defined in Section 204.510) or any project at an existing
454 major stationary source in an area designated as attainment or unclassifiable under
455 section 107(d)(1)(A)(ii) or (iii) of the CAA (42 U.S.C. 7407(d)(1)(A)(ii) or (iii)).
456
457 b) The requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850,
458 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, and 204.1200 apply to the
459 construction of any new major stationary source or the major modification of any
460 existing major stationary source, except as this Part otherwise provides.
461
462 c) No new major stationary source or major modification to which the requirements
463 of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110,
464 204.1120, 204.1130, 204.1140, and 204.1200 apply may begin actual construction
465 without a permit that states that the major stationary source or major modification
466 will meet those requirements. The Agency has authority to issue any such permit.
467
468 d) The requirements of the program will be applied according to the principles of
469 this subsection.
470
471 1) Except as otherwise provided in subsection (f), and consistent with the
472 definition of major modification contained in Section 204.490, a project is
473 a major modification for a regulated NSR pollutant if it causes two types
474 of emissions increases: a significant emissions increase (as defined in
475 Section 204.670) and a significant net emissions increase (as defined in
476 Sections 204.550 and 204.660). The project is not a major modification if
477 it does not cause a significant emissions increase. If the project causes a
478 significant emissions increase, then the project is a major modification
479 only if it also results in a significant net emissions increase.
480

JCAR350204-2406655r01

- 481 2) The procedure for calculating (before beginning actual construction)
482 whether a significant emissions increase (i.e., the first step of the process)
483 will occur depends upon the type or types of emissions units involved in
484 the project, according to subsections (d)(3) through (d)(5). The procedure
485 for calculating (before beginning actual construction) whether a significant
486 net emissions increase will occur at the major stationary source (i.e., the
487 second step of the process) is contained in the definition in Section
488 204.550. Regardless of any such preconstruction projections, a major
489 modification results if the project causes a significant emissions increase
490 and a significant net emissions increase.
491
- 492 3) Actual-to-Projected-Actual Applicability Test for Projects That Only
493 Involve Existing Emissions Units. A significant emissions increase of a
494 regulated NSR pollutant is projected to occur if the sum of the difference
495 between the projected actual emissions (as defined in Section 204.600)
496 and the baseline actual emissions (as defined in Section 204.240(a) and
497 (b)), for each existing emissions unit, equals or exceeds the significant
498 amount for that pollutant (as defined in Section 204.660).
499
- 500 4) Actual-to-Potential Test for Projects That Only Involve Construction of a
501 New Emissions Unit or Units. A significant emissions increase of a
502 regulated NSR pollutant is projected to occur if the sum of the difference
503 between the potential to emit (as defined in Section 204.560) from each
504 new emissions unit following completion of the project and the baseline
505 actual emissions (as defined in Section 204.240(c)) of these units before
506 the project equals or exceeds the significant amount for that pollutant (as
507 defined in Section 204.660).
508
- 509 5) Hybrid Test for Projects That Involve Multiple Types of Emissions Unit
510 or Units. A significant emissions increase of a regulated NSR pollutant is
511 projected to occur if the sum of the difference for all emissions units,
512 using the method specified in subsections (d)(3) and (d)(4) as applicable
513 with respect to each emissions unit, for each type of emissions unit equals
514 or exceeds the significant amount for that pollutant (as defined in Section
515 204.660).
516
- 517 6) The "sum of the difference" as used in subsections (d)(3) through (d)(5)
518 must include both increases and decreases in emissions calculated in
519 compliance with those subsections.
520
- 521 e) Except as otherwise provided in Section 204.1400(f)(2), the provisions of Section
522 204.1400 apply with respect to any regulated NSR pollutant emitted from projects
523 involving existing emissions units at a major stationary source (other than projects
524 at a source with a PAL) in circumstances in which there is a reasonable

JCAR350204-2406655r01

525 possibility, within the meaning of Section 204.1400(f), that a project that is not a
526 part of a major modification may result in a significant emissions increase of such
527 pollutant, and the owner or operator elects to use the method specified in Section
528 204.600(b) for calculating projected actual emissions.

529

530 f) For any major stationary source for a PAL for a regulated NSR pollutant, the
531 major stationary source must comply with Subpart K.

532

533 g) The provisions of 35 Ill. Adm. Code 203, Subpart R apply to any regulated NSR
534 pollutant emitted from the construction of any new major stationary source as
535 defined in 35 Ill. Adm. Code 203.1220 in an area designated as attainment or
536 unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the CAA (42 U.S.C.
537 7407(d)(1)(A)(ii) or (iii)) if the emissions from the major stationary source or
538 major modification would cause or contribute to a violation of any NAAQS.

539

540 (Source: Amended at 48 Ill. Reg. _____, effective _____)

541

542 SUBPART D: INCREMENT

543

544 **Section 204.930 Redesignation**

545

546 a) As of September 4, 2020, all areas of the State (except as otherwise provided by
547 Section 204.920) are designated Class II as of December 5, 1974. Redesignation
548 (except as otherwise precluded by Section 204.920) may be proposed by the State
549 or Indian Governing Bodies under this Section, subject to approval by USEPA as
550 a revision to the applicable SIP.

551

552 b) The State may submit to USEPA a proposal to redesignate areas of the State Class
553 I or Class II provided that:

554

555 1) At least one public hearing has been held in compliance with 35 Ill. Adm.
556 Code 252;

557

558 2) Other states, Indian Governing Bodies, and Federal Land Managers whose
559 lands may be affected by the proposed redesignation were notified at least
560 30 days prior to the public hearing;

561

562 3) A discussion of the reasons for the proposed redesignation, including a
563 satisfactory description and analysis of the health, environmental,
564 economic, social, and energy effects of the proposed redesignation, was
565 prepared and made available for public inspection at least 30 days prior to
566 the hearing and the notice announcing the hearing contained appropriate
567 notification of the availability of such discussion;

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JCAR350204-2406655r01

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- 4) Prior to the issuance of notice respecting the redesignation of an area that includes any federal lands, the State has provided written notice to the appropriate Federal Land Manager and afforded adequate opportunity (not in excess of 60 days) to confer with the State respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any Federal Land Manager had submitted written comments and recommendations, the State must have published a list of any inconsistency between such redesignation and such comments and recommendations (together with the reasons for making such redesignation against the recommendation of the Federal Land Manager); and
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- 5) The State has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.
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- c) Any area other than an area to which Section 204.920 refers may be redesignated as Class III if:
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- 1) The redesignation would meet the requirements of subsection (b);
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- 2) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the Governor of Illinois:
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- A) After consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session (unless State law provides that the redesignation must be specifically approved by State legislation); and
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- B) If general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation;
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- 3) The redesignation would not cause, or contribute to, a concentration of any air pollutant that would exceed any maximum allowable increase permitted under the classification of any other area or any NAAQS; and
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- 4) Any permit application for any major stationary source or major modification, subject to review under Section 204.1120, that could receive a permit under this Part only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available, insofar as was practicable for public inspection prior to any public hearing on redesignation of the area as Class III.

JCAR350204-2406655r01

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- d) Lands within the exterior boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body. The appropriate Indian Governing Body may submit to USEPA a proposal to redesignate areas Class I, Class II, or Class III, provided that:
 - 1) The Indian Governing Body has followed procedures equivalent to those required of a state under subsections (b), (c)(3), and (c)(4); and
 - 2) The redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located and that border the Indian Reservation.
 - e) USEPA must disapprove, within 90 days after submission, a proposed redesignation of any area only if it finds, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements or is inconsistent with Section 204.920. If any such disapproval occurs, the classification of the area must be that which was in effect prior to the redesignation which was disapproved.
 - f) If USEPA disapproves any proposed redesignation, the State or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by USEPA.

636 (Source: Amended at 48 Ill. Reg. _____, effective _____)
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638 **SUBPART J: INNOVATIVE CONTROL TECHNOLOGY**
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640 **Section 204.1500 Innovative Control Technology**
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- a) An owner or operator of a proposed major stationary source or major modification may request that the Agency in writing no later than the close of the comment period under 35 Ill. Adm. Code 252 to approve a system of innovative control technology.
 - b) The Agency must, with the consent of the Governor(s) of other affected State(s), determine that the source or modification may employ a system of innovative control technology if:
 - 1) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;
 - 2) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under

JCAR350204-2406655r01

- 657 Section 204.1100(b), by a date specified by the Agency. Such date must
658 not be later than 4 years after the time of startup or 7 years after permit
659 issuance;
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- 661 3) The source or modification would meet the requirements of Sections
662 204.1100 and 204.1110, based on the emissions rate that the stationary
663 source employing the system of innovative control technology would be
664 required to meet on the date specified by the Agency;
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- 666 4) The source or modification would not, before the date specified by the
667 Agency:
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- 669 A) Cause or contribute to a violation of an applicable NAAQS; or
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671 B) Impact any area where an applicable increment is known to be
672 violated;
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- 674 5) All other applicable requirements, including those for public participation,
675 have been met; and
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- 677 6) The provisions of Section 204.1200 (relating to Class I areas) have been
678 satisfied with respect to all periods during the life of the source or
679 modification.
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- 681 c) The Agency must withdraw any approval to employ a system of innovative
682 control technology made under this Section if:
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- 684 1) The proposed system fails by the specified date to achieve the required
685 continuous emissions reduction rate;
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- 687 2) The proposed system fails before the specified date so as to contribute to
688 an unreasonable risk to public health, welfare, or safety; or
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- 690 3) The Agency decides at any time that the proposed system is unlikely to
691 achieve the required level of control or to protect the public health,
692 welfare, or safety.
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- 694 d) If a source or modification fails to meet the required level of continuous
695 emissions reduction within the specified time period or the approval is withdrawn
696 under subsection (c), the Agency may allow the source or modification up to an
697 additional 3 years to meet the requirement for the application of BACT through
698 use of a demonstrated system of control.
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700 (Source: Amended at 48 Ill. Reg. _____, effective _____)

JCAR350204-2406655r01

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SUBPART K: PLANTWIDE APPLICABILITY LIMITATION

Section 204.1670 Lowest Achievable Emission Rate (LAER)

"Lowest achievable emission rate" or "LAER" has the meaning given by 35 Ill. Adm. Code 203.

(Source: Amended at 48 Ill. Reg. _____, effective _____)