From: McGill, Richard
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
(217) 785-2254
TobiasR@ilga.gov

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

PART 204
PREVENTION OF SIGNIFICANT DETERIORATION

SUBPART A: GENERAL PROVISIONS

SUBPART B: DEFINITIONS

SUBPART K: PLANTWIDE APPLICABILITY LIMITATION

Section

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

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

SUBPART B: DEFINITIONS

Section 204.290 Building, Structure, Facility, or Installation

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

such downwash, wakes, or eddy effects and that contributes to a total concentration, due to emissions from all sources, that is greater than an ambient air quality standard. For sources subject to this Part, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or 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 the downwash, wakes, or eddy effects and greater than an ambient air increment under Section 204.900. The allowable emission rate to be used in making demonstrations of excessive concentration must be prescribed by the NSPS that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. When those demonstrations are approved by the Agency, an alternative emission rate must be established in consultation with the source owner or operator.

b) For sources seeking credit for increases in existing stack heights up to the heights established under Section 204.420(a)(2), either:

1) A maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subsection (a), except that the emission rate specified by the SIP (or, in the absence of such a limit, the actual emission rate) must be used; or

2) The actual presence of a local nuisance caused by the existing stack, as determined by the Agency; and

c) For sources seeking credit for a stack height determined under Section 204.420(a)(2) when the Agency requires the use of a field study or fluid model to verify good engineering practice stack height, for sources seeking stack height credit based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit based on the aerodynamic influence of structures not adequately represented by the equations in Section 204.420(a)(2), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of the downwash, wakes, or eddy effects.

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

Section 204.420 Good Engineering Practice

a) "Good engineering practice", with respect to stack height, means the greater of:

1) 65 meters, measured from the ground-level elevation at the base of the stack;

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

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

B) The source is approved to use under any permit issued under 40 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143;

6) An increase in the hours of operation or in the production rate, unless such 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;

7) Any change in ownership at a stationary source;

8) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

A) The Illinois SIP; and

B) Other requirements necessary to attain and maintain NAAQS during the project and after it is terminated; or

9) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption will apply on a pollutant-by-pollutant basis.

d) This definition will not apply to a particular regulated NSR pollutant when the major stationary source is complying with Subpart K for a PAL for that pollutant. Instead, the definition at Section 204.1720 will apply.

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

Section 204.620 Replacement Unit

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

a) The emissions unit is a reconstructed unit, within the meaning of 40 CFR 60.15(b)(1), or completely takes the place of an existing emissions unit.

b) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

c) The replacement does not alter the basic design parameter or parameters of the process unit. Basic design parameters of a process unit must be determined as follows:

1) Except as provided in subsection (c)(3), for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on Btu content must be used for determining the basic design parameter or parameters for a coal-fired electric utility steam generating unit.

2) Except as provided in subsection (c)(3), the basic design parameter or parameters for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.

3) If the owner or operator believes the basic design parameter or parameters in subsections (c)(1) and (c)(2) are not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Agency an alternative basic design parameter or parameters for the source's process unit or units. If the Agency approves of the use of an alternative basic design parameter or parameters, the Agency must issue a permit that is legally enforceable, records such basic design parameter or parameters and requires the owner or operator to comply with such parameter or parameters.

4) The owner or operator must use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameter or parameters specified in subsections (c)(1) and (c)(2).

5) If design information is not available for a process unit, the owner or operator must determine the process unit's basic design parameter or parameters using the maximum value achieved by the process unit in the five-year period immediately preceding the planned activity.

6) Efficiency of a process unit is not a basic design parameter.

d) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it must constitute a new emissions unit.

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

SUBPART C: MAJOR STATIONARY SOURCES IN ATTAINMENT AND UNCLASSIFIABLE AREAS

Section 204.800 Applicability

a) The requirements of this Part apply to the construction of any new major stationary source (as defined in Section 204.510) or any project at an existing major stationary source in an area designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the CAA (42 U.S.C. 7407(d)(1)(A)(ii) or (iii)).

b) The requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, and 204.1200 apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this Part otherwise provides.

c) No new major stationary source or major modification to which the requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, and 204.1200 apply may begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The Agency has authority to issue any such permit.

d) The requirements of the program will be applied according to the principles of this subsection.

1) Except as otherwise provided in subsection (f), and consistent with the definition of major modification contained in Section 204.490, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases: a significant emissions increase (as defined in Section 204.670) and a significant net emissions increase (as defined in Sections 204.550 and 204.660). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

2) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type or types of emissions units involved in the project, according to subsections (d)(3) through (d)(5). The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition in Section 204.550. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

3) Actual-to-Projected-Actual Applicability Test for Projects That Only Involve Existing Emissions Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in Section 204.600) and the baseline actual emissions (as defined in Section 204.240(a) and (b)), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in Section 204.660).

4) Actual-to-Potential Test for Projects That Only Involve Construction of a New Emissions Unit or Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in Section 204.560) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in Section 204.240(c)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in Section 204.660).

5) Hybrid Test for Projects That Involve Multiple Types of Emissions Unit or Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference for all emissions units, using the method specified in subsections (d)(3) and (d)(4) as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in Section 204.660).

6) The "sum of the difference" as used in subsections (d)(3) through (d)(5) must include both increases and decreases in emissions calculated in compliance with those subsections.

e) Except as otherwise provided in Section 204.1400(f)(2), the provisions of Section 204.1400 apply with respect to any regulated NSR pollutant emitted from projects involving existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances in which there is a reasonable

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

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

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

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

SUBPART D: INCREMENT

Section 204.930 Redesignation

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

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

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

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

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

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

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.

c) Any area other than an area to which Section 204.920 refers may be redesignated as Class III if:

1) The redesignation would meet the requirements of subsection (b);

2) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the Governor of Illinois:

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

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;

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

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.

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.

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

SUBPART J: INNOVATIVE CONTROL TECHNOLOGY

Section 204.1500 Innovative Control Technology

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

Section 204.1100(b), by a date specified by the Agency. Such date must not be later than 4 years after the time of startup or 7 years after permit issuance;

3) The source or modification would meet the requirements of Sections 204.1100 and 204.1110, based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Agency;

4) The source or modification would not, before the date specified by the Agency:

A) Cause or contribute to a violation of an applicable NAAQS; or

B) Impact any area where an applicable increment is known to be violated;

5) All other applicable requirements, including those for public participation, have been met; and

6) The provisions of Section 204.1200 (relating to Class I areas) have been satisfied with respect to all periods during the life of the source or modification.

c) The Agency must withdraw any approval to employ a system of innovative control technology made under this Section if:

1) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate;

2) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

3) The Agency decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

d) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period or the approval is withdrawn under subsection (c), the Agency may allow the source or modification up to an additional 3 years to meet the requirement for the application of BACT through use of a demonstrated system of control.

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

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 _____)