

ILLINOIS POLLUTION CONTROL BOARD
March 6, 2025

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM. CODE) R 22-17
PART 203: MAJOR STATIONARY) (Rulemaking - Air)
SOURCES CONSTRUCTION AND)
MODIFICATION, 35 ILL. ADM. CODE)
PART 204: PREVENTION OF)
SIGNIFICANT DETERIORATION, AND)
PART 232: TOXIC AIR CONTAMINANTS)

Proposed Rule. Second Notice.

OPINION AND ORDER OF THE BOARD (by M.D. Mankowski):

On April 18, 2024, the Board adopted for first notice amendments to the Board’s air pollution regulations under Parts 203, 204, and 232 that address Major Stationary Sources Construction and Modification, Prevention of Significant Deterioration, and Toxic Air Contaminants. The proposed rules were submitted for publication in the *Illinois Register*. Considering the entire record, the Board in its order below proposes the amendments to Parts 203, 204, and 232 for second notice and submits the proposal to the Joint Committee on Administrative Rules (JCAR) for second-notice review. *See* 5 ILCS 100/5-40(c) (2022).

Below, the Board describes the procedural background of this proceeding, followed by a summation of the regulatory background. The Board then discusses the testimony received on the first notice proposal and concludes by explaining the Board’s reasons for proceeding to second notice with the proposal, without making substantive changes to the rule language.

FIRST NOTICE PROCEDURAL HISTORY

On April 18, 2024, the Board adopted a first notice opinion and order amending the Board’s air pollution regulations under Parts 203, 204, and 232. *See* 48 Ill. Reg. 6554 (May 3, 2024).

In total, nine documents were filed after first notice adoption. The Board docketed three email exchanges between the Board and JCAR regarding suggested changes. *See* PC 19, 20, & 24. On June 17, 2024, the Board received first notice comments from the Illinois Environmental Protection Agency (IEPA) (PC 21), Illinois Attorney General’s Office (AGO) (PC 22), and the Illinois Environmental Regulatory Group (IERG) (PC 23). On August 9, 2024, IERG filed a motion to file, *instanter*, a response to IEPA’s first notice comment (PC 25). On August 23, 2024, the AGO filed an objection to IERG’s motion for leave to file a response (PC 26). On September 6, 2024, IERG filed a motion for leave to file an objection to the AGO’s objection.

FIRST NOTICE COMMENTS

IEPA (PC 21)

Accompanying IEPA's first notice comments is a motion to waive the requirement that a public comment not exceed 50 pages. IEPA argues that exceeding 50 pages is necessary due to the complexity and significance of the changes that would potentially be made to Parts 203 and 204. The Board grants IEPA's motion, allowing it to file a comment exceeding 50 pages.

Updates to and Clarification of the Opinion Offered in the Order

The IEPA notes that the designated attainment/unclassifiable or nonattainment areas in the state changed since IERG filed its pre-filed testimony. PC 21 at 1. Since filing the testimony Chicago was redesignated from nonattainment to attainment for the 2008 8-hour ozone standard. *Id.* at 2. Chicago has also changed from marginal nonattainment to moderate nonattainment for the 2015 8-hour ozone standard. *Id.*

Additionally, to promote clarity, IEPA asks the Board to highlight an additional requirement when discussing the requirements for proposed units or sources subject to NA NSR. PC 21 at 2. The requirement is for an owner or operator of the new major stationary source and/or major modification must show state-wide compliance, or a plan to achieve state-wide compliance. *Id.* Further, the owner or operator is required to show an alternative analysis was completed for the impacts or costs of a project and its benefits. *Id.* at 2-3.

Inadvertent Errors and Omissions in the Board's Opinion Regarding "Disputed Issues"

IEPA notes six times in the Board's first-notice opinion where the Board made a finding in the Discussion section but did not reiterate that finding in the Section-by-Section summary. PC 21 at 3-7. Although the Board did not reiterate the finding in the Section-by-Section summaries, the Board's findings were reflected in the proposed first notice rule language.

Inadvertent Errors and Omissions in the Opinion Offered in the Order

To accurately track the origins of each regulatory provision in the proposal, IEPA suggests specifically noting some of the provisions they suggested revisions to. PC 21 at 7. These include Sections 201.169, 201.175, and 202.306 in order to have consistency across the sections in the rulemaking. IEPA suggested these revisions in its initial comments filed January 18, 2022. *Id.*

Additionally, IEPA suggested a 40 tpy significance level for ammonia in Section 203.1370(a), rather than the 70 tpy proposed by IERG. PC 21 at 7-8. IEPA recommended making additional revisions to Part 204 to promote consistency with United States Environmental Protection Agency (USEPA) regulations. *Id.* at 8. The Board proposed these changes at first notice but did not signify it was IEPA who proposed them. The Board notes that IEPA suggested revisions to Sections 204.620, 204.1500, and 204.420. *Id.*, *see also* PC 3 at 8-9.

IEPA, at the suggestion of USEPA, suggested adding the second sentence in 40 CFR 51.166(b)(22) to Section 204.330. PC 21 at 8-9, *see also* PC 3 at 9-10. IEPA also noted an extra parenthesis in Section 204.290(a) after “Standard Industrial Classification Manual”. *Id.* The Board proposed all of these revisions but did not directly attribute the changes to IEPA in the section-by-section analysis.

Renewed Request that the Board Adopt Agency’s Interpretations of the Proposed Rules Where Different from IERG’s Interpretations Offered by Its Technical Support Document

IEPA argues the significance of the NA NSR permitting program for the public, sources, IEPA, and the Board, that it is imperative to make this rulemaking clear and complete. PC 21 at 9. IEPA expresses concern with any unexplained deviation from the Federal blueprint found in 40 CFR 51.165. *Id.* As a result, IEPA believes the Board’s Opinion and Order should state clearly the IEPA’s disagreements with IERG’s TSD. *Id.* at 10.

Definition of “Net Emissions Increase”. IEPA’s first disagreement with IERG’s TSD is when it says “[I]f a PAL permit expires, the permitting authority must establish new emission caps or other emission limits for all emissions units at the source . . .” PC 21 at 10, *citing* TSD at 16 n.17. IEPA argues the wording is incorrect, rather 40 CFR 51.165(f)(9)(i) states sources must comply with the emissions cap in the now expired PAL until the permitting authority issues a revised permit. PC 21 at 10, *citing* PC 12 at 24-26. Additionally, IEPA states that IERG’s second point in footnote 18 of the TSD needs further clarification. PC 21 at 10-11 n. 10. IEPA wants to note that if the new value for the PAL would exceed the current PAL, and the source did not comply with provisions for a modification of increase in the current PAL, the new PAL would be set at the value of the current PAL. *Id.*

Next, IEPA wanted its interpretation on the discussion of the definition of “Net Emissions Increase” to appear in the Opinion and Order. PC 21 at 11. Subsection (b) sets forth steps to follow to determine an increase or decrease in actual emissions is available and subsection (b)(2) addresses whether the increase or decrease in actual emissions is creditable. *Id.* The IEPA states that:

[I]ncreases and decreases in actual emissions that are only used for netting are creditable in future permitting as long as they are contemporaneous if they are only used for netting, i.e., if no NA NSR permit relief upon the increase or decrease in emissions. However, if an NA NSR permit relied upon or “addressed” an emission decrease or emission increase, that decrease or increase can no longer be considered in future netting analyses. *Id.* at 11-12, *quoting* PC 6 at 7-8, *see also*, Use of Netting Credits, John Calcagni, Director, Air Quality Management Division, USEPA, to Bruce P. Miller, Chief, Air Programs, Region IV, December 29, 1989.

Similarly, IEPA offers a response to IERG’s contention that IEPA had not relied on Section 203.1260(b)(3)(D) in issuing any permit under 35 Ill. Adm. Code 201.142 or 201.143, Part 203, or Part 204, nor had IEPA relied on it for demonstrating attainment or reasonable further progress. *Id.* at 12-13. IEPA previously offered:

Reference should also be made to 40 CFR 52.21 in proposed Section 203.1260(b)(3)(D) to address any Prevention of Significant Deterioration (PSD) permit historically issued by the Illinois EPA as a delegated permitting authority. This change is necessary because permits historically issued pursuant to 40 CFR 52.21 could be relevant for proposed Section 203.1260(b)(3)(D).

While IERG has included the references requested by USEPA to proposed 35 Ill. Adm. Code 201.142 and 201.143 and Part 204 in proposed Section 203.1260(b)(3)(D), with the exception of the reference to 40 CFR 52.21, IERG concludes in its Technical Support Document (TSD) that the inclusion of these proposed references are "immaterial." TSD at page 30. Based on discussions between the Illinois EPA and the USEPA concerning the inclusion of similar language in the blueprint and statements made by USEPA during its review of the definition of "Net Emissions Increase" in other SIP submittals, the Illinois EPA cannot agree with IERG's characterization that the requested language is "immaterial." See, 80 Fed. Reg. 14044, 14055 (March 18, 2015); see also, 82 Fed. Reg. 25213, 25217 (June 1, 2017). The Illinois EPA requests that the Board decline to characterize the inclusion of such references in the definition of "Net Emissions Increase" as "immaterial." PC 21 at 12-13, *quoting* PC 6 at 8-9.

The Board notes IEPA's position here at second notice to promote clarity and avoid confusion in the future over how the provisions are to be applied.

Definition of "Project". Next, IEPA asks the Board to memorialize its interpretation of the term "project" because of recent USEPA statements on project aggregation. PC 21 at 13. IEPA's position on IERG's discussion on "project" is:

While IERG offers a brief discussion of those activities that constitute a single project in its TSD, no mention is made of the role that technical and economic dependency plays in such decision. TSD at page 19. When determining the applicability of NA NSR, a collection of activities that is technically and economically related or interdependent are routinely addressed as a single project. 83 Fed. Reg. 57324 (November 15, 2018). IERG accurately states that "[w]hen determining the applicability of NA NSR, a source owner is not allowed to split a project into multiple, nominally separate changes, each with its own analysis of emissions increase, possibly circumventing NA NSR permitting for the project as a whole." TSD at page 19. However, just as problematic is a source owner that would inappropriately combine separate projects to show a net zero to avoid aggregation of emissions under the de minimis rule. 42 USC § 7511a(c)(6).

IERG offers the 2009 Aggregation and Project Netting rulemaking as one example of an instance where existing Part 203 has yet to be updated to incorporate some of USEPA's more recent amendments to 40 CFR 51.165. IERG asserts that this rulemaking "clarified 'three aspects of the NSR program - aggregation, debottlenecking and project netting - that pertain to how to determine

what emissions increases and decreases to consider in determining major NSR applicability for modified sources." SOR at page 11, citing PSD and NSR: Aggregation and Project Netting, 74 Fed. Reg. 2376 (January 15, 2009). However, this final action did not address debottlenecking and project netting. The very next sentence in the preamble to this final rulemaking stated as follows:

This final action addresses only aggregation.

This action retains the current rule text for aggregation and interprets that rule text to mean that sources and permitting authorities should combine emissions when activities are "substantially related." It also adopts a rebuttable presumption that activities at a plant can be presumed not to be substantially related if they occur three or more years apart.

With respect to the other two components of the originally proposed rule, the EPA is taking no action on the proposed rule for project netting and, by way of a separate document published in the "Proposed Rules" section of this Federal Register, is withdrawing the proposed revisions for debottlenecking.

74 Fed. Reg. 2376 (January 15, 2009). While this 2009 final action only addressed aggregation, project aggregation was again addressed by USEPA in November 2018. 83 Fed. Reg. 5734 (November 15, 2018). In August 2019, USEPA proposed to replace and withdraw the Project Netting Proposal. 84 Fed. Reg. 39244 (August 9, 2019). PC 21 at 14-15, *citing* PC 6 at 10-11.

IEPA added clarity to its prior comments in footnotes. PC 21 at 14-15. First IEPA clarified that debottlenecking can result in modifications at facilities that are not physically altered themselves. *Id.* at 14 n.15. An example given by IEPA is an increase of emissions at a unit that is upstream or downstream of a different unit that is being physically or operationally altered. *Id.*

Next, IEPA uses the Federal Register to provide clarity on which activities should be considered a single project. *Id.* at 15 n.16. The "2009 NSR Aggregation Action called for sources and reviewing authorities to aggregate emissions from nominally - separate activities when they are 'substantially related.'" *Id.*, *citing* 83 Fed. Reg. 57326 (November 15, 2018). IEPA continues, stating that to be substantially related the "interrelationship and interdependence of the activities [is expected], such that substantially related activities are likely to be jointly planned (i.e., part of the same capital improvement project or engineering study) and occur close in time and at components that are functionally interconnected." *Id.*, *citing* 74 Fed. Reg. 2378 (January 15, 2009). On "substantially related", IEPA adds "[t]o be 'substantially related,' there should be an apparent interconnection either technically or economically - between the physical and/or operational changes, or a complementary relationship whereby a change at a plant may exist and operate independently, however, its benefit is significantly reduced without the other activity." *Id.* at 15 n.17, *citing* 83 Fed. Reg. 57327 (November 15, 2018).

The Board notes IEPA's position here at second notice to promote clarity and avoid confusion in the future over how the provisions are to be applied.

Definition of "Significant". Finally, IEPA asks the Board to memorialize its interpretation of the term "significant" which IEPA states is essential to permitting of a major modification in a nonattainment area. PC 21 at 15. The IEPA stated no rule language change was necessary but offered the following for clarity. *Id.* at 16.

Material in the TSD regarding significant emissions rates warrants response by the Illinois EPA. The TSD contains a table reflecting the significant emission rates for different pollutants as proposed by revised 35 Ill. Adm. Code 203. TSD at pages 19-20. The information in this table is inaccurate and incomplete as it addresses the significant emissions rate for NO_x and VOM in serious or severe ozone nonattainment areas. *See*, Section 203.1370(c). The table in the TSD states that for NO_x and VOM "the rate is 25 tpy in areas classified as serious or severe nonattainment for ozone." TSD at page 20. However, proposed Section 203.1370(c) would provide that for serious or severe ozone nonattainment areas an increase in emissions of VOM or NO_x is significant if the net emissions increase of such air pollutant from a stationary source exceeds 25 tons when aggregated with all other net increases in emissions from the source over any period of 5 consecutive calendar years which includes the calendar year in which such increase occurred. (Emphasis added). Consequently, for a proposed project in a serious or severe ozone nonattainment area, the significant emission rate for VOM or NO_x is a rate greater than 25 tpy. Then it is not just the net increase in emissions from the proposed project that must be considered but also other net increases in emissions from the source during a five consecutive calendar year period that includes the calendar year in which the increase from the proposed project would occur.

A similar discussion is offered elsewhere in the TSD but the TSD then states that the applicability provisions for projects at major stationary sources in serious or severe ozone nonattainment areas or the de minimis rule differs from the otherwise applicable major modification applicability procedure in two respects:

- (1) the threshold for triggering the requirement for a netting analysis is any increase rather than a larger threshold such as 25 tpy or 40 tpy, and (2) the contemporaneous period for the netting analysis is shorter.

TSD, page 29. The Illinois EPA is particularly concerned with the characterization of the de minimis rule as a "netting analysis." Rather, if there would be any net increase in emissions of VOM or NO_x from a proposed project at a major source in a serious or severe ozone nonattainment area, the determination whether the proposed project is significant must consider any other net increases in NO_x or VOM emissions, as applicable, from the stationary source during the five consecutive calendar year period that includes the calendar year

when the increase would occur. If together these increases would exceed 25 tpy, the increase in emissions would be "significant" as defined in proposed Section 203.1370. Such an approach to applicability differs from "netting" where netting is only needed if the emissions increase from a proposed project is significant by itself. In the "netting analysis" the emissions increase for the project may be summed with all other contemporaneous increases and decreases at the source to show that the "net increase" in emissions is not significant. USEPA refers to this second step as a "netting exercise." New Source Review Workshop Manual (Draft 1990), NSR Manual at A.35.

PC 21 at 17, *quoting* PC 6 at 23-25. IEPA adds in a footnote that:

[t]he five-year period for aggregation of emissions in serious and severe ozone nonattainment areas is also different than the contemporaneous period for netting analyses. For netting, the contemporaneous period extends back five years from the date that a timely and complete change is submitted for the proposed project and forward to the date that the increase from the project would occur. The period for aggregation, which is calendar years, extends back four calendar years from the year in which the increase from the project would occur (one year plus four years is five years).

PC 21 at 17 n.18.

The Board notes IEPA's position here at second notice to promote clarity and avoid confusion in the future over how the provisions are to be applied.

Response to Topics for Which the Board Requested Comments

At first notice the Board invited participants to explain their positions on whether the Board should proceed to second notice considering USEPA's pre-publication proposal to revise several provisions of the NSR language relating to the PEA Rule. Board Order 4/18/24 at 7.

IEPA sets forth the differences between the current PEA Rule and the proposed revisions by USEPA. PC 21 at 18-19. For example, USEPA's proposal expands the definition of "project", and strengthens monitoring, recordkeeping, and reporting requirements applicable to minor modifications at existing major stationary sources. *Id.* IEPA's wants to ensure Part 203 meets the requirements for SIP approval, after USEPA filed its new proposal IEPA changed its position stating it proposes that the Part 203 and 204 rule text be consistent with USEPA's recent regulatory activity. *Id.* at 19, *citing* 89 Fed. Reg. 36870 (May 3, 2024). IEPA even stated it would be willing to provide the Board updated rule language if the Board decides to move forward with an updated approach consistent to USEPA's newest proposal. *Id.* at 19.

The second issue the Board sought participants' position was on the implications USEPA's pre-publication proposal for PEA had on the NA NSR and PSD program. PC 20, *citing* Board Order 4/18/24 at 7. Similarly to its approach with the PEA Rule above, IEPA suggests consistency with USEPA's recent revisions related to the PEA Rule. *Id.* IEPA states

that USEPA’s rulemaking proposal involving the PEA Rule would “increase the rigor and stringency of its NSR rules compared to current rules.” *Id.* IEPA states it would be more efficient for the Board to address USEPA’s proposal now rather than in a new future regulatory proposal. *Id.* IEPA argues that even if USEPA’s proposal does not go further, the Board’s rules would still be approvable by USEPA as more stringent than necessary. *Id.*

Changing the Use of the Word “Shall” and “Must” as Found in 40 CFR 51.165

IEPA states that when commenting on IERG’s proposal, and all filings with the Board, its objective is to “mirror the language in the federal blueprint rules”. PC 21 at 23. IEPA notes the first notice version of the rulemaking replaced the word “shall” with “must”, “will”, or “does”. *Id.* at 23-24. IEPA reports that these changes are problematic when considering federal approval of a States Implementation Plan (SIP) submission. *Id.* at 24-25. As a result, the IEPA urges the Board to refrain from making these changes, even if they are merely grammatical. *Id.*

The Board acknowledges IEPA’s concern regarding consistency with the federal blueprint language and proposes language at second notice aligned with IEPA’s comments. The Board’s second-notice proposal reverts from “must” to “shall” as IEPA recommends to meet that consistency required to secure a federal SIP approval.

Changing the Use of the Word “Such” as Found in 40 CFR 51.165

IEPA states that the word “such” was either deleted from or replaced in the first notice language. PC 21 at 32. IEPA argues that the word “such” is typically used before a noun or phrase to add emphasis. *Id.* It is IEPA’s position that the rule text should be consistent with the Federal blueprint language and asks the Board to revise proposed Parts 203 and 204 and provides a list of the suggested changes. *Id.* at 32-35.

The Board acknowledges IEPA’s concern regarding consistency with the federal blueprint language and proposes language at second notice aligned with IEPA’s comments. The Board’s second notice proposal changes amendments to and deletions of “such” back to “such” as IEPA recommends to meet that consistency required to secure a federal SIP approval.

Changing the Use of the Word “Pursuant to” as Found in 40 CFR 51.165

IEPA states that the phrase “pursuant to” was replaced with “under” in the first notice version of Part 203. PC 21 at 35. IEPA argues that “pursuant to” typically means to carry out in conformity with or according to, while “under” typically means subject to the authority, control, guidance, or instruction. *Id.* Therefore, IEPA argues, the meaning of the rule language can change, and it is not consistent with the federal blueprint. *Id.* at 35-36.

The Board acknowledges IEPA’s concern regarding consistency with the federal blueprint language and proposes language at second notice aligned with IEPA’s comments. The Board’s second-notice proposal changes “under” back to “pursuant to” as IEPA recommends to meet that consistency required to secure a federal SIP approval.

Changing the Use of the Word “Notwithstanding” as Found in 40 CFR 51.165

IEPA states that the word “notwithstanding” was replaced with the word “despite” in the first notice version of Part 203. PC 21 at 36. IEPA continues, arguing that “notwithstanding” and “despite” are not synonyms, with “notwithstanding” indicating the information following contradicts what was previously mentioned, and “despite” meaning “regardless of” or signifying resiliency in the face of adverse circumstances. *Id.* For consistency with the Federal blueprint, IEPA recommends the Board use “notwithstanding” where it appears in the Federal rule language. *Id.* at 37.

The Board acknowledges IEPA’s concern regarding consistency with the federal blueprint language and proposes language at second notice aligned with IEPA’s comments. The Board’s second-notice proposal restores “notwithstanding” as IEPA recommends to meet that consistency required to secure a federal SIP approval.

Insertion of Commas and Removal of Commas

In this section IEPA notes instances throughout the first notice proposal where commas were added or removed. PC 21 at 38. IEPA acknowledges the edits were likely meant to clarify rule text and not substantively change the proposal but argues these changes do substantively change the rule language and asks the Board to mirror the Federal blueprint language. *Id.* at 38-39. IEPA lists recommended edits to make the second notice proposal consistent with the Federal blueprint. *Id.* at 39-40.

The Board acknowledges IEPA’s concern regarding consistency with the federal blueprint language and proposes punctuation at second notice aligned with IEPA’s comments. The Board’s second-notice proposal restores or deletes commas as IEPA recommends to meet that consistency required to secure a federal SIP approval.

Parenthetical Plural Nouns

Citing JCAR’s recent approach in Part 204, IEPA suggests referring to both singular and plural versions of a word joined by the conjunction “or”, rather than using a parenthetical “s” or (s). PC 21 at 40-41. IEPA suggests these changes in three different sections; two instances in section 203.1200(a)(2)(B) changing “structure(s)” to “structure or structures”; section 203.2170 changing “value(s)” to “value or values”, and section 203.2390(e)(1) changing “parameter(s)” to “parameter or parameters”. *Id.* at 41.

The Board agrees and makes these changes at second notice to be consistent with JCAR’s recent approach in Part 204.

Typographical Error – Lower Case “s” When Referencing a Section of the CAA

IEPA states that references to sections of the CAA should be made with a lowercase “s” rather than an uppercase “S”. PC 21 at 41. IEPA notes several times that the first notice language incorrectly uses an uppercase “S”, those sections include: Sections 203.1060 (two

instances), 203.1210(b), 203.1220(c)(3), 203.1230(a)(2), 203.1230(c)(27), 203.1270, 203.1280, 203.1400, 203.1410(a), 203.1440(b) (the extraneous “s” should also be removed from “Sections”), 203.1500(c), 203.1500(d), 203.1810(a)(1), and 203.2430(a). *Id.* at 41-42.

The Board agrees with these edits and makes the changes at second notice.

Miscellaneous Typographical Errors

In this section IEPA recommends corrections to miscellaneous typos in the first notice proposal rule text. PC 21 at 42-43.

In Section 203.1090(b), IEPA states the incorporation should be 203.1000 rather than 203.1040. PC 21 at 42. In Section 203.1160, IEPA recommends replacing the colon at the end of the second sentence with a period. *Id.* IEPA also recommends adding interline spacing between the definitions of “H_g”, “H”, and “L” in Section 203.1200(a)(2)(B). *Id.* at 42-43. IEPA notes a missing space between “issued” and “under” in “issuedunder” in Section 203.1610(a). *Id.* The header for Section 203.2150 should be in bold. *Id.* An interline space is missing between the source note of Section 203.2200 and the header of Section 203.2210. *Id.* Finally, IEPA notes the Section number for “Section 203.2430 Applicability” under Subpart R should be numbers “Section 203.2500” consistent with the Table of Contents. *Id.*

The Board agrees with IEPA’s suggested changes and amends the rule text at second notice to reflect those edits.

Comments Particular to Specific Conditions

Part 201.

Section 201.169 Special Provisions for Certain Operating Permits

IEPA admits that Part 201 is not subject to SIP approval by USEPA but urges the Board to review whether the prospective changes alter the substance of the rule language. PC 21 at 43. The first changes IEPA raises are two instances when the first notice version made changes involving the term “pursuant to”. *Id.* at 44. IEPA argues each change no longer indicates that the permit has not expired according to a renewal request. *Id.*

The next change raised by IEPA is the removal of the term “renewal request” in subsection (a)(2). PC 21 at 44. IEPA argues that removing this language from subsection (a)(2) in the first notice version suggests only one thing is addressed in subsection (b)(2) despite it addressing both the expiration of a permit and the termination of a permit. *Id.* IEPA also brings issue with the replacing the word “notwithstanding” with “despite” even though they are not synonymous. *Id.* n.43.

For subsection (b)(4), IEPA notes the first notice version uses “like” instead of “such as, but not limited to”. PC 21 at 45. IEPA argues this is a substantive change because “like”

typically means “one of many that are similar to each other”, and “such as, but not limited to” implies there may be more items than those expressly listed. *Id.*

Although made in effort to promote clarity, the Board acknowledges IEPA’s concern and no longer proposes the above changes to existing Section 201.169 language.

Section 201.175 Registration of Smaller Sources (ROSS). For Section 201.175(e)(3), IEPA argues removal of the phrase “but is not limited to” substantively changes the meaning of the rule language. PC 21 at 45. IEPA contends the first notice change no longer indicates there may be more items than are expressly listed. *Id.* IEPA recommends the Board not deviate from the existing Section 201.175 except the addition of the reference to Part 204. *Id.*

Although made in effort to promote clarity, the Board acknowledges IEPA’s concern and no longer proposes the above changes to existing Section 201.175 language.

Part 202

Section 202.306 Standards for Issuance. In this section, IEPA raises the issue of replacing “shall” with “must”. PC 21 at 45. IEPA argues this change conflicts with the procedures to issue permits in Sections 39(a) and 39.1 of the Act. *Id.* at 46.

Further, IEPA argues the use of “must” implies IEPA is only required to issue an Alternative Control Strategies permit if the Section 202.306 criteria are met. PC 21 at 46. IEPA argues the word “shall” instead removes ambiguity. *Id.*

Although made in effort to promote clarity, the Board acknowledges IEPA’s concern and no longer proposes the above changes to existing Section 202.306 language.

Part 203. Because Part 203 is subject to USEPA SIP approval, IEPA argues that any unexplained deviation from the federal blueprint risks USEPA disapproval of the revised Part 203 as part of Illinois’ SIP. PC 21 at 47 n.47. IEPA continues, asking the Board to explicitly address its reasoning any time the rule language deviates from the federal blueprint language. *Id.*

Section 203.100 Effective Dates. IEPA notes that the Board, in its first-notice opinion, agreed with IEPA to add “the full” into Sections 203.100(a) and 203.100(b) in reference to USEPA approval but did not include it in the proposed rule text. PC 21 at 47-48. The Board at second notice makes this change. *Id.* at 48.

Section 203.1010 Abbreviations and Acronyms. IEPA asks the Board to include the abbreviation for British Thermal Units (Btu) because it is used in Sections 203.1230(c)(21) and (26), as well as the proposed use in Section 203.1350(c)(1). PC 21 at 48. Additionally, because the Board found interprecursor trading for emissions of direct PM_{2.5} and PM_{2.5} precursors would not be authorized in Part 203, IEPA asks the Board to remove the abbreviation for interprecursor trading (IPT) from Section 203.1010. *Id.*

The Board agrees with IEPA's arguments, and at second notice adds the "Btu" abbreviation and removes the abbreviation for interprecursor trading.

Section 203.1040 Actual Emissions. IEPA notes the first notice version eliminates the phrase "but need not be limited to", from Section 203.1040(b). PC 21 at 48-49. IEPA argues that removal of the phrase results in the rule text no longer indicating there may be other possible information considered beyond those specifically listed. *Id.* at 49. IEPA requests the second notice version of the rule text be consistent with the federal blueprint at 40 CFR 51.165(a)(1)(xii) and existing 35 Ill. Adm. Code 203.104(a). *Id.*

The Board acknowledges IEPA's concern and amends the language at second notice as IEPA recommends to be consistent with the federal blueprint.

Section 203.1050 Allowable Emissions. IEPA argues that the first notice version of the rule language differs from the federal blueprint by removing the phrase "set forth" from the definition of "Allowable Emissions". PC 21 at 50.

The Board removed "set forth" in effort to promote clarity but is persuaded by IEPA's concern regarding USEPA approval and adds "set forth" back into Section 203.1050 at second notice.

Section 203.1070 Baseline Actual Emissions. In Section 203.1070, the Board made changes at first notice to promote clarity but is convinced by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1080 Begin Actual Construction. In Section 203.1080, the Board made changes at first notice to promote clarity but is convinced by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1090 Building, Structure, Facility or Installation. In Section 203.1090, the Board made changes at first notice to promote clarity but is convinced by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1130 Dispersion Technique. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1150 Emission Offset. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1170 Excessive Concentration. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1180 Federally Enforceable. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1200 Good Engineering Practice. IEPA argues that the Board, in the section-by-section analysis of its first-notice opinion, included a reference to preconstruction approvals or permits required under 40 CFR Part 51 and 52 but did not include it in the first notice rule text. PC 21 at 58. This was inadvertent and the Board includes the reference at second notice.

Additionally, the Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1210 Lowest Achievable Emission Rate. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1220 Major Modifications. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1240 Nearby. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1260 Net Emissions Increase. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1310 Project. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1320 Projected Actual Emissions. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1330 Reasonable Further Progress. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1340 Regulated NSR Pollutant. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1350 Replacement Unit. In Section 203.1350(c)(1) IEPA suggests using the abbreviation of "Btu" rather than "British Thermal Units". PC 21 at 67. The Board agrees with IEPA and makes this change at second notice.

Additionally, the Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1360 Secondary Emissions. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1370 Significant. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1390 Stack in Existence. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1410 Applicability. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Additionally, IEPA recommends the Board capitalize the headings within Section 203.1410(c)(3) through (c)(5). PC 21 at 71. The Board makes the change at second notice.

Section 203.1440 Prohibitions. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1500 Stack Heights. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1600 Construction Permit. IEPA argues that the Board, in its first-notice opinion, agreed with IEPA's reasoning to delete the last sentence of Section 203.1600 but did not delete it in the first notice rule text. PC 21 at 73. This was inadvertent and the Board makes the change at second notice.

Section 203.1610 Public Participation. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1700 Recordkeeping and Reporting Requirements for Certain Projects at Major Stationary Sources in Nonattainment Areas. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.1800 Lowest Achievable Emission Rate. The Board is persuaded by IEPA's concern over following the existing Section 203.301(b) through (f) that has been SIP approved by USEPA. As a result, at second notice the Board proposes language that mirrors the SIP approved existing language.

Section 203.1810 Emission Offsets. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Additionally, the Board is persuaded by IEPA's argument that reference to IPT should be removed from Section 203.1810(e)(1) after the Board removed it in its entirety from Section 203.1810(h). PC 21 at 77-78.

IEPA also raises two issues where the Board's first-notice rule text deviated from the Board's first-notice opinion. PC 21 at 80-81. IEPA recommended Section 203.1810(g) mirror the CAA and language traditionally used in SIPs approved by the USEPA. *Id.* IEPA also recommended the Board delete Section 203.1810(h) in its entirety. *Id.* at 81. The Board agreed to follow each of these suggestions in its first-notice opinion, but inadvertently did not reflect this agreement in the first-notice rule text. *Id.* The Board makes these changes at second notice.

Section 203.1820 Compliance by Existing Sources. The Board is persuaded by IEPA's concern over following the existing Section 203.305 text that has been SIP approved by USEPA. As a result, at second notice the Board proposes language that mirrors the SIP approved existing language.

Section 203.1900 General Maintenance of Emission Offsets. The Board is persuaded by IEPA's concern over following the existing Section 203.701 text that has been SIP approved by USEPA. As a result, at second notice the Board proposes language that mirrors the SIP approved existing language.

Section 203.2000 Offsetting by Alternative or Innovative Means CAA. The Board is persuaded by IEPA's concern over following the existing Section 203.801 text that is based on section 173(e)(2) of the CAA and has been SIP approved by USEPA. As a result, at second notice the Board proposes language that mirrors the SIP approved existing language.

Section 203.2100 Applicability. The Board agrees with IEPA that the requirements for PALs should generally be the same in attainment and nonattainment areas. PC 21 at 83. As a

result, at second notice the Board proposes language regarding requirements for PALs in Parts 203 that is consistent with Part 204.

Additionally, the Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.2130 Allowable Emissions. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board removes reference to Section 203.1290 in this Section.

Section 203.2140 Best Available Control Technology. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.2270 Reasonably Available Control Technology (RACT). The Board is persuaded by IEPA's concern over following the federal blueprint and corresponding Section 204.1760. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.2280 Significant Emissions Unit. IEPA argues that the Board, in its first-notice opinion, agreed with IEPA's reasoning to delete the note within Section 203.2280 but did not delete it in the first notice rule text. PC 21 at 86-87. This was inadvertent and the Board removes the note at second notice.

Section 203.2290 Small Emissions Unit. The Board is persuaded by IEPA's concern over following the federal blueprint and corresponding Section 204.1780. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Additionally, IEPA argues that the Board, in its first-notice opinion, agreed with IEPA's reasoning to delete the note within Section 203.2290 but did not delete it in the first notice rule text. PC 21 at 87. This was inadvertent and the Board removes the note at second notice.

Section 203.2310 General Requirements for Establishing PAL. The Board is persuaded by IEPA's concern over following the federal blueprint and corresponding Section 204.1800(a) and (b). As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.2330 Setting the 10-Year Actuals PAL Level. The Board is persuaded by IEPA's concern over following the federal blueprint and corresponding Section 204.1820(a). As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Additionally, IEPA argues that the Board, in its first-notice opinion, agreed with IEPA's reasoning to delete the note within Section 203.2330 but did not delete it in the first notice rule text. PC 21 at 89. This was inadvertent and the Board removes the note at second notice.

Section 203.2340 Contents of the PAL Permit. The Board is persuaded by IEPA's concern over following the federal blueprint and corresponding Section 204.1830. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.2350 Effective Period and Reopening of a PAL Permit. The Board is persuaded by IEPA's concern over following the federal blueprint and corresponding Section 204.1840(b)(2). As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.2360 Expiration of a PAL. The Board is persuaded by IEPA's concern over following the federal blueprint and corresponding Section 204.1850. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.2370 Renewal of a PAL. The Board is persuaded by IEPA's concern over following the federal blueprint and corresponding Section 204.1860(d). As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.2380 Increasing the PAL During the PAL Effective Period. The Board is persuaded by IEPA's concern over following the federal blueprint and corresponding Section 204.1870(b) and (c). As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.2390 Monitoring Requirements. The Board is persuaded by IEPA's concern over headings following the federal blueprint and corresponding Section 204.1880(b), (c), (f), and (i). As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Additionally, IEPA argues that subsection (d)(1) should refer to Section 203.1000 for consistency between Parts 203 and 204. PC 21 at 93. The Board is persuaded by IEPA and makes the change at second notice.

Section 203.2410 Reporting and Notification Requirements. The Board is persuaded by IEPA's concern over following the federal blueprint and corresponding Sections 204.1900 and 204.1900(a)(1). As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.2500 Applicability. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Section 203.2520 Requirements. The Board is persuaded by IEPA's concern over following the federal blueprint. As a result, at second notice the Board proposes language that mirrors the federal blueprint.

Part 204.

For Part 204, which addresses Prevention of Significant Deterioration (PSD), IERG and IEPA proposed necessary changes identified by USEPA, including omission and typographical errors. PC 21 at 96. Additionally, IEPA notes that IERG's Part 204 proposal memorializes the PEA Rule as it currently existed with emissions decreases and increases considered in Step 1 at the federal level. *Id.* at 97.

IEPA notes that beyond the above changes, there were other changes made at first notice that differed from already approved USEPA SIP language. PC 21 at 97. These changes included changing "shall" to "must" or "may", and changing "such" to "the". *Id.* IEPA argues these changes are inconsistent with the already-approved blueprint language, unnecessarily complicate things, and risk USEPA disapproval. *Id.* at 98. As with the discussion of Part 203 above, the Board is persuaded by IEPA's concern over following the blueprint language (here, 40 CFR 51.166 for PSD programs) and therefore makes those changes at second notice as IEPA recommends to meet that consistency required to secure a federal SIP approval.

Section 204.380 Excessive Concentration. The Board is persuaded by IEPA's concern over following the federal PSD rules consistent with the current Part 204. PC 21 at 98-99. As a result, at second notice the Board proposes language that mirrors the federal PSD rules.

Section 204.490 Major Modification. The Board is persuaded by IEPA's concern over following the federal PSD rules consistent with the current Part 204. PC 21 at 99. As a result, at second notice the Board proposes language that mirrors the federal PSD rules.

Section 204.800 Applicability. The Board is persuaded by IEPA's concern over following the federal PSD rules consistent with the current Part 204. PC 21 at 100. As a result, at second notice the Board proposes language that mirrors the federal PSD rules.

Additionally, IEPA argues that the first notice version failed to propose language "addressing the applicability of Subpart R to a major modification located in an attainment or unclassifiable area which would cause or contribute to a NAAQS violation in subsection (g)." PC 21 at 100-101. IEPA proposed the following language for Section 204.800(g):

The provisions of 35 Ill. Adm. Co[d]e 203, Subpart R apply *with respect* to any regulated NSR pollutant emitted from the construction of any new major stationary source as defined in 35 Ill. Adm. Code 203.1230(a)(8) or any major modification 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 USC 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. PC 21 at 101 (*Emphasis added*).

The Board agrees with IEPA that applicability language for Subpart R is necessary and proposes IEPA's suggested language at second notice.

Section 204.930 Redesignation. The Board is persuaded by IEPA’s concern over following the federal PSD rules consistent with the current Part 204. PC 21 at 101. As a result, at second notice the Board proposes language that mirrors the federal PSD rules.

AGO (PC 22)

On June 17, 2024, the AGO filed its first notice comment. The AGO argued, as it did in its motions to stay, that the USEPA is preparing to initiate a rulemaking that would be more stringent than IERG’s proposal. PC 22 at 1. The AGO urges the Board to pause this rulemaking until USEPA finalizes the PEA Rule or decides not to revise the existing rule. *Id.*

The AGO states that in January 2021, President Biden directed USEPA to review and address environmental regulations adopted under the previous administration that conflict with his policy to reduce air pollution. PC 22 at 2. The AGO continues, stating USEPA soon after initiated a rulemaking to address concerns with the PEA Rule. *Id.*

The AGO argues the proposed PEA Rule would make three major changes. PC 22 at 2. First the proposal would “clarify the definition of the term ‘project’ in order to precisely determine which parts of a modification should or should not be considered for emissions accounting purposes.” *Id.* The AGO continues, arguing this revision addresses concerns about sources undergoing modifications under- or over-aggregating, to exploit imprecise regulations to avoid major source NSR. *Id.* at 2-3. The second major change is to strengthen monitoring, recordkeeping, and reporting provisions that would improve compliance and enforcement. *Id.* at 3. The last major change would be to make emissions decreases facilities claim in the NSR accounting enforceable. *Id.* USEPA stated that the proposed revisions are intended to “improve implementation and strengthen enforceability of the NSR program provisions.” *Id.* at 4.

The AGO continues to argue the proposed PEA Rule revisions will be more stringent than the current PEA Rule, and if the Board adopts the current PEA Rule, it may create inconsistencies with the federal rules once the USEPA adopts the more stringent revisions. PC 22 at 4.

IERG (PC 23)

On June 17, 2024, the IERG filed its first notice comment. PC 23. IERG reiterates its position that updates to Parts 203 and 204 to more closely track changes made at the federal level will be beneficial to IEPA, the Board, regulated entities, and third parties. *Id.* at 1-2. IERG acknowledges that the Board sided with IEPA on the limited number of disagreements between IERG and IEPA, but in the interest of efficiency asks the Board to make those changes and move to second notice. *Id.* at 2.

IERG argues that the need for an update to Part 203 is even more necessary after the federal amendment to PM_{2.5} NAAQS was made in March 2024. PC 23 at 2, *see also* Reconsideration of the NAAQS for Particulate Matter, 89 Fed. Reg. 16202 (Mar. 6, 2024). IERG states that USEPA’s update to particulate matter NAAQS went final and revised the PM_{2.5} primary annual NAAQS from 12 µg/m³ to 9 µg/m³. *Id.* IERG continues, asserting that once

USEPA makes its attainment and nonattainment designations for the revised standard Chicago and Metro-East will be designated as nonattainment for the revised PM_{2.5} NAAQS. *Id.* at 2-3. IERG also argues that existing Part 203 does not address PM_{2.5}, but that the federal blueprint rule and Appendix S were revised in 2008 to address PM_{2.5} and its precursors. *Id.* at 3. IERG contends that it would be beneficial for affected parties to look to one set of regulations addressing NA NSR rather than two. *Id.* Additionally, IERG argues that once this larger update is made it will be easier to keep Part 203 updated with future changes. *Id.*

At first notice the Board asked the parties to comment on whether the Board should move to second notice regarding USEPA's pre-publication proposal to amend the PEA Rule. PC 23 at 3. IERG argues the Board should move to second notice because the proposal was just in the initial phases, and the benefits of a comprehensive update to Part 203 for affected parties are that important. *Id.* at 3-4. IERG continues, arguing that if USEPA does finalize the no pre-published rules, IEPA could open Parts 203 and 204 and quickly amend those rules. *Id.* at 4-5. IERG argues the numerous benefits of updating the Board's NA NSR rules are far overdue and would benefit all parties involved. *Id.* at 5.

IERG (PC 25)

In response to IEPA's comment that this proposal should be consistent with May 3, 2024, USEPA amendments, IERG filed a motion for leave to file this comment instanter, which the Board grants. PC 25 at 2, *see supra* p. 7. IERG opposes the addition of USEPA's May 3, 2024, proposed federal language in this rulemaking. IERG notes that USEPA's proposed amendments would expand on the definition of "project" and would revise recordkeeping and reporting provisions in the "reasonable possibility" provisions. PC 25 at 2. IERG concedes that IEPA believes the language should be included, and that IEPA offered to provide language to the Board. *Id.* However, IERG believes that the inclusion is premature and would delay this necessary update of the Board's rules.

In support of its position, IERG notes that USEPA has not finalized the May 3, 2024, amendments and received 37 comments on the proposed language. PC 25 at 3. IERG notes that 30 of those comments were either opposed to or expressed concerns with the proposed language. *Id.* Thus, if USEPA were to finalize the rule, "it is likely that the language will differ from the language included in the proposed rule." *Id.* One area of concern in the comments is the USEPA language in the definition of "project". Many commenters disagree with the definition and express concern that the USEPA proposed amendments could lead to confusion and more burdensome requirements. *Id.*

IERG acknowledges that the Board may adopt rules more stringent than the federal rules; however, it is not yet clear how stringent the USEPA rules may be when finalized. PC 25 at 4. Therefore, IERG believes it would be more prudent, and a better use of participants time, to initiate a separate rulemaking once USEPA's rules are finalized. *Id.* IERG does request that if the Board allows IEPA to propose language, that IEPA submit at "robust justification in support of adopting" the proposed rule that includes technical feasibility and economic reasonableness. *Id.* at 4-5.

IERG reiterates that it is unclear when USEPA will finalize its rule, or how much time it would take for IEPA to provide language to the Board for addition to this rulemaking. PC 25 at 6. IERG notes that Part 203 has not been updated since 1998, and the proposed rule will allow for consistency in the regulatory scheme. *Id.*

AGO (PC 26)

On August 23, 2024, the AG filed an objection to IERG’s filing of PC 25, which the Board treats as a public comment (PC 26). The AG notes that IERG filed its comment on August 9, 2024, nearly 3 months after USEPA filed a proposal and 2 months after IEPA filed its timely comment. PC 26 at 2. The AG argues that IERG could have sought leave to respond to IEPA’s comment immediately after IEPA’s comment was filed. The AG further states that IERG’s claim that it has not had an opportunity to respond to the IEPA’s position does not warrant granting the request. *Id.*

The AG contends that the request should also be denied because the PC 25 does not provide useful information for the Board’s determination on whether to proceed to second notice in this proceeding. PC 26 at 2. AG is not convinced that the number of comments filed expressing concerns about the USEPA language is a logical reason to expect USEPA to amend its language. *Id.* The AG states that federal appellate courts have long held that federal agencies cannot base decision on the number or length of comments, so IERG’s contention is unsupported. PC 26 at 2-3, citing Public Employees for Env’tl Responsibility v. National Park Service, 605 F. Supp. 3d 28, 41 (D.C. Cir. 2022), citing Nat’l Res. Def. Council v. EPA, 822 F.2d 104 (D.C. Cir. 1987).

The AG further argues that IERG does not meaningfully discuss or cite any of the comments that IERG claims to express concern about USEPA’s amendment. PC 26 at 3. By contrast the AG submitted a comment to the USEPA generally supporting the proposal and recommending a minor change to how “project” is defined. *Id.* The AG insist that IERG provides no reasoned basis for its predictions about USEPA’s final rule.

Finally, the AG maintains that IERG’s comment offers nothing new and merely repeats arguments for immediately advancing its proposal to second notice. PC 26 at 3. The AG maintains that IERG initially argued that the Board should advance its rulemaking because there was no “indication from USEPA indicating [sic] what, if any, changes USEPA may be proposing PC 26 at 4. Now, the AG claims that IERG argues that “[t]he Board should not delay or pause this rulemaking until USEPA issues a final rule” *Id.* The AG argues that “the better use of the Board’s resources—as well as those of the other parties in this matter” is to await USEPA a final revised rule. *Id.*

IERG (PC 27)

In response to the AG’s objection to the Board accepting PC 25, IERG filed a motion for leave to file this comment instanter, which the Board grants. IERG notes that there are no Board procedural rules that explicitly address the timing for filing a response to a comment or a motion for leave to respond to a comment in general rulemakings. PC 27 at 2. IERG concedes that the

Board's rules do have a 14-day deadline to respond to a motion, but IERG notes that does not address public comments. *Id.*, citing 35 Ill. Adm. Code 101.500. IERG maintains that as Board procedural rule addressing the timing of filing a response to a public comment, or when to file a motion for leave to file a response to a public comment, IERG's PC 25 should be considered timely by the Board.

IERG notes that this rulemaking is still within the first notice period when public comments can be accepted, and under Section 102.108 of the Board's regulations "[t]he Board will accept written comments from any person concerning a regulatory proposal during the first notice period as defined in Section 102.604." PC 26 at 2, quoting 35 Ill. Adm. Code 102.108(a). IERG requested leave to file a response to IEPA's comment given that it was unknown when the Board would be moving to second notice in this rulemaking. Because this rulemaking is still in the first notice period, IERG's PC 25 is timely and should be considered by the Board. *Id.*

Finally, IERG maintains that PC 25 provides useful information for the Board's consideration in this rulemaking. PC 27 at 3. In PC 25, IERG provided argument and context for the Board's consideration about why incorporating language similar to the federally proposed regulations ahead of their adoption would not be prudent here. IERG also pointed to the comments filed in USEPA's rulemaking on specific issues to highlight the potential for USEPA to revise the proposed rule language when finalizing the amendments. IERG argues that PC 25 provides useful context for the Board's consideration in deciding how to move forward in this rulemaking. *Id.*

BOARD DISCUSSION

As discussed above, IEPA persuasively argues that the proposed amendments to the Illinois' NA NSR and PSD permit programs must mirror the corresponding federal rules and be approvable by USEPA as a SIP revision. IEPA comments in detail that the first-notice versions of Parts 203 and 204 include changes that are not consistent with the federal rules and may jeopardize USEPA's approval of the amendments to Parts 203 and 204 as a SIP revision.

These first-notice changes include those the Board may generally propose to clarify or simplify its rules. However, as the Board did when adopting the Part 204 PSD rules, the Board agrees with IEPA on the importance of adopting a program—here, NA NSR and PSD amendments—that USEPA will approve as a SIP revision. *See Proposed New 35 Ill. Adm. Code 204, Prevention of Significant Deterioration, Amendment to 35 Ill. Adm. Code Parts 101, 105, 203, 211, and 215, R19-1 (June 18, 2020).* Accordingly, the Board generally agrees with IEPA's proposed changes to the first-notice version of the Board's proposal. *See supra* pp. 2-19. The Board addresses IEPA's corresponding comments more specifically above. *Id.*

The Board notes that IEPA changed its position after USEPA proposed amendments to the PEA Rule, recommending that this Board rulemaking adopt language to be consistent with USEPA's May 3, 2024 proposal. PC 21 at 19; *see supra* p. 7. IERG opposed this amendment with various arguments noted above. PC 25 at 2-6; *see supra* p. 20-21. The Board agrees with IERG, declines to amend the language at second notice to make it consistent with USEPA's May

3, 2024 proposal, and finds that any future USEPA rule changes can be addressed in future rulemakings before the Board.

The Board is not persuaded by the AGO's arguments to delay proceeding with this rulemaking. As just noted, if USEPA in the future amends its rules, then the Board can entertain any rulemaking proposals for amendment. However, the Board finds that IERG has supported going forward with this proposal at this time, as amended at second notice.

TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS

Economic Impact Study

As required by Section 27(b) of the Environmental Protection Act (415 ILCS 5/27(b) (2022)), the Board, in a letter dated September 9, 2021, requested that the Department of Commerce and Economic Opportunity (DCEO) determine by October 31, 2021, whether it would conduct an economic impact study on the rulemaking proposal. On October 22, 2021, the Board received a letter from DCEO declining to undertake an economic impact study. No person at either hearing testified or commented on the Board's request or the response to it from DCEO. Tr.1 at 11-12; Tr.2 at 11.

Technical Feasibility

Before first notice, IERG stated the nonattainment control requirement for new major stationary sources or major modification in Part 203 is lowest achievable emissions rate (LAER). Pet. at 42. The LAER requirement provides IEPA only impose limits that it determines are "achievable" on a case-by-case basis for the emissions units and stationary sources to which those limits apply. *Id.*, see also Exh. 2 at 18. LAER expressly requires what is "achievable" and because LAER is not changing in the suggested edits of Part 203 the technical feasibility and costs should not change. Exh. 2 at 18.

Although LAER is not applicable to stationary sources or major modifications in attainment or unclassifiable areas, a new major stationary sources or major modifications are required to reduce the harmful impact on air quality when obtaining a construction permit. Pet. at 43.

IERG added that the proposed amendments to Part 203 are mostly identical to the currently applicable federal NA NSR program, therefore the proposed amendments are as technically feasible as the existing federal NA NSR programs. Pet. at 43, see also Exh. 2 at 18. Additionally, IERG argues that proposed revisions to Parts 204 and 232 are technically feasible because the amendments update cross-references, fix certain errors, and add reference to the proposed Part 203 Subpart R, and to conform with the PEA Rule. Pet. at 43-44.

The first-notice comments have not addressed the technical feasibility of the Board's proposal, and the record does not dispute the conclusion the Board reached in its first notice opinion. Accordingly, the Board concludes that its second-notice proposal is technically feasible.

Economic Reasonableness

In its first notice opinion, the Board noted IERG's proposal brings Part 203 up to date with the CAA and underlying federal regulations, and that those federal laws already promulgated under USEPA's assessment of economical reasonableness. Pet. at 42. Additionally, IERG argued the proposed amendments do not differ from the economic impact from the federal NA NSR program. *Id.*, see also IERG Pre-Filed Answers 2/15/22 at 5. Additionally, IERG argues that proposed revisions to Parts 204 and 232 are economically reasonable because the amendments update cross-references, fix certain errors, and add reference to the proposed Part 203 Subpart R, and to conform with the PEA Rule. Pet. at 43-44.

Based on the record after first notice comment, the Board again concludes the proposed amendments are economically reasonable, and will not have an adverse economic impact on the people of the State of Illinois.

CONCLUSION

The Board proposes for second notice amendments to Parts 201, 202, 203, 204, and 232 that address NA NSR, PSD, and toxic air contaminants for JCAR review.

ORDER

The Board directs the Clerk to submit its proposal to JCAR for second-notice review.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 6, 2025, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board

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

PART 201
 PERMITS AND GENERAL PROVISIONS

SUBPART A: DEFINITIONS

Section	
201.101	Other Definitions
201.102	Definitions
201.103	Abbreviations and Units
201.104	Incorporations by Reference

SUBPART B: GENERAL PROVISIONS

Section	
201.121	Existence of Permit No Defense
201.122	Proof of Emissions
201.123	Burden of Persuasion Regarding Exceptions
201.124	Annual Report
201.125	Severability
201.126	Repealer

SUBPART C: PROHIBITIONS

Section	
201.141	Prohibition of Air Pollution
201.142	Construction Permit Required
201.143	Operating Permits for New Sources
201.144	Operating Permits for Existing Sources
201.146	Exemptions from State Permit Requirements
201.147	Former Permits
201.148	Operation Without Compliance Program and Project Completion Schedule
201.149	Operation During Malfunction, Breakdown or Startups
201.150	Circumvention
201.151	Design of Effluent Exhaust Systems

SUBPART D: PERMIT APPLICATIONS AND REVIEW PROCESS

Section	
201.152	Contents of Application for Construction Permit
201.153	Incomplete Applications (Repealed)

201.154	Signatures (Repealed)
201.155	Standards for Issuance (Repealed)
201.156	Conditions
201.157	Contents of Application for Operating Permit
201.158	Incomplete Applications
201.159	Signatures
201.160	Standards for Issuance
201.161	Conditions
201.162	Duration
201.163	Joint Construction and Operating Permits
201.164	Design Criteria
201.165	Hearings
201.166	Revocation
201.167	Revisions to Permits
201.168	Appeals from Conditions
201.169	Special Provisions for Certain Operating Permits
201.170	Portable Emission Units
201.175	Registration of Smaller Sources (ROSS)

SUBPART E: SPECIAL PROVISIONS FOR OPERATING PERMITS FOR CERTAIN SMALLER SOURCES

Section	
201.180	Applicability (Repealed)
201.181	Expiration and Renewal (Repealed)
201.187	Requirement for a Revised Permit (Repealed)

SUBPART F: CAAPP PERMITS

Section	
201.207	Applicability
201.208	Supplemental Information
201.209	Emissions of Hazardous Air Pollutants
201.210	Categories of Insignificant Activities or Emission Levels
201.211	Application for Classification as an Insignificant Activity
201.212	Revisions to Lists of Insignificant Activities or Emission Levels

SUBPART G: EXPERIMENTAL PERMITS (Reserved)

SUBPART H: COMPLIANCE PROGRAMS AND PROJECT COMPLETION SCHEDULES

Section	
201.241	Contents of Compliance Program
201.242	Contents of Project Completion Schedule
201.243	Standards for Approval

201.244	Revisions
201.245	Effects of Approval
201.246	Records and Reports
201.247	Submission and Approval Dates

SUBPART I: MALFUNCTIONS, BREAKDOWNS OR STARTUPS

Section	
201.261	Contents of Request for Permission to Operate During a Malfunction, Breakdown or Startup (Repealed)
201.262	Standards for Granting Permission to Operate During a Malfunction, Breakdown or Startup (Repealed)
201.263	Records and Reports (Repealed)
201.264	Continued Operation or Startup Prior to Granting of Operating Permit (Repealed)
201.265	Effect of Granting of Permission to Operate During a Malfunction, Breakdown or Startup (Repealed)

SUBPART J: MONITORING AND TESTING

Section	
201.281	Permit Monitoring Equipment Requirements
201.282	Testing
201.283	Records and Reports

SUBPART K: RECORDS AND REPORTS

Section	
201.301	Records
201.302	Reports

SUBPART L: CONTINUOUS MONITORING

Section	
201.401	Continuous Monitoring Requirements
201.402	Alternative Monitoring
201.403	Exempt Sources
201.404	Monitoring System Malfunction
201.405	Excess Emission Reporting
201.406	Data Reduction
201.407	Retention of Information
201.408	Compliance Schedules

SUBPART M: PERMIT BY RULE (PBR) – GENERAL PROVISIONS

Section	
201.500	Purpose

201.505	Applicability
201.510	Notice of Intent to Be Covered By a PBR (Notification)
201.515	Commencing Construction or Modification
201.520	Modification or Change in Status of an Emission Unit Covered by a PBR
201.525	Standard Conditions for PBR
201.530	Recordkeeping and Reporting
201.535	Authority to Operate
201.540	Enforcement Authority

SUBPART N: PERMIT BY RULE (PBR) – BOILERS LESS THAN OR EQUAL TO 100
MMBTU/HR

Section	
201.600	Applicability
201.605	Boiler Notice of Intent to Be Covered by a PBR (Notification)
201.610	Federal NSPS and NESHAP Requirements
201.615	Opacity Requirements
201.620	Requirements for Use of Diesel Fuel and Refinery Fuel Gas
201.625	Carbon Monoxide (CO) Requirements
201.630	Nitrogen Oxide (NO _x) Requirements
201.635	PBR Boiler Reporting Requirements

201.APPENDIX A	Rule into Section Table
201.APPENDIX B	Section into Rule Table
201.APPENDIX C	Past Compliance Dates

AUTHORITY: Implementing Sections 10, 39, 39.5, and 39.12 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/10, 27, 39, 39.5, and 39.12].

SOURCE: Adopted as Chapter 2: Air Pollution, Part I: General Provisions, in R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg.30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13579; amended in R82-1 (Docket A) at 10 Ill. Reg. 12628, effective July 7, 1986; amended in R87-38 at 13 Ill. Reg. 2066, effective February 3, 1989; amended in R89-7(A) at 13 Ill. Reg. 19444, effective December 5, 1989; amended in R89-7(B) at 15 Ill. Reg. 17710, effective November 26, 1991; amended in R93-11 at 17 Ill. Reg. 21483, effective December 7, 1993; amended in R94-12 at 18 Ill. Reg. 15002, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15760, effective October 17, 1994; amended in R96-17 at 21 Ill. Reg. 7878, effective June 17, 1997; amended in R98-13 at 22 Ill. Reg. 11451, effective June 23, 1998; amended in R98-28 at 22 Ill. Reg. 11823, effective July 31, 1998; amended in R02-10 at 27 Ill. Reg. 5820, effective March 21, 2003; amended in R05-19 and R05-20 at 30 Ill. Reg. 4901, effective March 3, 2006; amended in R07-19 at 33 Ill. Reg. 11965, effective August 6, 2009; amended in R10-21 at 34 Ill. Reg.19575, effective December 1, 2010; amended in R12-10 at 35 Ill. Reg. 19790, effective December 5, 2011; amended in R13-18 at 38 Ill. Reg. 1005, effective December 23, 2013; amended in R17-9 at 41 Ill. Reg. 4140, effective March 24, 2017;

amended in R23-18 at 47 Ill. Reg. 12089, effective July 25, 2023; amended in R22-17 at 49 Ill. Reg. _____, effective _____.

Section 201.169 Special Provisions for Certain Operating Permits

a) Applicability:

- 1) Operating permits issued pursuant to Section 39 of the Act for sources of air pollution that are not subject to the requirements of Section 39.5 of the Act and are not required to have a federally enforceable State operating permit are subject to the provisions of this Section.
- 2) This Section only applies to sources that meet the requirements of subsection (a)(1) ~~above~~ and whose permit has not expired pursuant to a renewal request under subsection (b)(2) ~~of this Section~~. If this Section no longer applies to a source and its permit has not expired pursuant to a renewal request under subsection (b)(2) ~~of this Section~~, the terms and conditions of the permit shall remain in effect until the permit is superseded by a new or revised permit or is withdrawn.
- 3) Nothing in this Subpart shall be construed as exempting persons with permits issued pursuant to this Section from the requirements of Section 201.142 of this Part requiring a construction permit or from review under Part 203 or Part 204 procedures for new and modified emission units.

b) Expiration and Renewal:

- 1) The Agency may request the renewal of an operating permit subject to this Section for reasons including, but not limited to, a change in the requirements applicable to the source; an indication that the information on the source's application is inaccurate; or information that the source may not be in compliance with the Act, a Board regulation or an existing permit condition.
- 2) Notwithstanding Section 201.162 of this Subpart, an operating permit subject to this Section shall expire 180 days after the Agency sends a written request for renewal of the permit. A permit shall terminate if it is withdrawn upon written request by the permittee or is superseded by a revised permit issued for the source.
- 3) In its request for renewal pursuant to subsection (b)(2) above, the Agency may include a request for any supplemental information that the Agency may need to determine the continued applicability of this Section or the ability of the source to comply with any requirement.
- 4) An owner or operator may appeal to the Board only a final determination

by the Agency to deny a permit or to include conditions as provided by Section 40 of the Act and Section 201.168 of this Subpart, or a determination that a permit application is incomplete based upon insufficiencies such as, but not limited to, a failure to submit information requested under subsection (b)(3)-~~above~~ or Section 201.158-~~of this Subpart~~.

- c) Requirement for a Revised Permit:
- 1) Persons with operating permits subject to this Section must obtain a revised permit prior to any of the following changes at the source:
 - A) An increase in emissions above the amount the emission unit or the source is permitted to emit; ~~or~~
 - B) A modification; ~~or~~
 - C) A change in operations that will result in the source's noncompliance with a condition in the existing permit; or
 - D) A change in ownership, company name, or address, so that the application or existing permit is no longer accurate.
 - 2) If changes in the source's emission units or control equipment remove a source from the applicability of this Section, an owner or operator shall apply for a construction permit under Section 201.152 of this Subpart, if applicable, and either a federally enforceable State operating permit or a Clean Air Act Permit Program (CAAPP) permit pursuant to Section 39.5 of the Act.

(Source: Amended at 49 Ill. Reg. _____, effective _____)

Section 201.175 Registration of Smaller Sources (ROSS)

- a) An owner or operator of an eligible source shall annually register with the Agency instead of complying with the requirement to obtain an air pollution construction or operating permit under the Act or complying with a permit issued under Section 201.169. The owner and operator of a ROSS source are still subject to all applicable environmental statutes and regulations. The source must meet all of the following criteria to be an eligible source:
 - 1) Pursuant to Section 9.14 of the Act:
 - A) *The source must not be required to obtain a permit pursuant to the Clean Air Act Permit Program, or federally enforceable State operating permit program, or under regulations promulgated pursuant to Section 111 or 112 of the Clean Air Act;*

- B) *USEPA has not otherwise determined that a permit is required;*
 - C) *The source emits less than an actual 5 tons per year of combined particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and volatile organic material air pollutant emissions;*
 - D) *The source emits less than an actual 0.5 tons per year of combined hazardous air pollutant emissions;*
 - E) *The source emits less than an actual 0.05 tons per year of lead air emissions;*
 - F) *The source emits less than an actual 0.05 tons per year of mercury air emissions; and*
 - G) *The source does not have an emission unit or source subject to a standard pursuant to 40 CFR 61 (Maximum Achievable Control Technology) or 40 CFR 63 (National Emissions Standards for Hazardous Air Pollutants), other than those regulations that USEPA has categorized as “area source”.*
- 2) Emission units at the source are not used as thermal desorption systems pursuant to 35 Adm. Code 728. Table F or as incinerator systems.
 - 3) The source or its emission units must not be subject to local siting under Section 39.2 of the Act.
- b) For the purposes of determining whether the actual emissions from the source meet the criteria of subsections (a)(1)(C), (a)(1)(D), (a)(1)(E), and (a)(1)(F) ~~of this Section~~, the owner or operator of a source shall only use emissions from units that are not exempt from the requirement to obtain a permit pursuant to Section 201.146, as follows:
- 1) Initial registration or reentry into ROSS: the owner or operator must sum the actual emissions from all units associated with the source for the prior calendar year. If the source is new, or has been operating less than one calendar year, projected estimated emissions may be used for all of the remaining months in the prior calendar year, respectively.
 - 2) Annual renewal of registration:
 - A) For the purposes of determining compliance with subsection (a)(1)(C) of this Section, the owner or operator must:

- i) Verify that the source still meets the eligibility criteria in subsection (a)(1)(C); or
 - ii) Calculate emissions by summing all actual emissions of combined particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and volatile organic material air pollutant emissions from all units associated with the source for the prior calendar year. The total sum of actual emissions of combined particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and volatile organic material air pollutant emissions for the prior calendar year must be less than or equal to 7 tons, or the total sum of actual emissions of combined particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and volatile organic material air pollutant emissions from the prior two calendar years must be less than or equal to 10 tons.
- B) For the purposes of determining compliance with subsections (a)(1)(D), (a)(1)(E) and (a)(1)(F) ~~of this Section~~, the owner or operator must:
- i) Verify that the source still meets the eligibility criteria in subsections (a)(1)(D), (a)(1)(E), and (a)(1)(F) of this Section; or
 - ii) Calculate emissions by summing all actual emissions from all units at the source for the prior calendar year. Summed emissions of HAPs, mercury or lead must be less than or equal to 0.5 tons per year, 0.05 tons per year, or 0.05 tons per year, for the prior calendar year, respectively.
- c) The following must be included in each initial registration and each re-entry registration:
- 1) The name, address, and telephone number of the source and of the person responsible for submitting and retaining copies of the registration information and the records;
 - 2) A statement that the source meets the requirements of this Section;
 - 3) A certification that the information submitted in subsections (c)(1) and (c)(2) ~~of this Section~~ is correct or a correction of the information; and
 - 4) The applicable fee pursuant to Section 9.14 of the Act.

- d) The owner or operator of an eligible source shall submit the registration required by subsection (c) of this Section as follows:
- 1) Initial registration:
 - A) The owner or operator of a source holding a permit may register after the effective date of this Section and no later than their annual fee payment date in fiscal year 2013 (July 1, 2012 through June 30, 2013). The terms and conditions of a permit issued pursuant to Section 201.169 do not apply during the period the source is registered. The owner and operator of a ROSS source are still subject to all applicable environmental statutes and regulations.
 - B) The owner or operator of an operating source not holding a permit shall register no later than July 1, 2012.
 - C) The owner or operator of a new source shall register at least 10 days before commencing construction or operation and may commence construction or operation 10 days after submittal to the Agency.
 - 2) Annual registration. The owner or operator of a ROSS source must pay an annual fee on or before their annual fee payment date. Annual payment of the fee is verification by the owner or operator that the source continues to meet the criteria in subsection (a), as determined by subsection (b)(2), as applicable.
 - 3) Re-entry into ROSS under subsection (h). The owner or operator of a source that re-enters ROSS based on the criteria in subsection (a), as determined by subsection (b)(1), must register and pay an annual fee on or before their annual fee payment date.
- e) The owner or operator shall keep the following records and make them available for inspection by the Agency:
- 1) A description of the emission units associated with the source and their associated control devices;
 - 2) A description of control efficiency or emission rates of any control devices that are relied upon to meet the criteria for ROSS in subsection (a), as determined by subsection (b)(1) or (b)(2), as applicable;
 - 3) Documentation of the source's actual emissions and calculations demonstrating that the source is eligible for ROSS pursuant to the criteria in ~~subsections~~ subsections (a), as determined by subsection (b)(1) or (b)(2),

as applicable. This documentation may include, but is not limited to, annual material usage or emission rates;

- 4) A copy of the source's initial registration; and
 - 5) A copy of the owner's or operator's annual fee payment for at least the most recent 5 calendar years.
- f) Changes to a ROSS source requiring notification: The owner or operator of the source must notify the Agency in writing within 45 days after the change to the source, if the information provided in subsection (c)(1) ~~of this Section~~ changes.
- g) Changes requiring a new or modified construction or operating permit, or compliance with conditions in an existing permit issued pursuant to Section 201.169:
- 1) The owner or operator must apply for a permit by the date required by the new regulation or statute if there is a change in a regulation or statutory requirement or a new regulation or statutory requirement that makes a source ineligible for ROSS under the criteria in subsection (a), as determined in subsection (b)(2), as applicable.
 - 2) If the source no longer meets the criteria in subsection (a), as determined by subsection (b)(2), as applicable:
 - A) The owner or operator of a source that did not have a permit under Section 201.169 prior to registration must apply and comply with the applicable requirements of the Act and 35 Ill. Adm. Code Parts 201, ~~and 203,~~ and 204 as follows:
 - i) If the source is eligible for a permit under Section 201.169, the owner or operator must apply for a permit within 90 days of the source's annual fee payment date.
 - ii) If the source is not eligible under Section 201.169, the owner or operator must apply for a permit as provided for under the Act and 35 Ill. Adm. Code Parts 201, ~~and 203,~~ and 204.
 - iii) If the source was not constructed or operated at the time of initial registration and has actual emissions in excess of the eligibility levels during the first or second year of operations as determined in subsection (b)(2), the owner or operator must apply for an operating permit and pay construction permit application fees.

- B) The owner or operator of a source that had a permit under Section 201.169 prior to registration:
- i) If the source is in compliance with the terms and conditions of the permit, the owner or operator shall notify the Agency no later than the source's annual fee payment date of the calendar year following the change in status from a ROSS eligible source to a permitted source.
 - ii) If the source is not in compliance with the terms and conditions of the permit, but is still eligible for a permit pursuant to Section 201.169, the owner or operator must apply for a new or revised permit within 90 days of the source's annual fee payment date.
 - iii) If the source is not eligible for a permit pursuant to Section 201.169, the owner or operator must comply with the applicable permitting requirements under the Act and 35 Ill. Adm. Code Parts 201, ~~and 203~~, and 204.
- h) Reentry into ROSS: the owner or operator of a source that changed status to become a permitted source pursuant to subsection (g) ~~of this Section~~ shall submit a registration for ROSS if the source meets the criteria in subsections (a), as determined in subsection (b)(1), in the prior calendar year.

(Source: Amended at 49 Ill. Reg. _____, effective _____)

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

PART 202
 ALTERNATIVE CONTROL STRATEGIES

SUBPART A: GENERAL PROVISIONS

Section	
202.101	Definitions
202.104	Actual Emissions
202.107	Allowable Emissions
202.110	Alternative Control Strategy (ACS)
202.113	Chapter
202.116	Emission Baseline
202.119	Multi-person ACS
202.122	Potential to Emit
202.125	Abbreviations
202.140	Scope
202.142	Severability

SUBPART B: PERMIT APPLICATION

Section	
202.201	Emission Baseline for Alternative Control Strategies
202.210	Permit Application Information
202.211	Analysis of Emissions
202.212	Analysis of Environmental Quality
202.213	Analysis of Methods of Assuring Compliance

SUBPART C: PERMIT CONDITIONS AND ISSUANCE

Section	
202.301	Permit Conditions
202.302	Records and Reports
202.303	Monitoring and Testing
202.304	Compliance Dates
202.305	Public Participation
202.306	Standards for Issuance
202.307	Notification to USEPA

SUBPART D: PERMIT DURATION, REVISION AND RENEWAL

Section	
202.401	Duration
202.402	Revision
202.403	Renewal

SUBPART E: ALTERNATIVE CONTROL STRATEGIES INVOLVING MORE THAN ONE PERSON

Section	
202.501	Applicability
202.502	Permit Application
202.503	Duration
202.504	Permit Conditions
202.505	Records and Reports
202.506	Revocation
202.507	Termination

202.APPENDIX A	Pre-Codification into Codified
202.APPENDIX B	Codified into Pre-Codification

AUTHORITY: Implementing Section 9.3 and authorized by Sections 5 and 27 of the Environmental Protection Act [415 ILCS 5/5, 9.3 and 27].

SOURCE: 35 Ill. Adm. Code 212 adopted in R81-20 (Interim) at 6 Ill. Reg. 6703, effective May 20, 1982; renumbered to 35 Ill. Adm. Code 202 and amended in R81-20(A) at 7 Ill. Reg. 8091, effective June 27, 1983; codified at 7 Ill. Reg. 13584; corrected at 7 Ill. Reg. 14561; amended in R81-20(B) at 8 Ill. Reg. 4171, effective March 16, 1984; amended in R23-18 at 47 Ill. Reg. 12101, effective July 25, 2023; amended in R22-17 at 49 Ill. Reg. _____, effective _____.

Section 202.306 Standards for Issuance

The Agency shall issue a permit containing an ACS if, and only if, the permit applicant demonstrates that:

- a) The ACS provides, in the aggregate ~~forwith respect to~~ each regulated pollutant, equivalent or less total emissions than would otherwise be required.
- b) The impact of the ACS is environmentally equivalent to that which would otherwise be achieved and maintained under existing requirements.
- c) The methods for assuring compliance with the conditions and requirements of the permit under the ACS are equivalent to those that are associated with otherwise applicable requirements.

- d) The ACS complies with any applicable requirements contained in 35 Ill. Adm. Code 203, 204, 230 or 231.
- e) USEPA has not disapproved the proposed ACS or any compliance schedule it may contain due to the existence of a federal enforcement action pending against a participant in the ACS.
- f) The ACS does not permit an increase in emissions of any pollutant which is listed or regulated pursuant to Section 112 of the Clean Air Act (42 U.S.C. 7412 et seq.).

(Source: Amended at 49 Ill. Reg. _____, effective _____)

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

PART 203
 MAJOR STATIONARY SOURCES CONSTRUCTION AND MODIFICATION

SUBPART A: GENERAL PROVISIONS

Section

<u>203.100</u>	<u>Effective Dates</u>
203.103	Actual Construction
203.104	Actual Emissions
203.107	Allowable Emissions
203.110	Available Growth Margin
203.112	Building, Structure and Facility
203.113	Commence
203.116	Construction
203.117	Dispersion Enhancement Techniques
203.119	Emission Baseline
203.121	Emission Offset
203.122	Emissions Unit
203.123	Federally Enforceable
203.124	Fugitive Emissions
203.125	Installation
203.126	Lowest Achievable Emission Rate
203.127	Nonattainment Area
203.128	Potential to Emit
203.131	Reasonable Further Progress
203.134	Secondary Emissions
203.136	Stationary Source
203.145	Volatile Organic Material (Repealed)
203.150	Public Participation
203.155	Severability (Repealed)

SUBPART B: MAJOR STATIONARY
 SOURCES IN NONATTAINMENT AREAS

Section

203.201	Prohibition
203.202	Coordination with Permit Requirement and Application 35 Ill. Adm. Code 201
203.203	Construction Permit Requirement and Application

203.204	Duration of Construction Permit (Repealed)
203.205	Effect of Permits
203.206	Major Stationary Source
203.207	Major Modification of a Source
203.208	Net Emission Determination
203.209	Significant Emissions Determination
203.210	Relaxation of a Source-Specific Limitation
203.211	Permit Exemption Based on Fugitive Emissions

SUBPART C: REQUIREMENTS FOR MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

Section	
203.301	Lowest Achievable Emission Rate
203.302	Maintenance of Reasonable Further Progress and Emission Offsets
203.303	Baseline and Emission Offsets Determination
203.304	Exemptions from Emissions Offset Requirement (Repealed)
203.305	Compliance by Existing Sources
203.306	Analysis of Alternatives

SUBPART F: OPERATION OF A MAJOR STATIONARY SOURCE OR MAJOR MODIFICATION

Section	
203.601	Lowest Achievable Emission Rate Compliance Requirement
203.602	Emission Offset Maintenance Requirement
203.603	Ambient Monitoring Requirement (Repealed)

SUBPART G: GENERAL MAINTENANCE OF EMISSION OFFSETS

Section	
203.701	General Maintenance of Emission Offsets

SUBPART H: OFFSETS FOR EMISSION INCREASES FROM ROCKET ENGINES AND MOTOR FIRING

Section	
203.801	Offsetting by Alternative or Innovative Means

SUBPART I: GENERAL PROVISIONS

Section	
<u>203.1000</u>	<u>Incorporations by Reference</u>
<u>203.1010</u>	<u>Abbreviations and Acronyms</u>
<u>203.1020</u>	<u>Severability</u>
<u>203.1030</u>	<u>Definitions</u>

<u>203.1040</u>	<u>Actual Emissions</u>
<u>203.1050</u>	<u>Allowable Emissions</u>
<u>203.1060</u>	<u>Available Growth Margin</u>
<u>203.1070</u>	<u>Baseline Actual Emissions</u>
<u>203.1080</u>	<u>Begin Actual Construction</u>
<u>203.1090</u>	<u>Building, Structure, Facility, or Installation</u>
<u>203.1100</u>	<u>Commence</u>
<u>203.1110</u>	<u>Complete</u>
<u>203.1120</u>	<u>Construction</u>
<u>203.1130</u>	<u>Dispersion Technique</u>
<u>203.1140</u>	<u>Electric Utility Steam Generating Unit</u>
<u>203.1150</u>	<u>Emission Offset</u>
<u>203.1160</u>	<u>Emissions Unit</u>
<u>203.1170</u>	<u>Excessive Concentration</u>
<u>203.1180</u>	<u>Federally Enforceable</u>
<u>203.1190</u>	<u>Fugitive Emissions</u>
<u>203.1200</u>	<u>Good Engineering Practice</u>
<u>203.1210</u>	<u>Lowest Achievable Emission Rate</u>
<u>203.1220</u>	<u>Major Modification</u>
<u>203.1230</u>	<u>Major Stationary Source</u>
<u>203.1240</u>	<u>Nearby</u>
<u>203.1250</u>	<u>Necessary Preconstruction Approvals or Permits</u>
<u>203.1260</u>	<u>Net Emissions Increase</u>
<u>203.1270</u>	<u>Nonattainment Area</u>
<u>203.1280</u>	<u>Nonattainment New Source Review (NA NSR) Permit</u>
<u>203.1290</u>	<u>Potential to Emit</u>
<u>203.1300</u>	<u>Process Unit</u>
<u>203.1310</u>	<u>Project</u>
<u>203.1320</u>	<u>Projected Actual Emissions</u>
<u>203.1330</u>	<u>Reasonable Further Progress</u>
<u>203.1340</u>	<u>Regulated NSR Pollutant</u>
<u>203.1350</u>	<u>Replacement Unit</u>
<u>203.1360</u>	<u>Secondary Emissions</u>
<u>203.1370</u>	<u>Significant</u>
<u>203.1380</u>	<u>Significant Emissions Increase</u>
<u>203.1390</u>	<u>Stack in Existence</u>
<u>203.1400</u>	<u>Stationary Source</u>

SUBPART J: MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

<u>Section</u>	
<u>203.1410</u>	<u>Applicability</u>
<u>203.1420</u>	<u>Effect of Permits</u>
<u>203.1430</u>	<u>Relaxation of a Source-Specific Limitation</u>
<u>203.1440</u>	<u>Prohibitions</u>
<u>203.1450</u>	<u>Control of Ozone, PM₁₀, and PM_{2.5}</u>

203.1460 Permit Exemption Based on Fugitive Emissions

SUBPART K: STACK HEIGHTS

Section

203.1500 Stack Heights

SUBPART L: GENERAL OBLIGATIONS OF THE ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

Section

203.1600 Construction Permit

203.1610 Public Participation

SUBPART M: NON-APPLICABILITY RECORDKEEPING AND REPORTING

Section

203.1700 Recordkeeping and Reporting Requirements for Certain Projects at Major
Stationary Sources in Nonattainment Areas

SUBPART N: REQUIREMENTS FOR MAJOR STATIONARY SOURCES IN
NONATTAINMENT AREAS

Section

203.1800 Lowest Achievable Emission Rate

203.1810 Emissions Offsets

203.1820 Compliance by Existing Sources

203.1830 Analysis of Alternatives

SUBPART O: GENERAL MAINTENANCE OF EMISSION OFFSETS

Section

203.1900 General Maintenance of Emission Offsets

SUBPART P: OFFSETS FOR EMISSION INCREASES FROM ROCKET ENGINES AND
MOTOR FIRING

Section

203.2000 Offsetting by Alternative or Innovative Means

SUBPART Q: PLANTWIDE APPLICABILITY LIMITATION

Section

203.2100 Applicability

203.2110 Definitions

203.2120 Actuals PAL

<u>203.2130</u>	<u>Allowable Emissions</u>
<u>203.2140</u>	<u>Best Available Control Technology (BACT)</u>
<u>203.2150</u>	<u>Continuous Emissions Monitoring System (CEMS)</u>
<u>203.2160</u>	<u>Continuous Emissions Rate Monitoring System (CERMS)</u>
<u>203.2170</u>	<u>Continuous Parameter Monitoring System (CPMS)</u>
<u>203.2180</u>	<u>Federal Land Manager</u>
<u>203.2190</u>	<u>Major Emissions Unit</u>
<u>203.2200</u>	<u>Plantwide Applicability Limitation (PAL)</u>
<u>203.2210</u>	<u>PAL Effective Date</u>
<u>203.2220</u>	<u>PAL Effective Period</u>
<u>203.2230</u>	<u>PAL Major Modification</u>
<u>203.2240</u>	<u>PAL Permit</u>
<u>203.2250</u>	<u>PAL Pollutant</u>
<u>203.2260</u>	<u>Predictive Emissions Monitoring System (PEMS)</u>
<u>203.2270</u>	<u>Reasonably Available Control Technology (RACT)</u>
<u>203.2280</u>	<u>Significant Emissions Unit</u>
<u>203.2290</u>	<u>Small Emissions Unit</u>
<u>203.2300</u>	<u>Permit Application Requirements</u>
<u>203.2310</u>	<u>General Requirements for Establishing PAL</u>
<u>203.2320</u>	<u>Public Participation Requirements</u>
<u>203.2330</u>	<u>Setting the 10-Year Actuals PAL Level</u>
<u>203.2340</u>	<u>Contents of the PAL Permit</u>
<u>203.2350</u>	<u>Effective Period and Reopening a PAL Permit</u>
<u>203.2360</u>	<u>Expiration of a PAL</u>
<u>203.2370</u>	<u>Renewal of a PAL</u>
<u>203.2380</u>	<u>Increasing the PAL During the PAL Effective Period</u>
<u>203.2390</u>	<u>Monitoring Requirements</u>
<u>203.2400</u>	<u>Recordkeeping Requirements</u>
<u>203.2410</u>	<u>Reporting and Notification Requirements</u>
<u>203.2420</u>	<u>Transition Requirements</u>

SUBPART R: REQUIREMENTS FOR MAJOR STATIONARY SOURCES IN
ATTAINMENT AND UNCLASSIFIABLE AREAS

<u>Section</u>	
<u>203.2500</u>	<u>Applicability</u>
<u>203.2510</u>	<u>Criteria</u>
<u>203.2520</u>	<u>Requirements</u>
<u>203.2530</u>	<u>Construction Permit</u>

AUTHORITY: Implementing Section 9.1 and 10 and authorized by Section 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9.1, 10, 27 and 28.5].

SOURCE: Adopted and codified at 7 Ill. Reg. 9344, effective July 22, 1983; codified at 7 Ill. Reg. 13588; amended in R85-20 at 12 Ill. Reg. 6118, effective March 22, 1988; amended in R91-24 at 16 Ill. Reg. 13551, effective August 24, 1992; amended in R92-21 at 17 Ill. Reg. 6973,

effective April 30, 1993; amended in R93-9 at 17 Ill. Reg. 16630, effective September 27, 1993; amended in R93-26 at 18 Ill. Reg. 6335, effective April 15, 1994; amended in R98-10 at 22 Ill. Reg. 5674, effective March 10, 1998; amended in R19-1 at 44 Ill. Reg. 14916, effective September 4, 2020; amended in R22-17 at 49 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 203.100 Effective Dates

- a) Subparts I through R of this Part do not apply until the effective date of approval of all of those Subparts by the United States Environmental Protection Agency (USEPA) as a revision to the Illinois State Implementation Plan.
- b) On the effective date of approval of Subparts I through R of this Part by the USEPA as part of Illinois' State Implementation Plan, the permitting and operation of projects that began actual construction or may begin actual construction before this date shall continue to be in compliance with Subparts A through H of this Part.

(Source: Added at 49 Ill. Reg. _____, effective _____)

SUBPART I: GENERAL PROVISIONS

Section 203.1000 Incorporations by Reference

The following materials are incorporated by reference. These incorporations by reference do not include any later amendments or editions.

- a) 40 CFR Part 51, Subpart I (2021)
- b) 40 CFR 52.21 (2021)
- c) 40 CFR Part 51, Appendix S (2021)
- d) 40 CFR Part 51, Appendix W (2021)
- e) 40 CFR Part 60 (2021)
- f) 40 CFR Part 61 (2021)
- g) 40 CFR Part 62 (2021)
- h) 40 CFR Part 63 (2021)
- i) 40 CFR Part 81 (2021)

- j) Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1010 Abbreviations and Acronyms

The following abbreviations and acronyms are used in this Part:

<u>µg/m³</u>	<u>micrograms per cubic meter</u>
<u>Act</u>	<u>Illinois Environmental Protection Act</u>
<u>Agency</u>	<u>Illinois Environmental Protection Agency</u>
<u>BACT</u>	<u>Best Available Control Technology</u>
<u>Board</u>	<u>Illinois Pollution Control Board</u>
<u>Btu</u>	<u>British Thermal Units</u>
<u>CAA</u>	<u>Clean Air Act</u>
<u>CAAPP</u>	<u>Clean Air Act Permit Program</u>
<u>CEMS</u>	<u>Continuous Emissions Monitoring System</u>
<u>CERMS</u>	<u>Continuous Emissions Rate Monitoring System</u>
<u>CFR</u>	<u>Code of Federal Regulations</u>
<u>CO</u>	<u>carbon monoxide</u>
<u>CO₂</u>	<u>carbon dioxide</u>
<u>CPMS</u>	<u>Continuous Parameter Monitoring System</u>
<u>FR</u>	<u>Federal Register</u>
<u>LAER</u>	<u>Lowest Achievable Emission Rate</u>
<u>MW</u>	<u>megawatts</u>
<u>NAAQS</u>	<u>National Ambient Air Quality Standards</u>
<u>NAICS</u>	<u>North American Industry Classification System</u>
<u>NO₂</u>	<u>nitrogen dioxide</u>
<u>NO_x</u>	<u>nitrogen oxides</u>
<u>NSPS</u>	<u>New Source Performance Standards</u>
<u>NSR</u>	<u>New Source Review</u>
<u>NA NSR</u>	<u>Nonattainment New Source Review</u>
<u>O₂</u>	<u>oxygen</u>
<u>PAL</u>	<u>Plantwide Applicability Limitation</u>
<u>PEMS</u>	<u>Predictive Emissions Monitoring System</u>
<u>PM_{2.5}</u>	<u>Particulate Matter equal to or less than 2.5 microns in diameter (Fine Particulate Matter)</u>
<u>PM₁₀</u>	<u>Particulate Matter equal to or less than 10 microns in diameter</u>
<u>PSD</u>	<u>Prevention of Significant Deterioration</u>
<u>RACT</u>	<u>Reasonably Available Control Technology</u>
<u>SIC</u>	<u>Standard Industrial Classification</u>
<u>SIP</u>	<u>State Implementation Plan</u>
<u>SO₂</u>	<u>sulfur dioxide</u>
<u>tpy</u>	<u>tons per year</u>

<u>US</u>	<u>United States</u>
<u>USC</u>	<u>United States Code</u>
<u>USEPA</u>	<u>United States Environmental Protection Agency</u>
<u>VOM</u>	<u>Volatile Organic Material</u>

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1020 Severability

If any provision of this Part, or the application of that provision to any person or circumstance, is held invalid, the remainder of this Part, or the application of the provision to persons or circumstances other than those as to which it is held invalid, shall not be affected by that holding.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1030 Definitions

Unless otherwise specified in this Part, terms used in this Part have the same meaning as the terms used in 35 Ill. Adm. Code Part 211.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1040 Actual Emissions

- a) "Actual Emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit as determined in compliance with subsections (b) through (c), except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Subpart Q. Instead, Section 203.1070 and Section 203.1320 shall apply for those purposes.
- b) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Agency shall allow the use of a different time period upon a demonstration by the applicant to the Agency that the time period is more representative of normal source operation. Such demonstration may include, but need not be limited to, operating records or other documentation of events or circumstances indicating that the preceding 24-month period is not representative of normal source operations. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored or combusted during the selected time period.
- c) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1050 Allowable Emissions

"Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- a) The applicable standards set forth in 40 CFR Parts 60, 61, 62 and 63, incorporated by reference in Section 203.1000;
- b) The applicable SIP emissions limitation, including those with a future compliance date; or
- c) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1060 Available Growth Margin

"Available growth margin" means the portion which remains of any emission allowance for new or modified major stationary sources expressly identified in the attainment demonstration approved by the USEPA under section 172(c)(4) of the CAA (42 USC 7502(c)(4)) for a particular pollutant and area in a zone (within a nonattainment area) to which economic development should be targeted, in compliance with section 173(a)(1)(B) of the CAA (42 USC 7503(a)(1)(B)).

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1070 Baseline Actual Emissions

"Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with subsections (a) through (d).

- a) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The Agency shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

- 1) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
 - 2) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.
 - 3) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.
 - 4) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsection (a)(2).
- b) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Agency for a permit required by the SIP, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.
- 1) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
 - 2) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.
 - 3) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. "Currently" in the context of a contemporaneous emissions change refers to limitations on emissions and source operation that existed just prior to the date of the contemporaneous change. However, if an emission limitation is part of a Maximum Achievable Control Technology

standard that the USEPA proposed or promulgated under 40 CFR Part 63 (incorporated by reference in Section 203.1000), the baseline actual emissions need only be adjusted if the Agency has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of Section 203.1810(g)(2).

- 4) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.
- 5) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsections (b)(2) and (b)(3).
- c) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero. Thereafter, for all other purposes, it shall equal the unit's potential to emit.
- d) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in subsection (a), for other existing emissions units in accordance with the procedures contained in subsection (b), and for a new emissions unit according to the procedures contained in subsection (c).

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1080 Begin Actual Construction

"Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. Such activities include, but not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1090 Building, Structure, Facility, or Installation

- a) "Building, structure, facility, or installation" mean all of the pollutant-emitting activities which 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 shall 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 203.1000).

- 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, incorporated by reference in Section 203.1000, 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 shall 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: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1100 Commence

"Commence," as applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits and either has:

- a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or
- b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1110 Complete

"Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1120 Construction

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1130 Dispersion Technique

- a) "Dispersion technique" means any technique that attempts to affect the concentration of a pollutant in the ambient air by:
- 1) Using the portion of a stack that exceeds good engineering practice stack height;
 - 2) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or
 - 3) Increasing final exhaust gas plume rise by:
 - A) Manipulating source process parameters, exhaust gas parameters, or stack parameters;
 - B) Combining exhaust gases from several existing stacks into one stack; or
 - C) Other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.
- b) "Dispersion technique" does not include:
- 1) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the stationary source generating the gas stream;
 - 2) The merging of exhaust gas streams when:
 - A) The source owner or operator demonstrates that the stationary source was originally designed and constructed with such merged gas streams;
 - B) After July 8, 1985, the merging is part of a change in operation at the stationary source that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of

dispersion techniques shall apply only to the emission limitation for the pollutant affected by the change in operation; or

C) Before July 8, 1985, such merging was part of a change in operation at the stationary source that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. When there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Agency shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Agency shall deny credit for the effects of the merging in calculating the allowable emissions for the source;

3) Smoke management in agricultural or silvicultural prescribed burning programs;

4) Episodic restrictions on residential wood burning and open burning; or

5) Techniques under subsection (a)(3) that increase final exhaust gas plume rise when the resulting allowable emissions of SO₂ from the stationary source do not exceed 5,000 tpy.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1140 Electric Utility Steam Generating Unit

"Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1150 Emission Offset

"Emission offset" means a creditable emissions reduction used to compensate for the increase in emissions resulting from a new major stationary source or a major modification in accordance with Section 203.1810.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1160 Emissions Unit

"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit as defined in Section 203.1140. For purposes of this Part, there are two types of emissions units.

- a) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.
- b) An existing emissions unit is any emissions unit that does not meet the requirements of subsection (a). A replacement unit, as defined in Section 203.1350, is an existing emissions unit.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1170 Excessive Concentration

"Excessive concentration" is defined for the purposes of determining good engineering practice stack height under Section 203.1200(a)(3) and means:

- a) For sources seeking credit for stack height exceeding that established under Section 203.1200(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% 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% 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 35 Ill. Adm. Code 204.900. The allowable emission rate to be used in making demonstrations of excessive concentration shall 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 shall 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 203.1200(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) shall 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 203.1200(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 203.1200(a)(2), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1180 Federally Enforceable

"Federally enforceable" means all limitations and conditions which are enforceable by the USEPA, including those requirements developed pursuant to 40 CFR Parts 60, 61, 62 and 63 (incorporated by reference in Section 203.1000), requirements within the SIP, any permit requirements established pursuant to 40 CFR 52.21 (incorporated by reference in Section 203.1000) or this Part or under regulations approved pursuant to 40 CFR Part 51, Subpart I (incorporated by reference in Section 203.1000), including operating permits issued under an USEPA-approved program that is incorporated into the SIP and expressly requires adherence to any permit issued under such program.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1190 Fugitive Emissions

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1200 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 52 (incorporated by reference in Section 204.100):

$$\underline{H_g = 2.5H,}$$

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

B) For all other stacks:

$$\underline{H_g = H + 1.5L}$$

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: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1210 Lowest Achievable Emission Rate

“Lowest Achievable Emission Rate” or “LAER” means, for any source, the more stringent rate of emissions based on the following:

- a) The most stringent emissions limitation which is contained in the implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or
- b) The most stringent emissions limitation which is achieved in practice by the class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source performance standard adopted by the USEPA under section 111 of the CAA and made applicable in Illinois under Section 9.1 of the Act.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1220 Major Modification

- a) Except as provided in subsections (d) through (f) below, “major modification” means any physical change or change in the method of operation of a major stationary source that would result in: a significant emissions increase (as defined in Section 203.1380) of a regulated NSR pollutant (as defined in Section 203.1340); and a significant net emissions increase of that regulated NSR pollutant for which the source is a major stationary source.
- b) Any significant emissions increase (as defined in Section 203.1380) from any emissions units or net emissions increase (as defined in Section 203.1260) at a major stationary source that is significant for VOM or NO_x shall be considered significant for ozone.
- c) A physical change or change in the method of operation shall not include:
 - 1) Routine maintenance, repair and replacement;
 - 2) Use of an alternative fuel or raw material by reason of:
 - A) An order under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 USC 791) (or any superseding legislation); or
 - B) A natural gas curtailment plan under the Federal Power Act (16 USC 791);

- 3) Use of an alternative fuel by reason of an order or rule under section 125 of the CAA (42 USC 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 which:
 - A) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21, 35 Ill. Adm. Code 204, 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, 35 Ill. Adm. Code 204, 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 is prohibited under any enforceable permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21, 35 Ill. Adm. Code 204, this Part, or 35 Ill. Adm. Code 201.142 or 201.143; or
 - 7) Any change in ownership at a stationary source.
- d) In the case of any major stationary source of VOM or NO_x located in an area classified as serious or severe nonattainment for ozone (other than a source which emits or has the potential to emit 100 tons or more of VOM or NO_x per year), whenever any change at that source results in a significant increase in emissions of VOM or NO_x, respectively, from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a major modification for purposes of this Part, except such increase shall not be considered a major modification for such purposes if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of VOM or NO_x, respectively, from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1.
- e) In areas classified as extreme nonattainment for ozone, beginning on the date that an area is classified by the USEPA as an extreme nonattainment area for ozone, any physical change in or change in the method of operation of a major stationary source which results in any increase in emissions of VOM or NO_x from a discrete operation, unit, or other pollutant emitting activity shall be considered a major modification.

- f) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under Subpart Q for a PAL for that pollutant. Instead, the definition at Section 203.2230 will apply.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1230 Major Stationary Source

- a) The following constitute a major stationary source:
- 1) For an area designated as nonattainment for ozone, a major stationary source for ozone is a stationary source which emits or has the potential to emit VOM in an amount equal to or greater than the following:
 - A) 100 tpy in an area classified as marginal or moderate nonattainment for ozone;
 - B) 50 tpy in an area classified as serious nonattainment for ozone;
 - C) 25 tpy in an area classified as severe nonattainment for ozone; and
 - D) 10 tpy in an area classified as extreme nonattainment for ozone.
 - 2) For an area designated as nonattainment for ozone, a major stationary source for ozone is a stationary source which emits or has the potential to emit NO_x in an amount equal to or greater than the following, unless the USEPA has made a finding under sections 110 and 182(f) of the CAA (42 USC 7410, 7511a(f)) that controlling of emissions of NO_x from such source shall not be required:
 - A) 100 tpy in an area classified as marginal or moderate nonattainment for ozone;
 - B) 50 tpy in an area classified as serious nonattainment for ozone;
 - C) 25 tpy in an area classified as severe nonattainment for ozone; and
 - D) 10 tpy in an area classified as extreme nonattainment for ozone.
 - 3) For an area designated nonattainment for PM₁₀, a major stationary source is a stationary source which emits or has the potential to emit:
 - A) 100 tpy or more of PM₁₀ in an area classified as moderate nonattainment for PM₁₀; and

- B) 70 tpy or more of PM₁₀ in an area classified as serious nonattainment for PM₁₀.
- 4) For an area designated nonattainment for PM_{2.5}, a major stationary source is a stationary source which emits or has the potential to emit:
- A) 100 tpy or more of direct PM_{2.5} emissions in an area classified as moderate nonattainment for PM_{2.5};
- B) 100 tpy or more of any individual precursor for PM_{2.5} (as required in Section 203.1340) in an area classified as moderate nonattainment for PM_{2.5};
- C) 70 tpy or more of direct PM_{2.5} emissions in an area classified as serious nonattainment for PM_{2.5}; and
- D) 70 tpy or more of any individual precursor for PM_{2.5} (as required in Section 203.1340), in an area classified as serious nonattainment for PM_{2.5}.
- 5) For an area designated nonattainment for CO, a major stationary source is a stationary source which emits or has the potential to emit:
- A) 100 tpy or more in an area classified as moderate nonattainment for CO, except as provided in subsection (a)(5)(B);
- B) 50 tpy or more in an area classified as serious nonattainment for CO where stationary sources significantly contribute to ambient CO levels, as determined under rules issued by the USEPA, under the CAA.
- 6) For an area designated as nonattainment for NO₂, a major stationary source is a stationary source which emits or has the potential to emit 100 tpy or more of NO_x.
- 7) For an area designated nonattainment for a pollutant other than those pollutants addressed in subsections (a)(1) through (a)(6) above, a major stationary source is a stationary source which emits or has the potential to emit 100 tpy or more of the pollutant.
- 8) For stationary sources locating outside designated nonattainment areas for purposes of Subpart R, a major stationary source is a stationary source which emits or has the potential to emit 100 tpy or more of a regulated NSR pollutant.

- b) Any physical change that occurs at a stationary source which does not qualify under subsection (a) as a major stationary source will be considered a major stationary source, if the change would constitute a major stationary source by itself.
- c) The fugitive emissions of a stationary source shall not be included in determining for any purposes of this Section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:
- 1) Coal cleaning plants (with thermal dryers);
 - 2) Kraft pulp mills;
 - 3) Portland cement plants;
 - 4) Primary zinc smelters;
 - 5) Iron and steel mills;
 - 6) Primary aluminum ore reduction plants;
 - 7) Primary copper smelters;
 - 8) Municipal incinerators capable of charging more than 50 tons of refuse per day;
 - 9) Hydrofluoric, sulfuric, or nitric acid plants;
 - 10) Petroleum refineries;
 - 11) Lime plants;
 - 12) Phosphate rock processing plants;
 - 13) Coke oven batteries;
 - 14) Sulfur recovery plants;
 - 15) Carbon black plants (furnace process);
 - 16) Primary lead smelters;
 - 17) Fuel conversion plants;
 - 18) Sintering plants;

- 19) Secondary metal production plants;
- 20) Chemical process plants-The term “chemical processing plant” shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- 21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million Btu per hour heat input;
- 22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- 23) Taconite ore processing plants;
- 24) Glass fiber processing plants;
- 25) Charcoal production plants;
- 26) Fossil fuel-fired steam electric plants of more than 250 million Btu per hour heat input; and
- 27) Any other stationary source categories which, as of August 7, 1980, is being regulated by a standard promulgated under section 111 or 112 of the CAA (42 USC 7411, 7412), but only with respect to those air pollutants that have been regulated for that category.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1240 Nearby

"Nearby", with respect to a specific structure or terrain feature:

- a) For purposes of applying the formula provided in Section 204.420(a)(2), means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (½ mile); and
- b) For conducting demonstrations under Section 204.420(a)(3), means not greater than 0.8 km (½ mile), except that a portion of a terrain feature may be considered to be nearby if it falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if such feature achieves a height, 0.8 km from the stack, that is at least 40 percent of the good engineering practice stack height determined by the formula provided in Section 204.420(a)(2)(B) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1250 Necessary Preconstruction Approvals or Permits

“Necessary preconstruction approvals or permits” mean those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable SIP.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1260 Net Emissions Increase

- a) “Net emissions increase” means, with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:
- 1) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to Section 203.1410(c); and
 - 2) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this Section shall be determined as provided in Section 203.1070, except that Section 203.1070(a)(3) and Section 203.1070(b)(4) shall not apply.
- b) The following steps determine whether the increase or decrease in emissions is available.
- 1) Except for increases or decreases in VOM and NO_x emissions in serious and severe ozone nonattainment areas which are addressed in Section 203.1370(c), an increase or decrease in actual emissions is contemporaneous only if it occurs between the date that an increase from a particular change occurs and the date five years before a timely and complete application is submitted for the particular change. It shall also occur after either April 24, 1979, or the date the area is designated by the USEPA as a nonattainment area for the pollutant, whichever is more recent.
 - 2) An increase or decrease in actual emissions is creditable:
 - A) Only if there is not in effect for the source at the time the particular change occurs, a permit issued under this Part which relied on the same increase or decrease in actual emissions; and

- B) Only to the extent the new and old levels differ.
- 3) A decrease in actual emissions is creditable only to the extent that:
- A) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;
- B) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change;
- C) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions; and
- D) The Agency has not relied on it in issuing any permit under 35 Ill. Adm. Code 201.142 or 201.143 or this Part or 35 Ill. Adm. Code 204 or 40 CFR 52.21 and has not relied on it for demonstrating attainment or reasonable further progress.
- 4) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any emission unit that replaces an existing emissions unit that requires shakedown becomes operational only after a shakedown period, not to exceed 180 days.
- 5) Section 203.1040(b) shall not apply for determining creditable increases and decreases after a change.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1270 Nonattainment Area

An area designated by the USEPA as nonattainment for a given pollutant under section 107 of the CAA (42 USC 7407) in Subpart C of 40 CFR Part 81.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1280 Nonattainment New Source Review (NA NSR) Permit

“Nonattainment New Source Review permit” or “NA NSR permit” means a permit or a portion of a permit for a new major source or major modification that is issued by the Agency under the construction permit program required by Section 9.1(c) of the Act that has been approved by USEPA and incorporated into the Illinois SIP to implement the requirements of section 173 of the CAA and 40 CFR 51.165. [415 ILCS 5/3.298]

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1290 Potential to Emit

“Potential to emit” means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable or legally and practicably enforceable by a state or local air pollution control agency. Secondary emissions do not count in determining the potential to emit of a stationary source.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1300 Process Unit

“Process unit” means any collection of structures and/or equipment that processes, assembles, applies, blends, or otherwise uses material inputs to produce or store an intermediate or completed product. A process unit may contain more than one emissions unit.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1310 Project

“Project” means a physical change in or change in the method of operation of an existing major stationary source.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1320 Projected Actual Emissions

- a) “Projected actual emissions” means the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit’s design capacity or its potential to emit that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.
- b) In determining the projected actual emissions under subsection (a) (before beginning actual construction), the owner or operator of the major stationary source:

- 1) Shall consider all relevant information, including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or federal regulatory authorities, and compliance plans under Illinois' SIP; and
- 2) Shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and
- 3) Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under Section 203.1070 and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or
- 4) In lieu of using the method set out in subsections (b)(1) through (b)(3), may elect to use the emissions unit's potential to emit, in tons per year, as defined under Section 203.1290.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1330 Reasonable Further Progress

"Reasonable further progress" means the annual incremental reductions in the emissions of the pollutant as determined by the USEPA pursuant to Part D of Title I of the CAA (42 USC 7501 et seq.) and federal regulations adopted pursuant thereto.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1340 Regulated NSR Pollutant

"Regulated NSR pollutant" means the following:

- a) NO_x or VOM;
- b) Any pollutant for which a NAAQS has been promulgated;
- c) Any pollutant that is identified under this Section as a constituent or precursor of a general pollutant listed under subsection (a) or (b), provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors for purposes of the following:

- 1) Except as provided in Section 203.1450, VOM and NO_x are precursors to ozone in all ozone nonattainment areas.
 - 2) SO₂ and NO_x are precursors to PM_{2.5} for a stationary source located in a PM_{2.5} nonattainment area or, for purposes of Subpart R, a stationary source which would cause or contribute to a violation of a PM_{2.5} NAAQS.
 - 3) VOM and ammonia are precursors to PM_{2.5} in any PM_{2.5} nonattainment area.
- d) Direct PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity that condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for direct PM_{2.5} emissions and PM₁₀ emissions in NA NSR permits. Compliance with emissions limitations for direct PM_{2.5} emissions and PM₁₀ emissions issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered as a violation of this Part.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1350 Replacement Unit

“Replacement unit” means an emissions unit for which all the criteria listed in subsections (a) through (d) are met. No creditable emissions reductions shall 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 the emissions unit 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 shall 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 shall 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) is 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 shall 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 shall 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, then the owner or operator shall 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 shall constitute a new emissions unit.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1360 Secondary Emissions

“Secondary Emissions” means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel. For the purposes of this Part, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the major stationary source or major modification which causes the secondary emissions.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1370 Significant

- a) “Significant” means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

<u>Pollutant</u>	<u>Emissions Rate</u>
<u>CO</u>	<u>100 tpy of CO, except under subsection (b)</u>
<u>NO₂</u>	<u>40 tpy of NO_x</u>
<u>SO₂</u>	<u>40 tpy of SO₂</u>
<u>PM₁₀</u>	<u>15 tpy of PM₁₀</u>
<u>PM_{2.5}</u>	<u>10 tpy of direct PM_{2.5} emissions; 40 tpy of SO₂, 40 tpy of NO_x, 40 tpy of VOM, or 40 tpy of ammonia, to the extent that any such pollutant is defined as a precursor for PM_{2.5} in Section 203.1340.</u>
<u>Ozone</u>	<u>40 tpy of VOM or NO_x, except under subsections (c) and (d).</u>
<u>Lead</u>	<u>0.6 tpy</u>

- b) For areas classified as serious nonattainment for CO where stationary sources significantly contribute to ambient CO levels, as determined under rules issued by the USEPA, pursuant to the CAA, notwithstanding the significant emissions rate for CO in subsection (a), significant means, an increase in actual emissions of CO that would result from any physical change in or change in the method of operation of a major stationary source, if such increase equals or exceeds 50 tpy.
- c) For areas classified as serious or severe nonattainment for ozone, notwithstanding the significant emissions rate for ozone in subsection (a), an increase in emissions of VOM or NO_x shall be considered significant if the net emissions increase of such air pollutant from a stationary source located within such area exceeds 25 tons when aggregated with all other net increases in emissions from the source over any period of 5 consecutive calendar years which includes the calendar year

in which such increase occurred. This provision shall become effective beginning November 15, 1992, or such later date when an area is classified as a serious or severe nonattainment area for ozone.

- d) For areas classified as extreme nonattainment for ozone, notwithstanding the significant emissions rate for ozone in subsection (a), any increase in emissions of VOM or NO_x from any emissions unit at a major stationary source of VOM or NO_x shall be considered significant.
- e) For major stationary sources located outside designated nonattainment areas for purposes of Subpart R, an increase in emissions of a regulated NSR pollutant shall be considered significant if it would equal or exceed the rate listed in subsection (a), notwithstanding the attainment status in the area.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1380 Significant Emissions Increase

“Significant emissions increase” means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in Section 203.1370) for that pollutant.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1390 Stack in Existence

“Stack in existence” means that the owner or operator had begun, or caused to begin, a continuous program of physical on-site construction of the stack or entered into binding agreements or contractual obligations that could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed within a reasonable time.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1400 Stationary Source

“Stationary source” means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant. Emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216 of the CAA (42 USC 7550) are not a part of a stationary source.

(Source: Added at 49 Ill. Reg. _____, effective _____)

SUBPART J: MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

Section 203.1410 Applicability

- a) The requirements of this Part, other than Subpart R, shall apply to the construction of any new major stationary source (as defined in Section 203.1230) or major modification (as defined in Section 203.1220) that is major for the pollutant for which the area is designated nonattainment under section 107(d)(1)(A)(i) of the CAA (42 USC 7407(d)(1)(A)(i)), if the stationary source or modification would locate anywhere in the designated nonattainment area. Different pollutants, including individual precursors, are not summed to determine applicability of a major stationary source or major modification.
- b) No new major stationary source or major modification to which the requirements of Sections 203.1410, 203.1420, 203.1430, 203.1440, 203.1800, 203.1810, 203.1820, 203.1830, or 203.2000 apply shall 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.
- c) The requirements of this Part will be applied in accordance with subsections (c)(1) through (c)(6).
- 1) Except as otherwise provided in subsection (e) and in Sections 203.1220(d) through (e), and consistent with the definition of major modification contained in Section 203.1220, 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 203.1380), and a significant net emissions increase (as defined in Section 203.1260 and Section 203.1370). 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 (c)(3) through (c)(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 203.1260. 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 203.1320) and the baseline actual emissions (as defined in Section 203.1070), for

each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in Section 203.1370).

- 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 203.1290) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in Section 203.1070) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in Section 203.1370).
 - 5) Hybrid Test for Projects That Involve Multiple Types of Emissions 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 (c)(3) and (c)(4) as applicable with respect to each emissions unit, equals or exceeds the significant amount for that pollutant (as defined in Section 203.1370).
 - 6) The “sum of the difference” as used in subsections (c)(3) through (c)(5) shall include both increases and decreases in emissions calculated in compliance with those subsections.
- d) Except as otherwise provided in Section 203.1700(f)(2), the provisions of Section 203.1700 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 203.1700(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 203.1320(b)(1) through (b)(3) for calculating projected actual emissions.
 - e) For any major stationary source with a PAL for a regulated NSR pollutant, the major stationary source shall comply with requirements under Section 203.2100 through Section 203.2420.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1420 Effect of Permits

Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, State, or federal law.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1430 Relaxation of a Source-Specific Limitation

At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this Part shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1440 Prohibitions

- a) A major stationary source or major modification shall not violate any condition contained in a construction permit issued for a new major stationary source or major modification which is subject to this Part.
- b) In any nonattainment area, no person may begin actual construction of a new major stationary source or major modification that is major for the regulated NSR pollutant for which the area is designated as nonattainment area under section 107(d)(1)(A)(i) of the CAA (42 USC 7407(d)(1)(A)(i)), except as in compliance with this Subpart and Subpart N. Revisions to this Part which were adopted to implement the CAA Amendments of 1990 will not apply to any new major stationary source or major modification for which a permit application was submitted by June 30, 1992, for PM₁₀; by May 15, 1992, for SO₂; or by November 15, 1992, for VOM and NO_x emissions for sources located in all ozone nonattainment areas.
- c) A person shall not cause or allow the operation of a new major stationary source or major modification subject to the requirements of Subpart N, except as in compliance with applicable LAER provisions established under Section 203.1800 for such source or modification.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1450 Control of Ozone, PM₁₀, and PM_{2.5}

- a) The provisions of this Part applicable to major stationary sources and major modifications of VOM shall apply to NO_x emissions from major stationary sources and major modifications of NO_x in any ozone nonattainment area, except in ozone nonattainment areas where the USEPA has granted a NO_x waiver applying the standards under section 182(f) of the CAA (42 USC 7511a(f)) and the waiver continues to apply.
- b) The provisions of this Part applicable to major stationary sources and major modifications of PM₁₀ shall also apply to major stationary sources and major

modifications of PM₁₀ precursors, except where the USEPA determines that such sources do not contribute significantly to PM₁₀ levels that exceed the PM₁₀ ambient standards in the area.

- c) The control requirements of this Part which are applicable to major stationary sources and major modifications of PM_{2.5} shall also apply to major stationary sources and major modifications of PM_{2.5} precursors which are regulated NSR pollutants in a PM_{2.5} nonattainment area.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1460 Permit Exemption Based on Fugitive Emissions

The provisions of this Part shall not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable as evidenced by 35 Ill. Adm. Code 201.122, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the categories enumerated in Section 203.1230(c).

(Source: Added at 49 Ill. Reg. _____, effective _____)

SUBPART K: STACK HEIGHTS

Section 203.1500 Stack Heights

- a) The degree of emission limitation required for control of any regulated NSR pollutant under this Part shall not be affected in any manner by:
- 1) So much portion of the stack height of any source that exceeds good engineering practice, or
 - 2) Any other dispersion technique.
- b) Except as provided in subsection (c), subsection (a) shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.
- c) Notwithstanding subsection (b), subsection (a) shall apply where regulated NSR pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in section 111(a)(3) of the CAA (42 USC 7411(a)(3)), which were constructed, or reconstructed, or for which major modifications were carried out after December 31, 1970.
- d) Subsection (a) shall not apply with respect to coal-fired steam electric generating units subject to the provisions of section 118 of the CAA (42 USC 7418), which

commenced operation before July 1, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974.

(Source: Added at 49 Ill. Reg. _____, effective _____)

SUBPART L: GENERAL OBLIGATIONS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Section 203.1600 Construction Permit

- a) The Agency shall only issue a construction permit for a new major stationary source or a major modification that is subject to the requirements of this Part, other than this Subpart or Subpart R, if the Agency determines all applicable requirements of this Part, other than this Subpart and Subpart R, are satisfied.
- b) The Agency shall include in any NA NSR permit conditions specifying the manner in which the applicable requirements of Subpart N apply.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1610 Public Participation

- a) Prior to the initial issuance or a modification of a permit issued pursuant to this Part, the Agency shall provide, at a minimum, a notice of the proposed issuance or modification of a permit, a comment period, and opportunity for public hearing pursuant to the Agency's public participation procedures at 35 Ill. Adm. Code 252.
- b) In addition to the applicable requirements of 35 Ill. Adm. Code 252:
 - 1) The notice for the comment period or public hearing prepared by the Agency shall include information on how to access the draft permit and the administrative record for the draft permit.
 - 2) The Agency shall also send a copy of this notice to:
 - A) The USEPA;
 - B) All other state and local air pollution control agencies having jurisdiction in the region in which such new or modified source would be or is located; and
 - C) Any other agency in the region having responsibility for implementing the procedures required under this Part.

- 3) The Project Summary, Statement of Basis or Fact Sheet that accompanies the draft of a permit that would be issued pursuant to this Part or the draft of a modification permit that would be issued pursuant to this Part shall describe the basis of the Agency's proposed decision to grant the permit and include a discussion of the Agency's analysis of the effect of the construction or modification on ambient air quality, including the Agency's proposed action.

(Source: Added at 49 Ill. Reg. _____, effective _____)

SUBPART M: NON-APPLICABILITY RECORDKEEPING AND REPORTING

Section 203.1700 Recordkeeping and Reporting Requirements for Certain Projects at Major Stationary Sources in Nonattainment Areas

Except as otherwise provided in subsection (f), the provisions of this Section apply with respect to any regulated NSR pollutant emitted from projects involving existing emissions unit or units at a major stationary source in a nonattainment area (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility, within the meaning of subsection (f), that a project that is not a major modification for the pollutant may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in Section 203.1320(b)(1) through (b)(3) for calculating projected actual emissions.

- a) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:
- 1) A description of the project;
 - 2) Identification of the emissions unit or units whose emissions of a regulated NSR pollutant could be affected by the project; and
 - 3) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under Section 203.1320(b)(3) and an explanation for why such amount was excluded, and any netting calculations, if applicable.
- b) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in subsection (a) to the Agency. Nothing in this subsection shall be construed to require the owner or operator of such a unit to obtain any determination from the Agency before beginning actual construction.
- c) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions

unit identified in subsection (a)(2); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit that regulated NSR pollutant at such emissions unit.

- d) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Agency within 60 days after the end of each year during which records must be generated under subsection (c) setting out the unit's annual emissions during the calendar year that preceded submission of the report.
- e) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the Agency if the annual emissions, in tons per year, from the project identified in subsection (a), exceed the baseline actual emissions (as documented and maintained under subsection (a)(3)), by a significant amount (as defined in Section 203.1370) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained under subsection (a)(3). Such report shall be submitted to the Agency within 60 days after the end of such year. The report shall contain the following:
- 1) The name, address, and telephone number of the major stationary source;
 - 2) The annual emissions as calculated under subsection (c); and
 - 3) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).
- f) A "reasonable possibility" under this Section occurs when the owner or operator calculates the project to result in either:
- 1) A projected actual emissions increase of at least 50% of the amount that is a "significant emissions increase," as defined in Section 203.1380 (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or
 - 2) A projected actual emissions increase that, added to the amount of emissions excluded under Section 203.1320(b)(3), sums to at least 50% of the amount that is a "significant emissions increase," as defined under Section 203.1380 (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of this

subsection (f)(2), and not also within the meaning of subsection (f)(1), then subsections (b) through (e) do not apply to the project.

- g) The owner or operator of the source shall make the information required to be documented and maintained pursuant to this Section available for review upon a request for inspection by the Agency or the USEPA or the general public pursuant to the requirements of Section 39.5(8)(e) of the Act.

(Source: Added at 49 Ill. Reg. _____, effective _____)

SUBPART N: REQUIREMENTS FOR MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

Section 203.1800 Lowest Achievable Emission Rate

- a) The owner or operator of a new major stationary source shall demonstrate that the control equipment and process measures applied to the source will produce LAER for each regulated NSR pollutant for which the stationary source is major.
- b) Except as provided in subsections (d) or (e), the owner or operator of a major modification shall demonstrate that the control equipment and process measures applied to the major modification will produce LAER for each regulated NSR pollutant for which the modification is major. This requirement applies to each emissions unit at which a net increase in emissions of the regulated NSR pollutant has occurred or would occur as a result of a physical change or change in the method of operation in the emissions unit.
- c) The owner or operator shall provide a detailed showing that the proposed emission limitations constitute LAER. Such demonstration shall include:
- 1) A description of the manner in which the proposed emission limitation was selected, including a detailed listing of information resources,
 - 2) Alternative emission limitations, and
 - 3) Such other reasonable information as the Agency may request as necessary to determine whether the proposed emission limitation is LAER.
- d) If the owner or operator of a major stationary source (other than a source which emits or has the potential to emit 100 tpy or more of VOM or NO_x) located in an area classified as serious or severe nonattainment for ozone does not elect to provide internal offsets for a change at the source in accordance with Section 203.1220(d), such change shall be considered a major modification for purposes of this Part, but in applying this Section in the case of any such modification, the BACT, as defined in section 169 of the CAA (42 USC 7479), shall be substituted

for the LAER. BACT shall be determined in accordance with policies and procedures published by the USEPA.

- e) In the case of any major stationary source of VOM or NO_x located in an area classified as serious or severe nonattainment for ozone which emits or has the potential to emit 100 tpy or more of VOM or NO_x, respectively, whenever any change at that source results in a significant increase in emissions of VOM or NO_x, respectively, from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a major modification for purposes of this Part, except that if the owner or operator elects to offset the increase by a greater reduction in emissions of VOM or NO_x, respectively, from other operations, units or activities within the source at an internal offset ratio of at least 1.3 to 1, the requirements of this Section concerning LAER shall not apply.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1810 Emissions Offsets

- a) The general requirements for emissions offsets are:
- 1) The owner or operator of a new major stationary source or major modification shall provide emissions offsets equal to or greater than the allowable emissions from the source or the increase in emissions from the modification sufficient to allow the Agency to determine that the source or modification will not interfere with reasonable further progress as set forth in section 173 of the CAA (42 USC 7503).
 - A) Emissions offsets are required for the following pollutants for which the area is designated nonattainment or precursors to such pollutant as follows:
 - i) For a new major stationary source, each regulated NSR pollutant for which the stationary source is major.
 - ii) For a major modification, each regulated NSR pollutant for which the modification is major.
 - B) The total tonnage of increased emissions, in tpy, resulting from a major modification that must be offset shall be determined by summing the difference between the allowable emissions after the modification, as defined under Section 203.1050, and the actual emissions before the modification, as defined under Section 203.1040, for each emissions unit.

- C) The Agency shall allow the use of all or some portion of the available growth margin to satisfy this subsection if the owner or operator can present evidence that the possible sources of emissions offsets were investigated, none were available at that time and the new or modified major stationary source is located in a zone (within the nonattainment area) identified by the USEPA, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted.
- b) The ratios for emissions offsets in ozone nonattainment areas are:
- 1) For new major stationary sources or major modifications in ozone nonattainment areas, the ratio of total emissions reductions provided by emission offsets for VOM or NO_x to total increased emissions of the pollutants shall be at least as follows:
- A) 1.1 to 1 in areas classified as marginal;
- B) 1.15 to 1 in areas classified as moderate;
- C) 1.2 to 1 in areas classified as serious;
- D) 1.3 to 1 in areas classified as severe; and
- E) 1.5 to 1 in areas classified as extreme.
- 2) The offset requirement provided in subsection (b)(1)(E) shall not be applicable in extreme areas to a modification of an existing stationary source:
- A) If such modification consists of installation of equipment required to comply with the SIP or the CAA; or
- B) If the owner or operator of the stationary source elects to offset the increase by a greater reduction in emissions of such pollutant from other discrete operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1.
- c) The enforceability requirements for emissions offsets are:
- 1) All emissions reductions relied upon as emissions offsets shall be federally enforceable.
- 2) Except as provided in this subsection, emissions offsets shall be enforceable by the Agency and under the CAA. If emissions reductions

are to be obtained in a state that neighbors Illinois, the emissions reductions committed to shall be enforceable by the neighboring state and/or local agencies and under the CAA.

3) Except as provided in this subsection, emissions offsets shall be accomplished prior to initial start-up of the new major stationary source or major modification. Where the new major stationary source or the major modification is a replacement for an existing stationary source or emissions unit that is being shut down in order to provide necessary offsets, the Agency shall allow up to 180 days for shakedown of the new major stationary source or major modification before the existing stationary source or emissions unit is required to cease operation.

d) Sources providing emissions reductions to meet the requirements of this Section shall meet the following location requirements.

1) The emissions reductions shall be achieved in the same nonattainment area as the increase being offset, except as provided in subsection (d)(2).

2) An owner or operator may obtain the necessary emissions reductions from another nonattainment area where such other area has an equal or higher nonattainment classification than the area in which the new or modified major stationary source is located and the emissions from such other area contribute to a violation of the NAAQS in the nonattainment area in which the new or modified major stationary source is located.

e) Pollutants for emission offsets shall be determined as follows:

1) Emission reductions shall be for the pollutant for which emission offsets are required, e.g., reductions in CO emissions cannot be used as emission offsets for increases in emissions of SO₂ reductions.

2) Replacement of one VOM with another of lesser reactivity does not constitute an emissions reduction.

f) Emissions reductions from shutdowns or curtailments shall be credited as follows:

1) Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours shall be credited for offsets if they meet the following requirements:

A) Such reductions are surplus, permanent, quantifiable and federally enforceable; and

B) The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For this Subpart, the Agency

shall consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emissions units. However, in no event may credit be given for shutdowns that occurred before August 7, 1977.

- 2) Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements in subsection (f)(1)(B) shall be credited only if:
- A) The shutdown or curtailment occurred on or after the date the application for a construction permit is filed; or
 - B) The applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit, and the emissions reductions achieved by the shutdown or curtailment met the requirements of subsection (f)(1)(A).

g) The determination of emissions reductions for offsets shall be made as follows:

- 1) Credit for emissions reductions used as offsets shall be determined as follows:
- A) The baseline for determining credit for emissions reductions is the emissions limit under the applicable SIP in effect at the time the application for a construction permit is filed, except that the offset baseline shall be the actual emissions of the source from which offset credit is obtained where:
 - i) The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within the designated nonattainment area; or
 - ii) The applicable SIP does not contain an emissions limitation for that source or source category.
 - B) Where the emissions limit under the applicable SIP allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below the potential to emit.
 - C) For an existing fuel combustion source, credit shall be based on the allowable emissions under the applicable SIP for the type of fuel being burned at the time the application for a construction permit is filed. If the emissions offset is to be produced by a switch to a

cleaner fuel at some future date, offset credit shall be subject to the following limitations:

- i) Emissions offset credit based on the allowable (or actual) emissions for the fuels involved is allowed only if the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date.
 - ii) Emissions offset credit shall be allowed only if the owner or operator provides evidence that long-term supplies of the cleaner fuel are available.
- 2) Emissions reductions shall not be credited for offsets to the extent they have been previously relied on by the Agency in issuing any permit pursuant to 35 Ill. Adm. Code 201.142 or 201.143 or this Part or for demonstrating attainment or reasonable further progress.
 - 3) Emissions reductions otherwise required by the CAA (42 USC 7401 et seq.) shall not be creditable as emission reductions for purposes of any such offset requirement. Incidental emission reductions which are not otherwise required by the CAA shall be creditable as emission reductions for such purposes if such emissions reductions meet the requirements of this Section.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1820 Compliance by Existing Sources

The owner or operator shall demonstrate that all major stationary sources which he or she owns or operates (or which are owned or operated by any entity controlling or controlled by, or under common control, with the owner or operator) in Illinois are in compliance, or on a schedule for compliance, with all applicable state and federal air pollution control requirements. For purposes of this Section, a schedule for compliance shall be federally enforceable or contained in an order of the Board or a court decree.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.1830 Analysis of Alternatives

The owner or operator shall demonstrate that benefits of the new major source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification, based upon an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source.

(Source: Added at 49 Ill. Reg. _____, effective _____)

SUBPART O: GENERAL MAINTENANCE OF EMISSION OFFSETS

Section 203.1900 General Maintenance of Emission Offsets

No person shall cease to maintain emission offsets which were provided for a source or modification which is subject to this Part.

(Source: Added at 49 Ill. Reg. _____, effective _____)

SUBPART P: OFFSETS FOR EMISSION INCREASES FROM ROCKET ENGINES AND MOTOR FIRING

Section 203.2000 Offsetting by Alternative or Innovative Means

A source may offset, by alternative or innovative means, emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the following conditions:

- a) Any modification proposed is solely for expanding the testing of rocket engines or motors at an existing source that is permitted to test such engines on November 15, 1990;
- b) The source demonstrates to the satisfaction of the Agency that it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels, that all available offsets are being used, and that sufficient offsets are not available to the source;
- c) The source has obtained a written finding from the Department of Defense, Department of Transportation, National Aeronautics and Space Administration or other appropriate federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national security; and
- d) The source will comply with an alternative measure, imposed by the Agency or Board, designed to offset any emission increases beyond permitted levels not directly offset by the source.

(Source: Added at 49 Ill. Reg. _____, effective _____)

SUBPART Q: PLANTWIDE APPLICABILITY LIMITATION

Section 203.2100 Applicability

- a) The Agency may approve the use of an actuals PAL for any existing major stationary source, except as provided in subsection (b), if the PAL meets the requirements in this Subpart. The term “PAL” shall mean “actuals PAL” throughout this Subpart.
- b) The Agency shall not allow an actuals PAL for VOM or NO_x for any major stationary source located in an extreme ozone nonattainment area.
- c) Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in this Subpart, and complies with the PAL permit:
 - 1) Is not a major modification for the PAL pollutant;
 - 2) Does not have to be approved through the major NSR program; and
 - 3) Is not subject to the provisions in Section 203.1430 (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major NSR program).
- d) Except as provided under subsection (c)(3), a major stationary source shall continue to comply with all applicable federal or State requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2110 Definitions

For this Subpart, the definitions in Section 203.2120 through Section 203.2290 apply. When a term is not defined in these Sections, it shall have the meaning given in Subpart I of this Part, Part 211, or in the CAA.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2120 Actuals PAL

“Actuals PAL” for a major stationary source means a PAL based on the baseline actual emissions (as defined in Section 203.1070) of all emissions units (as defined in Section 203.1160) at the source, that emit or have the potential to emit the PAL pollutant.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2130 Allowable Emissions

“Allowable emissions” means “allowable emissions” as defined in Section 203.1050, except that the allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit’s potential to emit.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2140 Best Available Control Technology (BACT)

“Best available control technology” or “BACT” means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant that would be emitted from any proposed major stationary source or major modification that the Agency, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant that would exceed the emissions allowed by any applicable standard under 40 CFR Parts 60, 61, 62, or 63 (as incorporated by reference in Section 203.1000). If the Agency determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2150 Continuous Emissions Monitoring System (CEMS)

“Continuous emissions monitoring system” or “CEMS” means all of the equipment that may be required to meet the data acquisition and availability requirements of this Subpart, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2160 Continuous Emissions Rate Monitoring System (CERMS)

“Continuous emissions rate monitoring system” or “CERMS” means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2170 Continuous Parameter Monitoring System (CPMS)

“Continuous parameter monitoring system” or “CPMS” means all of the equipment necessary to meet the data acquisition and availability requirements of this Subpart to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂ or CO₂ concentrations), and to record average operational parameter value or values on a continuous basis.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2180 Federal Land Manager

“Federal Land Manager” means, with respect to any lands in the United States, the Secretary of the department with authority over the lands.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2190 Major Emissions Unit

“Major emissions unit” means:

- a) Any emissions unit that emits or has the potential to emit 100 tpy or more of the PAL pollutant in an attainment area; or
- b) Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the CAA for nonattainment areas.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2200 Plantwide Applicability Limitation (PAL)

“Plantwide applicability limitation” or (“PAL”) means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in compliance with this Subpart.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2210 PAL Effective Date

“PAL effective date” generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2220 PAL Effective Period

“PAL effective period” means the period beginning with the PAL effective date and ending 10 years later.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2230 PAL Major Modification

“PAL major modification” means, notwithstanding Section 203.1220 and Section 203.1260 (the definitions for major modification and net emissions increase), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2240 PAL Permit

“PAL permit” means the major NSR permit, the minor NSR permit, or the State operating permit under a program that is approved into the SIP, or the CAAPP permit issued by the Agency that establishes a PAL for a major stationary source.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2250 PAL Pollutant

“PAL pollutant” means the pollutant for which a PAL is established at a major stationary source.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2260 Predictive Emissions Monitoring System (PEMS)

“Predictive emissions monitoring system” or “PEMS” means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂ or CO₂ concentrations), and calculate and record the mass emissions rate (for example, pounds per hour) on a continuous basis.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2270 Reasonably Available Control Technology (RACT)

“Reasonably Available Control Technology” or “RACT” means devices, systems, process modifications, or other apparatus or techniques that are reasonably available taking into account:

- a) The necessity of imposing such controls in order to attain and maintain a national ambient air quality standard;

- b) The social, environmental, and economic impact of such controls; and
- c) Alternative means of providing for attainment and maintenance of such standard.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2280 Significant Emissions Unit

“Significant emissions unit” means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the applicable significant level (as defined in Section 203.1370 or in the CAA, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in Section 203.2190.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2290 Small Emissions Unit

“Small emissions unit” means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in Section 203.1370 or in the CAA, whichever is lower.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2300 Permit Application Requirements

As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the Agency for approval:

- a) A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal or State applicable requirements, emission limitations, or work practices apply to each unit.
- b) Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction.
- c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by Section 203.2400(a).

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2310 General Requirements for Establishing PAL

- a) The Agency is allowed to establish a PAL at a major stationary source provided that, at a minimum, the requirements of this Section are met.
- 1) The PAL shall impose an annual emission limitation expressed on a mass basis in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month total, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.
 - 2) The PAL shall be established in a PAL permit that meets the public participation requirements in Section 203.2320.
 - 3) The PAL permit shall contain all the requirements of Section 203.2340.
 - 4) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.
 - 5) Each PAL shall regulate emissions of only one pollutant.
 - 6) Each PAL shall have a PAL effective period of 10 years.
 - 7) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Section 203.2390 through Section 203.2410 for each emissions unit under the PAL through the PAL effective period.
- b) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under Section 203.1810 unless the level of the PAL is reduced by the amount of those emissions reductions and such reductions would be creditable in the absence of the PAL.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2320 Public Participation Requirements

PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with 35 Ill. Adm. Code 252. This includes the requirement that the Agency provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The Agency must address all material comments before taking final action on the permit.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2330 Setting the 10-Year Actuals PAL Level

- a) Except as provided in subsection (b), the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in Section 203.1070) of the PAL pollutant for each emissions unit at the stationary source, plus an amount equal to the applicable significant level for the PAL pollutant under Section 203.1370 or under the CAA, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period shall be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Agency shall specify a reduced PAL level or levels in tons per year in the PAL permit to become effective on the future compliance date or dates of any applicable federal or State regulatory requirement or requirements that the Agency is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 parts per million NO_x to a new rule limit of 30 parts per million, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline actual emissions of such unit or units.
- b) For newly constructed units (which do not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in subsection (a), the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2340 Contents of the PAL Permit

The PAL permit shall contain, at a minimum:

- a) The PAL pollutant and the applicable source-wide emission limitation in tons per year.

- b) The PAL permit effective date and the expiration date of the PAL (PAL effective period).
- c) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in compliance with Section 203.2370 before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Agency.
- d) A requirement that emission calculations for compliance purposes must include emissions from startups, shutdowns, and malfunctions.
- e) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of Section 203.2360.
- f) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total as required by Section 203.2400(a).
- g) A requirement that the major stationary source owner or operator monitor all emissions units in compliance with the provisions under Section 203.2390.
- h) A requirement to retain the records required under Section 203.2400 on site. Such records may be retained in an electronic format.
- i) A requirement to submit the reports required under Section 203.2410 by the required deadlines.
- j) Any other requirements that the Agency considers necessary to implement and enforce the PAL.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2350 Effective Period and Reopening a PAL Permit

The requirements in subsections (a) and (b) apply to actuals PALs.

- a) PAL effective period. The Agency shall specify a PAL effective period of 10 years.
- b) Reopening of the PAL permit.
 - 1) During the PAL effective period, the Agency shall reopen the PAL permit to:

- A) Correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL;
 - B) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as emissions offsets under Section 203.1810; or
 - C) Revise the PAL to reflect an increase in the PAL as provided under Section 203.2380.
- 2) The Agency shall have discretion to reopen the PAL permit for the following:
- A) Reduce the PAL to reflect newly applicable federal requirements (for example, NSPS) with compliance dates after the PAL effective date;
 - B) Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the Agency may impose on the major stationary source under the SIP; or
 - C) Reduce the PAL if the Agency determines that a reduction is necessary to avoid causing or contributing to a NAAQS violation, or to a violation of an ambient air increment established in Subpart D of 35 Ill. Adm. Code 204, or to an adverse impact on an air quality related value that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.
- c) Except for the permit reopening in subsection (b)(1)(A) for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in compliance with the public participation requirements of Section 203.2320.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2360 Expiration of a PAL

Any PAL that is not renewed in accordance with the procedures in Section 203.2370 will expire at the end of the PAL effective period, and the requirements in this Section will apply.

- a) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the procedures in subsections (a)(1) and (2).

- 1) Within the time frame specified for PAL renewals in Section 203.2370(b), the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Agency) by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under Section 203.2370(e), such distribution shall be made as if the PAL had been adjusted.
 - 2) The Agency shall decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Agency determines is appropriate.
- b) Each emissions unit or units shall comply with the allowable emission limitation on a 12-month rolling basis. The Agency may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.
 - c) Until the Agency issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subsection (a)(2), the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.
 - d) Any physical change or change in the method of operation at the major stationary source will be subject to major NSR requirements if such change meets the definition of major modification in Section 203.1220.
 - e) The major stationary source owner or operator shall continue to comply with any State or federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established under Section 203.1420, but were eliminated by the PAL in compliance with the provisions in Section 203.2100(c)(3).

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2370 Renewal of a PAL

- a) The Agency shall follow the procedures specified in Section 203.2320 in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL

level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Agency.

- b) Application deadline. A major stationary source owner or operator shall submit a timely application to the Agency to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.
- c) Application requirements. The application to renew a PAL permit shall contain:
- 1) The information required in Section 203.2300(a) through (c).
 - 2) A proposed PAL level.
 - 3) The sum of the potential to emit of all emissions units under the PAL (with supporting documentation).
 - 4) Any other information the owner or operator wishes the Agency to consider in determining the appropriate level for renewing the PAL.
- d) PAL adjustment. In determining whether and how to adjust the PAL, the Agency shall consider the options outlined in subsections (d)(1) and (2). However, in no case may any such adjustment fail to comply with subsection (d)(3).
- 1) If the emissions level calculated in compliance with Section 203.2330 is equal to or greater than 80% of the PAL level, the Agency may renew the PAL at the same level without considering the factors set forth in subsection (d)(2); or
 - 2) The Agency may set the PAL at a level that it determines to be more representative of the stationary source's baseline actual emissions, or that it determines to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Agency in its written rationale.
 - 3) Notwithstanding subsections (d)(1) and (2):
 - A) If the potential to emit of the major stationary source is less than the PAL, the Agency shall adjust the PAL to a level no greater than the potential to emit of the source; and

- B) The Agency shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of Section 203.2380 (increasing a PAL).
- e) If the compliance date for a State or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Agency has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or CAAPP permit renewal, whichever occurs first.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2380 Increasing the PAL During the PAL Effective Period

- a) The Agency may increase a PAL emission limitation only if the major stationary source complies with the provisions in subsections (a)(1) through (4).
- 1) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit or units contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.
- 2) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit or units exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.
- 3) The owner or operator obtains a major NSR permit for all emissions unit or units identified in subsection (a)(1), regardless of the manitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit or units shall comply with any emissions requirements resulting from the major NSR process (for example, LAER), even though they have also become subject to the PAL or continue to be subject to the PAL.

- 4) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.
- b) The Agency shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with subsection (a)(2)), plus the sum of the baseline actual emissions of the small emissions units.
- c) The PAL permit shall be revised to reflect the increased PAL level under the public notice requirements of Section 203.2320.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2390 Monitoring Requirements

- a) General requirements.
 - 1) Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.
 - 2) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the performance requirements in subsection (b)(1) through (4) and must be approved by the Agency.
 - 3) Notwithstanding subsection (a)(2), the owner or operator may also employ an alternative monitoring approach that meets subsection (a)(1) if approved by the Agency.
 - 4) Failure to use a monitoring system that meets the requirements of this Section renders the PAL invalid.
- b) Minimum Performance Requirements for Approved Monitoring Approaches. The following are acceptable general monitoring approaches when conducted in compliance with the requirements in subsections (c) through (i):
 - 1) Mass balance calculations for activities using coatings or solvents;
 - 2) CEMS;

- 3) CPMS or PEMS; and
 - 4) Emission factors.
- c) Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:
- 1) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;
 - 2) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and
 - 3) Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Agency determines there is site-specific data or a site-specific monitoring program to support another content within the range.
- d) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:
- 1) CEMS must comply with applicable Performance Specifications found in 40 CFR Part 60, Appendix B (incorporated by reference in Section 203.1000); and
 - 2) CEMS must sample, analyze and record data at least every 15 minutes while the emissions unit is operating.
- e) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:
- 1) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter or parameters and the PAL pollutant emissions across the range of operation of the emissions unit; and
 - 2) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Agency, while the emissions unit is operating.

- f) Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:
- 1) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;
 - 2) The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and
 - 3) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the Agency determines that testing is not required.
- g) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.
- h) Notwithstanding the requirements in subsections (c) through (g), where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter or parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, the Agency shall, at the time of permit issuance:
- 1) Establish default value or values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point or operating points; or
 - 2) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter or parameters and the PAL pollutant emissions is a violation of the PAL.
- i) Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Agency. The testing must occur at least once every 5 years after issuance of the PAL.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2400 Recordkeeping Requirements

- a) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of this Subpart and of

the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record.

- b) The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus 5 years:
- 1) A copy of the PAL permit application and any applications for revisions to the PAL; and
 - 2) Each annual certification of compliance under Section 39.5(7)(p)(v) of the Act and the data relied on in certifying the compliance.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2410 Reporting and Notification Requirements

The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Agency in accordance with the CAAPP. The reports shall meet the requirements in subsections (a) through (c).

- a) Semi-annual report. The semi-annual report shall be submitted to the Agency within 30 days after the end of each reporting period. This report shall contain the information required in subsections (a)(1) through (7).
- 1) Identification of owner and operator and the permit number.
 - 2) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to Section 203.2400(a).
 - 3) All data relied upon, including any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions.
 - 4) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period.
 - 5) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.
 - 6) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the

calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by Section 203.2390(g).

- 7) A signed statement by the responsible official (as defined by the CAAPP) certifying the truth, accuracy, and completeness of the information provided in the report.
- b) Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) will satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program implementing 40 CFR 70.6(a)(3)(iii)(B). The reports shall contain the following information:
- 1) The identification of owner and operator and the permit number;
 - 2) The PAL requirement that experienced the deviation or that was exceeded;
 - 3) Emissions resulting from the deviation or the exceedance; and
 - 4) A signed statement by the responsible official (as defined by the CAAPP) certifying the truth, accuracy, and completeness of the information provided in the report.
- c) Re-validation results. The owner or operator shall submit to the Agency the results of any re-validation test or method within 3 months after completion of such test or method.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2420 Transition Requirements

The Agency may not issue a PAL that does not comply with the requirements in this Subpart.

(Source: Added at 49 Ill. Reg. _____, effective _____)

SUBPART R: REQUIREMENTS FOR MAJOR STATIONARY SOURCES IN ATTAINMENT AND UNCLASSIFIABLE AREAS

Section 203.2500 Applicability

- a) In any area designated as attainment or unclassifiable under sections 107(d)(1)(A)(ii) or (iii) of the CAA (42 USC 7407(d)(1)(A)(ii) or (iii)), no person shall begin actual construction of a new major stationary source or major modification if the emissions from the major stationary source or major

modification would cause or contribute to a violation of any NAAQS, except as in compliance with this Subpart.

- b) This Subpart will not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment pursuant to section 107 of the CAA (42 USC 7407).
- c) The applicability of 35 Ill. Adm. Code 204 is not affected by the applicability of this Subpart.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2510 Criteria

For this Subpart, the emissions from a new major stationary source or major modification will be considered to cause or contribute to a violation of a NAAQS if such source or modification would exceed the following significance levels at any locality that does not or would not meet the applicable NAAQS.

<u>Pollutant</u>	<u>Significant Level ($\mu\text{g}/\text{m}^3$)</u>				
	<u>Annual Average</u>	<u>24-hour Average</u>	<u>8-hour Average</u>	<u>3-hour Average</u>	<u>1-hour Average</u>
<u>SO₂</u>	<u>1.0</u>	<u>5</u>		<u>25</u>	
<u>PM₁₀</u>	<u>1.0</u>	<u>5</u>			
<u>PM_{2.5}</u>	<u>0.3</u>	<u>1.2</u>			
<u>NO₂</u>	<u>1.0</u>				
<u>CO</u>			<u>500</u>		<u>2,000</u>

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2520 Requirements

If the owner or operator of the proposed major stationary source or major modification does not fulfill the requirements of both subsections (a) and (b), the Agency shall deny the proposed construction.

- a) The owner or operator shall reduce the impact of its emissions on air quality by obtaining sufficient emissions reductions to, at a minimum, compensate for its adverse ambient impact when the major stationary source or major modification would otherwise cause or contribute to a violation of a NAAQS; and
- b) The owner or operator shall comply with the requirements of Section 203.1410(c) and (e), Section 203.1420, Section 203.1430, Section 203.1440(a), Section 203.1460, and Section 203.1500.

(Source: Added at 49 Ill. Reg. _____, effective _____)

Section 203.2530 Construction Permit

- a) The Agency shall only issue a construction permit for a new major stationary source or a major modification that is subject to the requirements of this Subpart if the Agency determines that the source meets all applicable requirements of this Subpart.
- b) The Agency shall include in any construction permit issued pursuant to this Subpart, conditions specifying the manner in which the applicable requirements of this Subpart are met.
- c) In issuing a permit under this Subpart, the Agency shall follow the public participation procedures of Section 203.1610 or 35 Ill. Adm. Code 204.1320 as applicable.

(Source: Added at 49 Ill. Reg. _____, effective _____)

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

Section	
204.100	Incorporations by Reference
204.110	Abbreviations and Acronyms
204.120	Severability

SUBPART B: DEFINITIONS

Section	
204.200	Definitions
204.210	Actual Emissions
204.220	Adverse Impact on Visibility
204.230	Allowable Emissions
204.240	Baseline Actual Emissions
204.250	Baseline Area
204.260	Baseline Concentration
204.270	Begin Actual Construction
204.280	Best Available Control Technology (BACT)
204.290	Building, Structure, Facility, or Installation
204.300	Clean Coal Technology
204.310	Clean Coal Technology Demonstration Project
204.320	Commence
204.330	Complete
204.340	Construction
204.350	Dispersion Technique
204.360	Electric Utility Steam Generating Unit
204.370	Emissions Unit
204.380	Excessive Concentration
204.390	Federal Land Manager
204.400	Federally Enforceable
204.410	Fugitive Emissions
204.420	Good Engineering Practice
204.430	Greenhouse Gases (GHGs)
204.440	High Terrain
204.450	Indian Reservation
204.460	Indian Governing Body
204.470	Innovative Control Technology

204.480	Low Terrain
204.490	Major Modification
204.500	Major Source Baseline Date
204.510	Major Stationary Source
204.520	Minor Source Baseline Date
204.530	Nearby
204.540	Necessary Preconstruction Approvals or Permits
204.550	Net Emissions Increase
204.560	Potential to Emit
204.570	Prevention of Significant Deterioration (PSD) Permit
204.580	Process Unit
204.590	Project
204.600	Projected Actual Emissions
204.610	Regulated NSR Pollutant
204.620	Replacement Unit
204.630	Repowering
204.640	Reviewing Authority
204.650	Secondary Emissions
204.660	Significant
204.670	Significant Emissions Increase
204.680	Stack in Existence
204.690	Stationary Source
204.700	Subject to Regulation
204.710	Temporary Clean Coal Technology Demonstration Project

SUBPART C: MAJOR STATIONARY SOURCES IN ATTAINMENT AND UNCLASSIFIABLE AREAS

Section	
204.800	Applicability
204.810	Source Information
204.820	Source Obligation
204.830	Permit Expiration
204.840	Effect of Permits
204.850	Relaxation of a Source-Specific Limitation
204.860	Exemptions

SUBPART D: INCREMENT

Section	
204.900	Ambient Air Increments
204.910	Ambient Air Ceilings
204.920	Restrictions on Area Classifications
204.930	Redesignation

SUBPART E: STACK HEIGHTS

Section
204.1000 Stack Heights

SUBPART F: REQUIREMENTS FOR MAJOR STATIONARY SOURCES AND MAJOR
MODIFICATIONS IN ATTAINMENT AND UNCLASSIFIABLE AREAS

Section
204.1100 Control Technology Review
204.1110 Source Impact Analysis
204.1120 Air Quality Models
204.1130 Air Quality Analysis
204.1140 Additional Impact Analyses

SUBPART G: ADDITIONAL REQUIREMENTS FOR CLASS I AREAS

Section
204.1200 Additional Requirements for Sources Impacting Federal Class I Areas

SUBPART H: GENERAL OBLIGATIONS OF THE
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Section
204.1300 Notification of Application Completeness to Applicants
204.1310 Transmittal of Application to USEPA
204.1320 Public Participation
204.1330 Issuance Within One Year of Submittal of Complete Application
204.1340 Permit Rescission

SUBPART I: NONAPPLICABILITY RECORDKEEPING AND REPORTING

Section
204.1400 Recordkeeping and Reporting Requirements for Certain Projects at Major
Stationary Sources

SUBPART J: INNOVATIVE CONTROL TECHNOLOGY

Section
204.1500 Innovative Control Technology

SUBPART K: PLANTWIDE APPLICABILITY LIMITATION

Section
204.1600 Applicability
204.1610 Definitions
204.1620 Actuals PAL

204.1630	Allowable Emissions
204.1640	Continuous Emissions Monitoring System (CEMS)
204.1650	Continuous Emissions Rate Monitoring System (CERMS)
204.1660	Continuous Parameter Monitoring System (CPMS)
204.1670	Lowest Achievable Emission Rate (LAER)
204.1680	Major Emissions Unit
204.1690	Plantwide Applicability Limitation (PAL)
204.1700	PAL Effective Date
204.1710	PAL Effective Period
204.1720	PAL Major Modification
204.1730	PAL Permit
204.1740	PAL Pollutant
204.1750	Predictive Emissions Monitoring System (PEMS)
204.1760	Reasonably Achievable Control Technology (RACT)
204.1770	Significant Emissions Unit
204.1780	Small Emissions Unit
204.1790	Permit Application Requirements
204.1800	General Requirements for Establishing PAL
204.1810	Public Participation Requirements
204.1820	Setting the 10-Year Actuals PAL Level
204.1830	Contents of the PAL Permit
204.1840	Effective Period and Reopening a PAL Permit
204.1850	Expiration of a PAL
204.1860	Renewal of a PAL
204.1870	Increasing the PAL during the PAL Effective Period
204.1880	Monitoring Requirements
204.1890	Recordkeeping Requirements
204.1900	Reporting and Notification Requirements
204.1910	Transition Requirements

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 49 Ill. Reg. _____, effective _____.

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 shall 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 shall 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.

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 49 Ill. Reg. _____, effective _____)

Section 204.380 Excessive Concentration

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

- a) For sources seeking credit for stack height exceeding that established under Section 204.420(a)(2)(b), 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 shall 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 rates shall 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)(b), 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) shall 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)(b) 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)(b), 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 49 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 49 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 shall be considered significant for ozone.
- c) A physical change or change in the method of operation shall 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 USC 791) (or any superseding legislation); or
 - B) A natural gas curtailment plan under the Federal Power Act (16 USC 791);
- 3) Use of an alternative fuel by reason of an order or rule under section 125 of the CAA (42 USC ~~74257435~~);
- 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 shall apply on a pollutant-by-pollutant basis.

- d) This definition shall not apply with respect 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 shall apply.

(Source: Amended at 49 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 shall 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 shall 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 shall 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 shall 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 shall 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)(~~12~~) and (c)(~~23~~).
 - 5) If design information is not available for a process unit, the owner or operator shall 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 shall constitute a new emissions unit.

(Source: Amended at 49 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 USC 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 shall 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 in accordance with the principles set out in this subsection ~~(d)~~.
- 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 increases for each emissions unit, 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 shall comply with Subpart K.
- g) The provisions of 35 Ill. Adm. Code 203, Subpart R apply with respect to any regulated NSR pollutant emitted from the construction of any new major stationary source as defined in 35 Ill. Adm. Code 203.1230(a)(8) or any major modification 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 49 Ill. Reg. _____, effective _____)

Section 204.930 Redesignation

- a) As of September 4, 2020, of this Part, 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 accordance 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 shall 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~~**Section** 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) Such redesignation is proposed after consultation with the State or States in which the Indian Reservation is located and that border the Indian Reservation.
- e) USEPA shall 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 shall 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 49 Ill. Reg. _____, effective _____)

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 shall, with the consent of the other affected State's Governor or other affected States' respective Governors~~Governor~~, 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 shall 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 shall 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 in accordance with 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 49 Ill. Reg. _____, effective _____)

Section 204.1670 Lowest Achievable Emission Rate (LAER)

"Lowest achievable emission rate" or "LAER" has the meaning given by 35 Ill. Adm. Code [Part 203203.301\(a\)](#).

(Source: Amended at 49 Ill. Reg. _____, effective _____)

TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE B: AIR POLLUTION
 CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER f: TOXIC AIR CONTAMINANTS

PART 232
 TOXIC AIR CONTAMINANTS

SUBPART A: GENERAL PROVISIONS

Section	
232.100	Introduction
232.110	Incorporations by Reference
232.120	Definitions
232.130	Applicability

SUBPART B: DETERMINATION OF A TOXIC AIR CONTAMINANT

Section	
232.200	Characteristics for Determining a Toxic Air Contaminant

SUBPART C: PROCEDURES FOR EVALUATING CHARACTERISTICS OF A TOXIC AIR
 CONTAMINANT

Section	
232.300	Purpose
232.310	Procedures for Determining the Toxicity Score
232.320	Carcinogen Classification

SUBPART D: SOURCE IDENTIFICATION AND REPORTING REQUIREMENTS

Section	
232.400	Purpose
232.410	Applicability
232.420	ITAC Source Report
232.421	Emissions Report Certification
232.423	Failure to Receive an ITAC Source Report
232.430	Emissions Report
232.440	Use of Available Data
232.450	Retention of Records/Additional Information
232.460	Reporting of Errors

SUBPART E: LISTING AND DELISTING

Section	
232.500	Procedures for Listing and Delisting Toxic Air Contaminants

232.501 Listing of Federal Hazardous Air Pollutants, Great Lakes Commission Toxic Compounds and Great Waters Program Toxic Compounds

232.APPENDIX A: List of Toxic Air Contaminants

232.APPENDIX B: Additional Procedures for Calculating the Chronic Toxicity Score

232.APPENDIX C: Carcinogens (Categories A, B1, and B2) listed on the Integrated Risk Information System (IRIS) as of December 31, 1989 (United States Environmental Protection Agency, Office of Health and Environmental Assessment)

AUTHORITY: Implementing Section 9.5 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/9.5 and 27].

SOURCE: Adopted in R90-1 at 16 Ill. Reg. 16592, effective October 18, 1992; amended in R96-4 at 21 Ill. Reg. 6237, effective May 12, 1997; Amended in R22-17 at 49 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 232.120 Definitions

The definitions of 35 Ill. Adm. Code 201 and 211 apply to this Part, as well as the definitions contained in this Section. Where a definition contained in this Section is more specific than those found in 35 Ill. Adm. Code 201 and 211, it must take precedence in application of this Part.

"ACGIH" means the American Conference of Governmental Industrial Hygienists.

"Adverse health effect" means a health injury or disease that may be produced by exposure to a contaminant. This includes any decrement in the function of an organ or organ system or any subclinical organ lesion that is likely to lead to a decrement in an organ or organ system function.

"Commercial fuel" means:

Any fuel offered for final sale for use in combustion processes;

Any gaseous or liquid fuel generated as a by-product at a source for which the source has been issued an operating permit to use such fuel internally in combustion processes, including internal combustion engines; or

Any waste derived fuel for which an operating permit has been issued and which represents no more than five percent (.05) by weight on a daily basis of total fuel used in combustion processes by a source.

"Critical gestation days" means the days during which the formation and differentiation of organs and organ systems occurs during embryonic development.

"Fugitive emissions" is defined according to 35 Ill. Adm. Code ~~203.1190~~[203.124](#).

"IARC" means the World Health Organization's International Agency for Research on Cancer.

"IRIS" means the USEPA's Integrated Risk Information System.

"Illinois Toxic Air Contaminant" (ITAC) means any toxic air contaminant listed ~~underpursuant to~~ 35 Ill. Adm. Code 232, excluding, specifically: coke oven gas; any hazardous air pollutant (HAP) now or hereafter listed under Section 112(b) of the Clean Air Act (CAA) (1990); and any pollutant or contaminant listed as a compound of concern under the Great Waters and Coastal Waters Program under Section 112(m) of the CAA.

"ITAC Source Report" means the report that the Agency provides to the source that lists data fields for the information required in the emissions report for Subpart D of this Part, and contains the information, if any, that previously has been reported to the Agency for those data fields.

"LC50" means the concentration in the air of a contaminant that kills, or is estimated to kill, 50% (.50) of a population of laboratory animals where the exposure is brief (8 hours or less) and where the route of exposure is inhalation.

"LD50" means the dose of a contaminant that kills, or is estimated to kill, 50% (.50) of a population of laboratory animals where the route of exposure is ingestion.

"Lowest observed adverse effect level" means the lowest experimentally determined dose at which a statistically or biologically significant indication of the toxic effect of concern is observed.

"Manufacture" means, for the purposes of Subpart D of this Part, to produce, prepare, or compound a listed ITAC, and includes coincidental production of an ITAC (e.g., as a by-product or impurity) as a result of the manufacture, processing or otherwise use or treatment of one or more chemical substances not an ITAC. An ITAC intentionally incorporated into a product is considered to be manufactured.

"NTP" means the United States Department of Health and Human Services, Public Health Services' National Toxicological Program.

"No observed effect" means the condition where no adverse health effect has been detected.

"Otherwise use" means, for the purposes of Subpart D of this Part, any activity involving a listed ITAC at a source that does not fall within the definition of "manufacture" or "process."

"Process" means, for the purposes of Subpart D of this Part, the preparation of an ITAC after its manufacture for distribution in commerce in the same physical state as, or in a different form or physical state from, that in which it was received by the source, or preparation that produces a change in physical state or chemical form.

"Toxic air contaminant" (TAC) means a contaminant identified ~~underpursuant to~~ Section 232.200 or Section 232.501 of this Part and listed in Appendix A of this Part.

(Source: Amended at 49 Ill. Reg. _____, effective _____)