

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

AMENDMENTS TO 35 ILL. ADM.
CODE 225: CONTROL OF EMISSIONS
FROM LARGE COMBUSTION SOURCES

R09- 10

(Rulemaking) RECEIVED
CLERK'S OFFICE

OCT 03 2008

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Pollution Control Board

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3. Proposal of Regulations by Director Douglas P. Scott
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State of New Jersey, et al. v. Environmental Protection Agency, 517 F.3d 574 (D.C. Cir. 2008).

Standards of Performance for New Stationary Sources National Emission Standards for Hazardous Air Pollutants Addition of Method 29 to Appendix A of Part 60 and Amendments to Method 101A of Appendix B of Part 61, 61 Federal Register 18260 (April 25, 1996).

Accuracy Test Audits of Mercury Monitoring Systems Installed on Combustion Flue Gas Streams and Several Amendments to Related Mercury Monitoring Provisions, 72 Federal Register 51494 (September 7, 2007).

10. Incorporations by Reference:

ASTM D4840-99, Standard Guide for Sampling Chain-of-Custody Procedures (Reapproved 2004).

ASTM D6911-03, Standard Guide for Packaging and Shipping Environmental Samples for Laboratory Analysis.

ASTM D7036-04, Standard Practice for Competence of Air Emission Testing Bodies.

11. Certificate of Service

12. Disk in Microsoft WORD containing Agency's Analysis of Economic and Budgetary Effects (ECONOMICBUDGET-225.doc) and Proposed Amendments to Part 225 (RULE-225.doc)

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(Rulemaking - Air Pollution Control Board)

STATE OF ILLINOIS
Pollution Control Board

NOTICE

TO: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601-3218

Matthew Dunn, Chief
Division of Environmental Enforcement
Office of the Attorney General
188 West Randolph St., 20th Floor
Chicago, IL 60601

Virginia Yang
Deputy Legal Counsel
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, IL 62702

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the REGULATORY PROPOSAL entitled "AMENDMENTS TO 35 ILL. ADM. CODE 225: CONTROL OF EMISSIONS FROM LARGE COMBUSTION SOURCES," MOTION FOR WAIVER OF REQUIREMENTS and APPEARANCES of the Illinois Environmental Protection Agency a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED: October 2, 2008

1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217.782.5544
217.782.9143 (TDD)

**THIS FILING IS SUBMITTED
ON RECYCLED PAPER**

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

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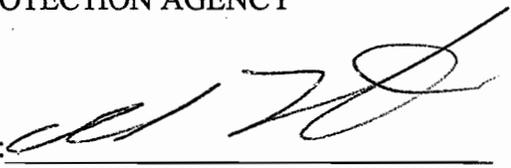
(Rulemaking - Air)

APPEARANCE

The undersigned hereby enters his appearance as an attorney on behalf of the Illinois Environmental Protection Agency.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED: October 2, 2008

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R09- 10

(Rulemaking - Air)

APPEARANCE

The undersigned hereby enters her appearance as an attorney on behalf of the
Illinois Environmental Protection Agency.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: *Dana Vetterhoffer*
Dana Vetterhoffer
Assistant Counsel
Division of Legal Counsel

DATED: October 2, 2008

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R09- 10
(Rulemaking - Air)

STATE OF ILLINOIS
Pollution Control Board

APPEARANCE

The undersigned hereby enters his appearance as an attorney on behalf of the
Illinois Environmental Protection Agency.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
John J. Kim
Managing Attorney
Air Regulatory Unit
Division of Legal Counsel

DATED: October 2, 2008

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)

AMENDMENTS TO 35 ILL. ADM.)

CODE 225: CONTROL OF EMISSIONS)

FROM LARGE COMBUSTION SOURCES)

R09-

10

(Rulemaking - Air)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY PROPOSAL OF
REGULATIONS

The Illinois Environmental Protection Agency moves that the Illinois Pollution Control Board adopt the attached regulations.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By:


Douglas P. Scott
Director

DATED: October 2, 2008

1021 North Grand Ave. East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-3397

**Agency Analysis of Economic and
Budgetary Effects of Proposed Rulemaking**

RECEIVED
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OCT 03 2008
STATE OF ILLINOIS
Pollution Control Board

Agency: Illinois Pollution Control Board

Part/Title: **Revisions to Part 225: CONTROL OF EMISSIONS FROM LARGE
COMBUSTION SOURCES**

Illinois Register Citation: _____

Please attempt to provide as dollar-specific responses as possible and feel free to add any relevant explanation.

1. Anticipated effect on State expenditures and revenues.
 - (a) Current cost to the agency for this program/activity. \$0
 - (b) If this rulemaking will result in an increase or decrease in cost, specify the fiscal year in which this change will first occur and the dollar amount of the effect.
Revisions to Part 225 should result in no additional cost to the State of Illinois beyond the anticipated costs estimated for the original Part 225 rulemaking.
 - (c) Indicate the funding source, including Fund and appropriation lines, for this program/activity.
No funding necessary.
 - (d) If an increase or decrease in the costs of another State agency is anticipated, specify the fiscal year in which this change will first occur and the estimated dollar amount of the effect.
N/A
 - (e) Will this rulemaking have any effect on State revenues or expenditures not already indicated above?
N/A

2. Economic effect on persons affected by the rulemaking:
 - (a) Indicate the economic effect and specify the persons affected:

Positive ___ Negative ___ No effect X

Persons affected: Utility sector; consumers

Dollar amount per person: **\$0.00 per person annually**

Total statewide cost: **\$0**

 - (b) If an economic effect is predicted, please briefly describe how the effect will occur.

The aim of the proposed amendments is to incorporate previously-referenced federal regulations into the rule, as well as allowing additional options for industry. As such, there will be no additional costs.

- (c) Will the rulemaking have an indirect effect that may result in increased administrative costs? Will there be any change in requirements such as filing, documentation, reporting or completion of forms?

No such administrative changes or additional costs are anticipated.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
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AMENDMENTS TO 35 ILL. ADM.)	R09- 10
CODE 225: CONTROL OF EMISSIONS)	(Rulemaking – Air)
FROM LARGE COMBUSTION SOURCES)	

MOTION FOR WAIVER OF REQUIREMENTS

NOW COMES Proponent, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), by its attorney, Charles E. Matoesian, and pursuant to 35 Ill. Adm. Code and 101.500, 102.110, 102.402, moves that the Illinois Pollution Control Board (“Board”) waive certain requirements, namely that Illinois EPA submit the original and nine copies of the regulatory proposal including the incorporations by reference and all documents relied upon. In support of its Motion, Illinois EPA states as follows:

1. Section 102.200 of the Board's procedural rules requires that the original and nine copies of each regulatory proposal be filed with the Clerk. This entire regulatory proposal will likely consist of over 500 pages. Given the length of the proposal and the resources required to provide nine copies, Illinois EPA requests that it be allowed to file the original and four complete copies, but for the standards incorporated by reference.

2. Section 27 (a) of the Environmental Protection Act (“Act”) requires Illinois EPA to provide information supporting the proposal. 415 ILCS 5/27 (a). In doing so, the Illinois EPA has provided documents which were directly relied upon while drafting the regulatory proposal.

The documents relied upon are as follows:

State of New Jersey, et al. v. Environmental Protection Agency, 517 F.3d 574 (D.C. Cir. 2008).

Standards of Performance for New Stationary Sources National Emission Standards for Hazardous Air Pollutants Addition of Method 29 to Appendix A of Part 60 and Amendments to Method 101A of Appendix B of Part 61, 61 Federal

Register 18260 (April 25, 1996).

Accuracy Test Audits of Mercury Monitoring Systems Installed on Combustion Flue Gas Streams and Several Amendments to Related Mercury Monitoring Provisions, 72 Federal Register 51494 (September 7, 2007).

Illinois EPA requests that the Board waive the normal copy requirements and allow Illinois EPA to file an original and four copies of the documents.

3. Section 5-75(a) of the Illinois Administrative Procedure Act (“IAPA”) provides in relevant part that an agency may incorporate by reference the regulations, standards and guidelines of an agency of the United States or a nationally recognized organization or association without publishing the incorporated material in full. 5 ILCS 100/5-75(a). Further, Section 5-75(b) of the IAPA provides in relevant part that the agency adopting a rule or regulation under the IAPA shall maintain a copy of the referenced rule, regulation, standard or guideline in at least one of its principal offices and shall make it available to the public upon request. 5 ILCS 100/5-75(b). In developing this proposed rulemaking, Illinois EPA has incorporated by reference certain documents as follows:

ASTM D4840-99, Standard Guide for Sampling Chain-of-Custody Procedures (Reapproved 2004).

ASTM D6911-03, Standard Guide for Packaging and Shipping Environmental Samples for Laboratory Analysis.

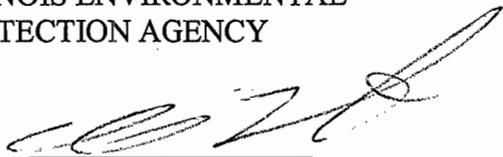
ASTM D7036-04, Standard Practice for Competence of Air Emission Testing Bodies.

Illinois EPA requests that the Board waive the normal copy requirements of Section 102.200 of the Board’s procedural rules and allow Illinois EPA to file only the original of the American Society for Testing and Materials (“ASTM”) Standards that are incorporated by reference under the proposed rulemaking. The ASTM standards are copyright protected. The Illinois EPA currently possesses a number of the standards including two of those incorporated by reference within this proposal. However, the third standard incorporated by reference must be downloaded

at a cost. Furthermore, the Illinois EPA is subject to additional fees in order to provide the Board with a copy. Accordingly, the Illinois EPA has incurred costs, and to keep these costs at a minimum, the Illinois EPA requests that the Board waive the requirement stated above. Attached with the ASTM standards being filed is a copy of the License Agreement utilized by ASTM. The Illinois EPA directs the Board's attention to that document so that the Board may conform its handling of the standards consistent with that Agreement.

WHEREFORE, for the reasons set forth above, Illinois EPA requests that the Board waive the copy requirement and allow Illinois EPA to provide the Board with an original and four complete copies of the proposal, but for the documents incorporated by reference of which only the original will be filed. Further, Illinois EPA requests that the Board allow Illinois EPA to file an original and four copies of the documents relied upon as listed above. Finally, the Illinois EPA requests that the Board allow the Illinois EPA to file only the original of the proposed incorporations by reference as listed above.

Respectfully submitted,
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED: October 2, 2008

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STATE OF ILLINOIS
Pollution Control Board

09-1

R08-

(Rulemaking - Air)

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO)
35 ILL. ADM. CODE 225)
CONTROL OF EMISSIONS FROM)
LARGE COMBUSTION SOURCES)

STATEMENT OF REASONS

I. INTRODUCTION

The Illinois Environmental Protection Agency ("Illinois EPA") submits this Statement of Reasons to the Illinois Pollution Control Board ("Board") pursuant to Section 27 of the Environmental Protection Act ("Act") (415 ILCS 5/27) and 35 Ill. Adm. Code 102.302 in support of proposed amendments to 35 Ill. Adm. Code Part 225, Control of Emissions from Large Combustion Sources. These amendments are proposed to compensate for the United States Court of Appeals for the District of Columbia's *vacatur* of the Federal Clean Air Mercury Rule ("CAMR") on March 13, 2008 (*New Jersey v. Environmental Protection Agency*, 517 F.3d 574 (D.C. Cir. 2008))¹. Due to this event, the Illinois EPA is proposing amendments to Part 225 to recreate certain monitoring provisions of the Federal rule found primarily at 40 CFR Part 75, and add them to the Illinois Mercury Rule. The current proposal also gives greater flexibility to sources in monitoring mercury emissions than provided under the existing rule. The substance of Part 225 is unchanged, as those regulations will continue to address the control of mercury emissions from coal-fired electric generating units ("EGUs") beginning in July 2009.

¹ The USEPA is considering filing a petition for a writ of certiorari to the United States Supreme Court. USEPA has until October 17, 2008 to do so.

The current proposal is based upon the latest version of Part 225 as it appears on the Illinois Pollution Control Board's website. At hearing, the Illinois EPA will present testimony from: Jim Ross, Manager of the Division of Air Pollution Control, Bureau of Air; David Bloomberg, Compliance Unit Manager, Bureau of Air; Kevin Mattison, Environmental Protection Specialist IV, Bureau of Air; Chris Romaine, Construction Permit Unit Manager, Bureau of Air and; Rory Davis, Environmental Protection Engineer, Bureau of Air.

On March 14, 2006, the Illinois EPA filed its original proposed rulemaking, "In the Matter of: Proposed New 35 Ill. Adm. Code 225 Control of Emissions From Large Combustion Sources (Mercury)." This was accepted by the Board as R06-25. Subsequently, a second docket was opened by the Board at R06-25PC to handle the large number of comments received about the rulemaking.

The Illinois EPA's proposal sought to address the serious deficiencies present in the Federal CAMR, specifically, the unnecessary delay in achieving mercury emission reductions; the inherent concerns associated with a cap and trade program to control a persistent, bioaccumulative toxin, the inadequate reductions contained in the CAMR, and the legal basis upon which the CAMR was adopted. (See R06-25 generally). Extensive hearings were held on the matter, with the first set of hearings held in Springfield from June 12 to June 23, 2006. The second set of hearings were held in Chicago from August 14 to August 23, 2006. On December 21, 2006, the Board issued an order adopting the proposal. The regulations were subsequently published in the Illinois Register on January 5, 2007 (Vol. 31, Issue 1, page 129). With the *vacatur* of the CAMR, the Illinois rule must be amended

because the incorporated provisions of CAMR concerning monitoring, recordkeeping, and reporting are now vacated as well.

II. STATEMENT OF FACTS

A. Mercury in the Environment

Although the current rulemaking addresses concerns over the D.C. Circuit's *vacatur* of the CAMR, a brief summary of the facts leading up to the filing of R06-25 is in order. Mercury is a naturally occurring trace element found in the environment. *See R06-25, Fossil Fuel-Fired Power Plants: Report to the House and Senate Environment and Energy Committees*, IEPA/BOA/04-020, Illinois Environmental Protection Agency, September 2004, at 3 ("*Section 9.10 Report*"). It is also a pollutant that is released to the environment by human (anthropogenic) activities, including coal-fired power plants. *Id.* Although mercury is not a criteria pollutant for which the United States Environmental Protection Agency ("USEPA") has established a National Ambient Air Quality Standard ("NAAQS"), it is a hazardous air pollutant ("HAP") and has adverse health impacts. *See, Technical Support Document for Reducing Mercury Emissions from Coal-Fired Electric Generating Units*, AQPSTR 06-02, Illinois Environmental Protection Agency, March 14, 2006 ("TSD for R06-25").

Emissions of mercury occur in three distinct forms: ionic, elemental, and particulate. Ionic and particulate forms of mercury compounds have the greatest impact on near-field deposition. *See R06, 25, 70 Fed. Reg. 28619* (May 18, 2005). Once in water, some mercury is transformed into methylmercury through biological processes. *Id.* at 28640. Methylmercury, a highly toxic form of mercury, is the mercury compound of concern for the health effects of mercury. *Id.* Once mercury has been transformed into methylmercury, it

can be ingested by the lower trophic level organisms where it bioaccumulates in fish tissue (i.e., concentrations in predatory fish build up over the fish's entire lifetime, accumulating in the fish tissue as predatory fish consume other species in the food chain). *Id.*

When humans consume fish containing methylmercury, the ingested methylmercury is almost completely absorbed into the blood and distributed throughout the tissues of the body. *Id.* In pregnant women, methylmercury can be passed on to the developing fetus, and at sufficient exposure may lead to a number of neurological effects. *Id.* Thus, children who are exposed to even low concentrations of methylmercury prenatally may be at increased risk of poor performance on neurobehavioral tests, such as those measuring attention, fine motor function, language skills, visual-spatial abilities, and verbal memory. *Id.* Mercury contamination of Illinois waters has resulted in fish consumption advisories being issued for every body of water in the State. *See R06-25, Section 9.10 Report at 4.*

B. Mercury under the Clean Air Act

Mercury is listed as a HAP under Section 112(b) of the Clean Air Act ("CAA"). 42 U.S.C. § 7412(b). Section 112 requires USEPA to establish Maximum Achievable Control Technology ("MACT") standards, which are applicable to both new and existing sources, for various categories of sources. The stringent system of emissions controls encompassed under the MACT provisions is intended to ensure control technology is used to minimize emissions of HAPs from significant sources of HAPs.

Under Section 112(n)(1)(A) of the CAA, USEPA was directed to conduct a study of electric utility boilers to assess the hazards to public health from their emissions of HAPs. 42 U.S.C. § 7412(n)(1)(A). USEPA submitted such study to Congress in 1998. *See R06-25,*

Mercury Study Report to Congress, Volumes I through VIII, EPA-452/R-97-003 through 010, December 1997.

On December 20, 2000, USEPA issued a finding under Section 112(n)(1)(A) of the CAA that it was appropriate and necessary to regulate coal and oil-fired utility boilers under Section 112 (“Regulatory Finding”).² *See* R06-25, 65 *Fed. Reg.* 79825 (May 18, 2005). USEPA concluded that this affirmative determination under Section 112(n)(1)(A) of the CAA constituted a decision to list coal and oil-fired utility units on the Section 112(c) source category list. *Id.* at 79830. Relying on Section 112(e)(4) of the CAA, the USEPA explained in its December 2000 Regulatory Finding that neither its finding under Section 112(n)(1)(A) of the CAA, nor the associated listing, were subject to judicial review at that time. *Id.* at 79831.

C. The Clean Air Mercury Rule

On January 30, 2004, USEPA published a notice of proposed rulemaking entitled “Proposed National Emission Standards for Hazardous Air Pollutants; and, in the Alternative, Proposed Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units.” *See* R06-25, 69 *Fed. Reg.* 4652. Shortly thereafter, on March 16, 2004, USEPA published a supplemental notice of proposed rulemaking entitled “Supplemental Notice of Proposed National Emission Standards for Hazardous Air Pollutants; and, in the Alternative, Proposed Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units.” *See* R06-25, 69 *Fed. Reg.* 12398. In that notice, USEPA proposed certain additional regulatory text, which largely governed the proposed Section 111 standards of performance for mercury and included a cap

² As discussed *infra*, on March 29, 2005, USEPA revised this December 2000 Regulatory Finding and concluded that it is neither appropriate nor necessary to regulate coal and oil-fired EGUs under Section 112 of the CAA. *See* R06-25, 70 *Fed. Reg.* 15994.

and trade program. In response to the Mercury Proposal and the Supplemental Notice, the Illinois EPA submitted comments opposing these rulemakings.

On March 29, 2005, USEPA promulgated a final rule entitled "Revision of December 2000 Regulatory Finding on the Emissions of Hazardous Air Pollutants From Electric Utility Steam Generating Units and the Removal of Coal- and Oil-Fired Electric Utility Steam Generating Units From the Section 112(c) List" ("Delisting Action"). See R06-25, 70 Fed. Reg. 15994. In this final rule, USEPA revised the December 2000 appropriate and necessary finding and concluded that it is neither appropriate nor necessary to regulate coal and oil-fired utility units under Section 112 of the CAA.

This was followed by promulgation of CAMR on May 18, 2005. See R 06-25, 70 Fed. Reg. 28606. CAMR included standards of performance for mercury for new and existing coal-fired electric utility steam generating units. *Id.* CAMR utilized a market based cap and trade approach under Section 111 of the CAA to reduce emissions of mercury from these units. 42 U.S.C. § 7411. Unfortunately, for mercury, a cap and trade program can also result in the perpetuation of "hot spots." A common use of the term "hot spots" is to define areas that show up on mercury deposition maps with higher mercury concentrations. The term is also used to define areas in a cap and trade program where reductions are less likely to occur due to allowances being purchased or use of banked allowances in order to avoid mercury reductions and installation of mercury controls. In these areas, the reduction program has less direct benefits for people living in the surrounding area.

D. Deficiencies in CAMR

The Illinois EPA determined at the time that R06-25 was filed, and still believes, that CAMR would not result in sufficient reductions of mercury in a timely manner, and that

CAMR would impede its efforts to encourage clean-coal technology that will allow Illinois abundant coal reserves to be used in an environmentally responsible manner. In CAMR, USEPA established an annual budget for mercury emissions from coal-fired electrical generating units for each state for 2010 and thereafter. *See* R06-25, 70 Fed. Reg. 28649-50. Each state's plan under CAMR had to contain appropriate control requirements and compliance procedures to assure compliance with the state's annual mercury budget by the specified dates. *Id.* However, "States remain[ed] authorized to require emissions reductions beyond those required by the State Budget," and nothing in the CAMR precluded "the States from requiring such stricter controls and still being eligible to participate" in the mercury trading program. *Id.* at 28632.

First, the decision to regulate mercury emissions from coal-fired utility boilers under Section 111 of the CAA, rather than Section 112, was legally deficient. All HAPs are regulated under Section 112. 42 U.S.C. § 7412. Regulation under Section 111(d) was inconsistent with the structure of the CAA. USEPA constructed an elaborate interpretation that allowed it to promulgate a trading program under Sections 111(d) and 112(n); however, neither section provides specific authority for promulgating a trading program. Sections 111(b)(1)(B) and (d) and Section 112(d) require USEPA to promulgate either a performance standard or an emission standard. A performance standard, as defined by Section 111(a)(1) of the CAA, means an emissions standard that reflects the best system of reduction. An emissions standard under Section 112(d)(2) is required to reflect the maximum degree of reduction that is achievable (MACT). A trading program does not, by its very structure, require a source to achieve any particular level of emissions reduction.

The virtue of the MACT standards under Section 112 is that they ensure that applicable sources use appropriate technology to minimize HAP emissions. The MACT process also contains provisions for the review of emission standards to allow for periodic updating based upon technological advances. *Id.* CAMR did not contain such a process. Although more than 40% of all anthropogenic mercury emissions in the United States come from coal-fired power plants, the CAMR removed such sources from the continued oversight provided by Section 112 of the CAA. See, TSD for R06-25, Figure 2.2, at 30. In place of a MACT standard, CAMR created a new structure to control mercury emissions from coal-fired power plants under Section 111 of the CAA, the New Source Performance Standards ("NSPS").

USEPA began by establishing a performance standard for new coal-fired utility boilers and then found itself required under Section 111 to establish such a standard for existing coal-fired utility boilers. The centerpiece of this scheme for existing units was a cap and trade program. As their name implies, cap and trade programs set a "cap" or ceiling on emissions of a pollutant. The cap is translated into allowances that represent given quantities of the pollutant. Under CAMR, one allowance equaled one ounce of mercury. The allowances in an amount equal to the cap were distributed to affected sources. Following the end of each year or other applicable compliance period, sources must hold and turn in allowances to cover their actual emissions. Prior to this periodic reconciliation, sources and other parties are authorized to enter into transactions, and to transfer their allowances from the accounts for one source or party to the account of another.

Under this arrangement, all sources are not actually required to reduce emissions. Rather, a cap and trade program achieves an overall reduction in emissions. Emission

reductions occur at certain sources that, due to their particular circumstances and control measures, emit less of the pollutant and need fewer allowances than they have received.

Such sources can then sell these surplus allowances to other sources that need additional allowances for their emissions. The market will thus decide at which sources reductions in the emissions of the pollutant will occur.

Unfortunately, for mercury, a cap and trade program can also result in the perpetuation of "hot spots." There are several uses of the term "hot spots" in the literature addressing mercury emissions with no known established definition. A common use of the term "hot spots" is to define areas that show up on mercury deposition maps with higher mercury concentrations. The term is also used to define areas in a cap and trade program where reductions are less likely to occur due to allowances being purchased or use of banked allowances in order to avoid mercury reductions and installation of mercury controls. In these areas, the reduction program has less direct benefits for people living in the surrounding area. This scenario has not been a great problem for cap and trade programs in the past because of the pollutants at issue and the environmental problem that was being addressed, such as the Acid Rain Program. However, hot spots are a concern for emissions of mercury and its effects.

A second concern with CAMR was that the actual program was phased in slowly. Specifically, CAMR did not actually require any mercury specific action for coal-fired power plants until 2018. At that date, the cap for mercury emissions from the power plants was expected to be 69% below the 1999 baseline year. See R06-25, 70 *Fed. Reg.* at 28619.

Accordingly, the Illinois EPA deemed that the optimum method to comply with the federal requirements under CAMR, and protect the health of Illinois citizens, was to adopt mercury emission standards for coal-fired power plants in Illinois.

E. R06-25: The Illinois Mercury Rule

The Illinois Mercury proposal required Illinois coal-fired EGUs that serve a generator greater than 25 megawatts producing electricity for sale to begin to utilize control technology for mercury as necessary to achieve the numerical standards set by the proposed rule beginning July 1, 2009. To achieve this goal while preserving flexibility, the regulations provided new and existing sources with two alternative mercury emission standards to demonstrate compliance. The first alternative allowed a source to comply with a mercury emission standard of 0.0080 lb mercury/GWh gross electrical output for each EGU. In the alternative, sources could control emissions by a minimum of 90% from input mercury levels. These standards were designed to provide similar levels of mercury emission reductions, considering particular circumstances of the different plants and units.

These standards applied on a rolling 12-month basis, with each month ending a 12-month period that included the previous eleven months. Sources could choose which of the two standards they wished to meet and could freely switch between standards from month to month, as would most likely occur in conjunction with a change in the coal supply to the boiler.

As to monitoring, CAMR mandated that each state plan require EGUs to comply with the monitoring, recordkeeping, and reporting provisions of Part 75 of the *Code of Federal Regulations* with regard to monitoring emissions of mercury to the atmosphere. See R06-25, 70 Fed. Reg. 28649. Accordingly, affected sources had to comply with the monitoring,

recordkeeping, and reporting provisions of Sections 225.240 through 225.290 of Part 225, which specifically required compliance with 40 CFR Part 75.

III. PURPOSE AND EFFECT OF THE PROPOSAL

A. Vacatur of CAMR

On February 8, 2008, the United States Court of Appeals for the District of Columbia vacated CAMR. *New Jersey v. Environmental Protection Agency*, 517 F.3d 574, 578-581 (D.C. Cir. 2008). The court agreed with the petitioners that because “coal-fired EGUs are listed sources under section 112, regulation of existing coal-fired EGUs’ mercury emissions under section 111 is prohibited.” *New Jersey*, 517 F.3d at 578. The court further held that, “once the Administrator determined in 2000 that EGUs should be regulated under Section 112 and listed them under section 112(c)(1), EPA had no authority to delist them without taking the steps required under section 112(c)(9).” *Id.* at 581. Thus, a trading program under Section 111 was not allowed under the Clean Air Act.

Although the court’s decision vacated the portions of 40 CFR Part 75 enacted as part of CAMR, including those provisions that authorize the continuous emissions monitoring of mercury, the court’s *vacatur* had nothing to do with the technical or economic reasonableness of CAMR’s monitoring provisions. It was merely USEPA’s approach to regulating mercury, a known HAP, outside the Section 112 process to which the court objected. However, the decision, whether intending to or not, removed the entire monitoring scheme relied on by USEPA to monitor mercury emissions.

Part 75 required the utilization of continuous monitoring of mercury emissions (“CEMS”), for states to gather mercury emissions and compliance information, regardless of whether the States adopted the other provisions of the Federal CAMR. The court’s action

left the states, including states like Illinois which developed mercury control programs more stringent than CAMR, with references to the Federal CAMR for the monitoring of mercury emissions. It is Illinois' position that USEPA will eventually have to recreate federal monitoring provisions because of the mandate to control mercury under CAA Section 112; however, until that occurs, it is necessary for Illinois' rules to reference its own monitoring provisions.

B. Technical feasibility and economic reasonableness

The cost and feasibility of Part 75 monitoring systems were considered by the Board in the initial Part 225 rulemaking for mercury emissions from coal-fired EGUs. During those proceedings, the Board concluded that mercury monitoring technology is technologically feasible and currently available. *See R06-25, Board Order of Nov. 2, 2006, Second Notice Opinion and Order, p.41.* The economic impact to sources was also considered by the Board in the same opinion and order and was found to be reasonable when weighed against the benefits of the mercury emission reductions. *Id.* at 78.

C. Proposed Amendments

The focus of the proposed amendments, therefore, is on the methods allowed to measure mercury emissions for the demonstration of compliance with the emissions and control requirements. The proposal does not include any revisions to the emission and control standards themselves. Mercury monitoring via a CEMS will continue to be an option for measuring mercury emissions.

Rather, in addition to CEMS, the Illinois EPA has proposed an additional monitoring option, namely the Periodic Emissions Testing Alternative Requirements ("PETAR"). TSD at 11. Because the cap and trade program no longer exists, there is no requirement to use

CEMS during the interim period while USEPA redrafts its mercury control program. Furthermore, without the support for CEMS that had been present in Part 75, the Agency believed flexibility in monitoring was called for. The PETAR adds emissions testing as an alternative monitoring method to provide sources with a greater degree of flexibility and possibly lower cost in mercury monitoring until USEPA repromulgates the 40 CFR Part 75 mercury monitoring provisions. *Id.* at 11. Affected sources may determine which method of emissions determination will best address their particular situations. Units complying with the Multi-Pollutant Standard ("MPS") or the Combined-Pollutant Standard ("CPS") can choose to comply with the proposed Part 225 Appendix B monitoring requirements, or with semi-annual emissions testing requirements proposed at Section 225.239(d)(2). *Id.* at 14.

Units complying with the MPS and CPS are not required by Part 225 to meet mercury emission standards, but are required to operate according to prescribed protocols including the specified injection of halogenated activated carbon sorbent. *Id.* at 14. It is the Illinois EPA's position that semi-annual stack testing is adequate to ensure and verify that mercury control equipment is operating properly, as well as to estimate mass mercury emissions from EGUs that are opting to comply with the MPS and CPS. *Id.*

Further proposed amendments to the rule include the addition of an approved sorbent. Calgon Carbon has demonstrated to the Illinois EPA that one of their sorbents contains a similar or better level of control in comparison to the approved sorbents. TSD at 4. As a result, it is proposed that Calgon Carbon's FLUEPAC MC Plus be included as an approved sorbent for mercury control. In addition, the Agency has modified the reporting and recordkeeping requirements of Part 225, Subpart B, to reflect the additional needs of periodic emissions testing.

Also proposed is the repeal of Part 225 Subpart F (i.e., Combined Pollutant Standard) with the provisions reconstituted within Part 225 Subpart B. Beyond moving the CPS, this amendment removes references in Section 225.233 and Section 225.298 to the Clean Air Interstate Rule (“CAIR”) trading program due to its recent *vacatur* on July 11, 2008. Instead, more general language is proposed relating to trading program restrictions for sources participating in the MPS or CPS. TSD at 2.

Additionally, the Illinois EPA proposes deleting references to a bias adjustment factor (“BAF”). The BAF was intended to ensure CEMS did not record mercury readings lower than emissions measured by a Reference Method. *Id.* at 15. However, in the absence of a trading program and federal monitoring regulations along with state emissions caps, a BAF is unnecessary and could in some cases result in a source incorrectly appearing to be out of compliance with the Illinois Mercury Rule. *Id.* In light of these considerations, the Illinois EPA has not included the BAF in its amendments to Part 225 Appendix B.

Finally, the Illinois EPA proposes deleting references to missing data substitution procedures. Missing data procedures are used when monitors are offline to produce a conservative estimate of mercury emissions during that period. *Id.* at 16. In the absence of the CAMR trading program and the mercury emissions cap for the State, missing data substitution procedures are unnecessary and, as such, Illinois EPA has not included the missing data procedures in its amendments to Part 225 Appendix B. To replace the missing data procedure, in response to stakeholder comments, the Agency is proposing to require that CEMS be online for at least 75% of the time. *Id.* at 17. This level of availability has been found to be achievable by USEPA and is comparable to the level of monitor availability for mercury monitoring of new sources required by 40 CFR 60.49Da(p)(4)(i). *Id.* at 16-17. This

requirement does not include periods of unavailability due to regular calibration of the monitor. *Id.* at 17.

IV. GEOGRAPHIC REGIONS AND SOURCES AFFECTED

The geographic region subject to the proposed regulations for EGUs is the entire State of Illinois. The proposed regulations are generally expected to affect all existing EGUs and any new EGUs that serve a generator greater than 25 megawatts producing electricity for sale.

V. TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS

The technology for controlling mercury emissions from coal-fired EGUs is readily available. The Illinois EPA's analysis, explained in detail in Sections 2 through 6 of the Technical Support Document and supporting documentation, demonstrates the technical feasibility and economic reasonableness of this proposed rulemaking.

VI. COMMUNICATION WITH INTERESTED PARTIES

Illinois EPA engaged in extensive outreach on this proposal. In July 2008, the Illinois EPA met with representatives of the affected sources and public interest groups. Illinois EPA also distributed working drafts of the proposed rule to interested parties. In addition, this draft, as well as pertinent documents, were made available and remain available on the Illinois EPA's website. Illinois EPA also stated its willingness to meet individually with any interested party.

Illinois EPA has received comments on its draft, and this proposal incorporates many of the concerns and suggestions put forth in these comments. Such comments can generally be categorized into the following areas: feasibility of monitoring compliance, insuring flexibility, and cost effectiveness.

These regulations are being proposed after the interested parties have had an opportunity to review the proposal and discuss any issues with Illinois EPA.

VII. THE ILLINOIS EPA'S PROPOSAL

The following is a Section-by-Section summary of the Illinois EPA's proposal.

35 Ill. Adm. Code 225

Subpart A: General Provisions

Section 225.120 **Abbreviations and Acronyms**

This Section adds additional abbreviations and acronyms used in Part 225, as well as abbreviations and acronyms used in the new Appendix B to Part 225.

Section 225.130 **Definitions**

This Section amends the definition of "designated representative" and adds definitions for terms used in the new Appendix B to Part 225.

Section 225.140 **Incorporations by Reference**

This Section sets forth the documents that are incorporated by reference in this Part. In this Section, the Agency proposes to remove various Sections of 40 CFR 60 and 40 CFR 75 that were vacated by the Court and to add specific Sections of 40 CFR 75 that were unaffected by the *vacatur*. The Agency proposes to add several additional ASTM standards as well and incorporate definitions from 40 CFR 72.2.

Subpart B: Control of Mercury Emissions from Coal-Fired

Electric Generating Units

Section 225.202 **Measurement Methods**

This Section sets forth the measurement methods for mercury under Part 225. The Agency proposes replacing references to the vacated 40 CFR 75 with references to the newly

created Appendix B to Part 225. The Section also provides a mechanism for sources to submit alternative monitoring plans to the Agency for approval. The Agency added a citation to Appendix A of 40 CFR 60 regarding emissions testing.

Section 225.210 **Compliance Requirements**

This Section specifies the compliance requirements for EGUs subject to Subpart B. This Section creates an alternative monitoring scheme and method of determining compliance based on periodic emissions testing and provides a mechanism for sources to submit alternative monitoring plans to the Agency for approval. This Section also requires recordkeeping and reporting of periodic emissions testing information.

Section 225.220 **Clean Air Act Permit Program (CAAPP) Permit Requirements**

The only proposed change made to this Section is to require that CAAPP permit applicants describe their intended approach to the emissions testing requirements if utilizing Section 225.239. CAMR had required amendments to the CAAPP, but with the *vacatur* those are no longer necessary.

Section 225.230 **Emission Standards for EGUs at Existing Sources**

The amendments to this Section establish as exceptions to the general mercury emission standard under Section 225.230(a)(1) the alternatives provided in Sections 225.230(b) and (d), and 225.232 through 225.234, and adds additional alternatives pursuant to Sections 225.239, and 225.291 through 225.299 of Subpart B. Also, the Agency proposes replacing references to 40 CFR 75 with references to the newly created Appendix B to Part 225 in the subsection regarding EGUs that are served by a common stack.

Section 225.233 **Multi-Pollutant Standards (MPS)**

The Agency's proposed amendments to this Section add a sorbent to the list of approved sorbents for the injection of halogenated activated carbon. This Section further provides that, as an alternative to the CEMS monitoring, recordkeeping, and reporting requirements in Sections 225.240 through 225.290, the owner or operator of an EGU may elect to comply with the applicable emissions testing, monitoring, recordkeeping, and reporting requirements in Section 225.239. This Section also provides that, as an alternative to demonstrating compliance with the emissions standards in this Subsection (d), the owner or operator of an EGU may elect to comply with the applicable emissions testing requirements in Section 225.239. Finally, the Agency replaced references to the CAIR trading program with references to any trading program due to the recent *vacatur* of CAIR.

Section 225.234 **Temporary Technology-Based Standard for EGUs at Existing Sources**

This Section requires that, as an alternative to the CEMS monitoring, recordkeeping, and reporting requirements in Sections 225.240 through 225.290, the owner or operator of an EGU may elect to comply with the applicable emissions testing, monitoring, recordkeeping, and reporting requirements in Section 225.239.

Section 225.235 **Units Scheduled for Permanent Shut Down**

The Agency proposes that an EGU that has completed the requirements of subsection (a) of this Section, or is scheduled for permanent shut down pursuant to Section 225.294(b), be exempt from the monitoring and testing requirements in Sections 225.239 and 225.240.

Section 225.237 **Emission Standards for New Sources with EGUs**

The amendments to this Section establish as exceptions to the general mercury emission standard under Section 225.237(a)(1) the alternatives provided in Sections 225.238

and 225.239. The Agency also updated the cite in Section 225.237(b) to reflect the vacatur of 40 CFR 60.45a.

Section 225.238 **Temporary Technology-Based Standard for New Sources with EGUs**

This Section requires that, as an alternative to the CEMS monitoring, recordkeeping, and reporting requirements in Sections 225.240 through 225.290, the owner or operator of an EGU using the TTBS may elect to comply with the emissions testing, monitoring, recordkeeping, and reporting requirements in Section 225.239. The Agency also added Calgon Carbon's FLUEPAC MC Plus sorbent to the approved list of sorbents for mercury control.

Section 225.239 **Periodic Emissions Testing Alternative Requirements**

In general, this Section creates a new alternative emissions testing requirement to CEMS based on quarterly emissions testing, which may be used until June 30, 2012. Sources are required to perform quarterly emissions testing, except those in the MPS or CPS, which must perform semi-annual emissions testing. This Section also establishes recordkeeping and reporting requirements and emission standards for sources electing to demonstrate compliance by use of emissions testing. Existing units must begin demonstrating compliance in the calendar quarter starting on July 1, 2009, whereas new units must demonstrate compliance within the first 2,160 hours after the commencement of commercial operations. The owner or operator of an EGU that commences commercial operation after June 30, 2009, must also conduct an initial performance test within the first 2,160 hours after the commencement of commercial operations. If an owner or operator of an EGU demonstrating compliance pursuant to Section 225.230 or 225.237 discontinues use of CEMS before collecting a full 12 months of CEMS data and elects to demonstrate compliance pursuant to

this Section, the data collected prior to that point must be averaged to determine compliance for such period.

Emissions tests which demonstrate compliance must be performed at least 45 days apart. However, if an emissions test fails to demonstrate compliance or the emissions test is being performed subsequent to a significant change in the operations of an EGU under subsection (h)(2) of this Section, the owner or operator of an EGU may perform additional emissions test(s) using the same test protocol previously submitted in the same period, with less than 45 days in between emissions tests. Emissions tests must consist of a minimum of three and a maximum of nine emissions test runs, lasting at least one hour each, and averaged to determine compliance. All test runs performed must be reported.

If the EGU shares a common stack with one or more other EGUs, the owner or operator of the EGU must conduct emissions testing in the duct to the common stack from each unit, unless the owner or operator of the EGU considers the combined emissions measured at the common stack as the mass emissions of mercury for the EGUs for recordkeeping and compliance purposes.

If an owner or operator of an EGU demonstrating compliance pursuant to this Section later elects to demonstrate compliance pursuant to the CEMS monitoring provisions in Section 225.240 of this Subpart, the owner or operator must comply with the emissions monitoring deadlines in subsection 225.240(b)(4).

Owners and operators are required to conduct a compliance test in accordance with Method 29, 30A, or 30B of 40 CFR 60, Appendix A. Mercury emissions or control efficiency must be measured while the affected unit is operating at or above 90% of peak load.

For units complying with the control efficiency standard of subsection (b)(1)(B) or (b)(2)(B) of this Section, the owner or operator must perform coal sampling in accordance with Section 225.265 at least once during each day of emissions testing and monthly coal sampling at all other times. For units complying with the output-based emission standard of subsection (b)(1)(A) or (b)(2)(A) of this Section, the owner or operator must monitor gross electrical output for the duration of the testing. The owner or operator of an EGU may use an alternative emissions testing method if such alternative is submitted to the Agency in writing and approved in writing by the Manager of the Bureau of Air's Compliance Section.

The owner or operator of an EGU must submit a testing protocol to the Agency at least 45 days prior to a scheduled emissions test, except as provided in Section 225.239(h)(2) or (h)(3). Notification of a scheduled emissions test must be submitted to the Agency in writing, directed to the Manager of the Bureau of Air's Compliance Section, at least 30 days prior to the expected date of the emissions test. Notification of the actual date and expected time of testing must be submitted in writing, directed to the Manager of the Bureau of Air's Compliance Section, at least five working days prior to the actual date of the test. If an emissions test performed under the requirements of this Section fails to demonstrate compliance with the limits of subsection (b) of this Section, the owner or operator of an EGU may perform a new emissions test using the same test protocol previously submitted in the same period.

The owner or operator of an EGU that has elected to demonstrate compliance by use of the emission standards of subsection (b) of this Section must submit a Continuous Parameter Monitoring Plan to the Agency at least 45 days prior to a scheduled emissions test. The Continuous Parameter Monitoring Plan must detail how the EGU will continue to

operate within the parameters enumerated in the testing protocol and how those parameters will ensure compliance with the appropriate mercury limit.

Each quarterly emissions test shall determine compliance with Subpart B for that quarter. If emissions testing conducted pursuant to this Section fails to demonstrate compliance, the owner or operator of the EGU will be deemed to have been out of compliance with this Subpart beginning on the day after the most recent emissions test that demonstrated compliance or the last day of certified CEMS data demonstrating compliance on a rolling 12-month basis, and the EGU will remain out of compliance until a subsequent emissions test successfully demonstrates compliance with the limits of this Section.

EGUs must continue to operate commensurate with the Continuous Parameter Monitoring Plan until the next compliance demonstration. If the owner or operator makes a significant change to the operations of an EGU subject to this Section, such as changing from bituminous to subbituminous coal, the owner or operator must submit a testing protocol to the Agency with a new Continuous Parameter Monitoring Plan and perform an emissions test within seven operating days of the significant change. If a blend of coal is fired in the EGU, the owner or operator of the EGU must ensure that the EGU continues to operate using the same blend that was used during the most recent successful emissions test. If the blend of coal changes, the owner or operator of the EGU must re-test in accordance with subsections (d), (e), (f), and (g) of Section 225.239 within 30 days of the change in coal blend.

The owner or operator of an EGU and its designated representative must comply with all applicable recordkeeping and reporting requirements in this Section, including records to substantiate that the EGU is operating in compliance with the parameters listed in the Continuous Parameter Monitoring Plan.

EGUs using activated carbon injection must also maintain records of the usage of sorbent, the exhaust gas flow rate from the EGU, and the sorbent feed rate, in pounds per million actual cubic feet of exhaust gas at the injection point, on a weekly average. In addition, if a blend of coal is fired in the EGU, the owner or operator of the EGU must keep records of the amount of each type of coal burned and the required injection rate for injection of activated carbon, on a weekly basis.

The owner or operator of an EGU must retain all records required by this Section at the source unless otherwise provided in the CAAPP permit issued for the source and must make a copy of any record available to the Agency upon request, monitor and report the heat input rate at the EGU level, and perform and report coal sampling in accordance with subsection 225.239(e)(3).

An owner or operator of an EGU shall submit to the Agency a Final Source Test Report for each periodic emissions test within 45 days after the test is completed. The Final Source Test Report will be directed to the Manager of the Bureau of Air's Compliance Section and include at a minimum a summary of results, a description of test method(s), including a description of sampling points, sampling train, analysis equipment, and test schedule, and a detailed description of test conditions, including process information, control equipment information, a discussion of any preparatory actions taken, and data and calculations.

The owner or operator of a source with one or more EGUs demonstrating compliance with Subpart B in accordance with this Section must submit to the Agency a Quarterly Certification of Compliance within 45 days following the end of the calendar quarter covered by this certification. Quarterly certifications of compliance must indicate whether compliance

existed for each EGU for the previous calendar quarter and it must certify to that effect. If the EGU failed to comply during the quarter covered by the certification, the owner or operator must provide the reasons the EGU or EGUs failed to comply and a full description of the noncompliance. In addition, for each EGU, the owner or operator must provide the following: a list of all emissions tests performed within the calendar quarter, any deviations or exceptions each month, and all Quarterly Certifications of Compliance required to be submitted must include a certification by a responsible official.

Finally, for each EGU, the owner or operator must promptly notify the Agency of deviations from requirements of this Subpart B. At a minimum, these notifications must include a description of such deviations within 30 days after discovery of the deviations, and a discussion of the possible cause of such deviations, any corrective actions, and any preventative measures taken.

Section 225.240 General Monitoring and Reporting Requirements

This Section replaces citations to vacated sections of 40 CFR 75 with equivalent citations to the newly created Appendix B to Part 225 and changes the emissions monitoring deadline to July 1, 2009. Also, owners or operators of EGUs that originally elected to demonstrate compliance pursuant to the emissions testing requirements in Section 225.239 must record, report, and quality-assure data from the CEMS by the first day of the calendar quarter following the last emissions test demonstrating compliance with Section 225.239.

This Section replaces citations to vacated portions of 40 CFR 75 regarding reporting data with citations to the newly created alternative reporting data requirements in Section 225.239. It also provides that the Agency will approve alternatives instead of the USEPA.

Section 225.250 **Initial Certification and Recertification Procedures for Emissions Monitoring**

This Section replaces citations to vacated sections of 40 CFR 75 with equivalent citations to the newly created Appendix B to Part 225. It also provides that the Agency will approve alternatives instead of the USEPA. This Section removes references to missing data substitution procedures relating to CEMS.

Section 225.260 **Out of Control Periods for Emissions Monitors**

This Section replaces citations to vacated sections of 40 CFR 75 with equivalent citations to the newly created Appendix B to Part 225. It also removes references to missing data substitution procedures relating to CEMS and establishes minimum monitor data availability requirements.

Section 225.261 **Additional Requirements to Provide Heat Input Data**

This Section replaces citations to vacated sections of 40 CFR 75 with equivalent citations to the newly created Appendix B to Part 225.

Section 225.265 **Coal Analysis for Input Mercury Levels**

The Agency corrected an error present in the original rulemaking. The language in Section 225.265(a) mistakenly referenced Section 225.230(a)(2) instead of 225.230(a)(1)(B). Also, in Section 225.265(a), the Agency proposes requiring sources complying via Section 225.233, 225.239, or 225.291 through 225.299 to perform coal sampling in accordance with this Section. The Agency proposes requiring that EGUs complying by means of Section 225.233 or Sections 225.291 through 225.299 perform coal sampling at least once per month, EGUs complying by means of Section 225.239 perform coal sampling according to the schedule provided in Section 225.239(e)(3), and all other EGUs subject to this requirement perform coal sampling on a daily basis.

Section 225.270 **Notifications**

This Section replaces citations to vacated sections of 40 CFR 75 with equivalent citations to the newly created Appendix B to Part 225.

Section 225.290 **Recordkeeping and Reporting**

This Section replaces citations to vacated sections of 40 CFR 75 with equivalent citations to the newly created Appendix B to Part 225. This Section adds as part of the quarterly reports recertification testing that has been performed for CEMS. It also removes references to missing data substitution procedures for CEMS. Finally, the Agency corrected two errors present in the original rulemaking. The language in Section 225.290(a)(2)(A) mistakenly referenced Section 225.230(a)(2) instead of 225.230(a)(1)(B). Section 225.290(a)(2)(B) mistakenly referenced Section 225.230(a)(1) instead of 225.230(a)(1)(A).

Section 225.291 **Combined Pollutant Standard: Purpose**

This Section replaces citations to Subpart F of Part 225 with equivalent citations to Sections 225.291 through 225.299, including internal cross-citations.

Section 225.292 **Applicability of the Combined Pollutant Standard**

This Section replaces citations to Subpart F of Part 225 with equivalent citations to Sections 225.291 through 225.299, including internal cross-citations.

Section 225.293 **Combined Pollutant Standard: Notice of Intent**

This Section replaces citations to Subpart F of Part 225 with equivalent citations to Sections 225.291 through 225.299, including internal cross-citations.

Section 225.294 **Combined Pollutant Standard: Control Technology Requirements and Emissions Standards for Mercury**

This Section replaces citations to Subpart F of Part 225 with equivalent citations to Sections 225.291 through 225.299, including internal cross-citations. This Section adds the

option for sources to demonstrate compliance pursuant to emissions testing under Section 225.239. This Section also adds a sorbent to the list of approved sorbents for halogenated activated carbon. Finally, this section creates a new subsection (l) which provides that, as an alternative to the CEMS monitoring, recordkeeping, and reporting requirements in Sections 225.240 through 225.290, the owner or operator of an EGU may elect to comply with the applicable emissions testing, monitoring, recordkeeping, and reporting requirements in Section 225.239.

Section 225.295 **Combined Pollutant Standard: Emissions Standards for NO_x and SO₂**

This Section replaces citations to Subpart F of Part 225 with equivalent citations to Sections 225.291 through 225.299, including internal cross-citations.

Section 225.295 **Treatment of Mercury Allowances**

Repealed. As CAMR is vacated, the trading program authorized by CAMR has ceased to exist as well. Accordingly, there was no need for this section.

Section 225.296 **Combined Pollutant Standard: Control Technology Requirements for NO_x, SO₂, and PM Emissions**

This Section replaces citations to Subpart F of Part 225 with equivalent citations to Sections 225.291 through 225.299, including internal cross-citations.

Section 225.297 **Combined Pollutant Standard: Permanent Shut-Downs**

This Section replaces citations to Subpart F of Part 225 with equivalent citations to Sections 225.291 through 225.299, including internal cross-citations.

Section 225.298 **Combined Pollutant Standard: Requirements for NO_x and SO₂ Allowances**

This Section replaces citations to Subpart F of Part 225 with equivalent citations to Sections 225.291 through 225.299, including internal cross-citations. The Agency also

replaced references to the CAIR trading program with references to any trading program due to the recent *vacatur* of CAIR.

Section 225.299 Combined Pollutant Standard: Clean Air Act Requirements

This Section replaces citations to Subpart F of Part 225 with equivalent citations to Sections 225.291 through 225.299, including internal cross-citations.

SUBPART F: COMBINED POLLUTANT STANDARDS

Subpart F, comprising Sections 225.600, 605, 610, 615, 620, 625, 630, 635, and 640, were repealed and reconstituted as Sections 225.291, 292, 293, 294, 295, 296, 297, 298, and 299, respectively.

225.APPENDIX A Specified EGUs for Purposes of Subpart F (Midwest Generation's Coal-Fired Boilers as of July 1, 2006)

This Appendix replaces citations to Subpart F of Part 225 with equivalent citations to Sections 225.291 through 225.299, including internal cross-citations.

225.APPENDIX B Continuous Emission Monitoring Systems for Mercury

The newly created Appendix B recreates necessary sections of 40 CFR 75 as part of 35 Ill. Adm. Code Part 225. In addition, the Agency revised Appendices A, B, F, and K to Part 75, converting them to Exhibits to Appendix B of Part 225. The Agency also converted the citation style from the federal citation system to the Illinois-specific system. In other words, when creating subsections, the federal system is organized as (a)(1)(ii)(B), whereas Illinois uses (a)(1)(B)(ii). The conversion between the two rules is as follows:

<u>40 CFR 75:</u>	<u>New Appendix B:</u>
75.2	1.1 Applicability
75.10	1.2 General Operating Requirements
75.15	1.3 Special provisions for measuring mercury mass

emissions using the excepted sorbent trap monitoring methodology

75.20	1.4	Initial certification and recertification procedures
75.21	1.5	Quality assurance and quality control requirements
75.22	1.6	Reference test methods
75.24	1.7	Out-of-control periods and system bias testing
75.32	1.8	Determination of monitor data availability
75.39	1.9	Determination of sorbent trap monitoring systems data availability
75.53	1.10	Monitoring plan
75.57	1.11	General recordkeeping provisions
75.58	1.12	General recordkeeping provisions for specific situations
75.59	1.13	Certification, quality assurance, and quality control record provisions
75.80	1.14	General provisions
75.81	1.15	Monitoring of mercury mass emissions and heat input at the unit level
75.82	1.16	Monitoring of mercury mass emissions and heat input at common and multiple stacks
75.83	1.17	Calculation of mercury mass emissions and heat input rate
75.84	1.18	Recordkeeping and reporting
Appendix A	Exhibit A	Specifications and test procedures
Appendix B	Exhibit B	Quality assurance and quality control procedures
Appendix F	Exhibit C	Conversion procedures
Appendix K	Exhibit D	Quality Assurance and operating procedures for

sorbent trap monitoring systems

The Agency removed references to, and sections regarding, pollutants that are not necessary to monitor mercury, removed references to missing data substitution procedures and bias adjustment factors, replaced references to the Administrator of the USEPA with references to the Agency, and changed cross references to vacated portions of CAMR.

In Section 75.2, the Agency deleted subsections (a), (b), (c) and revised subsection (d).

In Section 75.10, the Agency deleted subsections (a) and (d)(2) and revised the remaining subsections as described above.

In Section 75.15, the Agency deleted subsection (h)(2) and revised the remaining subsections as described above.

In Section 75.20, the Agency deleted references to deadlines specified in 40 CFR 75.4 and references to the Acid Rain Program. In subsection (a)(5)(i), the Agency replaced references to missing data substitution with references to Section 225.239. In subsection (b)(3)(A), the Agency replaced references to missing data substitution with requirements regarding the estimation of mercury emissions. Finally, the Agency deleted subsections (a)(4)(iv), (c)(3), (c)(8), (c)(10)(ii), (d)(2)(iv), (g), and (h), and revised the remaining subsections as described above.

In Section 75.21, the Agency deleted subsections (a)(4) through (a)(10), (b), (d), and (e), and revised the remaining subsections as described above.

In Section 75.22, the Agency deleted subsections (a)(5), (a)(6), (b)(2), (b)(3), and (c)(2).

In Section 75.24, the Agency deleted subsections (c)(1) and (e).

In Section 75.32, the Agency changed the title of the Section, deleted subsections (a)(1), (a)(2), and (b), deleted references to Equation 9, added a new subsection requiring use of Equation 8 to calculate percent monitor data availability, and revised the remaining subsections as described above.

In Section 75.39, the Agency changed the title of the Section. In subsection (a), the Agency replaced references to maximum potential mercury concentration with references to quarterly emissions testing under Section 225.239. The Agency also deleted subsections (c), (e), and (f), and revised the remaining subsections as described above.

In Section 75.53, the Agency deleted subsections (a)(1), (c), (d), (e), (f)(1) through (f)(3), (f)(5), (f)(6), (g)(1)(i)(G), (g)(1)(viii)(B) through (E), and (h), and revised the remaining subsections as described above. The Agency also deleted references to dual range mercury monitors and peaking units.

In Section 75.57, the Agency deleted subsections (c), (d), (e), (f), (i)(1)(iv), (i)(5)(iii), and (j)(1)(iv), and revised the remaining subsections as described above. Also, in subsection (a), the Agency deleted the second sentence regarding units utilizing a common stack. Finally, the Agency added a new subsection (b)(4) regarding recording steam load information.

In Section 75.58, the Agency deleted subsections (a), (b)(1), (b)(2), (b)(3)(iii), (b)(3)(iv), (c), (d), and (e), and revised the remaining subsections as described above.

In Section 75.59, the Agency deleted (a)(5)(iii)(G), (a)(5)(v), (a)(7)(iv)(V) and (W), (a)(12)(iii), (a)(13), (b), and (d).

In Section 75.80, the Agency deleted subsections (a)(2), (d), and (f), and revised the remaining subsections as described above.

In Section 75.81 through 75.84, the Agency made no deletions or revisions other than those described above, except that in Section 75.81, the Agency added a description of mercury concentration monitoring system.

Similar to Part 75, the Agency revised Appendices A, B, F, and K to Part 75, and converted them to Exhibits A, B, C, and D to Appendix B of Part 225, respectively. The Agency removed references to, and sections regarding, pollutants that are not necessary to monitor mercury, removed references to missing data substitution procedures and bias adjustment factors, replaced references to the Administrator of the USEPA with references to the Agency, and changed cross references to vacated portions of CAMR. Many of the section numbers did not change from those in the original Appendices to Part 75. For those that did, the conversion between the two rules is as follows:

<u>Appendix A to 40 CFR 75</u>	<u>Exhibit A of Appendix B to Part 225</u>
1.1.2	Deleted
2.1.1	Deleted
2.1.1.1	Deleted
2.1.1.2	Deleted
2.1.1.3	Deleted
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2.1.1.5	Deleted
2.1.2	Deleted
2.1.2.1	Deleted
2.1.2.2	Deleted
2.1.2.3	Deleted

2.1.2.4	Deleted
2.1.2.5	Deleted
2.1.3	2.1.1
2.1.3.1	Deleted
2.1.3.2	Deleted
2.1.3.3	Deleted
2.1.4	2.1.2
2.1.4.1	2.1.2.1
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2.1.4.3	2.1.2.3
2.1.5	Deleted
2.1.6	Deleted
2.1.7	2.1.3
2.1.7.1	2.1.3.1
2.1.7.2	2.1.3.2
2.1.7.3	2.1.3.3
2.1.7.4	2.1.3.4
3.3.1	Deleted
3.3.2	Deleted
3.3.3	3.3.1
3.3.4	3.3.2
3.3.5	Deleted
3.3.6	3.3.3

3.3.7	Deleted
3.3.8	3.3.4
3.4.1	Deleted
3.4.2	3.4.1
3.4.3	3.4.2
6.5.3	Deleted
6.5.4	6.5.3
6.5.5	6.5.4
6.5.6	6.5.5
6.5.6.1	6.5.5.1
6.5.6.2	6.5.5.2
6.5.6.3	6.5.5.3
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6.5.8	6.5.7
6.5.9	6.5.8
6.5.10	6.5.9
7.4	Deleted
7.4.1	Deleted
7.4.2	Deleted
7.4.3	Deleted
7.5	Deleted
7.6	7.4
7.6.1	7.4.1

7.6.2	7.4.2
7.6.3	7.4.3
7.6.4	7.4.4
7.6.5	Deleted
7.7	7.5
7.8	7.6
<u>Appendix B to 40 CFR 75</u>	<u>Exhibit B of Appendix B to Part 225</u>
1.3	Deleted
1.4	Deleted
1.5	1.3
1.5.1	1.3.1
1.5.2	1.3.2
1.5.3	1.3.3
1.5.4	1.3.4
1.5.5	1.3.5
1.5.6	1.3.6
2.3.4	Deleted
<u>Appendix F to 40 CFR 75</u>	<u>Exhibit C of Appendix B to Part 225</u>
2	Deleted
3	Deleted
4	Deleted
5	2
5.1	2.1
5.2	2.2

5.2.1	2.2.1
5.2.2	2.2.2
5.2.3	2.2.3
5.2.4	2.2.4
5.3	2.3
5.3.1	2.3.1
5.3.2	2.3.2
5.4	Deleted
5.5	Deleted
5.6	2.4
5.6.1	2.4.1
5.6.2	2.4.2
5.7	2.5
5.8	Deleted
6	3
7	Deleted
8	Deleted
9	4
9.1	4.1
9.1.1	4.1.1
9.1.2	4.1.2
9.1.3	4.1.3
9.2	4.2

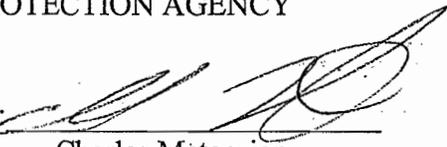
9.3	4.3
10	5
<u>Appendix K to 40 CFR 75</u>	<u>Exhibit D of Appendix B to Part 225</u>
11.5	Deleted
11.6	11.5
11.7	11.6
11.8	11.7

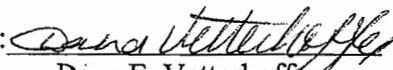
VIII. CONCLUSION

For the reasons stated above, the Illinois EPA hereby submits this regulatory proposal and requests the Board to adopt the amendments to the rules for the State of Illinois.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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