

ILLINOIS POLLUTION CONTROL BOARD  
September 22, 2011

IN THE MATTER OF: )  
)  
AIR QUALITY STANDARDS CLEAN-UP: ) R09-19  
AMENDMENTS TO 35 ILL. ADM. CODE ) (Rulemaking - Air)  
PARTS 217, 223, AND 243 )

Proposed Rule. Second Notice.

OPINION AND ORDER OF THE BOARD (by A.S. Moore)

The Illinois Environmental Protection Agency (Agency or Illinois EPA) initiated this proceeding by filing a rulemaking proposal on December 1, 2008. After conducting two public hearings, the Board on November 4, 2010, issued its first-notice opinion and order proposing amendments intended to update Part 243 of the Board's regulations to reflect federal air quality standards and to make technical corrections to Sections 217.388 and 223.205. 34 Ill Reg. 17513, 17525, 17537 (Nov. 19, 2010).

During the 45-day comment period (*see* 5 ILCS 100/5-40(b) (2010)), the Board received a second *errata* sheet from the Agency and comments from both the Agency and the Illinois Environmental Regulatory Group (IERG). After reviewing the substance of those filings, the Board today adopts a proposal for second-notice review by the Joint Committee on Administrative Rules (JCAR) (*see* 5 ILCS 100/5-40(c) (2010)).

In the opinion below, the Board first provides the procedural history of this rulemaking before summarizing the Board's first-notice proposal. The Board then summarizes the Agency's December 28, 2010 second *errata* sheet and both the Agency's and IERG's first-notice comments. After discussing the issues raised, the Board reaches its conclusion. The order following this opinion then sets forth the proposed amendments for second-notice review by JCAR.

**PROCEDURAL HISTORY**

On December 1, 2008, the Agency filed a proposal to amend the air quality standards at Part 243 of the Board's regulations (Prop.). *See* 35 Ill. Adm. Code 243. A Statement of Reasons (SR) and a Technical Support Document accompanied the proposal. In an order dated December 18, 2008, the Board accepted the proposal for hearing.

In an order dated December 23, 2008, the hearing officer scheduled two hearings: the first on February 3, 2009, in Edwardsville, and the second on March 10, 2009, in Chicago. The same order set a deadline of January 20, 2009, to pre-file testimony for the first hearing. On January 20, 2009, the Agency filed a motion to reschedule the first hearing and to set a new deadline to pre-file testimony for it. Also on January 20, 2009, the Agency filed a motion to amend its rulemaking proposal (Mot. Amend).

In an order dated January 30, 2009, the hearing officer granted the Agency's motion to reschedule the first hearing, rescheduled it on March 10, 2009, in Chicago, and set a deadline of February 24, 2009, to pre-file testimony for it.

In an order dated February 19, 2009, the Board granted the Agency's motion to amend its proposal.

On March 3, 2009, the Agency filed a motion to file *instanter* the testimony of Mr. Robert Kaleel. Mr. Kaleel's testimony (Kaleel Test.) and a revised Technical Support Document (TSD) accompanied the motion.

The first hearing took place on March 10, 2009, and the Board received the transcript (Tr.1) on March 20, 2009. During the first hearing, the hearing officer granted the Agency's motion to file *instanter* the testimony of Mr. Kaleel. Tr.1 at 4-5. Also during the first hearing, the hearing officer admitted one exhibit into the record of this proceeding: 40 C.F.R 50.2 – 50.15 (Exh. 1). *See* Tr.1 at 15.

In an order dated March 10, 2009, the hearing officer scheduled the second hearing on April 28, 2009, in Springfield and set April 14, 2009, as the deadline to pre-file testimony for it.

On April 14, 2009, the Agency filed an *errata* sheet to its proposal (*Errata* 1). On the same date, IERG pre-filed the testimony of Mr. David L. Kolaz (Kolaz Test.) for the second hearing.

The second hearing took place on April 28, 2009, and the Board received the transcript (Tr.2) on May 7, 2009. During the second hearing, the hearing officer admitted three exhibits into the record: the cover page, page six, and pages 62-66 of the Agency's *2007 Illinois Annual Air Quality Report* (Exh. 2); a "Summary of Pekin Sulfur Dioxide Data from USEPA's [United States Environmental Protections Agency's] Airdata System" (Exh. 3); and a document entitled "Example Standard Language for Sulfur Oxides, Carbon Monoxide and Nitrogen Dioxide" (Exh. 4).

As required by Section 27(b) of the Act (415 ILCS 5/27(b) (2010)) the Board requested in a letter dated December 19, 2008, that the Department of Commerce and Economic Opportunity (DCEO) determine whether it would conduct an economic impact study of the Agency's rulemaking proposal. DCEO did not respond to the Board's request. At the second hearing, the hearing officer noted the Board's request to DCEO and the absence of a response to it. Tr.2 at 37. Although the hearing officer afforded those present an opportunity to testify regarding the request, no participant offered testimony. *See id.* at 37-38.

In an order dated May 8, 2009, the hearing officer set June 8, 2009, as the deadline to file post-hearing comments. On June 8, 2009, both the Agency (PC 1), and IERG (PC 2) filed post-hearing comments. On June 9, 2009, the Agency filed corrected post-hearing comments (PC 3) accompanied by a motion for leave to file *instanter*.

On July 28, 2009, the Agency filed a “Motion to File *Instantly* a Request to Add an Amendment to Part 223 to the Current Rulemaking” (Mot. Add).

On October 2, 2009, the Board docketed as a public comment an e-mail to the hearing officer from the Agency (PC 4).

On November 4, 2010, the Board issued its first-notice opinion and order (Opinion). *See* 34 Ill. Reg. 17513, 17525, 17537 (Nov. 19, 2010). In its opinion and order, the Board granted the Agency’s unopposed June 9, 2009 motion for leave to file corrected post-hearing comments *instantly*. Opinion at 4. The Board also granted the Agency’s unopposed July 28, 2009 motion to file *instantly* a request to add an amendment to Part 223 to this proceeding. *Id.* at 4-5.

On December 28, 2010, the Agency filed a second *errata* sheet (PC 5 or *Errata* 2).

On January 3, 2011, IERG filed first-notice comments (PC 6). On January 18, 2011, the Agency filed first-notice comments (PC 7).

### **SUMMARY OF FIRST-NOTICE PROPOSAL**

#### **Section 217.388**

In an August 31, 2009 e-mail to the hearing officer, the Agency forwarded an electronic message from counsel for IERG. PC 4. The original message noted that Section 217.388(a)(2)(B) of the Board’s regulations includes a cross-reference to a non-existent Section 217.386(a)(1)(B) that should instead refer to Section 217.386(a)(2). PC 4; *see* 35 Ill. Adm. Code 217.386, 217.388(a)(2)(B). The comment surmised that the regulations incorrectly applied a reorganization of Section 217.388 to the reference to Section 217.386. PC 4. The Agency acknowledged that the adopted Section 217.388(a)(2)(B) included that error and asked how the error could be most easily corrected. *Id.* In its first-notice opinion, the Board concurred that Section 217.388(a)(2)(B) includes an incorrect cross-reference and that the public comment proposes an appropriate correction. Accordingly, the Board found that this docket updating the air regulations should include that correction and proposed it for first notice publication. Opinion at 20.

#### **Section 223.205**

As noted above under “Procedural Background,” the Board in its first-notice opinion granted the Agency’s unopposed motion to add a proposed amendment to Part 223 for consideration in this docket. *Supra* at 3; *see* 35 Ill. Adm. Code 223.205(a)(2); *see generally* Mot. Add. The Agency sought to amend the name of the category “Adhesives -- Construction, Panel and Floor Contact” so that it corresponds to the adopted definition of the term “Adhesives -- Construction, Panel and Floor Covering Adhesives.” *See* 35 Ill. Adm. Code 223.203 (definitions), 223.205(a)(2), Mot. Add.

The Board concurred with the Agency’s view that this proposed amendment would make Part 223 more consistent with regulations adopted in other jurisdictions. Opinion at 20; *see*

Proposed New 35 Ill. Adm. Code 223 Standards and Limitations for Volatile Organic Material Emissions from Area Sources, R8-17, slip op at 34-35 (Oct. 16, 2008) (addressing source of Agency proposal in first-notice opinion and order). The Board also concurred with the Agency's claim that correcting this inconsistency between the name of the category and the adopted definitions "should have no substantial effect on regulated entities and should clear up any confusion about the category in the future." Mot. Add at 2. The Board found that the Agency's proposed amendment would clarify its VOM emissions regulations and proposed it for first notice as suggested by the Agency. Opinion at 20.

### **Part 243 Subpart A: General Provisions**

In Subpart A, the Agency proposed a number of amendments, some of which simply corrected typographical errors or corrected citations. *See* SR at 3; Prop. at 2, 3. The Agency also proposed to amend Section 243.107, which addresses reference conditions, to provide for the measurement of PM<sub>2.5</sub>. *See* SR at 2-3; Prop. at 3. Finally, the Agency proposed to amend Section 243.108 to update material incorporated by reference and to incorporate by reference new materials pertaining to PM<sub>2.5</sub>, ozone, and lead. Prop. at 4, Mot. Amend at 2-3, *Errata* 1 at 2-3. The Board found that the record did not persuasively dispute these proposed amendments and that they correct, clarify, and update these regulations. The Board proposed the amendments as offered by the Agency for first notice publication. Opinion at 21.

### **Part 243 Subpart B: Standards and Measurement Methods**

#### **Section 243.120 PM-10**

The Agency's original proposal sought to amend the heading of this section and to incorporate recent federal amendments to the standard for both PM<sub>10</sub> and PM<sub>2.5</sub>. Prop. at 4-5; SR at 2-3 (citations omitted). The Agency also sought to adopt a measurement method for determining compliance with the PM<sub>2.5</sub> standard. Prop. at 5. The Agency's first *errata* sheet responded to questions at the first hearing by seeking to make this provision more consistent with the federal standard. *Errata* 1 at 3-4; *see* Tr.1 at 12-17.

In its post-hearing comment, IERG suggested further amendment. PC 2 at 3-4. While IERG largely accepted language offered in the Agency's first *errata* sheet, it proposed to amend subsection (b) regarding demonstrating attainment of the PM<sub>10</sub> standard through 40 C.F.R. 50, Appendix K. PC 2 at 3. Specifically, IERG proposed that subsection (b) provide in its entirety that,

[f]or determining conformance with the PM<sub>10</sub> ambient air quality standards, PM<sub>10</sub> shall be measured by a method described in 40 CFR 50, Appendix J (incorporated by reference in Section 243.108). The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 micrograms per cubic meter is equal to or less than one, as determined in accordance with 40 CFR 50, Appendix K (incorporated by reference in Section 243.108). *Id.*

IERG also offered amendments to the Agency's proposed subsection (d). Specially, IERG proposed that subsection (d) provide in its entirety as follows:

- d) **PM<sub>2.5</sub> Measurement Method.** For determining conformance with the PM<sub>2.5</sub> ambient air quality standards, PM<sub>2.5</sub> shall be measured by the method described in 40 CFR 50, Appendix L (incorporated by reference in Section 243.108). Compliance with the standards is determined using the methods and procedures described in 40 CFR 50, Appendix N (incorporated by reference in Section 243.108).
- 1) The annual primary and secondary PM<sub>2.5</sub> standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix N, is less than or equal to 15.0 µg/m<sup>3</sup>.
  - 2) The 24-hour primary and secondary PM<sub>2.5</sub> standards are met when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR 50, Appendix N of this part, is less than or equal to 35 µg/m<sup>3</sup>. *Id.* at 4.

The Board's first-notice opinion concluded that IERG's proposed language clarifies these provisions without significant substantive revision. The Board proposed this language for first-notice publication and invited comment on it from the Agency and other participants. Opinion at 22.

### **Section 243.122 Sulfur Oxides (Sulfur Dioxide)**

The Agency's original proposal included only a single technical correction in this section. Prop. at 6; *see also* Mot. Amend; *Errata* 1. In his testimony on behalf of the Agency at the first hearing, Mr. Kaleel indicated that the state standard has not been amended "for many years." Tr. 1 at 23. He continued that "it's not our intent to revise that at this time." *Id.* He further stated that the Agency intended to amend Illinois' regulations only to reflect revised National Ambient Air Quality Standards (NAAQS) promulgated by USEPA. Kaleel Test. at 1 (noting revised NAAQS for ozone, particulate matter, and lead); *see* PC 3 at 1. In his testimony, Mr. Kolaz stated that the last federal revision of this standard took place in 1996. Kolaz Test. at 2.

IERG emphasized that, while the state standard is expressed in terms of micrograms per cubic meter and only parenthetically in ppm, the federal standard is stated only in terms of ppm. PC 2 at 6, Kolaz Test. at 3, Tr. 2 at 22. IERG also argued that the state standard should include a rounding convention and provisions for data completeness and data handling. PC 2 at 7, Kolaz Test. at 4. IERG also claimed that the state standard should interpret data using block averaging rather than running average time periods. PC 2 at 8, Kolaz Test. at 3.

Regarding the amendments to the sulfur oxides standard proposed by IERG, the Board noted that the record identified only a single affected source, Aventine, and did not estimate any economic impact of the proposed amendments. Opinion at 22; *see* 415 ILCS 5/27(b) (2010); 35

Ill. Adm. Code 102.202(b). The Board also noted that the record also does not clearly project the environmental impact of these provisions and that the Agency had argued that the application of block averaging would be less stringent than running averaging. Opinion at 22; *see* PC 3 at 3-4. Citing IERG's reference to Aventine, the Agency suggested that block averaging would relax the standard for all sources and obviate emission reductions. Furthermore, the Agency stressed that it uses data expressed in terms of micrograms per cubic meter is making attainment demonstrations. Accordingly, the Board declined to propose the language suggested by IERG for first-notice publication. Opinion at 22.

### **Section 243.123 Carbon Monoxide**

The Agency's original proposal included no revision to this section. Prop. at 6; *see also* Mot. Amend, *Errata* 1. In his testimony on behalf of the Agency at the first hearing, Mr. Kaleel stated that "it's not our intent to revise the carbon monoxide standard." Tr.1 at 24. He further stated that the Agency intended to amend Illinois' regulations only to reflect revised NAAQS promulgated by USEPA. Kaleel Test. at 1 (noting revised NAAQS for ozone, particulate matter, and lead); *see* PC 3 at 1.

In his testimony on behalf of IERG, Mr. Kolaz noted that, while the federal standard for carbon monoxide is expressed in terms of ppm and only parenthetically in terms of micrograms per cubic meter, the state standard is stated in terms of micrograms per cubic meter and only parenthetically in terms of ppm. Kolaz Test. at 5-6, Tr.2 at 29. He recommended that the Board provide the standard only in terms of ppm. Kolaz Test. at 6. IERG also argues that the Board should incorporate the rounding convention, data completeness, and data handling provisions of the federal rule. IERG also proposed that compliance with the standard be determined through non-overlapping running averages. PC 2 at 10.

Regarding the amendments to the carbon monoxide standard proposed by IERG, the Board stated that the record does not clearly identify sources that may be affected or estimate any economic impact of the proposed amendments upon them. Opinion at 23; *see* 415 ILCS 5/27(b) (2010); 35 Ill. Adm. Code 102.202(b). The Board also stated that the record did not clearly project the environmental impact of these provisions and that the Agency had argued that application of block averaging is less stringent than running averaging. Opinion at 23. Accordingly, the Board declined to propose the language by IERG for first-notice publication. *Id.*

### **Section 243.124 Nitrogen Dioxide**

The Agency's original proposal did not revise this section. Prop. at 7; *see also* Mot. Amend, *Errata* 1. In his testimony on behalf of the Agency at the first hearing, Mr. Kaleel indicated that "[w]e are not making changes to nitrogen dioxide." Tr.1 at 25. He continued that the existing standards "have existed for a very long time, and at such time U.S. EPA revises those standards, we will revisit those, but we don't intend to do those at this time." *Id.* Mr. Kaleel's pre-filed testimony stated that the Agency intended to amend Illinois' regulations only to reflect revised NAAQS promulgated by USEPA. Kaleel Test. at 1 (noting revised NAAQS for ozone, particulate matter, and lead); *see* PC 3 at 1.

In his testimony on behalf of IERG, Mr. Kolaz noted that, while the federal standard for nitrogen dioxide is expressed in terms of ppm and only parenthetically in terms of micrograms per cubic meter, the state standard is stated in terms of micrograms per cubic meter. Kolaz Test. at 4; *see* PC 2 at 9. IERG recommended that the Board provide the nitrogen dioxide standard only in terms of ppm. PC 2 at 9 6. IERG also noted that the federal standard incorporates a rounding convention and data completeness and data handling provisions. Kolaz Test. at 5; PC 2 at 9.

Regarding the amendments to the nitrogen dioxide standard proposed by IERG, the Board stated that the record does not clearly identify sources that may be affected or estimate any economic impact of the amendments upon them. Opinion at 23-24; *see* 415 ILCS 5/27(b) (2010); 35 Ill. Adm. Code 102.202(b). The Board also stated that the record did not clearly project the environmental impact of these provisions, and IERG has acknowledged that relying solely on a ppm standard and adopting the proposed rounding convention would result in a less stringent regulation. Accordingly, the Board declined to propose the language by IERG for first-notice publication. Opinion at 24.

### **Section 243.125 Ozone**

The Agency's original proposal sought to incorporate the new federal 8-hour ozone standard, adopt a measurement method for determining compliance with it, and revoke the 1-hour standard. SR at 2 (citations omitted); Prop. at 7. The Agency's first *errata* sheet proposed changes intended to make this section more consistent with the federal standard. *Errata* 1 at 4-5; *see* Tr.1 at 19-20.

In its post-hearing comment, IERG suggested further amendment. PC 2 at 4. While IERG largely accepted the Agency's first *errata* with regard to subsection (a), it proposed to amend subsection (b) regarding demonstrating attainment of the 8-hour ozone standard through 40 C.F.R. 50, Appendix P. *Id.* Specifically, IERG proposed that subsection (b) provide in its entirety that

[o]zone shall be measured by a reference method specified by 40 CFR Part 50, Appendix D, or an equivalent method as described in 40 CFR Part 50, Section 50.1, all designated as prescribed by 40 CFR Part 53 (2003). The primary and secondary ambient air quality standards are met when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.075 ppm, as determined using 40 CFR 50, Appendix P (incorporated by reference in Section 243.108). PC 3 at 4.

The Board concluded that IERG's proposed language clarifies this provision without significant substantive revision. Opinion at 24. The Board proposed this language for first-notice publication and invited comment from the Agency and other participants on this amendment to Section 243.125. *Id.*

### **Section 243.126 Lead**

Although the Agency's original proposal suggested only a small number of non-substantive changes to this section (Prop. at 7-8), its motion to amend filed on June 8, 2009, sought to replace the existing lead standard and measurement method with a new standard and measurement. Mot. Amend at 1, 3, citing 73 Fed. Reg. 66964 (Nov. 12, 2008). The Agency's first *errata* sheet sought to make the proposal more consistent with the revised federal standard. *Errata* 1 at 5, citing 73 Fed. Reg. 66964 (Nov. 12, 2008); *see* Tr.1 at 20-21.

In its post-hearing comments, IERG suggested additional amendments. PC 2 at 5. The Board stated that IERG had not supported these suggestions with technical support, evidence or arguments identifying affected sources, or projected economic or environmental impact. Opinion at 24. Although the Board declined to adopt the revisions proposed by IERG, it invited comment by the participants on this provision. *Id.* at 25.

### **Technical Feasibility and Economic Reasonableness**

As noted above under "Procedural Background," the Board in a letter dated December 19, 2008, requested that DCEO determine whether it would conduct an economic impact study of the Agency's rulemaking proposal. *See* 415 ILCS 5/27(b) (2010). DCEO did not respond to the Board's request. At the second hearing, the hearing officer noted the Board's request to DCEO and the absence of a response to it. Tr.2 at 37. Although the hearing officer afforded those present an opportunity to testify regarding the request, no participant offered testimony regarding that issue. *See id.* at 37-38.

The Board noted that the Agency's Statement of Reasons addressed the issues of technical feasibility and economic reasonableness with a statement providing in its entirety that

[t]he amendments to Part 243 do not impose new requirements, they merely update the State's regulations to reflect current federal law and standards. The Illinois EPA therefore believes that an analysis of technical feasibility and economic reasonableness is not appropriate. These standards are well known to industry and have been thoroughly discussed by the U.S. EPA. Opinion at 25; *see* SR at 4.

Generally, the Board proposed for first-notice publication language reflecting the Agency's general intent to adopt revised NAAQS promulgated by USEPA into Part 243. Opinion at 25. The Board generally declined to propose language that was not suggested by the Agency and that raised questions about identifying potentially affected sources and projecting economic and environmental impacts. Accordingly, the Board concurred with the Agency that the proposal reflected current federal law and that compliance with it is both technically feasible and economically reasonable. *Id.* The Board also concluded that the proposed amendments to Parts 217 and 223 provide only clarifying technical corrections and are also technically feasible and economically reasonable. *Id.*

**AGENCY'S SECOND ERRATA SHEET (PC 4)**

In its second *errata* sheet filed December 28, 2010, the Agency proposed a number of “amendments to the text of the rules sent to First Notice by the Board on November 4, 2010.” *Errata 2* at 1.

The Agency first proposed to amend Section 243.106 “to clarify the source of and form of the ambient air quality monitoring provisions.” *Errata 2* at 1. Specifically, as revised for second notice, this section would provide in its entirety that

[p]ollution levels will be determined by fixed or mobile sampling stations beyond the premises on which a source is located. Stations will be located according to ~~the guidelines~~guidelines for regulations for ambient air quality monitoring established monitoring networks as developed promulgated by the United State Environmental Protections Agency at 40 CFR Part 58. *Id.*

Second, the Agency sought to amend Section 243.107, which addresses reference conditions, by adding lead to the list of pollutants requiring measurement. *Id.* Third, the Agency proposed to amend Section 243.208 by adding two items to the list of materials incorporated by reference. *Id.* Those items are “Hi-volume method, 40 CFR 50 Appendix B (1983)” at subsection (b) and “Gas phase chemiluminescence method, 40 CFR 50, Appendix F (1983)” at subsection (f). *Id.* at 2. The Agency also sought to re-designate the subsections of Section 243.108 to reflect the proposed incorporation of these additional materials. *See id.*

Fourth, the Agency suggested a number of revisions to Section 243.120, which is proposed to address PM<sub>10</sub> and PM<sub>2.5</sub>. The Agency seeks to amend subsection (b) “to amend the measurement method required, and the computation of such method. . . .” *Errata 2* at 2. As revised for second notice, that subsection would provide in its entirety as follows:

PM<sub>10</sub> Measurement Method. For determining conformance with the PM<sub>10</sub>PM<sub>10</sub> ambient air quality standards, PM<sub>10</sub>PM<sub>10</sub> shall be measured by ~~the~~the method described in 40 CFR 50 or an equivalent method designated in 40 CFR 53, appendixAppendix J (incorporated by reference in Section 243.108). The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 micrograms per cubic meter is equal to or less than one, as determined in accordance with The computations necessary for analyzing particulate matter data to determine attainment of the PM<sub>10</sub> standards are described in 40 CFR 50, appendixAppendix K (incorporated by reference in Section 243.108). *Id.*

The Agency also sought to clarify subsection (c) by referring specifically to “PM<sub>2.5</sub>” in its title. *Id.* In addition, the Agency proposed to amend subsection (d) by adding “[n]ew methods of calculating the annual primary and secondary PM<sub>2.5</sub> and 24-hour primary and secondary PM<sub>2.5</sub> standards.” *Id.* As amended for second notice, subsection (d) would provide in its entirety that

- d) Measurement Method for PM<sub>2.5</sub>. For determining conformance with the PM<sub>2.5</sub> ambient air quality standards, PM<sub>2.5</sub> shall be measured by the method described in 40 CFR 50, Appendix L (incorporated by reference at Section 243.108). Compliance with the standards is determined using the methods and procedures ~~The computations necessary for analyzing particulate matter data to determine attainment of the PM<sub>2.5</sub> standards are~~ described in 40 CFR 50, Appendix N (incorporated by reference in Section 243.108), or an equivalent method designated in 40 CFR 53, or an equivalent method designated in 40 CFR 53.
- 1) The annual primary and secondary PM<sub>2.5</sub> standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix N, is less than or equal to 15.0 µg/m<sup>3</sup>.
  - 2) The 24-hour primary and secondary PM<sub>2.5</sub> standards are met when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR 50, Appendix N, is less than or equal to 35 µg/m<sup>3</sup>. *Id.*

Fifth, the Agency proposed to amend Section 243.125 “to explain when the primary and secondary air quality standards for 8-hour ozone are met.” *Errata 2* at 3. Specifically, the Agency proposed that, as amended for second notice, this section provide in its entirety as follows:

- a) Standard. The primary and secondary ambient air quality standards ~~standard~~ for ozone are 0.075 ~~is~~ 0.12 parts per million (ppm) daily (235 micrograms per cubic meter) maximum 8-hour average ~~1-hour~~ concentration, measured and determined in accordance with subsection (b) ~~below~~ ~~not to be exceeded on more than one day per year.~~
- b) Measurement Method. ~~For determining conformance with the ozone air quality standard, ozone~~ Ozone shall be measured by ~~the ozone-ethylene reaction~~ ~~reference method specified by~~ ~~described in~~ 40 CFR 50, appendix ~~Appendix D, (1982)~~ ~~as amended~~ or equivalent method as described in 40 CFR Part 50, Section 50.1, all designated as prescribed by 40 CFR 53 (2003). The primary and secondary ambient air quality standards are met when the ~~3-year~~ average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.075 ppm, as determined using 40 CFR 50, appendix P, (incorporated by reference in Section 243.108). *Id.* at 4.

Finally, the Agency proposed to amend Section 243.126. The Agency seeks to amend subsection (a) “to clarify the form of lead measured.” *Errata 2* at 4. The Agency also seeks to amend subsection (b) to clarify “the reference method used to do so.” *Id.*

**IERG FIRST-NOTICE COMMENTS (PC 6)****General**

IERG argues that, “[f]rom the time that the federal National Ambient Air Quality Standards (“NAAQS”) were first adopted on April 30, 1971, the Illinois EPA and the Board have expressed the intent to adopt Illinois standards that are substantively identical to the NAAQS.” PC 6 at 2, citing In the Matter of: Proposed Air Quality Standards, R72-7, slip op. at 4-5 (July 10, 1975). IERG further argues that the Agency proposed amendments in this rulemaking docket to “reflect current national ambient air quality standards established by the U.S. EPA under the federal Clean Air Act.” PC 6 at 1, citing SR at 4. IERG claims that the Board’s first-notice opinion and order maintains this intent, “unambiguously stating that the intent is to update Part 243 to reflect federal air quality standards.” PC 6 at 2, citing Opinion at 1.

IERG states that its participation in this proceeding has been “entirely intended to promote the purpose of maintaining that uniformity and to avoid any possibility of interpreting state standards in a manner different than the federal standards.” PC 6 at 2. IERG asserts that neither it nor the Agency has presented testimony or comment intending to introduce conflict between federal and state standards. *Id.* IERG argues that any interpretation of Illinois’ standards “in a manner that reaches a different conclusion from that derived from the federal standard on which it is based would be contrary to the clear intent of the record on which the State standards were established.” *Id.* at 3. IERG states that its comments reflect “the need to eliminate the possibility of interpretations of the State standards that would differ from those of the federal standards.” *Id.*

IERG states that it intends no substantive revision of Illinois’ air quality standards “other than to update them to reflect current federal law and standards.” PC 6 at 3. IERG notes that the Board declined to propose IERG’s recommendations because it had not submitted technical support or demonstrated economic or environmental impacts. *Id.* IERG argues, however, that the Board has cited the Agency’s argument in support of the technical feasibility and economic reasonableness of its proposal. *Id.*, citing Opinion at 25; *see* SR at 4. That argument states in its entirety that

[t]he amendments to Part 243 do not impose new requirements, they merely update the State’s regulations to reflect current federal law and standards. The Illinois EPA therefore believes that an analysis of technical feasibility and economic reasonableness is not appropriate. These standards are well known to industry and have been thoroughly discussed by the U.S. EPA. SR at 4.

IERG argues that it has provided support for its recommendations that is “identical” to that submitted by the Agency in the Statement of Reasons. PC 6 at 3; *see* SR at 4. Consequently, IERG asks the Board to consider amendments it had recommended but that the Agency had not proposed. *Id.*

### **Section 243.120 (PM<sub>10</sub> and PM<sub>2.5</sub>)**

IERG states that it concurs with revisions to Section 243.120 in the Board's first-notice proposal "which will eliminate any ambiguity in the interpretation of this standard." PC 6 at 4. IERG claims that, with these revisions, "[t]he state and federal air quality standard will yield the same conclusion when applied to air quality data collected in Illinois." *Id.*

However, IERG indicates that *Illinois Register* publication of the Board's proposal includes "changes that extend beyond punctuation, spelling, and grammar corrections." PC 6 at 4. IERG states that it "does not support such changes to the Board's proposed rule." *Id.* IERG notes that the Agency filed a second *errata* sheet that would effectively restore the Board's first-notice proposal. *Id.*, see *Errata 2*. IERG states that it supports the substance of these changes with specified exceptions. PC 6 at 4. IERG indicates that, although the Agency proposed to add to subsection (b) and (d) the phrase "or an equivalent method designated in 40 CFR 53," that addition should read "or an equivalent method designated pursuant to 40 CFR 53." *Id.* IERG adds that this language should occur only following "Appendix J" in subsection (b) and after "Appendix L" in subsection (d). *Id.*

### **Section 243.122 (Sulfur Oxides)**

IERG argues that the current sulfur oxides standard was, at the time of its adoption, "identical to the federal standards." PC 6 at 10, citing In the Matter of: Proposed Air Quality Standards, R72-7, slip op. at 14 (July 10, 1975). IERG observes that it "is not being interpreted by the Agency in a manner that results in the same compliance conclusion when the U.S. EPA standard is applied to the same data set." PC 6 at 9. Although IERG acknowledges that states standards may be more stringent than federal, it argues that the Agency should not be able to use Illinois' rules "to purposely arrive at a different result than that derived from application of the federal standard." *Id.* at 10. IERG argues that substantive change of this nature "should be promulgated by the Board through proper rulemaking procedures." *Id.* Noting that it has proposed amendments to this section, IERG claims that the Agency's interpretation "in a manner that is more stringent than the federal standards should be sufficient to justify the necessary changes that U.S. EPA made long ago to preclude such interpretation and conform with the intent of the Board when the sulfur dioxide standards were adopted." *Id.*

However, IERG notes that USEPA has adopted "a new sulfur dioxide NAAQS wherein it is revoking both the 24-hour rule and the annual standards." PC 6 at 10, citing 75 Fed. Reg. 35520 (June 22, 2010) ("Specifically, EPA is establishing a new 1-hour SO<sub>2</sub> standard at a level of 75 parts per billion (ppb), based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. The EPA is also revoking both the existing 24-hour and annual primary SO<sub>2</sub> standards."). IERG indicates that "developments at the federal level and the acknowledged regulatory history of the State's current rule reduce the potential impact of any interpretation of the current state rule that results in a more stringent conclusion than that which would be reached from the revoked federal rule." PC 6 at 10. IERG nonetheless argues that the current state standard "should be clarified" as long as it remains in the Board's regulations. *Id.*

### **Section 243.123 (Carbon Monoxide)**

IERG favors clarification of this section “to maintain compatibility with the federal standard which it is intended to represent.” PC 6 at 12. IERG argues that, when USEPA last amended its carbon monoxide NAAQS in 1985, it expressed “the standard in parts per million and parenthetically in milligrams per cubic meter.” *Id.*, citing 50 Fed. Reg. 37501 (Sept. 13, 1985). IERG characterizes this as reversing the current expression of the state standard. PC 6 at 12. IERG further argues that the 1985 USEPA amendment also included “data completeness and handling criteria.” *Id.* IERG adds that USEPA “uses a running non-overlapping approach to interpreting compliance with the 8-hour standard.” *Id.*

IERG specifically suggests that the following components of the USEPA rule be incorporated into this standard: rounding convention, data completeness, and data handling. PC 6 at 12. IERG also claims that this section should “specify that the 8-hour standard is determined using non-overlapping (block) averages.” *Id.* IERG did submit specific language with which to amend Section 243.123. *See* PC 6 at 12.

### **Section 243.124 (Nitrogen Dioxide)**

Regarding the nitrogen dioxide standard, IERG restates its position that “the state rule is intended to be substantively the same as the federal rule.” PC 6 at 11. IERG argues that “any clarifications made by the U.S. EPA to facilitate interpretation of its rule would be made by the Board to continue to maintain parity on which the rule was originally promulgated.” *Id.* IERG claims that, because the Board has not made these clarifications, confusion among regulated entities has resulted. *Id.* IERG further claims that the Agency has not provided any justification for a more stringent state standard. *Id.* In addition, IERG argues that “the Agency is following the U.S. EPA’s air quality standard for nitrogen dioxide in all of its data collection and reporting.” *Id.* citing In the Matter of Air Quality Standards Clean-up: Amendments to 35 Ill. Adm. Code Part 243, R09-19, slip op. at 4-5 (Apr. 14, 2009) (pre-filed testimony on behalf of IERG by David L. Kolaz). IERG claims that adoption of its proposed changes to this section “would simply formalize the practice the Agency is currently following.” PC 6 at 11.

However, IERG notes that “U.S. EPA has promulgated a new nitrogen dioxide standard while retaining the current annual standard.” PC 6 at 11, citing 75 Fed. Reg. 6474 (Feb. 9, 2010) (“Specifically, EPA is establishing a new 1-hour standard at a level of 100 ppb, based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations, to supplement the existing annual standard.”). IERG argues that, “[g]iven the Agency’s current practice, it is fair to say that it is implementing the federal NAAQS in full in areas where the state rule is silent or unclear.” PC 6 at 11-12. IERG favors amendments “to clarify the state’s rule for the annual standard as it proposed in previous comments.” *Id.* at 12.

### **Section 243.125 (8-Hour Ozone)**

IERG states that it concurs with revisions to Section 243.125 in the Board’s first-notice proposal “which will eliminate any ambiguity in the interpretation of this standard.” PC 6 at 4.

IERG claims that, with these revisions, “[t]he state and federal air quality standard will yield the same conclusion when applied to air quality data collected in Illinois.” *Id.*

However, IERG indicates that *Illinois Register* publication of the Board’s proposal includes “changes that extend beyond punctuation, spelling, and grammar corrections.” PC 6 at 4. IERG states that it “does not support such changes to the Board’ proposed rule.” *Id.* at 4-5. IERG notes that the Agency filed a second *errata* sheet that would effectively restore the Board’s first-notice proposal. *Id.* at 5, *see Errata 2*. IERG states that its supports the substance of these changes with specified exceptions. PC 6 at 5. IERG indicates that the first sentence of subsection (b) should provide that “[o]zone shall be measured by a reference method based on 40 CFR Part 50, appendix D and designated in accordance with 40 CFR Part 53 or an equivalent method designated in accordance with 40 CFR Part 53.” *Id.* IERG states this suggested language is “substantively the same as the language contained in the federal ozone standard. . . .” *Id.*, citing 40 CFR 50.15(a). IERG notes that the proposal published in the *Illinois Register* refers to an “equivalent method as described in 40 CFR 50, Section 50.1,” which is a reference to definitions and is not used in the federal standard or any of the Board’s air quality standard[s] that describes the concept of reference and equivalent measurement methods.” PC 6 at 5; *see* 34 Ill. Reg. 17544-45 (Nov. 19, 2010).

#### **Section 243.126 (Lead)**

IERG states that, although the Board’s first-notice opinion and order did not accept IERG’s recommended changes, it had offered those changes “in light of the form and substance of the federal standard, which the Agency had stated it was emulating. . . .” PC 6 at 5. IERG adds that its language was “intended for the sole purpose of clarifying this provision without adding significant substantive revision.” *Id.* at 6. IERG argues that, although the federal standard is “familiar to industry,” the Board’s first-notice proposal differs from it “in ways that could lead to unnecessary confusion.” *Id.* at 6-7.

First, IERG notes that the Board’s proposal in subsection (a) strikes the phrase “and its compounds” in spite of the reference in subsection (b) to determining compliance with standards “for lead and its compounds.” PC 6 at 7 n.1; *see* 34 Ill. Reg. 17543 (Nov. 19, 2010). IERG acknowledges that the Agency’s second *errata* sheet sought to amend subsection (a) by adding the phrase “measured as elemental lead.” *Id.*; *see Errata 2* at 4. IERG suggests that this would not clarify the rule because the Agency has not proposed to amend subsection (b) referring to measurement of “lead and its compounds.” *See* PC 6 at 7 n.1.

IERG argues that the phrase “and its compounds” should be restored to subsection (a) “to describe the pollutants that are the subject of the standard.” PC 6 at 7 n.1. IERG favors this addition in order to be consistent with the federal rule, “to avoid confusion and because there is no obvious reason to differ.” *Id.*; *see* 40 CFR 50.16, 73 Fed. Reg. 67052 (Nov. 12, 2008). IERG further argues that the first sentence of subsection (b) should include the phrase “measured as elemental lead.” PC 6 at 7 n.1. IERG claims that “[t]his is consistent with the description that the USEPA provides in 40 CFR 50, Appendix R. . . .” *Id.*

IERG also notes that the Board’s proposed subsection (b) includes the following sentence: “[t]he primary and secondary ambient air quality standards shall be determined in accordance with Appendix R of Part 50 as incorporated by reference in Section 243.108 of this Part.” PC 6 at 7 n.1; *see* 34 Ill. Reg. 17545 (Nov. 19, 2010); Opinion at 45-46. IERG argues that, although this language refers to the protocol for interpreting compliance with the standard, it “does not include a description of when the standard is met.” PC 6 at 7 n.1. IERG adds that the language also fails to clarify “what is to be determined.” *Id.* IERG compares the federal rule, which “includes a brief description of the criteria for determining compliance with the standard and also includes a reference to Appendix R.” *Id.*; *see* 40 CFR 50.16, 73 Fed. Reg. 67052 (Nov. 12, 2008). IERG argues that the federal language is “helpful to the reader of the standard by providing a sense of the mechanism for determining compliance and referring the reader to the appropriate appendix for the details.” PC 6 at 8 n.1.

In addition, IERG notes that Section 243.126(b) of the Board’s proposal states in part that “lead and its compounds shall be measured by the atomic absorption spectrometry or equivalent method as described in 40 CFR 50 Appendices G and Q. . . .” PC 6 at 8 n.1; *see* 34 Ill. Reg. 17545 (Nov. 19, 2010), Opinion at 45. IERG states that Appendix Q describes the x-ray fluorescence method and not the atomic absorption spectrometry method. PC 6 at 8 n.1. IERG further notes that the Agency’s second *errata* sheet proposed that lead and its compounds be “collected by the reference method specified in 40 CFR Part 58 Appendix B.” *Id.*; *see Errata 2* at 4. After indicating that Part 58 Appendix B is reserved, IERG states that “[a] reference to 40 CFR Part 50, appendix B would appropriately describe the sample collection method for samples collected pursuant to the reference method described in 40 CFR 50, appendix G but not to appendix Q. The sample collection method for the reference method described in appendix Q is described in 40 CFR 50, appendix O.” PC 6 at 8 n.1. IERG adds that “Appendix Q describes a method that may be used to show a violation of the standard but may not be used to show compliance.” *Id.* IERG also adds that appendix Q “can only be used in special circumstances which are described in 40 CFR 58, appendix C and also in 40 CFR 50, appendix R.” *Id.* IERG clarifies that “[o]nly the method described in 40 CFR 50, appendix G may be used to show compliance. . . .” *Id.* IERG argues that the federal lead standard refers only to appendix G and includes a reference to appendix R as the means for allowing use of the method in appendix Q in specified situations. *Id.* IERG proposes the following language, as amended for second notice, for subsection (b):

- b) Measurement Method. For determining conformance with the ambient air quality standards for lead and its compounds, lead and its compounds shall be measured as elemental lead by a reference method based on 40 CFR 50, appendix G and designated in accordance with 40 CFR 53, or by an equivalent method designated in accordance with 40 CFR 53~~by the atomic absorption spectrometry or equivalent method as described in 40 CFR 50, appendices G and Q,~~ incorporated by reference in Section 243.108 of this Part. Compliance with the~~The~~ primary and secondary standards shall be determined in accordance with 40 CFR 50, appendix R, incorporated by reference in Section 243,108 of this Part.~~App. G (1982).~~ PC 6 at 9.

IERG claims that its suggested language “will correct and clarify the Board’s proposed lead standard and make it substantively the same as the federal standard in accordance with the stated intent.” *Id.*

### **Summary**

IERG expresses support for “the efforts of the Agency and the Board to ‘clean-up’ the Illinois air quality standards.” PC 6 at 12. IERG seeks to achieve “the intent of the proposed rulemaking -- to provide conformity between Illinois’ and the U.S. EPA’s standards -- as stated by the Board at the time the State’s standards were initially adopted.” *Id.* at 13. IERG argues, however, that the Agency’s efforts should extend beyond clarification of “Illinois’ sulfur oxides, nitrogen dioxide, and carbon monoxide standards.” *Id.* at 12. IERG claims that additional amendments “will afford the public and regulated community a much clearer understanding of the State’s air quality standards and properly reflect the original intent of the state standards, which is to be substantively the same as the federal standards.” *Id.* IERG argues that, with additional amendments, the standards “will then more accurately reflect the methods and techniques that the Agency uses to interpret the standards, with two exceptions.” *Id.* First, IERG states that the Agency would interpret SO<sub>x</sub> and CO standards with the block averaging approach used by USEPA instead of its current running average basis. *Id.* at 12-13. Second, IERG argues that, “[a]lthough the U.S. EPA has revoked its sulfur dioxide standards in favor of a new 1-hour standard, there is still value to clarifying this standard as long as it is a state rule.” *Id.* at 13.

### **AGENCY FIRST-NOTICE COMMENTS (PC 7)**

The Agency states that IERG’s “suggestions regarding the SO<sub>2</sub>, NO<sub>2</sub> and CO provisions of the Illinois rule were not part of the Illinois EPA’s original proposal and the Illinois EPA believes that the IPCB should not make these changes in this proceeding.” PC 7 at 1. The Agency notes that, since it filed its original proposal, “USEPA has revised the SO<sub>2</sub> and NO<sub>2</sub> air quality standards, and is considering revisions to the CO, ozone, and PM<sub>2.5</sub> standards as well.” *Id.* The Agency states that it intends “in the near future” to file a rulemaking proposal reflecting these revisions. *Id.*

Citing IERG’s first-notice comments, the Agency claims that “IERG overreaches in claiming that the Board made a finding of fact regarding the current language in Part 243 concerning the SO<sub>2</sub> air quality standard.” PC 7 at 1, citing PC 6 at 9. The Agency argues that “the Board restated IERG’s position but chose not to make IERG’s requested change.” PC 7 at 1. The Agency requests that the Board maintain this position. *Id.*

The Agency notes that the Board’s first-notice opinion and order did not adopt changes proposed by IERG to the CO and NO<sub>2</sub> standards. PC 7 at 2. The Agency encourages the Board not to adopt these changes at second notice and to amend Part 243 only as provided at first notice. *Id.* The Agency concludes that “[i]t is preferable, at this point, to limit the amendments to Part 243 to the pollutants and changes that the Illinois EPA has suggested and the Board has listed in its Opinions and Order.” *Id.*

## **DISCUSSION**

### **Section 217.388**

In its first-notice opinion, the Board concurred with a public comment indicating that Section 218.388(a)(2)(B) includes an incorrect cross-reference and that the public comment proposed an appropriate correction. First-notice comments have not addressed the substance of this proposal. Accordingly, the Board's order below submits this proposed amendment of Section 217.388 to second-notice review by JCAR.

### **Section 223.205**

In its first-notice opinion, the Board granted the Agency's unopposed motion to add a proposed amendment to Section 223.205 for consideration in this docket. Specifically, the Agency sought to amend the name of the category "Adhesives -- Construction, Panel and Floor Contact" to correspond to the definition of the term "Adhesives -- Construction, Panel and Floor Covering Adhesives." The Board found that this proposed amendment would correct an inconsistency and would clarify the Board's volatile organic material emission regulations. First-notice comments have not addressed the substance of this proposal. Accordingly, the Board's order below submits this proposed amendment of Section 223.205 to second-notice review by JCAR.

## **Part 243 Subpart A: General Provisions**

### **Section 243.101: Definitions**

In its first-notice opinion, the Board in this section proposed only a single non-substantive change, and JCAR has proposed additional non-substantive changes. First-notice comments have not addressed any of these proposed amendments. Accordingly, the Board's order below submits amended Section 243.101 to second-notice review by JCAR.

### **Section 243.104: Nondegradation**

In its first-notice opinion, the Board proposed in this section only a single change correcting a typographical error, and JCAR has proposed additional non-substantive changes. First-notice comments have not addressed any of these amendments. Accordingly, the Board submits amended Section 243.104 to second-notice review by JCAR.

### **Section 243.106: Monitoring**

Although the Board's first-notice opinion proposed in this section one change deleting an extra letter in a single word (*see* Opinion at 42), *Illinois Register* publication of the Board's proposal inexplicably did not include Section 243.106. Consequently, this provision was not submitted to the statutory 45-day comment period, and the Board may not propose changes to the section for the first time at the stage of the proceeding. *See* 5 ILCS 100/5-40(b) (2010) ("Each agency shall give at least 45 days' notice of its intended action to the general public. This first

notice period shall commence on the first day the notice appears in the Illinois Register.”) Although the Agency’s second *errata* sheet did propose additional clarifying amendments to this section (*Errata 2* at 1), the Agency must necessarily pursue those amendments in another proceeding. The Board notes that it recently accepted for hearing in docket R12-8 an Agency proposal to amend other sections of the Board’s air regulations, and this proceeding may present a procedural avenue for submitting these proposed changes.

### **Section 243.107: Reference Conditions**

In its first-notice opinion, the Board submitted to publication the Agency’s proposal regarding measurements of PM<sub>2.5</sub>. During the first-notice comment period, the Agency’s second *errata* sheet proposed to amend this section by adding reference to lead measurements. *Errata 2* at 1. As noted above under “Procedural History,” the Board has granted the Agency’s motion to amend its original rulemaking proposal to reflect a new federal air quality standard for lead. The Board concludes that the changes proposed by the second *errata* sheet clarify the amended proposal. Accordingly, the Board submits them to second-notice review by JCAR.

### **Section 243.108: Incorporations by Reference**

In its first-notice opinion, the Board submitted to publication the Agency proposed amendments to materials incorporated by reference. During the first-notice comment period, the Agency’s second *errata* sheet proposed to amend this section to incorporate two additional sets of material: the hi-volume method at 40 C.F.R. 50 Appendix B (1983), and the gas phase chemiluminescence method at 40 C.F.R. 50 Appendix F (1983). *Errata 2* at 2.

The Board notes, however, that it has revised the lead standard at Section 243.126 for second notice by requiring the use of a reference method specified in 40 C.F.R. Part 50 Appendix G, which sets forth sample collection requirements, instead of 40 C.F.R. 50 Appendix B. Accordingly, incorporation of Appendix B is no longer necessary, and the Board declines to list it in this section for second-notice review. *See* 40 C.F.R. 50 Appendix G (cross-referencing Appendix B).

In addition, the Board notes that the gas phase chemiluminescence method measures nitrogen dioxide concentrations. However, as the Board below declines at this time to adopt substantive amendments to this standard, it declines also to incorporate this method by reference for second-notice review.

## **Part 243 Subpart B: Standards and Measurement Methods**

### **Section 243.120: PM<sub>10</sub> and PM<sub>2.5</sub>**

In its first-notice comments, IERG states that it concurs with the language proposed by the Board in its first-notice opinion and order (Opinion at 43-44), which the Agency’s second *errata* sheet effectively restates (PC 4 at 2-3). Specifically, IERG states that it “supports the substantive elements of the Agency’s suggestions” with one exception. “[T]he phrase ‘or an equivalent method designated in 40 CFR 53’ should read ‘or an equivalent method designated

pursuant to 40 CFR 53' in subsection (b) after 'Appendix J' and in subsection (d) after 'Appendix L.'" PC 6 at 4.

The Board concludes to propose for second-notice review the language of its first-notice opinion and order, which is effectively restated by the Agency's second *errata* sheet. The Board also concludes that the language proposed in IERG's first-notice comment would clarify this provision, and the Board incorporates that language in its order below.

### **Section 243.122: Sulfur Oxides (Sulfur Dioxide)**

Through its testimony by Mr. Kolaz and its post-hearing comments, IERG has sought to amend the Agency's original proposal for the SO<sub>x</sub> standard. *See* Kolaz Test. at 2-4; PC 2 at 5-9. The Agency has opposed adoption of IERG's proposed amendments. *See* PC 3 at 5-6; PC 7 at 1. In its first-notice opinion, the Board effectively submitted the Agency's proposal to first-notice publication and declined to adopt the language proposed by IERG. Opinion at 22.

In its first-notice comment, IERG notes that USEPA has adopted a new sulfur dioxide NAAQS, which revokes both the annual and the 24-hour standard. PC 6 at 10, citing 75 Fed. Reg. 35520 (June 22, 2010). The Agency also notes that USEPA has revised this and other standards and states that it "intends to propose revisions to these standards in a separate rulemaking in the near future." PC 7 at 1. IERG acknowledges that these circumstances "reduce the potential impact of any interpretation of the current state rule that results in a more stringent conclusion than that which would be reached from the revoked federal rule." PC 6 at 10. In light of these considerations, the Board submits to JCAR for second-notice review only non-substantive changes to Section 243.122 as proposed for first notice. As the Agency intends to address the recent federal revision of this standard "in the near future," the Board anticipates a full substantive review at that time.

### **Section 243.123: Carbon Monoxide**

In its first-notice opinion, the Board noted that the Agency's original proposal had not sought to amend the carbon monoxide standard in Section 243.123. Opinion at 23. Although IERG had sought to amend this language (*see* Kolaz Test. at 10-11), the Board declined to submit IERG's proposal to first-notice publication. Opinion at 23. The Board recognizes that IERG has restated its position in favor of amending the carbon monoxide standard. *See* PC 6 at 12 (IERG), PC 7 at 1, 2 (Agency). However, the Board may not propose changes to this section for the first time at this stage of the proceeding, as the Board has not submitted it to first-notice publication in this proceeding. *See* 5 ILCS 100/5-40(b) (2010) ("Each agency shall give at least 45 days' notice of its intended action to the general public. This first notice period shall commence on the first day the notice appears in the Illinois Register."). In this regard, the Agency indicates that USEPA is considering a revision of this standard and that an Agency rulemaking proposal would follow that federal action. *See* PC 7 at 1. Again, the Board anticipates a full substantive review in a future rulemaking.

### **Section 243.124: Nitrogen Dioxide**

In its first-notice opinion, the Board noted that the Agency's original proposal had not sought to amend the nitrogen dioxide standard in Section 243.124. Opinion at 23. Through its testimony by Mr. Kolaz and in post-hearing comments, IERG has recommended amendments to provision. See Kolaz Test. at 4-5; PC 2 at 9-10. The Agency has opposed adoption of IERG's proposed amendments. See PC 3 at 5-6; PC 7 at 1. In its first-notice opinion, the Board declined to submit any amendment of this section to first-notice publication. Opinion at 23-24. Accordingly, the Board may not propose changes to this section for the first time at this stage of the proceeding. See 5 ILCS 100/5-40(b) (2010) ("Each agency shall give at least 45 days' notice of its intended action to the general public. This first notice period shall commence on the first day the notice appears in the Illinois Register.").

In addition, IERG's first-notice comment notes that USEPA "has promulgated a new nitrogen dioxide standard while retaining the current annual standard." PC 6 at 11, citing 75 Fed. Reg. 6474 (Feb. 9, 2010). IERG states that it "anticipates that at some point the Agency will propose adoption of the federal standard and this matter can be addressed at that time." PC 6 at 11. The Agency also notes that USEPA has revised this and other standards and states that it "intends to propose revisions to these standards in a separate rulemaking in the near future." PC 7 at 1.

As the Agency intends to address the recent federal revision of this standard "in the near future," the Board anticipates a full substantive review of this standard at that time. Among other issues, the Board expects Agency to address whether to incorporate the gas phase chemiluminescence method for measurement of nitrogen dioxide concentrations in that proceeding.

### **Section 243.125: 8-Hour Ozone**

In its first-notice comments, IERG states that it concurs with the language proposed by the Board in its first-notice opinion and order (Opinion at 45), which the Agency's second *errata* sheet effectively restates (PC 4 at 3-4). Specifically, IERG states that it "supports the substantive elements of the Agency's suggestions" with a single exception. "[T]he first sentence of subsection (b) should be replaced with the sentence 'Ozone shall be measured by a reference method based on 40 CFR Part 50, appendix D and designated in accordance with 40 CFR Part 53 or an equivalent method designated in accordance with 40 CFR Part 53.'" PC 6 at 5.

The Board concludes to propose for second-notice review the language of its first-notice opinion and order, which is effectively restated by the Agency's second *errata* sheet. The Board also concludes that the language proposed in IERG's first-notice comment would clarify this provision, and the Board incorporates that language in its order below.

### **Section 243.126: Lead**

In its first-notice comments, IERG proposed amendments to Section 243.126 on the basis that they would "correct and clarify" this provision and make it more consistent with the federal

standard. Having reviewed the first-notice comments, the Board finds IERG's position largely persuasive. In subsection (a), the Board concurs that the language should refer to air quality standards for lead and its compounds. However, the Board declines to amend the Agency's reference to a "maximum rolling three month average measured and determined over a three-year period." The Board concludes that this language is sufficiently clear and is consistent with 40 C.F.R. 50 Appendix R. In subsection (b), the Board concludes that IERG's proposed language makes this provision more clear and also reflects the federal standard more closely than the Agency's proposal. The Board reflects these conclusion and finding in its order below.

### **CONCLUSION**

The Board below proposes to update air quality standards in Part 243 of its regulations and to adopt a technical correction in both Part 217 and Part 223. In its order below, the Board directs the Clerk to submit the Board's proposal to JCAR for second-notice review.

### **ORDER**

The Board directs the Clerk to submit the following proposed amendments to JCAR for second-notice review. Proposed additions are underlined, and proposed deletions appear stricken.

TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE B: AIR POLLUTION  
 CHAPTER I: POLLUTION CONTROL BOARD  
 SUBCHAPTER C: EMISSION STANDARDS AND LIMITATIONS  
 FOR STATIONARY SOURCES

PART 217  
 NITROGEN OXIDES EMISSIONS  
 SUBPART A: GENERAL PROVISIONS

Section	
217.100	Scope and Organization
217.101	Measurement Methods
217.102	Abbreviations and Units
217.103	Definitions
217.104	Incorporations by Reference

SUBPART B: NEW FUEL COMBUSTION EMISSION SOURCES

Section	
217.121	New Emission Sources (Repealed)

SUBPART C: EXISTING FUEL COMBUSTION EMISSION UNITS

Section  
217.141 Existing Emission Units in Major Metropolitan Areas

#### SUBPART D: NO<sub>x</sub> GENERAL REQUIREMENTS

Section  
217.150 Applicability  
217.152 Compliance Date  
217.154 Performance Testing  
217.155 Initial Compliance Certification  
217.156 Recordkeeping and Reporting  
217.157 Testing and Monitoring  
217.158 Emissions Averaging Plans

#### SUBPART E: INDUSTRIAL BOILERS

Section  
217.160 Applicability  
217.162 Exemptions  
217.164 Emissions Limitations  
217.165 Combination of Fuels  
217.166 Methods and Procedures for Combustion Tuning

#### SUBPART F: PROCESS HEATERS

Section  
217.180 Applicability  
217.182 Exemptions  
217.184 Emissions Limitations  
217.185 Combination of Fuels  
217.186 Methods and Procedures for Combustion Tuning

#### SUBPART G: GLASS MELTING FURNANCES

Section  
217.200 Applicability  
217.202 Exemptions  
217.204 Emissions Limitations

#### SUBPART H: CEMENT AND LIME KILNS

Section  
217.220 Applicability  
217.222 Exemptions  
217.224 Emissions Limitations

## SUBPART I: IRON AND STEEL AND ALUMINUM MANUFACTURING

Section	
217.240	Applicability
217.242	Exemptions
217.244	Emissions Limitations

## SUBPART K: PROCESS EMISSION SOURCES

Section	
217.301	Industrial Processes

## SUBPART M: ELECTRICAL GENERATING UNITS

Section	
217.340	Applicability
217.342	Exemptions
217.344	Emissions Limitations
217.345	Combination of Fuels

## SUBPART O: CHEMICAL MANUFACTURE

Section	
217.381	Nitric Acid Manufacturing Processes

## SUBPART Q: STATIONARY RECIPROCATING INTERNAL COMBUSTION ENGINES AND TURBINES

Section	
217.386	Applicability
217.388	Control and Maintenance Requirements
217.390	Emissions Averaging Plans
217.392	Compliance
217.394	Testing and Monitoring
217.396	Recordkeeping and Reporting

## SUBPART T: CEMENT KILNS

Section	
217.400	Applicability
217.402	Control Requirements
217.404	Testing
217.406	Monitoring
217.408	Reporting
217.410	Recordkeeping

SUBPART U: NO<sub>x</sub> CONTROL AND TRADING PROGRAM FOR  
SPECIFIED NO<sub>x</sub> GENERATING UNITS

Section	
217.450	Purpose
217.452	Severability
217.454	Applicability
217.456	Compliance Requirements
217.458	Permitting Requirements
217.460	Subpart U NO <sub>x</sub> Trading Budget
217.462	Methodology for Obtaining NO <sub>x</sub> Allocations
217.464	Methodology for Determining NO <sub>x</sub> Allowances from the New Source Set-Aside
217.466	NO <sub>x</sub> Allocations Procedure for Subpart U Budget Units
217.468	New Source Set-Asides for "New" Budget Units
217.470	Early Reduction Credits (ERCs) for Budget Units
217.472	Low-Emitter Requirements
217.474	Opt-In Units
217.476	Opt-In Process
217.478	Opt-In Budget Units: Withdrawal from NO <sub>x</sub> Trading Program
217.480	Opt-In Units: Change in Regulatory Status
217.482	Allowance Allocations to Opt-In Budget Units

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**AUTHORITY:** Implementing Sections 9.9 and 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9.9, 10, 27 and 28].

**SOURCE:** Adopted as Chapter 2: Air Pollution, Rule 207: Nitrogen Oxides Emissions, R71-23, 4 PCB 191, April 13, 1972, filed and effective April 14, 1972; amended at 2 Ill. Reg. 17, p. 101, effective April 13, 1978; codified at 7 Ill. Reg. 13609; amended in R01-9 at 25 Ill. Reg. 128, effective December 26, 2000; amended in R01-11 at 25 Ill. Reg. 4597, effective March 15, 2001;

amended in R01-16 and R01-17 at 25 Ill. Reg. 5914, effective April 17, 2001; amended in R07-18 at 31 Ill. Reg. 14271, effective September 25, 2007; amended in R07-19 at 33 Ill. Reg. 11999, effective August 6, 2009; amended in R08-19 at 33 Ill. Reg. 13345, effective August 31, 2009; amended in ~~R09-2008-1909-20~~ at 33 Ill. Reg. 15754, effective November 2, 2009; amended in R09-19 at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**SUBPART Q: STATIONARY RECIPROCATING  
INTERNAL COMBUSTION ENGINES AND TURBINES**

**Section 217.388 Control and Maintenance Requirements**

- a) On and after the applicable compliance date in Section 217.392, an owner or operator of an affected unit must inspect and maintain affected units as required by subsection (a)(4) of this Section and comply with one of the following: the applicable emissions concentration as set forth in subsection (a)(1) of this Section, the requirements for an emissions averaging plan as specified in subsection (a)(2) of this Section, or the requirements for operation as a low usage unit as specified in subsection (a)(3) of this Section.
- 1) Limits the discharge from an affected unit into the atmosphere of any gases that contain NO<sub>x</sub> to no more than:
    - A) 150 ppmv (corrected to 15 percent O<sub>2</sub> on a dry basis) for spark-ignited rich-burn engines;
    - B) 210 ppmv (corrected to 15 percent O<sub>2</sub> on a dry basis) for spark-ignited lean-burn engines, except for existing spark-ignited Worthington engines that are not listed in Appendix G;
    - C) 365 ppmv (corrected to 15 percent O<sub>2</sub> on a dry basis) for existing spark-ignited Worthington engines that are not listed in Appendix G;
    - D) 660 ppmv (corrected to 15 percent O<sub>2</sub> on a dry basis) for diesel engines;
    - E) 42 ppmv (corrected to 15 percent O<sub>2</sub> on a dry basis) for gaseous fuel-fired turbines; and
    - F) 96 ppmv (corrected to 15 percent O<sub>2</sub> on a dry basis) for liquid fuel-fired turbines.
  - 2) Complies with an emissions averaging plan as provided for in either subsection (a)(2)(A) or (a)(2)(B) of this Section:

- A) For any affected unit identified by Section 217.386: The requirements of the applicable emissions averaging plan as set forth in Section 217.390; or
  - B) For units identified in Section 217.386(a)~~(2)(1)(B)~~: The requirements of an emissions averaging plan adopted pursuant to any other Subpart of this Part. For such affected engines and turbines the applicable requirements of this Subpart apply, including, but not limited to, calculation of NO<sub>x</sub> allowable and actual emissions rates, compliance dates, monitoring, testing, reporting, and recordkeeping.
- 3) Operates, for units not listed in Appendix G, the affected unit as a low usage unit pursuant to subsection (a)(3)(A) or (a)(3)(B) of this Section. Low usage units that are not part of an emissions averaging plan are not subject to the requirements of this Subpart Q except for the requirements to inspect and maintain the unit pursuant to subsection (a)(4) of this Section, test as required by Section 217.394(f), and retain records pursuant to Section 217.396(b) and (d). Either the limitation in subsection (a)(3)(A) or (a)(3)(B) may be utilized at a source, but not both:
- A) The potential to emit (PTE) is no more than 100 TPY NO<sub>x</sub> aggregated from all engines and turbines located at the source that are not otherwise exempt pursuant to Section 217.386(b), and not complying with the requirements of subsection (a)(1) or (a)(2) of this Section, and the NO<sub>x</sub> PTE limit is contained in a federally enforceable permit; or
  - B) The aggregate bhp-hrs/MW-hrs from all affected units located at the source that are not exempt pursuant to Section 217.386(b), and not complying with the requirements of subsection (a)(1) or (a)(2) of this Section, are less than or equal to the bhp-hrs and MW-hrs operation limit listed in subsections (a)(3)(B)(i) and (a)(3)(B)(ii) of this Section. The operation limits of subsections (a)(3)(B)(i) and (a)(3)(B)(ii) of this Section must be contained in a federally enforceable permit, except for units that drive a natural gas compressor located at a natural gas compressor station or storage facility. The operation limits are:
    - i) 8 mm bhp-hrs or less on an annual basis for engines; and
    - ii) 20,000 MW-hrs or less on an annual basis for turbines.
- 4) Inspects and performs periodic maintenance on the affected unit, in accordance with a Maintenance Plan that documents:

- A) For a unit not located at natural gas transmission compressor station or storage facility, either:
    - i) The manufacturer's recommended inspection and maintenance of the applicable air pollution control equipment, monitoring device, and affected unit; or
    - ii) If the original equipment manual is not available or substantial modifications have been made that require an alternative procedure for the applicable air pollution control device, monitoring device, or affected unit, the owner or operator must establish a plan for inspection and maintenance in accordance with what is customary for the type of air pollution control equipment, monitoring device, and affected unit.
  - B) For a unit located at a natural gas compressor station or storage facility, the operator's maintenance procedures for the applicable air pollution control device, monitoring device, and affected unit.
- b) Owners and operators of affected units may change the method of compliance with this Subpart, as follows:
- 1) When changing the method of compliance from subsection (a)(3) of this Section to subsection (a)(1) or (a)(2) of this Section, the owner or operator must conduct testing and monitoring according to the requirements of Section 217.394(a) through (e), as applicable. For this purpose, references to the "applicable compliance date" in Section 217.394(a)(2) and (a)(3) shall mean the date by which compliance with subsection (a)(1) or (a)(2) of this Section is to begin.
  - 2) An owner or operator of an affected unit that is changing the method of compliance from subsection (a)(1) or (a)(2) of this Section to subsection (a)(3) of this Section must:
    - A) Continue to operate the affected unit's control device, if that unit relied upon a NO<sub>x</sub> emissions control device for compliance with the requirements of subsection (a)(1) or (a)(2) of this Section; and
    - B) Prior to changing the method of compliance to subsection (c) of this Section, complete any outstanding initial performance testing, subsequent performances testing or monitoring as required by Section 217.394(a), (b), (c), (d) or (e) for the affected unit. If the deadline for such testing or monitoring has not yet occurred (e.g., the five-year testing or monitoring sequence has not yet elapsed), the owner or operator must complete the test or monitoring prior to

changing the method of compliance to subsection (a)(3) of this Section. After changing the method of compliance to subsection (a)(3) of this Section, no additional testing or monitoring will be required for the affected unit while it is complying with subsection (a)(3) of this Section, except as provided for in Section 217.394(f).

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE B: AIR POLLUTION  
 CHAPTER I: POLLUTION CONTROL BOARD  
 SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS  
 FOR STATIONARY SOURCES

PART 223  
 STANDARDS AND LIMITATIONS FOR ORGANIC MATERIAL EMISSIONS FOR AREA  
 SOURCES

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

**SOURCE:** Adopted in R08-17 at 33 Ill. Reg. 8224, effective June 8, 2009; amended in R09-19 at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### SUBPART B: CONSUMER AND COMMERCIAL PRODUCTS

##### **Section 223.205 Standards**

- a) Except as provided in Section 223.207, 223.230, 223.240, or 223.245, no person shall sell, supply, offer for sale, or manufacture for sale in Illinois any consumer product manufactured on or after July 1, 2009 that contains VOMs in excess of the limits specified in this subsection:

<b>Affected Product</b>	<b>% VOM by Weight</b>
1) Adhesives – Spray	
A) Mist Spray	65
B) Web Spray	55
C) Special Purpose Spray Adhesives	

	i)	Mounting, Automotive Engine Compartment, and Flexible Vinyl	70
	ii)	Polystyrene Foam and Automotive Headliner	65
	iii)	Polyolefin and Laminate Repair/Edgebanding	60
2)		Adhesives – Construction, Panel, and Floor <u>Covering</u> <del>Contact</del>	15
3)		Adhesives – General Purpose	10
4)		Adhesives – Structural Waterproof	15
5)		Air Fresheners	
	A)	Single-Phase Aerosol	30
	B)	Double Phase Aerosol	25
	C)	Liquids / Pump Sprays	18
	D)	Solids / Gel	3
6)		Antiperspirants	
	A)	Aerosol	40 HVOM 10 HVOM
	B)	Non-Aerosol	0 MVOM 0 MVOM
7)		Automotive Brake Cleaners	45
8)		Automotive Rubbing or Polishing Compound	17
9)		Automotive Wax, Polish, Sealant, or Glaze	
	A)	Hard Paste Waxes	45
	B)	Instant Detailers	3
	C)	All Other Forms	15

10)	Automotive Windshield Washer Fluids	35	
11)	Bathroom and Tile Cleaners		
	A) Aerosol	7	
	B) All Other Forms	5	
12)	Bug and Tar Remover	40	
13)	Carburetor or Fuel-Injection Air Intake Cleaners	45	
14)	Carpet and Upholstery Cleaners		
	A) Aerosol	7	
	B) Non-Aerosol (Dilutables)	0.1	
	C) Non-Aerosol (Ready-to-Use)	3.0	
15)	Charcoal Lighter Material		see Section 223.220
16)	Cooking Spray – Aerosol	18	
17)	Deodorants		
	A) Aerosol	0	HVOM
		10	HVOM
	B) Non-Aerosol	0	MVOM
		0	MVOM
18)	Dusting Aids		
	A) Aerosol	25	
	B) All Other Forms	7	
19)	Engine Degreasers		
	A) Aerosol	35	
	B) Non-Aerosol	5	
20)	Fabric Protectants	60	

21)	Floor Polishes / Waxes	
	A) Products for Flexible Flooring Materials	7
	B) Products for Nonresilient Flooring	10
	C) Wood Floor Wax	90
22)	Floor Wax Strippers	see Section 223.209
23)	Furniture Maintenance Products	
	A) Aerosol	17
	B) All Other Forms Except Solid or Paste	7
24)	General Purpose Cleaners	
	A) Aerosol	10
	B) Non-Aerosol	4
25)	General Purpose Degreasers	
	A) Aerosol	50
	B) Non-Aerosol	4
26)	Glass Cleaners	
	A) Aerosol	12
	B) Non-Aerosol	4
27)	Hair Mousses	6
28)	Hairshines	55
29)	Hairsprays	55
30)	Hair Styling Gels	6
31)	Heavy Duty Hand Cleaner or Soap	8
32)	Insecticides	

A)	Crawling Bug (Aerosol)	15
B)	Crawling Bug (All Other Forms)	20
C)	Flea and Tick	25
D)	Flying Bug (Aerosol)	25
E)	Flying Bug (All Other Forms)	35
F)	Foggers	45
G)	Lawn and Garden (Aerosol)	20
H)	Lawn and Garden (All Other Forms)	3
I)	Wasp and Hornet	40
33)	Laundry Prewash	
A)	Aerosols / Solids	22
B)	All Other Forms	5
34)	Laundry Starch Products	5
35)	Metal Polishes / Cleansers	30
36)	Multi-Purpose Lubricant (Excluding Solid or Semi-Solid Products)	50
37)	Nail Polish Removers	75
38)	Non-Selective Terrestrial Herbicide - Non-Aerosol	3
39)	Oven Cleaners	
A)	Aerosols / Pump Sprays	8
B)	Liquids	5
40)	Paint Removers or Strippers	50
41)	Penetrants	50

42)	Rubber and Vinyl Protectants	
	A) Aerosol	10
	B) Non-Aerosol	3
43)	Sealants and Caulking Compounds	4
44)	Shaving Creams	5
45)	Silicone-Based Multi-Purpose Lubricants (Excluding Solid or Semi-Solid Products)	60
46)	Spot Removers	
	A) Aerosol	23
	B) Non-Aerosol	8
47)	Tire Sealants and Inflators	20
48)	Undercoatings – Aerosols	40
b)	No person shall sell, supply, offer for sale, or manufacture for sale in Illinois, on or after July 1, 2009, any antiperspirant or deodorant that contains any compound listed below:	
	Benzene	
	Ethylene Dibromide	
	Ethylene Dichloride	
	Hexavalent Chromium	
	Asbestos	
	Cadmium (metallic cadmium and cadmium compounds)	
	Carbon Tetrachloride	
	Trichloroethylene	
	Chloroform	
	Vinyl Chloride	

Inorganic Arsenic

Nickel (metallic nickel and inorganic nickel compounds)

Perchloroethylene

Formaldehyde

1,3-Butadiene

Inorganic Lead

Dibenzo-p-dioxins and dibenzofurans chlorinated in the 2,3,7 and 8 positions and containing 4,5,6 or 7 chlorine atoms

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_).

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AIR POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER I: AIR QUALITY STANDARDS AND EPISODES

PART 243  
AIR QUALITY STANDARDS

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SUBPART B: STANDARDS AND MEASUREMENT METHODS

Section	
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243.125 8-Hour Ozone  
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243.APPENDIX A Rule into Section Table  
 243.APPENDIX B Section into Rule Table  
 243.APPENDIX C Past Compliance Dates

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

SOURCE: Adopted as Chapter 2: Air Pollution, Part III: Air Quality Standards, in R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R80-11, 46 PCB 125, at 6 Ill. Reg. 5804, effective April 22, 1982; amended in R82-12, at 7 Ill. Reg. 9906, effective August 18, 1983; codified at 7 Ill. Reg. 13630; amended in R91-35 at 16 Ill. Reg. 8185, effective May 15, 1992; amended in R09-19 at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

### Section 243.101 Definitions

- a) Except as ~~hereinafter~~ stated in this Part and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall be the same as those used in the Environmental Protection Act [415 ILCS 5] ~~(Ill. Rev. Stat. 1981, ch. 111 1/2, pars. 1001 et seq.)~~ (Act).
- b) All terms ~~that which~~ appear in this Part have the definitions specified by 35 Ill. Adm. Code Parts 201 or 211 ~~of this Chapter~~.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_).

### Section 243.104 Nondegradation

Existing ambient air quality ~~which that~~ is better than the ~~established~~ established ambient air quality standards at the date of their adoption will be maintained in its present high quality. Such ambient air quality shall not be lowered unless and until it is proved to the Illinois Environmental Protection Agency (Agency) that ~~such the~~ change is justifiable as a result of necessary economic and social development and will not interfere with or become injurious to human health or welfare.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_).

### Section 243.107 Reference Conditions

All measurements of air quality, except PM<sub>2.5</sub> and lead, are corrected to a reference temperature of 25°C, and to a reference pressure of 760 millimeters of mercury (1013.2 millibars). PM<sub>2.5</sub> and

lead measurements shall be based upon the actual ambient air volume measured at the actual temperature and pressure at the monitoring site during the measurement period.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_).

### **Section 243.108 Incorporations by Reference**

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

- a) Pararosaniline method, 40 CFR 50, ~~appendix~~Appendix A (1982).
- b) Non-dispersive infrared spectrometry technique, 40 CFR 50, ~~appendix~~Appendix C (1982), 36 Fed. Reg. 22391, November 25, 1971.
- c) Colorimetric method, 36 Fed. Reg. 22396, November 25, 1971.
- d) Ozone-ethylene reaction method, 40 CFR 50, ~~appendix~~Appendix D (1982), 36 Fed. Reg. 22392, November 25, 1971.
- e) Lead, 40 CFR 50, ~~appendices G and Q~~ (2008). ~~Appendix G (1982) 3 Fed. Reg. 46258, October 5, 1978, as amended at 44 Fed. Reg. 37915, June 29, 1979; 46 Fed. Reg. 44163, September 3, 1981.~~
- f) Reference method for the determination of particulate matter as PM<sub>10</sub> in the atmosphere, 40 CFR 50, ~~appendix~~Appendix J (1990).
- g) Interpretation of the National Ambient Air Quality Standards (NAAQS)~~national ambient air quality standards~~ for particulate matter, 40 CFR 50, ~~appendix~~Appendix K, 73 Fed. Reg. 61144 (October 17, 2006). (1990)
- h) Reference method for the determination of particulate matter as PM<sub>2.5</sub> in the atmosphere, 40 CFR 50, appendix L, 73 Fed. Reg. 61144 (October 17, 2006).
- i) Interpretation of the NAAQS for PM<sub>2.5</sub>, 40 CFR 50, appendix N, 73 Fed. Reg. 1497 (January 9, 2008).
- j) Interpretation of the NAAQS for O<sub>3</sub>, 40 CFR 50, appendix P, 73 Fed. Reg. 16436 (March 27, 2008).
- k) The NAAQS for Lead; Final Rule, 40 CFR 50, 51, 53, and 58, 73 Fed. Reg. 66964 (November 12, 2008).
- l) Interpretation of the NAAQS for Lead, 40 CFR 50, appendix R, 73 Fed. Reg. 66964 (November 12, 2008).

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: STANDARDS AND MEASUREMENT METHODS

### Section 243.120 PM<sub>10</sub> and PM<sub>2.5</sub>~~PM-10~~

- a) Standards. The primary and secondary ambient air quality standards for PM<sub>10</sub>~~PM10~~ are a maximum 24-hour average concentration of 150 micrograms per cubic meter. The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 micrograms per cubic meter is equal to or less than one, as measured and determined in accordance with subsection (b).~~;~~
- 1) ~~An annual arithmetic mean concentration of 50 micrograms per cubic meter; and~~
  - 2) ~~A maximum 24-hour concentration of 150 micrograms per cubic meter, not to be exceeded more than once per year.~~
- b) PM<sub>10</sub> Measurement Method. For determining conformance with the PM<sub>10</sub>~~PM-10~~ ambient air quality standards, PM<sub>10</sub>~~PM-10~~ shall be measured by the method described in 40 CFR 50, ~~appendix Appendix J~~ or an equivalent method designated pursuant to 40 CFR 53 (incorporated by reference in Section 243.108). The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 micrograms per cubic meter is equal to or less than one, as determined in accordance with~~The computations necessary for analyzing particulate matter data to determine attainment of the PM<sub>10</sub> PM-10 standards are described in 40 CFR 50, appendix Appendix K (incorporated by reference in Section 243.108).~~
- c) Standards. The primary and secondary ambient air quality standards for PM<sub>2.5</sub> are:
- 1) An annual arithmetic mean concentration of 15.0 micrograms per cubic meter; and as measured and determined in conformance with subsection (d).
  - 2) A maximum 24-hour concentration of 35 micrograms per cubic meter, at the 98th percentile value, and as measured and determined in conformance with subsection (d).
- d) Measurement Method for PM<sub>2.5</sub>. For determining conformance with the PM<sub>2.5</sub> ambient air quality standards, PM<sub>2.5</sub> shall be measured by the method described in 40 CFR 50, ~~appendix Appendix L~~ or an equivalent method designated pursuant to 40 CFR 53 (incorporated by reference in Section 243.108). Compliance with the standards is determined using the methods and procedures~~The computations~~

~~necessary for analyzing particulate matter data to determine attainment of the PM<sub>2.5</sub> standards are described in 40 CFR 50, appendix Appendix N (incorporated by reference in Section 243.108).~~

- 1) The annual primary and secondary PM<sub>2.5</sub> standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix N, is less than or equal to 15.0 µg/m<sup>3</sup>.
- 2) The 24-hour primary and secondary PM<sub>2.5</sub> standards are met when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR 50, Appendix N, is less than or equal to 35 µg/m<sup>3</sup>.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_).

### Section 243.122 Sulfur Oxides (Sulfur Dioxide)

- a) Primary Standards. The primary ambient air quality standards for sulfur oxides measured as sulfur dioxide are:
  - 1) An annual arithmetic mean concentration of 80 micrograms per cubic meter (0.03 ppm); and,
  - 2) A maximum 24-hour concentration, not to be exceeded more than once per year, of 365 micrograms per cubic meter (0.14 ppm).
- b) Secondary Standard. The secondary ambient air quality standard for sulfur oxides measured as sulfur dioxide is a maximum 3-hour concentration not to be exceeded more than once per year of 1,300 ~~micrograms~~ micrograms per cubic meter (0.5 ppm).
- c) Measurement Method. For determining conformance with sulfur oxide air quality standards, sulfur oxides shall be measured as sulfur dioxide by the pararosaniline method described in 40 CFR 50, ~~appendix Appendix~~ App. A, (1982), or by an equivalent method of proof approved by the Agency.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_).

### Section 243.125 8-HourOzone

- a) Standard. The primary and secondary ambient air quality ~~standards~~ standard for ozone ~~are 0.075 is 0.12 ppm (parts per million) daily (235 micrograms per cubic meter)~~ maximum 8-hour average 1-hour concentration, measured and determined in accordance with subsection (b) ~~not to be exceeded on more than one day per year.~~

- b) Measurement Method. ~~For determining conformance with the ozone air quality standard, ozone shall be measured by a reference the ozone-ethylene reaction method based on as described in 40 CFR Part 50, appendix App. D and designated in accordance with 40 CFR Part 53 or an equivalent method designated in accordance with 40 CFR Part 53, (1982) or equivalent method as described in 40 CFR Part 50, Section 50.1, all designated as prescribed by 40 CFR 53 (2003). The primary and secondary ambient air quality standards are met when the average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.075 ppm, as determined using, and the Interpretation of the NAAQS for O<sub>3</sub>, 40 CFR 50, appendix P (incorporated by reference in Section 243.108), 73 Fed. Reg. 16436 (March 27, 2008), as amended.~~

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_).

### Section 243.126      Lead

- a) Standard. ~~The primary and secondary ambient air quality standards for lead and its compounds measured as elemental lead and its compounds are 1.5 are 0.15 micrograms per cubic meter, maximum rolling three month average measured and determined over a three-year period arithmetic mean average over a calendar quarter.~~
- b) Measurement Method. ~~For determining conformance with the ambient air quality standards for lead and its compounds, lead and its compounds shall be measured as elemental lead by a reference by the atomic absorption spectrometry or equivalent method based on as described in 40 CFR 50 appendix appendices App. G and designated in accordance with 40 CFR 53, or by an equivalent method designated in accordance with 40 CFR 53, (1982) and Q, as incorporated by reference in Section 243.108 of this Part. Compliance with the The primary and secondary ambient air quality standards shall be determined in accordance with 40 CFR 50, appendix R, incorporated by reference in Section 243.108 of this Part.~~

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_).

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on September 22, 2011, by a vote of 5-0.




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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board