

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
VAPOR RECOVERY RULES:)
AMENDMENTS TO 35 ILL. ADM.)
CODE PARTS 201, 218, AND 219)

R13- 18
(Rulemaking - Air)

RECEIVED
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MAR 18 2013

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

TO: John Therriault, Assistant Clerk Division Chief of Environmental Enforcement
Illinois Pollution Control Board Office of the Attorney General
James R. Thompson Center 500 South Second Street
100 West Randolph, Suite 11-500 Springfield, Illinois 62706
Chicago, Illinois 60601

 **ORIGINAL**

Office of Legal Services
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, IL 62702-1271

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the REGULATORY PROPOSAL entitled "VAPOR RECOVERY RULES: AMENDMENTS TO 35 ILL. ADM. CODE PARTS 201, 218, AND 219," MOTION FOR EXPEDITED REVIEW, MOTION FOR WAIVER OF COPY REQUIREMENTS, and APPEARANCE of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Kent E. Mohr Jr.
Assistant Counsel
Division of Legal Counsel

DATED: March 15, 2013

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THIS FILING IS SUBMITTED ON RECYCLED PAPER

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 - 77 Fed. Reg. 28772 (May 16, 2012)
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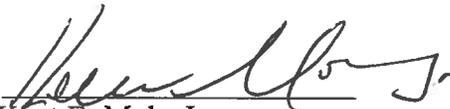
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AMENDMENTS TO 35 ILL. ADM.)
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R13- 18
(Rulemaking - Air)

APPEARANCE

The undersigned hereby enters his Appearance on behalf of the Illinois Environmental Protection Agency.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Kent E. Mohr Jr.
Assistant Counsel
Division of Legal Counsel

DATED: March 14, 2013

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MOTION FOR EXPEDITED REVIEW

The Proponent, the Illinois Environmental Protection Agency ("Illinois EPA"), by its attorney, and pursuant to 35 Ill. Adm. Code 101.512, respectfully submits this Motion for Expedited Review ("Motion"). In support of its Motion, the Illinois EPA states as follows:

1. Expedited review of this proposal is necessary in order to begin phasing out the Chicago nonattainment area Stage II vapor recovery program as of January 1, 2014, thereby putting the State on a path towards realizing additional emission reduction benefits achievable through the use of only on-board refueling vapor recovery ("ORVR") systems.

2. Also, expedited review of this proposal is necessary in order to allow existing affected gasoline dispensing operations to begin decommissioning Stage II vapor recovery systems on January 1, 2014, the commencement of which will extinguish the requirement to operate and maintain such systems. Further, expedited review is necessary in order to remove the requirement for new gasoline dispensing operations to install Stage II vapor recovery systems on and after January 1, 2014.

Background of the Proposed Rulemaking

3. The Clean Air Act ("CAA") Amendments of 1990 required states to submit a revision to their state implementation plans ("SIP") for ozone requiring owners and operators of certain gasoline dispensing operations to install and operate Stage II vapor recovery systems (referred to as "Stage II" systems or equipment) to capture emissions from the refueling of motor vehicles.

42 U.S.C. § 7511a(b)(3). This requirement applied in moderate and above nonattainment areas (“NAA”) and to gasoline dispensing operations that dispensed more than 10,000 gallons of gasoline per month. *Id.* At that time, the Chicago NAA (Cook, DuPage, Kane, Lake, McHenry, Will Counties and Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County) was classified as severe, and the Metro-East NAA (Madison, Monroe, and St. Clair Counties) was classified as moderate. 40 CFR § 81.314 (1995).

4. Also, the CAA Amendments of 1990 required the United States Environmental Protection Agency (“USEPA”) to promulgate standards for on-vehicle control of refueling emissions. 42 U.S.C. § 7521(a)(6). Specifically, Section 202(a)(6) required passenger vehicles to be equipped with ORVR systems that provided a minimum evaporative emission capture efficiency of 95 percent. *Id.* USEPA has indicated that ORVR has an in-use control efficiency of 98 percent. 77 Fed. Reg. 28772, 28777 (May 16, 2012).

5. In accordance with CAA Section 202(a)(6), ORVR systems were required to be phased in based on a percentage of each manufacturer’s fleet of vehicles beginning with the fourth model year after the model year in which the standards were promulgated. 42 U.S.C. § 7521(a)(6). USEPA promulgated ORVR standards on April 6, 1994. 59 Fed. Reg. 16262 (April 6, 1994). All new passenger cars have been equipped with ORVR systems since 2000 and most other new gasoline-powered motor vehicles have been equipped with ORVR since 2006. 77 Fed. Reg. at 28774.

6. In CAA Section 202(a)(6), Congress allowed for the eventual elimination of the Stage II requirement. Section 202(a)(6) provides that the Stage II requirement no longer applies in moderate NAAs once USEPA promulgates standards for ORVR. 42 U.S.C. § 7521(a)(6). In addition, Section 202(a)(6) provides that the Administrator of USEPA may revise or waive the

Stage II requirement for serious, severe, or extreme ozone NAAs after a determination by the Administrator that ORVR is in widespread use throughout the motor vehicle fleet. *Id.*

7. To enable the State of Illinois to comply with the CAA Stage II requirement, the General Assembly amended the Illinois Environmental Protection Act (“Act”) to mandate that the Illinois Pollution Control Board (“Board”) adopt Stage II regulations. 415 ILCS 5/10(D).

8. In August 1992, the Board adopted Stage II regulations (R91-30, *In the Matter of: Stage II Gasoline Vapor Recovery Rules: Amendments to 35 Ill. Adm. Code Part 215, 218, and 219*) applicable in the Chicago and Metro-East NAAs to implement the Stage II requirement of Section 182(b)(3) of the CAA (42 U.S.C. § 7511a(b)(3)) and the Act (415 ILCS 5/10(D)).

9. USEPA approved Illinois’ Stage II regulations as part of its ozone SIP at 58 Fed. Reg. 3841 (Jan. 12, 1993).

10. The Stage II program has been in place in the Chicago NAA for approximately 20 years. The Stage II program in the Metro-East NAA was repealed (R93-28, *In the Matter of: Stage II Vapor in the Metro-East Area: Repeal of 35 Ill. Adm. Code 219.586*) in 1994 due to the promulgation by USEPA of standards for ORVR.

11. The Board promulgated the Chicago NAA Stage II regulations at 35 Ill. Adm. Code § 218.586. This Section requires gasoline dispensing operations that dispense an average monthly volume of more than 10,000 gallons of motor vehicle fuel per month to install, operate, and maintain Stage II systems that are certified by the California Air Resources Board as having a vapor recovery and removal efficiency of at least 95 percent by weight. 35 Ill. Adm. Code § 218.586(b), (c) (2012).

12. A Stage II vacuum-assist system is a commonly used control device for compliance with Stage II regulations. This Stage II system uses a vacuum pump on the vapor return line to draw gasoline vapors from the vehicle fill pipe into an underground/aboveground storage tank.

13. ORVR systems installed in vehicles utilize an activated carbon canister. During refueling, gasoline vapors are routed into the carbon canister and are captured by the activated carbon in the canister. Ultimately, the gasoline vapors are drawn into the engine and burned as fuel when the engine is re-started.

14. While Stage II vacuum-assist and ORVR systems are effective in capturing gasoline vapors and have provided volatile organic compound emission reductions, these systems can be incompatible if operated simultaneously. For example, when an ORVR-equipped vehicle is refueled at a gasoline dispensing operation that is equipped with an ORVR-incompatible Stage II vacuum-assist system, the ORVR carbon canister captures gasoline vapors. Then, instead of the Stage II system routing gasoline vapors into the underground storage tank, the vacuum pump draws fresh air into the underground storage tank. Fresh air ingestion in the underground storage tank destabilizes the liquid-vapor equilibrium, which causes increased evaporation of gasoline, and, in turn, increased pressure. Increased pressure in the underground storage tank causes excess gasoline vapors to be released out of the underground storage tank through its vent pipe and into the atmosphere. USEPA has indicated that this incompatibility can result in a 1 to 10 percent decrease in control efficiency of vehicle fuel tank emissions. 77 Fed. Reg. at 28775.

15. As detailed in the *Technical Support Document* to this proposed rulemaking, in the Chicago NAA, 2,420 gasoline dispensing operations have Stage II vapor recovery equipment. 2,320 of these gasoline dispensing operations have Stage II vacuum-assist systems and 2,005 of these Stage II vacuum-assist systems are incompatible with ORVR systems. The incompatibility

discussed above does not exist where an ORVR-compatible Stage II system is used, such as a compatible vacuum-assist system or balance system. Some compatible Stage II vacuum-assist systems shut off the vacuum pump when the system detects the presence of an ORVR-equipped vehicle, which results in reduced air flow being drawn into the underground storage tank. When gasoline is pumped into a vehicle, a Stage II balance system creates a positive pressure differential between the vehicle fuel tank and the underground storage tank, and gasoline vapors from the vehicle fuel tank flow into the underground storage tank to balance pressures. These compatible Stage II systems may, but are not required to, be used to comply with 35 Ill. Adm. Code § 218.586. As detailed in the *Technical Support Document* to this proposed rulemaking, there are 100 balance systems in the Chicago NAA.

16. Effective May 16, 2012, the Administrator of the USEPA determined that widespread use of ORVR had occurred throughout the national motor vehicle fleet and waived the CAA Section 182(b)(3) Stage II requirement. 77 Fed. Reg. at 28772. Subject to USEPA review and approval, states now have the option of removing Stage II programs from their ozone SIPs. *Id.* A state is not required to remove an existing Stage II program as it is possible that a state's Stage II program could still be beneficial. *Id.* at 28779. A state that desires to remove its Stage II program from its SIP must submit a SIP revision requesting USEPA to approve the revision and must provide, as appropriate, a demonstration that such revision is consistent with CAA Section 110(l) (42 U.S.C. § 7410(l)). *Id.* Section 110(l) of the CAA restricts USEPA's ability to approve a SIP revision if it would interfere with applicable CAA requirements. *Id.* Therefore, a state's demonstration should show that removing its Stage II program will not result in an emission increase or that the increase is offset by other changes in the SIP. *Id.* USEPA indicated in its final rule that it used its Motor Vehicle Emission Simulator ("MOVES")

modeling program in determining the national widespread use date and would similarly expect states' 110(l) demonstration to include emission modeling using the MOVES model. *Id.* at 28777. Thus, states' use of MOVES modeling, which would necessarily include the use of state-specific program inputs, will result in the identification of area-wide emissions impacts associated with maintaining and removing a Stage II program.

17. In August 2012, the USEPA issued guidance regarding developing and submitting SIP revisions removing Stage II programs. Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures (Aug. 7, 2012) (EPA-457/B12-001) (Attachment C, *Technical Support Document*). This guidance provides the framework, which consists of assessing the area-wide impacts on vehicle refueling emissions, strategies and considerations for phasing out Stage II controls, and addressing CAA requirements, for removing a Stage II program from a SIP.

18. The Illinois EPA has reviewed USEPA's final rule and guidance. In addition, the Illinois EPA has performed modeling using USEPA's MOVES model to determine the emissions impacts associated with maintaining and removing the Chicago NAA Stage II program. As a result of this modeling analysis, as discussed below, the Illinois EPA is proposing to phase out the Chicago NAA Stage II program.

Proposed Rulemaking

19. The Illinois EPA's proposal will phase out the requirement to install, maintain, and operate Stage II systems in the Chicago NAA. The proposal will remove the requirement for new gasoline dispensing operations (those that begin operating for the first time on or after January 1, 2014) to install Stage II systems. The proposal will allow existing affected gasoline dispensing operations (those that have operated at any time prior to January 1, 2014) to begin

decommissioning Stage II equipment on January 1, 2014, but will require such operations to complete decommissioning by no later than December 31, 2016. The proposal will require decommissioning to be performed by following the decommissioning procedures specified by the Petroleum Equipment Institute's ("PEI") "Recommended Practices for Installation and Testing of Vapor-Recovery Systems at Vehicle-Fueling Sites," Chapter 14, PEI/RP300-09 (2009). In USEPA's guidance, it recognized the PEI decommissioning procedures as instructive, and other states are adopting these PEI procedures. The proposal will require decommissioning to be performed by State licensed/registered contractors and will contain recordkeeping and reporting requirements. In addition, the proposal will address State permitting exemptions for Stage II gasoline dispensing operations and Stage I storage tank filling operations at gasoline dispensing operations, and address CAA Title V insignificant activities relating to gasoline dispensing. Further, the proposal will repeal the redundant and unnecessary Stage I registration provision. The proposal will contain other clarifications and clean-ups.

Necessity of Expedited Review

20. As discussed above, the Chicago NAA was subject to the CAA requirement for Stage II controls. The Board adopted Stage II regulations in response thereto, and the Illinois EPA has implemented the Stage II program over the last 20 years.

21. Also as discussed above, in May 2012, USEPA issued its final rule determining the widespread use of ORVR in the national motor vehicle fleet and waiving the CAA Stage II requirement. As a result, USEPA indicated in the final rule that states may now submit SIP revisions removing or phasing out Stage II programs. Further, USEPA recently issued guidance providing the framework for Stage II SIP revisions.

22. The Illinois EPA has reviewed USEPA's final rule and guidance, and has conducted modeling using USEPA's MOVES model to determine the emissions impacts associated with maintaining and removing the Chicago NAA Stage II program. According to this modeling, beginning in year 2014, the Stage II program (in combination with the presence of ORVR systems) will not provide emission reductions benefits above and beyond those achievable through the use of only ORVR systems. See, *Technical Support Document*. Through this modeling analysis, the Illinois EPA determined that during year 2014, the simultaneous use of ORVR and incompatible Stage II systems will actually begin to result in an emissions disbenefit – or not achieving as many emission reductions as could be achieved through the use of only ORVR systems. *Id.* If the current Stage II program (in combination with the presence of ORVR systems) remains in place, the disparity between the emission reductions that the current Stage II program will achieve and the emission reductions achievable through the use of only ORVR systems will grow over time. *Id.* During and after the phase out of the Stage II program, emission reduction benefits attributable to ORVR systems will continue to increase and refueling emissions will continue to decrease. *Id.*

23. The Illinois EPA believes that allowing existing affected gasoline dispensing operations to begin decommissioning Stage II equipment on January 1, 2014, requiring decommissioning to be completed within 3 years, and not requiring new gasoline dispensing operations to install Stage II equipment will allow the State to realize an increasing amount of emission reductions achievable through the use of ORVR only. Therefore, from an emission reduction benefit standpoint, it is in the best interests of the State for the Illinois EPA's proposal to be adopted by the Board in advance of January 1, 2014.

24. In addition to the emission reduction benefits, allowing existing affected gasoline dispensing operations to begin decommissioning Stage II equipment as of January 1, 2014, will result in cost savings for such operations. In its final rule, USEPA indicated that the recurring annual cost savings if the Stage II requirement is phased out is approximately \$3,000 for a typical gasoline dispensing operation. 77 Fed. Reg. at 28780. As discussed in the *Technical Support Document* to this proposed rulemaking, the Illinois EPA estimates that the cost to decommission will range from approximately \$2,000-\$7,000 and the recurring annual cost savings will range from approximately \$3,000-\$6,000, with the cost variations dependent upon the number and type of dispensers and nozzles.

25. Further, not requiring new gasoline dispensing operations to install Stage II systems will result in a significant cost savings for such operations. In its guidance, USEPA estimated the costs savings of not installing Stage II systems at newly established gasoline dispensing operations at \$20,000-\$60,000. Attachment C, *Technical Support Document*.

26. Given the emission reduction benefits for the State and economic savings for affected gasoline dispensing operations, the Illinois EPA believes that establishing a beginning date of January 1, 2014, for phasing out the Chicago NAA Stage II program is appropriate and necessary.

27. The Illinois EPA has engaged in outreach regarding the proposed rulemaking and has received positive feedback from interested parties. Therefore, the Illinois EPA does not believe that material prejudice will result from this Motion being granted.

28. In light of the foregoing, it is necessary to expedite review in this matter in an effort to have the proposed rulemaking adopted in advance of January 1, 2014.

29. As required by 35 Ill. Adm. Code § 101.512, this Motion is accompanied by an Affirmation attesting that the facts cited herein are true.

WHEREFORE, for the reasons set forth above, the Illinois EPA respectfully requests that the Board grant this Motion and expedite review in this matter.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Kent E. Mohr Jr.
Assistant Counsel
Division of Legal Counsel

DATED: March 14, 2013

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
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VAPOR RECOVERY RULES:) **R13-**
AMENDMENTS TO 35 ILL. ADM.) **(Rulemaking - Air)**
CODE PARTS 201, 218, AND 219)

AFFIRMATION

I, Kent E. Mohr Jr., under oath, hereby state and affirm that I am an Assistant Counsel for the Illinois Environmental Protection Agency and that the facts cited in the foregoing Motion for Expedited Review are true and correct to the best of my information and belief.


Kent E. Mohr Jr.
Assistant Counsel
Division of Legal Counsel

SUBSCRIBED AND SWORN TO BEFORE ME
this 14 day of March 2013


Notary Public



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
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MOTION FOR WAIVER OF COPY REQUIREMENTS

NOW COMES the Proponent, the Illinois Environmental Protection Agency ("Illinois EPA"), by its attorney, and pursuant to 35 Ill. Adm. Code 101.500, 102.110, 102.200, and 102.402, respectfully moves that the Illinois Pollution Control Board ("Board") waive the requirement that the Illinois EPA submit the original and nine copies of the regulatory proposal including all documents relied upon, and waive the requirement that the Illinois EPA provide copies of certain documents relied upon. In support of its Motion, the 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. 35 Ill. Adm. Code 102.200. Section 27(a) of the Environmental Protection Act also requires that the Illinois EPA provide information supporting a regulatory proposal. 415 ILCS 5/27(a).

2. The Illinois EPA directly relied upon several documents when drafting the regulatory proposal, and incorporated by reference a document as well. The documents relied upon/incorporated by reference are as follows:

- a. Clean Air Act (42 U.S.C. 7401 *et. seq.*)
- b. 40 CFR 63, Subpart CCCCCC (2012)
- c. 77 Fed. Reg. 28772 (May 16, 2012)

d. "Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures" (Aug. 7, 2012) (EPA-457/B12-001)

e. Incorporation by Reference:

Petroleum Equipment Institute, "Recommended Practices for Installation and Testing of Vapor-Recovery Systems at Vehicle-Fueling Sites", PEI/RP300-09, (2009)

3. Several of the documents described above – the Clean Air Act, Code of Federal Regulation document, and federal register document are readily accessible to or are within the possession of the Board. Given the ease of accessibility of these documents, listed as items (a), (b), and (c) above, the Illinois EPA moves that the Board waive the requirement that the Illinois EPA provide copies of such documents.

4. Section 5-75(a) of the Illinois Administrative Procedure Act ("IAPA") provides 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). Section 5-75(c) of the IAPA provides, however, that such agency shall maintain a copy of the referenced material in at least one of its principal offices and shall make it available to the public upon request. 5 ILCS 100/5-75(c).

5. In developing this proposed rulemaking, the Illinois EPA incorporated by reference one document published by the Petroleum Equipment Institute ("PEI") listed above as item (e). This PEI document is copyright protected and each copy must be purchased at a cost to the Illinois EPA. In order to keep costs incurred by the Illinois EPA at a minimum, Illinois EPA requests that the Board waive the normal copy requirements and allow the Illinois EPA to file only one original copy of this PEI document.

6. The remaining documents in the regulatory proposal consist of over 800 pages. Given the length of the proposal and the resources required to provide nine copies, Illinois EPA requests that the Board waive the normal copy requirements and allow Illinois EPA to file the original and four complete copies of such documents.

WHEREFORE, for the reasons set forth above, the Illinois EPA requests that the Board waive the requirement that the Illinois EPA provide copies of the documents listed as items (a), (b), and (c); waive the requirement that the Illinois EPA provide an original and nine copies of the copyrighted material listed as item (e), allowing the Illinois EPA to provide only the original of such document; and waive the requirement that the Illinois EPA provide an original and nine copies of the remaining documents in its proposal, allowing the Illinois EPA to provide the original and four copies.

Respectfully Submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Kent E. Mohr Jr.

Assistant Counsel

Division of Legal Counsel

DATED: March 14, 2013

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
PROPOSAL OF REGULATIONS

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

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By:



John J. Kim
Director

DATED: March 14, 2013

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SYNOPSIS OF TESTIMONY

It is currently anticipated that the Illinois Environmental Protection Agency will provide five witnesses in support of the regulatory proposal: Darwin Burkhardt, Michael Rogers, Jerry Clark, Chuck Gebhardt, and Roston Cooper. Darwin Burkhardt (Manager of Clean Air Programs, Division of Mobile Source Programs, Bureau of Air, Illinois Environmental Protection Agency) and Michael Rogers (Technical Services, Division of Mobile Source Programs, Bureau of Air, Illinois Environmental Protection Agency) will provide testimony regarding the phase-out of the Stage II program and decommissioning of Stage II vapor recovery equipment. Jerry Clark (Clean Air Programs, Division of Mobile Source Programs, Bureau of Air, Illinois Environmental Protection Agency) will provide testimony, as necessary, regarding Stage II vapor recovery systems and decommissioning. Chuck Gebhardt (Manager of Technical Services, Division of Mobile Source Programs, Bureau of Air, Illinois Environmental Protection Agency) will provide testimony on the modeling performed regarding the phase-out of the Stage II program. Roston Cooper (Permits, Division of Air Pollution Control, Bureau of Air, Illinois Environmental Protection Agency) will provide testimony regarding the proposed amendments to 35 Ill. Adm. Code Part 201.

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STATEMENT OF REASONS

The Illinois Environmental Protection Agency ("Illinois EPA") hereby submits this Statement of Reasons to the Illinois Pollution Control Board ("Board") pursuant to Sections 10, 27, and 28 of the Environmental Protection Act ("Act") [415 ILCS 5/10, 27, and 28 (2012)] and 35 Ill. Adm. Code Sections 102.200 and 102.202, in support of the attached proposed amendments.

The amendments propose to phase out the Board's gasoline vapor recovery equipment installation and maintenance requirements (referred to as "Stage II") at 35 Ill. Adm. Code Section 218.586 applicable in the Chicago ozone nonattainment area ("NAA") due to the United States Environmental Protection Agency's ("USEPA") determination of the widespread use of on-board refueling vapor recovery ("ORVR") nationwide, and waiver of the Clean Air Act ("CAA") Section 182(b)(3) (42 U.S.C. § 7511a(b)(3)) Stage II requirement. Additionally, this rulemaking proposes to amend State and federal Title V permitting regulations relating to the activity of fuel dispensing. These amendments are contained in 35 Ill. Adm. Code Parts 201 (applicable state-wide), 218 (applicable to the Chicago NAA), and 219 (applicable to the Metro-East NAA). Also, the amendments propose clarifications and clean-ups to 35 Ill. Adm. Code Parts 201, 218, and 219. This proposal amends the most recent versions of Parts 201, 218, and 219, as found on the Board's website.

The Illinois EPA believes that adoption of these proposed amendments should be

accomplished as quickly as possible in order to begin realizing additional emission reduction benefits, to allow existing gasoline dispensing operations to begin decommissioning Stage II systems on January 1, 2014, and, also beginning on that date, to eliminate the requirement for new gasoline dispensing operations to install and operate Stage II systems. The Illinois EPA has held outreach discussions with interested parties, and has to date received positive feedback from these parties regarding this rulemaking proposal.

I. STATUTORY AUTHORITY FOR RULEMAKING

Section 10(A) of the Act provides the Board's general authority for rulemaking to address air pollution. Section 10(A) states, in pertinent part: "The Board, pursuant to procedures prescribed in Title VII of this Act, may adopt regulations to promote the purposes of this Title." 415 ILCS 5/10(A) (2012). Further, Section 27(a) of the Act confers general substantive rulemaking authority upon the Board, and the contents of this regulatory proposal are clearly within these general rulemaking powers of the Board. This proposal is being filed as a regulatory proposal of general applicability pursuant to Sections 27 and 28 of the Act. 415 ILCS 5/27 and 28 (2012). It is not being proposed as an identical-in-substance, fast-track or federally required rulemaking. In evaluating this proposal, the Board is required to take into account "the existing physical conditions, the character of the area involved, including the character of surrounding land uses, zoning classifications, the nature of the existing air quality, or receiving body of water, as the case may be, and the technical feasibility and economic reasonableness of measuring or reducing the particular type of pollution." 415 ILCS 5/27(a).

II. STATEMENT OF FACTS

A. Federal and State Vapor Recovery Requirements

1. Federal CAA Stage II Vapor Recovery Requirement

The CAA Amendments of 1990 required states to submit a revision to their state implementation plans (“SIP”) for ozone requiring owners and operators of certain types of gasoline dispensing operations to install and operate Stage II systems (or Stage II “equipment”) designed to capture emissions from the refueling of motor vehicles. 42 U.S.C. § 7511a(b)(3). This requirement applied in moderate and above NAAs to gasoline dispensing operations that dispensed more than 10,000 gallons of gasoline per month. *Id.* At that time, the Chicago NAA (Cook, DuPage, Kane, Lake, McHenry, Will Counties and Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County) was classified as severe, and the Metro-East NAA (Madison, Monroe, and St. Clair Counties) was classified as moderate. 40 CFR § 81.314 (1995).

2. Federal Standards for ORVR

The CAA Amendments of 1990 also required USEPA to promulgate standards for on-vehicle control of refueling emissions. 42 U.S.C. § 7521(a)(6). Specifically, Section 202(a)(6) required passenger vehicles to be equipped with ORVR systems that provided a minimum evaporative emission capture efficiency of 95 percent. *Id.* USEPA has indicated that ORVR systems currently have an in-use control efficiency of 98 percent. 77 Fed. Reg. 28772, 28777 (May 16, 2012).

In accordance with CAA Section 202(a)(6), ORVR systems were required to be phased in based on a percentage of each manufacturer’s fleet of vehicles beginning with the fourth model year after the model year in which the standards were promulgated. 42 U.S.C. § 7521(a)(6). USEPA promulgated ORVR standards on April 6, 1994. 59 Fed. Reg. 16262 (April 6, 1994). All new passenger cars have been equipped with ORVR systems since 2000, and most other new

gasoline-powered motor vehicles have been equipped with ORVR since 2006. 77 Fed. Reg. at 28774.

Section 202(a)(6) of the CAA allowed for the eventual elimination of the Stage II requirement. This section provided that the Stage II requirement would no longer apply in moderate NAAs once USEPA promulgated standards for ORVR. 42 U.S.C. § 7521(a)(6). In addition, Section 202(a)(6) provided that the Administrator of USEPA may revise or waive the Stage II requirement for serious, severe, or extreme ozone NAAs after a determination is made by the Administrator that ORVR is in widespread use throughout the motor vehicle fleet. *Id.*

3. State Stage II Vapor Recovery Requirements

To enable the State of Illinois to comply with the CAA Section 182(b)(3) Stage II requirement, the Illinois General Assembly amended the Act to mandate that the Board adopt Stage II regulations. 415 ILCS 5/10(D). In August 1992, the Board adopted Stage II regulations (R91-30, *In the Matter of: Stage II Gasoline Vapor Recovery Rules: Amendments to 35 Ill. Adm. Code Part 215, 218, and 219*) applicable in the Chicago and Metro-East NAAs. USEPA approved Illinois' Stage II regulations as part of its ozone SIP at 58 Fed. Reg. 3841 (Jan. 12, 1993).

a. Chicago NAA Stage II Vapor Recovery Requirements

The Board promulgated the Chicago NAA Stage II rule at 35 Ill. Adm. Code Section 218.586 and the Stage II program has been in place in the Chicago NAA for approximately 20 years. This rule requires gasoline dispensing operations that dispense an average monthly volume of more than 10,000 gallons of motor vehicle fuel per month to install, operate, and maintain Stage II systems that are certified by the California Air Resources Board ("CARB") as having a vapor recovery and removal efficiency of at least 95 percent by weight. 35 Ill. Adm.

Code § 218.586(b), (c) (2012). As described *infra*, vacuum-assist and balance systems are utilized to meet this Stage II requirement. Specific requirements for the proper operation and maintenance of Stage II systems are contained in Section 218.586(c), and compliance deadlines, recordkeeping and reporting requirements, and a registration that, if complied with, provides an exemption from the requirement to obtain air pollution control permits are contained in Section 218.586(d), (g), and (h).

b. Metro-East NAA Stage II Vapor Recovery Requirements

The Board promulgated the Metro-East NAA Stage II rule at 35 Ill. Adm. Code Section 219.586. This rule contained the same provisions as the Chicago NAA Stage II rule. However, the Stage II rule in the Metro-East NAA was repealed (R93-28, *In the Matter of: Stage II Vapor in the Metro-East Area: Repeal of 35 Ill. Adm. Code 219.586*) in 1994 due to the promulgation by USEPA of standards for ORVR and the classification of this NAA as moderate.

4. Stage II Vapor Recovery and ORVR Systems

A vacuum-assist Stage II system is a commonly used control device for compliance with Stage II regulations. This Stage II system uses a vacuum pump on the vapor return line to draw gasoline vapors from the vehicle fill pipe into an underground/aboveground storage tank. Most past vacuum-assist Stage II systems are incompatible with ORVR; some new vacuum-assist systems are compatible with ORVR.

ORVR systems installed in vehicles utilize an activated carbon canister. During refueling, gasoline vapors are routed into the carbon canister and are captured by the activated carbon in the canister. Ultimately, the gasoline vapors are drawn into the engine and burned as fuel when the engine is re-started.

While vacuum-assist Stage II and ORVR systems are effective in capturing gasoline vapors and have provided volatile organic compound emission reductions, these systems can be incompatible if operated simultaneously. For example, when an ORVR-equipped vehicle is refueled at a gasoline dispensing operation that is equipped with an ORVR-incompatible vacuum-assist Stage II system, the ORVR carbon canister captures gasoline vapors. Then, instead of the Stage II system routing gasoline vapors into the underground storage tank, the vacuum pump draws fresh air into the underground storage tank. Fresh air ingestion in the underground storage tank destabilizes the liquid-vapor equilibrium, which causes increased evaporation of gasoline, and, in turn, increased pressure. Increased pressure in the underground storage tank causes excess gasoline vapors to be released out of the underground storage tank through its vent pipe and into the atmosphere. USEPA has indicated that this incompatibility can result in a 1 to 10 percent decrease in control efficiency of vehicle fuel tank emissions as opposed to vehicle ORVR systems operating alone. 77 Fed. Reg. at 28775.

As detailed in the *Technical Support Document* to this proposed rulemaking, in the Chicago NAA, 2,420 gasoline dispensing operations have Stage II equipment. 2,320 of these gasoline dispensing operations have vacuum-assist Stage II systems, and 2,005 of these vacuum-assist Stage II systems are incompatible with ORVR systems. The incompatibility does not exist where an ORVR-compatible Stage II system is used, such as a compatible vacuum-assist system or balance system. Some compatible Stage II vacuum-assist systems shut off the vacuum pump when the system detects the presence of an ORVR-equipped vehicle, which results in reduced air flow being drawn into the underground storage tank. When gasoline is pumped into a vehicle, a Stage II balance system creates a positive pressure differential between the vehicle fuel tank and the underground storage tank, and gasoline vapors from the vehicle fuel tank flow into the

underground storage tank to balance pressures. These compatible Stage II systems may, but are not required to, be used to comply with 35 Ill. Adm. Code Section 218.586. As detailed in the *Technical Support Document* to this proposed rulemaking, there are 100 balance systems in the Chicago NAA.

5. Widespread Use of ORVR and CAA Stage II Waiver

Effective May 16, 2012, the Administrator of the USEPA determined that widespread use of ORVR had occurred throughout the national motor vehicle fleet and waived the CAA Section 182(b)(3) Stage II requirement. 77 Fed. Reg. at 28772. Subject to USEPA review and approval, states now have the option of removing Stage II programs from their ozone SIPs. *Id.* A state is not required to remove an existing Stage II program, as it is possible that a state's Stage II program could still be beneficial. *Id.* at 28779. A state that wants to remove its Stage II program from its SIP must submit a SIP revision requesting USEPA to approve the removal of Stage II from its SIP, and must provide, as appropriate, a demonstration that such revision is consistent with CAA Section 110(l) (42 U.S.C. § 7410(l)). *Id.* at 28779. Section 110(l) of the CAA restricts USEPA's ability to approve a SIP revision if it would interfere with applicable CAA requirements. *Id.* Therefore, a state's demonstration should show that removing its Stage II program will not result in an emission increase or that the increase is offset by other changes in the SIP. *Id.* at 28779. USEPA indicated in its final rule that it used its Motor Vehicle Emission Simulator ("MOVES") modeling program in determining the national widespread use date and would similarly expect states' Section 110(l) demonstration to include emission modeling using the MOVES model. *Id.* at 28777. Thus, states' use of MOVES modeling, which would necessarily include the use of state-specific program inputs, will result in the identification of area-wide emissions impacts associated with maintaining and removing a Stage II program.

In August 2012, the USEPA issued guidance regarding developing and submitting SIP revisions removing Stage II programs. Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures (Aug. 7, 2012) (EPA-457/B12-001) (Attachment C, *Technical Support Document*). This guidance provides the framework, which consists of assessing the area-wide impacts on vehicle refueling emissions, strategies and considerations for phasing out Stage II controls, and addressing CAA requirements, for removing a Stage II rule/program from a SIP.

As a result of USEPA's determination of the widespread use of ORVR and CAA Section 182(b)(3) Stage II waiver, and the Illinois EPA's assessment of the air quality impacts associated with retaining and removing the Stage II program, the Illinois EPA is proposing to phase out the Stage II program and require decommissioning of existing Stage II equipment, as discussed *infra*.

B. State and Title V Gasoline Dispensing Permitting

1. State Gasoline Dispensing Permitting

Section 9 of the Act requires construction and operating permits for sources capable of causing or contributing to air pollution or designed to prevent air pollution, unless otherwise exempt from permitting. 415 ILCS 5/9 (2012). Similarly, Board regulations require construction and operating permits for emission sources and air pollution control equipment, unless otherwise exempt. 35 Ill. Adm. Code §§ 201.142, 201.143, and 201.144 (2012). For the most part, the exemptions from State permitting requirements are contained in 35 Ill. Adm. Code Section 201.146.

A permitting exemption applicable to gasoline dispensing is contained in 35 Ill. Adm. Code Section 201.146(kk). Subsection (kk) provides an exemption from permitting for certain

sources that register with the Illinois EPA, such as gasoline dispensing operations that register in accordance with 35 Ill. Adm. Code Section 218.586(h). 35 Ill. Adm. Code § 201.146(kk) (2012). Similarly, a corollary permitting exemption for gasoline dispensing is contained in the Chicago NAA Stage II rule, which is conditioned upon registration of the gasoline dispensing operation with the Illinois EPA. 35 Ill. Adm. Code § 218.586(h). Another permitting exemption relating to gasoline dispensing is contained in 35 Ill. Adm. Code Section 201.146(l). This exemption applies to storage tanks for retail dispensing other than those storage tanks subject to the requirements contained in 35 Ill. Adm. Code Sections 215.583(a)(2), 218.583(a)(2), and 219.583(a)(2) (Stage I control requirements). 35 Ill. Adm. Code § 201.146(l). Stage I control requirements seek to control vapors displaced from storage tanks during the filling of such tanks by product delivery vessels. The Stage I regulations for the Chicago and Metro-East NAAs contain a permitting exemption for retail gasoline dispensing operations that register with the Illinois EPA¹. 35 Ill. Adm. Code §§ 218.583(e), 219.583(e) (2012).

As detailed *infra*, due to amendments the Illinois EPA is proposing relating to the phase out of the Chicago NAA Stage II program and decommissioning of Stage II equipment, the Illinois EPA proposes revisions and clarifications to these permitting provisions.

2. CAA Title V Gasoline Dispensing Permitting

Section 39.5 of the Act establishes a USEPA required and approved Clean Air Act Permit Program (“CAAPP”) (or “Title V” operating permit program) that requires permits for major stationary sources of air pollution, among others. 415 ILCS 5/39.5 (2012). Section 39.5 of the Act does not provide for exemptions from CAAPP permitting in the same manner as under State minor source permitting. Instead, Section 39.5 of the Act allows for the designation of

¹ No registration program exists for the Stage I program/regulations applicable in the attainment areas of the State (35 Ill. Adm. Code § 215.583) other than notifications required pursuant to federal regulations.

insignificant activities or emission levels proposed by the Illinois EPA and adopted by the Board. 415 ILCS 5/39.5(5)(w). When a CAAPP permit application is submitted, insignificant activities are listed or denoted in the CAAPP application and subsequently addressed in the CAAPP permit. *Id.* and 35 Ill. Adm. Code § 201.210 (2012). After issuance of the CAAPP permit, an owner or operator of a CAAPP source may make changes that are not addressed or prohibited by its CAAPP permit and that are deemed by regulation as insignificant activities without a permit modification. 415 ILCS 5/39.5(12). The ability to make such changes allows the CAAPP source to add the insignificant activity to its operations without the delay that would occur if the source was required to modify its CAAPP permit.

The Board has adopted insignificant activities or emission levels in 35 Ill. Adm. Code Section 201.210. Section 201.210(a) insignificant activities or emission levels must be listed in a CAAPP permit application. 35 Ill. Adm. Code § 201.210(a). Section 201.210(b) activities are not required to be individually listed, but the owner or operator must denote whether any of the activities are present at the source in its CAAPP permit application. 35 Ill. Adm. Code § 201.210(b). Section 201.211 allows an owner or operator to request that an emission unit be treated as an insignificant activity consistent with Section 201.210 if certain criteria are met and the owner or operator provides certain required information regarding the emission unit in its CAAPP permit application. 35 Ill. Adm. Code § 201.211 (2012).

Section 201.210 does not list fuel dispensing or small gasoline storage tanks as insignificant activities, which presents a significant delay for a source in being able to engage in these activities even though they will eventually be found to be insignificant. Consequently, as detailed *infra*, the Illinois EPA proposes to remedy this issue and to make other related revisions and clarifications.

3. Annual Emission Reports

Sections 4 and 10 of the Act provide authority to the Illinois EPA and Board to collect reports and promulgate rules requiring the submission of reports regarding the emissions of sources of air pollution. 415 ILCS 5/4 and 5/10 (2012). The Illinois EPA and Board have promulgated rules regarding the submission of such reports at 35 Ill. Adm. Code Parts 201 (Board rule) and 254 (Illinois EPA rule).

Part 254 specifies the requirements and procedures for submitting annual emissions reports and implements Section 201.302, among others. Section 254.102 sets forth the applicability for submitting such reports, which centers on whether a permit is required. 35 Ill. Adm. Code § 254.102 (2012). Section 201.302 is intended to require annual emissions reports where an owner or operator of an emission source or air pollution control equipment is required to obtain a permit. However, Section 201.302(a) requires owners or operators of emission units or air pollution control equipment to submit annual emissions reports, at a minimum, to the Illinois EPA detailing the emission units and total annual quantities of all specified air contaminant emissions, unless otherwise specifically exempt in this Section. 35 Ill. Adm. Code § 201.302(a) (2012). Also, it provides that the Illinois EPA may require more frequent reports where necessary. *Id.* Section 201.302(b) provides that the Illinois EPA may adopt procedures requiring the submission of additional reports and procedures setting forth the format in which all reports shall be submitted. 35 Ill. Adm. Code § 201.302(b). Section 201.302(d) specifies that retail gasoline dispensing operations are exempt from the requirements contained in Section 201.302(a) (annual reports) unless the source has failed to comply with the registration provision contained in the Stage II rule (35 Ill. Adm. Code § 218.586(h)) or to obtain a permit if applicable. 35 Ill. Adm. Code § 201.302(d).

Due to amendments the Illinois EPA is proposing relating to the phase out of the Chicago NAA Stage II program, the applicability criteria and exemptions for annual reporting should be clarified, as detailed *infra*.

C. Applicable Air Quality Standards

Under the 1990 1-hour ozone standard, the Chicago NAA (Cook, DuPage, Kane, Lake, McHenry, Will, Grundy (townships of Aux Sable and Goose Lake only), and Kendall (Oswego township only)) was classified as severe, and the Metro-East NAA (Madison, Monroe, and St. Clair) was classified as moderate. 40 CFR § 81.314 (1995). The Metro-East NAA was later re-designated to attainment of the 1990 1-hour ozone standard, and this ozone standard was revoked June 15, 2005. 40 CFR § 81.314 (2012).

The 1997 8-hour ozone standard had an effective date of June 15, 2004. *Id.* Under this standard, both the Chicago and Metro-East NAAs were originally classified as moderate. *Id.* One difference in the NAA counties from the 1-hour standard to the 1997 8-hour standard was that the Metro-East NAA included an additional county – Jersey County. *Id.* Both the Chicago and Metro-East NAAs have been re-designated to attainment of the 1997 8-hour ozone standard. *Id.* Both the Chicago (same counties as above) and Metro-East (Madison, Monroe and St. Clair Counties) NAAs have been classified as marginal under the 2008 8-hour ozone standard effective July 20, 2012. *Id.*

In accordance with the 1990 CAA Amendments and the Chicago and Metro-East NAA classifications under the 1-hour ozone standard, Illinois' ozone SIP was required to contain a Stage II program. As discussed *supra*, the Metro-East NAA, however, was only required to maintain a Stage II program until the USEPA promulgated standards for ORVR, which occurred in 1994.

III. PURPOSE AND EFFECT OF THE PROPOSAL

This rulemaking has three purposes. First, the Illinois EPA proposes to phase out the Chicago NAA Stage II program. Second, the Illinois EPA proposes to revise and clarify State air permitting exemptions for storage tanks and fuel dispensing, and proposes new Title V insignificant activities related to small gasoline storage tanks and fuel dispensing. Third, the Illinois EPA proposes other rule clean-ups/clarifications.

A. Amendments to the Chicago NAA Stage II Vapor Recovery Rule

As discussed *supra*, the Chicago NAA Stage II rule was promulgated to satisfy the obligation under CAA Section 182(b)(3) for Illinois to amend its SIP to include Stage II requirements. Since this time, however, vehicles have increasingly become equipped with ORVR systems, and Section 202(a)(6) of the CAA intended for the eventual elimination of the Stage II requirement upon a determination of the widespread use of ORVR systems. Recently, the USEPA issued a final rule determining the widespread use of ORVR systems and waiving the CAA SIP requirement for Stage II. 77 Fed. Reg. at 28772. The final rule specifies that states now have the option of removing Stage II programs from their SIPs if the USEPA approves a SIP revision. *Id.* at 28779. SIP revisions must demonstrate, as appropriate, consistency with CAA Section 110(l). *Id.* In demonstrating consistency with CAA Section 110(l), or non-interference with applicable CAA requirements, in its final rule, USEPA indicated it expected states to use its MOVES model. *Id.* at 28777. Also, recently, USEPA issued guidance regarding developing and submitting SIP revisions removing Stage II programs.

As a result of USEPA's final rule action, the Illinois EPA assessed the emissions impacts associated with its Chicago NAA Stage II program and determined, through using USEPA's MOVES model, that beginning in year 2014, the Chicago NAA Stage II program (in

combination with the presence of ORVR systems) will not provide emission reductions benefits above and beyond those achievable through the use of only ORVR systems. See Figure 1, *Technical Support Document*. Through this modeling analysis, the Illinois EPA determined that during year 2014, the simultaneous use of ORVR and incompatible Stage II systems will actually begin to result in an emissions disbenefit – or not achieving as many emission reductions as could be achieved through the use of only ORVR systems. See *Technical Support Document*. If the current Stage II program (in combination with the presence of ORVR systems) remains in place, the disparity between the emission reductions that the current Stage II program will achieve and the emission reductions achievable through the use of only ORVR systems will grow over time. See Figure 1, *Technical Support Document*. Therefore, the Illinois EPA is proposing to begin phasing out the Chicago NAA Stage II requirement as of January 1, 2014. During and after the phase out of this Stage II program, emission reduction benefits attributable to ORVR systems will continue to increase and refueling emissions will continue to decrease. Id. As a result, the Illinois EPA believes that this proposal is consistent with USEPA’s final rule action and CAA Section 110(l)’s anti-backsliding provision, and provides the USEPA-required demonstration through its MOVES modeling and analysis of same contained in the *Technical Support Document* to this proposed rulemaking.

The Illinois EPA’s proposal would allow owners and operators of existing (operating at any time prior to January 1, 2014) gasoline dispensing operations to begin decommissioning Stage II systems on January 1, 2014, but would mandate compliance with the Stage II requirement until decommissioning is commenced. In addition, the proposal would remove the requirement for Stage II systems at new gasoline dispensing operations that commence operating for the first time on or after January 1, 2014.

The Illinois EPA is proposing a three year timeframe for phasing out the Stage II program due to the number of gasoline dispensing operations subject to the Chicago NAA Stage II rule, the time involved in decommissioning Stage II equipment, the number of contractors available to perform decommissioning work, and an analysis of the decommissioning period of other similarly situated states. See *Technical Support Document*. As proposed, decommissioning may begin January 1, 2014, but must be completed no later than December 31, 2016. In its final rule, USEPA's estimated cost savings relating to decommissioning Stage II equipment assumed that Stage II equipment is decommissioned over a three year timeframe. 77 Fed. Reg. at 28780. Many states are proposing two to four years for phasing out Stage II programs. See *Technical Support Document*.

The Illinois EPA is proposing that decommissioning be performed in accordance with the Petroleum Equipment Institute's ("PEI") "Recommended Practices for Installation and Testing of Vapor-Recovery Systems at Vehicle-Fueling Sites," Chapter 14, PEI/RP300-09 (2009). The PEI is included as Attachment D to the *Technical Support Document*. Specifically, the Illinois EPA proposes to incorporate by reference the PEI and require the decommissioning steps listed in Section 14.6 of the PEI, except Section 14.6.14 (completion of PEI-derived decommissioning checklist). USEPA does not require the use of any particular industry codes or standards in performing decommissioning. However, in its guidance, USEPA indicated that the PEI is particularly instructive because it was developed by industry experts with a focus on regulatory compliance and safety. Attachment C, *Technical Support Document*. Other states have suggested or required use of the PEI. See *Technical Support Document*. In addition, the Illinois EPA is proposing to clarify that the pressure decay test required by Section 14.6 of the PEI must be passed in accordance with Appendix A of the PEI and the tie-tank test must be conducted and

passed in accordance with CARB TP201.3C to ensure all tanks are properly vented.

The Illinois EPA is not aware of any Illinois-specific Stage II decommissioning codes or standards. Certainly, there are local and industry-specific standards and codes that may relate indirectly to Stage II equipment decommissioning such as safety and electrical codes, but these standards and codes are independently enforceable. Further, there are State laws or regulations that may be affected, such as the Office of the State Fire Marshal (“OSFM”) underground storage tank regulations, depending on the extent of decommissioning or other issues revealed during the decommissioning process. Similarly, any such State laws or regulations are independently enforceable.

In addition, the Illinois EPA is proposing that decommissioning procedures other than testing be performed by a contractor that is both licensed by OSFM in the storage tank installation/retrofit module pursuant to 225 ILCS 729 and registered with the Illinois Department of Agriculture, Bureau of Weights & Measures (“IDOA”) in the 3-A Gasoline Pump Meters Code pursuant to 225 ILCS 470/8.1. Further, the Illinois EPA is proposing that any such contractor also possess the appropriate dispenser-manufacturer certification and training, if any. The Illinois EPA is proposing that decommissioning testing be performed by a contractor licensed by OSFM in the tank tightness testing module pursuant to 225 ILCS 729. The Illinois EPA is not aware of any Illinois or industry-specific professional standards applicable to contractors that perform Stage II equipment decommissioning. The PEI states that competent personnel are required to perform Stage II decommissioning. Attachment D, Section 14.3, *Technical Support Document*. However, the PEI alone cannot establish requirements. The PEI states that contractors should have appropriate training, required tools, and possess required regulatory and equipment-manufacturer certifications. *Id.* In an effort to apply meaningful

professional standards to decommissioning contractors, the Illinois EPA has proposed the aforementioned licensure/registration/certification requirements because there are no specific Stage II equipment decommissioning licensure requirements and the contractors that work on dispensers and install/test Stage II systems include those registered/licensed by IDOA and OSFM. Further, it makes sense to have dispenser-manufacturer certified/trained contractors performing decommissioning work on dispensers, as suggested by the PEI. Therefore, these licensed/registered/certified contractors should be most appropriately suited to perform decommissioning activities. The Illinois EPA has included a list of contractors both licensed by OSFM and registered by IDOA as well as a list of contractors licensed by OSFM to perform tank testing in Attachment E to the *Technical Support Document*.

Further, the Illinois EPA is proposing to require owners and operators of gasoline dispensing operations to submit a notice of the intent to decommission at least 10 days prior to commencing decommissioning. In addition, the Illinois EPA is proposing that owners and operators submit a completed checklist and certifications, developed and provided by the Illinois EPA, relating to the decommissioning procedures performed within 30 days after completion of decommissioning. Submission of these documents will enable the Illinois EPA to effectively track and monitor decommissioning activities. Also, the Illinois EPA is proposing to require owners or operators to maintain records relating to decommissioning for a period of five years, and to provide any decommissioning records to the Illinois EPA within 30 minutes after its request. This will enable the Illinois EPA to inspect and review these documents for compliance with the rule, as necessary.

B. State and CAA Title V Gasoline Dispensing Permitting

As stated *supra*, the Illinois EPA proposes to revise and clarify State air permitting

exemptions for storage tanks and fuel dispensing, and proposes Title V insignificant activities for storage tanks and fuel dispensing.

1. State Permitting

As discussed *supra*, Section 9 of the Act and 35 Ill. Adm. Code Sections 201.142, 201.143, and 201.144 require construction and operating permits for sources of air pollution, unless otherwise exempt. For the most part, the exemptions from State permitting requirements are contained in 35 Ill. Adm. Code Section 201.146. Since the activity of gasoline dispensing is a source of air pollution, permits are required, unless a permitting exemption applies. A permit exemption applicable to gasoline dispensing is contained in 35 Ill. Adm. Code Section 201.146(kk), which provides an exemption from permitting for sources that register with the Illinois EPA, such as gasoline dispensing operations that register in accordance with 35 Ill. Adm. Code Section 218.586(h). Similarly, a corollary permit exemption for gasoline dispensing is contained in 35 Ill. Adm. Code Section 218.586(h), which is conditioned upon registration of the gasoline dispensing operation with the Illinois EPA. Another permit exemption relating to gasoline dispensing is contained in 35 Ill. Adm. Code Section 201.146(l). This exemption currently applies to storage tanks for retail dispensing other than those storage tanks subject to the requirements contained in 35 Ill. Adm. Code Sections 215.583(a)(2), 218.583(a)(2), and 219.583(a)(2) (Stage I control requirements). In addition, the Stage I regulations for the Chicago and Metro-East NAAs contain a permit exemption for retail gasoline dispensing operations that register with the Illinois EPA. 35 Ill. Adm. Code §§ 218.583(e), 219.583(e) (2012).

Revisions and clarifications to these permit exemptions are necessary for the following reasons. First, once Stage II sources are no longer subject to the Stage II requirements, they will not be required to register in accordance with Section 218.586(h). However, if these sources do

not register, they will not be able to avail themselves of the permit exemption contained in Section 218.586(h) or the permit exemption contained in Section 201.146(kk). This would result in the unintended consequence of requiring permitting of such sources. Consequently, the Illinois EPA proposes to clarify that registration is not required in order to obtain an exemption from permitting and believes that one permit exemption, contained in one place in the Illinois Administrative Code, is less confusing than dual permit exemptions. Therefore, the Illinois EPA is proposing a single Stage II permit exemption in Section 201.146(l), which will be combined with a permit exemption for Stage I, as discussed *infra*. This Stage II permit exemption will apply to fuel dispensing equipment that is used for dispensing any fuel to mobile sources for use in such mobile sources. This will maintain the current permit exemption for Stage II sources. Also, the Illinois EPA is proposing to repeal the registration permit exemption in Section 201.146(kk)² as it will no longer be needed. See *Technical Support Document*.

Secondly, since the Illinois EPA is proposing to not condition the Stage II permit exemption upon registration, the Illinois EPA believes it should not condition the Chicago and Metro-East NAA Stage I permit exemptions (35 Ill. Adm. Code §§ 218.583(e) and 219.583(e), respectively) upon registration, and believes that one permit exemption, contained in one place in the Illinois Administrative Code, is less confusing than dual permit exemptions. Further, as discussed *infra*, the Illinois EPA is proposing to repeal the Stage I registration program. As to the issue of Stage I permitting, currently, the Illinois EPA only exempts retail Stage I sources. However, the Illinois EPA believes that it is unnecessary from an air quality standpoint to require

² This registration permit exemption will no longer be necessary due to the Illinois EPA's proposal to repeal the Stage I registration program (35 Ill. Adm. Code 218.583(e) and 219.583(e)) and the Stage II permit exemption conditioned upon registration (35 Ill. Adm. Code 218.586(h)) in favor of a Stage I and II permit exemption in proposed Section 201.146(l). Further, the motor vehicle refinishing registration program was recently repealed in R12-24. There are other permitting exemptions applicable to motor vehicle refinishing contained in Section 201.146. There are no other registration programs that would be acceptable candidates for utilizing this registration permit exemption.

permits for Stage I sources, retail or otherwise, where product is unloaded at a gasoline dispensing operation to a storage tank for use in dispensing such fuel to mobile sources for use in such mobile sources. This type of activity is conducted at gasoline dispensing operations, which produce small quantities of emissions as compared to bulk terminals and bulk plants, which are larger sources of emissions and should be permitted. Therefore, the Illinois EPA is proposing a Stage I gasoline dispensing permit exemption applicable to storage tanks that are used for the dispensing of any fuel to mobile sources for use in such mobile sources. This will apply to both retail and non-retail Stage I operations instead of only to retail Stage I operations. This exemption will be combined with the permit exemption for Stage II gasoline dispensing operations at Section 201.146(l). The Illinois EPA is proposing to remove the permit exemptions conditioned upon registration, and the registration program altogether as discussed *infra*, in Sections 218.583(e) and 219.583(e). See *Technical Support Document*.

2. CAA Title V Permitting

As discussed *supra*, Section 39.5 of the Act establishes a Title V operating permit program that requires permits for major stationary sources of air pollution. Section 39.5(5)(w) of the Act provides for insignificant activities or emission levels proposed by the Illinois EPA and adopted by the Board that enable a Title V source to add such insignificant activity or emission level to its operations without the delay that would occur if the source was required to modify its Title V permit. The Board provides for insignificant activities or emission levels in 35 Ill. Adm. Code Sections 201.210 and 201.211.

Section 201.210 does not list fuel dispensing or small gasoline storage tanks as insignificant activities, which means that a source desiring to engage in these activities must modify its CAAPP permit prior to engaging in such activities. The requirement to modify its

CAAPP permit presents a significant delay for the source in being able to engage in these activities, and, unfortunately, often results in the source seeking a construction permit for limited operating status for emission units that will eventually be found to be insignificant. This issue necessitates a rule change – new Title V insignificant activities for fuel dispensing and small gasoline storage tanks. See *Technical Support Document* for further discussion.

The Illinois EPA proposes a Title V insignificant activity at 35 Ill. Adm. Code 201.210(a)(19) applicable to fuel dispensing operations and fuel dispensing equipment for fuels for mobile sources that are used in such mobile sources. This insignificant activity is intended to be consistent with the proposed insignificant activity for gasoline storage tanks, and the current insignificant activity for other fuel storage tanks at Section 201.210(a)(11). It is intended to apply to Stage II fuel dispensing operations, not Stage I. It applies to gasoline, including gasoline/ethanol blend fuels, if the annual average throughput of such fuel dispensed is less than 120,000 gallons (on a rolling 12 month total basis). This threshold was chosen because it coincides with the federal national emission standards for hazardous air pollutants (“NESHAP”) for gasoline dispensing contained in 40 CFR Part 63, subpart CCCCCC. This NESHAP applies control requirements once a subject source meets or exceeds the 10,000 gallon/month threshold (rolling 12 month total). 40 C.F.R. § 63.11117 (2012). The Illinois EPA believes that emissions from a gasoline dispensing operation at a major source begin to be significant once they meet/exceed the 120,000 gallon threshold. In addition to gasoline fuel, the Illinois EPA proposes to include other fuels - distillate oil, including kerosene and diesel fuel, biodiesel, and biodiesel/distillate oil blends at any threshold as the emissions from these fuels are not significant like emissions from gasoline. See *Technical Support Document* for further discussion.

In addition, the Illinois EPA is proposing an insignificant activity for storage tanks of gasoline, including gasoline/ethanol blend fuels, with a capacity of less than 2000 gallons at 35 Ill. Adm. Code Section 201.210(a)(10)(B). Storage tanks of distillate oil, including kerosene and diesel fuel, biodiesel, and biodiesel/distillate oil blends are already deemed insignificant under Section 201.210(a)(11). The Illinois EPA believes that sources with storage tanks of gasoline at this size threshold are insignificant, and this will allow for a reasonable level of usage for applicable sources. Further, this threshold was also chosen due to its similarity to the gasoline dispensing NESHAP at 40 CFR 63.11118. This revision is consistent with the aforementioned proposed insignificant activity threshold for fuel dispensing. See *Technical Support Document* for further discussion.

C. Other Clarifying and Clean-up Amendments

The Illinois EPA proposes other clarifying and clean-up amendments to 35 Ill. Adm. Code Parts 201, 218, and 219.

1. Clarifying Amendments to 35 Ill. Adm. Code Part 201

The Illinois EPA is proposing clarifying amendments to Section 201.146(n). Among other things, Section 201.146(n) provides a permitting exemption for storage tanks of organic liquids with a capacity of less than 10,000 gallons provided the storage tank is not used to store material listed as a hazardous air pollutant (“HAP”) pursuant to Section 112(b) of the CAA and is not subject to Stage I requirements. The Illinois EPA believes the qualification relating to Stage I requirements was intended to address the fact that gasoline itself is not listed as a HAP, although it is made up of a mixture of HAPs. The Illinois EPA proposes to remove the reference to Stage I rules and address this prohibition against exempting gasoline storage tanks through clarifying that the subject storage tanks may not be used to store any amount of material or

mixture of any material listed as a HAP. Thus, the Illinois EPA is not proposing to change the overall meaning or scope of this exemption and this exemption will not serve to exempt Stage I (gasoline) storage tanks. See *Technical Support Document*.

The Illinois EPA is proposing clarifying amendments to Section 201.146(nn). Section 201.146(nn) provides a permit exemption for general vehicle maintenance and servicing activities, but not including gasoline fuel handling. Gasoline fuel handling, or gasoline fuel dispensing, will be exempt under proposed Section 201.146(l). Therefore, the Illinois EPA proposes to repeal the gasoline fuel handling language in Section 201.146(nn). See *Technical Support Document*.

The Illinois EPA is proposing a clarification to Section 201.210(b)(4). Section 201.210(a) provides for certain insignificant activities or emission levels that are required to be individually listed in a CAAPP application and the Illinois EPA has proposed to include gasoline and other fuel (gasoline/ethanol blend fuels, distillate oil, including kerosene and diesel fuel, biodiesel, and biodiesel/distillate oil blends) dispensing as one of those insignificant activities at Section 201.210(a)(19). Section 201.210(b), however, provides for certain insignificant activities that are not required to be individually listed in a CAAPP application. One of these insignificant activities is general vehicle maintenance and servicing activities at a source, other than gasoline fuel handling (Section 201.210(b)(4)). For consistency between Sections 201.210(a)(19) and 201.210(b)(4), the Illinois EPA proposes to revise Section 201.210(b)(4) to list, and thereby exclude, the other fuels listed in Section 201.210(a)(19) – gasoline/ethanol blend fuels, distillate oil, including kerosene and diesel fuel, biodiesel, and biodiesel/distillate oil blends. See *Technical Support Document*.

The Illinois EPA proposes two clarifications with respect to Section 201.302. As

discussed *supra*, Section 201.302 is intended to require the submission of annual emissions reports to the Illinois EPA where the owner or operator of an emission source or air pollution control equipment is required to obtain a permit. Section 254.102 sets forth the applicability criteria for submitting such reports, which centers on whether a permit is required. However, as originally written, Section 201.302(a) requires all sources to submit an annual report unless specifically exempted in this Section. Given that the applicability criteria are contained in Section 254.102, which centers on whether a permit is required as intended by Section 201.302, Section 201.302(a) should be amended to tie the requirement to submit an annual emissions report to the applicability criteria in Section 254.102. Therefore, the Illinois EPA proposes to make this clarification in Section 201.302(a). See *Technical Support Document*.

In addition, Section 201.302(d) specifies that retail gasoline dispensing operations are exempt from the annual emissions report requirement contained in Section 201.302(a) unless the source has failed to comply with the registration provision contained in the Stage II rule (35 Ill. Adm. Code Section 218.586(h)) or to obtain a permit if applicable. Once a Stage II source begins decommissioning, it will no longer be required to register under the Stage II program. Further, the Illinois EPA's proposed permitting exemption for Stage I and Stage II gasoline dispensing operations will mean that a source not only doesn't have to obtain a permit, but, consequently, will not be required to submit annual emissions reports. Finally, the applicability criteria for annual emissions reports centers on whether a permit is required and is set forth in Section 254.102. Therefore, the Illinois EPA proposes to repeal this unnecessary language in Section 201.302(d). See *Technical Support Document*.

2. Clean-up Amendments to 35 Ill. Adm. Code Part 218

The Illinois EPA proposes to make minor, non-substantive clean-up amendments to 35

Ill. Adm. Code Section 218.586 for better rule organization and flow. In addition, in Section 218.586, the Illinois EPA proposes to remove the definition of “constructed” as it will no longer be used, to update ASTM D 323 to its current version, ASTM D 323-08, and to remove 40 CFR Part 80, Appendix E as it no longer exists.³ Also, the Illinois EPA is proposing to not condition the Stage II permit exemption at Section 218.586(h) upon registration because the Stage II program is being phased out and it is proposing a Stage II permit exemption at Section 201.146(l). The Illinois EPA is proposing to repeal the Stage I registration program at Section 218.583(e) due to overlapping federal notification requirements at 40 CFR 63, subpart CCCCCC, which the Illinois EPA administers and enforces, and OSFM and IDOA’s tracking of gasoline dispensing operations. As discussed, the permit exemption contained in this subsection (e) will be moved to proposed Section 201.146(l). See *Technical Support Document*.

3. Clean-up Amendments to 35 Ill. Adm. Code Part 219

The Illinois EPA proposes to remove the Stage II testing methods at 35 Ill. Adm. Code Section 219.105(j) and a Stage II incorporation by reference at 35 Ill. Adm. Code Section 219.112(v) because the Stage II rule/program has been repealed in the Metro-East NAA since 1994. In addition, the Illinois EPA is proposing to repeal the Stage I registration program at Section 219.583(e) due to overlapping federal notification requirements at 40 CFR 63, subpart CCCCCC, which the Illinois EPA administers and enforces, and OSFM and IDOA’s tracking of gasoline dispensing operations. As discussed, the permit exemption contained in this subsection (e) will be moved to proposed Section 201.146(l). See *Technical Support Document*.

IV. GEOGRAPHIC REGIONS AND SOURCES AFFECTED

The geographic region subject to the Board’s Stage I and Stage II regulations at 35 Ill.

³ ASTM D323 was updated to ASTM D323-08 and 40 CFR Part 80, Appendix E was repealed in R12-24.

Adm. Code Sections 218.583 and 218.586 is the Chicago ozone NAA, which consists of the following Illinois counties: Cook, DuPage, Kane, Lake, McHenry, Will, Grundy (townships of Aux Sable and Goose Lake only), and Kendall (Oswego township only). The geographic region subject to the Board's Stage I requirements at 35 Ill. Adm. Code Section 219.583 is the Metro-East ozone NAA, which consists of the following Illinois counties: Madison, Monroe, and St. Clair. Generally, the sources affected in the Chicago NAA are gasoline dispensing operations subject to the Board's Stage I and Stage II requirements. Generally, the sources affected in the Metro-East NAA are gasoline dispensing operations subject to the Board's Stage I requirements. The Illinois EPA has included a list of gasoline dispensing operations in the Chicago NAA, including those subject to Stage I and II, in Attachment A of the *Technical Support Document*. Also, the Illinois EPA has included a list of Stage I affected sources for the Metro-East NAA in Attachment F of the *Technical Support Document*. The geographic region subject to the Board's permitting regulations at 35 Ill. Adm. Code Part 201 is the entire State of Illinois. However, generally, the sources affected by the Illinois EPA's proposed amendments to 35 Ill. Adm. Code Part 201 are gasoline dispensing operations. The Illinois EPA has included a list of potentially affected source categories and sources relating to the Illinois EPA's proposed amendments to 35 Ill. Adm. Code Part 201 with this proposal in Attachment G of the *Technical Support Document*.

If adopted, affected sources will be positively impacted over time by these proposed amendments. As discussed *infra*, existing gasoline dispensing operations will be required to incur costs to decommission existing Stage II equipment, but will realize recurring annual cost savings. Gasoline dispensing operations that operate for the first time on or after January 1, 2014, will not be required to install Stage II equipment, which will result in significant capital investment savings as well as recurring annual cost savings. The permit exemptions and

insignificant activity amendments do not place additional obligations on affected sources. Rather, they add and clarify permit exemptions and insignificant activities, which will reduce the burden associated with permitting.

V. TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS

Section 27 of the Act requires the Board to consider the technical feasibility and economic reasonableness of all rulemaking proposals. The Stage II portion of the proposed rule is technically feasible. The proposed rule will phase out the Stage II requirement over a three year period. The three year period was chosen due to the number of gasoline dispensing operations subject to the Chicago NAA Stage II rule, the time involved in decommissioning Stage II equipment, the number of contractors available to perform decommissioning work, and an analysis of the decommissioning phase out period of other similarly situated states. See *Technical Support Document*. The Illinois EPA understands from Stage II contractors and members of industry that this time period is reasonable. *Id.*

The proposed rule will require decommissioning of existing Stage II equipment by following the decommissioning procedures established by the PEI. As discussed *supra*, the PEI decommissioning procedures were established by industry experts, are labeled by USEPA as instructive, and have been adopted by other states for decommissioning Stage II equipment. The PEI is the only industry-service publication, and contains the only industry standards, relating to Stage II equipment decommissioning that the Illinois EPA is aware of. *Id.* Additionally, the Illinois EPA understands from members of industry and Stage II contractors in Illinois that the PEI decommissioning procedures are feasible and appropriate. *Id.* Further, appropriate procedures for decommissioning are necessary to ensure consistent procedures are in place to address potential liquid and vapor leak issues associated with decommissioning. *Id.* Not only is

decommissioning technically feasible, it is necessary in order to realize additional emission reductions achievable through the use of only ORVR systems. *Id.*

Repealing the Stage I registration program at Sections 218.583(e) and 219.583(e) is technically feasible due to the ability of the Illinois EPA to track these gasoline dispensing operations through administration and enforcement of 40 CFR 63, subpart CCCCCC, and through OSFM and IDOA's tracking systems. *Id.*

The Stage II portion of the proposed rule is economically reasonable. Allowing existing affected gasoline dispensing operations to begin decommissioning Stage II equipment as of January 1, 2014, will result in cost savings for such operations over time. In its final rule, USEPA indicated that the recurring annual cost savings if Stage II is phased out is approximately \$3,000 for a typical gasoline dispensing operation. 77 Fed. Reg. at 28780. As discussed in the *Technical Support Document* to this proposed rulemaking, the Illinois EPA estimates that the cost to decommission will range from approximately \$2,000-\$7,000, and the recurring annual cost savings to be in the range of \$3,000-\$6,000, with the cost variations dependent upon the number and type of dispensers and nozzles.

Further, not requiring new gasoline dispensing operations on or after January 1, 2014, to install Stage II systems will result in a significant cost savings for affected operations. In its guidance, USEPA estimated the costs savings of not installing Stage II systems at newly established gasoline dispensing operations to be in the range of \$20,000-\$60,000. Attachment C, *Technical Support Document*.

The proposed permit amendments are technically feasible and economically reasonable. The Illinois EPA is not proposing any new technology, requirements, or obligations on affected sources. Rather, this portion of the proposed rule adds and clarifies permit exemptions and

insignificant activities, which will reduce the burden associated with permitting and may result in reduced costs to affected sources. See *Technical Support Document*.

In the *Technical Support Document*, the Illinois EPA explains more fully the technical feasibility and economic reasonableness of the proposed rulemaking.

VI. COMMUNICATION WITH INTERESTED PARTIES

The Illinois EPA has engaged in outreach regarding its proposal by contacting and meeting with numerous interested stakeholders, including, but not limited to: Illinois Petroleum Council; Illinois Petroleum Marketers Association; Illinois Corn Growers Association; American Lung Association; Respiratory Health Association; Illinois Department of Commerce and Economic Opportunity; OSFM; IDOA; and USEPA. To date, the Illinois EPA has received positive feedback from interested parties regarding its proposal.

VII. ILLINOIS EPA'S PROPOSAL

35 Ill. Adm. Code Section 201.146: Exemptions from State Permit Requirements

This Section sets forth State permit exemptions. The Illinois EPA proposes a Stage I and II permit exemption at Section 201.146(l) specific to storage tanks and fuel dispensing equipment that are both used for the dispensing of fuel to mobile sources, including on-road and off-road vehicles, for use in such mobile sources. The Illinois EPA proposes to clarify in Section 201.146(n)(1) that any amount of material or any mixture of any material (which would include gasoline) that is listed as a HAP is not included in this storage tank permit exemption and proposes to strike the reference to the Stage I rules. The Illinois EPA proposes to repeal the permit exemption conditioned upon registration at Section 201.146(kk) because it is no longer needed. The Illinois EPA proposes a clarification to the permitting exemption at Section 201.146(m) by removing the exclusion for gasoline fuel handling because gasoline fuel handling

or dispensing to mobile sources will be exempt from permitting under proposed Section 201.146(l).

**35 Ill. Adm. Code Section 201.210: Categories of Insignificant Activities
or Emission Levels**

This Section sets forth categories of insignificant activities and emission levels for Title V permitting. In Section 201.210(a)(10)(B), the Illinois EPA proposes an insignificant activity for storage tanks of gasoline, including gasoline/ethanol blend fuels, with a capacity of less than 2000 gallons to be consistent with the proposed insignificant activity for gasoline dispensing. At Section 201.210(a)(19), the Illinois EPA proposes to add an insignificant activity for fuel dispensing operations and fuel dispensing equipment for specified fuels for mobile sources, including on-road and off-road vehicles, for use in such mobile sources. The fuels include gasoline and gasoline/ethanol blend fuels if the annual average throughput of such fuel dispensed is less than 120,000 gallons (rolling 12 month total), and also distillate oil, including kerosene and diesel fuel, biodiesel, and biodiesel/distillate oil blends at any threshold. The Illinois EPA proposes a definition of fuel dispensing equipment specific to this insignificant activity. The Illinois EPA proposes a clarification to Section 201.210(b)(4) to exclude not only gasoline but other fuels (gasoline/ethanol blend fuels, distillate oil, including kerosene and diesel fuel, biodiesel, and biodiesel/distillate oil blends) as these fuels are proposed to be treated as insignificant activities under Section 201.210(a); and therefore, should be excluded under Section 201.210(b).

35 Ill. Adm. Code Section 201.302: Reports

This Section sets forth the requirement to submit annual emissions reports to the Illinois EPA. The Illinois EPA proposes to clarify the intent of Section 201.302(a) by tying the requirement to submit an annual emissions report to the applicability criteria in Section 254.102,

which centers on whether a permit is required. The Illinois EPA proposes to repeal subsection (d) because gasoline dispensing operations will be exempt from permitting under proposed Section 201.146(l) and, consequently, the requirement to submit annual emissions reports.

35 Ill. Adm. Code Section 218.112: Incorporations by Reference

This Section sets forth incorporations by reference for this Part. The Illinois EPA proposes to incorporate the PEI by reference at Section 218.112(ff) because it is proposing in Section 218.586 that Stage II equipment decommissioning be performed in accordance with the PEI's decommissioning procedures.

**35 Ill. Adm. Code Section 218.583: Gasoline Dispensing Operations –
Storage Tank Filling Operations**

This Section sets forth the requirements for Stage I storage tank filling operations at gasoline dispensing operations in the Chicago NAA. The Illinois EPA proposes to repeal the registration program at subsection (e), including the permit exemption, as the Illinois EPA has other mechanisms through which it can track these operations and it is proposing a Stage I permitting exemption at Section 201.146(l).

**35 Ill. Adm. Code Section 218.586: Gasoline Dispensing Operations –
Motor Vehicle Fueling Operations**

This Section sets forth the Stage II requirements for the Chicago NAA. The Illinois EPA is proposing to phase out the Stage II requirement. In subsection (d), the Illinois EPA is proposing that the Stage II requirement will not apply to gasoline dispensing operations that begin operating for the first time on or after January 1, 2014. Also, in this subsection, the Illinois EPA is proposing that gasoline dispensing operations that operate at any time prior to January 1, 2014 (existing gasoline dispensing operations), must continue to comply with the Stage II requirement until they are allowed to decommission and commence decommissioning. In

subsection (i), the Illinois EPA proposes to require existing gasoline dispensing operations subject to the Stage II requirement to decommission Stage II equipment. In subsection (i)(1), the Illinois EPA proposes that existing gasoline dispensing operations may begin decommissioning Stage II equipment on January 1, 2014, and must complete decommissioning no later than December 31, 2016. In subsection (i)(2), the Illinois EPA proposes that decommissioning shall be conducted in accordance with Section 14.6, except 14.6.14 (PEI checklist), of the PEI. Subsection (i)(2) proposes to clarify that the PEI required pressure decay test must be passed in accordance with Appendix A of the PEI and the tie-tank test must be conducted and passed in accordance with CARB TP201.3C. Proposed subsection (i)(2) requires decommissioning to be performed by licensed/registered contractors.

In terms of recordkeeping and reporting, in subsection (i)(2), the proposal would require the submission to the Illinois EPA of a notice of intent at least 10 days prior to commencing decommissioning, and submission of a checklist and certifications, developed by the Illinois EPA, as well as test results within 30 days after completion of decommissioning. In addition, the Illinois EPA proposes in subsection (g)(4) to require that any and all records relating to decommissioning be maintained by the owner or operator of the gasoline dispensing operation for a period of 5 years after completion of decommissioning, and for decommissioning records to be made available to the Illinois EPA, or its designee, within 30 minutes after its request.

At subsection (h), the Illinois EPA proposes to not condition the Stage II permit exemption upon registration because the Stage II program is being phased out and the Illinois EPA is proposing a Stage II permit exemption at Section 201.146(l). In Section 218.586(a), the Illinois EPA proposes to remove the definition of “constructed” as it will no longer be used, to update ASTM D 323 to its current version (ASTM D 323-08), and to remove 40 CFR Part 80,

Appendix E as it has been repealed. Finally, the Illinois EPA proposes minor non-substantive clarifications and clean-ups to this Section.

35 Ill. Adm. Code Section 219.105: Test Methods and Procedures

This Section sets forth test methods and procedures for this Part. The Illinois EPA proposes to repeal the Stage II test methods contained in Section 219.105(j) because the Stage II rule/program in the Metro-East NAA was repealed in 1994.

35 Ill. Adm. Code Section 219.112: Incorporations by Reference

This Section sets forth the documents that are incorporated by reference with this Part. The Illinois EPA proposes to repeal the Stage II technical guidance document contained in Section 219.112(v) because the Stage II rule/program in the Metro-East NAA was repealed in 1994.

**35 Ill. Adm. Code Section 219.583: Gasoline Dispensing Operations –
Storage Tank Filling Operations**

This Section sets forth the requirements for Stage I storage tank filling operations at gasoline dispensing operations in the Metro-East NAA. The Illinois EPA proposes to repeal the registration program at subsection (e), including the permit exemption, as the Illinois EPA has other mechanisms through which it can track these operations and is proposing a Stage I permitting exemption at Section 201.146(1).

VIII. CONCLUSION

The Illinois EPA proposes to phase out the Stage II requirements at 35 Ill. Adm. Code Section 218.586 because of USEPA's determination of the widespread use of ORVR, USEPA waiver of the CAA Section 182(b)(3) Stage II requirement, and the emissions impacts associated with maintaining and phasing out the Stage II program. In addition, the Illinois EPA proposes amendments to permitting regulations applicable to storage tanks and fuel dispensing, and other

clarifying and clean-up amendments at 35 Ill. Adm. Code Parts 201, 218, and 219.

The Illinois EPA believes that adoption of these proposed amendments should be accomplished as quickly as possible in order begin realizing additional emission reduction benefits, to allow existing gasoline dispensing operations to begin decommissioning Stage II equipment as of January 1, 2014, and to ensure that new gasoline dispensing operations on and after January 1, 2014, are not required to install and operate Stage II systems.

For the reasons stated above, the Illinois EPA hereby submits this regulatory proposal and respectfully requests that the Board expeditiously amend Parts 201, 218, and 219 for the State of Illinois.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
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DATED: March 15, 2013

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STATE OF ILLINOIS)
)
COUNTY OF SANGAMON) SS

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MAR 18 2013

STATE OF ILLINOIS
Pollution Control Board

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have served the attached REGULATORY PROPOSAL entitled "VAPOR RECOVERY RULES: AMENDMENTS TO 35 ILL. ADM. CODE PARTS 201, 218, AND 219," MOTION FOR EXPEDITED REVIEW, MOTION FOR WAIVER OF COPY REQUIREMENTS, and APPEARANCE of the Illinois Environmental Protection Agency upon the following persons,

John Therriault, Assistant Clerk Division Chief of Environmental Enforcement
Illinois Pollution Control Board Office of the Attorney General
James R. Thompson Center 500 South Second Street
100 West Randolph, Suite 11-500 Springfield, Illinois 62706
Chicago, Illinois 60601
(Federal Express overnight delivery)

Office of Legal Services
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, IL 62702-1271

except as otherwise noted above, by mailing a true copy thereof in an envelope duly addressed bearing proper first class postage and deposited in the United States mail at Springfield, Illinois on March 15, 2013.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Kent E. Mohr Jr.
Assistant Counsel
Division of Legal Counsel

DATED: March 15, 2013

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