

ILLINOIS POLLUTION CONTROL BOARD

October 19, 2017

IN THE MATTER OF:)
NATIONAL AMBIENT AIR QUALITY) R17-10
STANDARDS, USEPA AMENDMENTS) (Identical-in-Substance Rulemaking - Air)
(July 1, 2016 through December 31, 2016,)
March 20, 2017, May 11, 2017, and June 16,)
2017))

Adopted Rule. Final Order.

OPINION AND ORDER OF THE BOARD (by G.M. Keenan):

Section 10(H) of the Illinois Environmental Protection Act (Act) (415 ILCS 5/10(H) (2016)) requires the Board to adopt ambient air quality standards that are identical in substance to the National Ambient Air Quality Standards (NAAQS) adopted by USEPA. To comply with that requirement, the Board today adopts amendments to Illinois air quality regulations (35 Ill. Adm. Code 243). The United States Environmental Protection Agency (USEPA) took six actions related to the NAAQS during the update period of this docket, on July 26, 2016; August 11, 2016; August 24, 2016; September 29, 2016; October 3, 2016; and October 18, 2016. For expedience and administrative efficiency, the Board includes later USEPA actions on March 20, 2017; May 11, 2017; and June 16, 2017.

The Board will immediately file these final amendments with the Office of the Secretary of State, at which point they will become effective. The adopted amendments will appear in the *Illinois Register*.

SUMMARY OF ADOPTED AMENDMENTS

Federal Regulations Implemented

During the second half of 2016, USEPA took six actions regarding the NAAQS. Three of the USEPA actions require amending Illinois regulations in this docket.

July 13, 2016 (81 Fed. Reg. 45284)

USEPA designated one federal reference method (FRM) for sulfur dioxide (SO₂) and four new federal equivalent methods (FEMs) for particulate matter (PM) in ambient air: two for fine PM (PM_{2.5}), one for total PM (PM₁₀), and one for coarse PM (PM_{10-2.5}). The Board included this USEPA action in the prior NAAQS update docket, National Ambient Air Quality Standards, USEPA Amendments (January 1, 2016 through June 30, 2016 and July 13, 2016), R17-1 (Jan. 19, 2017). No further Board action is required based on this USEPA action.

August 11, 2016 (81 Fed. Reg. 53006)

USEPA adopted a technical correction to an equation used for calculating compliance with the NAAQS for PM_{2.5} in ambient air. USEPA withdrew this direct final rule on September 29, 2016, as described below. No Board action is required based on this USEPA action.

August 24, 2016 (81 Fed. Reg. 58010)

USEPA adopted implementation rules for the 2012 primary annual NAAQS for PM_{2.5}. Although the implementation rules do not ordinarily affect the NAAQS, in this case it revokes the 1997 annual NAAQS for PM_{2.5}, which will no longer apply in areas designated attainment for that standard. USEPA's revocation does not affect the 1997 24-hour PM_{2.5} NAAQS or the 1997 secondary annual PM_{2.5} NAAQS for areas that USEPA designated nonattainment for the 1997 primary annual PM_{2.5} NAAQS. The latter standard will continue to apply until the effective date of a USEPA designation of attainment for the area. Board action is required based on this USEPA action.

All areas of Illinois are designated attainment or "attainment/unclassifiable" for the 1997 primary annual PM_{2.5} NAAQS, except for limited areas in the Metro East St. Louis statistical area that are designated nonattainment for that standard: Madison, Monroe, and St. Clair Counties and the Baldwin Village area of Randolph County. *See* 40 C.F.R. § 81.314 (2016).

September 29, 2016 (81 Fed. Reg. 68823)

USEPA withdrew the direct final rule of August 11, 2016. USEPA later adopted the correction by a final rule on March 20, 2017, as described below. No Board action is required based on this USEPA action.

October 3, 2016 (81 Fed. Reg. 68216)

USEPA revised the requirements for handling monitoring data influenced by exceptional events. USEPA recognized that basing regulatory determinations on data influenced by exceptional events may not be appropriate. The rules provide a procedure for excluding—from regulatory decision-making—data influenced by exceptional events. An exceptional event (1) has a clear causal relationship with violation or exceedance of a NAAQS; (2) is not reasonably controllable or preventable; (3) is caused by natural causes or human activity that is unlikely to recur at the specific location; and (4) has been declared an exceptional event by USEPA. The revisions require written mitigation plans for areas that have "historically documented" or "known seasonal" exceptional events. Several revisions relate to wildfires and controlled burns as exceptional events. Board action is required based on this USEPA action.

October 18, 2016 (81 Fed. Reg. 71906)

USEPA retained, without revision, the 2008 primary and secondary three-month average NAAQS for lead. This determination was the result of USEPA's periodic NAAQS review, conducted from 2008 through 2014, as Clean Air Act section 109(d)(2) requires. *See* 42 U.S.C. § 7409(d)(2) (2015). No Board action is required based on this USEPA action.

During the first half of 2017, USEPA took two actions regarding NAAQS that will require amending Illinois regulations. The Board has added those amendments to this docket for expedience and administrative economy. Only one of those USEPA actions requires Board action. Prompt Board action on that one USEPA action will likely allow immediate dismissal of the update docket for the first half of 2017 (National Ambient Air Quality Standards, USEPA Amendments (January 1, 2017 through June 30, 2017), R18-7).

March 20, 2017 (82 Fed. Reg. 14325)

USEPA adopted a technical correction to an equation used for calculating compliance with the NAAQS for PM_{2.5} in ambient air. Board action is required based on this USEPA action.

May 11, 2017 (82 Fed. Reg. 21995)

USEPA designated one new FEM for nitrogen dioxide (NO₂) in ambient air. No Board action is directly required by this USEPA action because USEPA added this FEM to the *List of Designated Reference and Equivalent Methods* on June 16, 2017, as described below.

June 16, 2017

USEPA updated the *List of Designated Reference and Equivalent Methods*. This update obviates the need for Board action on the USEPA designation of May 11, 2017, because the *List* now includes that FEM, as well as the FRM and FEMs designated on July 13, 2016 and included in the prior NAAQS update docket, R17-1. Board action is required based on this USEPA action.

PUBLIC HEARING & RULEMAKING RECORD

The Board expects that the Illinois Environmental Protection Agency (Agency) will submit these amendments to USEPA to be included in the Illinois state implementation plan (SIP) under section 110 of the federal Clean Air Act (42 U.S.C. § 7410(a) (2015)) and the implementing USEPA regulations (40 C.F.R. 51.102 and appendix V (2016)).

The Board proposed amendments for public comment on July 26, 2017. A Notice of Proposed Amendments appeared in the August 11, 2017 *Illinois Register*, at 41 Ill. Reg. 10422. The Board held a public hearing on September 21, 2017 by videoconference between Chicago and Springfield. Representatives of the Agency and the Department of Commerce and Economic Opportunity attended the hearing. The hearing officer asked the Agency whether USEPA erred in adding—to the 2012 NAAQS provision—the revocation provision for the 1997 primary annual PM_{2.5} NAAQS. The Agency stated that it would check into the matter. The Board received no further testimony at the hearing.

The public comment period would have ended on September 25, 2017, but the Board held the record open longer to receive the Agency's response to the hearing officer's question posed at the hearing. The Agency filed its response on October 3, 2017 (Resp.).

In addition to the Agency's response to the hearing officer's question, the Board received this comment from the Agency:

PC 1 “Illinois Environmental Protection Agency’s Comments Regarding the Illinois Pollution Control Board’s Identical in Substance Rulemaking,” filed September 19, 2017.

The record in this docket includes all documents pertaining to this proceeding. All documents in the record are publicly available as provided in 2 Ill. Adm. Code 2175. The documents are also freely available online at the Board’s website: www.ipcb.state.il.us.

The record does not include a copy of the following documents, which are publicly available from other sources:

- *Federal Register* notices;
- Federal statutes and regulations; and
- Illinois statutes and regulations.

For the subjects included in this proceeding, the Board finds that these measures will satisfy the federal requirements for SIP revision in 33 U.S.C. § 7410(a) (2015) and 40 C.F.R. § 51.102.

DISCUSSION

Federal Actions in This Rulemaking

Above, the Board summarized the federal actions during the second half of 2016 and first half of 2017, indicating whether any Board action is needed for each. Three of the USEPA actions require corresponding amendments to the Illinois regulations. The discussion below considers the Board actions concerning each of the three USEPA actions.

Implementation Rule for the 2012 Primary Annual NAAQS for PM_{2.5} (August 24, 2016)

In August 2016, USEPA adopted the implementation rule for the 2012 primary annual PM_{2.5} NAAQS. *See* 81 Fed. Reg. 58010 (Aug. 24, 2016). The implementation rule includes a provision revoking the 1997 primary annual PM_{2.5} NAAQS. After the October 24, 2016 effective date of the implementation rule,¹ the 1997 primary annual PM_{2.5} NAAQS does not apply to any area designated attainment with that 1997 standard. USEPA revoked the 1997 primary annual NAAQS in areas designated attainment. *See* 40 C.F.R. § 50.13(d) (2016), as added at 81 Fed. Reg. 58010 (Aug. 24, 2016); *see also* 81 Fed. Reg. at 58141-47 (discussion of revocation). The 1997 NAAQS applies in nonattainment areas until the effective date of a USEPA designation of attainment for that area.

The revocation does not apply to the 1997 secondary annual and primary and secondary 24-hour NAAQS for PM_{2.5}. 40 C.F.R. § 50.13(d), as added at Fed. Reg. at 58149.

In 2005, USEPA designated most areas in Illinois as attainment/unclassifiable for the 1997 primary annual PM_{2.5} NAAQS, but designated portions of the Chicago and Metro East St.

¹ October 24, 2016. *See* 81 Fed. Reg. 58010 (Aug. 24, 2016).

Louis areas as nonattainment. *See* 40 C.F.R. § 81.314 (2005); 70 Fed. Reg. 944, 970 (Jan. 5, 2005); *see also* 70 Fed. Reg. 19844, 19852-53 (Apr. 14, 2005) (supplemental designation). In 2013, USEPA redesignated the areas in the Chicago area as attainment and those in the Metro East St. Louis area as moderate nonattainment. *See* 40 C.F.R. § 81.314 (2016); 78 Fed. Reg. 60704, 60606-07 (Oct. 2, 2013).

In sum, the 1997 primary annual NAAQS for PM_{2.5} only applies in limited areas of Illinois. This 1997 NAAQS will no longer apply in Madison, Monroe, and St. Clair Counties and in the Baldwin Village portion of Randolph County on the effective date of a USEPA designation of those areas as attainment with that standard. In a Board note, the Board adds a citation to 40 C.F.R. § 81.314 for the area designations in Illinois, including explanation that the only nonattainment areas in Illinois are Madison, Monroe, and St. Clair Counties and the Baldwin Village area of Randolph County.

The Board significantly revises USEPA's wording of the revocation clause (*i.e.*, the federal rule revoking the 1997 primary annual PM_{2.5}NAAQS). The Board eliminates language that was contingent on a past effective date. The Board also replaces general language about inapplicability in nonattainment areas to specifically state the areas in Illinois where the 1997 standard continues to apply. The Board further adds the revocation clause to the 2006 PM_{2.5} NAAQS. This simplifies the provision and ensures the total revocation of the 1997 primary annual NAAQS at the appropriate time.

Simplifying the Revocation Clause. As discussed, USEPA revoked the 1997 primary annual PM_{2.5} NAAQS in areas designated attainment; the 1997 standard applies in a nonattainment area until the effective date of USEPA's designation of attainment for that area. The language of the federal revocation provision is long and complex. *See* 40 C.F.R. § 50.13(d). USEPA cast the revocation clause in broad terms that rely on an unstated effective date and the tables of area designations for the 1997 primary annual PM_{2.5} NAAQS. The federal rule states the operative date for determining revocation as "the effective date of the final Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements rule to be codified at 40 CFR 51.1000 through 51.1016." 40 C.F.R. § 50.13(d). Further, revocation status is on an area-by-area basis. Hundreds of designated areas in the 50 states, five territories, and the District of Columbia are contained in 40 C.F.R. 81. USEPA designated 33 areas in eight states as nonattainment for the 1997 standard, including four areas in Illinois. *See* subpart B of 40 C.F.R. 81 (2016).

It is not possible to determine revocation status without extrinsic information: (1) the effective date of the implementation rule (the effective date); (2) the attainment/nonattainment status of the monitoring area on the effective date; and (3) for an area designated nonattainment on the effective date, whether USEPA made a subsequent designation of attainment. The effective date of the implementation rule defined the first variable and allowed determining the second by reference to 40 C.F.R. 81 for the area designation.

The implementation rule's effective date in 40 C.F.R. §§ 51.1000 through 51.1016 was October 24, 2016. Where a date is available, the Joint Committee on Administrative Rules (JCAR) consistently requests that the Board use the specific date. Thus, the Board is compelled to use "October 24, 2016" in place of the federal language

(“the effective date of the final Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements rule to be codified at 40 CFR 51.1000 through 51.1016”). Using the date allows simplification of the federal rule text.

First, the date allows elimination of USEPA’s first sentence in its entirety. After October 24, 2016, the conditional statement is obsolete. In its proposal for public comment, the Board proposed retaining USEPA’s first sentence but substituting the effective date and the areas of Illinois designated nonattainment. The Board now omits the entire first sentence from the final rule.

Second, using the date allows identifying the areas designated nonattainment where the 1997 standard continues to apply. On October 24, 2016, USEPA had designated only four areas of Illinois as nonattainment with the 1997 primary annual PM_{2.5} NAAQS: Madison, Monroe, and St. Clair Counties and the Baldwin Village area of Randolph County. *See* 40 C.F.R. § 81.314 (2016).

Applying the extrinsic information to the federal revocation provision, and eliminating the obsolete first sentence, the following meaning emerges for Illinois:

1. On October 24, 2016, the 1997 primary annual PM_{2.5} NAAQS no longer applied in any area of Illinois except Madison, Monroe, and St. Clair Counties and the Baldwin Village area of Randolph County.
2. The 1997 primary annual PM_{2.5} NAAQS will no longer apply to an area after the effective date of USEPA designating that area as attainment for the 1997 primary annual PM_{2.5} NAAQS.
3. The 1997 secondary annual PM_{2.5} NAAQS and the 1997 24-hour PM_{2.5} NAAQS remain in effect in all areas of Illinois.

The Agency (PC 1) recommended that the Board “use the language from 40 CFR 51.13(d) and not reference any specific areas that are meeting or not meeting each standard, since designations are subject to change.” PC 1 at 2; *see* 42 U.S.C. § 7407(e)(1) (2015). The Agency’s post-hearing response repeated this recommendation. *Resp.* at 1.

USEPA’s discussion of the revocation clause makes it clear that the 1997 primary annual PM_{2.5} NAAQS becomes irrelevant to an area after the effective date of USEPA’s designation that the area is in attainment with the 1997 standard. At that point, the 1997 standard is revoked as to that area. After revocation of the 1997 primary annual standard, the focus shifts to compliance with the more stringent 2012 primary annual standard. 81 Fed. Reg. 58010, 58125-26 (Aug. 24, 2016).

The Board wants the Illinois rules to inform as fully and accurately as possible. Naming the areas in which the 1997 primary annual PM_{2.5} NAAQS still applies serves this purpose. When USEPA redesignates any of those areas attainment, the Board can remove that area from the rule—until the Board has removed all areas and complete removal of the 1997 primary annual PM_{2.5} NAAQS from the Illinois rules is possible.

The Agency has not convinced the Board to use the federal language in place of the simplified text as proposed and now modified for final adoption. The Board deletes the first sentence that applied only until October 24, 2016. The Agency comments, however, persuade the Board to revise how the Board will add the revocation clause.

Adding the Revocation Clause. At final adoption, the Board adds 35 Ill. Adm. Code 243.120(b)(4) and (c)(4) to correspond with new 40 C.F.R. § 50.13(d). The Board initially proposed adding the text only as 35 Ill. Adm. Code 243.120(c)(4), which directly corresponds with the federal provision. This represents the 2006 primary annual PM_{2.5}NAAQS. The Agency (PC 1) recommended moving the provision to 35 Ill. Adm. Code 243.120(b), the 1997 primary annual PM_{2.5} NAAQS. The Agency’s post-hearing response repeated this recommendation. Resp. at 1. As discussed below, the Board adds the revocation clause to the 1997 standard (as 35 Ill. Adm. Code 243.120(b)(4)), but also retains the provision as proposed in the 2006 standard (at 35 Ill. Adm. Code 243.120(c)(4)).

The 1997 primary annual PM_{2.5} NAAQS is represented in both 40 C.F.R. § 50.7 (the 1997 PM_{2.5} NAAQS) and 40 C.F.R. § 50.13 (the 2006 PM_{2.5} NAAQS). USEPA codified the 1997 primary and secondary PM_{2.5} NAAQS in 40 C.F.R. § 50.7. *See* 62 Fed. Reg. 38652, 38711-12 (July 18, 1997). When USEPA later reviewed the PM_{2.5} NAAQS, USEPA retained the 1997 primary and secondary annual standards. USEPA included them in 40 C.F.R. § 50.13 with the 2006 24-hour PM_{2.5} NAAQS. *See* 71 Fed. Reg. 61144, 61176-77, 61224 (Oct. 17, 2006).

In its post-hearing response, the Agency stated that USEPA intended adding the revocation clause at 40 C.F.R. § 50.13(d) because “the 2006 PM_{2.5} annual standard is the same as the 1997 PM_{2.5} annual standard.” Resp. at 1. The Agency is correct that 35 Ill. Adm. Code 243.120(b), which corresponds with 40 C.F.R. § 50.7, states the 1997 primary annual PM_{2.5} NAAQS. The 1997 standard is repeated in the 2006 primary annual PM_{2.5} NAAQS, at 40 C.F.R. § 50.13 and corresponding 35 Ill. Adm. Code 243.120(c).

Adding the revocation clause to both the 1997 and 2006 primary annual PM_{2.5} NAAQS is necessary to completely revoke the 1997 primary annual standard.² Revoking the 1997 NAAQS only as codified with the 2006 standard in 40 C.F.R. § 50.13 is potentially ambiguous in its effect on the 1997 standard in 40 C.F.R. § 50.7. USEPA’s revocation provision, added as 40

² Adding the clause at a single location—the revoked standard—was all that was required for all previous federal revocation clauses. *See* 40 C.F.R. §§ 50.4(e), 50.9(b), 50.10(c), and 50.12(b) (2016) (1971 primary sulfur dioxide, 1979 primary and secondary one-hour ozone, 1997 primary and secondary eight-hour ozone, and 1978 calendar-quarterly lead, respectively); *see also* 80 Fed. Reg. 15340, 15455-56 (Mar. 23, 2015) (discussion of history of revoking NAAQS). In each previous instance of revocation, USEPA did not restate a retained standard in the new standard. *See* 40 C.F.R. §§ 50.10, 50.15, 50.16, and 50.17 (2016) (1997 primary and secondary one-hour ozone, 2008 primary and secondary eight-hour ozone, 2008 primary and secondary three-month lead, and 2010 primary sulfur dioxide, respectively). Only for the PM_{2.5} NAAQS did USEPA restate the retained standard in the newer standard. *See* 40 C.F.R. §§ 50.7 and 50.13 (2016) (retaining the 1997 annual average standard in the 2006 standard); 40 C.F.R. §§ 50.13 and 50.18 (2016) (retaining the 2006 24-hour average standard in the 2012 standard).

C.F.R. § 50.13(d) states, “The 1997 primary annual PM_{2.5} NAAQS set forth *in this section* will no longer apply” 40 C.F.R. § 50.13(d), as added at 81 Fed. Reg. at 58149 (emphasis added).

Revised Requirements for Handling Data Affected by Exceptional Events (October 3, 2016)

In October 2016, USEPA revised the Exceptional Events Rule—the rule that governs handling data from exceptional events. *See* 81 Fed. Reg. 68216 (Oct. 3, 2016). The rules allow exclusion of event-influenced data from regulatory decision-making upon USEPA approval. An exceptional event (1) has a clear causal relationship with violation or exceedance of a NAAQS; (2) is not reasonably controllable or preventable; (3) is caused by natural causes or human activity that is unlikely to recur at the specific area where it occurred; and (4) has been declared an exceptional event by USEPA. The revisions require written mitigation plans for areas that have “historically documented” or “known seasonal” exceptional events. Several revisions relate to wildfires and controlled burns as exceptional events.

Options for the Federal Exceptional Events Rule. The Board has two options regarding the USEPA revisions to the Exceptional Events Rule: (1) incorporate the federal amendments into 35 Ill. Adm. Code 243.105; or (2) remove nearly all of the Rule from the Illinois regulations. The Board proposed the latter option. The Agency (PC 1) suggested a third option: repeal of 35 Ill. Adm. Code 243.105 in its entirety. As explained below, the Board adopts the rule as proposed.

The Board believes that removing the substance of the Exceptional Events Rule is possible due to its unique character. USEPA exclusively administers the Exceptional Events Rule; the State’s only role is to apply to USEPA for a determination of exceptional event to gain exclude data. The Rule applies exclusively to the State, not to entities regulated by the State other than the Agency. No other entity that the State regulates has a direct role in compliance with the NAAQS under the Rule.³

The Board proposed to delete the substance of the Exceptional Events Rule. To clarify the applicability of the Rule in Illinois and the fact that data excluded by USEPA is excluded for the Illinois ambient air quality standards, the Board proposed replacing the three main segments of the federal rule with explanatory statements. Subsection (a) generally explains that 40 C.F.R. § 50.14 provides for application to USEPA for a determination that an exceptional event affected monitoring data to exclude affected data. Subsection (b) requires the Agency to use the procedure of 40 C.F.R. § 50.14 to obtain a USEPA determination of an exceptional event if the Agency determines that an exceptional event affected data that should be thus excluded. Subsection (c) provides that ambient air quality monitoring data excluded by a USEPA

³ The Rule provides that “a federal land manager or other federal agency” may request data exclusion under the Rule with the concurrence of the State. *See* 40 C.F.R. § 50.14(a)(1)(ii), as added at 81 Fed. Reg. at 68277. The Rule further provides that these federal entities collaborate with burn managers and the State for compliance. *See* 40 C.F.R. § 50.14(b)(3)(ii)(B)(1) and (b)(3)(ii)(B)(2), as added at 81 Fed. Reg. at 68278. However, these federal entities are not doing so as a matter of Illinois law and regulations.

determination of an exceptional event is excluded for determining compliance with the Illinois ambient air quality standards.

Identical-in-Substance Mandate. Section 10(H) of the Act requires that the Board adopt ambient air quality standards that are identical in substance to the federal NAAQS using the identical-in-substance rulemaking procedure. The Board is required to use the general rulemaking procedure to establish standards that are more stringent than the federal NAAQS. 415 ILCS 5/10(H) (2016). Section 7.2(a) of the Act defines “identical in substance” as “regulations which require the same actions with respect to protection of the environment, by the same group of affected persons, as would federal regulations if USEPA administered the subject program in Illinois.” 415 ILCS 5/7.2(a) (2016).

Federal law does not require states to adopt ambient air quality standards. The Clean Air Act mandates that USEPA develop and maintain national ambient air quality criteria and standards. *See* 42 U.S.C. §§ 7408 and 7409 (2015). The Clean Air Act requires the states to develop implementation plans for implementing, maintaining, and enforcing the federal standards. *See* 42 U.S.C. §§ 7410(a)(1) (2015). Federal law specifies required implementation plan elements—*e.g.*, enforceable emission limitations, control measures, means for ambient air quality monitoring, regulation of sources to ensure compliance with the national standards, etc.—but nowhere does federal law require states to adopt ambient air quality standards. *See* 42 U.S.C. § 7410(a)(2) (2015). However, the Clean Air Act provides that if a state establishes an ambient air quality standard, the state standard must not be less stringent than a national standard adopted by USEPA. *See* 42 U.S.C. §§ 7416 (2015); *see also* 40 C.F.R. § 52.14 (2016) (a less stringent state standard is not part of a state implementation plan).

The Agency correctly points out that the Illinois ambient air quality standards generally apply throughout the State. 35 Ill. Adm. Code 243.103 (2016). The Board does not accept, however, the Agency assertion that the Exceptional Events Rule “do[es] not apply to ‘persons or facilities in Illinois.’” PC 1 (quoting from 415 ILCS 5/7.2(a)(1) (2016)). The Illinois ambient air quality standards apply to the person of the State itself. Further, achieving the federal NAAQS is the foundation for major elements of implementation plans, including emissions limitations and permits. *See* 42 U.S.C. §§ 7406, 7410(a)(2), 7407(a) and (c), 7410(a)(2)(C) and (a)(2)(D)(i), and 7411(j)(1)(B)(i) (2015). The Illinois ambient air quality standards, based on the federal NAAQS, are an essential element of this scheme in Illinois.

The Agency also correctly points out that USEPA exclusively administers the federal Exceptional Events Rule. The Rule is used in the calculation determining compliance with the federal NAAQS. As the Agency states, the Rule applies to the State itself. USEPA determines that an exceptional event has occurred and the scope of data excluded from determining compliance with the NAAQS. *See* 40 C.F.R. §§ 50.1(j) and 50.14 (2016), as amended at 81 Fed. Reg. 68216 (Oct. 3, 2016). The State’s role in implementing the Exceptional Events Rule is limited to submitting a request to USEPA. *See* 40 C.F.R. § 50.14(a)(1)(ii) (2016), as amended at 81 Fed. Reg. 68216 (Oct. 3, 2016).

Removing the Exceptional Events Rule by repealing 35 Ill. Adm. Code 243.105, as suggested by the Agency (PC 1), would simplify the rules. But the Board does not think the repeal is possible in this proceeding. Contrary to the Agency assertion that amending 35 Ill.

Adm. Code 243.105 would exceed the Board's identical-in-substance rulemaking authority, the Board believes, for the reasons below, that the identical-in-substance mandate requires adopting the amendments as proposed.

The operative effect of the Board's proposed amendments to the Exceptional Events Rule was to exclude federally excluded data from determination of compliance with the Illinois ambient air quality standards. It is possible that USEPA could use the Exceptional Events Rule to exclude data when determining compliance with the federal NAAQS. Were the Board to repeal 35 Ill. Adm. Code 243.105, the Illinois rules would still require using federally excluded data when determining compliance with the corresponding Illinois ambient air quality standard.

The Board will not speculate about the effect on "persons or facilities in Illinois" of using or not using federally-excluded data to determine compliance. *See* 415 ILCS 5/7.2(a)(1) (2016). The Board observes, however, that any difference in determining compliance can result in a difference in effect and, hence, a difference between the federal and Illinois standards. This could make the Illinois ambient air quality standard more stringent than the corresponding federal NAAQS.

Section 7.2(a)(5) of the Act provides, "If USEPA intends to retain decision-making authority for a portion of the program, the Board regulation shall so specify." 415 ILCS 5/7.2(a)(5) (2016). The Board must specify that USEPA has retained decision-making authority under the Exceptional Events Rule. The Board's amendments to 35 Ill. Adm. Code 243.105 accomplish this.

Mentioning the Exceptional Events Rule in the Illinois regulations informs the regulated community in this State of the availability of the Rule for excluding monitoring data. It could prompt a member of that community to request that the Agency seek relief from USEPA under the Rule.

As discussed above, to make the Illinois rules more stringent than the corresponding federal rules, the Board would need to undertake general rulemaking. Identical-in-substance rulemaking is limited to adopting rules that "require the same actions with respect to protection of the environment, by the same group of affected persons, as would federal regulations if USEPA administered the subject program in Illinois." 415 ILCS 5/7.2(a) (2016). The Board finds that its final rules require this.

Accommodating the Exceptional Events Rule. Deleting the substance of the Exceptional Events Rule includes repealing Table A to 35 Ill. Adm. Code 243. The Board moved the table from former table 1 to 40 C.F.R. § 50.14 into this table for structural reasons in National Ambient Air Quality Standards, USEPA Regulations (through December 31, 2012), R13-11 (July 25, 2013).

The Board includes the USEPA amendments relating to definitions of terms. This includes an amended definition of "exceptional event" and "natural event" and the added definitions of "federal land manager," "high wind dust event," "high wind threshold," "prescribed fire," "wildfire," and "wildland." The definitions define the scope of the Exceptional Events Rule and its application. Even though the Board is deleting the substantive provisions for

exceptional events determinations by USEPA, the need to apply to USEPA for a determination and the effect of a determination remain elements in the Illinois rule.

The Board has not incorporated the federal Exceptional Events Rule by reference. The Board does not believe incorporation by reference is needed because the Illinois rules do not impose requirements of the Rule. Rather, the Illinois rules require using the federal procedure to exclude data influenced by an exceptional event. The Illinois rules accept the results of the USEPA determination.

The Board observes that USEPA recently adopted a direct final rule approving the Illinois SIP revision for the amendments adopted in National Ambient Air Quality Standards, USEPA Amendments (January 1, 2015 through June 30, 2015, August 26, 2015, October 26, 2015, November 19, 2015, December 18, 2015), R16-2 (Mar. 3, 2016). This included approval of revisions based on USEPA amendments to the Exceptional Events Rule. The Board does not believe that removing the substantive and procedural elements of the Rule that USEPA approved will jeopardize USEPA approval of the Illinois SIP. What will replace the Rule are provisions that direct attention to 40 C.F.R. § 50.14 and make a USEPA determination to exclude data applicable to compliance with the Illinois ambient air quality standards. The Board believes this sufficient to fulfill federal SIP requirements.

Identical-in-Substance Rulemaking Addenda

All deviations from the literal text of the USEPA amendments are listed in the Identical-in-Substance Rulemaking Addendum (Adopted) (IIS-RA(F)) that the Board adds to the record for this proceeding. Table 1 lists USEPA amendments on which the Board has not acted, stating the reasons for inaction. Table 2 lists deviations from the literal text of federal amendments. Table 3 lists Board housekeeping amendments—corrections and other revisions that are not directly derived from current USEPA amendments. Table 4 lists revisions to the proposed rule on final adoption. Table 5 lists suggestions that the Board has not followed on final adoption.

The Board included an Illustration and Tables 1 and 2 in the Identical-in-Substance Rulemaking Addendum (Proposed) (IIS-RA(P)) for the Board's July 26, 2016 proposed amendments. The Illustration sets forth amendments to 35 Ill. Adm. Code 243.105 as it would appear had the Board decided to retain the entire text of the Exceptional Events Rule, incorporating the October 3, 2016 USEPA amendments into the text. Illustration Tables 1 and 2 list deviations from the literal text of the USEPA amendments and Board housekeeping amendments that would occur if the Board had retained the entire text of the Exceptional Events Rule. The Board removes the illustrations and two tables from the IIS-RA(F) for the adopted amendments.

ORDER

The Board adopts the appended amendments to the Illinois ambient air quality regulations at 35 Ill. Adm. Code 243. The Board directs the Clerk to file the amendments with the Office of the Secretary of State and cause them to be published in the *Illinois Register*.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2016); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on October 19, 2017, by a vote of 5-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive, flowing style.

Don A. Brown, Clerk
Illinois Pollution Control Board

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

PART 243
AIR QUALITY STANDARDS

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AUTHORITY: Implementing Sections 7.2 and 10 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 10, and 27].

SOURCE: Adopted as Chapter 2: Air Pollution, Part III: Air Quality Standards, in R71-23, filed and effective April 14, 1972; amended in R80-11, at 6 Ill. Reg. 5804, effective April 22, 1982; amended in R82-12, at 7 Ill. Reg. 9906, effective August 18, 1983; codified at 7 Ill. Reg. 13630; amended in R91-35 at 16 Ill. Reg. 8185, effective May 15, 1992; amended in R09-19 at 35 Ill. Reg. 18857, effective October 25, 2011; amended in R13-11 at 37 Ill. Reg. 12882, effective July 29, 2013; amended in R14-6 at 37 Ill. Reg. 19848, effective November 27, 2013; amended in R14-16 at 38 Ill. Reg. 12900, effective June 9, 2014; amended in R15-4 at 39 Ill. Reg. 5434, effective March 24, 2015; amended in R16-2 at 40 Ill. Reg. 4906, effective March 3, 2016;

amended in R17-1 at 41 Ill. Reg. 1121, effective January 23, 2017; amended in R17-01 at 41 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 243.101 Definitions

For the purposes of this Part, terms listed below will have the meanings attributed to them in this Section. As used in this Part, all terms not defined in this Section will have the meaning given them by the Act; the CAA, incorporated by reference in Section 243.108; or 35 Ill. Adm. Code 201.102.

“Act” means the Environmental Protection Act [415 ILCS 5].

“Agency” means the Illinois Environmental Protection Agency.

“Ambient air” means that portion of the atmosphere, external to buildings, to which the general public has access.

“Clean Air Act” or “CAA” means the federal Clean Air Act (42 USC 7401 et. seq, as amended), incorporated by reference in Section 243.108.

“Exceedance of a NAAQS” means one occurrence of a measured or modeled concentration that exceeds the specified concentration level of ~~that such~~ NAAQS for the averaging period specified by the standard.

“Exceptional event” means an event and its resulting emissions that fulfills all of the following criteria:

The event affects air quality in such a way that there exists a clear causal relationship between the specific event and the monitored exceedance or violation;

The event is not reasonably controllable or preventable;

The event is caused by human activity that is unlikely to recur at a particular location or a natural event; and

The event is determined by USEPA in accordance with 40 CFR 50.14 to be an exceptional event.

An “exceptional event” does not include any of the following:

Air pollution relating to source noncompliance;

Stagnation of air masses ~~or~~ and meteorological inversions;

A meteorological event involving high temperatures or lack of precipitation (i.e., severe, extreme or exceptional drought).; ~~or~~

~~Air pollution relating to source noncompliance.~~

BOARD NOTE: Stagnation of air masses, meteorological inversions, and meteorological events involving high temperatures or lack of precipitation do not directly cause pollutant emissions and are not exceptional events. However, conditions involving high temperatures or lack of precipitation may promote occurrences of particular types of exceptional events, such as wildfires or high wind events, which do directly cause emissions.

“Federal equivalent method” or “FEM” means a method for measuring the concentration of an air pollutant in the ambient air that USEPA has designated as an equivalent method pursuant to 40 CFR 53 and which is included in the List of Designated Methods, including later updates, as incorporated by reference in Section 243.108; the term “federal equivalent method” does not include a method for which USEPA has cancelled or superseded an equivalent method designation in accordance with 40 CFR 53.11 or 53.16, as reflected in the incorporation by reference in Section 243.108.

BOARD NOTE: Derived from 40 CFR 50.1(f) (definition of “equivalent method”), 50.11(d)(2) (parenthetical definition of “FEM”), and 53.1 (definition of “federal equivalent method”). The clause “including later updates” in this definition is intended to exclude methods canceled by USEPA pursuant to 40 CFR 53.11 or 53.16 for which the cancellation is included in the updates to List of Designated Methods incorporated by reference in Section 243.108. A federal designation of an FEM becomes effective upon publication of a notice in the Federal Register. A federal cancellation of an FEM becomes effective upon deletion from the listing of FEMs.

“Federal land manager” means the Secretary of the department with authority over the federal Class I area (or the Secretary’s designee).

BOARD NOTE: See 40 CFR 50.1(r) and 51.301 (2016) (definitions of “federal land manager”). There are no federal Class I areas in or immediately abutting Illinois. See subpart D of 40 CFR 81 (2016).

“Federal reference method” or “FRM” means a method of sampling and analyzing the ambient air for an air pollutant that USEPA has specified as a reference method in an appendix to 40 CFR 50, incorporated by reference in Section 243.108, or a method that USEPA has designated as a reference method pursuant to 40 CFR 53 and which is included in List of Designated Methods, including later updates, incorporated by reference in Section 243.108; the term “federal reference method” does not include a method for which USEPA has cancelled or superseded a reference method designation in accordance with 40 CFR 53.11 or 53.16, as reflected in the incorporation by reference in Section 243.108.

BOARD NOTE: Derived from 40 CFR 50.1(f) (definition of “reference method”) and 53.1 (definition of “federal reference method”). The clause “including later updates” in this definition is intended to include methods canceled by USEPA pursuant to 40 CFR 53.11 or 53.16 for which the cancellation is included in the

updates to List of Designated Methods incorporated by reference in Section 243.108. A federal designation of an FRM becomes effective upon publication of a notice in the Federal Register. A federal cancellation of an FRM becomes effective upon deletion from the listing of FRMs or from an appendix to 40 CFR 50.

“High wind dust event” is an event that includes the high-speed wind and the dust that the wind entrains and transports to a monitoring site.

“High wind threshold” is the minimum wind speed capable of causing particulate matter emissions from natural undisturbed lands in the area affected by a high wind dust event.

“Micrograms per cubic meter” or “ $\mu\text{g}/\text{m}^3$ ” means one millionth (10^{-6}) of a gram of a contaminant per cubic meter of ambient air, as measured and determined by the methods prescribed for that contaminant.

BOARD NOTE: The Board added this definition and that for “milligrams per liter” (~~immediately below~~).

“Milligrams per cubic meter” or “ mg/m^3 ” means one thousandth (10^{-3}) of a gram of a contaminant per cubic meter of ambient air, as measured and determined by the methods prescribed for that contaminant.

“National Ambient Air Quality Standard” or “NAAQS” means a standard established by USEPA that applies for outdoor air throughout the United States. BOARD NOTE: The Board added this definition, derived from the definition in “Terms of Environment: Glossary, Abbreviations, and Acronyms” (December 1997), EPA 175-B-97-001, at p. 30. USEPA has codified the NAAQS at 40 CFR 50.

BOARD NOTE: The Board added this definition based on the definition in “Terms of Environment: Glossary, Abbreviations, and Acronyms” (December 1997), document number EPA 175-B-97-001, USEPA, Office of Communications, Education, and Public Affairs, at p. 30.

“Natural event” means an event and its resulting emissions, which may recur at the same location, in which human activity plays little or no direct causal role. For purposes of this definition, anthropogenic sources that are reasonably controlled are not human activity that plays a direct causal role in causing emissions.

“Parts per billion” or “ppb” means the ratio of the parts of a specified contaminant to a billion parts of air by weight ($1:10^{-9}$), as measured and determined by the methods prescribed for that contaminant.

BOARD NOTE: The Board added this definition and that for “parts per million;”, derived from the parentheses in 40 CFR 50.4(a) and (b) and 50.17(a) and the definition of “parts per billion (ppb)/parts per million (ppm)” in “Terms of

Environment: Glossary, Abbreviations, and Acronyms” (December 1997), EPA 175-B-97-001, at p. 34.

“Parts per million” or “ppm” means the ratio of the parts of a specified contaminant to a million parts of air by weight ($1:10^{-6}$), as measured and determined by the methods prescribed for that contaminant.

BOARD NOTE: The Board added this definition, derived from the parentheticals in 40 CFR 50.4(a) and (b) and 50.17(a) and the definition of “parts per billion (ppb)/parts per million (ppm)” in “Terms of Environment: Glossary, Abbreviations, and Acronyms” (December 1997), EPA 175-B-97-001, at p. 34.

“PM₁₀” means particulate matter that has an aerodynamic diameter less than or equal to a nominal 10 micrometers (μm).

BOARD NOTE: The Board added this definition, derived from the parenthetical definition in 40 CFR 50.6(c).

“PM_{2.5}” means particulate matter that has an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (μm).

BOARD NOTE: The Board added this definition, derived from the parenthetical definition in 40 CFR 50.7(a).

“Prescribed fire” is any fire intentionally ignited by management actions in accordance with applicable laws, policies, and regulations to meet specific land or resource management objectives.

“Traceable” means that a local standard has been compared and certified either directly or via not more than one intermediate standard, to a primary standard, such as a National Bureau of Standards Standard Reference Material (NBS SRM), or a USEPA/NBS-approved Certified Reference Material (CRM).

“USEPA” means the United States Environmental Protection Agency.

BOARD NOTE: Derived from 40 CFR 50.1(c). The Board has used “USEPA” in text where USEPA has used “Administrator,” where action by USEPA is clearly contemplated. Otherwise, the Board has retained the term “Agency” as defined in this Section.

“Wildfire” is any fire started by an unplanned ignition caused by lightning; volcanoes; other acts of nature; unauthorized activity; or accidental, human-caused actions, or a prescribed fire that has developed into a wildfire. A wildfire that predominantly occurs on wildland is a natural event.

“Wildland” means an area in which human activity and development are essentially non-existent, except for roads, railroads, power lines, and similar transportation facilities. Structures, if any, are widely scattered.

BOARD NOTE: Derived from 40 CFR 50.1 ~~(2016)~~-(2012), except as otherwise more specifically indicated.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 243.105 Air Quality Monitoring Data Influenced by Exceptional Events

- a) The federal regulations at 40 CFR 50.14 provide that a state, federal land manager, or federal agency can seek USEPA determination that exceedances or violations of an NAAQS are directly due to an exceptional event, so that the State can exclude affected ambient air quality monitoring data from a compliance determination. An exceptional event is a natural event or the result of human activity that is unlikely to recur and which is not reasonably controllable or preventable that meets specified criteria. The federal rule provides that a fireworks display, a prescribed fire, a wildfire, a high wind dust event, a stratospheric intrusion, or an aggregate of events on the same day can be an exceptional event.~~Requirements:~~
- 1) ~~— The Agency may request USEPA to exclude from use in determinations data showing an exceedance of an NAAQS that is directly due to an exceptional event. The Agency must demonstrate to USEPA that the event caused a specific air pollution concentration at a particular air quality monitoring location.~~
 - 2) ~~— A demonstration to justify data exclusion may include any reliable and accurate data, but must demonstrate a clear causal relationship between the measured exceedance of an NAAQS and the event in accordance with subsection (c)(3)(D).~~
- b) The Agency must use the applicable procedures of 40 CFR 50.14 to obtain a USEPA determination of an exceptional event and exclusion of affected ambient air quality monitoring data if the Agency determines that the data are influenced by an exceptional event and should be excluded from a compliance determinaton.~~Determinations by USEPA. USEPA has stated the criteria for making a determination to exclude data as follow:~~
- 1) ~~— Exceptional Events. USEPA has stated that it will exclude data from use in determinations of exceedance of an NAAQS when the Agency has demonstrated that an exceptional event caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location, and the Agency otherwise satisfies the requirements of 40 CFR 50.14.~~
 - 2) ~~— Fireworks Displays. USEPA has stated that it will exclude data from use in determinations of exceedance of an NAAQS when the Agency has demonstrated that emissions from fireworks displays caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location, and the State otherwise satisfies the requirements of 40 CFR 50.14. USEPA has stated that these data will be treated in the same manner as exceptional events under this Section;~~

~~provided the Agency has demonstrated that the use of fireworks is significantly integral to traditional national, ethnic, or other cultural events, including, but not limited to July Fourth celebrations, which satisfy the requirements of 40 CFR 50.14.~~

- 3) ~~Prescribed Fires. USEPA has stated that it will exclude data from use in determinations of exceedance of an NAAQS when the Agency has demonstrated that emissions from prescribed fires caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location, and the Agency otherwise satisfies the requirements of 40 CFR 50.14, provided that the emissions are from prescribed fires that USEPA determines meets the definition of “exceptional event” in Section 243.101, and provided that the Agency has certified to USEPA that the State has adopted and is implementing a Smoke Management Program (SMP) or the State has ensured that the burner employed basic smoke management practices. If an exceptional event occurs using the basic smoke management practices approach, the Agency must undertake a review of the State’s approach to ensure public health is being protected and must include consideration of development of an SMP.~~

~~BOARD NOTE: In each of corresponding 40 CFR 50.14(b)(1), (b)(2), and (b)(3), USEPA stated “EPA shall exclude data from use in determinations of exceedances and NAAQS violations.” In the first person, “shall” is used more to express present intent or to commit to future action. The Board has changed “EPA shall” to “USEPA has stated that it will.” Further, the Board has relied on the defined term “exceedance of an NAAQS.”~~

- c) Ambient air quality monitoring data excluded by a USEPA determination pursuant to 40 CFR 50.14 is excluded from use for compliance determination under this Part.Schedules and Procedures.
- 1) ~~Public Notification. The Agency or, where the Agency has delegated authority pursuant to Section 4(g) or (r) of the Act, the Agency’s delegatee, must notify the public promptly whenever an event occurs or is reasonably anticipated to occur that may result in the exceedance of an NAAQS.~~
- 2) ~~Flagging of Data.~~
- A) ~~The Agency must notify USEPA of the State’s intent to exclude one or more measured exceedances of an NAAQS as being due to an exceptional event by placing a flag in the appropriate field for the data record of concern that has been submitted to the federal air quality system (AQS) database.~~

- ~~B) — Flags placed on data in accordance with this Section must be deemed informational only, and the data must not be excluded from determinations with respect to an exceedance of an NAAQS unless and until USEPA notifies the Agency of USEPA concurrence following the Agency’s submittal of a demonstration pursuant to subsection (c)(3) by placing a concurrence flag in the appropriate field for the data record in the AQS database.~~
- ~~C) — Flags placed on data as being due to an exceptional event, together with an initial description of the event, must be submitted to USEPA not later than July 1 of the calendar year following the year in which the flagged measurement occurred, except as allowed under subsection (c)(2)(F).~~
- ~~D) — This subsection (c)(2)(D) corresponds with 40 CFR 50.14(c)(2)(iv), which USEPA has removed and marked “reserved.” This statement maintains structural consistency with the federal regulations.~~
- ~~E) — This subsection (c)(2)(E) corresponds with 40 CFR 50.14(c)(2)(v), which USEPA has removed and marked “reserved.” This statement maintains structural consistency with the federal regulations.~~
- ~~F) — Table A of this Part identifies the data submission process for a new or revised NAAQS. USEPA will apply this process to those data that will or may influence the initial designation of areas for any new or revised NAAQS.~~
- ~~3) — Submission of demonstrations:~~
- ~~A) — Except as allowed under subsection (c)(2)(F), when the Agency has flagged data as being due to an exceptional event and is requesting exclusion of the affected measurement data, the Agency must, after notice and opportunity for public comment, submit a demonstration to USEPA to justify data exclusion not later than the sooner of three years following the end of the calendar quarter in which the flagged concentration was recorded or 12 months prior to the date that a regulatory decision must be made by USEPA. The Agency must submit to USEPA the public comments it received, along with its demonstration.~~
- ~~B) — This subsection (c)(3)(B) corresponds with 40 CFR 50.14(b)(3)(ii), which USEPA has removed and marked “reserved.” This statement maintains structural consistency with the federal regulations.~~

- ~~C) This subsection (c)(3)(C) corresponds with 40 CFR 50.14(b)(3)(iii), which USEPA has removed and marked “reserved.” This statement maintains structural consistency with the federal regulations.~~
- ~~D) The demonstration to justify data exclusion must provide the following evidence:~~
- ~~i) That the event satisfies the definition of “exceptional event” set forth in Section 243.101;~~
 - ~~ii) That there is a clear causal relationship between the measurement under consideration and the event that is claimed to have affected the air quality in the area;~~
 - ~~iii) That the event is associated with a measured concentration in excess of normal historical fluctuations, including background; and~~
 - ~~iv) That there would have been no exceedance or violation but for the event.~~
- ~~E) With the submission of the demonstration, the Agency must document that the public comment process was followed.~~

BOARD NOTE: Derived from 40 CFR 50.14 ~~(2016)~~-(2012).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 243.108 Incorporations by Reference

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

Government Printing Office (GPO), 732 Capitol Street NW, Washington, DC 20401 (telephone: 202-512-1800 or 866-512-1800; website: www.gpo.gov).
The following documents incorporated by reference are available from this source:

Appendix A-1 to 40 CFR 50 (2016) (Reference Measurement Principle and Calibration Procedure for the Measurement of Sulfur Dioxide in the Atmosphere (Ultraviolet Fluorescence Method)), referenced in Section 243.122.

Appendix A-2 to 40 CFR 50 (2016) (Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method)), referenced in Section 243.122.

Appendix B to 40 CFR 50 (2016) (Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method)), referenced in appendix G to 40 CFR 50 (see below).

Appendix C to 40 CFR 50 (2016) (Reference Measurement Principle and Calibration Procedure for the Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry)), referenced in Section 243.123.

Appendix D to 40 CFR 50 (2016) (Reference Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere), referenced in Section 243.125.

Appendix F to 40 CFR 50 (2016) (Reference Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence)), referenced in Section 243.124.

Appendix G to 40 CFR 50 (2016) (Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air), referenced in Section 243.126.

Appendix H to 40 CFR 50 (2016) (Interpretation of the 1-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Appendix I to 40 CFR 50 (2016) (Interpretation of the 8-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Appendix J to 40 CFR 50 (2016) (Reference Method for the Determination of Particulate Matter as PM₁₀ in the Atmosphere), referenced in Section 243.120.

Appendix K to 40 CFR 50 (2016) (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter), referenced in Section 243.120.

Appendix L to 40 CFR 50 (2016) (Reference Method for the Determination of Fine Particulate Matter as PM_{2.5} in the Atmosphere), referenced in Section 243.120.

Appendix N to 40 CFR 50 (2016), as amended at 82 Fed. Reg. 14325 (Mar. 20, 2017) (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter), referenced in Section 243.120.

Appendix O to 40 CFR 50 (2016) (Reference Method for the Determination of Coarse Particulate Matter as PM_{10-2.5} in the Atmosphere), referenced in appendix Q to 40 CFR 50 and for use in federally required monitoring by the NCore system pursuant to 40 CFR 58.

Appendix P to 40 CFR 50 (2016) (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Appendix Q to 40 CFR 50 (2016) (Reference Method for the Determination of Lead in Particulate Matter as PM₁₀ Collected from Ambient Air), referenced in appendix R to 40 CFR 50.

Appendix R to 40 CFR 50 (2016) (Interpretation of the National Ambient Air Quality Standards for Lead), referenced in Section 243.126.

Appendix S to 40 CFR 50 (2016) (Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen (Nitrogen Dioxide)), referenced in Section 243.124.

Appendix T to 40 CFR 50 (2016) (Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Sulfur (Sulfur Dioxide)), referenced in Section 243.122.

Appendix U to 40 CFR 50 (2016) (Interpretation of the Primary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Clean Air Act, 42 USC 7401 et seq. (2013) (for definitions of terms only), referenced in Section 243.102.

BOARD NOTE: Segments of the Code of Federal Regulations and the United States Code are available for free download as PDF documents from the GPO FDsys website: <http://www.gpo.gov/fdsys/>.

USEPA, National Exposure Research Laboratory, Human Exposure & Atmospheric Sciences Division (MD-D205-03), Research Triangle Park, NC 27711. The following documents incorporated by reference are available from this source:

“List of Designated Reference and Equivalent Methods” (June 16, 2017) (~~June 17, 2016~~) (referred to as the “List of Designated Methods” and referenced in Sections 243.101, 243.120, 243.122, 243.123, 243.124, 243.125, and 243.126.

~~This incorporation by reference includes the following USEPA methods designations that occurred after June 17, 2016:~~

~~81 Fed. Reg. 45284 (July 13, 2016).~~

BOARD NOTE: The List of Designated Methods is available for free download as a PDF document from the USEPA, Technology Transfer, Ambient Monitoring Technology Information Center website: <http://www.epa.gov/ttn/amtic/criteria.html>.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART B: STANDARDS AND MEASUREMENT METHODS

Section 243.120 PM₁₀ and PM_{2.5}

- a) 1987 Primary and Secondary 24-Hour NAAQS for PM₁₀.
- 1) The level of the 1987 primary and secondary 24-hour NAAQS for PM₁₀ is 150 µg/m³, 24-hour average concentration. The 1987 primary and secondary NAAQS for PM₁₀ is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³, as determined in accordance with appendix K to 40 CFR 50, incorporated by reference in Section 243.108, is equal to or less than one.
 - 2) This subsection (a)(2) corresponds with 40 CFR 50.6(b), a provision marked “reserved” by USEPA. This statement maintains structural consistency with the corresponding federal regulation.
 - 3) For the purpose of determining attainment of the 1987 primary and secondary 24-hour NAAQS for PM₁₀, particulate matter must be measured in the ambient air as PM₁₀ by a method that fulfills either of the following requirements:
 - A) An FRM based on appendix J to 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in List of Designated Methods, incorporated by reference in Section 243.108; or
 - B) An FEM designated by USEPA and listed in List of Designated Methods, incorporated by reference in Section 243.108.

BOARD NOTE: This subsection (a) is derived from 40 CFR 50.6 (2016) (~~2015~~). USEPA adopted 1997 primary NAAQS for PM₁₀ at 62 Fed. Reg. 38652 (July 18, 1997). As a result of a judicial vacatur, USEPA later removed the transitional provision relative to the 1987 NAAQS at 65 Fed. Reg. 80776 (Dec. 22, 2000) and the 1997 NAAQS at 69 Fed. Reg. 45595 (July 30, 2004). Thus, the 1987 primary and secondary NAAQS for PM₁₀ are included in this subsection (a).

- b) 1997 Primary and Secondary Annual Average and 24-Hour NAAQS for PM_{2.5}.

- 1) The 1997 primary and secondary annual average NAAQS for PM_{2.5} is 15.0 µg/m³, annual arithmetic mean concentration, and the 1997 primary and secondary 24-hour NAAQS for PM_{2.5} is 65 µg/m³, 24-hour average concentration, measured in the ambient air as PM_{2.5} by a method that fulfills either of the following requirements:
 - A) An FRM based on appendix L of 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108; or
 - B) An FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
- 2) The 1997 primary and secondary annual average NAAQS for PM_{2.5} is met when the annual arithmetic mean concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 15.0 µg/m³.
- 3) The 1997 primary and secondary 24-hour NAAQS for PM_{2.5} is met when the 98th percentile 24-hour concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 65 µg/m³.
- 4) The primary annual PM_{2.5} NAAQS in this subsection (b) does not apply in any area of Illinois except Madison, Monroe, and St. Clair Counties and the Baldwin Village area of Randolph County. The primary NAAQS for PM_{2.5} in this subsection (b) will no longer apply in any area of Illinois after USEPA has redesignated that area as attainment for that standard. The 1997 secondary annual NAAQS for PM_{2.5} and the 1997 24-hour PM_{2.5} NAAQS in this subsection (b) remain applicable.

BOARD NOTE: USEPA has codified the area designations for Illinois in 40 CFR 81.314. All areas of Illinois were designated attainment or unclassifiable/attainment except Madison, Monroe, and St. Clair Counties and the Baldwin Village area of Randolph County.

BOARD NOTE: This subsection (b) is derived from 40 CFR 50.7 (2016) and 40 CFR 50.13(d), as added at 82 Fed. Reg. 14325 (Mar. 20, 2017)-(2015). The Board added the revocation clause of 40 CFR 50.13(d) as both this subsections (b)(4) and (c)(4), even though USEPA did not add the text to corresponding 40 CFR 50.7. The 2006 primary and secondary annual average and 24-hour NAAQS for PM_{2.5} differs from the 1997 standards in that the 24-hour average concentration required by the 2006 standard is substantially lower (more stringent) than that for the 1997 standard. The Board has retained the 1997 standard in this subsection (b) because USEPA has retained the 1997 standard in 40 CFR 50.6.

- c) 2006 Primary and Secondary Annual Average and 24-Hour NAAQS for PM_{2.5}.
- 1) The 2006 primary and secondary annual average NAAQS for PM_{2.5} is 15.0 µg/m³, annual arithmetic mean concentration, and the 2006 primary and secondary 24-hour NAAQS for PM_{2.5} is 35 µg/m³, 24-hour average concentration, measured in the ambient air as PM_{2.5} by a method that fulfills either of the following requirements:
 - A) An FRM based on appendix L of 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108; or
 - B) An FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
 - 2) The 2006 primary and secondary annual average NAAQS for PM_{2.5} is met when the annual arithmetic mean concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 15.0 µg/m³.
 - 3) The 2006 primary and secondary 24-hour NAAQS for PM_{2.5} is met when the 98th percentile 24-hour concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 35 µg/m³.
 - 4) The primary annual PM_{2.5} NAAQS in this subsection (c) does not apply in any area of Illinois except Madison, Monroe, and St. Clair Counties and the Baldwin Village area of Randolph County. The primary annual PM_{2.5} NAAQS in this subsection (c) will no longer apply in any area of Illinois after USEPA has redesignated that area as attainment for that standard. The secondary annual PM_{2.5} NAAQS in this subsection (c) remains applicable.

BOARD NOTE: USEPA has codified the area designations for Illinois in 40 CFR 81.314. All areas of Illinois were designated attainment or unclassifiable/attainment except Madison, Monroe, and St. Clair Counties and the Baldwin Village area of Randolph County.

BOARD NOTE: The primary and secondary annual average NAAQS for PM_{2.5} in this subsection (c) is the 1997 primary annual average NAAQS for PM_{2.5}. USEPA retained the standard and included it with the 2006 standard in corresponding 40 CFR 50.13. See 71 Fed. Reg. 61144, 61176 (Oct. 17, 2006). This subsection (c) is derived from 40 CFR 50.13 (2016)-(2015).

- d) 2012 Primary Annual Average and 24-Hour NAAQS for PM_{2.5}

- 1) The 2012 primary annual average NAAQS for PM_{2.5} is 12.0 µg/m³ annual arithmetic mean concentration, and the 2012 primary 24-hour NAAQS for PM_{2.5} is 35 µg/m³ 24-hour average concentration, measured in the ambient air as PM_{2.5} by a method that fulfills either of the following requirements:
 - A) An FRM based on appendix L of 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in List of Designated Methods, incorporated by reference in Section 243.108; or
 - B) An FEM designated by USEPA and listed in List of Designated Methods, incorporated by reference in Section 243.108.
- 2) The 2012 primary annual NAAQS for PM_{2.5} is met when the annual arithmetic mean concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 12.0 µg/m³.
- 3) The 2012 primary 24-hour NAAQS for PM_{2.5} is met when the 98th percentile 24-hour concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 35 µg/m³.

BOARD NOTE: This subsection (d) is derived from 40 CFR 50.18 (2016) (2015).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 243. TABLE A Schedule for Flagging and Documentation Submission for Data Influenced by Exceptional Events for Use in Initial Area Designations (Repealed)

Exceptional events/regulatory action	Exceptional events deadline schedule^d
Flagging and initial event description deadline for data years one, two, and three.^a	If State initial designation recommendations for a new or revised NAAQS are due August through January, then the flagging and initial event description deadline will be the July 1 prior to the recommendation deadline. If State recommendations for a new or revised NAAQS are due February through July, then the flagging and initial event description deadline will be the January 1 prior to the recommendation deadline.
Exceptional events demonstration submittal deadline for data years one, two, and three.^a	No later than the date that State recommendations are due to USEPA.

<p>Flagging, initial event description and exceptional events demonstration submittal deadline for data year four^b and, where applicable, data year five.^e</p>	<p>By the last day of the month that is one year and seven months after promulgation of a new or revised NAAQS, unless either option a or b applies.</p> <p>a. If USEPA follows a three-year designation schedule, the deadline is two years and seven months after promulgation of a new or revised NAAQS.</p> <p>b. If USEPA notifies the State that it intends to complete the initial area designations process according to a schedule between two and three years, the deadline is five months prior to the date specified for final designations decisions in such USEPA notification.</p>
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^a ~~Where data years one, two, and three are those years expected to be considered in State recommendations.~~

^b ~~Where data year four is the additional year of data that USEPA may consider when making it makes final area designations for a new or revised NAAQS under the standard designations schedule.~~

^e ~~Where data year five is the additional year of data that USEPA may consider when making it makes final area designations for a new or revised NAAQS under an extended designations schedule.~~

^d ~~The date by which air agencies must certify their ambient air quality monitoring data in AQS is annually on May 1 of the year following the year of data collection, as specified in 40 CFR 58.15(a)(2). In some cases, however, the State may choose to certify a prior year's data in advance of May 1 of the following year, particularly if USEPA has indicated its intent to promulgate final designations in the first eight months of the calendar year. Exceptional Data flagging, initial event description and exceptional events demonstration deadlines for "early certified" data will follow the deadlines for "year four" and "year five" data.~~

BOARD NOTE: ~~Derived from table 1 to 40 CFR 50.14(e).~~

(Source: Repealed at 41 Ill. Reg. _____, effective _____)