ILLINOIS POLLUTION CONTROL BOARD
April 18, 2024

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

Proposed Rule. First Notice.

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

On August 16, 2021, the Illinois Environmental Regulatory Group (IERG) filed a proposal (Prop.) to amend the Board's air pollution regulations under Parts 203, 204, and 232 that address Major Stationary Sources Construction and Modification, Prevention of Significant Deterioration (PSD), and Toxic Air Contaminants. The proposed amendments, which generally address the Board's Non-Attainment New Source Review (NA NSR) regulations, are intended to make the rules consistent and current with the Clean Air Act (CAA) and the underlying NA NSR program.

After conducting two public hearings, receiving comments, and considering the entire record, the Board proposes the amendments, with the changes noted below, for first-notice publication in the *Illinois Register*. The proposed rules appear in the addendum to this opinion and order. Publishing the proposed rules in the Illinois Register begins a public comment period of at least 45 days.

The Board begins this opinion with the procedural background at pages 1-3. It then provides background on the NA NSR Program at page 3 before addressing at pages 4-7 the motion to stay filed by the Attorney General's Office (AGO). The Board then reviews the statutory and regulatory background of IERG's proposal at pages 7-8 before summarizing testimony and public comments at pages 8-9. In its discussion, the Board first addresses provisions that continue to be disputed by the participants at pages 9-17 before providing a section-by-section summary of the Board's proposal at 17-77. The Board addresses the technical feasibility and economic reasonableness of its proposal at pages 77-78 before providing information on submitting public comments at page 78 of this opinion. The Board then reaches its conclusion at page 78 and issues its order at page 79.

PROCEDURAL BACKGROUND

On August 16, 2021, IERG filed a proposal to update Parts 203 (Major Stationary Sources), 204 (PSD), and 232 (Toxic Air Contaminants) of the Board rules. IERG's filing

included its Statement of Reasons (SR) and Technical Support Document (TSD), a Motion to Waive Copy Requirements, and a Motion to Waive Requirement to Submit 200 Signatures (Mot. Waive). On September 9, 2021, the Board accepted the proposal for hearing, and granted the motion to waive the signature requirement.

On December 9, 2021, the hearing officer issued an order scheduling two hearings, each to be held via video conference between the Board's Chicago and Springfield offices. The first hearing was held on February 17, 2022, and the second on April 7, 2022. The Board received the transcripts for the hearings on February 23, 2022 (Tr 1), and April 13, 2022 (Tr 2), respectively.

In a letter dated September 9, 2021, the Board requested that the Department of Commerce and Economic Opportunity (DCEO) conduct an economic impact study of IERG's rulemaking proposal as required by Section 27(b) of the Act. 415 ILCS 5/27(b) (2022). The Board asked that DCEO determine by October 31, 2021, whether it would conduct such a study. In a letter dated October 22, 2021, the DCEO declined to conduct an economic impact study. The hearing officer sought comment on the DCEO's decision at both hearings. Tr 1 at 11-12, Tr 2 at 11-12. The Board received no comment.

On January 6, 2022, IERG pre-filed the testimony of Alec Davis and Colin Campbell. Also, before the first hearing, the AGO (PC 2) and the Illinois Environmental Protection Agency (IEPA) (PC 3) filed comments. On January 27, 2022, the Board pre-filed questions for IERG. On February 15, 2022, IERG pre-filed answers to the Board's questions.

After the first hearing, IERG (PC 4), the AGO (PC 5), and IEPA (PC 6) filed comments. On April 4, 2022, IERG filed a second post-hearing comment (PC 7). Also on April 4, 2022, the Board pre-filed questions for IERG and IEPA.

On May 6, 2022, the AGO filed a motion to stay the rulemaking. On May 20, 2022, IERG filed a response opposing the AGO's motion. On June 3, 2022, the AGO filed a motion for leave to file a reply in support of its motion, accompanied by its reply.

On June 21, 2022, the Board received comments from the Chemical Industry Council of Illinois (CICI) (PC 8), the Illinois Chamber of Commerce (PC 9), and the Illinois Manufacturers' Association (IMA) (PC 10).

On August 11, 2022, the Board issued an order finding that the motion to stay addresses substantive issues best addressed after participants file all pre-first notice comments. The Board set a deadline of September 12, 2022, for those comments. On that date, the Board received pre-first notice comments from IERG (PC 11), IEPA (PC 12), and the AGO (PC 13).

On October 20, 2022, IEPA filed a motion for leave to supplement PC 12, accompanied by its supplement (PC 14). On October 31, 2022, IERG filed a motion for leave to respond to IEPA, accompanied by its response (PC 15). On November 14, 2022, IERG filed updated proposed rulemaking language (PC 16). On December 13, 2022, IEPA filed a motion for leave

to file instanter its reply (PC 17) to IERG's response. On March 31, 2023, IERG filed an additional comment (PC 18) requesting the Board move to first notice.

On April 17, 2023, the AGO filed a renewed motion to stay the proceeding. IERG responded on May 1, 2023. On May 15, 2023, the AGO filed a motion for permission to file a reply in support of its motion to stay, along with an attached reply.

PRELIMINARY MATTERS

On August 16, 2021, in addition to the proposal, IERG filed a motion for waiver of copy requirements (Mot. Waiver). IERG's proposal incorporates by reference ten parts of the Title 40 of the Code of Federal Regulations, and the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement. Mot. Waiver at 1-2. As IERG states in the motion the incorporations are readily available and publicly accessible online. *Id*. at 2. Due to the volume of the documents and the online accessibility, the Board grants IERG's motion to waive the copy requirements.

On October 20, 2022, IEPA filed a motion for leave to file a supplement to its second set of answers, comments, and recommendations for additional revisions, which was previously docketed as PC 12. Accompanying the motion was a copy of the supplement (PC 14). On October 31, 2022, IERG filed a motion asking leave to file a response to the supplement (PC 15). On December 13, 2022, IEPA filed a motion for leave to file instanter its reply (PC 17) to IERG's response. The Board grants these motions and accepts the accompanying filings.

BACKGROUND ON THE NA NSR PROGRAM

The NA NSR program authorizes construction or modification of air pollution-emitting facilities located in nonattainment areas. TSD at 6. A nonattainment area is designated by the United States Environmental Protection Agency (USEPA) when the air quality fails to meet federal National Ambient Air Quality Standards (NAAQS). *Id*.

IEPA implements the NA NSR program in Illinois under 35 Ill. Adm. Code Part 203. TSD at 7. NA NSR requirements only apply to the pollutants for which the area had been designated as non-attainment. *Id*. The requirements for major stationary sources in non-attainment areas authorize the proposed construction or modifications as long as it complies with the control technology requirements, reduces emissions from existing sources to protect air quality in the area, is constructed or modified in a manner consistent with existing regulations, and provides the public opportunity to comment before the issuance of the final permit. *Id*.

For facilities not located in non-attainment areas, the NA NSR program regulates construction or modification of the facility that would contribute to a NAAQS violation, including "compensation of those impacts and the opportunity for public comment before issuance of the final permit." TSD at 7.

AGO'S MOTIONS TO STAY

On May 6, 2022, the AGO filed a motion to stay (Mot. to Stay) the rulemaking pending the February 28, 2023, deadline set by the United States Court of Appeals for the D.C. Circuit (D.C. Circuit) for USEPA to file a motion regarding possible revision of federal regulations underpinning IERG's proposal. Mot. to Stay at 1. The federal appeal concerns the Project Emissions Accounting (PEA) Rule, which addresses when a source of air emissions must undergo the New Source Review permitting process. *Id*. at 2. IERG's proposal includes the PEA Rule under both Parts 203 and 204. *Id*. at 4-5.

Before the USEPA promulgated the PEA Rule, Attorneys General representing seven states and the District of Columbia (the Coalition) argued that the rule was designed to allow sources to avoid triggering New Source Review and would result in more pollution. *Id*. at 2-3. USEPA finalized the rule, and the Coalition filed petitions to review with the D.C. Circuit Court. *Id*. at 3.

The AGO states that the Biden administration through an executive order directed the USEPA to review actions taken by the previous administration that conflict with the Biden administration's policy to reduce air pollution. Mot. to Stay at 3, *see* Executive Order 13990 (Jan. 20, 2021). The USEPA filed a motion for abeyance of the litigation of the Project Emissions Accounting Rule in the D.C. Circuit appeal. *Id*. at 3-4. The abeyance would give USEPA time to determine whether Executive Order 13990 would require further action. *Id*. at 4. The court granted USEPA's motion and set the matter into abeyance until February 28, 2023. *Id*.

The AGO argues that the motion to stay is in the interest of conserving state resources of the Board and IEPA, as well as ensuring that Illinois law remains consistent with and at least as stringent as the corresponding federal rules. Mot. to Stay at 1-2.

IERG's Response to the Motion to Stay

On May 20, 2022, IERG filed a response opposing the motion to stay (Resp. Mot. to Stay). IERG argues that the Board's NA NSR rules were last amended in 1998, and that there have been several amendments at the federal level that Illinois has not adopted. Resp. Mot. to Stay at 2. The benefit of this update, and the consistency it would provide for industry, outweigh the reasons to stay the proceeding. *Id*.

IERG agrees that Illinois law must be at least as stringent as the federal rules. Resp. Mot. to Stay at 2. IERG reiterates its intent to update Board rules to make them consistent with federal law. *Id*. at 3. IERG further argues that, even if USEPA adopts amendments regarding the PEA Rule, it will only affect four provisions within the IERG proposal. *Id*. at 3-4.

IERG also contests the AGO's arguments, stating that there have been several instances where the Board has adopted rule language based on federal rules that were being contested at the time. Resp. Mot. to Stay at 5-8. IERG further refutes the AGO's position that USEPA will necessarily revise the rule language. *Id*. at 9. IERG points to USEPA's language that they will "consider" revisions. *Id*.

IERG argues that amendments to Illinois' NA NSR rules are long overdue and would be beneficial to all parties involved. Resp. Mot. to Stay at 9, 13. IERG adds that updating Illinois' NA NSR rules would be an efficient use of state resources. *Id*. at 13. Further, IERG refutes the AGO's position that the entire proposal should be stayed, arguing instead that the sections affected by the PEA Rule can be easily identified. *Id*. at 10. IERG asks that, if the Board grants the AGO's motion, it stay only sections affected by the PEA Rule. *Id*. at 14.

AGO Reply in Support of Its Motion to Stay

On June 3, 2022, the AGO filed a reply in support of its motion to stay. The AGO distinguishes the cases IERG cited as examples of adopting rule language contested at the federal level, arguing that in this instance USEPA has abandoned defense of the rule and initiated the process to revise it. Rep. Mot. to Stay at 1-2. The AGO argues cases cited by IERG featured USEPA strenuously defending its regulations. *Id*. at 2, 4. The AGO also argues that USEPA has reversed other "rollback" environmental regulations promulgated during the previous presidential administration. *Id*. The AGO states that USEPA is in the early stages of its rulemaking process and has been building an administrative record. *Id*. at 3.

AGO Status Update in Support of Motion to Stay

On July 6, 2022, the AGO filed a status update in support of its motion to stay. The AGO notes that USEPA intends to file a Notice of Proposed Rulemaking regarding the PEA Rule. Status Update at 1. Under Executive Order 12,866, regulatory agencies must submit upcoming significant regulatory actions for review by the Office of Information and Regulatory Affairs and the Office of Management and Budget. *Id*. at 1-2.

In its Semiannual Regulatory Agenda, USEPA states that it is reconsidering the PEA Rule at its own discretion and based on concerns raised by environmental advocates. *Id*. at 2. The AGO argues that the expected Notice of Proposed Rulemaking will provide valuable information on USEPA's plans for the PEA Rule that will assist the Board in this rulemaking. *Id*.

IERG Additional Comment

On March 31, 2023, IERG filed an additional comment requesting the Board move the rulemaking to first notice. PC 18 at 1. IERG argues that the outstanding issues within the rulemaking are fully briefed, and the AGO's original stay request date of February 28, 2023, has lapsed and the Board should therefore move to first notice. *Id*. at 1-2.

In the federal case cited in the AGO's motion, USEPA filed an unopposed motion to place the case in abeyance until August 28, 2023, while USEPA works on a rule proposal. PC 18 at 2. USEPA added that it would likely be seeking an additional abeyance beyond August 2023 to finalize the rulemaking progress. *Id*.

IERG notes that USEPA proposed to approve a Texas NA NSR and PSD revisions that incorporate the federal PEA Rule. PC 18 at 3, *see* Air Plan Approval; Texas; New Source Review Updated for Project Emissions Accounting, 88 Fed. Reg. 13752 (Mar. 6, 2023). USEPA stated that Texas' revisions were consistent with the CAA and USEPA regulations, policy, and guidance. *Id*. USEPA noted that the revisions were "necessary to maintain consistency with the EPA's final rule on November 24, 2020" promulgating project emissions accounting. *Id*.; *see* 85 Fed Reg 74890 (Nov. 24, 2020). IERG adds that USEPA made no mention of upcoming federal rule revisions regarding the PEA Rule. *Id*.

AGO Renewed Motion to Stay

On April 17, 2023, the AGO filed a renewed motion to stay the rulemaking (Renewed Mot.) seeking to stay the rulemaking to August 28, 2023. Renewed Mot. at 1-2. The AGO reiterates its arguments from the underlying motion and addresses IERG's arguments from their comment docketed as PC 18. *Id*. at 3.

First, the AGO argues that, despite IERG's position that there "has been no indication as to when USEPA may initiate the rule," USEPA has shown based on the federal litigation filings and its Regulatory Agenda that it does intend to amend the language. Renewed Mot. at 3-4, *quoting* PC 18 at 2. Second, the AGO argues that IERG overstates the USEPA's position on Texas' SIP revisions. Renewed Mot. at 4. The AGO contends that approving Texas' SIP revisions has no bearing on whether USEPA intends to change the PEA Rule. It states that USEPA has a non-discretionary duty under the CAA to approve SIP revisions that comply with federal requirements. *Id*. The AGO adds that USEPA must approve a compliant SIP revision within a specific period, and therefore could not wait to rule on Texas' SIP revision until after changing the rule. *Id*. at 5.

The AGO argues that Texas' history of weak environmental regulations is not something that Illinois should follow. Renewed Mot. at 5.

IERG's Response to Renewed Motion to Stay

On May 1, 2023, IERG filed a response to the AGO's renewed motion to stay the rulemaking (Resp. Renewed Mot.). Within this response, IERG incorporates its arguments from the response to the original motion to stay. Resp. Renewed Mot. at 1.

IERG argues that the AGO's emphasis on the USEPA's Regulatory Agenda is misplaced because it does not mean that such a rulemaking is going to occur. Resp. Renewed Mot. at 1-2. Second, IERG argues USEPA's Regulatory Agenda states that USEPA is only "considering revisions". *Id*. at 2. Third, IERG argues that USEPA has not indicated when it may initiate a rule, or how long it would take to decide. *Id*.

IERG reiterates that there is no reason to delay incorporating federal requirements that are currently in effect when there are no pending rulemakings to revise those requirements. Resp. Renewed Mot. at 3.

AGO Reply in Support of Renewed Motion to Stay

On May 15, 2023, the AGO filed a motion for leave to reply in support of its motion to stay (Mot. to Rep. Renewed Mot.), along with an attached reply (Rep. Renewed Mot.). The AGO argues that a reply is necessary because IERG misstated the status of the USEPA's forthcoming regulatory revisions, and misconstrued requirements imposed by the CAA. Mot. to Rep. Renewed Mot. at 1-2. The Board grants the AGO's motion and accepts the reply instanter.

The AGO argues the Board should take into account "imminent regulations" when "deciding whether it is worth the Board's limited resources to advance proposed regulations that are discretionary - not legally mandated by any state or federal requirement." Rep. Renewed Mot. at 4. The AGO argues that IERG's position is essentially that only final action on a PEA Rule would merit Board consideration. *Id*. The AGO argues that proposing a rule indicated an intent to change the regulation. *Id*.

Finally, the AGO argues that, because state regulations must be at least as stringent as federal regulations and existing Illinois air regulations are more stringent, the Board does not have to adopt the PEA Rule. Rep. Renewed Mot. at 5.

Board Ruling on AGO Motions to Stay

The Board agrees with IERG and finds that a stay is not warranted at this time. While USEPA rulemaking may affect IERG's proposal, that process has not now culminated in adopting any revision of the PEA Rule. As IERG notes, these rules have not been amended since 1998, and the Board agrees that an update is now prudent. As to the specific concerns about federal language, the Board invites the participants during the first notice comment period to explain their positions on whether the Board should proceed to second notice. Therefore, the Board denies the AGO's Motion to Stay, finding that the Board can address any changes at the federal level before determining whether to proceed to second notice.

The Board notes that, on February 22, 2024, USEPA posted on its website a pre-publication proposal related to project emissions accounting.[1] As of the date of this order, the proposal has not been published in the Federal Register. The Board asks the participants to comment on any implications of this pre-publication proposal.

BACKGROUND OF PROPOSAL

Section 9.1(c)

In 2016, Public Act 99-0463 amended Section 9.1(c) of the Act. Among its provisions, Public Act 99-0463 requires the Board to adopt regulations establishing both the PSD and NA NSR permit programs through the requirements of Sections 165 and 173 of the Clean Air Act. 415 ILCS 5/9.1(c). IEPA is able to adopt procedures for the administration of the programs. *Id*.

[1] https://www.epa.gov/system/files/documents/2024-02/9249-01-oar_pear-nprm-20240205_admin.pdf

IERG Proposal

IERG is an Illinois non-profit corporation affiliated with the Illinois Chamber of Commerce. SR at 1. IERG was founded in 1985 and currently represents 47 member companies representing over 200 persons in Illinois that are regulated by governmental agencies that promulgate, enforce, or administer environmental laws, rules, regulations, or other policies. *Id*.

Under Sections 27 and 28 of the Act (415 ILCS /5/27 and 28 (2022)), IERG filed this proposal to amend the Board's NA NSR regulations to be consistent with current requirements of the Clean Air Act and implementing federal regulations. SR at 2. The Board's NA NSR rules were last updated in 1998. *Id*. at 3. IERG also proposed amendments to the Board's PSD regulations at Part 204. *Id*. at 17. IERG states that a source can be subject to both the Board's NA NSR and PSD rules, and that these amendments will benefit the IEPA, regulated entities, and the public. *Id*.

IERG Testimony

The Board received pre-filed testimony in favor of IERG's proposal from Alec Davis (Exh. 1), the Executive Director of IERG, and Colin Campbell (Exh. 2), a Principal with RTP Environmental Associates, Inc. and Manager of RTP's office in Raleigh, North Carolina.

Mr. Davis and Mr. Campbell state that the proposed amendments are intended to update the Board's NA NSR rules to be consistent with the CAA and implementing federal regulations. Exh 1 at 3, and Exh. 2 at 18. Mr. Davis notes that the proposed changes will improve the consistency between NA NSR regulations and the Part 204 PSD regulations. Exh. 1 at 3. Mr. Davis also states that, if IERG's proposal is adopted, it will comply with the requirements under Section 9.1 of the Act to adopt regulations that avoid duplicative, overlapping, or conflicting State and federal regulatory systems. *Id*. at 4. Mr. Davis notes that IERG conferred with both IEPA and USEPA during the development of the proposal, and that it incorporated input from both agencies. *Id*.

Mr. Campbell states that the CAA requires USEPA to designate areas as attainable, unclassifiable, or nonattainment with respect to the NAAQS. Exh. 2 at 2. An unclassifiable area is treated like an attainment area for purposes of the NSR program. *Id*. USEPA has promulgated NAAQS for six principal pollutants: ozone (O_3), carbon monoxide (CO), sulfur dioxide (SO_2), particulate matter ($PM_{2.5}$ and PM_{10}), lead, and nitrogen dioxide (NO_2). *Id*. at 3. Volatile organic material (VOM) and Nitrogen Oxides (NO_x) are precursors to ozone, and SO_2, NO_x, VOM, and ammonia (NH_3) are precursors of $PM_{2.5}$. *Id*.

Mr. Davis testifies that the NA NSR regulations apply to areas of the state designated nonattainment, and that there are currently three such areas in Illinois. Exh. 1 at 4. The greater Chicago area is classified serious nonattainment for the 2008 8-hour ozone standard and marginal nonattainment for the 2015 8-hour ozone standard. *Id* at 4-5. The St. Louis Metro East Area is classified as marginal nonattainment for the 2015 8-hour ozone standard, and Alton Township is designated nonattainment for SO_2. *Id*. at 5.

Mr. Davis argues that consistency between NA NSR, the CAA, and PSD, will help the business community and bolster the application of the USEPA's guidance documents. Exh. 1 at 5.

Mr. Campbell argues that IERG's proposed rules are based on USEPA rules, which were found to be economically justified. Exh. 2 at 18. Mr. Campbell asserts that the Board should similarly find that the proposal is economically justifiable. *Id*. Regardless, the economic impacts would not differ from the federal rule which industry already must comply with. *Id*. Mr. Campbell makes similar arguments that the amendments are technically feasible. *Id*.

Comment Supporting IERG Proposal

As noted above under "Procedural Background," the Board received comments from CICI (PC 8), the Illinois Chamber of Commerce (PC 9), and the IMA (PC 10). Each favor IERG's proposed changes and note that they are widely supported by the business community. PC 8, 9, and 10. The comments state that updating the rules, consistent with federal rules, will ease permit applications, which will attract investors. *Id*.

BOARD DISCUSSION

The Board will first discuss the areas where the participants disagree and decide those issues. Then the Board will summarize its first-notice proposal. Finally, the Board will discuss the technical feasibility and economic reasonableness of the proposal.

Disputed Issues

The Board commends the participants' willingness to respond to one another on issues of concern throughout the hearing process. The record shows that filings led to agreed language revising IERG's original proposal. For a limited number of provisions, however, the record shows that the participants have not agreed to revisions. Below the Board addresses the disputed provisions in numerical order by section.

Section 203.100 Effective Dates

Proposed Section 203.100 is entitled "Effective Dates" and provides transition from using Subparts A through H of Part 203 to Subparts I through R of Part 203.

IEPA noted that they would need to confer with USEPA before responding to IERG's proposed language. PC 12 at 12. After discussions with USEPA, IEPA opposes IERG's proposed language, arguing that it may allow sources to benefit from subsequent revisions to the applicability of the NA NSR rules or from failure to properly obtain a permit before beginning construction of a project. PC 14 at 1-2. IEPA wants to ensure that the rules governing major projects are those in effect at the time the project was permitted or, if the project was not properly permitted, when the project was constructed. *Id*. at 2.

IEPA is also opposed to IERG's use of the term "sunset" in Section 203.100. PC 14 at 5. IEPA argues that "sunset" can have multiple meanings. If IERG intends for it to mean that Subparts A through H are to be removed in their entirety, then it would be incorrect. *Id*. IEPA explains that historically issued permits would still be governed under existing Subparts A through H. *Id*. IERG acknowledged IEPA's concerns regarding "sunset" and agrees to amend the language of Section 203.100(c). PC 15 at 18.

IEPA also opposes IERG's deletion of "the full" from approval by USEPA as part of Illinois' SIP in Section 203.100(b). PC 14 at 5-6. IEPA argues that IERG's proposed language suggests that an NA NSR permit could be issued consistent with Part 203, without being SIP approved, and still meet Illinois' definition of an NA NSR permit. *Id*. at 6.

Finally, IEPA argues that IERG's proposed Section 203.100(b) would not address projects subject to the section that failed to obtain the requisite Part 203 permit before beginning construction. *Id*. IEPA asserts that IERG's proposed changes to these applicability standards could result in a decrease in the number of projects at existing major sources that would meet the criteria for a "major modification" and therefore trigger the substantive requirements of NA NSR. *Id*. at 2 n.2. To address the above concerns, IEPA suggests the following language for Section 203.100:

~~a)~~ Subparts I through R of this Part do not apply until the effective date of the full approval of all of those Subparts by the United States Environmental Protection Agency (USEPA) as a revision to the Illinois State Implementation Plan.

~~b)~~ On the effective date of the full approval of Subparts I through R of this Part by the USEPA as part of Illinois' State Implementation Plan, the permitting and operation of projects that began construction or may begin construction before this date shall continue to be in accordance with Subparts A through H of this Part.

Id. at 3.

IERG disagrees with IEPA and urges the Board to adopt Sections 203.100(a) and (b) as originally proposed by IERG. PC 15 at 16. IERG also proposes the following changes to address IEPA's concerns:

a) Except as provided in subsection (b) below, Subparts I through R of this Part do not apply until the effective date of approval of all of those Subparts by the United States Environmental Protection Agency (USEPA) as a revision to the Illinois State Implementation Plan.

b) The effective date of Subpart I of this Part is not dependent on approval of Section 203.1340(c)(3) by USEPA as a revision to the Illinois SIP.

c) On the effective date of approval of Subparts I through R of this Part by the USEPA as part of Illinois' State Implementation Plan, Subparts A through H of this Part will ~~sunset.~~ no longer apply except as follows:

1) ~~Projects permitted under construction permits issued under Subparts A through H of this Part before the date of USEPA's approval of Subparts I through R of this Part as part of Illinois' SIP, shall continue to be subject to Subparts A through H of this Part.~~ On the effective date of the approval of Subparts I through R of this Part by the USEPA as part of Illinois' State Implementation Plan, the permitting of Projects on which actual construction began before this date shall continue to be in accordance with Subparts A through H of this Part.

2) Projects on which actual construction began before the effective date of USEPA's approval of Subparts I through R of this Part as part of Illinois' State Implementation Plan, which Projects failed to properly obtain a permit under Subparts A through H of this Part, shall be permitted in accordance with Subparts A through H of this Part.

d) The permitting of Projects on which actual construction begins after the effective date of the approval of Subparts I through R of this Part by the USEPA as part of Illinois' State Implementation Plan shall be in accordance with Subparts I through R of this Part. *Id*. at 18.

IERG states it modeled the above changes on IEPA's language, and that subsection (c)(2) is new language from IERG based on IEPA language. *Id*. at 19. IERG also states that proposed new subsection (d) addresses IEPA's concerns over when Subparts I – R will apply rather than A – H. *Id*.

With additional explanation and changes, IEPA continues to oppose IERG's proposed changes to Sections 203.100. PC 17 at 10 n. 6. IEPA opposes removing "and operation" from subsection (b). *Id*. at 11. IERG argues that Projects do not "operate" because the equipment constructed or modified during a project is what "operates". PC 15 at 18. IERG additionally argues that operation of Projects is covered under Subpart F. *Id*. However, IEPA counters that including "and operation" is to ensure projects that began construction before full approval of Subparts I through R would continue to be regulated by existing Subparts A through H, which includes operating requirements of existing Subpart F. PC 17 at 12.

IEPA agrees with IERG that subsection (b) should use "actual" when discussing construction but disagrees with IERG's removal of "or may begin construction". PC 17 at 12, *see also* PC 15 at 18. IEPA argues that this clause ensures a Project which received a valid and effective Part 203 permit, but did not begin construction before SIP approval, is required to be regulated by existing Part 203. PC 17 at 13.

In addition, IEPA argues IERG's proposed subsections (c) and (d) do not successfully address its concerns regarding the effective dates at which certain subparts would apply when a project is properly permitted, but construction does not commence. PC 17 at 10-11. IEPA

contends that IERG's proposed Section 203.100(d) does not address the scenario as it pertains to whether the "permitting of Projects on which actual construction begins after the effective date of approval of Subparts I - R as part of Illinois' SIP shall be in accordance with Subparts I- R." *Id.* at 11.

Board Decision on Effective Dates

The Board is convinced that IEPA's proposed language for Section 203.100 is appropriate and necessary to address the transition from the existing Subparts A thru H to proposed new Subparts I thru R. The Board notes that IEPA's recommended language first specifies when the new Subparts I-R become effective, i.e., upon the full approval of all of those Subparts by the USEPA as a revision to the Illinois SIP. Next, in subsection (b), IEPA clarifies that the permitting and operation of projects that began construction or may begin construction before the effective date of Subpart I-R will continue to be subject to Subparts A through H.

While IERG attempted to address IEPA's concerns by proposing additional changes to Section 203.100, the Board finds that these changes do not fully address IEPA's well founded concerns. As noted by IEPA, if a permit were issued under the existing Part 203, the Board believes that any construction of the project should be required to comply with the issued permit even if revised Part 203 was SIP approved before initiating construction. The Board agrees with IEPA that "operation of" must be retained in Section 203.100(b) because Subpart F, Operation of a Major Stationary Source or Major Modification, covers the operation. The Board finds the IEPA's proposed language, with changes clarifying the beginning of "actual" construction in Section 203.100(b), provides a clear transition from the existing rules to the new Subparts. And the Board adopts IEPA's recommended language for first notice.

Section 203.1340 Regulated NSR Pollutant

IERG states that the proposed definition of "Regulated NSR Pollutant" is consistent with the blueprint rule, except for some language taken from Appendix S. SR at 23. IERG used language from Appendix S when drafting Section 203.1340(c)(3), which regulates VOM and ammonia as precursors to $PM_{2.5}$. *Id*. IERG states that it has consistently maintained that that Appendix S properly provides a roadmap of how VOM and ammonia will be treated as precursors to $PM_{2.5}$ if an area is designated as nonattainment for $PM_{2.5}$. PC 15 at 8-9. If the Board does propose IERG's language for Section 203.1340(c)(3), IERG asks that the Board omit the section entirely and enter the following Board Note instead:

> BOARD NOTE: VOM and ammonia may be regulated as precursors to PM2.5 in PM2.5 nonattainment areas. The timing of VOM and ammonia as precursors to PM2.5 in a PM2.5 nonattainment area is contained in the Emission Offset Interpretative Ruling at 40 CFR 51 Appendix S, par. II.A.31.ii.b.4. *Id*. at 13.

IEPA argues that IERG's proposed Section 203.1340(c)(3) would not be approved by USEPA because VOM and ammonia would not be regulated as NSR pollutants in $PM_{2.5}$ nonattainment areas. PC 15 at 13. IEPA opposes including any language that allows a transition period for VOM and ammonia before the pollutants would be considered precursors to $PM_{2.5}$ in

any area of the state that would be designated nonattainment for $PM_{2.5}$ in the future. *Id*. at 3. IEPA contends that IERG's interpretation of Appendix S would allow regulated sources a 24-month grace period before regulating VOM and ammonia as precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area regardless of whether IEPA submitted the requisite precursor demonstration to USEPA. *Id*. at 4. IEPA argues that the Federal Register in part states that, "[a]ccordingly, a state will not be required to begin immediate regulation of precursors for which sources will likely be exempted from the regulations upon review of a state's NNSR SIP submission." *Id*. at 10, *citing* 81 FR 58010 at 58122 (Aug. 24, 2016).

IEPA also states that IERG's alternative to include a Board note instead of Section 203.1340(c)(3) would not be adequate. PC 17 at 6. IEPA argues the language would conflict with 40 CFR 51.165(a)(1)(xxxvii)(C)(2) of the blueprint rule. *Id*. After discussion with USEPA, IEPA states that the proposed Board Note would likely not be acceptable to USEPA. *Id*. Therefore, IEPA renews its request that Section 203.1340(c)(3) follow the blueprint language at 40 CFR 5l.l65(a)(l)(xxxvii)(C), which provides that VOM (or volatile organic compounds) and ammonia are precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area. IEPA maintains that this is an element of 40 CFR 50.165(a)(l)(xxxvii)(C)(2) that must be included in revised Part 203, if the revised rule is to be approvable by USEPA:

> C) Any pollutant that is identified under this paragraph (a)(1)(xxxvii)(C) as a constituent or precursor of a general pollutant listed under paragraph (a)(1)(xxxvii)(A) or (B) of this section, provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors identified by the Administrator for purposes of NSR are the following:
>
> *(1)* Volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone nonattainment areas.
>
> *(2)* Sulfur dioxide, Nitrogen oxides, Volatile organic compounds and Ammonia are precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area.

As a result, IEPA argues that Section 203.1340(c) should be:

> c) Any pollutant that is identified under this Section as a constituent or precursor of a general pollutant listed under subsection (a) or (b), provided that such constituent or precursor pollutant may only be regulated under NSR as art of regulation of the general pollutant. Precursors for purposes of NSR are the following:
>
> 1) Except as provided in Section 203.1450, VOM and NO_X are precursors to ozone in all ozone nonattainment areas.
>
> 2) SO_2 and NO_X are precursors to $PM_{2.5}$ for a stationary source located in a $PM_{2.5}$ nonattainment area or, for purposes of Subpart R, a stationary source which would cause or contribute to a violation of a $PM_{2.5}$ NAAQS.

3) VOM and ammonia are precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area.

Board Decision on Regulated Pollutants

The Board agrees with IEPA's interpretation of IERG's proposed language that it could allow a transition period for VOM and ammonia before being regulated as precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area. The Board finds that IEPA must decide whether any transition period should be provided when it submits a precursor demonstration for a $PM_{2.5}$ nonattainment area. Also, the Board agrees with IEPA that the alternative of the proposed Board Note may conflict with the blueprint rule; and an unenforceable Board Note may not be approvable by USEPA. Therefore, the Board declines to move forward to first notice with IERG's proposed language at Section 203.1340(c)(3) or the Board Note. Instead, the Board adopts the language suggested by IEPA at Section 203.1340(c)(3) that tracks the blueprint as follows (see PC 12 at 18):

3) VOM and ammonia are precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area.

Because of these changes, IEPA also requests that the Board remove the incorporation by reference of 40 CFR 51.1006(a)(3) from Section 203.1000. *See* PC 12 Exh. A. The Board agrees and removes the incorporation in its first-notice proposal.

Section 203.1450 Control of Ozone, PM10, and PM2.5

IEPA argues that the last sentence of IERG's proposed Section 203.1450(c) should be removed. PC 12 at 18, Exh. A. The sentence reads:

> "The Agency shall exempt new major stationary sources and major modifications of a particular precursor from the requirements of this Part for $PM_{2.5}$ if the precursor is not a regulated NSR pollutant as provided by Section 203.1340(c)(3)(A)."

IEPA reviewed a reference to IERG's proposed Section 203.1340(c)(3) in proposed Section 203.1450, Control of Ozone, PM_{10}, and $PM_{2.5}$. *Id.* at 18. IEPA states that its statement in footnote 19 in its earlier comments was not accurate. *Id.,* citing PC 6 at 16, n.19. IEPA asserts that, based on language proposed by IEPA, the reference to Section 203.1340(c)(3)(A) in proposed Section 203.1450 would not be appropriate. Therefore, IEPA suggests that the Board delete the last sentence of Section 203.1450(a).

Board Decision on Exemption

Based on its review of the affected sections of the rules and IEPA comments, the Board agrees that the last sentence of proposed Section 203.1450 reflects an inaccurate statement in IEPA's comments. The Board will delete that sentence in the first notice proposal.

Section 203.1600 Construction Permit

IEPA opposes including the last sentence of IERG's proposed Section 203.1600(a), which reads:

> "This includes the requirements in Section 203.1810(h) if IPT [interprecursor trading] would be relied upon for all or a portion of the emissions offsets that must be provided for such source or modification."

IEPA's disapproval stems from proposed Section 203.1810(h) and the inclusion of any IPT of $PM_{2.5}$ or $PM_{2.5}$ precursors in proposed Part 203. *See infra*, *see also* PC 17 at 6. IEPA opposes any provisions in revised Part 203 that would allow IPT for emissions of direct $PM_{2.5}$ and $PM_{2.5}$ precursors. *Id.* IEPA adds that "the blueprint clearly does not mandate the inclusion of IPT in any SIP submittal." *Id.*

Board Decision

Based on the discussion below under Section 203.1810, the Board agrees with IEPA and deletes the last sentence in Section 203.1600(a).

Section 203.1810 Emissions Offsets

IERG's proposed Section 203.1810(g) states how emission reductions for offsets are calculated. Proposed Section 203.1810(h) allows for IPT of emissions offsets for $PM_{2.5}$. PC 7 at 20-21. IERG argues that the federal NA NSR rule allows for IPT of emissions offsets for $PM_{2.5}$. *Id*. at 21.

IEPA opposes any inclusion of IPT of $PM_{2.5}$ or $PM_{2.5}$ precursors in proposed Part 203 and believes Section 203.1810(h) should be removed in its entirety. PC 12 at 22, *see also* PC 17 at 6. IEPA argues that IERG deviated from the language of Section 173(c)(2) of the CAA. PC 12 at 18. IEPA states that IERG has not provided citation, authority, or convincing argument for deviating from the federal language, and therefore IEPA cannot support IERG's proposed language. *Id*. IEPA adds that language from Section 173(c)(2) should be included in proposed Part 203 because it is in the CAA and is consistent with SIPs historically approved by the USEPA. *Id*. at 18-19.

IEPA's position stems from a D.C. Circuit Court case concerning implementation of NAAQS for ozone. PC 6 at 31-32, *see also* Sierra Club, et al. v. Environmental Protection Agency, No. 15-1465 (D.C. Cir. January 29, 2021). IEPA argues that the court rejected USEPA positions when discussing Part D, Subpart 1, which generally addresses requirements for nonattainment areas. PC 6 at 32. The disagreement stemmed from Section 173(c)(1) of the CAA and the definition of "air pollutant" in Section 302(g) of the CAA. *Id*. USEPA argued that these sections gave them broad discretion to define "air pollutant" for the purposes of offsets. *Id*. at 33. USEPA attempted to use that authority to determine that ozone, rather than VOCs or NO_x was the "air pollutant" that should govern the types of offsets required in areas categorized as nonattainment for ozone. *Id*. The court disagreed with USEPA's interpretation, noting that the

statute uses the term "*such* air pollutant" when discussing emissions. *Id*., *citing* Sierra Club, et al., (D.C. Cir. January 29, 2021), (emphasis added). The court found that ozone is not a pollutant that can be emitted directly into the air, rather it is a result of chemical interactions involving solar radiation and precursor pollutants including VOCs and NO_x. *Id*. Therefore, USEPA's interpretation of including ozone was incorrect. *Id*. IEPA acknowledges that this decision was based on offsets in ozone nonattainment areas, but it believes this reasoning is transferrable to $PM_{2.5}$ which is a result of an interaction between chemicals like nitrogen oxides, sulfur oxides, and volatile organic compounds and/or ammonia.

IERG argues that IEPA's understanding of this ruling is flawed and that the ruling was limited to ozone and its precursors. PC 7 at 22, PC 15 at 14. IEPA responds that it is not extrapolating the court's finding regarding ozone to $PM_{2.5}$, but rather relying on the court's statements on the general offset provision in Part D, Subpart 1. PC 17 at 7. IEPA also notes that 40 CFR 51.165(a)(11) allows submitting a plan that *may* authorize the offset requirements for emissions of direct $PM_{2.5}$ and $PM_{2.5}$ precursors be satisfied by IPT but does not mandate the inclusion of IPT. *Id*. at 6 (emphasis added).

IEPA argues that, because of this, the acronym for "IPT Interprecursor Trading" should be deleted from Section 203.1010. PC 12, Exh. A.

Board Decision on Offsets

Based on the record before it, the Board is convinced that IEPA's position on the proposed emissions offsets language is correct. For Section 203.1810(g), the Board finds that the language should mirror the CAA and language traditionally used in SIPs approved by the USEPA.

The Board agrees with IEPA's interpretation of the D.C. Circuit Court's rationale regarding emissions of air pollutants, which includes the pollutant formed by precursor pollutants, or solely the precursor pollutants actually emitted. As explained by the IEPA, 40 CFR 5l.l65(a)(l1) provides for submitting a plan that may authorize the offset requirements for emissions of direct $PM_{2.5}$ and $PM_{2.5}$ precursors may be satisfied by IPT. However, the blueprint does not require including IPT in any SIP submittal. In light of this, the Board will delete Section 203.1810(h) in its entirety as suggested by IEPA and remove the acronym for IPT in Section 203.1010.

Sections 203.2280, 203.2290, and 203.2330: Significant Levels

IEPA disagreed with IERG's proposed language in Sections 203.2280, 203.2290, and 203.2330, requesting that the language include the sentence "or in the [Clean Air] Act, whichever is lower." PC 12, *see* Exh. A. IERG agreed to add the requested language, if the Board would add a note after each section:

> "BOARD NOTE: At the time the Board adopted the amendments to this provision, the Clean Air Act did not provide significant levels."

PC 15 at 15-16. IERG argues that the CAA does not currently provide significant levels, and the proposed Board Note would eliminate any confusion an affected source would have in reading the provisions. *Id*. at 16.

IEPA opposes including such a Board Note, arguing the notes add nothing substantive and could in fact cause more confusion. PC 17 at 9. IEPA argues that the note would only be relevant at the time of adoption. It added that the proposed note could mislead regulated entities that they did not need to confirm whether there are more stringent significant levels. *Id*. at 9-10.

Board Decision

The Board agrees that the Board Note could confuse parties in the future and does not add a substantive requirement. Therefore, the Board will not include the Board Notes suggested by IERG.

SECTION-BY-SECTION SUMMARY OF PROPOSAL

The rules proposed for first notice largely adopt the amendments proposed by IERG to update the Board's NA NSR rules. The section-by-section summary reviews the record to provide a brief summary of the Board's first-notice proposal.

Part 201: Permits and General Provisions

Subpart D: Permit Applications and Review Process

Section 201.169 Special Provisions for Certain Operating Permits. IERG's proposed amendments to subsection (a)(3) ensure persons with permits issued under this Section are subject to the Part 204 procedures for new and modified emission units. PC 3 at 10-11; PC 16 at 10.

Section 201.175: Registration of Smaller Sources (ROSS).

Subsection (g)(2)(A). IERG's proposed amendments add Part 204 to a list of applicable requirements an owner or operator must comply with. PC 3 at 11; PC 16 at 16.

Subsection (g)(2)(A)(ii). IERG's proposed amendments add Part 204 to a list of references for permit application requirements. PC 3 at 11; PC 16 at 16.

Subsection (g)(2)(B)(iii). IERG's proposed amendments add Part 204 to a list of references for permit application requirements. PC 3 at 12; PC 16 at 16.

Part 202: Alternative Control Strategies

In Section 202.306, IERG's proposed amendments add Part 204 to a list of requirements for an Alternative Control Strategy to be issued in a permit. PC 3 at 12; PC 16 at 21.

Part 203: Major Stationary Sources Construction and Modification

The proposed amendments to Part 203 update the rules to make them current with the CAA and the federal NA NSR program. IERG states that the rules have not been updated since 1998, and therefore do not include significant amendments to the federal NA NSR rules. SR at 16. The proposed changes include substantive changes, delete obsolete provisions, and reorganize the NA NSR requirements. *Id*. IERG notes that "in addition to mirroring the federal language, IERG's proposed revisions to Part 203 also track, when possible, the language and regulatory structure in the Board's Prevention of Significant Deterioration ("PSD") regulations at 35 Ill. Adm. Code Part 204." 2/15/22 IERG Ans. at 2. This consistency, IERG argues, is valuable for regulated entities because they will likely have to go through both a PSD analysis and NA NSR analysis when proposing a project that would trigger NSR review. *Id.*

IERG suggests adopting new subparts to Part 203 and sunsetting old provisions rather than amending the current provisions of Part 203. SR at 16. IERG argues that the changes are so comprehensive and numerous that new subparts are the easiest way to make the changes. *Id*.

In developing changes, IERG started with the blueprint of the rule at 40 CFR § 51.165. SR at 16. IERG then incorporated language from Appendix S (40 CFR Part 51, Appendix S). *Id*. IERG also attempted to mirror language of Part 204's PSD Program where appropriate, to aid sources that are subject to both Part 203 and Part 204.

Subpart A: General Provisions

Section 203.100: Effective Dates. Proposed subsections (a) through (d) address the transition from existing Subparts A thru H to proposed Subparts I through R. For the reasons above, the Board agrees with IEPA's proposed language and eliminates IERG's proposed subsections (c) and (d). *See supra* at 9-12; PC 16 at 109-10.

Subpart I: General Provisions

IERG's proposed amendments to Subpart I include provisions including incorporations by reference, abbreviations and acronyms, severability, and definitions. SR at 18. IERG states that most of the proposed definitions were taken from the federal blueprint rule or existing Part 203 language. *Id*. Some definitions proposed by IERG combine existing rule text, the federal blueprint, and federal policy or caselaw. *Id*. at 18-24.

Section 203.1000: Incorporations by Reference. IERG proposed to incorporate by reference federal regulations relevant to the proposed rules, as well as the *Standard Industrial Classification Manual, 1972*. *See* SR at 18; PC 16 at 28-29; 110-11.

The Board is removing the incorporation of 40 CFR 51.1006(a)(3) (2021) from the list because of the changes made to Section 203.1340(c)(3)(A). *See supra* at 12-14.

Section 203.1010: Abbreviations and Acronyms. IERG proposed adding abbreviations and acronyms used in this Part. *See* SR at 18; PC 16 at 29-30.

Section 203.1020: Severability. IERG proposes this language based on Board rules at 35 Ill. Adm. Code 204.120. The language states that, if any provision within the rules is found invalid, then the remainder of the Part, as well as all scenarios of the provision other than that found invalid, will not be affected. *See* SR at 18; PC 16 at 30.

Section 203.1030: Definitions. IERG proposes this language based on definitions in existing Part 203, with some revisions based on the blueprint rule and 35 Ill. Adm. Code 204.200. SR at 18; *see* PC 16 at 30.

Section 203.1040: Actual Emissions. IERG proposes this language based on federal rules at 40 CFR 51.165(a)(1)(xii), with revisions to proposed paragraph (b) to clarify the basis of demonstration requirement consistent with existing 35 Ill. Adm. Code 203.104. Changes in the definition reflect revisions finalized in 2002 amendments to the federal NSR rules. SR at 19; TSD at 30.

Subsection (a). This subsection defines "actual emissions" as the rate of emissions of a regulated NSR pollutant from an emissions unit. It includes exceptions to when the definition shall apply, and what sections apply to those exceptions.

Subsection (b). This subsection establishes how actual emissions are calculated. Actual emissions as of a particular date comprise the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period that precedes the particular date and is representative of normal source operation. IEPA may allow the use of a different period of time, if that period is more demonstrative of normal source operation. The proposal differs from the federal rules because it specifically lists possible demonstrations with the use of "operating records or other documentation of events or circumstances indicating that the preceding 24-month period is not representative or normal source operations." As with the federal language, actual emissions will be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored or combusted during the selected time period. SR at 19; PC 16 at 30.

Subsection (c). This subsection based on 40 CFR 51.165(a)(1)(xii)(D) states that any emissions unit that has not begun normal operations on a particular date will calculate actual emissions by looking at the potential to emit of the unit on that date.

Section 203.1050: Allowable Emissions. IERG proposes this language based on federal rules at 40 CFR 51.165(a)(1)(xi), with the addition of a reference to 40 CFR Parts 62 and 63 in Section 203.1050(a). "Allowable Emissions" is defined as the emissions rate of a stationary source calculated using the maximum rated capacity of the new source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the standards listed in subsection (a) through (c).

Subsection (a). This subsection lists the applicable standards in 40 CFR Parts 60, 61, 62, and 63.

Subsection (b). This subsection lists the applicable SIP emissions limitation, including those with a future compliance date.

Subsection (c). This subsection lists emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

Section 203.1060: Available Growth Margin. IERG proposes this language based on Board rules at 35 Ill. Adm. Code 203.110. The proposed section defines "Available growth margin" as:

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

Section 203.1070: Baseline Actual Emissions. IERG proposes this language based on federal rules at 40 CFR 51.165(a)(1)(xxxv), except for two changes in proposed Section 203.1070(b)(3) and (4). IERG proposed that "Baseline Actual Emissions" means "the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with subsections (a) through (d)."

Subsection (a). Based on federal rules, subsection (a) proposes a definition of "baseline actual emissions" for an existing electric utility steam generating unit:

> "the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The Agency shall allow the use of a different time period upon a determination that it is more representative of normal source operation." *See* 40 CFR 51.165(a)(1)(xxxv)(A)

Subsection (a)(1). IERG proposed language based on federal rules stating that the average rate include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions. *See* 40 CFR 51.165(a)(1)(xxxv)(A)(1).

Subsection (a)(2). IERG proposed language based on federal rules stating that the average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period. *See* 40 CFR 51.165(a)(1)(xxxv)(A)(2).

Subsection (a)(3). IERG proposed language based on federal rules for a project involving multiple emissions units, at which a regulated NSR pollutant must use only one consecutive 24-month period to determine the baseline actual emissions for the emissions units being changed. It also proposed that each NSR pollutant may use a different consecutive 24-month period. *See* 40 CFR 51.165(a)(1)(xxxv)(A)(3).

Subsection (a)(4). IERG proposed language based on federal rules stating that the average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions in tons per year and for adjusting this amount if required by subsection (a)(2). *See* 40 CFR 51.165(a)(1)(xxxv)(A)(4).

Subsection (b). Based on federal rules, subsection (b) defines "baseline actual emissions" for existing emissions units (other than an electric utility steam generating unit):

> the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Agency for a permit required by the SIP, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990. *See* 40 CFR 51.165(a)(1)(xxxv)(B).

Subsection (b)(1). IERG proposed language based on federal rules stating that the average rate includes fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions. *See* 40 CFR 51.165(a)(1)(xxxv)(B)(1).

Subsection (b)(2). IERG proposed language based on federal rules stating that the average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period. *See* 40 CFR 51.165(a)(1)(xxxv)(B)(2).

Subsection (b)(3). IERG proposed language based on federal rules stating that the:

> average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period.
>
> . . .
>
> However, if an emission limitation is part of a Maximum Achievable Control Technology standard that the USEPA proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the Agency has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of Section 203.1810(g)(2). *See* 40 CFR 51.165(a)(1)(xxxv)(B)(3).

IERG differs from the federal language by adding a definition of "currently" to make it consistent with 35 Ill. Adm. Code 204.240(b)(3). *See* Prop., Exh. 2 at 1.

Subsection (b)(4). IERG proposed language based on federal rules providing that for a project that involves multiple emissions units, a regulated NSR pollutant must only use one consecutive 24-month period to determine the baseline actual emissions for all the emissions units being changed. It also proposed that each NSR pollutant may use a different consecutive 24-month period. *See* 40 CFR 51.165(a)(1)(xxxv)(B)(4). IERG differs from the federal language by adding "all" before "the emissions units" to make it consistent with 35 Ill. Adm. Code 204.240(b)(4). *See* Prop., Exh. 2 at 1.

Subsection (b)(5). IERG proposed language based on federal rules stating that the average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsections (b)(2) and (b)(3). *See* 40 CFR 51.165(a)(1)(xxxv)(B)(5).

Subsection (c). IERG proposed language for new emissions units based on federal rules that defines "baseline actual emissions" as zero when determining the emissions increase that will result from the initial construction and operation of such unit. *See* 40 CFR 51.165(a)(1)(xxxv)(C). Thereafter, for all other purposes it will equal the unit's potential to emit. *Id*.

Subsection (d). IERG proposed language based on federal rules to calculate "baseline actual emissions" for Plantwide Applicability Limitations (PAL) for a stationary source. Existing electric utility steam generating units calculate under subsection (a), other existing emissions units calculate under subsection (b), and new emissions units calculate according to procedures in subsection (c). *See* 40 CFR 51.165(a)(1)(xxxv)(D).

Section 203.1080: Begin Actual Construction. IERG proposed to define "Begin Actual Construction" based on federal rules as the initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Listed examples of initiation include installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With a change in method of operations, the term refers to on-site activities other than preparatory activities which mark the initiation of the change. *See* 40 CFR 51.165(a)(1)(xv). IERG's proposal differs from the federal rule language by changing "operating" to "operations". *See* Prop., Exh. 2 at 1.

Section 203.1090: Building, Structure, Facility, or Installation.

Subsection (a). IERG proposed based on federal language to define "Building, structure, facility, or installation" as all pollutant-emitting activities belonging to the same industrial grouping, located in one or more contiguous or adjacent properties, and under control of the same person. *See* 40 CFR 51.165(a)(1)(ii). "Pollutant-emitting activities" will be considered the same industrial grouping if they belong to the same "Major Group", as described in the Standard Industrial Classification Manual (incorporated by reference in Section 203.1000). *Id*.

Subsection (b). In addition to subsection (a), based on federal language, IERG adds to the definition:

> "for onshore activities under Standard Industrial Classification (SIC) Major Group 13: Oil and Gas Extraction, all of the pollutant-emitting activities included in Major Group 13 that are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control).

The proposed language further defines adjacent as, "located on the same surface site; or if they are located on surface sites that are located within ¼ mile of one another (measured from the center of the equipment on the surface site) and they share equipment." The proposed language states that "shared equipment" includes, but is not limited to, produced fluids storage tanks, phase separators, natural gas dehydrators or emissions control devices. IERG also proposes that "Surface Site" has the same meaning in this subsection as in 40 CFR 63.761. *See* 40 CFR 51.165(a)(1)(ii).

Section 203.1100: Commence. IERG proposes based on federal language to define "commence" in the context of "construction of a major stationary source or major modification" as the owner or operator having all the necessary preconstruction permits. *See* 40 CFR 51.165(a)(1)(xvi). In addition, the proposed language requires meeting one of two conditions:

Subsection (a). The first condition requires that the owner or operator has begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

Subsection (b). The second condition requires that the owner or operator has entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

Section 203.1110: Complete. IERG proposes based on Board rules to define "complete," when in reference to an application, as an application that contains all information necessary to process an application. *See* 35 Ill. Adm. Code 204.330.

Section 203.1120: Construction. IERG proposes to define "construction" based on federal rules as any physical change or change in the method of operation that would result in a change in emissions. *See* 40 CFR 51.165(a)(1)(xviii). This includes fabrication, erection, installation, demolition, or modification of an emissions unit. IERG's proposed language redesignates existing Section 203.116 with non-substantive changes.

Section 203.1130: Dispersion Technique. IERG's proposed definition stems from federal language, but IERG proposes changing "facility" to "stationary source" throughout the section. Additionally, IERG proposes changing "where" in subsection (b)(2) to "when", consistent with 35 Ill. Adm. Code 204.350(b)(2).

Subsection (a). IERG proposed defining "dispersion technique" using federal language (40 CFR 51.100(hh)) as any technique attempting to affect the concentration of a pollutant in the ambient air by one of three ways found in subsections (a)(1) through (a)(3).

Subsection (a)(1). The first technique is using a portion of a stack which exceeds good engineering practice stack height.

Subsection (a)(2). The second technique is "[v]arying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant."

Subsection (a)(3). The third technique is increasing final exhaust gas plume rise by any of the following: manipulating source process parameters, exhaust gas parameters, stack parameters, combining exhaust gases from several existing stacks into one stack, or any other selective handling of exhaust gas streams that increase the exhaust gas plume rise.

Subsection (b). IERG proposed that "dispersion technique" does not include the five scenarios in subsections (b)(1) through (b)(5).

Subsection (b)(1). The first scenario is "[t]he reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the stationary source generating the gas stream."

Subsection (b)(2). The second scenario is merging exhaust gas streams when one of three conditions in subsections(b)(2)(A) through (b)(2)(C) is met.

Subsection (b)(2)(A). The first condition is that the source owner or operator demonstrates the stationary source was originally designed and constructed with such merged gas streams.

Subsection (b)(2)(B). The second condition is that, before July 8, 1985, the merging is part of a change in operation at the stationary source that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This proposed exclusion to the definition is limited to the pollutant affected by such a change in operation; or

Subsection (b)(2)(C). The third condition is that, before July 8, 1985, the merging is part of a change in operation at the stationary source that includes the installation of emissions control equipment or was carried out for sound economic or engineering reasons. When an increase in emissions limits occurred, or in the event no emissions limitation existed prior to the merging and increase in the quantity of pollutants actually emitted prior to the merging, the Agency shall presume the merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Unless the owner or operator demonstrated the merging was not significantly motivated by such an intent, the agency shall deny cred for the effects of such merging when calculating the allowable emissions for the source.

Subsection (b)(3). The third scenario is smoke management in agricultural or silvicultural prescribed burning programs.

Subsection (b)(4). The fourth scenario is episodic restrictions on residential wood burning and open burning.

Subsection (b)(5). The fifth scenario is techniques under subsection (a)(3) which increase final exhaust plume rise and the resulting allowable emissions of SO_2 from the stationary source do not exceed 5,000 tpy.

Section 203.1140: Electric Utility Steam Generating Unit. IERG defined "electric utility steam generating unit" based on federal language as any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. *See* 40 CFR 51.165(a)(1)(xx). IERG also includes any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility. *Id*.

Section 203.1150: Emission Offset. IERG proposed the definition of "emission offset" based on Board rules as a creditable emissions reduction that is used to compensate for the increase in emissions resulting from a new major stationary source or a major modification in accordance with Section 203.1810. *See* 35 Ill. Adm. Code 203.121.

Section 203.1160: Emissions Unit. IERG proposed that "emissions unit" means "any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit as defined in Section 203.1140." *See* 40 CFR 51.165(a)(1)(xvii). For purposes of this part, there are two types of emissions units. *Id*.

Subsection (a). The first type of emissions unit is a new one, which is any emissions nit that is (or will be) newly constructed and had existed for less than 2 years from the date at which such emissions unit first operated.

Subsection (b). The second type of emissions unit is an existing one, which is a unit that does not meet the requirements in subsection (a). A replacement unit (*See* Section 203.1350) is considered an existing emissions unit.

Section 203.1170: Excessive Concentration. IERG proposed defining "[e]xcessive concentration," "for the purpose of determining good engineering practice stack height under" Section 203.1200(a)(3) in one of the following three ways in subsections (a) through (c). The Board notes that in IERG's updated proposed rule language an inadvertent error occurred in Section 203.1170. Comparing the original proposed text and the reorganized updated proposed rule of PC 16, the Board corrects "Section 203.1200(0" to "Section 203.1200(a)(2)" or "Section 203.1200(a)(3)" as necessary. PC 16 at 118.

Subsection (a). The first definition for "sources seeking credit for stack height exceeding that established under Section 203.1200[(a)(2)], is a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by

nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to this Part, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than an ambient air increment under Section 204.900 of 35 Ill. Adm. Code Part 204. The allowable emission rate to be used in making demonstrations of excessive concentration shall be prescribed by the NSPS that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Agency, an alternative emission rate shall be established in consultation with the source owner or operator."

Subsection (b). The second definition for "sources seeking credit for increases in existing stack heights up to the heights established under Section 203.1200[(a)(2)], is either (i) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subsection (a), except that the emission rate specified by the SIP (or, in the absence of such a limit, the actual emission rate) shall be used, or (ii) the actual presence of a local nuisance caused by the existing stack, as determined by the Agency." IERG removed "after October 11, 1983" from subsection (b), consistent with 35 Ill. Adm. Code 204.380.

Subsection (c). The third definition for "sources seeking credit for a stack height determined under Section 203.1200[(a)(2)] where the Agency requires the use of a field study or fluid model to verify good engineering practice stack height, for sources seeking stack height credit based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit based on the aerodynamic influence of structures not adequately represented by the equations in Section 203.1200[(a)(2)], is a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects." IERG removed "after January 12, 1979" from subsection (c), consistent with 35 Ill. Adm. Code 204.380.

Section 203.1180: Federally Enforceable. IERG proposed that "[f]ederally enforceable" means all limits and conditions enforceable by USEPA. *See* 40 CFR 51.165(a)(1)(xiv). This includes "requirements developed pursuant to 40 CFR Parts 60, 61, 62 and 63 (incorporated by reference in Section 203.1000), requirements within the SIP, any permit requirements established pursuant to 40 CFR 52.21 (incorporated by reference in Section 203.1000) or this Part or under regulations approved pursuant to 40 CFR Part 51, Subpart I (incorporated by reference in Section 203.1000), including operating permits issued under an USEPA-approved program that is incorporated into the SIP and expressly requires adherence to any permit issued under such program." *Id*. IERG deviated from the federal language by adding reference to 40 CFR Parts 62 and 63, consistent with 35 Ill. Adm. Code 204.400.

Section 203.1190: Fugitive Emissions. IERG proposed that "[f]ugitive emissions" means emission that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. *See* 40 CFR 51.165(a)(1)(ix).

Section 203.1200: Good Engineering Practices.

Subsection (a). IERG proposed that "[g]ood engineering practice", as applied to stack height, means the greater of three measurements. PC 16 at 119.

Subsection (a)(1). The first of these measurements is "65 meters, measured from the ground-level elevation at the base of the stack". PC 16 at 119.

Subsection (a)(2). The second measurement includes two alternatives. PC 16 at 119-120.

Subsection (a)(2)(A). The first alternative applies to a "stack in existence on January 12, 1979, and for which the owner or operator had obtained all necessary preconstruction approvals or permits required under 40 CFR Parts 51 and 52." The height is measured by the formula

Hg = 2.5H,

where:
Hg = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,
H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation. PC 16 at 119.

Subsection (a)(2)(B). The second alternative applies to "all other stacks." The height is measured by the formula

Hg = H + 1.5L

where:
Hg = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,
H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack, and
L = lesser dimension, height or projected width, of nearby structure(s) provided that the USEPA or the Agency may require the use of a field study or fluid model to verify good engineering practice stack height for the source. PC 16 at 119-20.

Subsection (a)(3). The third measurement is "[t]he height demonstrated by a fluid model or a field study approved by the USEPA or the Agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric

downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features." PC 16 at 120.

Subsection (b). IERG proposed that "stack" means, for the purposes of this section, "any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares." Including the definition of "stack" in this subsection differs from the federal language but is consistent with 35 Ill. Adm. Code 204.420(b). *See* 40 CFR 51.100(ff). PC 16 at 120.

Section 203.1210: Lowest Achievable Emission Rate. IERG proposed based on 40 CFR 51.165(a)(1)(xiii) that "Lowest achievable emission rate" or "LAER" means, for any source, the more stringent rate of the following two limitations.

Subsection (a). The first of the two limitations is the most stringent emissions limitation found in the implementation plan of any State for such class or category or stationary source, unless the owner or operator of the stationary source shows the limitation is not achievable.

Subsection (b). The second limitation is the most stringent emissions limit achieved in practice by such class or category of stationary sources. When applied to a modification, it means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. This term does not permit a new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source performance standard adopted by the USEPA under Section 111 of the CAA and made applicable in Illinois under Section 9.1 of the Act. IERG added references to the CAA and 415 ILCS 5/9.1 consistent with 35 Ill. Adm. Code 203.301(a)(2).

Section 203.1220: Major Modification.

Subsection (a). IERG proposed that "major modification", except as provided in subsections (d) through (f), "means any physical change, or change in the method of operation of a major stationary source that would result in: a significant emissions increase (as defined in Section 203.1380) of a regulated NSR pollutant (as defined in Section 203.1340); and a significant net emissions increase of that regulated NSR pollutant for which the source is a major stationary source." *See* 40 CFR 51.165(a)(1)(v)(A)(1) and (2). IERG's proposal differs from the federal rules by adding the exceptions of subsections (d) through (f) and changing "a significant net emissions increase of that pollutant from the major stationary source" to "a significant net emissions increase of that regulated NSR pollutant for which the source is a major stationary source".

Subsection (b). IERG proposed that a significant emissions increase, as defined in Section 203.1380, from any emissions units or net emissions increase, as defined in Section 203.1260, at a major stationary source that is significant for VOM or NO_x shall be considered significant for ozone. *See* 40 CFR 51.165(a)(1)(v)(B). IERG added the reference to NOx consistent with 35 Ill. Adm. Code 204.490(b).

Subsection (c). IERG proposed subsection (c) which lists actions that are not a physical change or change in the method of operation. *See* 40 CFR 51.165(a)(1)(v)(C). IERG's proposed language mimics federal language, except for non-substantive changes. *See* Prop., Exh. 2 at 2.

Subsection (c)(1). These changes do not include "[r]outine maintenance, repair and replacement.,"

Subsection (c)(2). These changes do not include using an alternative fuel or raw material based on two specified occurrences.

Subsection (c)(2)(A). Thes first of these two occurrences is "[a]n order under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 USC 791) (or any superseding legislation)."

Subsection (c)(2)(B). The second occurrence is "[a] natural gas curtailment plan under the Federal Power Act (16 USC 791)."

Subsection (c)(3). The third exclusion is using an alternative fuel by reason of an order or rule under Section 125 of the CAA (42 USC 7425).

Subsection (c)(4). The fourth exclusion is using an alternative fuel at a steam generating unit that is generated from municipal solid waste.

Subsection (c)(5). These changes also do not include a stationary source that uses alternative fuel or raw material and meets one of two conditions.

Subsection (c)(5)(A). The first of the two conditions is that the source was capable, before December 21, 1976, of accommodating alternative fuels, unless such a change would be prohibited under any federally enforceable permit condition established after December 21, 1976, pursuant to 40 CFR 52.21, 35 Ill. Adm. Code Part 204, this Part, or 35 Ill. Adm. Code 201.142 or 201.143.

Subsection (c)(5)(B). The second condition is that the source is approved by permit to use an alternative fuel or raw material under 40 CFR 52.21, this Part, Part 204, or 35 Ill. Adm. Code 201.142 or 201.143.

Subsection (c)(6). These changes do not include an increase in the hours of operation or production rate, unless that increase is prohibited under any enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21, 35 Ill. Adm. Code Part 204, this Part, or 35 Ill. Adm. Code 201.142 or 201.143.

Subsection (c)(7). These changes do not include "[a]ny change in ownership at a stationary source."

Subsection (d). IERG proposed that major stationary sources of VOM or NO_x in areas classified as serious or severe nonattainment for ozone (other than a source which emits or has

the potential to emit 100 tons or more of VOM or NO_x per year), whenever any change at that source results in a significant increase in emissions of VOM or NO_x, respectively, "from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a major modification for purposes of this Part, except such increase shall not be considered a major modification for such purposes if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of VOM or NO_x, respectively, from other operations, units, or activities within the source at an internal offset ration of at least 1.3 to 1. *See* 35 Ill. Adm. Code 203.207(e).

Subsection (e). IERG proposed that in areas classified as extreme non-attainment for ozone, beginning on the date of that classification, any physical change or change in operation resulting in increases in the emissions of VOM or NO_x from a discrete operation, unit or other pollutant emitting activity shall be considered a major modification. *See* 35 Ill. Adm. Code 203.207(f).

Subsection (f). IERG proposed an exemption from the definition for particular regulated NSR pollutants "when the major stationary source is complying with the requirements under Subpart Q for a PAL for that pollutant." *See* 40 CFR 51.165(a)(1)(v)(D). The definition at Section 203.2230 will apply in these instances. *Id*.

Section 203.1230: Major Stationary Source.

Subsection (a). Based on federal language, IERG proposed eight subsections defining a "major stationary source".

Subsection (a)(1). IERG proposed that, for areas designated as nonattainment for ozone, "a major stationary source for ozone is a stationary source which emits or has the potential to emit VOM in an amount equal to or greater than" the amounts set forth in subsections (a)(1)(A) through (a)(1)(C). *See* 40 CFR 51.165(a)(1)(iv)(A)(1). IERG reorganized existing federal language to be consistent with 35 Ill. Adm. Code 203.206(b)(1). Additionally, IERG revised it by adding "for ozone" after "a major stationary source" and does not include a 50 tpy VOM threshold for an area within ozone transport region because Illinois is not in the ozone transport region. *See* Prop., Exh. 2 at 2.

Subsection (a)(1)(A). The first of these thresholds is "100 tpy in an area classified as marginal or moderate nonattainment for ozone."

Subsection (a)(1)(B). The second of these thresholds is "50 tpy in an area classified as a serious nonattainment for ozone."

Subsection (a)(1)(C). The third of these thresholds is "25 tpy in an area classified as severe nonattainment for ozone."

Subsection (a)(1)(D). The fourth of these thresholds is "10 tpy in an area classified as extreme nonattainment for ozone."

Subsection (a)(2). IERG proposed that, for areas designated as nonattainment for ozone, "a major stationary source for ozone is a stationary source which emits or has the potential to emit NO_x in an amount equal or greater than" amounts listed in subsections (a)(2)(A) through (a)(2)(D), "unless the USEPA has made a finding under Sections 110 and 182(f) of the CAA (42 USC 7410, 7511a(f)) that controlling of emissions of NO_x from such source shall not be required." *See* 40 CFR 51.165(a)(1)(iv)(A)(2). IERG reorganized the federal language to be consistent with 35 Ill. Adm. Code 203.206(b)(3). It also removed reference to 100 tpy NOx thresholds for ozone transport rules, because Illinois is not in the ozone transport region. *See* Prop., Exh. 2 at 2.

Subsection (a)(2)(A). The first of these thresholds is "100 tpy in an area classified as marginal or moderate nonattainment for ozone."

Subsection (a)(2)(B). The second threshold is 50 tpy in an area classified as a serious nonattainment for ozone."

Subsection (a)(2)(C). The third threshold is 25 tpy in an area classified as severe nonattainment for ozone."

Subsection (a)(2)(D). The fourth threshold is10 tpy in an area classified as extreme nonattainment for ozone."

Subsection (a)(3). IERG proposed that, for areas designated nonattainment for PM_{10}, a major stationary source is defined as a stationary source that emits or has potential to emit the amounts listed in subsection (a)(3)(A) and (a)(3)(B). *See* 40 CFR 51.165(a)(1)(iv)(A)(1). IERG reorganized the federal language to be consistent with 35 Ill. Adm. Code 203.206(b)(4). *See* Prop., Exh. 2 at 2.

Subsection (a)(3)(A). The first of these thresholds is "100 tpy or more of PM_{10} in an area classified as moderate nonattainment of PM_{10}."

Subsection (a)(3)(B). The second threshold is "70 tpy or more of PM_{10} in an area classified as serious nonattainment for PM_{10}."

Subsection (a)(4). IERG proposed that, for areas designated nonattainment for $PM_{2.5}$, a major stationary source is defined as a stationary source that emits or has potential to emit the amounts listed in subsection (a)(4)(A) through (a)(4)(D). *See* 40 CFR 51.165(a)(1)(iv)(A). IERG reorganized the federal language to be consistent with 35 Ill. Adm. Code 203.206. *See* Prop., Exh. 2 at 2.

Subsection (a)(4)(A). The first of these thresholds is "100 tpy or more of direct $PM_{2.5}$ emissions in an area classified as moderate nonattainment for $PM_{2.5}$."

Subsection (a)(4)(B). The second threshold is "100 tpy or more of any individual precursor for $PM_{2.5}$ (as required in Section 203.1340) in any area classified as moderate nonattainment for $PM_{2.5}$."

Subsection (a)(4)(C). The third threshold is "70 tpy or more of direct $PM_{2.5}$ emissions in an area classified as serious nonattainment for $PM_{2.5}$."

Subsection (a)(4)(D). The fourth threshold is "70 tpy or more of any individual precursor for $PM_{2.5}$ (as required in Section 203.1340), in an area classified as serious nonattainment for $PM_{2.5}$."

Subsection (a)(5). IERG proposed that, for areas designated nonattainment for CO, a major stationary source is defined as a stationary source that emits or has potential to emit the amounts is subsections (a)(5)(A) or (a)(5)(B). *See* 40 CFR 51.165(a)(1)(iv)(A)(1). IERG reorganized the federal language to be consistent with 35 Ill. Adm. Code 203.206(b)(5). *See* Prop., Exh. 2 at 2.

Subsection (a)(5)(A). The first of these thresholds is "100 tpy or more in an area classified as moderate nonattainment for CO, except as provided in subsection (a)(5)(B)." PC 16 at 123.

Subsection (a)(5)(B). The second threshold is "50 tpy or more in an area classified as serious nonattainment for CO where stationary sources significantly contribute to ambient CO levels, as determined under rules issued by the USEPA, pursuant to the CAA."

Subsection (a)(6). IERG proposed that for areas designated nonattainment for NO_2, a major stationary source is defined as a stationary source that emits or has potential to emit 100 tpy or more of NO_x. *See* 40 CFR 51.165(a)(1)(iv)(A)(1). IERG reorganized the federal language to be consistent with 35 Ill. Adm. Code 203.206(b)(2). *See* Prop., Exh. 2 at 2.

Subsection (a)(7). IERG proposed that, for areas designated nonattainment for a pollutant other than those pollutants addressed in subsections (a)(1) through (a)(6), a major stationary source is one which emits or has the potential to emit 100 tpy or more of the pollutant. *See* 40 CFR 51.165(a)(1)(iv)(A)(1). IERG reorganized the federal language to be consistent with 35 Ill. Adm. Code 203.206(b)(6). *See* Prop., Exh. 2 at 2.

Subsection (a)(8). IERG proposed that an area outside of designated nonattainment areas for purposes of proposed Subpart R, a major stationary source is a stationary source which emits or has the potential to emit 100 tpy or more of a regulated NSR pollutant. *See* 40 CFR 51.165(a)(1)(iv)(A)(1).

Subsection (b). IERG proposed that a physical change that occurs at a stationary source that does not qualify under subsection (a) as a major stationary source will be considered a major stationary source if the change itself would constitute a major stationary source. *See* 40 CFR 51.165(a)(1)(iv)(A)(3). IERG proposed non-substantive changes to the federal language based on 35 Ill. Adm. Code 203.206(c).

Subsection (c). IERG proposed that fugitive emissions of a stationary source will not be included when determining whether a source constitutes a major stationary source for the

purposed of this Section unless the source belongs to one of the categories listed in subsections (c)(1) through (c)(27). *See* 40 CFR 51.165(a)(1)(iv)(C).

Section 203.1240: Nearby. IERG proposed defining "nearby" when referencing a specific structure or terrain feature as described in subsections (a) and (b). *See* 40 CFR 51.100(jj). The Board notes that IERG's updated proposed rule appears to include inadvertent error in subsections (a) and (b). Based on the original proposed text and the reorganized language of PC 16, the Board corrects "Section 203.1200(0" to "Section 203.1200(a)(3)". PC 16 at 125.

Subsection (a). To apply the formulae in Section 203.1200(b), IERG proposed that "nearby" means "that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile)."

Subsection (b). For demonstrations under Section 203.1200(b), IERG proposed that "nearby" means not greater than 0.8 km (1/2 mile):

> except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if such feature achieves a height 0.8 km from the stack that is at least 40 percent of the good engineering practice stack height determined by the formula provided in Section 203.1200(b)(2) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

Section 203.1250: Necessary Preconstruction Approvals or Permit. IERG proposed that "necessary preconstruction approvals or permits" means "those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable SIP." IERG's proposal differs from the federal language by adding "permits or approvals required under", consistent with 35 Ill. Adm. Code 204.540.

Section 203.1260: Net Emissions Increase.

Subsection (a). IERG proposed that "net emissions increase", in reference to regulated NSR pollutants emitted by a major stationary source, means the amount by which the sums of the amounts in subsections (a) and (b) exceed zero. *See* 40 CFR 51.165(a)(1)(vi)(A).

Subsection (a)(1). The first of these two amounts is the increase in emissions resulting from a physical change or change in the method of operation at a stationary source, calculated according to Section 203.1410(c); and

Subsection (a)(2). The second amount is any other increases or decreases in actual emissions at the major stationary source that are contemporaneous with the change and are creditable. Baseline actual emissions for calculating these increase and decrease shall be

calculated pursuant to Section 203.1070, except that Section 203.1070(a)(3) and Section 203.1070(b)(4) shall not apply.

Subsection (b). IERG proposed steps to determine whether the increase or decrease in emissions is available.

Subsection (b)(1). IERG first proposed that, except for increases and decreases in VOM and NO_x emissions in serious and severe ozone nonattainment areas addressed in Section 203.1370(c), "an increase or decrease in actual emissions is contemporaneous only if it occurs between the date that an increase from a particular change occurs and the date five years before a timely and complete application is submitted for the particular change." The change must have also occurred after April 24, 1979, or the date the area is designated by the USEPA as a nonattainment area for the pollutant, whichever is more recent. *See* 40 CFR 51.165(a)(1)(vi)(C)(1). IERG's proposal is based on the federal requirement but with wording consistent with 35 Ill. Adm. Code 203.208(a).

Subsection (b)(2). IERG proposed and decreases in actual emissions are creditable if they comply with the two conditions. *See* 35 Ill. Adm. Code 203.208(b), and 40 CFR 51.165(a)(1)(VI)(D).

Subsection (b)(2)(A). The first condition is that it is creditable if at the time the particular change occurs, there is not an in effect a permit issued under this Part which relied on the same increase or decrease in actual emissions; and

Subsection (b)(2)(B). The second condition is that it is creditable "only to the extent the new and old levels differ."

Subsection (b)(3). A decrease in actual emissions is creditable to the extent that it meets condition in subsection (b)(3)(A) through (b)(3)(D). *See* 40 CFR 51.165(a)(1)(vi)(E). IERG's proposal is based on federal language but with wording consistent with 35 Ill. Adm. Code 203.208(c). Additionally, IERG's proposal refers to state air construction permitting programs.

Subsection (b)(3)(A). IERG proposed that the decrease is creditable if "[i]t is enforceable as a practical matter at and after the time that actual construction on the particular change begins."

Subsection (b)(3)(B). IERG proposed that the decrease is creditable if "[i]f it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change."

Subsection (b)(3)(C). IERG proposed that the decrease is creditable if "[t]he old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions."

Subsection (b)(3)(D). IERG proposed that the decrease is creditable if "[t]he Agency has not relied on it in issuing any permit under 35 Ill. Adm. Code 201.142 or 201.143 or this Part or

35 Ill. Adm. Code Part 204 or 40 CFR 52.21 and has not relied on it for demonstrating attainment or reasonable further progress. *See* PC 16 at 127.

Subsection (b)(4). IERG proposed that "[a]n increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any emissions unit that replaces an existing emissions unit and requires a shakedown becomes operational only after a shakedown period, not to exceed 180 days." *See* 40 CFR 51.165(a)(1)(VI)(F). IERG's proposed language is the same as the federal language, except it replaces "replacement unit" with "emission unit that replaces an existing emissions unit" consistent with 35 Ill. Adm. Code 204.550(f). *See* Prop., Exh. 2 at 3.

Subsection (b)(5). IERG proposed that Section 203.1040(b) does not apply when determining creditable increases and decreases after a change. *See* 40 CFR 51.165(a)(1)(VI)(G).

Section 203.1270: Nonattainment Area. IERG proposed that "nonattainment area" is defined as "[a]n area designated by the USEPA as nonattainment for a given pollutant pursuant to Section 107 of the CAA (42 USC 7407) in Subpart C of 40 CFR Part 81." *See* 35 Ill. Adm. Code 203.127. IERG's proposal is based on state rules but adds a reference to Subpart C of 40 CFR Part 81 consistent with 40 CFR 51.165(a)(2)(i). *See* Prop., Exh. 2 at 3.

Section 203.1280: Nonattainment New Source Review (NA NSR) Permit. IERG proposed that "Nonattainment New Source Review (NA NSR) Permit" means "a permit or a portion of a permit for a new major source or major modification that is issued by the Agency under the construction permit program required by Section 9.1(c) of the Act that has been approved by USEPA and incorporated into the Illinois SIP to implement the requirements of Section 173 of the CAA and 40 CFR 51.165." *See* 415 ILCS 5/3.298.

Section 203.1290: Potential to Emit. IERG proposed that "potential to emit" is defined as "the maximum capacity of a stationary source to emit a certain pollutant based on its physical and operational design. *See* 40 CFR 51.165(a)(1)(iii). If there are any physical or operational limitations on the capacity of the source to emit a pollutant, which includes air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, the limitations will be considered part of the source's design "only if the limitation or the effect it would have on emissions is federally enforceable or legally and practicably enforceable by a state or local air pollution control agency. *Id*. Additionally, secondary emissions are not counted in determining the potential to emit of a stationary source. *Id*. IERG's proposed language is the same as the federal language, except it adds "or legally and practicably enforceable by a state or local air pollution control agency," consistent with 35 Ill. Adm. Code 204.560. *See* Prop., Exh. 2 at 3.

Section 203.1300: Process Unit. IERG proposed that "process unit" means "any collection of structures and/or equipment that processes, assembles, applies, blends, or otherwise uses material inputs to produce or store an intermediate or completed product. A process can include more than one emissions unit." *See* 35 Ill. Adm. Code 204.580.

Section 203.1310: Project. IERG proposed that "project" is defined as "a physical change in, or a change in method of operation of, an existing major stationary source." *See* 40 CFR 51.165(a)(1)(xxxix).

Section 203.1320: Projected Actual Emissions.

Subsection (a). IERG proposed that "projected actual emissions" is defined as "the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after a project, or in any one of the ten years following that date if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emission increase at the major stationary source." *See* 40 CFR 51.165(a)(1)(xxviii).

Subsection (b). IERG proposed that when determining "projected actual emissions" under subsection (a), before actual construction begins, the owner or operator of a major stationary source must meet the requirements in subsections (b)(1) through (b)(4). *See* 40 CFR 51.165(a)(1)(xxviii).

Subsection (b)(1). IERG first proposed that, in determining actual emissions, the owner or operator must consider all relevant information, including historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under Illinois' SIP.

Subsection (b)(2). IERG next proposed that the owner or operator must include all fugitive emissions to the extent they are quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

Subsection (b)(3). IERG proposed that the owner or operator must exclude, when calculating an increase in emissions that result from a project, the portion of the unit's emissions following the project that an existing unit "could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under Section 203.1070 and that are also unrelated to the particular project, including any increased utilizations due to product demand growth."

Subsection (b)(4). IERG proposed that, instead of using the methods in subsections (b)(1) through (b)(3), an owner or operator may choose to use the emissions unit's potential to emit, in tons per year, as defined by Section 203.1290.

Section 203.1330: Reasonable Further Progress. IERG proposed that "reasonable further progress" is defined as "the annual incremental reductions in the emissions of the pollutant as determined by the USEPA pursuant to Part D of Title I of the CAA (42 USC 7501 et seq.) and federal regulations adopted pursuant thereto." *See* 35 Ill. Adm. Code 203.131. IERG's

proposed language is identical to existing state law, except they remove "applicable air". *See* Prop., Exh. 2 at 3.

Section 203.1340: Regulated NSR Pollutant. IERG proposed that "regulated NSR pollutant" means pollutants specified in subsection (a) through (d).

Subsection (a). IERG first proposed that the term means "NO_x or VOM." *See* 40 CFR 51.165(a)(1)(xxxvii)(A).

Subsection (b). IERG next proposed that the term means "[a]ny pollutant for which a NAAQS has been promulgated." *See* 40 CFR 51.165(a)(1)(xxxvii)(B).

Subsection (c). IERG next proposed that the term means "[a]ny pollutant that is identified under this Section as a constituent or precursor of a general pollutant listed under subsection (a) or (b), provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant." *See* 40 CFR 51.165(a)(1)(xxxvii)(C). IERG proposed that a precursor for purposes of NSR are those listed in subsections (c)(1) through (c)(3).

Subsection (c)(1). IERG proposed that, "[e]xcept as provided in Section 203.1450, VOM and NO_x are precursors to ozone in all ozone nonattainment areas." *See* 40 CFR 51.165(a)(1)(xxxvii)(C)(1). IERG's proposal mirrors federal law, except it adds reference to proposed 35 Ill. Adm. Code 203.1450. *See* Prop., Exh. 2 at 3.

Subsection (c)(2). IERG proposed that "SO_2 and NO_x are precursors to $PM_{2.5}$ for a stationary source located in a $PM_{2.5}$ nonattainment area or, for purposes of Subpart R, a stationary source which would cause or contribute to a violation of a $PM_{2.5}$ NAAQS." *See* 40 CFR 51.165(a)(1)(xxxvii)(C)(2). IERG's proposal is based on federal rules except the language eliminates VOCs and ammonia as precursors. *See* Prop., Exh. 2 at 3. Additionally, the language adds reference to proposed Subpart R. *Id*.

Subsection (c)(3). IERG proposed that, "[e]xcept as provided in subsection (c)(3)(A), VOM and ammonia are precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area beginning 24 months after the date of designation of the area as nonattainment for $PM_{2.5}$." *See* 40 CFR 51 App. S (II)(A)(31)(ii)(b)(4). IERG's proposal is based on federal language but is organized differently.

Subsection (c)(3)(A). IERG proposed that "[i]f the following conditions relating to a demonstration of insignificant contribution for a particular precursor in a particular $PM_{2.5}$ nonattainment area are met, the precursor or precursors addressed by the NA NSR precursor demonstration (VOM, ammonia, or both) shall not be regulated as a precursor to $PM_{2.5}$ in such area: The Agency submits a SIP for USEPA review which contains the state's preconstruction review provisions for $PM_{2.5}$ consistent with 40 CFR 51.165 and a complete NA NSR precursor demonstration consistent with 40 CFR 51.1006(a)(3); and such SIP is determined to be complete by operation of law in accordance with subsection 110(k)(1)(B) of the CAA (42 USC 7410) by the date 24 months after the date of designations."

Subsection (c)(3)(B). IERG also proposed that, "[i]f the USEPA subsequently disapproves the state's preconstruction review provisions for $PM_{2.5}$ and the NA NSR precursor demonstration, the precursor or precursors addressed by the NA NSR precursor demonstration shall be regulated as a precursor to $PM_{2.5}$ in such area as of the date 24 months from the date of designation, or the effective date of the disapproval, whichever date is later."

Subsection (d). IERG proposed that:

> [d]irect $PM_{2.5}$ emissions and PM_{10} emissions will include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for direct $PM_{2.5}$ emissions and PM_{10} emissions in NA NSR permits. Compliance with emissions limitations for direct $PM_{2.5}$ emissions and PM_{10} emissions issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this Part. *See* 40 CFR 51.165(a)(1)(xxxvii)(D); PC 16 at 130.

Section 203.1350: Replacement Unit. IERG proposed that "replacement unit" is defined as an emissions unit that meets all of the requirements listed in subsections (a) through (d). *See* 40 CFR 51.165(a)(1)(xxi). Additionally, IERG proposed that "[n]o creditable emissions reductions shall be generated from shutting down the existing emissions unit that is replaced." *Id*. IERG proposed Section 203.1350 consistent with federal language, except that it added provisions concerning the determination of basic design parameters of a process unit consistent with 35 Ill. Adm. Code 204.620(c). *See* Prop., Exh. 2 at 3.

Subsection (a). IERG first proposed to require that "[t]he emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit."

Subsection (b). IERG next proposed that "[t]he emissions unit is identical to or functionally equivalent to the replaced emissions unit."

Subsection (c). IERG next proposed that "[t]he replacement does not alter the basic design parameter or parameters of the process unit." It further proposed to determine a process unit's basic design parameters based on the factors in subsection (c)1) through (c)(6).

Subsection (c)(1). IERG first proposed that:

> [e]xcept as provided in subsection (c)(3), for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either a maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam

flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on British Thermal Units content shall be used for determining the basic design parameter or parameters for a coal-fired electric utility steam generating unit.

Subsection (c)(2). IERG also proposed that:

[e]xcept as provided in subsection (c)(3), the basic design parameter or parameters for any process unit that is not a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. However, a combustion process unit typically uses maximum rate of fuel input. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.

Subsection (c)(3). IERG proposed that:

[i]f the owner or operator believes the basic design parameter or parameters in subsections (c)(1) and (c)(2) are not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Agency an alternative basic design parameter or parameters for the source's process unit or units. If the Agency approves the use of an alternative basic design parameter or parameters, the Agency shall issue a permit that is legally enforceable that records the basic design parameter or parameters and requires the owner or operator to comply with such parameter or parameters.

Subsection (c)(4). IERG proposed to require that an owner or operator use credible information "such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameter or parameters specified in subsections (c)(1) and (c)(2)." PC 16 at 131

Subsection (c)(5). IERG also proposed to require that, "[i]f design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameter or parameters using the maximum value achieved by the process unit in the five-year period immediately preceding the planned activity."

Subsection (c)(6). IERG also proposed that "[e]fficiency of a process unit is not a basic design parameter."

Subsection (d). As the final criteria, IERG proposed that "[t]he replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit."

Section 203.1360: Secondary Emissions. IERG proposed that "secondary emissions" are:

> "emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions include any emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel. For the purposes of this Part, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the major stationary source or major modification which causes the secondary emissions." *See* 40 CFR 51.165(a)(1)(viii).

IERG's proposal is based on but reorganizes the federal language.

Section 203.1370: Significant.

Subsection (a). IERG proposed that "significant", with reference to a net emissions increase or the potential of a source to emit any of the following regulated NSR pollutants, is equal or greater than:

Nonattainment Pollutant	Regulated NSR Pollutant and Emissions Rate
CO	100 tpy of CO, except pursuant to subsection (b)
NO2	40 tpy of NO_X
SO2	40 tpy of SO_2
PM10	15 tpy of PM10
$PM_{2.5}$	10 tpy of direct $PM_{2.5}$ emissions; 40 tpy of SO_2, 40 tpy of NO_X, 40 tpy of VOM, or 40 tpy of ammonia, to the extent that any such pollutant is defined as a precursor for $PM_{2.5}$ in Section 203.1340.
Ozone	40 tpy of VOM or NO_X, except pursuant to subsections (c) and (d).
Lead	0.6 tpy

See 40 CFR 51.165(a)(1)(x)(A) & (F). IERG also adds a reference to proposed state rules at 35 Ill. Adm. Code 203.1370(b), (c), and (d). *See* Prop., Exh. 2 at 4.

Subsection (b). IERG proposed that:

> [f]or areas classified as serious nonattainment for CO where stationary sources significantly contribute to ambient CO levels, as determined under rules issued by USEPA, pursuant to the CAA, notwithstanding the significant emissions rate for

> CO in subsection (a), significant means, an increase in actual emissions of CO that would result from any physical change in, or change in the method of operation of, a major stationary source, if such increase equals or exceeded 50 tpy. *See* 40 CFR 51.165(a)(1)(x)(D).
>
> IERG proposal is based on federal rules but reorganized the text. *See* Prop., Exh. 2 at 4.
>
> ***Subsection (c)***. IERG proposed that:
>
> [f]or areas classified as serious or severe nonattainment for ozone, notwithstanding the significant emissions rate for ozonein subsection (a), an increase in emissions of VOM or NO_x shall be considered significant if the net emissions increase of such air pollutant from a stationary source located within such area exceeds 25 tons when aggregated with all other net increases in emissions from the source over any period of 5 consecutive calendar years which includes the calendar year in which such increase occurred. This provision shall become effective beginning on November 15, 1992, or such later date than an area is classified as a serious or severe nonattainment area for ozone. *See* 40 CFR 51.165(a)(1)(x)(B) & (C).

IERG proposed this rule language based on federal rules with a reorganization and addition from 35 Ill. Adm. Code 203.209(b). *See* Prop., Exh. 2 at 4.

Subsection (d). IERG proposed that, "[f]or areas classified as extreme nonattainment for ozone, notwithstanding the significant emissions rate for ozone in subsection (a), any increase in emissions of VOM or NOx from any emissions unit at a major stationary source of VOM or NO_x shall be considered significant." *See* 40 CFR 51.165(a)(1)(x)(E). IERG proposed language based on federal rules, except added NOx consistent with 35 Ill. Adm. Code 203.207(f). IERG also uses the term "significant" rather than "significant net emissions increase." *See* Prop., Exh. 2 at 4.

Subsection (e). IERG proposed that, "[f]or major stationary sources located outside of designated nonattainment areas for purposes of Subpart R, an increase in emissions of a regulated NSR pollutant shall be considered significant if it would equal or exceed the rate listed in subsection (a), notwithstanding the attainment states in the area." IERG proposed this language to address the relationship of the definition of "significant" to proposed 35 Ill. Adm. Code 203 Subpart R. *See* Prop., Exh. 2 at 4.

Section 203.1380: Significant Emissions Increase. IERG proposed that this terms "means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in Section 203.1370) for that pollutant." *See* 40 CFR 51.165(a)(1)(xxvii).

Section 203.1390: Stack in Existence. IERG proposed that this term:

> means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding

> agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed within a reasonable time. *See* 40 CFR 51.100(gg).

Section 203.1400: Stationary Source. IERG proposed that "stationary source" is defined as "any building, structure, facility, or installation that emits or may emit a regulated NSR pollutant. Emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or from a nonroad vehicle as defined in Section 216 of the CAA (CAA (42 USC 7550) are not a part of a stationary source." *See* 40 CFR 51.165(a)(1)(i). IERG's proposal is based on federal language, except it adds a sentence to address emissions from nonroad engines or vehicles consistent with the CAA and 35 Ill. Adm. Code 204.690. *See* Prop., Exh. 2 at 4.

Subpart J: Major Stationary Sources in Nonattainment Areas.

Proposed Subpart J addresses the applicability of Part 203 to major stationary sources located in nonattainment areas. SR at 25. Subpart J also addresses how to determine whether a project at an existing major stationary source constitutes a major modification. *Id*. IERG used the applicability provisions of the federal blueprint rule for the proposed language. *Id*.

The USEPA's recently adopted PEA Rule is also included in the proposed rule. SR at 25-26. The PEA Rule changed the way of calculating whether a proposed project would result in significant emissions increase. *Id*.; *see supra* at 4-7 (discussing motion to stay).

Section 203.1410: Applicability.

Subsection (a). IERG proposes that:

> [t]he requirements of the Part, other than Subpart R, shall apply to the construction of any new major stationary source (as defined in Section 203.1230) or major modification (as defined in Section 203.1220) that is major for the pollutant for which the area is designated as nonattainment under Section 107(d)(1)(A)(i) of the CAA (42 USC 7407(d)(1)(A)(i)), if the stationary source or modification would locate anywhere in the designated nonattainment area. Different pollutants, including individual precursors, are not summed to determine applicability of a major stationary source or major modification. *See* 40 CFR 51.165(a)(2)(i).

IERG proposed subsection (a) based on existing federal language but removed the first sentence requiring adoption of a preconstruction review program to satisfy requirements of the CAA for any area designated nonattainment for any NAAQS. *See* Prop., Exh. 2 at 4. IERG added a reference to proposed 35 Ill. Adm. Code 203 Subpart R. *Id*.

Subsection (b). IERG proposed that "[n]o new major stationary source or major modification to which the requirements of Sections 203.1410, 203.1420, 203.1430, 203.1440,

203.1800, 203.1810, 203.1820, 203.1830, or 203.2000 apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The Agency has authority to issue said permits. *See* 35 Ill. Adm. Code 204.800(c).

Subsection (c). The requirements in this Part as provided in subsections (c)(1) through (c)(6). *See* 40 CFR 51.165(a)(2)(ii)(A-G).

Subsection (c)(1). IERG first proposed that:

> [e]xcept as otherwise provided in subsection (e) and in Sections 203.1220(d)-(e), and consistent with the definition of major modification contained in Section 203.1220, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases: a significant emissions increase (as defined in Section 203.1380), and a significant net emissions increase (as defined in Section 203.1260 and Section 203.1370). The project is not a major modification if it does not cause significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

Subsection (c)(2). IERG proposed that:

> [t]he procedure for calculating (before beginning actual construction) whether a significant emissions increase (*i.*e., the first step of the process) will occur depends upon the type or types of emissions units involved in the project, according to subsections (c)(3) through (c)(5). The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (*i.e.*, the second step of the process) is contained in the definition in Section 203.1260. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

IERG's proposal is based on federal rule language, except it changes "emissions units being modified" to "emissions units involved in the project". *See* Prop., Exh. 2 at 4.

Subsection (c)(3). IERG proposed an "[a]ctual-to-projected-actual applicability test for projects that only involve existing emission units." It proposed that "a significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in Section 203.1320) and the baseline actual emissions (as defined in Section 203.1070), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in Section 203.1370)."

Subsection (c)(4). IERG also proposed an "[a]ctual-to-potential test for projects that only involve construction of a new emissions unit or units." It proposed that "[a] significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in Section 203.1290) from each new emissions unit

following completion of the project and the baseline actual emissions (as defined in Section 203.1070) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in Section 203.1370)."

Subsection (c)(5). IERG proposed a "[h]ybrid test for projects that involve multiple types of emissions units. IERG proposed that "[a] significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference for all emissions units, using the method specified in subsections (c)(3) and (c)(4) as applicable with respect to each emissions unit, equals or exceeds the significant amount for that pollutant (as defined in Section 203.1370)."

Subsection (c)(6). IERG proposed that, as used in subsection (c)(3) through (c)(5), the "sum of the difference includes "both increases and decreases in emissions calculated in accordance with those subsections."

Subsection (d). IERG proposed that:

> [e]xcept as otherwise provided in Section 203.1700(f)(2), the provisions of Section 203.1700 apply with respect to any regulated NSR pollutant emitted from projects involving existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances in which there is a reasonable possibility, within the meaning of Section 203.1700(f), that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in Section 203.1320(b)(1) through (b)(3) for calculating projected actual emissions. *See* 40 CFR 51.165(a)(6).

IERG's proposed language is based on federal language but modified to be consistent with 35 Ill. Adm. Code 204.800(e). *See* Prop., Exh. 2 at 4.

Subsection (e). IERG proposed that, "[f]or any major stationary sources with a PAL for a regulated NSR pollutant, the major stationary source shall comply with requirements under Section 203.2100 through Section 203.2420." *See* 40 CFR 51.165(a)(2)(iii). IERG's proposed language is based on federal language but modified to be consistent with 35 Ill. Adm. Code 204.800(f).

Section 203.1420: Effect of Permits. IERG proposed that "[a]pproval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, State, or federal law." *See* 40 CFR 51.165(a)(5)(i).

Section 203.1430: Relaxation of Source-Specific Limitation. IERG proposed that:

> [a]t such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the

> source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this Part shall apply to the source or modification as though construction had not yet commenced on the source or modification. *See* 40 CFR 51.165(a)(5)(ii).

Section 203.1440: Prohibitions.

Subsection (a). IERG proposed that "[n]o major stationary source or major modification shall violate any condition in a construction permits issued for a new major stationary source or major modification which is subject to this Part. *See* 35 Ill. Adm. Code 203.203(d). IERG's proposed language is consistent state rules, except that it changes "permittee" to "major stationary source or major modification". *See* Prop., Exh. 2 at 4.

Subsection (b). IERG proposed that:

> [i]n any nonattainment area, no person shall begin actual construction of a new major stationary source or major modification that is major for the regulated NSR pollutant for which the area is designated as nonattainment area under Sections 107(d)(1)(A)(i) of the CAA (42 USC 7407(d)(1)(A)(i)), except as in compliance with this Subpart and Subpart N. Revisions to this Part which were adopted to implement the CAA Amendments of 1990 shall not apply to any new major stationary source or major modification for which a permit application was submitted by June 30, 1992, for PM_{10}; by May 15, 1992, for SO2; or by November 15, 1992, for VOM and NO_x emissions for sources located in all ozone nonattainment areas. *See* 35 Ill. Adm. Code 203.201.

IERG's proposed language is similar to state rules but changes "cause or allow construction" to "begin actual construction" and uses "regulated NSR pollutant" because they are defined in 35 Ill. Adm. Code Part 203. *See* Prop., Exh. 2 at 4.

Subsection (c). IERG proposed that "[n]o person shall cause or allow the operation of a new major stationary source or major modification subject to the requirements of Subpart N, except as in compliance with applicable LAER provisions established pursuant to Section 203.1800 for such source or modification." *See* 35 Ill. Adm. Code 203.601.

Section 203.1450: Control of Ozone, PM_{10}, and $PM_{2.5}$.

Subsection (a). IERG proposed that "[t]he provisions of this Part applicable to major stationary sources and major modifications of VOM shall apply to NO_x emissions from major stationary sources and major modifications of NO_x in any ozone nonattainment area, except in ozone nonattainment areas where the USEPA has granted a NO_x waiver applying the standards set forth under section 182(f) of the CAA (42 USC 7511a(f)) and the waiver continues to apply." *See* 40 CFR 51.165(a)(8). IERG's proposed language is based on federal law but omits ozone transport zones because Illinois is not in the ozone transport region. *See* Prop., Exh. 2 at 5.

Subsection (b). IERG proposed that "[t]he provisions of this Part applicable to major stationary sources and major modifications of PM_{10} shall also apply to major stationary sources and major modifications of PM_{10} precursors, except where the USEPA determines that such sources do not contribute significantly to PM_{10} levels that exceed the PM_{10} ambient standards in the area." *See* 40 CFR 51.165(a)(10).

Subsection (c). IERG proposed that:

> [t]he control requirements of this Part which are applicable to major stationary sources and major modifications of $PM_{2.5}$ shall also apply to major stationary sources and major modifications of $PM_{2.5}$ precursors which are regulated NSR pollutants in a $PM_{2.5}$ nonattainment area. The Agency shall exempt new major stationary sources or major modifications of a particular precursor from the requirements of this Part for $PM_{2.5}$ if the precursor is not a regulated NSR pollutant as provided by Section 203.1340(c)(3)(A). *See* 40 CFR 51.165(a)(13).

Section 203.1460: Permit Exemption Based on Fugitive Emissions. IERG proposed that:

> [t]he provisions of this Part shall not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable as evidence by 35 Ill. Adm. Code 201.122, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the categories enumerated in Section 203.1230(c). *See* 40 CFR 51.165(a)(4).

IERG's proposed language is based on federal language but worded consistent with 35 Ill. Adm. Code 203.211.

Subpart K: Stack Heights.

Proposed Subpart K is consistent with the stack height provisions of 40 CFR § 51.118 and 51.164. SR at 27. It provides that the degree of emission limitation required for control of any regulated NSR pollutant under Part 203 shall not be affected by the stack height of any source more than good engineering practice and shall not be affected by any other dispersion technique. *Id*.

Section 203.1500: Stack Heights.

Subsection (a). IERG proposed that "[t]he degree of emission limitation required for control of any regulated NSR pollutant under this Part" must not be affected by the factors in subsections (a)(1) and (a)(2). Proposed subsection (a) is the same as existing Section 204.1000(a) except "air pollutant" is changed to "regulated NSR pollutant". *See* 40 CFR 51.118(a), *see also* Prop., Exh. 2 at 5; Proposed New 35 Ill. Adm. Code 204, Prevention of Significant Deterioration, Amendments to 35 Ill. Adm. Code Parts 101, 105, 203, 211, and 215, 19-1, slip op. at 119 (Mar. 5, 2020).

Subsection (a)(1). Proposed subsection (a)(1) proposes that the degree of limitations must not be affected by "[s]o much of the stack height of any source as exceeds good engineering practice." This subsection is based on Section 204.1000(a)(1), and IERG proposed no substantive changes. *See* 40 CFR 51.118(a).

Subsection (a)(2). Proposed subsection (a)(2) proposes that the degree of limitation must not be affected by "[a]ny other dispersion technique." This subsection is based on Section 204.1000(a)(2). *See* 40 CFR 51.118(a).

Subsection (b). IERG proposed that, "[e]xcept as provided in subsection (c), subsection (a) shall no apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then. This subsection is consistent with federal rules, which include an exemption in subsection (c) not found in existing state rules. *See* 40 CFR 51.118(b), *see also* Prop., Exh. 2 at 5.

Subsection (c). IERG proposed that, "[n]otwithstanding subsection (b), subsection (a) shall apply where regulated NSR pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in Section 111(a)(3) of the CAA (42 USC 7411(a)(3)), which were constructed, or reconstructed, or for which major modifications were carried out after December 31, 1970." *See* 40 CFR 51.118(b), *see also* Prop., Exh. 2 at 5. The only difference from corresponding federal language is IERG's addition of "[n]otwithstanding subsection (b)". *See* Prop., Exh. 2 at 5.

Subsection (d). IERG proposed, based on federal language, that "[s]ubsection (a) shall not apply with respect to coal-fired steam electric generating units subject to the provisions of Section 118 of the CAA (42 USC 7418), which commenced operation before July 1, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974." *See* 40 CFR 51.118(b), *see also* Prop., Exh. 2 at 5. The only difference from federal language is IERG's reference to "subsection (a)". *See* Prop., Exh. 2 at 5.

Subpart L: General Obligations of the Illinois Environmental Protection Agency.

Subpart L contains the general obligations of IEPA, including issuing permits. SR at 28. This section is not in the federal blueprint rule but is partly based on Part 203. *Id*. Subpart L also contains the public participation requirements under Part 203. *Id*. These proposed rules are also partially based on Part 203. *Id*.

Section 203.1600: Construction Permit.

Subsection (a). IERG proposed that:

> [t]he Agency shall only issue a construction permit for a new major stationary source or a major modification that is subject to the requirements of this Part, other than this Subpart or Subpart R, if the Agency determines all applicable requirements of this Part, other than this Subpart and Subpart R, are satisfied.

> This includes the requirements in Section 203.1810(h) if IPT would be relied upon for all or a portion of the emissions offset that must be provided for such source or modification.

IERG proposed new language to clarify IEPA's role in issuing construction permits and interprecursor trading. *See* Prop., Exh. 2 at 5.

Subsection (b). IERG's proposed subsection (b), based on state language, states that IEPA must include in any NA NSR permit conditions specifying how applicable requirements on Subpart N apply. *See* 35 Ill. Adm. Code 203.203(c), *see also* Prop., Exh. 2 at 5.

Section 203.1610: Public Participation.

Subsection (a). IERG's proposed subsection (a) addressing public participation in issuing or modifying permit follows Section 203.150 but worded like Section 204.1320. *See* Prop., Exh. 2 at 5.

Subsection (b). IERG proposed three notice requirements in subsection (b) in addition to those under 35 Ill. Adm. Code 252. IERG proposed these to satisfy the federal requirements for public availability of information under 40 CFR 51-161. *See* Prop., Exh. 2 at 5.

Subsection (b)(1). IERG proposed that the notice for the comment period must include information on how to access the draft permit and administrative record for it.

Subsection (b)(2). IERG proposed that IEPA must also send a copy of the notice to the USEPA, any other state or local pollution control agency that has jurisdiction in the region the new or modified source is or would be located, and any other agency having responsibility to implement procedures under this Part.

Subsection (b)(3). IERG proposed that "[t]he Project Summary, Statement of Basis or Fact Sheet that accompanies the draft of a permit that would be issued pursuant to this Part or the draft of a modification permit that would be issued pursuant to this Part shall describe the basis of the Agency's proposed decision to grant the permit and include a discussion of the Agency's analysis of the effect of the construction or modification on ambient air quality, including the Agency's proposed action."

Subpart M: Non-Applicability Recordkeeping and Reporting.

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

IERG proposed that:

> [e]xcept as otherwise provided in subsection (f), the provisions of this Section apply with respect to any regulated NSR pollutant emitted from projects involving existing emissions unit or units at a major stationary source in a nonattainment

> area (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility, within the meaning of subsection (f), that a project that is not a major modification for the pollutant may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in Section 203.1320(b)(1) through (b)(3) for calculating projected actual emissions.

Subpart M recordkeeping and reporting only apply if a reasonable possibility exists that a project in a nonattainment area that is not projected to be a major modification may nevertheless result in a significant emissions increase. SR at 29. If a "reasonable possibility" exists, then certain recordkeeping requirements apply. *Id*. Section 203.1700(f) lists criteria to determine a "reasonable possibility". The proposed language is consistent with federal rules and corresponding PSD rules. *See* 40 CFR 51-165(a)(6); *see also* 35 Ill. Adm. Code Part 204, Subpart I.

Subsection (a). IERG proposed subsection (a) to list documents and records an owner or operator must retain before beginning actual construction on a project.

Subsection (a)(1). IERG first proposed that the owner or operator must retain "[a] description of the project.

Subsection (a)(2). IERG next proposed that the owner or operator must retain "[i]dentification of the emissions units whose emissions of a regulated NSR pollutant could be affected by the project."

Subsection (a)(3). IERG also proposed that the owner or operator must retain "[a] description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under Section 203.1320(b)(3) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

Subsection (b). IERG proposed that, if the emissions unit is an existing electric utility steam generating unit, then an owner or operator of the unit must provide a copy of the information required in subsection (a) to the Agency. However, IERG also proposed that this subsection must not be construed to require the owner or operator of such an emissions unit to obtain a determination from the Agency before beginning actual construction.

Subsection (c). IERG proposed that the "owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in subsection (a)(2); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit that regulated NSR pollutant at such emissions unit."

Subsection (d). IERG proposed that, if the unit is an existing electrical utility steam generating unit must submit to the Agency within 60 days after the end of each year in which the owner or operator must generate records under subsection (c), a report of the unit's annual emissions during the preceding calendar year.

Subsection (e). IERG proposed that for existing units other than electric utility steam generating units, an owner or operator must submit a report to the Agency if the annual emissions, in tons per year, from the project identified in subsection (a), exceed the baseline actual emissions for that NSR pollutant by a significant amount, and if the emissions differ from the preconstruction projection. IERG proposed that the report must be submitted to the Agency within 60 days after the end of an applicable year and include specified information.

Subsection (e)(1). Their first proposed that the report must include "[t]he name, address, and telephone number of the major stationary source."

Subsection (e)(2). IERG also proposed that the report must include "[t]he annual emissions as calculated pursuant to subsection (c)."

Subsection (e)(3). IERG also proposed that the report must include "[a]ny additional information that the owner or operator wishes to include in the report, (*e.g.*, an explanation as to why the emissions differ from the preconstruction projection)."

Subsection (f). IERG proposed that a "reasonable possibility" occurs when the owner or operator calculates that the project results in one of two occurrences.

Subsection (f)(1). IERG proposed that the first occurrence is "[a] projected actual emissions increase of at least 50 percent of the amount that is a 'significant emissions increase, as defined in Section 203.1380 (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant.

Subsection (f)(2). IERG proposed that the second occurrence is "[a] projected actual emissions increase that, added to the amount of emissions excluded under Section 203.1320(b)(3), sums to at least 50 percent of the amount that is a 'significant emissions increase,' as defined under Section 203.1380 (without reference to the amount that is a significant emissions increase), for the regulated NSR pollutant." IERG also proposed that, for projects for which a reasonable possibility occurs only within the meaning of subsection (f)(2) and not also the meaning of subsection(f)(1), then subsections (b) through (e) do not apply to the project.

Subsection (g). IERG proposed that the owner or operator of a source must make available to the Agency, USEPA, or the general public all information required to be documented and maintained under this Section in response to a request for inspection under Section 39.5(8)(e) of the Act. IERG's proposed language is consistent with federal language, except it refers to the Act instead of 40 CFR Part 70. *See* Prop., Exh. 2 at 5.

Subpart N: Requirements for Major Stationary Sources in Nonattainment Areas.

In Subpart N IERG proposes requirements for major stationary sources in nonattainment areas that are in addition to the requirements in Subpart J. SR at 29. The requirements include Lowest Achievable Emission Rate, emissions offsets, compliance demonstration, and analysis of alternatives. *Id*. Subpart N also allows for interprecursor trading of emissions offsets for $PM_{2.5}$.

Section 203.1800: Lowest Achievable Emissions Rate.

Subsection (a). IERG's proposed subsection (a) requires that "[t]he owner or operator of a new major stationary source shall demonstrate that the control equipment and process measures applied to a source will produce LAER for each regulated NSR pollutant for which the stationary source is major. IERG's proposal is based on Section 203.301(b), except that it adds "for each regulated NSR pollutant for which the stationary source is major." *See* Prop., Exh. 2 at 6.

Subsection (b). IERG's proposed subsection (b) addresses LAER demonstrations. IERG's proposal is based on Section 203.301(c), except that it changes two cross references to reflect the re-designated LAER definition at proposed Section 203.1210. *See* Prop., Exh. 2 at 6. IERG also added language to clarify that it is the regulated NSR pollutant for which LAER will be produced. *Id*. IERG also uses the term "regulated NSR pollutant" and adds the clause "in the emissions unit" to the end of the second sentence. *Id*.

Subsection (c). IERG's proposed subsection (c) addresses elements of a LAER demonstration. IERG's proposal is based on Section 203.301(d). *See* Prop., Exh. 2 at 6.

Subsection (d). IERG's proposed subsection (d) addresses specified sources that do not elect to provide internal offsets. IERG's proposal is based on Section 203.301(e). *See* Prop., Exh. 2 at 6. IERG proposes non-substantive updates to cross references.

Subsection (e). IERG's proposed subsection (e) addresses specified sources offsetting emissions of VOM or NO_x. IERG's proposal is based on Section 203.301(f). *See* Prop., Exh. 2 at 6. IERG uses "significant increase in emissions" rather than "increase (other than a de minimis increase) in emissions, consistent with the CAA Section 1825(e)(2)." *See* Prop., Exh. 2 at 6.

Section 203.1810: Emissions Offsets.

Subsection (a). IERG proposed requirements for emissions offsets in subsections (A) through (h). *See* Prop., Exh. 2 at 6.

Subsection (a)(1). IERG's proposed subsection (a)(1) provides general offset requirements. IERG's proposal is based on Section 203.302(a), except IERG uses "increase" instead of "net increase" and corrects the citation to the CAA. *See* Prop., Exh. 2 at 6.

Subsection (a)(1)(A). IERG proposed requiring emissions offsets for pollutants for which an area is designated nonattainment or precursors to such pollutants as provided in subsections (A) and (B).

Subsection (a)(1)(A)(i). For any new major stationary sources, IERG proposed to require offset for "each regulated NSR pollutant for which the source is major."

Subsection (a)(1)(A)(ii). For any major modification, IERG proposed to require offsets for "each regulated NSR pollutant for which the modification is major."

Subsection (a)(1)(B). IERG proposed that "[t]he total tonnage of increased emissions, in tpy, resulting from a major modification that must be offset shall be determined by summing the difference between the allowable emissions after the modification, as defined in 203.1050, and the actual emissions before the modification, as defined in Section 203.1040, for each emissions unit. *See* 40 CFR 51.165(a)(3)(ii)(J). Proposed subsection (a)(1)(B) is based on federal rules, except IERG removed reference to the CAA because Part 203 will govern the offsets. *See* Prop., Exh. 2 at 6.

Subsection (a)(1)(C). Proposed Subsection (a)(1)(C) addresses using all or part of the available growth margin. IERG's proposal is based on Section 203.302(b). *See* Prop., Exh. 2 at 6.

Subsection (b). IERG proposed subsection (b) addresses ratios for emissions offsets in ozone nonattainment areas.

Subsection (b)(1). For new major stationary sources or major modifications in ozone nonattainment areas, proposed subsection (b)(1) establishes offset ratios in subsection (A) through (E). This proposal is based on Section 203.302(a)(1) with non-substantive changes. *See* Prop., Exh. 2 at 6.

Subsection (b)(2). IERG's proposed subsection (b)(2) provides circumstances in which offsets will not be available in extreme nonattainment areas for modifications to existing stationary sources. This proposal is based on Section 203.302(a)(2), except that IERG proposed using "existing stationary source" instead of "existing source" consistent with CAA Section 182(e)(2). *See* Prop., Exh. 2 at 6.

Subsection (c). IERG's proposed subsection (c) establishes enforceability requirements for emissions offsets in subsections (1) through (3).

Subsection (c)(1). IERG proposed that all emissions reductions relied upon must be federally enforceable. *See* 40 CFR 51.165(a)(3)(ii)(E); *see also* Prop., Exh. 2 at 6. IERG's proposed language differs from the federal language by using "relied upon" rather than "claimed", consistent with CAA Section 173(a). *Id*.

Subsection (c)(2). IERG proposed that, except as provided in this subsection, the emissions offsets must be enforceable by the Agency and under the CAA. *See* 40 CFR 51 App.

S (V). If the offset is sought in a neighboring state, then those offsets must be enforceable by the neighboring state or local agencies and under the CAA. *Id*.

Subsection (c)(3). IERG proposed that, except as provided in this subsection, the "emissions offsets must be accomplished prior to initial start-up of the new major stationary source or major modification." *See* 40 CFR 51 App. S (V). If the new major stationary source or major modification replaces an existing major stationary source or emissions unit that is being shut down in order to provide necessary offsets, the Agency must allow up to 180-days for "shakedown of the new major stationary source or major modification before the existing stationary source or emission unit is required to cease operation." *Id*.

Subsection (d). IERG proposed subsection (d) to establish location requirements in subsections (1) and (2) for sources providing emissions reductions to fulfill the requirements of the Section.

Subsection (d)(1). Proposed subsection (d)(1) provides that reductions must be achieved in the same nonattainment area as the increase being offset. IERG's proposal is based on Section 203.303(d)(1) with non-substantive changes. *See* 40 CFR 51.165(a)(3)(ii)(F); 40 CFR 51 Appendix S, Sec. IV.D; and Prop., Exh. 2 at 7.

Subsection (d)(2). Proposed subsection (d)(2) addresses emission reduction in another nonattainment area. IERG's proposal is based on Section 203.303(d)(1)(A), (B) with non-substantive changes. *See* 40 CFR 51.165(a)(3)(ii)(F); 40 CFR 51 Appendix S, Sec. IV.D; and Prop., Exh. 2 at 7.

Subsection (e). IERG proposed subsection (e) addresses in subsections (1) and (2) which pollutants can be used for emissions offsets.

Subsection (e)(1). IERG's proposed subsection (e)(1) states that, "[e]xcept as provided in subsection (h), which addresses interprecursor trading for $PM_{2.5}$, emission reductions must be for the pollutant for which emission offsets are required, e.g., reductions in CO emissions cannot be used as emission offsets for increases in emissions of SO_2 reductions." *See* 40 CFR 51.165(a)(11); Prop., Exh. 2 at 7.

Subsection (e)(2). IERG's proposed subsection (e)(2) provides that "[r]eplacement of one VOM with another of lesser reactivity does not constitute an emissions reduction." IERG's proposal is based on Section 203.303(e) with non-substantive changes. *See* 40 CFR 51.165(a)(3)(ii)(D); and Prop., Exh. 2 at 7.

Subsection (f). IERG proposed subsection (f) addresses crediting emissions reductions from shutdowns or curtailments.

Subsection (f)(1). IERG proposed subsection (f)(1)provides that "[e]missions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours shall be credited for offsets" if they meet requirements in subsections (A) and (B).. *See* 40 CFR

51.165(a)(3)(ii)(C)(1). IERG's proposal differs from federal language in that it uses "shall" rather than "may" and omits "federally enforceable". Prop., Exh. 2 at 7.

Subsection (f)(1)(A). IERG first proposed the first requirement that the "reductions are surplus, permanent, quantifiable, and federally enforceable." PC 16 at 143,

Subsection (f)(1)(B). IERG proposed a second requirement that the shutdown or curtailment occurred after the final day of the base year for the SIP planning process. *See* 40 CFR 51.165(a)(3)(ii)(C)(1). For this Subpart, IEPA considers a prior shutdown or curtailment to have occurred after the last day of the base year "if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emissions units." *Id*. No credits may be given for shutdowns occurring prior to August 7, 1977. *Id*.

Subsection (f)(2). IERG proposed that emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours that do not meet the requirements of subsection (f)(1)(B) if they meet the requirements of subsections (A) and (B). *See* 40 CFR 51.165(a)(3)(ii)(C)(2). IERG's propose differs from federal language by using "shall" rather than "may". Prop., Exh. 2 at 7.

Subsection (f)(2)(A). As the first requirement, IEPA proposed that "[t]he shutdown or curtailment occurred on or after the date the application for a construction permit is filed." *See* 40 CFR 51.165(a)(3)(ii)(C)(2).

Subsection (f)(2)(B). As the second requirement, IERG proposed that " the applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit," and the emissions reductions achieved met requirements of subsection (f)(1)(A). *See* 40 CFR 51.165(a)(3)(ii)(C)(2).

Subsection (g). IERG's proposed subsection (g) addresses emissions reductions for offsets in subsections (1) and (2).

Subsection (g)(1). IERG's proposed subsection (g)(1) addresses determining credits for emissions reductions used as offsets in subsections (A) through (C).

Subsection (g)(1)(A). IERG's proposed subsection (g)(1)(A) provides that "the baseline for determining credit for emissions reductions is the emissions limit under the applicable SIP in effect at the time that the construction permit application is filed." IERG also proposed the exception that "the offset baseline shall be the actual emissions of the source from which offset credit is obtained" under either subsection (i) or (ii). *See* 40 CFR 51.165(a)(3)(i).

Subsection (g)(1)(A)(i). IERG first proposed that the offset baseline is actual emissions when "the demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within the designated nonattainment areas."

Subsection (g)(1)(A)(ii). IERG also proposed that the offset baseline if actual emissions when "[t]he applicable SIP does not contain an emissions limit for that source or source category."

Subsection (g)(1)(B). IERG proposed that, if "the emissions limit under the applicable SIP allows greater emissions than the potential to emit of the source, emissions offset credits will be allowed only for control below the potential to emit." *See* 40 CFR 51.165(a)(3)(ii)(A). IERG's proposed language is based on federal rules but uses "potential to emit" rather than "this potential". Prop., Exh. 2 at 7.

Subsection (g)(1)(C). IERG proposed that, "[f]or an existing fuel combustion source, credit shall be based on the allowable emissions under the applicable SIP for the type of fuel used at the time the application for a construction permit is filed." *See* 40 CFR 51.165(a)(3)(ii)(B). IERG also proposed that, "[i]f the emissions offset is to be produced by a change to a cleaner fuel at some future date, offset credits shall be subject to the limitations in subsections (i) and (ii). *Id*. IERG's based its proposed language on federal rules. Prop., Exh. 2 at 7.

Subsection (g)(1)(C)(i). As the first limitation, IERG proposed that emissions offset credits based on allowable or actual emissions for fuels involved are allowed only if the permit includes conditions requiring the use of a specified alternative control measure which would achieve the same degree of emissions reductions if the source reverted to a dirtier fuel at a later date. *See* 40 CFR 51.165(a)(3)(ii)(B).

Subsection (g)(1)(C)(ii). As the second limitation, IERG proposed that emissions offset credits will only be allowed if the owner or operator provides evidence that the cleaner fuel is available long-term. *See* 40 CFR 51.165(a)(3)(ii)(B).

Subsection (g)(2). IERG proposed that emissions reductions will not be credited for offsets if the Agency relied on them to issue any permit under 35 Ill. Adm. Code 201.142 or 201.143 or this Part or for demonstrating attainment or reasonable further progress. *See* 40 CFR 51.165(a)(3)(ii)(G).

Subsection (g)(3). IERG proposed that emissions reductions otherwise required by the CAA are not creditable as emissions offsets and that "[e]missions reductions which are not otherwise required by the CAA shall be creditable as emissions reductions for such purposes is such emissions reductions meet the requirements of this Section." IERG's proposal is based on federal language (CAA Sec. 173(c)(2)) but is worded similar to 35 Ill. Adm. Code 203.303(f).

Subsection (h). IERG proposed that a new major stationary source or major modification in nonattainment areas for $PM_{2.5}$ can meet applicable offset requirement through IPT between identified precursors of $PM_{2.5}$ or between direct $PM_{2.5}$ emissions and precursors to $PM_{2.5}$ if it meets requirements in subsections (1) and (2).

Subsection (h)(1). As the first requirement, IERG proposed that the IPT is based on an IPT ratio that provides an equivalent or greater air quality benefit considering ambient

concentrations of $PM_{2.5}$ in the $PM_{2.5}$ nonattainment area. *See* 40 CFR 51.165(a)(11)(ii). IERG also proposed that, at a minimum "one ton of emissions reductions shall be provided for one ton of emissions increases." *Id*.

Subsection (h)(2). As the second requirement, IERG proposed that the permit application for the source or modification must include the items specified in subsections (A) through (B).

Subsection (h)(2)(A). IERG first proposed that the permit application must include "[a] proposed IPT ratio, with accompanying calculations."

Subsection (h)(2)(B). IERG next proposed that the permit application must include "[a] demonstration that this proposed IPT ratio is based on the results of an analysis that is consistent with Appendix W to 40 CFR Part 51. The demonstration must also show that the proposed IPT ratio would provide an equivalent or greater air quality benefit than offsets of the emitted pollutant or precursor would achieve with respect to ambient concentrations of $PM_{2.5}$ in the $PM_{2.5}$ nonattainment area." *See* 40 CFR 51.165(a)(11)(ii). IERG's proposed language is consistent with federal language and adds reference to Appendix W to 40 CFR Part 51. *See* Prop., Exh. 2 at 7.

Subsection (h)(2)(C). IERG proposed that that the permit application must provide a description of the model or models and analysis used to develop the proposed IPT ratio. *See* 40 CFR 51.165(a)(11)(ii).

Subsection (h)(2)(D). IERG proposed that, before making a final determination on the IPT ratio, IEPA must submit the proposed IPT ratio to USEPA for approval and receive approval as a revision to the SIP. *See* 40 CFR 51.165(a)(11)(ii). IERG's proposal is consistent with federal language and adds language to clarify approval of IPT. *See* Prop., Exh. 2 at 7.

Section 203.1820: Compliance by Existing Sources.

IERG proposed Section 203.1820 to require that owner's or operator's other major stationary sources comply with or are on a schedule to comply with "all applicable state and federal air pollution control requirements." IERG's proposal is based on Section 203.305 with non-substantive changes. *See* 35 Ill. Adm. Code 203.305 and Prop., Exh. 2 at 8.

Section 203.1830: Analysis of Alternatives. IERG proposed to require that "[t]he owner or operator shall demonstrate that the benefits of the new major source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification, based upon an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source." IERG's proposal is based on Section 203.306 with non-substantive changes. *See* 35 Ill. Adm. Code 203.306 and Prop., Exh. 2 at 8.

Subpart O: General Maintenance of Emissions Offsets.

Subpart O consists of a single section requiring that "[n]o person shall cease to maintain emission offsets which were provided for a source or modification which is subject to this Part." SR at 32. Proposed Section 203.1900 is based on Section 203.701 with non-substantive changes. *See* 35 Ill. Adm. Code 203.701 and Prop., Exh. 2 at 8.

Subpart P: Offsets for Emissions Increases from Rocket Engines and Motor Firing.

Subpart P consists of a single Section 203.2000 providing that a source use alternative or innovative means to offset emission increases from rocket engine and motor firing at ana existing or modified source that tests rocket engines or motors under conditions in subsection (a) through (d). This Subpart is based on Section 203.701 with non-substantive changes. *See* 35 Ill. Adm. Code 203.701 and Prop., Exh. 2 at 8.

Subpart Q: Plantwide Applicability Limitation.

Subpart Q outlines the requirements for obtaining a Plantwide Applicability Limitation (PAL). SR at 32. Subpart Q allows the IEPA to approve the use of a PAL for any existing major stationary source if the PAL meets Subpart Q requirements. *Id*. at 33.

The subpart contains general requirements for establishing a PAL, requirements for PAL permits and applications, and expiration and renewal of a PAL. SR at 33. Subpart Q does not exist in the existing Part 203 but is based on the federal blueprint rule. *Id*. Subpart Q is also consistent with the PSD program. *Id*.

Section 203.2100: Applicability.

Subsection (a). IERG proposed that IEPA can approve using an actuals PAL for any existing major stationary source, except as provided in subsection (b), if the PAL meets Subpart Q requirements. *See* 40 CFR 51.165(f)(1). "PAL" means "actuals PAL" in this Subpart. *Id*.

Subsection (b). IERG proposed that IEPA cannot allow "an actuals PAL for VOM or NO_x for any major stationary source located in an extreme ozone nonattainment area." *See* 40 CFR 51.165(f)(1).

Subsection (c). IERG proposed that any physical change in or a change in method of operation of a major stationary source maintaining its total source-wide emissions below the PAL level meets this Subpart's requirements and complies with the PAL permit and has consequences in subsections (1) through (3). *See* 40 CFR 51.165(f)(1).

Subsection (c)(1). IERG first proposed that the change "[i]s not a major modification for the PAL pollutant." *See* 40 CFR 51.165(f)(1).

Subsection (c)(2). IERG also proposed that the change "[d]oes not have to be approved through the major NSR program." *See* 40 CFR 51.165(f)(1).

Subsection (c)(3). IERG also proposed that the changes "[i]s not subject to the provisions in Section 203.1430 (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major NSR program)." *See* 40 CFR 51.165(f)(1).

Subsection (d). IERG proposed that, "[e]xcept as provided in subsection (c)(3), a major stationary source shall continue to comply with all applicable state and federal or State requirements, emissions limitations, and work practice requirements that were established prior to the effective date of the PAL." *See* 40 CFR 51.165(f)(1).

Section 203.2110: Definitions. IERG proposed that definitions in proposed Sections 203.2120 through 203.2290 apply to this Subpart. *See* 40 CFR 51.165(f)(2). IERG also proposed that, "[w]hen a term is not defined in these sections, it will have the meaning given in Subpart I of this Part, Part 211, or in the CAA." *Id*.

Section 203.2120: Actuals PAL. IERG proposed that "Actuals PAL" for a major stationary source means a PAL based on the baseline actual emissions of all emissions units at the source that emit or have the potential to emit the PAL pollutant. *See* 40 CFR 51.165(f)(2)(i).

Section 203.2130: Allowable Emissions. IERG proposed that "allowable emissions" means 'allowable emissions' as defined in Section 203.1050, except that the allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit." *See* 40 CFR 51.165(f)(2)(ii).

Section 203.2140: Best Available Control Technology (BACT). IERG proposed that "best available control technology" or "BACT" means:

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

design, equipment, work practice, or operation, and shall provide for compliance by means which achieve equivalent results. *See* 40 CFR 51.165(a)(1)(xl).

Section 203.2150: Continuous Emissions Monitoring Systems (CEMS). IERG proposed that "continuous emissions monitoring systems (CEMS)" "means all of the equipment that may be required to meet the data acquisition and availability requirements of this Subpart, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis." *See* 40 CFR 51.165(a)(1)(xxxi).

Section 203.2160: Continuous Emissions Rate Monitoring System (CERMS). IERG proposed that "continuous emissions rate monitoring systems (CERMS)" means "the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time)." *See* 40 CFR 51.165(a)(1)(xxxiv).

Section 203.2170: Continuous Parameter Monitoring System (CPMS). IERG proposed that "continuous parameter monitoring system (CPMS)" means "all of the equipment necessary to meet the data acquisition and availability requirements of this Subpart to monitor process and control device operational parameters . . . and other information . . . and to record average operational parameter value(s) on a continuous basis. *See* 40 CFR 51.165(a)(1)(xxxiii).

Section 203.2180: Federal Land Manager. IERG proposed that "federal land manager" means, "with respect to any lands in the United States, the Secretary of the department with authority over the lands." *See* 40 CFR 51.165(a)(1)(xlii).

Section 203.2190: Major Emissions Unit. IERG proposed that "major emissions unit" a unit described in subsection (a) or (b). *See* 40 CFR 51.165(f)(2)(iv).

Subsection (a). IERG first proposed that the term means "[a]ny emissions unit that emits or has the potential to emit 100 tpy or more of the PAL pollutant in a nonattainment area."

Subsection (b). IERG also proposed that the term means "[a]ny emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the CAA for nonattainment areas."

Section 203.2200: Plantwide Applicability Limitation (PAL). IERG proposed that "plantwide applicability limitation (PAL)" means "an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with this Subpart." *See* 40 CFR 51.165(f)(2)(v).

Section 203.2210: PAL Effective Date. IERG proposed that "PAL effective date" means "the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant." *See* 40 CFR 51.165(f)(2)(vi).

Section 203.2220: PAL Effective Period. IERG proposed that "PAL effective period" means "the period beginning with the PAL effective date and ending 10 years later." *See* 40 CFR 51.165(f)(2)(vii).

Section 203.2230: PAL Major Modification. IERG proposed that "PAL major modification" means, "notwithstanding Section 203.1220 and 203.1260 . . . any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL." *See* 40 CFR 51.165(f)(2)(viii).

Section 203.2240: PAL Permit. IERG proposed that "PAL permit" means "the major NSR permit, the minor NSR permit, or the State operating permit under a program that is approved into the SIP, or the CAAPP permit issued by the Agency that establishes a PAL for a major stationary source." *See* 40 CFR 51.165(f)(2)(ix).

Section 203.2250: PAL Pollutant. IERG proposed that "PAL pollutant" means "the pollutant for which a PAL is established at a major stationary source." *See* 40 CFR 51.165(f)(2)(x).

Section 203.2260: Predictive Emissions Monitoring System (PEMS). IERG proposed that "predictive emissions monitoring system (PEMS)" means "all of the equipment necessary to monitor process and control device operational parameters . . . and other information . . . and calculate and record the mass emissions rate . . . on a continuous basis. *See* 40 CFR 51.165(a)(1)(xxxii).

Section 203.2270: Reasonably Available Control Technology (RACT). IERG proposed that "reasonably available control technology (RACT)" means "devices, systems, process modifications, or other apparatus or techniques that are reasonably available" considering factors in subsections (a) through (c)

Subsection (a). As the first factor, IERG proposed "[t]he necessity of imposing such controls in order to attain and maintain a national ambient air quality standard."

Subsection (b). As the second factor, IERG proposed "[t]he social, environmental, and economic impact of such controls."

Subsection (c). As the third factor, IERG proposed "[a]lternative means of providing for attainment and maintenance of such standard."

Section 203.2280: Significant Emissions Unit. IERG proposed that "significant emissions unit" means "an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the applicable significant levels (as defined in Section 203.1370 or in the CAA, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in Section 203.2190. *See* 40 CFR 51.165(f)(2)(xi); PC 16 at 150. IERG's proposal is based on federal rule language but inserts "applicable" before "significant levels" and omits "or in the Act, whichever is lower." *See* Prop., Exh. 2 at 8.

IERG proposed a Board Note that, when adopted, the CAA did not provide significant levels. PC 16 at 150.

Section 203.2290: Small Emissions Unit. IERG proposed that "small emissions unit" means "an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than applicable significant level for that PAL pollutant, as defined in Section 203.1370 or in the CAA, whichever is lower. *See* 40 CFR 51.165(f)(2)(iii); PC 16 at 150. IERG's proposal is based on federal language but omits "or in the Act, whichever is lower". *See* Prop., Exh. 2 at 9.

IERG proposed a Board Note indicating that, when adopted, the CAA did not provide significant levels. PC 16 at 150.

Section 203.2300: Permit Application Requirements. IERG proposed that a permit application requesting a PAL must include the information in subsections (a) through (c).

Subsection (a). IERG first proposed that the owner or operator must submit "[a] list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal or State applicable requirements, emission limitations, or work practices apply to each unit."

Subsection (b). IERG next proposed that the owner or operator must submit "[c]alculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction."

Subsection (c). IERG also proposed that the owner or operator must submit "[t]he calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by Section 203.2400(a)."

Section 203.2310: General Requirements for Establishing PAL.

Subsection (a). IERG proposed that the IEPA is allowed to establish a PAL at a major stationary source, if the PAL meets the requirements in subsections (1) through (7). *See* 40 CFR 51.165(f)(3).

Subsection (a)(1). IERG first proposed that the PAL:

> shall impose an annual emission limitation expressed on a mass basis in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month total, rolled monthly). For each month during the first 11 months from the PAL

effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL emission is less than the PAL. *See* 40 CFR 51.165(f)(4).

IERG's proposal adds "expressed on a mass basis", consistent with 35 Ill. Adm. Code 204.1800(a)(1). *See* Prop., Exh. 2 at 9.

Subsection (a)(2). IERG proposed that "[t]he PAL shall be established in a PAL permit that meets public participation requirements in Section 203.2320." *See* 40 CFR 51.165(f)(4).

Subsection (a)(3). IERG proposed that "[t]he PAL permit shall contain all the requirements of Section 203.2340." *See* 40 CFR 51.165(f)(4).

Subsection (a)(4). IERG proposed that "[t]he PAL shall include fugitive emission, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source."

Subsection (a)(5). IERG proposed that "[e]ach PAL shall regulate emissions of only one pollutant."

Subsection (a)(6). IERG proposed that "[e]ach PAL shall have an effective period of 10 years."

Subsection (a)(7). IERG proposed that "[t]he owner or operator of the major stationary source with a PAL shall comply with monitoring, recordkeeping, and reporting requirements provided in Section 203.2390 through Section 203.2410 for each emissions unit under the PAL through the PAL effective period."

Subsection (b). IERG also proposed that, "[a]t no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period be creditable as decreases for purposes of emissions offsets pursuant to Section 203.1810 unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL."

Section 203.2320: Public Participation Requirements. IERG proposed that "PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with 35 Ill. Adm. Code Part 252. This includes the requirement that the Agency provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The Agency must address all material comments before taking final action on the permit." *See* 40 CFR 51.165(f)(5).

Section 203.2330: Setting the 10-Year Actuals PAL Level.

Subsection (a). IERG proposed that:

> [e]xcept as provided in subsection (b), the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions . . . of the PAL pollutant for each emissions unit at the stationary source, plus an amount equal to the applicable significant level for the PAL pollutant under Section 203.1370 or in the CAA, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-hour period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Agency shall specify a reduced PAL level or levels in tons per year in the PAL permit to become effective on the future compliance date or dates of any applicable federal or State regulatory requirement or requirements that the Agency is aware of prior to the issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 parts per million NOx to a new rule limit of 30 parts per million, then the permit must contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline actual emissions of such unit or units. *See* 40 CFR 51.165(f)(6); PC 16 at 152.

IERG's proposal is consistent with federal law but uses "stationary source" rather than "source", and omits "or under the Act, whichever is lower" from the first sentence. *See* Prop., Exh. 2 at 9.

IERG proposed to add a Board Note that, when adopted, the CAA did not provide significant levels. PC 16 at 152.

Subsection (b). IERG proposed that "[f]or newly constructed units (which do not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in subsection (a), the emissions must be added to the PAL level in an amount equal to the potential to emit of the units." *See* 40 CFR 51.165(f)(6).

Section 203.2340: Contents of the PAL Permit. IERG proposed that at minimum a PAL permit must contain information described in subsections (a) through (j). *See* 40 CFR 51.165(f)(7).

Subsection (a). IERG first proposed that the permit must include "[t]he PAL pollutant and the applicable source-wide emissions limitation in tons per year."

Subsection (b). IERG proposed that the permit must include "[t]he PAL permit effective date and the expiration date of the PAL (PAL effective period)."

Subsection (c). IERG proposed that the PAL permit must specify that "if a major stationary source owner or operator applies to renew a PAL in accordance with Section 203.2370

before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Agency."

Subsection (d). IERG proposed that the permit must include "[a] requirement that emissions calculations for compliance purposes must include emissions from startups, shutdowns, and malfunctions."

Subsection (e). IERG proposed that the permit must require that, "[o]nce the PAL expires, the major stationary source is subject to the requirements of Section 203.2360."

Subsection (f). IERG proposed that the permit must include "[t]he calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total as required by Section 203.2400(a)." IERG's proposal differs from the federal rule by omitting "for each month" after "12-month rolling total" consistent with 35 Ill. Adm. Code 204.1830(f). *See* Prop., Exh. 2 at 9.

Subsection (g). IERG proposed that the permit must include "[a] requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Section 203.2390.

Subsection (h). IERG proposed that the permit must include "[a] requirement to retain the records required in Section 203.2400 on site. Such records may be retained in an electronic format.

Subsection (i). IERG proposed that the permit must include "[a] requirement to submit the reports required under Section 203.2410 by the required deadlines."

Subsection (j). IERG proposed that the permit must include "[a]ny other requirements that the Agency deems necessary to implement and enforce the PAL."

Section 203.2350: Effective Period and Reopening a PAL Permit. IERG proposed that the requirements in subsections (a) and (b) apply to actuals PALs. *See* 40 CFR 51.165(f)(8).

Subsection (a). IERG proposed that IEPA must specify a PAL effective period of 10 years.

Subsection (b). IERG's addressed reopening a PAL permit in subsection (1) and (2).

Subsection (b)(1). IERG first proposed that IEPA must reopen the PAL permit during the PAL effective period to make three revisions in subsection (A) through (C).

Subsection (b)(1)(A). IERG first proposed that IEPA must reopen the PAL permit to "[c]orrect any typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL."

Subsection (b)(1)(B). IERG proposed that IEPA must reopen the PAL permit to "[r]educe the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as emissions offsets pursuant to Section 203.1810."

Subsection (b)(1)(C). IERG proposed that IEPA must reopen the PAL permit to "[r]evise the PAL to reflect an increase in the PAL under Section 203.2380."

Subsection (b)(2). IERG proposed that IEPA may reopen a PAL permit to make three revisions in subsection (A) through (C).

Subsection (b)(2)(A). IERG proposed that IEPA may reopen the PAL permit to "[r]educe the PAL to reflect newly applicable federal requirements (for example NSPS) with compliance dates after the PAL effective date."

Subsection (b)(2)(B). IERG proposed that IEPA may reopen the PAL permit to "[r]educe the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the Agency may impose on the major stationary source under the SIP."

Subsection (b)(2)(C). IERG proposed that IEPA may reopen the PAL permit to "[r]educe the PAL if the Agency determines that a reduction is necessary to avoid causing or contributing to a NAAQS, or to a violation of an ambient air increment established in Subpart D of 35 Ill. Adm. Code Part 204, or to an adverse impact on an air quality related value that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public."

The Board is adding "violation" after "NAAQS" to correct an inadvertent grammatical error.

Subsection (c). IERG proposed that, except for reopening under subsection (b)(1)(A) that do not increase the PAL level, "all other reopenings shall be carried out in accordance with the public participation requirements of Section 203.2320."

Section 203.2360: Expiration of a PAL. IERG proposed that, if any PAL is not renewed under Section 203.2370, then it expires at the end of the PAL effective period, and the requirements of this Section apply. *See* 40 CFR 51.165(f)(9).

Subsection (a). IERG proposed that each emissions unit or group of emissions units that existed under the PAL must comply with an allowable emissions limitation under a revised permit established under subsections (a)(1) and (2). *See* 40 CFR 51.165(f)(9).

Subsection (a)(1). IERG first proposed that:

> [w]ithin the time frame specified for PAL renewals in Section 203.2370(b), the major stationary sources shall submit a proposed allowable emissions limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Agency) by distributing the PAL allowable

emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under Section 203.2370(e), such distribution shall be made as if the PAL had been adjusted. *See* 40 CFR 51.165(f)(9).

Subsection (a)(2). IERG proposed that "[t]he Agency shall decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Agency determines is appropriate." *See* 40 CFR 51.165(f)(9).

Subsection (b). IERG proposed that "[e]ach emissions unit or units shall comply with the allowable emission limitation on a 12-month rolling basis. The Agency may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitations." *See* 40 CFR 51.165(f)(9).

Subsection (c). IERG proposed that, "[u]ntil the Agency issues the revised permit incorporating allowable limits for each emissions unit, as required under subsection (a)(2), the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation." *See* 40 CFR 51.165(f)(9).

Subsection (d). IERG proposed that "[a]ny physical change or change in the method of operation at the major stationary source will be subject to major NSR requirements if such change meets the definition of major modification in Section 203.1220." *See* 40 CFR 51.165(f)(9).

Subsection (e). IERG proposed that "[t]he major stationary source owner or operator shall continue to comply with any applicable State or federal requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to Section 203.1420, but were eliminated by the PAL in accordance with the provisions in Section 203.2100(c)(3)." *See* 40 CFR 51.165(f)(9).

Section 203.2370: Renewal of a PAL.

Subsection (a). IERG proposed that "[t]he Agency shall follow the procedures specified in Section 203.2320 in approving any request to renew a PAL for a major stationary source and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Agency. *See* 40 CFR 51.165(f)(10).

Subsection (b). IERG proposed that "[a] major stationary source owner or operator shall submit a timely application to the Agency to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior, but not earlier than 18 months from, the date of permit expiration. The deadline for application submittal is to ensure that the permit will not

expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued. *See* 40 CFR 51.165(f)(10).

Subsection (c). With the heading "[a]pplication requirements," IERG proposed that an application to renew a PAL renewal must contain the information in subsections (1) through (4). *See* 40 CFR 51.165(f)(10).

Subsection (c)(1). IERG first proposed that the application must include "[t]he information required in Section 203.2300 (a) through (c)." *See* 40 CFR 51.165(f)(10).

Subsection (c)(2). IERG proposed that the application must include "[a] proposed PAL level." *See* 40 CFR 51.165(f)(10).

Subsection (c)(3). IERG proposed that the application must include "[t]he sum of the potential to emit of all emissions units under the PAL (with supporting documentation)." *See* 40 CFR 51.165(f)(10).

Subsection (c)(4). IERG proposed that the application must include "[a]ny other information the owner or operator wishes the Agency to consider in determining the appropriate level for renewing the PAL." *See* 40 CFR 51.165(f)(10).

Subsection (d). IERG proposed that, when determining whether and how to adjust the PAL, IEPA must consider the options in subsections (d)(1) and (2). *See* 40 CFR 51.165(f)(10). IERG also proposed that in no case may an adjustment fail to comply with subsection (d)(3). *Id.*

Subsection (d)(1). IERG proposed that, "[i]f the emissions level calculated in accordance with Section 203.2330 is equal to or greater than 80 percent of the PAL level, the Agency mat renew the PAL at the same level without considering the factors set forth in subsection (d)(2).

Subsection (d)(2). IERG proposed that the Agency may set the PAL at a level that it determines to be more representative of the stationary source's baseline actual emissions, or that it determines to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors identified by the Agency in its written rationale. *See* 40 CFR 51.165(f)(10).

Subsection (d)(3). IERG proposed subsection (d)(3) based on federal rules to establish limits to PAL adjustment. *See* 40 CFR 51.165(f)(10).

Subsection (d)(3)(A). IERG proposed to require that, "[i]f the potential to emit of the major stationary source is less than the PAL, the Agency shall adjust the PAL to a level no greater than the potential to emit of the source."

Subsection (d)(3)(B). IERG proposed to require that "[t]he Agency shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of Section 203.2380 (increasing a PAL)."

Subsection (e). IERG proposed to require that, "[i]f the compliance date for a State or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Agency has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or CAAPP permit renewal, whichever occurs first." *See* 40 CFR 51.165(f)(10).

Section 203.2380: Increasing the PAL During the PAL Effective Period.

Subsection (a). IERG proposed that IEPA can increase a PAL emissions limit only if the major stationary source complies with subsections (a)(1) through (4). *See* 40 CFR 51.165(f)(11).

Subsection (a)(1). IERG proposed that "[t]he owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit or units contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL."

Subsection (a)(2). IERG proposed that, "[a]s part of the application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit or units exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emission unit must currently comply.

Subsection (a)(3). IERG proposed to require that "[t]he owner or operator obtains a major NSR permit for all unit or units identified in subsection (a)(1), regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit or units shall comply with any emissions requirements resulting from the NSR process (for example, LAER), even though they have also become subject to the PAL or continue to be subject to the PAL."

Subsection (a)(4). IERG proposed that "[t]he PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant."

Subsection (b). IERG proposed, based on federal language, that "[t]he Agency shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions

unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with subsection (a)(2)), plus the sum of the baseline actual emissions of the small emissions units."

Subsection (c). IERG proposed, based on federal language, that "[t]he PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of Section 203.2320."

Section 203.2390: Monitoring Requirements.

Subsection (a). IERG proposed subsection (a), based on federal rules, to introduce general requirements in subsections (1) through (4). *See* 40 CFR 51.165(f)(12).

Subsection (a)(1). IERG proposed that "[e]ach PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information gathered by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit."

Subsection (a)(2). IERG proposed that "[t]he PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in subsection (b)(1) through (4) and must be approved by the Agency."

Subsection (a)(3). IERG proposed that, "[n]otwithstanding subsection (a)(2), the owner or operator may also employ an alternative monitoring approach that meets subsection (a)(1) approved by the Agency."

Subsection (a)(4). IERG proposed that "[f]ailure to use a monitoring system that meets the requirements of this Section renders the PAL invalid."

Subsection (b). IERG proposed minimum performance requirements for approved monitoring approaches. Subsections (b)(1) through (4) list acceptable general monitoring approaches when conducted in compliance with subsections (c) through (i):

Subsection (b)(1). As the first approach, IERG proposed "[m]ass balance calculations for activities using coatings or solvents."

Subsection (b)(2). IERG proposed CEMS as the second approach.

Subsection (b)(3). As the third approach, IERG proposed "CPMS or PEMS."

Subsection (b)(4). As the final approach, IERG proposed "[e]mission factors."

Subsection (c). IERG proposed that "[a]n owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents" must meet requirements in subsections (c)(1) through (3).

Subsection (c)(1). IERG first proposed that the owner or operator must "[p]rovide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit."

Subsection (c)(2). IERG proposed that the owner or operator must "[a]ssume that the emissions unit emits all of the PAL pollutant contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot be otherwise accounted for in the process."

Subsection (c)(3). IERG proposed that, "[w]here the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value range to calculate the PAL pollutant emissions unless the Agency determines there is site-specific data or a site-specific monitoring system to support another content within the range."

Subsection (d). IERG proposed that owners or operators using CEMS to monitor PAL pollutant emissions must meet requirements in subsections (1) and (2).

Subsection (d)(1). IERG proposed that "CEMS must comply with applicable Performance Specifications found in 40 CFR Part 60, Appendix B."

Subsection (d)(2). IERG proposed that "CEMS must sample, analyze and record data at least every 15 minutes while the emissions unit is operating."

Subsection (e). IERG proposed that owners or operators using CPMS or PEMS to monitor PAL pollutant emissions must meet requirements in subsections (1) and (2).

Subsection (e)(1). IERG proposed that "[t]he CPMS or PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range or operation of the emissions unit."

Subsection (e)(2). IERG proposed that "[e]ach CPMS or PEMS must sample, analyze, and record data at least every 15-minutes, or at another less frequent interval approved by the Agency, while the emission unit is operating."

Subsection (f). IERG proposed that owners or operators using emission factors to monitor PAL pollutant emissions must meet requirements in subsections (1) through (3).

Subsection (f)(1). IERG proposed that "[a]ll emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development."

Subsection (f)(2). IERG proposed that "[t]he emissions unit shall operate within the designated range of use for the emission factor, if applicable."

Subsection (f)(3). IERG proposed that, "[i]f technically practicable, the owner or operator of a significant emissions unit that relies on an emissions factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the Agency determines that testing is not required."

Subsection (g). IERG proposed to require that "[a] source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit."

Subsection (h). IERG proposed that, "[n]otwithstanding the requirements in subsections (c) through (g) of this Section, where an owner or operator cannot demonstrate a correlation between the monitored parameter or parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, the Agency shall, at time of permit issuance," must perform the functions in subsection (1) and (2). PC 16 at 159

Subsection (h)(1). IERG proposed that the Agency must "[e]stablish default value or values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point or operating points." PC 16 at159

Subsection (h)(2). IERG proposed that the Agency must "[d]etermine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter or parameters and the PAL pollutant emissions is a violation of the PAL."

Subsection (i). IERG proposed to require that "[a]ll data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Agency. Such testing must occur at least once every 5 years after issuance of the PAL."

Section 203.2400: Recordkeeping Requirements.

Subsection (a). IERG proposed that "[t]he PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of this Subpart and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record." *See* 40 CFR 51.165(f)(13).

Subsection (b). IERG proposed that the PAL permit must require an owner or operator to retain a copy of the records in subsection (1) and (2) for the duration of the PAL effective period plus 5 years. *See* 40 CFR 51.165(f)(13).

Subsection (b)(1). IERG first proposed to require retaining "[a] copy of the PAL permit application and any applications for revisions to the PAL."

Subsection (b)(2). IERG also proposed to require retaining "[e]ach annual certification of compliance pursuant to Section 39.5(7)(p)(v) of the Act and the data relied on in certifying the compliance."

Section 203.2410: Reporting and Notification Requirements. IERG proposed that an owner or operator must submit semi-annual monitoring reports and prompt deviation reports meeting the requirements in subsections (a) through (c) to IEPA in accordance with the CAAPP. *See* 40 CFR 51.165(f)(14).

Subsection (a). IERG proposed that the semi-annual report must be submitted to IEPA within 30 days after the end of each reporting period and include the information in subsections (1) through (7). *See* 40 CFR 51.165(f)(14).

Subsection (a)(1). IERG proposed that the report must include "[t]he identification of owner and operator and the permit number."

Subsection (a)(2). IERG proposed that the report must include "[t]otal annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to Section 203.2400(a)."

Subsection (a)(3). IERG proposed that the report must include "[a]ll data relied upon, including any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions."

Subsection (a)(4). IERG proposed that the report must include "[a] list of any emissions units modified or added to the major stationary source during the preceding 6-month period."

Subsection (a)(5). IERG proposed that the report must include "[t]he number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken."

Subsection (a)(6). IERG proposed that the report must include

> [a] notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the system continued to operate, and the calculation of the emissions of the pollutant or the number determined by the method included in the permit, as provided by Section 203.2390(g).

Subsection (a)(7). IERG proposed that the report must include "[a] signed statement by the responsible official (as defined by the CAAPP) certifying the truth, accuracy, and completeness of the information provided in the report."

Subsection (b). IERG proposed that the owner or operator must promptly submit reports of any deviations or exceedances of the PAL requirements, including periods with no monitoring available. *See* 40 CFR 51.165(f)(14). A report pursuant to 40 CFR 70.6(a)(3)(iii)(B) satisfies this requirement. *Id*. Any deviation report is due within the time limits under the applicable program implementing 40 CFR 70.6(a)(3)(iii)(B). *Id*. IERG proposed that the report must include the information in subsections (b)(1) through (4). *Id*.

Subsection (b)(1). IERG first proposed that the report must include "[t]he identification of owner and operator and the permit number."

Subsection (b)(2). IERG proposed that the report must include "[t]he PAL requirement that experienced the deviation or that was exceeded."

Subsection (b)(3). IERG proposed that the report include "[e]missions resulting from the deviation or the exceedance."

Subsection (b)(4). IERG proposed that the report must include "[a] signed statement by the responsible official (as defined by the CAAPP) certifying the truth, accuracy, and completeness of the information provided in the report."

Subsection (c). IERG proposed to require that "[t]he owner or operator shall submit to the Agency the results of any re-validation test or method within 3 months after completion of such test or method." *See* 40 CFR 51.165(f)(14).

Section 203.2420: Transition Requirements. IERG proposed that "[t]he Agency may not issue a PAL that does not comply with the requirements of this Subpart." *See* 40 CFR 51.165(f)(15).

Subpart R: Requirements for Major Stationary Sources in Attainment and Unclassifiable Areas.

The proposed Subpart R is new to Part 203 but is based on the federal blueprint rule. SR at 34. The proposed subpart addresses applicability of Part 203 to new major stationary sources and major modifications in attainment and unclassifiable areas. *Id*. at 33. The subpart also clarifies that it does not affect the applicability of PSD regulations in Part 204. *Id*.

The subpart also provides significant levels for determining whether a major stationary source or major modification would contribute to a violation of the NAAQS. *Id*. at 34. Additionally, Subpart R provides that an owner or operator must reduce the impact of its emissions on air quality by obtaining emissions reductions to compensate for its adverse impact when they cause or contribute to a violation of a NAAQS. *Id*. Additionally, proposed Section 203.2520(b) specifies which the Part 203 requirements with which an owner or operator subject to Subpart R must comply. *Id*.

Lastly, proposed Section 203.2530 provides IEPA's obligations under Subpart R. SR 34. Those obligations include determining whether a source meets all applicable requirements of the

Subpart, and how construction permits meet those requirements. *Id*. The Subsection also requires IEPA to follow specified public participation procedures when issuing permits under Subsection R. *Id*.

Section 203.2500: Applicability.

Subsection (a). IERG proposed that "[i]n any area designated as attainment or unclassifiable under Sections 107(d)(1)(A)(ii) or (iii) of the CAA (42 USC 7407(d)(1)(A)(ii) or (iii)), no person shall begin actual construction of a new major stationary source or major modification if the emissions from the major stationary source or major modification would cause or contribute to a violation of any NAAQS, except as in compliance with this Subpart." *See* 40 CFR 51.165(b)(1).

Subsection (b). IERG proposed that "[t]his Subpart shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment pursuant to section 117 of the CAA (42 USC 7407)." *See* 40 CFR 51.165(b)(4).

Subsection (c). IERG proposed that "[t]he applicability of 35 Ill. Adm. Code Part 204 is not affected by the applicability of this Subpart." *See* Prop., Exh. 2 at 10.

Section 203.2510: Criteria. IERG proposed that, "[f]or purposes of this Subpart, the emissions from a new major stationary source or major modification will be considered to cause or contribute to a violation of a NAAQS if such source or modification would exceed the following significance levels at any locality that does not or would not meet the applicable NAAQS." *See* 40 CFR 51.165(b)(2).

Pollutant	Significant Level ($\mu g/m^3$)				
	Annual Average	24-hour Average	8-hour Average	3-hour Average	1-hour Average
SO_2	1.0	5		25	
PM_{10}	1.0	5			
$PM_{2.5}$	0.3	1.2			
NO_2	1.0				
CO			500		2,000

Section 203.2520: Requirements. IERG proposed that, if an owner or operator of a proposed major stationary source or major modification does not fulfill the requirements in subsections (a) and (b), IEPA must deny the proposed construction. *See* 40 CFR 51.165(b)(3); PC 16 at 162.

Subsection (a). IERG first proposed that "[t]he owner or operator shall reduce the impact of its emissions on air quality by obtaining sufficient emissions reductions to, at a

minimum, compensate for its adverse ambient impact when the major stationary source or major modification would otherwise cause or contribution to a violation of the NAAQS." *See* 40 CFR 51.165(b)(3). IERG's proposal is similar to federal language, except using "shall" instead of "may". *See* Prop., Exh. 2 at 10.

Subsection (b). IERG proposed that "[t]he owner or operator shall comply with the requirements of Section 203.1410(c) and (e); Section 203.1420; Section 203.1430; Section 1440(a) Section 203.1460, and Section 203.1500." PC 16 at 163, IERG proposed subsection (b) to clarify which requirements of Section 203 apply to facilities subject to Subpart R. *See* Prop., Exh. 2 at 10.

Section 203.2530: Construction Permit.

Subsection (a). IERG proposed that "[t]he Agency shall only issue a construction permit for a new major stationary source or major modification that is subject to the requirements of this Subpart if the Agency determines that the source meets all requirements of this Subpart." IERG proposed this language to clarify IEPA obligations under Subpart R with permitting requirements under proposed 35 Ill. Adm. Code 203.1600(a). *See* Prop., Exh. 2 at 10.

Subsection (b). IERG proposed that "[t]he Agency shall include in any construction permit issue pursuant to this Subpart, conditions specifying the manner in which the applicable requirements of this Subpart are satisfied." *See* Prop., Exh. 2 at 10.

Subsection (c). IERG proposed that, "[i]n issuing a permit under this Subpart, the Agency shall follow the public participation requirements of Section 203.1610 or Section 204.1320 of 35 Ill. Adm. Code Part 204 as applicable." *See* 40 CFR 51.165(b)(3); PC 16 at 163.

Part 204: Prevention of Significant Deterioration

IERG proposes several amendments to Part 204. SR at 35. Amendments include correcting a citation, modifying language to comport with Part 203, and updating cross-references. *Id*. at 35-38.

Subpart B: Definitions.

Section 204.290: Building, Structure, Facility, or Installation. In subsection (a), IERG proposed removing the closing parenthesis after "Standard Industrial Classification Manual".

Section 204.330: Complete. IERG proposed adding that a designation of completeness does not preclude a reviewing authority from requesting or accepting additional information.

Section 204.420: Good Engineering Practice. In subsection (a)(2)(A), IERG proposed adding 40 CFR 51 to the list of required preconstruction approvals or permits.

Section 204.490: Major Modification. In subsection (c)(3), IERG proposed to correct an error in the reference to the CAA by changing "42 USC 7435" to "42 USC 7425".

Section 204.620: Replacement Unit. IERG proposed to amend subsection (c)(4) to correct an error in the reference the subsections (c)(1) and (c)(2). *See* PC 16 at 92.

Subpart C: Major Stationary Sources in Attainment and Unclassifiable Areas.

Section 204.800: Applicability. IERG proposed revisions and additions to Section 204.800 to clarify that both increases and decreases in emissions are considered when determining whether a proposed project would result in a significant emissions increase.

Subsection (d)(5). IERG proposed amending subsection (d)(5) by changing "emissions increases for each" to "difference for all", and making "unit" plural. *See* PC 16 at 92.

Subsection (d)(6). IERG proposed a new subsection (d)(6), to clarify that "sum of the difference", as it applies to subsections (d)(3) through (d)(5), includes both increases and decreases in emissions calculated according to those sections. *See* Pet. at 35-36.

Subsection (g). IERG proposed a new subsection (g) to address the interaction of the PSD rules of Part 204 and proposed Subpart R of Part 203. Subpart R of Part 203 applies to regulated NSR pollutants emitted from the construction of any new major stationary source (defined in 35 Ill. Adm. Code 203.1230(a)(8)) or any major modification (defined in 35 Ill. Adm. Code 203.1220) in an area designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the CAA if those emissions would cause or contribute to a violation of any NAAQS.

Subpart D: Increment.

Section 204.930: Redesignation. In subsection (c)(4), IERG proposed correcting an error in subsection (c)(4) by amending "Section" to "Part".

Subpart J: Innovative Control Technology.

Section 204.1500: Innovative Control Technology. In subsection (b), IERG proposed amending "Governor" "Governor(s) of other affected State(s)". *See* PC 16 at 97.

Subpart K: Plantwide Applicability Limitation. IERG proposed amending a citation to 35 Ill. Adm. Code 203.301(a) to a general reference to Part 203. Pet. at 37-38. IERG's proposes to sunset Subparts A through H of existing Part 203, and this general reference anticipates. *Id*.

Part 232: Toxic Air Contaminants

IERG proposes amending Part 232 to update a cross-reference to Part 203. SR at 38. The definition of "fugitive emissions" in Section 232.120 includes a reference to Part 203.124.

Id. IERG proposes changing the reference to "Part 203", to anticipate sunsetting Subparts A through H of Part 203. *Id*. at 39.

TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS

Economic Impact Study

As required by Section 27(b) of the Act (415 ILCS 5/27(b) (2022)), the Board in a letter dated September 9, 2021, requested that DCEO determine by October 31, 2021, whether it would conduct such a study. On October 22, 2021, the Board received a letter from DCEO declining to undertake an economic impact study. During each hearing, the hearing officer afforded those present an opportunity to address the Board's request for a study and DCEO's lack of a response. Tr. 1 at 11-12; Tr. 2 at 11. No participant offered testimony or comment on the request or response. *Id*.

Technical Feasibility of Part 203

IERG states that the nonattainment control requirement for new major stationary sources or major modification in Part 203 is LAER. Pet. at 42. The LAER requirement provides that IEPA impose limits that it determines are "achievable" on a case-by-case basis for the emissions units and stationary sources that those limits apply. *Id*., *see also* Exh. 2 at 18. LAER expressly requires what is "achievable" and because LAER is not changing in the proposed revisions of Part 203, IERG argues that the technical feasibility and costs should not change. Exh. 2 at 18.

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

IERG adds that the proposed amendments to Part 203 are mostly identical to the currently applicable federal NA NSR program, therefore the proposed amendments are as technically feasible as the existing federal NA NSR programs. Pet. at 43, *see also* Exh. 2 at 18.

Economic Reasonableness of Part 203

IERG states that the proposal brings Part 203 up to date with the CAA and underlying federal regulations, and that USEPA promulgated those rules under its assessment of economical reasonableness. Pet. at 42. IERG argues the proposed amendments do not differ from the economic impact from the federal NA NSR program. *Id*., *see also* IERG Pre-Filed Answers 2/15/22 at 5.

Technical Feasibility and Economic Reasonableness of Parts 204 and 232

IERG states that its proposed changes to Parts 204 and 232 update cross-references, fix errors, add references to proposed Part 203 Subpart R, and amend to conform with the Project Accounting Emissions Rule. Pet. at 43. IERG argues that because the Part 204 and Part 232

revisions do not impose additional requirements on sources subject to Part 203, they are technically feasible and economically reasonable. *Id*.

Board Finding on Technical Feasibility and Economic Reasonableness

The Board reviewed the record in this proceeding on the issues of technical feasibility and economic reasonableness. The Board finds that IERG's proposal implements statutory and regulatory revisions and amends the Clean Air Act and federal Non-Attainment New Source Review program in a manner that is technically feasible and economically reasonable.

FILING COMMENTS ON THE BOARD'S FIRST-NOTICE PROPOSAL

First-notice publication of the Board's proposal in the *Illinois Register* will start a period of at least 45 days during which any person may file a public comment with the Board, regardless of whether the person has already filed a public comment. 5 ILCS 100/5-40(b) (2022). The Board encourages persons to file public comments on the proposed amendments. The docket number for this rulemaking, R22-17, should be indicated on the public comment.

Public comments can be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website, www.pcb.illinois.gov. Questions about electronic filing should be directed to the Clerk's Office at (312) 814-3461.

Public comments may also be filed with the Clerk of the Board at the following address:

Pollution Control Board
Don A. Brown, Clerk
60 E. Van Buren St., Suite 630
Chicago, IL 60605

Public comments and all other filings with the Clerk must be served on the hearing officer and on those persons on the Service List for this rulemaking. The current Service List for R22-17 is available on COOL.

CONCLUSION

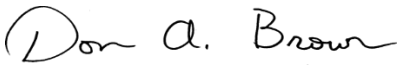
The Board proposes for first notice amendments to Parts 201, 202, 203, 204, and 232 of the Clean Air Act and federal Non-Attainment New Source Review program. The Board directs its Clerk to provide first-notice publication of the proposal in the Illinois Register. The rules proposed for first notice appear in the addendum to this order. A comment period of at least 45 days begins following publication in the Illinois Register, during which any person may file a public comment with the Board. Instructions on how to file a comment are provided above under "Filing Comments On The Board's First-Notice Proposal".

ORDER

The Board directs the Clerk to cause first-notice publication of the following proposed amendments to Parts 201, 202, 203, 204, and 232 of the Board's air pollution regulations that address Major Stationary Sources Construction and Modification, Prevention of Significant Deterioration, and Toxic Air Contaminants, including Non-Attainment New Source Review program in the *Illinois Register*. Proposed additions to Parts 203, 204, and 232 are underlined and proposed deletions appear stricken.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on April 18, 2024, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board

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

PART 201
PERMITS AND GENERAL PROVISIONS

SUBPART A: DEFINITIONS

SUBPART B: GENERAL PROVISIONS

SUBPART C: PROHIBITIONS

SUBPART D: PERMIT APPLICATIONS AND REVIEW PROCESS

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

SUBPART F: CAAPP PERMITS

SUBPART G: EXPERIMENTAL PERMITS
(Reserved)

SUBPART H: COMPLIANCE PROGRAMS AND PROJECT COMPLETION SCHEDULES

SUBPART I: MALFUNCTIONS, BREAKDOWNS OR STARTUPS

SUBPART J: MONITORING AND TESTING

SUBPART K: RECORDS AND REPORTS

SUBPART L: CONTINUOUS MONITORING

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

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

Section

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

SOURCE: Adopted as Chapter 2: Air Pollution, Part I: General Provisions, in R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg.30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13579; amended in R82-1 (Docket A) at 10 Ill. Reg. 12628, effective July 7, 1986; amended in R87-38 at 13 Ill. Reg. 2066, effective February 3, 1989; amended in R89-7(A) at 13 Ill. Reg. 19444, effective December 5, 1989; amended in R89-7(B) at 15 Ill. Reg. 17710, effective November 26, 1991; amended in R93-11 at 17 Ill. Reg. 21483, effective December 7, 1993; amended in R94-12 at 18 Ill. Reg. 15002, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15760, effective October 17, 1994; amended in R96-17 at 21 Ill. Reg. 7878, effective June 17, 1997; amended in R98-13 at 22 Ill. Reg. 11451, effective June 23, 1998; amended in R98-28 at 22 Ill. Reg. 11823, effective July 31, 1998; amended in R02-10 at 27 Ill. Reg. 5820, effective March 21, 2003; amended in R05-19 and R05-20 at 30 Ill. Reg. 4901, effective March 3, 2006; amended in R07-19 at 33 Ill. Reg. 11965, effective August 6, 2009; amended in R10-21 at 34 Ill. Reg.19575, effective December 1, 2010; amended in R12-10 at 35 Ill. Reg. 19790, effective December 5, 2011; amended in R13-18 at 38 Ill. Reg. 1005, effective December 23, 2013; amended in R17-9 at 41 Ill. Reg. 4140, effective March 24, 2017; amended in R23-18 at 47 Ill. Reg. 12089, effective July 25, 2023; amended in R22-17 at 48 Ill. Reg. _____, effective _____.

Section 201.169 Special Provisions for Certain Operating Permits

a) Applicability:

1) Operating permits issued under~~pursuant to~~ Section 39 of the Act for sources of air pollution that are not subject to the requirements of Section 39.5 of the Act and are not required to have a federally enforceable State operating permit are subject to the provisions of this Section.

2) This Section only applies to sources that meet the requirements of subsection (a)(1) ~~above~~ and whose permit has not expired for~~pursuant to~~ a renewal request under subsection (b)(2)~~ of this Section~~. If this Section no longer applies to a source and its permit has not expired ~~pursuant to a renewal request~~ under subsection (b)(2)~~ of this Section~~, the terms and conditions of the permit must~~shall~~ remain in effect until the permit is superseded by a new or revised permit or is withdrawn.

3) This~~Nothing in this~~ Subpart must not~~shall~~ be construed as exempting persons with permits issued pursuant to this Section from the requirements of Section 201.142 of this Part requiring a construction permit or from review under Part 203 or Part 204 procedures for new and modified emission units.

b) Expiration and Renewal:

1) The Agency may request the renewal of an operating permit subject to this Section for reasons including, but not limited to, a change in the requirements applicable to the source; an indication that the information on the source's application is inaccurate; or information that the source may not be in compliance with the Act, a Board regulation or an existing permit condition.

2) Despite~~Notwithstanding~~ Section 201.162 of this Subpart, an operating permit subject to this Section will~~shall~~ expire 180 days after the Agency sends a written request for renewal of the permit. A permit will~~shall~~ terminate if it is withdrawn upon written request by the permittee or is superseded by a revised permit issued for the source.

3) In its request for renewal under ~~pursuant to~~ subsection (b)(2) above, the Agency may include a request for any supplemental information that the Agency may need to determine the continued applicability of this Section or the ability of the source to comply with any requirement.

4) An owner or operator may appeal to the Board only a final determination by the Agency to deny a permit or to include conditions as provided by

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

c) Requirement for a Revised Permit:

1) Persons with operating permits subject to this Section must obtain a revised permit prior to any of the following changes at the source:

A) An increase in emissions above the amount the emission unit or the source is permitted to emit; ~~or~~

B) A modification; ~~or~~

C) A change in operations that will result in the source's noncompliance with a condition in the existing permit; or

D) A change in ownership, company name, or address, so that the application or existing permit is no longer accurate.

2) If changes in the source's emission units or control equipment remove a source from the applicability of this Section, an owner or operator must~~shall~~ apply for a construction permit under Section 201.152 of this Subpart, if applicable, and either a federally enforceable State operating permit or a Clean Air Act Permit Program (CAAPP) permit under~~pursuant to~~ Section 39.5 of the Act.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 201.175 Registration of Smaller Sources (ROSS)

a) An owner or operator of an eligible source must~~shall~~ annually register with the Agency instead of complying with the requirement to obtain an air pollution construction or operating permit under the Act or complying with a permit issued under Section 201.169. The owner and operator of a ROSS source is~~are~~ still subject to all applicable environmental statutes and regulations. The source must meet all of the following criteria to be an eligible source:

1) Under~~Pursuant to~~ Section 9.14 of the Act:

A) *The source must not be required to obtain a permit pursuant to the Clean Air Act Permit Program, or federally enforceable State operating permit program, or under regulations promulgated pursuant to Section 111 or 112 of the Clean Air Act;*

B) *USEPA has not otherwise determined that a permit is required;*

C) *The source emits less than an actual 5 tons per year of combined particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and volatile organic material air pollutant emissions;*

D) *The source emits less than an actual 0.5 tons per year of combined hazardous air pollutant emissions;*

E) *The source emits less than an actual 0.05 tons per year of lead air emissions;*

F) *The source emits less than an actual 0.05 tons per year of mercury air emissions; and*

G) *The source does not have an emission unit* or source *subject to a standard pursuant to 40 CFR 61 (Maximum Achievable Control Technology) or 40 CFR 63 (National Emissions Standards for Hazardous Air Pollutants), other than those regulations that USEPA has categorized as "area source."*

2) Emission units at the source are not used as thermal desorption systems underpursuant to 35 Adm. Code 728.Table F or as incinerator systems.

3) The source or its emission units must not be subject to local siting under Section 39.2 of the Act.

b) For the purposes of determining whether the actual emissions from the source meet the criteria of subsections (a)(1)(C), (a)(1)(D), (a)(1)(E), and (a)(1)(F) of this Section, the owner or operator of a source mustshall only use emissions from units that are not exempt from the requirement to obtain a permit underpursuant to Section 201.146, as follows:

1) Initial registration or reentry into ROSS: the owner or operator must sum the actual emissions from all units associated with the source for the prior calendar year. If the source is new, or has been operating less than one calendar year, projected estimated emissions may be used for all of the remaining months in the prior calendar year, respectively.

2) Annual renewal of registration:

A) For the purposes of determining compliance with subsection (a)(1)(C) of this Section, the owner or operator must:

i) Verify that the source still meets the eligibility criteria in subsection (a)(1)(C); or

ii) Calculate emissions by summing all actual emissions of combined particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and volatile organic material air pollutant emissions from all units associated with the source for the prior calendar year. The total sum of actual emissions of combined particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and volatile organic material air pollutant emissions for the prior calendar year must be less than or equal to 7 tons, or the total sum of actual emissions of combined particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and volatile organic material air pollutant emissions from the prior two calendar years must be less than or equal to 10 tons.

B) For ~~the purposes of~~ determining compliance with subsections (a)(1)(D), (a)(1)(E) and (a)(1)(F) ~~of this Section~~, the owner or operator must:

i) Verify that the source still meets the eligibility criteria in subsections (a)(1)(D), (a)(1)(E), and (a)(1)(F) of this Section; or

ii) Calculate emissions by summing all actual emissions from all units at the source for the prior calendar year. Summed emissions of HAPs, mercury or lead must be less than or equal to 0.5 tons per year, 0.05 tons per year, or 0.05 tons per year, for the prior calendar year, respectively.

c) The following must be included in each initial registration and each re-entry registration:

1) The name, address, and telephone number of the source and of the person responsible for submitting and retaining copies of the registration information and the records;

2) A statement that the source meets the requirements of this Section;

3) A certification that the information submitted in subsections (c)(1) and (c)(2) ~~of this Section~~ is correct or a correction of the information; and

4) The applicable fee under~~pursuant to~~ Section 9.14 of the Act.

d) The owner or operator of an eligible source must~~shall~~ submit the registration required by subsection (c) of this Section as follows:

1) Initial registration:

A) The owner or operator of a source holding a permit may register after the effective date of this Section and no later than their annual fee payment date in fiscal year 2013 (July 1, 2012 through June 30, 2013). The terms and conditions of a permit issued underpursuant to Section 201.169 do not apply during the period the source is registered. The owner and operator of a ROSS source are still subject to all applicable environmental statutes and regulations.

B) The owner or operator of an operating source not holding a permit mustshall register no later than July 1, 2012.

C) The owner or operator of a new source mustshall register at least 10 days before commencing construction or operation and may commence construction or operation 10 days after submittal to the Agency.

2) Annual registration. The owner or operator of a ROSS source must pay an annual fee on or before their annual fee payment date. Annual payment of the fee is verification by the owner or operator that the source continues to meet the criteria in subsection (a), as determined by subsection (b)(2), as applicable.

3) Re-entry into ROSS under subsection (h). The owner or operator of a source that re-enters ROSS based on the criteria in subsection (a), as determined by subsection (b)(1), must register and pay an annual fee on or before their annual fee payment date.

e) The owner or operator mustshall keep the following records and make them available for inspection by the Agency:

1) A description of the emission units associated with the source and their associated control devices;

2) A description of control efficiency or emission rates of any control devices that are relied upon to meet the criteria for ROSS in subsection (a), as determined by subsection (b)(1) or (b)(2), as applicable;

3) Documentation of the source's actual emissions and calculations demonstrating that the source is eligible for ROSS underpursuant to the criteria in subsectionsubsections (a), as determined by subsection (b)(1) or (b)(2), as applicable. This documentation may include, but is not limited to, annual material usage or emission rates;

4) A copy of the source's initial registration; and

5) A copy of the owner's or operator's annual fee payment for at least the most recent 5 calendar years.

f) Changes to a ROSS source requiring notification: The owner or operator of the source must notify the Agency in writing within 45 days after the change to the source, if the information provided in subsection (c)(1) ~~of this Section~~ changes.

g) Changes requiring a new or modified construction or operating permit, or compliance with conditions in an existing permit issued under~~pursuant to~~ Section 201.169:

1) The owner or operator must apply for a permit by the date required by the new regulation or statute if there is a change in a regulation or statutory requirement or a new regulation or statutory requirement that makes a source ineligible for ROSS under the criteria in subsection (a), as determined in subsection (b)(2), as applicable.

2) If the source no longer meets the criteria in subsection (a), as determined by subsection (b)(2), as applicable:

A) The owner or operator of a source that did not have a permit under Section 201.169 prior to registration must apply and comply with the applicable requirements of the Act and 35 Ill. Adm. Code Parts 201, ~~and~~ 203, and 204 as follows:

i) If the source is eligible for a permit under Section 201.169, the owner or operator must apply for a permit within 90 days of the source's annual fee payment date.

ii) If the source is not eligible under Section 201.169, the owner or operator must apply for a permit as provided for under the Act and 35 Ill. Adm. Code Parts 201, ~~and~~ 203, and 204.

iii) If the source was not constructed or operated at the time of initial registration and has actual emissions in excess of the eligibility levels during the first or second year of operations as determined in subsection (b)(2), the owner or operator must apply for an operating permit and pay construction permit application fees.

B) The owner or operator of a source that had a permit under Section 201.169 prior to registration:

i) If the source is in compliance with the terms and conditions of the permit, the owner or operator must~~shall~~ notify the Agency no later than the source's annual fee payment date of the calendar year following the change in status from a ROSS eligible source to a permitted source.

ii) If the source is not in compliance with the terms and conditions of the permit, but is still eligible for a permit under~~pursuant to~~ Section 201.169, the owner or operator must apply for a new or revised permit within 90 days of the source's annual fee payment date.

iii) If the source is not eligible for a permit under~~pursuant to~~ Section 201.169, the owner or operator must comply with the applicable permitting requirements under the Act and 35 Ill. Adm. Code Parts 201, ~~and~~ 203, and 204.

h) Reentry into ROSS: the owner or operator of a source that changed status to become a permitted source under~~pursuant to~~ subsection (g) must ~~of this Section shall~~ submit a registration for ROSS if the source meets the criteria in subsections (a), as determined in subsection (b)(1), in the prior calendar year.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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

PART 202
ALTERNATIVE CONTROL STRATEGIES

SUBPART A: GENERAL PROVISIONS

SUBPART B: PERMIT APPLICATION

SUBPART C: PERMIT CONDITIONS AND ISSUANCE

SUBPART D: PERMIT DURATION, REVISION AND RENEWAL

SUBPART E: ALTERNATIVE CONTROL STRATEGIES INVOLVING MORE THAN ONE PERSON

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

SOURCE: 35 Ill. Adm. Code 212 adopted in R81-20 (Interim) at 6 Ill. Reg. 6703, effective May 20, 1982; renumbered to 35 Ill. Adm. Code 202 and amended in R81-20(A) at 7 Ill. Reg. 8091, effective June 27, 1983; codified at 7 Ill. Reg. 13584; corrected at 7 Ill. Reg. 14561; amended in R81-20(B) at 8 Ill. Reg. 4171, effective March 16, 1984; amended in R23-18 at 47 Ill. Reg. 12101, effective July 25, 2023; amended in R22-17 at 48 Ill. Reg. _____, effective _____.

Section 202.306 Standards for Issuance

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

a) The ACS provides, in the aggregate with respect to each regulated pollutant, equivalent or less total emissions than would otherwise be required.

b) The impact of the ACS is environmentally equivalent to that which would otherwise be achieved and maintained under existing requirements.

c) The methods for assuring compliance with the conditions and requirements of the permit under the ACS are equivalent to those that are associated with otherwise applicable requirements.

d) The ACS complies with any applicable requirements contained in 35 Ill. Adm. Code 203, 204, 230 or 231.

e) USEPA has not disapproved the proposed ACS or any compliance schedule it may contain due to the existence of a federal enforcement action pending against a participant in the ACS.

f) The ACS does not permit an increase in emissions of any pollutant which is listed or regulated pursuant to Section 112 of the Clean Air Act (42 U.S.C. 7412 et seq.).

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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

PART 203
MAJOR STATIONARY SOURCES CONSTRUCTION AND MODIFICATION

SUBPART A: GENERAL PROVISIONS

Section

SUBPART B: MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

Section

SUBPART C: REQUIREMENTS FOR MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

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

SUBPART G: GENERAL MAINTENANCE OF EMISSION OFFSETS

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

SUBPART I: GENERAL PROVISIONS

SUBPART J: MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

SUBPART K: STACK HEIGHTS

SUBPART L: GENERAL OBLIGATIONS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

SUBPART M: NON-APPLICABILITY RECORDKEEPING AND REPORTING

SUBPART N: REQUIREMENTS FOR MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

SUBPART O: GENERAL MAINTENANCE OF EMISSION OFFSETS

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

SUBPART Q: PLANTWIDE APPLICABILITY LIMITATION

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

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

SOURCE: Adopted and codified at 7 Ill. Reg. 9344, effective July 22, 1983; codified at 7 Ill. Reg. 13588; amended in R85-20 at 12 Ill. Reg. 6118, effective March 22, 1988; amended in R91-24 at 16 Ill. Reg. 13551, effective August 24, 1992; amended in R92-21 at 17 Ill. Reg. 6973, effective April 30, 1993; amended in R93-9 at 17 Ill. Reg. 16630, effective September 27, 1993; amended in R93-26 at 18 Ill. Reg. 6335, effective April 15, 1994; amended in R98-10 at 22 Ill.

Reg. 5674, effective March 10, 1998; amended in R19-1 at 44 Ill. Reg. 14916, effective September 4, 2020; amended in R22-17 at 48 Ill. Reg._____, effective_____.

SUBPART A: GENERAL PROVISIONS

Section 203.100 Effective Dates

a) Subparts I through R of this Part do not apply until the effective date of approval of all of those Subparts by the United States Environmental Protection Agency (USEPA) as a revision to the Illinois State Implementation Plan.

b) On the effective date of approval of Subparts I through R of this Part by the USEPA as part of Illinois' State Implementation Plan, the permitting and operation of projects that began actual construction or may begin actual construction before this date must continue to be compliance with Subparts A through H of this Part.

(Source: Added at 48 Ill. Reg. _____, effective _____)

SUBPART I: GENERAL PROVISIONS

Section 203.1000 Incorporations by Reference

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

a) 40 CFR Part 51, Subpart I (2021)

b) 40 CFR 52.21 (2021)

c) 40 CFR Part 51, Appendix S (2021)

d) 40 CFR Part 51, Appendix W (2021)

e) 40 CFR Part 60 (2021)

f) 40 CFR Part 61 (2021)

g) 40 CFR Part 62 (2021)

h) 40 CFR Part 63 (2021)

i) 40 CFR Part 81 (2021)

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

(Source: Added at 48 Ill. Reg. _____, effective _____)

Section 203.1010 Abbreviations and Acronyms

The following abbreviations and acronyms are used in this Part:

$\mu g/m^3$	micrograms per cubic meter
Act	Illinois Environmental Protection Act
Agency	Illinois Environmental Protection Agency
BACT	Best Available Control Technology
Board	Illinois Pollution Control Board
CAA	Clean Air Act
CAAPP	Clean Air Act Permit Program
CEMS	Continuous Emissions Monitoring System
CERMS	Continuous Emissions Rate Monitoring System
CFR	Code of Federal Regulations
CO	carbon monoxide
CO_2	carbon dioxide
CPMS	Continuous Parameter Monitoring System
FR	Federal Register
IPT	Interprecursor Trading
LAER	Lowest Achievable Emission Rate
MW	megawatts
NAAQS	National Ambient Air Quality Standards
NAICS	North American Industry Classification System
NO_2	nitrogen dioxide
NO_X	nitrogen oxides
NSPS	New Source Performance Standards
NSR	New Source Review
NA NSR	Nonattainment New Source Review
O_2	oxygen
PAL	Plantwide Applicability Limitation
PEMS	Predictive Emissions Monitoring System
$PM_{2.5}$	Particulate Matter equal to or less than 2.5 microns in diameter (Fine Particulate Matter)
PM_{10}	Particulate Matter equal to or less than 10 microns in diameter
PSD	Prevention of Significant Deterioration
RACT	Reasonably Available Control Technology
SIC	Standard Industrial Classification
SIP	State Implementation Plan
SO_2	sulfur dioxide
tpy	tons per year

US	United States
USC	United States Code
USEPA	United States Environmental Protection Agency
VOM	Volatile Organic Material

(Source: Added at 48 Ill. Reg. _____, effective _____)

Section 203.1020 Severability

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

(Source: Added at 48 Ill. Reg. _____, effective _____)

Section 203.1030 Definitions

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

(Source: Added at 48 Ill. Reg. _____, effective _____)

Section 203.1040 Actual Emissions

a) "Actual Emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit as determined in compliance with subsections (b) through (c), except that this definition does not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Subpart Q. Instead, Section 203.1070 and Section 203.1320 will apply for those purposes.

b) In general, actual emissions as of a particular date must equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Agency must allow the use of a different time period upon a demonstration by the applicant to the Agency that the time period is more representative of normal source operation. The demonstration may include, operating records or other documentation of events or circumstances indicating that the preceding 24-month period is not representative of normal source operations. Actual emissions must be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored or combusted during the selected time period.

c) For any emissions unit which has not begun normal operations on the particular date, actual emissions must equal the potential to emit of the unit on that date.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1050 Allowable Emissions

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

a) The applicable standards in 40 CFR Parts 60, 61, 62 and 63, incorporated by reference in Section 203.1000;

b) The applicable SIP emissions limitation, including those with a future compliance date; or

c) The emissions rate specified as a federally enforceable permit condition including those with a future compliance date.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1060 Available Growth Margin

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1070 Baseline Actual Emissions

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

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

1) The average rate must include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

2) The average rate must be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

3) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

4) The average rate must not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsection (a)(2).

b) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Agency for a permit required by the SIP, whichever is earlier, except that the 10-year period must not include any period earlier than November 15, 1990.

1) The average rate must include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

2) The average rate must be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

3) The average rate must be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. “Currently” in the context of a contemporaneous emissions change refers to limitations on emissions and source operation that existed just prior to the date of the contemporaneous change. However, if an emission limitation is part of a Maximum Achievable Control Technology

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

4) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

5) The average rate must not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsections (b)(2) and (b)(3).

c) For a new emissions unit, the baseline actual emissions for determining the emissions increase that will result from the initial construction and operation of the unit must be equal to zero; and thereafter must be equal to the unit's potential to emit.

d) For a PAL for a stationary source, the baseline actual emissions must be calculated for existing electric utility steam generating units according to the procedures contained in subsection (a), for other existing emissions units in accordance with the procedures contained in subsection (b), and for a new emissions unit according to the procedures contained in subsection (c).

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1080 Begin Actual Construction

"Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. These activities include, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. For a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1090 Building, Structure, Facility, or Installation

a) "Building, structure, facility, or installation" mean all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities must be

considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., have the same first two-digit code) as described in the Standard Industrial Classification Manual (incorporated by reference in Section 203.1000).

b) Despite the provisions of subsection (a), building, structure, facility, or installation means, for onshore activities under Standard Industrial Classification (SIC) Major Group 13: Oil and Gas Extraction, incorporated by reference in Section 203.1040, all of the pollutant-emitting activities included in Major Group 13 that are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities must be considered adjacent if they are located on the same surface site; or if they are located on surface sites that are located within ¼ mile of one another (measured from the center of the equipment on the surface site) and they share equipment. Shared equipment includes produced fluids storage tanks, phase separators, natural gas dehydrators or emissions control devices. Surface site, as used in this subsection, has the same meaning as in 40 CFR 63.761.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1100 Commence

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

a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1110 Complete

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1120 Construction

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1130 Dispersion Technique

a) "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

1) Using that portion of a stack which exceeds good engineering practice stack height;

2) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

3) Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

b) "Dispersion technique" does not include:

1) The reheating of a gas stream, following use of a pollution control system, for returning the gas to the temperature at which it was originally discharged from the stationary source generating the gas stream;

2) The merging of exhaust gas streams when:

A) The source owner or operator demonstrates that the stationary source was originally designed and constructed with the merged gas streams;

B) After July 8, 1985 merging is part of a change in operation at the stationary source that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of dispersion techniques must apply only to the emission limitation for the pollutant affected by such change in operation; or

C) Before July 8, 1985, merging was part of a change in operation at the stationary source that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. When there was an increase in the emission

limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Agency must presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by that intent, the Agency must deny credit for the effects of the merging in calculating the allowable emissions for the source;

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

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

5) Techniques under subsection (a)(3) which increase final exhaust gas plume rise where the resulting allowable emissions of SO_2 from the stationary source do not exceed 5,000 tpy.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1140 Electric Utility Steam Generating Unit

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1150 Emission Offset

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1160 Emissions Unit

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

a) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date the emissions unit first operated.

b) An existing emissions unit is any emissions unit that does not meet the requirements of subsection (a). A replacement unit, as defined in Section 203.1350, is an existing emissions unit.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1170 Excessive Concentration

"Excessive concentration" for determining good engineering practice stack height under Section 203.1200(a)(3) means:

a) For sources seeking credit for stack height exceeding that established under Section 203.1200(a)(2), a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of the downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to this Part, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than an ambient air increment under 35 Ill. Adm. Code Part 204.900. The allowable emission rate to be used in making demonstrations of excessive concentration must be prescribed by the NSPS that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where demonstrations are approved by the Agency, an alternative emission rate must be established in consultation with the source owner or operator.

b) For sources seeking credit for increases in existing stack heights up to the heights established under Section 203.1200(a)(2), either (i) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subsection (a), except that the emission rate specified by the SIP (or, in the absence of such a limit, the actual emission rate) must be used, or (ii) the actual presence of a local nuisance caused by the existing stack, as determined by the Agency; and

c) For sources seeking credit for a stack height determined under Section 203.1200(a)(2) where the Agency requires the use of a field study or fluid model to verify good engineering practice stack height, for sources seeking stack height

credit based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit based on the aerodynamic influence of structures not adequately represented by the equations in Section 203.1200(a)(2), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1180 Federally Enforceable

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1190 Fugitive Emissions

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1200 Good Engineering Practice

a) "Good engineering practice," for stack height, means the greater of:

1) 65 meters, measured from the ground-level elevation at the base of the stack;

2) The following:

A) For a stack in existence on January 12, 1979, and for which the owner or operator had obtained all necessary preconstruction approvals or permits required under 40 CFR Part 52:

$H_g = 2.5H,$

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

B) For all other stacks:

$H_g = H + 1.5L$

where:

H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,
H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,
L = lesser dimension, height or projected width, of nearby structure(s) provided that the USEPA or the Agency may require the use of a field study or fluid model to verify good engineering practice stack height for the source; or

3) The height demonstrated by a fluid model or a field study approved by the USEPA or the Agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

b) For this definition, "stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1210 Lowest Achievable Emission Rate

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

a) The most stringent emissions limitation which is contained in the implementation plan of any State for the class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that the limitations are not achievable; or

b) The most stringent emissions limitation which is achieved in practice by the class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. The application of this limitation must not permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source performance

standard adopted by the USEPA pursuant to Section 111 of the CAA and made applicable in Illinois pursuant to Section 9.1 of the Act.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1220 Major Modification

a) Except as stated in subsections (d) through (f) below, "major modification" means any physical change, or change in the method of operation of a major stationary source that would result in: a significant emissions increase (as defined in Section 203.1380) of a regulated NSR pollutant (as defined in Section 203.1340); and a significant net emissions increase (as defined in Section 203.1370) of that regulated NSR pollutant for which the source is a major stationary source.

b) Any significant emissions increase (as defined in Section 203.1380) from any emissions units or net emissions increase (as defined in Section 203.1260) at a major stationary source that is significant for VOM or NO_X must be considered significant for ozone.

c) A physical change or change in the method of operation must not include:

1) Routine maintenance, repair and replacement;

2) Use of an alternative fuel or raw material by reason of:

A) An order under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 USC 791) (or any superseding legislation); or

B) A natural gas curtailment plan under the Federal Power Act (16 USC 791);

3) Use of an alternative fuel by reason of an order or rule under Section 125 of the CAA (42 USC 7425);

4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

5) Use of an alternative fuel or raw material by a stationary source which:

A) The source was capable of accommodating before December 21, 1976, unless the change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976, under 40 CFR 52.21, 35 Ill. Adm. Code Part 204, this Part, or 35 Ill. Adm. Code 201.142 or 201.143; or

B) The source is approved to use under any permit issued under 40 CFR 52.21, this Part, Part 204, or 35 Ill. Adm. Code 201.142 or 201.143;

6) An increase in the hours of operation or in the production rate, unless the change is prohibited under any enforceable permit condition which was established after December 21, 1976 under 40 CFR 52.21, 35 Ill. Adm. Code Part 204, this Part, or 35 Ill. Adm. Code 201.142 or 201.143; or

7) Any change in ownership at a stationary source.

d) For any major stationary source of VOM or NO_X located in an area classified as serious or severe nonattainment for ozone (other than a source which emits or has the potential to emit 100 tons or more of VOM or NO_X per year), if any change at that source results in a significant increase in emissions of VOM or NO_X, respectively, from any discrete operation, unit, or other pollutant emitting activity at the source, the increase must be considered a major modification for purposes of this Part, except the increase must not be considered a major modification if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of VOM or NO_X, respectively, from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1.

e) In areas classified as extreme nonattainment for ozone, beginning on the date that an area is classified by the USEPA as an extreme nonattainment area for ozone, any physical change in or change in the method of operation of a major stationary source which results in any increase in emissions of VOM or NO_X from a discrete operation, unit, or other pollutant emitting activity must be considered a major modification.

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1230 Major Stationary Source

a) The following constitute a major stationary source:

1) For an area designated as nonattainment for ozone, a major stationary source for ozone is a stationary source which emits or has the potential to emit VOM in an amount equal to or greater than the following:

A) 100 tpy in an area classified as marginal or moderate nonattainment for ozone;

B) 50 tpy in an area classified as serious nonattainment for ozone;

C) 25 tpy in an area classified as severe nonattainment for ozone; and

D) 10 tpy in an area classified as extreme nonattainment for ozone.

2) For an area designated as nonattainment for ozone, a major stationary source for ozone is a stationary source which emits or has the potential to emit NO_X in an amount equal to or greater than the following, unless the USEPA has made a finding under Sections 110 and 182(f) of the CAA (42 USC 7410, 7511a(f)) that controlling of emissions of NO_X from such source must not be required:

A) 100 tpy in an area classified as marginal or moderate nonattainment for ozone;

B) 50 tpy in an area classified as serious nonattainment for ozone;

C) 25 tpy in an area classified as severe nonattainment for ozone; and

D) 10 tpy in an area classified as extreme nonattainment for ozone.

3) For an area designated nonattainment for PM_{10}, a major stationary source is a stationary source which emits or has the potential to emit:

A) 100 tpy or more of PM_{10} in an area classified as moderate nonattainment for PM_{10}; and

B) 70 tpy or more of PM_{10} in an area classified as serious nonattainment for PM_{10}.

4) For an area designated nonattainment for $PM_{2.5}$, a major stationary source is a stationary source which emits or has the potential to emit:

A) 100 tpy or more of direct $PM_{2.5}$ emissions in an area classified as moderate nonattainment for $PM_{2.5}$;

B) 100 tpy or more of any individual precursor for $PM_{2.5}$ (as required in Section 203.1340) in an area classified as moderate nonattainment for $PM_{2.5}$;

C) 70 tpy or more of direct $PM_{2.5}$ emissions in an area classified as serious nonattainment for $PM_{2.5}$; and

D) 70 tpy or more of any individual precursor for $PM_{2.5}$ (as required in Section 203.1340), in an area classified as serious nonattainment for $PM_{2.5}$.

5) For an area designated nonattainment for CO, a major stationary source is a stationary source which emits or has the potential to emit:

A) 100 tpy or more in an area classified as moderate nonattainment for CO, except as provided in subsection (a)(5)(B);

B) 50 tpy or more in an area classified as serious nonattainment for CO where stationary sources significantly contribute to ambient CO levels, as determined under rules issued by the USEPA, pursuant to the CAA.

6) For an area designated as nonattainment for NO_2, a major stationary source is a stationary source which emits or has the potential to emit 100 tpy or more of NO_X.

7) For an area designated nonattainment for a pollutant other than those pollutants addressed in subsections (a)(1) through (a)(6) above, a major stationary source is a stationary source which emits or has the potential to emit 100 tpy or more of the pollutant.

8) For stationary sources locating outside designated nonattainment areas for purposes of Subpart R, a major stationary source is a stationary source which emits or has the potential to emit 100 tpy or more of a regulated NSR pollutant.

b) Any physical change that occurs at a stationary source which does not qualify under subsection (a) as a major stationary source will be considered a major stationary source, if the change would constitute a major stationary source by itself.

c) The fugitive emissions of a stationary source must not be included in determining for any purposes of this Section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

1) Coal cleaning plants (with thermal dryers);

2) Kraft pulp mills;

3) Portland cement plants;

4) Primary zinc smelters;

5) Iron and steel mills;

6) Primary aluminum ore reduction plants;

7) Primary copper smelters;

8) Municipal incinerators capable of charging more than 50 tons of refuse per day;

9) Hydrofluoric, sulfuric, or nitric acid plants;

10) Petroleum refineries;

11) Lime plants;

12) Phosphate rock processing plants;

13) Coke oven batteries;

14) Sulfur recovery plants;

15) Carbon black plants (furnace process);

16) Primary lead smelters;

17) Fuel conversion plants;

18) Sintering plants;

19) Secondary metal production plants;

20) Chemical process plants—The term “chemical processing plant” must not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million Btu per hour heat input;

22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

23) Taconite ore processing plants;

24) Glass fiber processing plants;

25) Charcoal production plants;

26) Fossil fuel-fired steam electric plants of more than 250 million Btu per hour heat input; and

27) Any other stationary source categories which, as of August 7, 1980, is being regulated by a standard promulgated under Section 111 or 112 of the CAA (42 USC 7411, 7412), but only with respect to those air pollutants that have been regulated for that category.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1240 Nearby

"Nearby," for a specific structure or terrain feature:

a) For applying the formulae provided in Section 203.1200(a)(2)(A) and (a)(2)(B) means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (½ mile), and

b) For conducting demonstrations under Section 203.1200(a)(3) means not greater than 0.8 km (½ mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if such feature achieves a height 0.8 km from the stack that is at least 40 percent of the good engineering practice stack height determined by the formula provided in Section 203.1200(a)(2)(B) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1250 Necessary Preconstruction Approvals or Permits

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1260 Net Emissions Increase

a) "Net emissions increase" means, for any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

1) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated under Section 203.1410(c); and

2) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this Section must be determined as provided in Section 203.1070, except that Section 203.1070(a)(3) and Section 203.1070(b)(4) must not apply.

b) The following steps determine whether the increase or decrease in emissions is available.

1) Except for increases or decreases in VOM and NO_X emissions in serious and severe ozone nonattainment areas which are addressed in Section 203.1370(c), an increase or decrease in actual emissions is contemporaneous only if it occurs between the date that an increase from a particular change occurs and the date five years before a timely and complete application is submitted for the particular change. It must also occur after either April 24, 1979, or the date the area is designated by the USEPA as a nonattainment area for the pollutant, whichever is more recent.

2) An increase or decrease in actual emissions is creditable:

A) Only if there is not in effect for the source at the time the particular change occurs, a permit issued under this Part which relied on the same increase or decrease in actual emissions; and

B) Only to the extent the new and old levels differ.

3) A decrease in actual emissions is creditable to the extent that:

A) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

B) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change;

C) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions; and

D) The Agency has not relied on it in issuing any permit under 35 Ill. Adm. Code 201.142 or 201.143 or this Part or 35 Ill. Adm. Code Part 204 or 40 CFR 52.21 and has not relied on it for demonstrating attainment or reasonable further progress.

4) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any emission unit that replaces an existing emissions unit that requires shakedown becomes operational only after a shakedown period, not to exceed 180 days.

5) Section 203.1040(b) must not apply for determining creditable increases and decreases after a change.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1270 Nonattainment Area

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1280 Nonattainment New Source Review (NA NSR) Permit

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1290 Potential to Emit

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1300 Process Unit

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1310 Project

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1320 Projected Actual Emissions

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

b) In determining the projected actual emissions under subsection (a) (before beginning actual construction), the owner or operator of the major stationary source:

1) Must consider all relevant information, including historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans under Illinois' SIP; and

2) Must include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and

3) Must exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under Section 203.1070 and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

4) In lieu of using the method set out in subsections (b)(1) through (b)(3), may elect to use the emissions unit's potential to emit, in tons per year, as defined under Section 203.1290.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1330 Reasonable Further Progress

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1340 Regulated NSR Pollutant

"Regulated NSR pollutant" means the following:

a) NO_X or VOM;

b) Any pollutant for which a NAAQS has been promulgated;

c) Any pollutant that is identified under this Section as a constituent or precursor of a general pollutant listed under subsection (a) or (b), if the constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors for NSR are the following:

1) Except as provided in Section 203.1450, VOM and NO_X are precursors to ozone in all ozone nonattainment areas.

2) SO_2 and NO_X are precursors to $PM_{2.5}$ for a stationary source located in a $PM_{2.5}$ nonattainment area or, for Subpart R, a stationary source which would cause or contribute to a violation of a $PM_{2.5}$ NAAQS.

3) VOM and ammonia are precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area.

d) Direct $PM_{2.5}$ emissions and PM_{10} emissions must include gaseous emissions from a source or activity that condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter must be accounted for in applicability determinations and in establishing emissions limitations for direct $PM_{2.5}$ emissions and PM_{10} emissions in NA NSR permits. Compliance with emissions limitations for direct $PM_{2.5}$ emissions and PM_{10} emissions issued prior to this date must not be based on condensable particulate matter unless required by the terms and conditions of the permit.

Applicability determinations made prior to this date without accounting for condensable particulate matter must not be considered as a violation of this Part.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1350 Replacement Unit

"Replacement unit" means an emissions unit for which all the criteria listed in subsections (a) through (d) are met. No creditable emissions reductions must be generated from shutting down the existing emissions unit that is replaced.

a) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

b) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

c) The replacement does not alter the basic design parameter or parameters of the process unit. Basic design parameters of a process unit must be determined as follows:

1) Except as provided in subsection (c)(3), for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on British Thermal Units content must be used for determining the basic design parameter or parameters for a coal-fired electric utility steam generating unit.

2) Except as provided in subsection (c)(3), the basic design parameter or parameters for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.

3) If the owner or operator believes the basic design parameter or parameters in subsections (c)(1) and (c)(2) is not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Agency an alternative basic design parameter or parameters for the source's process unit or units. If the Agency approves of the use of an alternative basic

design parameter or parameters, the Agency must issue a permit that is legally enforceable that records such basic design parameter or parameters and requires the owner or operator to comply with such parameter or parameters.

4) The owner or operator must use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameter or parameters specified in subsections (c)(1) and (c)(2).

5) If design information is not available for a process unit, then the owner or operator must determine the process unit's basic design parameter or parameters using the maximum value achieved by the process unit in the five-year period immediately preceding the planned activity.

6) Efficiency of a process unit is not a basic design parameter.

d) The replaced emissions unit is permanently removed from the major stationary source, permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it must constitute a new emissions unit.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1360 Secondary Emissions

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1370 Significant

a) "Significant" means, for a net emissions increase or the potential of a source to emit any of the following regulated NSR pollutants, a rate of emissions that would equal or exceed any of the following rates:

Regulated NSR Pollutant	Emissions Rate

CO	100 tpy of CO, except pursuant to subsection (b)
NO_2	40 tpy of NO_X
SO_2	40 tpy of SO_2
PM_{10}	15 tpy of PM_{10}
$PM_{2.5}$	10 tpy of direct $PM_{2.5}$ emissions; 40 tpy of SO_2, 40 tpy of NO_X, 40 tpy of VOM, or 40 tpy of ammonia, to the extent that any such pollutant is defined as a precursor for $PM_{2.5}$ in Section 203.1340.
Ozone	40 tpy of VOM or NO_X, except pursuant to subsections (c) and (d).
Lead	0.6 tpy

b) For areas classified as serious nonattainment for CO where stationary sources significantly contribute to ambient CO levels, as determined under rules issued by the USEPA, under the CAA, despite the significant emissions rate for CO in subsection (a), significant means, an increase in actual emissions of CO that would result from any physical change in, or change in the method of operation of, a major stationary source, if the increase equals or exceeds 50 tpy.

c) For areas classified as serious or severe nonattainment for ozone, despite the significant emissions rate for ozone in subsection (a), an increase in emissions of VOM or NO_X must be considered significant if the net emissions increase of such air pollutant from a stationary source located within such area exceeds 25 tons when aggregated with all other net increases in emissions from the source over any period of 5 consecutive calendar years which includes the calendar year in which such increase occurred. This provision must become effective beginning November 15, 1992, or a later date when an area is classified as a serious or severe nonattainment area for ozone.

d) For areas classified as extreme nonattainment for ozone, despite the significant emissions rate for ozone in subsection (a), any increase in emissions of VOM or NO_X from any emissions unit at a major stationary source of VOM or NO_X must be considered significant.

e) For major stationary sources located outside designated nonattainment areas for purposes of Subpart R, an increase in emissions of a regulated NSR pollutant must be considered significant if it would equal or exceed the rate listed in subsection (a), despite the attainment status in the area.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1380 Significant Emissions Increase

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1390 Stack in Existence

"Stack in existence" means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed within a reasonable time.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1400 Stationary Source

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

(Source: Added at 48 Ill. Reg._____, effective _____)

SUBPART J: MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

Section 203.1410 Applicability

a) The requirements of this Part, other than Subpart R, must apply to the construction of any new major stationary source (as defined in Section 203.1230) or major modification (as defined in Section 203.1220) that is major for the pollutant for which the area is designated nonattainment under Section 107(d)(1)(A)(i) of the CAA (42 USC 7407(d)(1)(A)(i)), if the stationary source or modification would locate anywhere in the designated nonattainment area. Different pollutants, including individual precursors, are not summed to determine applicability of a major stationary source or major modification.

b) No new major stationary source or major modification to which the requirements of Sections 203.1410, 203.1420, 203.1430, 203.1440, 203.1800, 203.1810, 203.1820, 203.1830, or 203.2000 apply must begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The Agency has authority to issue any such permit.

c) The requirements of this Part will be applied in compliance with subsections (c)(1) through (c)(6).

1) Except as otherwise provided in subsection (e) and in Sections 203.1220(d)-(e), and consistent with the definition of major modification

contained in Section 203.1220, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases: a significant emissions increase (as defined in Section 203.1380), and a significant net emissions increase (as defined in Section 203.1260 and Section 203.1370). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

2) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type or types of emissions units involved in the project, according to subsections (c)(3) through (c)(5). The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition in Section 203.1260. Regardless of any preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

3) Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in Section 203.1320) and the baseline actual emissions (as defined in Section 203.1070), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in Section 203.1370).

4) Actual-to-potential test for projects that only involve construction of a new emissions unit or units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in Section 203.1290) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in Section 203.1070) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in Section 203.1370).

5) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference for all emissions units, using the method specified in subsections (c)(3) and (c)(4) as applicable with respect to each emissions unit, equals or exceeds the significant amount for that pollutant (as defined in Section 203.1370).

6) The "sum of the difference" as used in subsections (c)(3) through (c)(5) must include both increases and decreases in emissions calculated in compliance with those subsections.

d) Except as otherwise provided in Section 203.1700(f)(2), the provisions of Section 203.1700 apply with respect to any regulated NSR pollutant emitted from projects involving existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances in which there is a reasonable possibility, within the meaning of Section 203.1700(f), that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in Section 203.1320(b)(1) through (b)(3) for calculating projected actual emissions.

e) For any major stationary source with a PAL for a regulated NSR pollutant, the major stationary source must comply with requirements under Section 203.2100 through Section 203.2420.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1420 Effect of Permits

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1430 Relaxation of a Source-Specific Limitation

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1440 Prohibitions

a) A major stationary source or major modification must not violate any condition contained in a construction permit issued for a new major stationary source or major modification which is subject to this Part.

b) In any nonattainment area, no person may begin actual construction of a new major stationary source or major modification that is major for the regulated NSR

pollutant for which the area is designated as nonattainment area under Sections 107(d)(1)(A)(i) of the CAA (42 USC 7407(d)(1)(A)(i)), except as in compliance with this Subpart and Subpart N. Revisions to this Part which were adopted to implement the CAA Amendments of 1990 will not apply to any new major stationary source or major modification for which a permit application was submitted by June 30, 1992, for PM_{10}; by May 15, 1992, for SO_2; or by November 15, 1992, for VOM and NO_X emissions for sources located in all ozone nonattainment areas.

c) A person must not cause or allow the operation of a new major stationary source or major modification subject to the requirements of Subpart N, except as in compliance with applicable LAER provisions established pursuant to Section 203.1800 for such source or modification.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1450 Control of Ozone, PM_{10}, and $PM_{2.5}$

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

b) The provisions of this Part applicable to major stationary sources and major modifications of PM_{10} must also apply to major stationary sources and major modifications of PM_{10} precursors, except where the USEPA determines that such sources do not contribute significantly to PM_{10} levels that exceed the PM_{10} ambient standards in the area.

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1460 Permit Exemption Based on Fugitive Emissions

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

(Source: Added at 48 Ill. Reg._____, effective _____)

SUBPART K: STACK HEIGHTS

Section 203.1500 Stack Heights

a) The degree of emission limitation required for control of any regulated NSR pollutant under this Part must not be affected by:

1) So much of the stack height of any source as exceeds good engineering practice, or

2) Any other dispersion technique.

b) Except as provided in subsection (c), subsection (a) must not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

c) Despite subsection (b), subsection (a) must apply where regulated NSR pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in Section 111(a)(3) of the CAA (42 USC 7411(a)(3)), which were constructed, or reconstructed, or for which major modifications were carried out after December 31, 1970.

d) Subsection (a) must not apply with respect to coal-fired steam electric generating units subject to the provisions of Section 118 of the CAA (42 USC 7418), which commenced operation before July 1, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974.

(Source: Added at 48 Ill. Reg._____, effective _____)

SUBPART L: GENERAL OBLIGATIONS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Section 203.1600 Construction Permit

a) The Agency must only issue a construction permit for a new major stationary source or a major modification that is subject to the requirements of this Part, other than this Subpart or Subpart R, if the Agency determines all applicable requirements of this Part, other than this Subpart and Subpart R, are satisfied. This includes the requirements in Section 203.1810(h) if IPT would be relied upon for all or a portion of the emissions offsets that must be provided for such source or modification.

b) The Agency must include in any NA NSR permit conditions specifying the manner in which the applicable requirements of Subpart N apply.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1610 Public Participation

a) Prior to the initial issuance or a modification of a permit issuedunder this Part, the Agency must provide a notice of the proposed issuance or modification of a permit, a comment period, and opportunity for public hearing under the Agency's public participation procedures at 35 Ill. Adm. Code Part 252.

b) In addition to the applicable requirements of 35 Ill. Adm. Code Part 252:

1) The notice for the comment period or public hearing prepared by the Agency must include information on how to access the draft permit and the administrative record for the draft permit.

2) The Agency must also send a copy of this notice to:

A) The USEPA;

B) All other state and local air pollution control agencies having jurisdiction in the region in which such new or modified source would be or is located; and

C) Any other agency in the region having responsibility for implementing the procedures required under this Part.

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

(Source: Added at 48 Ill. Reg._____, effective _____)

SUBPART M: NON-APPLICABILITY RECORDKEEPING AND REPORTING

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

Except as otherwise provided in subsection (f), the provisions of this Section apply to any regulated NSR pollutant emitted from projects involving existing emissions unit or units at a major stationary source in a nonattainment area (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility, within the meaning of subsection (f), that a

project that is not a major modification for the pollutant may result in a significant emissions increase of the pollutant, and the owner or operator elects to use the method specified in Section 203.1320(b)(1) through (b)(3) for calculating projected actual emissions.

a) Before beginning actual construction of the project, the owner or operator must document and maintain a record of the following information:

1) A description of the project;

2) Identification of the emissions unit or units whose emissions of a regulated NSR pollutant could be affected by the project; and

3) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under Section 203.1320(b)(3) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

b) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator must provide a copy of the information set out in subsection (a) to the Agency. Nothing in this subsection must be construed to require the owner or operator of such a unit to obtain any determination from the Agency before beginning actual construction.

c) The owner or operator must monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in subsection (a)(2); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit that regulated NSR pollutant at such emissions unit.

d) If the unit is an existing electric utility steam generating unit, the owner or operator must submit a report to the Agency within 60 days after the end of each year during which records must be generated under subsection (c) setting out the unit's annual emissions during the calendar year that preceded submission of the report.

e) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator must submit a report to the Agency if the annual emissions, in tons per year, from the project identified in subsection (a), exceed the baseline actual emissions (as documented and maintained pursuant to subsection (a)(3)), by a significant amount (as defined in Section 203.1370) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as

documented and maintained pursuant to subsection (a)(3). The report must be submitted to the Agency within 60 days after the end of such year. The report must contain the following:

1) The name, address, and telephone number of the major stationary source;

2) The annual emissions as calculated pursuant to subsection (c); and

3) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

f) A "reasonable possibility" under this Section occurs when the owner or operator calculates the project to result in either:

1) A projected actual emissions increase of at least 50 percent of the amount that is a "significant emissions increase," as defined in Section 203.1380 (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or

2) A projected actual emissions increase that, added to the amount of emissions excluded under Section 203.1320(b)(3), sums to at least 50 percent of the amount that is a "significant emissions increase," as defined under Section 203.1380 (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of this subsection (f)(2), and not also within the meaning of subsection (f)(1), then subsections (b) through (e) do not apply to the project.

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

(Source: Added at 48 Ill. Reg._____, effective _____)

SUBPART N: REQUIREMENTS FOR MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

Section 203.1800 Lowest Achievable Emission Rate

a) The owner or operator of a new major stationary source must demonstrate that the control equipment and process measures applied to the source will produce LAER for each regulated NSR pollutant for which the stationary source is major.

b) Except as provided in subsections (d) or (e), the owner or operator of a major modification must demonstrate that the control equipment and process measures applied to the major modification will produce LAER for each regulated NSR pollutant for which the modification is major. This requirement applies to each emissions unit at which a net increase in emissions of the regulated NSR pollutant has occurred or would occur as a result of a physical change or change in the method of operation in the emissions unit.

c) The owner or operator must provide a detailed demonstration that the proposed emission limitations constitute LAER. The demonstration must include:

1) A description of the manner in which the proposed emission limitation was selected, including a detailed listing of information resources,

2) Alternative emission limitations, and

3) Other reasonable information as the Agency may request as necessary to determine whether the proposed emission limitation is LAER.

d) If the owner or operator of a major stationary source (other than a source which emits or has the potential to emit 100 tpy or more of VOM or NO_X) located in an area classified as serious or severe nonattainment for ozone does not elect to provide internal offsets for a change at the source in compliance with Section 203.1220(d), the change must be considered a major modification for this Part, but in applying this Section to the such modification, the BACT, as defined in section 169 of the CAA (42 USC 7479), must be substituted for the LAER. BACT must be determined according to the policies and procedures published by the USEPA.

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1810 Emissions Offsets

a) The general requirements for emissions offsets are:

1) The owner or operator of a new major stationary source or major modification must provide emissions offsets equal to or greater than the allowable emissions from the source or the increase in emissions from the modification sufficient to allow the Agency to determine that the source or modification will not interfere with reasonable further progress under Section 173 of the CAA (42 USC 7503).

A) Emissions offsets are required for the following pollutants for which the area is designated nonattainment or precursors to such pollutant as follows:

i) For a new major stationary source, each regulated NSR pollutant for which the stationary source is major.

ii) For a major modification, each regulated NSR pollutant for which the modification is major.

B) The total tonnage of increased emissions, in tpy, resulting from a major modification that must be offset must be determined by summing the difference between the allowable emissions after the modification, as defined under Section 203.1050, and the actual emissions before the modification, as defined under Section 203.1040, for each emissions unit.

C) The Agency must allow the use of all or some portion of the available growth margin to satisfy this subsection if the owner or operator can present evidence that the possible sources of emissions offsets were investigated, none were available at that time and the new or modified major stationary source is located in a zone (within the nonattainment area) identified by the USEPA, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted.

b) The ratios for emissions offsets in ozone nonattainment areas are:

1) For new major stationary sources or major modifications in ozone nonattainment areas, the ratio of total emissions reductions provided by emission offsets for VOM or NO_X to total increased emissions of the pollutants must be at least as follows:

A) 1.1 to 1 in areas classified as marginal;

B) 1.15 to 1 in areas classified as moderate;

C) 1.2 to 1 in areas classified as serious;

D) 1.3 to 1 in areas classified as severe; and

E) 1.5 to 1 in areas classified as extreme.

2) The offset requirement provided in subsection (b)(1)(E) must not be applicable in extreme areas to a modification of an existing stationary source:

A) If the modification consists of installation of equipment required to comply with the SIP or the CAA; or

B) If the owner or operator of the stationary source elects to offset the increase by a greater reduction in emissions of the pollutant from other discrete operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1.

c) The enforceability requirements for emissions offsets are:

1) All emissions reductions relied upon as emissions offsets must be federally enforceable.

2) Except as provided in this subsection, emissions offsets must be enforceable by the Agency and under the CAA. If emissions reductions are to be obtained in a State that neighbors Illinois, the emissions reductions committed to must be enforceable by the neighboring State and/or local agencies and under the CAA.

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

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

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

2) An owner or operator may obtain the necessary emissions reductions from another nonattainment area where the area has an equal or higher

nonattainment classification than the area in which the new or modified major stationary source is located and the emissions from the other area contribute to a violation of the NAAQS in the nonattainment area in which the new or modified major stationary source is located.

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

1) Except as provided in subsection (h), which addresses interprecursor trading for $PM_{2.5}$, emission reductions must be for the pollutant for which emission offsets are required, e.g., reductions in CO emissions cannot be used as emission offsets for increases in emissions of SO_2 reductions.

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

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

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

A) The reductions are surplus, permanent, and quantifiable; and

B) The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For this Subpart, the Agency must consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emissions units. However, credit must be given for shutdowns that occurred before August 7, 1977.

2) Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements in subsection (f)(1)(B) must be credited only if:

A) The shutdown or curtailment occurred on or after the date the application for a construction permit is filed; or

B) The applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit, and the emissions reductions achieved by the shutdown or curtailment met the requirements of subsection (f)(1)(A).

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

1) Credit for emissions reductions used as offsets must be determined as follows:

A) The baseline for determining credit for emissions reductions is the emissions limit under the applicable SIP in effect at the time the application for a construction permit is filed, except that the offset baseline must be the actual emissions of the source from which offset credit is obtained where:

i) The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within the designated nonattainment area; or

ii) The applicable SIP does not contain an emissions limitation for that source or source category.

B) Where the emissions limit under the applicable SIP allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below the potential to emit.

C) For an existing fuel combustion source, credit must be based on the allowable emissions under the applicable SIP for the type of fuel being burned at the time the application for a construction permit is filed. If the emissions offset is to be produced by a switch to a cleaner fuel at some future date, offset credit must be subject to the following limitations:

i) Emissions offset credit based on the allowable (or actual) emissions for the fuels involved is allowed only if the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date.

ii) Emissions offset credit must be allowed only if the owner or operator provides evidence that long-term supplies of the cleaner fuel are available.

2) Emissions reductions must not be credited for offsets to the extent they have been previously relied on by the Agency in issuing any permit under 35 Ill. Adm. Code 201.142 or 201.143 or this Part or for demonstrating attainment or reasonable further progress.

3) Emissions reductions otherwise required by the CAA (42 USC 7401 et seq.) must not be creditable as emissions offsets. Emissions reductions

which are not otherwise required by the CAA must be creditable as emissions offsets if the emissions reductions meet the requirements of this Section.

h) For a new major stationary source or major modification located in an area designated nonattainment for $PM_{2.5}$, IPT between precursors of $PM_{2.5}$ identified in Section 203.1340, or between direct $PM_{2.5}$ emissions and a precursor of $PM_{2.5}$, must be allowed to satisfy the applicable offset requirement if:

1) The IPT is based on an IPT ratio that will provide an equivalent or greater air quality benefit regarding ambient concentrations of $PM_{2.5}$ in the $PM_{2.5}$ nonattainment area. At least one ton of emissions reductions must be provided for one ton of emissions increases; and

2) The permit application submitted by the owner or operator of the source or modification includes the following:

A) A proposed IPT ratio, with accompanying calculations.

B) A demonstration that this proposed IPT ratio is based on the results of an analysis that is consistent with Appendix W to 40 CFR Part 51. The demonstration must also show that the proposed IPT ratio would provide an equivalent or greater air quality benefit than offsets of the emitted pollutant or precursor would achieve regarding ambient concentrations of $PM_{2.5}$ in the $PM_{2.5}$ nonattainment area; and

C) A description of the model or models and analysis that were used to develop the proposed IPT ratio; and

D) Prior to making a final determination on the IPT ratio, the Agency must submit the IPT ratio to EPA for approval and must receive approval as a revision of the SIP.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1820 Compliance by Existing Sources

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.1830 Analysis of Alternatives

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

(Source: Added at 48 Ill. Reg._____, effective _____)

SUBPART O: GENERAL MAINTENANCE OF EMISSION OFFSETS

Section 203.1900 General Maintenance of Emission Offsets

A person must not cease to maintain emission offsets which were provided for a source or modification which is subject to this Part.

(Source: Added at 48 Ill. Reg._____, effective _____)

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

Section 203.2000 Offsetting by Alternative or Innovative Means

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

a) Any modification proposed is solely for expanding the testing of rocket engines or motors at an existing source that is permitted to test such engines on November 15, 1990;

b) The source demonstrates to the Agency that it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels, that all available offsets are being used, and that sufficient offsets are not available to the source;

c) The source has obtained a written finding from the Department of Defense, Department of Transportation, National Aeronautics and Space Administration or other appropriate federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national security; and

d) The source will comply with an alternative measure, imposed by the Agency or Board, designed to offset any emission increases beyond permitted levels not directly offset by the source.

(Source: Added at 48 Ill. Reg._____, effective _____)

SUBPART Q: PLANTWIDE APPLICABILITY LIMITATION

Section 203.2100 Applicability

a) The Agency may approve the use of an actuals PAL for any existing major stationary source, except as provided in subsection (b), if the PAL meets the requirements in this Subpart. The term "PAL" must mean "actuals PAL" throughout this Subpart.

b) The Agency must not allow an actuals PAL for VOM or NO_X for any major stationary source located in an extreme ozone nonattainment area.

c) Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in this Subpart, and complies with the PAL permit:

1) Is not a major modification for the PAL pollutant;

2) Does not have to be approved through the major NSR program; and

3) Is not subject to the provisions in Section 203.1430 (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major NSR program).

d) Except as provided under subsection (c)(3), a major stationary source must continue to comply with all applicable federal or State requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2110 Definitions

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2120 Actuals PAL

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2130 Allowable Emissions

"Allowable emissions" means "allowable emissions" as defined in Section 203.1050, except that the allowable emissions for any emissions unit must be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit (as defined in Section 203.1290).

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2140 Best Available Control Technology (BACT)

"Best available control technology" or "BACT" means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification that the Agency, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for the source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of the pollutant. The application of BACT must not result in emissions of any pollutant that would exceed the emissions allowed by any applicable standard under 40 CFR Parts 60, 61, 62, or 63 (as incorporated by reference in Section 203.1000). If the Agency determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination of them, may be prescribed instead to satisfy the requirement for the application of BACT. This standard must, to the degree possible, specify the emissions reduction achievable by implementation of the design, equipment, work practice or operation, and must provide for compliance by means which achieve equivalent results.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2150 Continuous Emissions Monitoring System (CEMS)

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2160 Continuous Emissions Rate Monitoring System (CERMS)

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2170 Continuous Parameter Monitoring System (CPMS)

"Continuous parameter monitoring system" or "CPMS" means all of the equipment necessary to meet the data acquisition and availability requirements of this Subpart to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and to record average operational parameter value(s) on a continuous basis.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2180 Federal Land Manager

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2190 Major Emissions Unit

"Major emissions unit" means:

a) Any emissions unit that emits or has the potential to emit 100 tpy or more of the PAL pollutant in an attainment area; or

b) Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the CAA for nonattainment areas.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2200 Plantwide Applicability Limitation (PAL)

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2210 PAL Effective Date

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2220 PAL Effective Period

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2230 PAL Major Modification

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2240 PAL Permit

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2250 PAL Pollutant

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2260 Predictive Emissions Monitoring System (PEMS)

"Predictive emissions monitoring system" or "PEMS" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and calculate and record the mass emissions rate (for example, pounds per hour) on a continuous basis.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2270 Reasonably Available Control Technology (RACT)

"Reasonably Available Control Technology" or "RACT" means devices, systems, process modifications, or other apparatus or techniques that are reasonably available considering:

a) The necessity of imposing the controls to attain and maintain a national ambient air quality standard;

b) The social, environmental, and economic impact of the controls; and

c) Alternative means of providing for attainment and maintenance of the standard.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2280 Significant Emissions Unit

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

BOARD NOTE: At the time the Board adopted the amendments to this provision, the Clean Air Act did not provide significant levels.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2290 Small Emissions Unit

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

BOARD NOTE: At the time the Board adopted the amendments to this provision, the Clean Air Act did not provide significant levels.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2300 Permit Application Requirements

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

a) A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source

must indicate which, if any, federal or State applicable requirements, emission limitations, or work practices apply to each unit.

b) Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction.

c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by Section 203.2400(a).

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2310 General Requirements for Establishing PAL

a) The Agency is allowed to establish a PAL at a major stationary source if the requirements in this Section are met.

1) The PAL must impose an annual emission limitation expressed on a mass basis in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator must show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month total, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator must show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

2) The PAL must be established in a PAL permit that meets the public participation requirements in Section 203.2320.

3) The PAL permit must contain all the requirements of Section 203.2340.

4) The PAL must include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

5) Each PAL must regulate emissions of only one pollutant.

6) Each PAL must have a PAL effective period of 10 years.

7) The owner or operator of the major stationary source with a PAL must comply with the monitoring, recordkeeping, and reporting requirements provided in Section 203.2390 through Section 203.2410 for each emissions unit under the PAL through the PAL effective period.

b) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for emissions offsets under Section 203.1810 unless the level of the PAL is reduced by the amount of the emissions reductions and the reductions would be creditable in the absence of the PAL.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2320 Public Participation Requirements

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

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2330 Setting the 10-Year Actuals PAL Level

a) Except as provided in subsection (b), the actuals PAL level for a major stationary source must be established as the sum of the baseline actual emissions (as defined in Section 203.1070) of the PAL pollutant for each emissions unit at the stationary source, plus an amount equal to the applicable significant level for the PAL pollutant under Section 203.1370 or in the CAA, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Agency must specify a reduced PAL level or levels in tons per year in the PAL permit to become effective on the future compliance date or dates of any applicable federal or State regulatory requirement or requirements that the Agency is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 parts per million NO_X to a new rule limit of 30 parts per million, then the permit must contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline actual emissions of such unit or units.

BOARD NOTE: At the time the Board adopted the amendments to this provision, the Clean Air Act did not provide significant levels.

b) For newly constructed units (which do not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in subsection (a), the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2340 Contents of the PAL Permit

The PAL permit must contain:

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

b) The PAL permit effective date and the expiration date of the PAL (PAL effective period).

c) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in compliance with Section 203.2370 before the end of the PAL effective period, then the PAL must not expire at the end of the PAL effective period. It must remain in effect until a revised PAL permit is issued by the Agency.

d) A requirement that emission calculations for compliance purposes must include emissions from startups, shutdowns, and malfunctions.

e) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of Section 203.2360.

f) The calculation procedures that the major stationary source owner or operator must use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total as required by Section 203.2400(a).

g) A requirement that the major stationary source owner or operator monitor all emissions units in compliance with the provisions under Section 203.2390.

h) A requirement to retain the records required under Section 203.2400 on site. The records may be retained in an electronic format.

i) A requirement to submit the reports required under Section 203.2410 by the required deadlines.

j) Any other requirements that the Agency considers necessary to implement and enforce the PAL.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2350 Effective Period and Reopening a PAL Permit

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

a) PAL effective period. The Agency must specify a PAL effective period of 10 years.

b) Reopening of the PAL permit.

1) During the PAL effective period, the Agency must reopen the PAL permit to:

A) Correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL;

B) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as emissions offsets pursuant to Section 203.1810; or

C) Revise the PAL to reflect an increase in the PAL as provided under Section 203.2380.

2) The Agency may reopen the PAL permit to reduce the PAL for the following:

A) To reflect newly applicable federal requirements (for example, NSPS) with compliance dates after the PAL effective date;

B) Consistent with any other requirement, that is enforceable as a practical matter, and that the Agency may impose on the major stationary source under the SIP; or

C) If the Agency determines that a reduction is necessary to avoid causing or contributing to a NAAQS violation, or to a violation of an ambient air increment established in Subpart D of 35 Ill. Adm. Code Part 204, or to an adverse impact on an air quality related value that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.

c) Except for the permit reopening in subsection (b)(1)(A) for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings must be carried out in compliance with the public participation requirements of Section 203.2320.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2360 Expiration of a PAL

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

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

1) Within the time frame specified for PAL renewals in Section 203.2370(b), the major stationary source must submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if a distribution is more appropriate as decided by the Agency) by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under Section 203.2370(e), the distribution must be made as if the PAL had been adjusted.

2) The Agency must decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Agency determines is appropriate.

b) Each emissions unit or units must comply with the allowable emission limitation on a 12-month rolling basis. The Agency may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

c) Until the Agency issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subsection (a)(2), the source must continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

d) Any physical change or change in the method of operation at the major stationary source will be subject to major NSR requirements if such change meets the definition of major modification in Section 203.1220.

e) The major stationary source owner or operator must continue to comply with any State or federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to Section 203.1420, but were eliminated by the PAL in compliance with the provisions in Section 203.2100(c)(3).

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2370 Renewal of a PAL

a) The Agency must follow the procedures specified in Section 203.2320 in approving any request to renew a PAL for a major stationary source, and must provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During public review, any person may propose a PAL level for the source for consideration by the Agency.

b) Application deadline. A major stationary source owner or operator must submit a timely application to the Agency to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL must continue to be effective until the revised permit with the renewed PAL is issued.

c) Application requirements. The application to renew a PAL permit must contain:

1) The information required in Section 203.2300(a) through (c).

2) A proposed PAL level.

3) The sum of the potential to emit of all emissions units under the PAL (with supporting documentation).

4) Any other information the owner or operator wishes the Agency to consider in determining the appropriate level for renewing the PAL.

d) PAL adjustment. In determining whether and how to adjust the PAL, the Agency must consider the options outlined in subsections (d)(1) and (2). However, any adjustment must comply with subsection (d)(3).

1) If the emissions level calculated in compliance with Section 203.2330 is equal to or greater than 80 percent of the PAL level, the Agency may renew the PAL at the same level without considering the factors set forth in subsection (d)(2); or

2) The Agency may set the PAL at a level that it determines to be more representative of the stationary source's baseline actual emissions, or that it determines to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Agency in its written rationale.

3) Despite subsections (d)(1) and (2):

A) If the potential to emit of the major stationary source is less than the PAL, the Agency must adjust the PAL to a level no greater than the potential to emit of the source; and

B) The Agency must not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of Section 203.2380 (increasing a PAL).

e) If the compliance date for a State or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Agency has not already adjusted for the requirement, the PAL must be adjusted at the time of PAL permit renewal or CAAPP permit renewal, whichever occurs first.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2380 Increasing the PAL During the PAL Effective Period

a) The Agency may increase a PAL emission limitation only if the major stationary source complies with the provisions in subsections (a)(1) through (4).

1) The owner or operator of the major stationary source must submit a complete application to request an increase in the PAL limit for a PAL major modification. The application must identify the emissions unit or units contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

2) As part of this application, the major stationary source owner or operator must demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit or units exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit must be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit

is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In this case, the assumed control level for that emissions unit must be equal to the level of BACT or LAER with which that emissions unit must currently comply.

3) The owner or operator obtains a major NSR permit for all emissions unit or units identified in subsection (a)(1), regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit or units must comply with any emissions requirements resulting from the major NSR process (for example, LAER), even though they have also become subject to the PAL or continue to be subject to the PAL.

4) The PAL permit must require that the increased PAL level must be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

b) The Agency must calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in compliance with subsection (a)(2)), plus the sum of the baseline actual emissions of the small emissions units.

c) The PAL permit must be revised to reflect the increased PAL level in compliance with the public notice requirements of Section 203.2320.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2390 Monitoring Requirements

a) General requirements.

1) Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by the system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

2) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the performance requirements in subsection (b)(1) through (4) and must be approved by the Agency.

3) Despite subsection (a)(2), the owner or operator may also employ an alternative monitoring approach that meets subsection (a)(1) if approved by the Agency.

4) Failure to use a monitoring system that meets the requirements of this Section renders the PAL invalid.

b) Performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in compliance with the requirements in subsections (c) through (i):

1) Mass balance calculations for activities using coatings or solvents;

2) CEMS;

3) CPMS or PEMS; and

4) Emission factors.

c) Mass balance calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents must meet the following requirements:

1) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

2) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

3) Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Agency determines there is site-specific data or a site-specific monitoring program to support another content within the range.

d) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions must meet the following requirements:

1) CEMS must comply with applicable Performance Specifications found in 40 CFR Part 60, Appendix B; and

2) CEMS must sample, analyze and record data at least every 15 minutes while the emissions unit is operating.

e) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions must meet the following requirements:

1) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

2) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Agency, while the emissions unit is operating.

f) Emission factors. An owner or operator using emission factors to monitor PAL pollutant emissions must meet the following requirements:

1) All emission factors must be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

2) The emissions unit must operate within the designated range of use for the emission factor, if applicable; and

3) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions must conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the Agency determines that testing is not required.

g) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during the periods is specified in the PAL permit.

h) Despite the requirements in subsections (c) through (g), where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter or parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, the Agency must, at the time of permit issuance:

1) Establish default value or values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point or operating points; or

2) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter or parameters and the PAL pollutant emissions is a violation of the PAL.

i) Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Agency. Re-validation must occur at least once every 5 years after issuance of the PAL.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2400 Recordkeeping Requirements

a) The PAL permit must require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of this Subpart and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of the record.

b) The PAL permit must require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus 5 years:

1) A copy of the PAL permit application and any applications for revisions to the PAL; and

2) Each annual certification of compliance pursuant to Section 39.5(7)(p)(v) of the Act and the data relied on in certifying the compliance.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2410 Reporting and Notification Requirements

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

a) Semi-annual report. The semi-annual report must be submitted to the Agency within 30 days of the end of each reporting period. This report must contain the information required in subsections (a)(1) through (7).

1) The identification of owner and operator and the permit number.

2) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded under Section 203.2400(a).

3) All data relied upon, including any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions.

4) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period.

5) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.

6) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by Section 203.2390(g).

7) A signed statement by the responsible official (as defined by the CAAPP) certifying the truth, accuracy, and completeness of the information provided in the report.

b) Deviation report. The major stationary source owner or operator must promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted under 40 CFR 70.6(a)(3)(iii)(B) will satisfy this reporting requirement. The deviation reports must be submitted within the time limits prescribed by the applicable program implementing 40 CFR 70.6(a)(3)(iii)(B). The reports must contain the following information:

1) The identification of owner and operator and the permit number;

2) The PAL requirement that experienced the deviation or that was exceeded;

3) Emissions resulting from the deviation or the exceedance; and

4) A signed statement by the responsible official (as defined by the CAAPP) certifying the truth, accuracy, and completeness of the information provided in the report.

c) Re-validation results. The owner or operator must submit to the Agency the results of any re-validation test or method within 3 months after completion of such test or method.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2420 Transition Requirements

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

(Source: Added at 48 Ill. Reg._____, effective _____)

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

Section 203.2430 Applicability

a) In any area designated as attainment or unclassifiable under Sections 107(d)(l)(A)(ii) or (iii) of the CAA (42 USC 7407(d)(l)(A)(ii) or (iii)), a person must not begin actual construction of a new major stationary source or major modification if the emissions from the major stationary source or major modification would cause or contribute to a violation of any NAAQS, except as in compliance with this Subpart.

b) This Subpart will not apply to a major stationary source or major modification for a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under section 107 of the CAA (42 USC 7407).

c) The applicability of 35 Ill. Adm. Code Part 204 is not affected by the applicability of this Subpart.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2510 Criteria

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

Pollutant	Significant Level ($\mu g/m^3$)				
	Annual Average	24-hour Average	8-hour Average	3-hour Average	1-hour Average
SO_2	1.0	5		25	
PM_{10}	1.0	5			
$PM_{2.5}$	0.3	1.2			
NO_2	1.0				
CO			500		2,000

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2520 Requirements

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

a) The owner or operator must reduce the impact of its emissions on air quality by obtaining sufficient emissions reductions to compensate for its adverse ambient impact when the major stationary source or major modification would otherwise cause or contribute to a violation of a NAAQS; and

b) The owner or operator must comply with the requirements of Section 203.1410(c) and (e), Section 203.1420, Section 203.1430, Section 203.1440(a), Section 203.1460, and Section 203.1500.

(Source: Added at 48 Ill. Reg._____, effective _____)

Section 203.2530 Construction Permit

a) The Agency must only issue a construction permit for a new major stationary source or a major modification that is subject to the requirements of this Subpart if the Agency determines that the source meets all applicable requirements of this Subpart.

b) The Agency must include in any construction permit issued under this Subpart, conditions specifying the manner in which the applicable requirements of this Subpart are met.

c) In issuing a permit under this Subpart, the Agency must follow the public participation procedures of Section 203.1610 or Section 204.1320 of 35 Ill. Adm. Code Part 204 as applicable.

(Source: Added at 48 Ill. Reg._____, effective _____)

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

PART 204
PREVENTION OF SIGNIFICANT DETERIORATION

SUBPART A: GENERAL PROVISIONS

SUBPART B: DEFINITIONS

SUBPART C: MAJOR STATIONARY SOURCES IN ATTAINMENT AND UNCLASSIFIABLE AREAS

SUBPART D: INCREMENT

SUBPART E: STACK HEIGHTS

Section
204.1000 Stack Heights

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

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204.1100 Control Technology Review
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204.1300 Notification of Application Completeness to Applicants
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204.1330 Issuance Within One Year of Submittal of Complete Application
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SUBPART I: NONAPPLICABILITY RECORDKEEPING AND REPORTING

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

SUBPART J: INNOVATIVE CONTROL TECHNOLOGY

Section
204.1500 Innovative Control Technology

SUBPART K: PLANTWIDE APPLICABILITY LIMITATION

Section

AUTHORITY: Implementing Sections 9.1 and 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9.1, 10, 27 and 28].

SOURCE: Adopted in R19-1 at 44 Ill. Reg. 14923, effective September 4, 2020; Amended in R22-7 at 48 Ill. Reg. _____, effective _____.

Section 204.290 Building, Structure, Facility, or Installation

a) "Building, structure, facility, or installation" means all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or

persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., have the same first two-digit code) as described in the Standard Industrial Classification Manual~~)~~ (incorporated by reference in Section 204.100).

b) Notwithstanding the provisions of subsection (a), building, structure, facility, or installation means, for onshore activities under Standard Industrial Classification (SIC) Major Group 13: Oil and Gas Extraction, all of the pollutant-emitting activities included in Major Group 13 that are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities shall be considered adjacent if they are located on the same surface site, or if they are located on surface sites that are located within ¼ mile of one another (measured from the center of the equipment on the surface site) and they share equipment. Shared equipment includes, but is not limited to, produced fluids storage tanks, phase separators, natural gas dehydrators or emissions control devices. Surface site, as used in this subsection, has the same meaning as in 40 CFR 63.761.

Section 204.330 Complete

"Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 204.380 Excessive Concentration

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

a) For sources seeking credit for stack height exceeding that established under Section 204.420(a)(2)~~(b)~~, a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features that individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and that contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to this Part, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features that individually is at least 40 percent in excess of the maximum concentration experienced in the absence of the downwash, wakes, or eddy effects and greater than an ambient air increment

under Section 204.900. The allowable emission rate to be used in making demonstrations of excessive concentration shall be prescribed by the NSPS that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. When those demonstrations are approved by the Agency, an alternative emission rate shall be established in consultation with the source owner or operator.

b) For sources seeking credit for increases in existing stack heights up to the heights established under Section 204.420(a)(2)~~(b)~~, either:

1) A maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subsection (a), except that the emission rate specified by the SIP (or, in the absence of such a limit, the actual emission rate) shall be used; or

2) The actual presence of a local nuisance caused by the existing stack, as determined by the Agency; and

c) For sources seeking credit for a stack height determined under Section 204.420(a)(2)~~(b)~~ when the Agency requires the use of a field study or fluid model to verify good engineering practice stack height, for sources seeking stack height credit based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit based on the aerodynamic influence of structures not adequately represented by the equations in Section 204.420(a)(2)~~(b)~~, a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of the downwash, wakes, or eddy effects.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 204.420 Good Engineering Practice

a) "Good engineering practice", with respect to stack height, means the greater of:

1) 65 meters, measured from the ground-level elevation at the base of the stack;

2) The following:

A) For a stack in existence on January 12, 1979, and for which the owner or operator had obtained all necessary preconstruction approvals or permits required under 40 CFR 51 and 52 (incorporated by reference in Section 204.100):

$$H_g = 2.5H,$$

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

B) For all other stacks:

$$H_g = H + 1.5L$$

where:

H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack;

H = height of nearby structure or structures measured from the ground-level elevation at the base of the stack;

L = lesser dimension, height, or projected width of nearby structure or structures, provided that USEPA or the Agency may require the use of a field study or fluid model to verify good engineering practice stack height for the source; or

3) The height demonstrated by a fluid model or a field study approved by USEPA or the Agency that ensures the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

b) For purposes of this definition, "stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 204.490 Major Modification

a) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in:

1) A significant emissions increase (as defined in Section 204.670) of a regulated NSR pollutant (as defined in Section 204.610) other than GHGs (as defined in Section 204.430); and

2) A significant net emissions increase of that pollutant from the major stationary source.

b) Any significant emissions increase (as defined in Section 204.670) from any emissions units or net emissions increase (as defined in Section 204.550) at a major stationary source that is significant for VOM or NO_x mustshall be considered significant for ozone.

c) A physical change or change in the method of operation mustshall not include:

1) Routine maintenance, repair and replacement;

2) Use of an alternative fuel or raw material by reason of:

A) An order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 USC 791) (or any superseding legislation); or

B) A natural gas curtailment plan under the Federal Power Act (16 USC 791);

3) Use of an alternative fuel by reason of an order or rule under section 125 of the CAA (42 USC 74257435);

4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

5) Use of an alternative fuel or raw material by a stationary source that:

A) The source was capable of accommodating before January 6, 1975, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975 under 40 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143; or

B) The source is approved to use under any permit issued under 40 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143;

6) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition established after January 6, 1975, under 40 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143;

7) Any change in ownership at a stationary source;

8) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

A) The Illinois SIP; and

B) Other requirements necessary to attain and maintain NAAQS during the project and after it is terminated; or

9) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption will~~shall~~ apply on a pollutant-by-pollutant basis.

d) This definition will~~shall~~ not apply ~~with respect~~ to a particular regulated NSR pollutant when the major stationary source is complying with Subpart K for a PAL for that pollutant. Instead, the definition at Section 204.1720 will~~shall~~ apply.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 204.620 Replacement Unit

"Replacement unit" means an emissions unit for which all the criteria listed in this Section are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

a) The emissions unit is a reconstructed unit, within the meaning of 40 CFR 60.15(b)(1), or completely takes the place of an existing emissions unit.

b) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

c) The replacement does not alter the basic design parameter or parameters of the process unit. Basic design parameters of a process unit shall be determined as follows:

1) Except as provided in subsection (c)(3), for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on Btu content shall be used for determining the basic design parameter or parameters for a coal-fired electric utility steam generating unit.

2) Except as provided in subsection (c)(3), the basic design parameter or parameters for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.

3) If the owner or operator believes the basic design parameter or parameters in subsections (c)(1) and (c)(2) are not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Agency an alternative basic design parameter or parameters for the source's process unit or units. If the Agency approves of the use of an alternative basic design parameter or parameters, the Agency shall issue a permit that is legally enforceable, records such basic design parameter or parameters and requires the owner or operator to comply with such parameter or parameters.

4) The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameter or parameters specified in subsections (c)(1~~2~~) and (c)(2~~3~~).

5) If design information is not available for a process unit, the owner or operator shall determine the process unit's basic design parameter or parameters using the maximum value achieved by the process unit in the five-year period immediately preceding the planned activity.

6) Efficiency of a process unit is not a basic design parameter.

d) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART C: MAJOR STATIONARY SOURCES IN ATTAINMENT AND UNCLASSIFIABLE AREAS

Section 204.800 Applicability

a) The requirements of this Part apply to the construction of any new major stationary source (as defined in Section 204.510) or any project at an existing major stationary source in an area designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the CAA (42 USC 7407(d)(1)(A)(ii) or (iii)).

b) The requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, and 204.1200 apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this Part otherwise provides.

c) No new major stationary source or major modification to which the requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, and 204.1200 apply may~~shall~~ begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The Agency has authority to issue any such permit.

d) The requirements of the program will be applied according to~~in accordance with~~ the principles of~~set out in~~ this subsection ~~(d)~~.

1) Except as otherwise provided in subsection (f), and consistent with the definition of major modification contained in Section 204.490, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases: a significant emissions increase (as defined in Section 204.670) and a significant net emissions increase (as defined in Sections 204.550 and 204.660). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

2) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type or types of emissions units involved in the project, according to subsections (d)(3) through (d)(5). The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition in Section 204.550. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

3) Actual-to-Projected-Actual Applicability Test for Projects That Only Involve Existing Emissions Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in Section 204.600)

and the baseline actual emissions (as defined in Section 204.240(a) and (b)), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in Section 204.660).

4) Actual-to-Potential Test for Projects That Only Involve Construction of a New Emissions Unit or Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in Section 204.560) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in Section 204.240(c)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in Section 204.660).

5) Hybrid Test for Projects That Involve Multiple Types of Emissions Unit or Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference for all ~~emissions increases for each~~ emissions units~~unit~~, using the method specified in subsections (d)(3) and (d)(4) as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in Section 204.660).

6) The "sum of the difference" as used in subsections (d)(3) through (d)(5) must include both increases and decreases in emissions calculated in compliance with those subsections.

e) Except as otherwise provided in Section 204.1400(f)(2), the provisions of Section 204.1400 apply with respect to any regulated NSR pollutant emitted from projects involving existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances in which there is a reasonable possibility, within the meaning of Section 204.1400(f), that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in Section 204.600(b) for calculating projected actual emissions.

f) For any major stationary source for a PAL for a regulated NSR pollutant, the major stationary source must~~shall~~ comply with Subpart K.

g) The provisions of 35 Ill. Adm. Code 203, Subpart R apply to any regulated NSR pollutant emitted from the construction of any new major stationary source as defined in 35 Ill. Adm. Code 203.1220 in an area designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the CAA (42 USC 7407(d)(1)(A)(ii) or (iii)) if the emissions from the major stationary source or major modification would cause or contribute to a violation of any NAAQS.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 204.930 Redesignation

a) As of September 4, 2020 of this Part, all areas of the State (except as otherwise provided by Section 204.920) are designated Class II as of December 5, 1974. Redesignation (except as otherwise precluded by Section 204.920) may be proposed by the State or Indian Governing Bodies under this Section, subject to approval by USEPA as a revision to the applicable SIP.

b) The State may submit to USEPA a proposal to redesignate areas of the State Class I or Class II provided that:

1) At least one public hearing has been held in compliance~~accordance~~ with 35 Ill. Adm. Code 252;

2) Other states, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation were notified at least 30 days prior to the public hearing;

3) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

4) Prior to the issuance of notice respecting the redesignation of an area that includes any federal lands, the State has provided written notice to the appropriate Federal Land Manager and afforded adequate opportunity (not in excess of 60 days) to confer with the State respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any Federal Land Manager had submitted written comments and recommendations, the State must~~shall~~ have published a list of any inconsistency between such redesignation and such comments and recommendations (together with the reasons for making such redesignation against the recommendation of the Federal Land Manager); and

5) The State has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

c) Any area other than an area to which Section 204.920 refers may be redesignated as Class III if:

1) The redesignation would meet the requirements of subsection (b);

2) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the Governor of Illinois:

A) After consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session (unless State law provides that the redesignation must be specifically approved by State legislation); and

B) If general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation;

3) The redesignation would not cause, or contribute to, a concentration of any air pollutant that would exceed any maximum allowable increase permitted under the classification of any other area or any NAAQS; and

4) Any permit application for any major stationary source or major modification, subject to review under Section 204.1120, that could receive a permit under this Part~~Section~~ only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available, insofar as was practicable for public inspection prior to any public hearing on redesignation of the area as Class III.

d) Lands within the exterior boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body. The appropriate Indian Governing Body may submit to USEPA a proposal to redesignate areas Class I, Class II, or Class III, provided that:

1) The Indian Governing Body has followed procedures equivalent to those required of a state under subsections (b), (c)(3), and (c)(4); and

2) The~~Such~~ redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located and that border the Indian Reservation.

e) USEPA must~~shall~~ disapprove, within 90 days after submission, a proposed redesignation of any area only if it finds, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements or is inconsistent with Section 204.920. If any such disapproval occurs, the classification of the area must~~shall~~ be that which was in effect prior to the redesignation which was disapproved.

f) If USEPA disapproves any proposed redesignation, the State or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by USEPA.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 204.1500 Innovative Control Technology

a) An owner or operator of a proposed major stationary source or major modification may request that the Agency in writing no later than the close of the comment period under 35 Ill. Adm. Code 252 to approve a system of innovative control technology.

b) The Agency shall, with the consent of the Governor(s) of other affected State(s)~~Governor~~, determine that the source or modification may employ a system of innovative control technology if:

1) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

2) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Section 204.1100(b), by a date specified by the Agency. Such date shall not be later than 4 years after the time of startup or 7 years after permit issuance;

3) The source or modification would meet the requirements of Sections 204.1100 and 204.1110, based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Agency;

4) The source or modification would not, before the date specified by the Agency:

A) Cause or contribute to a violation of an applicable NAAQS; or

B) Impact any area where an applicable increment is known to be violated;

5) All other applicable requirements, including those for public participation, have been met; and

6) The provisions of Section 204.1200 (relating to Class I areas) have been satisfied with respect to all periods during the life of the source or modification.

c) The Agency shall withdraw any approval to employ a system of innovative control technology made under this Section if:

1) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate;

2) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

3) The Agency decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

d) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period or the approval is withdrawn in accordance with subsection (c), the Agency may allow the source or modification up to an additional 3 years to meet the requirement for the application of BACT through use of a demonstrated system of control.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 204.1670 Lowest Achievable Emission Rate (LAER)

"Lowest achievable emission rate" or "LAER" has the meaning given by 35 Ill. Adm. Code Part 203~~203.301(a)~~.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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

PART 232
TOXIC AIR CONTAMINANTS

SUBPART A: GENERAL PROVISIONS

Section

SUBPART B: DETERMINATION OF A TOXIC AIR CONTAMINANT

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Section

SUBPART E: LISTING AND DELISTING

Section

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

232.APPENDIX A: List of Toxic Air Contaminants
232.APPENDIX B: Additional Procedures for Calculating the Chronic Toxicity Score
232.APPENDIX C: Carcinogens (Categories A, B1, and B2) listed on the Integrated Risk Information System (IRIS) as of December 31, 1989 (United States Environmental Protection Agency, Office of Health and Environmental Assessment)

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

SOURCE: Adopted in R90-1 at 16 Ill. Reg. 16592, effective October 18, 1992; amended in R96-4 at 21 Ill. Reg. 6237, effective May 12, 1997; Amended in R22-17 at 48 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 232.120 Definitions

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

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

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

"Commercial fuel" means:

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

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

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

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

“Fugitive emissions” is defined according to 35 Ill. Adm. Code 203.1190~~203.124~~.

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

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

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

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

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

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

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

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

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

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

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

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

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

(Source: Amended at 48 Ill. Reg. _____, effective _____)