

ILLINOIS POLLUTION CONTROL BOARD
May 5, 1994

IN THE MATTER OF:)
)
CONTINGENCY MEASURES FOR)
PM10 EMISSIONS: AMENDMENTS) R93-30
TO 35 ILL. ADM. CODE) (Rulemaking)
PARTS 106 AND 212)

Proposed Rule. Second Notice.

OPINION AND ORDER OF THE BOARD (by J. Theodore Meyer):

On December 30, 1993, the Illinois Environmental Protection Agency (Agency) filed this proposal for rulemaking. The proposal represents one part of Illinois' submittal of a complete state implementation plan (SIP). Pursuant to Section 182(a) of the Clean Air Act (CAA), as amended in 1990, Illinois was to adopt and submit its plan by November 15, 1992. The proposal contains rules which would establish contingency measures to provide for additional reductions of PM10¹ emissions for specific areas in the event that the United States Environmental Protection Agency finds a failure to attain the standard for PM10. The proposed rules would effect sources located in areas defined as moderate nonattainment areas for PM10: McCook and Lake Calumet Townships in Cook County, Granite City in Madison County, and a portion of Oglesby Township, LaSalle County. (See 35 Ill. Adm. Code 212.324(a)(1) and 212.423(a).) The proposal seeks to amend 35 Ill. Adm. Code 106 and 212.

The Board's responsibility in this matter arises from the Environmental Protection Act (Act). (415 ILCS 5/1 et seq. (1992).) The Board is charged by the Act to "determine, define, and implement the environmental control standards applicable in the state of Illinois." (415 ILCS 5/5(b) (1992).) More generally, the Board's rulemaking charge is based on the system of checks and balances integral to the Illinois environmental system: the Board has responsibility for the rulemaking and principal adjudicatory functions, while the Agency is responsible for carrying out the principal administrative duties. The Agency's duties include administering the regulations that are proposed for adoption in this rulemaking.

This proposal was filed pursuant to Section 28.5 of the Environmental Protection Act (Act). (415 ILCS 5/28.5 (1992).)

¹ PM10 is defined as "particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers." (35 Ill. Adm. Code 211.4770.)

That section requires the Board to proceed with rulemaking under set time-frames. The Board has no discretion to adjust these time frames under any circumstances. Today the Board acts to send this proposal to second notice under the Illinois Administrative Procedure Act (APA). (5 ILCS 100/1005-40 (1992).)

PROCEDURAL HISTORY

On January 6, 1994, the Board sent this proposal to first notice under the APA, without commenting on the merits of the proposal. The proposal was published in the Illinois Register on January 28, 1994, at 18 Ill.Reg. 959. A hearing was held on February 22, 1994 in Chicago, Illinois. Previously-scheduled second and third hearings were cancelled pursuant to Section 28.5(g) of the Act. (415 ILCS 5/28.5(g) (1992).) Pursuant to Section 28.5(1), the comment period closed on March 15, 1994.

On March 17, 1994, the Agency filed a motion to correct the transcript. (PC #3.) That motion to correct is granted, and the motion setting forth the corrections will be attached to the transcript.

PROPOSAL

Section 172(c)(9) of the CAA requires Illinois to modify its SIP to include contingency measures for all moderate or worse PM10 nonattainment areas. (42 U.S.C. §7502(c)(9).) Contingency measures are regulations that provide for additional reductions of PM10 emissions for a specific area in the event there is a finding by the Administrator of USEPA of a failure to attain the National Ambient Air Quality Standard (NAAQS) for PM10. The CAA requires that contingency measures be implemented without further regulatory action after a finding is issued. A notice of failure to attain may be issued by USEPA if it does not believe an area will attain the NAAQS by the CAA deadline, if the area fails to demonstrate attainment of the standard by the deadline, or if measured violations of the NAAQS occur after the attainment deadline. The statutory deadline for demonstrating attainment of the standard for PM10 is December 31, 1994. (Tr. at 11-12; Exh. 1; Statement of Reasons at 1-2.)²

The Agency's proposal has two purposes. First, the proposal is intended to satisfy the PM10 contingency requirements of the CAA by requiring specific actions should USEPA issue a notice of failure to attain the PM10 standard. Second, the proposal

² For a section-by-section discussion of the Agency's proposal, see the Agency's Statement of Reasons at 15-18. Attachment A to Exh. 1 is a flow chart describing the basic components of the contingency program.

includes procedures that attempt to prevent exceedences or violations of the PM10 standard. If exceedences are prevented, each nonattainment area can be redesignated to attainment, and the state would not be required to develop a SIP which would implement best available control technology (BACT) for PM10.³ (Tr. at 12-14; Exh. 1; Statement of Reasons at 5.) The proposal applies to four geographic areas: the Lake Calumet and McCook areas in Cook County, the Granite City area in Madison County, and a small portion of LaSalle County. The areas correspond to the areas regulated by the PM10 rules in 35 Ill. Adm. Code 212.324(a)(1) and 212.423(a). (Statement of Reasons at 5-6; Exh. 1.)

The proposed rules require all sources in the PM10 nonattainment areas which have actual emissions of 15 tons per year (TPY) or more of PM10 (both fugitive and point) to submit contingency measure plans. Plans must be submitted to the Agency no later than November 15, 1994. (PC #3.) The proposal includes three "legs": 1) controls are requested, but not required, when there are one or more exceedences of the 24-hour NAAQS for PM10, but prior to a violation of the NAAQS; 2) controls are required when there is a violation of the NAAQS, but prior to the issuance of a notification of failure to attain the NAAQS by USEPA; and 3) controls are required when there is a finding of failure to attain the NAAQS. The first "leg" is intended to avoid a violation of the NAAQS. The second "leg" is intended to act as a buffer following a violation of the NAAQS, while the Agency attempts to demonstrate to USEPA that issuance of a "failure to attain" is not necessary. The third "leg" is necessary to satisfy the requirements of the CAA. (Exh. 1; Statement of Reasons at 6.)

Contingency plans must show controls at two levels. Level I measures must demonstrate total source-wide reductions of fugitive emissions of PM10 of at least 15%, while Level II measures must demonstrate reductions of at least 25%. A source may propose an alternative control plan which includes controls of any combination of fugitive emissions, process emissions, or fuel combustion emissions, subject to Agency and USEPA approval. Control of fugitive emissions of PM10 must be implemented within 90 days following a finding of culpability by the Agency. (Exh. 1; Statement of Reasons at 8.)

³ If USEPA issues a notice of failure to attain the PM10 standard, the state is required to submit a SIP revision implementing BACT for all sources in the area. (42 U.S.C. §7513a(b)(1)(B).)

If there is an exceedance⁴ of the PM10 standard, the Agency will determine which sources are culpable, and request that those sources implement either Level I or Level II measures, depending upon the magnitude of the exceedance.⁵ Implementation of controls at this stage is voluntary. (Exh. 1; Statement of Reasons at 9-10.) If there is a violation of the standard, the Agency will identify and notify culpable sources, and require Level I or Level II measures. After the source implements sufficient controls to insure attainment, the Agency will contact USEPA and request that USEPA not issue a finding of failure to attain. The Agency intends to provide USEPA with proof that the causes of the exceedences and violation have been identified and corrected, and that there is therefore no need for USEPA to find a failure to attain. (Exh. 1; Statement of Reasons at 10.) If USEPA does issue a finding of failure to attain, all sources in the area will be required to implement Level II controls within 90 days of notification of that finding. The Agency would then develop a SIP imposing BACT, to be submitted to USEPA within 18 months. (Exh. 1; Statement of Reasons at 10.)

If more than one source is determined to be culpable for an exceedance, those sources have the option to "trade" required reductions if those sources can demonstrate equivalent air quality benefits. This would allow one source to over-control, while allowing another source to under-control. (Exh. 1; Statement of Reasons at 11.)

PUBLIC COMMENTS

The Board received public comments from the Department of Commerce and Community Affairs (DCCA) (PC #1), the City of Chicago (PC #2), the Agency (PC #3), the American Lung Association of Metropolitan Chicago (ALAMC) (PC #4), and the Administrative Code Division of the Secretary of State (PC# 5). The Agency's comments also include a letter from USEPA, commenting on the proposal.

The Board has considered all public comments, as well as all

⁴ An exceedance means that the numerical standard for PM10 has been reached, but that there are not a sufficient number of exceedences to be considered a violation of the standard. Normally, four exceedences of the 24-hour standard within a three year period would constitute a violation of the standard. (See 40 CFR 50, Appendix K (1992).)

⁵ The procedure for identifying culpable sources is set forth in proposed Section 212.702. The Agency's determination of culpability is appealable to the Board pursuant to procedures set out in proposed Subpart J to 35 Ill. Adm. Code 106.

testimony and exhibits, in making its decisions in this matter. In general, there is little disagreement on the substance of the proposal. The Agency's comments include a number of revisions to its proposal, addressing issues raised at hearing and USEPA's comments. The Board has reviewed those recommended changes, and finds that the changes do address the issues raised.

The City of Chicago supports the proposal, and believes that the rules establish reasonable methods of directly addressing the potential sources of emissions and encouraging those sources to reduce and prevent exceedences. (PC # 2.) However, the City does have one area of concern regarding the provisions allowing trading between sources if more than one source contributed to an exceedance. The City questions whether the language of Section 212.705 clearly states that sources may trade whether or not controls are requested (if there is an exceedance but no violation) or required (if there is a violation). The City supports trading, when appropriate, as part of sources' compliance strategies, and recommends that the section be clarified.

The Board believes that the Agency's recommended changes to Section 212.705 sufficiently address the City's concern. The section, as modified in the Agency's comments, allows for trading where the Agency determines that more than one source "is a contributing source pursuant to Section 212.702". (PC #3, Attachment A.) Section 212.702 sets forth the procedures for determining which sources contribute to an exceedance or violation.

The American Lung Association of Metropolitan Chicago (ALAMC) commented that PM10 contingency measures are especially important in light of likely revisions to the PM10 standard. (PC #4.) ALAMC believes that there are three deficiencies to the rules: 1) the rule controls fugitive PM10 emissions, but should also attempt to control fine particulates; 2) mandatory measures should be taken after the first exceedance (unless it is an exceptional event), since the proposed rule calls for voluntary controls until a violation of the standard is determined; and 3) trading should be allowed only if it can be demonstrated that under-controlled sources emit average-sized particulate matter that is less dangerous than the average-sized particulate matter emitted by over-controlled sources. The Board is sensitive to the concerns raised by ALAMC: however, we believe that the information submitted by ALAMC is insufficient to allow us to revise the proposed rules.

HEARING OFFICER ORDER

On February 4, 1994, the hearing officer issued an order raising several issues on proposed Subpart J of the Board's Part 106 procedural rules. That new subpart would provide procedures

for appeal of an Agency determination of culpability. The hearing officer order set forth several general questions, and included some suggested language changes. The Agency responded to those questions at hearing (Tr. at 47-53; Exh. 4), and has revised its proposal in accordance with its response. (PC #3, Attachment A at 3-5.)

The Board accepts the changes to Subpart J proposed by the Agency, with one exception. In proposed Section 106.934, the Agency proposes that the Board issue its written opinion and order within 120 days after the filing of the petition for review. The hearing officer asked the Agency to address the statutory authority for establishing a decision deadline. The Agency states that there is no specific statutory authority, but that nothing in the Act would preclude the Board from establishing a deadline. The Agency argues that the concept of contingency measures is premised on quick implementation of the program. The Agency recognizes that sources have a right to review of Agency determinations, but emphasizes that any review must be accomplished very quickly. (Tr. at 52-53; Exh. 4; PC #3 at 7.)

The Board will not impose a decision deadline on its actions in appeals from Agency culpability determinations. We recognize that speedy review is necessary in these cases, and we will take all necessary actions to ensure that decisions are reached as soon as practicable. However, we do not believe that it is necessary to impose a deadline. The Board's commitment to making quick decisions in these appeals will accomplish the same result as imposing a procedural rule. We will take all necessary actions to ensure timely decision of these appeals.

CONCLUSION

The Board finds that the proposed rules are technically feasible and economically reasonable, and that the rules are necessary to meet the requirements of the Clean Air Act. We find that the record supports proceeding with the proposed rules, as amended, to second notice. In the interests of indicating which changes to the proposal have been made at second notice, we have chosen to follow the Agency's suggestion by indicating revisions by highlighting (redlining). Appropriate underlining and strikeouts are included within that highlighting.

ORDER

The Board hereby proposes the following amendments to 35 Ill. Adm. Code Parts 106 and 212. The amendments are to be submitted to the Joint Committee on Administrative Rules.

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS

CHAPTER I: POLLUTION CONTROL BOARD

PART 106
HEARINGS PURSUANT TO SPECIFIC RULES

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106.101	Petition
106.102	Requirements for Petition
106.103	Parties
106.104	Recommendation
106.105	Notice and Hearing
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SUBPART B: ARTIFICIAL COOLING LAKE DEMONSTRATIONS

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Section	
106.301	Petition
106.302	Requirements for Petition
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106.304	Recommendation
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SUBPART D: RCRA ADJUSTED STANDARD PROCEDURES

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106.402	Notice of Petition (Repealed)
106.403	Recommendation (Repealed)
106.404	Response (Repealed)
106.405	Public Comment (Repealed)
106.406	Public Hearings (Repealed)
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106.410	Scope and Applicability
106.411	Joint or Single Petition
106.412	Request to Agency to Join as Co-Petitioner
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SUBPART E: AIR ADJUSTED STANDARD PROCEDURES

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106.808	Burden of Proof
106.901	Board Deliberations
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106.906	Publication of Adjusted Standards
106.907	Effect of Filing a Petition

SUBPART J: CULPABILITY DETERMINATIONS

<u>Section</u>	
<u>106.930</u>	<u>Applicability</u>
<u>106.931</u>	<u>Petition</u>
<u>106.932</u>	<u>Response and Reply</u>
<u>106.933</u>	<u>Notice and Hearing</u>
<u>106.934</u>	<u>Opinion and Order</u>

Appendix A: Old Rule Numbers Referenced

AUTHORITY: Implementing Sections 5, 14.2(c), 22.4, 27, 28, and 28.1, 28.5 and 39.5 and authorized by Sections 26 and 39.5 of the Environmental Protection Act, [415 ILCS 5/5, 14.2(c), 22.4, 27, 28, 28.1, 28.5, 26 and 39.5].

SOURCE: Filed with Secretary of State January 1, 1978; amended at 4 Ill. Reg. 2, p. 186, effective December 27, 1979; codified at 6 Ill. Reg. 8357; amended in R85-22 at 10 Ill. Reg. 992, effective February 2, 1986; amended in R86-46 at 11 Ill. Reg. 13457, effective August 4, 1987; amended in R82-1 at 12 Ill. Reg. 12484, effective July 13, 1988; amended in R88-10 at 12 Ill. Reg. 12817, effective July 21, 1988; amended in R88-5(A) at 13 Ill. Reg. 12094, effective July 10, 1989; amended in R88-5(B) at 14 Ill. Reg. 9442, effective June 5, 1990; amended in R93-30 at 18 Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

SUBPART J: CULPABILITY DETERMINATIONS

Section 106.930 Applicability

The provisions of this Subpart shall apply to any proceeding appeal initiated by an owner or operator of a source pursuant to a finding of culpability by the Illinois Environmental Protection Agency (Agency) under 35 Ill. Adm. Code 212.702 and 212.705.

(Source: Added at 18 Ill. Reg. _____, effective _____)

Section 106.931 Petition for Review

- a) A proceeding brought under this Subpart shall be commenced by the owner or operator of a source by serving a petition upon the Agency and filing 10 the original and nine copies of a petition for review with the Clerk of the Pollution Control Board (Board). The petitioner shall serve one copy of the petition for review upon the Agency.
- b) General filing and practice rules are set forth in 35 Ill. Adm. Code 101.
- bc) A petition for review filed pursuant to this Subpart shall include, but need not be limited to: a detailed description of and justification for the source's

~~assertion that a finding of culpability by the Agency under 35 Ill. Adm. Code 212.705 is improper or incorrect.~~

- ~~1) A copy of the letter, or other written communication, setting forth the Agency's finding of culpability;~~
- ~~2) A clear identification of the county in which the source is located; and~~
- ~~3) A detailed description of, and justification for, the source's position that the Agency's finding of culpability is incorrect.~~

(Source: Added at 18 Ill. Reg. _____, effective _____)

Section 106.932 Response and Reply

- a) The Agency ~~may~~ shall file a response to a petition appealing a determination of culpability within 21 days after service of the petition.
- b) The Agency's response shall contain, at a minimum, the basis of its determination of the petitioner's culpability, including any meteorological, monitoring, or sampling data upon which the determination was made.
- bc) The petitioner may file a reply within 7 days after the filing service of any response by the Agency.

(Source: Added at 18 Ill. Reg. _____, effective _____)

Section 106.933 Notice and Hearing

- a) Within 14 days after a petition is filed, the Agency shall publish notice of such petition in a newspaper of general circulation in the county in which the source is located. Within 30 days of the filing of the petition, any person may file with the Clerk of the Board a request for hearing on the petition.
- ab) The hearing officer will schedule any hearing. The Clerk of the Board shall give notice of the petition and any hearing in accordance with 35 Ill. Adm. Code 103. The proceeding shall be conducted in accordance with 35 Ill. Adm. Code 103.
- bc) The burden of proof in such proceedings ~~appeals pursuant to this Subpart is shall be~~ on the petitioner.

(Source: Added at 18 Ill. Reg. _____, effective _____)

Section 106.934 Opinion and Order

The Board shall issue a written opinion and order within 120 days after the filing of the petition that sets forth the Board's decision and supporting rationale.

(Source: Added at 18 Ill. Reg. _____, effective _____)

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

PART 212
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212.108	Measurement Methods for PM-10 Emissions
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- in the Chicago Area
- 212.202 Existing Sources Using Solid Fuel Exclusively Located Outside the Chicago Area
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- 212.208 Aggregation of Existing Sources
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- 212.210 Emissions Limitations For Certain Fuel Combustion Emission Sources Located in the Vicinity of Granite City

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- 212.302 Geographical Areas of Application
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- 212.313 Emission Standard for Particulate Collection Equipment
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SUBPART L: PARTICULATE MATTER EMISSIONS FROM PROCESS EMISSION SOURCES

- Section
- 212.321 New Process Sources
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SUBPART N: FOOD MANUFACTURING

- Section
- 212.361 Corn Wet Milling Processes
- 212.362 Sources in Certain Areas

SUBPART O: PETROLEUM REFINING, PETROCHEMICAL AND CHEMICAL MANUFACTURING

- Section
- 212.381 Catalyst Regenerators of Fluidized Catalytic Converters

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212.423	Emission Limits for the Portland Cement Manufacturing Plant Located in LaSalle County, South of the Illinois River
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<u>212.700</u>	<u>Applicability</u>
<u>212.701</u>	<u>Contingency Measure Plans, Submittal and Compliance</u>

<u>212.702</u>	<u>Date</u>
<u>212.702</u>	<u>Determination of Contributing Sources</u>
<u>212.703</u>	<u>Contingency Measure Plan Elements</u>
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212.Appendix A Rule into Section Table
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 212.Illustration D: McCook Vicinity Map
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AUTHORITY: Implementing Section 10 and authorized by Section 27
 and 28.5 of the Environmental Protection Act [415 ILCS 5/10,27
 and 28.5].

SOURCE: Adopted as Chapter 2: Air Pollution, Rules 202 and 203:
 Visual and Particulate Emission Standards and Limitations,
 R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in
 R77-15, 32 PCB 403, at 3 Ill. Reg. 5, p. 798, effective February
 3, 1979; amended in R78-10, 35 PCB 347, at 3 Ill. Reg. 39, p.
 184, effective September 28, 1979; amended in R78-11, 35 PCB 505,
 at 3 Ill. Reg. 45, p. 100, effective October 26, 1979; amended in
 R78-9, 38 PCB 411, at 4 Ill. Reg. 24, p. 514, effective June 4,
 1980; amended in R79-11, 43 PCB 481, at 5 Ill. Reg. 11590,
 effective October 19, 1981; codified at 7 Ill. Reg. 13591;
 amended in R82-1 (Docket A), 10 Ill. Reg. 12637, effective July
 9, 1986; amended in R85-33 at 10 Ill. Reg. 18030, effective
 October 7, 1986; amended in R84-48 at 11 Ill. Reg. 691, effective
 December 18, 1986; amended in R84-42 at 11 Ill. Reg. 1410,
 effective December 30, 1986; amended in R82-1 (Docket B) at 12
 Ill. Reg. 12492, effective July 13, 1988; amended in R91-6 at 15
 Ill. Reg. 15708, effective October 4, 1991; amended in R89-7(B)
 at 15 Ill. Reg. 17710, effective November 26, 1991; amended in
 R91-22 at 16 Ill. Reg. 7880, effective May 11, 1992; amended in
 R91-35 at 16 Ill. Reg. 8204, effective May 15, 1992; amended in
 R93-30 at 18 Ill. Reg. _____, effective _____.

PART 212
 VISIBLE AND PARTICULATE MATTER MEASURES

SUBPART A: GENERAL

Section 212.113 Incorporations by Reference

The following materials are incorporated by reference. These

incorporations do not include any later amendments or editions.

- a) Ringelmann Chart, Information Circular 833 (Revision of IC7718), Bureau of Mines, U.S. Department of Interior, May 1, 1967.
- b) 40 CFR 60, Appendix A (1991):
 - 1) Method 1: Sample and Velocity Traverses for Stationary Sources;
 - 2) Method 1A: Sample and Velocity Traverses for Stationary Sources with Small Stacks or Ducts;
 - 3) Method 2: Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S pitot tube);
 - 4) Method 2A: Direct Measurement of Gas Volume Through Pipes and Small Ducts;
 - 5) Method 2C: Determination of Stack Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube);
 - 6) Method 2D: Measurement of Gas Volumetric Flow Rates in Small Pipes and Ducts;
 - 7) Method 3: Gas Analysis for Carbon Dioxide, Oxygen, Excess Air, and Dry Molecular Weight;
 - 8) Method 4: Determination of Moisture Content in Stack Gases;
 - 9) Method 5: Determination of Particulate Emissions From Stationary Sources;
 - 10) Method 5A: Determination of Particulate Emissions From the Asphalt Processing and Asphalt Roofing Industry;
 - 11) Method 5D: Determination of Particulate Matter Emissions From Positive Pressure Fabric Filters;
 - 12) Method 5E: Determination of Particulate Emissions From the Wool Fiberglass Insulation Manufacturing Industry;
 - 13) Method 9: Visual Determination of the Opacity of Emissions from Stationary Sources;
 - 14) Method 22: Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares.

- c) 40 CFR 51 Appendix M (1990):
 - 1) Method 201: Determination of PM-10 Emissions;
 - 2) Method 201A: Determination of PM-10 Emissions (Constant Sampling Rate Procedures).
- d) 40 CFR 60.672(b), (c), (d) and (e) (1991).
- e) 40 CFR 60.675(c) and (d) (1991).
- f) ASAE Standard 248.2, Section 9, Basis for Stating Drying Capacity of Batch and Continuous-Flow Grain Dryers, American Society of Agricultural Engineers, 2950 Niles Road, St. Joseph, MI 49085.
- g) U.S. Sieve Series, ASTM-E11, American Society of Testing Materials, 1916 Race Street, Philadelphia, PA 19103.
- h) 55 Fed. Reg. 41546, (October 12, 1990), Method 202: Determination of Condensable Particulate Emissions from Stationary Sources.
- i) Standard Methods for the Examination of Water and Wastewater, Section 209C, "Total Filtrable Residue Dried at 103 - 105°C," 15th Edition, 1980, American Public Health Association 1015 Fifteenth Street, N.W., Washington, D.C. 20005.
- j) "Guideline on the Identification and Use of Air Quality Data Affected by Exceptional Events," U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards Monitoring and Data Analysis Division, Research Triangle Park, N.C. 27711, EPA-450/4-86.007 July 1986.
- k) "Guideline on Air Quality Models (Revised)"; U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, EPA-450/2-78-027R July 1986.
- l) 40 CFR 50, Appendix K (1992), "Interpretation of the National Ambient Air Quality Standard for Particulate Matter".

(Source: Amended at 18 Ill. Reg. _____, effective _____)

SUBPART U: ADDITIONAL CONTROL MEASURES

Section 212.700 Applicability

- a) This Subpart shall apply to those sources in the areas designated in and subject to Sections 212.324(a)(1) or

212.423(a) and that have actual annual source-wide emissions of PM-10 of at least fifteen (15) tons per year.

- b) A source's actual annual source-wide emissions of PM-10 shall be the total of its fugitive emissions and its stack emissions from process emission units and fuel combustion emission units and as set forth in the source's Annual Emissions Report submitted pursuant to 35 Ill. Adm. Code 254 or, for a newly-constructed source or emission unit, the estimated emissions included in the permit application.

(Source: Added at 18 Ill. Reg. _____, effective _____)

Section 212.701 Contingency Measure Plans, Submittal and Compliance Date

- a) Those sources subject to this Subpart shall prepare contingency measure plans reflecting the PM-10 emission reductions set forth in Section 212.703 of this Subpart. These plans shall become federally enforceable permit conditions. Such plans shall be submitted to the Agency by November 15, 1994. Notwithstanding the foregoing, sources that become subject to the provisions of this Subpart after July 1, 1994, shall submit a contingency measure plan to the Agency for review and approval within ninety (90) days after the date such source or sources became subject to the provisions of this Subpart or by November 15, 1994, whichever is later. The Agency shall notify those sources requiring contingency measure plans, based on the Agency's current information; however, the Agency's failure to notify any source of its requirement to submit contingency measure plans shall not be a defense to a violation of this Subpart and shall not relieve the source of its obligation to timely submit a contingency measure plan.
- b) If the Agency disapproves the initial submittal of a contingency measure plan or a source fails to revise a plan so that it is approvable, the Agency shall so notify the source in writing and the source may treat such notice as a permit denial.
- c) Sources having operational changes subject to Sections 212.304, 212.305, 212.306, 212.308, 212.316(a) through (e), 212.424 or 212.464 which require either a new permit or a revision to an existing permit, shall, within 30 days of such changes, submit a request to modify its permit in order to include a new, appropriate contingency measure plan. Such new plan shall be subject to the requirements of this Subpart.

- d) A source may, consistent with the requirements of this Subpart and any applicable permitting requirements, propose revisions to its contingency measure plan.

(Source: Added at 18 Ill. Reg. _____, effective _____)

Section 212.702 Determination of Contributing Sources

- a) If the review of monitoring data reveals an exceedence of the 24-hour ambient air quality standard for PM-10 found at 35 Ill. Adm. Code 243.120, the Agency shall attempt to determine the source or sources causing or contributing to the exceedence.
- b) In determining whether a source has caused or contributed to an exceedence of the 24-hour ambient air quality standard for PM-10, the Agency may take whatever steps as are necessary to determine which source or sources are culpable for the exceedence, including, but not limited to:
- 1) Evaluating whether the exceedence can be classified as an "exceptional event" pursuant to the "Guideline on the Identification and Use of Air Quality Data Affected by Exceptional Events," incorporated by reference in Section 212.113 of this Part;
 - 2) Reviewing operating records of the source or sources identified pursuant to subsections (b)(3) and (b)(4) below to determine whether any source or sources so identified experienced a malfunction or breakdown or violated any term or condition of its operating permit which contributed to the exceedence;
 - 3) Evaluating the monitoring equipment filter evidencing the exceedence to determine the types of sources that contributed to the exceedence; and
 - 4) Evaluating meteorological data and conducting dispersion analyses pursuant to the "Guideline on Air Quality Models (Revised)," incorporated by reference in Section 212.113 of this Part, to determine which source or sources caused or contributed to the exceedence.
- c) If the Agency determines that the exceedence can be classified as an exceptional event, the Agency shall make a written request to USEPA to void the exceedence. If the exceedence has been caused by an "exceptional event," the Agency shall make no requests upon any source for Level I or Level II controls pursuant to Section 212.704(a) or (b) of this Subpart until such

time as USEPA has denied the Agency's request to void the exceedence or until an additional exceedence of the 24-hour ambient air quality standard which is not due to an exceptional event, as determined by the Agency, has been monitored for the same area.

d) If the Agency determines that the exceedence was due to a malfunction or breakdown or violation of any term or condition of a source's operating permit, the Agency shall contact such source and may pursue appropriate action under 35 Ill. Adm. Code 103.

~~e) The Agency's determination of culpability of a source is appealable to the Board pursuant to the procedures set forth at 35 Ill. Adm. Code 106. Subpart J.~~

(Source: Added at 18 Ill. Reg. _____, effective _____)

Section 212.703 Contingency Measure Plan Elements

a) All sources subject to this Subpart shall submit a contingency measure plan. The contingency measure plan shall contain two levels of control measures:

1) Level I measures are measures that will reduce total actual annual source-wide fugitive emissions of PM-10 subject to control under Sections 212.304, 212.305, 212.306, 212.308, 212.316(a) through (e), 212.424 or 212.464 by at least 15%.

2) Level II measures are measures that will reduce total actual annual source-wide fugitive emissions of PM-10 subject to control under Sections 212.304, 212.305, 212.306, 212.308, 212.316(a) through (e), 212.424 or 212.464 by at least 25%.

b) A source may elect to demonstrate compliance comply with this Subpart by submitting through an alternative compliance plan that provides for reductions in emissions equal to the level of reduction of fugitive emissions as required at subsection (a) above and which has been approved by the Agency and USEPA as federally enforceable permit conditions. If a source elects to include controls on process emission units, fuel combustion emission units, or other fugitive emissions of PM-10 not subject to Sections 212.304, 212.305, 212.306, 212.308, 212.316(a) through (e), 212.424 or 212.464 at the source in its alternative control plan, the plan must include a reasonable schedule for implementation of such controls, not to exceed two (2) years. This implementation schedule is subject to Agency review and approval.

(Source: Added at 18 Ill. Reg. _____, effective _____)

Section 212.704 Implementation

- a) Following any exceedence of the 24-hour ambient air quality standard for PM-10, the Agency shall notify the source or sources the Agency has identified as likely to be causing or contributing to an exceedence detected by monitoring. Within ninety (90) days of receipt of such notification, each source so notified may implement Level I or Level II measures, as determined pursuant to subsection (d)(1) below.
- b) If there is a violation of the ambient air quality standard for PM-10 as determined in accordance with 40 CFR Part 50, Appendix K, incorporated by reference in Section 212.113 of this Part, the Agency shall notify the source or sources the Agency has identified as likely to be causing or contributing to one or more of the exceedences leading to such violation, and such source or sources shall implement Level I or Level II measures, as determined pursuant to subsection (d)(1)(e) below. The source or sources so identified shall implement such measures corresponding to fugitive emissions within ninety (90) days of receipt of such notification and shall implement such measures corresponding to any nonfugitive emissions according to the approved schedule set forth in such source's alternative control plan. Any source identified as causing or contributing to a violation of the ambient air quality standard for PM-10 may appeal any finding of culpability by the Agency to the Board pursuant to Subpart J of 35 Ill Adm. Code 106 Subpart J.
- c) Upon the finding of a failure to attain by the Administrator of USEPA, the Agency shall notify all sources in the applicable area required to submit contingency measure plans pursuant to Section 212.700 of this Subpart of such finding by the Administrator; however, the Agency's failure to notify a source of its requirement to implement its contingency measure plan because of the Administrator's finding of a failure to attain shall not be a defense to a violation of this Subpart and shall not relieve the source of its obligation to timely comply with this Section. All such sources subject to this Subpart shall, within ~~ninety (90)~~ sixty (60) days of receipt of such notification, implement any Level II measures corresponding to fugitive emissions subject to control under Sections 212.304, 212.305, 212.306, 212.308, 212.316(a) through (e), 212.424 or 212.464 and shall implement any Level II measures corresponding to any nonfugitive emissions of PM-10 according to the approved schedule set forth in such source's alternative control plan, unless such corresponding Level II controls have been previously implemented by

such source or sources pursuant to subsection (a) or (b) above.

d) The Agency shall request that sources comply with the Level I or Level II measures of their contingency measure plans pursuant to subsection (a) above as follows:

1) Level I measures shall be requested when the magnitude of the monitored exceedence at a given air quality monitor is less than or equal to 170 ug/m³.

2) Level II measures shall be requested when the magnitude of the monitored exceedence at a given air quality monitor exceeds 170 ug/m³.

e) The Agency shall require that sources comply with the Level I or Level II measures of their contingency measure plans pursuant to subsection (b) above as follows:

1) Level I measures shall be required when the design value of a violation of the 24-hour ambient air quality standard, as computed pursuant to 40 CFR 50, Appendix K, incorporated by reference in Section 212.113 of this Part, is less than or equal to 170 ug/m³.

2) Level II measures shall be required when the design value of a violation of the 24-hour ambient air quality standard, as computed pursuant to 40 CFR 50, Appendix K, incorporated by reference in Section 212.113 of this Part, exceeds 170 ug/m³.

(Source: Added at 18 Ill. Reg. _____, effective _____)

Section 212.705 Alternative Implementation

Should the Agency determine that more than one source has caused or contributed to the implementation is a contributing source pursuant to Section 212.702 of this Subpart, The Agency may accept controls from fewer than all of the sources identified as culpable where greater than the required levels of control for all culpable sources are achieved at some of the culpable sources.

a) For the purposes of this Section, an "identified source" is a source determined to be culpable for an exceedence of the 24-hour ambient air quality standard.

b) For the purposes of this Section, a "participating source" is another source that is also identified as

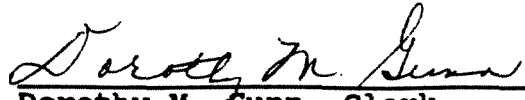
culpable by the Agency for the monitored exceedence.

- c) For the purposes of this Section, "equivalent air quality benefits" shall be determined by conducting one or more dispersion analyses in accordance with the "Guideline on Air Quality Models (revised)," incorporated by reference in Section 212.113 of this Part.
- d) An identified source may elect to achieve compliance with the provisions of this Subpart by obtaining equivalent air quality benefits from PM-10 emissions reductions by a participating source as would be achieved at the identified source, provided, however, that the PM-10 emissions reductions to be achieved by the participating source under this Section are in addition to any other obligation it may have under this Subpart to reduce PM-10 emissions.
- e) If an identified source elects to rely on this Section to demonstrate compliance with this Subpart, the identified source must:
- 1) Demonstrate to the Agency that it will achieve equivalent air quality benefits from PM-10 emission reductions at the participating source as would be achieved from the identified source subject to this Subpart;
 - 2) The PM-10 emissions reductions from the participating source that the identified source is relying upon to demonstrate compliance with this Subpart must be reflected as federally enforceable permit conditions of the participating source's permit;
 - 3) The participating source implements any emissions reductions for fugitive emissions of PM-10 within ninety (90) days after the identified source would have been required to implement Level I or Level II measures pursuant to this Subpart; and
 - 4) The participating source submits a reasonable schedule for implementation of any PM-10 emission reductions from controls on process emission units, fuel combustion emission units, or other fugitive emissions of PM-10 at the participating source not subject to control under Sections 212.304, 212.305, 212.306, 212.308, 212.316(a) through (e), 212.424 or 212.464, not to exceed two (2) years from the date of notification to the identified source that Level I or Level II measures, as appropriate, are required.

(Source: Added at 18 Ill. Reg. _____, effective _____)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 5th day of May, 1994, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board