

Rulemaking Addendum to the
Order of the Board
R19-1 (Rulemaking – Air)
Proposed New 35 Ill. Adm. Code 204, Prevention of Significant Deterioration, Amendments
to 35 Ill. Adm. Code 101, 105, 203, 211, and 215

Proposed Rule. Proposal for Public Comment.

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARD

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AUTHORITY: Implementing Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27] and Section 25-101 of the Electronic Commerce Security Act [5 ILCS 175/25-101].

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SUBPART B: DEFINITIONS

Section 101.202 Definitions for Board's Procedural Rules

Unless otherwise provided in 35 Ill. Adm. Code 101-130, or unless a different meaning of a word or term is clear from the context, the following definitions also apply to the Board's procedural rules, found in 35 Ill. Adm. Code 101 through 130:

"Act" means the Environmental Protection Act. [415 ILCS 5]

"Adjudicatory proceeding" means an action of a quasi-judicial nature brought before the Board under authority granted to the Board by Section 5(d) of the Act or as otherwise provided by law. Adjudicatory proceedings include enforcement, variance, permit appeal, pollution control facility siting appeal, Underground Storage Tank (UST) Fund determination, water well set back exception, adjusted standard, and administrative citation proceedings. Adjudicatory proceedings do not include regulatory, quasi-legislative, or informational proceedings.

"Adjusted standard" or "AS" means an alternative standard granted by the Board in an adjudicatory proceeding under Section 28.1 of the Act and 35 Ill. Adm. Code 104.Subpart D. The adjusted standard applies instead of the rule or regulation of general applicability.

"Administrative citation" or "AC" means a citation issued by the Agency or by a unit of local government acting as the Agency's delegate. (See 35 Ill. Adm. Code 108.)

"Administrative citation review" or "administrative citation appeal" means a petition for review of an administrative citation. (See 35 Ill. Adm. Code 108.)

"Affidavit" means a sworn, signed statement witnessed by a notary public.

"Agency" means the Illinois Environmental Protection Agency as established by Section 4 of the Act.

"Agency public comment" means information submitted to the Agency on a proposed Agency decision either by oral statement made at an Agency public hearing or written statement submitted to the Agency during the period for comment by the public.

"Agency public hearing" means a public proceeding to provide interested persons an opportunity to understand and comment on a proposed Agency decision.

"Agency public hearing record" means the record of the Agency public hearing, as kept by the Agency.

"Agency recommendation" means the document filed by the Agency under Sections 37(a) and 28.1(d)(3) of the Act in which the Agency provides its recommended disposition of a petition for variance or an adjusted standard. This includes a recommendation to deny, or a recommendation to grant with or without conditions. (See 35 Ill. Adm. Code 104.218 and 104.416.)

"Agency record" means a record of final Agency decision, as kept by the Agency, of those documents required by the State agency record meeting the applicable

requirements of 35 Ill. Adm. Code Part 105.

"Amicus curiae brief" means a brief filed in a proceeding by any interested person who is not a party. (See Sections 101.110 and 101.628)

"Applicant" means any person who submits, or has submitted, an application for a permit or for local siting approval under any of the authorities to issue permits or granting of siting approval identified in Sections 39, 39.1, and 39.5 of the Act.

"Article" means *any object, material, device or substance, or whole or partial copy thereof, including any writing, record, document, recording, drawing, sample, specimen, prototype, model, photograph, culture, microorganism, blueprint or map.* [415 ILCS 5/7.1]

"Attorney General" means the Attorney General of the State of Illinois or representatives thereof.

"Authorized representative" means any person who is authorized to act on behalf of another person.

"Board" means the Illinois Pollution Control Board as created in Section 5 of the Act or, if applicable, its designee.

"Board decision" means an opinion or an order voted in favor of by at least three members of the Board at an open Board meeting except in a proceeding to remove a seal under Section 34(d) of the Act.

"Board designee" means an employee of the Board who has been given authority by the Board to carry out a function for the Board (e.g., the Clerk, Assistant Clerk of the Board, or hearing officer).

"Board meeting" means an open meeting held by the Board under Section 5(a) of the Act in which the Board makes its decisions and determinations.

"Board's procedural rules" means the Board's regulations set forth at 35 Ill. Adm. Code 101 through 130.

"Brief" means a written statement that contains a summary of the facts of a proceeding, the pertinent laws, and an argument of how the law applies to the facts supporting a position.

"CAAPP" means the Clean Air Act Permit Program, as adopted in Section 39.5 of the Act.

"CAAPP permit" means any permit issued, renewed, amended, modified or revised pursuant to Section 39.5 of the Act.

"CAAPP permit appeal" means an appeal of a CAAPP permit as addressed by 35 Ill. Adm. Code Part 105.

"Certificate of acceptance" means a certification, executed by a successful petitioner in a variance proceeding, in which the petitioner agrees to be bound by all terms and conditions that the Board has affixed to the grant of variance.

"Chairman" means the Chairman of the Board designated by the Governor under Section 5(a) of the Act.

"Citizen's enforcement proceeding" means an enforcement action brought before the Board under Section 31(d) of the Act by any person who is not authorized to bring the action on behalf of the People of the State of Illinois.

"Clean Air Act" or "CAA" *means the federal Clean Air Act, as now and hereafter amended (42 USC 7401 et seq.).* [415 ILCS 5/39.5]

"Clean Water Act" means the federal Clean Water Act (33 USC 1251 et seq.).

"Clerk" means the Clerk of the Board.

"Clerk's Office On-Line" or "COOL" means the Board's web-based file management system that allows electronic filing of and access to electronic documents in the records of the Board's adjudicatory and regulatory proceedings. COOL is located on the Board's website at <http://www.ipcb.state.il.us/COOL/external/>.

"Complaint" means the initial filing that begins an enforcement proceeding under Section 31 of the Act and 35 Ill. Adm. Code 103.

"Compliance plan" means a detailed description of a program designed to achieve compliance with the Act and Board regulations.

"Copy" means *any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article.* [415 ILCS 5/7.1]

"Counter-complaint" means a pleading that a respondent files setting forth a claim against a complainant. (See 35 Ill. Adm. Code 103.206.)

"Cross-complaint" means a pleading that a party files setting forth a claim against

a co-party. (See 35 Ill. Adm. Code 103.206.)

"Cross-media impacts" means impacts that concern multiple environmental areas, such as air, land and/or water.

"Decision date" means the date of the Board meeting immediately preceding the decision deadline.

"Decision deadline" means the last day of any decision period, as established by law, within which the Board is required to render a decision in an adjudicatory proceeding. (See Subpart C. See also Sections 38(a), 40, and 40.1 of the Act that establish 120-day decision deadlines for variances, permit appeals, and review of pollution control facility siting decisions respectively.)

"Decision period" means the period of time established by the Act within which the Board is required to make a Board decision in certain adjudicatory proceedings. (See Subpart C. See also Sections 38(a), 40, and 40.1 of the Act that establish 120-day decision deadlines for variances, permit appeals, and review of pollution control facility siting decisions, respectively.)

"Deinked stock" *means paper that has been processed to remove inks, clays, coatings, binders and other contaminants.* [415 ILCS 20/2.1]

"Delegated unit" means the unit of local government to which the Agency has delegated its administrative citation or other function under Section 4(r) of the Act.

"Digital signature" means *a type of electronic signature created by transforming an electronic document using a message digest function and encrypting the resulting transformation with an asymmetric cryptosystem using the signer's private key such that any person having the initial untransformed electronic document, the encrypted transformation, and the signer's corresponding public key can accurately determine whether the transformation was created using the private key that corresponds to the signer's public key and whether the initial electronic document has been altered since the transformation was made. A digital signature is a security device.* [5 ILCS 175/5-105]

"Discovery" means a pre-hearing process that can be used to obtain facts and information about the adjudicatory proceeding in order to prepare for hearing. The discovery tools include depositions upon oral and written questions, written interrogatories, production of documents or things, and requests for admission.

"DNR" means the Illinois Department of Natural Resources.

"DOA" means the Illinois Department of Agriculture.

"Duplicative" means the matter is identical or substantially similar to one brought before the Board or another forum.

"Electronic" includes *electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.* [5 ILCS 175/5-105]

"Electronic document" means any notice, information, or filing generated, communicated, received or stored by electronic means to use in an information system or to transmit from one information system to another. (See 5 ILCS 175/5-105.)

"Electronic signature" means *a signature in electronic form attached to or logically associated with an electronic document.* [5 ILCS 175/5-105]

"Environmental Management System Agreement" or "EMSA" means the agreement between the Agency and a sponsor, entered into under Section 52.3 of the Act and 35 Ill. Adm. Code 187, that describes the innovative environmental measures to be implemented, schedules to attain goals, and mechanisms for accountability.

"Enforcement proceeding" means an adjudicatory proceeding brought upon a complaint filed under Section 31 of the Act by the Attorney General, State's Attorney, or other persons, in which the complaint alleges violation of the Act, any rule or regulation adopted under the Act, any permit or term or condition of a permit, or any Board order.

"EPRR Act" means the Electronic Products Recycling and Reuse Act. [415 ILCS 150]

"Ex parte communication" means *any written or oral communication by any person that imparts or requests material information or makes a material argument regarding potential action concerning regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by the Board.* "Ex parte communication" does not include the following:

statements by a person publicly made in a public forum, including pleadings, transcripts, public comments, and public remarks made part of the proceeding's record;

statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a

matter; and

statements made by a State employee of the Board to Board members or other employees of the Board. [5 ILCS 430/5-50(b)] For purposes of this definition, "Board employee" means a person the Board employs on a full-time, part-time, contract or intern basis. (See Section 101.114)

"Fast Track rulemaking" means a Clean Air Act rulemaking conducted under Section 28.5 of the Act.

"Federally required rule" means *a rule that is needed to meet the requirements of the federal Clean Water Act, Safe Drinking Water Act, Clean Air Act (including required submission of a State Implementation Plan), or Resource Conservation and Recovery Act, other than a rule required to be adopted under subsection (c) of Section 13, Section 13.3, Section 17.5, subsection (a) or (d) of Section 22.4, or subsection (a) of Section 22.40. [415 ILCS 5/28.2]*

"Filing" means the act of delivering a document or article into the custody of the Clerk with the intention of incorporating that document or article into the record of a proceeding before the Board. The Clerk's Office is located at 100 West Randolph Street, Suite 11-500, Chicago IL 60601. Electronic filing is done through COOL on the Board's website.

"Final order" means an order of the Board that terminates the proceeding leaving nothing further to litigate or decide and that is subject to judicial review. (See Subpart I)

"Frivolous" means a request for relief that the Board does not have the authority to grant, or a complaint that fails to state a cause of action upon which the Board can grant relief.

"Hearing" means a public proceeding conducted by a hearing officer where the parties and other interested persons, as provided for by law and the Board's procedural rules, present evidence and argument regarding their positions.

"Hearing officer" means a person licensed to practice law in the State of Illinois who presides over hearings and otherwise carries out record development responsibilities as directed by the Board.

"IAPA" means the Illinois Administrative Procedure Act. [5 ILCS 100]

"Identical-in-substance rules" or "identical-in-substance regulations" means *State regulations which require the same actions with respect to protection of the environment, by the same group of affected persons, as would federal regulations*

if USEPA administered the subject program in Illinois. [415 ILCS 5/7.2]

"Initial filing" means the filing that initiates a Board proceeding and opens a docket. For instance, the initial filing in an enforcement proceeding is the complaint; in a permit appeal it is a petition for review; and in a regulatory proceeding it is the proposal.

"Innovative environmental measures" means any procedures, practices, technologies or systems that pertain to environmental management and are expected to improve environmental performance when applied. (See 35 Ill. Adm. Code 106.Subpart G.)

"Inquiry hearing" means a hearing conducted by the Board for the purpose of seeking input and comment from the public regarding the need for a rulemaking proceeding in a specific area.

"Interlocutory appeal" means an appeal of a Board decision to the appellate court that is not dispositive of all the contested issues in the proceeding. (See Section 101.908) An interlocutory appeal may also be the appeal of a hearing officer ruling to the Board. (See Section 101.518.)

"Intervenor" means a person, not originally a party to an adjudicatory proceeding, who voluntarily participates as a party in the proceeding with permission of the Board. (See Section 101.402.)

"Intervention" means the procedure by which a person, not originally a party to an adjudicatory proceeding, voluntarily comes into the proceeding as a party with the permission the Board. (See Section 101.402.)

"JCAR" means the Illinois General Assembly's Joint Committee on Administrative Rules established by the IAPA (see 5 ILCS 100/5-90).

"Joinder" means the procedure by which the Board adds a person, not originally a party to an adjudicatory proceeding, as a party to the proceeding. (See Section 101.403 and 35 Ill. Adm. Code 103.206.)

"Misnomer" means a mistake in name, giving an incorrect name in a complaint or other document with respect to any properly included party.

"Motion" means a request made to the Board or the hearing officer for the purposes of obtaining a ruling or order directing or allowing some act to be done in favor of the movant. (See definition of "movant" in this Section.)

"Movant" means the person who files a motion.

"New pollution control facility" means *a pollution control facility initially permitted for development or construction after July 1, 1981; or the area of expansion beyond the boundary of a currently permitted pollution control facility; or a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste.* [415 ILCS 5/3.330(b)]

"Non-disclosable information" means *information which constitutes a trade secret; information privileged against introduction in judicial proceedings; internal communications of the several agencies; information concerning secret manufacturing processes or confidential data submitted by any person under the Act.* [415 ILCS 5/7(a)]

"Notice list" means the list of persons in a regulatory proceeding who will receive all Board opinions and orders and all hearing officer orders. Persons on a notice list generally do not receive copies of motions, public comments, or testimony. (See definition of "service list" in this Section. See also 35 Ill. Adm. Code 102.422.)

"Notice to reinstate" means a document filed that recommences the decision period after a decision deadline waiver has been filed. The notice will give the Board a full decision period in which to make a decision. (See Section 101.308)

"Oral argument" means a formal verbal statement of advocacy on a proceeding's legal questions made at a Board meeting with the Board's permission. (See Section 101.700)

"OSFM" means Office of the State Fire Marshal.

"OSFM appeal" means an appeal of an OSFM final decision concerning eligibility and deductibility made under Title XVI of the Act.

"OSFM record" means a record of final OSFM decision, as kept by the OSFM, of those documents of the OFSM that constitute the OSFM record relating to the eligibility and deductible decision and meeting the applicable requirements of 35 Ill. Adm. Code Part 105.

"Participant" means any person, not including the Board or its staff, who takes part in an adjudicatory proceeding who is not a party, or a person who takes part in a regulatory or other quasi-legislative proceeding before the Board. A person becomes a participant in any of several ways, including filing a comment, being added to the notice list of a particular proceeding, testifying at hearing, or making public remarks at a Board meeting.

~~"Participant in a CAAPP Comment Process" means a person who takes part in a Clean Air Act Permit Program (CAAPP) permit hearing before the Agency or comments on a draft CAAPP permit.~~

"Party" means the person by or against whom an adjudicatory proceeding is brought or who is granted party status by the Board through intervention or joinder.

"Party in interest" means the Agency when asked to conduct an investigation under Section 30 of the Act during an ongoing proceeding. (See Section 101.404)

"Peremptory rulemaking" means *any rulemaking that is required as a result of federal law, federal rules and regulations, or an order of a court, under conditions that preclude compliance with the general rulemaking requirements of Section 5-40 of the IAPA and that preclude the exercise by the Board as to the content of the rule it is required to adopt.* [5 ILCS 100/5-50]

"Permit appeal" means an adjudicatory proceeding brought before the Board under Title X of the Act.

"Person" means *any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.* [415 ILCS 5/3.315]

"Petition" means the initial filing in an adjudicatory proceeding other than an enforcement proceeding, including permit appeals, OSFM appeals, UST appeals, appeals of pollution control facility siting decisions, variances and adjusted standards.

"Pilot project" means an innovative environmental project that covers one or more designated facilities, designed and implemented in the form of an EMSA. (See Section 52.3 of the Act.)

"Pollution control facility" is defined at Section 3.330(a) of the Act for purposes of this Part and 35 Ill. Adm. Code 107.

"Pollution control facility siting appeal" means an appeal of a decision made by a unit of local government filed with the Board under Section 40.1 of the Act.

"Postconsumer material" means *paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after the waste has been passed through its end usage as a consumer item, including used corrugated boxes, old newspapers, mixed waste paper, tabulating cards, and used cordage.*

Additionally, it includes *all paper, paperboard, and other fibrous wastes that are diverted or separated from the municipal solid waste stream.* [415 ILCS 20/3(f)(2)(i) and (ii)] (See also definition of "recycled paper" in this Section.)

"Prehearing conference" means a meeting held in an adjudicatory case to determine the status of the proceedings. A prehearing conference may also be a meeting held in a regulatory proceeding prior to the hearing, the purposes of which *shall be to maximize understanding of the intent and application of the proposal, if possible, and to attempt to identify and limit the issues of disagreement among participants to promote efficient use of time at hearing.* [415 ILCS 5/27(d)] (See 35 Ill. Adm. Code 102.404 and 102.406.)

"Proceeding" means an action conducted before the Board under authority granted under Section 5 of the Act or as otherwise provided by law. Board proceedings are of two types: quasi-legislative (rulemaking and inquiry proceedings) and quasi-judicial (adjudicatory proceedings).

"Proponent" means any person, not including the Board or its staff, who submits a regulatory proposal to the Board for the adoption, amendment, or repeal of a regulation.

"Provisional variance" means a short term variance sought by an applicant and issued by the Agency under Section 35(b) of the Act. (See 35 Ill. Adm. Code 104.Subpart C.)

"PSD" means the Prevention of Significant Deterioration of Air Quality program as authorized by Section 9.1(c) of the Act and as adopted by 35 Ill. Adm. Code Part 204.

"PSD permit" means any PSD permit issued, extended or revised pursuant to Section 9.1(c) of the Act and 35 Ill. Adm. Code Part 204.

"PSD permit appeal" means an appeal of a PSD permit as addressed by 35 Ill. Adm. Code Part 105.

"Public comment" means information submitted to the Board during a pending proceeding either by oral statement made at hearing or written statement filed with the Board.

"Public remarks" mean an oral statement that is publicly made at a Board meeting and directed to the Board concerning a proceeding listed on that meeting's agenda. (See Section 101.110(d))

"PWSO Act" means the Public Water Supply Operations Act. [415 ILCS 45]

"Qualitative description" means a narrative description pertaining to attributes and characteristics.

"Quantitative description" means a numerically based description pertaining to attributes and characteristics.

"RCRA variance" means a variance from a RCRA rule or a RCRA permit required under Section 21(f) of the Act.

"Record" means the official collection, as kept by the Clerk, of all documents and exhibits including pleadings, transcripts, and orders filed during the course of a proceeding.

"Recycled paper" means paper which contains at least 50% recovered paper material. The recovered paper material must contain at least 45% deinked stock or postconsumer material. (See also "postconsumer material" in this Section.)

"Regulatory hearing" or "proceeding" means a hearing or proceeding held under Title VII of the Act or other applicable law with respect to regulations.

"Regulatory relief mechanisms" means variances, provisional variances and adjusted standards. (See 35 Ill. Adm. Code 104.)

"Representing" means, for purposes of Part 130, *describing, depicting, containing, constituting, reflecting or recording*. [415 ILCS 5/7.1]

"Requester" means, for purposes of Part 130, the person seeking from the agency the material claimed or determined to be a trade secret (see 415 ILCS 5/7.1).

"Resource Conservation and Recovery Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.).

"Responsible Operator in Charge" means an individual who is designated as a Responsible Operator in Charge of a community water supply under Section 1 of the PWSO Act.

"Rulemaking" or "rulemaking proceeding" means a proceeding brought under Title VII of the Act or other applicable law for the purpose of adoption, amendment, or repeal of a regulation.

"Sanction" means a penalty or other mechanism used by the Board to provide incentives for compliance with the Board's procedural rules, Board orders or hearing officer orders. (See also Subpart H)

"SDWA" means the federal Safe Drinking Water Act (42 USC 300f et seq.).

"Service" means delivery of a document upon a person. (See Sections 101.300(c) and 101.304)

"Service list" means the list of persons designated by the hearing officer or Clerk in a regulatory or adjudicatory proceeding upon whom parties or participants must serve motions, prefiled questions and prefiled testimony and any other documents that the parties or participants file with the Clerk unless the hearing officer otherwise directs. (See definition of "notice list" in this Section. See also 35 Ill. Adm. Code 102.422.)

"Severance" means the separation of a proceeding into two or more independent proceedings, each of which terminates in a separate, final judgment.

"Site-specific rule or regulation" means a proposed or adopted regulation, not of general applicability, that applies only to a specific facility, geographic site, or activity. (See 35 Ill. Adm. Code 102.208.)

"Sponsor" means the proponent of a pilot project that enters into an EMSA with the Agency.

"State enforcement proceeding" means an enforcement proceeding, other than a citizen's enforcement proceeding, that is brought under Section 31 of the Act.

"Stay" means a temporary suspension of the regular progress of a proceeding under an order of the Board or by operation of law. (See Section 101.514)

"Subpoena" means a command to appear at a certain time and place to give testimony upon a certain matter.

"Subpoena duces tecum" means a document that compels the production of specific documents and other items at a specified time and place.

"Summary judgment" means the disposition of an adjudicatory proceeding without hearing when the record, including pleadings, depositions and admissions on file, together with any affidavits, shows that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law. (See Section 101.516)

"Third party complaint" means a pleading that a respondent files setting forth a claim against a person who is not already a party to the proceeding. (See 35 Ill. Adm. Code 103.206.)

"Trade secret" means *the whole or any portion or phase of any scientific or technical information, design, process (including a manufacturing process), procedure, formula or improvement, or business plan which is secret in that it has not been published or disseminated or otherwise become a matter of general public knowledge, and which has competitive value. A trade secret is presumed to be secret when the owner thereof takes reasonable measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.* [415 ILCS 5/3.490]

"Transcript" means the official recorded testimony from a hearing or public remarks from a Board meeting.

"USEPA" means the United States Environmental Protection Agency.

"Underground storage tank appeal" or "UST appeal" means an appeal of an Agency final decision made under Title XVI of the Act.

"UST" means underground storage tank.

"Variance" means a temporary exemption from any specified regulation, requirement or order of the Board granted to a petitioner by the Board under Title IX of the Act *upon presentation of adequate proof that compliance with the rule or regulation, requirement or order of the Board would impose an arbitrary or unreasonable hardship.* [415 ILCS 5/35(a)]

"Waiver" means the intentional relinquishing of a known right, usually with respect to a hearing before the Board or entry of a Board decision within the decision period. (See also Section 101.308)

"Website" means the Board's computer-based informational and filing service accessed on the Internet at <http://www.ipcb.state.il.us>.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART C: COMPUTATION OF TIME, FILING, SERVICE OF DOCUMENTS, AND STATUTORY DECISION DEADLINES

Section 101.302 Filing of Documents

- a) This Section contains the Board's general filing requirements. Additional requirements may exist for specific proceedings elsewhere in the Board's procedural rules (see 35 Ill. Adm. Code 101 through 130). The Clerk will refuse for filing any document that does not comply with the minimum requirements of this Section.

- b) All documents to be filed with the Board must be filed with the Clerk.
- 1) If allowed by the Board, the hearing officer, the Clerk, or the procedural rules to be filed in paper under subsection (h), documents must be filed at the following address:

Pollution Control Board, Attn: Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218
 - 2) All documents filed with the Clerk must provide the name and signature of the person seeking to file the document and identify the name of the person on whose behalf the document is being filed. If a paper document is submitted for filing, the original must bear the original pen-and-ink signature of the person seeking to file the document. Signatures for purposes of electronic filings through COOL are addressed in Section 101.1010.
 - 3) Each document being filed with the Clerk must be accompanied by a notice of filing (see Appendix D) and documentation of service (see Section 101.304(d)).
 - 4) The date on which a document is considered to have been filed is determined under Section 101.300(b).
 - 5) Service of a document upon a hearing officer does not constitute filing with the Clerk unless the document is submitted to the hearing officer during the course of a hearing.
- c) Electronic documents may be filed through COOL under Subpart J. Paper documents may be filed with the Clerk by U.S. Mail, in person, or by third-party commercial carrier.
- d) A filing by e-mail or facsimile will only be allowed with the prior approval of the Clerk of the Board or the hearing officer assigned to the proceeding. Any prior approval by the Clerk or hearing officer applies only to the specified filing.
- e) The initial filings listed in this subsection require filing fees and will only be considered filed when accompanied by the appropriate fee. The fee may be paid in the form of government voucher, money order, or check made payable to the Illinois Pollution Control Board, or electronically through COOL in accordance with Section 101.1040(b)(1), but cannot be paid in cash.

- 1) Petition for Site-Specific Regulation, \$75;
 - 2) Petition for Variance, \$75;
 - 3) Petition for Review of Agency Permit Decision, UST Decision, or any other appeal filed under Section 40 of the Act, \$75;
 - 4) Petition to Review Pollution Control Facility Siting Decisions, under Section 40.1 of the Act, \$75; and
 - 5) Petition for Adjusted Standard, under Section 28.1 of the Act, \$75.
- f) For each document filed with the Clerk, the filing party must serve a copy of the document upon the other parties and, if a hearing officer has been assigned, upon the hearing officer in accordance with Section 101.304.
- g) All documents filed with the Board must contain the relevant proceeding caption and docket number. All documents must be submitted on or formatted to print on 8½ x 11 inch paper, except as provided in subsection (j). Paper documents must be submitted on recycled paper as defined in Subpart B, and double sided. All pages in a document must be sequentially numbered. All documents created by word processing programs must be formatted as follows:
- 1) The margins must each be a minimum one inch on the top, bottom, and both sides of the page; and
 - 2) The size of the type in the body of the text must be no less than 12 point font, and in footnotes no less than 10 point font.
- h) Unless the Board, the hearing officer, the Clerk, or the procedural rules provide otherwise, all documents must be filed through COOL electronically.
- 1) If a document is filed in paper, the original and two copies of the document (three total) are required. If a document is filed through COOL in accordance with Subpart J, no paper original or copy of the document is required.
 - 2) The following documents must be filed through COOL or on compact disk or other portable electronic data storage device, meet the requirements of Section 101.1030(g) and, to the extent technically feasible, in text-searchable Adobe PDF:

- A) The Agency record required by 35 Ill. Adm. Code 105.212, 105.302, ~~or~~ 105.410, or 105.612 or 35 Ill. Adm. Code 125.208 (see 35 Ill. Adm. Code 105.116);
 - B) The OSFM record required by 35 Ill. Adm. Code 105.508 (see 35 Ill. Adm. Code 105.116);
 - C) The local siting authority record required by 35 Ill. Adm. Code 107.302 (see 35 Ill. Adm. Code 107.304); and
 - D) A petition filed under 35 Ill. Adm. Code 104 or 35 Ill. Adm. Code 106 (see 35 Ill. Adm. Code 104.106 and 35 Ill. Adm. Code 106.106
- 3) A document containing information claimed or determined to be a trade secret, or other non-disclosable information under 35 Ill. Adm. Code 130, is prohibited from being filed electronically and must instead be filed only in paper. The version of the document that is redacted under 35 Ill. Adm. Code 130 must be filed through COOL.
- 4) When filing a rulemaking proposal, if any document protected by copyright law (17 USC 101 et seq.) is proposed under Section 5-75 of the IAPA. [5 ILCS 100/5-75] to be incorporated by reference, the copyrighted document is prohibited from being filed electronically, but the remainder of the rulemaking proposal must be filed through COOL. In addition, the rulemaking proponent must:
- A) File a paper original of the copyrighted document. The rulemaking proposal also must include:
 - i) The copyright owner's written authorization for the Board to make, at no charge to the Board, no more than a total of two paper copies of the copyrighted document if the Board is required by State law to furnish a copy to JCAR, a court, or a member of the public during or after the rulemaking; or
 - ii) The proponent's representation that it will, at its own expense, promptly acquire and deliver to the Clerk's Office no more than a total of two paper originals of the copyrighted document if the Clerk's Office notifies the proponent in writing that the Board is required by State law to furnish a copy to JCAR, a court, or a member of the public during or after the rulemaking; or

- B) File a license or similar documentation of access that, at no charge to the Board, gives the Board the rights, during and after the rulemaking, to do the following: electronically access the copyrighted document from the sole designated computer at the Board's Chicago office; print a single copy of the copyrighted document to maintain at the Board's Chicago office; and print no more than a total of two copies of the copyrighted document if the Board is required by State law to furnish a copy to JCAR, a court, or a member of the public.
- i) No written discovery, including interrogatories, requests to produce, and requests for admission, or any response to written discovery, may be filed with the Clerk of the Board except with permission or direction of the Board or hearing officer. Any discovery request under these rules to any nonparty must be filed with the Clerk of the Board in accordance with subsection (h).
- j) Oversized Exhibits. When reasonably practicable, oversized exhibits must be reduced to conform to or be formatted to print on 8½ x 11 inch paper for filing with the Clerk's Office. However, even when an oversized exhibit is so reduced or formatted, the original oversized exhibit still must be filed with the Clerk's Office. In accordance with 2 Ill. Adm. Code 2175.300, the original oversized exhibit may be returned to the person who filed it.
- k) Page Limitation. No motion, brief in support of a motion, or brief may exceed 50 pages, and no amicus curiae brief may exceed 20 pages, without prior approval of the Board or hearing officer. These limits do not include appendices containing relevant material; however, materials that may be readily available to the Board, such as prior Board opinions and orders, federal and Illinois regulations, and federal and Illinois statutes, need not be included in appendices.
- l) Documents filed that do not meet the requirements of 35 Ill. Adm. Code. Subtitle A may be rejected by the Clerk or the hearing officer. Any rejection of a filing will include a description of the Board's rules that have not been met.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 101.308 Statutory Decision Deadlines and Waiver of Deadlines

- a) Petitions in the following proceedings each have a 120-day statutory decision deadline: Variances (Section 38 of the Act), Permit Appeals and UST appeals (Section 40 of the Act), ~~and~~ Pollution Control Facility Siting Review (Section 40.1 of the Act), CAAPP permit appeals (Section 40.2 of the Act), and PSD permit appeals (Section 40.3 of the Act). Other adjudicatory proceedings may be subject to decision deadlines as provided by law.

- b) Where the petitioner does not waive the decision deadline, the Board will proceed expeditiously to establish all hearing and filing requirements. Willful or unexcused failure to follow Board requirements on the deadlines will subject the party to sanctions under Subpart H. This Section will be strictly construed where there is a decision deadline unless the Board receives a waiver as set out in subsection (c).
- c) All waivers of a deadline for Board action must be filed as a separate document. Waivers must be titled and state which type of waiver it is, identify the proceeding by name and docket number, and be signed by the party or by an authorized representative or attorney. A waiver of a statutory deadline does not preclude the Board from issuing an opinion or order prior to any decision deadline, nor does it preclude the filing of a motion seeking a decision on the matter.
 - 1) An open waiver waives the decision deadline completely and unequivocally until the petitioner elects to reinstate the 120-day decision period by filing a notice to reinstate. Upon proper filing of the notice, the decision period is reinstated. In accordance with Section 101.300(b)(4), the decision period recommences as of the date the notice to reinstate is filed with the Board.
 - 2) A time certain waiver must be expressed in length of days or to a specific calendar date. If expressed in length of days, day one will be the first day after the date upon which the current time clock expires. If the petitioner files a time certain waiver before the hearing date, the waiver must be for at least 40 days. If the extension is not renewed for at least 40 days prior to the decision deadline, the Board will set the matter for hearing.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

Section 101.610 Duties and Authority of the Hearing Officer

The hearing officer has the duty to manage proceedings assigned, to set hearings, to conduct a fair hearing, to take all necessary action to avoid delay, to maintain order, and to ensure development of a clear, complete, and concise record for timely transmission to the Board. The hearing officer has all powers necessary to these ends, including the authority to:

- a) Require parties to proceed to hearing and establish a schedule for, and notice and service of, any prefiled submission of testimony and written exhibits;
- b) Administer oaths and affirmations;

- c) Allow for the examination of or examine witnesses to ensure a clear and complete record;
- d) Regulate the course of the hearing, including controlling the order of proceedings;
- e) Establish reasonable limits on the duration of the testimony and questioning of any witness, and limit repetitive or cumulative testimony and questioning;
- f) Determine that a witness is adverse, hostile, or unwilling under Section 101.624;
- g) Issue an order compelling the answers to interrogatories or responses to other discovery requests;
- h) Order the production of evidence under Section 101.614;
- i) Order the filing of any required Agency record, OSFM record, local siting authority record or recommendation in a manner which provides for a timely review and development of issues prior to the hearing and consistent with any statutory decision deadline;
- j) Initiate, schedule, and conduct a pre-hearing conference;
- k) Order a briefing and comment schedule and exclude late-filed briefs and comments from the record;
- l) Rule upon objections and evidentiary questions;
- m) Order discovery under Sections 101.614 and 101.616;
- n) Rule on any motion directed to the hearing officer or deferred to the hearing officer by the Board in accordance with Section 101.502;
- o) Set status report schedules;
- p) Require all participants in a rulemaking proceeding to state their positions with respect to the proposal; and
- q) Rule upon offers of proof and receive evidence and rule upon objections to the introduction of evidence.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 101.626 Information Produced at Hearing

In accordance with Section 10-40 of the IAPA, the hearing officer will admit evidence that is admissible under the rules of evidence as applied in the civil courts of Illinois, except as otherwise provided in this Part or 35 Ill. Adm. Code Part 105.

- a) Evidence. The hearing officer may admit evidence that is material, relevant, and would be relied upon by prudent persons in the conduct of serious affairs, unless the evidence is privileged.
- b) Admissibility of Evidence. When the admissibility of evidence depends upon a good faith argument as to the interpretation of substantive law, the hearing officer will admit the evidence.
- c) Scientific Articles and Treatises. Relevant scientific or technical articles, treatises, or materials may be introduced into evidence by a party. The materials are subject to refutation or disputation through introduction of documentary evidence or expert testimony.
- d) Written Testimony. Written testimony may be introduced by a party in a hearing only if provided to all other parties of record prior to the date of the hearing and only after the opposing parties have had an opportunity to object to the written testimony and to obtain a ruling on the objections prior to its introduction. Written testimony may be introduced by a party only if the persons whose written testimony is introduced are available for cross-examination at hearing.
- e) Admission of Business Records. A writing or record, whether in the form of any entry in a book or otherwise made as a memorandum or record of any act, transaction, occurrence, or event, may be admissible as evidence of the act, transaction, occurrence, or event. To be admissible, the writing or record must have been made in the regular course of business, provided it was the regular course of business to make the memorandum or record at the time of the act, transaction, occurrence, or event, or within a reasonable time afterwards. All other circumstances of the making of the writing or record, including lack of personal knowledge by the entrant or maker, may be admitted to affect the weight of the evidence, but will not affect admissibility. The term "business," as used in this subsection (e), includes businesses, professions, occupations, and callings of every kind.
- f) Prior Inconsistent Statements. Prior statements made under oath may be admitted to impeach a witness if the statement is inconsistent with the witness' testimony at hearing.
- g) Oral and Written Statements. Oral and written statements from participants may be taken at hearing in accordance with Section 101.628.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARD

PART 105
APPEALS OF FINAL DECISIONS OF STATE AGENCIES

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- 105.APPENDIX A Agency LUST Final Decisions that are Reviewable (Repealed)
- 105.APPENDIX B Comparison of Former and Current Rules (Repealed)

AUTHORITY: Authorized by Sections 26 and 27 of the Environmental Protection Act (Act) [415 ILCS 5/26 and 27] and implementing Sections 5, 39, 39.5, 40, 40.1, 40.2, and 57 of the Act [415 ILCS 5/5, 39, 39.5, 40, 40.1, 40.2 and 57].

SOURCE: Filed with Secretary of State January 1, 1978; amended 4 Ill. Reg. 52, page 41, effective December 11, 1980; codified 6 Ill. Reg. 8357; amended in R93-24 at 18 Ill. Reg. 4244, effective March 8, 1994; amended in R94-11 at 18 Ill. Reg. 16594, effective November 1, 1994; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 406, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8811, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2369, effective January 27, 2015; amended in R16-17 at 40 Ill. Reg. 7980, effective May 20, 2016; amended in R17-18 at 41 Ill. Reg. 9930, effective July 5, 2017; amended in R19-1 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 105.104 Definitions

- a) Nonattainment New Source Review (NaNSR) means Illinois' rules for Major Stationary Sources Construction and Modification (MSSCAM) at 35 Ill. Adm. Code Part 203.
- ab) ~~For the purpose of this Part,~~ Other words and terms will have the meanings as defined in 35 Ill. Adm. Code 101.Subpart B unless otherwise provided, or unless the context clearly indicates otherwise.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 105.108 Dismissal of Petition

A petition is subject to dismissal if the Board determines that:

- a) The petition does not contain the informational requirements set forth in Section 105.210, 105.304, 105.408, ~~or~~ 105.506 or 105.608;
- b) The petition is untimely under Section 105.206, 105.302, 105.404, ~~or~~ 105.504 or 105.606;
- c) The petitioner fails to timely comply with any order issued by the Board or the hearing officer, including an order requiring additional information;
- d) The petitioner does not have standing under applicable law to petition the Board for review of the State agency's final decision; or
- e) Other grounds exist that bar the petitioner from proceeding.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 105.112 Burden of Proof

Unless this Part provides otherwise:

- a) *The burden of proof shall be on the petitioner except as provided in subsection (b) of this Section [415 ILCS 5/40(a)(1), 40(b) and (e)(3), ~~and~~ 40.2(a) and 40.3(a)(2)].-*
- b) *The burden of proof is on the Agency if the Agency issues an NPDES permit that imposes limits which are based upon a criterion or denies a permit based upon*

application of a criterion, then the Agency shall have the burden of going forward with the basis for the derivation of those limits or criterion which were derived under the Board's rules. [415 ILCS 5/40(a)(1)]

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 105.116 Agency or OSFM Record Filing

- a) The State agency must file with the Board the entire record of ~~its~~the Agency's or OSFM's decision, as applicable, within 30 days after the filing of the petition for review, unless this Part provides otherwise, or the Board or hearing officer orders a different filing date. If the ~~State agency~~Agency or OSFM wishes to seek additional time to file ~~its~~the record, it must file a request for extension before the date on which ~~its~~the record is due to be filed. Under 35 Ill. Adm. Code 101.302(h)(2), ~~each~~the State agency must file ~~its~~the record through COOL or on compact disk or other portable electronic data storage device and, to the extent technically feasible, in text-searchable Adobe PDF. The record also must meet the requirements of 35 Ill. Adm. Code 101. Subpart J.
- b) The Agency record or OSFM record, as applicable, must be arranged in chronological sequence, or by category of material and chronologically within each category, and must be sequentially numbered with the letter "R" placed before the number of each page. This page number must appear in the top right corner of each page. The Agency record or OSFM record must be certified by the applicable State agency. The certification must be entitled "Certificate of Record on Appeal". The Certificate must contain an index that lists the documents comprising the Agency record or OSFM record and shows the page numbers upon which each document starts and ends. The Certificate of Record must be served on all parties by the State agency.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 105.118 Sanctions for Untimely Filing of the Record

If the ~~State agency~~Agency or OSFM unreasonably fails to timely file ~~its~~the record on or before the date required under this Part, or unreasonably fails to prepare the record in accordance with this Part and 35 Ill. Adm. Code 101 Subpart J, the Board may sanction the relevant State agency in accordance with 35 Ill. Adm. Code 101. Subpart H.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART B: APPEAL OF AGENCY PERMIT DECISIONS AND OTHER FINAL DECISIONS OF THE AGENCY

Section 105.200 Applicability

This Subpart applies to any appeal to the Board of the Agency's final permit decisions and other final decisions of the Agency, except:

- a) When the appeal is of a final CAAPP decision of the Agency, which is addressed in Subpart C of this Part; ~~and~~
- b) When the appeal is of a final leaking underground storage tank decision of the Agency, which is addressed in Subpart D of this Part; ~~and~~
- c) When the appeal is of a final PSD permit decision of the Agency, which is addressed in Subpart F of this Part.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 105.210 Petition Content Requirements

In addition to the requirements of 35 Ill. Adm. Code 101.Subpart C, the petition must include:

- a) The Agency's final decision or issued permit;
- b) A statement specifying the date of issuance or service of the Agency's final decision or issued permit, as applicable under Section 105.206;
- c) A statement specifying the grounds of appeal; and
- d) For petitions under Section 105.204(b), *a demonstration that the petitioner raised the issues contained within the petition during the public notice period or during the Agency public hearing on the NPDES permit application, if an Agency public hearing was held, and a demonstration that the petitioner is so situated as to be affected by the permitted facility. [415 ILCS 5/40(e)(2)]*

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 105.212 Agency Record

- a) The Agency must file its entire Agency record of its decision with the Clerk in accordance with Section 105.116.
- b) The Agency record must include:
 - 1) Any permit application or other request that resulted in the Agency's final decision;

- 2) Correspondence with the petitioner and any documents or materials submitted by the petitioner to the Agency related to the permit application;
- 3) The permit denial letter that conforms to the requirements of Section 39(a) of the Act or the issued permit or other Agency final decision;
- 4) The Agency public hearing record file of any Agency public hearing that may have been held before the Agency, including any transcripts and exhibits; and
- 5) Any other information the Agency relied upon in making its final decision.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 105.214 Board Hearing

- a) Except as provided in subsections (b), (c) and (d), the Board will conduct a public hearing, in accordance with 35 Ill. Adm. Code 101.Subpart F, upon an appropriately filed petition for review. The hearing will be based exclusively on the Agency record before the Agency at the time the permit or decision was issued, unless the parties agree to supplement the Agency record under Section 40(d) of the Act. If any party desires to introduce evidence before the Board with respect to any disputed issue of fact, the Board will conduct a separate hearing and receive evidence with respect to the issue of fact.
- b) The Board will not hold a hearing on a petition for review under this Subpart if the Board disposes of the petition on a motion for summary judgment brought under 35 Ill. Adm. Code 101.516.
- c) The Board will not hold a hearing on a petition for review under Section 105.204(c) if the Board determines that:
 - 1) The petition is duplicative or frivolous; or
 - 2) The petitioner is so located as to not be affected by the permitted facility.
- d) The Board will not hold a hearing on a petition for review under Section 105.204(b) or (d) if the Board determines that the petition is duplicative or frivolous.
- e) If the Board determines to hold a hearing, the Clerk will give notice of the hearing under 35 Ill. Adm. Code 101.602.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART C: CAAPP PERMIT APPEALS

Section 105.302 General Requirements

- a) The definitions of 35 Ill. Adm. Code 101.202 and Section 39.5 of the Act will apply to this Subpart unless otherwise provided, or unless the context clearly indicates otherwise.
- b) If the Agency denies a CAAPP permit, permit modification, or permit renewal it must provide to USEPA, the permit applicant and, upon request, affected states, any person who participated in the public comment process and any other person who could obtain judicial review under Section 41(a) of the Act [415 ILCS 5/41(a)] a copy of each notification of denial pertaining to the permit applicant.
- c) The applicant, any person who participated in the public comment process under Section 39.5(8) of the Act, or any other person who could obtain judicial review under Section 41(a) of the Act may contest the decisions of the Agency enumerated in this subsection (c) by filing with the Clerk a petition for review of the Agency's action in accordance with this Section:
 - 1) Denial of a CAAPP permit, including a permit revision or permit renewal, or a determination of incompleteness regarding a submitted CAAPP application;
 - 2) Issuance of a CAAPP permit with one or more conditions or limitations;
 - 3) Failure of the Agency to act on an application for a CAAPP permit, permit renewal, administrative permit amendment or significant permit modification within the time frames specified in Section 39.5(5)(j) or Section 39.5(13) of the Act, as applicable; or
 - 4) Failure of the Agency to take final action within 90 days after receipt of an application requesting minor permit modification procedures (or 180 days for modifications subject to group processing requirements) under Section 39.5(14) of the Act.
- d) For purposes of this Subpart, a person who participated in the Agency public comment process is someone who, during the Agency public comment period, either commented on the draft permit, submitted written comments, or requested notice of the final action on a specific permit application.
- e) The petition filed under subsection (c) must be filed within 35 days after the Agency's final permit action unless:

- 1) The petition is based solely on grounds arising after the 35 day period expires, in which case the petition may be filed within 35 days after the new grounds for review arise.
 - 2) The applicant is challenging the Agency's failure to timely take final action under Section 39.5 of the Act, in which case the petition must be filed before the Agency takes the final action.
 - 3) However, under no circumstances may a petition challenging the final permit action on a Phase II acid rain permit be filed more than 90 days subsequent to the final permit action.
- f) The Agency must appear as respondent at the hearing and must file within 30 days after service of the petition, an answer consisting of the entire Agency record of the application including the CAAPP permit application, the Agency public hearing record, the CAAPP permit denial or issuance letter, and correspondence with the applicant concerning the CAAPP permit application.
 - g) The Clerk will give notice of the petition and hearing in accordance with 35 Ill. Adm. Code 101.
 - h) The proceeding will be conducted in accordance with 35 Ill. Adm. Code 101.
 - i) *The Agency shall notify USEPA, in writing, of any petition for hearing brought under this Part involving a provision or denial of a Phase II acid rain permit within 30 days of the filing of the petition. USEPA may intervene as a matter of right in any such hearing. The Agency shall notify USEPA, in writing, of any determination or order in a hearing brought under this Section that interprets, voids, or otherwise relates to any portion of a Phase II acid rain permit. [415 ILCS 5/40.2(e)]*

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 105.304 Petition Content Requirements

- a) The petition must include:
 - 1) A concise description of the CAAPP source for which the permit is sought;
 - 2) A statement of the Agency's decision or part thereof to be reviewed;

- 3) ~~A~~a justification as to why the Agency's decision or part thereof was in error; and
 - 4) ~~The~~the other materials upon which the petitioner relies in its petition.
- b) The petition may include a request to stay the effectiveness of a denial of the CAAPP permit until final action is taken by the Board under Section 40.2 of the Act.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART D: APPEAL OF AGENCY LEAKING UNDERGROUND STORAGE TANK (LUST) DECISIONS

Section 105.410 Agency Record

- a) The Agency must file the entire Agency record of its decision with the Board in accordance with Section 105.116.
- b) The Agency record must include:
 - 1) The plan or budget submittal or other request that requires an Agency decision;
 - 2) Correspondence with the petitioner and any documents or materials submitted by the petitioner to the Agency related to the plan or budget submittal or other request;
 - 3) The final determination letter; and
 - 4) Any other information the Agency relied upon in making its determination.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 105.412 Board Hearing

The Board will conduct a public hearing in accordance with 35 Ill. Adm. Code 101.Subpart F including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600 (b)) upon an appropriately filed petition for review, unless a petition is disposed of by a motion for summary judgment brought under 35 Ill. Adm. Code 101.516. The hearing will be based exclusively on the Agency record before the Agency at the time the permit or decision was issued.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART E: APPEAL OF OSFM LUST DECISIONS

Section 105.508 OSFM Record and Appearance

- a) Within 14 days after a petition for review of an OSFM eligibility or deductibility determination, the attorney representing the OSFM must file an appearance with the Board.
- b) The OSFM must file the entire OSFM record of its decision with the Board in accordance with Section 105.116. The OSFM record must include:
 - 1) The request for OSFM determination of eligibility or deductibility;
 - 2) Correspondence with the petitioner;
 - 3) The denial letter; and
 - 4) Any other information the OSFM relied upon in making its determination.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART F: PSD PERMIT APPEALS

Section 105.600 Applicability

This Subpart applies to proceedings before the Board concerning appeals from final PSD permit determinations made under Section 9.1(d) of the Act and 35 Ill. Adm. Code Part 204.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 105.602 Parties

- a) Petitioner. The person who files a petition for review of the Agency's final decision must be named the petitioner.
- b) Respondent. The Agency must be named the respondent. If a petition is filed under Section 105.604(c) of this Subpart by a person other than the permit applicant, the permit applicant must be named as a respondent in addition to the Agency.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 105.604 Who May File a Petition for Review

- a) If the Agency refused to grant or grants with conditions a PSD permit under Section 9.1(d) of the Act and 35 Ill. Adm. Code Part 204, the applicant may petition for a hearing before the Board to contest the decision of the Agency. [415 ILCS 5/40.3(a)(1)]
- b) If the Agency fails to act on an application for a PSD permit within the time frame specified in Section 39(f)(3) of the Act, the applicant may petition for a hearing before the Board to compel the Agency to act on the application in a time that is deemed reasonable by the Board. [415 ILCS 5/40.3(a)(1)]
- c) Any person who participated in the Agency public comment process for a PSD permit and is either aggrieved or has an interest that is or may be adversely affected by the PSD permit may petition for a hearing before the Board to contest the decision of the Agency. If the petitioner failed to participate in the Agency's public comment process, the person may still petition for hearing, but only upon issues where the final permit conditions reflect changes from the draft permit that was made available during the Agency public comment process. [415 ILCS 5/40.3(a)(2)]

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 105.606 Time to File Petition for Review

- a) Except as provided in subsection (b), if a person who may petition the Board under Section 105.604 of this Subpart wishes to appeal the Agency's final decision to the Board under this Subpart, the person must file the petition with the Clerk within 35 days after the date of the Agency's final permit action.
- b) If the permit applicant wishes to appeal the Agency's failure to act on an application for a PSD permit within the time frame specified in Section 39(f)(3) of the Act, the person must file a petition for review with the Clerk before the Agency denies or issues the final permit.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 105.608 Petition Content Requirements

- a) For petitions under Section 105.604(a) or (c) of this Subpart, all pertinent information in support of each issue raised for review shall be contained within the body of the petition. The Board will not consider arguments, assertions, claims, or other information incorporated into the petition by reference. In addition to the requirements of 35 Ill. Adm. Code 101.Subpart C, the petition must include:

- 1) The Agency's final decision or issued PSD permit;
 - 2) A statement as to how the petitioner participated in the Agency public comment process;
 - 3) All facts necessary to demonstrate that the petitioner is aggrieved or has an interest that is or may be adversely affected;
 - 4) The issues proposed for review, citing to a specific permit term or condition where applicable and to the Agency record where those issues were raised with reasonable specificity during the public comment period, citing to any relevant page numbers in the public comments submitted to the Agency and attaching this public comment to the petition. If the issues proposed for review were not raised with reasonable specificity during the public comment period, the petition must explain why such issues were not required to be raised during the Agency public comment process; and
 - 5) An explanation why the Agency's previous response to the issues proposed for review, if any, was:
 - A) Clearly erroneous; or
 - B) An exercise of discretion or an important policy consideration that the Board should, in its discretion, review. [415 ILCS 5/40.3(a)(2)]
- b) For petitions under Section 105.604(b) of this Subpart, in addition to the requirements of 35 Ill. Adm. Code 101, Subpart C, the petition must also include the date that a complete permit application for a PSD permit was submitted to the Agency and an explanation as to why the submittal made on such date made the application complete.
- c) For petitions under Section 105.604(a) or (c) of this Subpart, the petition may include a request to stay the effectiveness of any final Agency action on a PSD permit application until final action is taken by the Board under Section 40.3 of the Act. Any stay request must include a clear delineation of all the contested conditions of the PSD permit. To the extent that a stay of any or all of the uncontested conditions of the permit is sought, any stay request must indicate how these uncontested conditions would be affected by the Board's review of the contested conditions.
- d) For petitions under Section 105.604(c) of this Subpart, any stay request must also demonstrate:

- 1) That an immediate stay is required in order to preserve the status quo without endangering the public;
- 2) That it is not contrary to public policy; and
- 3) That there is a reasonable likelihood of success on the merits.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 105.610 Board Standards for Granting Stays

- a) *If requested by the permit applicant, the Board may stay the effectiveness of any final Agency action on a PSD permit application during the pendency of the review process. In such cases, the Board shall stay the effectiveness of all the contested conditions of the PSD permit and may stay the effectiveness of any or all uncontested conditions only if the Board determines that the uncontested conditions would be affected by its review of contested conditions. Any stays granted by the Board shall be deemed effective upon the date of final Agency action appealed by the applicant. [415 ILCS 5/40.3(d)(2)]*
- b) *If requested by a party other than the permit applicant, the Board may stay the effectiveness of any final Agency action on a PSD permit application during the pendency of the review process. In such cases, the Board may stay the effectiveness of all the contested conditions of the PSD permit and may stay the effectiveness of any or all uncontested conditions only if the Board determines that the uncontested conditions would be affected by its review of contested conditions. The party requesting the stay has the burden of demonstrating that an immediate stay is required in order to preserve the status quo without endangering the public, that it is not contrary to public policy and that there is a reasonable likelihood of success on the merits. Any stays granted by the Board shall be deemed effective upon the date of final Agency action appealed under Section 105.606 of this Subpart and shall remain in effect until a decision is issued by the Board on the petition. [415 ILCS 5/40.3(d)(3)]*

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 105.612 The Agency Record

- a) The Agency must file a copy of its entire Agency record of its decision with the Clerk in accordance with Section 105.116.
- b) The Agency record must include:

- 1) Any permit application or other request that resulted in the Agency's final decision;
- 2) Correspondence with the applicant and any documents or material submitted by the applicant to the Agency related to the permit application;
- 3) The project summary, statement of basis or fact sheet;
- 4) The Agency public hearing record of any Agency public hearing held under 35 Ill. Adm. Code 252.205, including any transcripts and exhibits;
- 5) All written comments received during the Agency public comment period under 35 Ill. Adm. Code 252.201, including any extension or reopening under 35 Ill. Adm. Code 252.208;
- 6) The response to comments required by 35 Ill. Adm. Code 252.210 and any new material placed in the Agency record under that Section;
- 7) The final permit; and
- 8) Any other information the Agency relied upon in making its final decision.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 105.614 Board Hearing

Except as provided in subsections (a) and (b), the Board will conduct a public hearing, in accordance with 35 Ill. Adm. Code 101, Subpart F, upon an appropriately filed petition for review under this Subpart. The hearing and decision of the Board will be based exclusively on the Agency record at the time the permit or decision was issued, unless the parties agree to supplement the Agency record. Any PSD permit issued by the Agency shall be upheld by the Board if the technical decisions contained therein reflect considered judgment by the Agency.
[415 ILCS 5/40.3(d)(1)]

- a) The Board will not hold a hearing on a petition for review under this Subpart if the Board disposes of the petition on a motion for summary judgment brought under 35 Ill. Adm. Code 101.516.
- b) The Board will not hold a hearing on a petition for review under this Subpart if the Board determines that:
 - 1) The petition is frivolous; or

2) The petition *lacks facially adequate factual statements* as required by Section 105.608 of this Subpart [415 ILCS 5/40.3(a)(2)].

c) If the Board determines to hold a hearing, the Clerk will give notice of the hearing under 35 Ill. Adm. Code 101.602.

(Source: Added at 42 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

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

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

Section	
203.801	Offsetting by Alternative or Innovative Means

AUTHORITY: Implementing Section 9.1 and 10 and authorized by Section 27 and 28.5 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 1009.1, 1010 and 1027) [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 42 Ill. Reg. _____, effective _____.

SUBPART B: MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

Section 203.207 Major Modification of a Source

- a) Except as provided in subsection (c), (d), (e) or (f) below, a physical change, or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant for which the area is designated a nonattainment area, shall constitute a major modification of a source.
- b) Any net emissions increase that is significant for volatile organic material or nitrogen oxides shall be considered significant for ozone.
- c) A physical change or change in the method of operation shall not include:
 - 1) Routine maintenance and repair.
 - 2) Use of an alternative fuel or raw material by reason of any order under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791), the Power Plant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301) (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act (16 U.S.C. 791, et seq.).
 - 3) Use of an alternative fuel by reason of an order or rule under Section 125 of the Clean Air Act (42 U.S.C. 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) Was capable of accommodating such alternative fuel or raw material before December 21, 1976, and which has continuously remained capable of accommodating such fuels or materials unless such change would be prohibited under any 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, or

- B) Is approved for use under any permit issued pursuant to 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 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.
- 7) Any change in ownership at a stationary source.
- d) In an area classified as serious or severe nonattainment for ozone, increased emissions of volatile organic material or nitrogen oxides resulting from any physical change in, or change in the method of operation of, a stationary source located in the area shall be considered de minimis for purposes of this Part if the increase in net emissions of such air pollutant from such source does not exceed 25 tons when aggregated with all other net increases in emissions from the source over any period of five consecutive calendar years that includes the year in which such increase occurred.
- e) In the case of any major stationary source of volatile organic material or nitrogen oxides 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 volatile organic material or nitrogen oxides per year), whenever any change at that source results in any increase (other than a de minimis increase) in emissions of volatile organic material or nitrogen oxides, 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 volatile organic material or nitrogen oxides, respectively, from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1.
- f) In areas classified as extreme nonattainment for ozone, beginning on the date that an area is classified by 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 volatile organic material or nitrogen oxides from a discrete operation, unit, or other pollutant emitting activity shall be considered a major modification.

(Source: Amended at 42 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

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- Section
- 204.1000 Stack Heights

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

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- 204.1110 Source Impact Analysis
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- Section
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- Section
- 204.1300 Notification of Application Completeness to Applicants
- 204.1310 Transmittal of Application to USEPA
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- 204.1330 Issuance Within One Year of Submittal of Complete Application
- 204.1340 Permit Rescission

SUBPART I: NONAPPLICABILITY RECORDKEEPING AND REPORTING

- Section
- 204.1400 Recordkeeping and Reporting Requirements for Certain Projects at Major Stationary Sources

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- Section
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AUTHORITY: Implementing Section 9.1 and 10 and authorized by Section 27 and 28 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 1009.1, 1010, and 1027) [415 ILCS 5/9.1, 10, 27 and 28].

SOURCE: Adopted in R19-1 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 204.100 Incorporations by Reference

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

- a) 40 CFR Part 50 (2018)
- b) 40 CFR Part 51 (2018)
- c) 40 CFR Part 52 (2018)
- d) 40 CFR Part 53 (2018)
- e) 40 CFR Part 54 (2018)
- f) 40 CFR Part 55 (2018)
- g) 40 CFR Part 56 (2018)
- h) 40 CFR Part 57 (2018)
- i) 40 CFR Part 58 (2018)
- j) 40 CFR Part 59 (2018)
- k) 40 CFR Part 60 (2018)
- l) 40 CFR Part 61 (2018)
- m) 40 CFR Part 62 (2018)
- n) 40 CFR Part 63 (2018)
- o) 40 CFR Part 64 (2018)
- p) 40 CFR Part 65 (2018)
- q) 40 CFR Part 66 (2018)
- r) 40 CFR Part 67 (2018)
- s) 40 CFR Part 68 (2018)
- t) 40 CFR Part 69 (2018)
- u) 40 CFR Part 70 (2018)
- v) 40 CFR Part 71 (2018)
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- z) 40 CFR Part 75 (2018)
- aa) 40 CFR Part 76 (2018)
- bb) 40 CFR Part 77 (2018)
- cc) 40 CFR Part 78 (2018)
- dd) 40 CFR Part 79 (2018)
- ee) 40 CFR Part 80 (2018)
- ff) 40 CFR Part 81 (2018)
- gg) 40 CFR Part 82 (2018)
- hh) (Reserved)
- ii) (Reserved)
- jj) 40 CFR Part 85 (2018)
- kk) 40 CFR Part 86 (2018)
- ll) 40 CFR Part 87 (2018)
- mm) 40 CFR Part 88 (2018)

nn)	40 CFR Part 89 (2018)
oo)	40 CFR Part 90 (2018)
pp)	40 CFR Part 91 (2018)
qq)	40 CFR Part 92 (2018)
rr)	40 CFR Part 93 (2018)
ss)	40 CFR Part 94 (2018)
tt)	40 CFR Part 95 (2018)
uu)	40 CFR Part 96 (2018)
vv)	40 CFR Part 97 (2018), excluding 40 CFR Part 97, Subpart FFFFF (2018)
ww)	40 CFR Part 98 (2018)
xx)	(Reserved)

Section 204.110 Abbreviations and Acronyms

The following abbreviations and acronyms are used in this Part:

$\mu\text{g}/\text{m}^3$	micrograms per cubic meter
Act	Illinois Environmental Protection Act
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
CO ₂	carbon dioxide
CO _{2e}	carbon dioxide equivalent
CPMS	Continuous Parameter Monitoring System
GHG	Greenhouse Gas
H ₂ S	hydrogen sulfide
hr	hour
Illinois EPA	Illinois Environmental Protection Agency
LAER	Lowest Achievable Emission Rate
lbs	pounds
lb/hr	pounds per hour
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
O ₂	oxygen
PAL	Plantwide Applicability Limitation
PEMS	Predictive Emissions Monitoring System

PM	Particulate Matter
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
ppm	parts per million
PSD	Prevention of Significant Deterioration
RACT	Reasonably Available Control Technology
SIP	State Implementation Plan
SO ₂	sulfur dioxide
tpy	tons per year
TSP	total suspended particulates
US	United States
USEPA	United States Environmental Protection Agency
VOC	Volatile Organic Compound
VOM	Volatile Organic Material
yr	year

Section 204.120 Severability

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

SUBPART B: DEFINITIONS

Section 204.200 Definitions

Unless otherwise specified in this Part, the definitions of the terms used in this Part shall be the same as those used in the Board Rules and Regulations at 35 Ill. Adm. Code Part 211.

Section 204.210 Actual Emissions

- a) "Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with subsections (b) through (d) of this Section, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Subpart K. Instead, Sections 204.240 and 204.600 shall apply for those purposes.
- b) In general, actual emissions as of a particular date shall 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 Illinois EPA shall allow the use of a different time period upon a determination that it is more representative of normal source

operation. Actual emissions shall 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) The Illinois EPA may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.
- d) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

Section 204.220 Adverse Impact on Visibility

"Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairment, and how these factors correlate with (1) times of visitor use of the Federal Class I area, and (2) the frequency and timing of natural conditions that reduce visibility.

Section 204.230 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 as set forth in 40 CFR Parts 60, 61, 62 and 63;
- 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.

Section 204.240 Baseline Actual Emissions

"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) of this Section.

- 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 Illinois EPA shall allow the

use of a different time period upon a determination that it is more representative of normal source operation.

- 1) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
 - 2) 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.
 - 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 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) of this Section.
- a) 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 reviewing authority for a permit required under 40 CFR 52.21 or by the Illinois EPA 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.
- 1) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
 - 2) The average rate shall 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 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. "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 Illinois EPA has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

- 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 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).
 - a) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.
 - b) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in subsection (a) of this Section, for other existing emissions units in accordance with the procedures contained in subsection (b) of this Section, and for a new emissions unit in accordance with the procedures contained in subsection (c) of this Section.

Section 204.250 Baseline Area

- a) "Baseline area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section 107(d)(1)(A)(ii) or (iii) of the CAA (42 U.S.C. 7407(d)(1)(A)(ii) or (iii)) in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: Equal to or greater than 1 µg/m³ (annual average) for SO₂, NO₂, or PM₁₀; or equal or greater than 0.3 µg/m³ (annual average) for PM_{2.5}.

- b) Area redesignations under Section 107(d)(1)(A)(ii) or (iii) of the CAA (42 U.S.C. 7407(d)(1)(A)(ii) or (iii)) cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:
 - 1) Establishes a minor source baseline date; or
 - 2) Is subject to this Part and would be constructed in the State proposing the redesignation.
- c) Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that such baseline area shall not remain in effect if the Illinois EPA rescinds the corresponding minor source baseline date in accordance with Section 204.520(c).

Section 204.260 Baseline Concentration

- a) "Baseline concentration" means that ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:
 - 1) The actual emissions, as defined in Section 204.210, representative of sources in existence on the applicable minor source baseline date, except as provided in subsection (b) of this Section; and
 - 2) The allowable emissions of major stationary sources that commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.
- b) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):
 - 1) Actual emissions, as defined in Section 204.210, from any major stationary source on which construction commenced after the major source baseline date. For a major stationary source in existence on the major source baseline date, "actual emissions" for the purposes of this subsection shall mean increases or decreases in actual emissions resulting from construction commencing after the major source baseline date; and
 - 2) Actual emissions increases and decreases, as defined in Section 204.210, at any stationary source occurring after the minor source baseline date.

Section 204.270 Begin Actual Construction

"Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework, and construction of permanent storage structures. With respect to 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.

Section 204.280 Best Available Control Technology (BACT)

"Best Available Control Technology" means an emissions limitation (including a visible emission 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 which the Illinois EPA, 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 which would exceed the emissions allowed by any applicable standard under 40 CFR Parts 60, 61, 62 and 63. If the Illinois EPA 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 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.

Section 204.290 Building, Structure, Facility, or Installation

- a) "Building, structure, facility, or installation" means 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 shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same first two-digit code) as described in the 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).
- b) Notwithstanding the provisions of subsection (a) of this Section, 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 1/4 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 204.300 Clean Coal Technology

"Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of SO₂ or NO_x associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

Section 204.310 Clean Coal Technology Demonstration Project

"Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy – Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the USEPA. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

Section 204.320 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.

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.

Section 204.340 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.

Section 204.350 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) The preceding sentence in Section 204.350(a) does not include:
 - 1) The 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;
 - 2) The merging of exhaust gas streams where:
 - A) The source owner or operator demonstrates that the stationary source was originally designed and constructed with such merged gas streams;
 - B) After July 8, 1985 such 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 shall apply only to the emission limitation for the pollutant affected by such change in operation; or
 - D) Before July 8, 1985, such 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. Where 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 Illinois EPA shall 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 such intent, the Illinois EPA shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

- 1) Smoke management in agricultural or silvicultural prescribed burning programs;
- 2) Episodic restrictions on residential wood burning and open burning; or
- 3) Techniques under subsection (a)(3) of this Section which increase final exhaust gas plume rise where the resulting allowable emissions of SO₂ from the stationary source do not exceed 5,000 tpy.

Section 204.360 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.

Section 204.370 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 204.360. For purposes of this Part, there are two types of emissions units as described in subsections (a) and (b) of this Section.

- 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 such emissions unit first operated.
- b) An existing emissions unit is any emissions unit that does not meet the requirements in subsection (a) of this Section. A replacement unit, as defined in Section 204.620, is an existing emissions unit.

Section 204.380 Excessive Concentration

"Excessive concentration" is defined for the purpose of determining good engineering practice stack height under Section 204.420(c) and means:

- a) For sources seeking credit for stack height exceeding that established under Section 204.420(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 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. 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 Illinois EPA, 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(b), either (i) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subsection (a) of this Section, 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 Illinois EPA; and
- c) For sources seeking credit for a stack height determined under Section 204.420(b) where the Illinois EPA 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(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 such downwash, wakes, or eddy effects.

Section 204.390 Federal Land Manager

"Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

Section 204.400 Federally Enforceable

"Federally enforceable" means all limitations and conditions which are enforceable by the USEPA, including those requirements developed pursuant to 40 CFR Parts 60, 61, 62 and 63, requirements within the SIP, any permit requirements established pursuant to 40 CFR 52.21 or this Part or under regulations approved pursuant to 40 CFR Part 51, Subpart I, 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.

Section 204.410 Fugitive Emissions

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

Section 204.420 Good Engineering Practice

"Good engineering practice," with respect to stack height, means the greater of:

- a) 65 meters, measured from the ground-level elevation at the base of the stack;
- b) The following:
 - 1) 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;

- 2) 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 Illinois EPA may require the use of a field study or fluid model to verify good engineering practice stack height for the source; or

- a) The height demonstrated by a fluid model or a field study approved by the USEPA or Illinois EPA, 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 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.

Section 204.430 Greenhouse Gases (GHGs)

"Greenhouse gases (GHGs)" means the air pollutant defined in 40 CFR 86.1818-12(a) as the aggregate group of six greenhouse gases: CO₂, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. To represent an amount of GHGs emitted, the term "tpy CO₂ equivalent emissions (CO₂e)" shall be used and computed as follows:

- a) Multiply the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to Subpart A of 40 CFR Part 98—Global Warming Potentials.
- b) Sum the resultant value for each gas to compute a tpy CO₂e.

Section 204.440 High Terrain

"High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

Section 204.450 Indian Reservation

"Indian Reservation" means any federally recognized reservation established by Treaty, Agreement, executive order, or act of Congress.

Section 204.460 Indian Governing Body

"Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the US and recognized by the US as possessing power of self-government.

Section 204.470 Innovative Control Technology

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

Section 204.480 Low Terrain

"Low terrain" means any area other than high terrain.

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: 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 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 shall be considered significant for ozone.
- c) A physical change or change in the method of operation shall not include:
 - 1) Routine maintenance, repair and replacement;
 - 2) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791) (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act (16 U.S.C. 791);
 - 3) Use of an alternative fuel by reason of an order or rule under Section 125 of the CAA (42 U.S.C. 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 January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975 pursuant to 40 CFR 52.21 or this Part; or
 - B) The source is approved to use under any permit issued under 40 CFR 52.21 or this Part;
- 1) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or this Part;
 - 2) Any change in ownership at a stationary source;
 - 3) 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 the NAAQS during the project and after it is terminated; or
 - 4) 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 shall apply on a pollutant-by-pollutant basis.
- d) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under Subpart K for a PAL for that pollutant. Instead, the definition at Section 204.1720 shall apply.

Section 204.500 Major Source Baseline Date

"Major source baseline date" means:

- a) In the case of PM10 and SO2, January 6, 1975;
- b) In the case of NO2, February 8, 1988; and
- c) In the case of PM2.5, October 20, 2010.

Section 204.510 Major Stationary Source

- a) "Major stationary source" means:
- 1) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tpy or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;
 - 2) Notwithstanding the stationary source size specified in subsection (a)(1) of this Section, any stationary source which emits, or has the potential to emit, 250 tpy or more of a regulated NSR pollutant (except GHGs as defined in 204.430); or
 - 3) Any physical change that would occur at a stationary source not otherwise qualifying under this Section, as a major stationary source, if the changes would constitute a major stationary source by itself.
- a) A major source that is major for VOM or NO_x shall be considered major for ozone.
- b) The fugitive emissions of a stationary source shall not be included in determining for any of the 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 250 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 shall 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 British thermal units 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 British thermal units per hour heat input; and
- 27) Any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the CAA.

Section 204.520 Minor Source Baseline Date

- a) "Minor source baseline date" means the earliest date after the trigger date on which a major stationary source or a major modification subject to 40 CFR 52.21 or this Part submits a complete application under the relevant regulations. The trigger date is:
 - 1) In the case of PM10 and SO₂, August 7, 1977;
 - 2) In the case of NO₂, February 8, 1988; and
 - 3) In the case of PM_{2.5}, October 20, 2011.

- b) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:
 - 1) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section 107(d)(1)(A)(ii) or (iii) of the CAA (42 U.S.C. 7407(d)(1)(A)(ii) or (iii)) for the pollutant on the date of its complete application under 40 CFR 52.21 or this Part; and
 - 2) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.
- c) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that the Illinois EPA shall rescind a minor source baseline date where it can be shown, to the satisfaction of the Illinois EPA, that the emissions increase from the major stationary source, or net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM₁₀ emissions.

Section 204.530 Nearby

"Nearby," with respect to a specific structure or terrain feature:

- a) For purposes of applying the formulae provided in Section 204.420(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 (1/2 mile), and
- b) For conducting demonstrations under Section 204.420(c) 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 (Ht) of the feature, not to exceed 2 miles if such feature achieves a height (Ht) 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 204.420(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 204.540 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.

Section 204.550 Net Emissions Increase

- a) "Net emissions increase" means, with respect to 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 pursuant to Section 204.800(d); 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 subsection shall be determined as provided in Section 204.240, except that Sections 204.240(a)(3) and 204.240(b)(4) shall not apply.
- b) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:
 - 1) The date five years before construction on the particular change commences; and
 - 2) The date that the increase from the particular change occurs.
 - 3) An increase or decrease in actual emissions is creditable only if the reviewing authority has not relied on it in issuing a permit for the source under 40 CFR 52.21 or this Part, which permit is in effect when the increase in actual emissions from the particular change occurs.
- c) An increase or decrease in actual emissions of SO₂, PM, or NO_x that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.
- d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
- e) A decrease in actual emissions is creditable only to the extent that:
 - 1) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

- 2) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins; and
 - 3) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
- f) 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 emissions unit that replaces an existing emissions unit that requires shutdown, becomes operational only after a reasonable shutdown period, not to exceed 180 days.
- g) Subsection 204.210(b) shall not apply for determining creditable increases and decreases.

Section 204.560 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, shall be treated as part of its design 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.

Section 204.570 Prevention of Significant Deterioration (PSD) Permit

"Prevention of Significant Deterioration (PSD) Permit" means *a permit or the portion of a permit for a new major source or major modification that is issued by the Illinois EPA under the construction permit program pursuant to Section 9.1(c) of the Act that has been approved by the USEPA and incorporated into the Illinois SIP to implement the requirements of Section 165 of the CAA and 40 CFR 51.166.*

Section 204.580 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.

Section 204.590 Project

"Project" means a physical change in, or change in the method of operation of, an existing major stationary source.

Section 204.600 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) of this Section (before beginning actual construction), the owner or operator of the major stationary source:
 - 1) Shall consider all relevant information, including but not limited to, 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) Shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and
 - 3) Shall 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 204.240 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) of this Section, may elect to use the emissions unit's potential to emit, in tons per year, as defined under Section 204.560.

Section 204.610 Regulated NSR Pollutant

"Regulated NSR pollutant" means the following:

- a) Any pollutant for which a NAAQS has been promulgated. This includes, but is not limited to, the following:

- 1) PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity, which condense to form PM at ambient temperatures. On or after January 1, 2011, such condensable PM shall be accounted for in applicability determinations and in establishing emissions limitations for PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for PM_{2.5} and PM₁₀ issued prior to this date shall not be based on condensable PM unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable PM shall not be considered in violation of this Part unless the applicable implementation plan required condensable PM to be included.

- 2) Any pollutant identified under this subsection as a constituent or precursor for a pollutant for which a NAAQS has been promulgated. Precursors for purposes of this Part are the following:
 - A) VOM and NO_x are precursors to ozone in all attainment and unclassifiable areas.
 - B) SO₂ is a precursor to PM_{2.5} in all attainment and unclassifiable areas.
 - C) NO_x are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas, unless the State demonstrates to the satisfaction of the USEPA or the USEPA demonstrates that emissions of NO_x from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations.
 - D) VOM are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area, unless the State demonstrates to the satisfaction of the USEPA or the USEPA demonstrates that emissions of VOM from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations.

- b) Any pollutant that is subject to any standard promulgated under Section 111 of the CAA (42 U.S.C. 7401);
- c) Any Class I or II substance subject to a standard promulgated under or established by title VI of the CAA (42 U.S.C. 7671, et seq.);
- d) Any pollutant that otherwise is subject to regulation as defined in Section 204.700.

- e) Notwithstanding subsections (a) through (d) of this Section, the term "regulated NSR pollutant" shall not include any or all hazardous air pollutants either listed in Section 112(b)(1) of the CAA (42 U.S.C. 7412(b)(1)), or added to the list pursuant to Section 112(b)(2) or (b)(3) of the CAA (42 U.S.C. 7412(b)(2) or (b)(3)) or substances listed pursuant to Section 112(r)(3) of the CAA (42 U.S.C. 7412(r)(3)), and which have not been delisted pursuant to Section 112(b)(3) or (r) of the CAA (42 U.S.C. 7412 (b)(3) or (r)), unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a pollutant listed under Section 108 of the CAA (42 U.S.C. 7408).

Section 204.620 Replacement Unit

"Replacement unit" means an emissions unit for which all the criteria listed in subsections (a) through (d) of 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 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(s) of the process unit. Basic design parameters of a process unit shall be determined as follows:
- 1) Except as provided in subsection (c)(3) of this Section, 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 shall be used for determining the basic design parameter(s) for a coal-fired electric utility steam generating unit.
 - 2) Except as provided in subsection (c)(3) of this Section, the basic design parameter(s) 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(s) in subsections (c)(1) and (c)(2) of this Section is not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Illinois EPA an alternative basic design parameter(s) for the source's process unit(s). If the Illinois EPA approves of the use of an alternative basic design parameter(s), the Illinois EPA shall issue a permit that is legally enforceable that records such basic design parameter(s) and requires the owner or operator to comply with such parameter(s).
 - 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(s) specified in subsections (c)(2) and (c)(3) of this Section.
 - 5) If design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameter(s) 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.

Section 204.630 Repowering

- a) "Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the USEPA, in consultation with the US Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.
- b) Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the US Department of Energy.

- c) The Illinois EPA shall give expedited consideration to permit applications for any source that satisfies the requirements of this Section and is granted an extension under Section 409 of the CAA (42 U.S.C. 7651h).

Section 204.640 Reviewing Authority

"Reviewing authority" means the Illinois EPA or, in the case of a permit program under 40 CFR 52.21, the USEPA or its delegate, the Illinois EPA.

Section 204.650 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, 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.

Section 204.660 Significant

- a) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate	
Carbon monoxide	100 tpy
NO _x	40 tpy
SO ₂	40 tpy
PM	25 tpy of particulate matter emissions
PM ₁₀	15 tpy
PM _{2.5}	10 tpy of direct PM _{2.5} emissions; 40 tpy of SO ₂ emissions; 40 tpy of NO _x emissions unless demonstrated not to be a PM _{2.5} precursor under Section 204.610(a)(2)(C)
Ozone	40 tpy of VOM or NO _x
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy

Hydrogen sulfide (H ₂ S)	10 tpy
Total reduced sulfur (including H ₂ S):	10 tpy
Reduced sulfur compounds (including H ₂ S):	10 tpy
GHGs	75,000 tpy CO ₂ e
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo- <i>p</i> -dioxins and dibenzofurans):	3.2 × 10 ⁻⁶ megagrams per year (3.5 × 10 ⁻⁶ tpy)
Municipal waste combustor metals (measured as PM):	14 megagrams per year (15 tpy)
Municipal waste combustor acid gases (measured as SO ₂ and hydrogen chloride):	36 megagrams per year (40 tpy)
Municipal solid waste landfills emissions (measured as nonmethane organic compounds):	45 megagrams per year (50 tpy)
Ozone depleting substances:	100 tpy

- b) "Significant" means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that subsection (a) of this Section, does not list, any emissions rate.
- c) Notwithstanding subsection (a) of this Section, "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than 1 µg/m³ (24-hr average).

Section 204.670 Significant Emissions Increase

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in Section 204.660) for that pollutant.

Section 204.680 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.

Section 204.690 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 U.S.C. 7550) are not a part of a stationary source.

Section 204.700 Subject to Regulation

"Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the CAA, or a nationally-applicable regulation codified by the USEPA in 40 CFR Parts 50 through 99, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Pollutants subject to regulation include, but are not limited to, GHGs as defined in Section 204.430.

Section 204.710 Temporary Clean Coal Technology Demonstration Project

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Illinois' SIP and other requirements necessary to attain and maintain the NAAQS during the project and after it is terminated.

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 Sections 107(d)(1)(A)(ii) or (iii) of the CAA (42 U.S.C. 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 shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The Illinois EPA has authority to issue any such permit.

- d) The requirements of the program will be applied in accordance with the principles set out in subsections (d)(1) through (d)(5) of this Section.
- 1) Except as otherwise provided in subsection (e) of this Section, 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(s) of emissions units involved in the project, according to subsections (d)(3) through (d)(5) of this Section. 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(s). 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 units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in subsections (d)(3) and (d)(4) of this Section 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).
- 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 where 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 Sections 204.600(b)(1) through (b)(3) for calculating projected actual emissions.
 - f) For any major stationary source for a PAL for a regulated NSR pollutant, the major stationary source shall comply with the requirements under Subpart K.

Section 204.810 Source Information

The owner or operator of a proposed major stationary source or major modification shall submit all information necessary to perform any analysis or make any determination required under this Part.

- a) With respect to a source or modification to which Sections 204.810, 204.1100, 204.1120, and 204.1200 apply, such information shall include:
 - 1) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;
 - 2) A detailed schedule for construction of the source or modification; and
 - 3) A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information as necessary to determine that BACT, as applicable, would be applied.

- b) Upon request of the Illinois EPA, the owner or operator shall also provide information on:
 - 1) The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and
 - 2) The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.

Section 204.820 Source Obligation

Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this Part or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this Part who begins actual construction after the effective date of this Part without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

Section 204.830 Permit Expiration

Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Illinois EPA may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

Section 204.840 Effect of Permits

Approval 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.

Section 204.850 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 Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, 204.1200, and 204.1400 shall apply to the source or modification as though construction had not yet commenced on the source or modification.

Section 204.860 Exemptions

- a) The requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, 204.1200, and 204.1400 shall not apply to a particular major stationary source or major modification, if:
- 1) The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution and the Governor of Illinois exempts it from those requirements; or
 - 2) The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:
 - A) Coal cleaning plants (with thermal dryers);
 - B) Kraft pulp mills;
 - C) Portland cement plants;
 - D) Primary zinc smelters;
 - E) Iron and steel mills;
 - F) Primary aluminum ore reduction plants;
 - G) Primary copper smelters;
 - H) Municipal incinerators capable of charging more than 250 tons of refuse per day;
 - I) Hydrofluoric, sulfuric, or nitric acid plants;
 - J) Petroleum refineries;
 - K) Lime plants;
 - L) Phosphate rock processing plants;
 - M) Coke oven batteries;

- N) Sulfur recovery plants;
 - O) Carbon black plants (furnace process);
 - P) Primary lead smelters;
 - Q) Fuel conversion plants;
 - R) Sintering plants;
 - S) Secondary metal production plants;
 - T) Chemical process plants—The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
 - U) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
 - V) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - W) Taconite ore processing plants;
 - X) Glass fiber processing plants;
 - Y) Charcoal production plants;
 - Z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
 - AA) Any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the CAA (42 U.S.C. 7411 or 7412); or
- 1) The source is a portable stationary source which has previously received a permit under 40 CFR 52.21 or this Part, and
- A) The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary;
 - B) The emissions from the source would not exceed its allowable emissions;

- C) The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and
 - D) Reasonable notice is given to the Illinois EPA prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the Illinois EPA not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the Illinois EPA.
- 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, 204.1200, and 204.1400 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 under Section 107 of the CAA (42 U.S.C. 7407). Nonattainment designations for revoked NAAQS, as contained in 40 CFR Part 81, shall not be viewed as current designations under Section 107 of the CAA (42 U.S.C. 7407) for purposes of determining the applicability of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, 204.1200, and 204.1400 to a major stationary source or major modification after the revocation of that NAAQS is effective.
- c) The requirements of Sections 204.1110, 204.1130, and 204.1140 shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification:
- 1) Would impact no Class I area and no area where an applicable increment is known to be violated, and
 - 2) Would be temporary.
- d) The requirements of Sections 204.1110, 204.1130, and 204.1140 as they relate to any maximum allowable increase for a Class II area shall not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of BACT would be less than 50 tpy.

SUBPART D: INCREMENT

Section 204.900 Ambient Air Increments

In areas designated as Class I, II or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

Pollutant	Maximum allowable increase (micrograms per cubic meter)
Class I Area	
PM _{2.5} :	
Annual arithmetic mean	1
24-hr maximum	2
PM ₁₀ :	
Annual arithmetic mean	4
24-hr maximum	8
SO ₂ :	
Annual arithmetic mean	2
24-hr maximum	5
3-hr maximum	25
NO ₂ :	
Annual arithmetic mean	2.5
Class II Area	
PM _{2.5} :	
Annual arithmetic mean	4
24-hr maximum	9
PM ₁₀ :	
Annual arithmetic mean	17
24-hr maximum	30
SO ₂ :	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	512
NO ₂ :	
Annual arithmetic mean	25
Class III Area	
PM _{2.5} :	
Annual arithmetic mean	8
24-hr maximum	18
PM ₁₀ :	
Annual arithmetic mean	34
24-hr maximum	60
SO ₂ :	
Annual arithmetic mean	40
24-hr maximum	182

3-hr maximum	700
NO ₂ : Annual arithmetic mean	50

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

Section 204.910 Ambient Air Ceilings

No concentration of a pollutant shall exceed:

- a) The concentration permitted under the national secondary ambient air quality standard, or
- b) The concentration permitted under the national primary ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

Section 204.920 Restrictions on Area Classifications

- a) All of the following areas which were in existence on August 7, 1977, shall be Class I areas and may not be redesignated:
 - 1) International parks,
 - 2) National wilderness areas which exceed 5,000 acres in size,
 - 3) National memorial parks which exceed 5,000 acres in size, and
 - 4) National parks which exceed 6,000 acres in size.
- b) Areas which were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I, but may be redesignated as provided in this Part.
- c) Any other area, unless otherwise specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in this Part.
- d) The following areas may be redesignated only as Class I or II:
 - 1) An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and

- 2) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

Section 204.930 Redesignation

- a) As of the initial effective date of 35 Ill. Adm. Code 204, all areas of the State (except as otherwise provided under 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, as provided below, subject to approval by the USEPA as a revision to the applicable SIP.
- b) The State may submit to the 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 accordance with procedures established in 35 Ill. Adm. Code Part 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 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) of this Section;
 - 2) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the Governor of Illinois, 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 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 which 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 which could receive a permit under this 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 the 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) of this Section; and
 - 2) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located and which border the Indian Reservation.
- e) The USEPA shall disapprove, within 90 days of 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 of this

Section or is inconsistent with Section 204.920. If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the redesignation which was disapproved.

- f) If the USEPA disapproves any proposed redesignation, the State or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the USEPA.

SUBPART E: STACK HEIGHTS

Section 204.1000 Stack Heights

- a) The degree of emission limitation required for control of any air pollutant under this Part shall not be affected in any manner by:
 - 1) So much of the stack height of any source as exceeds good engineering practice, or
 - 2) Any other dispersion technique.
- b) Subsection (a) of this Section shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

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

Section 204.1100 Control Technology Review

- a) A major stationary source or major modification shall meet each applicable emissions limitation under the SIP and each applicable emissions standard and standard of performance under 40 CFR Parts 60, 61, 62 and 63.
- b) A new major stationary source shall apply BACT for each regulated NSR pollutant that it would have the potential to emit in significant amounts.
- c) A major modification shall apply BACT for each regulated NSR pollutant for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.
- d) For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later

than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of BACT for the source.

Section 204.1110 Source Impact Analysis

The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

- a) Any NAAQS in any air quality control region; or
- b) Any applicable maximum allowable increase over the baseline concentration in any area.

Section 204.1120 Air Quality Models

- a) All estimates of ambient concentrations required under this Section shall be based on applicable air quality models, databases, and other requirements specified in Appendix W of 40 CFR Part 51 (Guideline on Air Quality Models).
- b) Where an air quality model specified in Appendix W of 40 CFR Part 51 (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific state program. Written approval of the USEPA must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures set forth in 35 Ill. Adm. Code Part 252.

Section 204.1130 Air Quality Analysis

- a) Preapplication analysis.
 - 1) Any application for a permit under this Part shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:
 - A) For the source, each pollutant that it would have the potential to emit in a significant amount;

- B) For the modification, each pollutant for which it would result in a significant net emissions increase.
- 2) With respect to any such pollutant for which no NAAQS exists, the analysis shall contain such air quality monitoring data as the Illinois EPA determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.
 - 3) With respect to any such pollutant for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.
 - 4) In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceding receipt of the application, except that, if the Illinois EPA determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period.
 - 5) The owner or operator of a proposed stationary source or modification of VOM who satisfies all conditions of 40 CFR Part 51 Appendix S, Section IV may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under this subsection.
- b) Post-construction monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the Illinois EPA determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.
 - c) Operations of monitoring stations. The owner or operator of a major stationary source or major modification shall meet the requirements of Appendix B to 40 CFR Part 58 during the operation of monitoring stations for purposes of satisfying this Section.

Section 204.1140 Additional Impact Analyses

- a) The owner or operator shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the

source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

- b) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.

SUBPART G: ADDITIONAL REQUIREMENTS FOR CLASS I AREAS

Section 204.1200 Additional Requirements for Sources Impacting Federal Class I Areas

- a) Notice to Federal Land Managers. The Illinois EPA shall provide written notice of any permit application for a proposed major stationary source or major modification, the emissions from which may affect a Class I area, to the Federal Land Manager and the Federal official charged with direct responsibility for management of any lands within any such area. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in the Federal Class I area. The Illinois EPA shall also provide the Federal Land Manager and such Federal officials with a copy of the preliminary determination required under 35 Ill. Adm. Code Part 252, and shall make available to them any materials used in making that determination, promptly after the Illinois EPA makes such determination. Finally, the Illinois EPA shall also notify all affected Federal Land Managers within 30 days of receipt of any advance notification of any such permit application.
- b) Federal Land Manager. The Federal Land Manager and the Federal official charged with direct responsibility for management of such lands have an affirmative responsibility to protect the air quality related values (including visibility) of such lands and to consider, in consultation with the Illinois EPA, whether a proposed source or modification will have an adverse impact on such values.
- c) Visibility analysis. The Illinois EPA shall consider any analysis performed by the Federal Land Manager, provided within 30 days of the notification required by subsection (a) of this Section, that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in any Federal Class I area. Where the Illinois EPA finds that such an analysis does not demonstrate to the satisfaction of the Illinois EPA that an adverse impact on visibility will result in the Federal Class I area, the Illinois EPA must, in the notice of public hearing on the permit application, either explain its decision or give notice as to where the explanation can be obtained.

- d) Denial—impact on air quality related values. The Federal Land Manager of any such lands may demonstrate to the Illinois EPA that the emissions from a proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Illinois EPA concurs with such demonstration, then it shall not issue the permit.

- e) Class I variances. The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with such demonstration and he so certifies, the Illinois EPA may, provided that the applicable requirements of this Part are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of SO₂, PM_{2.5}, PM₁₀, and NO_x would not exceed the following maximum allowable increases over minor source baseline concentration for such pollutants:

Pollutant	Maximum allowable increase (micrograms per cubic meter)
PM _{2.5} :	
Annual arithmetic mean	4
24-hr maximum	9
PM ₁₀ :	
Annual arithmetic mean	17
24-hr maximum	30
SO ₂ :	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	325
NO ₂ :	
Annual arithmetic mean	25

- f) Sulfur dioxide variance by Governor with Federal Land Manager's concurrence. The owner or operator of a proposed source or modification which cannot be approved under subsection (e) of this Section may demonstrate to the Governor that the source cannot be constructed by reason of any maximum allowable increase for SO₂ for a period of 24 hours or less applicable to any Class I area and, in the case of Federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area

(including visibility). The Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the Illinois EPA shall issue a permit to such source or modification pursuant to the requirements of subsection (h) of this Section, provided that the applicable requirements of this Part are otherwise met.

- g) Variance by the Governor with the President's concurrence. In any case where the Governor recommends a variance in which the Federal Land Manager does not concur, the recommendations of the Governor and the Federal Land Manager shall be transmitted to the President. The President may approve the Governor's recommendation if he finds that the variance is in the national interest. If the variance is approved, the Illinois EPA shall issue a permit pursuant to the requirements of subsection (h) of this Section, provided that the applicable requirements of this Part are otherwise met.
- h) Emission limitations for Presidential or gubernatorial variance. In the case of a permit issued pursuant to subsections (f) or (g) of this Section the source or modification shall comply with such emission limitations as may be necessary to assure that emissions of SO₂ from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

MAXIMUM ALLOWABLE INCREASE [Micrograms per cubic meter]		
Period of exposure		
	Low Terrain	High Terrain
24-hr maximum	36	62
3-hr maximum	130	221

SUBPART H: GENERAL OBLIGATIONS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Section 204.1300 Notification of Application Completeness to Applicants

The Illinois EPA shall notify the applicant within 30 days of receipt as to the completeness of an application for a permit pursuant to this Part or any deficiency in the application or information submitted in such an application. In the event of such a deficiency, the date of receipt of the application shall be the date on which the Illinois EPA received all required information.

Section 204.1310 Transmittal of Application to USEPA

The Illinois EPA shall transmit to the USEPA a copy of each permit application submitted pursuant to this Part relating to a major stationary source or a major modification.

Section 204.1320 Public Participation

Prior to the initial issuance of a permit pursuant to this Part or a modification of a permit issued pursuant to this Part, the Illinois EPA shall provide, at a minimum, notice of the proposed issuance or modification of a permit, a comment period, and opportunity for public hearing pursuant to the Illinois EPA's public participation procedures set forth at 35 Ill. Adm. Code Part 252.

Section 204.1330 Issuance Within One Year of Submittal of Complete Application

Within one year after receipt of a complete application, a permit shall be granted or denied by the Illinois EPA.

Section 204.1340 Permit Rescission

- a) Any permit issued under this Part or a prior version of this Part shall remain in effect, unless and until it expires under Section 204.830 or is rescinded under this Section.
- b) An owner or operator of a stationary source or modification who holds a permit issued under this Part or 40 CFR 52.21 for the construction of a new source or modification that meets the requirement in subsection (c) may request that the Illinois EPA rescind the permit or a particular portion of the permit.
- c) The Illinois EPA may grant an application for rescission if the application shows that this Part would not apply to the source or modification.
- d) If the Illinois EPA rescinds a permit under this Section, the Illinois EPA shall post a notice of the rescission determination on a public web site identified by the Illinois EPA within 60 days of the rescission.

SUBPART I: NONAPPLICABILITY RECORDKEEPING AND REPORTING

Section 204.1400 Recordkeeping and Reporting Requirements for Certain Projects at Major Stationary Sources

- a) Except as otherwise provided in subsection (f)(2) of this Section, the provisions of this Section apply with respect to any regulated NSR pollutant emitted from

projects involving existing emissions unit(s) at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility, within the meaning of subsection (f) of this Section, 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 Sections 204.600(b)(1) through (b)(3) for calculating projected actual emissions.

- b) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:
 - 1) A description of the project;
 - 2) Identification of the emissions unit(s) 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 204.600(b)(3) and an explanation for why such amount was excluded, and any netting calculations, if applicable.
- c) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in subsection (a) of this Section to the Illinois EPA. Nothing in this subsection shall be construed to require the owner or operator of such a unit to obtain any determination from the Illinois EPA before beginning actual construction.
- d) 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) of this Section; 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.
- e) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Illinois EPA within 60 days after the end of each year during which records must be generated under subsection (c) of this Section setting out the unit's annual emissions during the calendar year that preceded submission of the report.

- f) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the Illinois EPA if the annual emissions, in tons per year, from the project identified in subsection (a) of this Section, exceed the baseline actual emissions (as documented and maintained pursuant to subsection (a)(3) of this Section), by a significant amount (as defined in Section 204.660) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to subsection (a)(3) of this Section. Such report shall be submitted to the Illinois EPA within 60 days after the end of such year. The report shall 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) of this Section; 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).
- g) 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 204.670 (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 204.600(b)(3), sums to at least 50 percent of the amount that is a "significant emissions increase," as defined under Section 204.670 (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) of this Section, then subsections (b) through (e) of this Section do not apply to the project.
- h) The owner or operator of the source shall make the information required to be documented and maintained pursuant to this Section available for review upon a request for inspection by the Illinois EPA or USEPA or the general public pursuant to the requirements contained in Section 39.5(8)(e) of the Act.

SUBPART J: INNOVATIVE CONTROL TECHNOLOGY

Section 204.1500 Innovative Control Technology

- a) An owner or operator of a proposed major stationary source or major modification may request the Illinois EPA in writing no later than the close of the comment period under 35 Ill. Adm. Code Part 252 to approve a system of innovative control technology.
- b) The Illinois EPA shall, with the consent of the 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 Illinois EPA. Such date shall not be later than 4 years from the time of startup or 7 years from 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 Illinois EPA;
 - 4) The source or modification would not before the date specified by the Illinois EPA:
 - 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; and
 - 1) All other applicable requirements including those for public participation have been met.
 - 2) 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 Illinois EPA 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; or
 - 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 Illinois EPA 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 emission reduction within the specified time period or the approval is withdrawn in accordance with subsection (c) of this Section, the Illinois EPA 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.

SUBPART K: PLANTWIDE APPLICABILITY LIMITATION

Section 204.1600 Applicability

- a) The Illinois EPA may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in this Subpart. The term "PAL" shall mean "actuals PAL" throughout this Subpart.
- b) 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 204.850 (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major NSR program).
- c) Except as provided under subsection (b)(2) of this Section, a major stationary source shall 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.

Section 204.1610 Definitions

For the purposes of this Subpart, the definitions in Sections 204.1620 through 204.1780 apply. When a term is not defined in these sections, it shall have the meaning given in this Part, Part 211, or in the CAA.

Section 204.1620 Actuals PAL

"Actuals PAL" for a major stationary source means a PAL based on the baseline actual emissions (as defined in Section 204.240) of all emissions units (as defined in Section 204.370) at the source, that emit or have the potential to emit the PAL pollutant.

Section 204.1630 Allowable Emissions

"Allowable emissions" means "allowable emissions" as defined in Section 204.230, 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.

Section 204.1640 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 Part, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

Section 204.1650 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).

Section 204.1660 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 Part 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, O₂ or CO₂ concentrations), and to record average operational parameter value(s) on a continuous basis.

Section 204.1670 Lowest Achievable Emission Rate (LAER)

"Lowest achievable emission rate" or "LAER" shall have the meaning given by the provisions at 35 Ill. Adm. Code 203.301(a).

Section 204.1680 Major Emissions Unit

"Major emissions unit" means any emissions unit that emits or has the potential to emit 100 tpy or more of the PAL pollutant in an attainment area.

Section 204.1690 Plantwide Applicability Limitation (PAL)

Plantwide applicability limitation" or ("PAL") means an emission limitation expressed on a mass basis in tons per year, or expressed in tons per year CO₂e for a GHG emission limitation for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with this Subpart.

Section 204.1700 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.

Section 204.1710 PAL Effective Period

"PAL effective period" means the period beginning with the PAL effective date and ending 10 years later.

Section 204.1720 PAL Major Modification

"PAL major modification" means, notwithstanding Sections 204.490 and 204.550 (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.

Section 204.1730 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 Illinois EPA that establishes a PAL for a major stationary source.

Section 204.1740 PAL Pollutant

"PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

Section 204.1750 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, O₂ or

CO₂ concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

Section 204.1760 Reasonably Achievable Control Technology (RACT)

"Reasonably Achievable Control Technology" or "RACT" means devices, systems, process modifications, or other apparatus or techniques that are reasonably available taking into account:

- a) The necessity of imposing such controls in order to attain and maintain a national ambient air quality standard;
- b) The social, environmental, and economic impact of such controls; and
- c) Alternative means of providing for attainment and maintenance of such standard.

Section 204.1770 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 significant level (as defined in Section 204.660 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 204.1680.

Section 204.1780 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 significant level for that PAL pollutant, as defined in Section 204.660 or in the CAA, whichever is lower.

Section 204.1790 Permit Application Requirements

As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the Illinois EPA 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 shall 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 204.1890(a).

Section 204.1800 General Requirements for Establishing PAL

- a) The Illinois EPA is allowed to establish a PAL at a major stationary source, provided that at a minimum, the requirements in this Section are met.
 - 1) The PAL shall impose an annual emission limitation expressed on a mass basis in tons per year, or expressed in tons per year CO₂e for a GHG PAL, 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 average, 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 is less than the PAL.
 - 2) The PAL shall be established in a PAL permit that meets the public participation requirements in Section 204.1810.
 - 3) The PAL permit shall contain all the requirements of Section 204.1830.
 - 4) The PAL shall 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 shall regulate emissions of only one pollutant.
 - 6) Each PAL shall have a PAL effective period of 10 years.
 - 7) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Sections 204.1880 through 204.1900 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 purposes of offsets pursuant to 35 Ill. Adm. Code Part 203 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 204.1810 Public Participation Requirements

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 Illinois EPA 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 Illinois EPA must address all material comments before taking final action on the permit.

Section 204.1820 Setting the 10-Year Actuals PAL Level

- a) Except as provided in subsection (b) of this Section, the plan shall provide that the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in Section 204.240) of the PAL pollutant for each emissions unit at the source, plus an amount equal to the applicable significant level for the PAL pollutant under Section 204.660 or under 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 Illinois EPA shall specify a reduced PAL level(s) in tons per year (or tons per year CO₂e for a GHG PAL) in the PAL permit to become effective on the future compliance date(s) of any applicable Federal or State regulatory requirement(s) that the Illinois EPA 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 ppm NO_X to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).
- 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) of this Section, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

Section 204.1830 Contents of the PAL Permit

- a) The PAL permit must contain, at a minimum, the information in subsections (a)(1) through (10) of this Section.

- 1) The PAL pollutant and the applicable source-wide emission limitation in tons per year, or tons per year CO₂e for a GHG PAL.
- 2) The PAL permit effective date and the expiration date of the PAL (PAL effective period).
- 3) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with Section 204.1860 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 Illinois EPA.
- 4) A requirement that emission calculations for compliance purposes must include emissions from startups, shutdowns, and malfunctions.
- 5) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of Section 204.1850.
- 6) The 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 204.1890(a).
- 7) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Section 204.1880.
- 8) A requirement to retain the records required under Section 204.1890 on site. Such records may be retained in an electronic format.
- 9) A requirement to submit the reports required under Section 204.1900 by the required deadlines.
- 10) Any other requirements that the Illinois EPA deems necessary to implement and enforce the PAL.

Section 204.1840 Effective Period and Reopening a PAL Permit

The requirements in subsections (a) and (b) of this Section apply to actuals PALs.

- a) PAL effective period. The Illinois EPA shall specify a PAL effective period of 10 years.
- b) Reopening of the PAL permit.

- 1) During the PAL effective period, the Illinois EPA 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 offsets pursuant to 35 Ill. Adm. Code Part 203; and
 - C) Revise the PAL to reflect an increase in the PAL as provided under Section 204.1870.

- 2) The Illinois EPA shall have discretion to reopen the PAL permit for the following:
 - A) Reduce the PAL to reflect newly applicable Federal requirements (for example, NSPS) with compliance dates after the PAL effective date;
 - B) Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the Illinois EPA may impose on the major stationary source under the SIP; and
 - C) Reduce the PAL if the Illinois EPA determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, 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) of this Section for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of Section 204.1810.

Section 204.1850 Expiration of a PAL

Any PAL that is not renewed in accordance with the procedures in Section 204.1860 shall expire at the end of the PAL effective period, and the requirements in this Section shall apply.

- a) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit

established according to the procedures in subsections (a)(1) and (2) of this Section.

- 1) Within the time frame specified for PAL renewals in Section 204.1860(b), the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Illinois EPA) 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 204.1860(e), such distribution shall be made as if the PAL had been adjusted.
 - 2) The Illinois EPA 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 Illinois EPA determines is appropriate.
- b) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Illinois EPA 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 Illinois EPA issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subsection (a)(2) of this Section, the source shall 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 204.490.
 - e) The major stationary source owner or operator shall 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 204.850, but were eliminated by the PAL in accordance with the provisions in Section 204.1600(b)(3).

Section 204.1860 Renewal of a PAL

- a) The Illinois EPA shall follow the procedures specified in Section 204.1810 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 Illinois EPA.
- b) **Application deadline.** A major stationary source owner or operator shall submit a timely application to the Illinois EPA 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 shall continue to be effective until the revised permit with the renewed PAL is issued.
- c) **Application requirements.** The application to renew a PAL permit shall contain the information required in subsections (c)(1) through (4) of this Section.
 - 1) The information required in Section 204.1790(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 Illinois EPA to consider in determining the appropriate level for renewing the PAL.
- d) **PAL adjustment.** In determining whether and how to adjust the PAL, the Illinois EPA shall consider the options outlined in subsections (d)(1) and (2) of this Section. However, in no case may any such adjustment fail to comply with subsection (d)(3) of this Section.
 - 1) If the emissions level calculated in accordance with Section 204.1820 is equal to or greater than 80 percent of the PAL level, the Illinois EPA may renew the PAL at the same level without considering the factors set forth in subsection (d)(2) of this Section; or
 - 2) The Illinois EPA may set the PAL at a level that it determines to be more representative of the 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 Illinois EPA in its written rationale.

- 3) Notwithstanding subsections (d)(1) and (2) of this Section:
 - A) If the potential to emit of the major stationary source is less than the PAL, the Illinois EPA shall adjust the PAL to a level no greater than the potential to emit of the source; and
 - B) The Illinois EPA shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of Section 204.1870 (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 Illinois EPA 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.

Section 204.1870 Increasing the PAL During the PAL Effective Period

- a) The Illinois EPA may increase a PAL emission limitation only if the major stationary source complies with the provisions in subsections (a)(1) through (4) of this Section.
 - 1) The 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(s) 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 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(s) 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 emissions unit must currently comply.

- 3) The owner or operator obtains a major NSR permit for all emissions unit(s) identified in subsection (a)(1) of this Section, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the major NSR process (for example, BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.
 - 4) The 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.
- b) The Illinois EPA 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.
 - c) The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of Section 204.1810.

Section 204.1880 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, or in CO₂e per unit of time for a GHG PAL. 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 such 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 minimum requirements set forth in subsection (b)(1) through (4) of this Section and must be approved by the Illinois EPA.

- 3) Notwithstanding subsection (a)(2) of this Section, the owner or operator may also employ an alternative monitoring approach that meets subsection (a)(1) of this Section if approved by the Illinois EPA.
 - 4) Failure to use a monitoring system that meets the requirements of this Section renders the PAL invalid.
- b) Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in subsections (c) through (i) of this Section:
- 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 shall 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 Illinois EPA 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 shall 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 shall 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 Illinois EPA, while the emissions unit is operating.
- f) Emission factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:
- 1) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;
 - 2) The emissions unit shall 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 shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the Illinois EPA 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 such periods is specified in the PAL permit.
- h) Notwithstanding the requirements in subsections (c) through (g) of this Subpart, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Illinois EPA shall, at the time of permit issuance:

- 1) Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or
 - 2) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) 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 Illinois EPA. Such testing must occur at least once every 5 years after issuance of the PAL.

Section 204.1890 Recordkeeping Requirements

- a) The 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.
- b) The PAL permit shall 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.

Section 204.1900 Reporting and Notification Requirements

The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Illinois EPA in accordance with the CAAPP. The reports shall meet the requirements in subsections (a) through (c) of this Section.

- a) Semi-annual report. The semi-annual report shall be submitted to the Illinois EPA within 30 days of the end of each reporting period. This report shall contain the information required in subsections (a)(1) through (7) of this Section.
 - 1) The identification of owner and operator and the permit number.
 - 2) Total annual emissions (expressed on a mass-basis in tons per year, or expressed in tons per year CO₂e for a GHG PAL) based on a 12-month

rolling total for each month in the reporting period recorded pursuant to Section 204.1890(a).

- 3) All data relied upon, including, but not limited to, 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 204.1880(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 shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program implementing 40 CFR 70.6(a)(3)(iii)(B). The reports shall 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 shall submit to the Illinois EPA the results of any re-validation test or method within 3 months after completion of such test or method.

Section 204.1910 Transition Requirements

- a) The Illinois EPA may not issue a PAL that does not comply with the requirements in this Subpart after the initial effective date of 35 Ill. Adm. Code 204.

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

PART 211
 DEFINITIONS AND GENERAL PROVISIONS

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211.610	Automobile
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211.695	Batch Operation
211.696	Batch Process Train
211.710	Bead-Dipping
211.715	Bedliner
211.730	Binders
211.735	Black Coating
211.740	Brakehorsepower (rated-bhp)
211.750	British Thermal Unit
211.770	Brush or Wipe Coating
211.790	Bulk Gasoline Plant
211.810	Bulk Gasoline Terminal
211.820	Business Machine Plastic Parts
211.825	Camouflage Coating
211.830	Can
211.850	Can Coating
211.870	Can Coating Line
211.880	Cap Sealant
211.890	Capture
211.910	Capture Device
211.930	Capture Efficiency
211.950	Capture System

211.953	Carbon Adsorber
211.954	Cavity Wax
211.955	Cement
211.960	Cement Kiln
211.965	Ceramic Tile Installation Adhesive
211.970	Certified Investigation
211.980	Chemical Manufacturing Process Unit
211.990	Choke Loading
211.995	Circulating Fluidized Bed Combustor
211.1000	Class II Finish
211.1010	Clean Air Act
211.1050	Cleaning and Separating Operation
211.1070	Cleaning Materials
211.1090	Clear Coating
211.1110	Clear Topcoat
211.1120	Clinker
211.1128	Closed Molding
211.1130	Closed Purge System
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211.1170	Coal Refuse
211.1190	Coating
211.1210	Coating Applicator
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211.1390	Concentrated Nitric Acid Manufacturing Process
211.1410	Condensate
211.1430	Condensible PM-10
211.1435	Container Glass
211.1455	Contact Adhesive
211.1465	Continuous Automatic Stoking
211.1467	Continuous Coater
211.1470	Continuous Process

211.1490	Control Device
211.1510	Control Device Efficiency
211.1515	Control Period
211.1520	Conventional Air Spray
211.1530	Conventional Soybean Crushing Source
211.1550	Conveyorized Degreasing
211.1560	Cove Base
211.1565	Cove Base Installation Adhesive
211.1570	Crude Oil
211.1590	Crude Oil Gathering
211.1610	Crushing
211.1630	Custody Transfer
211.1650	Cutback Asphalt
211.1655	Cyanoacrylate Adhesive
211.1670	Daily-Weighted Average VOM Content
211.1690	Day
211.1700	Deadener
211.1710	Degreaser
211.1730	Delivery Vessel
211.1740	Diesel Engine
211.1745	Digital Printing
211.1750	Dip Coating
211.1770	Distillate Fuel Oil
211.1780	Distillation Unit
211.1790	Drum
211.1810	Dry Cleaning Operation or Dry Cleaning Facility
211.1830	Dump-Pit Area
211.1850	Effective Grate Area
211.1870	Effluent Water Separator
211.1872	Ejection Cartridge Sealant
211.1875	Elastomeric Materials
211.1876	Electric Dissipating Coating
211.1877	Electric-Insulating Varnish
211.1878	Electrical Apparatus Component
211.1880	Electrical Switchgear Compartment Coating
211.1882	Electrodeposition Primer (EDP)
211.1883	Electromagnetic Interference/Radio Frequency Interference (EMI/RFI) Shielding Coatings
211.1885	Electronic Component
211.1890	Electrostatic Bell or Disc Spray
211.1900	Electrostatic Prep Coat
211.1910	Electrostatic Spray
211.1920	Emergency or Standby Unit
211.1930	Emission Rate

211.1950	Emission Unit
211.1970	Enamel
211.1990	Enclose
211.2010	End Sealing Compound Coat
211.2030	Enhanced Under-the-Cup Fill
211.2040	Etching Filler
211.2050	Ethanol Blend Gasoline
211.2055	Ethylene Propylenediene Monomer (DPDM) Roof Membrane
211.2070	Excess Air
211.2080	Excess Emissions
211.2090	Excessive Release
211.2110	Existing Grain-Drying Operation (Repealed)
211.2130	Existing Grain-Handling Operation (Repealed)
211.2150	Exterior Base Coat
211.2170	Exterior End Coat
211.2190	External Floating Roof
211.2200	Extreme High-Gloss Coating
211.2210	Extreme Performance Coating
211.2230	Fabric Coating
211.2250	Fabric Coating Line
211.2270	Federally Enforceable Limitations and Conditions
211.2285	Feed Mill
211.2290	Fermentation Time
211.2300	Fill
211.2310	Final Repair Coat
211.2320	Finish Primer Surfacer
211.2330	Firebox
211.2350	Fixed-Roof Tank
211.2355	Flare
211.2357	Flat Glass
211.2358	Flat Wood Paneling
211.2359	Flat Wood Paneling Coating Line
211.2360	Flexible Coating
211.2365	Flexible Operation Unit
211.2368	Flexible Packaging
211.2369	Flexible Vinyl
211.2370	Flexographic Printing
211.2390	Flexographic Printing Line
211.2410	Floating Roof
211.2415	Fog Coat
211.2420	Fossil Fuel
211.2425	Fossil Fuel-Fired
211.2430	Fountain Solution
211.2450	Freeboard Height

211.2470	Fuel Combustion Emission Unit or Fuel Combustion Emission Source
211.2490	Fugitive Particulate Matter
211.2510	Full Operating Flowrate
211.2525	Gasket/Gasket Sealing Material
211.2530	Gas Service
211.2550	Gas/Gas Method
211.2570	Gasoline
211.2590	Gasoline Dispensing Operation or Gasoline Dispensing Facility
211.2610	Gel Coat
211.2615	General Work Surface
211.2620	Generator
211.2622	Glass Bonding Primer
211.2625	Glass Melting Furnace
211.2630	Gloss Reducers
211.2650	Grain
211.2670	Grain-Drying Operation
211.2690	Grain-Handling and Conditioning Operation
211.2710	Grain-Handling Operation
211.2730	Green-Tire Spraying
211.2750	Green Tires
211.2770	Gross Heating Value
211.2790	Gross Vehicle Weight Rating
211.2800	Hardwood Plywood
211.2810	Heated Airless Spray
211.2815	Heat Input
211.2820	Heat Input Rate
211.2825	Heat-Resistant Coating
211.2830	Heatset
211.2840	Heatset Web Letterpress Printing Line
211.2850	Heatset Web Offset Lithographic Printing Line
211.2870	Heavy Liquid
211.2890	Heavy Metals
211.2910	Heavy Off-Highway Vehicle Products
211.2930	Heavy Off-Highway Vehicle Products Coating
211.2950	Heavy Off-Highway Vehicle Products Coating Line
211.2955	High Bake Coating
211.2956	High Build Primer Surfacer
211.2958	High Gloss Coating
211.2960	High-Performance Architectural Coating
211.2965	High Precision Optic
211.2970	High Temperature Aluminum Coating
211.2980	High Temperature Coating
211.2990	High Volume Low Pressure (HVLP) Spray
211.3010	Hood

211.3030	Hot Well
211.3050	Housekeeping Practices
211.3070	Incinerator
211.3090	Indirect Heat Transfer
211.3095	Indoor Floor Covering Installation Adhesive
211.3100	Industrial Boiler
211.3110	Ink
211.3120	In-Line Repair
211.3130	In-Process Tank
211.3150	In-Situ Sampling Systems
211.3170	Interior Body Spray Coat
211.3190	Internal-Floating Roof
211.3210	Internal Transferring Area
211.3215	Janitorial Cleaning
211.3230	Lacquers
211.3240	Laminate
211.3250	Large Appliance
211.3270	Large Appliance Coating
211.3290	Large Appliance Coating Line
211.3300	Lean-Burn Engine
211.3305	Letterpress Printing Line
211.3310	Light Liquid
211.3330	Light-Duty Truck
211.3350	Light Oil
211.3355	Lime Kiln
211.3370	Liquid/Gas Method
211.3390	Liquid-Mounted Seal
211.3410	Liquid Service
211.3430	Liquids Dripping
211.3450	Lithographic Printing Line
211.3470	Load-Out Area
211.3475	Load Shaving Unit
211.3480	Loading Event
211.3483	Long Dry Kiln
211.3485	Long Wet Kiln
211.3487	Low-NO _x Burner
211.3490	Low Solvent Coating
211.3500	Lubricating Oil
211.3505	Lubricating Wax/Compound
211.3510	Magnet Wire
211.3530	Magnet Wire Coating
211.3550	Magnet Wire Coating Line
211.3555	Maintenance Cleaning
211.3570	Major Dump Pit

211.3590	Major Metropolitan Area (MMA)
211.3610	Major Population Area (MPA)
211.3620	Manually Operated Equipment
211.3630	Manufacturing Process
211.3650	Marine Terminal
211.3660	Marine Vessel
211.3665	Mask Coating
211.3670	Material Recovery Section
211.3690	Maximum Theoretical Emissions
211.3695	Maximum True Vapor Pressure
211.3705	Medical Device
211.3707	Medical Device and Pharmaceutical Manufacturing
211.3710	Metal Furniture
211.3730	Metal Furniture Coating
211.3750	Metal Furniture Coating Line
211.3760	Metallic Coating
211.3770	Metallic Shoe-Type Seal
211.3775	Metal to Urethane/Rubber Molding or Casting Adhesive
211.3780	Mid-Kiln Firing
211.3785	Military Specification Coating
211.3790	Miscellaneous Fabricated Product Manufacturing Process
211.3810	Miscellaneous Formulation Manufacturing Process
211.3820	Miscellaneous Industrial Adhesive Application Operation
211.3830	Miscellaneous Metal Parts and Products
211.3850	Miscellaneous Metal Parts and Products Coating
211.3870	Miscellaneous Metal Parts or Products Coating Line
211.3890	Miscellaneous Organic Chemical Manufacturing Process
211.3910	Mixing Operation
211.3915	Mobile Equipment
211.3925	Mold Seal Coating
211.3930	Monitor
211.3950	Monomer
211.3960	Motor Vehicles
211.3961	Motor Vehicle Adhesive
211.3965	Motor Vehicle Refinishing
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211.APPENDIX A	Rule into Section Table
211.APPENDIX B	Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1, 9.9 and 10 and authorized by Sections 27 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 9.9, 10, 27].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 201: Definitions, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R74-2 and R75-5, 32 PCB 295, at 3 Ill. Reg. 5, p. 777, effective February 3, 1979; 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. 13590; amended in R82-1 (Docket A) at 10 Ill. Reg. 12624, effective July 7, 1986; amended in R85-21(A) at 11 Ill. Reg. 11747, effective June 29, 1987; amended in R86-34 at 11 Ill. Reg. 12267, effective July 10, 1987; amended in R86-39 at 11 Ill. Reg. 20804, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 787, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7284, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7621, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10862, effective June 27, 1989; amended in R89-8 at 13 Ill. Reg. 17457, effective January 1, 1990; amended in R89-16(A) at 14 Ill. Reg. 9141, effective May 23, 1990; amended in R88-30(B) at 15 Ill. Reg. 5223, effective March 28, 1991; amended in R88-14 at 15 Ill. Reg. 7901, effective May 14, 1991; amended in R91-10 at 15 Ill. Reg. 15564, effective October 11, 1991; amended in R91-6 at 15 Ill. Reg. 15673, effective October 14, 1991; amended in R91-22 at 16 Ill. Reg. 7656, effective May 1, 1992; amended in R91-24 at 16 Ill. Reg. 13526, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16504, effective September 27, 1993; amended in R93-11 at 17 Ill. Reg. 21471, effective December 7, 1993; amended in R93-14 at 18 Ill. Reg. 1253, effective January 18, 1994; amended in R94-12 at 18 Ill. Reg. 14962, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15744, effective October 17, 1994; amended in R94-15 at 18 Ill. Reg. 16379, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16929, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6823, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7344, effective May 22, 1995; amended in R95-2 at 19 Ill. Reg. 11066, effective July 12, 1995; amended in R95-16 at 19 Ill. Reg. 15176, effective October 19, 1995; amended in R96-5 at 20 Ill. Reg. 7590, effective May 22, 1996; amended in R96-16 at 21 Ill. Reg. 2641, effective February 7, 1997; amended in R97-17 at 21 Ill. Reg. 6489, effective May 16, 1997; amended in R97-24 at 21 Ill. Reg. 7695, effective June 9, 1997; amended in R96-17 at 21 Ill. Reg. 7856, effective June 17, 1997; amended in R97-31 at 22 Ill. Reg. 3497, effective February 2, 1998; amended in R98-17 at 22 Ill. Reg. 11405, effective June 22, 1998; amended in R01-9 at 25 Ill. Reg. 108, effective December 26, 2000; amended in R01-11 at 25 Ill. Reg. 4582, effective March 15, 2001; amended in R01-17 at 25 Ill. Reg. 5900, effective April 17, 2001; amended in R05-16 at 29 Ill. Reg. 8181, effective May 23, 2005; amended in R05-11 at 29 Ill. Reg. 8892, effective June 13, 2005; amended in R04-12/20 at 30 Ill. Reg. 9654, effective May 15, 2006; amended in R07-18 at 31 Ill. Reg. 14254, effective September 25, 2007; amended in R08-6 at 32 Ill. Reg. 1387, effective January 16, 2008; amended in R07-19 at 33 Ill. Reg. 11982, effective August 6, 2009; amended in R08-19 at 33 Ill. Reg. 13326, effective August 31, 2009; amended in R10-7 at 34 Ill. Reg. 1391, effective January 11, 2010; amended in R10-8 at 34 Ill. Reg. 9069, effective June 25, 2010; amended in R10-20 at 34 Ill. Reg. 14119, effective September 14, 2010; amended in R11-23 at 35 Ill. Reg. 13451, effective July 27, 2011; amended in R12-24 at 37 Ill. Reg. 1662, effective January 28, 2013; amended in R13-1 at 37 Ill. Reg. 1913, effective February 4, 2013; amended

in R14-7 at 37 Ill. Reg. 19824, effective November 27, 2013; amended in R14-16 at 38 Ill. Reg. 12876, effective June 9, 2014; amended in R14-16 at 39 Ill. Reg. 5410, effective March 24, 2015; amended at 41 Ill. Reg. 1096, effective January 23, 2017; amended in R17-09 at 41 Ill. Reg. 4173, effective March 24, 2017; amended in R17-11 at 41 Ill. Reg. 13389, effective October 23, 2017; amended in R19-1, at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)

"Volatile organic material" (also "VOM") or "volatile organic compound" (also "VOC") means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.

- a) This definition of VOM includes any organic compound that participates in atmospheric photochemical reactions, other than the compounds listed in this subsection (a). USEPA has determined that the compounds listed in this subsection (a) have negligible photochemical reactivity.

2-Amino-2-methylpropan-1-ol(CAS No. 124-68-5)
 Bis(difluoromethoxy)difluoromethane(HFE-236cal2, CAS No. 78522-47-1)
 1,2-Bis(difluoromethoxy)-1,1,2,2-tetrafluoroethane(HFE-338pcc13, CAS No. 188690-78-0)
 tertiary-Butyl acetate(1,1-dimethylethyl acetic acid ester, CAS No. 540-88-5)
 1-Chloro-1,1-difluoroethane(HCFC-142b, CAS No. 75-68-3)
 Chlorodifluoromethane(CFC-22, CAS No. 75-45-6)
 1-Chloro-1-fluoroethane(HCFC-151a, CAS No. 1615-75-4)
 Chlorofluoromethane(HCFC-31, CAS No. 593-70-4)
 Chloropentafluoroethane(CFC-115, CAS No. 76-15-3)
 2-Chloro-1,1,1,2-tetrafluoroethane(HCFC-124, CAS No. 2837-89-0)
 1-Chloro-4-(trifluoromethyl)benzene(parachlorobenzotrifluoride (PCBTF), CAS No. 98-56-6)
 (1E)-1-Chloro-3,3,3-trifluoroprop-1-ene(trans-1-chloro-3,3,3-trifluoroprop-1-ene, CAS No. 102687-65-0)
 1,1,1,2,2,3,4,5,5,5-Decafluoro-3-methoxy-4-trifluoromethylpentane(HFE-7300, CAS No. 132182-92-4)
 1,1,1,2,3,4,4,5,5,5-Decafluoropentane(HFC 43-10mee, CAS No. 138495-42-8)
 Dichlorodifluoromethane(CFC-12, CAS No. 75-71-8)
 1,1-Dichloro-1-fluoroethane(HCFC-141b, CAS No. 1717-00-6)
 Dichloromethane(methylene chloride, CAS No. 75-09-2)

3,3-Dichloro-1,1,1,2,2-pentafluoropropane(HCFC-225ca, CAS No. 422-56-0)
 1,3-Dichloro-1,1,2,2,3-pentafluoropropane(HCFC-225cb, CAS No. 507-55-1)
 1,2-Dichloro-1,1,2,2-tetrafluoroethane(CFC-114, CAS No. 76-14-2)
 1,1-Dichloro-2,2,2-trifluoroethane(HCFC-123, CAS No. 306-83-2)
 1,2-Dichloro-1,1,2-trifluoroethane(HCFC-123a, CAS No. 354-23-4)
 1,1-Difluoroethane(HFC-152a, CAS No. 75-37-6)
 Difluoromethane(HFC-32, CAS No. 75-10-5)
 (Difluoromethoxy)difluoromethane(HFE-134, CAS No. 1691-17-4)
 1-(Difluoromethoxy)-2-[(difluoromethoxy)(difluoro)methoxy]-1,1,2,2-tetrafluoroethane(HFE-43-10pccc124, CAS No. 188690-77-9)
 2-(Difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane(CAS No. 163702-08-7)
 Dimethyl carbonate(CAS No. 616-38-6)
 Ethane(CAS No. 74-84-0)
 2-(Ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane(CAS No. 163702-06-5)
 3-Ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl)hexane(HFE-7500, CAS No. 297730-93-9)
 1-Ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane(HFE-7200, CAS No. 163702-05-4)
 Ethylfluoride(HFC-161, CAS No. 353-36-6)
 1,1,1,2,2,3,3-Heptafluoro-3-methoxypropane(HFE-7000, CAS No. 375-03-1)
 1,1,1,2,3,3,3-Heptafluoropropane(HFC-227ea, CAS No. 431-89-0)
 1,1,1,2,3,3,3-Hexafluoropropane(HFC-236ea, CAS No. 431-63-0)
 1,1,1,3,3,3-Hexafluoropropane(HFC-236fa, CAS No. 690-39-1)
 Methane(CAS No. 74-82-8)
 Methyl acetate(methyl ethanoate, CAS No. 79-20-9)
 4-Methyl-1,3-dioxolan-2-one(propylene carbonate, CAS No. 108-32-7)
 Methyl formate(methyl methanoate, CAS No. 107-31-3)
 1,1,1,2,2,3,3,4,4-Nonafluoro-4-methoxybutane(HFE-7100, CAS No. 163702-07-6)
 1,1,1,3,3-Pentafluorobutane(HFC-365mfc, CAS No. 406-58-6)
 Pentafluoroethane(HFC-125, CAS No. 354-33-6)
 1,1,2,2,3-Pentafluoropropane(HFC-245ca, CAS No. 679-86-7)
 1,1,2,3,3-Pentafluoropropane(HFC-245ea, CAS No. 24270-66-4)
 1,1,1,2,3-Pentafluoropropane(HFC-245eb, CAS No. 431-31-2)
 1,1,1,3,3-Pentafluoropropane(HFC-245fa, CAS No. 460-73-1)

Perfluorocarbon compounds that fall into the following classes:

Cyclic, branched, or linear, completely fluorinated alkanes

Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations

Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations

Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine

Propan-2-one(acetone or dimethylketone, CAS No. 67-64-1)

Siloxanes: cyclic, branched, or linear completely-methylated

Tetrachloroethene(perchloroethylene, CAS No. 127-18-4)

1,1,2,2-Tetrafluoroethane(HFC-134, CAS No. 359-35-3)

1,1,1,2-Tetrafluoroethane(HFC-134a, CAS No. 811-97-2)

(1E)-1,3,3,3-Tetrafluoropropene(trans-1,3,3,3-tetrafluoropropene, HFO-1234ze, CAS No. 29118-24-9)

2,3,3,3-Tetrafluoroprop-1-ene(HFO-1234yf, CAS No. 754-12-1)

1,1,1-Trichloroethane(methyl chloroform, CAS No. 71-55-6)

1,1,2,2-tetrafluoro-1-(2,2,2-trifluoroethoxy)ethane(HFE-347pcf2, CAS No. 406-78-0)

Trichlorofluoromethane(CFC-11, CAS No. 75-69-4)

1,1,2-Trichloro-1,2,2-trifluoroethane(CFC-113, CAS No. 76-13-1)

1,1,1-Trifluoroethane(HFC-143a, CAS No. 420-46-2)

Trifluoromethane(HFC-23, CAS No. 75-46-7)

- b) For purposes of determining VOM emissions and compliance with emissions limits, VOM will be measured by the test methods in the approved implementation plan or 40 CFR 60, appendix A, incorporated by reference at 35 Ill. Adm. Code 215.105, 218.112, and 219.112, as applicable, or by source-specific test methods that have been established pursuant to a permit issued under a program approved or promulgated under Title V of the Clean Air Act; under 35 Ill. Adm. Code 20340 CFR 51, subpart I or appendix S, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112; or under Section 9.1(d) of the Act under 40 CFR 52.21, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOM if the amount of such compounds is accurately quantified and the exclusion is approved by the Agency.
- c) As a precondition to excluding these negligibly-reactive compounds as VOM, or at any time thereafter, the Agency may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Agency, the amount of negligibly-reactive compounds in the source's emissions.
- d) The USEPA will not be bound by any State determination as to appropriate methods for testing or monitoring negligibly-reactive compounds if such determination is not reflected in any of the test methods in subsection (b).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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

PART 215
ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS

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215.304	Operations with Compliance Program
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215.405	Compliance Dates and Geographical Areas
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215.408	Heatset Web Offset Lithographic Printing
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215.422	Inspection Program Plan for Leaks
215.423	Inspection Program for Leaks
215.424	Repairing Leaks
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215.427	Alternative Program for Leaks
215.428	Compliance Dates
215.429	Compliance Plan
215.430	General Requirements
215.431	Inspection Program Plan for Leaks
215.432	Inspection Program for Leaks
215.433	Repairing Leaks
215.434	Recordkeeping for Leaks
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SUBPART QQ: MISCELLANEOUS FORMULATION MANUFACTURING
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Section	
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SUBPART RR: MISCELLANEOUS ORGANIC CHEMICAL
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Section	
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215.APPENDIX A	Rule into Section Table
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215. APPENDIX D	List of Chemicals Defining Synthetic Organic Chemical and Polymer Manufacturing
215. APPENDIX E	Reference Methods and Procedures
215. APPENDIX F	Coefficients for the Total Resource Effectiveness Index (TRE) Equation

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

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 205: Organic Material Emission Standards and Limitations, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R77-3, 33 PCB 357, at 3 Ill. Reg. 18, p. 41, effective May 3, 1979; amended in R78-3 and R78-4, 35 PCB 75, 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. 13601 Corrected at 7 Ill. Reg. 14575; amended in R82-14 at 8 Ill. Reg. 13254, effective July 12, 1984; amended in R83-36 at 9 Ill. Reg. 9114, effective May 30, 1985; amended in R82-14 at 9 Ill. Reg. 13960, effective August 28, 1985; amended in R85-28 at 11 Ill. Reg. 3127, effective February 3, 1987; amended in R82-14 at 11 Ill. Reg. 7296, effective April 3, 1987; amended in R85-21(A) at 11 Ill. Reg. 11770, effective June 29, 1987; recodified in R86-39 at 11 Ill. Reg. 13541; amended in R82-14 and R86-12 at 11 Ill. Reg. 16706, effective September 30, 1987; amended in R85-21(B) at 11 Ill. Reg. 19117, effective November 9, 1987; amended in R86-36, R86-39, R86-40 at 11 Ill. Reg. 20829, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 815, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7311, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7650, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10893, effective June 27, 1989; amended in R88-30(A) at 14 Ill. Reg. 3555, effective February 27, 1990; emergency amendments in R88-30A at 14 Ill. Reg. 6421, effective April 11, 1990, for a maximum of 150 days; amended in R88-19 at 14 Ill. Reg. 7596, effective May 8, 1990; amended in R89-16(A) at 14 Ill. Reg. 9173, effective May 23, 1990; amended in R88-30(B) at 15 Ill. Reg. 3309, effective February 15, 1991; amended in R88-14 at 15 Ill. Reg. 8018, effective May 14, 1991; amended in R91-7 at 15 Ill. Reg. 12217, effective August 19, 1991; amended in R91-10 at 15 Ill. Reg. 15595, effective October 11, 1991; amended in R89-7(B) at 15 Ill. Reg. 17687, effective November 26, 1991; amended in R91-9 at 16 Ill. Reg. 3132, effective February 18, 1992; amended in R91-24 at 16 Ill. Reg. 13555, effective August 24, 1992; amended in R91-30 at 16 Ill. Reg. 13849, effective August 24, 1992; amended in R98-15 at 22 Ill. Reg. 11427, effective June 19, 1998; amended in R12-24 at 37 Ill. Reg. 1683, effective January 28, 2013; expedited correction at 37 Ill. Reg. 16858, effective January 28, 2013; amended in R19-1 at 42 Ill. Reg. _____, effective _____.

SUBPART PP: MISCELLANEOUS FABRICATED PRODUCT MANUFACTURING PROCESSES

Section 215.920 Applicability

- a) The requirements of this Subpart shall apply to the following counties: Cook, DuPage, Kane, Lake, Macoupin, Madison, McHenry, Monroe, St. Clair and Will.
- b) The requirements of this Subpart shall apply to a plant's miscellaneous fabricated product manufacturing process emission sources which are not regulated by Subparts B, E, F, N, P, Q, R, S, U, V, X, Y, or Z if the plant is subject to this Subpart. A plant is subject to this Subpart if it contains process emission sources, not regulated by Subparts B, E, F, N, P, Q, R, S, U, V, X, Y, or Z, which as a group would emit 100 tons or more per year of volatile organic material if no air pollution control equipment were used.

- c) If a plant ceases to fulfill the criteria of subsection (b), the requirements of this Subpart shall continue to apply to a miscellaneous fabricated products manufacturing process emission source which was subject to and met the control requirements of Section 215.926.
- d) No limits under this Subpart shall apply to:
 - 1) Emission sources with emissions of volatile organic material to the atmosphere less than or equal to 1.0 tons per year if the total emissions from such sources not complying with Section 215.926 does not exceed 5.0 tons per year, and
 - 2) Emission sources whose emissions of volatile organic material are subject to limits in 35 Ill. Adm. Code 230 or 35 Ill. Adm. Code 231; or the Lowest Achievable Emission Rate, pursuant to 35 Ill. Adm. Code 203; or Best Available Control Technology, pursuant to a permit issued under Section 9.1(d) of the Act 40 CFR 52.21 (1987) or pursuant to Section 9.4 of the Act. ~~The Board incorporates by reference 40 CFR 52.21 (1987).— This incorporation includes no subsequent amendments or editions.~~
- e) For the purposes of this Subpart, an emission source shall be considered regulated by a Subpart if it is subject to the limits of that Subpart or it would be subject to the limits of that Subpart if the emission sources, emitting VOM, had sufficient size, throughput or emissions, or if the emission source did not meet a specific exemption contained in that Subpart.
- f) For the purposes of this Subpart, uncontrolled volatile organic material emissions are the emissions of volatile organic material which would result if no air pollution control equipment were used.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART QQ: MISCELLANEOUS FORMULATION MANUFACTURING PROCESSES

Section 215.940 Applicability

- a) The requirements of this Subpart shall apply to the following counties: Cook, DuPage, Kane, Lake, Macoupin, Madison, McHenry, Monroe, St. Clair and Will.
- b) The requirements of this Subpart shall apply to a plant's miscellaneous formulation manufacturing process emission sources, which are not regulated by Subparts B, E, F, N, P, Q, R, S, U, V, X, Y, or Z, if the plant is subject to this Subpart. A plant is subject to this Subpart if it contains process emission sources, not regulated by Subparts B, E, F, N, P, Q, R, S, U, V, X, Y, or Z, which as a

group would emit 100 tons or more per year of volatile organic material if no air pollution control equipment were used.

- c) If a plant ceases to fulfill the criteria of subsection (b), the requirements of this Subpart shall continue to apply to a miscellaneous formulation manufacturing process emission source which was subject to the met the control requirements of Section 215.946.
- d) No limits under this Subpart shall apply to:
 - 1) Emission sources with emissions of volatile organic material to the atmosphere less than or equal to 2.5 tons per year if the total emissions from such sources not complying with Section 215.946 does not exceed 5.0 tons per year, and
 - 2) Emission sources whose emissions of volatile organic material are subject to limits in 35 Ill. Adm. Code 230 or 35 Ill. Adm. Code 231; or the Lowest Achievable Emission Rate, pursuant to 35 Ill. Adm. 203; or Best Available Control Technology, pursuant to a permit issued under Section 9.1(d) of the Act-40 CFR 52,21 (1987) or pursuant to Section 9.4 of the Act. ~~The Board incorporates by reference 40 CFR 52,21 (1987). This incorporation includes no subsequent amendments or editions.~~
- e) For the purposes of this Subpart, an emission source shall be considered regulated by a Subpart if it is subject to the limits of that Subpart or it would be subject to the limits of that Subpart if the emission sources, emitting VOM, had sufficient size, throughput or emissions, or if the emission source did not meet a specific exemption contained in that Subpart.
- f) For the purposes of this Subpart, uncontrolled volatile organic material emissions are the emissions of volatile organic material which would result if no air pollution control equipment were used.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART RR: MISCELLANEOUS ORGANIC CHEMICAL MANUFACTURING PROCESSES

Section 215.960 Applicability

- a) The requirements of this Subpart shall apply to the following counties: Cook, DuPage, Kane, Lake, Macoupin, Madison, McHenry, Monroe, St. Clair and Will.

- b) The requirements of this Subpart shall apply to a plant's miscellaneous organic chemical manufacturing process emission sources which are not regulated by Subparts B, E, F, N, P, Q, R, S, U, V, X, Y, or Z if the plant is subject to this Subpart. A plant is subject to this Subpart if it contains process emission sources, not regulated by Subparts B, E, F, N, P, Q, R, S, U, V, X, Y, or Z, which as a group would emit 100 tons or more per year of volatile organic material if no air pollution control equipment were used.
- c) If a plant ceases to fulfill the criteria of subsection (b), the requirements of this Subpart shall continue to apply to a miscellaneous organic chemical manufacturing process emission source which was subject to and met the control requirements of Section 215.966.
- d) No limits under this Subpart shall apply to:
- 1) Emission sources with emissions of volatile organic material to the atmosphere less than or equal to 1.0 ton per year if the total emissions from such sources not complying with Section 215.966 does not exceed 5.0 tons per year, and
 - 2) Emission sources whose emissions of volatile organic material are subject to limits in 35 Ill. Adm. Code 230 or 35 Ill. Adm. Code 231; or the Lowest Achievable Emission Rate, pursuant to 35 Ill. Ill. Adm. Code 203; or Best Available Control Technology, pursuant to a permit issued under Section 9.1(d) of the Act 40 CFR 52.21 (1987) or pursuant to Section 9.4 of the Act. The Board incorporates by reference 40 CFR 52.21 (1987). This incorporation includes no subsequent amendments or editions.
- e) For the purposes of this Subpart, an emission source shall be considered regulated by a Subpart if it is subject to the limits of that Subpart or it would be subject to the limits of that Subpart if the emission sources, emitting VOM, had sufficient size, throughout or emissions, or if the emission source did not meet a specific exemption contained in that Subpart.
- f) For the purposes of this Subpart, uncontrolled volatile organic material emissions are the emissions of volatile organic material which would result if no air pollution control equipment were used.

(Source: Amended at 42 Ill. Reg. _____, effective _____)