

ILLINOIS POLLUTION CONTROL BOARD

June 18, 2020

IN THE MATTER OF:)
)
PROPOSED NEW 35 ILL. ADM. CODE 204,) R19-1
PREVENTION OF SIGNIFICANT) (Rulemaking – Air)
DETERIORATION, AMENDMENTS TO 35)
ILL. ADM. CODE PARTS 101, 105, 203, 211,)
AND 215)

Proposed Rule. Second Notice.

OPINION AND ORDER OF THE BOARD (by C.M. Santos)

On July 2, 2018, the Illinois Environmental Protection Agency (IEPA or Agency) proposed that the Board adopt a new Part 204 of its air pollution rules creating a state Prevention of Significant Deterioration (PSD) permitting program. IEPA intends that its proposal will allow it to assume responsibility for PSD permitting from the United States Environmental Protection Agency (USEPA) and allow the Board to assume responsibility for appeals of PSD permits issued by IEPA. IEPA also proposed to amend Parts 101 and 105 of the Board’s procedural rules to accommodate PSD permit appeals and Parts 203, 211, and 215 of its air pollution rules to conform to the new Part 204. IEPA states that its proposal meets requirements to establish such a program under Section 9.1 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/9.1(c) (2018); *see* Public Act 99-463, eff. Jan. 1, 2016)).

On March 5, the Board adopted a first-notice opinion and order. After considering the first-notice comments, the Board in its order below revises its proposal and submits it to the Joint Committee on Administrative Rules (JCAR) for second-notice review. *See* 5 ILCS 100/5-40(c) (2018).

The Board’s first-notice opinion included a detailed procedural history, background on PSD permitting, and a summary of the process IEPA used to develop its proposal. The opinion next decided two contested issues. It then provided a section-by-section summary of the remaining sections. Rather than reproduce each of these sections today, the Board recommends that readers wishing to review them consult the first-notice opinion and order, which can be viewed from the Board’s website (pcb.illinois.gov) under this docket number R19-1.

Today the Board’s opinion begins by providing an abbreviated procedural history (page 2). The Board discusses the regulatory background and the first-notice version of the proposed rules at pages 2-6 before addressing general comments at pages 6-7. The opinion then discusses section-by-section in numerical order each of the specific issues raised in the first-notice comments (pages 8-58). Next, the Board addresses the economic reasonableness and technical feasibility of its second-notice proposal (pages 58-61). After concluding to propose a new Part 204 and amend Parts 101, 105, 203, 211, and 215, the Board directs the Clerk to submit its

proposal to JCAR for second- notice review (page 61). Finally, the Board sets forth the proposed rules in the order following its opinion.

ABBREVIATED PROCEDURAL HISTORY

On July 2, 2018, IEPA filed its rulemaking proposal, including its Statement of Reasons (SR), Technical Support Document (TSD), proposed new Part 204 (Prop. 204). IEPA also filed its proposed revisions to Parts 101, 105, 203, 211 and 215. On August 23, 2018, the Board accepted IEPA’s rulemaking proposal for hearing.

On March 5, 2020, the Board adopted a first-notice opinion and order (Opinion). *See* 44 Ill. Reg. 4316, 4347, 4367, 4375, 4463, 4487 (Mar. 20, 2020).

The Board docketed as public comments two separate e-mails between the staff of JCAR and the Board: the first filed on April 18, 2020 (PC 7), and the second on May 12, 2020, (PC 10).

On May 4, 2020, the Board received comments from IEPA (PC 8), accompanied by a motion requesting that the Board approve filing comments of more than 50 pages. The page limitation provides that “[n]o 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.” 35 Ill. Adm. Code 101.302(k). These page-limited categories do not include public comments filed in a rulemaking. Therefore, the Board denies IEPA’s motion as unnecessary and accepts its full 62-page comment.

Also on May 4, 2020, the Board received first-notice comments from the Illinois Environmental Regulatory Group (IERG) (PC 9).

REGULATORY BACKGROUND

Statutory and Regulatory Authority

IEPA comments that Section 9.1(c) of the Act requires the Board to adopt regulations establishing a PSD permit program that meet the requirements of Section 165 of the Clean Air Act (42 USC 7475). PC 8 at 9; *see* 415 ILCS 5/9.1(c) (2018); Public Act 99-463, eff. Jan. 1, 2016. IEPA argues that “the General Assembly intends for the Part 204 rules to mirror, not merely approximate, the federal PSD rules.” PC 8 at 9. IEPA adds that this includes not only the rules themselves but also “a forty-year accumulation of case authorities and interpretive guidance that are instructive to the meaning of the federal PSD rules.” *Id.*

IEPA also comments that Public Act 99-463 added to the Act a definition of “PSD permit:”

a permit or the portion of a permit for a new major source or major modification that is issued by the Illinois Environmental Protection Agency under the construction permit program pursuant to subsection (c) of Section 9.1 that has

been approved by the United States Environmental Protection Agency and incorporated into the Illinois State Implementation Plan to implement the requirements of Section 165 of the Clean Air Act and 40 CFR 51.166. 415 ICLS 5/3.363 (2018); *see* Public Act 99-463, eff. Jan. 1, 2016; PC 8 at 10.

Preparation of Proposed Part 204

IEPA argues that, in addition to following 40 CFR 52.21 “as closely as possible,” it also based its proposal on “meeting the requirements for SIP approval in 40 CFR 51.166.” PC 8 at 10. IEPA states that it communicated extensively with USEPA staff about its proposal before submitting it to the Board. *Id.*

IEPA states that it also based its proposed Part 204 on “key elements of the program’s regulatory development.” PC 8 at 9. IEPA argues that, “[i]f the text of the proposed rules deviates from this framework, it could presumptively result in a determination that these state rules are less stringent than the federal rules.” *Id.* IEPA stresses that “it is important that any such departure from the federal rules be a product of careful deliberation. . . .” *Id.*

First-Notice Proposal

IEPA comments that the first-notice version of Part 204 in the *Illinois Register* changes its proposed language. PC 8 at 9; *see* 44 Ill. Reg. 4382-4462 (Mar. 20, 2020). IEPA acknowledges that “[m]any of these revisions appear to be grammatical in nature” and that they “might appear as largely inconsequential or a streamlining tool.” PC 8 at 9; *see also* PC 9 at 4 (IERG).

However, IEPA emphasizes that, “in many instances, these changes substantively alter the proposal in a way that is contradictory to the federal PSD rules” and “may threaten approval of Part 204 as part of Illinois’ SIP.” *Id.*, citing 40 CFR 52.21; *see* PC 9 at 4 (IERG). “Given the highly nuanced aspect of the program, the perfunctory nature of many of the proposed changes compared to the language of the federal PSD rules will likely be disconcerting to the Agency’s federal counterparts and could imperil USEPA’s approval of Part 204.” PC 8 at 10; *see* PC 9 at 4 (IERG).

IEPA adds that, if Part 204 is not consistent with the federal PSD rules, it could confuse state implementation of the program, “especially where the legal basis for any changes to technical terms or phrases from the federal PSD rules was not elaborated upon by the Agency in its regulatory proposal or by the Board in its final Order adopting the rule.” PC 8 at 9. IEPA comments that this confusion could complicate both permit appeals and enforcement actions, with consequences for permit applicants, IEPA as the permitting authority, and the Board as the reviewing authority. *Id.* at 9-10.

IEPA cites Section 9.1(d)(1) of the Act, which provides that no person shall violate any provisions of authorities including Part 165 of the CAA and regulations adopted under it. PC 8 at 10, n.1, citing 415 ILCS 5/9.1(d)(1) (2018). Based on this authority, the Board will have to consider Environmental Appeals Board (EAB) precedents, “as they are linked to Section 165 of

the Clean Air Act when hearing appeals that involve Part 204.” PC 8 at 10, n.1. IEPA argues that, “if the Board were to relax the applicable requirements of Part 204 by way of a Board decision, the USEPA could take the position that the decision was contrary to the SIP [State Implementation Plan] and find Illinois’ PSD SIP deficient.” *Id.* at 10, n.1.

IEPA’s comments described changes that it observed throughout the first-notice version of Part 204 and recommended revisions. PC 8 at 10-27. IERG also noted changes. PC 9 at 4. In the following subsections, the Board summarizes recurring issues raised in IEPA’s comments.

“Shall” and “Must”. To mirror the language of the federal PSD rules and to achieve the consistency with those rules required by the Act, IEPA comments that it used “‘shall’ in every instance in which it was reflected in the federal PSD rules.” PC 8 at 10. IEPA argues that consistent use of “shall” sensibly reflects that “many aspects of the program, originating nearly 40 years ago, are the product of extensive guidance, regulatory development and enforcement litigation.” *Id.* at 10-11.

However, IEPA observes the first-notice version of Part 204 routinely replaces “shall” with “a variety of other words.” PC 8 at 11. IEPA argues that, without explanation for these changes, “it can only be presumed that these changes are substantive in nature.” *Id.* at 12. IEPA further argues that, “[e]ven if grammatical, these changes in wording are problematic.” *Id.*

IEPA acknowledges that some authorities use “must” in the place of “shall.” PC 8 at 14 (citation omitted). However, IEPA asserts that the state PSD program should mirror the federal program to “assure a standard of consistency that will secure the necessary approval of a SIP submission.” *Id.*

IEPA also argues that its approach will clarify implementation and enforcement of Part 204. PC 8 at 14. IEPA suggests that replacing “shall” in the state program could result in inconsistencies with court rulings or USEPA guidance on the federal program. *See id.*

IEPA discounts the argument that the state PSD program can be more stringent than the federal program. IEPA argues that the Act requires the Board to determine that additional or more stringent provisions are deemed appropriate. *Id.*, citing 415 ILCS 5/9.1(c) (2018). IEPA suggests that the first-notice provision does not include consideration of and support for word choices that differ from the federal PSD rules. PC 8 at 14.

In addition, JCAR commented that “changing ‘shall’ to ‘must’ doesn’t really work in this rulemaking (e.g., [Section] 203.207(a) and (b)) and recommends ‘will’ as an alternative.” PC 10 at 1. The Board responded by noting that IEPA and IERG also raised this issue. *Id.*; *see* PC 8 at 10-17; PC 9 at 4. The Board added that it “plans to address these issues in its second-notice opinion.” PC 10 at 3.

Replacing “Such”. IEPA comments that the first-notice version of the Board’s proposal either deleted the word “such” or replaced it with “this,” “that,” “those,” or “the.” PC 8 at 17. IEPA argues that “such” “typically stresses the type previously mentioned in a sentence” and is “used before a noun or phrase to add emphasis.” *Id.* (citation omitted).

IEPA proposed “such” to be consistent with the federal PSD rules and to emphasize the same language. *Id.* For clarity and consistency with the federal PSD rules, IEPA “recommends that ‘such’ be used in each instance that it was either deleted or replaced in the text of Part 204.” *Id.* IEPA identified 37 instances in which it recommended this revision. *Id.* at 18-20. The Board addresses each of these recommendations below in its section-by-section summary of the first-notice comments.

Commas. IEPA comments that the first-notice version of the Board’s proposal revised IEPA’s original proposal by inserting or removing commas. PC 8 at 20. IEPA states that the justification for these revisions is not apparent (*id.* at 21), although it acknowledges that “the changes may appear to the casual observer as merely grammatical” (*id.* at 21).

While “it can be presumed that they were meant to clarify and not change the substance of the proposal” (PC 8 at 21), “these changes alter substantive provisions of the proposal or create unnecessary ambiguity in language taken from the federal program as it currently exists in 40 C.F.R. 52.21” (*id.* at 20). IEPA argues that, “[g]iven the General Assembly’s directive to meet the requirements of the congressional enactment and the inherent complexities of the federal PSD rules, it is more prudent to mirror the language of the federal PSD rules, commas and all, rather than risk contradictions or ambiguities in this rulemaking.” *Id.* at 21.

IEPA’s comment lists 37 instances in which it recommends including or deleting a comma or commas “to be consistent with the language taken from the federal PSD program as memorialized in the Agency’s original proposal.” PC 8 at 21-24. The Board addresses each of these recommendations below in its section-by-section summary of the first-notice comments.

Plural Nouns. IEPA comments that the first-notice version of the Board’s proposal replaced parenthetical plural nouns such as “unit(s)” with plural nouns. PC 8 at 25. IEPA argues that the Board should reinstate the parenthetical plural nouns for consistency with the federal PSD rules, for clarity, and “to indicate that the requirement applies to one or more members of the category.” *Id.* IEPA’s comment identified 28 provisions in which it recommended this reinstatement. *Id.* at 25-26. The Board addresses each of these recommendations below in its section-by-section summary of the first-notice comments.

Board Discussion

IEPA persuasively cites authorities that a proposed PSD permit program must “mirror” the federal program and be approvable by USEPA as a SIP revision. IEPA comments in detail that the first-notice version of Part 204 includes changes that are not consistent with the federal rules and may jeopardize USEPA’s approval of Part 204 as a SIP revision.

These changes include those that the Board may generally propose to clarify or simplify its rules. Others may be changes commonly requested by JCAR. However, the Board agrees with IEPA that Section 9.1(c) obligates the Board to follow the federal PSD rules with the ultimate purpose of adopting a program USEPA will approve as a SIP revision. Based on the specific statutory authority applicable to this rulemaking, the Board generally agrees with

IEPA’s comment on changes in its first-notice version of its proposal. *See* PC 8 at 10-66. In its section-by-section summary of those comments below, it addresses IEPA’s comment more specifically.

SUMMARY OF GENERAL COMMENTS

Statutory Citations

IEPA comments that the Board’s first-notice proposal incorrectly refers in 11 instances to Title 43 of the U.S. Code. PC 8 at 26. IEPA states that Title 42 is the correct reference and “recommends that the errors be corrected in the Second Notice Version.” *Id.* The Board addresses each of these recommendations below in its section-by-section summary of the first-notice comments.

Incorporations by Reference

Addressing Section 204.230(a), JCAR commented that the Board should “[d]elete “(incorporated by reference in Section 204.100)” and other similar statements; these cross-references to Sec. 204.100 aren’t necessary.” PC 10 at 3-4.

The Board responded that,

[f]or two reasons, we think the rules should retain the cross-references. First, each cross-reference informs the reader, who might not otherwise be aware, that the identified material has, in fact, been incorporated by reference. Second, each cross reference, by noting Section 204.100, helps to inform the reader that the identified material incorporated by reference is of the date specified, excluding any earlier or later versions. PC 10 at 4.

Rule Updates

IERG comments by noting “that the federal PSD rules are subject to change.” PC 9 at 4. IERG cited IEPA’s statement that “it will propose any changes to Part 204 that are necessary for the State of Illinois to maintain its USEPA-approved state PSD program.” *Id.* at 5 (citing post-hearing comments).

IERG agrees with IEPA that incorporating future changes to the federal rules “will allow that Agency, regulated entities, the Board, and others to utilize federal regulatory determinations and guidance. This promotes efficiency and consistency in permitting decisions.” PC 9 at 5. IERG concludes by urging IEPA and the Board “to timely address future rule updates.” *Id.*

Rulemaking Process

JCAR questioned “[w]hy did it take 4 years to implement the PSD portion of PA-463?” PC 7 at 2. The Board responded that

IEPA reported that while it was preparing its rulemaking proposal, it “met with representatives from sources potentially impacted by Part 204.” Statement of Reasons (SR) at 102; PC 1 at 15 (¶1a); Tr.1 at 44.

On October 2, 2017, IEPA posted its draft proposal online. It also provided the proposal to entities including USEPA Region 5, the Illinois Environmental Regulatory Group; Sierra Club, Environmental Law & Policy Center, and Trinity Consultants. SR at 102; PC 1 at 15, 16 (¶¶1a, 1c); Tr.1 at 45. IEPA also prepared a “plain language fact sheet that accompanied these notifications.” PC 1 at 16 (¶1c).

On October 4, 2017, IEPA consulted with the Environmental Justice Commission about its proposal. PC 1 at 15-16 (¶1b); Tr.1 at 45.

Because the proposal distinguishes between Board review of IEPA administrative actions and OSFM administrative actions, IEPA provided drafts of proposed Parts 101 and 105 to OSFM. Counsel for IEPA and OSFM later discussed the proposed rules.

IEPA received several comments and reviewed and considered all of them. SR at 102. IEPA reported that, as appropriate, its proposal “incorporates suggestions set forth in those comments.” *Id.*

In January 2018, IEPA provided a revised proposal to USEPA for additional review and comment. SR at 102; PC 1 at 15 (¶1a); Tr.1 at 45; *see* Tr.1 at 65; PC 1 at 29 (¶3a-6), Exh. A.

IEPA stated that it submitted its proposal to the Board only “after interested parties have had an opportunity to review the proposal and discuss any issues” with IEPA. SR at 103.

Also, although it is not a part of its proposal to the Board, IEPA proposed amending its Part 252 public participation rules to accommodate implementation of the PSD program. SR at 3; *see* 43 Ill. Reg. 7028 (June 21, 2019).

On July 2, 2018, IEPA submitted its rulemaking proposal to the Board. IEPA’s proposal, in addition to proposing a new Part and amendments to five existing Parts of the Board’s regulations, included a lengthy Statement of Reasons and a separate Technical Support Document.

On August 23, 2018, the Board issued a proposal for public comment. The Board then held public hearings on November 27, 2018, and February 26, 2019. After receiving comments through May 2019, as well as two IEPA motions to amend its proposal (in November 2019 and January 2020), the Board adopted its first-notice proposal on March 5, 2020. PC 7 at 2-3.

SECTION-BY-SECTION SUMMARY OF COMMENTS

Part 101

Section 101.202

Deductible. IEPA proposed that “‘OSFM record’ means a record of final OSFM decision, as kept by the OSFM, of those documents of the OSFM that constitute the OSFM record relating to the eligibility and deductible decision and meeting the applicable requirements of 35 Ill. Adm. Code Part 105.” Opinion at 46, 174. IEPA reported that “OSFM had no objection” to the proposed definition. PC 1 at 35 (¶7b); *see* SR at 87, n.75. IEPA added that it would not agree to revise this definition without OSFM’s agreement. PC 1 at 72 (¶45).

In its first-notice opinion, the Board noted that Section 105.508 of its procedural rules, OSFM Record and Appearance, refers twice to an OSFM determination on “deductibility.” Opinion at 47, 160; *see* 35 Ill. Adm. Code 105.508. The Board requested comment on whether these provisions should be consistent with one another and whether either should be revised. Opinion at 47, 160.

JCAR also asked whether the definition of “OSFM record” should refer to an “eligibility and deductibility decision.” PC 7 at 1.

IEPA brought the Board’s request for comment to OSFM’s attention. PC 8 at 4. OSFM responded with the opinion that “the proposed definition of ‘OSFM record’ should refer to an ‘eligibility and deductible decision.’ This is because all Eligibility and Deductible (E & D) applications receive a deductible based on 415 ILCS 5/57.9, which requires the assessing of a deductible amount based on the statutory provisions as they apply to the incident at hand.” *Id.* (emphasis in original). IEPA “defers to OSFM” that the definition should refer to an “eligibility and deductible decision.” *Id.*

After considering the comments, the Board is persuaded not to amend the reference to a “deductible decision.” The Board also requested comment on whether Section 105.508 of its procedural rules, OSFM Record and Appearance, should be consistent with this definition and whether it should be revised. Opinion at 160; *see* 35 Ill. Adm. Code 105.508. Neither IEPA’s comment nor OSFM’s position responded to this request. *See* PC 8 at 4. While the Board has proposed to revise Section 105.508 (Opinion at 51, 195), the record does not persuasively support also revising its references to deductibility determinations.

OSFM. Finally, IEPA comments that the definition of “OSFM record” refers once to “OFSM.” PC 8 at 27. IEPA adds that the definition should consistently refer to “OSFM,” and the Board makes this correction in its second-notice proposal.

Part 105

Section 105.606: Time to File a Petition for Review

Subsection (a). Before adopting its first-notice proposal, the Board asked IEPA to comment on a proposed clarification of this subsection: “[e]xcept as provided in Subsection (b), a person who may petition the Board under Section 105.604 for review of the Agency’s final decision must file the petition with the Clerk within 35 days after the date of the Agency’s final permit action.” IEPA responded that the revision was acceptable (PC 1 at 75 (¶47a)), and the Board included this revised language in its first-notice proposal. Opinion at 196

In its first-notice opinion, the Board stated that it had continued reviewing proposed additions to its procedural rules. Opinion at 55. The Board asked IEPA and the other participants whether the following revision more succinctly focuses on the petition filing deadline: “[a]ny petition for review under Section 105.604(a) or (c) must be filed with the Clerk within 35 days after the date of the Agency’s final permit action.” *Id.* at 55, 161.

IEPA responded that it modeled its original proposal on similar provisions of the Board’s procedural rules in which the subject is a “person.” PC 8 at 7, citing 35 Ill. Adm. Code 105.206(a) (IEPA final determinations), 105.302(c) (CAAPP permit appeals). However, IEPA noted that the Board’s proposed revision mirrors requirements for appealing OSFM determinations in which the subject is a “petition for review.” PC 8 at 7, citing 35 Ill. Adm. Code 105.504(b). IEPA concluded that it “generally prefers the simplified language offered by the Board.” PC 8 at 7. Based on its own review of its procedural rules and IEPA’s comment, the Board includes this revision in its second-notice proposal.

Subsection (b). Before adopting its first-notice proposal, the Board asked IEPA to comment on a proposed clarification of this subsection: “[a] permit applicant who 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 must file a petition for review with the Clerk before the Agency denies or issues the final permit.” IEPA responded that the revision was acceptable (PC 1 at 75 (¶47b)), and the Board include this revised language in its first-notice proposal. Opinion at 196.

In its first-notice opinion, the Board stated that it had continued reviewing proposed additions to its procedural rules. Opinion at 55. The Board asked IEPA and the other participants whether the following revision more succinctly focuses on the petition filing deadline: “[a]ny petition for review under Section 105.604(b) must be filed with the Clerk before the Agency denies or issues the final permit.” *Id.* at 55, 161.

Responding to this request, IEPA referred to its comments on subsection (a). However, IEPA concluded that it “generally prefers the simplified language offered by the Board.” PC 8 at 7. Based on its own review of its procedural rules and IEPA’s comment, the Board includes this revision in its second-notice proposal.

Section 105.608: Petition Content Requirements

First Notice. In its first-notice opinion, the Board found that environmental justice (EJ) concerns “are an important policy consideration and that the Board therefore has the discretion to review them in a PSD permit appeal.” Opinion at 40; *see id.* at 37, citing 415 ILCS 155/5 (2018)

(Illinois Environmental Justice Act). The Board elaborated that “a petition for review of an IEPA PSD permit determination may include an environmental justice claim, but only if the petitioner identifies an independent statutory or regulatory ground for appeal.” *Id.* at 40.

The Board concluded based on relevant caselaw that “consideration of EJ does not amend substantive permitting requirements.” Opinion at 40; *see id.* at 37-38 (EAB Caselaw). “Accordingly, IEPA cannot deny a PSD permit—based solely on EJ considerations—when the applicant complies with all statutory and regulatory permit requirements. Nor can IEPA impose a condition in a PSD permit based solely on EJ considerations, *i.e.*, when the applicant, absent that condition, complies with all statutory and regulatory permitting requirements.” *Id.* at 40; *see id.* at 38, citing 415 ILCS 5/39(a) (2018).

IERG Comment. “IERG agrees with and supports the Board’s findings that the Board cannot reverse the issuance of a PSD permit, and the Agency cannot deny a PSD permit or impose a condition based solely on EJ considerations.” PC 9 at 2. However, IERG argues that the Act does not provide authority for the Board to consider EJ in a PSD permit appeal. PC 9 at 2.

In its first-notice opinion, the Board traced the federal and state sources of IEPA’s proposed petition content requirements. Opinion at 31-33, citing 40 CFR 124.19; 415 ILCS 5/40.3(a)(2)(iii) (2018). Proposed Section 105.608 requires that a petition for review of a PSD permit must include “[a]n explanation why the Agency’s previous response to the issues, if any, proposed for review was: (A) [c]learly erroneous; or (B) [a]n exercise of discretion or an important policy consideration that the Board should, in its discretion, review. [415 ILCS 5/40.3(a)(2)].”

In weighing whether EJ is an “important policy consideration” under these authorities, the Board considered the Illinois Environmental Justice Act (EJA). Opinion at 36-37. IERG suggests that the General Assembly’s findings and its creation of an EJ Commission do not make EJ an “important policy consideration” for PSD permit appeals. *See* PC 9 at 3. IERG comments that “[t]he fact that EJ may be an important policy consideration in a general sense does not mean that the Board has the authority to consider it in a PSD permit appeal.” PC 9 at 4.

In considering EJ as “an important policy consideration,” the Board noted the General Assembly’s specific finding that “permits approved by the State may result in certain communities suffering disproportionately from environmental hazards.” Opinion at 37, citing 415 ILCS 155/5(ii) (2018). The General Assembly also found that these hazards “can cause long-term health effects.” *Id.*

The Board also noted that, “[b]eyond these findings, the EJA establishes the EJ Commission with a broad membership and specific obligations to review legal authorities and make recommendation to the Governor. The Commission must report annually on its findings and recommendations, indicating that the General Assembly considers EJ an issue of significant and ongoing importance.” Opinion at 37; *see* 415 ILCS 155/10 (2018). These findings and authorities persuaded the Board that EJ is an “important policy consideration.” Opinion at 37.

Board Conclusion. The Board has reviewed its first-notice opinion and IERG’s comment. It remains convinced that statutes adopted by the General Assembly signify the importance of policy considerations. The General Assembly’s findings specifically address “permits approved by the State,” “environmental hazards related to facilities” with those permits, the possibility that certain communities may disproportionately suffer from them, and the risk of “long-term health effects” that can be caused by these hazards. 415 ILCS 115/5 (2018). The Board views these findings as the General Assembly’s statement that EJ is an important policy consideration. The Board is not inclined to discount or detract from these findings. Based on this review, the Board is not persuaded to revise its first-notice opinion or proposed Section 105.608 regarding petition content requirements.

Part 203

Existing Section 203.207 provides that a “major modification of a source” is a “physical change or change in the method of operation” of a stationary source that would result in a significant net emissions increase of any pollutant for which the area is designated nonattainment.” 35 Ill. Adm. Code 203.207(a). Subsection (c) excludes certain changes from “a physical change or change in the method of operation.” 35 Ill. Adm. Code 203.207(c).

IEPA “only proposed revisions to Part 203 to include references to new Part 204.” PC 8 at 28. Specifically, IEPA proposed to amend Section 203.207 by adding references to Part 204 in subsections (c)(5)(A) and (c)(6). Conditions in permits issued under Part 204 will become relevant for the exceptions in those two provisions. *See id.* at 27-28.

However, IEPA comments that the first-notice version of Section 203.207 includes changes in language previously approved by USEPA “that is now part of Illinois’ SIP.” *See* 44 Ill. Reg. 4373 (Mar. 20, 2020); Opinion at 202-03; PC 8 at 28. As examples of these changes, IEPA comments that the first-notice version replaced “must” with “shall” and replaced “such” with “a variety of words.” PC 8 at 28. It also replaced “such change” with “that increase,” a revision “inconsistent with the language of the federal PSD rules. *Id.*, citing 40 CFR 51.165(a)(1)(v)(C)(6).

USEPA must review changes to Part 203 for its approval, and those changes must satisfy USEPA requirements. PC 8 at 28. USEPA has found that existing Part 203 meets federal requirements for SIP approval. *Id.* (citations omitted). IEPA argues that, if the changes in the first-notice proposal contradict federal requirements, “they threaten the historic approval of Part 203 as part of Illinois’ SIP.” *Id.* IEPA suggests that any changes that it did not originally propose “may act to complicate and delay USEPA’s review of Part 204 and its replacement of the federal PSD rules in Illinois.” *Id.*

Having considered its first-notice proposal and IEPA’s comment, the Board revises Section 203.207 by proposing language reflecting IEPA’s comments. *See* Opinion at 66 (Part 203).

Part 204

Section 204.100: Incorporation by Reference

Regarding subsections (hh), (ii), and (xx), JCAR questioned what “these subsections being reserved for? Wouldn’t it work better just to add them when there is something to add?” PC 10 at 3.

In its response, the Board noted that it had

questioned why IEPA’s proposal included subsections (hh), (ii), and (xx) as ‘Reserved’ without incorporating materials. Board Questions at 6 (¶18); *see* Prop. 204 at 5-6. IEPA responded that USEPA reserved corresponding 40 C.F.R. Parts 83, 84, and 99. If USEPA promulgates regulations in those Parts, the Board could incorporate them ‘without changing the corresponding numbering of this Section.’ PC 10 at 3.

Section 204.210: Actual Emissions

The first-notice version replaces “shall” in IEPA’s original proposal with “must” and “will” in subsection (a) and replaces “shall” with “must” twice in subsection (b), and once in subsection (d). *See* 40 CFR 52.21(b)(21); 44 Ill. Reg. 4390-91 (Mar. 20, 2020); Prop. 204 at 7.

Having considered the definition in the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (a), (b), and (d) by reinstating “shall” as suggested by IEPA.

Section 204.220: Adverse Impact on Visibility

Shall. IEPA comments this definition in the federal PSD rules refers to a determination that “must be made.” PC 8 at 11, n.2; *see* 40 CFR 52.21(b)(29). However, the first-notice version refers to a determination that “shall be made.” *See* 44 Ill. Reg. 4391 (Mar. 20, 2020); Opinion at 210-11; PC 8 at 11, n.8.

Having considered the definition in the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section by reinstating “must” as suggested by IEPA.

JCAR. JCAR asked whether it would “be possible to add a definition of “Federal Class I area”?’ PC 10 at 3.

The Board responded that,

[a]t page 69 of the first-notice opinion, the Board asked IEPA ‘whether it is necessary to define the term “Federal Class I area’ or cite a specific federal regulation that addresses those areas.’ Board Questions at 6 (¶20). IEPA responded that a separate definition of the term is not necessary because proposed Section 204.920 identifies these areas. PC 1 at 50 (¶20); Tr.1 at 94; *see infra* at 114-16. IEPA stated that this language mirrors 40 C.F.R. § 52.21(e)(1) ‘and is

consistent with the approach to identification of federal Class I areas in 40 CFR 52.21.’ PC 1 at 51 (¶20); Tr.1 at 94-95.” PC 10 at 3.

Section 204.240: Baseline Actual Emissions

Shall. IEPA comments that subsection (i)(a-d) of this definition in the federal PSD rules uses “shall” three times and “must” once. PC 8 at 17, n.18; *see* 40 CFR 52.21(b)(48)(i). However, subsection (a) of the first-notice version changes each use of “shall” to “must” and changes “must” to “shall.” *See* 44 Ill. Reg. 4392-93 (Mar. 20, 2020); Opinion at 211-12; PC 8 at 17, n.18.

IEPA comments that subsection (b) of the first-notice proposal changes “shall” to “must” four times and replaces “must” with “can.” *See* 40 CFR 52.21(b)(48)(ii)(a-e); 44 Ill. Reg. 4393-94 (Mar. 20, 2020); Opinion at 212-13; PC 8 at 17, n.18.

IEPA comments that subsection (c) of the first-notice proposal twice changes “shall” to “must.” *See* 40 CFR 52.21(b)(48)(iii); 44 Ill. Reg. 4394 (Mar. 20, 2020); Opinion at 213; PC 8 at 17, n.18.

Finally, IEPA comments that subsection (d) of the first-notice proposal changes “shall” to “must.” *See* 40 CFR 52.21(b)(48)(iv); 44 Ill. Reg. 4394 (Mar. 20, 2020); Opinion at 213; PC 8 at 17, n.18.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section by reinstating the terms used in the federal rules as proposed and suggested by IEPA.

Such. IEPA comments that the first-notice version of the Board’s proposal replaced “such” with “that” in subsection (b)(3).¹ *See* 40 CFR 52.21(b)(48)(ii)(c); 44 Ill. Reg. 4393 (Mar. 20, 2020); Opinion at 211; PC 8 at 18.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (b)(3) by reinstating the term “such.”

Section 204.250: Baseline Area

Shall. The first-notice version replaces “shall” in IEPA’s original proposal with “must” three times in subsection (c). *See* 40 CFR 52.21(b)(15)(iii); 44 Ill. Reg. 4395 (Mar. 20, 2020); Prop. 204 at 10.

¹ IEPA’s comment referred to this change in Section 204.230(b)(3). PC 8 at 18. As proposed by IEPA and the Board, Section 204.230 did not include a subsection (b)(3) or the term “such.” Opinion at 211. However, the first-notice version of Section 204.240 includes a subsection (b)(3) making this change. *See* 44 Ill. Reg. 4393 (Mar. 20, 2020) (“credit for that emissions reductions”). Based on these factors, the Board construes the comment as addressing Section 204.240.

Having considered the definition in the federal PSD rules, the first-notice version, and IEPA's comments, the Board revises this section by replacing the term "shall" with "must" as proposed and suggested by IEPA.

Such. IEPA comments that the first-notice version of the Board's proposal struck the term "such" from subsection (c). *See* 40 CFR 52.21(b)(13)(iii); 44 Ill. Reg. 4395 (Mar. 20, 2020); Opinion at 213; PC 8 at 18.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsection (c) by reinstating "such."

Statutory Citation. IEPA commented that subsection (a) of the Board's first-notice proposal incorrectly refers to Title 43 of the U.S. Code. *See* 44 Ill. Reg. 4394 (Mar. 20, 2020); Opinion at 213, PC 8 at 26. IEPA states that Title 42 is the correct reference and recommends that the Board correct this error. PC 8 at 26.

Having considered its first-notice proposal and IEPA's comment, the Board revises subsection (a) by correcting the statutory reference to Title 42 of the U.S. Code.

Section 204.260: Baseline Concentration

Shall. The subsection (a) of the first-notice version replaces "shall" in IEPA's original proposal with "must." *See* 40 CFR 52.21(b)(13)(i); 44 Ill. Reg. 4395 (Mar. 20, 2020); Prop. 204 at 11

Having considered the definition in the federal PSD rules, the first-notice version, and IEPA's comments, the Board revises this section by replacing the term "must" with "shall" as proposed and suggested by IEPA.

Plural Nouns. IEPA comments that the first-notice version of the Board's proposed subsection (b) replaced the parenthetical plural noun "increase(s)" with the plural "increases." *See* 40 CFR 52.21(b)(13)(ii); 44 Ill. Reg. 4395 (Mar. 20, 2020); Opinion at 214, PC 8 at 25.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises this subsection by reinstating the parenthetical plural noun "increase(s)."

Section 204.270: Begin Actual Construction.

The first-notice version replaces "such" with "these." *See* 40 CFR 52.21(b)(11); 44 Ill. Reg. 4395-96 (Mar. 20, 2020); Prop. 204 at 11.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises this subsection by reinstating "such" as proposed and recommended by IEPA.

Section 204.280: Best Available Control Technology (BACT)

Shall. The first-notice version twice replaces “shall” in IEPA’s original proposal with “must.” *See* 40 CFR 52.21(b)(12); 44 Ill. Reg. 4396 (Mar. 20, 2020); Prop. 204 at 11-12.

Having considered the definition in the federal PSD rules, the first-notice version, and IEPA’s comments, the Board revises this section by replacing the term “must” with “shall” as proposed and suggested by IEPA.

Such. IEPA comments that the first-notice version of the Board’s proposal in two instances changed “such” to “that” and in two instances changed “such” to “the.” *See* 40 CFR 52.21(b)(12); 44 Ill. Reg. 4396 (Mar. 20, 2020); Opinion at 213; PC 8 at 18.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises Section 204.280 by reinstating “such” in each of the four instances IEPA cites.

Section 204.290: Building, Structure, Facility, or Installation

IEPA comments that this definition in the federal PSD rules refers to activities that “shall be considered . . .” PC 8 at 12, n.6; *see* 40 CFR 52.21 (b)(6)(i). However, subsection (a) of the first-notice version refers to activities that “must be considered. . . .” *See* 44 Ill. Reg. 4396 (Mar. 20, 2020); Opinion at 215; PC 8 at 12, n.6.

IEPA also comments that subsection (b) of the first-notice version changes “shall” to “will.” *See* 40 CFR 52.21(b)(6)(ii)44 Ill. Reg. 4396-97 (Mar. 20, 2020); Opinion at 215; PC 8 at 12, n.6.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (a) and (b) by reinstating the terms used in the federal rules as proposed and suggested by IEPA.

Section 204.350: Dispersion Technique

Shall. IEPA comments that subsection (hh)(2)(ii)(C) of the federal definition provides that “the reviewing agency shall presume. . . .” PC 8 at 15, n.16; *see* 40 CFR 51.100(hh)(2)(ii)(C). However, corresponding subsection (b)(2)(C) of the first-notice version changes “shall” to “must.” *See* 44 Ill. Reg. 4399 (Mar. 20, 2020); Opinion at 217; PC 8 at 15, n.16. Subsection (b)(2)(C) changes “shall deny” to “must deny.” *See* 40 CFR 51.100(hh)(2)(ii)(C); 44 Ill. Reg. 4399 (Mar. 20, 2020); Prop. 204 at 14.

In addition, subsection (b)(2)(B) of the first-notice proposal changes “shall apply” to “applies.” *See* 40 CFR 51.100(hh)(2)(ii)(B); 44 Ill. Reg. 4399 (Mar. 20, 2020); Prop. 204 at 14.

Having considered the federal definition, the first-notice version, and IEPA’s comment, the Board revises subsections (b)(2)(B) and (b)(2)(C) by reinstating “shall” as proposed and suggested by IEPA.

Such. IEPA comments that the first-notice version of the Board’s proposal in changed “such” to “those” in subsection (b)(2)(A). In subsection (b)(2)(C), IEPA comments that the proposal in two instances changes “such” to “the” and also once changed “such” to “that.” *See* 40 CFR 51.100(hh)(2)(ii)(A), (C); 44 Ill. Reg. 4399 (Mar. 20, 2020); Opinion at 217; PC 8 at 18.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (b)(2)(A) and (b)(2)(C) by reinstating “such” in each of the four instances IEPA cites.

Punctuation. Subsection (a)(3) defines this term in part by one of three action increasing final exhaust gas plume rise. *See* 44 Ill. Reg. 4398 (Mar. 20, 2020); Opinion at 216; PC 8 at 29, citing 40 CFR 51.100(hh). IEPA comments that the first-notice version split these actions into subsections (a)(3)(A) through (C). PC 8 at 29. IEPA’s comment does not oppose this split into three subsections but adds that the “the first words of these new subsections are not capitalized.” *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a)(3) with capitalization as IEPA suggests.

Section 204.380: Excessive Concentrations

Shall. Subsection (a) of the first-notice proposal twice changes “shall” to “must,” and subsection (b) does so once. *See* 40 CFR 51.100(kk)(1), (2); 44 Ill. Reg. 4400-01 (Mar. 20, 2020); Prop. 204 at 15-16.

Having considered the federal definition, the first-notice version, and IEPA’s comment, the Board revises subsections (a) and (b) by reinstating “shall” as proposed and suggested by IEPA.

Such. IEPA comments that the first-notice version of the Board’s proposal changed “such” to “the” in subsection (a). *See* 40 CFR 51.100(kk)(1); 44 Ill. Reg. 4400 (Mar. 20, 2020); Opinion at 218; PC 8 at 18.

Having considered the federal definition, the first-notice version, and IEPA’s comment, the Board revises subsection (a) by reinstating “such.”

Commas. IEPA comments that, in subsection (a), the first-notice version of the Board’s proposal inserts additional commas around “individually” in two places and around “due to emissions from all.” *See* 40 CFR 51.100(kk)(1); 44 Ill. Reg. 4400 (Mar. 20, 2020); Opinion at 218, PC 8 at 21. IEPA recommends deleting these additional commas. PC 8 at 21.

Having considered the federal definition, the first-notice version, and IEPA’s comment, the Board revises this subsection by deleting additional commas as recommended by IEPA.

Corrections. This section refers to good engineering practice stack height at Section 204.420, Good Engineering Practice. *See* 44 Ill. Reg. 4400-01 (Mar. 20, 2020); Opinion at 218-

19, PC 8 at 29, citing 40 CFR 51.100(kk). However, in the preamble and each of the three subsections, it incorrectly refers five times to Section 204.430, Greenhouse Gases. PC 8 at 29. IEPA recommends changing each of these references to Section 204.420. *Id.*

Having considered its first-notice proposal and IEPA’s comment, the Board revises this section by correcting the five cross references as recommended by IEPA.

Section 204.400: Federally Enforceable

Organization. IEPA comments that this section provides a definition “consistent with the federal PSD rules.” *See* 44 Ill. Reg. 4401-02 (Mar. 20, 2020); Opinion at 219, PC 8 at 30, citing 40 CFR 52.21(b)(17).

However, the first-notice version of the proposal split the definition into subsections. PC 8 at 30. Although IEPA acknowledges that this may have intended to clarify the definition, it states that “these changes have created unnecessary ambiguity in a critical definition borrowed from the federal PSD rules.” *Id.* IEPA argues that the reorganization “creates inappropriate groupings and further emphasizes ‘federally enforceable’ limitations developed under certain programs over other programs.” *Id.* IEPA recommends a definition “consistent with the meaning of this term in the federal PSD rules” as reflected in its original proposal. *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section as originally proposed and recommended by IEPA.

Such. IEPA comments that the first-notice version of the Board’s proposal changed “such” to “that.” *See* 40 CFR 52.21(b)(17); 44 Ill. Reg. 4402 (Mar. 20, 2020); Opinion at 218; PC 8 at 18. IEPA added that this change appeared in subsection (b)(2), although it had originally proposed Section 204.400 without subsections. *See* PC 8 at 18.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (b)(2) by reinstating “such.”

Section 204.420: Good Engineering Practices

IEPA comments that the first-notice version of the Board’s proposed subsection (a)(2)(B) twice replaced the parenthetical plural noun “structure(s)” with the plural “structures.” *See* 40 CFR 51.100(ii)(2)(ii); 44 Ill. Reg. 4403 (Mar. 20, 2020); Opinion at 220 (subsection (b)(2)), PC 8 at 25.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this subsection by reinstating the parenthetical plural noun “structure(s).”

Section 204.470: Innovative Control Technology

JCAR’s comment questioned “[w]hat does “in current practice” mean? Current as of when?” PC 10 at 4. The Board’s response pointed out that “the proposed defined term at

[Section] 204.470 is used only in proposed [Section] 204.1500, which refers to an IEPA determination on a request to approve a system of innovative control technology. *Id.*

Section 204.490: Major Modification

Shall. Subsections (c)(9) of the first-notice proposal changes “shall” to “will,” and subsection (d) changes “shall” to “must.” *See* 40 CFR 52.21(2)(iii)(j), (iv); 44 Ill. Reg. 4406 (Mar. 20, 2020); Prop. 204 at 19.

Having considered the federal definition and IEPA’s comment, the Board revises subsections (c)(9) and (d) by reinstating “shall” as proposed and suggested by IEPA.

Commas. IEPA comments that, in subsection (a), the first-notice version of the Board’s proposal inserts additional commas around “or change in the method of operation of.” *See* 44 Ill. Reg. 4404 (Mar. 20, 2020); Opinion at 221, PC 8 at 21. IEPA argues that these additional commas create a phrase where one does not exist in the federal PSD rules. PC 8 at 30-31, citing 40 CFR 52.21(b)(2). By creating this phrase, the first-notice version incorrectly “suggests that the information contained inside the commas does not alter the basic meaning of the sentence.” *Id.* IEPA argues that either a “physical change” or “change in the method of operation” may be a major modification.” *Id.* “A ‘change in the method of operation’ is not an alternative term for a physical change.” *Id.*; *see id.* n.24. IEPA recommends deleting these additional commas. PC 8 at 21.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a) by deleting additional commas as recommended by IEPA.

Corrections. First, IEPA comments that the first-notice version of subsection (b) does not include the phrase “(as defined in Section 204.670)” following “[a] significant emissions increase.” *See* 40 CFR 52.21(2)(ii); 44 Ill. Reg. 4404 (Mar. 20, 2020); Opinion at 221; PC 8 at 31. IEPA notes that subsection (a) includes this phrase, and it “recommends reinserting the phrase in [subsection] (b) as well for clarity and consistency with the federal PSD rules.” PC 8 at 31-32; *see* 44 Ill. Reg. 4404 (Mar. 20, 2020); Opinion at 221.

Second, subsection (c) lists nine activities that are not considered a physical change or change in the method of operation. *See* 40 CFR 52.21(2)(iii)(e)(1), (2); 44 Ill. Reg. 4405-06 (Mar. 20, 2020); Opinion at 221-22; PC 8 at 32. IEPA comments that the first-notice version of subsections (c)(5)(A) and (c)(5)(B) strike the introductory phrase “[t]he source.” PC 8 at 31. IEPA argues that, while each of the nine activities in subsection (c) addresses a modification in the present, subsection (c)(5)(A) refers to a source’s ability to accommodate use of fuel or raw material in the past. Removing “the source” eliminates a distinction historically made in the federal PSD rules. *Id.* In subsection (c)(5)(B), IEPA argues that removing the term “eliminates the distinction between a permit issued to the particular source and any issued permit.” *Id.* IEPA recommends reinstating the term to “be consistent with the federal PSD rules.” *Id.*

Third, IEPA comments that the first-notice version of the proposal replaces “or” with “and” at the end of subsection (c)(8). *See* 44 Ill. Reg. 4406 (Mar. 20, 2020); PC 8 at 32. IEPA

argues that, under the federal PSD rules, if any activity meets any of the listed exclusions, it would not constitute a physical change or change in the method of operation. PC 8 at 32; *see* 40 CFR 52.21(2)(iii). It further argues that the first-notice version suggests that all nine exclusions must be met. *Id.* IEPA recommends that subsection (c)(8) be consistent with the federal rules. *Id.*

Fourth, IEPA comments that the first-notice version of subsection (c)(9) struck the term “of” following the phrase “potential to emit.” *See* 40 CFR 52.21(2)(iii)(j); 44 Ill. Reg. 4406 (Mar. 20, 2020); Opinion at 222; PC 8 at 33. The revised language reads as follows: “provided that the project does not result in an increase in the potential to emit any regulated pollutant emitted by the unit.” *See* 44 Ill. Reg. 4405-06 (Mar. 20, 2020); PC 8 at 32. IEPA argues that removing the word effectively changes “the phrase ‘potential to emit’ from a noun in the federal PSD rules to a verb.” PC 8 at 33. IEPA recommends that “subsection (c)(9) be consistent with the federal PSD rules.” *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (b), (c), (c)(8), and (c)(9) as described above and recommended by IEPA.

Such. IEPA comments that the first-notice version of the Board’s proposal changed “such” to “that” in subsection (c)(6). *See* 40 CR 52.21(2)(iii)(f); 44 Ill. Reg. 4405 (Mar. 20, 2020); Opinion at 222; PC 8 at 18.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (c)(6) by reinstating “such.”

Statutory Citation. IEPA commented that subsection (c)(3) of the Board’s first-notice proposal incorrectly refers to Title 43 of the U.S. Code. *See* 44 Ill. Reg. 4405 (Mar. 20, 2020); Opinion at 222, PC 8 at 26. IEPA states that Title 42 is the correct reference and recommends that the Board correct this error in its second notice proposal. PC 8 at 26.

Having considered its first-notice proposal and IEPA’s comment, the Board revises subsection (c)(3) by correcting the statutory reference to Title 42 of the U.S. Code.

Section 204.500: Major Source Baseline Date

JCAR’s comment questioned why Sections 204.500(a) and 204.520(a)(1) have different baseline dates. PC 10 at 4.

The Board responded by citing page 23 of its first-notice opinion, which states that

[t]wo dates are involved in setting baseline concentrations. The different dates result from how effects of changes in emissions are determined. [T]he *major source baseline date* [Section 204.500] is the date after which changes in emission of PSD major sources may affect the amount of increment that is available. [IEPA Statement of Reasons (SR)] at 23 [emphasis added]. Major

source baseline dates are established by regulation for each pollutant and averaging time, “tied to the date that the particular increment is adopted.” *Id.* For major PSD sources, the effects of changes in emissions on the available increment may be determined by modeling. *Id.*, n.39.

Section 204.510: Major Stationary Source

Shall. IEPA comments that this definition in the federal PSD rules refers to “chemical process plants” and provides that a term “shall not include . . .” PC 8 at 12, n.7; *see* 40 CFR 52.21(b)(1)(c)(iii)(t). However, corresponding subsection (c)(20) of the first-notice version provides that a term “does not include. . .” *See* 44 Ill. Reg. 4409 (Mar. 20, 2020); Opinion at 225; PC 8 at 12, n.7.

In addition, subsections (b) and (c) replace “shall” with “must.” *See* 40 CFR 52.21(b)(1)(i)(c)(ii), (iii); 44 Ill. Reg. 4408 (Mar. 20, 2020); Prop. 204 at 20.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (b) and (c)(20) by reinstating “shall” as suggested by IEPA.

Correction. Subsection (c) provides that fugitive emissions of a stationary source are not included in determining whether it is a major stationary source, unless it belongs to a listed category. *See* 40 CFR 52.21(b)(1)(c)(iii); 44 Ill. Reg. 4408-10 (Mar. 20, 2020); Opinion at 224-25, PC 8 at 33, citing 40 CFR 52.21(b)(1). To be consistent with the federal PSD rules, IEPA originally proposed to refer to “determining for any of the purposes *of this Section* whether it is a major stationary source. . . .” PC 8 at 33 (emphasis in original). The first-notice version did not include the phrase “of this Section.” 44 Ill. Reg. 4408 (Mar. 20, 2020).

IEPA comments that the phrase could refer to the entirety of 40 CFR 52.21, which is a section of the Code of Federal Regulations. PC 8 at 33. IEPA recommends that subsection (c) refer to “of this Part” to be consistent with the federal PSD rules. Without this phrase, provisions applicable for the definition of “major stationary source” in Part 204 could inappropriately not be applied to other provisions of Part 204. *Id.*; *see* PC 10 at 4-5 (JCAR).

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (c) by adding the phrase “of this Section” as recommended by IEPA.

Commas. IEPA comments that, in subsection (c), the first-notice version of the Board’s proposal inserts additional commas around “for any of the purposes of.” *See* 40 CFR 52.21(b)(1)(c)(iii); 44 Ill. Reg. 4408 (Mar. 20, 2020); Opinion at 224, PC 8 at 21. IEPA recommends deleting these additional commas. PC 8 at 21.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (c) by deleting additional commas as recommended by IEPA.

Section 204.520: Minor Source Baseline Date

JCAR. JCAR’s comment questioned why Sections 204.500(a) and 204.520(a)(1) have different baseline dates. PC 10 at 4.

The Board responded by citing page 23 of its first-notice opinion, which states that

Two dates are involved in setting baseline concentrations. Different dates result from how effects of changes in emissions are determined. . . . The *minor source baseline date* [Section 204.520] is the date after which changes in emissions at minor sources also affect the amount of increment that is available. SR at 23 [emphasis added]. Because of the number of minor sources that may affect air quality in a baseline area, the effect of changes in emissions of other sources cannot necessarily be readily determined by modeling. *Id.* The minor source baseline date is the date of submittal of the first complete PSD permit application for a project within a particular baseline area after the trigger date. *Id.* This first application would be based on monitored air quality in an area, and [t]his concentration would then be adjusted using modeling to account for the effect of changes in emissions at major sources. *Id.* “After the minor source baseline date, emission increases and decreases at all sources act to consume and expand the available increment. *Id.* at 24.

Shall. Subsection (c) twice replaces “shall” with “must.” *See* 40 CFR 52.21(b)(14)(iv); 44 Ill. Reg. 4411 (Mar. 20, 2020); Prop. 204 at 22.

Having considered the federal PSD rules and IEPA’s comment, the Board revises subsection (c) by reinstating “shall” as proposed and suggested by IEPA.

Correction. The provision of the federal PSD rules corresponding to subsection (b)(1) refers in part to “[t]he area in which the proposed source or modification *would construct* is designated as attainment or unclassifiable. . . .” PC 8 at 34, citing 40 CFR 52.21(b)(14)(ii-iv). The first-notice version instead refers to the area in which it “would be constructed.” *See* 44 Ill. Reg. 4410 (Mar. 20, 2020); Opinion at 225, PC 8 at 34. While the first-notice version “personifies the ‘proposed source or modification,’” “the federal PSD rules have historically personified the applicant or application.” PC 8 at 34. IEPA recommends that subsection (b)(1) be consistent with the federal rules. *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (b)(1) by revising it as recommended by IEPA.

Statutory Citation. IEPA commented that subsection (b)(1) of the Board’s first-notice proposal incorrectly refers to Title 43 of the U.S. Code. *See* 44 Ill. Reg. 4410 (Mar. 20, 2020); Opinion at 225, PC 8 at 26. IEPA states that Title 42 is the correct reference and recommends that the Board correct this error in its second notice proposal. PC 8 at 26.

Having considered its first-notice proposal and IEPA’s comment, the Board revises subsection (b)(1) by correcting the statutory reference to Title 42 of the U.S. Code.

Section 204.530: Nearby

IEPA comments that the first-notice version of the Board’s proposal changed “such” to “that” in subsection (b). *See* 40 CFR 51.100(jj)(2); 44 Ill. Reg. 4411 (Mar. 20, 2020); Opinion at 226; PC 8 at 18.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (b) by reinstating “such.”

Section 204.550: Net Emissions Increase

Shall. IEPA comments that subsection (a)(2) of this definition in the federal PSD rules includes the phrase “shall not apply.” PC 8 at 12, n.8; *see* 40 CFR 52.21(b)(3)(i)(b). However, the first-notice version replaces it with “do not apply.” *See* 44 Ill. Reg. 4412 (Mar. 20, 2020); Opinion at 227; PC 8 at 12, n.8. Subsection (a)(2) also replaces “shall be determined” with “must be determined.” *See* 40 CFR 52.21(b)(3)(i)(b); 44 Ill. Reg. 4412 (Mar. 20, 2020).

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a)(2) by reinstating “shall” as proposed by IEPA.

Reorganization. Subsection (b) identifies when an increase or decrease in actual emissions is contemporaneous with the increase from the particular change. *See* 44 Ill. Reg. 4412 (Mar. 20, 2020); Opinion at 227, PC 8 at 34, citing 40 CFR 52.21(b)(3). IEPA argues that a long line of precedents relies on this definition from the federal PSD rules. PC 8 at 34. IEPA further argues that the reorganization of this definition that appears in the first-notice version “would create ambiguity and potential confusion.” *Id.* at 34-35. IEPA recommends revising subsection (b) to be consistent with its original proposal. *Id.* at 35.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (b) as recommended by IEPA.

Corrections. Regarding subsection (b)(2), IEPA comments that the corresponding provision of the federal PSD rules provides that “[a]n 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.” PC 8 at 35 (emphasis in original); *see* 40 CFR 52.21(b)(3)(iii)(a). The first-notice version does not specify “which permit is in effect” but refers to a permit “that is in effect.” 44 Ill. Reg. 4412 (Mar. 20, 2020); Opinion at 227, PC 8 at 35. IEPA recommends that this subsection include the phrase “which permit” “for clarity and consistency with federal PSD rules.” PC 8 at 35.

Regarding subsection (f), IEPA comments that the corresponding provision of the federal PSD rules provides that “[a]ny emissions unit that replaces an existing emissions unit that requires shakedown, becomes operational only after a reasonable shakedown period, *not to exceed 180 days.*” PC 8 at 35 (emphasis added); *see* 40 CFR 52.21(b)(3)(viii). In the first-notice

version, the last phrase reads “which shall not exceed 180 days.” 44 Ill. Reg. 4413 (Mar. 20, 2020); Opinion at 227-28, PC 8 at 35. “Given the significance of the shakedown period, the Agency recommend that subsection (f) be consistent with the underlying PSD rules.” PC 8 at 35.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (b) and (f) as recommended by IEPA.

Commas. IEPA comments that, in subsection (a)(1), the first-notice version of the Board’s proposal inserts additional commas around “or change in the method of operation of.” See 40 CFR 52.21(b)(3)(i)(a); 44 Ill. Reg. 4412 (Mar. 20, 2020); Opinion at 227, PC 8 at 21. IEPA recommends deleting these additional comments. PC 8 at 21, 22.

In subsection (b)(2), the first-notice version of the Board’s proposal inserts an additional comma before “for the source under 40 CFR 52.21.” See 40 CFR 52.21(b)(3)(iii)(a); 44 Ill. Reg. 4412 (Mar. 20, 2020); Opinion at 227, PC 8 at 22. IEPA recommends deleting this additional comma. PC 8 at 21, 22.

In subsection (e)(2), the first-notice version of the Board’s proposal inserts additional commas around “as a practical matter.” See 40 CFR 52.21(b)(3)(vi)(b); 44 Ill. Reg. 4413 (Mar. 20, 2020); Opinion at 227, PC 8 at 22. IEPA recommends deleting these additional commas. PC 8 at 21, 22.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (a)(1), (b)(2) and (e)(2) by deleting additional commas as recommended by IEPA.

Section 204.560: Potential to Emit

The first-notice version of this definition replaces “shall” with “must.” See 40 CFR 52.21(b)(4); 44 Ill. Reg. 4413 (Mar. 20, 2020); Prop. 204 at 24.

Having considered the federal PSD rules and IEPA’s comment, the Board revises this section by reinstating “shall” as proposed and suggested by IEPA.

Section 204.590: Project

IEPA comments that the first-notice version of the Board’s proposal inserts additional commas around “or change in the method of operation of.” See 44 Ill. Reg. 4414 (Mar. 20, 2020); Opinion at 228, PC 8 at 22; see also PC 8 at 31, n.25. IEPA recommends deleting these additional commas. PC 8 at 21, 22.

However, commas in the first-notice version are consistent with IEPA’s original proposal (SR at 124; Prop. 204 at 24-25) and with the federal PSD rules (40 CFR 52.21(b)(52)). Accordingly, the Board declines to revise this section as recommended by IEPA.

Section 204.600: Projected Actual Emissions

IEPA comments that the first-notice version of this definition reorganized it, “apparently to avoid repeating the term ‘shall.’” *See* 44 Ill. Reg. 4414-15 (Mar. 20, 2020); Opinion at 29, PC 8 at 36, citing 40 CFR 52.21(b)(41). IEPA recommends that the format of this definition “be consistent with the federal PSD rules.” PC 8 at 36; *see* Prop. 204 at 25.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section by reorganizing it as recommended by IEPA and reinstating the term “shall” as proposed by IEPA.

Section 204.610: Regulated NSR Pollutant

Shall. In subsection (a)(1), IEPA proposed in part that, “[o]n 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.” PC 8 at 37 (emphasis in original); *see* 40 CFR 52.21(b)(50)(i)(a). However, the first-notice version proposed that, “[o]n or after January 1, 2011, condensable PM *was required to be* accounted for in applicability determinations and in establishing emissions limitations for PM_{2.5} and PM₁₀ in PSD permits.” *See* 44 Ill. Reg. 4415 (Mar. 20, 2020); Opinion at 229; PC 8 at 37. IEPA argues that this version “suggests that condensable PM is no longer included in applicability determinations.” PC 8 at 37.

Also in subsection (a)(1), IEPA proposed that “[c]ompliance 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.” PC 8 at 37 (emphasis in original); *see* 40 CFR 52.21(b)(50)(i)(a). However, the first-notice version proposed that “[c]ompliance with emissions limitations for PM_{2.5} and PM₁₀ issued prior to *that date were not* based on condensable PM unless required by the terms and conditions of the permit or the applicable implementation plan.” *See* 44 Ill. Reg. 4415 (Mar. 20, 2020); Opinion at 229; PC 8 at 37. IEPA argues that this version “suggests that condensable PM may or may not be included when determining compliance with historic limits for PM₁₀ or PM_{2.5}.” PC 8 at 37.

Also in subsection (a)(1), the first-notice version replaced “shall not be considered” with “will not be considered.” *See* 40 CFR 52.21(b)(50)(i)(a); 44 Ill. Reg. 4415 (Mar. 20, 2020); Prop. 204 at 25.

IEPA states that these differences between the federal PSD rules and the first-notice version “are significant.” PC 8 at 37. IEPA recommends that subsection (a)(1) “not deviate from the language in the federal PSD rules.” *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a)(1) as recommended by IEPA.

Corrections. Regarding subsection (a)(2), IEPA states that the federal PSD rules refer to “[a]ny pollutant identified under this subsection as a constituent. . . .” PC 8 at 38; *see* 40 CFR 52.21(b)(50)(i)(b). However, the first-notice version inserts a reference to “(a)” after

“subsection.” *See* 44 Ill. Reg. 4415 (Mar. 20, 2020); Opinion at 230; PC 8 at 38. IEPA argues that this insertion is not consistent with the federal rules. PC 8 at 38. “If a reference is necessary, the appropriate reference would be subsection (a)(2).” *Id.*

Also, IEPA notes that the first-notice version of subsection (a) changes references to “a NAAQS” to “an NAAQS.” PC 8 at 37, n.31. IEPA argues that this confuses initialisms and acronyms. “While initialisms that begin with the letter ‘N’ require ‘an’ because they begin with a vowel sound, acronyms differ.” *Id.* Because “NAAQS” is a pronounceable acronym, an “a” is appropriate, and IEPA recommends consistently using it before “NAAQS.” *Id.*; *see id.*, n.32.

Finally, IEPA suggests that subsections (a)(2)(A) and (a)(2)(C) use the subscript “NO_x” rather than “NOx.” PC 8 at 38, n.33.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a) as recommended by IEPA.

Such. IEPA comments that the first-notice version of the Board’s proposal struck “such” from subsection (a)(1). *See* 40 CFR 52.21(b)(50)(i)(a); 44 Ill. Reg. 4415 (Mar. 20, 2020); Opinion at 229; PC 8 at 18.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a)(1) by reinstating “such.”

Commas. IEPA comments that, in subsection (a)(2), the first-notice version of the Board’s proposal inserts additional commas around “for purposes of this Part.” *See* 40 CFR 52.21(b)(50)(i)(b); 44 Ill. Reg. 4415 (Mar. 20, 2020); Opinion at 230, PC 8 at 22. IEPA recommends deleting these additional comments. PC 8 at 21, 22.

In subsections (a)(2)(C) and (a)(2)(D), the first-notice version of the Board’s proposal inserts additional commas around “or USEPA demonstrates.” *See* 40 CFR 52.21(b)(50)(i)(b)(3, 4); 44 Ill. Reg. 4415-16 (Mar. 20, 2020); Opinion at 230; PC 8 at 22. IEPA recommends deleting these additional comments. PC 8 at 21, 22.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (a)(2), (a)(2)(C) and (a)(2)(D) by deleting additional commas as recommended by IEPA.

Statutory Citation. IEPA commented that subsections (b), (c), and (e) of the Board’s first-notice proposal incorrectly refer to Title 43 of the U.S. Code. *See* 44 Ill. Reg. 4416 (Mar. 20, 2020); Opinion at 230, PC 8 at 26-27. IEPA states that Title 42 is the correct reference and recommends that the Board correct this error in its second notice proposal. PC 8 at 26.

Having considered its first-notice proposal and IEPA’s comment, the Board revises subsections (b), (c), and (e) by correcting the statutory references to Title 42 of the U.S. Code.

Section 204.620: Replacement Unit

Shall. Subsection (d) of the first-notice version replaced “shall” with “must.” *See* 40 CFR 52.21(b)(33)(iv); 44 Ill. Reg. 4418 (Mar. 20, 2020); Prop. 204 at 28.

Having considered the federal PSD rules and IEPA’s comment, the Board revises this section by reinstating “shall” as proposed and suggested by IEPA.

Corrections. In this definition, IEPA proposed that this term means an emission unit that meets criteria listed in subsections (a) through (d). *See* 44 Ill. Reg. 4416-18 (Mar. 20, 2020); Opinion at 230-32, PC 8 at 38, citing 40 CFR 52.21(b)(33). Subsection (c) provides that the replacement unit “must not alter the basic design parameters(s) of the process unit” and addresses how to determine those parameters. PC 8 at 38. IEPA comments specifically on subsection (c)(3), in which it proposed that,

[i]f 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, records *such* basic design parameter(s) and requires the owner or operator to comply with *such parameter(s)*. *Id.* (emphasis in original); *see* Opinion at 231.

IEPA comments that the first-notice proposal includes “a variety of changes to this language found in the federal PSD rule; these changes appear to have been proposed as grammatical ‘fixes.’” PC 8 at 38; *see* 40 CFR 52.21(cc)(2)(iii); PC 8 at 18. For clarity and consistency with the federal PSD rules, IEPA recommends undoing these “fixes” in subsection (c)(3). *Id.* at 39.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (c)(3) as recommended by IEPA.

Commas. IEPA comments that, in subsection (b), the first-notice version of the Board’s proposal inserts additional commas around “to or functionally equivalent to.” *See* 40 CFR 52.21(b)(33)(ii); 44 Ill. Reg. 4416 (Mar. 20, 2020); Opinion at 231, PC 8 at 22. IEPA recommends deleting these additional commas. PC 8 at 21, 22.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (b) by deleting additional commas as recommended by IEPA.

Plural Nouns. IEPA comments that the first-notice version of the Board’s proposal replaced the parenthetical plural noun “parameter(s)” with the plural “parameters” once each in subsections (c), (c)(1), (c)(2), (c)(4), and (c)(5) and five times in subsection (c)(3). *See* 40 CFR 52.21(cc)(2); 44 Ill. Reg. 4417 (Mar. 20, 2020); Opinion at 231, PC 8 at 25.

IEPA also comments that the first-notice version replaced “unit(s)” with “units” in subsection (c)(3). *See* 40 CFR 52.21(cc)(2)(iii); 44 Ill. Reg. 4417 (Mar. 20, 2020); Opinion at 231, PC 8 at 25.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (c) by reinstating parenthetical plural nouns.

Section 204.630: Repowering

Shall. In subsection (b), the first-notice version replaces “shall also include” with “also includes.” *See* 40 CFR 52.21(b)(37)(iii); 44 Ill. Reg. 4418 (Mar. 20, 2020); Prop. 204 at 28.

Having considered the federal PSD rules and IEPA’s comment, the Board revises subsection (b) by reinstating “shall also include” as proposed and suggested by IEPA.

Correction. In subsection (a) of this definition, IEPA proposed in part that this term means

replacement of an existing coal-fired boiler with any of the listed clean coal technologies or, as determined by USEPA, in consultation with the US Secretary of Energy, 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. PC 38 at 39, citing 40 CFR 52.21(b)(37).

IEPA comments that the first-notice version effectively divides the definition into two parts and makes it “mean two things by stating that “Repowering also means. . . .” *Id.*; *see* 44 Ill. Reg. 4418 (Mar. 20, 2020); *see also* Opinion at 232. IEPA “recommends that the definition of ‘repowering’ be consistent with the federal PSD rules.” PC 8 at 39.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a) as recommended by IEPA

Statutory Citation. IEPA commented that subsection (c) of the Board’s first-notice proposal incorrectly refers to Title 43 of the U.S. Code. *See* 44 Ill. Reg. 4418 (Mar. 20, 2020); Opinion at 232, PC 8 at 26-27. IEPA states that Title 42 is the correct reference and recommends that the Board correct this error in its second notice proposal. PC 8 at 26.

Having considered its first-notice proposal and IEPA’s comment, the Board revises subsection (c) by correcting the statutory reference to Title 42 of the U.S. Code.

Section 204.660: Significant

Corrections. In subsection (c), IEPA proposed that, notwithstanding subsection (a), the term “would mean any emissions rate or any net emissions increase associated with a major

stationary source or major modification, that would construct within 10 kilometers of a Class I area, and have an impact equal to or greater than 1 µg/m³ (24-hr average).” PC 8 at 40, citing 40 CFR 52.21(b)(23).

IEPA comments that the first-notice proposal instead refers to “any emissions rate or any net emissions increase associated with a major stationary source or major modification *that would be* constructed within 10 kilometers of a Class I area. . . .” PC 8 at 40 (emphasis in original); *see* 44 Ill. Reg. 4420 (Mar. 20, 2020); Opinion at 234.

IEPA comments that the federal PSD rules have “historically personified the major stationary source or major modification” while the first-notice proposal personifies the action. PC 8 at 40. IEPA recommends that “subsection (c) be consistent with the underlying federal PSD rules.” *Id.*

IEPA also comments that subsection (a) in the first-notice proposal refers three time to “NOx” although the correct reference is to “NO_x.” *See* 44 Ill. Reg. 4419 (Mar. 20, 2020); Opinion at 233, PC 8 at 40, n.37. IEPA adds that subsection (a) proposes an emission rate for PM_{2.5} emissions but does not include a space between “PM_{2.5}” and “emissions.” *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (a) and (c) as recommended by IEPA.

Commas. IEPA comments that, in subsection (c), the first-notice version of the Board’s proposal struck a comma before IEPA’s proposed phrase “which would construct within 10 kilometers.” *See* 40 CFR 52.21(b)(23)(iii); 44 Ill. Reg. 4420 (Mar. 20, 2020); Opinion at 234, PC 8 at 22. IEPA recommends reinserting this comma. PC 8 at 21, 22.

Having considered its first-notice proposal and IEPA’s comment, the Board revises subsection (c) by reinserting the comma as recommended by IEPA.

Section 204.690: Stationary Source

IEPA commented that this section of the Board’s first-notice proposal incorrectly refers to Title 43 of the U.S. Code. *See* 44 Ill. Reg. 4421 (Mar. 20, 2020); Opinion at 234, PC 8 at 26-27. IEPA states that Title 42 is the correct reference and recommends that the Board correct this error in its second notice proposal. PC 8 at 26.

Having considered its first-notice proposal and IEPA’s comment, the Board revises this section by correcting the statutory reference to Title 42 of the U.S. Code.

Section 204.700: Subject to Regulation

Corrections. IEPA proposed that this term “would generally mean, for any air pollutant, that the pollutant is subject to either a provision in the CAA, or a regulation codified by the USEPA that requires control of the quantity of emissions of that pollutant, *and that such a* control requirement has taken effect to limit or restrict the quantity of emissions of that pollutant

released from the regulated activity.” PC 8 at 40-41 (emphasis in original), citing 40 CFR 52.21(b)(49). IEPA comments that the first-notice version refers to requiring “actual control of the quantity of emissions of that pollutant *when the* control requirement has taken effect and is operative. . . .” *See* 44 Ill. Reg. 4421 (Mar. 20, 2020); Opinion at 234, PC 8 at 41.

IEPA argues that replacing “that” with “when” is “inconsistent with the underlying federal PSD rules.” PC 8 at 41. IEPA further argues that it is not apparent that the different word “would always have the same meaning” as the corresponding federal rule.” *Id.* IEPA recommends that this term be “defined consistent with the federal PSD rules.” *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section as recommended by IEPA.

Commas. IEPA comments that the first-notice version of the Board’s proposal struck a comma before IEPA’s proposed phrase “and that such a control requirement has taken effect.” *See* 40 CFR 52.21(b)(49); 44 Ill. Reg. 4421 (Mar. 20, 2020); Opinion at 234, PC 8 at 22. IEPA recommends reinserting this comma. PC 8 at 21, 22.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section by reinserting the comma as recommended by IEPA.

Section 204.800: Applicability

Shall. Subsections (c) and (f) of the first-notice proposal replace “shall” with “must.” *See* 40 CFR 52.21(a)(2)(iii), (v); 44 Ill. Reg. 4421, 4423; Prop. 204 at 31, 33.

Having considered the federal PSD rules, the first-notice proposal and IEPA’s comment, the Board revises this section by reinstating “shall” as proposed and recommended by IEPA.

Corrections. In subsection (c), IEPA proposed that “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 indicating that the source or modification will meet those requirements.” PC 8 at 41, citing 40 CFR 52.12(a)(2)(iii); *see* Opinion at 235. The first-notice version does not list those regulatory requirements but instead refers to “those Sections.” *See* 44 Ill. Reg. 4421 (Mar. 20, 2020); Opinion at 235, PC 8 at 41.

IEPA comments that, because “those Sections” do not appear earlier in subsection (c) but only in subsection (b), the reference “would not be clear.” PC 8 at 41-42. IEPA recommends identifying the applicable regulatory requirements in subsection (c) for clarity. *Id.* at 42.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (c) by reinserting the references recommended by IEPA.

Such. IEPA comments that the first-notice version of the Board’s proposal changed “such” to “the” in subsection (e). *See* 40 CFR 52.21(r)(6); 44 Ill. Reg. 4423 (Mar. 20, 2020); Opinion at 236; PC 8 at 18.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (e) by reinstating “such.”

Commas. IEPA comments that, in subsection (d)(5), the first-notice version of the Board’s proposal inserts an additional comma after “as applicable.” *See* 40 CFR 52.21(a)(2)(iv)(f); 44 Ill. Reg. 4423 (Mar. 20, 2020); Opinion at 236, PC 8 at 22. IEPA recommends deleting this additional comma. PC 8 at 21, 22.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board agrees that it is appropriate to revise subsection (d)(5). However, neither the federal PSD rules at 40 CFR 52.21(a)(2)(iv)(f) nor IEPA original proposal (Prop. 204 at 33) include a comma before or after the phrase “as applicable,” and the Board concludes to strike both that appear in the first-notice version.

Plural Nouns. IEPA comments that the first-notice version of the Board’s proposal replaced the parenthetical plural noun “type(s)” with the plural “types” in subsection (d)(2). *See* 44 Ill. Reg. 4422 (Mar. 20, 2020); Opinion at 235, PC 8 at 25.

IEPA also comments that the first-notice version replaced “unit(s)” with “units” in subsection (d)(4). *See* 40 CFR 52.21(a)(2)(iv)(d); 44 Ill. Reg. 4423 (Mar. 20, 2020); Opinion at 236, PC 8 at 25.

Having considered its first-notice proposal and IEPA’s comment, the Board revises subsections (d)(2) and (d)(4) by reinstating the parenthetical plural nouns as recommended by IEPA.

Statutory Citation. IEPA commented that subsection (a) of the Board’s first-notice proposal incorrectly refers to Title 43 of the U.S. Code. *See* 44 Ill. Reg. 4421 (Mar. 20, 2020); Opinion at 235, PC 8 at 26-27. IEPA states that Title 42 is the correct reference and recommends that the Board correct this error in its second notice proposal. PC 8 at 26.

Having considered its first-notice proposal and IEPA’s comment, the Board revises subsection (a) by correcting the statutory reference to Title 42 of the U.S. Code.

Section 204.810: Source Information

Shall. In the preamble and subsection (b), the first-notice version replaces “shall” with “must.” *See* 40 CFR 52.21(n); 44 Ill. Reg. 4423; Prop. 204 at 33.

Having considered the federal PSD rules, its first-notice proposal, and IEPA’s comment, the Board revises the preamble and subsection (b) by reinstating “shall” as proposed and recommended by IEPA.

Corrections. In subsection (a), IEPA proposed that, "[w]ith respect to a source or modification to which Sections 204.1100, 204.1116, 204.1130, and 204.1140 apply, *such* information *shall* include. . . ." PC 8 at 42 (emphasis in original); *see* 40 CFR 52.21(n). The first-notice version instead refers to "this information." *See* 44 Ill. Reg. 4423 (Mar. 20, 2020); Opinion at 237; PC 8 at 18, 42; Prop. 204 at 33.

IEPA comments that the first-notice version "would appear to relax the requirements that have been historically administered in Illinois by means of the federal PSD rules. PC 8 at 41. IEPA recommends that subsection (a) be made consistent with the federal rules. *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsection (a) as recommended by IEPA.

Section 204.820: Source Obligation

IEPA comments that the federal PSD rules provide that an owner or operator who performs certain acts "shall be subject to appropriate enforcement action." PC 8 at 12, n.4; *see* 40 CFR 52.21(r)(1). However, this section of the first-notice version replaces "shall be" with "is." *See* 44 Ill. Reg. 4424 (Mar. 20, 2020); Opinion at 237; PC 8 at 12, n.4; Prop. 204 at 34.

IEPA comments that this alters the meaning of this provision because it "suggests that the owner or operator *is* already subject to enforcement, while the federal PSD rules *authorize* the initiation of enforcement." PC 8 at 12, n.4 (emphasis in original).

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises this section by reinstating "shall" as suggested by IEPA.

Section 204.830: Permit Expiration

The first-notice version replaces "shall become" with "will become." *See* 40 CFR 52.21(r)(2); 44 Ill. Reg. 4425 (Mar. 20, 2020); Prop. 204 at 34.

Having considered the federal PSD rules, the first-notice proposal, and IEPA's comment, the Board revises this section by reinstating "shall not" as proposed and suggested by IEPA.

Section 204.840: Effect of Permits

The first-notice version replaces "shall not" with "does not." *See* 40 CFR 52.21(r)(3); 44 Ill. Reg. 4424 (Mar. 20, 2020); Prop. 204 at 34.

Having considered the federal PSD rules, the first-notice proposal, and IEPA's comment, the Board revises this section by reinstating "shall" as proposed and suggested by IEPA.

Section 204.850: Relaxation of a Source-Specific Limitation

Correction. IEPA proposed that, “*at such time that* a source or modification becomes a major stationary source or major modification. . . . PC 8 at 43 (emphasis in original), citing 40 CFR 52.21(r)(4). IEPA states that this language is consistent with the relevant federal PSD rules. PC 8 at 43. The first-notice version instead provides that “[w]hen a particular source or modification becomes a major stationary source or major modification. . . .” See 44 Ill. Reg. 4425 (Mar. 20, 2020); Opinion at 238; PC 8 at 43.

IEPA comments that this revision is inconsistent with the federal rules and “suggests that a source-specific limitation will inevitably be relaxed.” PC 8 at 43. The federal rules do not suggest this, and IEPA recommends revising this section to be consistent with the federal language. *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section as recommended by IEPA.

Shall. The first-notice version replaces “shall apply” with “must apply.” See 40 CFR 52.21(r)(4); 44 Ill. Reg. 4425 (Mar. 20, 2020); Prop. 204 at 34.

Having considered the federal PSD rules, the first-notice proposal, and IEPA’s comment, the Board revises this section as recommended by IEPA.

Section 204.860: Exemptions

Shall. In subsection (b), the first-notice version replaces “shall not apply” with “do not apply” and also replaced “shall not be viewed” with “must not be viewed.” See 40 CFR 52.21(i)(2); 44 Ill. Reg. 4427-28; Prop. 204 at 37.

In subsections (c) and (d), the first-notice version replaces “shall not apply” with “do not apply.” See 40 CFR 52.21(i)(3), (4); 44 Ill. Reg. 4428; Prop. 204 at 37.

Having considered the federal PSD rules, the first-notice proposal, and IEPA’s comment, the Board revises subsections (b), (c), and (d) by reinstating “shall” as proposed and recommended by IEPA.

Corrections. Among these exemptions to the requirements of Part 204, IEPA proposed in subsection (c) that “[*t*]he requirements of Sections 204.1110, 204.1130, and 204.1140 shall not apply” to specified major stationary sources or major modifications. PC 8 at 43-44 (emphasis in original), citing 40 CFR 52.21(i). The first-notice version instead provides that “Sections 204.1110, 204.1130, and 204.1140 do not apply. . . .” See 40 CFR 52.21(i)(1); 44 Ill. Reg. 4428 (Mar. 20, 2020); Opinion at 240, PC 8 at 44.

IEPA comments that this revision is not consistent with the federal PSD rules or the introductory clause of subsection (b). PC 8 at 44. IEPA recommends that subsection (c) be consistent with the corresponding federal rules. *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsection (c) as recommended by IEPA.

Commas. IEPA comments that, in subsection (d), the first-notice version of the Board's proposal inserts additional commas around "as they relate to any maximum increase for a Class II area." *See* 40 CFR 52.21(i)(4); 44 Ill. Reg. 4428 (Mar. 20, 2020); Opinion at 241, PC 8 at 22. IEPA recommends deleting these additional commas. PC 8 at 21, 22.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsection (d) by deleting additional commas as recommended by IEPA.

Such. The first-notice version of the proposal changed "Such notice" to "The notice" in subsection (a)(3)(D). *See* 40 CFR 52.21(i)(1)(viii)(d); 44 Ill. Reg. 4427 (Mar. 20, 2020); Prop. 204 at 36; PC 8 at 18.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsection (a)(3)(D) by reinstating "such."

Statutory Citation. IEPA commented that the Board's first-notice proposal incorrectly refers to Title 43 of the U.S. Code once in subsection (a)(2)(AA) and twice in subsection (b). *See* 44 Ill. Reg. 4427-28 (Mar. 20, 2020); Opinion at 240, PC 8 at 26-27. IEPA states that Title 42 is the correct reference and recommends that the Board correct this error in its second notice proposal. PC 8 at 26.

Having considered its first-notice proposal and IEPA's comment, the Board revises subsections (a)(2)(AA) and (b) by correcting the statutory reference to Title 42 of the U.S. Code.

Section 204.900: Ambient Air Increments

IEPA comments that the federal PSD rules provides that increases in pollutant concentration "shall be limited." PC 8 at 14, n.15; *see* 40 CFR 52.21(c). However, the corresponding language in subsection (a) of the first-notice version provides that increase "must be limited." *See* 44 Ill. Reg. 4428 (Mar. 20, 2020); Opinion at 241; PC 8 at 15, n.14. IEPA comments that this substitution "makes the regulatory requirement, at best, difficult to comprehend." PC 8 at 15, n.14.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsection (a) reinstating "shall" as suggested by IEPA.

Section 204.920: Restrictions on Area Classifications

Shall. IEPA comments that the federal PSD rules provide that specified areas "shall be Class I." PC 8 at 12, n.5; *see* 40 CFR 52.21(c). However, the corresponding language in subsection (a) of the first-notice version provides that specified areas "are Class I." *See* 44 Ill. Reg. 4430 (Mar. 20, 2020); Opinion at 242; PC 8 at 12, n.5.

Having considered the federal PSD rules and IEPA's comment, the Board revises subsection (a) by reinstating "shall" as proposed and suggested by IEPA.

Corrections. In subsection (b), IEPA proposed that "[a]reas *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." PC 8 at 44 (emphasis in original), citing 40 CFR 52.21(e). IEPA comments that the first-notice version omits the italicized words "which were." See 44 Ill. Reg. 4430 (Mar. 20, 2020); Opinion at 242; PC 8 at 44. IEPA argues that the first-notice version "is less clear" and recommends that it be reinserted. PC 8 at 44.

In subsection (d), IEPA proposed that "[t]he following areas *may* be redesignated only as Class I or II" and then listed in subsection (d)(1) and (d)(2) areas that may be redesignated. PC 8 at 44-45 (emphasis added), citing 40 CFR 52.21(e). IEPA comments that the first-notice version replaced the word "may" with "shall." See 44 Ill. Reg. 4430 (Mar. 20, 2020); Opinion at 243; PC 8 at 45. IEPA argues that this change suggests "redesignation is mandatory when that is not, in fact, the case under the federal PSD rules." PC 8 at 45. IEPA adds that, because subsections (d)(1) and (d)(2) provide criteria for redesignation, it is not necessary to use "shall." *Id.* IEPA recommends revising subsection (d) to be consistent with the federal rules. *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsections (b) and (d) as recommended by IEPA.

Such. IEPA comments that the first-notice version of the Board's proposal changed "such an" to "that" in subsection (c). See 40 CFR 52.21(e)(3); 44 Ill. Reg. 4430 (Mar. 20, 2020); Opinion at 243; PC 8 at 18.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsection (c) by reinstating "such an."

Section 204.930: Redesignation

JCAR. In its comment, JCAR requested that the Board provide a specific date instead of "the initial effective date of this Part." PC 10 at 5.

The Board responded that it "cannot accurately estimate the date on which the Board will file its final rules with the Secretary of State (SOS)" and was "not inclined to simply choose a later effective date with ample margin for error." The Board concluded that, with JCAR's agreement during the second-notice period, it expects to provide "a specific effective date that closely approximates the filing of final rules with SOS." PC 10 at 5.

Shall. IEPA comments that the federal PSD rules address proposed redesignations that USEPA "shall disapprove." PC 8 at 15, n.15; see 40 CFR 52.21(g)(5). However, the corresponding language in subsection (e) of the first-notice version provides refers to proposals USEPA "must disapprove." See 44 Ill. Reg. 4433 (Mar. 20, 2020); Opinion at 245; PC 8 at 15, n.15.

Subsection (b)(4) of the first-notice version replaces “shall have published” with “must have published.” See 40 CFR 52.21(g)(2)(iv); 44 Ill. Reg. 4431 (Mar. 20, 2020); Prop. 204 at 40.

Having considered the federal PSD rules and IEPA’s comment, the Board revises subsections (b)(4) and (e) by reinstating “shall” as proposed and suggested by IEPA.

Corrections. In subsection (a), IEPA’s proposal “mirrored the applicable federal PSD rules providing that any redesignation requests may be proposed by the State or Indian Governing Bodies.” PC 8 at 45, citing 40 CFR 52.21(g); see Opinion at 243. IEPA comments that the first-notice version does “not include Indian Governing Bodies as an entity that may make a redesignation request to USEPA for approval.” See 44 Ill. Reg. 4431 (Mar. 20, 2020); Opinion at 243; PC 8 at 45. IEPA argues that this revision is not consistent with the applicable federal PSD rules in subsections (c), (d) and (f). PC 8 at 45. IEPA recommends that revising subsection (a) for consistency. *Id.*

In subsection (e) addressing USEPA disapproval of a proposed redesignation, IEPA proposed that, “[i]f *any such* disapproval occurs, the classification of the area *shall* be that which was in effect prior to the redesignation *which was disapproved.*” PC 8 at 46 (emphasis in original), citing 40 CFR 52.21(g). The first-notice version instead provides that, “[i]f disapproval occurs, the classification of the area *will* be that which was in effect prior to the *proposed* redesignation.” PC 8 at 45 (emphasis in original); see 44 Ill. Reg. 4432 (Mar. 20, 2020); Opinion at 245. IEPA argues that this proposed revision “would create ambiguity” and recommends that subsection (e) be consistent with the federal rule. PC 8 at 45.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (a) and (e) as recommended by IEPA.

Such. IEPA comments that the first-notice version of the Board’s proposal changed “such” to “the” in three instances in subsection (b)(4). See 40 CFR 52.21(g)(2)(iv); 44 Ill. Reg. 4431 (Mar. 20, 2020); Opinion at 243-44; PC 8 at 18.

IEPA also comments that, in subsection (d)(2), the proposal changed “Such” to “The.” See 40 CFR 52.21(g)(4)(ii); 44 Ill. Reg. 4433 (Mar. 20, 2020); Opinion at 244; PC 8 at 18.

IEPA adds that, in subsection (e), the proposal changed “such” to “the.” See 40 CFR 52.21(g)(5); 44 Ill. Reg. 4433 (Mar. 20, 2020); Opinion at 245; PC 8 at 18.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (b)(4), (d)(2), and (e) by reinstating “such,” “Such,” and “any such,” respectively.

Commas. IEPA comments that, in subsection (b), the first-notice version of the Board’s proposal inserts an additional comma after “Class II.” See 40 CFR 52.21(g)(2); 44 Ill. Reg. 4431 (Mar. 20, 2020); Opinion at 243, PC 8 at 22. IEPA recommends deleting this additional comma. PC 8 at 21, 22.

In subsection (c)(4), the first-notice version of the Board’s proposal inserts an additional comma after “subject to review under Section 204.1120” and after “as was practicable.” *See* 40 CFR 52.21(g)(3)(iv); 44 Ill. Reg. 4432 (Mar. 20, 2020); Opinion at 244, PC 8 at 23. IEPA recommends deleting these additional commas. PC 8 at 21, 23.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (b) and (c)(4) by deleting this additional comma. However, the federal PSD rules set off the phrase “subject to review under paragraph (l) of this section” (40 CFR 52.2(g)(3)(iv)), and the Board declines to strike a comma from this phrase as suggested by IEPA.

Plural Nouns. IEPA comments that the first-notice version of the Board’s proposal replaced the parenthetical plural noun “State(s)” with the plural “States” in subsection (d)(2). *See* 40 CFR 52.21(g)(4)(ii); 44 Ill. Reg. 4433 (Mar. 20, 2020); Opinion at 244, PC 8 at 25.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (d)(2) by reinstating the parenthetical plural noun “State(s).”

Section 204.1000: Stack Heights

Shall. Subsection (b) of the first-notice version replaces “shall not apply” with “does not apply.” *See* 40 CFR 52.21(h)(2); 44 Ill. Reg. 4433 (Mar. 20, 2020); Prop. 204 at 42.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (b) by reinstating “shall” as proposed and recommended by IEPA.

Corrections. IEPA comments that the corresponding federal rule provides that the degree of emission limitation “shall not be affected in any manner by . . . *so much of* the stack height of any source that exceeds good engineering practice. . . .” PC 8 at 6 (emphasis added); *see* 40 CFR 52.21(h)(i). However, subsection (a)(1) of the first notice version instead refers to “any portion of the stack height.” *See* 44 Ill. Reg. 4433 (Mar. 20, 2020); Opinion at 245; PC 8 at 46. IEPA argues that this “is not consistent with the federal PSD rules and recommends replacing “any portion of” with “so much of.” PC 8 at 46.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a)(1) as recommended by IEPA.

Section 204.1100: Control Technology Review

IEPA comments that the federal PSD rules refer to a determination that “shall be reviewed.” PC 8 at 16-17; *see* 40 CFR 52.21(j)(4). However, the corresponding language in subsection (d) of the first-notice version refers to a demonstration that “must be reviewed.” *See* 44 Ill. Reg. 4434 (Mar. 20, 2020); Opinion at 246; PC 8 at 16-17. IEPA comments that this distinguishes between mandatory obligations in subsection (a) through (c) from a similar mandatory obligation in subsection (d). PC 8 at 17.

Having considered the federal PSD rules and IEPA's comment, the Board revises subsection (d) reinstating "shall" as suggested by IEPA.

Section 204.1110: Source Impact Analysis

The first-notice version replaces "shall demonstrate" with "must demonstrate." *See* 40 CFR 52.21(k)(1); 44 Ill. Reg. 4434; Prop. 204 at 42. Between subsections (a) and (b), the first-notice version replaces "or" with "and". *See* 40 CFR 52.21(k)(1)(i); 44 Ill. Reg. 4434; Prop. 204 at 42.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises this section by reinstating "shall" and reinstating "or" as proposed and suggested by IEPA.

Section 204.1120: Air Quality Models

Corrections. Subsection (b) provides that, "where an air quality model specified in 40 CFR Part 51, Appendix W is inappropriate, the model may be modified or another model substituted subject to the requirements of this subsection." PC 8 at 46-47, citing 40 CFR 52.21(l). IEPA proposed that

[s]uch 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. PC 8 at 47 (emphasis in original); see PC 8 at 18; Opinion at 246.

IEPA comments that the first-notice version instead proposed that "[t]he modification or substitution may be made on a case-by-case basis or, when appropriate, on a generic basis for a specific State program. . . . In addition, use of a modified or substituted model is subject to notice and opportunity for public comment (35 Ill. Adm. Code Part 252). PC 8 at 47 (emphasis in original); *see* 44 Ill. Reg. 4435 (Mar. 20, 2020); Opinion at 246.

IEPA comments that the first-notice version creates ambiguity. Because "the term 'modification' has particular meaning in federal PSD permitting," it should not be used in Part 204 without clarifying language. PC 8 at 47 (citing proposed definition of "major modification" in Section 204.490); *see id.* at 18. IEPA recommends that subsection (b) should restore its proposed language to be consistent with the federal rules. *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsection (b) as recommended by IEPA.

Section 204.1130: Air Quality Analysis

Shall. Subsections (a)(1), (a)(2), and (a)(3) of the first-notice version replaces “shall contain” with “must contain.” *See* 40 CFR 52.21(m)(1); 44 Ill. Reg. 4435; Prop. 204 at 43.

Subsection (a)(4) replaces “shall” with “must” three times. *See* 40 CFR 52.21(m)(1)(ii)(b)(iv); 44 Ill. Reg. 4435; Prop. 204 at 43. Subsection (b) and (c) also replace “shall” with “must.” *See* 40 CFR 52.21(m)(2), (3); 44 Ill. Reg. 4436; Prop. 204 at 44.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a)(1), (a)(2), (a)(3), and (a)(4), (b), and (c) by reinstating “shall.”

Corrections. Subsection (a)(1) requires that the air quality information submitted with a permit application include “an analysis for each pollutant that a new source would have the potential to emit in a significant amount and for each pollutant for which a major modification would result in a significant net emissions increase consistent with the federal PSD rules.” PC 8 at 47-48, citing 40 CFR 52.21(m). In subsection (a)(1)(B), IEPA’s proposal provided that, “[f]or the modification, each pollutant for which *it would result in* a significant net emissions increase.” PC 8 at 48 (emphasis in original). IEPA comments that the first-notice version instead provides that, “[f]or the modification, each pollutant for which a significant net emissions increase *would result.*” PC 8 at 48 (emphasis in original); *see* 44 Ill. Reg. 4435 (Mar. 20, 2020); Opinion at 247.

IEPA argues that, in the federal rules “it would result in” refers to the modification. In the first-notice version, IEPA argues that it no longer refers to the modification. PC 8 at 48. IEPA recommends revising subsection (a)(1)(B) to be consistent with the federal PSD rules. *Id.*

Also, in subsection (a)(3), IEPA comments that the first-notice version changed the term “such a standard” to “an NAAQS.” PC 8 at 48, n.48; *see* 44 Ill. Reg. 4435 (Mar. 20, 2020); Opinion at 247. Because “NAAQS” is a pronounceable acronym, an “a” is appropriate, and IEPA recommends consistently using it before “NAAQS.” PC 8 at 37, n.31; *see id.* at 48 n.48.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (a)(1)(B) and (a)(3) as recommended by IEPA.

Such. IEPA comments that the first-notice version of the Board’s proposal struck “such” in subsection (a)(3). *See* 40 CFR 52.21(m)(1)(iii); 44 Ill. Reg. 4435 (Mar. 20, 2020); Opinion at 247; PC 8 at 19.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a)(3) by reinstating “such.”

Section 204.1140: Additional Impact Analyses

Shall. Subsections (a) and (b) of the first-notice version replace “shall” with “must.” *See* 40 CFR 52.21(o); 44 Ill. Reg. 4436; Prop. 204 at 44.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (a) and (b) by reinstating “shall.”

PC 8. Section 52.21(o)(3) of the federal PSD regulations provides that “[t]he administrator may require monitoring of visibility in any Federal class I area near the proposed new stationary source for major modification for such purposes and by such means as the Administrator deems necessary and appropriate.” 40 C.F.R. § 52.21(o)(3). IEPA’s proposal did not include language based on 40 C.F.R. § 52.21(o)(3) because “Illinois currently does not have any Class I areas” or one in close proximity. PC 1 at 3 (¶2a); *see* SR at 75, CARE Questions at 2 (¶2a). IEPA added that the language “is not needed for the USEPA to approve a state PSD program for Illinois.” PC 1 at 3 (¶2a); *see* SR at 76, citing 40 C.F.R. § 51.166(p). The Board declined to include language based on 40 C.F.R. § 52.21(o)(3) in Section 204.1140 of its first-notice proposal. Opinion at 40, 44.

However, the Board took notice that House Joint Resolution 31, the Consolidated Appropriations Act, 2019, became Public Law No. 116-6 on February 15, 2019. *See* 35 Ill. Adm. Code 101.630 (notice); *see also* 735 ILCS 5/8-1003, 1104 (2018) (statutes). Among provisions for the U.S. Department of the Interior, Public Law 116-6 re-titles Indiana Dunes National Lake Shore as a national park. P.L. No. 116-6 (Div. E, Title 1, § 115(a)); *see* 16 U.S.C. § 460u (2018). The Board sought comment on any effect of this statutory re-titling and whether it warrants including in proposed Section 204.1140 language based on 40 C.F.R. § 52.21(o)(3). Opinion at 44, 161.

IEPA responded that “[t]he retitling of Indiana Dunes as a national park is of no relevance for purposes of the PSD program as it does not make this area a *federal* Class I area.” PC 8 at 5 (emphasis in original). IEPA adds that including a requirement based on 40 C.F.R. § 52.21(o)(3) “is not necessary for USEPA approval of Part 204.” *Id.* at 6.

After considering IEPA’s comments, the Board is persuaded not to amend its first-notice proposal by adding to this section language based on 40 C.F.R. § 52.21(o)(3).

Section 204.1200: Additional Requirements for Sources Impacting Federal Class I Areas

Shall. IEPA comments that the federal PSD rules refer to information a notification “shall include.” PC 8 at 49, n.50; *see* 40 CFR 52.21(p)(1). However, the corresponding language in subsection (a) of the first-notice version refers to information a notification “must include.” *See* 44 Ill. Reg. 4436-37 (Mar. 20, 2020); Opinion at 248; PC 8 at 49, n.50.

The federal PSD rules refers to a finding the Administrator “must” address. 40 CFR 52.21(p)(3). However, the corresponding language in subsection (c) of the first-notice version refers to a notification IEPA “shall” address. *See* 44 Ill. Reg. 4437 (Mar. 20, 2020); Opinion at 248.

Subsection (h) of the first-notice version also replaces “shall” with “must.” *See* 40 CFR 52.21(p)(8); 44 Ill. Reg. 4439 (Mar. 20, 2020); Prop. 204 at 46.

Having considered the federal PSD rules and IEPA's comment, the Board revises subsections (a) and (h) by reinstating "shall" as suggested by IEPA and subsection (c) by reinstating "must."

Corrections. Subsection (a) addresses notice by the Agency to Federal Land Managers regarding federal Class I areas. IEPA proposed that "[s]uch notification . . . shall be *given* within 30 days of receipt. . . ." PC 8 at 48-49 (emphasis in original), citing 40 CFR 52.21(p). The first-notice version instead proposes that "[t]he notification . . . shall be *issued* within 30 days after receipt. . . ." PC 8 at 49 (emphasis in original); *see* 44 Ill. Reg. 4436-37 (Mar. 20, 2020); Opinion at 249.

IEPA comments that "issue" in the federal PSD program refers to a permitting authority issuing a permit. PC 8 at 49. IEPA argues that this subsection should not use the term when IEPA "is merely required to give notice to the Federal Land Manager." *Id.* IEPA recommends that this subsection "be made consistent with the federal PSD rules." *Id.*

Also in subsection (a), IEPA proposed that "[t]he Illinois EPA shall provide the Federal Land Manager and *such* Federal officials with a copy of the preliminary determination required under 35 Ill. Adm. Code Part 252. . . ." PC 8 at 49 (emphasis in original); *see* 40 CFR 52.21(p). IEPA adds that the first-notice version changed "such" to "relevant." *See* 44 Ill. Reg. 4437 (Mar. 20, 2020); Opinion at 248; PC 8 at 49. IEPA argues that this term may require interpreting which officials are "relevant." PC 8 at 49. IEPA recommends that subsection (a) should use "such" for clarity. *Id.*

In the final sentence of subsection (a), IEPA proposed that "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." PC 8 at 49-50. The first-notice version removed "such." *See* 40 CFR 52.21(p); 44 Ill. Reg. 4437 (Mar. 20, 2020); Opinion at 248; PC 8 at 50. IEPA argues that this version requires IEPA to notify "all affected Federal Land Managers within 30 days of receipt of any advance notice of *any* application for a proposed major stationary source or major modification." PC 8 at 50. IEPA recommends that this sentence include "such" as it proposed. *Id.*

In subsection (e), IEPA comments that the first-notice version refers once to "NO_x" when the appropriate reference is "NO_x." PC 8 at 50, n.51; *see* 44 Ill. Reg. 4438 (Mar. 20, 2020); Opinion at 249.

Subsection (f) authorizes the Governor to grant a variance and provides procedural requirements. IEPA comments that "[t]he relevant provision in the federal PSD rules provide that "[i]f such variance is granted, the Illinois EPA shall issue a permit *to* such source or modification. . . ." PC 8 at 50 (emphasis in original); *see* 40 CFR 52.21(6). The first-notice version instead provides that, "[i]f the variance is granted, the Agency shall issue a permit *for* the source or modification. . . ." *Id.* (emphasis in original); *see* 44 Ill. Reg. 4438 (Mar. 20, 2020); Opinion at 250. IEPA recommends that, to clarify that it "is issuing a permit to such source or modification rather than for such source or modification, subsection (f) should use 'to.'" PC 8 at 50-51.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsections (a), (e) and (f) as recommended by IEPA.

Such. IEPA comments that the first-notice version of the Board's proposal changed "such" to "the" in three instances and also struck "such" in subsection (a). *See* 40 CFR 52.21(p)(1); 44 Ill. Reg. 4436-37 (Mar. 20, 2020); Opinion at 248; PC 8 at 19.

In subsection (b), IEPA comments that the first-notice proposal changed "such" to "the" and in two instances changes "such" to "those." *See* 40 CFR 52.21(p)(2); 44 Ill. Reg. 4437 (Mar. 20, 2020); Opinion at 248; PC 8 at 19.

In subsection (d), IEPA comments that the first-notice proposal twice changed "such" to "the." *See* 40 CFR 52.21(p)(4); 44 Ill. Reg. 4437 (Mar. 20, 2020); Opinion at 249; PC 8 at 19.

In subsection (e), IEPA comments that the first-notice proposal in three instances changed "such" to "the" and also once changed "such" to "those." *See* 40 CFR 51.21(p)(5); 44 Ill. Reg. 4437-38 (Mar. 20, 2020); Opinion at 249; PC 8 at 19.

In subsection (f), IEPA comments that the first-notice proposal in three instances changed "such" to "the." *See* 40 CFR 52.21(p)(6); 44 Ill. Reg. 4438 (Mar. 20, 2020); Opinion at 249-50; PC 8 at 19.

Finally, in subsection (h), IEPA comments that the first-notice proposal changed "such" to "the." *See* 40 CFR 52.21(p)(8); 44 Ill. Reg. 4439 (Mar. 20, 2020); Opinion at 250; PC 8 at 19.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsections (a), (b), (d), (e), (f), and (h) by reinstating "such."

Section 204.1300: Notification of Application Completeness to Applicants

Shall. The first-notice version replaced "shall be" with "will." *See* 40 CFR 51.166(q)(1); 44 Ill. Reg. 4439 (Mar. 20, 2020); Prop. 204 at 47.

Having considered the federal PSD rules, the first-notice version, and IEPA's proposal, the Board revises this section by reinstating "shall" as proposed by IEPA.

Such. IEPA comments that the first-notice version of the Board's proposal changed "such an application" to "the application." *See* 40 CFR 51.166(q)(1); 44 Ill. Reg. 4439 (Mar. 20, 2020); Opinion at 250; PC 8 at 19.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises this section by reinstating "such."

Section 204.1320: Public Participation

IEPA comments that the first-notice version inserts additional commas around “or a modification of.” *See* 44 Ill. Reg. 4440 (Mar. 20, 2020); Opinion at 28, PC 8 at 21; *see also* PC 8 at 31, n.25. IEPA suggests that a “modification” is not an alternative term for “initial issuance” of a permit and recommends deleting these additional commas. *See* PC 8 at 31; *see also* PC 8 at 21, 22.

Having considered the first-notice version and IEPA’s comment, the Board revises this section by deleting additional commas as recommended by IEPA.

Section 204.1340: Permit Rescission

Shall. Subsection (a) of the first-notice version replaces “shall remain” with “will remain.” *See* 40 CFR 52.21(w)(1); 44 Ill. Reg. 4440; Prop. 204 at 47.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a) by reinstating “shall” as proposed and recommended by IEPA.

Commas. IEPA comments that, in subsection (d), the first-notice version of the Board’s proposal inserts additional commas around “on a public website identified by it.” *See* 40 CFR 52.21(w)(4); 44 Ill. Reg. 4440 (Mar. 20, 2020); Opinion at 251, PC 8 at 23. IEPA recommends deleting these additional commas. PC 8 at 21, 23.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (d) by deleting additional commas as recommended by IEPA.

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

Shall. IEPA comments that the federal PSD rules corresponding to subsection (c) refer to information an owner or operator “shall provide.” PC 8 at 16; *see* 40 CFR 52.21(r)(6)(ii). However, the corresponding language in subsection (c) of the first-notice version refers to information an owner or operator “must provide.” *See* 44 Ill. Reg. 4436-37 (Mar. 20, 2020); Opinion at 252; PC 8 at 16. IEPA comments that this change distinguishes the obligation of an owner of an existing electric utility steam generating unit from obligation of owners and operators of other units subject to this section. PC 8 at 16.

Subsection (f) of the first-notice version replaces “shall submit” with “must submit,” “shall be submitted” with “must be submitted,” and “shall contain” with “must contain.” *See* 40 CFR 52.21(r)(6)(2); 44 Ill. Reg. 4442 (Mar. 20, 2020); Prop. 204 at 49.

Subsection (h) of the first-notice version replaces “shall make” with “must make.” *See* 40 CFR 52.21(r)(7); 44 Ill. Reg. 4443 (Mar. 20, 2020); Prop. 204 at 50.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (c), (f), and (h) by reinstating “shall” as suggested by IEPA

JCAR. Regarding a reference in subsection (a) to “subsection (f)(2)” JCAR questions whether this should be “subsection (g)(2).” PC 10 at 5. Regarding subsection (g)(2), JCAR questions whether “subsections (b) through (e)” are “still the right subsections to cite.” *Id.*

Noting IEPA’s comment on this general issue (PC 8 at 51-52), the Board responded that it “plans to address this issue in its second-notice opinion” (PC 10 at 6), and it does so in the following subsection.

Corrections. IEPA comments that the first-notice version changed the first paragraph of this section from an undesignated introductory paragraph to a subsection (a). PC 8 at 51, citing 40 CFR 52.21(r)(6-7); *see* 44 Ill. Reg. 4440-41 (Mar. 20, 2020); Opinion at 252. IEPA argues that this is inconsistent with the federal PSD rules, as the following subsections “were meant to be subordinate to the introductory paragraph.” PC 8 at 51. IEPA adds that “[t]he relevant portions of the federal PSD rules have been and continue to be the subject of judicial review” and that reformatting “would create ambiguity and potential confusion.” *Id.* In addition, IEPA suggest that renumbering is not consistently reflected so that “[e]ssentially each cross reference in the First Notice Version is incorrect.” *Id.* IEPA recommends that the formatting of this section follow the federal PSD rules. *Id.*

In its introductory paragraph, IEPA proposed that, “[e]xcept as otherwise provided in subsection (f)(2) of this Section, *the provisions of* this Section apply with respect to any regulated NSR pollutant.” PC 8 at 52 (emphasis in original); *see* 40 CFR 52.21(r)(6). However, the first-notice version proposed that, “[e]xcept as otherwise provided in subsection (f)(2) of this Section, this Section *applies* with respect to any regulated NSR pollutant. . . .” PC 8 at 52 (emphasis in original); *see* 44 Ill. Reg. 4440-41 (Mar. 20, 2020); Opinion at 251. IEPA argues that that the entirety of this Section will not apply to the owner or operator or a modification because it establishes different requirements for categories of units. PC 8 at 52. IEPA recommends that this language be consistent with the federal PSD rules. *Id.*

IEPA notes that, in the Board’s opinion, subsection (a) cross references Section 204.600(b)(1) through (b)(3) for determining projected actual emissions. PC 8 at 15, n.17; *see* 40 CRR 52.21(r)(6); Opinion at 251. IEPA comments that the first-notice version “would refer to Section 204.600(b)(1)” instead. PC 8 at 15, n.17 *see* 44 Ill. Reg. 4441 (Mar. 20, 2020).

Subsection (f) of IEPA’s proposal defines “reasonable possibility.” Subsection (f)(2) refers to “[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). . . .” PC 8 at 52 (emphasis in original); *see* 40 CFR 52.21(r)(6)(vi)(b).

IEPA comments that the first-notice version of this re-designated subsection deletes the cross-reference to Section 204.670. *See* 44 Ill. Reg. 4442-43 (Mar. 20, 2020); Opinion at 253; PC 8 at 52-53. IEPA argues that, without the deleted language, the subsequent parenthetical is “not clear.” PC 8 at 52. IEPA recommends that this element of the definition be made consistent with the federal PSD rules. *Id.* at 53.

IEPA based its proposed subsection (g) on the federal PSD rules and tailored it to state requirements. IEPA proposed in subsection (g)(1) that “[t]he 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.” PC 8 at 53. However, the first-notice version replaced “pursuant to the requirements contained in” with “under.” *See* 40 CFR 52.21(r)(7); 44 Ill. Reg. 4443 (Mar. 20, 2020); Opinion at 253; PC 8 at 53.

IEPA argues that this “suggests that the general public possesses the authority to request documents under Section 39.5(8)(e).” PC 8 at 53. IEPA states that “[t]hat is not the case,” and its proposal authorized entities including the general public to request document pursuant to the Act. *Id.* Because the first-notice version no longer provides the general public with this ability, IEPA recommends that its proposed language be reinstated. *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section as recommended by IEPA.

Such. IEPA comments that subsection (a) of the first-notice version of the Board’s proposal, originally proposed without a subsection designation, changed “such” to “that.” *See* 40 CFR 52.21(r)(6); 44 Ill. Reg. 4440-41 (Mar. 20, 2020); Opinion at 251; PC 8 at 19.

In subsection (b)(3), originally proposed as subsection (a)(3), IEPA comments that the first-notice proposal changed “such” to “that.” *See* 40 CFR 52.21(r)(6)(i)(c); 44 Ill. Reg. 4441 (Mar. 20, 2020); Opinion at 252; PC 8 at 19.

In subsection (f), originally proposed as subsection (e), IEPA comments that the first-notice proposal in three instances changed “such” to “the.” *See* 40 CFR 52.21(r)(6)(v); 44 Ill. Reg. 4442 (Mar. 20, 2020); Opinion at 252-53; PC 8 at 19.

Having considered its first-notice proposal and IEPA’s comment, the Board revises subsections (a), (b)(3), and (f) by reinstating “such.”

Commas. IEPA comments that, in subsection (g)(2), originally proposed by IEPA as subsection (f)(2), the first-notice version of the Board’s proposal removed a comma after “significant emissions increase” and after “(without reference to the amount that is a significant net emissions increase).” *See* 40 CFR 52.21(r)(6)(iv)(b); 44 Ill. Reg. 4442-43 (Mar. 20, 2020); Opinion at 253, PC 8 at 23. IEPA recommends reinserting these additional commas. PC 8 at 21, 23.

In subsection (h), originally proposed by IEPA as subsection (g), the first-notice version of the Board’s proposal inserts additional commas around “USEPA.” *See* 40 CFR 52.21(r)(7); 44 Ill. Reg. 4443 (Mar. 20, 2020); Opinion at 253, PC 8 at 23. IEPA recommends deleting these additional commas. PC 8 at 21, 23.

Having considered its first-notice proposal and IEPA's comment, the Board revises subsection (g)(2) by reinserting commas and subsection (h) by deleting additional commas as recommended by IEPA.

Plural Nouns. IEPA comments that the first-notice version of the Board's proposal replaced the parenthetical plural noun "unit(s)" with the plural "units" in subsection (a) and (b)(2). *See* 40 CFR 52.21(r)(6); 44 Ill. Reg. 4440-41 (Mar. 20, 2020); Opinion at 251-52, PC 8 at 25.

Having considered the first-notice version and IEPA's comment, the Board revises subsections (a) and (b)(2) by reinstating the parenthetical plural noun "unit(s)" in both.

Section 204.1500: Innovative Control Technology

Corrections. To address approving innovative control technologies as a BACT alternative, IEPA proposed that "[a]n 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." PC 8 at 53-54, citing 40 CFR 52.21(v). IEPA argues that this is "consistent with the language of the federal PSD rules." PC 8 at 54.

IEPA comments that, among other changes, the first-notice version deleted the word "to." *See* 44 Ill. Reg. 4443 (Mar. 20, 2020); Opinion at 253; PC 8 at 54. IEPA argues that "to" is significant because it refers to the request. Without it, the first-notice version refers to IEPA. PC 8 at 54. IEPA recommends reinstating "to" for clarity and to be consistent with the federal rules. *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsection (a) by reinstating "to."

Such. IEPA comments that the first-notice version of the Board's proposal changed "Such date" to "That date" in subsection (b)(2). *See* 40 CFR 52.21(v)(2)(ii); 44 Ill. Reg. 4443 (Mar. 20, 2020); Opinion at 254; PC 8 at 19.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises this section by reinstating "Such date."

Commas. In subsection (a), the first-notice version of the Board's proposal inserts additional commas around "in writing no later than the close of the public comment period under 35 Ill. Adm. Code 252." *See* 40 CFR 52.21(v)(1); 44 Ill. Reg. 4443 (Mar. 20, 2020); Opinion at 253, PC 8 at 23. IEPA recommends deleting these additional commas. PC 8 at 21, 23.

In subsection (c)(1), the first-notice version of the Board's proposal inserts additional commas around "by the specified date." *See* 44 Ill. Reg. 4444 (Mar. 20, 2020); Opinion at 254, PC 8 at 23. IEPA recommends deleting these additional commas. PC 8 at 21, 23.

In subsection (d), the first-notice version of the Board’s proposal inserts an additional comma after “within the specified time period.” *See* 40 CFR 52.21(v)(3)(ii); 44 Ill. Reg. 4444 (Mar. 20, 2020); Opinion at 254, PC 8 at 23. IEPA recommends deleting the additional comma. PC 8 at 21, 23.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (a), (c)(1), and (d) by reinserting commas as recommended by IEPA.

Section 204.1600: Applicability

Shall. In subsection (a), IEPA proposed that “[t]he term 'PAL' shall mean 'actuals PAL' throughout this Subpart.” PC 8 at 54, citing 40 CFR 52.21(aa). IEPA concludes that deleting “shall” from the first-notice version presumably led to replacing “mean” with “means.” *See* 44 Ill. Reg. 4445 (Mar. 20, 2020); Opinion at 255, PC 8 at 54. IEPA recommends that grammatical changes resulting from changes to “shall” should be revised to follow its original proposal and the federal PSD rules. PC 8 at 54-55.

Subsection (c) of the first-notice version changes “shall continue” with “must continue.” *See* 40 CFR 52.21(aa)(1)(iii); 44 Ill. Reg. 4445 (Mar. 20, 2020); Prop. 204 at 51-52.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (a) and (c) as recommended by IEPA.

Commas. In subsection (b), the first-notice version of the Board’s proposal inserts additional commas around “or change in the method of operation.” *See* 40 CFR 52.21(aa)(1)(ii); 44 Ill. Reg. 4445 (Mar. 20, 2020); Opinion at 255, PC 8 at 23; *see also* PC 8 at 31, n.25. IEPA recommends deleting these additional commas. PC 8 at 21, 23.

Also in subsection (b), the first-notice version of the Board’s proposal struck commas around “meets the requirements of this Subpart.” *See* 40 CFR 52.21(aa)(1)(ii); 44 Ill. Reg. 4445 (Mar. 20, 2020); Opinion at 255, PC 8 at 23. IEPA recommends reinserting the deleted commas. PC 8 at 21, 23.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (b) by deleting and reinserting commas as recommended by IEPA.

Section 204.1610: Definitions

Shall. IEPA comments that the federal PSD rules provide that, when a term is not defined, “it shall have” a specified meaning. PC 8 at 12, n.3; *see* 40 CFR 52.21(aa)(2). However, the corresponding language in the first-notice version provides that “it has” a specified meaning. *See* 44 Ill. Reg. 4445 (Mar. 20, 2020); Opinion at 255; PC 8 at 12, n.3.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection this section by reinstating “shall” as suggested by IEPA.

Corrections. IEPA proposed that, “[w]hen a term is not defined in these sections, it shall have the meaning *given* in this Part. . . .” PC 8 at 55 (emphasis in original), citing 40 CFR 52.21(aa). However, the first-notice version replaced “given” with “ascribed.” See 44 Ill. Reg. 4445 (Mar. 20, 2020); Opinion at 255, PC 8 at 55. IEPA argues that “ascribed” is not used in the federal PSD rules and does not have the same meaning as “given.” PC 8 at 55. IEPA recommends the term “given” for clarity and consistency with the federal PSD rules. *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section by replacing “ascribed” with “given” as recommended by IEPA.

Section 204.1620: Actuals PAL

IEPA comments that the first-notice version of the Board’s proposal inserts additional commas around “or have the potential to emit.” See 40 CFR 52.21(aa)(2)(i); 44 Ill. Reg. 4445 (Mar. 20, 2020); Opinion at 255, PC 8 at 23. IEPA recommends deleting these additional commas. PC 8 at 21, 23.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section as recommended by IEPA.

Section 204.1630: Allowable Emissions

Shall. The first-notice version replaces “shall be calculated” with “must be calculated.” See 40 CFR 52.21(aa)(2)(ii)(a); 44 Ill. Reg. 4446 (Mar. 20, 2020); Prop. 204 at 52.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section by replacing “shall” as proposed and recommended by IEPA.

Corrections. Based on the federal PSD rules, IEPA proposed that “[a]llowable emissions’ *means ‘allowable emissions’ as defined* in Section 204.230. . . .” PC 8 at 55 (emphasis in original), citing 40 CFR 52.21(aa). However, the first-notice version provides that “[a]llowable emissions’ *has the meaning ascribed* in Section 204.230. . . .” PC 8 at 55 (emphasis in original); see 44 Ill. Reg. 4445 (Mar. 20, 2020); Opinion at 255. IEPA recommends its original language for clarity and consistency with the federal PSD rules. PC 8 at 55-56.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section as recommended by IEPA.

Section 204.1660: Continuous Parameter Monitoring System (CPMS)

IEPA comments that the first-notice version of the Board’s proposal replaced the parenthetical plural noun “value(s)” with the plural “values.” See 40 CFR 52.21(b)(46); 44 Ill. Reg. 4446 (Mar. 20, 2020); Opinion at 256, PC 8 at 25.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises this section by reinstating the parenthetical plural noun "value(s)."

Section 204.1670: Lowest Achievable Emission Rate (LAER)

IEPA proposed that LAER "shall have the meaning *given* by the provisions at 35 Ill. Adm. Code 203.301(a)." PC 8 at 56 (emphasis in original). However, the first-notice version used "ascribed" in the place of "given." *See* 44 Ill. Reg. 4446 (Mar. 20, 2020); Opinion at 256, PC 8 at 56. IEPA recommends its original language for clarity and consistency with the federal PSD rules. PC 8 at 56; *see* 40 CFR 51.165(a)(1)(xiii).

Having considered its first-notice proposal and IEPA's comment, the Board revises this section by replacing "ascribed" with "given" as recommended by IEPA.

Section 204.1720: PAL Major Modification

The first-notice version of the Board's proposal inserts additional commas around "or change in the method of operation of." *See* 40 CFR 52.21(aa)(2)(viii); 44 Ill. Reg. 4447 (Mar. 20, 2020); Opinion at 257, PC 8 at 24; *see also* PC 8 at 31, n.25. IEPA recommends deleting these additional commas. PC 8 at 21, 24.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises this section by deleting commas as recommended by IEPA.

Section 204.1730: PAL Permit

The first-notice version of the Board's proposal inserts an additional comma after "Agency." *See* 40 CFR 52.21(aa)(2)(ix); 44 Ill. Reg. 4447 (Mar. 20, 2020); Opinion at 257, PC 8 at 24. IEPA recommends deleting this additional comma. PC 8 at 21, 24.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises this section by deleting a comma as recommended by IEPA.

Section 204.1760: Reasonably Available Control Technology (RACT)

Corrections. In subsections (a) and (b), IEPA addressed "[t]he necessity of imposing *such controls* . . ." and "[t]he social, environmental, and economic impact of *such controls* . . ." respectively. PC 8 at 56 (emphasis in original), citing 40 CFR 51.100(o). However, the first-notice version replaced "such controls" with "RACT" in both subsections. *See* 44 Ill. Reg. 4448 (Mar. 20, 2020); Opinion at 257, PC 8 at 56. IEPA argues that this change makes the provisions "circular, *i.e.*, 'RACT means . . . RACT.'" PC 8 at 56. IEPA recommends clarifying both subsections by reinstating the term "such controls." *Id.*

In subsection (c), IEPA's proposal referred to "[a]lternative means of providing for attainment and maintenance of *such standard*." PC 8 at 56-57 (emphasis in original). However, the first-notice version replaced "such standard" with "RACT." *See* 40 CFR 51.100(o)(3); 44 Ill.

Reg. 4448 (Mar. 20, 2020); Opinion at 257, PC 8 at 56-57. IEPA comments that the standard to which subsection (c) refers is a NAAQS. PCB 8 at 57. For accuracy and clarity, IEPA recommends reinstating the phrase “such standard.” *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section as recommended by IEPA.

Commas. The first-notice version of the Board’s proposal inserts an additional comma after “available.” *See* 40 CFR 51.100(o); 44 Ill. Reg. 4447 (Mar. 20, 2020); Opinion at 257, PC 8 at 24. IEPA recommends deleting this additional comma. PC 8 at 21, 24.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section by deleting a comma as recommended by IEPA.

Section 204.1790: Permit Application Requirements

Shall. The preamble and subsection (a) replace “shall” with “must.” 40 CFR 52.21(aa)(3); 44 Ill. Reg. 4448 (Mar. 20, 2020); Prop. 204 at 54.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises the preamble and subsection (a) by reinstating “shall” as proposed and recommended by IEPA.

Commas. The first-notice version of the Board’s proposal in subsection (c) inserts additional commas around “based on a 12-month rolling total for each month.” *See* 40 CFR 52.21(aa)(3)(iii); 44 Ill. Reg. 4448 (Mar. 20, 2020); Opinion at 258, PC 8 at 24. IEPA recommends deleting these additional commas. PC 8 at 21, 24.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section by deleting commas as recommended by IEPA.

Section 204.1800: General Requirements for Establishing a PAL

Shall. Subsection (a)(7) of the first-notice version replaces “shall comply” with “must comply.” *See* 40 CFR 52.21(aa)(4)(g); 44 Ill. Reg. 4449 (Mar. 20, 2020); Prop. 204 at 55.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a)(7) by reinstating “shall” as proposed and recommended by IEPA.

Commas. In subsection (a)(7), the first-notice version of the Board’s proposal inserts a comma after “each emissions unit under the PAL.” *See* 40 CFR 52.21(aa)(4)(i)(g); 44 Ill. Reg. 4449 (Mar. 20, 2020); Opinion at 259, PC 8 at 24. IEPA recommends deleting these additional commas. PC 8 at 21, 24.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsection (a)(7) by deleting a comma as recommended by IEPA.

Section 204.1810: Public Participation Requirements

The first-notice version replaces "must address" with "shall address." 40 CFR 52.21(aa)(5); 44 Ill. Reg. 4450 (Mar. 20, 2020); Prop. 204 at 55-55.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises this section by reinstating "shall" as recommended by IEPA.

Section 204.1820: Setting the 10-Year Actuals PAL Level

Shall. Subsection (a) of the first-notice version replaced "shall provide" with "must provide," struck "shall" from "shall be established," and replaced "must be used" with "shall be used." *See* 40 CFR 52.21(aa)(6); 44 Ill. Reg. 4450 (Mar. 20, 2020); Prop. 204 at 56.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises this section as proposed and recommended by IEPA.

Commas. In subsection (a), the first-notice version of the Board's proposal struck a comma after "[w]hen establishing the actuals PAL level." *See* 40 CFR 52.21 (aa)(6)(i); 44 Ill. Reg. 4450 (Mar. 20, 2020); Opinion at 259-60, PC 8 at 23. IEPA recommends reinserting the deleted comma. PC 8 at 21, 24.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsection (a) by reinserting a comma as recommended by IEPA.

Plural Nouns. IEPA comments that the first-notice version of the Board's proposal in subsection (a) replaced the parenthetical plural noun "level(s)" with the plural "levels," "date(s)" "dates" "requirement(s)" with "requirements," and "unit(s)" with "units." *See* 40 CFR 52.21(aa)(6)(i); 44 Ill. Reg. 4450 (Mar. 20, 2020); Opinion at 259-60, PC 8 at 25.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsection (a) by reinstating each of the four parenthetical plural nouns.

Section 204.1830: Contents of the PAL Permit

Shall. The preamble of the first-notice version replaces "must contain" with "shall contain." *See* 40 CFR 52.21(aa)(7); 44 Ill. Reg. 4451; Prop. 204 at 56.

Subsection (c) of the first-notice version replaces "shall not expire" with "will not expire." *See* 40 CFR 52.21(aa)(7)(iii); 44 Ill. Reg. 4451; Prop. 204 at 57.

Subsection (d) of the first-notice version replaces "must include" with "shall include." *See* 40 CFR 52.21(aa)(7)(iv); 44 Ill. Reg. 4451; Prop. 204 at 57.

Subsection (f) of the first-notice version replaces “shall use” with “must use.” *See* 40 CFR 52.21(aa)(7)(vi); 44 Ill. Reg. 4451; Prop. 204 at 56.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises the preamble and subsections (c) and (f) by reinstating “shall” and subsection (d) by reinstating “must” as proposed and recommended by IEPA.

Corrections. In subsection (a)(5), IEPA proposed a PAL permit must include “[a] requirement that, once the PAL expires, the major stationary source is subject to *the requirements* of Section 204.1850.” PC 8 at 57 (emphasis in original), citing 40 CFR 52.21(aa)(7)(v). However, as subsection (e) of the first-notice version, it struck the phrase “the requirements of.” *See* 44 Ill. Reg. 4451 (Mar. 20, 2020); Opinion at 260; PC 8 at 57. IEPA argues that, because Section 204.1850 refers to procedures in other sections, this subsection should reinstate the phrase consistent with the federal PSD rules. PC 8 at 57.

In subsection (a)(7), IEPA proposed that a PAL permit must include “[a] requirement that the major stationary source owner or operator monitor all emissions units in accordance with *the provisions under* Section 204.1880.” PC 8 at 57 (emphasis in original). However, as subsection (g) of the first-notice version, it struck the phrase “the provisions under.” *See* 40 CFR 52.1(aa)(7)(vii); 4 Ill. Reg. 4451 (Mar. 20, 2020); Opinion at 260; PC 8 at 57. IEPA argues that, because Section 204.1880 refers to procedures in other section, this subsection should reinstate the phrase consistent with the federal PSD rules. PC 8 at 57.

In subsection (a)(8), IEPA proposed that a PAL permit must include “[a] requirement to retain the records required *under* Section 204.1890 *on site*.” PC 8 at 58 (emphasis in original). However, as subsection (h) of the first-notice version, this was revised to “[a] requirement to retain *on site* the records required *by* Section 204.1890.” PC 8 at 58 (emphasis in original); *see* 40 CFR 52.21(aa)(7)(viii); 44 Ill. Reg. 4451 (Mar. 20, 2020); Opinion at 260. IEPA argues that the federal PSD rules focus on the requirement to retain records, but the first-notice version focuses on “what is happening on site.” PC 8 at 58. For clarity and consistency with the federal rules, IEPA recommends that subsection (h) reinstate the phrase “required under Section 204.1890 on site.” *Id.*

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (e), (g), and (h) as recommended by IEPA.

Such. IEPA comments that the first-notice version of the Board’s proposal changed “Such” to “The” in subsection (h), originally proposed as subsection (a)(8). *See* 40 CFR 52.21(aa)(7)(viii); 44 Ill. Reg. 4451 (Mar. 20, 2020); Opinion at 261; PC 8 at 19.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (h) by reinstating “Such.”

Commas. In subsection (c), originally proposed by IEPA as subsection (a)(3), the first-notice version of the Board’s proposal inserts an additional comma after “[s]pecification in the PAL permit that.” See 40 CFR 52.21(aa)(7)(iii); 44 Ill. Reg. 4451 (Mar. 20, 2020); Opinion at 260, PC 8 at 24. IEPA recommends deleting this additional comma. PC 8 at 21, 24.

In subsection (f), originally proposed by IEPA as subsection (a)(6), the first-notice version of the Board’s proposal inserts an additional comma after “based on a 12-month rolling total.” See 40 CFR 52.21(aa)(7)(vi); 44 Ill. Reg. 4451 (Mar. 20, 2020); Opinion at 260, PC 8 at 24. IEPA recommends deleting this additional comma. PC 8 at 21, 24.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (c) and (f) by deleting commas as recommended by IEPA.

Section 204.1840: Effective Period and Reopening a PAL Permit

Shall. Subsection (b)(1) of the first-notice version replaces “must reopen” with “shall reopen.” See 40 CFR 52.21(aa)(8)(ii); 44 Ill. Reg. 4452 (Mar. 20, 2020); Prop. 204 at 57.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (b)(1) by reinstating “must” as proposed and recommended by IEPA.

Corrections. In subsection (b)(1)(C), IEPA proposed that it must reopen a PAL permit to “[r]evise the PAL to reflect an increase in the PAL *as provided under* Section 204.1870.” PC 8 at 58 (emphasis in original), citing 40 CFR 52.21 (aa). However, the first-notice version replaced this language with “[r]evise the PAL to reflect an increase in the PAL (see Section 204.1870).” See 44 Ill. Reg. 4452 (Mar. 20, 2020); Opinion at 261, PC 8 at 58. IEPA recommends reinstating the phrase “as provided under” to be consistent with the federal PSD rules. PC 8 at 58.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (b)(1)(C) as recommended by IEPA.

Commas. In subsection (b)(2)(B), the first-notice version struck a comma after “[r]educe the PAL consistent with any other requirement.” See 40 CFR 52.21(aa)(8)((ii)(b)(2); 44 Ill. Reg. 4452 (Mar. 20, 2020); Opinion at 261, PC 8 at 24. IEPA recommends reinserting this comma. PC 8 at 21, 24.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (b)(2)(B) by inserting a comma as recommended by IEPA.

Section 204.1850: Expiration of a PAL

Shall. The preamble of the first-notice version replaces “shall expire” with “expires” and replaces “shall apply” with “apply.” See 40 CFR 52.21(aa)(9); 44 Ill. Reg. 4453 (Mar. 20, 2020); Prop. 204 at 58.

Subsection (a) replaces “shall comply” with “must comply.” *See* 40 CFR 52.21(aa)(9)(i); 44 Ill. Reg. 4453 (Mar. 20, 2020); Prop. 204 at 58. Subsection (a)(1) twice replaces “shall” with “must.” *See* 40 CFR 52.21(aa)(9)(i)(a); 44 Ill. Reg. 4453 (Mar. 20, 2020); Prop. 204 at 58. Subsection (a)(2) inserts “shall” into the phrase “and issue.” *See* 40 CFR 52.21(aa)(9)(i)(b); 44 Ill. Reg. 4453 (Mar. 20, 2020); Prop. 204 at 59.

Subsections (b) and (c) replace “shall comply” with “must comply.” *See* 40 CFR 52.21(aa)(9)(ii), (iii); 44 Ill. Reg. 4453, 4454 (Mar. 20, 2020); Prop. 204 at 59.

Subsection (e) replaces “shall continue” with “must continue.” *See* 40 CFR 52.21(aa)(9)(v); 44 Ill. Reg. 4454 (Mar. 20, 2020); Prop. 204 at 59.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises the preamble and subsections (a), (b), (c), and (e) as proposed and recommended by IEPA.

Such. IEPA comments that the first-notice version of the Board’s proposal changed “such” to “the” in subsections (a)(1) and (d). *See* 40 CFR 52.21(aa)(9)(i)(a), (b)(iv); 44 Ill. Reg. 4453-54 (Mar. 20, 2020); Opinion at 262-63; PC 8 at 19.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises this section by reinstating “such” in subsections (a)(1) and (d).

Commas. In subsection (d), the first-notice version of the Board’s proposal inserts additional commas around “or change in the method of operation of.” *See* 40 CFR 52.21(aa)(9)(b)(iv); 44 Ill. Reg. 4454 (Mar. 20, 2020); Opinion at 263, PC 8 at 24; *see also* PC 8 at 31, n.25. IEPA recommends deleting these additional commas. PC 8 at 21, 24.

In subsection (e), the first-notice version of the Board’s proposal inserts an additional comma after “or prior to the PAL effective period.” *See* 40 CFR 52.21(aa)(9)(b)(v); 44 Ill. Reg. 4454 (Mar. 20, 2020); Opinion at 263, PC 8 at 24. IEPA recommends deleting these additional commas. PC 8 at 21, 24.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (d) and (e) by deleting commas as recommended by IEPA.

Plural Nouns. IEPA comments that the first-notice version of the Board’s proposal replaced the parenthetical plural noun “unit(s)” with the plural “units” in subsection (b). *See* 40 CFR 52.21(aa)(9)(i); 44 Ill. Reg. 4454 (Mar. 20, 2020); Opinion at 263, PC 8 at 25.

Having considered its first-notice proposal and IEPA’s comment, the Board revises subsection (b) by reinstating the parenthetical plural noun “unit(s).”

Section 204.1860: Renewal of a PAL

Shall. Subsection (b) of the first-notice version replaces “shall submit” with “must submit” and replaces “shall continue” with “will continue.” *See* 40 CFR 52.21(aa)(10)(ii); 44 Ill. Reg. 4454; Prop. 204 at 59-60.

Subsection (e) replaces “shall be adjusted” to “must be adjusted.” *See* 40 CFR 52.21(aa)(10)(v); 44 Ill. Reg. 4455; Prop. 204 at 61.

Having considered the federal PSD regulations, the first-notice version, and IEPA’s comment, the Board revises subsections (b) and (e) by reinstating “shall” as proposed and recommended by IEPA.

Corrections. Subsection (d) provides that, in determining whether and how to adjust the PAL, IEPA “shall consider subsections (d)(1) and (2).” PC 8 at 58-59, citing 40 CFR 52.21(aa); *see* 44 Ill. Reg. 4455 (Mar. 20, 2020); Opinion at 263-64. However, the first-notice version reorganized the section by making subsections (d)(1) and (d)(2) subsections (d)(1)(A) and (B) and by making subsection (d)(3) subsection (d)(2). PC 8 at 59. IEPA suggests that this reorganization did not include adjusting the cross references because subsection (d)(1) now includes a circular reference to itself. *Id.* Also, subsection (d)(1) refers to a subsection (d)(3) that reorganization eliminated. *Id.* To resolve this ambiguity and confusion, IEPA recommends that subsection (d) be consistent with the federal PSD rules. *Id.* at 59-60; *see* 40 CFR 52.21(aa)(10)(iv).

In its subsection (d)(2), IEPA proposed to conclude with the language “or other factors *as* specifically identified by the Illinois EPA in its written rationale.” PC 8 at 60 (emphasis in original); *see* 40 CFR 52.21(aa)(10)(iv)(b). In subsection (d)(1)(B), the reorganized first-notice version struck the word “as.” *See* 44 Ill. Reg. 4455 (Mar. 20, 2020); Opinion at 264. To be consistent with the federal PSD rules, IEPA recommends reinstating the word “as.” PC 8 at 60.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (d) as recommended by IEPA.

Such. IEPA comments that the first-notice version of the Board’s proposal struck “such” in subsection (a). *See* 40 CFR 52.21(aa)(10)(i); 44 Ill. Reg. 4454 (Mar. 20, 2020); Opinion at 263; PC 8 at 19.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a) by reinstating “such.”

Section 204.1870: Increasing the PAL During the PAL Effective Period

Shall. Subsection (a)(1) of the first-notice version replaced “shall submit” with “must submit” and replaced “shall identify” with “must identify.” *See* 40 CFR 52.21(aa)(11)(i)(a); 44 Ill. Reg. 4456 (Mar. 20, 2020); Prop. 204 at 61.

Subsection (a)(2) three times replaced “shall” with “must.” *See* 40 CFR 52.21(aa)(11)(i)(b); 44 Ill. Reg. 4456 (Mar. 20, 2020); Prop. 204 at 61.

Subsection (a)(3) replaced “shall comply” with “must comply.” See 40 CFR 52.21(aa)(11)(i)(c); 44 Ill. Reg. 4456 (Mar. 20, 2020); Prop. 204 at 61.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a) by reinstating “shall” as proposed and recommended by IEPA.

Corrections. IEPA proposed conditions that must be met to increase a PAL emission limitation. Subsection (a)(2) proposed that, “[a]s part of *this* application, the major stationary source owner or operator shall demonstrate. . . .” PC 8 at 60 (emphasis in original), citing 40 CFR 52.21(aa). IEPA comments that the first-notice version replaced “this” with “the.” See 44 Ill. Reg. 4456 (Mar. 20, 2020); Opinion at 264; PC 8 at 20. Because it occurs in an introductory phrase, IEPA argues that “this application” is clearer. PC 8 at 60. IEPA recommends reinstating “this” at the beginning of subsection (a)(2).

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a)(2) by reinstating “this.”

Such. IEPA comments that the first-notice version of the Board’s proposal changed “Such” to “The” in subsection (a)(1). See 40 CFR 52.21(aa)(11)(i)(a); 44 Ill. Reg. 4456 (Mar. 20, 2020); Opinion at 264; PC 8 at 60. IEPA proposed “such” to be consistent with the federal PSD rules and to emphasize the same language. PC 8 at 17.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a)(1) by reinstating “Such.”

Plural Nouns. IEPA comments that the first-notice version of the Board’s proposal replaced the parenthetical plural noun “unit(s)” with the plural “units” once each in subsection (a)(1) and (a)(2) and twice in subsection (a)(3). See 40 CFR 52.21(aa)(11)(i); 44 Ill. Reg. 4456 (Mar. 20, 2020); Opinion at 264-65, PC 8 at 25.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsections (a)(1), (a)(2), and (a)(3) by reinstating the parenthetical plural noun “unit(s).”

Section 204.1880: Monitoring Requirements

Shall. IEPA comments that this provision in the federal PSD rules refers to a permit that “must contain enforceable requirements.” PC 8 at 11, n.2; see 40 CFR 52.21(aa)(12)(i)(a). However, subsection (a)(1) of the first-notice version refers to a permit that “shall” contain them. See 44 Ill. Reg. 4457 (Mar. 20, 2020); Opinion at 265; PC 8 at 11, n.2.

Subsections (c), (d), and (e) of the first-notice version replace “shall meet” with “must meet.” See 40 CFR 52.21(aa)(12)(iii), (iv), (v); 44 Ill. Reg. 4458 (Mar. 20, 2020); Prop. 204 at 63.

Subsection (f) of the first-notice version replaces “shall meet” with “must meet.” *See* 40 CFR 52.21(aa)(12)(vi); 44 Ill. Reg. 4459 (Mar. 20, 2020); Prop. 204 at 63. Subsection (f)(1) replaces “shall be adjusted” with “must be adjusted.” *See* 40 CFR 52.21(aa)(12)(vi)(a); 44 Ill. Reg. 4459 (Mar. 20, 2020); Prop. 204 at 63. Subsection (f)(2) replaces “shall operate” with “must operate.” *See* 40 CFR 52.21(aa)(12)(vi)(b); 44 Ill. Reg. 4459 (Mar. 20, 2020); Prop. 204 at 64. Subsection (f)(3) replaces “shall conduct” with “must conduct.” *See* 40 CFR 52.21(aa)(12)(vi)(c); 44 Ill. Reg. 4459 (Mar. 20, 2020); Prop. 204 at 64.

Subsection (h) of the first-notice version replaces “shall” with “must.” *See* 40 CFR 52.21(aa)(12)(viii); 44 Ill. Reg. 4459 (Mar. 20, 2020); Prop. 204 at 64.

Having considered the federal PSD rules, the Board’s first-notice proposal, and IEPA’s comment, the Board revises subsections (a)(1), (c), (d), (e), (f), and (h) as proposed and suggested by IEPA.

Commas. In subsection (c)(3), the first-notice version of the Board’s proposal struck commas around “which is used in or at the emissions unit.” *See* 40 CFR 52.21(aa)(12)(iii)(c); 44 Ill. Reg. 4458 (Mar. 20, 2020); Opinion at 266, PC 8 at 24. IEPA recommends reinserting these commas. PC 8 at 21, 24.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (c)(3) by re-inserting commas as recommended by IEPA.

Plural Nouns. IEPA comments that the first-notice version of the Board’s proposal replaced the parenthetical plural noun “parameter(s)” with the plural “parameters” in subsections (e)(1), (h), and (h)(2). *See* 40 CFR 52.21(aa)(12)(v)(a), (viii), (viii)(b); 44 Ill. Reg. 4458-60 (Mar. 20, 2020); Opinion at 267-68, PC 8 at 25.

IEPA also comments that the first-notice version in subsection (h)(1) replaced “value(s)” with “values” and “point(s)” with “points.” *See* 40 CFR 52.21(aa)(12)(viii)(a); 44 Ill. Reg. 4459 (Mar. 20, 2020); Opinion at 268, PC 8 at 25.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises each of these subsections by reinstating the parenthetical plural nouns.

Section 204.1890: Recordkeeping Requirements

IEPA comments that the first-notice version of the Board’s proposal changed “such” to “the” in subsection (a). *See* 40 CFR 52.21(aa)(13)(i); 44 Ill. Reg. 4460 (Mar. 20, 2020); Opinion at 268; PC 8 at 20.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a) by reinstating “such.”

Section 204.1900: Reporting and Notification Requirements

Shall. The preamble of the first-notice version twice replaces “shall” with “must.” *See* 40 CFR 52.21(aa)(14); 44 Ill. Reg. 4460 (Mar. 20, 2020); Prop. 204 at 65.

Subsection (a) twice replaces “shall” with “must.” *See* 40 CFR 52.21(aa)(14)(i); 44 Ill. Reg. 4460 (Mar. 20, 2020); Prop. 204 at 65.

Subsection (b) twice replaces “shall” with “must” and once replaces “shall” with “will.” *See* 40 CFR 52.21(aa)(14)(ii); 44 Ill. Reg. 4461 (Mar. 20, 2020); Prop. 204 at 65-66.

Subsection (c) replaces “shall submit” with “must submit.” *See* 40 CFR 52.21(aa)(14)(iii); 44 Ill. Reg. 44562(Mar. 20, 2020); Prop. 204 at 66.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises the preamble and subsections (a)(1), (b), and (c) as proposed and recommended by IEPA.

Corrections. IEPA proposed reporting and recordkeeping obligations a PAL source must meet. Subsection (a) details the informational requirements for the semi-annual report submitted to IEPA. IEPA proposed in subsection (a)(6) that the semi-annual report must include

[a] notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, *and* whether the emissions unit monitored by the 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). PC 8 at 60-61 (emphasis in original), citing 40 CFR 52.21(aa)(14)(f).

IEPA comments that the first-note version struck the word “and.” *See* 40 CFR 52.21(aa)(14)(i)(f); 44 Ill. Reg. 4461 (Mar. 20, 2020); Opinion at 269; PC 8 at 61. To be consistent with the federal PSD rules, IEPA recommends reinstating “and” in subsection (a)(6). *Id.*

IEPA also comments that the first-notice version also replaced “as provided by Section 204.1880” with “(see Section 204.1880(g)).” *See* 40 CFR 52.21(aa)(14)(f); 44 Ill. Reg. 4461 (Mar. 20, 2020); Opinion at 269; PC 8 at 61. IEPA request that its original proposal be reinstated to be consistent with the federal PSD rules. PC 8 at 61.

Having considered the federal PSD rules, the first-notice version, and IEPA’s comment, the Board revises subsection (a) as proposed and recommended by IEPA.

Such. IEPA comments that the first-notice version of the Board’s proposal changed “such” to “that” in subsection (c). *See* 40 CFR 52.21(aa)(14)(iii); 44 Ill. Reg. 4462 (Mar. 20, 2020); Opinion at 269; PC 8 at 20.

Having considered the federal PSD rules, the first-notice version, and IEPA's comment, the Board revises subsection (c) by reinstating "such."

Section 204.1910: Transition Requirements

In its comment, JCAR requested that the Board provide a specific date instead of "the initial effective date of this Part." PC 10 at 5.

The Board responded that it "cannot accurately estimate the date on which the Board will file its final rules with the Secretary of State (SOS)" and was "not inclined to simply choose a later effective date with ample margin for error." The Board concluded that, during the second-notice period, it expects to provide, with JCAR's agreement, "a specific effective date that closely approximates the filing of final rules with SOS." PC 10 at 5.

Part 211

Section 211.7150: Volatile Organic Material (VOM) of Volatile Organic Compound (VOC)

In subsection (b), JCAR requests that the Board change "where" to "when" and also change "such compounds" to "those compounds." PC 10 at 6. In subsection (d), JCAR requests that the Board change "such determinations" to "the determination." *Id.*

The Board cited its response to JCAR's question regarding Part 203 (PC 10 at 1-2). In that response, the Board stated that it planned to address these issues in the second-notice opinion. Having addressed revisions of these kinds above in numerous subsections, the Board for the same reasons declines to make the requested changes.

ECONOMIC REASONABLENESS AND TECHNICAL FEASIBILITY

Economic Impact Study

As required by Section 27(b) of the Act (415 ILCS 5/27(b) (2018)), the Board requested in a letter dated September 11, 2018, that DCEO conduct an economic impact study of the Agency's proposed rules. The Board requested that DCEO determine by October 26, 2018, whether it would conduct such a study. The Board received no response to this request. No person testified or commented on the Board's request or the lack of a response to it from DCEO. *See* Tr.1 at 8.

Affected Facilities

The PSD program applies statewide and regulated both criteria pollutants and non-criteria pollutants such as particulate matter and GHGs. SR at 98. The PSD program affects all areas of the state designated as attainment or unclassifiable for one or more of the criteria pollutants comprising the NAAQS: ozone, carbon monoxide, sulfur dioxide, particulate matter, lead, and nitrogen dioxide. *Id.* In nonattainment areas, NaNSR applies in place of PSD for those

pollutants for which the area is designated nonattainment. *Id.*, citing 42 U.S.C. §§ 7501-7515, 40 C.F.R. §§ 51.160-51.165; Sutter Power Plant, 8 E.A.D. 680, 682 n.2 (EAB 1999). While an area may be designated as attainment or unclassifiable for one criteria pollutant and nonattainment for another, “the PSD permitting requirements will apply to the attainment/unclassifiable pollutants in that geographic area.” SR at 98, citing Sutter Power Plant, 8 E.A.D. 680, 682 n.2 (EAB 1999).

In Illinois, the Chicago area has been designated nonattainment for ozone, the St. Louis Metro East area has been designated nonattainment for ozone and PM_{2.5}. SR at 98, citing 40 C.F.R. § 81.314. Four areas have been designated nonattainment for SO₂: Williamson County; Alton Township; in the Pekin Area, Cincinnati and Pekin Townships in Tazewell County and Hollis Township in Peoria County; and in the Lemont Area, DuPage and Lockport Townships in Will County and Lemont Township in Cook County. SR at 98-99, citing 40 C.F.R. § 81.314. The proposed regulations would not affect these areas of the state for these pollutants. SR at 99. “All other regions of the State would be subject to proposed Part 204 for other pollutants regulated by the PSD program.” *Id.*

Technical Feasibility

IEPA argued that, because proposed Part 204 is “substantially identical to the currently applicable federal PSD program,” its requirements are technically feasible. TSD at 4; *see* Opinion at 158.

Part 204

IEPA stated that its proposed Part 204 would not alter the requirements now in effect under 40 C.F.R. § 52.21 for permitting new or modified major sources. SR at 99. IEPA’s proposal would continue to require that applicants determine applicability of Part 204 and, if it does apply, would require a review of the project to ensure that its emission do not violate the NAAQS or applicable PSD ambient air quality increments. *Id.* “Subject sources must still be equipped with BACT for all PSD pollutants emitted in significant amounts.” *Id.* IEPA argued that “available control technology would not differ depending on the permitting authority.” *Id.* BACT requires that IEPA “impose only emission limits that it determines, on a case-by-case basis, to be achievable (*i.e.*, technically feasible) for the emissions units and stationary sources to which those limits will apply.” TSD at 38. IEPA argued that no substantive technical impacts will result from its proposed state PSD program and concluded that all elements of Part 204 are technically feasible. *Id.* at 101; TSD at 38; *see* Opinion at 158-59.

Parts 101 and 105

IEPA argued that its proposed amendments to these two parts “would impose no additional requirements upon sources subject to Part 204.” SR at 101. The amendments would establish the process to appeal a PSD permit to the Board. *Id.* IEPA added that the proposal appropriately implements the Act’s process for review of PSD permits. *Id.*, citing 415 ILCS 5/40.3 (2018). IEPA concluded that its proposed amendments to Parts 101 and 105 are technically feasible. SR at 101; *see* TSD at 38; Opinion at 159.

Parts 203, 211, and 215

IEPA argued that its proposed amendments to these three parts “would impose no additional requirements upon sources subject to Part 204.” SR at 101. IEPA stated that the amendments “merely update” these three parts to address the both the federal PSD program and proposed Part 204. *Id.* IEPA concluded that its proposed amendments to Parts 203, 211, and 215 are technically feasible. *Id.*; *see* TSD at 38: Opinion at 159.

Conclusion on Technical Feasibility

Based on the record then before it, the Board concluded that its first-notice proposal was technically feasible. Opinion at 159.

The first-notice comments have not addressed the technical feasibility of the Board’s proposal, and the record does not persuasively dispute the conclusion the Board reached in its first-notice opinion. Accordingly, the Board concludes that its second-notice proposal is technically feasible.

Economic Reasonableness

IEPA argued that, because proposed Part 204 is “substantially identical to the currently applicable federal PSD program,” adopting its proposal will not result in “substantive adverse economic impacts.” TSD at 4; *see* Opinion at 159.

Part 204

IEPA stated that the proposal’s requirements “are already in effect pursuant to the federal PSD rules at 40 CFR 52.21.” TSD at 38. Because compliance costs are generally source-specific, control technology should remain the same and that costs to install BACT should not change based on the administering agency. SR at 100; *see* TSD at 38. IEPA added that “permitting fees would remain the same under Part 204 as 40 CFR 52.21.” *Id.*, citing 415 ILCS 5/9.12 (2018) (construction permit fees). IEPA also stated that proposed Part 204 combines all requirements into a single construction permit application and a single state-issued permit, which should benefit regulated entities. SR at 100-01. IEPA concluded that its proposed Part 204 will not result in any substantive economic impacts. *Id.* at 101; *see* TSD at 38; Opinion at 159-60.

Parts 101 and 105

IEPA argued that its proposed amendments establish the process to appeal a PSD permit and “would impose no additional requirements upon sources subject to Part 204.” SR at 101. IEPA added that the proposal appropriately implements the statutory process for review of PSD permits. *Id.*, citing 415 ILCS 5/40.3 (2018). IEPA argued that the Board is not required to consider the economic impact of administrative procedures. SR at 101, citing 415 ILCS 5/27(b) (2018); *see* Opinion at 160.

Parts 203, 211, and 215

IEPA stated that its proposed amendments “merely update” these three parts to address the both the federal PSD program and proposed Part 204. SR at 101. IEPA argued that these amendments “impose no additional requirements upon sources subject to Part 204.” *Id.* IEPA concluded that its proposed amendments to Parts 203, 211, and 215 are economically reasonable. *Id.*; see TSD at 38; Opinion at 160.

Conclusion on Economic Reasonableness

Based on the record then before it, the Board concluded that its first-notice proposal was economically reasonable. Opinion at 160.

The first-notice comments have not addressed the economic reasonableness of the Board’s proposal, and the record does not persuasively dispute the conclusion the Board reached in its first-notice opinion. Accordingly, the Board concludes that its second-notice proposal is economically reasonable.

CONCLUSION

The Board proposes to revise its air pollution rules by adding a new Part 204 and amending Parts 101, 105, 203, 211, and 215. The proposed rules appear in the order below. With the exception of proposed new Part 204, proposed additions appear underlined and proposed deletions appear struck through.

ORDER

The Board directs the Clerk to submit its proposal below to JCAR for second-notice review.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on June 18, 2020, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board

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

PART 101
 GENERAL RULES

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 101.ILLUSTRATION A E-Mail Service by Non-Attorney
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AUTHORITY: Implementing Sections 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].

SOURCE: Filed with Secretary of State January 1, 1978; codified 6 Ill. Reg. 8357; Part repealed, new Part adopted in R88-5A at 13 Ill. Reg. 12055, effective July 10, 1989; amended in R90-24 at 15 Ill. Reg. 18677, effective December 12, 1991; amended in R92-7 at 16 Ill. Reg. 18078, effective November 17, 1992; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 446, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8743, effective June 8, 2005; amended in R06-9 at 29 Ill. Reg. 19666, effective November 21, 2005; amended in R07-17 at 31 Ill. Reg. 16110, effective November 21, 2007; amended in R10-22 at 34 Ill. Reg. 19566, effective December 3, 2010; amended in R12-22 at 36 Ill. Reg. 9211, effective June 7, 2012; amended in R13-9 at 37 Ill. Reg. 1655, effective January 28, 2013; amended in R14-21 at 39 Ill. Reg. 2276, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12848, effective September 8, 2015; amended in R16-17 at 40 Ill. Reg. 7912, effective May 20, 2016; amended in R17-18 at 41 Ill. Reg. 9930, effective July 5, 2017; amended in R19-19 at 43 Ill. Reg. 9674, effective August 22, 2019; amended in R19-1 at 44 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS

Section 101.202 Definitions for Board's Procedural Rules

Unless otherwise provided in 35 Ill. Adm. Code 101 through 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, informational, or time-limited water quality standard 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 Section 28.1(d)(3), 37(a), or 38.5(g) of the Act in which the Agency provides its recommended disposition of a petition for an adjusted standard, a variance, or a time-limited water quality standard, respectively. This includes a recommendation to deny, or a recommendation to grant with or without conditions. (See 35 Ill. Adm. Code 104.218, 104.416, and 104.550.)

"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 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 his or her representatives.

"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 at 35 Ill. Adm. Code 101 through 130.

"Brief" means a written statement that summarizes the facts of a proceeding, states the pertinent laws, and argues how the laws apply 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 under Section 39.5 of the Act.

"CAAPP permit appeal" means an appeal of a CAAPP permit as addressed by 35 Ill. Adm. Code 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, regulatory, and time-limited water quality standard proceedings. COOL is located on the Board's website at pcb.illinois.gov.

"Code of Civil Procedure" means 735 ILCS 5.

"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 stating a claim against a complainant in an enforcement proceeding. (See 35 Ill. Adm. Code 103.206.)

"Cross-complaint" means a pleading that a party files stating a claim against a co-party in an enforcement proceeding. (See 35 Ill. Adm. Code 103.206.)

"Cross-media impacts" means impacts that concern multiple environmental areas, such as air, land, and 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 must decide 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 timeframe established by the Act within which the Board must make a final decision in specified adjudicatory proceedings. (See Subpart C. See also Sections 38(a), 40, and 40.1 of the Act, which 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 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.* For this definition, a time-limited water quality standard proceeding is considered a regulatory matter. *"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 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 when 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 to seek input and comment from the public regarding the need for rulemaking on a specific subject.

"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 the 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 of 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 the name of a properly included party.

"Motion" means a request made to the Board or the hearing officer for 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 or time-limited water quality standard 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 and 104.520(b)(4).)

"Notice to reinstate" means a document filed that restarts 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 OSFM that constitute the OSFM record relating to the eligibility and deductible decision and meeting the applicable requirements of 35 Ill. Adm. Code 105.

"Participant" means any person, not including the Board or its staff, who takes part in an adjudicatory proceeding but is not a party, or who takes part in a regulatory or other quasi-legislative proceeding or a time-limited water quality standard proceeding before the Board. A person becomes a participant in any of several ways, including filing a comment, being added to the proceeding's notice list, testifying at hearing, or making public remarks at a Board meeting. The participants in a time-limited water quality standard proceeding include the petitioner and the Agency and are further described at 35 Ill. Adm. Code 104.520(b).

~~"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) or a time-limited water quality standard proceeding.

"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 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 or a time-limited water quality standard proceeding 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 by Section 5 of the Act or as otherwise provided by law. Board proceedings are generally of two types: quasi-legislative (rulemaking and inquiry proceedings) and quasi-judicial (adjudicatory proceedings). A time-limited water quality standard proceeding is neither adjudicatory nor subject to rulemaking procedural requirements. (See 415 ILCS 5/38.5(a), (l).)

"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 204.

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

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

"Recycled paper" means paper that 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 regarding regulations.

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

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

"Requester" means, for 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 to adopt, amend, or repeal 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, adjudicatory, or time-limited water quality standard proceeding upon whom parties or participants must serve motions, prefiled questions, 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 specified time and place to testify on a specified 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 stating a claim against a person who is not already a party to the enforcement proceeding. (See 35 Ill. Adm. Code 103.206.)

"Time-Limited Water Quality Standard" or "TLWQS" means a time-limited designated use and criterion for a specific pollutant or water quality parameter that reflects the highest attainable condition during the term of that relief. (See 35 Ill. Adm. Code 104.Subtitle E.)

"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 regarding 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 pcb.illinois.gov.

(Source: Amended at 44 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 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) Serving a document upon a hearing officer does not qualify as filing it with the Clerk unless the document is submitted to the hearing officer during 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 with a valid credit card, 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 or 40.3 of the Act, \$75;
 - 4) Petition to Review Pollution Control Facility Siting Decisions, under Section 40.1 of the Act, \$75;
 - 5) Petition for Adjusted Standard, under Section 28.1 of the Act, \$75; and
 - 6) Petition for TLWQS, under Section 38.5, \$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 compliance 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 at least 12-point font, and in footnotes at least 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 compliance 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, comply with Section 101.1030(g), and, to the extent technically feasible, be 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 compliance with subsection (h).
 - j) Oversized Exhibits. When 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 compliance 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 regulations, and statutes, need not be included in appendices.

- l) Documents filed that do not comply with 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 44 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) When 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 when there is a decision deadline unless the Board receives a waiver under 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. Under Section 101.300(b)(4), the decision period restarts on the date on which 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 44 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 time limits on 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 that 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 consistent with Section 101.502;
- o) Set status report schedules;
- p) Require all participants in a rulemaking or TLWQS proceeding to state their positions regarding the proposal or petition, as applicable; and
- q) Rule upon offers of proof and receive evidence and rule upon objections to the introduction of evidence.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 101.626 Information Produced at Hearing

In compliance 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 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 before 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 before 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, if 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 under Section 101.628.

(Source: Amended at 44 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 [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. 10084, effective July 5, 2017; amended in R19-1 at 44 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 105.104 Definitions

- a) Act means the Illinois Environmental Protection Act [415 ILCS 5].
- b) Nonattainment New Source Review or NaNSR means Illinois' rules for Major Stationary Sources Construction and Modification (MSSCAM) at 35 Ill. Adm. Code 203.
- c) Other ~~For the purpose of this Part,~~ 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 44 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 44 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 44 Ill. Reg. _____, effective _____)

Section 105.116 Agency or OSFM Record Filing

- a) The State agency must file with the Board the entire record of 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 Agency or OSFM State agency 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 44 Ill. Reg. _____, effective _____)

Section 105.118 Sanctions for Non-Compliant Filing of the Agency Record or the OSFM Record

If the Agency or OSFM State agency 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 44 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.

(Source: Amended at 44 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 44 Ill. Reg. _____, effective _____)

Section 105.212 The 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 44 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 44 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 44 Ill. Reg. _____, effective _____)

Section 105.304 Petition Content Requirements

- a) The petition must include:
 - 1) A~~a~~ concise description of the CAAPP source for which the permit is sought;
 - 2) A~~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 44 Ill. Reg. _____, effective _____)

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

Section 105.410 The 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 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 44 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 44 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 44 Ill. Reg. _____, effective _____)

SUBPART F: PSD PERMIT APPEALS

Section 105.600 Applicability

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

(Source: Added at 44 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) 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 44 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 a hearing, but only upon issues where the final permit conditions reflect changes from the proposed draft permit that was made available during the Agency public comment process. [415 ILCS 5/40.3(a)(2)]

(Source: Added at 44 Ill. Reg. _____, effective _____)

Section 105.606 Time to File a Petition for Review

- a) Any petition for review under Section 105.604(a) or (c) must be filed~~Except as provided in subsection (b), a person who may petition the Board under Section 105.604 for review of the Agency's final decision must file the petition with the Clerk within 35 days after the date of the Agency's final permit action.~~
- b) Any petition for review under Section 105.604(b) must be filed~~A permit applicant who 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 must file a petition for review with the Clerk before the Agency denies or issues the final permit.~~

(Source: Added at 44 Ill. Reg. _____, effective _____)

Section 105.608 Petition Content Requirements

- a) All petitions under Section 105.604 must comply with 35 Ill. Adm. Code 101.Subpart C.
- b) A petition under Section 105.604(a) or (c) must contain, within the body of the petition, all pertinent information in support of each issue raised for review. The Board will not consider arguments, assertions, claims, or other information incorporated into the petition by reference. *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 *as 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 when applicable and to the Agency~~to the Agency~~ record where those issues were raised, 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 those issues were not required to be raised during the Agency public comment process; and

5) An explanation why the Agency's previous response, if any, to those the issues proposed for review was proposed for review 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)]

c) A petition under Section 105.604(b) must 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 that date made the application complete.

d) A petition under Section 105.604(a) or (c) 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.

e) For petitions under Section 105.604(c), 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. [415 ILCS 5/40.3(d)(3)]

(Source: Added at 44 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 these 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~~ 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 ~~these~~ 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 ~~Section 105.606~~ 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 44 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 44 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 shall~~ *shall* be based exclusively on the Agency record at the time the permit or decision was issued, unless the parties agree to supplement the ~~Agency~~ Agency record. Any PSD permit issued by the Agency must be upheld by the Board if the technical decisions contained in the permit 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~~ *lacks* *facially adequate factual statements* as required by Section 105.608 [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 44 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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203.801	Offsetting by Alternative or Innovative Means

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

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

Reg. 5674, effective March 10, 1998; amended in R19-1 at 44 Ill. Reg. _____, 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 ~~must~~ 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 ~~USC~~U.S.C. 791), the Power Plant and Industrial Fuel Use Act of 1978 (42 ~~USC~~U.S.C. 8301) (or any superseding legislation) or by reason of a natural gas curtailment plan ~~under~~pursuant to the Federal Power Act (16 ~~USC~~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 ~~USC~~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 ~~that~~which:
 - A) Was capable of accommodating such ~~the~~such alternative fuel or raw material before December 21, 1976, and ~~that~~which has continuously remained capable of accommodating such ~~those~~such fuels or materials unless such ~~the~~such change would be prohibited under any enforceable permit condition established after December 21, 1976, ~~under~~pursuant to 40 CFR 52.21, 35 Ill. Adm. Code 204, this Part, or 35 Ill. Adm. Code 201.142 or 201.143; or
 - B) Is approved for use under any permit issued ~~under~~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 ~~that increases such change~~ is prohibited under any enforceable permit condition ~~that which~~ was established after December 21, 1976 under pursuant to 40 CFR 52.21, 35 Ill. Adm. Code 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 ~~the such~~ air pollutant from such ~~that 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 ~~the 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 ~~that 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 ~~the such~~ increase shall be considered a major modification for purposes of this Part, except such ~~However, the except such~~ increase shall not be considered a major modification for such ~~the 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 ~~that 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 44 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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AUTHORITY: Implementing Sections 9.1 and 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9.1, 10, 27 and 28].

SOURCE: Adopted in R19-1 at 44 Ill. Reg. _____, 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)
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- m) 40 CFR Part 62 (2018)
- n) 40 CFR Part 63 (2018)
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- p) 40 CFR Part 65 (2018)
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- s) 40 CFR Part 68 (2018)
- t) 40 CFR Part 69 (2018)
- u) 40 CFR Part 70 (2018)
- v) 40 CFR Part 71 (2018)
- w) 40 CFR Part 72 (2018)
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- y) 40 CFR Part 74 (2018)

- z) 40 CFR Part 75 (2018)
- aa) 40 CFR Part 76 (2018)
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- 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)
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- 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)
- yy) Standard Industrial Classification Manual, 1972, as amended by 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively)

Section 204.110 Abbreviations and Acronyms

The following abbreviations, acronyms and terms are used in this Part:

$\mu\text{g}/\text{m}^3$	micrograms per cubic meter
Act	Illinois Environmental Protection Act
Agency	Illinois Environmental Protection Agency
BACT	Best Available Control Technology
Board	Illinois Pollution Control Board
Btu	British thermal units
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
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 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 that provision to any person or circumstance, is held invalid, the remainder of this Part, or the application of the provision to persons or circumstances other than those as to which it is held invalid, shall not be affected by that holding.

SUBPART B: DEFINITIONS

Section 204.200 Definitions

Unless otherwise specified in this Part, terms used in this Part have the same meaning as the terms used in 35 Ill. Adm. Code 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), except that this definition ~~shall~~must 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~~will apply for those purposes.
- b) In general, actual emissions as of a particular date ~~shall~~must equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period that precedes the particular date and that is representative of normal source operation. The Agency shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions ~~shall~~must be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.
- c) The Agency 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~~ must 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 that interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination ~~must~~ shall 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:

- (a) Times of visitor use of the Federal Class I area; and
- (b) 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 that 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 60, 61, 62 and 63 (incorporated by reference in Section 204.100);
- 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 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 Agency ~~must~~ 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~~must include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
 - 2) The average rate ~~shall~~must be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.
 - 3) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period ~~must~~shall be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.
 - 4) The average rate must not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsection (a)(2).
- b) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the reviewing authority for a permit required under 40 CFR 52.21 or by the Agency for a permit required by the SIP, whichever is earlier, except that the 10-year period ~~shall~~must not include any period earlier than November 15, 1990.
- 1) The average rate ~~shall~~must include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
 - 2) The average rate ~~shall~~must be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.
 - 3) The average rate ~~shall~~must be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. "Currently" in the context of a contemporaneous emissions change refers to limitations on emissions and source operation that existed just prior to the date of the contemporaneous

change. However, if an emission limitation is part of a Maximum Achievable Control Technology standard that the USEPA proposed or promulgated under 40 CFR 63 (incorporated by reference in Section 204.100), the baseline actual emissions need only be adjusted if the Agency has taken credit for such~~that~~ emissions reductions in an attainment demonstration or maintenance plan consistent with 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~~shall~~ be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.
 - 5) The average rate must not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsections (b)(2) and (b)(3).
- c) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of the unit shall~~must~~ equal zero. Thereafter, for all other purposes, it shall~~must~~ equal the unit's potential to emit.
 - d) For a PAL for a stationary source, the baseline actual emissions shall~~must~~ be calculated for existing electric utility steam generating units in accordance with the procedures contained in subsection (a), for other existing emissions units in accordance with the procedures contained in subsection (b), and for a new emissions unit in accordance with the procedures contained in subsection (c).

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 (~~4243~~ USC 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 $\mu\text{g}/\text{m}^3$ (annual average) for SO₂, NO₂, or PM₁₀; or equal to or greater than 0.3 $\mu\text{g}/\text{m}^3$ (annual average) for PM_{2.5}.
- b) Area redesignations under section 107(d)(1)(A)(ii) or (iii) of the CAA cannot intersect or be smaller than the area of impact of any major stationary source or major modification that:
 - 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~~must remain in effect and ~~shall~~must apply for purposes of determining the amount of available PM₁₀ increments, except that such baseline area ~~shall~~must not remain in effect if the Agency rescinds the corresponding minor source baseline date in accordance with Section 204.520(c).

Section 204.260 Baseline Concentration

- a) "Baseline concentration" means the 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~~must 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); 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)~~increases:
 - 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 (b) means 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 that are of a permanent nature. ~~Such~~These 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 that 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 that would be emitted from any proposed major stationary source or major modification that the Agency, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for ~~such~~ that 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~~ the pollutant. In no event shall application of BACT result in emissions of any pollutant that would exceed the emissions allowed by any applicable standard under 40 CFR 60, 61, 62 and 63 (incorporated by reference in Section 204.100). If the Agency determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. ~~Such~~ That standard ~~shall~~ must, to the degree possible, set forth the emissions reduction achievable by implementation of ~~such~~ the design, equipment, work practice or operation, and ~~shall~~ must provide for compliance by means that achieve equivalent results.

Section 204.290 Building, Structure, Facility, or Installation

- a) "Building, structure, facility, or installation" means all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities ~~shall~~ must be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., have the same first two-digit code) as described in the Standard Industrial Classification Manual) (incorporated by reference in Section 204.100).
- b) Notwithstanding the provisions of subsection (a), building, structure, facility, or installation means, for onshore activities under Standard Industrial Classification (SIC) Major Group 13: Oil and Gas Extraction, all of the pollutant-emitting activities included in Major Group 13 that are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities ~~shall~~ will 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 postcombustion stage, at a new or existing facility that 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 that 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 to USEPA. The federal contribution for a qualifying project must 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, that 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 that attempts to affect the concentration of a pollutant in the ambient air by:
 - 1) Using the portion of a stack that 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:
 - A) ~~Manipulating~~ ~~manipulating~~ source process parameters, exhaust gas parameters, or stack parameters;
 - B) ~~Combining~~ ~~combining~~ exhaust gases from several existing stacks into one stack; or
 - C) ~~Other~~ ~~other~~ selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.
- b) "Dispersion technique" does not include:
- 1) The reheating of a gas stream, following use of a pollution control system, for 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 when:
 - A) The source owner or operator demonstrates that the stationary source was originally designed and constructed with ~~such~~ ~~these~~ merged gas streams;
 - B) After July 8, 1985, the merging is part of a change in operation at the stationary source that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of dispersion techniques ~~shall apply~~ ~~applies~~ only to the emission limitation for the pollutant affected by the change in operation; or
 - C) Before July 8, 1985, ~~such~~ ~~the~~ merging was part of a change in operation at the stationary source that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. When there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Agency ~~shall~~ ~~must~~ presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by ~~such~~ ~~that~~ intent, the Agency

~~shall~~^{must} deny credit for the effects of ~~such~~^{the} merging in calculating the allowable emissions for the source;

- 3) Smoke management in agricultural or silvicultural prescribed burning programs;
- 4) Episodic restrictions on residential wood burning and open burning; or
- 5) Techniques under subsection (a)(3) that increase final exhaust gas plume rise when 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.

- a) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date the emissions unit first operated.
- b) An existing emissions unit is any emissions unit that does not meet the requirements of subsection (a). A replacement unit, as defined in Section 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)~~^{204.430(e)} and means:

- a) For sources seeking credit for stack height exceeding that established under Section ~~204.420(b)~~^{204.430(b)}, a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features that, individually, is at least 40 percent in excess of the maximum concentration experienced in the absence of ~~such~~^{the} downwash, wakes, or eddy effects and that contributes to a

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

- b) For sources seeking credit for increases in existing stack heights up to the heights established under Section ~~204.420(b)~~204.430(b), either:
- (1) A maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subsection (a), except that the emission rate specified by the SIP (or, in the absence of such a limit, the actual emission rate) ~~shall~~must be used; or
 - (2) The actual presence of a local nuisance caused by the existing stack, as determined by the Agency; and
- c) For sources seeking credit for a stack height determined under Section ~~204.420(b)~~204.430(b) when the Agency requires the use of a field study or fluid model to verify good engineering practice stack height, for sources seeking stack height credit based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit based on the aerodynamic influence of structures not adequately represented by the equations in Section ~~204.420(b)~~204.430(b), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of the downwash, wakes, or eddy effects.

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 the lands.

Section 204.400 Federally Enforceable

"Federally enforceable" means all limitations and conditions that are enforceable by USEPA, including those requirements developed: under 40 CFR 60, 61, 62 and 63 (incorporated by reference in Section 204.100), requirements within the SIP, any permit requirements established

under 40 CFR 52.21 (incorporated by reference in Section 204.100) or this Part or under regulations approved under 40 CFR 51, subpart I (incorporated by reference under Section 204.100), including operating permits issued under a USEPA-approved program that is incorporated into the SIP and expressly requires adherence to any permit issued under such program.

- ~~a) Under 40 CFR 60, 61, 62 and 63 (incorporated by reference in Section 204.100), requirements within the SIP, any permit requirements established under 40 CFR 52.21 (incorporated by reference in Section 204.100) or this Part; or~~
- ~~b) Under regulations approved under 40 CFR 51, subpart I (incorporated by reference in Section 204.100), including operating permits issued under a USEPA approved program that:

 - ~~1) Is incorporated into the SIP; and~~
 - ~~2) Expressly requires adherence to any permit issued under that program.~~~~

Section 204.410 Fugitive Emissions

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

Section 204.420 Good Engineering Practice

- a) "Good engineering practice", with respect to stack height, means the greater of:
 - 1) 65 meters, measured from the ground-level elevation at the base of the stack;
 - 2) The following:
 - A) For a stack in existence on January 12, 1979, and for which the owner or operator had obtained all necessary preconstruction approvals or permits required under 40 CFR 52 (incorporated by reference in Section 204.100):

$$H_g = 2.5H,$$

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation;

- B) For all other stacks:

$$H_g = H + 1.5L$$

where:

H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack;

H = height of nearby ~~structure(s)~~ structures measured from the ground-level elevation at the base of the stack;

L = lesser dimension, height, or projected width of nearby ~~structure(s)~~ structures provided that the USEPA or the Agency may require the use of a field study or fluid model to verify good engineering practice stack height for the source; or

- 3) The height demonstrated by a fluid model or a field study approved by USEPA or the Agency that ensures the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.
- b) For purposes of this definition, "stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

Section 204.430 Greenhouse Gases (GHGs)

"Greenhouse gases" or "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. CO₂e is 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' associated global warming potential published at 40 CFR 98, subpart A, table A-1 (Global Warming Potentials) (incorporated by reference in Section 204.100).
- b) Sum the resultant value for each gas to compute 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 U.S. and recognized by the U.S. 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:
 - 1) A significant emissions increase (as defined in Section 204.670) of a regulated NSR pollutant (as defined in Section 204.610) other than GHGs (as defined in Section 204.430); and
 - 2) A significant net emissions increase of that pollutant from the major stationary source.
- b) Any significant emissions increase (as defined in Section 204.670) from any emissions units or net emissions increase (as defined in Section 204.550) at a major stationary source that is significant for VOM or NO_x 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:

- A) An order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 USC 791) (or any superseding legislation); or
 - B) A natural gas curtailment plan under the Federal Power Act (16 USC 791);
- 3) Use of an alternative fuel by reason of an order or rule under section 125 of the CAA (~~4243~~ USC 7435);
- 4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
- 5) Use of an alternative fuel or raw material by a stationary source that:
- A) ~~The source was~~ Was capable of accommodating before January 6, 1975, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975 under 40 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143; or
 - B) ~~The source is~~ Is approved to use under any permit issued under 40 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143;
- 6) An increase in the hours of operation or in the production rate, unless ~~such that~~ change would be prohibited under any federally enforceable permit condition established after January 6, 1975, under 40 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143;
- 7) Any change in ownership at a stationary source;
- 8) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:
- A) The Illinois SIP; and
 - B) Other requirements necessary to attain and maintain NAAQS during the project and after it is terminated; ~~or and~~
- 9) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption ~~shall apply~~ will be applied on a pollutant-by-pollutant basis.

- d) This definition ~~shall~~must not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with Subpart K for a PAL for that pollutant. Instead, the definition at Section 204.1720 will 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 PM_{2.5}, October 20, 2010.

Section 204.510 Major Stationary Source

- a) "Major stationary source" means:
 - 1) Any of the following stationary sources of air pollutants that emits, or has the potential to emit, 100 tpy or more of any regulated NSR pollutant:
 - A) Fossil fuel-fired steam electric plants of more than 250 million Btu per hour heat input;
 - B) Coal cleaning plants (with thermal dryers);
 - C) Kraft pulp mills;
 - D) Portland cement plants;
 - E) Primary zinc smelters;
 - F) Iron and steel mill plants;
 - G) Primary aluminum ore reduction plants (with thermal dryers);
 - H) Primary copper smelters;
 - I) Municipal incinerators capable of charging more than 50 tons of refuse per day;
 - J) Hydrofluoric, sulfuric, and nitric acid plants;
 - K) Petroleum refineries;
 - L) Lime plants;

- M) Phosphate rock processing plants;
 - N) Coke oven batteries;
 - O) Sulfur recovery plants;
 - P) Carbon black plants (furnace process);
 - Q) Primary lead smelters;
 - R) Fuel conversion plants;
 - S) Sintering plants;
 - T) Secondary metal production plants;
 - U) Chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS Codes 325193 or 312140);
 - V) Fossil-fuel boilers (or combinations thereof) totaling more than 250 million Btu per hour heat input;
 - W) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - X) Taconite ore processing plants;
 - Y) Glass fiber processing plants; and
 - Z) Charcoal production plants;
- 2) Notwithstanding the stationary source size specified in subsection (a)(1), 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 Section 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.
- b) A major source that is major for VOM or NO_x ~~shall~~ must be considered major for ozone.

c) The fugitive emissions of a stationary source ~~shall~~must not be included in determining, for any of the purposes, of this Part whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- 1) Coal cleaning plants (with thermal dryers);
- 2) Kraft pulp mills;
- 3) Portland cement plants;
- 4) Primary zinc smelters;
- 5) Iron and steel mills;
- 6) Primary aluminum ore reduction plants;
- 7) Primary copper smelters;
- 8) Municipal incinerators capable of charging more than 50 tons of refuse per day;
- 9) Hydrofluoric, sulfuric, or nitric acid plants;
- 10) Petroleum refineries;
- 11) Lime plants;
- 12) Phosphate rock processing plants;
- 13) Coke oven batteries;
- 14) Sulfur recovery plants;
- 15) Carbon black plants (furnace process);
- 16) Primary lead smelters;
- 17) Fuel conversion plants;
- 18) Sintering plants;
- 19) Secondary metal production plants;

- 20) Chemical process plants. Chemical processing plant ~~shall~~ does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS Codes 325193 or 312140;
- 21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million Btu per hour heat input;
- 22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- 23) Taconite ore processing plants;
- 24) Glass fiber processing plants;
- 25) Charcoal production plants;
- 26) Fossil fuel-fired steam electric plants of more than 250 million Btu per hour heat input; and
- 27) Any other stationary source category that, 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~~ be constructed is designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the CAA (~~4243~~ USC 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~~**must** remain in effect and ~~shall~~**must** apply for purposes of determining the amount of available PM₁₀ increments, except that the Agency shall rescind a minor source baseline date when it can be shown, to the satisfaction of the Agency, 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 formula provided in Section 204.420(a)(2), means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (½ mile); and
- b) For conducting demonstrations under Section 204.420(a)(3), means not greater than 0.8 km (½ mile), except that a portion of a terrain feature may be considered to be nearby if it falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if ~~such~~**that** feature achieves a height, 0.8 km from the stack, that is at least 40 percent of the good engineering practice stack height determined by the formula provided in Section 204.420(a)(2)(B) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

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 that 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 under 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 (a)(2) ~~shall~~^{must} be determined as provided in Section 204.240, except that Section 204.240(a)(3) and (b)(4) ~~shall~~^{do} 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) ~~Contemporaneous with the increase from the particular change only if it occurs between:~~
 - 1)A) ~~The date five years before construction on~~^{or} the particular change commences; and
 - 2)B) The date that the increase from the particular change occurs;[;] ~~and~~
 - 3)2) An increase or decrease in actual emission is creditable~~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~~that~~ 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 shakedown becomes operational only after a reasonable shakedown period, not to which shall not exceed 180 days.

- g) Subsection 204.210(b) does not apply in 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 ~~must~~ 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 Permit" or "PSD Permit" *means a permit or the portion of a permit for a new major source or major modification that is issued by the Agency under the construction permit program required by Section 9.1(c) of the Act* ~~required by Section 9.1(e) of the Act~~ *that has been approved by USEPA and incorporated into the Illinois SIP to implement the requirements of Section ~~section~~ 165 of the CAA and 40 CFR 51.166. [415 ILCS 5/3.363]*

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 if full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

- b) In determining the projected actual emissions under subsection (a) (before beginning actual construction), the owner or operator of the major stationary source:
- 1) ~~Must:~~
 - 1)A) ~~Shall consider~~ 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 State or federal regulatory authorities, and compliance plans under Illinois' SIP;
 - 2)B) ~~Shall include~~ Include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and
 - 3)C) ~~Shall exclude~~ 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)2) In lieu of using the method set out in subsection (b)(1), 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 ~~an~~ NAAQS has been promulgated. This includes, but is not limited to, the following:
 - 1) PM_{2.5} emissions and PM₁₀ emissions include gaseous emissions from a source or activity, that condense to form PM at ambient temperatures. On or after January 1, 2011, such condensable PM ~~shall~~ ~~was required to~~ 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~~ ~~that~~ date shall not be ~~were not~~ 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~~ ~~will~~ 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 ~~(a)~~ as a constituent or precursor for a pollutant for which ~~an~~ NAAQS has been promulgated. Precursors, for purposes of this Part, are the following:
- A) VOM and NO_x~~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~~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 USEPA, or 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 USEPA, or 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 (~~4243~~ USC 7401);
 - c) Any Class I or II substance subject to a standard promulgated under or established by title VI of the CAA (~~4243~~ USC 7671, et seq.);
 - d) Any pollutant that otherwise is subject to regulation, as defined in Section 204.700.
 - e) Notwithstanding subsections (a) through (d), the term "regulated NSR pollutant" does not include any or all hazardous air pollutants either listed in section 112(b)(1) of the CAA (~~4243~~ USC 7412(b)(1)) or added to the list under CAA section 112(b)(2) or (b)(3), or substances listed under CAA section 112(r)(3) and that have not been delisted under CAA section 112(b)(3) or (r), unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a pollutant listed under CAA section 108 (~~4243~~ USC 7408).

Section 204.620 Replacement Unit

"Replacement unit" means an emissions unit for which all the criteria listed in this Section are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

- a) The emissions unit is a reconstructed unit, within the meaning of 40 CFR 60.15(b)(1), or completely takes the place of an existing emissions unit.
- b) The emissions unit is identical, to or functionally equivalent to, the replaced emissions unit.
- c) The replacement does not alter the basic design ~~parameter(s)~~parameters of the process unit. Basic design parameters of a process unit shall be determined as follows:
 - 1) Except as provided in subsection (c)(3), for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on Btu content shall be used for determining the basic design ~~parameter(s)~~parameters for a coal-fired electric utility steam generating unit.
 - 2) Except as provided in subsection (c)(3), the basic design ~~parameter(s)~~parameters for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.
 - 3) If the owner or operator believes the basic design ~~parameter(s)~~parameters in subsections (c)(1) and (c)(2) ~~is~~are not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Agency an alternative basic design ~~parameter(s)~~parameters for the source's process ~~unit(s)~~units. If the Agency approves of the use of an alternative basic design ~~parameter(s)~~parameters, the Agency shall issue a permit that is legally enforceable, records ~~such~~the basic design ~~parameter(s)~~parameters and requires the owner or operator to comply with ~~such~~those ~~parameter(s)~~parameters.
 - 4) The owner or operator must use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design ~~parameter(s)~~parameters specified in subsections (c)(2) and (c)(3).

- 5) If design information is not available for a process unit, the owner or operator must determine the process unit's basic design ~~parameter(s)~~parameters using the maximum value achieved by the process unit in the five-year period immediately preceding the planned activity.
- 6) Efficiency of a process unit is not a basic design parameter.
- d) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it ~~shall~~must 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 USEPA in consultation with the U.S. Secretary of Energy, a derivative of one or more of these technologies ~~and. Repowering also means~~ 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~~also includes any oil and/or gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the U.S. Department of Energy.
- c) The Agency 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 (~~4243~~ USC 7651h).

Section 204.640 Reviewing Authority

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

Section 204.650 Secondary Emissions

"Secondary emissions" means emissions that 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 that 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 that 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 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 <u>PM_{2.5} emissions</u> ; 40 tpy of SO ₂ emissions; 40 tpy of NO_x 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 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) does not list, any emissions rate.
- c) Notwithstanding subsection (a), "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification, that would ~~construct~~be constructed within 10 kilometers of a Class I area, and have an impact on that area equal to or greater than 1 $\mu\text{g}/\text{m}^3$ (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 begun, or caused to begin, a continuous program of physical on-site construction of the stack, or entered into binding agreements or contractual obligations that 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 that emits or may emit a regulated NSR pollutant. Emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216 of the CAA (~~4243~~ USC 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 USEPA in 40 CFR 50 through 99, that requires actual control of the quantity of emissions of that pollutant, and that such a when the 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 that complies with 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 section 107(d)(1)(A)(ii) or (iii) of the CAA (~~4243~~ USC 7407(d)(1)(A)(ii) or (iii)).
- b) The requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, and 204.1200 apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this Part otherwise provides.
- c) No new major stationary source or major modification to which the requirements of these 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 ~~must~~ begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The Agency has authority to issue any such permit.
- d) The requirements of the program will be applied in accordance with the principles set out in this subsection (d).
 - 1) Except as otherwise provided in subsection (f), and consistent with the definition of major modification contained in Section 204.490, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases: a significant emissions increase (as defined in Section 204.670) and a significant net emissions increase (as defined in Sections 204.550 and 204.660). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.
 - 2) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type(s) ~~types~~ of emissions units involved in the project, according to subsections (d)(3) through (d)(5). The procedure

for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition in Section 204.550. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

- 3) **Actual-to-Projected-Actual Applicability Test for Projects That Only Involve Existing Emissions Units.** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in Section 204.600) and the baseline actual emissions (as defined in Section 204.240(a) and (b)), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in Section 204.660).
 - 4) **Actual-to-Potential Test for Projects That Only Involve Construction of a New Emissions Unit(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), 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 in which there is a reasonable possibility, within the meaning of Section 204.1400(f), that a project that is not a part of a major modification may result in a significant emissions increase of ~~such~~the pollutant, and the owner or operator elects to use the method specified in Section 204.600(b) for calculating projected actual emissions.
 - f) For any major stationary source for a PAL for a regulated NSR pollutant, the major stationary source ~~shall~~must comply with Subpart K.

Section 204.810 Source Information

The owner or operator of a proposed major stationary source or major modification ~~shall~~must 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 204.1100, 204.1110, 204.1130, and 204.1140 apply, ~~such~~this information ~~shall include~~includes:
 - 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 necessary to determine that BACT, as applicable, would be applied.

- b) Upon request of the Agency, the owner or operator ~~shall~~must also provide information on:
 - 1) The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate that impact; and
 - 2) The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth that 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 under 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 under this Part, ~~shall be~~is subject to appropriate enforcement action.

Section 204.830 Permit Expiration

Approval to construct ~~shall~~will become invalid if construction is not commenced within 18 months after receipt of approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Agency 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 after the projected and approved commencement date.

Section 204.840 Effect of Permits

Approval to construct ~~shall~~ does 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 as~~ When a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation, 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~~ must 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 do 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 50 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 Code 325193 or 312140;
- U) Fossil-fuel boilers (or combination thereof) totaling more than 250 million Btu 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 Btu per hour heat input;

- AA) Any other stationary source category that, as of August 7, 1980, is being regulated under section 111 or 112 of the CAA (~~4243~~ USC 7411 or 7412); or
- 3) The source is a portable stationary source that 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 Agency prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. ~~Such~~The notice shall be given to the Agency not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the Agency.
- 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 (~~4243~~ USC 7407). Nonattainment designations for revoked NAAQS, as contained in 40 CFR 81 (incorporated by reference in Section 204.100), ~~shall~~ must not be viewed as current designations under section 107 of the CAA (~~4243~~ USC 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

- a) In areas designated as Class I, II or III, increases in pollutant concentration over the baseline concentration ~~shall~~ must 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

- b) 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 that were in existence on August 7, 1977 shall be Class I areas and may not be redesignated:
- 1) International parks;
 - 2) National wilderness areas that exceed 5,000 acres in size;
 - 3) National memorial parks that exceed 5,000 acres in size; and
 - 4) National parks that 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~~that~~ area, is initially designated Class II, but may be redesignated as provided in this Part.
- d) The following areas may~~shall~~ be redesignated only as Class I or II:
 - 1) An area that, 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 that exceeds 10,000 acres in size.

Section 204.930 Redesignation

- a) As of the initial effective date of this Part, all areas of the State (except as otherwise provided by Section 204.920) are designated Class II as of December 5, 1974. Redesignation (except as otherwise precluded by Section 204.920) may be proposed by the State or Indian Governing Bodies under this Section, subject to approval by USEPA as a revision to the applicable SIP.
- b) The State may submit to USEPA a proposal to redesignate areas of the State Class I or Class II; provided that:
 - 1) At least one public hearing has been held in accordance with 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~~must~~ have

published a list of any inconsistency between suchthe redesignation and suchthe comments and recommendations (together with the reasons for making suchthe redesignation against the recommendation of the Federal Land Manager); and

- 5) The State has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.
- c) Any area other than an area to which Section 204.920 refers may be redesignated as Class III if:
- 1) The redesignation would meet the requirements of subsection (b);
 - 2) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the Governor of Illinois:
 - A) After consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session (unless State law provides that the redesignation must be specifically approved by State legislation); and
 - B) If general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation;
 - 3) The redesignation would not cause, or contribute to, a concentration of any air pollutant that would exceed any maximum allowable increase permitted under the classification of any other area or any NAAQS; and
 - 4) Any permit application for any major stationary source or major modification, subject to review under Section 204.1120, that could receive a permit under this Section only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available, insofar as was practicable, for public inspection prior to any public hearing on redesignation of the area as Class III.
- d) Lands within the exterior boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body. The appropriate Indian Governing Body may submit to USEPA a proposal to redesignate areas Class I, Class II, or Class III, provided that:
- 1) The Indian Governing Body has followed procedures equivalent to those required of a state under subsections (b), (c)(3), and (c)(4); and

- 2) ~~Such~~The redesignation is proposed after consultation with the ~~State(s)~~states in which the Indian Reservation is located and that border the Indian Reservation.
- e) USEPA ~~shall~~must disapprove, within 90 days after submission, a proposed redesignation of any area only if it finds, after notice and opportunity for public hearing, that ~~such~~the redesignation does not meet the procedural requirements or is inconsistent with Section 204.920. If any such disapproval occurs, the classification of the area ~~shall~~will be that which was in effect prior to the ~~proposed~~ redesignation which was disapproved.
- f) If USEPA disapproves any proposed redesignation, the State or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by USEPA.

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~~Any portion of the stack height of any source that exceeds good engineering practice; or
 - 2) Any other dispersion technique.
- b) Subsection (a) ~~shall~~does 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 60, 61, 62 and 63 (incorporated by reference in 35 Ill. Adm. Code 204.100).
- 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 (defined in Section 204.660).
- 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~~must be reviewed and modified as appropriate at the latest reasonable time that 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~~must 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 as set forth in Section 204.900 and/or Section 204.1200, as applicable, 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 40 CFR 51, appendix W (Guideline on Air Quality Models) (incorporated by reference in 35 Ill. Adm. Code 204.100).
- b) When an air quality model specified in 40 CFR 51, appendix W (Guideline on Air Quality Models) (incorporated by reference in Section 204.100) is inappropriate, the model may be modified or another model substituted. ~~Such a~~The modification or substitution of a model may be made on a case-by-case basis or, ~~where~~when appropriate, on a generic basis for a specific State program. Written approval of 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(see 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~~must 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 ~~would result~~.
- 2) With respect to any such pollutant for which no NAAQS exists, the analysis ~~shall~~must contain air quality monitoring data the Agency 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~~an NAAQS does exist, the analysis ~~shall~~must 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~~must have been gathered over a period of at least one year and ~~shall~~must represent at least the year preceding receipt of the application. However, if the Agency determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not less than four months), the data that is required ~~shall~~must 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 51, appendix S, section IV, (incorporated by reference in Section 204.100) may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required by this subsection (a).
 - b) Postconstruction Monitoring. The owner or operator of a major stationary source or major modification ~~shall~~must, after construction of the stationary source or modification, conduct such ambient monitoring as the Agency 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~~must meet the requirements of 40 CFR 58, appendix B (incorporated by reference in Section 204.100), during the operation of monitoring stations for purposes of satisfying this Section.

Section 204.1140 Additional Impact Analyses

- a) The owner or operator ~~shall~~must 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~~must 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 Agency 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~~The notification shall~~must~~ include a copy of all information relevant to the permit application and shall be ~~given~~issued within 30 days after receipt and at least 60 days prior to any public hearing on the application for a permit to construct. ~~Such~~The notification shall include an analysis of the proposed source's anticipated impacts on visibility in the Federal Class I area. The Agency shall also provide the Federal Land Manager and ~~such~~relevant federal officials with a copy of the preliminary determination required by 35 Ill. Adm. Code 252, and shall make available to them any materials used in making that determination, promptly after the Agency makes ~~such~~the determination. Finally, the Agency shall also notify all affected Federal Land Managers within 30 days after 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~~the lands have an affirmative responsibility to protect the air quality related values (including visibility) of ~~such~~these lands and to consider, in consultation with the Agency, whether a proposed source or modification will have an adverse impact on ~~such~~these values.
- c) Visibility Analysis. The Agency shall consider any analysis performed by the Federal Land Manager, provided within 30 days after the notification required by subsection (a), 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. When the Agency finds that such an analysis does not demonstrate to its

satisfaction that an adverse impact on visibility will result in the Federal Class I area, the Agency ~~must~~shall, 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 Agency 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~~the source or modification would not cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the Agency concurs with ~~such~~the demonstration, 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~~the 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~~the source or modification would cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with ~~such~~the demonstration and so certifies, the Agency 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~~NO_x would not exceed the following maximum allowable increases over minor source baseline concentration for ~~such~~those 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 that cannot be approved under subsection (e) 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 subsection 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 or her concurrence, may, after notice and public hearing, grant a variance from ~~such~~ the maximum allowable increase. If ~~such~~ the variance is granted, the Agency shall issue a permit ~~to such~~ for the source or modification under subsection (h), provided that the applicable requirements of this Part are otherwise met.

- g) Variance by the Governor with the President's Concurrence. In any case in which 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 the President finds that the variance is in the national interest. If the variance is approved, the Agency shall issue a permit under subsection (h), 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 under subsection (f) or (g), the source or modification ~~shall~~ must 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 that would exceed the following maximum allowable increases over the baseline concentration and to assure that ~~such~~ the emissions would not cause or contribute to concentrations that 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 Agency shall notify the applicant within 30 days after receipt as to the completeness of an application for a permit under this Part or any deficiency in the application or information submitted in ~~such an~~ the application. In the event of such a deficiency, the date of receipt of the application ~~shall~~ will be the date on which the Agency receives all required information.

Section 204.1310 Transmittal of Application to USEPA

The Agency shall transmit to USEPA a copy of each permit application submitted under this Part relating to a major stationary source or a major modification.

Section 204.1320 Public Participation

Prior to the initial issuance; or a modification of; a permit issued under this Part, the Agency shall provide, at a minimum, notice of the proposed issuance or modification of a permit, a comment period, and opportunity for public hearing under the Agency's public participation procedures (35 Ill. Adm. Code 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 Agency.

Section 204.1340 Permit Rescission

- a) Any permit issued under this Part or a prior version of this Part ~~shall~~will 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 Agency rescind the permit or a particular portion of the permit.
- c) The Agency may grant an application for rescission if the application shows that this Part would not apply to the source or modification.
- d) If the Agency rescinds a permit under this Section, the Agency shall post a notice of the rescission determination; on a public web site identified by it; within 60 days after 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), the provisions of this Section apply~~applies~~ with respect to any regulated NSR pollutant emitted from projects involving existing emissions unit(s)~~units~~ at a major stationary source (other than projects at a source with a PAL) in circumstances in which there is a reasonable possibility, within the meaning of subsection (f), that a project that is not a major

modification for the pollutant may result in a significant emissions increase of ~~such that~~ pollutant, and the owner or operator elects to use the method specified in Section 204.600(b)(1) through (b)(3) for calculating projected actual emissions.

- ~~a)~~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)~~units~~ whose emissions of a regulated NSR pollutant could be affected by the project; and
 - 3) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under Section 204.600(b)~~(3)(1)(C)~~(3), an explanation for why ~~such that~~ amount was excluded, and any netting calculations, if applicable.
- ~~b)~~e) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator ~~shall~~must provide a copy of the information set out in subsection (a) to the Agency. Nothing in this subsection shall be construed to require the owner or operator of such a unit to obtain any determination from the Agency before beginning actual construction.
- ~~c)~~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); 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.:
- 1) ~~Monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in subsection (a)(2); and~~
 - 2) ~~Calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis:~~
 - A) ~~For a period of 5 years following resumption of regular operations after the change; or~~
 - B) ~~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 the emissions unit.~~

- d)e) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Agency within 60 days after the end of each year during which records must be generated under subsection ~~(c)(b)~~ setting out the unit's annual emissions during the calendar year that preceded submission of the report.
- e)f) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator ~~shall~~must submit a report to the Agency if the annual emissions, in tons per year, from the project identified in subsection (a), exceed the baseline actual emissions (as documented and maintained under subsection ~~(a)(3)(b)~~), by a significant amount (as defined in Section 204.660) for that regulated NSR pollutant, and if ~~such~~the emissions differ from the preconstruction projection as documented and maintained under subsection ~~(a)(3)(b)~~. ~~Such~~The report ~~shall~~must be submitted to the Agency within 60 days after the end of ~~such~~the year. The report ~~shall~~must contain the following:
- 1) The name, address and telephone number of the major stationary source;
 - 2) The annual emissions as calculated under subsection ~~(c)(d)~~; and
 - 3) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).
- f)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)(1)(C)~~, sums to at least 50 percent of the amount that is a "significant emissions increase," as defined under Section 204.670~~increase~~ (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)(g)(2)~~, and not also within the meaning of subsection ~~(f)(g)(1)~~, then subsections (b) through (e) do not apply to the project.
- g)h) The owner or operator of the source ~~shall~~must make the information required to be documented and maintained under this Section available for review upon a

request for inspection by the Agency, USEPA, or the general public pursuant to the requirements contained in~~under~~ 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 that the Agency, in writing no later than the close of the comment period under 35 Ill. Adm. Code 252; to approve a system of innovative control technology.
- b) The Agency shall, with the consent of the Governor, determine that the source or modification may employ a system of innovative control technology if:
 - 1) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;
 - 2) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Section 204.1100(b), by a date specified by the Agency. Such~~That~~ date shall not be later than 4 years after the time of startup or 7 years after permit issuance;
 - 3) The source or modification would meet the requirements of Sections 204.1100 and 204.1110, based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Agency;
 - 4) The source or modification would not, before the date specified by the Agency:
 - A) Cause or contribute to a violation of an applicable NAAQS; or
 - B) Impact any area where an applicable increment is known to be violated;
 - 5) All other applicable requirements, including those for public participation, have been met; and
 - 6) The provisions of Section 204.1200 (relating to Class I areas) have been satisfied with respect to all periods during the life of the source or modification.

- c) The Agency shall withdraw any approval to employ a system of innovative control technology made under this Section if:
- 1) The proposed system fails, by the specified date, to achieve the required continuous emissions reduction rate;
 - 2) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or
 - 3) The Agency decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.
- d) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or the approval is withdrawn in accordance with subsection (c), the Agency may allow the source or modification up to an additional 3 years to meet the requirement for the application of BACT through use of a demonstrated system of control.

SUBPART K: PLANTWIDE APPLICABILITY LIMITATION

Section 204.1600 Applicability

- a) The Agency may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements of this Subpart. The term "PAL" ~~shall mean~~ means "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 by subsection (b)(2), a major stationary source ~~shall~~ must continue to comply with all applicable federal or State requirements, emissions 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~~has the meaning ~~given~~ascribed in this Part, 35 Ill. ~~Adm. Admin.~~ Code 211, or 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~~has the meaning ascribed in Section 204.230, except that the allowable emissions for any emissions unit ~~shall~~must 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)~~values on a continuous basis.

Section 204.1670 Lowest Achievable Emission Rate (LAER)

"Lowest achievable emission rate" or "LAER" has the meaning ~~given~~ascribed by 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 Agency, 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 to calculate and record the mass emissions rate (e.g., 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~~RACT~~ in order to attain and maintain a national ambient air quality standard;
- b) The social, environmental, and economic impact of such controls~~RACT~~; and
- c) Alternative means of providing for attainment and maintenance of such standard~~RACT~~.

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~~must submit the following information to the Agency for approval:

- a) A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source ~~shall~~must indicate which, if any, federal or State applicable requirements, emission limitations, or work practices apply to each unit.
- b) Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction.
- c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions; based on a 12-month rolling total for each month; as required by Section 204.1890(a).

Section 204.1800 General Requirements for Establishing PAL

- a) The Agency 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 after 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~~must 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 under 35 Ill. Adm. Code 203 unless the level of the PAL is reduced by the amount of those emissions reductions and the 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 252. This includes the requirement that the Agency provide the public with notice of the proposed approval of a PAL permit and provide at

least a 30-day period for submittal of public comment. The Agency ~~must~~shall 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), the plan ~~shall~~must 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~~shall be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Agency shall specify in the PAL permit a reduced PAL ~~level(s)~~levels in tons per year (or tons per year CO_{2e} for a GHG PAL) to become effective on the future compliance ~~date(s)~~dates of any applicable federal or State regulatory ~~requirement(s)~~requirements that the Agency is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers to half the 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 the unit(s)~~units~~.
- b) For newly constructed units (which do not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in subsection (a), the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

Section 204.1830 Contents of the PAL Permit

The PAL permit ~~must~~shall contain, at a minimum:

- a) The PAL pollutant and the applicable source-wide emission limitation in tons per year, or tons per year CO_{2e} for a GHG PAL.
- b) The PAL permit effective date and the expiration date of the PAL (PAL effective period).
- c) Specification in the PAL permit that, if a major stationary source owner or operator applies to renew a PAL in accordance with Section 204.1860 before the end of the PAL effective period, then the PAL ~~shall~~will not expire at the end of the PAL effective period. It will remain in effect until a revised PAL permit is issued by the Agency.

- d) A requirement that emission calculations for compliance purposes ~~must~~shall include emissions from startups, shutdowns, and malfunctions.
- e) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of Section 204.1850.
- f) The calculation procedures that the major stationary source owner or operator ~~shall~~must use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total, as required by Section 204.1890(a).
- g) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Section 204.1880.
- h) A requirement to retain ~~on-site~~ the records required by Section 204.1890 on site. ~~Such~~The records may be retained in an electronic format.
- i) A requirement to submit the reports required by Section 204.1900 by the required deadlines.
- j) Any other requirements that the Agency 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) apply to actuals PALs.

- a) PAL Effective Period. The Agency shall specify a PAL effective period of 10 years.
- b) Reopening of the PAL Permit
 - 1) During the PAL effective period, the Agency ~~must~~shall 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 under 35 Ill. Adm. Code 203; and
 - C) Revise the PAL to reflect an increase in the PAL as provided under(~~see~~ Section 204.1870).

- 2) The Agency 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 Agency may impose on the major stationary source under the SIP; and
 - C) Reduce the PAL if the Agency determines that a reduction is necessary to avoid causing or contributing to ~~an~~ 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 allowed by subsection (b)(1)(A) 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 Section 204.1860 ~~shall expire~~^{expires} 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~~^{must} comply with an allowable emission limitation under a revised permit established under this subsection (a).
 - 1) Within the time frame specified for PAL renewals in Section 204.1860(b), the major stationary source ~~shall~~^{must} 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 Agency) by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under Section 204.1860(e), ~~such~~^{the} distribution ~~shall~~^{must} be made as if the PAL had been adjusted.
 - 2) The Agency shall decide whether and how the PAL allowable emissions will be distributed and ~~shall~~ issue a revised permit incorporating allowable

limits for each emissions unit, or each group of emissions units, as the Agency determines appropriate.

- b) Each emissions ~~unit(s)~~ ~~unit~~ ~~shall~~ ~~must~~ comply with the allowable emission limitation on a 12-month rolling basis. The Agency may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.
- c) Until the Agency issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required by subsection (a)(2), the source ~~shall~~ ~~must~~ continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.
- d) Any physical change, or change in the method of operation, at the major stationary source will be subject to major NSR requirements if ~~such~~ ~~the~~ change meets the definition of major modification in Section 204.490.
- e) The major stationary source owner or operator ~~shall~~ ~~must~~ continue to comply with any State or federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period, except for those emission limitations that had been established under Section 204.850, but were eliminated by the PAL in accordance with Section 204.1600(b)(3).

Section 204.1860 Renewal of a PAL

- a) The Agency 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 Agency.
- b) **Application Deadline.** A major stationary source owner or operator ~~shall~~ ~~must~~ submit a timely application to the Agency to request renewal of a PAL. A timely application is one that is submitted at least 6 months before, but not earlier than 18 months before, 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, the PAL ~~shall~~ ~~will~~ 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:
 - 1) The information required in Section 204.1790.

- 2) A proposed PAL level.
 - 3) The sum of the potential to emit of all emissions units under the PAL (with supporting documentation).
 - 4) Any other information the owner or operator wishes the Agency to consider in determining the appropriate level for renewing the PAL.
- d) PAL Adjustment. In determining whether and how to adjust the PAL, the Agency shall consider the options outlined in subsections (d)(1) and (d)(2). However, in no case may any such adjustment fail to comply with subsection (d)(3).
- ~~1)~~ ~~In determining whether and how to adjust the PAL, the Agency shall consider the options outlined in subsections (d)(1) and (d)(2). However, in no case may any such adjustment fail to comply with subsection (d)(3).~~
 - 1)A) If the emissions level calculated in accordance with Section 204.1820 is equal to or greater than 80 percent of the PAL level, the Agency may renew the PAL at the same level without considering the factors set forth in subsection (d)(2); or
 - 2)B) The Agency 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 Agency in its written rationale.
 - 3)2) Notwithstanding subsection (d)(1):
 - A) If the potential to emit of the major stationary source is less than the PAL, the Agency shall adjust the PAL to a level no greater than the potential to emit of the source; and
 - B) The Agency shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of Section 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 Agency has not already adjusted for that requirement, the PAL ~~shall~~must 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 Agency may increase a PAL emission limitation only if the major stationary source complies with this subsection (a).
- 1) The owner or operator of the major stationary source ~~shall~~must submit a complete application to request an increase in the PAL limit for a PAL major modification. ~~Such~~The application ~~shall~~must identify the emissions ~~unit(s)~~units contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.
 - 2) As part of ~~this~~the application, the major stationary source owner or operator ~~shall~~must demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions ~~unit(s)~~units exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit ~~shall~~must be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit ~~shall~~must be equal to the level of BACT or LAER with which that emissions unit must currently comply.
 - 3) The owner or operator obtains a major NSR permit for all emissions ~~unit(s)~~units identified in subsection (a)(1), regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions ~~unit(s)~~units ~~shall~~must 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 must be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.
- b) The Agency 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 under the public notice requirements of Section 204.1810.

Section 204.1880 Monitoring Requirements

- a) General Requirements
- 1) Each PAL permit ~~must~~^{shall} 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) and must be approved by the Agency.
 - 3) Notwithstanding subsection (a)(2), the owner or operator may also employ an alternative monitoring approach that meets subsection (a)(1) if approved by the Agency.
 - 4) Failure to use a monitoring system that meets the requirements of this Section renders the PAL invalid.
- b) 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):
- 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~~^{must} meet the following requirements:
- 1) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

- 2) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and
 - 3) When the vendor of a material or fuel, that is used in or at the emissions unit, publishes a range of pollutant content from that material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Agency determines there is site-specific data or a site-specific monitoring program to support another content within the range.
- d) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions ~~shall~~must meet the following requirements:
- 1) CEMS must comply with applicable Performance Specifications found in 40 CFR 60, appendix B (incorporated by reference in Section 204.100); 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~~must meet the following requirements:
- 1) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored ~~parameter(s) parameters~~ and the PAL pollutant emissions across the range of operation of the emissions unit; and
 - 2) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Agency, while the emissions unit is operating.
- f) Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions ~~shall~~must meet the following requirements:
- 1) All emission factors ~~shall~~must be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;
 - 2) The emissions unit ~~shall~~must operate within the designated range of use for the emission factor, if applicable; and
 - 3) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions ~~shall~~must conduct validation testing to determine a site-specific emission

factor within 6 months after PAL permit issuance, unless the Agency determines that testing is not required.

- g) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during those periods is specified in the PAL permit.
- h) Notwithstanding the requirements of subsections (c) through (g), when an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored ~~parameter(s)~~parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, the Agency ~~shall~~must, at the time of permit issuance:
 - 1) Establish default values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at the operating points; or
 - 2) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored ~~parameter(s)~~parameters and the PAL pollutant emissions is a violation of the PAL.
- i) Revalidation. All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the Agency. The 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~~the 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 under 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~~must submit semiannual monitoring reports and prompt deviation reports to the Agency in accordance with the CAAPP. The reports must meet the requirements of this Section.

- a) Semiannual Report. The semiannual report ~~shall~~must be submitted to the Agency within 30 days after the end of each reporting period. This report ~~shall~~must contain the information required in subsection (a).
- 1) Identification of the 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 CO_{2e} for a GHG PAL) based on a 12-month rolling total for each month in the reporting period recorded under Section 204.1890(a).
 - 3) All data relied upon, including any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions.
 - 4) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period.
 - 5) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.
 - 6) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by the method included in the permit , as provided by(see 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~~must promptly submit reports of any deviations or exceedance of the PAL requirements, including periods when no monitoring is available. A report submitted under 40 CFR 70.6(a)(3)(iii)(B) ~~shall~~will 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~~must contain the following information:

- 1) The identification of owner and operator and the permit number;
 - 2) The PAL requirement that experienced the deviation or that was exceeded;
 - 3) Emissions resulting from the deviation or the exceedance; and
 - 4) A signed statement by the responsible official (as defined by the CAAPP) certifying the truth, accuracy, and completeness of the information provided in the report.
- c) Revalidation Results. The owner or operator ~~shall~~must submit to the Agency the results of any revalidation test or method within 3 months after completion of ~~such~~that test or method.

Section 204.1910 Transition Requirements

The Agency may not issue a PAL that does not comply with this Subpart after the initial effective date this Part.

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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211.485	Animal Pathological Waste
211.490	Annual Grain Through-Put
211.492	Antifoulant Coating
211.493	Antifouling Sealer/Tie Coat
211.495	Anti-Glare/Safety Coating
211.510	Application Area
211.530	Architectural Coating
211.540	Architectural Structure
211.550	As Applied
211.560	As-Applied Fountain Solution
211.570	Asphalt
211.590	Asphalt Prime Coat
211.610	Automobile
211.630	Automobile or Light-Duty Truck Assembly Source or Automobile or Light-Duty Truck Manufacturing Plant
211.650	Automobile or Light-Duty Truck Refinishing
211.660	Automotive/Transportation Plastic Parts
211.665	Auxiliary Boiler
211.670	Baked Coatings
211.680	Bakery Oven
211.685	Basecoat/Clearcoat System
211.690	Batch Loading
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
211.1150	Closed Vent System
211.1170	Coal Refuse
211.1190	Coating
211.1210	Coating Applicator
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211.1250	Coating Plant
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211.1310	Cold Cleaning
211.1312	Combined Cycle System
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211.1320	Commence Commercial Operation
211.1324	Commence Operation
211.1328	Common Stack
211.1330	Complete Combustion
211.1350	Component
211.1370	Concrete Curing Compounds
211.1390	Concentrated Nitric Acid Manufacturing Process
211.1410	Condensate
211.1430	Condensable 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
211.3966	Motor Vehicle Weatherstrip Adhesive
211.3967	Mouth Waterproofing Sealant
211.3968	Multi-Colored Coating
211.3969	Multi-Component Coating
211.3970	Multiple Package Coating
211.3975	Multipurpose Construction Adhesive
211.3980	Nameplate Capacity
211.3985	Natural Finish Hardwood Plywood Panel
211.3990	New Grain-Drying Operation (Repealed)
211.4010	New Grain-Handling Operation (Repealed)
211.4030	No Detectable Volatile Organic Material Emissions
211.4050	Non-Contact Process Water Cooling Tower
211.4052	Non-Convertible Coating
211.4055	Non-Flexible Coating
211.4065	Non-Heatset
211.4067	NO _x Trading Program
211.4070	Offset
211.4080	One-Component Coating
211.4090	One Hundred Percent Acid
211.4110	One-Turn Storage Space
211.4130	Opacity
211.4150	Opaque Stains
211.4170	Open Top Vapor Degreasing
211.4190	Open-Ended Valve

211.4210	Operator of a Gasoline Dispensing Operation or Operator of a Gasoline Dispensing Facility
211.4220	Optical Coating
211.4230	Organic Compound
211.4250	Organic Material and Organic Materials
211.4260	Organic Solvent
211.4270	Organic Vapor
211.4280	Other Glass
211.4285	Outdoor Floor Covering Installation Adhesive
211.4290	Oven
211.4310	Overall Control
211.4330	Overvarnish
211.4350	Owner of a Gasoline Dispensing Operation or Owner of a Gasoline Dispensing Facility
211.4370	Owner or Operator
211.4390	Packaging Rotogravure Printing
211.4410	Packaging Rotogravure Printing Line
211.4430	Pail
211.4450	Paint Manufacturing Source or Paint Manufacturing Plant
211.4455	Pan-Backing Coating
211.4460	Panel
211.4470	Paper Coating
211.4490	Paper Coating Line
211.4510	Particulate Matter
211.4530	Parts Per Million (Volume) or PPM (Vol)
211.4540	Perimeter Bonded Sheet Flooring
211.4550	Person
211.4590	Petroleum
211.4610	Petroleum Liquid
211.4630	Petroleum Refinery
211.4650	Pharmaceutical
211.4670	Pharmaceutical Coating Operation
211.4690	Photochemically Reactive Material
211.4710	Pigmented Coatings
211.4720	Pipeline Natural Gas
211.4730	Plant
211.4735	Plastic
211.4740	Plastic Part
211.4750	Plasticizers
211.4760	Plastic Solvent Welding Adhesive
211.4765	Plastic Solvent Welding Adhesive Primer
211.4768	Pleasure Craft
211.4769	Pleasure Craft Surface Coating
211.4770	PM-10
211.4790	Pneumatic Rubber Tire Manufacture
211.4810	Polybasic Organic Acid Partial Oxidation Manufacturing Process

211.4830	Polyester Resin Material(s)
211.4850	Polyester Resin Products Manufacturing Process
211.4870	Polystyrene Plant
211.4890	Polystyrene Resin
211.4895	Polyvinyl Chloride Plastic (PVC Plastic)
211.4900	Porous Material
211.4910	Portable Grain-Handling Equipment
211.4930	Portland Cement Manufacturing Process Emission Source
211.4950	Portland Cement Process or Portland Cement Manufacturing Plant
211.4960	Potential Electrical Output Capacity
211.4970	Potential to Emit
211.4990	Power Driven Fastener Coating
211.5010	Precoat
211.5012	Prefabricated Architectural Coating
211.5015	Preheater Kiln
211.5020	Preheater/Precalciner Kiln
211.5030	Pressure Release
211.5050	Pressure Tank
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211.5061	Pretreatment Coating
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211.5065	Primary Product
211.5070	Prime Coat
211.5075	Primer Sealant
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211.5110	Primer Surfacer Operation
211.5130	Primers
211.5140	Printed Interior Panel
211.5150	Printing
211.5170	Printing Line
211.5185	Process Emission Source
211.5190	Process Emission Unit
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211.5230	Process Unit Shutdown
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211.5270	Production Equipment Exhaust System
211.5310	Publication Rotogravure Printing Line
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211.5340	Rated Heat Input Capacity
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211.5370	Reasonably Available Control Technology (RACT)
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211.5400	Red Coating
211.5410	Refiner
211.5430	Refinery Fuel Gas
211.5450	Refinery Fuel Gas System
211.5470	Refinery Unit or Refinery Process Unit
211.5480	Reflective Argent Coating
211.5490	Refrigerated Condenser
211.5500	Regulated Air Pollutant
211.5510	Reid Vapor Pressure
211.5520	Reinforced Plastic Composite
211.5530	Repair
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211.5550	Repair Coat
211.5570	Repaired
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211.5585	Research and Development Operation
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211.5600	Resist Coat
211.5610	Restricted Area
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211.5650	Ringelmann Chart
211.5670	Roadway
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211.5710	Roll Coating
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211.5750	Roll Printing
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211.5790	Rotogravure Printing Line
211.5800	Rubber
211.5810	Safety Relief Valve
211.5830	Sandblasting
211.5850	Sanding Sealers
211.5860	Scientific Instrument
211.5870	Screening
211.5875	Screen Printing
211.5880	Screen Printing on Paper
211.5885	Screen Reclamation
211.5890	Sealer
211.5910	Semi-Transparent Stains
211.5930	Sensor
211.5950	Set of Safety Relief Valves
211.5970	Sheet Basecoat
211.5980	Sheet-Fed
211.5985	Sheet Rubber Lining Installation
211.5987	Shock-Free Coating

211.5990	Shotblasting
211.6010	Side-Seam Spray Coat
211.6012	Silicone-Release Coating
211.6015	Single-Ply Roof Membrane
211.6017	Single-Ply Roof Membrane Adhesive Primer
211.6020	Single-Ply Roof Membrane Installation and Repair Adhesive
211.6025	Single Unit Operation
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211.6050	Smokeless Flare
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211.6065	Solids Turnover Ratio (R_T)
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211.6090	Solvent Cleaning
211.6110	Solvent Recovery System
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211.6310	Start-Up
211.6330	Stationary Emission Source
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211.6360	Stationary Reciprocating Internal Combustion Engine
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211.6450	Styrene Recovery Unit
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211.7150	Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
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211.7210	Wastewater (Oil/Water) Separator
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211.7240	Weatherstrip Adhesive
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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 Section Sections 27 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 9.9, 10, and 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 R15-5 at 39 Ill. Reg. 5410, effective March 24, 2015; amended in R17-2 at 41 Ill. Reg. 1096, effective January 23, 2017; amended in R17-9 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 44 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS

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-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 under 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 44 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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215.102	Testing Methods
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215.107	Determination of Applicability
215.108	Measurement of Vapor Pressures
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SUBPART B: ORGANIC EMISSIONS FROM STORAGE
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215.122	Loading Operations
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215.125	Compliance Dates and Geographical Areas
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SUBPART C: ORGANIC EMISSIONS FROM
MISCELLANEOUS EQUIPMENT

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SUBPART F: COATING OPERATIONS

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215.208	Testing Methods for Volatile Organic Material Content
215.209	Exemption from General Rule on Use of Organic Material
215.210	Alternative Compliance Schedule
215.211	Compliance Dates and Geographical Areas
215.212	Compliance Plan
215.213	Special Requirements for Compliance Plan
215.214	Roadmaster Emissions Limitations (Repealed)
215.215	DMI Emissions Limitations

SUBPART H: SPECIAL LIMITATIONS FOR SOURCES IN MAJOR URBANIZED AREAS WHICH ARE NONATTAINMENT FOR OZONE

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SUBPART I: ADJUSTED RACT EMISSIONS LIMITATIONS

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215.263	Public Hearing
215.264	Board Action
215.267	Agency Petition

SUBPART K: USE OF ORGANIC MATERIAL

Section

215.301	Use of Organic Material
215.302	Alternative Standard
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215.305	Viscose Exemption (Repealed)

SUBPART N: VEGETABLE OIL PROCESSING

Section	
215.340	Hexane Extraction Soybean Crushing
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215.344	Recordkeeping for Vegetable Oil Processes
215.345	Compliance Determination
215.346	Compliance Dates and Geographical Areas
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SUBPART P: PRINTING AND PUBLISHING

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215.401	Flexographic and Rotogravure Printing
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215.405	Compliance Dates and Geographical Areas
215.406	Alternative Compliance Plan
215.407	Compliance Plan
215.408	Heatset Web Offset Lithographic Printing
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SUBPART Q: LEAKS FROM SYNTHETIC ORGANIC CHEMICAL AND POLYMER MANUFACTURING EQUIPMENT

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215.428	Compliance Dates
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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
215.435	Report for Leaks
215.436	Alternative Program for Leaks
215.437	Open-Ended Valves
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SUBPART R: PETROLEUM REFINING AND RELATED INDUSTRIES; ASPHALT MATERIALS

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215.441	Petroleum Refinery Waste Gas Disposal
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215.445	Leaks: General Requirements
215.446	Monitoring Program Plan for Leaks
215.447	Monitoring Program for Leaks
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215.450	Alternative Program for Leaks
215.451	Sealing Device Requirements
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215.465	Compliance Dates and Geographical Areas
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215.467	Testing Methods for Volatile Organic Material Content

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215.483	Material Storage and Transfer
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215.488	Monitors for Air Pollution Control Equipment
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215.512	Coke By-Product Recovery Plant Leaks
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215.581	Bulk Gasoline Plants

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215.605	Compliance Plan (Repealed)
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215.607	Standards for Petroleum Solvent Dry Cleaners
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215.609	Program for Inspection and Repair of Leaks
215.610	Testing and Monitoring
215.611	Exemption for Petroleum Solvent Dry Cleaners
215.612	Compliance Dates and Geographical Areas
215.613	Compliance Plan
215.614	Testing Method for Volatile Organic Material Content of Wastes
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Section	
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215.621	Exemption for Waterbase Material and Heatset Offset Ink
215.623	Permit Conditions
215.624	Open-top Mills, Tanks, Vats or Vessels
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SUBPART BB: POLYSTYRENE PLANTS

Section	
215.875	Applicability of Subpart BB
215.877	Emissions Limitation at Polystyrene Plants
215.879	Compliance Date
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215.883	Special Requirements for Compliance Plan
215.886	Emissions Testing

SUBPART PP: MISCELLANEOUS FABRICATED PRODUCT
MANUFACTURING PROCESSES

Section	
215.920	Applicability
215.923	Permit Conditions
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SUBPART QQ: MISCELLANEOUS FORMULATION
MANUFACTURING PROCESSES

Section	
215.940	Applicability
215.943	Permit Conditions
215.946	Control Requirements

SUBPART RR: MISCELLANEOUS ORGANIC CHEMICAL
MANUFACTURING PROCESSES

Section	
215.960	Applicability
215.963	Permit Conditions
215.966	Control Requirements

215.APPENDIX A	Rule into Section Table
215.APPENDIX B	Section into Rule Table
215.APPENDIX C	Past Compliance Dates
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 44 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 ~~that~~^{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 ~~thosesuch~~ 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, ~~under pursuant to 35 Ill. Adm. Code 203; or Best Available Control Technology, under a permit issued under Section 9.1(d) of the Act pursuant to 40 CFR 52.21 (1987) or under 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 ~~that~~ which would result if no air pollution control equipment were used.

(Source: Amended at 44 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 ~~Subpart~~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 ~~Subpart~~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 ~~that~~ which was subject to and 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 ~~those such~~ sources not complying with Section 215.946 ~~do~~ does not exceed 5.0 tons per year;⁵ 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, ~~under pursuant to~~ 35 Ill. Adm. 203; or Best Available Control Technology, under a permit issued under Section 9.1(d) of the Act pursuant to or under 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 ~~that which~~ would result if no air pollution control equipment were used.

(Source: Amended at 44 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 ~~SubpartSubparts~~ 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 ~~SubpartSubparts~~ 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 ~~those such~~ sources not complying with Section 215.966 ~~do~~ 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, ~~under pursuant to~~ 35 Ill. Adm. Code 203; or Best Available Control Technology, under a permit issued under Section 9.1(d) of the Act pursuant to 40 CFR 52.21 (1987) or under 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 ~~that which~~ would result if no air pollution control equipment were used.

(Source: Amended at 44 Ill. Reg. _____, effective _____)