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3 CHAPTER I: POLLUTION CONTROL BOARD  
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6 GENERAL RULES  
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145 AUTHORITY: Implementing Sections of the Environmental Protection Act (Act) [415 ILCS  
 146 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  
 147 authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27] and Section 25-101 of the  
 148 Electronic Commerce Security Act [5 ILCS 175/25-101].

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150 SOURCE: Filed with Secretary of State January 1, 1978; codified 6 Ill. Reg. 8357; Part  
 151 repealed, new Part adopted in R88-5A at 13 Ill. Reg. 12055, effective July 10, 1989; amended in  
 152 R90-24 at 15 Ill. Reg. 18677, effective December 12, 1991; amended in R92-7 at 16 Ill. Reg.  
 153 18078, effective November 17, 1992; old Part repealed, new Part adopted in R00-20 at 25 Ill.  
 154 Reg. 446, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8743, effective June 8,  
 155 2005; amended in R06-9 at 29 Ill. Reg. 19666, effective November 21, 2005; amended in R07-  
 156 17 at 31 Ill. Reg. 16110, effective November 21, 2007; amended in R10-22 at 34 Ill. Reg. 19566,  
 157 effective December 3, 2010; amended in R12-22 at 36 Ill. Reg. 9211, effective June 7, 2012;  
 158 amended in R13-9 at 37 Ill. Reg. 1655, effective January 28, 2013; amended in R14-21 at 39 Ill.  
 159 Reg. 2276, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12848, effective  
 160 September 8, 2015; amended in R16-17 at 40 Ill. Reg. 7912, effective May 20, 2016; amended in  
 161 R17-18 at 41 Ill. Reg. 9930, effective July 5, 2017; amended in R19-19 at 43 Ill. Reg. 9674,  
 162 effective August 22, 2019; amended in R19-1 at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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SUBPART B: DEFINITIONS

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**Section 101.202 Definitions for Board's Procedural Rules**

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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].

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"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

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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

259 position.

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

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264 "CAAPP permit" means any permit issued, renewed, amended, modified or  
265 revised under Section 39.5 of the Act.

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

269  
270 "Certificate of acceptance" means a certification, executed by a successful  
271 petitioner in a variance proceeding, in which the petitioner agrees to be bound by  
272 all terms and conditions that the Board has affixed to the grant of variance.

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

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

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

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

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286 "Clerk" means the Clerk of the Board.

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288 "Clerk's Office On-Line" or "COOL" means the Board's web-based file  
289 management system that allows electronic filing of and access to electronic  
290 documents in the records of the Board's adjudicatory, regulatory, and time-limited  
291 water quality standard proceedings. COOL is located on the Board's website at  
292 pcb.illinois.gov.

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294 "Code of Civil Procedure" means 735 ILCS 5.

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

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

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"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*

345 *electronic document has been altered since the transformation was made. A*  
346 *digital signature is a security device. [5 ILCS 175/5-105]*  
347

348 "Discovery" means a pre-hearing process that can be used to obtain facts and  
349 information about the adjudicatory proceeding to prepare for hearing. The  
350 discovery tools include depositions upon oral and written questions, written  
351 interrogatories, production of documents or things, and requests for admission.  
352

353 "DNR" means the Illinois Department of Natural Resources.  
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355 "DOA" means the Illinois Department of Agriculture.  
356

357 "Duplicative" means the matter is identical or substantially similar to one brought  
358 before the Board or another forum.  
359

360 "Electronic" includes *electrical, digital, magnetic, optical, electromagnetic, or*  
361 *any other form of technology that entails capabilities similar to these*  
362 *technologies. [5 ILCS 175/5-105]*  
363

364 "Electronic document" means any notice, information, or filing generated,  
365 communicated, received or stored by electronic means to use in an information  
366 system or to transmit from one information system to another. (See 5 ILCS  
367 175/5-105.)  
368

369 "Electronic signature" means *a signature in electronic form attached to or*  
370 *logically associated with an electronic document. [5 ILCS 175/5-105]*  
371

372 "Environmental Management System Agreement" or "EMSA" means the  
373 agreement between the Agency and a sponsor, entered into under Section 52.3 of  
374 the Act and 35 Ill. Adm. Code 187, that describes the innovative environmental  
375 measures to be implemented, schedules to attain goals, and mechanisms for  
376 accountability.  
377

378 "Enforcement proceeding" means an adjudicatory proceeding brought upon a  
379 complaint filed under Section 31 of the Act by the Attorney General, State's  
380 Attorney, or other persons, in which the complaint alleges violation of the Act,  
381 any rule or regulation adopted under the Act, any permit or term or condition of a  
382 permit, or any Board order.  
383

384 "EPRR Act" means the Electronic Products Recycling and Reuse Act [415 ILCS  
385 150].  
386

387 "Ex parte communication" means *any written or oral communication by any*

388 *person that imparts or requests material information or makes a material*  
389 *argument regarding potential action concerning regulatory, quasi-adjudicatory,*  
390 *investment, or licensing matters pending before or under consideration by the*  
391 *Board. For this definition, a time-limited water quality standard proceeding is*  
392 *considered a regulatory matter. "Ex parte communication" does not include the*  
393 *following:*

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

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399 *statements regarding matters of procedure and practice, such as format,*  
400 *the number of copies required, the manner of filing, and the status of a*  
401 *matter; and*

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

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

410  
411 "Federally required rule" means *a rule that is needed to meet the requirements of*  
412 *the federal Clean Water Act, Safe Drinking Water Act, Clean Air Act (including*  
413 *required submission of a State Implementation Plan), or Resource Conservation*  
414 *and Recovery Act, other than a rule required to be adopted under subsection (c)*  
415 *of Section 13, Section 13.3, Section 17.5, subsection (a) or (d) of Section 22.4, or*  
416 *subsection (a) of Section 22.40. [415 ILCS 5/28.2]*

417  
418 "Filing" means the act of delivering a document or article into the custody of the  
419 Clerk with the intention of incorporating that document or article into the record  
420 of a proceeding before the Board. The Clerk's Office is located at 100 West  
421 Randolph Street, Suite 11-500, Chicago IL 60601. Electronic filing is done  
422 through COOL on the Board's website.

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

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

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"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

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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.

517 "OSFM appeal" means an appeal of an OSFM final decision concerning  
518 eligibility and deductibility made under Title XVI of the Act.  
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520 "OSFM record" means a record of final OSFM decision, as kept by the OSFM, of  
521 those documents of the OFSM that constitute the OSFM record relating to the  
522 eligibility and deductible decision and meeting the applicable requirements of 35  
523 Ill. Adm. Code 105.  
524

525 "Participant" means any person, not including the Board or its staff, who takes  
526 part in an adjudicatory proceeding but is not a party, or who takes part in a  
527 regulatory or other quasi-legislative proceeding or a time-limited water quality  
528 standard proceeding before the Board. A person becomes a participant in any of  
529 several ways, including filing a comment, being added to the proceeding's notice  
530 list, testifying at hearing, or making public remarks at a Board meeting. The  
531 participants in a time-limited water quality standard proceeding include the  
532 petitioner and the Agency and are further described at 35 Ill. Adm. Code  
533 104.520(b).  
534

535 ~~"Participant in a CAAPP Comment Process" means a person who takes part in a~~  
536 ~~Clean Air Act Permit Program (CAAPP) permit hearing before the Agency or~~  
537 ~~comments on a draft CAAPP permit.~~  
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539 "Party" means the person by or against whom an adjudicatory proceeding is  
540 brought or who is granted party status by the Board through intervention or  
541 joinder.  
542

543 "Party in interest" means the Agency when asked to conduct an investigation  
544 under Section 30 of the Act during an ongoing proceeding. (See Section  
545 101.404.)  
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547 "Peremptory rulemaking" means *any rulemaking that is required as a result of*  
548 *federal law, federal rules and regulations, or an order of a court, under*  
549 *conditions that preclude compliance with the general rulemaking requirements of*  
550 *Section 5-40 of the IAPA and that preclude the exercise by the Board as to the*  
551 *content of the rule it is required to adopt.* [5 ILCS 100/5-50]  
552

553 "Permit appeal" means an adjudicatory proceeding brought before the Board  
554 under Title X of the Act.  
555

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

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"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), (1).)

"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

603 issued by the Agency under Section 35(b) of the Act. (See 35 Ill. Adm. Code  
604 104.Subpart C.)

605  
606 "PSD" means the Prevention of Significant Deterioration of Air Quality program  
607 as authorized by Section 9.1(c) of the Act and as adopted by 35 Ill. Adm. Code  
608 204.

609  
610 "PSD permit" means any PSD permit issued, extended or revised under Section  
611 9.1(c) of the Act and 35 Ill. Adm. Code 204.

612  
613 "PSD permit appeal" means an appeal of a PSD permit as addressed by 35 Ill.  
614 Adm. Code 105.

615  
616 "Public comment" means information submitted to the Board during a pending  
617 proceeding either by oral statement made at hearing or written statement filed  
618 with the Board.

619  
620 "Public remarks" mean an oral statement that is publicly made at a Board meeting  
621 and directed to the Board concerning a proceeding listed on that meeting's agenda.  
622 (See Section 101.110(d).)

623  
624 "PWSO Act" means the Public Water Supply Operations Act [415 ILCS 45].

625  
626 "Qualitative description" means a narrative description pertaining to attributes and  
627 characteristics.

628  
629 "Quantitative description" means a numerically based description pertaining to  
630 attributes and characteristics.

631  
632 "RCRA variance" means a variance from a RCRA rule or a RCRA permit  
633 required under Section 21(f) of the Act.

634  
635 "Record" means the official collection, as kept by the Clerk, of all documents and  
636 exhibits including pleadings, transcripts, and orders filed during a proceeding.

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

641  
642 "Regulatory hearing" or "proceeding" means a hearing or proceeding held under  
643 Title VII of the Act or other applicable law regarding regulations.

644  
645 "Regulatory relief mechanisms" means variances, provisional variances, adjusted

646 standards, and time-limited water quality standards. (See 35 Ill. Adm. Code 104.)  
647  
648 "Representing" means, for Part 130, *describing, depicting, containing,*  
649 *constituting, reflecting or recording.* [415 ILCS 5/7.1]  
650  
651 "Requester" means, for Part 130, the person seeking from the agency the material  
652 claimed or determined to be a trade secret (see 415 ILCS 5/7.1).  
653  
654 "Resource Conservation and Recovery Act" or "RCRA" means the Solid Waste  
655 Disposal Act, as amended by the Resource Conservation and Recovery Act of  
656 1976 (42 USC 6901 et seq.).  
657  
658 "Responsible Operator in Charge" means an individual who is designated as a  
659 Responsible Operator in Charge of a community water supply under Section 1 of  
660 the PWSO Act.  
661  
662 "Rulemaking" or "rulemaking proceeding" means a proceeding brought under  
663 Title VII of the Act or other applicable law to adopt, amend, or repeal a  
664 regulation.  
665  
666 "Sanction" means a penalty or other mechanism used by the Board to provide  
667 incentives for compliance with the Board's procedural rules, Board orders or  
668 hearing officer orders. (See also Subpart H.)  
669  
670 "SDWA" means the federal Safe Drinking Water Act (42 USC 300f et seq.).  
671  
672 "Service" means delivery of a document upon a person. (See Sections 101.300(c)  
673 and 101.304.)  
674  
675 "Service list" means the list of persons designated by the hearing officer or Clerk  
676 in a regulatory, adjudicatory, or time-limited water quality standard proceeding  
677 upon whom parties or participants must serve motions, prefiled questions, prefiled  
678 testimony, and any other documents that the parties or participants file with the  
679 Clerk unless the hearing officer otherwise directs. (See definition of "notice list"  
680 in this Section. See also 35 Ill. Adm. Code 102.422.)  
681  
682 "Severance" means the separation of a proceeding into two or more independent  
683 proceedings, each of which terminates in a separate, final judgment.  
684  
685 "Site-specific rule or regulation" means a proposed or adopted regulation, not of  
686 general applicability, that applies only to a specific facility, geographic site, or  
687 activity. (See 35 Ill. Adm. Code 102.208.)  
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"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.

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

735  
736 "UST" means underground storage tank.

737  
738 "Variance" means a temporary exemption from any specified regulation,  
739 requirement, or order of the Board granted to a petitioner by the Board under Title  
740 IX of the Act *upon presentation of adequate proof that compliance with the rule*  
741 *or regulation, requirement or order of the Board would impose an arbitrary or*  
742 *unreasonable hardship.* [415 ILCS 5/35(a)]  
743

744 "Waiver" means the intentional relinquishing of a known right, usually regarding  
745 a hearing before the Board or entry of a Board decision within the decision  
746 period. (See also Section 101.308.)  
747

748 "Website" means the Board's computer-based informational and filing service  
749 accessed on the Internet at pcb.illinois.gov.  
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751 (Source: Amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
752

753 SUBPART C: COMPUTATION OF TIME, FILING, SERVICE  
754 OF DOCUMENTS, AND STATUTORY DECISION DEADLINES  
755

756 **Section 101.302 Filing of Documents**  
757

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

763  
764 b) All documents to be filed with the Board must be filed with the Clerk.  
765

766 1) If allowed by the Board, the hearing officer, the Clerk, or the procedural  
767 rules to be filed in paper under subsection (h), documents must be filed at  
768 the following address:  
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770 Pollution Control Board, Attn: Clerk  
771 100 West Randolph Street  
772 James R. Thompson Center, Suite 11-500  
773 Chicago, Illinois 60601-3218  
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- 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

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- 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

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- 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

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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

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(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;

- 989 d) Regulate the course of the hearing, including controlling the order of proceedings;
- 990
- 991 e) Establish reasonable time limits on the testimony and questioning of any witness,
- 992 and limit repetitive or cumulative testimony and questioning;
- 993
- 994 f) Determine that a witness is adverse, hostile, or unwilling under Section 101.624;
- 995
- 996 g) Issue an order compelling the answers to interrogatories or responses to other
- 997 discovery requests;
- 998
- 999 h) Order the production of evidence under Section 101.614;
- 1000
- 1001 i) Order the filing of any required Agency record, OSFM record, local siting
- 1002 authority record, or recommendation in a manner that provides for a timely
- 1003 review and development of issues prior to the hearing and consistent with any
- 1004 statutory decision deadline;
- 1005
- 1006 j) Initiate, schedule, and conduct a pre-hearing conference;
- 1007
- 1008 k) Order a briefing and comment schedule and exclude late-filed briefs and
- 1009 comments from the record;
- 1010
- 1011 l) Rule upon objections and evidentiary questions;
- 1012
- 1013 m) Order discovery under Sections 101.614 and 101.616;
- 1014
- 1015 n) Rule on any motion directed to the hearing officer or deferred to the hearing
- 1016 officer by the Board consistent with Section 101.502;
- 1017
- 1018 o) Set status report schedules;
- 1019
- 1020 p) Require all participants in a rulemaking or TLWQS proceeding to state their
- 1021 positions regarding the proposal or petition, as applicable; and
- 1022
- 1023 q) Rule upon offers of proof and receive evidence and rule upon objections to the
- 1024 introduction of evidence.
- 1025

1026 (Source: Amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1028 **Section 101.626 Information Produced at Hearing**

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1030 In compliance with Section 10-40 of the IAPA, the hearing officer will admit evidence that is

1031 admissible under the rules of evidence as applied in the civil courts of Illinois, except as

1032 otherwise provided in this Part or 35 Ill. Adm. Code 105.

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- 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 \_\_\_\_\_)

# AGENCY VS ROJ

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

PART 101  
GENERAL RULES

SUBPART A: GENERAL PROVISIONS

Section  
101.100 Applicability  
101.102 Severability  
101.104 Repeals  
101.106 Board Authority  
101.108 Board Proceedings  
101.110 Public Participation  
101.111 Informal Recordings of Board Meetings  
101.112 Bias and Conflict of Interest  
101.114 Ex Parte Communications

SUBPART B: DEFINITIONS

Section  
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AUTHORITY: Implementing Sections ~~5, 7.1, 7.2, 9.1(e), 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7~~ of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, ~~9.1(e)~~, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27] and Section 25-101 of the Electronic Commerce Security Act [5 ILCS 175/25-101].

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#### SUBPART B: DEFINITIONS

##### Section 101.202 Definitions for Board's Procedural Rules

Unless otherwise provided in 35 Ill. Adm. Code 101-~~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 ~~Part~~ 105.

"Amicus curiae brief" means a brief filed in a proceeding by any interested person who is not a party. (See Sections 101.110 and ~~101.628~~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 ~~Part~~ 105.

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

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

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

"Clean Air Act" or "CAA" means the federal Clean Air Act, as now and hereafter amended (~~4342~~ 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~~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 a 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~~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~~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~~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 ~~Part~~ 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~~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<sup>7</sup>) 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), (1) ~~).~~)

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

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

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

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

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

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

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

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

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

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

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

"Record" means the official collection, as kept by the Clerk, of all documents and exhibits including pleadings, transcripts, and orders filed during 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 (~~43~~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 (~~43~~42 USC 300f et seq.).

"Service" means delivery of a document upon a person. (See Sections 101.300(c) and ~~101.304~~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 ~~102.432~~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~~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~~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~~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~~ 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 8 1/2 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 8 1/2 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 ~~and Illinois~~ regulations, and ~~federal and Illinois~~ statutes, need not be included in appendices.

1) 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 ~~Part~~ 105.

a) Evidence. The hearing officer may admit evidence that is material, relevant, and would be relied upon by prudent persons in the conduct of serious affairs, unless the evidence is privileged.

b) Admissibility of Evidence. When the admissibility of evidence depends upon a good faith argument as to the interpretation of substantive law, the hearing officer will admit the evidence.

c) Scientific Articles and Treatises. Relevant scientific or technical articles, treatises, or materials may be introduced into evidence by a party. The materials are subject to refutation or disputation through introduction of documentary evidence or expert testimony.

d) Written Testimony. Written testimony may be introduced by a party in a hearing only if provided to all other parties of record 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 \_\_\_\_\_)

~~ILLINOIS REGISTER~~

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

~~ILLINOIS REGISTER~~

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF ADOPTED AMENDMENTS~~

JCAR350101-2004316r01

# 1<sup>ST</sup> NOTICE VERSION

JCAR350105-2004347r01

1 TITLE 35: ENVIRONMENTAL PROTECTION  
2 SUBTITLE A: GENERAL PROVISIONS  
3 CHAPTER I: POLLUTION CONTROL BOARD  
4

5 PART 105  
6 APPEALS OF FINAL DECISIONS OF STATE AGENCIES  
7

8 SUBPART A: GENERAL PROVISIONS  
9

10	Section	
11	105.100	Applicability
12	105.102	Severability
13	105.104	Definitions
14	105.106	Computation of Time, Filing and Service Requirements
15	105.108	Dismissal of Petition
16	105.110	Hearings
17	105.112	Burden of Proof
18	105.114	Calculation of Decision Deadline
19	105.116	<u>Agency or OSFM Record Filing</u>
20	105.118	Sanctions for Non-Compliant Filing of the <u>Agency Record or the OSFM Record</u>

21  
22 SUBPART B: APPEAL OF AGENCY PERMIT DECISIONS AND  
23 OTHER FINAL DECISIONS OF THE AGENCY  
24

25	Section	
26	105.200	Applicability
27	105.202	Parties
28	105.204	Who May File a Petition for Review
29	105.206	Time to File the Petition or Request for Extension
30	105.208	Extension of Time to File a Petition for Review
31	105.210	Petition Content Requirements
32	105.212	<u>The Agency Record</u>
33	105.214	Board Hearing

34  
35 SUBPART C: CAAPP PERMIT APPEALS  
36

37	Section	
38	105.300	Applicability
39	105.302	General Requirements
40	105.304	Petition Content Requirements

41  
42 SUBPART D: APPEAL OF AGENCY LEAKING UNDERGROUND  
43 STORAGE TANK (LUST) DECISIONS

44  
45 Section  
46 105.400 Parties  
47 105.402 Who May File a Petition for Review  
48 105.404 Time for Filing the Petition  
49 105.406 Extension of Time to File a Petition for Review  
50 105.408 Petition Content Requirements  
51 105.410 The Agency Record  
52 105.412 Board Hearing

53  
54 SUBPART E: APPEAL OF OSFM LUST DECISIONS  
55

56 Section  
57 105.500 Applicability  
58 105.502 General Overview  
59 105.504 General Requirements  
60 105.506 Petition Content Requirements  
61 105.508 OSFM Record and Appearance  
62 105.510 Location of Hearing

63  
64 SUBPART F: PSD PERMIT APPEALS  
65

66 Section  
67 105.600 Applicability  
68 105.602 Parties  
69 105.604 Who May File a Petition for Review  
70 105.606 Time to File a Petition for Review  
71 105.608 Petition Content Requirements  
72 105.610 Board Standards for Granting Stays  
73 105.612 The Agency Record  
74 105.614 Board Hearing

- 75  
76 105.APPENDIX A Agency LUST Final Decisions that are Reviewable (Repealed)  
77 105.APPENDIX B Comparison of Former and Current Rules (Repealed)

78  
79 AUTHORITY: Authorized by Sections 26 and 27 of the Environmental Protection Act [415  
80 ILCS 5/26 and 27] and implementing Sections 5, 39, 39.5, 40, 40.1, 40.2, and 57 of the Act [415  
81 ILCS 5/5, 39, 39.5, 40, 40.1, 40.2 and 57].

82  
83 SOURCE: Filed with Secretary of State January 1, 1978; amended 4 Ill. Reg. 52, page 41,  
84 effective December 11, 1980; codified 6 Ill. Reg. 8357; amended in R93-24 at 18 Ill. Reg. 4244,  
85 effective March 8, 1994; amended in R94-11 at 18 Ill. Reg. 16594, effective November 1, 1994;  
86 old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 406, effective January 1, 2001;

87 amended in R04-24 at 29 Ill. Reg. 8811, effective June 8, 2005; amended in R14-21 at 39 Ill.  
88 Reg. 2369, effective January 27, 2015; amended in R16-17 at 40 Ill. Reg. 7980, effective May  
89 20, 2016; ; amended in R17-18 at 41 Ill. Reg. 10084, effective July 5, 2017; amended at 44 Ill.  
90 Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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92 **SUBPART A: GENERAL PROVISIONS**

93  
94 **Section 105.104 Definitions**

- 95  
96 a) Act means the Illinois Environmental Protection Act [415 ILCS 5].  
97  
98 b) Nonattainment New Source Review or NaNSR means Illinois' rules for Major  
99 Stationary Sources Construction and Modification (MSSCAM) at 35 Ill. Adm.  
100 Code 203.  
101  
102 c) ~~Other~~ For the purpose of this Part, words and terms will have the meanings as  
103 defined in 35 Ill. Adm. Code 101.Subpart B unless otherwise provided, or unless  
104 the context clearly indicates otherwise.

105  
106 (Source: Amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
107

108 **Section 105.108 Dismissal of Petition**

109  
110 A petition is subject to dismissal if the Board determines that:

- 111  
112 a) The petition does not contain the informational requirements set forth in Section  
113 105.210, 105.304, 105.408, ~~or~~ 105.506, or 105.608;  
114  
115 b) The petition is untimely under Section 105.206, 105.302, 105.404, ~~or~~ 105.504, or  
116 105.606;  
117  
118 c) The petitioner fails to timely comply with any order issued by the Board or the  
119 hearing officer, including an order requiring additional information;  
120  
121 d) The petitioner does not have standing under applicable law to petition the Board  
122 for review of the State agency's final decision; or  
123  
124 e) Other grounds exist that bar the petitioner from proceeding.

125  
126 (Source: Amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
127

128 **Section 105.112 Burden of Proof**

129

130 Unless this Part provides otherwise:  
 131

- 132 a) *The burden of proof shall be on the petitioner except as provided in subsection*  
 133 *(b) of this Section [415 ILCS 5/40(a)(1), 40(b) and (e)(3), and 40.2(a), and*  
 134 *40.3(a)(2)].*  
 135  
 136 b) *The burden of proof is on the Agency if the Agency issues an NPDES permit that*  
 137 *imposes limits which are based upon a criterion or denies a permit based upon*  
 138 *application of a criterion, then the Agency shall have the burden of going forward*  
 139 *with the basis for the derivation of those limits or criterion which were derived*  
 140 *under the Board's rules. [415 ILCS 5/40(a)(1)]*  
 141

142 (Source: Amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 143

144 **Section 105.116 Agency or OSFM Record Filing**  
 145

- 146 a) The State agency must file with the Board the entire record of the Agency's or  
 147 OSFM's decision, as applicable, within 30 days after the filing of the petition  
 148 for review, unless this Part provides otherwise, or the Board or hearing officer  
 149 orders a different filing date. If the Agency or OSFM State agency wishes to seek  
 150 additional time to file its record, it must file a request for extension before the  
 151 date on which its record is due to be filed. Under 35 Ill. Adm. Code  
 152 101.302(h)(2), each State agency must file its record through COOL or on  
 153 compact disk or other portable electronic data storage device and, to the extent  
 154 technically feasible, in text-searchable Adobe PDF. The record also must meet  
 155 the requirements of 35 Ill. Adm. Code 101.Subpart J.  
 156  
 157 b) The Agency record or OSFM record, as applicable, must be arranged in  
 158 chronological sequence, or by category of material and chronologically within  
 159 each category, and must be sequentially numbered with the letter "R" placed  
 160 before the number of each page. This page number must appear in the top right  
 161 corner of each page. The Agency record or OSFM record must be certified by the  
 162 applicable State agency. The certification must be entitled "Certificate of Record  
 163 on Appeal". The Certificate must contain an index that lists the documents  
 164 comprising the Agency record or OSFM record and shows the page numbers upon  
 165 which each document starts and ends. The Certificate of Record must be served  
 166 on all parties by the State agency.  
 167

168 (Source: Amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 169

170 **Section 105.118 Sanctions for Non-Compliant Filing of the Agency Record or the OSFM**  
 171 **Record**  
 172

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

177  
178 (Source: Amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
179

180 SUBPART B: APPEAL OF AGENCY PERMIT DECISIONS AND  
181 OTHER FINAL DECISIONS OF THE AGENCY  
182

183 **Section 105.200 Applicability**  
184

185 This Subpart applies to any appeal to the Board of the Agency's final permit decisions and other  
186 final decisions of the Agency, except:  
187

- 188 a) When the appeal is of a final CAAPP decision of the Agency, which is addressed  
189 in Subpart C ~~of this Part~~; and  
190  
191 b) When the appeal is of a final leaking underground storage tank decision of the  
192 Agency, which is addressed in Subpart D ~~of this Part~~; and  
193  
194 c) When the appeal is of a final PSD permit decision of the Agency, which is  
195 addressed in Subpart F.  
196

197 (Source: Amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
198

199 **Section 105.210 Petition Content Requirements**  
200

201 In addition to the requirements of 35 Ill. Adm. Code 101.Subpart C, the petition must include:  
202

- 203 a) The Agency's final decision or issued permit;  
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205 b) A statement specifying the date of issuance or service of the Agency's final  
206 decision or issued permit, as applicable under Section 105.206;  
207  
208 c) A statement specifying the grounds of appeal; and  
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210 d) For petitions under Section 105.204(b), *a demonstration that the petitioner raised*  
211 *the issues contained within the petition during the public notice period or during*  
212 *the Agency public hearing on the NPDES permit application, if an Agency*  
213 *public hearing was held, and a demonstration that the petitioner is so situated as*  
214 *to be affected by the permitted facility. [415 ILCS 5/40(e)(2)]*  
215

(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:

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- 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

- 302 Section 39.5(13) of the Act, as applicable; or  
 303  
 304 4) Failure of the Agency to take final action within 90 days after receipt of an  
 305 application requesting minor permit modification procedures (or 180 days  
 306 for modifications subject to group processing requirements) under Section  
 307 39.5(14) of the Act.  
 308  
 309 d) For purposes of this Subpart, a person who participated in the Agency public  
 310 comment process is someone who, during the Agency public comment period,  
 311 either commented on the draft permit, submitted written comments, or requested  
 312 notice of the final action on a specific permit application.  
 313  
 314 e) The petition filed under subsection (c) must be filed within 35 days after the  
 315 Agency's final permit action unless:  
 316  
 317 1) The petition is based solely on grounds arising after the 35 day period  
 318 expires, in which case the petition may be filed within 35 days after the  
 319 new grounds for review arise.  
 320  
 321 2) The applicant is challenging the Agency's failure to timely take final  
 322 action under Section 39.5 of the Act, in which case the petition must be  
 323 filed before the Agency takes the final action.  
 324  
 325 3) However, under no circumstances may a petition challenging the final  
 326 permit action on a Phase II acid rain permit be filed more than 90 days  
 327 subsequent to the final permit action.  
 328  
 329 f) The Agency must appear as respondent at the hearing, and must file, within 30  
 330 days after service of the petition, an answer consisting of the entire Agency record  
 331 of the application, including the CAAPP permit application, the Agency public  
 332 hearing record, the CAAPP permit denial or issuance letter, and correspondence  
 333 with the applicant concerning the CAAPP permit application.  
 334  
 335 g) The Clerk will give notice of the petition and hearing in accordance with 35 Ill.  
 336 Adm. Code 101.  
 337  
 338 h) The proceeding will be conducted in accordance with 35 Ill. Adm. Code 101.  
 339  
 340 i) *The Agency shall notify USEPA, in writing, of any petition for hearing brought*  
 341 *under this Part involving a provision or denial of a Phase II acid rain permit*  
 342 *within 30 days of the filing of the petition. USEPA may intervene as a matter of*  
 343 *right in any such hearing. The Agency shall notify USEPA, in writing, of any*  
 344 *determination or order in a hearing brought under this Section that interprets,*

345 voids, or otherwise relates to any portion of a Phase II acid rain permit. [415  
346 ILCS 5/40.2(e)]

347  
348 (Source: Amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
349

350 **Section 105.304 Petition Content Requirements**

351  
352 a) The petition must include:

353  
354 1) Aa concise description of the CAAPP source for which the permit is  
355 sought;

356  
357 2) Aa statement of the Agency's decision or part thereof to be reviewed;

358  
359 3) Aa justification as to why the Agency's decision or part thereof was in  
360 error; and

361  
362 4) ~~The~~the other materials upon which the petitioner relies in its petition.  
363

364 b) The petition may include a request to stay the effectiveness of a denial of the  
365 CAAPP permit until final action is taken by the Board under Section 40.2 of the  
366 Act.  
367

368 (Source: Amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
369

370 SUBPART D: APPEAL OF AGENCY LEAKING UNDERGROUND  
371 STORAGE TANK (LUST) DECISIONS  
372

373 **Section 105.410 The Agency Record**

374  
375 a) The Agency must file the entire Agency record of its decision with the Board in  
376 accordance with Section 105.116.  
377

378 b) The record must include:

379  
380 1) The plan or budget submittal or other request that requires an Agency  
381 decision;

382  
383 2) Correspondence with the petitioner and any documents or materials  
384 submitted by the petitioner to the Agency related to the plan or budget  
385 submittal or other request;

386  
387 3) The final determination letter; and

- 388  
389 4) Any other information the Agency relied upon in making its  
390 determination.  
391

392 (Source: Amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
393

394 **Section 105.412 Board Hearing**  
395

396 The Board will conduct a public hearing in accordance with 35 Ill. Adm. Code 101.Subpart F,  
397 including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)), upon an  
398 appropriately filed petition for review, unless a petition is disposed of by a motion for summary  
399 judgment brought under 35 Ill. Adm. Code 101.516. The hearing will be based exclusively on  
400 the Agency record before the Agency at the time the permit or decision was issued.  
401

402 (Source: Amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
403

404 **SUBPART E: APPEAL OF OSFM LUST DECISIONS**  
405

406 **Section 105.508 OSFM Record and Appearance**  
407

- 408 a) Within 14 days after a petition for review of an OSFM eligibility or deductibility  
409 determination, the attorney representing the OSFM must file an appearance with  
410 the Board.  
411  
412 b) The OSFM must file the entire OSFM record of its decision with the Board in  
413 accordance with Section 105.116. The OSFM record must include:  
414  
415 1) The request for OSFM determination of eligibility or deductibility;  
416  
417 2) Correspondence with the petitioner;  
418  
419 3) The denial letter; and  
420  
421 4) Any other information the OSFM relied upon in making its determination.  
422

423 (Source: Amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
424

425 **SUBPART F: PSD PERMIT APPEALS**  
426

427 **Section 105.600 Applicability**  
428

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

432  
433 (Source: Added at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
434

435 **Section 105.602 Parties**

- 436  
437 a) Petitioner. The person who files a petition for review of the Agency's final  
438 decision must be named the petitioner.  
439  
440 b) Respondent. The Agency must be named the respondent. If a petition is filed  
441 under Section 105.604(c) by a person other than the permit applicant, the permit  
442 applicant must be named as a respondent in addition to the Agency.  
443

444 (Source: Added at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
445

446 **Section 105.604 Who May File a Petition for Review**

- 447  
448 a) If the Agency refused to grant, or grants with conditions, a PSD permit under  
449 Section 9.1(d) of the Act and 35 Ill. Adm. Code Part 204, the applicant may  
450 petition for a hearing before the Board to contest the decision of the Agency.  
451 [415 ILCS 5/40.3(a)(1)]  
452  
453 b) If the Agency fails to act on an application for a PSD permit within the time frame  
454 specified in Section 39(f)(3) of the Act, the applicant may petition for a hearing  
455 before the Board to compel the Agency to act on the application in a time that is  
456 deemed reasonable by the Board. [415 ILCS 5/40.3(a)(1)]  
457  
458 c) Any person who participated in the Agency public comment process for a PSD  
459 permit and is either aggrieved or has an interest that is or may be adversely  
460 affected by the PSD permit may petition for a hearing before the Board to contest  
461 the decision of the Agency. If the petitioner failed to participate in the Agency's  
462 public comment process, the person may still petition for a hearing, but only upon  
463 issues where the final permit conditions reflect changes from the proposed draft  
464 permit that was made available during the Agency public comment process. [415  
465 ILCS 5/40.3(a)(2)]  
466

467 (Source: Added at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
468

469 **Section 105.606 Time to File a Petition for Review**

470

- 471 a) Except as provided in subsection (b), a person who may petition the Board under  
472 Section 105.604 for review of the Agency's final decision must file the petition  
473 with the Clerk within 35 days after the date of the Agency's final permit action.  
474
- 475 b) A permit applicant who wishes to appeal the Agency's failure to act on an  
476 application for a PSD permit within the time frame specified in Section 39(f)(3)  
477 of the Act must file a petition for review with the Clerk before the Agency denies  
478 or issues the final permit.  
479

480 (Source: Added at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
481

482 **Section 105.608 Petition Content Requirements**  
483

- 484 a) All petitions under Section 105.604 must comply with 35 Ill. Adm. Code  
485 101.Subpart C.  
486
- 487 b) A petition under Section 105.604(a) or (c) must contain, within the body of the  
488 petition, all pertinent information in support of each issue raised for review. The  
489 Board will not consider arguments, assertions, claims, or other information  
490 incorporated into the petition by reference. *The petition must include:*  
491
- 492 1) The Agency's final decision or issued PSD permit;
  - 493
  - 494 2) A statement as to how the petitioner participated in the Agency public  
495 comment process;
  - 496
  - 497 3) All facts necessary to demonstrate that the petitioner is aggrieved or has  
498 an interest that is or may be adversely affected;
  - 499
  - 500 4) The issues proposed for review, citing to a specific permit term or  
501 condition when applicable and to the Agency record where those issues  
502 were raised, citing to any relevant page numbers in the public comments  
503 submitted to the Agency and attaching this public comment to the petition.  
504 If the issues proposed for review were not raised with reasonable  
505 specificity during the public comment period, the petition must explain  
506 why those issues were not required to be raised during the Agency public  
507 comment process; and
  - 508
  - 509 5) An explanation why the Agency's previous response, if any, to the issues  
510 proposed for review was:
  - 511
  - 512 A) Clearly erroneous; or  
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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 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 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 these cases, the Board may stay the effectiveness of all the contested conditions of the PSD permit and may stay the

557 effectiveness of any or all uncontested conditions only if the Board determines  
 558 that the uncontested conditions would be affected by its review of contested  
 559 conditions. The party requesting the stay has the burden of demonstrating that an  
 560 immediate stay is required in order to preserve the status quo without  
 561 endangering the public, that it is not contrary to public policy, and that there is a  
 562 reasonable likelihood of success on the merits. Any stays granted by the Board  
 563 shall be deemed effective upon the date of final Agency action appealed under  
 564 Section 105.606 and shall remain in effect until a decision is issued by the Board  
 565 on the petition. [415 ILCS 5/40.3(d)(3)]  
 566

567 (Source: Added at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 568

569 **Section 105.612 The Agency Record**  
 570

- 571 a) The Agency must file a copy of its entire Agency record of its decision with the  
 572 Clerk in accordance with Section 105.116.  
 573
- 574 b) The Agency record must include:  
 575
- 576 1) Any permit application or other request that resulted in the Agency's final  
 577 decision;  
 578
  - 579 2) Correspondence with the applicant and any documents or material  
 580 submitted by the applicant to the Agency related to the permit application;  
 581
  - 582 3) The project summary, statement of basis, or fact sheet;  
 583
  - 584 4) The Agency public hearing record of any Agency public hearing held  
 585 under 35 Ill. Adm. Code 252.205, including any transcripts and exhibits;  
 586
  - 587 5) All written comments received during the Agency public comment period  
 588 under 35 Ill. Adm. Code 252.201, including any extension or reopening  
 589 under 35 Ill. Adm. Code 252.208;  
 590
  - 591 6) The response to comments required by 35 Ill. Adm. Code 252.210 and any  
 592 new material placed in the Agency record under that Section;  
 593
  - 594 7) The final permit; and  
 595
  - 596 8) Any other information the Agency relied upon in making its final decision.  
 597

598 (Source: Added at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 599

600 **Section 105.614 Board Hearing**

601

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

609

610 a) The Board will not hold a hearing on a petition for review under this Subpart if  
 611 the Board disposes of the petition on a motion for summary judgment brought  
 612 under 35 Ill. Adm. Code 101.516.

613

614 b) The Board will not hold a hearing on a petition for review under this Subpart if  
 615 the Board determines that:

616

617 1) The petition is *frivolous*; or

618

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

621

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

624

625 (Source: Added at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

# AGENCY VS JCAR ROI

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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105.102 Severability  
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105.106 Computation of Time, Filing and Service Requirements  
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105.110 ~~Hearing Process~~ Hearings  
105.112 Burden of Proof  
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the OSFM Record

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OTHER FINAL DECISIONS OF THE AGENCY

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Section  
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SUBPART E: APPEAL OF OSFM LUST DECISIONS

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SUBPART F: PSD PERMIT APPEALS

Section

105.600 Applicability  
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105.614 Board Hearing

105.APPENDIX A Agency LUST Final Decisions that are Reviewable  
(Repealed)

105.APPENDIX B Comparison of Former and Current Rules (Repealed)

AUTHORITY: Authorized by Sections 26 and 27 of the Environmental Protection Act ~~(Act)~~ [415 ILCS 5/26 and 27] and implementing Sections 5, ~~9-1(e)~~, 39, 39.5, 40, 40.1, 40.2, and 57 of the Act [415 ILCS 5/5, ~~9-1(e)~~, 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. ~~4344, 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 ~~Part~~ 203.

~~bc)~~ 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 ~~its~~ 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 ~~101-101~~, 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) **AaA** concise description of the CAAPP source for which the permit is sought;
- 2) **AaA** statement of the Agency's decision or part thereof to be reviewed;
- 3) **AaA** 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 ~~Agency~~ record must include:

1) The plan or budget submittal or other request that requires an Agency decision;

2) Correspondence with the petitioner and any documents or materials submitted by the petitioner to the Agency related to the plan or budget submittal or other request;

3) The final determination letter; and

4) Any other information the Agency relied upon in making its determination.

(Source: Amended at 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 ~~PSD~~ Prevention of Significant Deterioration (PSD) permit determinations made under Section 9.1(d) of the Act and 35 Ill. Adm. Code ~~Part~~ 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) 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) 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 ~~be-~~ ~~contained~~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 ~~such~~ 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 ~~where~~when applicable and 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 the issues 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) ~~d~~ 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 ~~such~~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 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 ~~of this Subpart~~ and shall remain in effect until a decision is issued by the Board on the petition. [415 ILCS 5/40.3(d)(3)]

(Source: Added at 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,~~101.Subpart F, upon an appropriately filed petition for review under this Subpart. The hearing and decision of the Board will be based exclusively on the Agency record at the time the permit or decision was issued, unless the parties agree to supplement the Agency record. Any PSD permit issued by the Agency must be upheld by the Board if the technical decisions contained ~~therein~~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 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\_ \_\_\_\_\_)

~~ILLINOIS REGISTER~~

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

JCAR350105-2004347r01

# 1ST NOTICE VERSION

JCAR350203-2004367r01

1 TITLE 35: ENVIRONMENTAL PROTECTION  
2 SUBTITLE B: AIR POLLUTION  
3 CHAPTER I: POLLUTION CONTROL BOARD  
4 SUBCHAPTER a: PERMITS AND GENERAL PROVISIONS  
5

6 PART 203  
7 MAJOR STATIONARY SOURCES CONSTRUCTION AND MODIFICATION  
8

9 SUBPART A: GENERAL PROVISIONS  
10

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12	203.101	Definitions
13	203.103	Actual Construction
14	203.104	Actual Emissions
15	203.107	Allowable Emissions
16	203.110	Available Growth Margin
17	203.112	Building, Structure and Facility
18	203.113	Commence
19	203.116	Construction
20	203.117	Dispersion Enhancement Techniques
21	203.119	Emission Baseline
22	203.121	Emission Offset
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26	203.125	Installation
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28	203.127	Nonattainment Area
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31	203.134	Secondary Emissions
32	203.136	Stationary Source
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34	203.150	Public Participation
35	203.155	Severability (Repealed)

36  
37 SUBPART B: MAJOR STATIONARY  
38 SOURCES IN NONATTAINMENT AREAS  
39

40	Section	
41	203.201	Prohibition
42	203.202	Coordination With Permit Requirement and Application Pursuant to 35 Ill. Adm. Code 201
43		

- 44 203.203 Construction Permit Requirement and Application
- 45 203.204 Duration of Construction Permit (Repealed)
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53  
54           SUBPART C: REQUIREMENTS FOR MAJOR STATIONARY  
55                            SOURCES IN NONATTAINMENT AREAS  
56

57 Section

- 58 203.301 Lowest Achievable Emission Rate
- 59 203.302 Maintenance of Reasonable Further Progress and Emission Offsets
- 60 203.303 Baseline and Emission Offsets Determination
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- 62 203.305 Compliance by Existing Sources
- 63 203.306 Analysis of Alternatives

64  
65           SUBPART F: OPERATION OF A MAJOR STATIONARY SOURCE  
66                            OR MAJOR MODIFICATION  
67

68 Section

- 69 203.601 Lowest Achievable Emission Rate Compliance Requirement
- 70 203.602 Emission Offset Maintenance Requirement
- 71 203.603 Ambient Monitoring Requirement (Repealed)

72  
73           SUBPART G: GENERAL MAINTENANCE OF EMISSION OFFSETS  
74

75 Section

- 76 203.701 General Maintenance of Emission Offsets

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78           SUBPART H: OFFSETS FOR EMISSION INCREASES FROM ROCKET ENGINES AND  
79                            MOTOR FIRING  
80

81 Section

- 82 203.801 Offsetting by Alternative or Innovative Means

83  
84 AUTHORITY: Implementing Sections 9.1 and 10 and authorized by Sections 27 and 28.5 of the  
85 Environmental Protection Act [415 ILCS 5/9.1, 10, 27 and 28.5].  
86

87 SOURCE: Adopted and codified at 7 Ill. Reg. 9344, effective July 22, 1983; codified at 7 Ill.  
 88 Reg. 13588; amended in R85-20 at 12 Ill. Reg. 6118, effective March 22, 1988; amended in  
 89 R91-24 at 16 Ill. Reg. 13551, effective August 24, 1992; amended in R92-21 at 17 Ill. Reg. 6973,  
 90 effective April 30, 1993; amended in R93-9 at 17 Ill. Reg. 16630, effective September 27, 1993;  
 91 amended in R93-26 at 18 Ill. Reg. 6335, effective April 15, 1994; amended in R98-10 at 22 Ill.  
 92 Reg. 5674, effective March 10, 1998; amended in R19-1 at 44 Ill. Reg. \_\_\_\_\_, effective  
 93 \_\_\_\_\_.

94  
 95 SUBPART B: MAJOR STATIONARY SOURCES IN  
 96 NONATTAINMENT AREAS  
 97

98 **Section 203.207 Major Modification of a Source**  
 99

- 100 a) Except as provided in subsection (c), (d), (e) or (f) ~~below~~, a physical change, or  
 101 change in the method of operation of a major stationary source that would result  
 102 in a significant net emissions increase of any pollutant for which the area is  
 103 designated a nonattainment area, shall constitute a major modification of a source.  
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- 105 b) Any net emissions increase that is significant for volatile organic material or  
 106 nitrogen oxides shall be considered significant for ozone.  
 107
- 108 c) A physical change or change in the method of operation ~~must~~ shall not include:  
 109
- 110 1) Routine maintenance and repair.
  - 111
  - 112 2) Use of an alternative fuel or raw material by reason of any order under  
 113 Section 2(a) and (b) of the Energy Supply and Environmental  
 114 Coordination Act of 1974 (15 USCU.S.C. 791), the Power Plant and  
 115 Industrial Fuel Use Act of 1978 (42 USCU.S.C. 8301) (or any superseding  
 116 legislation) or by reason of a natural gas curtailment plan under ~~pursuant to~~  
 117 the Federal Power Act (16 USCU.S.C. 791, et seq.).  
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  - 119 3) Use of an alternative fuel by reason of an order or rule under Section 125  
 120 of the Clean Air Act (42 USCU.S.C. 7425).  
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  - 122 4) Use of an alternative fuel at a steam generating unit to the extent that the  
 123 fuel is generated from municipal solid waste.  
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  - 125 5) Use of an alternative fuel or raw material by a stationary source that ~~which~~:  
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  - 127 A) Was capable of accommodating thesueh alternative fuel or raw  
 128 material before December 21, 1976, and that ~~which~~ has  
 129 continuously remained capable of accommodating thosesueh fuels

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or materials unless ~~thesueh~~ change would be prohibited under any enforceable permit condition established after December 21, 1976, ~~underpursuant 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 ~~underpursuant 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 ~~that increasesueh change~~ is prohibited under any enforceable permit condition ~~thatwhieh~~ was established after December 21, 1976 ~~underpursuant 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 ~~thesueh~~ air pollutant from ~~thatsueh~~ 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 ~~thesueh~~ 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 ~~thatwhieh~~ 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, ~~thesueh~~ increase shall be considered a major modification for purposes of this Part. ~~theexcept~~ ~~sueh~~ increase shall not be considered a major modification for ~~thesesueh~~ 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 ~~thatwhieh~~ results in any increase in emissions of volatile organic material

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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 \_\_\_\_\_)

# AGENCY VS RO1

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

PART 203  
MAJOR STATIONARY SOURCES CONSTRUCTION AND MODIFICATION

SUBPART A: GENERAL PROVISIONS

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203.103 Actual Construction  
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203.107 Allowable Emissions  
203.110 Available Growth Margin  
203.112 Building, Structure and Facility  
203.113 Commence  
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203.119 Emission Baseline  
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203.123 Federally Enforceable  
203.124 Fugitive Emissions  
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203.150 Public Participation  
203.155 Severability (Repealed)

SUBPART B: MAJOR STATIONARY  
SOURCES IN NONATTAINMENT AREAS

Section  
203.201 Prohibition  
203.202 Coordination With Permit Requirement and Application Pursuant  
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SUBPART C: REQUIREMENTS FOR MAJOR STATIONARY  
SOURCES IN NONATTAINMENT AREAS

Section

- 203.301 Lowest Achievable Emission Rate
- 203.302 Maintenance of Reasonable Further Progress and Emission  
Offsets
- 203.303 Baseline and Emission Offsets Determination
- 203.304 Exemptions from Emissions Offset Requirement (Repealed)
- 203.305 Compliance by Existing Sources
- 203.306 Analysis of Alternatives

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

Section

- 203.601 Lowest Achievable Emission Rate Compliance Requirement
- 203.602 Emission Offset Maintenance Requirement
- 203.603 Ambient Monitoring Requirement (Repealed)

SUBPART G: GENERAL MAINTENANCE OF EMISSION OFFSETS

Section

- 203.701 General Maintenance of Emission Offsets

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

Section

- 203.801 Offsetting by Alternative or Innovative Means

AUTHORITY: Implementing ~~Section~~Sections 9.1 and 10 and authorized by ~~Section~~Sections 27 and 28.5 of the Environmental Protection Act (~~Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 1009.1, 1010 and 1027~~) [415 ILCS 5/9.1, 1010, 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, ~~must~~ shall constitute a major modification of a source.

b) Any net emissions increase that is significant for volatile organic material or nitrogen oxides ~~must~~ shall ~~all~~ be considered significant for ozone.

c) A physical change or change in the method of operation must ~~shall~~ not include:

1) Routine maintenance and repair.

2) Use of an alternative fuel or raw material by reason of any order under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 ~~U.S.C.~~ USC 791), the Power Plant and Industrial Fuel Use Act of 1978 (~~43 U.S.C. 42~~ USC 8301) (or any superseding legislation) or by reason of a natural gas curtailment plan under ~~pursuant to~~ the Federal Power Act (16 ~~U.S.C.~~ USC 791, et seq.).

3) Use of an alternative fuel by reason of an order or rule under Section 125 of the Clean Air Act (~~43 U.S.C. 7435~~ 42 USC 7425).

4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

5) Use of an alternative fuel or raw material by a stationary source ~~which~~ that:

A) Was capable of accommodating ~~such~~ the alternative fuel or raw material before December 21, 1976, and ~~which~~ that has continuously remained capable of accommodating ~~such~~ those fuels or materials unless ~~such~~ the 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 ~~Part~~ 204, this Part, or 35 Ill. Adm. Code 201.142 or 201.143; or 201.143, or

B) Is approved for use under any permit issued under ~~pursuant to~~ this Part or 35 Ill. Adm. Code ~~201.143~~ 201.142 or 201.143.

6) An increase in the hours of operation or in the production rate, unless ~~such change~~ that increase is prohibited under any enforceable permit condition ~~which~~ that was established after December 21, 1976 under ~~pursuant to~~ 40 CFR 52.21, 35 Ill. Adm. Code ~~Part~~ 204, this Part, or 35 Ill. Adm. Code ~~201.143~~ 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 ~~must~~ shall be considered de minimis for purposes of this Part if the increase in net emissions of ~~such~~the air pollutant from ~~such~~that 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 increase occurred.

e) In the case of any major stationary source of volatile organic material or nitrogen oxides located in an area classified as serious or severe nonattainment for ozone (other than a source ~~which~~that 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 increase ~~must~~ shall be considered a major modification for purposes of this Part, ~~except~~ ~~such~~. ~~However, the~~ increase ~~must~~ shall not be considered a major modification for ~~such~~these purposes if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of volatile organic material or nitrogen oxides, respectively, from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1.

f) In areas classified as extreme nonattainment for ozone, beginning on the date that an area is classified by USEPA as an extreme nonattainment area for ozone, any physical change in or change in the method of operation of a major stationary source ~~which~~that results in any increase in emissions of volatile organic material or nitrogen oxides from a discrete operation, unit, or other pollutant emitting activity ~~must~~ shall be considered a major modification.

(Source: Amended at 44 Ill. Reg. ~~-~~ \_\_\_\_\_, effective \_\_\_\_\_)

~~ILLINOIS REGISTER~~

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENT~~

JCAR350203-2004367r01

# 1<sup>ST</sup> NOTICE VERSION

JCAR350204-2004375r01

1 TITLE 35: ENVIRONMENTAL PROTECTION  
2 SUBTITLE B: AIR POLLUTION  
3 CHAPTER I: POLLUTION CONTROL BOARD  
4 SUBCHAPTER a: PERMITS AND GENERAL PROVISIONS  
5

6 PART 204  
7 PREVENTION OF SIGNIFICANT DETERIORATION  
8

9 SUBPART A: GENERAL PROVISIONS  
10

11 Section

12 204.100 Incorporations by Reference  
13 204.110 Abbreviations and Acronyms  
14 204.120 Severability  
15

16 SUBPART B: DEFINITIONS  
17

18 Section

19 204.200 Definitions  
20 204.210 Actual Emissions  
21 204.220 Adverse Impact on Visibility  
22 204.230 Allowable Emissions  
23 204.240 Baseline Actual Emissions  
24 204.250 Baseline Area  
25 204.260 Baseline Concentration  
26 204.270 Begin Actual Construction  
27 204.280 Best Available Control Technology (BACT)  
28 204.290 Building, Structure, Facility, or Installation  
29 204.300 Clean Coal Technology  
30 204.310 Clean Coal Technology Demonstration Project  
31 204.320 Commence  
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33 204.340 Construction  
34 204.350 Dispersion Technique  
35 204.360 Electric Utility Steam Generating Unit  
36 204.370 Emissions Unit  
37 204.380 Excessive Concentration  
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41 204.420 Good Engineering Practice  
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96

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168		
169	AUTHORITY: Implementing Sections 9.1 and 10 and authorized by Sections 27 and 28 of the	
170	Environmental Protection Act [415 ILCS 5/9.1, 10, 27 and 28].	
171		
172	SOURCE: Adopted in R19-1 at 44 Ill. Reg. _____, effective _____.	

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SUBPART A: GENERAL PROVISIONS

**Section 204.100 Incorporations by Reference**

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

- a) 40 CFR Part 50 (2018)
- b) 40 CFR Part 51 (2018)
- c) 40 CFR Part 52 (2018)
- d) 40 CFR Part 53 (2018)
- e) 40 CFR Part 54 (2018)
- f) 40 CFR Part 55 (2018)
- g) 40 CFR Part 56 (2018)
- h) 40 CFR Part 57 (2018)
- i) 40 CFR Part 58 (2018)
- j) 40 CFR Part 59 (2018)
- k) 40 CFR Part 60 (2018)
- l) 40 CFR Part 61 (2018)
- m) 40 CFR Part 62 (2018)
- n) 40 CFR Part 63 (2018)
- o) 40 CFR Part 64 (2018)
- p) 40 CFR Part 65 (2018)
- q) 40 CFR Part 66 (2018)
- r) 40 CFR Part 67 (2018)

216		
217	s)	40 CFR Part 68 (2018)
218		
219	t)	40 CFR Part 69 (2018)
220		
221	u)	40 CFR Part 70 (2018)
222		
223	v)	40 CFR Part 71 (2018)
224		
225	w)	40 CFR Part 72 (2018)
226		
227	x)	40 CFR Part 73 (2018)
228		
229	y)	40 CFR Part 74 (2018)
230		
231	z)	40 CFR Part 75 (2018)
232		
233	aa)	40 CFR Part 76 (2018)
234		
235	bb)	40 CFR Part 77 (2018)
236		
237	cc)	40 CFR Part 78 (2018)
238		
239	dd)	40 CFR Part 79 (2018)
240		
241	ee)	40 CFR Part 80 (2018)
242		
243	ff)	40 CFR Part 81 (2018)
244		
245	gg)	40 CFR Part 82 (2018)
246		
247	hh)	(Reserved)
248		
249	ii)	(Reserved)
250		
251	jj)	40 CFR Part 85 (2018)
252		
253	kk)	40 CFR Part 86 (2018)
254		
255	ll)	40 CFR Part 87 (2018)
256		
257	mm)	40 CFR Part 88 (2018)
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- 259 nn) 40 CFR Part 89 (2018)
- 260
- 261 oo) 40 CFR Part 90 (2018)
- 262
- 263 pp) 40 CFR Part 91 (2018)
- 264
- 265 qq) 40 CFR Part 92 (2018)
- 266
- 267 rr) 40 CFR Part 93 (2018)
- 268
- 269 ss) 40 CFR Part 94 (2018)
- 270
- 271 tt) 40 CFR Part 95 (2018)
- 272
- 273 uu) 40 CFR Part 96 (2018)
- 274
- 275 vv) 40 CFR Part 97 (2018), excluding 40 CFR Part 97, Subpart FFFFF (2018)
- 276
- 277 ww) 40 CFR Part 98 (2018)
- 278
- 279 xx) (Reserved)
- 280
- 281 yy) Standard Industrial Classification Manual, 1972, as amended by 1977 Supplement
- 282 (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-
- 283 0, respectively)
- 284

**Section 204.110 Abbreviations and Acronyms**

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

289	μg/m <sup>3</sup>	micrograms per cubic meter
290	Act	Illinois Environmental Protection Act
291	Agency	Illinois Environmental Protection Agency
292	BACT	Best Available Control Technology
293	Board	Illinois Pollution Control Board
294	Btu	British thermal units
295	CAA	Clean Air Act
296	CAAPP	Clean Air Act Permit Program
297	CEMS	Continuous Emissions Monitoring System
298	CERMS	Continuous Emissions Rate Monitoring System
299	CO <sub>2</sub>	carbon dioxide
300	CO <sub>2</sub> e	carbon dioxide equivalent
301	CPMS	Continuous Parameter Monitoring System

302	GHG	Greenhouse Gas
303	H <sub>2</sub> S	hydrogen sulfide
304	hr	hour
305	LAER	Lowest Achievable Emission Rate
306	lbs	pounds
307	lb/hr	pounds per hour
308	MW	megawatts
309	NAAQS	National Ambient Air Quality Standards
310	NAICS	North American Industry Classification System
311	NO <sub>2</sub>	nitrogen dioxide
312	NO <sub>x</sub>	nitrogen oxides
313	NSPS	New Source Performance Standards
314	NSR	New Source Review
315	O <sub>2</sub>	oxygen
316	PAL	Plantwide Applicability Limitation
317	PEMS	Predictive Emissions Monitoring System
318	PM	Particulate Matter
319	PM <sub>2.5</sub>	Particulate Matter equal to or less than 2.5 microns in diameter
320		(Fine Particulate Matter)
321	PM <sub>10</sub>	Particulate Matter equal to or less than 10 microns in diameter
322	ppm	parts per million
323	PSD	Prevention of Significant Deterioration
324	RACT	Reasonably Available Control Technology
325	SIP	State Implementation Plan
326	SO <sub>2</sub>	sulfur dioxide
327	tpy	tons per year
328	TSP	total suspended particulates
329	US	United States
330	USEPA	United States Environmental Protection Agency
331	VOC	Volatile Organic Compound
332	VOM	Volatile Organic Material
333	yr	year

334  
335 **Section 204.120 Severability**

336  
337 If any provision of this Part, or the application of that provision to any person or circumstance, is  
338 held invalid, the remainder of this Part, or the application of the provision to persons or  
339 circumstances other than those as to which it is held invalid, shall not be affected by that holding.

340  
341 **SUBPART B: DEFINITIONS**

342  
343 **Section 204.200 Definitions**

344

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

347

348 **Section 204.210 Actual Emissions**

349

350 a) "Actual emissions" means the actual rate of emissions of a regulated NSR  
 351 pollutant from an emissions unit, as determined in accordance with subsections  
 352 (b) through (d), except that this definition must not apply for calculating whether  
 353 a significant emissions increase has occurred, or for establishing a PAL under  
 354 Subpart K. Instead, Sections 204.240 and 204.600 will apply for those purposes.  
 355

356 b) In general, actual emissions as of a particular date must equal the average rate, in  
 357 tons per year, at which the unit actually emitted the pollutant during a consecutive  
 358 24-month period that precedes the particular date and that is representative of  
 359 normal source operation. The Agency shall allow the use of a different time  
 360 period upon a determination that it is more representative of normal source  
 361 operation. Actual emissions must be calculated using the unit's actual operating  
 362 hours, production rates, and types of materials processed, stored, or combusted  
 363 during the selected time period.  
 364

365 c) The Agency may presume that source-specific allowable emissions for the unit  
 366 are equivalent to the actual emissions of the unit.  
 367

368 d) For any emissions unit that has not begun normal operations on the particular  
 369 date, actual emissions must equal the potential to emit of the unit on that date.  
 370

371 **Section 204.220 Adverse Impact on Visibility**

372

373 "Adverse impact on visibility" means visibility impairment that interferes with the management,  
 374 protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I  
 375 area. This determination shall be made on a case-by-case basis taking into account the  
 376 geographic extent, intensity, duration, frequency and time of visibility impairment, and how  
 377 these factors correlate with:

378

379 a) Times of visitor use of the Federal Class I area; and

380

381 b) Frequency and timing of natural conditions that reduce visibility.  
 382

383 **Section 204.230 Allowable Emissions**

384

385 "Allowable emissions" means the emissions rate of a stationary source calculated using the  
 386 maximum rated capacity of the source (unless the source is subject to federally enforceable limits

387 that restrict the operating rate, or hours of operation, or both) and the most stringent of the  
 388 following:

- 389
- 390 a) The applicable standards as set forth in 40 CFR 60, 61, 62 and 63 (incorporated  
 391 by reference in Section 204.100);
  - 392
  - 393 b) The applicable SIP emissions limitation, including those with a future compliance  
 394 date; or
  - 395
  - 396 c) The emissions rate specified as a federally enforceable permit condition,  
 397 including those with a future compliance date.
  - 398

399 **Section 204.240 Baseline Actual Emissions**

400

401 "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR  
 402 pollutant, as determined in accordance with this Section.

- 403
- 404 a) For any existing electric utility steam generating unit, baseline actual emissions  
 405 means the average rate, in tons per year, at which the unit actually emitted the  
 406 pollutant during any consecutive 24-month period selected by the owner or  
 407 operator within the 5-year period immediately preceding when the owner or  
 408 operator begins actual construction of the project. The Agency shall allow the use  
 409 of a different time period upon a determination that it is more representative of  
 410 normal source operation.
  - 411
  - 412 1) The average rate must include fugitive emissions to the extent  
 413 quantifiable, and emissions associated with startups, shutdowns, and  
 414 malfunctions.
  - 415
  - 416 2) The average rate must be adjusted downward to exclude any non-  
 417 compliant emissions that occurred while the source was operating above  
 418 any emission limitation that was legally enforceable during the  
 419 consecutive 24-month period.
  - 420
  - 421 3) For a regulated NSR pollutant, when a project involves multiple emissions  
 422 units, only one consecutive 24-month period shall be used to determine the  
 423 baseline actual emissions for the emissions units being changed. A  
 424 different consecutive 24-month period can be used for each regulated NSR  
 425 pollutant.
  - 426
  - 427 4) The average rate must not be based on any consecutive 24-month period  
 428 for which there is inadequate information for determining annual

429 emissions, in tons per year, and for adjusting this amount if required by  
430 subsection (a)(2).  
431

432 b) For an existing emissions unit (other than an electric utility steam generating  
433 unit), baseline actual emissions means the average rate, in tons per year, at which  
434 the emissions unit actually emitted the pollutant during any consecutive 24-month  
435 period selected by the owner or operator within the 10-year period immediately  
436 preceding either the date the owner or operator begins actual construction of the  
437 project, or the date a complete permit application is received by the reviewing  
438 authority for a permit required under 40 CFR 52.21 or by the Agency for a permit  
439 required by the SIP, whichever is earlier, except that the 10-year period must not  
440 include any period earlier than November 15, 1990.  
441

442 1) The average rate must include fugitive emissions to the extent  
443 quantifiable, and emissions associated with startups, shutdowns, and  
444 malfunctions.  
445

446 2) The average rate must be adjusted downward to exclude any non-  
447 compliant emissions that occurred while the source was operating above  
448 an emission limitation that was legally enforceable during the consecutive  
449 24-month period.  
450

451 3) The average rate must be adjusted downward to exclude any emissions  
452 that would have exceeded an emission limitation with which the major  
453 stationary source must currently comply, had such major stationary source  
454 been required to comply with such limitations during the consecutive 24-  
455 month period. "Currently" in the context of a contemporaneous emissions  
456 change refers to limitations on emissions and source operation that existed  
457 just prior to the date of the contemporaneous change. However, if an  
458 emission limitation is part of a Maximum Achievable Control Technology  
459 standard that the USEPA proposed or promulgated under 40 CFR 63  
460 (incorporated by reference in Section 204.100), the baseline actual  
461 emissions need only be adjusted if the Agency has taken credit for that  
462 emissions reductions in an attainment demonstration or maintenance plan  
463 consistent with 40 CFR 51.165(a)(3)(ii)(G).  
464

465 4) For a regulated NSR pollutant, when a project involves multiple emissions  
466 units, only one consecutive 24-month period shall be used to determine the  
467 baseline actual emissions for all the emissions units being changed. A  
468 different consecutive 24-month period can be used for each regulated NSR  
469 pollutant.  
470

- 471 5) The average rate must not be based on any consecutive 24-month period
- 472 for which there is inadequate information for determining annual
- 473 emissions, in tons per year, and for adjusting this amount if required by
- 474 subsections (b)(2) and (b)(3).
- 475
- 476 c) For a new emissions unit, the baseline actual emissions for purposes of
- 477 determining the emissions increase that will result from the initial construction
- 478 and operation of the unit must equal zero. Thereafter, for all other purposes, it
- 479 must equal the unit's potential to emit.
- 480
- 481 d) For a PAL for a stationary source, the baseline actual emissions must be
- 482 calculated for existing electric utility steam generating units in accordance with
- 483 the procedures contained in subsection (a), for other existing emissions units in
- 484 accordance with the procedures contained in subsection (b), and for a new
- 485 emissions unit in accordance with the procedures contained in subsection (c).
- 486

487 **Section 204.250 Baseline Area**

- 488
- 489 a) "Baseline area" means any intrastate area (and every part thereof) designated as
- 490 attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the CAA (43
- 491 USC 7407(d)(1)(A)(ii) or (iii)) in which the major source or major modification
- 492 establishing the minor source baseline date would construct or would have an air
- 493 quality impact for the pollutant for which the baseline date is established, as
- 494 follows: Equal to or greater than 1  $\mu\text{g}/\text{m}^3$  (annual average) for  $\text{SO}_2$ ,  $\text{NO}_2$ , or  $\text{PM}_{10}$ ;
- 495 or equal to or greater than 0.3  $\mu\text{g}/\text{m}^3$  (annual average) for  $\text{PM}_{2.5}$ .
- 496
- 497 b) Area redesignations under section 107(d)(1)(A)(ii) or (iii) of the CAA cannot
- 498 intersect or be smaller than the area of impact of any major stationary source or
- 499 major modification that:
- 500
- 501 1) Establishes a minor source baseline date; or
- 502
- 503 2) Is subject to this Part and would be constructed in the state proposing the
- 504 redesignation.
- 505
- 506 c) Any baseline area established originally for the TSP increments must remain in
- 507 effect and must apply for purposes of determining the amount of available  $\text{PM}_{10}$
- 508 increments, except that baseline area must not remain in effect if the Agency
- 509 rescinds the corresponding minor source baseline date in accordance with Section
- 510 204.520(c).
- 511

512 **Section 204.260 Baseline Concentration**

513

- 514 a) "Baseline concentration" means the ambient concentration level that exists in the  
 515 baseline area at the time of the applicable minor source baseline date. A baseline  
 516 concentration is determined for each pollutant for which a minor source baseline  
 517 date is established and must include:  
 518
- 519 1) The actual emissions, as defined in Section 204.210, representative of  
 520 sources in existence on the applicable minor source baseline date, except  
 521 as provided in subsection (b); and  
 522
  - 523 2) The allowable emissions of major stationary sources that commenced  
 524 construction before the major source baseline date, but were not in  
 525 operation by the applicable minor source baseline date.  
 526
- 527 b) The following will not be included in the baseline concentration and will affect  
 528 the applicable maximum allowable increases:  
 529
- 530 1) Actual emissions, as defined in Section 204.210, from any major  
 531 stationary source on which construction commenced after the major  
 532 source baseline date. For a major stationary source in existence on the  
 533 major source baseline date, "actual emissions" for the purposes of this  
 534 subsection (b) means increases or decreases in actual emissions resulting  
 535 from construction commencing after the major source baseline date; and  
 536
  - 537 2) Actual emissions increases and decreases, as defined in Section 204.210,  
 538 at any stationary source occurring after the minor source baseline date.  
 539

540 **Section 204.270 Begin Actual Construction**

541  
 542 "Begin actual construction" means, in general, initiation of physical on-site construction  
 543 activities on an emissions unit that are of a permanent nature. These activities include, but are  
 544 not limited to, installation of building supports and foundations, laying underground pipework,  
 545 and construction of permanent storage structures. With respect to a change in method of  
 546 operations, this term refers to those on-site activities other than preparatory activities that mark  
 547 the initiation of the change.  
 548

549 **Section 204.280 Best Available Control Technology (BACT)**

550  
 551 "Best Available Control Technology" means an emissions limitation (including a visible  
 552 emission standard) based on the maximum degree of reduction for each regulated NSR pollutant  
 553 that would be emitted from any proposed major stationary source or major modification that the  
 554 Agency, on a case-by-case basis, taking into account energy, environmental, and economic  
 555 impacts and other costs, determines is achievable for that source or modification through  
 556 application of production processes or available methods, systems, and techniques, including fuel

557 cleaning or treatment or innovative fuel combustion techniques for control of the pollutant. In no  
 558 event shall application of BACT result in emissions of any pollutant that would exceed the  
 559 emissions allowed by any applicable standard under 40 CFR 60, 61, 62 and 63 (incorporated by  
 560 reference in Section 204.100). If the Agency determines that technological or economic  
 561 limitations on the application of measurement methodology to a particular emissions unit would  
 562 make the imposition of an emissions standard infeasible, a design, equipment, work practice,  
 563 operational standard, or combination thereof, may be prescribed instead to satisfy the  
 564 requirement for the application of BACT. That standard must, to the degree possible, set forth  
 565 the emissions reduction achievable by implementation of the design, equipment, work practice or  
 566 operation, and must provide for compliance by means that achieve equivalent results.  
 567

568 **Section 204.290 Building, Structure, Facility, or Installation**

- 569
- 570 a) "Building, structure, facility, or installation" means all of the pollutant-emitting  
 571 activities that belong to the same industrial grouping, are located on one or more  
 572 contiguous or adjacent properties, and are under the control of the same person (or  
 573 persons under common control). Pollutant-emitting activities must be considered  
 574 as part of the same industrial grouping if they belong to the same "Major Group"  
 575 (i.e., have the same first two-digit code) as described in the Standard Industrial  
 576 Classification Manual) (incorporated by reference in Section 204.100).  
 577
  - 578 b) Notwithstanding the provisions of subsection (a), building, structure, facility, or  
 579 installation means, for onshore activities under Standard Industrial Classification  
 580 (SIC) Major Group 13: Oil and Gas Extraction, all of the pollutant-emitting  
 581 activities included in Major Group 13 that are located on one or more contiguous  
 582 or adjacent properties, and are under the control of the same person (or persons  
 583 under common control). Pollutant emitting activities will be considered adjacent  
 584 if they are located on the same surface site, or if they are located on surface sites  
 585 that are located within ¼ mile of one another (measured from the center of the  
 586 equipment on the surface site) and they share equipment. Shared equipment  
 587 includes, but is not limited to, produced fluids storage tanks, phase separators,  
 588 natural gas dehydrators or emissions control devices. Surface site, as used in this  
 589 subsection, has the same meaning as in 40 CFR 63.761.  
 590

591 **Section 204.300 Clean Coal Technology**

592

593 "Clean coal technology" means any technology, including technologies applied at the  
 594 precombustion, combustion, or postcombustion stage, at a new or existing facility that will  
 595 achieve significant reductions in air emissions of SO<sub>2</sub> or NO<sub>x</sub> associated with the utilization of  
 596 coal in the generation of electricity, or process steam that was not in widespread use as of  
 597 November 15, 1990.  
 598

599 **Section 204.310 Clean Coal Technology Demonstration Project**

600  
601 "Clean coal technology demonstration project" means a project using funds appropriated under  
602 the heading "Department of Energy – Clean Coal Technology", up to a total amount of  
603 \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects  
604 funded through appropriations to USEPA. The federal contribution for a qualifying project must  
605 be at least 20 percent of the total cost of the demonstration project.  
606

607 **Section 204.320 Commence**

608  
609 "Commence", as applied to construction of a major stationary source or major modification,  
610 means that the owner or operator has all necessary preconstruction approvals or permits and  
611 either has:

- 612
- 613 a) Begun, or caused to begin, a continuous program of actual on-site construction of  
614 the source, to be completed within a reasonable time; or
- 615
- 616 b) Entered into binding agreements or contractual obligations, that cannot be  
617 cancelled or modified without substantial loss to the owner or operator, to  
618 undertake a program of actual construction of the source, to be completed within a  
619 reasonable time.  
620

621 **Section 204.330 Complete**

622  
623 "Complete" means, in reference to an application for a permit, that the application contains all of  
624 the information necessary for processing the application.  
625

626 **Section 204.340 Construction**

627  
628 "Construction" means any physical change or change in the method of operation (including  
629 fabrication, erection, installation, demolition, or modification of an emissions unit) that would  
630 result in a change in emissions.  
631

632 **Section 204.350 Dispersion Technique**

- 633
- 634 a) "Dispersion technique" means any technique that attempts to affect the  
635 concentration of a pollutant in the ambient air by:  
636
- 637 1) Using the portion of a stack that exceeds good engineering practice stack  
638 height;
- 639
- 640 2) Varying the rate of emission of a pollutant according to atmospheric  
641 conditions or ambient concentrations of that pollutant; or  
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- 3) Increasing final exhaust gas plume rise by:
  - A) manipulating source process parameters, exhaust gas parameters, or stack parameters;
  - B) combining exhaust gases from several existing stacks into one stack; or
  - C) 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 those 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 applies only to the emission limitation for the pollutant affected by the change in operation; or
    - C) Before July 8, 1985, 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 must presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by that intent, the Agency must deny credit for the effects of the merging in calculating the allowable emissions for the source;

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- 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 SO<sub>2</sub> 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 204.430(c) and means:

- a) For sources seeking credit for stack height exceeding that established under Section 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 the

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

- 743
- 744 b) For sources seeking credit for increases in existing stack heights up to the heights  
 745 established under Section 204.430(b), either:
- 746
- 747 1) A maximum ground-level concentration due in whole or part to  
 748 downwash, wakes or eddy effects as provided in subsection (a), except  
 749 that the emission rate specified by the SIP (or, in the absence of such a  
 750 limit, the actual emission rate) must be used; or
  - 751 2) The actual presence of a local nuisance caused by the existing stack, as  
 752 determined by the Agency; and
- 753
- 754
- 755 c) For sources seeking credit for a stack height determined under Section 204.430(b)  
 756 when the Agency requires the use of a field study or fluid model to verify good  
 757 engineering practice stack height, for sources seeking stack height credit based on  
 758 the aerodynamic influence of cooling towers, and for sources seeking stack height  
 759 credit based on the aerodynamic influence of structures not adequately  
 760 represented by the equations in Section 204.430(b), a maximum ground-level  
 761 concentration due in whole or part to downwash, wakes or eddy effects that is at  
 762 least 40 percent in excess of the maximum concentration experienced in the  
 763 absence of the downwash, wakes, or eddy effects.
- 764

765 **Section 204.390 Federal Land Manager**

766

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

769

770 **Section 204.400 Federally Enforceable**

771

772 "Federally enforceable" means all limitations and conditions that are enforceable by USEPA,  
773 including those requirements developed:

- 774
- 775 a) Under 40 CFR 60, 61, 62 and 63 (incorporated by reference in Section 204.100),
- 776 requirements within the SIP, any permit requirements established under 40 CFR
- 777 52.21 (incorporated by reference in Section 204.100) or this Part; or
- 778
- 779 b) Under regulations approved under 40 CFR 51, subpart I (incorporated by
- 780 reference in Section 204.100), including operating permits issued under a
- 781 USEPA-approved program that:
- 782
- 783 1) Is incorporated into the SIP; and
- 784
- 785 2) Expressly requires adherence to any permit issued under that program.
- 786

787 **Section 204.410 Fugitive Emissions**

788  
789 "Fugitive emissions" means those emissions that could not reasonably pass through a stack,  
790 chimney, vent, or other functionally equivalent opening.  
791

792 **Section 204.420 Good Engineering Practice**

- 793
- 794 a) "Good engineering practice", with respect to stack height, means the greater of:
- 795
- 796 1) 65 meters, measured from the ground-level elevation at the base of the
- 797 stack;
- 798
- 799 2) The following:
- 800
- 801 A) For a stack in existence on January 12, 1979, and for which the
- 802 owner or operator had obtained all necessary preconstruction
- 803 approvals or permits required under 40 CFR 52 (incorporated by
- 804 reference in Section 204.100):
- 805

806 
$$H_g = 2.5H,$$

807  
808 provided the owner or operator produces evidence that this  
809 equation was actually relied on in establishing an emission  
810 limitation;

- 811
- 812 B) For all other stacks:
- 813

814 
$$H_g = H + 1.5L$$

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where:

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

$H$  = height of nearby structures measured from the ground-level elevation at the base of the stack;

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

- 3) The height demonstrated by a fluid model or a field study approved by USEPA or the Agency that ensures the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

- b) For purposes of this definition, "stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

**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: CO<sub>2</sub>, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. To represent an amount of GHGs emitted, the term "tpy CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e)" shall be used. CO<sub>2</sub>e 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 CO<sub>2</sub>e.

**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.

858 **Section 204.450 Indian Reservation**

859

860 "Indian reservation" means any federally recognized reservation established by treaty,  
861 agreement, executive order, or Act of Congress.

862

863 **Section 204.460 Indian Governing Body**

864

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

868

869 **Section 204.470 Innovative Control Technology**

870

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

876

877 **Section 204.480 Low Terrain**

878

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

880

881 **Section 204.490 Major Modification**

882

883 a) "Major modification" means any physical change in, or change in the method of  
884 operation of, a major stationary source that would result in:

885

886 1) A significant emissions increase (as defined in Section 204.670) of a  
887 regulated NSR pollutant (as defined in Section 204.610) other than GHGs  
888 (as defined in Section 204.430); and

889

890 2) A significant net emissions increase of that pollutant from the major  
891 stationary source.

892

893 b) Any significant emissions increase from any emissions units or net emissions  
894 increase (as defined in Section 204.550) at a major stationary source that is  
895 significant for VOM or NO<sub>x</sub> shall be considered significant for ozone.

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897 c) A physical change or change in the method of operation shall not include:

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899 1) Routine maintenance, repair and replacement;

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- 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 (43 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) 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) 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 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; 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 any regulated

944 pollutant emitted by the unit. This exemption will be applied on a  
945 pollutant-by-pollutant basis.

946  
947 d) This definition must not apply with respect to a particular regulated NSR pollutant  
948 when the major stationary source is complying with Subpart K for a PAL for that  
949 pollutant. Instead, the definition at Section 204.1720 will apply.  
950

951 **Section 204.500 Major Source Baseline Date**

952  
953 "Major source baseline date" means:

- 954  
955 a) In the case of PM<sub>10</sub> and SO<sub>2</sub>, January 6, 1975;  
956  
957 b) In the case of NO<sub>2</sub>, February 8, 1988; and  
958  
959 c) In the case of PM<sub>2.5</sub>, October 20, 2010.  
960

961 **Section 204.510 Major Stationary Source**

962  
963 a) "Major stationary source" means:

- 964  
965 1) Any of the following stationary sources of air pollutants that emits, or has  
966 the potential to emit, 100 tpy or more of any regulated NSR pollutant:  
967  
968 A) Fossil fuel-fired steam electric plants of more than 250 million Btu  
969 per hour heat input;  
970  
971 B) Coal cleaning plants (with thermal dryers);  
972  
973 C) Kraft pulp mills;  
974  
975 D) Portland cement plants;  
976  
977 E) Primary zinc smelters;  
978  
979 F) Iron and steel mill plants;  
980  
981 G) Primary aluminum ore reduction plants (with thermal dryers);  
982  
983 H) Primary copper smelters;  
984  
985 I) Municipal incinerators capable of charging more than 50 tons of  
986 refuse per day;

- 987
- 988 J) Hydrofluoric, sulfuric, and nitric acid plants;
- 989
- 990 K) Petroleum refineries;
- 991
- 992 L) Lime plants;
- 993
- 994 M) Phosphate rock processing plants;
- 995
- 996 N) Coke oven batteries;
- 997
- 998 O) Sulfur recovery plants;
- 999
- 1000 P) Carbon black plants (furnace process);
- 1001
- 1002 Q) Primary lead smelters;
- 1003
- 1004 R) Fuel conversion plants;
- 1005
- 1006 S) Sintering plants;
- 1007
- 1008 T) Secondary metal production plants;
- 1009
- 1010 U) Chemical process plants (which does not include ethanol
- 1011 production facilities that produce ethanol by natural fermentation
- 1012 included in NAICS Codes 325193 or 312140);
- 1013
- 1014 V) Fossil-fuel boilers (or combinations thereof) totaling more than
- 1015 250 million Btu per hour heat input;
- 1016
- 1017 W) Petroleum storage and transfer units with a total storage capacity
- 1018 exceeding 300,000 barrels;
- 1019
- 1020 X) Taconite ore processing plants;
- 1021
- 1022 Y) Glass fiber processing plants; and
- 1023
- 1024 Z) Charcoal production plants;
- 1025
- 1026 2) Notwithstanding the stationary source size specified in subsection (a)(1),
- 1027 any stationary source that emits, or has the potential to emit, 250 tpy or
- 1028 more of a regulated NSR pollutant (except GHGs as defined in Section
- 1029 204.430); or

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- 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<sub>x</sub> must be considered major for ozone.
- c) The fugitive emissions of a stationary source must not be included in determining, for any of the purposes, 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);

- 1073 16) Primary lead smelters;  
 1074  
 1075 17) Fuel conversion plants;  
 1076  
 1077 18) Sintering plants;  
 1078  
 1079 19) Secondary metal production plants;  
 1080  
 1081 20) Chemical process plants. Chemical processing plant does not include  
 1082 ethanol production facilities that produce ethanol by natural fermentation  
 1083 included in NAICS Codes 325193 or 312140;  
 1084  
 1085 21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million  
 1086 Btu per hour heat input;  
 1087  
 1088 22) Petroleum storage and transfer units with a total storage capacity  
 1089 exceeding 300,000 barrels;  
 1090  
 1091 23) Taconite ore processing plants;  
 1092  
 1093 24) Glass fiber processing plants;  
 1094  
 1095 25) Charcoal production plants;  
 1096  
 1097 26) Fossil fuel-fired steam electric plants of more than 250 million Btu per  
 1098 hour heat input; and  
 1099  
 1100 27) Any other stationary source category that, as of August 7, 1980, is being  
 1101 regulated under section 111 or 112 of the CAA.  
 1102

1103 **Section 204.520 Minor Source Baseline Date**  
 1104

- 1105 a) "Minor source baseline date" means the earliest date after the trigger date on  
 1106 which a major stationary source or a major modification subject to 40 CFR 52.21  
 1107 or this Part submits a complete application under the relevant regulations. The  
 1108 trigger date is:  
 1109  
 1110 1) In the case of PM<sub>10</sub> and SO<sub>2</sub>, August 7, 1977;  
 1111  
 1112 2) In the case of NO<sub>2</sub>, February 8, 1988; and  
 1113  
 1114 3) In the case of PM<sub>2.5</sub>, October 20, 2011.  
 1115

- 1116 b) The baseline date is established for each pollutant for which increments or other
- 1117 equivalent measures have been established if:
- 1118
- 1119 1) The area in which the proposed source or modification would be
- 1120 constructed is designated as attainment or unclassifiable under section
- 1121 107(d)(1)(A)(ii) or (iii) of the CAA (43 USC 7407(d)(1)(A)(ii) or (iii)) for
- 1122 the pollutant on the date of its complete application under 40 CFR 52.21
- 1123 or this Part; and
- 1124
- 1125 2) In the case of a major stationary source, the pollutant would be emitted in
- 1126 significant amounts or, in the case of a major modification, there would be
- 1127 a significant net emissions increase of the pollutant.
- 1128
- 1129 c) Any minor source baseline date established originally for the TSP increments
- 1130 must remain in effect and must apply for purposes of determining the amount of
- 1131 available PM<sub>10</sub> increments, except that the Agency shall rescind a minor source
- 1132 baseline date when it can be shown, to the satisfaction of the Agency, that the
- 1133 emissions increase from the major stationary source, or net emissions increase
- 1134 from the major modification, responsible for triggering that date did not result in a
- 1135 significant amount of PM<sub>10</sub> emissions.
- 1136

**Section 204.530 Nearby**

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

- 1141 a) For purposes of applying the formula provided in Section 204.420(a)(2), means
- 1142 that distance up to five times the lesser of the height or the width dimension of a
- 1143 structure, but not greater than 0.8 km (½ mile); and
- 1144
- 1145 b) For conducting demonstrations under Section 204.420(a)(3), means not greater
- 1146 than 0.8 km (½ mile), except that a portion of a terrain feature may be considered
- 1147 to be nearby if it falls within a distance of up to 10 times the maximum height of
- 1148 the feature, not to exceed 2 miles if that feature achieves a height, 0.8 km from the
- 1149 stack, that is at least 40 percent of the good engineering practice stack height
- 1150 determined by the formula provided in Section 204.420(a)(2)(B) or 26 meters,
- 1151 whichever is greater, as measured from the ground-level elevation at the base of
- 1152 the stack. The height of the structure or terrain feature is measured from the
- 1153 ground-level elevation at the base of the stack.
- 1154

**Section 204.540 Necessary Preconstruction Approvals or Permits**

1156

1157 "Necessary preconstruction approvals or permits" mean those permits or approvals required  
 1158 under federal air quality control laws and regulations and those air quality control laws and  
 1159 regulations that are part of the applicable SIP.  
 1160

1161 **Section 204.550 Net Emissions Increase**  
 1162

- 1163 a) "Net emissions increase" means, with respect to any regulated NSR pollutant  
 1164 emitted by a major stationary source, the amount by which the sum of the  
 1165 following exceeds zero:  
 1166
  - 1167 1) The increase in emissions from a particular physical change, or change in  
 1168 the method of operation, at a stationary source as calculated under Section  
 1169 204.800(d); and  
 1170
  - 1171 2) Any other increases and decreases in actual emissions at the major  
 1172 stationary source that are contemporaneous with the particular change and  
 1173 are otherwise creditable. Baseline actual emissions for calculating  
 1174 increases and decreases under this subsection (a)(2) must be determined as  
 1175 provided in Section 204.240, except that Section 204.240(a)(3) and (b)(4)  
 1176 do not apply.  
 1177
- 1178 b) An increase or decrease in actual emissions is  
 1179
  - 1180 1) Contemporaneous with the increase from the particular change only if it  
 1181 occurs between:  
 1182
    - 1183 A) The date five years before construction or the particular change  
 1184 commences; and
    - 1185 B) The date that the increase from the particular change occurs; and  
 1186
  - 1187 2) Creditable only if the reviewing authority has not relied on it in issuing a  
 1188 permit, for the source under 40 CFR 52.21 or this Part, that is in effect  
 1189 when the increase in actual emissions from the particular change occurs.  
 1190
- 1191 c) An increase or decrease in actual emissions of SO<sub>2</sub>, PM, or NO<sub>x</sub> that occurs  
 1192 before the applicable minor source baseline date is creditable only if it is required  
 1193 to be considered in calculating the amount of maximum allowable increases  
 1194 remaining available.  
 1195
- 1196 d) An increase in actual emissions is creditable only to the extent that the new level  
 1197 of actual emissions exceeds the old level.  
 1198  
 1199

- 1200 e) A decrease in actual emissions is creditable only to the extent that:  
 1201  
 1202 1) The old level of actual emissions or the old level of allowable emissions,  
 1203 whichever is lower, exceeds the new level of actual emissions;  
 1204  
 1205 2) It is enforceable, as a practical matter, at and after the time that actual  
 1206 construction on the particular change begins; and  
 1207  
 1208 3) It has approximately the same qualitative significance for public health  
 1209 and welfare as that attributed to the increase from the particular change.  
 1210  
 1211 f) An increase that results from a physical change at a source occurs when the  
 1212 emissions unit on which construction occurred becomes operational and begins to  
 1213 emit a particular pollutant. Any emissions unit that replaces an existing emissions  
 1214 unit that requires shakedown becomes operational only after a reasonable  
 1215 shakedown period, which shall not exceed 180 days.  
 1216  
 1217 g) Section 204.210(b) does not apply in determining creditable increases and  
 1218 decreases.  
 1219

1220 **Section 204.560 Potential to Emit**

1221  
 1222 "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under  
 1223 its physical and operational design. Any physical or operational limitation on the capacity of the  
 1224 source to emit a pollutant, including air pollution control equipment and restrictions on hours of  
 1225 operation or on the type or amount of material combusted, stored, or processed, must be treated  
 1226 as part of its design if the limitation or the effect it would have on emissions is federally  
 1227 enforceable or legally and practicably enforceable by a state or local air pollution control agency.  
 1228 Secondary emissions do not count in determining the potential to emit of a stationary source.  
 1229

1230 **Section 204.570 Prevention of Significant Deterioration (PSD) Permit**

1231  
 1232 "Prevention of Significant Deterioration Permit" or "PSD Permit" means a permit or the portion  
 1233 of a permit for a new major source or major modification that is issued by the Agency under the  
 1234 construction permit program required by Section 9.1(c) of the Act that has been approved by  
 1235 USEPA and incorporated into the Illinois SIP to implement the requirements of section 165 of  
 1236 the CAA and 40 CFR 51.166. [415 ILCS 5/3.363]  
 1237

1238 **Section 204.580 Process Unit**

1239  
 1240 "Process unit" means any collection of structures and/or equipment that processes, assembles,  
 1241 applies, blends, or otherwise uses material inputs to produce or store an intermediate or  
 1242 completed product. A process unit may contain more than one emissions unit.

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**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:
    - A) 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;
    - B) Include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and
    - C) 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

1284                    2)     In lieu of using the method set out in subsection (b)(1), may elect to use  
 1285                    the emissions unit's potential to emit, in tons per year, as defined under  
 1286                    Section 204.560.  
 1287

1288     **Section 204.610 Regulated NSR Pollutant**  
 1289

1290     "Regulated NSR pollutant" means the following:  
 1291

1292            a)     Any pollutant for which an NAAQS has been promulgated. This includes, but is  
 1293            not limited to, the following:  
 1294

1295            1)     PM<sub>2.5</sub> emissions and PM<sub>10</sub> emissions include gaseous emissions from a  
 1296            source or activity, that condense to form PM at ambient temperatures. On  
 1297            or after January 1, 2011, condensable PM was required to be accounted for  
 1298            in applicability determinations and in establishing emissions limitations  
 1299            for PM<sub>2.5</sub> and PM<sub>10</sub> in PSD permits. Compliance with emissions  
 1300            limitations for PM<sub>2.5</sub> and PM<sub>10</sub> issued prior to that date were not based on  
 1301            condensable PM unless required by the terms and conditions of the permit  
 1302            or the applicable implementation plan. Applicability determinations made  
 1303            prior to this date without accounting for condensable PM will not be  
 1304            considered in violation of this Part unless the applicable implementation  
 1305            plan required condensable PM to be included.  
 1306

1307            2)     Any pollutant identified under this subsection (a) as a constituent or  
 1308            precursor for a pollutant for which an NAAQS has been promulgated.  
 1309            Precursors, for purposes of this Part, are the following:  
 1310

1311            A)     VOM and NO<sub>x</sub> are precursors to ozone in all attainment and  
 1312            unclassifiable areas.  
 1313

1314            B)     SO<sub>2</sub> is a precursor to PM<sub>2.5</sub> in all attainment and unclassifiable  
 1315            areas.  
 1316

1317            C)     NO<sub>x</sub> are presumed to be precursors to PM<sub>2.5</sub> in all attainment and  
 1318            unclassifiable areas, unless the State demonstrates to the  
 1319            satisfaction of USEPA, or USEPA demonstrates, that emissions of  
 1320            NO<sub>x</sub> from sources in a specific area are not a significant  
 1321            contributor to that area's ambient PM<sub>2.5</sub> concentrations.  
 1322

1323            D)     VOM are presumed not to be precursors to PM<sub>2.5</sub> in any attainment  
 1324            or unclassifiable area, unless the State demonstrates to the  
 1325            satisfaction of USEPA, or USEPA demonstrates, that emissions of

1326 VOM from sources in a specific area are a significant contributor  
 1327 to that area's ambient PM<sub>2.5</sub> concentrations;

- 1328
- 1329 b) Any pollutant that is subject to any standard promulgated under section 111 of the  
 1330 CAA (43 USC 7401);
- 1331
- 1332 c) Any Class I or II substance subject to a standard promulgated under or established  
 1333 by title VI of the CAA (43 USC 7671, et seq.);
- 1334
- 1335 d) Any pollutant that otherwise is subject to regulation, as defined in Section  
 1336 204.700.
- 1337
- 1338 e) Notwithstanding subsections (a) through (d), the term "regulated NSR pollutant"  
 1339 does not include any or all hazardous air pollutants either listed in section  
 1340 112(b)(1) of the CAA (43 USC 7412(b)(1)) or added to the list under CAA  
 1341 section 112(b)(2) or (b)(3), or substances listed under CAA section 112(r)(3) and  
 1342 that have not been delisted under CAA section 112(b)(3) or (r), unless the listed  
 1343 hazardous air pollutant is also regulated as a constituent or precursor of a  
 1344 pollutant listed under CAA section 108 (43 USC 7408).
- 1345

1346 **Section 204.620 Replacement Unit**

1347  
 1348 "Replacement unit" means an emissions unit for which all the criteria listed in this Section are  
 1349 met. No creditable emission reductions shall be generated from shutting down the existing  
 1350 emissions unit that is replaced.

- 1351
- 1352 a) The emissions unit is a reconstructed unit, within the meaning of 40 CFR  
 1353 60.15(b)(1), or completely takes the place of an existing emissions unit.
- 1354
- 1355 b) The emissions unit is identical, to or functionally equivalent to, the replaced  
 1356 emissions unit.
- 1357
- 1358 c) The replacement does not alter the basic design parameters of the process unit.  
 1359 Basic design parameters of a process unit shall be determined as follows:
- 1360
- 1361 1) Except as provided in subsection (c)(3), for a process unit at a steam  
 1362 electric generating facility, the owner or operator may select as its basic  
 1363 design parameters either maximum hourly heat input and maximum  
 1364 hourly fuel consumption rate or maximum hourly electric output rate and  
 1365 maximum steam flow rate. When establishing fuel consumption  
 1366 specifications in terms of weight or volume, the minimum fuel quality  
 1367 based on Btu content shall be used for determining the basic design  
 1368 parameters for a coal-fired electric utility steam generating unit.

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- 2) Except as provided in subsection (c)(3), the basic design 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 parameters in subsections (c)(1) and (c)(2) are not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Agency alternative basic design parameters for the source's process units. If the Agency approves use of alternative basic design parameters, the Agency shall issue a permit that is legally enforceable, records the basic design parameters and requires the owner or operator to comply with those 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 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 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 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. Repowering also means any

1412 other technology capable of controlling multiple combustion emissions  
1413 simultaneously with improved boiler or generation efficiency and with  
1414 significantly greater waste reduction relative to the performance of technology in  
1415 widespread commercial use as of November 15, 1990.

1416  
1417 b) Repowering also includes any oil and/or gas-fired unit that has been awarded  
1418 clean coal technology demonstration funding as of January 1, 1991, by the U.S.  
1419 Department of Energy.

1420  
1421 c) The Agency shall give expedited consideration to permit applications for any  
1422 source that satisfies the requirements of this Section and is granted an extension  
1423 under section 409 of the CAA (43 USC 7651h).  
1424

1425 **Section 204.640 Reviewing Authority**

1426  
1427 "Reviewing authority" means the Agency or, in the case of a permit program under 40 CFR  
1428 52.21, USEPA or its delegate (the Agency).  
1429

1430 **Section 204.650 Secondary Emissions**

1431  
1432 "Secondary emissions" means emissions that would occur as a result of the construction or  
1433 operation of a major stationary source or major modification, but do not come from the major  
1434 stationary source or major modification itself. Secondary emissions include emissions from any  
1435 offsite support facility that would not be constructed or increase its emissions, except as a result  
1436 of the construction or operation of the major stationary source or major modification. Secondary  
1437 emissions do not include any emissions that come directly from a mobile source, such as  
1438 emissions from the tailpipe of a motor vehicle, from a train, or from a vessel. For the purposes  
1439 of this Part, secondary emissions must be specific, well defined, quantifiable, and impact the  
1440 same general area as the major stationary source or major modification which causes the  
1441 secondary emissions.  
1442

1443 **Section 204.660 Significant**

1444  
1445 a) "Significant" means, in reference to a net emissions increase or the potential of a  
1446 source to emit any of the following pollutants, a rate of emissions that would  
1447 equal or exceed any of the following rates:  
1448

Pollutant and Emissions Rate	
Carbon monoxide	100 tpy
NO <sub>x</sub>	40 tpy
SO <sub>2</sub>	40 tpy
PM	25 tpy of particulate matter emissions
PM <sub>10</sub>	15 tpy

PM <sub>2.5</sub>	10 tpy of direct PM <sub>2.5</sub> emissions; 40 tpy of SO <sub>2</sub> emissions; 40 tpy of NO <sub>x</sub> emissions unless demonstrated not to be a PM <sub>2.5</sub> precursor under Section 204.610(a)(2)(C)
Ozone	40 tpy of VOM or NO <sub>x</sub>
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H <sub>2</sub> S)	10 tpy
Total reduced sulfur (including H <sub>2</sub> S)	10 tpy
Reduced sulfur compounds (including H <sub>2</sub> S)	10 tpy
GHGs	75,000 tpy CO <sub>2</sub> e
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo- <i>p</i> -dioxins and dibenzofurans)	3.2 × 10 <sup>-6</sup> megagrams per year (3.5 × 10 <sup>-6</sup> tpy)
Municipal waste combustor metals (measured as PM)	14 megagrams per year (15 tpy)
Municipal waste combustor acid gases (measured as SO <sub>2</sub> 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

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- 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 be constructed within 10 kilometers of a Class I area, and have an impact on that area equal to or greater than 1 µg/m<sup>3</sup> (24-hr average).

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**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 (43 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 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**

- 1500 a) The requirements of this Part apply to the construction of any new major  
1501 stationary source (as defined in Section 204.510) or any project at an existing  
1502 major stationary source in an area designated as attainment or unclassifiable under  
1503 section 107(d)(1)(A)(ii) or (iii) of the CAA (43 USC 7407(d)(1)(A)(ii) or (iii)).  
1504
- 1505 b) The requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850,  
1506 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, and 204.1200 apply to the  
1507 construction of any new major stationary source or the major modification of any  
1508 existing major stationary source, except as this Part otherwise provides.  
1509
- 1510 c) No new major stationary source or major modification to which those Sections  
1511 apply must begin actual construction without a permit that states that the major  
1512 stationary source or major modification will meet those requirements. The  
1513 Agency has authority to issue any such permit.  
1514
- 1515 d) The requirements of the program will be applied in accordance with the principles  
1516 set out in this subsection (d).  
1517
  - 1518 1) Except as otherwise provided in subsection (f), and consistent with the  
1519 definition of major modification contained in Section 204.490, a project is  
1520 a major modification for a regulated NSR pollutant if it causes two types  
1521 of emissions increases: a significant emissions increase (as defined in  
1522 Section 204.670) and a significant net emissions increase (as defined in  
1523 Sections 204.550 and 204.660). The project is not a major modification if  
1524 it does not cause a significant emissions increase. If the project causes a  
1525 significant emissions increase, then the project is a major modification  
1526 only if it also results in a significant net emissions increase.  
1527
  - 1528 2) The procedure for calculating (before beginning actual construction)  
1529 whether a significant emissions increase (i.e., the first step of the process)  
1530 will occur depends upon the types of emissions units involved in the  
1531 project, according to subsections (d)(3) through (d)(5). The procedure for  
1532 calculating (before beginning actual construction) whether a significant  
1533 net emissions increase will occur at the major stationary source (i.e., the  
1534 second step of the process) is contained in the definition in Section  
1535 204.550. Regardless of any such preconstruction projections, a major  
1536 modification results if the project causes a significant emissions increase  
1537 and a significant net emissions increase.  
1538
  - 1539 3) Actual-to-Projected-Actual Applicability Test for Projects That Only  
1540 Involve Existing Emissions Units. A significant emissions increase of a  
1541 regulated NSR pollutant is projected to occur if the sum of the difference  
1542 between the projected actual emissions (as defined in Section 204.600)

- 1543 and the baseline actual emissions (as defined in Section 204.240(a) and  
 1544 (b)), for each existing emissions unit, equals or exceeds the significant  
 1545 amount for that pollutant (as defined in Section 204.660).  
 1546
- 1547 4) Actual-to-Potential Test for Projects That Only Involve Construction of a  
 1548 New Emissions Unit. A significant emissions increase of a regulated NSR  
 1549 pollutant is projected to occur if the sum of the difference between the  
 1550 potential to emit (as defined in Section 204.560) from each new emissions  
 1551 unit following completion of the project and the baseline actual emissions  
 1552 (as defined in Section 204.240(c)) of these units before the project equals  
 1553 or exceeds the significant amount for that pollutant (as defined in Section  
 1554 204.660).  
 1555
- 1556 5) Hybrid Test for Projects That Involve Multiple Types of Emissions Units.  
 1557 A significant emissions increase of a regulated NSR pollutant is projected  
 1558 to occur if the sum of the emissions increases for each emissions unit,  
 1559 using the method specified in subsections (d)(3) and (d)(4), as applicable,  
 1560 with respect to each emissions unit, for each type of emissions unit equals  
 1561 or exceeds the significant amount for that pollutant (as defined in Section  
 1562 204.660).  
 1563
- 1564 e) Except as otherwise provided in Section 204.1400(f)(2), the provisions of Section  
 1565 204.1400 apply with respect to any regulated NSR pollutant emitted from projects  
 1566 involving existing emissions units at a major stationary source (other than projects  
 1567 at a source with a PAL) in circumstances in which there is a reasonable  
 1568 possibility, within the meaning of Section 204.1400(f), that a project that is not a  
 1569 part of a major modification may result in a significant emissions increase of the  
 1570 pollutant, and the owner or operator elects to use the method specified in Section  
 1571 204.600(b) for calculating projected actual emissions.  
 1572
- 1573 f) For any major stationary source for a PAL for a regulated NSR pollutant, the  
 1574 major stationary source must comply with Subpart K.  
 1575

1576 **Section 204.810 Source Information**  
 1577

1578 The owner or operator of a proposed major stationary source or major modification must submit  
 1579 all information necessary to perform any analysis or make any determination required under this  
 1580 Part.  
 1581

- 1582 a) With respect to a source or modification to which Sections 204.1100, 204.1110,  
 1583 204.1130, and 204.1140 apply, this information includes:  
 1584

- 1585 1) A description of the nature, location, design capacity, and typical
- 1586 operating schedule of the source or modification, including specifications
- 1587 and drawings showing its design and plant layout;
- 1588
- 1589 2) A detailed schedule for construction of the source or modification; and
- 1590
- 1591 3) A detailed description as to what system of continuous emission reduction
- 1592 is planned for the source or modification, emission estimates, and any
- 1593 other information necessary to determine that BACT, as applicable, would
- 1594 be applied.
- 1595
- 1596 b) Upon request of the Agency, the owner or operator must also provide information
- 1597 on:
- 1598
- 1599 1) The air quality impact of the source or modification, including
- 1600 meteorological and topographical data necessary to estimate that impact;
- 1601 and
- 1602
- 1603 2) The air quality impacts, and the nature and extent of any or all general
- 1604 commercial, residential, industrial, and other growth that has occurred
- 1605 since August 7, 1977, in the area the source or modification would affect.
- 1606

**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, is subject to appropriate enforcement action.

**Section 204.830 Permit Expiration**

Approval to construct 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**

1627 Approval to construct does not relieve any owner or operator of the responsibility to comply  
1628 fully with applicable provisions of the SIP and any other requirements under local, State, or  
1629 federal law.

1630

1631 **Section 204.850 Relaxation of a Source-Specific Limitation**

1632

1633 When a particular source or modification becomes a major stationary source or major  
1634 modification solely by virtue of a relaxation in any enforceable limitation, established after  
1635 August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such  
1636 as a restriction on hours of operation, then the requirements of Sections 204.810, 204.820,  
1637 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, 204.1200, and  
1638 204.1400 must apply to the source or modification as though construction had not yet  
1639 commenced on the source or modification.

1640

1641 **Section 204.860 Exemptions**

1642

1643 a) The requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850,  
1644 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, 204.1200, and 204.1400 do  
1645 not apply to a particular major stationary source or major modification, if:

1646

1647 1) The source or modification would be a nonprofit health or nonprofit  
1648 educational institution, or a major modification would occur at such an  
1649 institution and the Governor of Illinois exempts it from those  
1650 requirements; or

1651

1652 2) The source or modification would be a major stationary source or major  
1653 modification only if fugitive emissions, to the extent quantifiable, are  
1654 considered in calculating the potential to emit of the stationary source or  
1655 modification and the source does not belong to any of the following  
1656 categories:

1657

1658 A) Coal cleaning plants (with thermal dryers);

1659

1660 B) Kraft pulp mills;

1661

1662 C) Portland cement plants;

1663

1664 D) Primary zinc smelters;

1665

1666 E) Iron and steel mills;

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1668 F) Primary aluminum ore reduction plants;

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- 1670 G) Primary copper smelters;
- 1671
- 1672 H) Municipal incinerators capable of charging more than 50 tons of
- 1673 refuse per day;
- 1674
- 1675 I) Hydrofluoric, sulfuric, or nitric acid plants;
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- 1677 J) Petroleum refineries;
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- 1679 K) Lime plants;
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- 1681 L) Phosphate rock processing plants;
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- 1683 M) Coke oven batteries;
- 1684
- 1685 N) Sulfur recovery plants;
- 1686
- 1687 O) Carbon black plants (furnace process);
- 1688
- 1689 P) Primary lead smelters;
- 1690
- 1691 Q) Fuel conversion plants;
- 1692
- 1693 R) Sintering plants;
- 1694
- 1695 S) Secondary metal production plants;
- 1696
- 1697 T) Chemical process plants. The term "chemical processing plant"
- 1698 shall not include ethanol production facilities that produce ethanol
- 1699 by natural fermentation included in NAICS Code 325193 or
- 1700 312140;
- 1701
- 1702 U) Fossil-fuel boilers (or combination thereof) totaling more than 250
- 1703 million Btu per hour heat input;
- 1704
- 1705 V) Petroleum storage and transfer units with a total storage capacity
- 1706 exceeding 300,000 barrels;
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- 1708 W) Taconite ore processing plants;
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- 1710 X) Glass fiber processing plants;
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- 1712 Y) Charcoal production plants;

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- 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 (43 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. 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 do 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 (43 USC 7407). Nonattainment designations for revoked NAAQS, as contained in 40 CFR 81 (incorporated by reference in Section 204.100), must not be viewed as current designations under section 107 of the CAA (43 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) Sections 204.1110, 204.1130, and 204.1140 do not apply to a major stationary source or major modification with respect to a particular pollutant if the allowable

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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, do 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 must be limited to the following:

Pollutant	Maximum allowable increase (micrograms per cubic meter)
Class I Area	
PM <sub>2.5</sub> :	
Annual arithmetic mean	1
24-hr maximum	2
PM <sub>10</sub> :	
Annual arithmetic mean	4
24-hr maximum	8
SO <sub>2</sub> :	
Annual arithmetic mean	2
24-hr maximum	5
3-hr maximum	25
NO <sub>2</sub> :	
Annual arithmetic mean	2.5
Class II Area	
PM <sub>2.5</sub> :	
Annual arithmetic mean	4
24-hr maximum	9
PM <sub>10</sub> :	
Annual arithmetic mean	17
24-hr maximum	30

SO <sub>2</sub> :	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	512
NO <sub>2</sub> :	
Annual arithmetic mean	25
Class III Area	
PM <sub>2.5</sub> :	
Annual arithmetic mean	8
24-hr maximum	18
PM <sub>10</sub> :	
Annual arithmetic mean	34
24-hr maximum	60
SO <sub>2</sub> :	
Annual arithmetic mean	40
24-hr maximum	182
3-hr maximum	700
NO <sub>2</sub> :	
Annual arithmetic mean	50

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- 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 are Class I areas and may not be redesignated:
  - 1) International parks;
  - 2) National wilderness areas that exceed 5,000 acres in size;

- 1800 3) National memorial parks that exceed 5,000 acres in size; and
- 1801
- 1802 4) National parks that exceed 6,000 acres in size.
- 1803
- 1804 b) Areas redesignated as Class I under regulations promulgated before August 7,
- 1805 1977 shall remain Class I, but may be redesignated as provided in this Part.
- 1806
- 1807 c) Any other area, unless otherwise specified in the legislation creating that area, is
- 1808 initially designated Class II, but may be redesignated as provided in this Part.
- 1809
- 1810 d) The following areas shall be redesignated only as Class I or II:
- 1811
- 1812 1) An area that, as of August 7, 1977, exceeded 10,000 acres in size and was
- 1813 a national monument, a national primitive area, a national preserve, a
- 1814 national recreational area, a national wild and scenic river, a national
- 1815 wildlife refuge, a national lakeshore or seashore; and
- 1816
- 1817 2) A national park or national wilderness area established after August 7,
- 1818 1977 that exceeds 10,000 acres in size.
- 1819

**Section 204.930 Redesignation**

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- 1822 a) As of the initial effective date of this Part, all areas of the State (except as
- 1823 otherwise provided by Section 204.920) are designated Class II as of December 5,
- 1824 1974. Redesignation (except as otherwise precluded by Section 204.920) may be
- 1825 proposed by the State under this Section, subject to approval by USEPA as a
- 1826 revision to the applicable SIP.
- 1827
- 1828 b) The State may submit to USEPA a proposal to redesignate areas of the State Class
- 1829 I or Class II, provided that:
- 1830
- 1831 1) At least one public hearing has been held in accordance with 35 Ill. Adm.
- 1832 Code 252;
- 1833
- 1834 2) Other states, Indian Governing Bodies, and Federal Land Managers whose
- 1835 lands may be affected by the proposed redesignation were notified at least
- 1836 30 days prior to the public hearing;
- 1837
- 1838 3) A discussion of the reasons for the proposed redesignation, including a
- 1839 satisfactory description and analysis of the health, environmental,
- 1840 economic, social, and energy effects of the proposed redesignation, was
- 1841 prepared and made available for public inspection at least 30 days prior to

1842 the hearing and the notice announcing the hearing contained appropriate  
1843 notification of the availability of such discussion;

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1845 4) Prior to the issuance of notice respecting the redesignation of an area that  
1846 includes any federal lands, the State has provided written notice to the  
1847 appropriate Federal Land Manager and afforded adequate opportunity (not  
1848 in excess of 60 days) to confer with the State respecting the redesignation  
1849 and to submit written comments and recommendations. In redesignating  
1850 any area with respect to which any Federal Land Manager had submitted  
1851 written comments and recommendations, the State must have published a  
1852 list of any inconsistency between the redesignation and the comments and  
1853 recommendations (together with the reasons for making the redesignation  
1854 against the recommendation of the Federal Land Manager); and

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1856 5) The State has proposed the redesignation after consultation with the  
1857 elected leadership of local and other substate general purpose governments  
1858 in the area covered by the proposed redesignation.

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1860 c) Any area other than an area to which Section 204.920 refers may be redesignated  
1861 as Class III if:

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1863 1) The redesignation would meet the requirements of subsection (b);

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1865 2) The redesignation, except any established by an Indian Governing Body,  
1866 has been specifically approved by the Governor of Illinois:

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1868 A) After consultation with the appropriate committees of the  
1869 legislature, if it is in session, or with the leadership of the  
1870 legislature, if it is not in session (unless State law provides that the  
1871 redesignation must be specifically approved by State legislation);  
1872 and

1873  
1874 B) If general purpose units of local government representing a  
1875 majority of the residents of the area to be redesignated enact  
1876 legislation or pass resolutions concurring in the redesignation;

1877  
1878 3) The redesignation would not cause, or contribute to, a concentration of  
1879 any air pollutant that would exceed any maximum allowable increase  
1880 permitted under the classification of any other area or any NAAQS; and

1881  
1882 4) Any permit application for any major stationary source or major  
1883 modification, subject to review under Section 204.1120, that could receive  
1884 a permit under this Section only if the area in question were redesignated

1885 as Class III, and any material submitted as part of that application, were  
1886 available, insofar as was practicable, for public inspection prior to any  
1887 public hearing on redesignation of the area as Class III.  
1888

1889 d) Lands within the exterior boundaries of Indian Reservations may be redesignated  
1890 only by the appropriate Indian Governing Body. The appropriate Indian  
1891 Governing Body may submit to USEPA a proposal to redesignate areas Class I,  
1892 Class II, or Class III, provided that:

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1894 1) The Indian Governing Body has followed procedures equivalent to those  
1895 required of a state under subsections (b), (c)(3), and (c)(4); and

1896  
1897 2) The redesignation is proposed after consultation with the states in which  
1898 the Indian Reservation is located and that border the Indian Reservation.  
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1900 e) USEPA must disapprove, within 90 days after submission, a proposed  
1901 redesignation of any area only if it finds, after notice and opportunity for public  
1902 hearing, that the redesignation does not meet the procedural requirements or is  
1903 inconsistent with Section 204.920. If disapproval occurs, the classification of the  
1904 area will be that which was in effect prior to the proposed redesignation.  
1905

1906 f) If USEPA disapproves any proposed redesignation, the State or Indian Governing  
1907 Body, as appropriate, may resubmit the proposal after correcting the deficiencies  
1908 noted by USEPA.  
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1910 SUBPART E: STACK HEIGHTS

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1912 **Section 204.1000 Stack Heights**

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1914 a) The degree of emission limitation required for control of any air pollutant under  
1915 this Part shall not be affected in any manner by:

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1917 1) Any portion of the stack height of any source that exceeds good  
1918 engineering practice; or

1919  
1920 2) Any other dispersion technique.  
1921

1922 b) Subsection (a) does not apply with respect to stack heights in existence before  
1923 December 31, 1970 or to dispersion techniques implemented before then.  
1924

1925 SUBPART F: REQUIREMENTS FOR MAJOR STATIONARY SOURCES AND MAJOR  
1926 MODIFICATIONS IN ATTAINMENT AND UNCLASSIFIABLE AREAS  
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1928 **Section 204.1100 Control Technology Review**

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- 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 Section 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 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.

1952 **Section 204.1110 Source Impact Analysis**

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The owner or operator of the proposed source or modification 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:

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- a) Any NAAQS in any air quality control region; and
- 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.

1965 **Section 204.1120 Air Quality Models**

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- 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).

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- 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. The modification or substitution may be made on a case-by-case basis or, 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 is subject to notice and opportunity for public comment (see 35 Ill. Adm. Code 252).

**Section 204.1130 Air Quality Analysis**

- a) Preapplication Analysis
  - 1) Any application for a permit under this Part 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 a significant net emissions increase would result.
  - 2) With respect to any such pollutant for which no NAAQS exists, the analysis 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 an NAAQS does exist, the analysis 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 must have been gathered over a period of at least one year and 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 must have been gathered over at least that shorter period.

- 2014 5) The owner or operator of a proposed stationary source or modification of  
2015 VOM who satisfies all conditions of 40 CFR 51, appendix S, section IV,  
2016 (incorporated by reference in Section 204.100) may provide post-approval  
2017 monitoring data for ozone in lieu of providing preconstruction data as  
2018 required by this subsection (a).
- 2019
- 2020 b) Postconstruction Monitoring. The owner or operator of a major stationary source  
2021 or major modification must, after construction of the stationary source or  
2022 modification, conduct such ambient monitoring as the Agency determines is  
2023 necessary to determine the effect emissions from the stationary source or  
2024 modification may have, or are having, on air quality in any area.
- 2025
- 2026 c) Operations of Monitoring Stations. The owner or operator of a major stationary  
2027 source or major modification must meet the requirements of 40 CFR 58, appendix  
2028 B (incorporated by reference in Section 204.100), during the operation of  
2029 monitoring stations for purposes of satisfying this Section.
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2031 **Section 204.1140 Additional Impact Analyses**

- 2032
- 2033 a) The owner or operator must provide an analysis of the impairment to visibility,  
2034 soils and vegetation that would occur as a result of the source or modification and  
2035 general commercial, residential, industrial and other growth associated with the  
2036 source or modification. The owner or operator need not provide an analysis of the  
2037 impact on vegetation having no significant commercial or recreational value.
- 2038
- 2039 b) The owner or operator must provide an analysis of the air quality impact projected  
2040 for the area as a result of general commercial, residential, industrial and other  
2041 growth associated with the source or modification.
- 2042

2043 **SUBPART G: ADDITIONAL REQUIREMENTS FOR CLASS I AREAS**

2044 **Section 204.1200 Additional Requirements for Sources Impacting Federal Class I Areas**

- 2045
- 2046
- 2047 a) Notice to Federal Land Managers. The Agency shall provide written notice of  
2048 any permit application for a proposed major stationary source or major  
2049 modification, the emissions from which may affect a Class I area, to the Federal  
2050 Land Manager and the federal official charged with direct responsibility for  
2051 management of any lands within any such area. The notification must include a  
2052 copy of all information relevant to the permit application and shall be issued  
2053 within 30 days after receipt and at least 60 days prior to any public hearing on the  
2054 application for a permit to construct. The notification shall include an analysis of  
2055 the proposed source's anticipated impacts on visibility in the Federal Class I area.  
2056 The Agency shall also provide the Federal Land Manager and relevant federal

2057 officials with a copy of the preliminary determination required by 35 Ill. Adm.  
 2058 Code 252, and shall make available to them any materials used in making that  
 2059 determination, promptly after the Agency makes the determination. Finally, the  
 2060 Agency shall also notify all affected Federal Land Managers within 30 days after  
 2061 receipt of any advance notification of any permit application.  
 2062

2063 b) Federal Land Manager. The Federal Land Manager and the federal official  
 2064 charged with direct responsibility for management of the lands have an  
 2065 affirmative responsibility to protect the air quality related values (including  
 2066 visibility) of those lands and to consider, in consultation with the Agency,  
 2067 whether a proposed source or modification will have an adverse impact on those  
 2068 values.  
 2069

2070 c) Visibility Analysis. The Agency shall consider any analysis performed by the  
 2071 Federal Land Manager, provided within 30 days after the notification required by  
 2072 subsection (a), that shows that a proposed new major stationary source or major  
 2073 modification may have an adverse impact on visibility in any Federal Class I area.  
 2074 When the Agency finds that such an analysis does not demonstrate to its  
 2075 satisfaction that an adverse impact on visibility will result in the Federal Class I  
 2076 area, the Agency shall, in the notice of public hearing on the permit application,  
 2077 either explain its decision or give notice as to where the explanation can be  
 2078 obtained.  
 2079

2080 d) Denial; Impact On Air Quality Related Values. The Federal Land Manager of  
 2081 any such lands may demonstrate to the Agency that the emissions from a  
 2082 proposed source or modification would have an adverse impact on the air quality-  
 2083 related values (including visibility) of those lands, notwithstanding that the  
 2084 change in air quality resulting from emissions from the source or modification  
 2085 would not cause or contribute to concentrations that would exceed the maximum  
 2086 allowable increases for a Class I area. If the Agency concurs with the  
 2087 demonstration, it shall not issue the permit.  
 2088

2089 e) Class I Variances. The owner or operator of a proposed source or modification  
 2090 may demonstrate to the Federal Land Manager that the emissions from the source  
 2091 or modification would have no adverse impact on the air quality related values of  
 2092 any such lands (including visibility), notwithstanding that the change in air quality  
 2093 resulting from emissions from the source or modification would cause or  
 2094 contribute to concentrations that would exceed the maximum allowable increases  
 2095 for a Class I area. If the Federal Land Manager concurs with the demonstration  
 2096 and so certifies, the Agency may, provided that the applicable requirements of this  
 2097 Part are otherwise met, issue the permit with such emission limitations as may be  
 2098 necessary to assure that emissions of SO<sub>2</sub>, PM<sub>2.5</sub>, PM<sub>10</sub>, and NO<sub>x</sub> would not

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exceed the following maximum allowable increases over minor source baseline concentration for those pollutants:

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

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- 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 SO<sub>2</sub> 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 the maximum allowable increase. If the variance is granted, the Agency shall issue a permit 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) Emissions Limitations for Presidential or Gubernatorial Variance. In the case of a permit issued under subsection (f) or (g), the source or modification must comply with such emission limitations as may be necessary to assure that emissions of SO<sub>2</sub> from the source or modification would not (during any day on which the

2128 otherwise applicable maximum allowable increases are exceeded) cause or  
 2129 contribute to concentrations that would exceed the following maximum allowable  
 2130 increases over the baseline concentration and to assure that the emissions would  
 2131 not cause or contribute to concentrations that exceed the otherwise applicable  
 2132 maximum allowable increases for periods of exposure of 24 hours or less for  
 2133 more than 18 days, not necessarily consecutive, during any annual period:  
 2134

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

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 2136 **SUBPART H: GENERAL OBLIGATIONS OF THE**  
 2137 **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**  
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2139 **Section 204.1300 Notification of Application Completeness to Applicants**  
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2141 The Agency shall notify the applicant within 30 days after receipt as to the completeness of an  
 2142 application for a permit under this Part or any deficiency in the application or information  
 2143 submitted in the application. In the event of such a deficiency, the date of receipt of the  
 2144 application will be the date on which the Agency receives all required information.  
 2145

2146 **Section 204.1310 Transmittal of Application to USEPA**  
 2147

2148 The Agency shall transmit to USEPA a copy of each permit application submitted under this Part  
 2149 relating to a major stationary source or a major modification.  
 2150

2151 **Section 204.1320 Public Participation**  
 2152

2153 Prior to the initial issuance, or a modification of, a permit issued under this Part, the Agency  
 2154 shall provide, at a minimum, notice of the proposed issuance or modification of a permit, a  
 2155 comment period, and opportunity for public hearing under the Agency's public participation  
 2156 procedures (35 Ill. Adm. Code 252).  
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2158 **Section 204.1330 Issuance Within One Year of Submittal of Complete Application**  
 2159

2160 Within one year after receipt of a complete application, a permit shall be granted or denied by the  
 2161 Agency.  
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2163 **Section 204.1340 Permit Rescission**  
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- 2165 a) Any permit issued under this Part or a prior version of this Part will remain in  
2166 effect unless and until it expires under Section 204.830 or is rescinded under this  
2167 Section.
- 2168
- 2169 b) An owner or operator of a stationary source or modification who holds a permit  
2170 issued under this Part or 40 CFR 52.21 for the construction of a new source or  
2171 modification that meets the requirement in subsection (c) may request that the  
2172 Agency rescind the permit or a particular portion of the permit.
- 2173
- 2174 c) The Agency may grant an application for rescission if the application shows that  
2175 this Part would not apply to the source or modification.
- 2176
- 2177 d) If the Agency rescinds a permit under this Section, it shall post a notice of the  
2178 rescission determination, on a public web site identified by it, within 60 days after  
2179 the rescission.
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SUBPART I: NONAPPLICABILITY RECORDKEEPING AND REPORTING

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

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- 2186 a) Except as otherwise provided in subsection (f)(2), this Section applies with  
2187 respect to any regulated NSR pollutant emitted from projects involving existing  
2188 emissions units at a major stationary source (other than projects at a source with a  
2189 PAL) in circumstances in which there is a reasonable possibility, within the  
2190 meaning of subsection (f), that a project that is not a major modification for the  
2191 pollutant may result in a significant emissions increase of that pollutant, and the  
2192 owner or operator elects to use the method specified in Section 204.600(b)(1) for  
2193 calculating projected actual emissions.
- 2194
- 2195 b) Before beginning actual construction of the project, the owner or operator shall  
2196 document and maintain a record of the following information:
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- 2198 1) A description of the project;
- 2199
- 2200 2) Identification of the emissions units whose emissions of a regulated NSR  
2201 pollutant could be affected by the project; and
- 2202
- 2203 3) A description of the applicability test used to determine that the project is  
2204 not a major modification for any regulated NSR pollutant, including the  
2205 baseline actual emissions, the projected actual emissions, the amount of  
2206 emissions excluded under Section 204.600(b)(1)(C), an explanation for  
2207 why that amount was excluded, and any netting calculations, if applicable.

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- c) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator must provide a copy of the information set out in subsection (a) to the Agency. Nothing in this subsection shall be construed to require the owner or operator of such a unit to obtain any determination from the Agency before beginning actual construction.
- d) The owner or operator shall:
  - 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.
- 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 (b) setting out the unit's annual emissions during the calendar year that preceded submission of the report.
- f) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator 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 (b)), by a significant amount (as defined in Section 204.660) for that regulated NSR pollutant, and if the emissions differ from the preconstruction projection as documented and maintained under subsection (b). The report must be submitted to the Agency within 60 days after the end of the year. The report must contain the following:
  - 1) The name, address and telephone number of the major stationary source;
  - 2) The annual emissions as calculated under subsection (d); and

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- 3) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).
- g) A "reasonable possibility" under this Section occurs when the owner or operator calculates the project to result in either:
  - 1) A projected actual emissions increase of at least 50 percent of the amount that is a "significant emissions increase", as defined in Section 204.670 (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or
  - 2) A projected actual emissions increase that, added to the amount of emissions excluded under Section 204.600(b)(1)(C), sums to at least 50 percent of the amount that is a "significant emissions 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 (g)(2), and not also within the meaning of subsection (g)(1), then subsections (b) through (e) do not apply to the project.
- h) The owner or operator of the source must make the information required to be documented and maintained under this Section available for review upon a request for inspection by the Agency, USEPA, or the general public 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, 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;

- 2294 2) The owner or operator agrees to achieve a level of continuous emissions  
2295 reduction equivalent to that which would have been required under  
2296 Section 204.1100(b), by a date specified by the Agency. That date shall  
2297 not be later than 4 years after the time of startup or 7 years after permit  
2298 issuance;
- 2299
- 2300 3) The source or modification would meet the requirements of Sections  
2301 204.1100 and 204.1110, based on the emissions rate that the stationary  
2302 source employing the system of innovative control technology would be  
2303 required to meet on the date specified by the Agency;
- 2304
- 2305 4) The source or modification would not, before the date specified by the  
2306 Agency:
- 2307
- 2308 A) Cause or contribute to a violation of an applicable NAAQS; or
- 2309
- 2310 B) Impact any area where an applicable increment is known to be  
2311 violated;
- 2312
- 2313 5) All other applicable requirements, including those for public participation,  
2314 have been met; and
- 2315
- 2316 6) The provisions of Section 204.1200 (relating to Class I areas) have been  
2317 satisfied with respect to all periods during the life of the source or  
2318 modification.
- 2319
- 2320 c) The Agency shall withdraw any approval to employ a system of innovative  
2321 control technology made under this Section if:
- 2322
- 2323 1) The proposed system fails, by the specified date, to achieve the required  
2324 continuous emissions reduction rate;
- 2325
- 2326 2) The proposed system fails before the specified date so as to contribute to  
2327 an unreasonable risk to public health, welfare, or safety; or
- 2328
- 2329 3) The Agency decides at any time that the proposed system is unlikely to  
2330 achieve the required level of control or to protect the public health,  
2331 welfare, or safety.
- 2332
- 2333 d) If a source or modification fails to meet the required level of continuous  
2334 emissions reduction within the specified time period, or the approval is withdrawn  
2335 in accordance with subsection (c), the Agency may allow the source or

2336 modification up to an additional 3 years to meet the requirement for the  
2337 application of BACT through use of a demonstrated system of control.  
2338

2339 **SUBPART K: PLANTWIDE APPLICABILITY LIMITATION**  
2340

2341 **Section 204.1600 Applicability**  
2342

- 2343 a) The Agency may approve the use of an actuals PAL for any existing major  
2344 stationary source if the PAL meets the requirements of this Subpart. The term  
2345 "PAL" means "actuals PAL" throughout this Subpart.  
2346
- 2347 b) Any physical change in, or change in the method of, operation of a major  
2348 stationary source that maintains its total source-wide emissions below the PAL  
2349 level meets the requirements in this Subpart and complies with the PAL permit:  
2350
- 2351 1) Is not a major modification for the PAL pollutant;
  - 2352
  - 2353 2) Does not have to be approved through the major NSR program; and
  - 2354
  - 2355 3) Is not subject to the provisions in Section 204.850 (restrictions on relaxing  
2356 enforceable emission limitations that the major stationary source used to  
2357 avoid applicability of the major NSR program).  
2358
- 2359 c) Except as provided by subsection (b)(2), a major stationary source must continue  
2360 to comply with all applicable federal or State requirements, emissions limitations,  
2361 and work practice requirements that were established prior to the effective date of  
2362 the PAL.  
2363

2364 **Section 204.1610 Definitions**  
2365

2366 For the purposes of this Subpart, the definitions in Sections 204.1620 through 204.1780 apply.  
2367 When a term is not defined in these Sections, it has the meaning ascribed in this Part, 35 Ill.  
2368 Admin. Code 211, or the CAA.  
2369

2370 **Section 204.1620 Actuals PAL**  
2371

2372 "Actuals PAL", for a major stationary source, means a PAL based on the baseline actual  
2373 emissions (as defined in Section 204.240) of all emissions units (as defined in Section 204.370)  
2374 at the source that emit, or have the potential to emit, the PAL pollutant.  
2375

2376 **Section 204.1630 Allowable Emissions**  
2377

2378 "Allowable emissions" has the meaning ascribed in Section 204.230, except that the allowable  
2379 emissions for any emissions unit must be calculated considering any emission limitations that are  
2380 enforceable as a practical matter on the emissions unit's potential to emit.

2381

2382 **Section 204.1640 Continuous Emissions Monitoring System (CEMS)**

2383

2384 "Continuous emissions monitoring system" or "CEMS" means all of the equipment that may be  
2385 required to meet the data acquisition and availability requirements of this Part, to sample,  
2386 condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

2387

2388 **Section 204.1650 Continuous Emissions Rate Monitoring System (CERMS)**

2389

2390 "Continuous emissions rate monitoring system" or "CERMS" means the total equipment required  
2391 for the determination and recording of the pollutant mass emissions rate (in terms of mass per  
2392 unit of time).

2393

2394 **Section 204.1660 Continuous Parameter Monitoring System (CPMS)**

2395

2396 "Continuous parameter monitoring system" or "CPMS" means all of the equipment necessary to  
2397 meet the data acquisition and availability requirements of this Part to monitor process and control  
2398 device operational parameters (for example, control device secondary voltages and electric  
2399 currents) and other information (for example, gas flow rate, O<sub>2</sub> or CO<sub>2</sub> concentrations), and to  
2400 record average operational parameter values on a continuous basis.

2401

2402 **Section 204.1670 Lowest Achievable Emission Rate (LAER)**

2403

2404 "Lowest achievable emission rate" or "LAER" has the meaning ascribed by 35 Ill. Adm. Code  
2405 203.301(a).

2406

2407 **Section 204.1680 Major Emissions Unit**

2408

2409 "Major emissions unit" means any emissions unit that emits or has the potential to emit 100 tpy  
2410 or more of the PAL pollutant in an attainment area.

2411

2412 **Section 204.1690 Plantwide Applicability Limitation (PAL)**

2413

2414 "Plantwide applicability limitation" or "PAL" means an emission limitation expressed on a mass  
2415 basis in tons per year, or expressed in tons per year CO<sub>2e</sub> for a GHG emission limitation for a  
2416 pollutant at a major stationary source, that is enforceable as a practical matter and established  
2417 source-wide in accordance with this Subpart.

2418

2419 **Section 204.1700 PAL Effective Date**

2420

2421 "PAL effective date" generally means the date of issuance of the PAL permit. However, the  
2422 PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL  
2423 major modification becomes operational and begins to emit the PAL pollutant.  
2424

2425 **Section 204.1710 PAL Effective Period**  
2426

2427 "PAL effective period" means the period beginning with the PAL effective date and ending 10  
2428 years later.  
2429

2430 **Section 204.1720 PAL Major Modification**  
2431

2432 "PAL major modification" means, notwithstanding Sections 204.490 and 204.550 (the  
2433 definitions for major modification and net emissions increase), any physical change in, or change  
2434 in the method of operation of, the PAL source that causes it to emit the PAL pollutant at a level  
2435 equal to or greater than the PAL.  
2436

2437 **Section 204.1730 PAL Permit**  
2438

2439 "PAL permit" means the major NSR permit, the minor NSR permit, or the State operating permit  
2440 under a program that is approved into the SIP, or the CAAPP permit issued by the Agency, that  
2441 establishes a PAL for a major stationary source.  
2442

2443 **Section 204.1740 PAL Pollutant**  
2444

2445 "PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.  
2446

2447 **Section 204.1750 Predictive Emissions Monitoring System (PEMS)**  
2448

2449 "Predictive emissions monitoring system" or "PEMS" means all of the equipment necessary to  
2450 monitor process and control device operational parameters (for example, control device  
2451 secondary voltages and electric currents) and other information (for example, gas flow rate, O<sub>2</sub> or  
2452 CO<sub>2</sub> concentrations), and to calculate and record the mass emissions rate (e.g., lb/hr) on a  
2453 continuous basis.  
2454

2455 **Section 204.1760 Reasonably Achievable Control Technology (RACT)**  
2456

2457 "Reasonably Achievable Control Technology" or "RACT" means devices, systems, process  
2458 modifications, or other apparatus or techniques that are reasonably available, taking into account:  
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- 2460 a) The necessity of imposing RACT in order to attain and maintain a national  
2461 ambient air quality standard;  
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2463 b) The social, environmental, and economic impact of RACT; and

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- c) Alternative means of providing for attainment and maintenance of 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 must submit the following information to the Agency for approval:

- a) A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source must indicate which, if any, federal or State applicable requirements, emission limitations, or work practices apply to each unit.
- b) Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction.
- c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions, based on a 12-month rolling total for each month, as required by Section 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 of 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 CO<sub>2</sub>e for a GHG PAL,

2507 that is enforceable as a practical matter, for the entire major stationary  
 2508 source. For each month during the PAL effective period after the first 12  
 2509 months of establishing a PAL, the major stationary source owner or  
 2510 operator shall show that the sum of the monthly emissions from each  
 2511 emissions unit under the PAL for the previous 12 consecutive months is  
 2512 less than the PAL (a 12-month average, rolled monthly). For each month  
 2513 during the first 11 months after the PAL effective date, the major  
 2514 stationary source owner or operator shall show that the sum of the  
 2515 preceding monthly emissions from the PAL effective date for each  
 2516 emissions unit under the PAL is less than the PAL.  
 2517

- 2518 2) The PAL shall be established in a PAL permit that meets the public  
 2519 participation requirements in Section 204.1810.  
 2520
- 2521 3) The PAL permit shall contain all the requirements of Section 204.1830.  
 2522
- 2523 4) The PAL shall include fugitive emissions, to the extent quantifiable, from  
 2524 all emissions units that emit or have the potential to emit the PAL  
 2525 pollutant at the major stationary source.  
 2526
- 2527 5) Each PAL shall regulate emissions of only one pollutant.  
 2528
- 2529 6) Each PAL shall have a PAL effective period of 10 years.  
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- 2531 7) The owner or operator of the major stationary source with a PAL must  
 2532 comply with the monitoring, recordkeeping, and reporting requirements  
 2533 provided in Sections 204.1880 through 204.1900 for each emissions unit  
 2534 under the PAL, through the PAL effective period.  
 2535
- 2536 b) At no time (during or after the PAL effective period) are emissions reductions of a  
 2537 PAL pollutant that occur during the PAL effective period creditable as decreases  
 2538 for purposes of offsets under 35 Ill. Adm. Code 203 unless the level of the PAL is  
 2539 reduced by the amount of those emissions reductions and the reductions would be  
 2540 creditable in the absence of the PAL.  
 2541

2542 **Section 204.1810 Public Participation Requirements**  
 2543

2544 PALs for existing major stationary sources shall be established, renewed, or increased through a  
 2545 procedure that is consistent with 35 Ill. Adm. Code 252. This includes the requirement that the  
 2546 Agency provide the public with notice of the proposed approval of a PAL permit and provide at  
 2547 least a 30-day period for submittal of public comment. The Agency shall address all material  
 2548 comments before taking final action on the permit.  
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2550 **Section 204.1820 Setting the 10-Year Actuals PAL Level**

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- a) Except as provided in subsection (b), the plan must provide that the actuals PAL level for a major stationary source 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 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 levels in tons per year (or tons per year CO<sub>2e</sub> for a GHG PAL) to become effective on the future compliance dates of any applicable federal or State regulatory 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<sub>x</sub> 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 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 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<sub>2e</sub> 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 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.

- 2593 d) A requirement that emission calculations for compliance purposes shall include
- 2594 emissions from startups, shutdowns, and malfunctions.
- 2595
- 2596 e) A requirement that, once the PAL expires, the major stationary source is subject
- 2597 to Section 204.1850.
- 2598
- 2599 f) The calculation procedures that the major stationary source owner or operator
- 2600 must use to convert the monitoring system data to monthly emissions and annual
- 2601 emissions based on a 12-month rolling total, as required by Section 204.1890(a).
- 2602
- 2603 g) A requirement that the major stationary source owner or operator monitor all
- 2604 emissions units in accordance with Section 204.1880.
- 2605
- 2606 h) A requirement to retain on site the records required by Section 204.1890. The
- 2607 records may be retained in an electronic format.
- 2608
- 2609 i) A requirement to submit the reports required by Section 204.1900 by the required
- 2610 deadlines.
- 2611
- 2612 j) Any other requirements that the Agency deems necessary to implement and
- 2613 enforce the PAL.
- 2614

**Section 204.1840 Effective Period and Reopening a PAL Permit**

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

- 2619 a) PAL Effective Period. The Agency shall specify a PAL effective period of 10
- 2620 years.
- 2621
- 2622 b) Reopening of the PAL Permit
- 2623
- 2624 1) During the PAL effective period, the Agency shall reopen the PAL permit
- 2625 to:
- 2626
- 2627 A) Correct typographical/calculation errors made in setting the PAL
- 2628 or reflect a more accurate determination of emissions used to
- 2629 establish the PAL;
- 2630
- 2631 B) Reduce the PAL if the owner or operator of the major stationary
- 2632 source creates creditable emissions reductions for use as offsets
- 2633 under 35 Ill. Adm. Code 203; and
- 2634

- 2635 C) Revise the PAL to reflect an increase in the PAL (see Section
- 2636 204.1870).
- 2637
- 2638 2) The Agency shall have discretion to reopen the PAL permit for the
- 2639 following:
- 2640
- 2641 A) Reduce the PAL to reflect newly applicable federal requirements
- 2642 (for example, NSPS) with compliance dates after the PAL effective
- 2643 date;
- 2644
- 2645 B) Reduce the PAL consistent with any other requirement that is
- 2646 enforceable as a practical matter, and that the Agency may impose
- 2647 on the major stationary source under the SIP; and
- 2648
- 2649 C) Reduce the PAL if the Agency determines that a reduction is
- 2650 necessary to avoid causing or contributing to an NAAQS or PSD
- 2651 increment violation, or to an adverse impact on an air quality
- 2652 related value that has been identified for a Federal Class I area by a
- 2653 Federal Land Manager and for which information is available to
- 2654 the general public.
- 2655
- 2656 c) Except for the permit reopening allowed by subsection (b)(1)(A) for the
- 2657 correction of typographical/calculation errors that do not increase the PAL level,
- 2658 all other reopenings shall be carried out in accordance with the public
- 2659 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 expires at the end of the PAL effective period, and the requirements in this Section apply.

- 2666 a) Each emissions unit (or each group of emissions units) that existed under the PAL
- 2667 must comply with an allowable emission limitation under a revised permit
- 2668 established under this subsection (a).
- 2669
- 2670 1) Within the time frame specified for PAL renewals in Section 204.1860(b),
- 2671 the major stationary source must submit a proposed allowable emission
- 2672 limitation for each emissions unit (or each group of emissions units, if
- 2673 such a distribution is more appropriate, as decided by the Agency) by
- 2674 distributing the PAL allowable emissions for the major stationary source
- 2675 among each of the emissions units that existed under the PAL. If the PAL
- 2676 had not yet been adjusted for an applicable requirement that became
- 2677 effective during the PAL effective period, as required under Section

2678 204.1860(e), the distribution must be made as if the PAL had been  
 2679 adjusted.  
 2680

2681 2) The Agency shall decide whether and how the PAL allowable emissions  
 2682 will be distributed and shall issue a revised permit incorporating allowable  
 2683 limits for each emissions unit, or each group of emissions units, as the  
 2684 Agency determines appropriate.  
 2685

2686 b) Each emissions unit must comply with the allowable emission limitation on a 12-  
 2687 month rolling basis. The Agency may approve the use of monitoring systems  
 2688 (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or  
 2689 CPMS to demonstrate compliance with the allowable emission limitation.  
 2690

2691 c) Until the Agency issues the revised permit incorporating allowable limits for each  
 2692 emissions unit, or each group of emissions units, as required by subsection (a)(2),  
 2693 the source must continue to comply with a source-wide, multi-unit emissions cap  
 2694 equivalent to the level of the PAL emission limitation.  
 2695

2696 d) Any physical change, or change in the method of operation, at the major  
 2697 stationary source will be subject to major NSR requirements if the change meets  
 2698 the definition of major modification in Section 204.490.  
 2699

2700 e) The major stationary source owner or operator must continue to comply with any  
 2701 State or federal applicable requirements (BACT, RACT, NSPS, etc.) that may  
 2702 have applied either during the PAL effective period or prior to the PAL effective  
 2703 period, except for those emission limitations that had been established under  
 2704 Section 204.850, but were eliminated by the PAL in accordance with Section  
 2705 204.1600(b)(3).  
 2706

2707 **Section 204.1860 Renewal of a PAL**  
 2708

2709 a) The Agency shall follow the procedures specified in Section 204.1810 in  
 2710 approving any request to renew a PAL for a major stationary source, and shall  
 2711 provide both the proposed PAL level and a written rationale for the proposed PAL  
 2712 level to the public for review and comment. During public review, any person  
 2713 may propose a PAL level for the source for consideration by the Agency.  
 2714

2715 b) Application Deadline. A major stationary source owner or operator must submit a  
 2716 timely application to the Agency to request renewal of a PAL. A timely  
 2717 application is one that is submitted at least 6 months before, but not earlier than  
 2718 18 months before, the date of permit expiration. This deadline for application  
 2719 submittal is to ensure that the permit will not expire before the permit is renewed.  
 2720 If the owner or operator of a major stationary source submits a complete

2721 application to renew the PAL within this time period, the PAL will continue to be  
 2722 effective until the revised permit with the renewed PAL is issued.

2723  
 2724 c) Application Requirements. The application to renew a PAL permit shall contain:

- 2725 1) The information required in Section 204.1790.
- 2726 2) A proposed PAL level.
- 2727
- 2728 3) The sum of the potential to emit of all emissions units under the PAL
- 2729 (with supporting documentation).
- 2730 4) Any other information the owner or operator wishes the Agency to
- 2731 consider in determining the appropriate level for renewing the PAL.
- 2732
- 2733
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- 2735

2736 d) PAL Adjustment

- 2737 1) In determining whether and how to adjust the PAL, the Agency shall
- 2738 consider the options outlined in subsections (d)(1) and (d)(2). However,
- 2739 in no case may any such adjustment fail to comply with subsection (d)(3).
- 2740
- 2741 A) If the emissions level calculated in accordance with Section
- 2742 204.1820 is equal to or greater than 80 percent of the PAL level,
- 2743 the Agency may renew the PAL at the same level without
- 2744 considering the factors set forth in subsection (d)(2); or
- 2745
- 2746 B) The Agency may set the PAL at a level that it determines to be
- 2747 more representative of the source's baseline actual emissions, or
- 2748 that it determines to be more appropriate considering air quality
- 2749 needs, advances in control technology, anticipated economic
- 2750 growth in the area, desire to reward or encourage the source's
- 2751 voluntary emissions reductions, or other factors specifically
- 2752 identified by the Agency in its written rationale.
- 2753
- 2754 2) Notwithstanding subsection (d)(1):
- 2755
- 2756 A) If the potential to emit of the major stationary source is less than
- 2757 the PAL, the Agency shall adjust the PAL to a level no greater than
- 2758 the potential to emit of the source; and
- 2759
- 2760 B) The Agency shall not approve a renewed PAL level higher than the
- 2761 current PAL, unless the major stationary source has complied with
- 2762 the provisions of Section 204.1870 (increasing a PAL).
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- 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 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 must submit a complete application to request an increase in the PAL limit for a PAL major modification. The application must identify the emissions 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 the application, the major stationary source owner or operator must demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions units exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit must be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit must be equal to the level of BACT or LAER with which that emissions unit must currently comply.
  - 3) The owner or operator obtains a major NSR permit for all emissions 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 units 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.

- 2807           b)     The Agency shall calculate the new PAL as the sum of the allowable emissions  
 2808           for each modified or new emissions unit, plus the sum of the baseline actual  
 2809           emissions of the significant and major emissions units (assuming application of  
 2810           BACT equivalent controls as determined in accordance with subsection (a)(2)),  
 2811           plus the sum of the baseline actual emissions of the small emissions units.  
 2812  
 2813           c)     The PAL permit shall be revised to reflect the increased PAL level under the  
 2814           public notice requirements of Section 204.1810.  
 2815

2816 **Section 204.1880 Monitoring Requirements**

- 2817  
 2818           a)     General Requirements  
 2819  
 2820                     1)     Each PAL permit shall contain enforceable requirements for the  
 2821                     monitoring system that accurately determines plantwide emissions of the  
 2822                     PAL pollutant in terms of mass per unit of time, or in CO<sub>2</sub>e per unit of  
 2823                     time for a GHG PAL. Any monitoring system authorized for use in the  
 2824                     PAL permit must be based on sound science and meet generally  
 2825                     acceptable scientific procedures for data quality and manipulation.  
 2826                     Additionally, the information generated by such system must meet  
 2827                     minimum legal requirements for admissibility in a judicial proceeding to  
 2828                     enforce the PAL permit.  
 2829  
 2830                     2)     The PAL monitoring system must employ one or more of the four general  
 2831                     monitoring approaches meeting the minimum requirements set forth in  
 2832                     subsection (b) and must be approved by the Agency.  
 2833  
 2834                     3)     Notwithstanding subsection (a)(2), the owner or operator may also employ  
 2835                     an alternative monitoring approach that meets subsection (a)(1) if  
 2836                     approved by the Agency.  
 2837  
 2838                     4)     Failure to use a monitoring system that meets the requirements of this  
 2839                     Section renders the PAL invalid.  
 2840  
 2841           b)     Minimum Performance Requirements for Approved Monitoring Approaches. The  
 2842           following are acceptable general monitoring approaches when conducted in  
 2843           accordance with the minimum requirements in subsections (c) through (i):  
 2844  
 2845                     1)     Mass balance calculations for activities using coatings or solvents;  
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 2847                     2)     CEMS;  
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 2849                     3)     CPMS or PEMS; and

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- 4) Emission factors.
- c) Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents must meet the following requirements:
  - 1) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;
  - 2) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and
  - 3) 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 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 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 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.

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- f) Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions must meet the following requirements:
  - 1) All emission factors must be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;
  - 2) The emissions unit must operate within the designated range of use for the emission factor, if applicable; and
  - 3) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions must conduct validation testing to determine a site-specific emission factor within 6 months 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 parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, the Agency must, at the time of permit issuance:
  - 1) Establish default 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 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**

- 2935 a) The PAL permit shall require an owner or operator to retain a copy of all records  
 2936 necessary to determine compliance with any requirement of this Subpart and of  
 2937 the PAL, including a determination of each emissions unit's 12-month rolling total  
 2938 emissions, for 5 years from the date of the record.  
 2939
- 2940 b) The PAL permit shall require an owner or operator to retain a copy of the  
 2941 following records for the duration of the PAL effective period plus 5 years:  
 2942
- 2943 1) A copy of the PAL permit application and any applications for revisions to  
 2944 the PAL; and
  - 2945 2) Each annual certification of compliance under Section 39.5(7)(p)(v) of the  
 2946 Act and the data relied on in certifying the compliance.  
 2947  
 2948

2949 **Section 204.1900 Reporting and Notification Requirements**

2950  
 2951 The owner or operator must submit semiannual monitoring reports and prompt deviation reports  
 2952 to the Agency in accordance with the CAAPP. The reports must meet the requirements of this  
 2953 Section.  
 2954

- 2955 a) Semiannual Report. The semiannual report must be submitted to the Agency  
 2956 within 30 days after the end of each reporting period. This report must contain  
 2957 the information required in subsection (a).  
 2958
- 2959 1) Identification of the owner and operator and the permit number.
  - 2960 2) Total annual emissions (expressed on a mass-basis in tons per year, or  
 2961 expressed in tons per year CO<sub>2</sub>e for a GHG PAL) based on a 12-month  
 2962 rolling total for each month in the reporting period recorded under Section  
 2963 204.1890(a).  
 2964  
 2965
  - 2966 3) All data relied upon, including any Quality Assurance or Quality Control  
 2967 data, in calculating the monthly and annual PAL pollutant emissions.  
 2968
  - 2969 4) A list of any emissions units modified or added to the major stationary  
 2970 source during the preceding 6-month period.  
 2971
  - 2972 5) The number, duration, and cause of any deviations or monitoring  
 2973 malfunctions (other than the time associated with zero and span calibration  
 2974 checks), and any corrective action taken.  
 2975
  - 2976 6) A notification of a shutdown of any monitoring system, whether the  
 2977 shutdown was permanent or temporary, the reason for the shutdown, the

2978 anticipated date that the monitoring system will be fully operational or  
 2979 replaced with another monitoring system, whether the emissions unit  
 2980 monitored by the monitoring system continued to operate, and the  
 2981 calculation of the emissions of the pollutant or the number determined by  
 2982 the method included in the permit (see Section 204.1880(g)).  
 2983

2984 7) A signed statement by the responsible official (as defined by the CAAPP)  
 2985 certifying the truth, accuracy, and completeness of the information  
 2986 provided in the report.  
 2987

2988 b) Deviation Report. The major stationary source owner or operator must promptly  
 2989 submit reports of any deviations or exceedance of the PAL requirements,  
 2990 including periods when no monitoring is available. A report submitted under 40  
 2991 CFR 70.6(a)(3)(iii)(B) will satisfy this reporting requirement. The deviation  
 2992 reports shall be submitted within the time limits prescribed by the applicable  
 2993 program implementing 40 CFR 70.6(a)(3)(iii)(B). The reports must contain the  
 2994 following information:  
 2995

2996 1) The identification of owner and operator and the permit number;  
 2997

2998 2) The PAL requirement that experienced the deviation or that was exceeded;  
 2999

3000 3) Emissions resulting from the deviation or the exceedance; and  
 3001

3002 4) A signed statement by the responsible official (as defined by the CAAPP)  
 3003 certifying the truth, accuracy, and completeness of the information  
 3004 provided in the report.  
 3005

3006 c) Revalidation Results. The owner or operator must submit to the Agency the  
 3007 results of any revalidation test or method within 3 months after completion of that  
 3008 test or method.  
 3009

3010 **Section 204.1910 Transition Requirements**

3011  
 3012 The Agency may not issue a PAL that does not comply with this Subpart after the initial  
 3013 effective date of this Part.

# AGENCY VS ROI

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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204.1000 Stack Heights

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Section

204.1500 Innovative Control Technology

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Section

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- 204.1820 Setting the 10-Year Actuals PAL Level
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- 204.1870 Increasing the PAL during the PAL Effective Period
- 204.1880 Monitoring Requirements
- 204.1890 Recordkeeping Requirements
- 204.1900 Reporting and Notification Requirements
- 204.1910 Transition Requirements

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

SOURCE: Adopted in R19-1 at 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)
- l) 40 CFR Part 61 (2018)

- m) 40 CFR Part 62 (2018)
- n) 40 CFR Part 63 (2018)
- o) 40 CFR Part 64 (2018)
- p) 40 CFR Part 65 (2018)
- q) 40 CFR Part 66 (2018)
- r) 40 CFR Part 67 (2018)
- s) 40 CFR Part 68 (2018)
- t) 40 CFR Part 69 (2018)
- u) 40 CFR Part 70 (2018)
- v) 40 CFR Part 71 (2018)
- w) 40 CFR Part 72 (2018)
- x) 40 CFR Part 73 (2018)
- y) 40 CFR Part 74 (2018)
- z) 40 CFR Part 75 (2018)
- aa) 40 CFR Part 76 (2018)
- bb) 40 CFR Part 77 (2018)
- cc) 40 CFR Part 78 (2018)
- dd) 40 CFR Part 79 (2018)
- ee) 40 CFR Part 80 (2018)
- ff) 40 CFR Part 81 (2018)
- gg) 40 CFR Part 82 (2018)
- hh) (Reserved)
- ii) (Reserved)
- jj) 40 CFR Part 85 (2018)
- kk) 40 CFR Part 86 (2018)
- ll) 40 CFR Part 87 (2018)

- mm) 40 CFR Part 88 (2018)
- nn) 40 CFR Part 89 (2018)
- oo) 40 CFR Part 90 (2018)
- pp) 40 CFR Part 91 (2018)
- qq) 40 CFR Part 92 (2018)
- rr) 40 CFR Part 93 (2018)
- ss) 40 CFR Part 94 (2018)
- tt) 40 CFR Part 95 (2018)
- uu) 40 CFR Part 96 (2018)
- vv) 40 CFR Part 97 (2018), excluding 40 CFR Part 97, Subpart FFFFF (2018)
- ww) 40 CFR Part 98 (2018)
- xx) (Reserved)
- 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 ~~and~~, acronyms and terms are used in this Part:

µg/m<sup>3</sup> 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<sub>2</sub> carbon dioxide  
 CO<sub>2</sub>e carbon dioxide equivalent  
 CPMS Continuous Parameter Monitoring System  
 GHG Greenhouse Gas  
 H<sub>2</sub>S hydrogen sulfide  
 hr hour  
 LAER Lowest Achievable Emission Rate  
 lbs pounds

lb/hrpounds per hour  
MW megawatts  
NAAQS National Ambient Air Quality Standards  
NAICS North American Industry Classification System  
NO2 nitroge n dioxide  
~~NOx~~ NOX nitrogen oxides  
NSPS New Source Performance Standards  
NSR New Source Review  
O2 oxygen  
PAL Plantwide Applicability Limitation  
PEMS Predictive Emissions Monitoring System  
PM Particulate Matter  
PM2.5 Particulate Matter equal to or less than 2.5 microns in diameter  
(Fine Particulate Matter)  
PM10 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  
SO2 sulfur dioxide  
tpy tons per year  
TSP total suspended particulates  
US United States  
USEPA United States Environmental Protection Agency  
VOC Volatile Organic Compound  
VOM Volatile Organic Material  
yr year

#### Section 204.120 Severability

If any provision of this Part, or the application of ~~such~~that provision to any person or circumstance, is held invalid, the remainder of this Part, or the application of ~~such~~the provision to persons or circumstances other than those as to which it is held invalid, shall not be affected ~~thereby~~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 ~~Part~~ 211.

#### Section 204.210 Actual Emissions

a) "Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with subsections (b) through (d), except that this definition 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 ~~must~~will apply for those purposes.

b) In general, actual emissions as of a particular date must equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period ~~which~~that precedes the particular date and ~~which~~that is representative of normal source operation. The ~~Illinois EPA must~~Agency shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions must be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

c) The ~~Illinois EPA~~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 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 ~~which~~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: ~~(1)-~~  
~~times~~

a) Times of visitor use of the Federal Class I area, ~~and~~ ~~(2)-the-~~  
~~frequency~~

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 ~~which~~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 ~~Parts~~ 60, 61, 62 and ~~63, 63~~ (incorporated by reference in ~~35 Ill. Adm. Code~~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 ~~subsections (a) through (d)~~ this Section.

a) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The ~~Illinois EPA must~~ Agency 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 must include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

2) The average rate must be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

3) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period ~~must~~ 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 ~~Illinois EPA~~ Agency for a permit required by the SIP, whichever is earlier, except that the 10-year period must not include any period earlier than November 15, 1990.

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

2) The average rate must be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

3) The average rate must be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. "Currently" in the context of a contemporaneous emissions change refers to limitations on emissions and source operation that existed just prior to the date of the contemporaneous change. However, if an emission limitation is part of a Maximum Achievable Control Technology standard that the USEPA proposed or promulgated under 40 CFR ~~Part 63, 63~~ (incorporated by reference in ~~35- Ill. Adm. Code 204.100, Section 204.100~~), the baseline actual emissions need only be adjusted if the Illinois EPA Agency has taken credit for ~~such that~~ emissions reductions in an attainment demonstration or maintenance plan consistent with ~~the requirements of~~ 40 CFR 51.165(a)(3)(ii)(G).

4) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period ~~must~~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 ~~such the~~ unit must equal zero, ~~and thereafter.~~ Thereafter, for all other purposes, it must equal the unit's potential to emit.

d) For a PAL for a stationary source, the baseline actual emissions must be calculated for existing electric utility steam generating units 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).

a) "Baseline area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under ~~Section~~section 107(d)(1)(A)(ii) or (iii) of the CAA (43 ~~U.S.C.~~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 µg/m<sup>3</sup> (annual average) for SO<sub>2</sub>, NO<sub>2</sub>, or PM<sub>10</sub>; or equal to or greater than 0.3 µg/m<sup>3</sup> (annual average) for PM<sub>2.5</sub>.

b) Area redesignations under ~~Section~~section 107(d)(1)(A)(ii) or (iii) of the CAA (~~43 U.S.C. 7407(d)(1)(A)(ii) or (iii)~~) cannot intersect or be smaller than the area of impact of any major stationary source or major modification ~~which~~that:

1) Establishes a minor source baseline date; or

2) Is subject to this Part and would be constructed in the ~~State~~state proposing the redesignation.

c) Any baseline area established originally for the TSP increments must remain in effect and must apply for purposes of determining the amount of available PM<sub>10</sub> increments, except that ~~such~~ baseline area must not remain in effect if the ~~Illinois EPA~~Agency rescinds the corresponding minor source baseline date in accordance with Section 204.520(c).

#### Section 204.260 Baseline Concentration

a) "Baseline concentration" means ~~that~~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 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 ~~mean~~(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 ~~which 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 ~~which 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 ~~which that~~ would be emitted from any proposed major stationary source or major modification ~~which that~~ the ~~Illinois EPA 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 ~~must shall~~ application of BACT result in emissions of any pollutant ~~which that~~ would exceed the emissions allowed by any applicable standard under 40 CFR ~~Parts~~ 60, 61, 62 and ~~63, 63~~ (incorporated by reference in ~~35 Ill. Adm. Code 204.100. Section 204.100~~). If the ~~Illinois EPA 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 must, to the degree possible, set forth the emissions reduction achievable by implementation of ~~such the~~ design, equipment, work practice or operation, and must provide for compliance by means ~~which 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 ~~which 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 must be considered as part of the same industrial grouping if they belong to the same "Major Group"

(i.e., ~~which~~ have the same first two-digit code) as described in the Standard Industrial Classification Manual, 1972, ~~as amended by the 1977 Supplement (U. S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively),~~ (incorporated by reference in Section 204.100.204.100).

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 ~~must~~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 ~~post-~~combustion ~~postcombustion~~ stage, at a new or existing facility ~~which~~that will achieve significant reductions in air emissions of SO<sub>2</sub> or ~~NO<sub>x</sub>~~NOX associated with the utilization of coal in the generation of electricity, or process steam ~~which~~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 ~~for the~~to USEPA. The ~~Federal~~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, ~~which~~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 ~~which~~that attempts to affect the concentration of a pollutant in the ambient air by:

- 1) Using ~~that~~the portion of a stack ~~which~~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 source process parameters, exhaust gas parameters, or stack parameters, ~~or~~;

B) combining exhaust gases from several existing stacks into one stack; or

C) other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

b) ~~The preceding sentence in Section 204.350(a)~~ "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 ~~where~~when:

A) The source owner or operator demonstrates that the stationary source was originally designed and constructed with ~~such~~those merged gas streams;

B) After July 8, ~~1985-sueh~~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 ~~must-apply~~applies only to the emission limitation for the pollutant affected by ~~sueh~~the change in operation; or

C) Before July 8, 1985, ~~sueh~~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. ~~Where~~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 ~~Illinois-EPA~~Agency must presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by ~~sueh~~that intent, the ~~Illinois-EPA~~Agency must deny credit for the effects of ~~sueh~~the merging in calculating the allowable emissions for the source;

3) Smoke management in agricultural or silvicultural prescribed burning programs;

4) Episodic restrictions on residential wood burning and open burning; or

5) Techniques under subsection (a)(3) ~~which~~that increase final exhaust gas plume rise ~~where~~when the resulting allowable emissions of SO<sub>2</sub> from the stationary source do not exceed 5,000 tpy.

#### Section 204.360 Electric Utility Steam Generating Unit

"Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

#### Section 204.370 Emissions Unit

"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit as defined in Section 204.360. For purposes of this Part, there are two types of emissions units ~~as described in subsections (a) and (b).~~

a) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date ~~such~~the emissions unit first operated.

b) An existing emissions unit is any emissions unit that does not meet the requirements ~~in~~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 204.430(c) and means:

a) For sources seeking credit for stack height exceeding that established under Section 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 ~~which~~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 ~~which~~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 ~~which~~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 greater than an ambient air increment under Section 204.900. The allowable emission rate to be used in making demonstrations of excessive concentration must be prescribed by the NSPS that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. ~~Where~~When those demonstrations are approved by the ~~Illinois~~EPA Agency, an alternative emission rate must be established in consultation with the source owner or operator.

b) For sources seeking credit for increases in existing stack heights up to the heights established under Section 204.430(b), either ~~(i)~~

1) a A maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subsection (a), except that the emission rate specified by the SIP (or, in the absence of such a limit, the actual emission rate) must be used, i or ~~(ii) the~~

2) The actual presence of a local nuisance caused by the existing stack, as determined by the ~~Illinois~~EPA Agency; and

c) For sources seeking credit for a stack height determined under Section 204.430(b) ~~where~~when the ~~Illinois~~EPA 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 204.430(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 ~~such~~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 ~~such~~the lands.

#### Section 204.400 Federally Enforceable

"Federally enforceable" means all limitations and conditions ~~which~~that are enforceable by ~~the~~USEPA, including those requirements developed ~~under~~:

a) Under 40 CFR ~~Parts~~ 60, 61, 62 and ~~63, 63~~ (incorporated by reference in ~~35 Ill. Adm. Code 204.100, Section 204.100~~), requirements within the SIP, any permit requirements established under 40 CFR ~~52.21, 52.21~~ (incorporated by reference in ~~35 Ill. Adm. Code 204.100, Section 204.100~~) or this Part; or ~~under~~

b) Under regulations approved under 40 CFR ~~Part~~ 51, ~~Subpart~~subpart I, (incorporated by reference in ~~35 Ill. Adm. Code 204.100, Section 204.100~~), including operating permits issued under ~~an~~ USEPA-approved program that ~~is~~:

1) Is incorporated into the SIP; and ~~expressly~~

2) Expressly requires adherence to any permit issued under ~~such~~that program.

#### Section 204.410 Fugitive Emissions

"Fugitive emissions" means those emissions ~~which~~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", ~~u~~ with respect to stack height, means the greater of:

a1) 65 meters, measured from the ground-level elevation at the base of the stack;

b2) The following:

1A) For a stack in existence on January 12, 1979, and for which the owner or operator had obtained all necessary preconstruction approvals or permits required under 40 CFR ~~Part 52, 52~~ (incorporated by reference in ~~35 Ill. Adm. Code~~ Section 204.100):

$$Hg = 2.5H,$$

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

2B) For all other stacks:

$$Hg = H + 1.5L$$

where:

Hg = good engineering practice stack height, measured from the ground-level elevation at the base of the stack<sub>7</sub>;

H = height of nearby ~~structure(s)~~ structures measured from the ground-level elevation at the base of the stack<sub>7</sub>;

L = lesser dimension, height<sub>7</sub> or projected width<sub>7</sub> of nearby ~~structure(s)~~ structures, provided that ~~the~~ USEPA or ~~Illinois EPA~~ the Agency may require the use of a field study or fluid model to verify good engineering practice stack height for the source; or

e3) The height demonstrated by a fluid model or a field study approved by ~~the~~ USEPA or ~~Illinois EPA, which~~ the Agency that ensures ~~that~~ the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures<sub>7</sub>, or nearby terrain features.

eb) 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: CO<sub>2</sub>, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. To represent an amount of GHGs emitted, the term "tpy CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e)" ~~must~~ shall be used ~~and~~ CO<sub>2</sub>e 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's associated global warming potential published at ~~Table A-1 to Subpart A of 40 CFR Part 98-98, subpart A, table A-1~~ (Global Warming Potentials<sub>7</sub>) (incorporated by reference in ~~35 Ill. Adm. Code 204.100, Section 204.100~~).

b) Sum the resultant value for each gas to compute a tpy CO2e.

Section 204.440 High Terrain

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

Section 204.450 Indian Reservation

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

Section 204.460 Indian Governing Body

"Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the ~~US~~U.S. and recognized by the ~~US~~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: ~~a~~

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 ~~a~~

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 ~~NOx~~NOX shall be considered significant for ozone.

c) A physical change or change in the method of operation ~~must~~shall not include:

1) Routine maintenance, repair and replacement;

2) Use of an alternative fuel or raw material by reason of ~~an~~;

A) An order under ~~Sections~~sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 ~~U.S.C.~~USC 791) (or any superseding legislation); ~~or by reason of a~~

B) A natural gas curtailment plan under the Federal Power Act (16 ~~U.S.C.~~USC 791);

3) Use of an alternative fuel by reason of an order or rule under ~~Section~~section 125 of the CAA (43 ~~U.S.C.~~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 ~~which~~that:

A) ~~The source was~~Was capable of accommodating before January 6, 1975, unless ~~such~~the change would be prohibited under any federally enforceable permit condition ~~which was~~ 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 ~~which was~~ 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 ~~the~~ NAAQS during the project and after it is terminated~~;~~; 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 ~~must apply~~will be applied on a pollutant-by-pollutant basis.

d) This definition must not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with ~~the requirements under~~ Subpart K for a PAL for that pollutant. Instead, the definition at Section 204.1720 ~~must~~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 PM2.5, October 20, 2010.

#### Section 204.510 Major Stationary Source

a) "Major stationary source" means:

1) Any of the following stationary sources of air pollutants ~~which~~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 ~~British thermal units~~Btu per hour heat input,coal;

B) Coal cleaning plants (with thermal dryers),~~kraft;~~

C) Kraft pulp mills,~~portland;~~

D) Portland cement plants,~~primary;~~

E) Primary zinc smelters,~~iron;~~

F) Iron and steel mill plants,~~primary;~~

G) Primary aluminum ore reduction plants (with thermal dryers),~~primary;~~

H) Primary copper smelters,~~municipal;~~

I) Municipal incinerators capable of charging more than 50 tons of refuse per day,~~hydrofluoric;~~

J) Hydrofluoric, sulfuric, and nitric acid plants,~~petroleum;~~

K) Petroleum refineries,~~lime;~~

L) Lime plants,~~phosphate;~~



- 2) Kraft pulp mills;
- 3) Portland cement plants;
- 4) Primary zinc smelters;
- 5) Iron and steel mills;
- 6) Primary aluminum ore reduction plants;
- 7) Primary copper smelters;
- 8) Municipal incinerators capable of charging more than 50 tons of refuse per day;
- 9) Hydrofluoric, sulfuric, or nitric acid plants;
- 10) Petroleum refineries;
- 11) Lime plants;
- 12) Phosphate rock processing plants;
- 13) Coke oven batteries;
- 14) Sulfur recovery plants;
- 15) Carbon black plants (furnace process);
- 16) Primary lead smelters;
- 17) Fuel conversion plants;
- 18) Sintering plants;
- 19) Secondary metal production plants;
- 20) Chemical process plants ~~The term chemical.~~ Chemical processing plant ~~must~~does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS ~~codes~~Codes 325193 or 312140;
- 21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million ~~British thermal units~~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 ~~British thermal units~~ Btu per hour heat input; and

27) Any other stationary source category ~~which~~ that, as of August 7, 1980, is being regulated under ~~Section~~ 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 PM2.5, 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~~ section 107(d)(1)(A)(ii) or (iii) of the CAA (43 ~~U.S.C.~~ 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 must remain in effect and must apply for purposes of determining the amount of available PM10 increments, except that the ~~Illinois EPA must~~ Agency shall rescind a minor source baseline date ~~where~~ when it can be shown, to the satisfaction of the ~~Illinois EPA~~ 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" ~~is~~ with respect to a specific structure or terrain feature:

a) For purposes of applying the ~~formulae~~ formula provided in Section ~~204.430(b)~~ 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 (1/2 mile) ~~is~~ and

b) For conducting demonstrations under Section ~~204.430~~204.420(~~ea~~)(3), means not greater than 0.8 km (1/2 mile), except that ~~the~~ a portion of a terrain feature may be considered to be nearby ~~which~~if it falls within a distance of up to 10 times the maximum height ~~(Ht)~~ of the feature, not to exceed 2 miles if ~~such~~that feature achieves a height ~~(Ht)~~ 0.8 km from the stack, that is at least 40 percent of the good engineering practice stack height determined by the formula provided in Section ~~204.430~~(~~b~~)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~~federal air quality control laws and regulations and those air quality control laws and regulations ~~which~~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) must be determined as provided in Section 204.240, except that ~~Sections~~Section 204.240(a)(3) and ~~204.240~~(b)(4) ~~must~~do not apply.

b) An increase or decrease in actual emissions is ~~contemporaneous~~

1) Contemporaneous with the increase from the particular change only if it occurs between:

~~1A)~~ The date five years before construction ~~on~~or the particular change commences; and

~~2B)~~ The date that the increase from the particular change occurs; ~~and~~

~~3)~~ ~~An increase or decrease in actual emissions is creditable~~2) 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 SO<sub>2</sub>, PM, or ~~NO<sub>x</sub>~~NOX 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, which shall not ~~to~~ exceed 180 days.

g) ~~Subsection~~Section 204.210(b) ~~must~~does not apply ~~for~~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, 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 ~~Illinois EPA~~Agency under the construction permit program ~~pursuant to~~required by Section 9.1(c) of the

Act that has been approved by ~~the~~ USEPA and incorporated into the Illinois SIP to implement the requirements of ~~Section~~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 consider:~~

A) Consider all relevant information, including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with ~~the~~ State or ~~Federal~~federal regulatory authorities, and compliance plans under Illinois' SIP; ~~and~~

~~2) Must include~~B) Include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and

~~3) Must exclude~~C) 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

42) In lieu of using the method set out in ~~subsections~~ subsection (b) (1) ~~through (b) (3)~~, may elect to use the emissions unit's potential to emit, in tons per year, as defined under Section 204.560.

#### Section 204.610 Regulated NSR Pollutant

"Regulated NSR pollutant" means the following:

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

1) PM2.5 emissions and PM10 emissions ~~must~~ include gaseous emissions from a source or activity, ~~which~~ that condense to form PM at ambient temperatures. On or after January 1, 2011, ~~such~~ condensable PM ~~must~~ was required to be accounted for in applicability determinations and in establishing emissions limitations for PM2.5 and PM10 in PSD permits. Compliance with emissions limitations for PM2.5 and PM10 issued prior to ~~this~~ that date ~~must~~ were not ~~be~~ based on condensable PM unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable PM ~~must~~ 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 ~~a~~ an NAAQS has been promulgated. Precursors, for purposes of this Part, are the following:

A) VOM and ~~NOx~~ NOX are precursors to ozone in all attainment and unclassifiable areas.

B) SO2 is a precursor to PM2.5 in all attainment and unclassifiable areas.

C) ~~NOx~~ NOX are presumed to be precursors to PM2.5 in all attainment and unclassifiable areas, unless the State demonstrates to the satisfaction of ~~the~~ USEPA, or ~~the~~ USEPA demonstrates, that emissions of ~~NOx~~ NOX from sources in a specific area are not a significant contributor to that area's ambient PM2.5 concentrations.

D) VOM are presumed not to be precursors to PM2.5 in any attainment or unclassifiable area, unless the State demonstrates to the satisfaction of ~~the~~ USEPA, or ~~the~~ USEPA demonstrates, that emissions of VOM from sources in a specific area are a significant contributor to that area's ambient PM2.5 concentrations ~~;~~

b) Any pollutant that is subject to any standard promulgated under ~~Section~~ section 111 of the CAA (43 ~~U.S.C.~~ USC 7401);

c) Any Class I or II substance subject to a standard promulgated under or established by title VI of the CAA (43 ~~U.S.C.~~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" ~~must~~does not include any or all hazardous air pollutants either listed in ~~Section~~section 112(b)(1) of the CAA (43 ~~U.S.C.~~USC 7412(b)(1)), or added to the list under ~~Section~~CAA section 112(b)(2) or (b)(3) ~~of the CAA (43 U.S.C. 7412(b)(2) or (b)(3))~~, or substances listed under ~~Section~~CAA section 112(r)(3) ~~of the CAA (43 U.S.C. 7412(r)(3))~~, and ~~which~~that have not been delisted under ~~Section~~CAA section 112(b)(3) or (r) ~~of the CAA (43 U.S.C. 7412(b)(3) or (r))~~, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a pollutant listed under ~~Section~~CAA section 108 ~~of the CAA~~ (43 ~~U.S.C.~~USC 7408).

#### Section 204.620 Replacement Unit

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

a) The emissions unit is a reconstructed unit, within the meaning of 40 CFR 60.15(b)(1), or ~~the emissions unit~~ completely takes the place of an existing emissions unit.

b) The emissions unit is identical, to or functionally equivalent to, the replaced emissions unit.

c) The replacement does not alter the basic design ~~parameter(s)~~parameters of the process unit. Basic design parameters of a process unit ~~must~~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 ~~British Thermal Units~~Btu content ~~must~~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 ~~Illinois EPA an~~Agency alternative basic design ~~parameter(s) parameters~~ for the source's process ~~unit(s) units~~. If the ~~Illinois EPA~~Agency approves ~~of the~~ use of ~~an~~ alternative basic design ~~parameter(s) parameters~~, the ~~Illinois EPA must~~Agency shall issue a permit that is legally enforceable ~~that,~~ records ~~such~~the basic design ~~parameter(s) parameters~~ and requires the owner or operator to comply with ~~such parameter(s) those~~ 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, ~~then~~ 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 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<sub>7;</sub> integrated gasification combined cycle<sub>7;</sub> magnetohydrodynamics<sub>7;</sub> direct and indirect coal-fired turbines<sub>7;</sub> integrated gasification fuel cells<sub>7;</sub> or as determined by the USEPA<sub>7</sub> in consultation with the USU.S. Secretary of Energy, a derivative of one or more of these technologies<sub>7</sub> 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 ~~must~~ also ~~include~~includes any oil and/or gas-fired unit ~~which~~that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the USU.S. Department of Energy.

c) The ~~Illinois EPA must~~ 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~~ section 409 of the CAA (43 ~~U.S.C.~~ USC 7651h).

#### Section 204.640 Reviewing Authority

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

#### Section 204.650 Secondary Emissions

"Secondary emissions" means emissions ~~which~~ 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 ~~which~~ 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 ~~which~~ 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<sub>x</sub> ~~tpy~~ NO<sub>x</sub> 40 tpy  
SO<sub>2</sub> 40 tpy  
PM<sub>2.5</sub> tpy of particulate matter emissions  
PM<sub>10</sub> 15 tpy  
PM<sub>2.5</sub> 10 tpy of direct PM<sub>2.5</sub> emissions; 40 tpy of SO<sub>2</sub> emissions; 40 tpy of ~~NO<sub>x</sub>~~ NO<sub>x</sub> emissions unless demonstrated not to be a PM<sub>2.5</sub> precursor under Section 204.610(a)(2)(C)  
Ozone 40 tpy of VOM or ~~NO<sub>x</sub>~~ Lead ~~NO<sub>x</sub>~~ Lead 0.6 tpy  
Fluorides 3 tpy  
Sulfuric acid mist 7 tpy  
Hydrogen sulfide (H<sub>2</sub>S) 10 tpy  
Total reduced sulfur (including H<sub>2</sub>S) +10 tpy  
Reduced sulfur compounds (including H<sub>2</sub>S) +10 tpy  
GHGs 75,000 tpy  
CO<sub>2</sub>e  
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans) +3.2 x10<sup>-6</sup> megagrams per year (3.5 x10<sup>-6</sup> tpy)  
Municipal waste combustor metals (measured as PM) +14 megagrams per year (15 tpy)  
Municipal waste combustor acid gases (measured as SO<sub>2</sub> 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) ~~7~~ 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, ~~which that~~ would ~~construct~~be constructed within 10 kilometers of a Class I area, and have an impact on ~~such that~~ area equal to or greater than 1 µg/m<sup>3</sup> (24-hr average).

#### Section 204.670 Significant Emissions Increase

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

#### Section 204.680 Stack in Existence

"Stack in existence" means that the owner or operator had ~~(1)~~ begun, or caused to begin, a continuous program of physical on-site construction of the stack, or ~~(2)~~ entered into binding agreements or contractual obligations, ~~which 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 ~~which 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~~section 216 of the CAA (43 ~~U.S.C.~~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 ~~the~~ USEPA in 40 CFR ~~Parts~~ 50 through 99, that requires actual control of the quantity of emissions of that pollutant, ~~and that such a~~ 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 ~~which that~~ complies with ~~the~~ Illinois' SIP and other requirements necessary to attain and maintain the NAAQS during the project and after it is terminated.

SUBPART C: MAJOR STATIONARY SOURCES IN ATTAINMENT

AND UNCLASSIFIABLE AREAS

Section 204.800 Applicability

a) The requirements of this Part apply to the construction of any new major stationary source (as defined in Section 204.510) or any project at an existing major stationary source in an area designated as attainment or unclassifiable under ~~Sections~~section 107(d)(1)(A)(ii) or (iii) of the CAA (43 ~~U.S.C.~~USC 7407(d)(1)(A)(ii) or (iii)).

b) The requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, and 204.1200 apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this Part otherwise provides.

c) No new major stationary source or major modification to which ~~the requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, and 204.1200~~those Sections apply must begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The ~~Illinois EPA~~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 ~~subsections~~this subsection (d)(1) ~~through (d)(5)~~.

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)~~ 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~~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)~~Potential Test for Projects That Only Involve Construction of a New Emissions Unit. 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~~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 ~~wherein 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 ~~Sections~~Section 204.600(b)(1) through (b)(3) for calculating projected actual emissions.

f) For any major stationary source for a PAL for a regulated NSR pollutant, the major stationary source must comply with ~~the requirements under~~ Subpart K.

#### Section 204.810 Source Information

The owner or operator of a proposed major stationary source or major modification 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~~204.1140 apply, ~~such~~this information ~~must 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 ~~as~~ necessary to determine that BACT, as applicable, would be applied.

b) Upon request of the ~~Illinois EPA~~Agency, the owner or operator must also provide information on:

1) The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate ~~such~~that impact; and

2) The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth ~~which~~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 ~~hereunder, must be~~under this Part, is subject to appropriate enforcement action.

#### Section 204.830 Permit Expiration

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

#### Section 204.840 Effect of Permits

Approval to construct ~~must~~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~~federal law.

#### Section 204.850 Relaxation of a Source-Specific Limitation

~~At such time that~~When a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation ~~which was~~established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, 204.1200, and 204.1400 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—must" shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS ~~codes~~Code 325193 or 312140;
- U) Fossil-fuel boilers (or combination thereof) totaling more than 250 million ~~British thermal units~~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 ~~British thermal units~~Btu per hour heat input;
- AA) Any other stationary source category ~~which~~that, as of August 7, 1980, is being regulated under ~~Section~~section 111 or 112 of the CAA (43 ~~U.S.C.~~USC 7411 or 7412); or
- 3) The source is a portable stationary source ~~which~~that has previously received a permit under 40 CFR 52.21 or this Part ~~7~~ and i.
- A) The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary;

B) The emissions from the source would not exceed its allowable emissions;

C) The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

D) Reasonable notice is given to the ~~Illinois EPA~~ Agency prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. ~~Such~~The notice ~~must~~shall be given to the ~~Illinois EPA~~ Agency not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the ~~Illinois EPA~~ 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 ~~must do~~ 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~~section 107 of the CAA (43 ~~U.S.C.~~USC 7407). Nonattainment designations for revoked NAAQS, as contained in 40 CFR ~~Part 81, 81~~ (incorporated by reference in ~~35 Ill. Adm. Code 204.100, Section 204.100~~), must not be viewed as current designations under ~~Section~~section 107 of the CAA (43 ~~U.S.C.~~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 ~~must do~~ 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~~204.1140, as they relate to any maximum allowable increase for a Class II area ~~must, do~~ 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 must be limited to the following:

Pollutant	Maximum allowable increase (micrograms per cubic meter)	Class I
Area	PM2.5: Annual arithmetic mean	1
	24-hr maximum	2
	PM10: Annual arithmetic mean	4
	24-hr maximum	8
	SO2: Annual arithmetic mean	2
	24-hr maximum	5
	3-hr maximum	25
	NO2: Annual arithmetic mean	2.5
Class II Area	PM2.5: Annual arithmetic mean	4
	24-hr maximum	9
	PM10: Annual arithmetic mean	17
	24-hr maximum	30
	SO2: Annual arithmetic mean	20
	24-hr maximum	91
	3-hr maximum	512
	NO2: Annual arithmetic mean	25
Class III Area	PM2.5: Annual arithmetic mean	8
	24-hr maximum	18
	PM10: Annual arithmetic mean	34
	24-hr maximum	60
	SO2: Annual arithmetic mean	40
	24-hr maximum	182
	3-hr maximum	700
	NO2: 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 ~~must~~shall exceed:

a) The concentration permitted under the national secondary ambient air quality standard  ~~$\tau_i$~~  or

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

#### Section 204.920 Restrictions on Area Classifications

a) All of the following areas ~~which~~that were in existence on August 7, ~~1977, must be~~1977 are Class I areas and may not be redesignated:

1) International parks  ~~$\tau_i$~~

2) National wilderness areas ~~which~~that exceed 5,000 acres in size  ~~$\tau_i$~~

3) National memorial parks ~~which~~that exceed 5,000 acres in size  ~~$\tau_i$~~  and

4) National parks ~~which~~that exceed 6,000 acres in size.

b) Areas ~~which were~~ redesignated as Class I under regulations promulgated before August 7, ~~1977, must~~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 ~~which~~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, which~~1977 that exceeds 10,000 acres in size.

#### Section 204.930 Redesignation

a) As of the initial effective date of ~~35 Ill. Adm. Code 204,~~this Part, all areas of the State (except as otherwise provided ~~under~~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, as provided below~~under this Section, subject to approval by ~~the~~ USEPA as a revision to the applicable SIP.

b) The State may submit to ~~the~~ USEPA a proposal to redesignate areas of the State Class I or Class II, provided that:

1) At least one public hearing has been held in accordance with ~~procedures established in~~ 35 Ill. Adm. Code ~~Part~~ 252;

2) Other ~~States~~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~~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~~In redesignating any area with respect to which any Federal Land Manager had submitted written comments and recommendations, the State must have published a list of any inconsistency between ~~such~~the redesignation and ~~such~~the comments and recommendations (together with the reasons for making ~~such~~the 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, ~~after~~:

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 ~~if~~

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 ~~which~~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~~204.1120, ~~which~~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 ~~the~~ USEPA a proposal to redesignate areas Class I, Class II, or Class III, provided that:

1) The Indian Governing Body has followed procedures equivalent to those required of a ~~State~~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 ~~which~~that border the Indian Reservation.

e) ~~The~~ USEPA must disapprove, within 90 days ~~of~~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 ~~must~~will be that which was in effect prior to the proposed redesignation ~~which was disapproved~~.

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

#### SUBPART E: STACK HEIGHTS

##### Section 204.1000 Stack Heights

a) The degree of emission limitation required for control of any air pollutant under this Part ~~must~~shall not be affected in any manner by:

1) ~~So much~~Any portion of the stack height of any source ~~as that~~ exceeds good engineering practice~~;~~ or

2) Any other dispersion technique.

b) Subsection (a) ~~must~~does not apply with respect to stack heights in existence before December 31, ~~1970~~,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 ~~must~~shall meet each applicable emissions limitation under the SIP and each applicable emissions standard and standard of performance under 40 CFR ~~Parts~~ 60, 61, 62 and ~~63, 63~~ (incorporated by reference in ~~35 Ill. Adm. Code 204.100-Section 204.100~~).

b) A new major stationary source ~~must~~shall apply BACT for each regulated NSR pollutant that it would have the potential to emit in significant amounts ~~as~~ (defined in Section ~~204.660-204.660~~).

c) A major modification ~~must~~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 must be reviewed and modified as appropriate at the latest reasonable time ~~which~~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 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; and
- 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 ~~must~~shall be based on applicable air quality models, databases, and other requirements specified in ~~Appendix W of 40 CFR Part 51.51, appendix W~~ (Guideline on Air Quality Models), (incorporated by reference in 35 Ill. Adm. Code 204.100-204.100).

b) ~~Where~~When an air quality model specified in ~~Appendix W of 40 CFR Part 51.51, appendix W~~ (Guideline on Air Quality Models), (incorporated by reference in 35 Ill. Adm. Code 204.100, 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~~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~~is subject to notice and opportunity for public comment ~~under procedures set forth in~~ (see 35 Ill. Adm. Code Part 252-252).

#### Section 204.1130 Air Quality Analysis

a) Preapplication ~~analysis~~Analysis

1) Any application for a permit under this Part 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 must contain ~~such~~ air quality monitoring data ~~as the Illinois EPA 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 standard~~ an NAAQS does exist, the analysis 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 must have been gathered over a period of at least one year and must represent at least the year preceding receipt of the application, ~~except that.~~ However, if the ~~Illinois EPA Agency~~ determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not ~~to be~~ less than four months), the data that is required 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 ~~Part 51-Appendix 51, appendix S, Section~~ section IV, (incorporated by reference in ~~35 Ill. Adm. Code 204.100, Section 204.100~~) may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required ~~under~~ by this subsection (a).

b) ~~Post-construction monitoring~~ Postconstruction Monitoring. The owner or operator of a major stationary source or major modification must, after construction of the stationary source or modification, conduct such ambient monitoring as the ~~Illinois EPA 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~~ Monitoring Stations. The owner or operator of a major stationary source or major modification must meet the requirements of ~~Appendix B to 40 CFR Part 58, appendix B~~ (incorporated by reference in ~~35 Ill. Adm. Code 204.100, 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 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 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 ~~Illinois EPA must~~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~~federal official charged with direct responsibility for management of any lands within any such area. ~~Such~~The notification must include a copy of all information relevant to the permit application and ~~must~~shall be ~~given~~issued within 30 days ~~of~~after receipt and at least 60 days prior to any public hearing on the application for a permit to construct. ~~Such~~The notification ~~must~~shall include an analysis of the proposed source's anticipated impacts on visibility in the Federal Class I area. The ~~Illinois EPA must~~Agency shall also provide the Federal Land Manager and ~~such Federal~~relevant federal officials with a copy of the preliminary determination required ~~under~~by 35 Ill. Adm. Code ~~Part~~ 252, and ~~must~~shall make available to them any materials used in making that determination, promptly after the ~~Illinois EPA~~Agency makes ~~such~~the determination. Finally, the ~~Illinois EPA must~~Agency shall also notify all affected Federal Land Managers within 30 days ~~of~~after receipt of any advance notification of any ~~such~~ permit application.

b) Federal Land Manager. The Federal Land Manager and the ~~Federal~~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~~those lands and to consider, in consultation with the ~~Illinois EPA~~Agency, whether a proposed source or modification will have an adverse impact on ~~such~~those values.

c) Visibility ~~analysis~~Analysis. The ~~Illinois EPA must~~Agency shall consider any analysis performed by the Federal Land Manager, provided within 30 days ~~of~~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. ~~Where~~When the ~~Illinois EPA~~Agency finds that such an analysis does not demonstrate to ~~the~~its satisfaction ~~of the Illinois EPA~~ that an adverse impact on visibility will result in the Federal Class I area, the ~~Illinois EPA must~~Agency 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; Impact On Air Quality Related Values~~. The Federal Land Manager of any such lands may demonstrate to the ~~Illinois EPA~~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 ~~which~~that would exceed the maximum allowable increases for a Class I area. If the ~~Illinois~~EPA Agency concurs with ~~such~~the demonstration, ~~then~~ it ~~must~~shall not issue the permit.

e) Class I ~~variances~~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 ~~which~~that would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with ~~such~~the demonstration and ~~he~~ so certifies, the ~~Illinois~~EPA 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 SO<sub>2</sub>, PM<sub>2.5</sub>, PM<sub>10</sub>, and ~~NOx~~NOX 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 <sub>2.5</sub> :	Annual arithmetic mean <sup>4</sup>
24-hr maximum <sup>9</sup> PM <sub>10</sub> :	Annual arithmetic mean <sup>17</sup> 24-hr maximum <sup>30</sup>
SO <sub>2</sub> :	Annual arithmetic mean <sup>20</sup> 24-hr maximum <sup>91</sup> 3-hr maximum <sup>325</sup>
NO <sub>2</sub> :	Annual arithmetic mean <sup>25</sup>

f) Sulfur ~~dioxide variance~~Dioxide Variance by Governor with Federal Land Manager's ~~concurrence~~Concurrence. The owner or operator of a proposed source or modification ~~which~~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 SO<sub>2</sub> for a period of 24 hours or less applicable to any Class I area and, in the case of ~~Federal~~federal mandatory Class I areas, that a variance under this ~~clause~~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 ~~Illinois~~EPA ~~must~~Agency shall issue a permit ~~to~~such ~~for the~~ source or modification under ~~the requirements of~~ subsection (h), provided that the applicable requirements of this Part are otherwise met.

g) Variance by the Governor with the President's ~~concurrence~~Concurrence. In any case ~~wherein 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 ~~must~~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 ~~Illinois~~

~~EPA must~~ Agency shall issue a permit under ~~the requirements of~~ subsection (h), provided that the applicable requirements of this Part are otherwise met.

h) ~~Emission limitations~~ Emissions Limitations for Presidential or ~~gubernatorial variance~~ Gubernatorial Variance. In the case of a permit issued under ~~subsections~~ subsection (f) or (g), the source or modification must comply with such emission limitations as may be necessary to assure that emissions of SO<sub>2</sub> from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations ~~which that~~ which that would exceed the following maximum allowable increases over the baseline concentration and to assure that ~~such the~~ such the emissions would not cause or contribute to concentrations ~~which that~~ which 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 366 23-hr maximum 130 221

SUBPART H: GENERAL OBLIGATIONS OF THE  
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Section 204.1300 Notification of Application Completeness to Applicants

The ~~Illinois EPA must~~ 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~~ such an the application. In the event of such a deficiency, the date of receipt of the application ~~must will~~ must will be the date on which the ~~Illinois EPA received~~ Agency receives all required information.

Section 204.1310 Transmittal of Application to USEPA

The ~~Illinois EPA must~~ Agency shall transmit to ~~the~~ 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 ~~of a permit under this Part,~~ or a modification of a permit issued under this Part, the ~~Illinois EPA must~~ 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 ~~Illinois EPA~~ Agency's public participation procedures ~~set forth at~~ (35 Ill. Adm. Code Part 252.252).

Section 204.1330 Issuance Within One Year of Submittal of Complete Application

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

#### Section 204.1340 Permit Rescission

a) Any permit issued under this Part or a prior version of this Part ~~must~~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 ~~Illinois EPA~~Agency rescind the permit or a particular portion of the permit.

c) The ~~Illinois EPA~~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 ~~Illinois EPA~~Agency rescinds a permit under this Section, ~~the Illinois EPA must~~it shall post a notice of the rescission determination, on a public web site identified by ~~the Illinois EPA~~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 ~~wherein 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 ~~Sections~~Section 204.600(b)(1) ~~through (b)(3)~~ for calculating projected actual emissions.

b) Before beginning actual construction of the project, the owner or operator ~~must~~ 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) ~~(31)~~ and (C), an explanation for why ~~such~~that amount was excluded, and any netting calculations, if applicable.

c) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator must provide a copy of the information set out in subsection (a) to the ~~Illinois EPA~~Agency. Nothing in this subsection ~~must~~shall be construed to require the owner or operator of such a unit to obtain any determination from the ~~Illinois EPA~~Agency before beginning actual construction.

d) The owner or operator ~~must monitor~~shall:

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 ~~calculate~~

2) Calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, ~~for:~~

A) For a period of 5 years following resumption of regular operations after the change, ~~or for~~

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 ~~such~~the emissions unit.

e) If the unit is an existing electric utility steam generating unit, the owner or operator ~~must~~shall submit a report to the ~~Illinois EPA~~Agency within 60 days after the end of each year during which records must be generated under subsection (e**b**) setting out the unit's annual emissions during the calendar year that preceded submission of the report.

f) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator must submit a report to the ~~Illinois EPA~~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) ~~(3b)~~), 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) ~~(3b)~~. ~~Such~~The report must be submitted to the ~~Illinois EPA~~Agency within 60 days after the end of ~~such~~the year. The report must contain the following:

1) The name, address and telephone number of the major stationary source;

2) The annual emissions as calculated under subsection (e**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).

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~~ (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 ~~(fg)~~ (2), and not also within the meaning of subsection ~~(fg)~~ (1), then subsections (b) through (e) do not apply to the project.

h) The owner or operator of the source must make the information required to be documented and maintained under this Section available for review upon a request for inspection by the ~~Illinois EPA or~~ Agency, USEPA, or the general public under ~~the requirements contained in~~ Section 39.5(8)(e) of the Act.

#### SUBPART J: INNOVATIVE CONTROL TECHNOLOGY

##### Section 204.1500 Innovative Control Technology

a) An owner or operator of a proposed major stationary source or major modification may request that the Illinois EPA Agency, in writing no later than the close of the comment period under 35 Ill. Adm. Code ~~Part 252 to~~ 252, approve a system of innovative control technology.

b) The ~~Illinois EPA must~~ 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 ~~Illinois EPA Agency~~. ~~Such~~ That date ~~must~~ 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 ~~Illinois EPA~~Agency;

4) The source or modification would not, before the date specified by the ~~Illinois EPA~~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; ~~and~~

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 ~~Illinois EPA~~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; ~~or~~

2) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

3) The ~~Illinois EPA~~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 ~~emission~~emissions reduction within the specified time period, or the approval is withdrawn in accordance with subsection (c), the ~~Illinois EPA~~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 ~~Illinois EPA~~Agency may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements ~~in~~of this Subpart. The term "PAL" ~~must 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 ~~under~~by subsection (b)(2), a major stationary source must continue to comply with all applicable ~~Federal~~federal or State requirements, ~~emission~~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~~Sections, it ~~must have~~has the meaning ~~given~~ascribed in this Part, ~~Part~~35 Ill. Admin. Code 211, or ~~in~~ the CAA.

#### Section 204.1620 Actuals PAL

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

#### Section 204.1630 Allowable Emissions

"Allowable emissions" ~~means "allowable emissions" as defined~~has the meaning ascribed in Section 204.230, except that the allowable emissions for any emissions unit must be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

#### 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, O<sub>2</sub> or CO<sub>2</sub> 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" ~~must have~~has the meaning ~~given by the provisions at~~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 CO<sub>2</sub>e 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~~r~~ and net emissions increase), any physical change in e or change in the method of operation of e the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

Section 204.1730 PAL Permit

"PAL permit" means the major NSR permit, the minor NSR permit, or the State operating permit under a program that is approved into the SIP, or the CAAPP permit issued by the ~~Illinois-EPA~~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, O<sub>2</sub> or CO<sub>2</sub> concentrations), and to calculate and record the mass emissions rate (~~for example 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-~~controlsRACT; 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 ~~204.1680-204.1680~~).

#### 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 must submit the following information to the ~~Illinois EPA~~Agency for approval:

a) A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source must indicate which, if any, ~~Federal~~federal or State applicable requirements, emission limitations, or work practices apply to each unit.

b) Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction.

c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions, based on a 12-month rolling total for each month, as required by Section 204.1890(a).

#### Section 204.1800 General Requirements for Establishing PAL

a) The ~~Illinois EPA~~Agency is allowed to establish a PAL at a major stationary source, provided that, at a minimum, the requirements ~~in~~of this Section are met.

1) The PAL ~~must~~shall impose an annual emission limitation expressed on a mass basis in tons per year, or expressed in tons per year CO<sub>2</sub>e 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 ~~must~~shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months ~~from~~after the PAL effective date, the major stationary source owner or operator ~~must~~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 ~~must~~shall be established in a PAL permit that meets the public participation requirements in Section 204.1810.

3) The PAL permit ~~must~~shall contain all the requirements of Section 204.1830.

4) The PAL ~~must~~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 ~~must~~shall regulate emissions of only one pollutant.

6) Each PAL ~~must~~shall have a PAL effective period of 10 years.

7) The owner or operator of the major stationary source with a PAL must comply with the monitoring, recordkeeping, and reporting requirements provided in 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 ~~Part~~ 203 unless the level of the PAL is reduced by the amount of ~~such~~those emissions reductions and ~~such~~the reductions would be creditable in the absence of the PAL.

#### Section 204.1810 Public Participation Requirements

PALs for existing major stationary sources ~~must~~shall be established, renewed, or increased through a procedure that is consistent with 35 Ill. Adm. Code ~~Part~~ 252. This includes the requirement that the ~~Illinois EPA~~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 ~~Illinois EPA must~~Agency 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 must provide that the actuals PAL level for a major stationary source ~~must~~ 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 ~~Illinois EPA must~~Agency shall specify in the PAL permit a reduced PAL ~~level(s)~~levels in tons per year (or tons per year CO<sub>2</sub>e for a GHG PAL) ~~in the PAL permit~~ to become effective on the future compliance ~~date(s)~~dates of any applicable ~~Federal~~federal or State regulatory ~~requirement(s)~~requirements that the ~~Illinois EPA~~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 ~~into~~ half ~~from the~~ baseline emissions of 60 ppm NO<sub>x</sub> to a new rule limit of 30 ppm, then the permit ~~must~~shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of ~~such unit(s)~~the 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, ~~the information in subsections (a) through (j).~~

a) The PAL pollutant and the applicable source-wide emission limitation in tons per year, or tons per year CO<sub>2</sub>e 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 ~~must~~will not expire at the end of the PAL effective period. It ~~must~~will remain in effect until a revised PAL permit is issued by the ~~Illinois EPA~~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 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 ~~under~~by Section ~~204.1890 on site. Such~~204.1890. The records may be retained in an electronic format.

i) A requirement to submit the reports required ~~under~~by Section 204.1900 by the required deadlines.

j) Any other requirements that the ~~Illinois EPA~~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~~Effective Period. The ~~Illinois EPA must~~Agency shall specify a PAL effective period of 10 years.

b) Reopening of the PAL ~~permit~~Permit

1) During the PAL effective period, the ~~Illinois EPA must~~Agency 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 ~~Part~~ 203; and

C) Revise the PAL to reflect an increase in the PAL ~~as provided under~~(see Section 204.1870.204.1870).

2) The ~~Illinois EPA must~~Agency shall have discretion to reopen the PAL permit for the following:

A) Reduce the PAL to reflect newly applicable ~~Federal~~federal requirements (for example, NSPS) with compliance dates after the PAL effective date;

B) Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the ~~Illinois EPA~~Agency may impose on the major stationary source under the SIP; and

C) Reduce the PAL if the ~~Illinois EPA~~Agency determines that a reduction is necessary to avoid causing or contributing to ~~an~~aan 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 ~~is~~allowed by subsection (b) (1) (A) for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings ~~must~~shall be carried out in accordance with the public participation requirements of Section 204.1810.

Section 204.1850 Expiration of a PAL

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

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

under a revised permit established ~~according to the procedures in subsections (a)(1) and (a)(2)~~ under this subsection (a).

1) Within the time frame specified for PAL renewals in Section 204.1860(b), the major stationary source 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 ~~Illinois EPA~~ 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 must be made as if the PAL had been adjusted.

2) The ~~Illinois EPA~~ 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 ~~Illinois EPA~~ Agency determines ~~is~~ appropriate.

b) Each emissions unit ~~(s)~~ must comply with the allowable emission limitation on a 12-month rolling basis. The ~~Illinois EPA~~ 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 ~~Illinois EPA~~ Agency issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required ~~under~~ by subsection (a)(2), the source must continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

d) Any physical change, or change in the method of operation, at the major stationary source will be subject to major NSR requirements if ~~such~~ the change meets the definition of major modification in Section 204.490.

e) The major stationary source owner or operator must continue to comply with any State or ~~Federal~~ 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 ~~the provisions in~~ Section 204.1600(b)(3).

#### Section 204.1860 Renewal of a PAL

a) The ~~Illinois EPA~~ Agency shall follow the procedures specified in Section 204.1810 in approving any request to renew a PAL for a major stationary source, and ~~must~~ shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During ~~such~~ public review, any person may propose a PAL level for the source for consideration by the ~~Illinois EPA~~ Agency.

b) Application ~~deadline~~Deadline. A major stationary source owner or operator must submit a timely application to the ~~Illinois EPA~~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, ~~then~~ the PAL ~~must~~will continue to be effective until the revised permit with the renewed PAL is issued.

c) Application ~~requirements~~Requirements. The application to renew a PAL permit ~~must~~shall ~~contain the information required in subsections (e) (1) through (4).~~;

1) The information required in Section ~~204.1790(a) through (e).~~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 ~~Illinois EPA~~Agency to consider in determining the appropriate level for renewing the PAL.

d) PAL ~~adjustment~~Adjustment

1) In determining whether and how to adjust the PAL, the ~~Illinois EPA~~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).

1A) If the emissions level calculated in accordance with Section 204.1820 is equal to or greater than 80 percent of the PAL level, the ~~Illinois EPA~~Agency may renew the PAL at the same level without considering the factors set forth in subsection (d)(2); or

2B) The ~~Illinois EPA~~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 ~~Illinois EPA~~Agency in its written rationale.

32) Notwithstanding ~~subsections~~subsection (d)(1) ~~and (d)(2)~~:

A) If the potential to emit of the major stationary source is less than the PAL, the ~~Illinois EPA must~~Agency shall adjust the PAL to a level no greater than the potential to emit of the source; and

B) The ~~Illinois EPA must~~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~~federal requirement that applies to the PAL source occurs during the PAL effective period, and if the ~~Illinois EPA~~Agency has not already adjusted for ~~such that~~ requirement, the PAL 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 ~~Illinois EPA~~Agency may increase a PAL emission limitation only if the major stationary source complies with ~~the provisions in subsections (a)(1) through (4)~~this subsection (a).

1) The owner or operator of the major stationary source must submit a complete application to request an increase in the PAL limit for a PAL major modification. ~~Such~~The application 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 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 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 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 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 ~~must~~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 ~~Illinois EPA must~~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 ~~must~~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.~~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 CO<sub>2</sub>e per unit of time for a GHG PAL. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

2) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in subsection (b) ~~(1) through (4)~~ and must be approved by the ~~Illinois EPA~~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 ~~Illinois EPA~~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.~~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~~ Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents must meet the following requirements:

1) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

2) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

3) ~~Where~~ When the vendor of a material or fuel, ~~which that~~ is used in or at the emissions unit, publishes a range of pollutant content from ~~such that~~ material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the ~~Illinois EPA~~ Agency determines there is site-specific data or a site-specific monitoring program to support another content within the range.

d) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions must meet the following requirements:

1) CEMS must comply with applicable Performance Specifications found in 40 CFR ~~Part~~ 60, ~~Appendix~~ appendix B, (incorporated by reference in ~~35 Ill. Adm. Code~~ 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 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 ~~Illinois EPA~~ Agency, while the emissions unit is operating.

f) Emission ~~factors~~ Factors. An owner or operator using emission factors to monitor PAL pollutant emissions must meet the following requirements:

1) All emission factors must be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

2) The emissions unit must operate within the designated range of use for the emission factor, if applicable; and

3) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions must conduct validation testing to determine a site-specific emission factor within 6 months ~~of~~after PAL permit issuance, unless the ~~Illinois EPA~~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 ~~such~~those periods is specified in the PAL permit.

h) Notwithstanding the requirements ~~in~~of subsections (c) through (g), ~~where~~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 ~~Illinois EPA~~Agency must, at the time of permit issuance:

1) Establish default ~~value(s)~~values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at ~~such~~the operating ~~point(s)~~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) ~~Re-validation~~Revalidation. All data used to establish the PAL pollutant must be ~~re-validated~~revalidated through performance testing or other scientifically valid means approved by the ~~Illinois EPA~~Agency. ~~Such~~The testing must occur at least once every 5 years after issuance of the PAL.

#### Section 204.1890 Recordkeeping Requirements

a) The PAL permit ~~must~~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 ~~must~~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 must submit ~~semi-annual~~semiannual monitoring reports and prompt deviation reports to the ~~Illinois-EPA~~Agency in accordance with the CAAPP. The reports must meet the requirements ~~in subsections (a) through (e)~~of this Section.

a) ~~Semi-annual report~~Semiannual Report. The ~~semi-annual~~semiannual report must be submitted to the ~~Illinois-EPA~~Agency within 30 days ~~of after~~ the end of each reporting period. This report must contain the information required in ~~subsections~~subsection (a) ~~(1) through (7)~~.

1) ~~The identification~~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<sub>2</sub>e 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~~Report. The major stationary source owner or operator must promptly submit reports of any deviations or exceedance of the PAL requirements, including periods ~~where~~when no monitoring is

available. A report submitted under 40 CFR 70.6(a)(3)(iii)(B) ~~must~~will satisfy this reporting requirement. The deviation reports ~~must~~shall be submitted within the time limits prescribed by the applicable program implementing 40 CFR 70.6(a)(3)(iii)(B). The reports must contain the following information:

- 1) The identification of owner and operator and the permit number;
- 2) The PAL requirement that experienced the deviation or that was exceeded;
- 3) Emissions resulting from the deviation or the exceedance; and
- 4) A signed statement by the responsible official (as defined by the CAAPP) certifying the truth, accuracy, and completeness of the information provided in the report.

c) ~~Re-validation results~~Revalidation Results. The owner or operator must submit to the ~~Illinois EPA~~Agency the results of any ~~re-validation~~revalidation test or method within 3 months after completion of ~~such~~that test or method.

#### Section 204.1910 Transition Requirements

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

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED RULES~~

JCAR350204-2004375r01

# 1<sup>ST</sup> NOTICE VERSION

JCAR350211-2004463r01

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2 SUBTITLE B: AIR POLLUTION  
3 CHAPTER I: POLLUTION CONTROL BOARD  
4 SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS  
5 FOR STATIONARY SOURCES  
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7 PART 211  
8 DEFINITIONS AND GENERAL PROVISIONS  
9

10 SUBPART A: GENERAL PROVISIONS  
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12 Section

13 211.101 Incorporated and Referenced Materials  
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16 SUBPART B: DEFINITIONS  
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19 211.121 Other Definitions  
20 211.122 Definitions (Repealed)  
21 211.130 Accelacota  
22 211.150 Accumulator  
23 211.170 Acid Gases  
24 211.200 Acrylonitrile Butadiene Styrene (ABS) Welding  
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45	211.481	Ammunition Sealant
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48	211.490	Annual Grain Through-Put
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54	211.540	Architectural Structure
55	211.550	As Applied
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58	211.590	Asphalt Prime Coat
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61		Truck Manufacturing Plant
62	211.650	Automobile or Light-Duty Truck Refinishing
63	211.660	Automotive/Transportation Plastic Parts
64	211.665	Auxiliary Boiler
65	211.670	Baked Coatings
66	211.680	Bakery Oven
67	211.685	Basecoat/Clearcoat System
68	211.690	Batch Loading
69	211.695	Batch Operation
70	211.696	Batch Process Train
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72	211.715	Bedliner
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74	211.735	Black Coating
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79	211.810	Bulk Gasoline Terminal
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162	211.1870	Effluent Water Separator
163	211.1872	Ejection Cartridge Sealant
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180	211.1990	Enclose
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183	211.2040	Etching Filler
184	211.2050	Ethanol Blend Gasoline
185	211.2055	Ethylene Propylenediene Monomer (DPDM) Roof Membrane
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196	211.2230	Fabric Coating
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207	211.2357	Flat Glass
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348	211.3969	Multi-Component Coating
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350	211.3975	Multipurpose Construction Adhesive
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370		Dispensing Facility
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564	211.6635	Tileboard
565	211.6640	Tire Repair
566	211.6650	Tooling Resin
567	211.6670	Topcoat
568	211.6690	Topcoat Operation
569	211.6695	Topcoat System
570	211.6710	Touch-Up
571	211.6720	Touch-Up Coating
572	211.6730	Transfer Efficiency
573	211.6740	Translucent Coating
574	211.6750	Tread End Cementing
575	211.6770	True Vapor Pressure
576	211.6780	Trunk Interior Coating
577	211.6790	Turnaround
578	211.6810	Two-Piece Can
579	211.6825	Underbody Coating
580	211.6830	Under-the-Cup Fill
581	211.6850	Undertread Cementing
582	211.6860	Uniform Finish Blender
583	211.6870	Unregulated Safety Relief Valve
584	211.6880	Vacuum Metallizing
585	211.6885	Vacuum Metalizing Coating
586	211.6890	Vacuum Producing System
587	211.6910	Vacuum Service
588	211.6930	Valves Not Externally Regulated
589	211.6950	Vapor Balance System
590	211.6970	Vapor Collection System
591	211.6990	Vapor Control System
592	211.7010	Vapor-Mounted Primary Seal
593	211.7030	Vapor Recovery System
594	211.7050	Vapor-Suppressed Polyester Resin
595	211.7070	Vinyl Coating
596	211.7090	Vinyl Coating Line
597	211.7110	Volatile Organic Liquid (VOL)
598	211.7130	Volatile Organic Material Content (VOMC)
599	211.7150	Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
600	211.7170	Volatile Petroleum Liquid
601	211.7190	Wash Coat
602	211.7200	Washoff Operations

603	211.7210	Wastewater (Oil/Water) Separator
604	211.7220	Waterproof Resorcinol Glue
605	211.7230	Weak Nitric Acid Manufacturing Process
606	211.7240	Weatherstrip Adhesive
607	211.7250	Web
608	211.7270	Wholesale Purchase – Consumer
609	211.7290	Wood Furniture
610	211.7310	Wood Furniture Coating
611	211.7330	Wood Furniture Coating Line
612	211.7350	Woodworking
613	211.7400	Yeast Percentage

614

615 211.APPENDIX A Rule into Section Table

616 211.APPENDIX B Section into Rule Table

617

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

620

621 SOURCE: Adopted as Chapter 2: Air Pollution, Rule 201: Definitions, R71-23, 4 PCB 191,  
 622 filed and effective April 14, 1972; amended in R74-2 and R75-5, 32 PCB 295, at 3 Ill. Reg. 5, p.  
 623 777, effective February 3, 1979; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg. 30,  
 624 p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21,  
 625 1983; codified at 7 Ill. Reg. 13590; amended in R82-1 (Docket A) at 10 Ill. Reg. 12624, effective  
 626 July 7, 1986; amended in R85-21(A) at 11 Ill. Reg. 11747, effective June 29, 1987; amended in  
 627 R86-34 at 11 Ill. Reg. 12267, effective July 10, 1987; amended in R86-39 at 11 Ill. Reg. 20804,  
 628 effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 787, effective  
 629 December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7284, effective April 8, 1988; amended  
 630 in R86-10 at 12 Ill. Reg. 7621, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg.  
 631 10862, effective June 27, 1989; amended in R89-8 at 13 Ill. Reg. 17457, effective January 1,  
 632 1990; amended in R89-16(A) at 14 Ill. Reg. 9141, effective May 23, 1990; amended in R88-  
 633 30(B) at 15 Ill. Reg. 5223, effective March 28, 1991; amended in R88-14 at 15 Ill. Reg. 7901,  
 634 effective May 14, 1991; amended in R91-10 at 15 Ill. Reg. 15564, effective October 11, 1991;  
 635 amended in R91-6 at 15 Ill. Reg. 15673, effective October 14, 1991; amended in R91-22 at 16  
 636 Ill. Reg. 7656, effective May 1, 1992; amended in R91-24 at 16 Ill. Reg. 13526, effective August  
 637 24, 1992; amended in R93-9 at 17 Ill. Reg. 16504, effective September 27, 1993; amended in  
 638 R93-11 at 17 Ill. Reg. 21471, effective December 7, 1993; amended in R93-14 at 18 Ill. Reg.  
 639 1253, effective January 18, 1994; amended in R94-12 at 18 Ill. Reg. 14962, effective September  
 640 21, 1994; amended in R94-14 at 18 Ill. Reg. 15744, effective October 17, 1994; amended in  
 641 R94-15 at 18 Ill. Reg. 16379, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg.  
 642 16929, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg.  
 643 6823, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7344, effective May 22, 1995;  
 644 amended in R95-2 at 19 Ill. Reg. 11066, effective July 12, 1995; amended in R95-16 at 19 Ill.  
 645 Reg. 15176, effective October 19, 1995; amended in R96-5 at 20 Ill. Reg. 7590, effective May

646 22, 1996; amended in R96-16 at 21 Ill. Reg. 2641, effective February 7, 1997; amended in R97-  
 647 17 at 21 Ill. Reg. 6489, effective May 16, 1997; amended in R97-24 at 21 Ill. Reg. 7695,  
 648 effective June 9, 1997; amended in R96-17 at 21 Ill. Reg. 7856, effective June 17, 1997;  
 649 amended in R97-31 at 22 Ill. Reg. 3497, effective February 2, 1998; amended in R98-17 at 22 Ill.  
 650 Reg. 11405, effective June 22, 1998; amended in R01-9 at 25 Ill. Reg. 108, effective December  
 651 26, 2000; amended in R01-11 at 25 Ill. Reg. 4582, effective March 15, 2001; amended in R01-17  
 652 at 25 Ill. Reg. 5900, effective April 17, 2001; amended in R05-16 at 29 Ill. Reg. 8181, effective  
 653 May 23, 2005; amended in R05-11 at 29 Ill. Reg. 8892, effective June 13, 2005; amended in  
 654 R04-12/20 at 30 Ill. Reg. 9654, effective May 15, 2006; amended in R07-18 at 31 Ill. Reg.  
 655 14254, effective September 25, 2007; amended in R08-6 at 32 Ill. Reg. 1387, effective January  
 656 16, 2008; amended in R07-19 at 33 Ill. Reg. 11982, effective August 6, 2009; amended in R08-  
 657 19 at 33 Ill. Reg. 13326, effective August 31, 2009; amended in R10-7 at 34 Ill. Reg. 1391,  
 658 effective January 11, 2010; amended in R10-8 at 34 Ill. Reg. 9069, effective June 25, 2010;  
 659 amended in R10-20 at 34 Ill. Reg. 14119, effective September 14, 2010; amended in R11-23 at  
 660 35 Ill. Reg. 13451, effective July 27, 2011; amended in R12-24 at 37 Ill. Reg. 1662, effective  
 661 January 28, 2013; amended in R13-1 at 37 Ill. Reg. 1913, effective February 4, 2013; amended  
 662 in R14-7 at 37 Ill. Reg. 19824, effective November 27, 2013; amended in R14-16 at 38 Ill. Reg.  
 663 12876, effective June 9, 2014; amended in R15-5 at 39 Ill. Reg. 5410, effective March 24, 2015;  
 664 amended in R17-2 at 41 Ill. Reg. 1096, effective January 23, 2017; amended in R17-9 at 41 Ill.  
 665 Reg. 4173, effective March 24, 2017; amended in R17-11 at 41 Ill. Reg. 13389, effective  
 666 October 23, 2017; amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

667  
 668 **SUBPART B: DEFINITIONS**  
 669

670 **Section 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)**  
 671

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

- 676  
 677 a) This definition of VOM includes any organic compound that participates in  
 678 atmospheric photochemical reactions, other than the compounds listed in this  
 679 subsection (a). USEPA has determined that the compounds listed in this  
 680 subsection (a) have negligible photochemical reactivity.

- 681  
 682 2-Amino-2-methylpropan-1-ol (CAS No. 124-68-5)  
 683 Bis(difluoromethoxy)difluoromethane (HFE-236cal2, CAS No. 78522-47-  
 684 1)  
 685 1,2-Bis(difluoromethoxy)-1,1,2,2-tetrafluoroethane  
 686 (HFE-338pcc13, CAS No. 188690-78-0)  
 687 tertiary-Butyl acetate (1,1-dimethylethyl acetic acid ester, CAS No. 540-  
 688 88-5)

689	1-Chloro-1,1-difluoroethane (HCFC-142b, CAS No. 75-68-3)
690	Chlorodifluoromethane (CFC-22, CAS No. 75-45-6)
691	1-Chloro-1-fluoroethane (HCFC-151a, CAS No. 1615-75-4)
692	Chlorofluoromethane (HCFC-31, CAS No. 593-70-4)
693	Chloropentafluoroethane (CFC-115, CAS No. 76-15-3)
694	2-Chloro-1,1,1,2-tetrafluoroethane (HCFC-124, CAS No. 2837-89-0)
695	1-Chloro-4-(trifluoromethyl)benzene (parachlorobenzotrifluoride
696	(PCBTF), CAS No. 98-56-6)
697	(1E)-1-Chloro-3,3,3-trifluoroprop-1-ene (trans-1-chloro-3,3,3-
698	trifluoroprop-1-ene, CAS No. 102687-65-0)
699	1,1,1,2,2,3,4,5,5,5-Decafluoro-3-methoxy-4-trifluoromethylpentane (HFE-
700	7300, CAS No. 132182-92-4)
701	1,1,1,2,3,4,4,5,5,5-Decafluoropentane (HFC 43-10mee, CAS No. 138495-
702	42-8)
703	Dichlorodifluoromethane (CFC-12, CAS No. 75-71-8)
704	1,1-Dichloro-1-fluoroethane (HCFC-141b, CAS No. 1717-00-6)
705	Dichloromethane (methylene chloride, CAS No. 75-09-2)
706	3,3-Dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca, CAS No. 422-
707	56-0)
708	1,3-Dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb, CAS No. 507-
709	55-1)
710	1,2-Dichloro-1,1,2,2-tetrafluoroethane (CFC-114, CAS No. 76-14-2)
711	1,1-Dichloro-2,2,2-trifluoroethane (HCFC-123, CAS No. 306-83-2)
712	1,2-Dichloro-1,1,2-trifluoroethane (HCFC-123a, CAS No. 354-23-4)
713	1,1-Difluoroethane (HFC-152a, CAS No. 75-37-6)
714	Difluoromethane (HFC-32, CAS No. 75-10-5)
715	(Difluoromethoxy)difluoromethane (HFE-134, CAS No. 1691-17-4)
716	1-(Difluoromethoxy)-2-[(difluoromethoxy)(difluoro)methoxy]-1,1,2,2-
717	tetrafluoroethane (HFE-43-10pccc124, CAS No. 188690-77-9)
718	2-(Difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane (CAS No.
719	163702-08-7)
720	Dimethyl carbonate (CAS No. 616-38-6)
721	Ethane (CAS No. 74-84-0)
722	2-(Ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane (CAS No.
723	163702-06-5)
724	3-Ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl)hexane
725	(HFE-7500, CAS No. 297730-93-9)
726	1-Ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (HFE-7200, CAS No.
727	163702-05-4)
728	Ethylfluoride (HFC-161, CAS No. 353-36-6)
729	1,1,1,2,2,3,3-Heptafluoro-3-methoxypropane (HFE-7000, CAS No. 375-
730	03-1)
731	1,1,1,2,3,3,3-Heptafluoropropane (HFC-227ea, CAS No. 431-89-0)

- 732 1,1,1,2,3,3-Hexafluoropropane (HFC-236ea, CAS No. 431-63-0)
- 733 1,1,1,3,3,3-Hexafluoropropane (HFC-236fa, CAS No. 690-39-1)
- 734 Methane (CAS No. 74-82-8)
- 735 Methyl acetate (methyl ethanoate, CAS No. 79-20-9)
- 736 4-Methyl-1,3-dioxolan-2-one (propylene carbonate, CAS No. 108-32-7)
- 737 Methyl formate (methyl methanoate, CAS No. 107-31-3)
- 738 1,1,1,2,2,3,3,4,4-Nonafluoro-4-methoxybutane (HFE-7100, CAS No.
- 739 163702-07-6)
- 740 1,1,1,3,3-Pentafluorobutane (HFC-365mfc, CAS No. 406-58-6)
- 741 Pentafluoroethane (HFC-125, CAS No. 354-33-6)
- 742 1,1,2,2,3-Pentafluoropropane (HFC-245ca, CAS No. 679-86-7)
- 743 1,1,2,3,3-Pentafluoropropane (HFC-245ea, CAS No. 24270-66-4)
- 744 1,1,1,2,3-Pentafluoropropane (HFC-245eb, CAS No. 431-31-2)
- 745 1,1,1,3,3-Pentafluoropropane (HFC-245fa, CAS No. 460-73-1)
- 746 Perfluorocarbon compounds that fall into the following classes:
- 747       Cyclic, branched, or linear, completely fluorinated alkanes
- 748       Cyclic, branched, or linear, completely fluorinated ethers with no
- 749               unsaturations
- 750       Cyclic, branched, or linear, completely fluorinated tertiary amines
- 751               with no unsaturations
- 752       Sulfur-containing perfluorocarbons with no unsaturations and with
- 753               sulfur bonds only to carbon and fluorine
- 754 Propan-2-one (acetone or dimethylketone, CAS No. 67-64-1)
- 755 Siloxanes: cyclic, branched, or linear completely-methylated
- 756 Tetrachloroethene (perchloroethylene, CAS No. 127-18-4)
- 757 1,1,2,2-Tetrafluoroethane (HFC-134, CAS No. 359-35-3)
- 758 1,1,1,2-Tetrafluoroethane (HFC-134a, CAS No. 811-97-2)
- 759 (1E)-1,3,3,3-Tetrafluoropropene (trans-1,3,3,3-tetrafluoropropene, HFO-
- 760 1234ze, CAS No. 29118-24-9)
- 761 2,3,3,3-Tetrafluoroprop-1-ene (HFO-1234yf, CAS No. 754-12-1)
- 762 1,1,1-Trichloroethane (methyl chloroform, CAS No. 71-55-6)
- 763 1,1,2,2-tetrafluoro-1-(2,2,2-trifluoroethoxy)ethane (HFE-347pcf2, CAS
- 764 No. 406-78-0)
- 765 Trichlorofluoromethane (CFC-11, CAS No. 75-69-4)
- 766 1,1,2-Trichloro-1,2,2-trifluoroethane (CFC-113, CAS No. 76-13-1)
- 767 1,1,1-Trifluoroethane (HFC-143a, CAS No. 420-46-2)
- 768 Trifluoromethane (HFC-23, CAS No. 75-46-7)

770 b) For purposes of determining VOM emissions and compliance with emissions  
 771 limits, VOM will be measured by the test methods in the approved  
 772 implementation plan or 40 CFR 60, appendix A, incorporated by reference at 35  
 773 Ill. Adm. Code 215.105, 218.112, and 219.112, as applicable, or by source-  
 774 specific test methods that have been established underpursuant to a permit issued

775 under a program approved or promulgated under Title V of the Clean Air Act;  
 776 under ~~35 Ill. Adm. Code 20340 CFR 51, subpart I or appendix S, incorporated by~~  
 777 ~~reference at 35 Ill. Adm. Code 218.112 and 219.112; or under Section 9.1(d) of~~  
 778 ~~the Act under 40 CFR 52.21, incorporated by reference at 35 Ill. Adm. Code~~  
 779 ~~218.112 and 219.112, as applicable.~~ Where such a method also measures  
 780 compounds with negligible photochemical reactivity, these negligibly-reactive  
 781 compounds may be excluded as VOM if the amount of such compounds is  
 782 accurately quantified and the exclusion is approved by the Agency.  
 783

784 c) As a precondition to excluding these negligibly-reactive compounds as VOM, or  
 785 at any time thereafter, the Agency may require an owner or operator to provide  
 786 monitoring or testing methods and results demonstrating, to the satisfaction of the  
 787 Agency, the amount of negligibly-reactive compounds in the source's emissions.  
 788

789 d) The USEPA will not be bound by any State determination as to appropriate  
 790 methods for testing or monitoring negligibly-reactive compounds if such  
 791 determination is not reflected in any of the test methods in subsection (b).  
 792

793 (Source: Amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

# AGENCY VS ROI

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

SUBPART A: GENERAL PROVISIONS

Section  
211.101 Incorporated and Referenced Materials  
211.102 Abbreviations and Conversion Factors

SUBPART B: DEFINITIONS

Section  
211.121 Other Definitions  
211.122 Definitions (Repealed)  
211.130 Accelacota  
211.150 Accumulator  
211.170 Acid Gases  
211.200 Acrylonitrile Butadiene Styrene (ABS) Welding  
211.210 Actual Heat Input  
211.230 Adhesive  
211.233 Adhesion Primer  
211.235 Adhesive Primer  
211.240 Adhesion Promoter  
211.250 Aeration  
211.260 Aerosol Adhesive and Adhesive Primer  
211.270 Aerosol Can Filling Line  
211.290 Afterburner  
211.310 Air Contaminant  
211.330 Air Dried Coatings  
211.350 Air Oxidation Process  
211.370 Air Pollutant  
211.390 Air Pollution  
211.410 Air Pollution Control Equipment  
211.430 Air Suspension Coater/Dryer  
211.450 Airless Spray  
211.470 Air Assisted Airless Spray  
211.474 Alcohol  
211.479 Allowance  
211.481 Ammunition Sealant  
211.484 Animal  
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  
211.1230 Coating Line  
211.1250 Coating Plant  
211.1270 Coil Coating  
211.1290 Coil Coating Line  
211.1310 Cold Cleaning  
211.1312 Combined Cycle System  
211.1315 Combustion Tuning  
211.1316 Combustion Turbine  
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 Condensible PM-10  
211.1435 Container Glass  
211.1455 Contact Adhesive  
211.1465 Continuous Automatic Stoking  
211.1467 Continuous Coater  
211.1470 Continuous Process  
211.1490 Control Device  
211.1510 Control Device Efficiency  
211.1515 Control Period  
211.1520 Conventional Air Spray  
211.1530 Conventional Soybean Crushing Source  
211.1550 Conveyorized Degreasing  
211.1560 Cove Base  
211.1565 Cove Base Installation Adhesive  
211.1570 Crude Oil  
211.1590 Crude Oil Gathering  
211.1610 Crushing  
211.1630 Custody Transfer  
211.1650 Cutback Asphalt  
211.1655 Cyanoacrylate Adhesive  
211.1670 Daily-Weighted Average VOM Content  
211.1690 Day  
211.1700 Deadener  
211.1710 Degreaser  
211.1730 Delivery Vessel  
211.1740 Diesel Engine  
211.1745 Digital Printing  
211.1750 Dip Coating  
211.1770 Distillate Fuel Oil

211.1780 Distillation Unit  
211.1790 Drum  
211.1810 Dry Cleaning Operation or Dry Cleaning Facility  
211.1830 Dump-Pit Area  
211.1850 Effective Grate Area  
211.1870 Effluent Water Separator  
211.1872 Ejection Cartridge Sealant  
211.1875 Elastomeric Materials  
211.1876 Electric Dissipating Coating  
211.1877 Electric-Insulating Varnish  
211.1878 Electrical Apparatus Component  
211.1880 Electrical Switchgear Compartment Coating  
211.1882 Electrodeposition Primer (EDP)  
211.1883 Electromagnetic Interference/Radio Frequency Interference  
(EMI/RFI) Shielding Coatings  
211.1885 Electronic Component  
211.1890 Electrostatic Bell or Disc Spray  
211.1900 Electrostatic Prep Coat  
211.1910 Electrostatic Spray  
211.1920 Emergency or Standby Unit  
211.1930 Emission Rate  
211.1950 Emission Unit  
211.1970 Enamel  
211.1990 Enclose  
211.2010 End Sealing Compound Coat  
211.2030 Enhanced Under-the-Cup Fill  
211.2040 Etching Filler  
211.2050 Ethanol Blend Gasoline  
211.2055 Ethylene Propylenediene Monomer (DPDM) Roof Membrane  
211.2070 Excess Air  
211.2080 Excess Emissions  
211.2090 Excessive Release  
211.2110 Existing Grain-Drying Operation (Repealed)  
211.2130 Existing Grain-Handling Operation (Repealed)  
211.2150 Exterior Base Coat  
211.2170 Exterior End Coat  
211.2190 External Floating Roof  
211.2200 Extreme High-Gloss Coating  
211.2210 Extreme Performance Coating  
211.2230 Fabric Coating  
211.2250 Fabric Coating Line  
211.2270 Federally Enforceable Limitations and Conditions  
211.2285 Feed Mill  
211.2290 Fermentation Time  
211.2300 Fill  
211.2310 Final Repair Coat  
211.2320 Finish Primer Surfacer  
211.2330 Firebox  
211.2350 Fixed-Roof Tank  
211.2355 Flare  
211.2357 Flat Glass  
211.2358 Flat Wood Paneling

211.2359 Flat Wood Paneling Coating Line  
211.2360 Flexible Coating  
211.2365 Flexible Operation Unit  
211.2368 Flexible Packaging  
211.2369 Flexible Vinyl  
211.2370 Flexographic Printing  
211.2390 Flexographic Printing Line  
211.2410 Floating Roof  
211.2415 Fog Coat  
~~211.2430~~ 211.2420 Fossil Fuel  
~~211.2435~~ 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-NOx Burner  
211.3490 Low Solvent Coating  
211.3500 Lubricating Oil  
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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)  
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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 NOx Trading Program  
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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  
~~211.4310~~211.4210 Operator of a Gasoline Dispensing Operation or Operator  
of a Gasoline Dispensing Facility  
~~211.4320~~211.4220 Optical Coating  
~~211.4330~~211.4230 Organic Compound  
~~211.4350~~211.4250 Organic Material and Organic Materials  
~~211.4360~~211.4260 Organic Solvent  
~~211.4370~~211.4270 Organic Vapor  
~~211.4380~~211.4280 Other Glass  
~~211.4385~~211.4285 Outdoor Floor Covering Installation Adhesive  
~~211.4390~~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  
211.5060 Pressure/Vacuum Relief Valve  
211.5061 Pretreatment Coating  
211.5062 Pretreatment Wash Primer  
211.5065 Primary Product  
211.5070 Prime Coat  
211.5075 Primer Sealant  
211.5080 Primer Sealer  
211.5090 Primer Surfacer Coat  
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  
211.5195 Process Heater  
211.5210 Process Unit  
211.5230 Process Unit Shutdown  
211.5245 Process Vent  
211.5250 Process Weight Rate  
211.5270 Production Equipment Exhaust System  
211.5310 Publication Rotogravure Printing Line  
211.5330 Purged Process Fluid  
211.5335 Radiation Effect Coating  
211.5340 Rated Heat Input Capacity  
211.5350 Reactor  
211.5370 Reasonably Available Control Technology (RACT)  
211.5390 Reclamation System  
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  
211.5535 Repair Cleaning  
211.5550 Repair Coat  
211.5570 Repaired  
211.5580 Repowering  
211.5585 Research and Development Operation  
211.5590 Residual Fuel Oil  
211.5600 Resist Coat  
211.5610 Restricted Area  
211.5630 Retail Outlet  
211.5640 Rich-Burn Engine  
211.5650 Ringelmann Chart  
211.5670 Roadway  
211.5690 Roll Coater  
211.5710 Roll Coating  
211.5730 Roll Printer  
211.5750 Roll Printing  
211.5770 Rotogravure Printing  
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  
211.6030 Smoke  
211.6050 Smokeless Flare  
211.6060 Soft Coat  
211.6063 Solar-Absorbent Coating

211.6065 Solids Turnover Ratio (RT)  
211.6070 Solvent  
211.6090 Solvent Cleaning  
211.6110 Solvent Recovery System  
211.6130 Source  
211.6140 Specialty Coatings  
211.6145 Specialty Coatings for Motor Vehicles  
211.6150 Specialty High Gloss Catalyzed Coating  
211.6170 Specialty Leather  
211.6190 Specialty Soybean Crushing Source  
211.6210 Splash Loading  
211.6230 Stack  
211.6250 Stain Coating  
211.6270 Standard Conditions  
211.6290 Standard Cubic Foot (scf)  
211.6310 Start-Up  
211.6330 Stationary Emission Source  
211.6350 Stationary Emission Unit  
211.6355 Stationary Gas Turbine  
211.6360 Stationary Reciprocating Internal Combustion Engine  
211.6370 Stationary Source  
211.6390 Stationary Storage Tank  
211.6400 Stencil Coat  
211.6405 Sterilization Indicating Ink  
211.6410 Storage Tank or Storage Vessel  
~~211.6430~~211.6420 Strippable Spray Booth Coating  
~~211.6435~~211.6425 Stripping  
~~211.6437~~211.6427 Structural Glazing  
211.6430 Styrene Devolatilizer Unit  
211.6450 Styrene Recovery Unit  
211.6460 Subfloor  
211.6470 Submerged Loading Pipe  
211.6490 Substrate  
211.6510 Sulfuric Acid Mist  
211.6530 Surface Condenser  
211.6535 Surface Preparation  
211.6540 Surface Preparation Materials  
211.6550 Synthetic Organic Chemical or Polymer Manufacturing Plant  
211.6570 Tablet Coating Operation  
211.6580 Texture Coat  
211.6585 Thin Metal Laminating Adhesive  
211.6587 Thin Particleboard  
211.6590 Thirty-Day Rolling Average  
211.6610 Three-Piece Can  
211.6620 Three or Four Stage Coating System  
211.6630 Through-the-Valve Fill  
211.6635 Tileboard  
211.6640 Tire Repair  
211.6650 Tooling Resin  
211.6670 Topcoat  
211.6690 Topcoat Operation  
211.6695 Topcoat System

211.6710 Touch-Up  
 211.6720 Touch-Up Coating  
 211.6730 Transfer Efficiency  
 211.6740 Translucent Coating  
 211.6750 Tread End Cementing  
 211.6770 True Vapor Pressure  
 211.6780 Trunk Interior Coating  
 211.6790 Turnaround  
 211.6810 Two-Piece Can  
 211.6825 Underbody Coating  
 211.6830 Under-the-Cup Fill  
 211.6850 Undertread Cementing  
 211.6860 Uniform Finish Blender  
 211.6870 Unregulated Safety Relief Valve  
 211.6880 Vacuum Metallizing  
 211.6885 Vacuum Metalizing Coating  
 211.6890 Vacuum Producing System  
 211.6910 Vacuum Service  
 211.6930 Valves Not Externally Regulated  
 211.6950 Vapor Balance System  
 211.6970 Vapor Collection System  
 211.6990 Vapor Control System  
 211.7010 Vapor-Mounted Primary Seal  
 211.7030 Vapor Recovery System  
 211.7050 Vapor-Suppressed Polyester Resin  
 211.7070 Vinyl Coating  
 211.7090 Vinyl Coating Line  
 211.7110 Volatile Organic Liquid (VOL)  
 211.7130 Volatile Organic Material Content (VOMC)  
 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound  
 (VOC)  
 211.7170 Volatile Petroleum Liquid  
 211.7190 Wash Coat  
 211.7200 Washoff Operations  
 211.7210 Wastewater (Oil/Water) Separator  
 211.7220 Waterproof Resorcinol Glue  
 211.7230 Weak Nitric Acid Manufacturing Process  
 211.7240 Weatherstrip Adhesive  
 211.7250 Web  
 211.7270 Wholesale Purchase - Consumer  
 211.7290 Wood Furniture  
 211.7310 Wood Furniture Coating  
 211.7330 Wood Furniture Coating Line  
 211.7350 Woodworking  
 211.7400 Yeast Percentage

211.APPENDIX A Rule into Section Table  
 211.APPENDIX B Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1, 9.9 and 10 and authorized by  
 Sections 27 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 9.9,  
 10, 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. ~~14354~~, 14254, effective September 25, 2007; amended in R08-6 at 32 Ill. Reg. 1387, effective January 16, 2008; amended in R07-19 at 33 Ill. Reg. 11982, effective August 6, 2009; amended in R08-19 at 33 Ill. Reg. 13326, effective August 31, 2009; amended in R10-7 at 34 Ill. Reg. 1391, effective January 11, 2010; amended in R10-8 at 34 Ill. Reg. 9069, effective June 25, 2010; amended

in R10-20 at 34 Ill. Reg. 14119, effective September 14, 2010; amended in R11-23 at 35 Ill. Reg. 13451, effective July 27, 2011; amended in R12-24 at 37 Ill. Reg. 1662, effective January 28, 2013; amended in R13-1 at 37 Ill. Reg. 1913, effective February 4, 2013; amended in R14-7 at 37 Ill. Reg. 19824, effective November 27, 2013; amended in R14-16 at 38 Ill. Reg. 12876, effective June 9, 2014; amended in ~~R14-15-165~~ 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-~~099~~ 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 ~~AB~~: ~~GENERAL PROVISIONS~~ 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-~~143~~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. ~~432422~~-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. ~~24370~~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. ~~430420~~-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 CFR51, subpart I or appendix S, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112~~<sup>203</sup>; 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~~<sup>Act</sup>. 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 ~~—~~)

~~ILLINOIS REGISTER~~

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENT~~

JCAR350211-2004463r01

1ST NOTICE VERSION

JCAR350215-2004487r01

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2 SUBTITLE B: AIR POLLUTION  
3 CHAPTER I: POLLUTION CONTROL BOARD  
4 SUBCHAPTER c: EMISSIONS STANDARDS AND LIMITATIONS  
5 FOR STATIONARY SOURCES  
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7 PART 215  
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- 182 215.481 Control of Reactors, Distillation Units, Crystallizers, Centrifuges and Vacuum Dryers
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246	215.607	Standards for Petroleum Solvent Dry Cleaners
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SUBPART PP: MISCELLANEOUS FABRICATED PRODUCT  
MANUFACTURING PROCESSES

279

280

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285

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SUBPART QQ: MISCELLANEOUS FORMULATION  
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289 Section

290	215.940	Applicability
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- 302 215.APPENDIX A Rule into Section Table
- 303 215.APPENDIX B Section into Rule Table
- 304 215.APPENDIX C Past Compliance Dates
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- 306 Manufacturing
- 307 215.APPENDIX E Reference Methods and Procedures
- 308 215.APPENDIX F Coefficients for the Total Resource Effectiveness Index (TRE) Equation
- 309

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

312  
 313 SOURCE: Adopted as Chapter 2: Air Pollution, Rule 205: Organic Material Emission  
 314 Standards and Limitations, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in  
 315 R77-3, 33 PCB 357, at 3 Ill. Reg. 18, p. 41, effective May 3, 1979; amended in R78-3 and R78-  
 316 4, 35 PCB 75, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5 at 7 Ill. Reg.  
 317 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13601 Corrected at 7 Ill. Reg. 14575;  
 318 amended in R82-14 at 8 Ill. Reg. 13254, effective July 12, 1984; amended in R83-36 at 9 Ill.  
 319 Reg. 9114, effective May 30, 1985; amended in R82-14 at 9 Ill. Reg. 13960, effective August 28,  
 320 1985; amended in R85-28 at 11 Ill. Reg. 3127, effective February 3, 1987; amended in R82-14 at  
 321 11 Ill. Reg. 7296, effective April 3, 1987; amended in R85-21(A) at 11 Ill. Reg. 11770, effective  
 322 June 29, 1987; recodified in R86-39 at 11 Ill. Reg. 13541; amended in R82-14 and R86-12 at 11  
 323 Ill. Reg. 16706, effective September 30, 1987; amended in R85-21(B) at 11 Ill. Reg. 19117,  
 324 effective November 9, 1987; amended in R86-36, R86-39, R86-40 at 11 Ill. Reg. 20829,  
 325 effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 815, effective  
 326 December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7311, effective April 8, 1988; amended  
 327 in R86-10 at 12 Ill. Reg. 7650, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg.  
 328 10893, effective June 27, 1989; amended in R88-30(A) at 14 Ill. Reg. 3555, effective February  
 329 27, 1990; emergency amendments in R88-30A at 14 Ill. Reg. 6421, effective April 11, 1990, for  
 330 a maximum of 150 days; amended in R88-19 at 14 Ill. Reg. 7596, effective May 8, 1990;  
 331 amended in R89-16(A) at 14 Ill. Reg. 9173, effective May 23, 1990; amended in R88-30(B) at  
 332 15 Ill. Reg. 3309, effective February 15, 1991; amended in R88-14 at 15 Ill. Reg. 8018, effective  
 333 May 14, 1991; amended in R91-7 at 15 Ill. Reg. 12217, effective August 19, 1991; amended in  
 334 R91-10 at 15 Ill. Reg. 15595, effective October 11, 1991; amended in R89-7(B) at 15 Ill. Reg.  
 335 17687, effective November 26, 1991; amended in R91-9 at 16 Ill. Reg. 3132, effective February  
 336 18, 1992; amended in R91-24 at 16 Ill. Reg. 13555, effective August 24, 1992; amended in R91-  
 337 30 at 16 Ill. Reg. 13849, effective August 24, 1992; amended in R98-15 at 22 Ill. Reg. 11427,  
 338 effective June 19, 1998; amended in R12-24 at 37 Ill. Reg. 1683, effective January 28, 2013;  
 339 expedited correction at 37 Ill. Reg. 16858, effective January 28, 2013; amended in R19-1 at 44  
 340 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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SUBPART PP: MISCELLANEOUS FABRICATED PRODUCT  
 MANUFACTURING PROCESSES

345 **Section 215.920 Applicability**

- 346
- 347 a) The requirements of this Subpart shall apply to the following counties: Cook,
- 348 DuPage, Kane, Lake, Macoupin, Madison, McHenry, Monroe, St. Clair and Will.
- 349
- 350 b) The requirements of this Subpart shall apply to a plant's miscellaneous fabricated
- 351 product manufacturing process emission sources ~~that~~ which are not regulated by
- 352 Subparts B, E, F, N, P, Q, R, S, U, V, X, Y, or Z if the plant is subject to this
- 353 Subpart. A plant is subject to this Subpart if it contains process emission sources,
- 354 not regulated by Subparts B, E, F, N, P, Q, R, S, U, V, X, Y, or Z, which as a
- 355 group would emit 100 tons or more per year of volatile organic material if no air
- 356 pollution control equipment were used.
- 357
- 358 c) If a plant ceases to fulfill the criteria of subsection (b), the requirements of this
- 359 Subpart shall continue to apply to a miscellaneous fabricated products
- 360 manufacturing process emission source which was subject to and met the control
- 361 requirements of Section 215.926.
- 362
- 363 d) No limits under this Subpart shall apply to:
- 364
- 365 1) Emission sources with emissions of volatile organic material to the
- 366 atmosphere less than or equal to 1.0 tons per year if the total emissions
- 367 from ~~those such~~ sources not complying with Section 215.926 ~~do~~ does not
- 368 exceed 5.0 tons per year; and
- 369
- 370 2) Emission sources whose emissions of volatile organic material are subject
- 371 to limits in 35 Ill. Adm. Code 230 or 35 Ill. Adm. Code 231; or the Lowest
- 372 Achievable Emission Rate, ~~under~~ pursuant to 35 Ill. Adm. Code 203; or
- 373 Best Available Control Technology, ~~under~~ a permit issued under Section
- 374 9.1(d) of the Act pursuant to 40 CFR 52.21 (1987) or under Section 9.4 of
- 375 the Act. ~~The Board incorporates by reference 40 CFR 52.21 (1987). This~~
- 376 ~~incorporation includes no subsequent amendments or editions.~~
- 377
- 378 e) For the purposes of this Subpart, an emission source shall be considered regulated
- 379 by a Subpart if it is subject to the limits of that Subpart or it would be subject to
- 380 the limits of that Subpart if the emission sources, emitting VOM, had sufficient
- 381 size, throughput or emissions, or if the emission source did not meet a specific
- 382 exemption contained in that Subpart.
- 383
- 384 f) For the purposes of this Subpart, uncontrolled volatile organic material emissions
- 385 are the emissions of volatile organic material ~~that~~ which would result if no air
- 386 pollution control equipment were used.
- 387

(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 ~~thosesuch~~sources not complying with Section 215.946 ~~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, ~~underpursuant to~~ 35 Ill. Adm. 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.

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- f) For the purposes of this Subpart, uncontrolled volatile organic material emissions are the emissions of volatile organic material ~~that~~<sup>which</sup> 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 ~~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 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 ~~thosesuch~~ 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 Actpursuant 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.~~

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- 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~~<sup>which</sup> would result if no air pollution control equipment were used.

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

# AGENCY VS ROL

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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SUBPART C: ORGANIC EMISSIONS FROM  
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215.141 Separation Operations  
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Section

215.181 Solvent Cleaning in General  
215.182 Cold Cleaning  
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Section

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POLYMER MANUFACTURING EQUIPMENT

Section

~~215.430~~215.420 Applicability  
~~215.431~~215.421 General Requirements  
~~215.432~~215.422 Inspection Program Plan for Leaks  
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215.431 Inspection Program Plan for Leaks  
215.432 Inspection Program for Leaks  
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SUBPART PP:   MISCELLANEOUS FABRICATED PRODUCT  
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Section  
215.920      Applicability  
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SUBPART QQ:   MISCELLANEOUS FORMULATION  
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Section  
215.940      Applicability  
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215.APPENDIX A   Rule into Section Table  
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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. ~~6431~~, ~~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. ~~11437~~, ~~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 ~~must~~ ~~shall~~ apply to the following counties: Cook, DuPage, Kane, Lake, Macoupin, Madison, McHenry, Monroe, St. Clair and Will.

b) The requirements of this Subpart ~~must shall~~ apply to a plant's miscellaneous fabricated product manufacturing process emission sources ~~which that~~ 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 ~~must 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 ~~must shall~~ apply to:

1) Emission sources with emissions of volatile organic material to the atmosphere less than or equal to 1.0 tons per year if the total emissions from ~~such sources~~ ~~those sources~~ not complying with Section 215.926 ~~does do~~ 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)~~ ~~Act~~ or under ~~pursuant to~~ Section 9.4 of the Act. ~~The Board incorporates by reference 40 CFR 52.21 (1987). This incorporation includes no subsequent amendments or editions.~~

e) For the purposes of this Subpart, an emission source ~~must~~ shall be considered regulated by a Subpart if it is subject to the limits of that Subpart or it would be subject to the limits of that Subpart if the emission sources, emitting VOM, had sufficient size, throughput or emissions, or if the emission source did not meet a specific exemption contained in that Subpart.

f) For the purposes of this Subpart, uncontrolled volatile organic material emissions are the emissions of volatile organic material ~~which that~~ 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 ~~must shall~~ apply to the following counties: Cook, DuPage, Kane, Lake, Macoupin, Madison, McHenry, Monroe, St. Clair and Will.

b) The requirements of this Subpart ~~must shall~~ apply to a plant's miscellaneous formulation manufacturing process emission sources, which are not regulated by ~~Subparts~~Subpart 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~~Subpart 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 ~~must shall~~ continue to apply to a miscellaneous formulation manufacturing process emission source ~~which was that was~~ subject to ~~the and~~ met the control requirements of Section 215.946.

d) No limits under this Subpart ~~must shall~~ apply to:

1) Emission sources with emissions of volatile organic material to the atmosphere less than or equal to 2.5 tons per year if the total emissions from ~~such sources~~those sources not complying with Section 215.946 ~~does do~~ not exceed 5.0 tons per year, ~~and~~ 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 Act~~ or under ~~pursuant to~~ Section 9.4 of the Act. ~~The Board incorporates by reference 40 CFR 52.21 (1987). This incorporation includes no subsequent amendments or editions.~~

e) For the purposes of this Subpart, an emission source ~~must~~ shall be considered regulated by a Subpart if it is subject to the limits of that Subpart or it would be subject to the limits of that Subpart if the emission sources, emitting VOM, had sufficient size, throughput or emissions, or if the emission source did not meet a specific exemption contained in that Subpart.

f) For the purposes of this Subpart, uncontrolled volatile organic material emissions are the emissions of volatile organic material ~~which that~~ 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 ~~must shall~~ apply to the following counties: Cook, DuPage, Kane, Lake, Macoupin, Madison, McHenry, Monroe, St. Clair and Will.

b) The requirements of this Subpart ~~must shall~~ apply to a plant's miscellaneous organic chemical manufacturing process emission sources which are not regulated by ~~Subparts~~Subpart 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~~Subpart 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 ~~must~~ 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 ~~must shall~~ apply to:

1) Emission sources with emissions of volatile organic material to the atmosphere less than or equal to 1.0 ton per year if the total emissions from ~~such sources~~those sources not complying with Section 215.966 ~~does do~~ 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.~~ 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)~~Act or under ~~pursuant to~~ Section 9.4 of the Act. ~~The Board incorporates by reference 40 CFR 52.21 (1987). This incorporation includes no subsequent amendments or editions.~~

e) For the purposes of this Subpart, an emission source ~~must~~ shall be considered regulated by a Subpart if it is subject to the limits of that Subpart or it would be subject to the limits of that Subpart if the emission sources, emitting VOM, had sufficient size, ~~throughout~~throughout or emissions, or if the emission source did not meet a specific exemption contained in that Subpart.

f) For the purposes of this Subpart, uncontrolled volatile organic material emissions are the emissions of volatile organic material ~~which~~that would result if no air pollution control equipment were used.

(Source: Amended at 44 Ill. Reg. ~~—~~ \_\_\_\_\_, effective \_\_\_\_\_)

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

JCAR350215-2004487r01